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

Bill No: AB 3093 **Hearing Date:** 7/2/2024
Author: Ward
Version: 6/17/2024
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Land use: housing element: streamlined multifamily housing

DIGEST: This bill creates two new income categories, Acutely Low Income (ALI) and Extremely Low Income (ELI), in the Regional Housing Needs Allocation (RHNA) process and throughout Housing Element law.

ANALYSIS:

Existing law:

- 1) Defines “acutely low income” (ALI) as those earning between 0-15% of the AMI.
- 2) Defines “extremely low income” (ELI) as those earning below 30% of the AMI.
- 3) Establishes the following four household income categories for purposes of the RHNA process and throughout Housing Element law:
 - a) Very Low-Income (VLI), meaning those earning below 50% of the AMI;
 - b) Lower-Income (LI), meaning those earning between 50% and 80% of the AMI;
 - c) Moderate-Income (MI), meaning those earning between 80% and 120% of the AMI; and,
 - d) Above Moderate-Income, meaning those earning more than 120% of the AMI.
- 4) Provides that each community’s fair share of housing be determined through the RHNA process, which is composed of three main stages:
 - a) The Department of Finance and Department of Housing and Community Development (HCD) develop regional housing needs estimates;

- 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.
- 5) Requires each city and county to adopt a housing element, which must contain specified information, programs, and objectives, including:
- a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs;
 - b) A statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing; and
 - c) A program that sets forth a schedule of actions during the planning period, and timelines for implementation, that the local government is undertaking to implement the policies and achieve the goals and objectives of the housing element.
- 6) Requires a planning agency to submit a draft housing element revision to HCD at least 90 days prior to adoption of a revision of its housing element pursuant to statutory deadlines, or at least 60 days prior for a draft amendment. Requires the local government to make the first draft revision of the housing element available for public comment for at least 30 days and, if any comments are received, requires the local government to take at least 10 business days after the 30 day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to HCD.
- 7) Requires HCD to review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision or within 60 days of receipt of a subsequent draft amendment or an adopted revision or adopted amendment to a housing element. Prohibits HCD from reviewing the first draft submitted for each housing element revision until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments.
- 8) Requires HCD, in its written findings, to determine whether the draft element or draft amendment substantially complies with housing element law.
- 9) Requires each jurisdiction to prepare and adopt a General Plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs,

including the jurisdiction's share of the RHNA; identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community; and demonstrate local efforts to remove governmental and nongovernmental constraints that hinder the jurisdiction from meeting its share of the regional housing need, among other requirements.

- 10) Requires local governments to include an assessment of housing needs and resources in their housing elements for the four income categories in 1), as well as for extremely low-income households. Requires local agencies to assess housing needs for extremely low-income households either by using census data or by assuming that 50% of very low-income households qualify as extremely low-income.
- 11) Requires each jurisdiction to submit an annual progress report (APR) to its legislative body, HCD, and the Office of Planning and Research (OPR) by April 1 of each year that includes specified information, including progress in meeting its share of RHNA, a list of sites rezoned to accommodate the RHNA allocation for each income level that could not be accommodated on sites identified in the housing element's sites inventory, and the number of net new units of housing that have been issued a completed entitlement, building permit, or certificate of occupancy and the income category that each unit satisfied.
- 12) Provides a project proponent may use a streamlined ministerial approval process for specified infill housing projects in jurisdictions that fail to meet their RHNA targets, as reported in the APR, pursuant to SB 35 (Wiener, Chapter 366, 2017).

This bill:

- 1) Adds the following household income categories for purposes of RHNA and other provisions of Housing Element Law:
 - a) Acutely Low Income (ALI), meaning those earning between 0% and 15% of the area median income (AMI);
 - b) Extremely Low Income (ELI), meaning those earning between 15% and 30% of the AMI;
- 2) Identifies ELI households as households with special housing needs for purposes of Housing Element law. Provides that ALI shall also be identified in the seventh and subsequent revisions.

