
SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2023 - 2024 Regular

Bill No:	SB 555	Hearing Date:	4/24/2023
Author:	Wahab		
Version:	4/17/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Mehgie Tabar		

SUBJECT: Stable Affordable Housing Act of 2023

DIGEST: This bill creates the Stable Affordable Housing Act of 2023 (Act) for the purposes of planning for and funding, upon appropriation, the development of social housing through a mix of acquisition and new production.

ANALYSIS:

Existing law:

- 1) Specifies that a housing authority may engage in a number of activities in order to provide housing to low income individuals, including:
 - a) Preparing, carrying out, acquiring, leasing and operating housing projects and developments for persons of low-income;
 - b) Providing for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project;
 - c) Providing leased housing to persons of low-income; and
 - d) Offering counseling, referral, and advisory services to persons and families of low or moderate income in connection with the purchase, rental, occupancy, maintenance, or repair of housing.
- 2) Requires each city and county to prepare, adopt, and administer a general plan for their jurisdiction, which must include a housing element, to shape the future growth of its community.
- 3) Specifies that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which involves three main stages: (a) the Department of Finance (DOF) and the Department of Housing and Community Development (HCD) develop regional housing needs estimates at four income levels: very low-income (VLI), low-income (LI), moderate-income (Mod), and above moderate-income; (b) councils of

government (COGs) use these estimates to allocate housing within each region (HCD is to make the determinations where a COG does not exist); and (c) cities and counties plan for accommodating these allocations in their housing elements.

- 4) Establishes HCD oversight of the housing element process, including the following:
 - a) Local governments must submit a draft of their housing element to HCD for review;
 - b) HCD must review the draft housing element, and determine whether it substantially complies with housing element law, in addition to making other findings;
 - c) Local governments must incorporate HCD feedback into their housing element; and
 - d) HCD must review any action or failure to act by local governments that it deems to be inconsistent with an adopted housing element. HCD must notify any local government, and at its discretion the office of the Attorney General, if it finds that the jurisdiction has violated state law.
- 5) Requires each city and county to submit an Annual Progress Report (APR) to the Governor's Office of Planning and Research (OPR) and HCD by April 1 of each year, including the following:
 - a) The report must evaluate the general plan's implementation, including the implementation of their housing element, and provide specified quantitative outcomes, such as number of applications for housing projects received and housing units approved;
 - b) Authorizes a court to issue a judgement to compel compliance should a city or county fail to submit their APR within 60 days of the statutory deadline; and
 - c) Requires HCD to post all city and county APRs on their website within a reasonable time after receipt.

This bill:

- 1) Defines "social housing" as:
 - a) Housing units owned by a public agency, a limited-equity housing cooperative, a local authority, or a mission-driven nonprofit entity.
 - b) Permanently deed-restricted units affordable to ELI, VLI, LI, and Mod-income households

- c) Full protection for residents against termination without just cause or for any discriminatory, retaliatory, or other arbitrary reason, and due process prior to being subject to eviction procedures.
 - d) Units protected for the duration of their useful life, and the land associated with the housing units is protected permanently, from being sold or transferred to any private person or for-profit entity or a public-private partnership.
 - e) The right for residents to participate directly and meaningfully in decision making affecting the operation and management of the housing units in which they reside.
 - f) Newly constructed units of social housing and market units or other housing units preserved or rehabilitated as social housing.
- 2) Sets a 10-year goal of creating 1.2 million units of social housing through a mix of acquisition and new production.
- 3) Sets a five-year goal of creating 600,000 units of social housing through a mix of acquisition and new production, of which no less than 200,000 units that are affordable to ELI and VLI households.
- 4) Requires HCD, no later than January 1, 2025, to develop, adopt, and submit to the legislature a Social Housing Plan for achieving the social housing unit goals set forth in the Act, and shall include all of the following:
- a) An analysis of:
 - i. Available funding, public lands, and other resources and opportunities;
 - ii. Capacity and capacity building needs of public agencies and mission-driven nonprofits;
 - iii. Constraints and obstacles;
 - iv. Range of existing social housing models; and
 - v. Job creation and local economic benefits of usually a locally based, union-represented workforce for construction and maintenance of social housing.
 - b) A plan for how to:
 - i. Utilize funding, public lands, and other resources and opportunities to achieve the goals, in collaboration with state and local agencies and mission-driven nonprofits; and

