

YIMBY LAW

CALIFORNIA'S STREAMLINING LAWS

Lessons From the Field

February 2025

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California's Streamlining Laws: Lessons from the Field

Our analysis of five recent housing production laws finds that their impact has been significantly reduced by local resistance, lack of state enforcement, and unrealistic requirements.

February 2025

Executive Summary

The groundbreaking housing legislation passed in California since 2021 has had limited to no impact on the state's housing supply to date. While the hope was that these laws would provide immediate new paths to regulatory relief, they also allow or mandate development requirements that have reduced their effectiveness. Enforcement of these laws is mostly left to local pro-housing activism and private non-profit housing organizations. While this sector is effective considering its relatively small size, it lacks the capacity and resources it would need to be able to robustly enforce these laws on a statewide scale.

To significantly expand housing supply using these laws and similar policies, the legislature and executive branch must amend these laws to improve their effectiveness and disincentivize local government noncompliance. The philanthropic community should provide more resources to grassroots pro-housing organizing and private nonprofit enforcement.

YIMBYs in California celebrated major legislative wins in 2021, 2022 and 2023 with the passage of several landmark streamlining and upzoning bills:

Senate Bill 9 (Atkins) - Effective January 1, 2022
Allows by-right lot splits and duplexes in most single-family zoned neighborhoods. Effective January 1, 2022, we have 36 months of our own data and 24 months of HCD data about implementation of this law.

Assembly Bill 2011 (Wicks) - Effective July 1, 2023
Allows by-right housing developments along many commercial corridors – Effective July 1, 2023 - we have 18 months of our own data and six months of HCD data about this law

Senate Bill 6 (Caballero) - Effective July 1, 2023
Allows discretionary housing developments on most commercially zoned land – Effective July 1, 2023 - we have 18 months of our own data and six months of HCD data about this law

Senate Bill 4 (Wiener) - Effective January 1, 2024
Allows by-right affordable housing developments on faith and independent higher-educational organization-owned lands – Effective Jan 1, 2024 - we have 12 months of our own data about this law

Senate Bill 684 (Caballero) - Effective July 1, 2024
Allows by-right small subdivisions of up to ten units per parcel on land already zoned for multifamily housing – Effective July 1, 2024 - we have six months of our own data about this law

This report summarizes our findings and experience with how these bills have played out in the wild. YIMBY Law leverages its relationship with YIMBY Action's twelve chapters in California to collect and analyze data on the approximately 240 housing projects that chapters have supported in 2024.

YIMBY Law legal and policy staff also field calls and requests for technical assistance from project sponsors. For this report, in addition to our own data, we also use the California Department of Housing and Community Development (HCD's) housing production dataset, which is derived from local jurisdictions' state-mandated annual self-reported housing production progress reports, known as Annual Progress Reports, or "APRs."

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Key Findings

Limited official permitting data creates reporting challenges. HCD's comprehensive data on permitted projects is missing key sets of information on entitlement pathways and is unreliable due to local jurisdictions making reporting errors.

SB 9 has faced widespread local obstruction through restrictive ordinances, hindering its effectiveness. Cities have employed tactics like limiting unit sizes and imposing burdensome design and subdivision standards to undermine the state's landmark law allowing duplexes and lot splits in single-family zoned neighborhoods. A clean-up bill, SB 450, addresses many of the infeasible design standards imposed by cities on SB 9 projects, but other issues impacting feasibility remain.

AB 2011 has primarily been used for 100% affordable projects. Market-rate developers wanting to utilize this law are deterred by affordability requirements, prevailing wage mandates, reciprocal easement agreements, and potential conflicts with industrial zoning.

SB 6, with its strict labor standards and lack of by-right approvals, has no known uptake.

SB 4, also known as Yes In God's Back Yard (YIGBY), shows little uptake as of yet. This is likely due to the newness of the law, as well as limited capacity and interest in development within faith organizations. Anecdotally, we have heard that this bill has initiated many conversations in faith organizations to consider housing development.

SB 684 has minimal uptake as of yet. Early use of this "missing middle" homeownership streamlining law reveals challenges in financial feasibility for four-unit projects. Density preemption may not allow for enough units to make projects viable. There is also no reporting requirement for cities to annually report to the state the number of units entitled via SB 684, making tracking success challenging.

These important state bills have come up against widespread implementation challenges in the following categories:

- **Local resistance:** Cities have actively undermined the goals of state housing laws through restrictive ordinances and creative interpretations.

- **Financial feasibility:** Requirements like 100% affordability mandates and prevailing wage create cost burdens for developers that make project financing challenging.

