

SENATE THIRD READING
SB 450 (Atkins)
As Amended September 1, 2023
Majority vote

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.

Major Provisions

- 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 application, with a list of items that are defective or deficient, and a description of how the application can be remedied by the applicant; and
 - 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) 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.
- 6) Amends the Legislature's findings and declarations to convey that SB 9 is a matter of statewide concern because of the severe housing crisis due to a lack of available housing that is affordable to lower and moderate-income households.

COMMENTS

SB 9 (Atkins): 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.

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

Terner Center for Housing Innovation, the passage of SB 9 increased the amount of market-feasible homes statewide by 700,000.¹ However, a 2023 analysis from the Terner Center determined that, in its first year, the effect of the law has been relatively limited.² 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.

There are multiple reasons for this slow uptake. It often takes a few years for the construction process to catch up with changes to land use policy. Also, higher interest rates greatly increased the cost to finance a second unit, adding a chilling effect to the housing market. Finally, some of the provisions in SB 9 have been identified as impediments to the use of the bill. This bill attempts to address some of those potential impediments, by doing the following:

- 1) Establishing timeframes for review and approval or denial of an application for a duplex or a lot split. These timeframes match those already established by law for accessory dwelling units.
- 2) 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. This language differed from many other state laws, which limited deniability to impacts on health and safety.
- 3) 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.
- 4) Adding 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.

According to the Author

"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 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."

¹ <https://ternercenter.berkeley.edu/wp-content/uploads/2021/07/SB-9-Brief-July-2021-Final.pdf>

² <https://ternercenter.berkeley.edu/research-and-policy/sb-9-turns-one-applications/>

Arguments in Support

Supporters of the bill include a range of groups that generally support the construction of housing as a way to address the housing crisis, or are directly involved in its construction. They argue that the bill will help improve the implementation and efficacy of SB 9. According to Abundant Housing LA, "SB 450 strengthens SB 9 by imposing an application approval 'shot clock', similar to ADU law, limits the design and zoning standards cities can impose on SB 9 projects, and gives the Department of Housing and Community Development (HCD) oversight and enforcement authority to ensure critical housing gets built where we need it most."

Arguments in Opposition

The opponents of the bill, the City/County Association of Governments of San Mateo County and the City of Santa Clarita, argue that the bill exacerbates the problem with SB 9, which reduced their local control on the planning and entitlement process. The City of Santa Clarita further expresses concerned that the requirement to approve or deny a project within 60 days, as it "places substantial burdens on local planners and building officials to thoroughly review project documents and ensure that a proposed project meets basic safety rules and design standards."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) HCD estimates General Fund costs of approximately \$212,000 annually for one staff position to review local ordinances and objective standards, respond to inquiries, provide technical assistance, complete investigations of alleged violations of specified housing laws, and refer cases to the AG.
- 2) Costs to cities and counties of an unknown amount 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 reimbursable by the state because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates.

VOTES**SENATE FLOOR: 30-7-3**

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hurtado, Laird, McGuire, Menjivar, Min, Newman, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener

NO: Dahle, Grove, Jones, Nguyen, Niello, Seyarto, Wilk

ABS, ABST OR NV: Becker, Glazer, Limón

ASM HOUSING AND COMMUNITY DEVELOPMENT: 7-1-0

YES: Wicks, Joe Patterson, Wendy Carrillo, Gabriel, Kalra, Quirk-Silva, Ward

NO: Sanchez

ASM LOCAL GOVERNMENT: 5-2-1

YES: Aguiar-Curry, Grayson, Pacheco, Ramos, Wilson

NO: Dixon, Waldron

ABS, ABST OR NV: Boerner

ASM APPROPRIATIONS: 12-2-2

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Weber, Wilson

NO: Dixon, Sanchez

ABS, ABST OR NV: Megan Dahle, Soria

UPDATED

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