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THIRD READING

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Bill No: SB 450  
Author: Atkins (D)  
Amended: 3/16/23  
Vote: 21

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SENATE HOUSING COMMITTEE: 9-1, 4/18/23

AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Skinner,  
Umberg, Wahab

NOES: Seyarto

NO VOTE RECORDED: Padilla

SENATE GOVERNANCE & FIN. COMMITTEE: 5-2, 4/26/23

AYES: Caballero, Blakespear, Durazo, Skinner, Wiener

NOES: Seyarto, Dahle

NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23

AYES: Portantino, Ashby, Bradford, Wahab, Wiener

NOES: Jones, Seyarto

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**SUBJECT:** Housing development: approvals

**SOURCE:** Author

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**DIGEST:** This bill makes several changes to the ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

**ANALYSIS:**

Existing law, pursuant to SB 9 (Atkins, 2021):

- 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.
  - 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, subdivision, and design review standards that do not conflict with this bill, except:
  - a) A city or county shall not impose objective standards that would physically preclude the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. A city or county may, however, require a setback of up to four feet from the side and rear lot lines.
  - b) A city or county shall not require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.
- 3) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel.
- 4) Authorizes a local agency to deny a housing project otherwise authorized by this bill if the building official makes a written finding based upon the preponderance of the evidence that the housing development project would have a specific, adverse impact upon health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact
- 5) Requires a city or county to include the number of units constructed and the number of applications for lot splits under this bill, in its APR.

- 6) Requires a city or county to ministerially approve a parcel map for a lot split only if the local agency determines that the parcel map for the urban lot split meets specified requirements.
- 7) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this bill. 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.
- 8) Provides that a local government shall not be required to permit more than two units on a parcel.
- 9) 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.

This bill:

- 1) Provides that an application for a duplex or a lot split shall be considered and approved or denied within 60 days from the date the local agency receives a completed application. If the local agency has not approved or denied the application, the application shall be deemed approved.
- 2) Provides that if a local agency denies an application for a duplex or lot split, the permitting agency shall return in writing a full set of comments to the application with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.
- 3) Prohibits a local agency from imposing objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to developments within the underlying zone.
- 4) Clarifies that a local agency may impose objective standards so long as they are related to the design or to the improvements of a parcel.
- 5) Requires HCD to notify a local government if it has taken an action in violation of SB 9, and authorizes HCD to notify the AG if the local government is in violation of SB 9.

6) Makes other technical, clarifying changes.

## Background

*Denser Housing in Single-Family Zoning.* California's high — and rising — land costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. A 2016 analysis by BuildZoom found that new development has shifted from moderate but widespread density to pockets of high-density housing near downtown cores surrounded by vast swaths of low-density single-family housing. Specifically, construction of moderately-dense housing (2 to 49 units) in California peaked in the 1960s and 1970s and has slowed in recent decades.

The University of California, Berkeley Turner Center (Turner Center) for Housing Innovation conducted a residential land use survey in California from August 2017 to October 2018.<sup>1</sup> The survey found that most jurisdictions devote the majority of their land to single-family zoning and in two-thirds of jurisdictions, multifamily housing is allowed on less than 25% of land. Some jurisdictions in the US have taken steps to increase density in single-family zones. Minneapolis recently became the first major U.S. city to end single-family home zoning when its City Council passed a comprehensive plan to permit three-family homes in the city's residential neighborhoods, abolish parking minimums for all new construction, and allow high-density buildings along transit corridors. The City of Sacramento may be the first city in California to end single-family zoning; in January 2021, its City Council gave preliminary approval to a proposal to allow up to four homes per lot in single-family zones.

A 2019 Zillow report found that even modest densification, such as duplexes and fourplexes could result in millions more homes.<sup>2</sup> Across 17 metro areas analyzed nationwide, allowing 10% of single-family lots to house two units instead of one could yield almost 3.3 million additional housing units to the existing housing stock. In the L.A. region, if one in five single-family lots were re-zoned to hold two homes, the local housing stock could be boosted by 775,000 homes.