- **Limited capacity for state enforcement:** delayed enforcement authority for HCD and limited capacity by the Attorney General's office have hampered accountability for localities implementing state laws like SB 9. Despite clear authority for HCD to enforce other existing laws that were violated when cities adopted SB 9 ordinances, there was a noted lack of enforcement, and that remains the case even with HCD's explicit enforcement authority over SB 9.

- **Limited capacity for private non-profit enforcement:** while organizations like YIMBY Law, California Housing Defense Fund and Californians for Homeownership have collectively filed hundreds of support letters, notices of concern, complaints, and other forms of communication with local governments to enforce state housing laws, and have collectively filed dozens of lawsuits since 2021 for various violations of state housing law, this is only a fraction of the work necessary to hold cities across the state accountable to follow the law.

Policymakers looking to increase housing production under these bills should explore the following concepts:

Eliminate Cumbersome Restrictions for SB 9 by-right lot splits and duplexes
Eliminate restrictive owner-occupancy requirements, preempt restrictive HOA covenants that prevent multifamily developments, limit high development fees, end restrictions on adjacent parcel development, and allow SB 9 units to be built for sale as condos by right. SB 9 production would also benefit by limiting local inclusionary zoning requirements so that the relatively affordable, non-deed-restricted housing projects that SB 9 facilitates would

not be burdened with deed restrictions which restrict the pool of qualified renters for these homes. SB 9 has already shown promise to create affordable non-deed-restricted housing, as the state data shows 36% of the total housing permitted by this tool is just that: non-deed-restricted housing affordable to households of moderate or low incomes.

Expand AB 2011 to industrially zoned land and reform reciprocal easement agreement (REA) law

Expand the law to allow by-right housing development on industrially zoned land where housing may already be allowed by the local zoning, as this would allow more housing projects that are already legal to build to benefit from streamlining. REAs are a private, contractual barrier to commercial corridor redevelopment via their impact on site control and allowed uses; their reform should be explored.

Expand income eligibility under SB 4

Expanding income eligibility for residents in SB 4 projects would allow faith and educational institutions and their developer partners more flexibility in planning housing projects that meet the needs of their communities while being more feasible to finance given constraints on the availability of affordable housing subsidies. Also, allowing prospective land acquisition for development and reconsidering proximity restrictions to industrial uses would broaden the scope of the law, allowing faith and educational institutions pursuing housing projects to benefit from the streamlining for a wider variety of sites suitable for building homes. The bill would also benefit from more funding for affordable housing in general, considering affordable housing financing is a bottleneck for affordable housing production in California.

Increase densities for SB 684 projects

Increase the minimum default densities for SB 684 to allow for projects with more homes. This would enhance the effectiveness of this law by allowing slightly denser developments; adding more units can make a project pencil out. Also, expanding the law to allow approval of condos by right, and not just townhouses and detached single-family homes, would increase its effectiveness.

Introduction

Over the past 8 years, the California State Legislature has made steady progress in passing pro-housing state bills. But with so much legal complexity and limited or even inaccurate state-collected data about these housing bills, accurate reporting on the effectiveness of specific bills has been challenging. Older bills, like Senate Bill 35 (2017), have more than 5 years of impact, and their track records have clear benefits. Meanwhile, gathering information about newer legislation has been challenging, which leaves legislators unsure if the efforts they're making are actually impacting California's housing shortage.

In 2021, the headline-grabbing SB 9 (Atkins) promised to "end single-family zoning" by allowing by-right duplexes in most single-family zoned neighborhoods. 2022's AB 2011 (Wicks) & SB 6 (Caballero) were expected to unlock more housing development in commercially zoned areas, and 2023's SB 4 (Wiener) was believed to foster production of affordable housing on church lands. SB 684 (Caballero) was sold as a tool to create more opportunities for homeownership through for-sale "missing-middle" home production.

YIMBY Law set out to report on the early returns from this legislation by analyzing the entitlements and building permits reported by local jurisdictions to the state's Department of Housing and Community Development (HCD). Additionally, through many conversations with developers, as well as a review of academic and professional reports on the state of housing in California, and our own independent analysis of implementing ordinances, we've developed recommendations that could improve the ability of these laws to facilitate housing production. By and large, we've found that the use of these new laws has been very limited and opportunities to increase the effectiveness of these bills are clear.

