

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
AB 803 (Boerner Horvath) – As Amended April 20, 2021

**SUBJECT:** Starter Home Revitalization Act of 2021.

**SUMMARY:** Requires cities and counties to allow, in specific circumstances, more dense development of single-family housing. Specifically, **this bill:**

- 1) Authorizes a development proponent to submit an application that allows development of a “small home lot development.”
- 2) Defines a “small home lot development” as a development where all of the following apply:
  - a) The proposed development is located on a lot zoned for multi-family residential development that is no larger than five acres and substantially surrounded by qualified urban uses;
  - b) The development proponent proposes to construct single-family housing units on fee simple ownership lots;
  - c) The proposed development will result in at least as many units per acre as the maximum site density identified in the jurisdiction’s housing element for that parcel;
  - d) The residential properties within a radius of 500 feet of the site are zoned to have an allowable residential density of less than 30 units per acre;
  - e) The site complies with the existing site front, side, and rear setback requirements;
  - f) The proposed units comply with existing height limits, if applicable;
  - g) The site is located in a jurisdiction that has adopted a housing element for the current planning period that is in substantial compliance with Housing Element Law;
  - h) The proposed site is not identified in the housing element as a site to accommodate any portion of the jurisdictions regional housing need for low-income or very low income households;
  - i) The average unit size does not exceed 1,750 net habitable square feet;
  - j) The development complies with any local inclusionary housing ordinances adopted by the local agency, if applicable and as specified; and
  - k) The development of a project on that site does not require the demolition or alteration of any of the following types of housing:
    - i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;

- ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power;
  - iii) Housing occupied by tenants within the seven years preceding the date of the application, including housing that has been demolished or that tenants have vacated before the application for a development permit; and,
  - iv) A parcel or parcels on which an owner of residential real property has exercised their rights to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
- 3) Establishes that a local agency cannot impose any of the following requirements on a small home lot development:
- a) A setback requirement between the units, except as required by the California Building Code;
  - b) A minimum requirement on the size of an individual small home lot created by the development;
  - c) A requirement to provide enclosed or covered parking beyond that allowed by state density bonus law, unless the development is located within one-half mile of a major transit stop, in which case the local agency cannot impose a parking requirement that exceeds 0.5 spaces per bedroom; and
  - d) The formation of a homeowners' association.
- 4) Enables a local agency to adopt policies, procedures, or other provisions regarding the creation of small home lot developments that allow the creation of more units.
- 5) Finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair, as specified, and therefore that the changes made by this act applies to all cities, including a charter city or a charter city and county.
- 6) 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.
- 7) Specifies that the requirements of this section are in addition to, and not an exception from, the "no net loss" requirements set forth in Government Code Section 65863.

**EXISTING LAW:**

- 1) Planning and Zoning Law requires every city and county to adopt a general plan, and requires the general plan to include seven mandatory elements, including a land use element, and requires major land use decisions by cities and counties, such as development permitting and subdivisions of land, to be consistent with their adopted general plans.
- 2) The Subdivision Map Act authorizes local governmental agencies to regulate and control the design and improvements of subdivisions to ensure that new development takes place in an

orderly manner, and that services such as roads, utilities, open space, and other services are adequately provided.

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

**COMMENTS:**

- 1) **Author's Statement.** According to the author, "While home ownership options have traditionally been limited to single-family homes on 5,000 square foot lots or as attached condominiums, the passage of a statewide Small Lot Subdivision authorization will create more entry-level home ownership opportunities, and add as an option another type of housing that is currently missing in our state's housing supply."
- 2) **"Missing-Middle" Housing.** The cost of housing in California is the highest of any state in the nation. Additionally, the pace of change has far outstripped that in other parts of the country. While housing in California was 30% more expensive than the U.S. average in 1970, now it is 250% more expensive. Although incomes have also increased over that period, they have done so at a much slower pace. The result is that housing has become much more expensive. Only 28% of households can buy the median priced home. More than half of renters and 80% of low-income renters are rent-burdened, meaning they pay more than 30% of their income towards rent. According to a 2016 McKinsey Global Institute report, Californians pay \$50 billion more per year for housing than they are able to afford (nearly \$3,000 per household).