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<sup>1</sup> Sarah Mawhorter and Carolina Reid. *Local Housing Policies Across California: Presenting the Results of a New Statewide Survey.* (Turner Center for Housing Innovation, University of California, Berkeley, December 2018)

[https://californialanduse.org/download/Turner\\_California\\_Residential\\_Land\\_Use\\_Survey\\_Report.pdf](https://californialanduse.org/download/Turner_California_Residential_Land_Use_Survey_Report.pdf)

<sup>2</sup> Zillow. *A Modest Proposal: How Even Minimal Densification Could Yield Millions of New Homes.* (December 6, 2019) <https://www.zillow.com/research/modest-densification-new-homes-25881/>

*SB 9 (Atkins, 2021)*. In 2021, the Governor signed SB 9 (Atkins, Chapter 162, Statutes of 2021), 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. According to the Turner Center, that bill had the potential to allow for the development of nearly 6 million new housing units. Assuming only five percent of the parcels impacted by this bill created new two-unit structures; this bill could result in nearly 600,000 new homes.<sup>3</sup>

The Turner Center evaluated the use of SB 9 through the end of 2022 (one year from its enacted date of January 1, 2022). Researchers collected data from 13 jurisdictions and, so far, SB 9 activity has been relatively limited. For example, 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.

Despite these initial reports, it is too early to draw any conclusions about SB 9's overall impact, as homeowners and local governments are still learning about the provisions in the bill. Similarly, it took a couple years for accessory dwelling unit application and construction to increase after reforms took effect on January 1, 2017.

## Comments

- 1) *Author's Statement*. "To address decades of under-producing housing, the state Department of Housing and Community Development 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

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<sup>3</sup> David Garcia, *Single-Family Zoning Reform: An Analysis of SB 1120*. (Turner Center for Housing Innovation, University of California, Berkeley, July 30, 2020) <https://turnercenter.berkeley.edu/blog/sb-1120/>

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) *Clarifying changes to SB 9.* SB 9 struck a balance between respecting local control and creating the opportunity for more housing options. Several local governments, however, have utilized the authority granted to them in SB 9 to impose unworkable requirements on SB 9 units and lot splits which are clearly intended to stall or stop projects. This bill would make several clarifying changes to SB 9. First, it provides that a locality shall consider and approve or deny an application for a duplex or lot split within 60 days from the date the locality receives the application, and if it has not approved or denied it by then, the application shall be deemed approved. If the locality denies the project, the locality shall return a set of comments of all the deficiencies and how the application can be remedied. Second, it provides that a locality shall not impose objective standards that do not apply uniformly to developments within the underlying zone.

Further, objective standards applied to lot splits shall be related to the design or to the improvements of the parcel. Lastly, similar to other housing laws, this bill requires HCD to notify a local government if it is violating any provision of SB 9 and authorizes HCD to notify the AG of the violations. This change is in consistent with similar authority for a variety of other state land use policies

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

According to the Senate Appropriations Committee:

- The Department of Housing and Community Development (HCD) estimates annual costs of approximately \$212,000 for 1.0 PY of staff time 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)

**SUPPORT:** (Verified 5/18/23)

AARP

American Planning Association, California Chapter

BuildCasa

California Apartment Association

California Association of Realtors

California YIMBY

Catalyst Housing Group

Civicwell

Cupertino for All

East Bay for Everyone

East Bay YIMBY

Eastside Housing for All

Grow the Richmond

Habitat for Humanity California

Housing Trust Silicon Valley

How to ADU

Mountain View YIMBY

Napa-Solano for Everyone

North Bay Leadership Council

Northern Neighbors

Peninsula for Everyone

People for Housing - Orange County

Progress Noe Valley

San Francisco Bay Area Planning and Urban Research Association

San Francisco YIMBY

San Luis Obispo YIMBY

Santa Cruz YIMBY

Santa Rosa YIMBY

South Bay YIMBY

Southside Forward

Urban Environmentalists

Ventura County YIMBY

Westside for Everyone

YIMBY Action

YIMBY Law

**OPPOSITION:** (Verified 5/18/23)

None received

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5/20/23 12:51:34

**\*\*\*\* END \*\*\*\***