

Date of Hearing: April 23, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 36 (Soria) – As Amended March 19, 2025

**SUBJECT:** Housing elements: prohousing designation

**SUMMARY:** Requires the Department of Housing and Community Development (HCD) to evaluate materials from a nonentitlement jurisdiction's, as defined, housing element submission for evidence of prohousing local policies and prohibits HCD from requiring nonentitlement jurisdictions to renew their prohousing designations for at least five years. Specifically, **this bill:**

- 1) Requires HCD to designate jurisdictions as prohousing pursuant to the permanent regulations, instead of emergency regulations, and report the designations to the Office of Land Use and Climate Innovation, instead of the Office of Planning and Research.
- 2) Defines "nonentitlement jurisdiction" to mean either a city with a population of fewer than 50,000 persons or a county with a population fewer than 200,000 persons.
- 3) Requires, beginning with the seventh housing element cycle, HCD to evaluate materials from a nonentitlement jurisdiction's housing element submission, as specified, for evidence of prohousing local policies in order to minimize the need for jurisdiction to submit supplementary documentation.
- 4) Requires HCD to only conduct the evaluation in 3) above for nonentitlement jurisdictions that have a compliant housing element.
- 5) Prohibits HCD from requiring nonentitlement jurisdictions to renew their prohousing designations for at least five years. Provides that HCD's authority to revoke a jurisdiction's prohousing designation is not limited by this provision.

**EXISTING LAW:**

- 1) Requires each city and county to adopt a housing element, which must contain specified information, programs, and objectives, including:
  - a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs, including a quantification of the locality's existing and projected housing needs for all income levels; an inventory of land suitable and available for residential development with an analysis of the relationship of the sites to the duty to affirmatively further fair housing (AFFH); an analysis of potential and actual governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels; and a demonstration of local efforts to remove constraints that hinder the locality from meeting its share of the regional housing need, among other items;
  - b) A statement of the community's goals, quantified objectives, and policies relative to AFFH and to the maintenance, preservation, improvement, and development of housing; and

- c) A program that sets forth a schedule of actions during the planning period, and timelines for implementation, that the local government is undertaking to implement the policies and achieve the goals and objectives of the housing element, including actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the local government's share of the regional housing need for each income level that could not be accommodated on sites identified in the sites inventory without rezoning, among other things. [Government Code (GOV) § 65583(a)-(c)]
- 2) For award cycles after July 1, 2021, awards additional points or preference in the scoring of certain housing and infrastructure funding program applications to jurisdictions that have adopted a substantially compliant housing element and that have been designated prohousing based upon their adoption of prohousing local policies. (GOV § 65889.9)
- 3) Defines "prohousing local policies" to mean policies that facilitate the planning, approval, or construction of housing. Specifies that these policies may include, but are not limited to, the following:
  - a) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund;
  - b) Reduced parking requirements for sites that are zoned for residential development;
  - c) Adoption of zoning allowing for use by right for residential and mixed-use development;
  - d) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle;
  - e) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond existing law requirements, as determined by HCD;
  - f) Reduction of permit processing time;
  - g) Creation of objective development standards;
  - h) Reduction of development impact fees;
  - i) Establishment of a Workforce Housing Opportunity Zone or a housing sustainability district;
  - j) Preservation of affordable housing units through the extension of existing project-based rental assistance contracts to avoid the displacement of affected tenants and a reduction in available affordable housing units; and
  - k) Facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions. (GOV § 65589.9)

**FISCAL EFFECT:** This bill is keyed fiscal.

**COMMENTS:**

- 1) **Bill Summary.** This bill requires HCD, beginning in the seventh housing element cycle, to evaluate the materials in a nonentitlement jurisdiction's housing element submission for evidence of prohousing local policies that would otherwise have to be identified by the local government in a formal application for prohousing status. The requirement would only apply to nonentitlement jurisdictions – either cities with a population fewer than 50,000 or counties with a population fewer than 200,000. The bill also prohibits HCD from requiring nonentitlement jurisdictions who have been awarded the prohousing designation to renew their designation for at least five years.

This bill is author sponsored.

- 2) **Author's Statement.** According to the author, "In recent years, California has taken a number of steps to ensure cities and counties are doing their part to combat the state's housing crisis, creating penalties to deter bad actors and incentives to reward those doing the right thing and to encourage others to follow their lead. One of the most significant incentives has been the creation of the Prohousing Designation Program (PDP), which recognizes local governments who are going above and beyond to promote housing development and gives them bonuses when applying for state housing funds. Unfortunately, applying to the PDP is extremely complex and burdensome, putting the program out of the reach of many small, rural cities and counties who are doing all the right things to provide housing for their residents.