- ii. Remove constraints and obstacles to achieving the goals, including constraints on the use of public land and public funding that do not require legislative action.
- c) Recommendations for how to:
- i. Make additional resources available, including potential revenue sources for a social housing fund.
 - ii. Remove constraints and obstacles to the goals.
 - iii. Create new housing development and property management capacity at the state level, including a Social Housing Authority.
- d) A schedule of specific implementing actions and programs to achieve the goals, as defined.
- 5) Requires HCD to submit an annual report to the Governor and the Legislature, beginning January 1, 2026, on the state's progress toward achieving the goals of the Act, the implementation status and outcomes of all programs and actions, and recommendations for executive and legislative action.

COMMENTS:

- 1) *Author's statement.* "Stable affordable housing takes the profit motive out of a basic human need. It provides publicly-, community- or resident-owned housing that is permanently affordable to residents who cannot afford market rents. Stable affordable housing is sustainable in the long-term, prevents homelessness, allows families to grow their savings, and stabilizes communities. Today, more than one-quarter of California renters are severely rent burdened, spending over one-half of their income on rent. Rent burden hits lower-income residents hardest of all, and the unaffordability of rents is a major driver of homelessness. And middle-income residents are now the fastest-growing group of cost-burdened renters. SB 555 creates a ten-year plan to grow its nascent stable affordable housing sector to the scale needed. This bill would set 5- and 10-year goals for the creation of housing for the lowest income residents. SB 555 charges the Department of Housing and Community Development with developing a plan to achieve the state's stable affordable housing goals, both through acquisition and preservation of existing housing and production of new stable affordable housing. California can ensure that residents have secure housing they can afford, by creating a thoughtful plan to achieve permanently- affordable housing at scale."

- 2) *What is “Social Housing”?* Social housing is simply publicly-subsidized housing, but within a specific framework, most commonly used outside of the United States. All definitions of social housing distinguish it in various ways from privately-owned, for-profit housing provided through market mechanisms. The Assembly Select Committee on Social Housing held an informational hearing on October 20, 2021 and Rob Weiner from the California Coalition for Rural Housing shared the Organization for Economic Cooperation and Development (OECD) definition of social housing as: “the stock of residential rental accommodations provided at sub-market prices and allocated according to specific rules rather than according to market mechanisms.”¹

Under this definition, there are an estimated 480,000 subsidized housing units available for rent in California, or about 3.5% of the state’s housing stock. These deed-restricted affordable rental units are generally built using a mix of public and private financing and residency is restricted to low-income households that make no more than 80% of county area median income (AMI). Other versions of social housing specify permanent affordability requirements and ownership by the government or a non-profit entity. Most of California’s deed-restricted affordable housing is not publicly owned and the length of affordability requirements varies, though permanent affordability is not required in most cases.

Another variation of social housing involves making accommodations available to all individuals regardless of their household income. In particular, Vienna, Austria is often held up as an example of a large city with widespread mixed-income social housing. The Viennese model relies on two key components: government owned, funded, and maintained social housing blocks and public-private partnerships for mixed-income, cross-subsidized housing. Cross-subsidization occurs when higher income households pay market rate rents which then subsidize the below market rents for lower-income households. This mechanism is the same logic that underlies California’s density bonus law—a policy that allows residential developers to receive added density and other concessions and incentives from a local government in exchange for building a certain percentage of affordable units—and inclusionary housing ordinances—which mandate housing developers build a certain percentage of affordable units or pay in-lieu fees that are used to pay for future affordable housing.

Although Vienna provides access to affordable housing for a considerable portion of the population, private developers still play a role in the housing

¹ California Assembly Select Committee on Social Housing. October 20, 2021.
<https://www.assembly.ca.gov/media/assembly-select-committee-social-housing-20211020/video>

market. The large number of cross-subsidized mixed income housing units create competition in the private rental market, and private developers are forced to maintain low rents to remain competitive.

