

ASSEMBLY THIRD READING

AB 3093 (Ward)

As Amended May 6, 2024

Majority vote

SUMMARY

Creates two new income categories, Acutely Low Income (ALI) and Extremely Low Income (ELI), in the Regional Housing Needs Determination (RHND), Regional Housing Needs Allocation (RHNA), and Housing Element Law.

Major Provisions

- 1) Defines the following household income categories for purposes of the RHND, RHNA, and other provisions of Housing Element Law:
 - a) Acutely Low Income (ALI), meaning those earning between 0% and 15% of the area median income (AMI);
 - b) Extremely Low Income (ELI), meaning those earning between 15% and 30% of the AMI;
 - c) Very Low Income (VLI), meaning those earning between 30% and 50% of the AMI;
 - d) Lower Income (LI), meaning those earning between 50% and 80% of the AMI;
 - e) Moderate Income (MI), meaning those earning between 80% and 120% of the AMI; and,
 - f) Above Moderate Income, meaning those earning more than 120% of the AMI.
- 2) Identifies ALI and ELI households as households with special housing needs for purposes of Housing Element Law.
- 3) Removes the existing calculation methodology for ELI households for purposes of Housing Element Law and replaces it with the calculation determined by the Department of Housing and Community Development (HCD) through the RHND process.
- 4) Requires local housing elements to include programs that will assist in the development of housing for ALI households in addition to the existing requirement for all other incomes.
- 5) Requires ALI and ELI housing needs to be accounted for in the sites inventories of local housing elements, and any required rezonings if there are insufficient sites to meet those housing needs.
- 6) Requires HCD to include ALI and ELI households in the RHND.
- 7) Requires regional Councils of Governments (COGs) to provide HCD with data on the housing needs of individuals and families experiencing homelessness for the purpose of determining the RHND.
- 8) Adds the ALI and ELI income categories to the proportionate reduction provisions permitted between county and cities within the county when one or more of those cities agree to

increase their share of the RHNA during the period of time between the adoption of a final RHNA and the due date of the housing element update.

- 9) Subjects a local government to a streamlined, ministerial approvals process for certain housing projects if the jurisdiction does not meet the housing needs of ALI and ELI households, as reported in Annual Progress Reports (APRs) to HCD.
- 10) Finds that the changes proposed by this bill address a matter of statewide concern, and therefore apply to all cities, including charter cities.

COMMENTS

Adoption and Implementation of Housing Elements: One important tool in addressing the state's housing crisis is to ensure that all of the state's 539 cities and counties appropriately plan for new housing. Such planning is required through the housing element of each community's General Plan, which outlines a long-term plan for meeting the community's existing and projected housing needs. Cities and counties are required to update their housing elements every eight years in most of the high population parts of the state, and five years in areas with smaller populations. Localities must adopt a legally valid housing element by their statutory deadline for adoption. Failure to do so can result in certain escalating penalties.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of RHNA. Local jurisdictions must adopt legally compliant housing elements on time to meet statewide housing goals and create the environment for the construction of housing at all income levels. Unless communities plan for production and preservation of housing, both in terms of land availability and implementing programs to facilitate housing production, new housing will be slow or extremely difficult to build. Adequate zoning, removal of regulatory barriers, protection of existing stock, and targeting of resources are essential to obtaining a sufficient permanent supply of housing affordable to all economic segments of the community. Although it does not require the community to actually develop the housing, Housing Element Law requires the community to plan for it and implement those plans.

RHND/RHNA: The RHND/RHNA process is used to determine how many new homes, and the affordability level of the homes, that each local government must plan for in its housing element to meet the housing needs of current and future residents. The RHND is assigned by HCD to each region in the state at the COG level, while RHNA is suballocated to subregions of the COG or directly to local governments. This process currently includes four income categories: very low-income (0-50% of AMI), low-income (50-80% of AMI), moderate income (80-120% of AMI), and above moderate income (120% or more of AMI). Local governments must include an analysis of the housing needs of extremely low-income households (0-30% of AMI) in their housing elements, but extremely low-income is not currently a category in the RHND/RHNA process.

