

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 3116 (Garcia) – As Amended April 18, 2024

SUBJECT: Housing development: density bonuses: student housing developments

SUMMARY: Makes changes to Density Bonus Law as it applies to student housing developments. Specifically, **this bill:**

- 1) Requires a city, county, or city and county to grant one density bonus, incentives, concessions, waivers or reduction of development standards, and parking rations, as specified, to a housing development where 20% of total units for lower income students in a student housing development that meets the following requirements:
 - a) Requires all units to be used exclusively used by undergraduate, graduate, or professional students enrolled currently or in the past two years in at least six units at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has done any one of the following:
 - i) Entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions.
 - ii) Established a system for confirming its renters' status as students to ensure that all units of the student housing development are occupied with students from an institute of higher education.
- 2) Alters the definition of "unit" for purposes of the affordability restrictions for Density Bonus Law, to mean one rental bed and its pro rata share of associated common area facilities for purposes of calculating a density bonus. The bedspaces shall remain affordable for 55 years.
- 3) Provides that an affordability requirement for a student housing development shall not tie any bedspaces reserved for lower income students to a specific student private bedroom or student shared bedroom.
- 4) Provides that an affordability provision, state, or county law or policy, or property management policy shall not prevent a lower income student from sharing a room or unit with a non-lower income student and any attempt to waive this requirement is void as against public policy.
- 5) Changes the law to provide two incentives or concessions for project that include at least 20% of the total units for lower income students in a student housing development instead of one.

- 6) Changes how density bonus units for student housing are calculated, by doing providing for a 35% density bonus for a housing development project that dedicates 20% of units for low-income households.
- 7) Adds the definition, for the purposes of Density Bonus Law, of “student housing development” to mean a development that contains bedrooms containing two or more bedspaces that have a shared or private bathroom, have access to a shared or private living room and laundry facilities, and satisfy one of the following conditions:
 - a) Have access to a shared or private kitchen.
 - b) Are located within a 10-minute walk from a dining hall, and is leased to a student enrolled in a meal plan.
- 8) Prohibits a city, county, or city and county from requiring a parking ratio for student housing developments that are using Density Bonus Law.
- 9) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

EXISTING LAW:

- 1) Provides that any density bonus, concessions, incentives, waivers or waivers of development standards, and parking ratios to which an applicant is entitled under density bonus law shall be permitted in a manner that is consistent with the Coastal Act. (GOV 65915)
- 2) Requires a city, county, or city and county to grant one density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios, if the developer agrees to restrict at least 20% of the total units for lower income students and the housing development meets the following requirements:
 - a) All units in the student housing development shall be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges;
 - b) The developer, as a condition of receiving a certificate of occupancy, provides evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into is not violated or breached if, in any subsequent year, there are insufficient students enrolled in an institution of higher education to fill all units in the student housing development;
 - c) The applicable 20% units shall be used for lower income students;
 - d) The rent provided in the applicable units of the development for lower income students shall be calculated at 30% of 65% of AMI for a single-room occupancy unit type; and

- e) The development shall provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless. (GOV 65915)
- 3) Requires that, for purposes of density bonus granted for a student housing development, the term "unit" means one rental bed and its pro rata share of associated common area facilities. Requires the units described in this subparagraph to be subject to a recorded affordability restriction of 55 years. (GOV 65915)
- 4) Allows an applicant for density bonus that agrees to restrict 20% of the total units in a development to student housing to request one incentive or concession for a housing development. (GOV 65915(d)(2)(E))
- 5) Defines "concession or incentive" as:
 - a) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required, that results in identifiable and actual cost reductions to provide for affordable housing costs or for rents for the targeted units;
 - b) Approval of specified compatible mixed-use zoning in conjunction with the housing project that will reduce the cost of development; and
 - c) Other regulatory incentives or concessions proposed by the developer or the local government that results in identifiable and actual cost reductions to provide for affordable housing. (GOV 65915)
- 6) Requires a city, county, or city and county to grant a concession or incentive requested by an applicant unless the city, county, or city and county makes a written finding based upon substantial evidence of any of the following:
 - a) The concession or incentive does not result in identifiable and actual cost reductions necessary to support the affordable housing costs or rents for the affordable housing units required;
 - b) The concession or incentive would have a specific, adverse impact upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households; or
 - c) The concession or incentive would be contrary to state or federal law. (GOV 65915)
- 7) Requires cities and counties to grant a density bonus, based on a specified formula, when an applicant for a housing development of at least five units seeks and agrees to construct a project that will contain at least one of the following:

