



## Assembly Bill 2296: Housing Element Reform

### SUMMARY

Assembly Bill (AB) 2296 improves the housing element review process in three key ways.

- First, it starts the RHNA process 6 months earlier, allowing municipalities to begin their engagement with the Department of Housing and Community Development (HCD).
- Second, it requires HCD to provide clear and consistent feedback.
- Finally, the bill would stagger housing element due dates within the Councils of Government, easing HCD's workloads.

### BACKGROUND

#### *The RHNA process*

The Regional Housing Needs Determination and Allocation is the process by which statewide housing goals and targets get filtered down to local jurisdictions. HCD gives large regions of the state, called Councils of Government (COG), housing targets based on population growth and projected housing needs. The COG then distributes these numbers, their Regional Housing Needs Allocation, to cities and counties. This process occurs every eight years.

#### *Housing Elements*

After receiving their RHNA number, local governments must adopt a blueprint for how and where developers can build housing in their communities to accommodate projected growth. This plan is referred to as a housing element.

Housing elements include analyses of the following:

- Housing Needs Assessment
- Housing Resources & Opportunities
- Assessment of Fair Housing
- Housing Site Inventory
- Housing Constraints

Local jurisdictions have roughly two to three years to complete their housing element, which includes

HCD review and approval. Cities must submit a draft to HCD at least 90 days before the compliance deadline. HCD has 90 days to respond and provide feedback on the first draft, and 60 days on subsequent drafts. All local jurisdictions within a COG have the same deadline to submit their housing elements.

#### *Noncompliance and the Builder's Remedy*

The builder's remedy allows a developer to build a housing project regardless of the underlying zoning of the parcel and without input from the local government. It comes into effect when a city does not have a compliant housing element, and it serves as a significant penalty.

In addition, not having a compliant housing element makes a city ineligible for state funding for a number of programs, including infrastructure and affordable housing.

### PROBLEM

#### *Lack of Assistance from HCD*

The State Auditor recently released a report on HCD<sup>1</sup>. Though the Auditor found that HCD generally gave feedback on time, local governments still faced significant challenges in achieving timely certification of their housing elements. These include unclear guidance, changing requirements, and a lack of individualized assistance from HCD. As a result, many jurisdictions have been forced to submit numerous drafts and miss the compliance deadline.

#### *Heavy Workload for HCD Reviewers*

HCD staff face heavy workloads when large COGs are approaching their deadlines.

While the builder's remedy is an important tool for problematic jurisdictions, good faith actors are at risk of being penalized. Delays with HCD lead to cities being penalized through no fault of their own.

1. <https://www.auditor.ca.gov/reports/2024-109/>

## **SOLUTION**

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AB 2296 proposes a three pronged approach: start the RHNA process earlier, allowing cities to begin planning sooner; require HCD to provide clear feedback and guidance; and stagger housing element submissions within COGs to ease the workload on HCD reviewers.

By bolstering clarity in the housing review process, local jurisdictions will be able to develop housing plans on time that comply with California's complex laws, thus readying themselves for much-needed housing production.

## **SUPPORT**

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Pending

## **CONTACT**

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