- 3) Removes the existing calculation methodology for ELI households for purposes of Housing Element Law and replaces it with the calculation determined by HCD through the RHNA process.
- 4) Requires local housing elements to include programs that will assist in the development of housing for ALI households in addition to the existing requirement for all other incomes in the seventh and subsequent revisions.
- 5) Requires 100% of the ALI and ELI housing needs to be accounted for in the sites inventories of local housing elements, and any required rezonings if there are insufficient sites to meet those housing needs in the seventh and subsequent revisions.
- 6) Requires HCD to include ALI and ELI households in the RHNA in the seventh and subsequent revisions as specified.
- 7) Requires COGs to provide HCD with data on the housing needs of individuals and families experiencing homelessness for the purpose of determining the RHNA.
- 8) Adds the ALI and ELI income categories to the proportionate reduction provisions permitted between county and cities within the county when one or more of those cities agree to increase their share of the RHNA during the period of time between the adoption of a final RHNA and the due date of the housing element update, beginning in the seventh and subsequent revisions.
- 9) Requires HCD to publish, by December 31, 2026, advisory guidance, including, but not limited to, sample analyses and programs, pertaining to special housing needs for ALI and ELI households. When drafting the advisory guidance, HCD shall consider programs that promote the financial feasibility of housing at all income levels.
- 10) Subjects a local government to a streamlined, ministerial approvals process for certain housing projects if the jurisdiction does not meet the housing needs of ALI and ELI households, as reported in APRs to HCD.
- 11) Finds that the changes proposed by this bill address a matter of statewide concern, and therefore apply to all cities, including charter cities.

COMMENTS:

- 1) *Author's statement.* "AB 3093 will ensure that our housing planning processes are inclusive of the most vulnerable Californians - those experiencing, and at risk of, homelessness. By introducing ELI and ALI categories into the RHNA, we can recognize and plan for the housing needs of individuals earning the

lowest incomes in the state. This recognition is crucial for crafting housing policies catering to individuals earning up to 30% and 15% of the Area Median Income, respectively. The state cannot fix what it does not track. AB 3093 stems from the alarming increase in homelessness across our state, which has risen by 53% since 2013. On any given night, 181,000 Californians experience homelessness. Despite significant financial investment, the persistent increase in Californians experiencing homelessness underscores the need for a more comprehensive approach to our housing policies. This bill will require local governments to integrate these new income categories into their housing elements, ensuring that they effectively plan for, and implement, strategies to meet the needs of our most at-risk Californians. AB 3093 will foster innovative local solutions that address the root causes of homelessness, leading us to a California where everyone has access to safe, affordable housing.”

- 2) *Housing elements.* Every city and county in California is required to develop a general plan that outlines the community’s vision of future development through a series of policy statements and goals. A community’s general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. State law mandates seven elements: land use, circulation (*e.g.*, traffic), housing, conservation, open-space, noise, and safety.

Each community’s general plan must include a housing element, which outlines a long-term plan for meeting the community’s existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its “fair share” of its region’s housing needs. Following a staggered schedule, cities and counties located within the territory of a metropolitan planning organization (MPO) must revise their housing elements every eight years, and cities and counties in rural non-MPO regions must revise their housing elements every five years (see #6 below). These five- and eight-year periods are known as the housing element planning period.

In general, a housing element must identify and analyze existing and project housing needs, identify adequate sites with appropriate zoning to meet its share of the RHNA, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

- 3) *The RHNA process.* Before each housing element revision, each community is assigned its fair share of the region’s housing need for four separate income categories (very low-, low-, moderate-, and above-moderate income households) through a two-step process known as RHNA. First, HCD determines the aggregate housing need for the region during the planning period

the housing element will cover; then the COG allocates the regional housing need to each city and county within the region.