- a) Ten percent of the total units of a housing development for lower-income households;
 - b) Five percent of the total units of a housing development for very low-income households;
 - c) A senior citizen housing development or age-restricted mobilehome park;
 - d) Ten percent of the units in a common interest development (CID) for moderate-income households, provided the units are available for public purchase;
 - e) Ten percent of the total units for transitional foster youth, disabled veterans, or homeless persons;
 - f) Twenty percent of the total units for lower-income students in a student housing development, as specified; or
 - g) One hundred percent of all units in the development for lower-income households, except that up to 20% of the units may be for moderate-income households. (GOV 65915)
- 8) Defines “shared housing” for purposes of Density Bonus Law to mean a residential or mixed-use structure with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to adequately accommodate all residents. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of DBL. (GOV 65915)
- 9) Provides that a “shared housing building” may include other dwelling units that are not shared housing units, provided that those dwelling units do not occupy more than 25% of the floor area of the shared housing building. A shared housing building may include 100% shared housing units. (GOV 65915)
- 10) Provides that “shared housing unit” means one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the “minimum room area” specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations), and complies with the definition of “guestroom” in Section R202 of the California Residential Code. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of DBL. (GOV 65915)

FISCAL EFFECT: This bill is keyed fiscal and contains a state mandated local program.

COMMENTS:

- 1) **Bill Summary.** AB 3116 allows student housing for community college students to be eligible for density bonus, incentives, waivers, and concessions under Density Bonus Law, if the housing development project dedicates 20% of the units to lower income students. The bill prohibits a city, county, or a city and county from establishing parking requirements under Density Bonus Law for student housing. The sponsors of the bill are the University of California Student Association and the Los Angeles Housing Production Institute.

- 2) **Author's Statement.** According to the author, "A recent report demonstrated that a majority of California college students experience housing insecurity. Housing costs are often the largest non-tuition cost of attendance for students at colleges and universities in California, representing over half the cost of attending a UC or CSU in 2019. The issue of housing cost is particularly prevalent at CCCs, where 3 in 5 students experience housing insecurity and 1 in 4 experience homelessness. Given the scale of this problem, constructing more student housing is an urgent priority. While the UC, CSU, and CCC systems have made significant efforts to house students on campus in recent years, an estimated 2.3 million college and university students in California still rely on off-campus private housing."
- 3) **Density Bonus Law.** Density bonus law was originally enacted in 1979, to help address a shortage of affordable housing. Density bonus is a tool to encourage the production of affordable housing by market rate developers, although it is used by developers building 100% affordable developments as well. In return for including affordable units in a development, developers are given an increase in density over a city's zoned density, concessions and incentives, and reductions in parking. The increase in density and concessions and incentives are intended to financially support the inclusion of the affordable units.

All local governments are required to adopt an ordinance that provides concessions and incentives to developers that seek a density bonus on top of the zoned density in exchange for including extremely low-, very low-, low-, and moderate-income housing. In addition to an increase in density, a developer can request concessions and incentives under DBL to reduce the cost of the development and support the inclusion of the affordable housing units. Failure to adopt an ordinance does not relieve a local government from complying with state DBL.

- 4) **Student Housing Density Bonus:** SB 1227 (Skinner), Chapter 937, Statutes of 2018, and SB 290 (Skinner), Chapter 340, Statutes of 2021, created a density bonus for developers that include housing for lower income students in a development. Developers that agree to restrict 20% of the units in a development to lower income students can receive a 35% density bonus and one concession or incentive. To be eligible for the density bonus, developers must provide proof at the time of receiving a certificate of occupancy that they have entered into a master lease with an accredited public or private university, college, or community college to occupy all the units for lower income students in the development. Developers are also required to provide priority for students experiencing homelessness. To meet this standard, a developer can verify with the university or college that student is attending or institution of higher education that the student is experiencing homelessness.
- 5) **Impact of Student Housing on One Community:** Generally, colleges and universities have failed to construct the housing needed to accommodate their student population. The result has been greater pressure on the surrounding community to absorb students into an already stressed and expensive rental market. In some communities the impact is felt more acutely; for example, in Los Angeles, the University of Southern California (USC) is nestled in a predominately lower-income community. According to a recent Los Angeles Times article, USC provides housing for only a small fraction of its nearly 49,000 students. It guarantees housing for first- and second- year undergraduates in 7,200 beds in residence halls and leased off-campus apartments, including the 800-unit University Gateway Apartments on Figueroa Street. An additional 1,300 off-campus units are leased to graduate students and their

families.