- 3) *Planning for housing and the RHNA process.* California, along with the rest of the country, generally relies on the private sector to develop its affordable housing stock. However, cities and counties are required to plan for a certain amount of housing development across various income categories. This happens through “general plans” for future land use development that each city and county’s legislative body adopts. Every general plan must include a “housing element” that details existing housing conditions within the jurisdiction, the need for new housing at various household income levels, and the strategy that the jurisdiction will use to address that need. The need for new housing is determined through the RHNA process, which involves three main stages:
- a) DOF and HCD develop regional housing needs estimates at four income levels: VLI, LI, Mod, and above moderate-income;
 - b) COGs use these estimates to allocate housing needs within each region to cities and counties (HCD makes the determinations where a COG does not exist); and
 - c) Cities and counties plan for accommodating these allocations in their housing elements

Local governments must adopt a new housing element every eight years (though some rural jurisdictions must do so every five). These adopted housing elements must be approved by HCD, which must find them in “substantial compliance” with the law. Every eight years a new RHNA cycle begins and the process restarts. Currently the state is in the 6th RHNA cycle and housing element updates in this cycle will also need to include information on steps the local government is taking to affirmatively further fair housing objectives.

Each year, the local government’s planning agency must submit an APR to HCD and OPR that documents implementation of its housing element and progress towards meeting its RHNA target. The APR must include information about all proposed and approved development projects, a list of rezoned sites to accommodate housing for each income level, and information on density bonus applications and approvals, among other provisions. The APRs provide statewide and local data across California’s 539 cities and counties which allow for tracking the amount, type, location, and affordability of new housing development. In addition to providing completed residential construction data in the jurisdiction, APRs also include data on the number

residential developments which are still in the initial permitting and entitlement phases. It should be noted, HCD and OPR are unable validate the accuracy of data submitted to them, as there is no comprehensive statewide parcel map for comparison; therefore the quality of data submitted through APRs are an important aspect to understanding how cities and counties are meeting RHNA.

- 4) *Planning vs. building affordable housing.* While the RHNA process requires local governments to plan to address housing need in their jurisdiction, it does not mean housing will actually get built. A number of factors affect housing development and, in order to build affordable units for low-income and very low-income households, government subsidies are generally needed to make the project economically viable. According to the California Housing Partnership Corporation (CHPC), while California has more than doubled its production of deed-restricted affordable units in the prior three years, in 2021 the available public funding for affordable housing provided just 16% of the units that would be needed to meet the state's targets for low-income homes.²

The lack of affordable housing disproportionately impacts California's most economically-vulnerable households. According to data from the 2019 American Communities Survey, over half of the state's renter households are considered rent-burdened, which is defined as paying more than 30% of their income towards housing costs. For low-income renter households in the state the share of cost-burdened families is even higher at 80%. To address the shortage of affordable housing options, California must plan for 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.³

- 5) *Opposition.* The California Association of Realtors wrote in opposition, stating that the bill would put home ownership opportunities further out of reach for lower income communities by reducing naturally occurring affordable housing stock.
- 6) *Sorting out the Differences.* There are discrepancies between this bill and other housing bills in the legislature this year.
 - a) SB 555 (Wahab): Aims to serve a mix of housing serving ELI, VLI, LI and Mod Income; units permanently deed-restricted affordable; focus on 10- & 5-year unit goals and HCD-required Social Housing Plan and annual reporting.