The state is currently in the sixth RHNA cycle. Each new RHNA cycle begins with HCD and the Department of Finance (DOF) projecting new RHND numbers every five or eight years, depending on the region. DOF produces population projections and the COG also develops projections during its Regional Transportation Plan (RTP) forecast. Then, 26 months before the housing element due date for the region, HCD must meet and consult with the COG and share the data assumptions and methodology that they will use to produce the RHND. The COG provides HCD with its own regional data on several criteria, including:

- 1) Anticipated household growth associated with projected population increases;
- 2) Household size data and trends in household size;
- 3) The percentage of households that are overcrowded, as defined, and the overcrowding rate for a comparable housing market, as defined;
- 4) The rate of household formation, based on age, gender, ethnicity, or other established demographic measures;
- 5) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs, as specified;
- 6) Other characteristics of the composition of the projected population;
- 7) The relationship between jobs and housing, including any imbalance between jobs and housing;
- 8) The percentage of households that are cost-burdened and the rate of housing cost burden for a healthy housing market, as defined; and
- 9) The loss of units during a declared state of emergency during the planning period immediately preceding the relevant housing element cycle that have yet to be rebuilt or replaced at the time of the data request.

HCD can take this information and use it to modify its own methodology, if HCD agrees with the data the COG produced, or HCD can reject it if there are other factors or data that HCD believes to be better or more accurate. Then, after consultation with the COG, HCD makes written determinations on the data it is using for each of the factors bulleted above, and provides that information in writing to the COG. HCD uses that data to produce the final RHND. Each COG must then take the RHND and create an allocation methodology that distributes the housing need equitably amongst all the local governments in its region. The RHNA methodology is statutorily obligated to further all of the following objectives:

- 1) Increase the housing supply and mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which must result in each jurisdiction receiving an allocation of units for low- and very low-income households;
- 2) Promote infill development, socioeconomic equity, the protection of environmental and agricultural resources, and achievement of regional climate change reduction targets;
- 3) Promote an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction;
- 4) Allocate a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category; and
- 5) Affirmatively further fair housing.

California's Housing Future 2040: The Next RHNA: Health and Safety Code (HSC) Section 50515.05 directed HCD, in collaboration with the Office of Planning and Research (OPR), and after engaging in stakeholder participation, to develop recommendations to improve the RHNA process and methodology. In April 2024, HCD released those recommendations in a new report, *California's Housing Future 2040: The Next RHNA*.¹ This bill would implement Topic #1: Account for the Housing Needs of People Experiencing Homelessness, of the Determination-Related Recommendations to the Legislature contained in that report.

This bill would require the state to identify the housing needs of Californians experiencing homelessness and require local governments to plan to meet those housing needs in their local housing elements. Adding ELI and ALI income categories to the RHND/RHNA process will help to determine and accommodate the needs of households earning up to 30% of AMI and up to 15% of AMI, respectively. As an example, an ALI household may consist of a single adult with a disability who relies on an SSI check as their sole source of income. An ELI household may include an adult couple with two young children, working hourly, minimum-wage jobs with inconsistent hours, resulting in a variable month-to-month income. These populations are currently lumped together in the VLI income category of RHNA, which serves households earning between 0% and 50% of AMI. Because 0% to 50% is such a large range, deed-restricted VLI homes typically serve the higher end of that range (around 50% of AMI) and may render permanent housing in this income category unaffordable for Californians with the lowest incomes, including those without any income.

Creating these ELI and ALI categories will require regions and local governments to develop targeted programs and strategies in their housing elements that cater to the needs of Californians at the lowest end of the income spectrum, including homeless individuals and those at risk of homelessness. This bill would set a baseline that cities and counties will be measured against to ensure that every locality is doing its part to meet the housing needs of Californians experiencing homelessness. It will also provide local governments with the opportunity to track and highlight compelling local programs and innovations that are successfully addressing homelessness.

