

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 1152 (Patterson) – As Amended March 28, 2025

**SUBJECT:** Housing Crisis Act of 2019: development policy, standard, or condition.

**SUMMARY:** Revises the Housing Crisis Act of 2019 (HCA) to permit an affected county or city to allow a conservation easement to preserve residentially zoned property, if certain conditions are met. Specifically, **this bill**:

- 1) Revises the definition of “development policy, standard, or condition” in the HCA to exempt an action by an affected city or county related to allowing a conservation easement, pursuant to existing provisions of law governing conservation easements, to preserve residentially zoned property.
- 2) Requires both of the following conditions to be met for the exemption provided above:
  - a) The action will have no impact on the affected county or city’s ability to meet the obligations of its adopted housing element.
  - b) The action will not reduce the amount of high-density residentially zoned property within the affected county or city.

**EXISTING LAW:**

- 1) Prohibits an affected county or city from enacting a development policy, standard, or condition that would have any of the following effects with respect to land where housing is an allowable use:
  - a) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district in effect at the time of the proposed change, below what was allowed under the land use designation or zoning ordinances of the affected county or city as in effect on January 1, 2018, with certain exceptions;
  - b) Imposing a moratorium or similar restriction or limitation on housing development, including mixed-use development, within all or a portion of the jurisdiction of the affected county or city, other than to specifically protect against an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium or for projects specifically identified as existing restricted affordable housing, as provided;
  - c) Imposing or enforcing design standards established on or after January 1, 2020, that are not objective design standards; or

- d) Establishing or implementing any provision that does any of the following, unless the provision was approved by voters prior to January 1, 2005 and the affected county or city is located in a predominantly agricultural county:
  - i) Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or city;
  - ii) Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period; or
  - iii) Limits the population of the affected county or city. (Government Code (GOV) 66300(b)(1))
- 2) Deems void any development policy, standard, or condition enacted on or after the effective date of the HCA if it does not comply with the HCA. (GOV 66300(b)(2))
- 3) Requires the Department of Housing and Community Development (HCD) to determine those cities and counties in the state that are affected cities and counties by June 30, 2020, and allows HCD to update the list of affected cities and counties once on or after January 1, 2021 and once on or after January 1, 2025, to account for changes in urbanized areas or urban clusters due to new data from the 2020 census. Provides that HCD's determination remains valid until January 1, 2030. (GOV 66300(d))
- 4) Clarifies that the HCA does not prohibit an affected county or city, including the local electorate acting through the initiative process, from changing a land use designation or zoning ordinance to a less intensive use, or reducing the intensity of land use, if the county or city concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure there is no net loss in residential capacity. (GOV 66300(h))
- 5) Defines the following terms within the HCA:
  - a) "Affected city" to mean a city, including a charter city, that HCD determines is in an urbanized area or urban cluster, as designated by the US Census Bureau;
  - b) "Affected county" to mean a census-designated place, based on the 2013-2017 American Community Survey 5-year Estimates, that is wholly located within the boundaries of an urbanized area, as designated by the US Census Bureau;
  - c) "Development policy, standard, or condition" to mean any of the following:
    - i) A provision of, or amendment to, a general plan;
    - ii) A provision of, or amendment to, a specific plan;
    - iii) A provision of, or amendment to, a zoning ordinance; and
    - iv) A subdivision standard or criterion. (GOV 66300(a))

- 6) Defines “conservation easement” to mean any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive owners of such land, and the purpose of which is to retain the land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition. (Civil Code (CIV) Section 815.1)
- 7) Establishes that a conservation easement is an interest in real property voluntarily created and freely transferable in whole or in part for the purposes described in 6) above by any lawful method for the transfer of interest in real property in this state, is perpetual in duration, must not be deemed personal in nature, must constitute an interest in real property notwithstanding that it may be negative in character, and the particular characteristics of a conservation easement must be those granted or specified in the instrument creating or transferring the easement. (CIV 815.2)
- 8) Allows only the following entities to acquire and hold conservation easements:
  - a) A tax-exempt nonprofit organization, as provided, which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use;
  - b) The state or any city, county, district, or other state or local governmental entity, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed, meaning no local government entity may condition the issuance of an entitlement on the applicant’s granting of a conservation easement; or
  - c) A federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission to protect a California Native American prehistoric, archaeological, cultural, spiritual, or ceremonial place, if the conservation easement is voluntarily conveyed. (CIV 815.3)
- 9) 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; 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 things;
  - b) A statement of the community’s goals, quantified objectives, and policies relative to affirmatively furthering fair housing 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 (RHNA) that could not be accommodated on sites identified in the sites inventory without rezoning, among other things. (GOV 65583(a)-(c))