Senate Bill 9 (Atkins)

Background

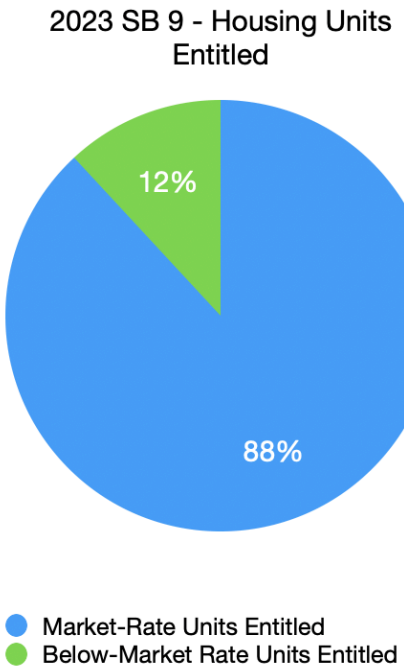
SB 9 was signed into law on September 16, 2021, and went into effect on January 1, 2022. It was advertised as the end of single-family zoning in California, requiring cities to allow lots bigger than 2,400 square feet to be split and to facilitate two units where only one would previously have been allowed.

When SB 9 went into effect, cities were allowed to pass new zoning ordinances that required projects using this law to follow special rules that did not apply to other housing in that zone. Many cities responded to the passing of SB 9 by adopting emergency zoning ordinances with special criteria for SB 9 projects—like requirements that the homes be as small as 800 square feet, or hidden behind a large hedge—criteria that discouraged and disincentivized SB 9's usefulness.

For many project sponsors, ADU law has been more useful than SB 9 because ADUs are allowed to be larger than the SB 9 units that many cities permit. For example, many cities passed local ordinances limiting SB 9 units to a maximum of 800 square feet, while in those same jurisdictions, ADUs can be up to 1,200 square feet. SB 9 units are also subject to a wide array of impact fees, while, under state law, smaller ADUs (under 750 square feet) are not subject to many of the impact fees that can be applied to SB 9 units. These impact fees, which are imposed on SB 9 units but not ADUs, can be well into the six figures in some jurisdictions.

SB 450 (Atkins), an update to SB 9, passed in 2024 and addresses two of the most common strategies cities used to frustrate SB 9: limiting unit size and delaying approvals. It went into effect on January 1, 2025. Many of the strategies that cities employed to frustrate SB 9 (such as restricting various types of lot splits) were already illegal, and as such, SB 450 is not helpful in those situations, but SB 450 is helpful in addressing the common strategy that was legally ambiguous: setting a maximum SB 9 unit size of 800 sf despite the underlying single-family zoning allowing much larger single-family homes.

SB 9 has resulted in naturally occurring affordable housing. According to HCD's housing element annual progress report (APR) reporting data, in 2023 there were 235 SB 9 *entitled* units: 88% of them were reported as market-rate housing, while 12% of them were reported as below-market-rate housing (27 moderate income units and one low income unit). The relatively high percentage of "naturally affordable" below-market rate homes created by SB 9 is notable because moderate and low income units are being produced via SB 9 without the need for cumbersome deed restrictions, and no deed-restricted SB 9 units, which are required in many jurisdictions to utilize SB 9, have been built at all.

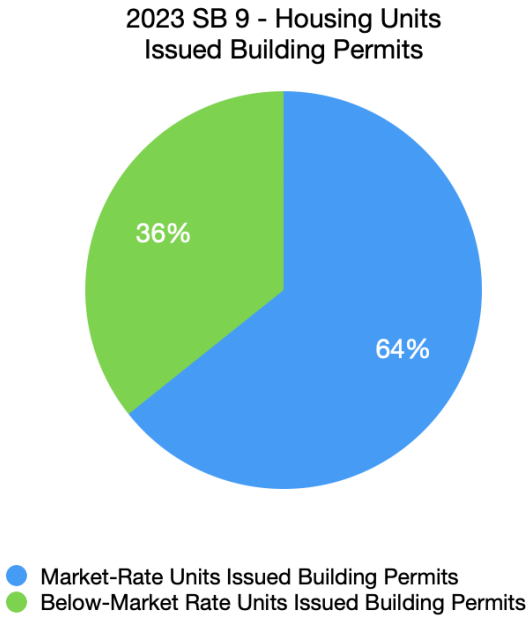


2023 HCD APR Data

	Market-Rate Units Entitled	Below-Market Rate Units Entitled
SB 9	207	28

Approximately 36% of SB 9 projects that were issued *building permits* in 2023 were affordable units. In 2023, building permits were issued for 110 projects entitled by SB 9, totaling 140 units. Of those permitted 140 units, 90 were market-rate units, 36 were

moderate-income units (all of which were non-deed-restricted), 13 were low-income units (all non-deed-restricted), and one was a very-low income non-deed-restricted unit.



