

Date of Hearing: April 15, 2021

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 1029 (Mullin) – As Introduced February 18, 2021

**SUBJECT:** Housing elements: prohousing local policies

**SUMMARY:** Adds preservation of affordable housing units as a pro-housing, local policy that the Department of Housing and Community Development (HCD) can consider in developing a pro-housing designation. Specifically, **this bill**:

1) Adds, to the list of policies that HCD may consider to be a pro-housing policy, the preservation of affordable housing units through the extension of existing project-based rental assistance covenants, if such covenants avoid the displacement of affected tenants or avoid a reduction in available affordable housing units.

2) Includes an urgency clause.

**EXISTING LAW:** Requires HCD to establish a pro-housing designation for local jurisdictions (Government Code Section 65589.9) as follows:

- 1) Defines “pro-housing local policies” to mean policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:
  - a) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund;
  - b) Reduced parking requirements for sites that are zoned for residential development;
  - c) Adoption of zoning allowing for use by right for residential and mixed-use development;
  - d) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle;
  - e) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements of current law;
  - f) Reduction of permit processing time;
  - g) Creation of objective development standards;
  - h) Reduction of development impact fees; and
  - i) Establishment of a Workforce Housing Opportunity Zone or a housing sustainability district, as defined.

- 2) Requires HCD to adopt emergency regulations to implement this section by July 1, 2021.
- 3) Requires HCD to designate jurisdictions as pro-housing pursuant to these emergency regulations.
- 4) Requires that jurisdictions that have been designated pro-housing by HCD, and that have an adopted housing element that has been found by HCD to be in substantial compliance, must be awarded additional points or preference in the scoring of program applications, as follows:
  - a) The additional points must be awarded for award cycles commenced after July 1, 2021;
  - b) The additional points must be awarded for the following programs:
    - i. The Affordable Housing and Sustainable Communities Program;
    - ii. The Transformative Climate Communities Program; and
    - iii. The Infill Incentive Grant Program of 2007.
  - c) Allows additional points and preferences to be awarded to other state programs when already allowable under state law.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

**Author's Statement:** According to the author, "This bill simply seeks to encourage local governments to adopt policies to save units that are nearing the end of their affordability covenants. It is much easier to save a unit, which already exists, from converting to market rate, than to build a new unit. At the very least, the state of California ought to do everything in its power to avoid losing existing affordable units. AB 1029 simply seeks to preserve the scarce affordable stock that would otherwise convert to market rate."

**Preservation of Housing Affordability:** A standard feature of publicly-subsidized affordable rental housing is an affordability covenant that restricts the unit to a certain affordability level for a certain amount of time. When affordability covenants expire, the owner is allowed to convert the development to market rate, resulting in the loss of affordable housing and the inevitable displacement of the current residents. Current practice is for funding agencies to require affordability covenants of at least 55 years. However, in the past, affordability covenants have been as short as 15 years. These shorter covenants are part of the reason that in the last 20 years the state lost at least 13,000 units when affordability covenants expired and rents went to market rate. According to the California Housing Partnership, in the next 10 years, another 30,000 units are at moderate to high risk of loss, when the affordability covenants will expire and they are not owned by a mission-driven non-profit.

Preserving affordable housing is a key strategy for protecting our limited affordable housing stock and stabilizing the community. Such preservation typically occurs when the units are purchased by a government entity or non-profit that then extend the affordability covenants. This approach is cost-effective. The California Housing Partnership estimates the average cost to

purchase an affordable housing unit and maintain the affordability is \$270,000, about half of the cost to build a new affordable housing unit.

***Pro-housing Local Policies:*** In 2019, the Legislature enacted legislation (AB 101, Committee on the Budget) that required HCD to designate cities and counties as pro-housing if their local policies facilitate the planning, approval, or construction of housing. “Pro-housing” jurisdictions will receive a competitive advantage in applying for certain state programs, including but not limited to the Affordable Housing and Sustainable Communities Program, Transformative Climate Communities Program, and the Infill Incentive Grant Program. HCD is required to adopt emergency regulations by July 1, 2021 to implement this requirement.

Although AB 101 provided examples of pro-housing local policies, HCD has discretion over the final policies. This bill would add, to the list of examples of pro-housing policies, the preservation of affordable units through the extension of affordability covenants. Because the statute only provides examples, the author may wish to continue engaging with HCD on this concept, to facilitate its inclusion in the upcoming emergency regulations themselves. If signed, this bill would likely be enacted after the adoption of HCD’s emergency regulations, and the policies would need to be updated, as necessary, to reflect this legislation.

***Arguments in Support:*** Supporters of this bill argue that it will help reward communities that are working to ensure that existing affordability covenants don’t expire. According to the City of Foster City (the bill’s sponsor), “We believe that adding preservation of existing affordable housing as a factor HCD must consider when determining which agencies are a pro-housing jurisdiction will enable Foster City to compete for state resources to ensure our most vulnerable residents can remain in their homes.”

***Arguments in Opposition:*** There is no opposition on file to this bill.

### ***Related Legislation:***

AB 101 (Committee on the Budget), Chapter 159, Statutes of 2019: This bill, among other things, required HCD to designate cities and counties as pro-housing if their local policies facilitate the planning, approval, or construction of housing, and enabled HCD to implement these through emergency regulations.

AB 215 (Chiu, 2021): This bill would, among other things, require cities underperforming on their progress towards meeting regional housing needs to attain HCD’s pro-housing designation. This bill is currently pending hearing in this committee.

AB 1398 (Bloom, 2021): This bill would, among other things, add expedited provision of adequate sites to the list of pro-housing local policies for HCD to consider in its regulations. This bill is currently pending hearing in this committee.

***Double referred:*** This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

City of Foster City (Sponsor)

City of Belmont

City of Carlsbad

**Opposition**

None on file

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