

- 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) Defines “maximum allowable residential density” or “base density” within DBL to mean the maximum number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, means the maximum number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project.
- 5) Provides that if the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan or specific plan, the greater shall prevail.

This bill:

- 1) Revises the definition of "maximum allowable residential density" or "base density" within DBL to mean the greatest, rather than the maximum, number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, means the greatest rather than the maximum number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project.
- 2) Deletes a redundant specification that if there is an inconsistency with the density under the land use element of the general plan or specific plan, then the greater density prevails.

COMMENTS:

- 1) *Author’s statement.* “Last year, AB 2334 inadvertently created confusion regarding how the base density for a density bonus project is calculated. This bill revises the definition to create more clarity. The ultimate goal of density bonus to maximize the number of affordable housing units created – this bill accomplishes that.”

- 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"). 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) *Maximum Density or Base Density*. When calculating a density bonus, a developer must determine the amount of units allowed on the site or the "base density." The density can be found in the zoning ordinance, a specific plan, or the land use element of the general plan. In some cases, the density in these documents maybe different because the land use element of the general plan has not been updated to reflect the density in the zoning ordinance. In some cases, there may be a range of densities allowed in one of the potential planning

documents as well. DBL requires that the statute be interpreted liberally in favor of producing the maximum number of total housing units.

Last year, AB 2334 (Wicks), Chapter 653, made various changes to DBL, including revising the definition of "maximum density" and "base density" to make clear that the density for a development seeking a density bonus is the maximum number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan. However, the bill continued to state that in the more specific case of an inconsistency between the land use element of the general plan and a specific plan, the greater density would prevail. This sentence has led to confusion and caused some to question the application of the broader provision stating that where there is inconsistency or a range of densities allowed in the zoning ordinance, land use element of the general plan, or a specific plan, the based density is the greatest allowable density. This bill would clarify the definition of "maximum density" by deleting redundancy in the definition.

RELATED LEGISLATION:

AB 2334 (Wicks, Chapter 653, Statutes of 2022) — made changes to the definition of “maximum density” and “base density” and created an enhanced density bonus for 100 percent affordable housing developments in urbanized areas with below average levels of vehicle miles travelled.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 14, 2023.)

SUPPORT:

California Building Industry Association (CBIA)
 California Housing Consortium
 East Bay YIMBY
 Grow the Richmond
 How to ADU
 Livable California
 Mountain View YIMBY
 Napa-Solano for Everyone
 Northern Neighbors
 Peninsula for Everyone
 People for Housing Orange County
 Progress Noe Valley

San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
South Bay YIMBY
Southside Forward
Ventura County YIMBY
YIMBY Action

OPPOSITION:

None received.

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