"AB 36 levels the playing field by requiring the Department of Housing and Community Development to use the information cities already provide in their housing elements to determine whether they qualify for the PDP. By minimizing the burden on small cities and counties, AB 36 ensures the PDP rewards those doing the most to house their residents and not only those able to navigate complicated bureaucracy, while incentivizing more small jurisdictions to follow their lead."

- 3) **Adoption and Implementation of Housing Elements.** One important tool in addressing the state's housing crisis is to ensure that all of the state's 539 cities and counties appropriately plan for new housing. Such planning is required through the housing element of each community's General Plan, which outlines a long-term plan for meeting the community's existing and projected housing needs. Cities and counties are required to update their housing elements every eight years in the most highly populated parts of the state, and five years in areas with smaller populations. Cities must adopt a legally valid housing element by their statutory deadline for adoption. Failure to do so can result in certain escalating penalties, including exposure to the "builder's remedy" as well as public or private lawsuits, financial penalties, potential loss of permitting authority, or court receivership.
- 4) **Prohousing Designation.** In 2019, the Legislature enacted AB 101 (Committee on Budget), Chapter 26, which required HCD to designate cities and counties as pro-housing if their local policies facilitate the planning, approval, or construction of housing. "Prohousing" jurisdictions receive a competitive advantage – in the form of additional application points or preferences – in applying for certain state funding programs, including the Affordable Housing and Sustainable Communities Program, Transformative Climate Communities Program, and infill infrastructure programs.

Although AB 101 provided examples of prohousing local policies, HCD had discretion over the final designation criteria, which they adopted via emergency regulations in July 2021 and subsequently converted to permanent regulations in April 2022 (California Code of Regulations, Title 25, Sections 6600-6608). Some examples of prohousing local policies that local jurisdictions can identify as evidence in their applications to HCD to be awarded the prohousing designation include reduction of development impact fees, creating new ministerial approval pathways for housing and mixed-use projects, or creating local housing trust funds. According to HCD, as of March 2025, 52 jurisdictions have been awarded the prohousing designation.

- 5) **Related Legislation.** SB 262 (Wahab) would include in the definition of “prohousing local policies” certain rent stabilization, tenant protection, and homelessness policies. This bill is pending a hearing in the Senate Appropriations Committee.
- 6) **Previous Legislation.** AB 101 (Committee on Budget), Chapter 26, Statutes of 2019, required HCD to designate cities and counties as prohousing and award preference or points in certain funding applications if their local policies facilitate the planning, approval, or construction of housing.
- 7) **Arguments in Support.** The League of California Cities, the Rural County Representatives of California, and the California State Association of Counties write, “AB 36 directs the Department of Housing and Community Development (HCD) to use the information cities with populations under 50,000 persons and counties under 200,000 already provide in their housing elements to determine their eligibility for the PDP. Additionally, the bill extends the time until prohousing designations expire for an additional two years.

“The PDP designates local governments going above and beyond the requirements of state housing law to promote housing development in their communities as ‘prohousing’, rewarding them with priority access to critical housing and infrastructure programs. However, the application for the PDP is complex and requires extensive documentation, making it difficult for rural jurisdictions with limited staff to apply even when they have adopted strong prohousing policies. AB 36 eases the administrative burden on smaller cities and counties by having HCD analyze the information local governments already provide in their housing elements to determine whether they qualify as prohousing. This minimizes unnecessary duplication of work by local governments with limited resources without lowering the standards to be designated as prohousing. To combat California’s housing crisis, we must equitably recognize and incentivize the work local governments of all sizes are doing to promote housing development. This bill achieves our mutual goal of focusing HCD’s resources to assist local governments efforts to meet the state’s housing needs.”

- 8) **Arguments in Opposition.** None on file.
- 9) **Double-Referral.** This bill is double-referred to the Assembly Housing and Community Development Committee, where it passed on a 12-0 vote on April 9, 2025.

## REGISTERED SUPPORT / OPPOSITION:

### Support

AARP

California State Association of Counties (CSAC)  
City of Firebaugh  
City of Madera  
City of Mendota  
City of Merced  
Habitat for Humanity Greater Fresno Area  
John Jansons, City Manager, City of Kerman, CA  
League of California Cities  
Rural County Representatives of California (RCRC)

**Opposition**

None on file

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