

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 1276 (Carrillo) – As Amended March 24, 2025

SUBJECT: Housing developments: ordinances, policies, and standards

SUMMARY: Expands the list of objective ordinances, policies, and standards that can be vested through SB 330 (Skinner), Chapter 654, Statutes of 2019, which created the Housing Crisis Act, and applies a “reasonable person” standard to state and regional agencies involved in housing development reviews. Specifically, **this bill**:

- 1) Applies a “reasonable person” standard to reviews of housing development projects and emergency shelters by all public agencies, including the state, local governments, regional agencies, public districts, redevelopment agencies, or other political subdivisions, by deeming such projects consistent with applicable plans or requirements if substantial evidence exists that would allow a reasonable person to reach that conclusion.
- 2) Adds the following items to the list of “ordinances, policies, and standards” that are “vested” through the Housing Accountability Act (HAA) once a developer submits a complete application within 180 days of a preliminary application:
 - a) Materials requirements to the subdivision standards and criteria.
 - b) Postentitlement permit standards.
 - c) Any rules, regulations, determinations, and other requirements adopted or implemented by other public agencies, as specified, which includes state agencies and regional governments.
- 3) Finds and declares that providing certainty to applicants for housing development projects with respect to the interpretation and applicability of public agency regulatory standards and requirements is vital for ensuring the availability and feasibility of new housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this bill applies to all cities, including charter cities.
- 4) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, as specified.

EXISTING LAW:

- 1) Prohibits local governments from denying, making infeasible, or reducing the density of housing developments that comply with objective standards, unless specific written findings based on health, safety, or state/federal law conflicts are made. [Government Code (GOV) § 65589.5]
- 2) Applies a “reasonable person” standard to housing development projects reviewed by local agencies. (GOV § 65589.5)

- 3) Establishes the Housing Crisis Act as part of the Housing Accountability Act (HAA) for urbanized and affected jurisdictions, with the following provisions:
- a) Establishes a preliminary application process that allows developers to lock in, aka “vest” objective zoning, design, and subdivision standards in place at the time of the submission date. (GOV § 65941.1, 65589.5)
 - b) Requires that housing projects be evaluated based on objective general plan, zoning, subdivision, and design standards in place at the time of the application. Objective standards must be verifiable based on measurable criteria and not subject to subjective interpretation. (GOV § 65941.1, 65589.5)
 - c) Defines “ordinances, policies, and standards” as objective requirements that are uniformly verifiable by reference to external and available criteria. These include:
 - i) General plans;
 - ii) Community plans;
 - iii) Specific plan;
 - iv) Zoning;
 - v) Design review standards and criteria;
 - vi) Subdivision standards and criteria; and
 - vii) Any other rules, regulations, requirements, and policies of a local agency, including:
 - (1) Development impact fees;
 - (2) Capacity or connection fees or charges;
 - (3) Permit or processing fees; and
 - (4) Other exactions (GOV § 65589.5)
 - d) Prevents local agencies from applying new ordinances, policies, or standards adopted after the preliminary application is submitted. (GOV § 65941.1, 65589.5)

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

COMMENTS:

- 1) **Author’s Statement.** According to the author, “California’s housing crisis has left too many without a home, struggling to afford rent, and unable to achieve homeownership. Yet, delays, regulatory barriers, and inconsistent permitting rules are making it harder and more expensive to build the housing we desperately need. Right now, it not only slows development but also discourages new housing altogether, pushing investment to states with a more predictable process.

“AB 1276 strengthens SB 330’s (2019) vesting protections to ensure housing projects aren’t subject to regulatory changes at the state and regional agency level after a preliminary application is submitted—except in cases concerning health, safety, or environmental mitigation. By reducing uncertainty and reinforcing clear, predictable standards, AB 1276 will help create a more predictable path for housing development that lowers costs, speeds up construction, expands affordable housing and homeownership, and supports sustainable, community-focused growth.”

- 2) **Planning for Housing.** Planning for and entitling new housing is mainly a local responsibility. The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public – including land use authority. Cities and counties enforce this land use authority through zoning regulations, such as the allowable density and height for a project, parking requirements, and setbacks. Cities and counties also enforce this land use authority through their control of the entitlement process, which is the process by which the city or county grants permission for a proposed housing development to be built.

Existing state laws, including the Permit Streamlining Act, the Housing Accountability Act, and the Housing Crisis Act of 2019, establish parameters for the entitlement process. These parameters are designed to ensure that public agencies act fairly and promptly on applications for housing development proposals.

- 3) **The Housing Accountability Act.** In 1982, the Legislature enacted the Housing Accountability Act (HAA). The purpose of the HAA is to help ensure that a city does not reject or make infeasible housing development projects that contribute to meeting the housing need determined pursuant to the Housing Element Law without a thorough analysis of the economic, social, and environmental effects of the action and without complying with the HAA. The HAA restricts a city’s ability to disapprove, or require density reductions in, certain types of residential projects. The HAA does not preclude a locality from imposing developer fees necessary to provide public services or requiring a housing development project to comply with objective standards, conditions, and policies appropriate to the locality’s share of the regional housing needs allocation.
- 4) **AB 1515 - Reasonable Person Standard.** Under the HAA, housing projects are analyzed for consistency with governmental agencies’ adopted plans (e.g., general plans and zoning codes). Previously, courts fully deferred to regulatory agencies in determining project consistency, allowing agencies to block or extract significant concessions from projects by declaring them inconsistent with adopted plans, even if it would have been reasonable for the agency to have found the project consistent.