² California Housing Partnership. "California Affordable Housing Needs Report". (March 2022) <https://1p08d91kd0c03rlxhmtydpr-wpengine.netdna-ssl.com/wp-content/uploads/2022/03/California-Affordable-Housing-Needs-Report-2022.pdf>

³ California Statewide Housing Plan. <https://statewide-housing-plan-cahcd.hub.arcgis.com/>

- b) SB 584 (Limon): Aims to serve a mix of housing serving ELI, VLI, LI and Mod Income; focus on new construction workforce housing and acquisition/rehab; If projects not subject to a PLA, S&T workforce required; HCD to collect a tax on short term rentals and distribute to managing entities; HCD given guideline authority to implement bill.
- c) AB 309 (Lee): Aims to serve a mix of housing affordable to all income levels; creates the California Housing Authority to focus on acquisition of property to own, hold, clear, improve, rehabilitate, sell, assign, exchange, transfer, convey, lease, or dispose of; S&T workforce required; creates a revolving loan fund to provide zero-interest loans for housing construction, provides authority to issue GO bonds, and seeks to achieve revenue neutrality over the long term through rent cross-subsidization or cost rent.

There is a strong argument that social housing should be mixed income and serve a wide range of income levels. In Vienna, Austria—one of the best examples of a long-standing social housing system—social housing provides affordable homes to a large percentage of the population, a fundamental difference from means-tested assistance in the US (see comment 2).

Moving forward, the authors will need to work together to align these bills and address discrepancies, and the author will commit to work with the committee through this process.

RELATED LEGISLATION:

SB 584 (Limon, 2023) — requires HCD to collect an unspecified laborforce housing assessment from owners and transient occupancy businesses in residential property that are rented for specified transient occupancy and allocate the funds for the construction, acquisition and rehabilitation of affordable housing and renter protection programs, as specified. *This bill is currently in the Senate Committee on Governance and Finance.*

AB 309 (Lee, 2023) — enacts the Social Housing Act, which creates the California Housing Authority for the purpose of developing mixed-income social housing, under the direction of the California Housing Authority. *This bill is set to be heard in the Assembly Committee on Housing and Community Development on April 26, 2023.*

AB 2053 (Lee, 2022) — would have enacted the Social Housing Act, creating the California Housing Authority for the purpose of developing mixed-income social housing, under the direction of the California Housing Authority. *This bill died in the Senate Committee on Appropriations.*

AB 387 (Lee, 2021) — would have established, in the Business, Consumer Services, and Housing Agency, the California Social Housing Council to develop policy proposals that would promote the development of social housing. *This bill died in the Assembly Committee on Rules.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Alliance of Californians for Community Empowerment (ACCE) (Co-Sponsor)
Housing Now! CA (Co-Sponsor)
Public Advocates (Co-Sponsor)
Tenants Together (Co-Sponsor)
Affordable Housing Network of Santa Clara County
AFSCME California
Aids Healthcare Foundation
Alliance for Community Transit - Los Angeles (ACT- LA)
Bend the Arc: Jewish Action, Southern California
Berkeley Tenants Union
Beverly-Vermont Community Land Trust
California Community Land Trust Network
California Democratic Party Renters Council
California Federation of Teachers
California Green New Deal Coalition
California Labor Federation, AFL-CIO
Canal Alliance
CAUSE
CEJA Action
Central Valley Empowerment Alliance
Chispa
City of Santa Monica
Community Coalition
Community Power Collective
Congregations Organized for Prophetic Engagement
Council of California
East Bay Alliance for A Sustainable Economy (EBASE)
Evolve California
Faith in The Valley

Glad Tidings Community Development
Healing Justice
Housing Land Trust of The North Bay
Human Impact Partners
LA Forward
Latino Health Access
Legal Aid of Sonoma County
Long Beach Residents Empowered
Los Angeles Neighborhood Land Trust
Mi Familia Vota
National Association of Social Workers, California Chapter
National Housing Law Project
Natural Resources Defense Council (NRDC)
Oakland Tenants Union
Pasadena Tenant Union
PolicyLink
Power California
PowerCa Action
Public Counsel
Sacramento Regional Coalition to End Homelessness
San Luis Obispo County Democratic Party
Santa Clara Valley Water District
SEIU California
SF Council of Community Housing Organizations
Sonoma Valley Housing Group
Starting Over INC.
State Building & Construction Trades Council of California
Strategic Actions for A Just Economy (SAJE)
Thai Community Development Center
The Children's Partnership
Trust South LA

OPPOSITION:

California Association of Realtors

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