- 10) Requires each city or county to ensure its housing element sites inventory can accommodate, at all times throughout the planning period, its remaining unmet share of RHNA and prohibits a city or county from permitting or causing its inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of RHNA for lower and moderate-income households. (GOV 65863(a))
- 11) Allows a jurisdiction, if a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to meet the requirements of 9) above and to accommodate the jurisdiction's share of RHNA, to reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity. (GOV 65863(c)(1))
- 12) Requires a jurisdiction, if the approval of a development project results in fewer units by income category than identified in the jurisdiction's housing element for that parcel and the jurisdiction does not find that the remaining sites in the housing element are adequate to accommodate the jurisdiction's share of RHNA by income level, to identify and make available additional adequate sites to accommodate the RHNA within 180 days. (GOV 65863(c)(2))

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **Author's Statement.** According to the author, "Several local governments and the Placer Land Trust have teamed up to preserve hundreds of acres of an oak woodland located in the City of Rocklin. Known as Clover Valley, this scenic, rolling hillside is known for its beauty and tribal artifacts. As zoned, this oak woodland would have been destroyed for the development of million dollar mansions. Due to the hard work of the governments and developer, this land will now be preserved forever through its transfer to the Placer Land Trust. However, when Rocklin annexed this land into the city, it did so as low density housing and it has placed it into its housing element as such.

"AB 1152 would ensure Rocklin is not penalized by HCD if the mansions are not built, so long as it meets its total number of low density units in other places throughout the city. This ensures enough housing is built while also preserving this land for generations to come. Since Placer County is one of the fastest growing regions in the state, housing development will progress efficiently while Clover Valley is protected."

- 2) **Bill Summary.** This bill revises the definition of "development policy, standard, or condition" in the HCA to exempt an action by an affected city or county related to allowing a conservation easement to preserve residentially zoned property.

This bill requires both of the following conditions to be met in order for the exemption to apply:

- a) The action will have no impact on the affected county or city's ability to meet the obligations of its adopted housing element.
- b) The action will not reduce the amount of high-density residentially zoned property within the affected county or city.

This bill is sponsored by the City of Rocklin.

- 3) **HCA of 2019.** In response to the state's ongoing housing affordability crisis, the Legislature enacted the Housing Crisis Act of 2019 via SB 330 (Skinner), Chapter 654, and subsequent amendments to the HCA that, among other things, extended its sunset to January 1, 2030 in SB 8 (Skinner), Chapter 161, Statutes of 2021. The HCA had several main components, including the following:

- a) Maintaining the amount of development capacity in the state, by prohibiting certain local actions that would reduce housing capacity.
- b) Increasing certainty for developers, by prohibiting a local agency from applying new rules or standards to a project after a preliminary application containing specified information is submitted.
- c) Facilitating a timely approval process, by establishing a cap of five hearings that can be conducted on a project that complies with objective local standards in place at the time a development application is deemed complete.
- d) Ensuring there is no reduction of housing in the state, especially affordable housing, by establishing anti-demolition and anti-displacement protections.

The HCA prohibits an affected city or county from enacting a development policy, standard, or condition that has the effect of reducing or otherwise limiting the intensity of land use on land where housing is an allowable use below a minimum floor of what was in effect on January 1, 2018 in the jurisdiction. For affected jurisdictions, the HCA declares actions taken in violation of these provisions to be void. There is a "safe harbor" provision that permits a reduction in the intensity of land use if the jurisdiction concurrently increases the allowable density on other parcels such that there is "no net loss" in residential capacity in the jurisdiction.