2023 HCD APR Data

	Market-Rate Units Issued Building Permits	Below-Market Rate Units Issued Building Permits
SB 9	90	50

The majority of SB 9 units are owner-occupied. 133 SB 9 units were planned to be owner-occupied, while 102 units were planned to be renter-occupied according to the APR data. The higher rate of owner-occupied units is likely due to owner-occupancy requirements by local jurisdictions on SB 9 units, and the general design of the SB 9 statute itself, which requires owner-occupancy of properties if the project has taken advantage of the law's by-right lot split provision.

Analysis and Recommendations

SB 9 was enthusiastically received by small developers, homeowners, and realtors. We recorded 20 requests for advice or activism related to proposed projects, which is an unusually high number of requests related to a specific new law.

Unfortunately, project sponsors' interest in using SB 9 was matched by localities' interest in frustrating it. YIMBY Law tracked approximately 140 local governments' emergency ordinances in response to SB 9 between October 2021 and June 2023 and shared this information with the Attorney General's office and HCD. All of these ordinances were designed to reduce or prevent SB 9 from being effective in the jurisdiction, and most of them were passed using insufficiently supported claims of 'urgency.' An urgency ordinance is a legal maneuver that allows a city to rush through a local law without the usual required number of public hearings; thus, limiting public input.

In 2022, we sent letters to 25 local jurisdictions that, in our opinion, had passed or had agendized an illegal SB 9 implementation ordinance. We selected jurisdictions whose ordinances most significantly limited the feasibility of SB 9 units.

Local jurisdictions succeeded in frustrating the implementation of SB 9 by placing numerous burdensome local regulations on their development, including more restrictive owner-occupancy requirements than the state requires. Locally enacted affordability requirements were also a major barrier to SB 9 uptake, as not a single SB 9 unit was entitled in a jurisdiction that requires an affordable housing deed restriction.

Over 50 ordinances we analyzed (more than a third of the total we reviewed) limited SB 9 units to a maximum of 800 square feet (the minimum size allowed under SB 9) or restricted building heights to a maximum of 16-18 feet, or created burdensome objective design standards, landscaping standards, or owner-occupancy requirements. Eighteen ordinances created "objective standards" for SB 9's lot split provision which *both* prohibited lot splits that would allow both lots to have street access (for example, by prohibiting a flag lot, or by requiring minimum street frontage requirements for both new lots whose sum exceeds the street frontage of the original lot) *and also* required SB 9 created parcels to have street access or be adjacent to a right of way.

Alice in Wonderland rule-making that makes SB 9 effectively impossible to use is illegal. The typical strategy local governments use to ensure their ordinances are lawful is to include a savings clause that provides flexibility for an applicant to deviate from the local ordinance, however, this creates confusion for planning departments and project applicants about how the local ordinance can be applied and has resulted in city planners preventing legal SB 9 projects from being entitled.

We reviewed 12 ordinances that subjected SB 9 units to high affordability requirements: Camarillo, Carson, Corte Madera, Dana Point, Dublin, Huntington Beach, Los Altos Hills, Manhattan Beach, Millbrae, Redondo Beach, Santa Ana and Temple City. These ordinances require 50-100% of SB 9 units in a project to record a deed-restriction limiting the rent that can be charged; this is known as an affordability deed restriction. HCD has the authority to review local 'inclusionary requirements' such as these affordability deed restriction mandates, when the local law requires deed-restricting more than 15% of the total units in a project. In these cases, HCD may demand an economic feasibility study from the local jurisdiction to ensure the ordinance doesn't unduly constrain housing production, but only if the local jurisdiction has failed to achieve at least 75% of its market-rate housing production RHNA goals over at least a five-year period or has failed to submit an annual progress report to the department for two consecutive years[1]. This was the case for only two of these cities: Camarillo and Dana Point. In other words, in many cities around the state, affordable housing requirements imposed on SB 9 projects were allowed to pass without any supporting evidence that their provisions were economically feasible, and HCD was unable to demand proof of feasibility.

While cities have imposed SB 9 specific affordability requirements via their local ordinances, mandating SB 9 units be deed-restricted to be affordable to people of lower incomes, they have not provided any offsetting subsidies that would allow the projects with affordability requirements to be economically feasible. Again, we note that no SB 9 units with an affordability deed restriction have been produced to date.

