SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No:	AB 682	**Hearing Date:**	6/13/2022
Author:	Bloom		
Version:	6/6/2022 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Planning and zoning: density bonuses: shared housing buildings

DIGEST: This bill grants a density bonus for shared housing developments, as specified.

ANALYSIS:

Existing law:

1) Requires each city and county to submit an annual progress report (APR), annually by April 1, to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes data points and updates on housing plans and approvals.

2) Requires each city and county to adopt an ordinance that specifies how it will implement state Density Bonus Law (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 CID for moderate-income households;
    e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons; or
    f) 20% of the total units for lower-income students in a student housing development.
    g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households.

3) 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.

4) Provides that upon the request of a developer, a city or county shall not require a vehicular parking ratio, inclusive of disabled and guest parking, that meets the following ratios:

   a) Zero to one bedroom — one onsite parking space.
   b) Two to three bedrooms — one and one-half onsite parking spaces.
   c) Four and more bedrooms — two and one-half parking spaces.

5) Notwithstanding (4) above, provides that a city or county shall not impose a parking ratio higher than 0.5 spaces per unit, nor any parking standards, for a project that is:

   a) Located within one-half mile of a major transit stop and the residents have unobstructed access to the transit stop; or
   b) A for-rent housing development for individuals who are 62 years or older and the residents have either access to paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

6) Notwithstanding (4) and (5) above, provides that a city or county shall not impose any minimum parking requirement on a housing development that consists solely of rental units for lower income families and the is either a special needs or a supportive housing development.

7) Provides that the applicant shall receive the following number of incentives or concessions:

   a) One incentive or concession for projects that include at least 10% of the total units for moderate-income households, 10% of the total units for lower-income households, or at least 5% for very low-income households.
   b) Two incentives or concessions for projects that include at least 20% of the total units for moderate-income households, 17% of the total units for lower income households, or least 10% for very low income households.

c) Three incentives or concessions for projects that include at least 30% of the total units for moderate-income households 24% of the total units for lower-income households, or at least 15% for very low-income households.
d) Four incentives or concessions for projects where 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households, as well as a height increase up to 33 feet if the project is located within one-half mile of a transit stop.

This bill:

1) Defines "unit" as one cohousing unit and its prorate share of associated common area facilities.

2) Defines "shared housing building" as a residential or mixed-use structure with five or more shared units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days be its tenants. The kitchens and dining areas within the shared housing building shall be able to accommodate housing.

3) Defines "shared housing unit" as one or more habitable rooms, not contained within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the "minimum room area" definition of the California Residential Code, and complies with the definition of "guestroom" pursuant to the California Residential Code.

4) 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 shared housing building that will contain either the following:

    a) 10% of the units of a shared housing building for lower income households.
    b) 5% of the units of a shared housing building for very low-income households.

5) Provides that for (4) above, total square footage does not include units added by incentives or concessions, waivers or reductions of development standards, or parking ratios.

6) Provides that a shared housing building shall only be eligible for one waiver or reduction of development standards unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

7) Provides that, when an applicant proposes to construct a housing development that conforms to the requirements of (4) above, the local government shall not require the following:

    a) Any minimum unit size requirements or minimum bedroom requirements.
    b) Any requirement for the project to provide private open space.
    c) Any limit on maximum density.

8) Provides that a shared housing building may include other dwelling units that are not shared housing units, provided that those 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.

9) Provides that a shared housing building may include incidental commercial uses, provided that those commercial uses are otherwise allowable and are located only on the ground floor or the level of the shared housing building closest to the street or sidewalk of the shared housing building.

COMMENTS:

1) *Author's statement.* "Despite its potential, California's other major cities and major developers have been slow to embrace co-housing buildings. Stringent density requirements limit the number of units developers can build on an already costly parcel of land. Parking requirements add additional construction costs that can make co-housing financially infeasible, especially for projects that aim to house more than 100 units. AB 682 aims to ease the roadblocks that have long stifled the construction of these affordable housing units. By expanding the state's density bonus law to incentivize co-housing apartments, AB 682 will provide more affordable units without the need for public subsidies. As the state grapples with the housing shortage, AB 682 will help diversify the housing stock, offering both affordable housing and the option for communal living."

2) *Density Bonus Law.* 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. 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) *Student housing density bonuses*. In 2018, the legislature created a density bonus incentive program for student housing developments (ie dorm-style housing) in order to facilitate their construction. That bill, SB 1227 (Skinner, Chapter 937, Statutes of 2018) allowed a developer to seek and receive a 35% increase in density if they agree to restrict 20% of the units in the development to low-income students, with a priority for homeless students. To qualify to live in lower income units students would be required to provide proof that their household income qualifies them for a Cal Grant. The developer is also entitled to one concession and incentive.

   This bill would incentivize the development of shared housing development, which contemplate any unit size that includes a bathroom, sink, refrigerator, and microwave, with a common area. These projects are entitled to unlimited so long as 10% low income or 5% very low-income units, and one concession and incentive. Under current law, only projects containing 100% of units affordable to lower income households are eligible for unlimited density. As such, the projects contemplated by this bill will be more lucrative than existing density bonus projects.

4) *So are these legal?* The California Building Code defines "efficiency dwelling unit" as a unit with not less than 220 square feet and an additional 100 square feet for each additional occupant in excess of two occupants. These unit types must also have a separate bathroom and specified kitchen appliances. While there is no specific mandate, these standards are intended to apply to detached units. To that end, depending on the project, it is not clear that the projects incentivized by this bill will meet existing building standards.

5) *Regional Housing Needs Credit*. When determining regional housing needs allocation (RHNA), the Department of Finance (DOF) uses the census definition of a unit, which excludes "group quarters." Group quarters includes residential projects such as student dorms and nursing homes. As group quarters, they do not meet the federal Census definition of a housing unit and, therefore, are not considered when looking to achieve the RHNA. The RHNA ultimately determines the number of new housing units that must be planned for in the housing element. To determine the RHNA, group quarter populations (including student populations in group quarters) are removed from the calculation by DOF in the first step of the RHNA determination methodology. Since this population is taken out on the front end, housing production for this population is not included in RHNA goals allocated to a region. The projects incentivized by this bill may or may not qualify as units, depending on whether they meet the census definition of a unit.

6) *Opposition*. Those writing in opposition state that this bill presents a significant departure from the balance that Density Bonus Law strikes between the benefits that market-rate developers get from the law in the form of additional density and other concessions and incentives and the number of affordable units they must include in their projects in exchange for those benefits. This bill would provide significantly greater benefits to shared housing developments than what is currently granted to 100% affordable developments. The opposition suggest aligning shared housing projects with the benefits conferred upon student housing developments.

7) *Double referral*. This bill has also been referred to the Governance & Finance Committee.

RELATED LEGISLATION:

SB 290 (Skinner, Chapter 340, Statutes of 2021) — made various changes to Density Bonus Law (DBL), including providing additional benefits to housing developments that include low-income rental and for-sale housing units, and moderate-income for-sale housing units.

SB 1227 (Skinner, Chapter 937, Statutes of 2017) — allowed a developer to seek and receive a 35% increase in density if they agree to restrict 20% of the units in the development to low-income students, with a priority for homeless students.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 8, 2022.)

SUPPORT:

Citylab UCLA (Sponsor)
Abundant Housing LA
American Planning Association, California Chapter
California Apartment Association
East Bay for Everyone
PATH

OPPOSITION:

California Rural Legal Assistance Foundation
Public Interest Law Project
Western Center on Law and Poverty

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