

Date of Hearing: June 28, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 450 (Atkins) – As Amended March 16, 2023

SENATE VOTE: 30-7

SUBJECT: Housing development: approvals.

SUMMARY: Amends the process established by SB 9 (Atkins), Chapter 162, Statutes of 2021, for the ministerial approval by a local agency of a duplex in a single-family zone and the lot split of a parcel zoned for residential use into two parcels. Specifically, **this bill:**

- 1) Provides that an application for a duplex or a lot split must be considered and approved or denied by the local agency within 60 days from the date the local agency receives a completed application. Further provides that:
 - a) If a local agency denies an application for a duplex or lot split, the permitting agency must provide, in writing, a full set of comments to the applicant, with a list of items that are defective or deficient, and a description of how the application can be remedied by the applicant.
 - b) If the local agency has not approved or denied the application within 60 days, the application is deemed approved.
- 2) Removes the ability of a local agency to deny a proposed duplex or lot split because the local agency has found that it would have a specific, adverse impact on the physical environment.
- 3) Prohibits a local agency from imposing objective standards on a proposed duplex that do not apply uniformly to developments within the underlying zone.
- 4) Clarifies that a local agency may impose objective standards for a proposed lot split so long as they are related to the design or to the improvements of a parcel.
- 5) Removes certain demolition provisions that were not applicable to SB 9 developments due to tenant occupancy provisions.
- 6) Requires the Department of Housing and Community Development (HCD) to notify a local government if it has taken an action in violation of SB 9, and authorizes HCD to notify the Attorney General (AG) if the local government is in violation of SB 9.
- 7) States that the provisions of the bill address a matter of statewide concern rather than a municipal affair and therefore its provisions are applicable to all cities, including charter cities.
- 8) Provides that no reimbursement is required by this bill, pursuant to Section 6 of Article XIII B of the California Constitution, because a local agency or school district has the

authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill.

EXISTING LAW:

- 1) Requires a city or county to ministerially approve either or both of the following, as specified:
 - a) A housing development of no more than two units (duplex) in a single-family zone, as specified.
 - b) The subdivision of a parcel zoned for residential use into two approximately equal parcels (lot split), as specified.
- 2) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with the provisions of SB 9 (Atkins), Chapter 162, Statutes of 2021. A city or county may, however, require easements or that the parcel have access to, provide access to, or adjoin the public right-of-way (Government Code (GC) Section 65852.21 & GC 66411.7).

FISCAL EFFECT: According to the Senate Appropriations Committee:

HCD estimates annual costs of approximately \$212,000 for 1.0 PY of staff time to review local ordinances and objective standards, respond to inquiries, provide technical assistance, and complete investigations of alleged violations of specified housing laws that provide for ministerial consideration and approval of duplexes and urban lot splits, and refer cases to the AG (General Fund).

Unknown local costs to revise streamlined project review processes for proposed duplex housing developments and tentative maps for urban lot splits, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates (local funds).

COMMENTS:

- 1) **Author's Statement.** According to the author, "To address decades of under-producing housing, [HCD] estimates that California must plan for more than 2.5 million new homes over the next eight years. Over the past seven years, the Legislature has taken a number of actions to encourage housing development. Those efforts include SB 9, which was an integral part of the Senate's 2021 housing package to address California's ongoing housing crisis. Following decades of historical patterns of housing segregation and exclusion embedded in land use and finance policies, SB 9 encourages the creation of new housing – making positive changes in our communities that strengthen the fabric of our neighborhoods with equity and inclusivity. This bill maintains the goals of SB 9 by addressing explicit attempts by some local governments to either ignore the law in its entirety or impose local standards that seek to discourage the creation of new units and lot splits. SB 450 makes a number of changes to SB 9 to improve access and certainty for homeowners and enhance oversight to ensure that the law can be used."

- 2) **Duplexes and Subdivisions.** In 2021, the Governor signed SB 9, which allowed up to four homes on lots where currently only one exists. It did so by allowing existing single-family homes to be converted into duplexes. It also allowed single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot.