In 2017, the HAA was amended by AB 1515 (Daly), Chapter 368, Statutes of 2017, to apply a “reasonable person” standard to local agencies. The reasonable person standard in the HAA prohibits local agencies from denying or conditioning a housing project based on subjective interpretations of local regulations. If substantial evidence exists such that a reasonable person could determine a project is consistent with applicable plans or zoning, it must be deemed consistent as a matter of law, regardless of the agency’s decision. If a local agency

reaches a different conclusion than a reasonable person would, based on the evidence, its decision is legally vulnerable and may be overturned in court. Courts are not required to defer to the agency's interpretation and can mandate project approval if the evidence supports consistency. This standard prevents agencies from using broad discretion to block or significantly alter projects, ensuring that housing approvals are based on objective, fact-based criteria rather than political or community opposition.

- 5) **SB 330 (Skinner) – Vested Rights.** The Housing Crisis Act of 2019, established by SB 330 (Skinner), Chapter 654, Statutes of 2019, amended the established process through which developers seeking to build housing could “vest” their projects. Under the Housing Crisis Act of 2019, an applicant files a preliminary application to build housing, with specified project information, and then has 180 days, or approximately 6 months, to file a “complete application.” If the developer files a complete application in time, the housing development gains vested rights to proceed under the rules that were in effect when the preliminary application was submitted. These rights include the vesting of objective standards such as general plans, community plans, specific plans, zoning ordinances, design review standards, subdivision standards, and any other rules, regulations, requirements, and policies of a local agency. There are some exceptions that allow new regulations to be applied in cases of health and safety concerns or to mitigate significant CEQA environmental impacts. However, SB 330 only applies to local agencies.
- 6) **Post-entitlement.** A development proposal that is approved and entitled by a local agency must also obtain approval of objective permits associated with the development proposal. This ensures the proposal is compliant with state and local building codes and other measures that protect public health, safety and the environment. Post-entitlement phase permits include permits to prepare the site for new development, including demolition permits and grading permits. Post-entitlement phase permits also include all the building permits for the new construction. This stage of the review process is often ministerial, as these postentitlement permits are typically objective in nature.

Generally, once a local agency invests the time and effort to approve and entitle a development proposal, there is an incentive for the agency to process the postentitlement permits in a timely fashion. In order to expedite this stage of the development approval process, AB 2234 (Robert Rivas), Chapter 651, Statutes of 2022, required local agencies to process non-discretionary permits within 30 days for small housing development projects and 60 days for large housing development projects.

AB 2234 (Robert Rivas), Chapter 651, Statutes of 2022, established parameters for a local agency's review of non-discretionary post-entitlement phase permits, including requiring a local agency to determine whether an application for a post-entitlement building permit is complete within 15 days of the agency receiving the application. Post-entitlement building permits must be approved by local agencies within 30 days for small housing development projects and 60 days for large housing development projects.

AB 1114 (Haney), Chapter 753, Statutes of 2023, expanded the postentitlement permits subject to the expedited review process and timelines established by AB 2234 to include all building permits and other permits issued under the California Building Standards Code, or any applicable local building code for the construction, demolition, or alteration of buildings, whether discretionary or nondiscretionary.

- 7) **Regional Governments and State Agencies.** Existing law only provides vesting rights to any rules, regulations, requirements, and policies of a local agency. In contrast, this bill applies the vesting rights provided by the Housing Crisis Act of 2019 to rules, regulations, and determinations established by regional governments and state agencies. Under this bill, housing projects would be only subject to the regulations set in place at the time of entitlement. This includes, and is not limited to, municipal storm water requirements controlled by Regional Water Quality Boards, local grading ordinances, State Water Quality Control Board/Department of Toxic Substances Control Vapor Intrusion Thresholds, and Metropolitan Planning Organization Sustainable Community Strategies. Any newly implemented standards would still apply to housing projects that file preliminary applications after their implementation, but would not apply to projects that are vested before the standards change.
- 8) **Bill Summary.** This bill adds to the list of objective standards that can be vested under the Housing Crisis Act of 2019 to include:
- a) Includes materials requirements.
 - b) Postentitlement permit standards.
 - c) Any rules, regulations, determinations, and other requirements adopted or implemented by other public agencies, as specified, which includes state agencies and regional governments.

The bill also applies the reasonable person standard to public agencies, which includes state agencies and regional governments. For comparison, local agencies are already subject to the reasonable person standard, as a result of the Housing Crisis Act of 2019.

This bill is sponsored by the California Building Industry Association.

- 9) **Arguments in Support.** The California Building Industry Associations writes in support, “California continues to face a significant housing shortage, driven in large part by unpredictable and lengthy approval processes. While SB 330 was instrumental in securing regulatory certainty at the local level, housing projects remain vulnerable to changes in state and regional agency regulations, which can cause costly delays or even render projects infeasible. AB 1276 directly addresses these challenges by extending SB 330’s vesting protections to include state and regional agencies, ensuring that housing projects are not subject to shifting regulatory requirements after a preliminary application has been submitted.

“Additionally, AB 1276 expands the application of the ‘reasonable person’ standard under the HAA to state and regional agencies. This important provision ensures that if substantial evidence exists to support a finding of project consistency with an applicable regulatory plan, the project is deemed consistent as a matter of law. By applying this objective standard beyond local agencies, AB 1276 further reduces arbitrary decision-making that could otherwise hinder housing production”

- 10) **Arguments in Opposition.** None on file.

11) **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, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

California Building Industry Association (Sponsor)
Abundant Housing LA
Boma California
California Association of Realtors
California Business Properties Association
California Business Roundtable
California Community Builders
California Housing Consortium
California Yimby
Circulate San Diego
Housing California
Institute for Responsive Government Action
NaioP California
San Diego Housing Commission
South Pasadena Residents for Responsible Growth
Southern California Leadership Council
Spur
The Two Hundred
Tri County Chamber Alliance

Opposition

None on file

Analysis Prepared by: Linda Rios / L. GOV. / (916) 319-3958