- 4) **Adoption and Implementation of Housing Elements.** One important tool in addressing the state's housing crisis is to ensure that 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 most of the high population parts of the state, and five years in areas with smaller populations. Localities must adopt a legally valid housing element by their statutory deadline for adoption. Failure to do so can result in certain escalating penalties, including an accelerated deadline for completing rezoning, exposure to the "builder's remedy," public or

private lawsuits, financial penalties, potential loss of permitting authority, or even court receivership.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of its region's housing needs allocation. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Where a community does not already contain the existing capacity to accommodate its fair share of housing, it must undertake a rezoning program to accommodate the housing planned for in the housing element. Adequate zoning, removal of regulatory barriers, protection of existing stock and targeting of resources are essential to obtaining a sufficient permanent supply of housing affordable to all economic segments of the community. Although not requiring the community to develop the housing, housing element law requires the community to plan for housing. Recognizing that local governments may lack adequate resources to house all those in need, the law nevertheless mandates that the community do all that it can and that it not engage in exclusionary and harmful practices.

The requirement to identify adequate sites to accommodate the jurisdiction's RHNA by income category – and if adequate sites do not exist, to rezone additional sites – is a crucial component of housing element law. To that end, local governments must maintain the adequacy of sites throughout the entire planning cycle and not take actions that reduce or permit the reduction of residential density for any parcel in its housing element that has been identified to meet its share of RHNA. This “no net loss” requirement, similar to the requirement in the HCA, does permit a loss in density on such a site as long as the local government identifies and makes available additional sites to cover the lost portion of RHNA within 180 days.

- 5) **Clover Valley in the City of Rocklin.** The author indicates there is a large oak grove known as Clover Valley in the City of Rocklin that various local agencies and the Placer Land Trust have been working to preserve. However, because the city originally annexed the land and zoned it for low-density residential housing and had granted an entitlement to a developer who owned the land, the imposition of a conservation easement would likely not be allowed under the HCA's prohibition on reducing a site's development capacity. This bill is intended to allow the recording of the conservation easement after various entities pulled together funding to purchase the remaining portion of the valley from the developer.

The City of Rocklin included the proposed development (Clover Valley Lakes) in their most recent sixth cycle housing element as accounting for an estimated 558 units of their total above moderate-income housing allocation of 1,828 units.

- 6) **Previous Legislation.** SB 8 (Skinner), Chapter 161, Statutes of 2021, made changes to the HCA and extended its sunset to 2030.

SB 330 (Skinner), Chapter 654, Statutes of 2019, enacted the HCA of 2019, which restricted actions by affected cities and counties that would reduce the production of housing, among other changes, for five years.

- 7) **Arguments in Support.** The City of Rocklin, sponsor of this bill, writes, “This amendment to the Housing Crisis Act of 2019 will allow cities to comply with their adopted housing elements while still providing flexibility to address ongoing environmental concerns from

their residents. As part of the RHNA process, cities need to identify and zone locations to meet the growing housing needs in the region. As housing costs become more unattainable for residents, the presence of additional housing units, particularly high-density housing units, will provide relief for many Californians. High density housing units are more likely to serve low-income individuals, and high-density zoning will increase the housing that is available for those at the lowest income levels. Medium-density and low-density housing is often developed for market rate or luxury developments, and although California needs housing at all income levels, the most pressing need is to provide housing for low-income households.

“As more land is developed in cities and counties, there are fewer natural resources available for residents to enjoy. Outdoor recreation is one of the only hobbies that is enjoyed by people of all income levels. Connection to nature and conservation of sensitive cultural and wildlife habitats is vital for a person’s health. Numerous studies published in medical and psychology journals point to the importance of nature in maintaining physical and mental health. As areas become more built out, these unique natural resources are being lost.

“This bill would make it so that placing a conservation easement on properties that are residentially zoned would only be allowable if the agency remained in compliance with their adopted housing element and the easement did not reduce the amount of high-density residentially zoned property. High-density housing is what is needed the most in the state to address the housing crisis. This bill allows conservation easements to be placed on residential properties without losing these vital housing units.”

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 11-0 vote on April 24, 2025.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

City of Rocklin [SPONSOR]

### **Opposition**

None on file

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