To respond to the market pressure for additional student housing, private developers are purchasing existing buildings around USC and converting them to one-bedroom apartments or constructing new developments with efficiency units to build housing for students in response to demand. In the adjoining neighborhood on the west side of the campus, the Los Angeles Times' analysis of L.A. County Assessor records shows that 24 properties were purchased by limited liability corporations (LLCs) that year in the area bounded by Vermont and Western avenues and Jefferson and Exposition boulevards. Purchases by LLCs, a precursor to development, steadily increased in subsequent years, totaling 274 parcels through 2022. Los Angeles city building records show that 135 permits to construct duplexes and 10 for apartments have been issued in 2018 or later, and 191 demolition permits have been issued, indicating that more is yet to come

The City of Los Angeles is working on a local ordinance to respond to the increased pressure student housing has had on the neighborhood surrounding USC in an effort to shift development toward other parts of the city and reduce displacement of existing residents.¹

- 6) ***State Housing Need:*** Local governments are challenged with meeting the housing needs of residents at all income levels. According to the California Housing Partnership (CHP), the rate of severe cost burden (paying over half of income in rent) among moderate-income households remains low statewide at just six percent. It jumps to 24 percent for lower-households, 53 percent for very low-income households, and 78 percent for extremely low-income households. In addition, a recent study by CHP found that in most of the state, median-income renters (those at 100 percent of AMI, the midpoint of the moderate-income range) can afford average rent in 55 out of 58 counties. For very low-income renters there are only four counties where average rent is affordable, and there are no counties affordable to extremely low-income renters. The study further found that median-income households can afford average rent in all but 399 of California's 2,125 ZIP codes. Of those unaffordable ZIP codes, 227 are in Southern California, 67 are on the Central Coast, 47 are in San Diego, 42 are in the Bay Area, 10 are in the San Joaquin Valley, and six are in Greater Sacramento.

According to the Department of Housing and Community Development's (HCD's) Housing Element Data Dashboard, in the 5th Regional Housing Needs Allocation (RHNA) cycle so far, jurisdictions across the state have permitted the following:

- a) 19.9 percent of the very low-income RHNA
- b) 29.9 percent of the low-income RHNA
- c) 55 percent of the moderate-income RHNA
- d) 142.2 percent of the above moderate-income RHNA

Local governments have an obligation to plan and zone for housing by income level. The current housing element cycle, the sixth cycle, requires local governments to plan for 3.5 million housing units, a considerable increase over the past cycle.

¹ <https://www.latimes.com/california/story/2024-03-20/usc-student-housing-development-south-los-angeles-gentrification>

- 7) **Previous Legislation.** AB 1630 (Garcia) (2023) would have made student housing as defined an allowable use on land within 1,000 feet of a university campus and would have created a ministerial, streamlined approval process for the housing. This bill was referred to Assembly Housing and Community Development Committee or Assembly Local Government Committee, it was not heard by either committee.

SB 886 (Weiner), Chapter 663, Statutes of 2022 exempts, until January 1, 2030, faculty and staff housing projects and student housing projects meeting specified requirements from the California Environmental Quality Act (CEQA).

SB 1227 (Skinner), Chapter 937, Statutes of 2018, requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least 20% of the total units for lower-income students in a student housing development, as specified.

- 8) **Policy Considerations.** The Committee may wish to consider the following: AB 3116 allows former students that had taken at least 6 units within the past two years at an accredited institution of higher education to reside in student housing. The Committee may wish to consider the impacts of permitting former students to reside in student housing on the housing needs of current students.

- 9) **Committee Amendments.** In order to address the policy consideration above, the committee may wish to amend the bill as follows:

Section 65915. (b)(1)(F)(i)(I)

(I) All units in the student housing development shall be used exclusively for undergraduate, graduate, or professional students enrolled currently or in the past ~~six months~~ ~~two years~~ in at least six units at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has done any one of the following...

- 10) **Arguments in Support.** According to one of the sponsors, the UC Student Coalition, “There is an extreme student and faculty housing shortage on UC, CSU, and CC campuses. UCs only have beds for 35% of their enrolled students, and CSUs only have beds for 14% of their students. Only 12 out of 116 community colleges in California provide housing. Colleges across California do not have the resources to provide housing for all, or even a majority, of their students. As such, over 2.3 million students at UCs, CSUs, and CCCs live off campus. With many of California’s largest universities in high-cost housing markets, students often struggle to find housing they can afford near their campus. Many higher education institutions, especially CSUs and CCCs, do not have the funding to build sufficient student housing on campus. Due to strict local zoning and a lack of non-university funding options for affordable student housing, students also often end up in substandard living conditions – or worse, homeless. By creating more off-campus housing, AB 3116 will help address the student housing crisis and reduce student homelessness. It will also work to prevent gentrification by reducing student competition against vulnerable populations for scarce housing opportunities in college communities.”

11) **Arguments in Opposition.** None on file.

12) **Double-Referral.** This bill was double-referred to the Committee on Housing and Community Development where it passed out on a 9-0 vote on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Generation UP (Co-Sponsor)

Los Angeles Housing Production Institute (Co-Sponsor)

Student Homes Coalition (Co-Sponsor)

University of California Student Association (Co-Sponsor)

California Competes: Higher Education for A Strong Economy

California State University Employees Union (CSUEU)

College Democrats At UC Santa Cruz

Davis College Democrats

Housing Action Coalition

UC San Diego Housing Commission

Youthbridge Housing

Opposition

None on file.

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