



## Senator Scott Wiener, 11<sup>th</sup> Senate District

### Senate Bill 677 – Housing Permit Streamlining Omnibus

#### **SUMMARY**

Senate Bill 677 makes various changes and improvements to Senate Bill 9 (Atkins, 2021) and Senate Bill 423 (Wiener, 2023). SB 9 requires ministerial approvals for duplexes and lot splits in single-family zoned districts statewide. Meanwhile, SB 423 extends the sunset provision of SB 35 (Wiener, 2017) to continue and enhance the streamlined ministerial approval process for multifamily housing projects in cities that have not met their Regional Housing Needs Assessment (RHNA) goals or adopted a compliant housing element.

#### **BACKGROUND/EXISTING LAW**

Current law (as outlined in SBs 35 and 423) requires the streamlined, ministerial approval for multifamily 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, existing law allows streamlined approval of projects with 10% of total units affordable to 50% of the area median income or 80% of the area median income for rental or ownership units, respectively.

If a jurisdiction has reported fewer units than required for low-income or very low-income categories, the existing law allows streamlined approval of projects with 50% of total units affordable to 80% of the area median income.

In addition, if a production report has not been filed with the Department of Housing and Community Development (HCD), or if that report shows a lack of above moderate-income and affordable units, project proponents may use either of these approaches.

SB 423 extended the sunset on the SB 35 provisions, added protections for construction workers on specified projects, and removed the coastal zone exemption in SB 35.

Additionally, existing law under SB 9 requires the ministerial approval for the construction of up to four units on lots (duplexes or lot splits) in single-family zoning districts.

#### **PROBLEM**

Since the passage of SB 35 and SB 423, housing production in communities that are failing to meet their state-mandated housing goals has increased and created a crucial source of new affordable units. However, some affordability restrictions make multifamily housing projects financially infeasible, limiting the development of affordable units in jurisdictions failing to meet their lower-income RHNA goals. Furthermore, the four-year reevaluation period hinders the effectiveness of state housing laws in addressing these local failures.

The implementation of SB 9 has proven even more difficult. While SB 9 aimed to encourage duplexes and lot splits, the Turner Center reports that very few SB 9 applications have been filed since the legislation passed four years ago. Some provisions, such as the owner-occupancy requirement, have made the law difficult to utilize effectively. Developers have faced significant barriers securing financing due to this requirement.

In addition to these technical hurdles impeding development, the Turner Center reports that many local jurisdictions and NIMBY (Not In My Backyard) groups are blocking SB 9 projects to

limit construction in their neighborhoods.<sup>1</sup> For example, Sunnyvale has imposed infeasible impact fees (a \$95,000 parks fee) and inclusionary zoning mandates, Sonoma<sup>2</sup> requires that all SB 9 units be deed-restricted affordable, and Burbank unilaterally banned flag lots (properties with a long narrow strip of land leading from the street to the main property). Further, NIMBY groups in San Mateo and San Diego applied for state historic designation to make parcels ineligible for SB 9. SB 677 aims to enhance the effectiveness of SB 9 by extending its protections to better align with those afforded to accessory dwelling units (ADUs).

### **SOLUTION**

SB 677 makes various improvements to SB 9 and SB 423 to ensure California is meeting its housing goals.

Improvements to SB 9 include:

- Prevent Homeowners Associations (HOAs) and Covenants, Conditions, and Restrictions (CC&Rs) from prohibiting or restricting SB 9 projects.
- Restrict the use of Owner-Occupancy Requirements.
- Clarify that the deed-restricted, rent controlled, historic structure, or tenant occupied housing demolition exemptions do not apply if residential structures on the parcel were involuntarily damaged or destroyed by natural disasters or other catastrophic events
- Bring parity with environmental eligibility criteria from Senate Bill 423.
- Add reporting requirements for local governments and state review for HCD.
- Reduce coastal commission SB 9 permitting obstacles and delays.
- Make several changes to address bad faith setback and upzonings, height limits, lot coverage limitations, access requirements, and other objective design standards and permitting requirements.

- Make several ministerial and streamlined approval changes.

Improvements to SB 423 include:

- Expand market-rate project streamlining (subject to 20% instead of 50% inclusionary requirements) in jurisdictions solely failing to meet lower income RHNA goals.
- Increase the re-evaluation frequency from every half-RHNA cycle (every 4 years for most jurisdictions) to every quarter-RNA cycle (every 2 years for most jurisdictions).
- Shift the burden of proof to require local governments to provide evidence of environmental criteria ineligibility.
- Clarify that the deed-restricted, rent controlled, historic structure, or tenant occupied housing demolition exemptions do not apply if residential structures on the parcel were involuntarily damaged or destroyed by natural disasters or other catastrophic events.
- Make several clarifications.

### **SUPPORT**

- California YIMBY (co-sponsor)
- Housing Action Coalition (co-sponsor)
- Local Initiatives Support Corporation San Diego (LISC SD) (co-sponsor)
- 21<sup>st</sup> Century Alliance
- AARP
- Abundant Housing LA
- Active San Gabriel Valley
- Bernal Heights Neighborhood Center
- California Community Builders
- Circulate San Diego
- Council of Infill Builders
- East Bay YIMBY
- Front Porch
- Grow the Richmond
- Homebuilders Alliance
- Mountain View YIMBY

<sup>1</sup> How Cities Are Implementing Senate Bill 9

<sup>2</sup> How California NIMBYs are weaponizing historic preservation to stop new homes

- Napa Solano For Everyone
- Northern Neighbors
- Peninsula for Everyone
- San Francisco YIMBY
- San Luis Obispo County YIMBY
- Santa Cruz YIMBY
- Santa Rosa YIMBY
- South Bay YIMBY
- SPUR
- Ventura County YIMBY
- YIMBY Action
- YIMBY Law
- YIMBY Los Angeles
- The Kelsey

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**FOR MORE INFORMATION**

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