
SENATE COMMITTEE ON HOUSING
Senator Nancy Skinner, Chair
2023 - 2024 Regular

Bill No:	AB 2694	Hearing Date:	6/4/2024
Author:	Ward		
Version:	4/9/2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: Density Bonus Law: residential care facilities for the elderly

DIGEST: This bill clarifies that Residential Care Facilities for the Elderly (RCFEs) qualify as senior citizen housing developments under Density Bonus Law (DBL).

ANALYSIS:

Existing law:

- 1) Requires each city and county to adopt an ordinance that specifies how it will implement state DBL. Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:
 - a) 10% of the total units of a housing development for lower-income households;
 - b) 5% of the total units of a housing development for very low-income households;
 - c) A senior citizen housing development or mobile home park;
 - d) 10% of the units in a common interest development (CID) for moderate-income households;
 - e) 10% of the total units for transitional foster youth, veterans, or persons experiencing homelessness;
 - f) 20% of the total units for lower-income students in a student housing development; or
 - g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households.

- 2) Requires a city or county to allow an increase in density on a sliding scale from 20% to 50%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential

density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

- 3) Defines a “residential care facility for the elderly (RCFE)” to mean a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a RCFE, as specified.
- 4) Defines “shared housing” for purposes of DBL to mean a residential or mixed-use structure, with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to adequately accommodate all residents. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this law, the local definition shall apply to the extent that it does not conflict with the requirements of this law.
- 5) Provides that a “shared housing building” may include other dwelling units that are not shared housing units, provided those dwelling units do not occupy more than 25% of the floor area of the shared housing building. A shared housing building may include 100% shared housing units.
- 6) Provides that “shared housing unit” means one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, and that meets the “minimum room area” specified in the California Building Code.

This bill:

- 1) Clarifies that the definition of “a senior citizen housing development” under DBL includes an RCFE, as defined.
- 2) Defines “shared housing unit” for purposes of a RCFE to include a unit without a common kitchen where a room is shared by unrelated persons and meets the “minimum room area,” as specified.

COMMENTS:

- 1) *Author's statement.* "Our state is facing a silver tsunami as our population ages creating a demand for senior housing that outpaces supply. RCFEs offer a solution for seniors who need assistance with daily activities but wish to live in a less clinical setting. AB 2694 will help developers better utilize Density Bonus Law for senior housing developments, by clarifying that RCFE's qualify for the benefits of the law."
- 2) *DBL.* Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing (see #2 under "Existing Law"), including a senior housing project. If one of these options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a developer is entitled to a sliding scale of density bonuses, up to a maximum of 50% of the maximum zoning density and up to four incentives, as specified, depending on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units and 20% density for 10% low-income units. The maximum additional density permitted is 50%, in exchange for 15% very low-income units and 24% low-income units. The developer also negotiates additional incentives, reduced parking, and design standard waivers, with the local government. This helps developers reduce costs while enabling a local

government to determine what changes make the most sense for that site and community.

- 3) *Senior housing and RCFEs.* DBL provides one density bonus for senior housing, but does not require a minimum affordability to qualify for the density bonus. Senior citizen housing development is defined as housing for seniors who are 55 years or older that has at least 35 units or a mobile home park that limits residency based on age for older persons. A senior development can also qualify as shared housing, as defined in DBL. Shared housing includes one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, used for permanent residence, that meets the “minimum room area,” as specified in the California Building Code.

The Department of Health Care Services licenses RCFEs, sometimes called Assisted Living, which are non-medical facilities that provide room, meals, housekeeping, supervision, storage and distribution of medication, and personal care assistance with basic activities like hygiene, dressing, eating, bathing and transferring. RCFEs serve persons 60 years of age and above. Individuals living in units have a lease with the provider and are considered as living in their own home, not in a healthcare setting. RCFEs are required to provide private or semi-private bathrooms, a dining room, or a common activities room that may also serve as a dining room.

This bill makes clear that RCFE’s qualify under density bonus law and specifically, under the definition of shared housing.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, May 29, 2024.)

SUPPORT:

LeadingAge CA (Sponsor)
California Assisted Living Association

OPPOSITION:

None received.

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