Furthermore, this bill would ensure that HCD's RHND is augmented by the best available local homelessness data, provided by COGs, to ensure the accuracy of the figures in the newly created income categories. Combining the best data sources available will help create a more accurate understanding of homelessness housing needs throughout California. Potential data sources identified by HCD in *California's Housing Future 2040: The Next RHNA* includes:

- 1) Coordinated School Health and California Basic Educational Data;
- 2) HUD Point-In-Time (PIT) Count Data; and
- 3) Homeless Data Integration System (HDIS) Data

According to the Author

"AB 3093 will ensure that our housing planning processes are inclusive of the most vulnerable Californians - those experiencing homelessness and those who are on the brink of it. By introducing Extremely Low-Income and Acutely Low-Income categories into the Regional Housing Needs Allocation, we can recognize and plan for the housing needs of individuals

¹ <https://www.hcd.ca.gov/planning-and-community-development/regional-housing-needs-allocation>

earning the lowest incomes in the state. This recognition is crucial for crafting effective and targeted housing policies that will cater to individuals earning up to 30% and 15% of the Area Median Income, respectively. The state cannot fix what it does not track.

AB 3093 stems from the alarming increase in homelessness across our state, which has risen by 53% since 2013. On any given night, 181,000 Californians experience homelessness. Despite significant investments to combat this crisis, the persistent increase in Californians experiencing homelessness underscores the need for a more comprehensive approach to our housing policies. This bill will require local governments to integrate these new income categories into their housing elements, ensuring that they effectively plan for, and implement, strategies to meet the needs of our most at-risk Californians. By doing so, AB 3093 will promote equity in local housing elements and foster innovative local solutions that address the root causes of homelessness, ultimately leading us toward a future where every Californian has access to safe, affordable housing."

Arguments in Support

According to Housing California, "Despite rising homelessness in California, state law does not require local jurisdictions to plan for the housing needs of those who are unhoused or who have the lowest incomes. Current law requires local governments to plan for four income categories: very low-income households, low-income households, moderate-income households, and above moderate-income households. The very low-income category includes households with incomes up to 50% of area median income (AMI) despite significant variation within that category in terms of ability to afford housing. This makes it harder for local jurisdictions to adequately plan to meet the housing needs of California's most vulnerable residents and for the state to hold local jurisdictions accountable for failing to do so.

Explicitly requiring local jurisdictions to plan for the housing needs of Californians with the lowest incomes, including extremely low-income (ELI, 15-30% of AMI) and acutely low-income (ALI, 0-15% of AMI) is critical to ensure that the needs of Californians who are unhoused or at risk of experiencing homelessness are met. If the RHNA and housing element processes do not specifically require local governments to target these groups, their housing needs will go unmet because housing them requires the deepest public subsidies and they often face landlord discrimination. Additionally, high-quality local homelessness data is necessary in order for the state to ensure the accuracy of the newly created income categories and for local jurisdictions to design programs that meet the needs of those who are unhoused.

AB 3093 will play an important role in helping local governments prevent and address homelessness and in holding them accountable when they fail to do so. By adding ELI and ALI categories to the RHNA process and requiring each region to submit accurate data to the state on the needs of individuals and families experiencing homelessness, the bill will help communities comprehensively plan to address homelessness."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations:

- 1) HCD estimates minor and absorbable costs.

- 2) Local costs resulting from this bill 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**ASM TRANSPORTATION: 15-0-0**

YES: Wilson, Davies, Aguiar-Curry, Juan Carrillo, Hart, Hoover, Jackson, Ortega, Papan, Sanchez, Ting, Valencia, Wallis, Ward, Wicks

ASM HOUSING AND COMMUNITY DEVELOPMENT: 7-1-1

YES: Ward, Grayson, Kalra, Lee, Quirk-Silva, Reyes, Wilson

NO: Sanchez

ABS, ABST OR NV: Joe Patterson

ASM APPROPRIATIONS: 12-2-1

YES: Wicks, Arambula, Bryan, Calderon, Wendy Carrillo, Mike Fong, Grayson, Haney, Hart, Jim Patterson, Pellerin, Villapudua

NO: Sanchez, Dixon

ABS, ABST OR NV: Ta

UPDATED

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