

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
AB 787 (Gabriel) – As Amended April 20, 2021

**SUBJECT:** Planning and zoning: housing element: converted affordable housing units.

**SUMMARY:** Authorizes cities and counties to receive credit towards their regional housing need for the conversion of above moderate-income units to very low-, low-, and moderate-income units. Specifically, **this bill:**

- 1) Authorizes cities and counties to count any units in an existing multifamily building that are converted to deed restricted housing for very low-, low- or moderate income households towards their share of the regional housing need as long as the following apply:
  - a) The unit, at the time of conversion, is not rented at a cost affordable to very low-, low-, or moderate- low income households;
  - b) The unit will have long-term affordability covenants and restrictions that require the unit to be affordable to persons of very low-, low-, or moderate- income for not less than 55 years;
  - c) The initial rent for any post-conversion unit shall be at least 10 percent less than the average monthly rent charged over the 12 months prior to conversion;
  - d) The unit is in decent, safe, and sanitary condition at the time of occupancy;
  - e) The unit has not been acquired by eminent domain as part of the conversion;
  - f) The unit is subject to a governmental monitoring program to ensure continued affordability; and,
  - g) The public entity must have an assignable right to purchase the development or the investor's interest for debt plus taxes, unless the development is financed with low-income housing tax credits.
- 2) Requires that, if a city or county reports converted units pursuant to this bill, it shall:
  - a) Subtract a corresponding amount from its existing above-moderate income total units; and,
  - b) If such subtraction would cause the number of permitted above moderate-income units for that cycle to drop below zero, the jurisdiction must identify, within 180 days, an increase to its total site inventory zoned capacity for above moderate-income units by a commensurate amount.
- 3) Specifies that a city or county could receive a unit-for-unit zoning reduction for conversions that occur prior to the jurisdiction's housing element adoption deadline, provided that the reduction does not exceed 25 percent.

**EXISTING LAW:**

- 1) Establishes Housing Element law. This law provides that each city and county's fair share of housing is to be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (a) the Department of Finance and the Department of Housing and Community Development (HCD) develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income; (b) councils of government (COGs) allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and (c) cities and counties incorporate their allocations into their housing elements.
- 2) Requires that each city and county provide a housing element that includes the following:
  - a) An assessment of housing needs;
  - b) An inventory of resources and constraints relevant to meeting those needs;
  - c) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing; and,
  - d) A program that sets forth a schedule of actions during the planning period that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element, including identification of adequate sites for housing.
- 3) Authorizes HCD, in evaluating a proposed or adopted housing element for substantial compliance with housing element, to allow a city or county to identify adequate sites for housing by a variety of methods. These methods include, but are not limited to:
  - a) Redesignation of property to a more intense land use category;
  - b) Increasing the density allowed within one or more categories;
  - c) Identification of sites for accessory dwelling units; and,
  - d) Conversion from above moderate-income housing to very low- and low-income housing, as follows:
    - i) Such conversion may only substitute for the provision of units for up to 25 percent of the adequate sites for any income category;
    - ii) The community must include in its housing element a program committing the local government to provide units in that income category through the provision of committed assistance that will make the units available at affordable housing costs or affordable rents, as specified;
    - iii) The converted units meet specified requirements, such as being substantially rehabilitated, acquired, purchase of affordability covenants, and conversion of a motel, hotel, or hostel;

- iv) If, by the end of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the program, the city or county must, not later than the end of the fourth year of the planning period, adopt an amended housing element identifying additional adequate sites sufficient to accommodate the number of units for which committed assistance was not provided; and,
  - v) If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the conversion of units identified in this program, it cannot use this program in its next housing element to identify any more units than it successfully converted in the program in this housing element cycle.
- 4) Requires each city and county to provide, by April 1 of each year, an annual report to HCD that includes the status of their general plan and progress in its implementation, including the progress in meeting its share of regional housing needs. This includes the number of units that have been converted from above moderate-income housing to very low- and low-income housing, pursuant to the process described above in (3)(d).

