

SB 102/AB 101
Summary
June 29, 2019

The goal of SB 102/AB 101 is to increase housing production in California. It does so by:

- Providing **\$2.5 billion** in funding to address California’s housing and homelessness crisis;
- Establishing **incentives** to encourage cities and counties to increase housing production;
- Establishing a process for a **court** to determine that a city or county has complied with housing element law; and
- Imposing **penalties**, as a last resort, if cities and counties disregard the direction of a court and continue not to fulfill their responsibilities under housing element law.

Housing Elements

Process changes: SB 102/AB 101 requires HCD to publish an annual list of cities that have failed to adopt a HCD-approved housing element. If HCD puts a city on the list, city has opportunity for two meetings to discuss its housing element and HCD must provide city written findings supporting its determination. A city may also request de novo review of its last element. HCD must issue written findings in response to the de novo review. City may challenge HCD’s findings pursuant to CCP Section 1094.5.

Financial penalties: If the Attorney General sues a city; the court finds that its housing element does not substantially comply with state law; and the city fails to bring the housing element into compliance, the following fines will be imposed unless the court finds mitigating circumstances for the delay:

- Within 12 months of the court’s order: \$10,000 - \$100,000 per month
- Within 15 months of the court’s order: \$30,000 - \$300,000 per month
- Within 18 months of the court’s order: \$60,000 - \$600,000 per month and court may appoint a receiver/agent to bring the city’s housing element into compliance

Fines are deposited into the building Homes and Jobs Trust Fund. The State Controller may intercept state and local funds if the fines are not paid.

Financial incentives: Additional points and other preferences will be awarded for certain state funding programs for cities that have adopted (i) housing element approved by HCD; and (ii) “prohousing local policies.” HCD will designate cities as “prohousing” by July 1, 2021 pursuant to emergency regulations.

Prohousing local policies facilitate the planning, approval, or construction of housing such as:

- Establishing local housing trust fund
- Reducing parking requirements
- Use by right approval
- Reduction of permit processing time
- Reduction of development impact fees
- Establishment of Workforce Housing Opportunity Zone or housing sustainability district

Local Government Planning Support Grants Program

The Program: \$250,000,000 to regions, cities and counties for planning activities to accelerate housing production and facilitate implementation of RHNA.

1. \$125,000,000 to COGS and other regional entities [H & S 50515.02]

Application deadline: January 31, 2021. Funding can be retained for COG’s use and/or suballocations to member cities and counties for following purposes:

- Improved methodology for distribution of 6th cycle RHNA
- Regional or countywide housing trust funds
- Technical assistance to update local planning documents
- Infrastructure planning
- Feasibility studies to determine housing sites consistent with SCS

2. \$125,000,000 to cities and counties (H & S 50515.03)

Application deadline: July 1, 2020. Maximum amounts based upon population for the following purposes:

- Rezoning and updating planning documents
- Completing environmental clearance to eliminate need for project-specific review
- Infrastructure planning
- Developing or improving accessory dwelling unit ordinance

Infill Infrastructure Grant Program of 2019

The Program: \$500,000,000 for competitive funding for “qualifying infill project” or “qualifying infill area.” NOFA to be released 11/30/19. [\$410,000,000 available for counties with a population more than 250,000, or any city in that county; \$90 million available for counties with a population less than 250,000, or any city in that county].

Qualifying infill project is a residential or mixed-use project located in an urbanized area in a city with an HCD-compliant housing element.

- 15% affordability (60% of AMI for rental; 120% of AMI for sale)
- Equal to or greater than “Mullin” densities
- Proximity to transit, parks, employment, schools, social services
- Consistency with SCS

Grant funds used for “capital improvement project” to facilitate the development of a qualifying infill project or area:

- Water, sewer, or other utility improvements
- Streets, roads, transit
- Project site preparation
- Sidewalk or streetscape improvement

Homelessness: Funding and Programs

1. The Homelessness Housing, Assistance and Prevention Program [H&S 50217]

\$650,000,000 is proposed for one-time grants to cities, counties, and continuums of care,¹ to support regional coordination, and to expand or develop local capacity, to address immediate homelessness challenges.

- \$190,000,000 will be available to continuums of care.
- \$275,000,000 will be available to cities or a city and county that has a population of more than 300,000.
- \$175,000,000 will be available to counties.

Applications must be submitted by February 15, 2020. All awards will be based on the applicant’s proportionate share of the state’s total homeless population

2. Low Barrier Navigation Centers [Gov’t Code 65660]

A “low barrier navigation center” is a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing. It provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter and housing.

¹ The “continuum of care” is the group organized to carry out responsibilities under the federal McKinney-Vento Homeless Assistance Act {24 CFR 578.3}.

A “low barrier navigation center” must be permitted as a “use by right”² if it meets the following requirements:

- Offers services to connect people to permanent housing
- Linked to coordinated entry system
- Has a system for entering information regarding client stays, client demographics, client income and exit destination through the local Homeless Management Information System
- Implements Housing First

Within 30 days of receiving an application for a Center, a city must notify the applicant whether the application is complete. Within 60 days of a completed application, the city must act on the application.

Affordable Housing Programs

1. Low Income Housing Tax Credits Program

Provides for the allocation of \$500 million in new state low-income housing tax credits for new construction projects that receive the federal 4 percent tax credit. For these new credits, the bill would increase the eligible basis for these projects from 13 percent to 30 percent. It would require at least \$300 million of this to be available to new construction projects receiving the federal 4 percent tax credit, and would allow up to \$200 million to be available to projects receiving assistance from the California Housing Finance Agency (CalHFA) Mixed Income Program.

2. Mixed Income Program

Appropriates \$500 million for CalHFA’s Mixed Income Program, which provides financing for mixed-income housing developments.

CalHome Program

Allows the CalHome program to include accessory dwelling units (ADUs) and junior accessory dwelling units (JADU), and to authorize the program to make grants for housing purposes in declared disaster areas.

² “Use by right” means that a city may not require a conditional use permit or other discretionary local review. It does not exempt the center from design review.

SB 35 Clean Up Provisions

Clarifies that when additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in Section 65915 shall be included in the square footage calculation, when determining that the project contains at least two-thirds of the square footage of the development designated for residential use.

Allows the State Department of Public Health and State Water Resources Control Board to determine that a hazardous waste sites has been cleared for residential use or residential mixed uses.

Additional Provisions

1. Changes are made to the TCAC program including making HCD and CHFA directors voting members of the Committee. Currently they are ex officio members.
2. Changes made to state low income housing tax credit including additional \$500,000,000 for 2020 calendar year.
3. HCD and OPR will recommend an improved RHNA process and methodology to Legislature by 12/31/22.
4. Amendments made to Joe Serna Farmworker Housing Grant Program [H & S 50517.5].
5. Amendments made to CalHome Program [H & S 50650].
6. Amendments to Housing Trust Fund Matching Grants including lowering grant to \$500,000 for newly established funds.
7. Additional points and preference to city with HCD-compliant housing element and designated prohousing for Infill Incentive Grant Program of 2007 funds released after July 1, 2021.