

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, 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) may 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 and states that urgency is necessary in order to ensure that local governments seeking to preserve existing affordable housing units in their communities are included by HCD on the list of communities deemed as a “pro-housing jurisdiction.”
- 3) Contains a number of findings and declarations related to the need to preserve existing affordable housing units.

EXISTING LAW:

- 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 these provisions 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: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary.** This bill expands the list of examples of policies that constitute “pro-housing local policies” that facilitate the planning, approval, or construction of housing. Specifically, this bill would add, to the list of examples of pro-housing policies, the preservation of affordable units through the extension of affordability covenants. Expanding the list of examples could influence the scope of HCD’s regulations that define pro-housing local policies.

This bill is sponsored by the City of Foster City.

- 2) **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.”
- 3) **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.

- 4) **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.

- 5) **Urgency Clause.** This bill contains an urgency clause and requires a 2/3 vote of each house.
- 6) **Arguments in Support.** According to the City of Foster City, “AB 1029 is critical to ensure that jurisdictions prioritizing housing preservation are included on HCD’s list of ‘pro-housing jurisdictions,’ which will be established by July 1, 2021. 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.”
- 7) **Arguments in Opposition.** None on file.
- 8) **Double-Referral.** This bill was double-referred to the Housing and Community Development Committee, where it passed on a 6-1 vote on April 15, 2021.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Foster City [SPONSOR]
Aids Healthcare Foundation
City of Belmont
City of Carlsbad
City of Carlsbad

Opposition

None on file.

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