



- 3) Requires proposed building standards that are submitted to CBSC for consideration to be accompanied by an analysis completed by the appropriate state agency that justifies approval based on criteria, as specified.
- 4) Requires HCD to propose the adoption, amendment, or repeal of building standards to CBSC for residential buildings, including hotels, motels, lodging houses, apartment houses, dwellings, buildings, and structures.

**This bill:**

- 1) Requires HCD to convene a working group, with membership including, but not limited to, the CBSC State Fire Marshal, Energy Commission, and other stakeholders, to research and consider identifying and recommending amendments to state building standards allowing residential developments of between three and 10 units to be built under the requirements of the California Residential Code, and any necessary modifications to maintain health and safety standards for the developments.
- 2) Requires HCD, no later than December 31, 2026, to provide a one-time report of its findings to the Legislature in HCD's annual legislative report, as specified.
- 3) Requires HCD, if the working group identifies and recommends amendments to building standards in the report in 3), to research, develop, and consider proposing for adoption by the CBSC such standards for the next triennial update of the California Building Standards Code that occurs on or after January 1, 2026.

**COMMENTS:**

- 1) *Author's Statement.* "AB 2934 would direct HCD to create a working group to explore allowing 'missing middle' developments between three and 10 units to be built under the requirements of the California Residential Code, rather than the California Building Code. This change could unlock the production of triplexes and other smaller multi-family housing types by streamlining code requirements, while preserving health and safety and opening up a broader workforce to build these projects."
- 2) *Building Standards.* The California Building Standards Law establishes the process for adopting state building standards by CBSC. Statewide building standards are intended to provide uniformity in building across the state. The CBSC's duties include the following: receiving proposed building standards from state agencies for consideration in each triennial and intervening building

code adoption cycle; reviewing and approving building standards submitted by state agencies; adopting building standards for state buildings where no other state agency is authorized by law; and publishing the approved building standards in the California Building Standards Code.

There are approximately 20 state agencies that develop building standards and propose them for adoption to the CBSC. After the proposal of building standards by state agencies, the standards undergo a public vetting process. A code advisory committee composed of experts in a particular scope of code reviews the proposed standards, followed by public review. The proposing agency considers feedback and may then amend the standards and re-submit them to the CBSC for consideration. HCD is responsible for the standards for residential buildings, hotels and motels. The California Building Code and California Residential Code govern general standards for multifamily and single-family residential construction.

Updates and changes to building standards are adopted on two timelines: through the triennial code adoption cycle which occurs every three years, and through the intervening code adoption cycle which provides an update to codes 18 months after the publication of the triennial codes. Regulatory activities for each cycle begin over two years before the effective date of the codes. The standards adopted in the current intervening code cycle will be effective on July 1, 2024 and the next triennial cycle's standards will be effective on January 1, 2026.

As a matter of practice, the Legislature typically offers guidelines or directs agencies to consider certain standards, rather than requires the adoption of specific standards, in order to provide flexibility and allow for subject matter experts to determine appropriateness and weigh the many considerations that must be evaluated when recommending new or modified building standards through the public regulatory process.

- 3) *Housing Costs and Missing Middle Housing*. The cost of housing in California is the highest of any state in the nation. Additionally, the pace of cost increase has far outstripped that in other parts of the county. One result of this is that homeownership has become much more difficult to attain, and the median priced home in California has continued to climb even during the recent high interest rate environment. Construction costs have also continued to increase. There are many drivers of this, including the cost of materials, cost and availability of labor, complexity of building code requirements, availability of construction loan financing, and more. Currently, only 15% of California

households can afford to purchase the median priced home – compared to 35% for the country as a whole, the lowest level since 2007.<sup>1</sup>

The type of housing built also affects this affordability. Much of the housing built in California is large single-family homes (which can be an inefficient use of land) and mid- and high-rise construction (which are expensive to build). One strategy to lower the cost of housing is to facilitate the construction of "missing-middle" housing types that accommodate more units per acre, but are not as inherently expensive to build. This includes medium-density typologies such as accessory dwelling units, townhomes, duplexes, fourplexes, and multifamily housing projects up to twenty units. Such units are more likely to be affordable to moderate-income households that cannot afford typical market-rate homes, but that earn too much income to qualify to receive publicly-subsidized affordable housing.

*Missing middle housing building codes.* The California Residential Code governs construction of one- and two-family dwellings and townhouses of three stories or less. The California Building Code (CBC) establishes requirements for all other buildings, including medium and high-density housing. These are based on model international codes commonly used around the world. However, certain reasonable requirements in the CBC for larger buildings can make development prohibitively complicated or render the economics infeasible for smaller ones. As a result, several jurisdictions across the United States have begun to allow smaller, missing-middle housing types, including triplexes and fourplexes, to be built under the requirements of the Residential Code.

The city of Memphis, which pioneered this new flexibility, identified several immediate benefits to the shift, including no longer requiring separate mechanical, engineering, and plumbing drawings to be submitted for project permitting; providing simpler egress requirements; and safely modifying seismic and fire protections. In addition, more small-scale residential contractors are now available to build these homes, as commercial contractors tend to work on larger projects like block-size apartment complexes and large commercial buildings.

Additionally, the unit cutoffs in the CRC do not align with the current financing offerings for constructing one- to four-unit dwellings. FHA-backed mortgages allow recipients to take advantage of more affordable financing for construction up to a fourplex, but the rigidity of the CBC hinders this possibility. In addition, some jurisdictions have reported that the construction of new units

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<sup>1</sup> <https://www.car.org/marketdata/data/haitraditional>

that increase the unit count of a parcel from two to three (or more) are triggering the heightened requirements of the CBC, including instances of adding an ADU to properties with a duplex, or adding a second ADU to a lot with a single-family home and an existing ADU.

This bill would direct HCD to set up a working group, similar to the working group established in AB 529 (Gabriel, Chapter 743, Statutes of 2023), to examine the possibility of modifying the California Building and Residential Codes for smaller developments between three and 10 units in size, without creating negative impacts on health and safety.

- 4) *Cost Study.* New building standards being proposed by various code entities (like HCD) to CBSC must be accompanied by an analysis that justifies approval based on criteria including that the cost to the public is reasonable, based on the overall benefit to be derived from the building standard. While the law currently requires the proposing entity to analyze the cost to the public of individual building code modifications, it is not apparent that any entity is reviewing the accumulation of those many changes at a holistic level to form a reasonable estimate of the cumulative cost impacts. These changes and any new or heightened requirements in the code have a direct impact on the cost of new housing in the state. This bill would require HCD to begin performing a more holistic cost pressure analysis of proposed standards, to better identify the impacts and ensure the residential building standards process evaluates not just with the granular cost of individual modifications, but the overall impact of the totality of standards.

#### **RELATED LEGISLATION:**

**AB 529 (Gabriel, Chapter 743, Statutes of 2023)** — required HCD to convene a working group regarding adaptive reuse residential projects, including identifying and recommending amendments to state building standards, and makes other changes to state law related to adaptive reuse projects.

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

**POSITIONS:** (Communicated to the committee before noon on Wednesday, June 19, 2024.)

#### **SUPPORT:**

American Planning Association, California Chapter  
California Apartment Association

California Building Industry Association  
California Community Builders  
California State Association of Counties  
Eden Housing  
Inner City Law Center  
LeadingAge California  
Livable California

**OPPOSITION:**

None received.

**-- END --**