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AB-36 Housing elements: prohousing designation. (2025-2026)

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Assembly Bill No. 36

CHAPTER 485

An act to amend Section 65589.9 of the Government Code, relating to housing.

[Approved by Governor October 10, 2025. Filed with Secretary of State October 10, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AB 36, Soria. Housing elements: prohousing designation.

Existing law, the Planning and Zoning Law, requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. The law requires the Department of Housing and Community Development (HCD) to determine whether the housing element is in substantial compliance with specified provisions of that law. Existing law requires HCD to designate jurisdictions as prohousing pursuant to emergency regulations adopted by HCD, as prescribed, and to report those designations to the Office of Land Use and Climate Innovation. Existing law specifies that these emergency regulations will remain in effect until HCD promulgates permanent prohousing regulations.

This bill would instead require HCD to designate jurisdictions as prohousing pursuant to permanent regulations adopted by HCD to implement these provisions, as specified. Beginning with the 7th housing element cycle, upon request by a small rural jurisdiction, to the extent feasible, the bill would require HCD to evaluate materials from the small rural jurisdiction's housing element submission when determining whether the jurisdiction qualifies as prohousing, but only with respect to those small rural jurisdictions that have a compliant housing element. The bill would also prohibit HCD from requiring small rural jurisdictions to renew their prohousing designation for at least 4 years. The bill would define "small rural jurisdiction" for these purposes to mean either a city with a population of fewer than 25,000 persons or a county with a population of fewer than 200,000 persons.

This bill would incorporate additional changes to Section 65589.9 of the Government Code proposed by SB 262 to be operative only if this bill and SB 262 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65589.9 of the Government Code is amended to read:

65589.9. (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The qualifying infill area portion of the Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) The qualifying infill area and catalytic qualifying infill area portions of the Infill Infrastructure Grant Program of 2019 established by Section 53559 of the Health and Safety Code.

(5) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) (1) The department shall designate jurisdictions as prohousing pursuant to the permanent regulations adopted pursuant to subdivision (d) and report these designations to the Office of Land Use and Climate Innovation, and any other applicable agency or department, annually and upon request.

(2) (A) Beginning with the seventh housing element cycle, the department shall, upon request by a small rural jurisdiction, to the extent feasible, evaluate materials from the small rural jurisdiction's housing element submission, pursuant to Section 65585, for evidence of prohousing local policies in order to minimize the need for jurisdictions to submit supplementary documentation.

(B) The department shall only conduct the evaluation described in subparagraph (A) for small rural jurisdictions that have a compliant housing element.

(3) (A) The department shall not require small rural jurisdictions to renew their prohousing designations for at least four years.

(B) This paragraph shall not be construed to limit the authority of the department to revoke a jurisdiction's prohousing designation.

(d) (1) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(2) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to this subdivision shall remain in effect until the date that permanent regulations to implement this section become effective.

(e) On or before January 1, 2021, and annually thereafter, the department shall publish on its internet website the list of programs included under subdivision (b).

(f) For purposes of this section, the following definitions shall apply:

(1) "Adaptive reuse" shall have the same meaning as in Section 53559.1 of the Health and Safety Code.

(2) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(3) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Article 2 (commencing with Section 66314) of Chapter 13, as

determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

(J) Preservation of affordable housing units through the extension of existing project-based rental assistance covenants to avoid the displacement of affected tenants and a reduction in available affordable housing units.

(K) Facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions.

(4) "Small rural jurisdiction" means either of the following:

(A) A city with a population of fewer than 25,000 persons.

(B) A county with a population of fewer than 200,000 persons.

SEC. 1.5. Section 65589.9 of the Government Code is amended to read:

65589.9. (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The qualifying infill area portion of the Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) The qualifying infill area and catalytic qualifying infill area portions of the Infill Infrastructure Grant Program of 2019 established by Section 53559 of the Health and Safety Code.

(5) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) (1) The department shall designate jurisdictions as prohousing pursuant to the permanent regulations adopted pursuant to subdivision (d) and report these designations to the Office of Land Use and Climate Innovation, and any other applicable agency or department, annually and upon request.

(2) (A) Beginning with the seventh housing element cycle, the department shall, upon request by a small rural jurisdiction, to the extent feasible, evaluate materials from the small rural jurisdiction's housing element submission, pursuant to Section 65585, for evidence of prohousing local policies in order to minimize the need for jurisdictions to submit supplementary documentation.

(B) The department shall only conduct the evaluation described in subparagraph (A) for small rural jurisdictions that have a compliant housing element.

(3) (A) The department shall not require small rural jurisdictions to renew their prohousing designations for at least four years.

(B) This paragraph shall not be construed to limit the authority of the department to revoke a jurisdiction's prohousing designation.

(4) Any additional points or preferences awarded for a prohousing local policy described in subparagraphs (L) to (N), inclusive, of paragraph (3) of subdivision (f) shall not exceed the minimum value of points or preferences awarded for a prohousing local policy that directly relates to the planning, approval, or construction of housing.

(d) (1) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(2) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to this subdivision shall remain in effect until the date that permanent regulations to implement this section become effective.

(e) On or before January 1, 2021, and annually thereafter, the department shall publish on its internet website the list of programs included under subdivision (b).

(f) For purposes of this section, the following definitions shall apply:

(1) "Adaptive reuse" shall have the same meaning as in Section 53559.1 of the Health and Safety Code.

(2) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(3) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing, or policies that keep people housed. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Article 2 (commencing with Section 66314) of Chapter 13, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

(J) Preservation of affordable housing units through the extension of existing project-based rental assistance covenants to avoid the displacement of affected tenants and a reduction in available affordable housing units.

(K) Facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions.

(L) A safe parking program that provides safe parking locations and options for individuals and families living in their vehicles and that does all of the following:

(i) Provides a bathroom facility and onsite security.

(ii) Establishes an application or enrollment process for the program that may include a background check requirement.

(iii) Establishes rules and regulations for the program.

(M) A safe camping program that provides safe camping locations and options for individuals and families experiencing unsheltered homelessness.

(N) Adoption of ordinances, processes, or other mechanisms that expedite, or remove barriers to, the approval of any of the following:

(i) Low-barrier navigation centers beyond the requirements in Article 12 (commencing with Section 65660).

(ii) Emergency shelters beyond the requirements in Section 65583.

(iii) Supportive housing beyond the requirements in Article 11 (commencing with Section 65650).

(4) "Small rural jurisdiction" means either of the following:

(A) A city with a population of fewer than 25,000 persons.

(B) A county with a population of fewer than 200,000 persons.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 65589.9 of the Government Code proposed by both this bill and Senate Bill 262. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2026, (2) each bill amends Section 65589.9 of the Government Code, and (3) this bill is enacted after Senate Bill 262, in which case Section 1 of this bill shall not become operative.