The changes to land use law created by SB 9's passage have the potential to help address the state's multi-million unit housing deficit. According to a 2021 study from the UC Berkeley Turner Center for Housing Innovation, the passage of SB 9 increased the amount of market-feasible homes statewide by 700,000. However, a 2023 analysis from the Turner Center determined that, in its first year, the effect of the law has been relatively limited. Los Angeles had the most activity, with 211 applications for new units under SB 9 in 2022. The state's other large cities all reported very few applications for lot splits or new units. For example, the City of San Diego reported receiving just seven applications for new SB 9 units in 2022.

- 3) **Bill Summary.** This bill will amend existing law codified by SB 9 in the following ways:
- a) Establishing timeframes of 60 days for review and approval or denial of an application for a duplex or a lot split.
 - b) Removing the ability of a local agency to deny a proposed duplex or lot split because the local agency has found that it would have a specific, adverse impact on the physical environment.
 - c) Prohibiting a local agency from imposing objective standards on a proposed duplex that do not apply uniformly to developments within the underlying zone. Additionally, clarifying that a local agency may impose objective standards for a proposed lot split so long as they are related to the design or to the improvements of a parcel. This will preclude requirements that are specific to, and potentially punitive towards, proposed duplexes.
 - d) Adding the provisions of law codified by SB 9 to the list of laws that requires HCD to notify a local government if it has taken an action in violation of those laws, and authorizes HCD to notify the AG if the local government is in violation of SB 9.
 - e) Removing certain demolition provisions that were not applicable to SB 9 developments due to tenant occupancy provisions.

This bill is sponsored by the author.

- 4) **Arguments in Support.** The California State Association of Counties writes in support, "To make meaningful progress in helping those who are unhoused, CSAC developed the 'AT HOME' Plan. The six-pillar plan (Accountability, Transparency, Housing, Outreach, Mitigation, and Economic Opportunity) is designed to effectively address homelessness at every level – state, local, and federal. Through the AT HOME Plan, CSAC is working to identify the policy changes necessary to build a comprehensive homelessness system that is effective and accountable, including specific recommendations related to prevention, housing, the unsheltered response system, and sustainable funding. SB 450 aligns with our AT HOME efforts, specifically as it relates to the Housing pillar."

- 5) **Arguments in Opposition.** The City/County Association of Governments of San Mateo County writes in opposition, “[SB 450] will further reduce local flexibility, decision making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements that are certified by [HCD] and the consideration given to housing approvals.”
- 6) **Related Legislation.** SB 684 (Caballero) would require local governments to ministerially approve the subdivision of parcels for a housing development project of 10 or fewer units, as specified. SB 684 is pending in this Committee.
- 7) **Previous Legislation.** SB 9 (Atkins), Chapter 162, Statutes of 2021, required the ministerial approval by a local agency of a duplex in a single-family zone and the lot split of a parcel zoned for residential use into two parcels.
- 8) **Double-Referral.** This bill was double-referred to the Housing and Community Development Committee, where it passed on a 7-1 vote on June 21, 2023.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
 Abundant Housing LA
 American Planning Association, California Chapter
 Buildcasa
 California Apartment Association
 California Association of Realtors
 California State Association of Counties
 California Yimby
 Catalyst Housing Group
 Civicwell
 Cupertino for All
 East Bay for Everyone
 East Bay Yimby
 Eastside Housing for All
 Fieldstead and Company, INC.
 Grow the Richmond
 Habitat for Humanity California
 Housing Trust Silicon Valley
 How to Adu
 League of Women Voters of California
 Mountain View Yimby
 Napa-solano for Everyone
 North Bay Leadership Council
 Northern Neighbors
 Peninsula for Everyone
 People for Housing - Orange County
 People for Housing Orange County
 Progress Noe Valley

San Francisco Yimby
San Luis Obispo Yimby
Santa Cruz Yimby
Santa Rosa Yimby
Slo County Yimby
South Bay Yimby
Southside Forward
Spur
Urban Environmentalists
Ventura County Yimby
Walnut Creek Association of Homeowners Associations
Westside for Everyone
Yimby Action
Yimby Law

Opposition

San Mateo County-city/county Association of Governments

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