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

**COMMENTS:**

- 1) **Author's Statement.** According to the author, "The preservation of affordable housing is a key policy tool to address California's housing crisis. Housing preservation helps promote and sustain communities by ensuring the ongoing availability of quality, affordable homes. AB 787 will create new flexible tools that can be used to support California's workforce, including teachers, firefighters, and nurses."
- 2) **Conversion to Affordable Housing.** The creation of new affordable housing is the primary way to address the demand for housing created by California's housing crisis. However, conversion of existing market rate housing to deed restricted affordable housing can also address the need. While this approach does not help increase the overall housing stock, it does help target housing to those most in need. This approach is also cost-effective, being much less expensive than the approximately \$550,000 it currently costs to build a new affordable housing unit.

One model for the conversion of market rate housing to deed restricted affordable housing is for the housing to be purchased by a government entity such as the California Community Housing Agency (CalCHA), the sponsor of this bill. CalCHA is a Joint Powers Authority (JPA) formed in 2019 that partners with local governments. As a JPA, CalCHA can issue bonds to purchase property and receive a "welfare exemption" from paying property taxes, both of which are necessary to make the conversion financially viable. CalCHA's efforts are targeted at creating moderate-income units through conversion.

- 3) **RHNA, Housing Elements and Conversion.** Local jurisdictions are required to adopt a housing element to demonstrate how they will adequately plan to meet their existing and projected housing needs. The amount of housing required to be planned for is established by the Regional Housing Needs Allocation (RHNA) process. For all but the state's most rural areas, this process occurs on an eight-year cycle, during which the state determines the

anticipated population growth and then assigns a growth target to the state's regions, which then assign them to the jurisdictions therein. Regional housing needs are assigned by four income categories as guideposts for each community to develop a mix of housing types for all economic segments of the population. These income categories include very low-income (under 50% of Area Median Income (AMI)), low-income (between 50-80% of AMI), moderate income (80%-120% of AMI), and above-moderate income (above 120% of AMI). Upon receiving its RHNA, each jurisdiction must then demonstrate, through its housing element, that there are adequate sites to accommodate, at a minimum, the allocation for each of the four income categories.

Existing law enables jurisdictions to create a program that facilitates conversions from market rate to deed restricted affordable housing to reduce their housing element's adequate sites accordingly. Specifically, a jurisdiction may assume that up to 25 percent of their adequate sites for very low- and low-income households will come from the conversion of existing housing that is currently for higher-income households, dilapidated housing at risk of being lost to the housing stock, extension of existing affordability covenants, or conversion of hotel and motel rooms. To count the units in the adequate sites inventory, in advance of the adoption of the housing element, a jurisdiction must identify and commit local funding and ensure the long-term affordability of these units. Local jurisdictions then have three years from the start of their housing element cycle to enter into an enforceable agreement of committed assistance for all units specified in the program, after which they must identify adequate sites to accommodate the non-converted units. Upon conversion of the units, the local jurisdiction can count them towards meeting their share of the regional housing needs.

- 4) **Bill Summary.** This bill creates an additional approach to facilitate the conversion of market rate units to units for low-income households. Local jurisdiction would be able to count conversions when the jurisdiction did not commit local funding towards the conversion. They would also be able to count conversions to moderate-income housing. For each unit converted to lower or moderate-income housing, the jurisdiction would need to add one unit to their unmet RHNA for above-moderate rate units.

This bill is sponsored by the California Community Housing Agency.

- 5) **Committee Amendments.** Due to compressed committee referral deadlines, the author was unable to adopt author's amendments prior to the Committee deadline. The Committee may wish to incorporate the following amendments proposed by the author:
  - a) On page 3 line 19 strike and replace "at least" with "a term of."
- 6) **Arguments in Support.** The California Community Housing Agency writes in support, "AB 787 will help complement production strategies by offering a cheaper and quicker way to add new income restricted housing to California communities, providing desperately needed affordable housing to California's middle-income workforce."
- 7) **Arguments in Opposition.** None on file.
- 8) **Double-Referral.** This bill was heard in the Housing and Community Development Committee, where it passed on a 8-0 vote on April 15, 2021.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Community Housing Agency [SPONSOR]

All Home

California Cities for Local Control

California Housing Consortium

New Livable California DbA Livable California

Novin Development Corp.

San Francisco Bay Area Planning and Urban Research Association (SPUR)

Silicon Valley Leadership Group

Yimby Action

Zillow Group

**Opposition**

None on file.

**Analysis Prepared by:** Hank Brady / L. GOV. / (916) 319-3958