One of the many reasons that housing is too expensive is the type of housing that is being built. Almost all of the housing built in California is single-family (which can be an inefficient use of land) and mid- and high-rise construction (which is expensive to build). One strategy to reduce the cost of housing is to facilitate the construction of "missing-middle" housing types that accommodate more units per acre, but are not inherently expensive to build. This includes medium-density housing, such as duplexes, fourplexes, garden apartments, town homes, and so forth. In addition to being land-efficient while being less expensive to build, these housing types have several other benefits, including:

- a) Being more contextually similar to existing single-family neighborhoods;
- b) Providing sufficient density to support the shops, restaurants, and transit that are associated with walkable neighborhoods;
- c) Helping expand the pool of homebuilders, since the construction and building materials are comparatively less complicated than larger mid- and high-rise structures; and,
- d) Being naturally less expensive in the market because each living unit is typically smaller than a single-family home, thereby helping increase access to opportunity and facilitating neighborhood equity and inclusion.

A major reason that these units are not being built is that not enough land is designated for multi-family housing under local zoning. A 2019 Turner Center survey of California cities and counties revealed that only 7% of local jurisdictions zoned more than half their land for multi-family housing, and only 35% zoned one quarter of their land for multi-family housing.

Additionally, even when land is properly zoned to allow the development of smaller units, existing maps may need to be subdivided into smaller parcels to allow for smaller homes that based on their size are “affordable by design.” Several cities have sought to encourage the development of smaller “starter homes,” such as town homes and bungalows in single family neighborhoods, as well as in areas zoned for commercial and multifamily development that remain undeveloped or underdeveloped by adopting small lot ordinances that streamline the development process for smaller homes.

- 3) **The Subdivision Map Act.** The SMA establishes a statewide regulatory framework for controlling the subdividing of land, which generally requires a subdivider to submit, and have approved by the city or county in which the land is situated, a tentative map. Cities and counties approve tentative maps that are consistent with their general plans, attaching scores of conditions. Once subdividers comply with those conditions, local officials must issue final maps. Approving tentative maps is a discretionary action. However, once the conditions of a tentative map are met, a final map is typically approved ministerially.

For smaller subdivisions (lot splits), the level of improvements local governments can require for the subdivisions are statutorily limited and local officials issue parcel maps rather than tentative and final maps. Parcel maps may be approved through a one-step discretionary process at the local level. However, local governments may, at their discretion, require a tentative parcel map followed by final parcel map for these subdivisions.

- 4) **Bill Summary.** This bill seeks to facilitate moderate density “starter homes” designed for ownership at more affordable prices than might be found on the surrounding single-family homes. It does so by removing the ability for local agencies to require setback requirements between the units beyond that required by the State Building Code, establish a minimum home size, or require enclosed or covered parking beyond that allowed by state density bonus law.

This bill also establishes minimum densities (based on the local general plan) and a maximum average home size of 1,750 square feet. It also bans cities from requiring the creation of homeowner associations on sites developed pursuant to this bill. This bill includes provisions that ensure small lot home developments authorized under this bill are not build on land identified in a jurisdiction’s housing element as a site to accommodate a portion of the regional need for low-income or very low-income households.

- 5) **Arguments in Support.** The California Association of Realtors writes in support, “C.A.R. supports AB 803 because it encourages the construction of new affordable owner-occupied housing units statewide that will be available to our state’s working families who struggle to afford housing within the communities in which they work.”
- 6) **Arguments in Opposition.** None on file.
- 7) **Double-Referral.** This bill is double-referred to the Housing and Community Development Committee, where it passed on a 8-0 vote on April 15, 2021

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association of Realtors.

**Opposition**

None on file.

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