- 4) *Housing needs in California.* The lack of affordable housing plays a significant role in causing individuals to become homeless or creates obstacles for individuals experiencing homelessness to transition into stable housing. The need for and costs of housing have consistently outpaced the development of affordable housing for over 30 years. As of 2022, working at the minimum wage of \$15/hour, a renter has to work 83 hours each week to afford a modest one-bedroom rental home at Fair Market Rent in California. The lack of supply is the primary factor underlying California's housing crunch. To keep up with demand, HCD estimates that California must plan for the development of more than 2.5 million homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households (more than 640,000 very low-income and 385,000 low-income units are needed). For decades, not enough housing was constructed to meet need, resulting in a severe undersupply of housing. New construction of housing, both single family homes and apartments, continues to lag behind historical averages, and lags further behind the number of new units needed to meet housing demand.
- 5) *Homelessness analyses in housing element law.* In general, a housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet its share of the RHNA, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. As part of the process to identify adequate sites, a city or county first prepares an inventory of existing sites zoned for housing. It must also determine what portion of the jurisdiction's very low-income need comprises the needs of extremely low-income households. In assessing the need for extremely low-income housing (ELI), the locality may either conduct an independent analysis or assume that the need is 50% of the regional need allocation for very low-income (VLI) housing.
- 6) *Serving ALI and ELI needs.* This bill would require the state to identify the housing needs of Californians experiencing homelessness (*i.e.*, households at the ALI and ELI income levels) and require local governments to plan to meet those specific housing needs in their local housing elements. As noted above, these populations are currently lumped together in the VLI income category of RHNA, which serves households earning between 0% and 50% of AMI. Because 0% to 50% is such a large range, deed-restricted VLI homes typically serve the higher end of that range (around 50% of AMI) and may render permanent housing in this income category unaffordable for Californians with the lowest incomes, including those without any income. The author's intent in

creating these ELI and ALI categories is to require regions and local governments to develop targeted programs and strategies in their housing elements that cater to the needs of Californians at the lowest end of the income spectrum, including homeless individuals and those at risk of homelessness. It could also provide local governments with the opportunity to track and highlight compelling local programs and innovations that are successfully addressing homelessness.

- 7) *Author's amendments.* Due to timing, the author proposes to make the following amendments as committee amendments:

Section 65584.01 (b) (1) (J) The housing needs of individuals and families experiencing homelessness.

(i) The data utilized by the council of government should align with homelessness data best practices as determined by the department.

(ii) Sources of homelessness data may include the Homeless Data Integration System administered by the California Interagency Council on Homelessness, the homeless point-in-time count, and/or other sources deemed appropriate by the department.

- 8) *Opposition.* CBIA is opposed to this bill unless amended because they state the guidance that HCD is required to provide for the implementation of the new programmatic requirements do not place enough emphasis on “financial feasibility.” **In order to address these concerns, and due to timing, the author has proposed the following compromise language to address CBIA’s concerns and will be adopted as committee amendments: “The guidance shall provide advice regarding the impact of the statutory requirements pertaining to acutely low and extremely low income households on: (i) compliance with the requirements in section 65583 to analyze potential and actual governmental constraints and, where appropriate and legally possible, remove, governmental constraints; and (ii) residential development project financial or other factors that impact feasibility.”**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2024.)

SUPPORT:

Abundant Housing LA
All Home

Alliance San Diego
California Housing Partnership Corporation
California Rural Legal Assistance Foundation
Collaborising
Compass Family Services
Corporation for Supportive Housing
Downtown Women's Center
Fathers and Mothers Who Care
Hollywood 4wrđ
Hope the Mission
Housing California
Housing Is a Human Right - Orange County
Inner City Law Center
LA Family Housing
Midpen Housing Corporation
My Friend's Place
National Alliance to End Homelessness
Our Future LA Coalition
Public Interest Law Project
Resources for Community Development
Sacramento Homeless Union
Sacramento Regional Coalition to End Homelessness
Safe Place for Youth
Santa Cruz Mental Health Advisory Board
Steinberg Institute
The Law Foundation of Silicon Valley
The People Concern
Union Station Homeless Services
Upward Bound House
Volunteers of America
West Valley People's Alliance
YIMBY Action

OPPOSITION:

Councilmember Ed Musgrove, City of San Marcos
Association of California Cities - Orange County (ACC-OC)
California Building Industry Association
City of Biggs
City of Camarillo
City of Concord
City of Fairfield

City of Fountain Valley
City of Garden Grove
City of Kerman
City of Laguna Niguel
City of Lakeport
City of Lincoln
City of Lomita
City of Los Alamitos
City of Newport Beach
City of Oceanside
City of Rancho Cucamonga
City of Redding
City of San Luis Obispo
City of Santa Ana
City of Solana Beach
City of Torrance
City of Yorba Linda
League of California Cities
Livable California
Los Angeles County Division, League of California Cities
Palos Verdes Peninsula Chamber of Commerce
Town of Apple Valley

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