



Senator Scott Wiener, 11th Senate District

Senate Bill 423 – SB 35 (Wiener, 2017) Extension

SUMMARY

Senate Bill 423 removes the sunset of SB 35 (Wiener, 2017) and makes the law permanent, thus providing streamlined, ministerial approval of projects in cities that have not met their Regional Housing Needs Assessment (RHNA) goals or adopted a compliant housing element.

BACKGROUND

Currently, California is in the depths of a housing crisis. Housing production has not kept pace with the state's population growth, resulting in skyrocketing costs, particularly for lower income individuals. California households in the bottom quarter of the income distribution – the poorest 25% of households – report spending four times the share of their income (67%, on average) that households in the top quarter of the income distribution do (16%, on average).

California ranks 16th highest among all states when measuring poverty rates. But when the high cost of housing is taken into account, California jumps up to first place; 20.4% of California residents live beneath the California Budget Center's supplemental poverty measure.

Additionally, California ranks 49th out of 50 states in per capita housing units. To address this vast need, various estimates, including the Legislative Analyst's Office, recommend the state produce an additional 100,000 units annually beyond the expected 100,000 to 140,000 units per year.

PROBLEM

In an effort to address this growing crisis, the Department of Housing and Community Development (HCD) establishes RNHA goal for each city, which articulates how many future units of housing the city must include in the housing element of its general plan.

However, HCD is limited in their enforcement of housing elements, and as a result, too many cities either ignore RHNA or make inadequate efforts to comply with it.

SB 35 addressed this by providing streamlined, ministerial approval of projects in cities that have not met their RHNA goals. In jurisdictions that have reported building less above moderate-income units than what was approved, or have not filed a compliant housing element at all, SB 35 allows streamlined approval of projects with 10% of total units affordable to 80% of the area median income.

If a jurisdiction has reported fewer units than approved for residents making below 80% of the area median income, SB 35 allows streamlined approval of projects with 50% of total units affordable to 80% of the area median income.

If a production report has not been filed with HCD, or if that report shows a lack of above moderate-income and affordable units, project proponents may use either approach detailed above.

This approach has led to increased housing production in communities where it is needed most, and importantly, has been a crucial source of new affordable units. Although data surrounding SB 35 is imperfect, the Turner Center has reported that through the end of 2021, over 18,000 units have been proposed under SB 35, with 13,000 or nearly three-fourths being affordable to those in the very low or low income categories. In San Francisco, nearly 2,000 units, of which 93% were affordable, have been added under SB 35, according to the San Francisco Planning Department. More than 1,000 more homes are in the San Francisco SB 35 pipeline.

Timelines for these direly-needed projects have also been sped up by SB 35. In one of the earlier instances of SB 35's usage being harnessed, the Mission Economic Development Agency in San Francisco

employed the law to fast track plans for a 130-unit, 100% affordable project. According to the Agency, SB 35 allowed for expedited review, and usage of other entitlement options would have likely delayed the project between six months and a year.

Although SB 35 has been used successfully across the state since its passage, it is set to expire on Jan. 1, 2026. Without an extension, one of the driving forces of affordable housing production will cease.

FOR MORE INFORMATION

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SOLUTION

Under SB 423, SB 35 will become permanent, ensuring that one of the state's primary mechanisms for encouraging and streamlining affordable housing production remains in place.

Equally important, this Act will help our state's construction workforce rise and thrive. Construction workers will be protected by the requirement to pay prevailing wages on projects with over 10 units. On projects with 50 units or more, contractors must offer apprentices employment and pay for health care for construction workers and their dependents. This creates an economic base and new opportunities for construction workers and provides our state with the highly skilled workforce it needs to build our future.

Additionally, SB 423 will remove the coastal zone exemption currently present in SB 35. Without this exemption removed, wealthier – and often whiter – communities along the coastline will be exempt, leaving HCD limited options to ensure the housing that is desperately needed in these jurisdictions is built, and that Californians are not priced out of living in coastline communities.

SUPPORT

- **California Housing Consortium (Sponsor)**
- **California Conference of Carpenters (Sponsor)**
- **Inner City Law Center (Sponsor)**
- **Local Initiative Support Corporation (Sponsor)**
- **California YIMBY (Sponsor)**
- Housing Action Coalition