SB 9 implementation ordinances are notable in part because of how creative cities are in undermining state law. State lawmakers created a handful of exemptions to the

[1] See Government Code Section 65850.01(a)

applicability of SB 9 projects, which cities and local neighborhood associations have exploited in attempts to exempt local areas from the provisions of the bill.

Perhaps the most infamous attempt by a local government to exempt itself from SB 9 was the Town of Woodside's determination that they were a "mountain lion habitat," which they claimed was sufficient to qualify the entire city for SB 9's limited exemption for developments that are proposed on land that contains "habitat for endangered species, candidate species, sensitive species, or species of special status identified by state or federal agencies," or species protected by laws such as the California Endangered Species Act. The town reversed course after the Attorney General's office embarrassed them by threatening to bring corrective action against them.

Other creative cities have been more successful at undermining SB 9 within the law by imposing financially burdensome design standards requirements on developments. For example, the City of Santa Rosa requires thousands of dollars in frontage improvements on lots proposed to be developed with SB 9 duplexes: in a letter to a developer, the city wrote, "Regarding frontage improvements, after legal review, it has been determined that while SB 9 prohibits the dedication of rights-of-way or the construction of offsite improvements, it does not exempt the applicant from performing frontage improvements within the boundary of the project or dedicating easements necessary for the provision of public services and facilities. Additionally, this language only applies to the SB9 Urban Lot Split. The same restrictions do not exist for the Two-Unit Development aspect of the project. Frontage improvements, consistent with the code section below, will be required."[2] Santa Rosa's City Code 18-12 requires, for new buildings or improvements valued at more than $20,000, that "frontage improvements" be installed, which require the owner to add expensive features for public benefit such as a new 5-foot wide sidewalk, planter strip, curb, and gutter.

Another significant barrier to the utilization of SB 9 is that these developments are typically subject to the same sets of impact fees as other single-family or multi-family development projects, which in some jurisdictions can reach well into the six figures per unit. For example, the City of Sunnyvale subjects SB 9 units to a $90k+ parks impact fee. Adding

[2] Quoted from a Santa Rosa city communication shared with YIMBY Law in 2022

$100k+ in fees to a project that is already difficult to finance makes SB 9 development much less attractive than building an ADU instead.

In contrast to SB 9, ADUs smaller than 750sf are not required to pay any impact fees other than school impact fees, nor are they subject to local affordability deed restrictions, which can also limit feasibility. While ADUs are not subject to local affordable housing impact fees, no such state preemption was established for SB 9.

The city of Seaside issued a water connection permit moratorium for SB 9 projects involving a lot split. HCD sent a letter of inquiry to Seaside asking for more information about the water permit moratorium, but did not issue a notice of violation; it appears that the water connection moratorium for lot splits is still in place in Seaside, and Seaside maintains a discretionary water unit allocation approval process, granting water by city council resolution to housing projects in order to satisfy the city's remaining Regional Housing Needs Allocation of 75 homes.

The city of Glendale charges applicants for an SB 9 lot split with a parcel map application fee of over $17,000.

The city of Dana Point, in addition to illegal requirements that mandate correction of existing zoning non-conforming uses on a site prior to accepting an SB 9 application, also limits SB 9 lot splits by banning flag lots, and requires SB 9 units to be permanently dedicated to affordability with a recorded deed restriction, requiring "the Single Family Residential Duplex shall be occupied by very-low to low-income households in perpetuity." Dana Point also banned SB 9 units from being sold separately as condominiums and requires HOA approval of SB 9 developments before they will begin to process the application.

The city of Santa Barbara limited SB 9 projects through burdensome (and illegal) restrictions on lot splits: "A lot line shall not bisect or be located within 4 feet of any of the following: A dwelling that has been occupied by a tenant at any time during the three years before the date of the parcel map; A structure designated as a historic structure or a candidate structure under any City ordinance or included on the State Historic Resources Inventory; A dwelling that is subject to a recorded covenant, ordinance, or law that restricts

rents to levels affordable to persons and families of moderate, low, or very low income." They also (illegally) limited projects that could impact historic resources: "To protect historic resources that have not yet been designated but are listed in the Historic Resources Inventory pursuant to Chapter 30.157, Historic Resources, no two-residential unit development shall be permitted if the proposal would cause a substantial adverse change in the significance of any historic resource."

Another particularly egregious early example of a bad actor city was Temple City. We submitted complaints to HCD about Temple City's SB 9 ordinance, which contained a laundry list of don'ts that can affect a jurisdiction's Housing Element compliance. HCD issued a technical assistance letter to Temple City[3], which we then forwarded to every local jurisdiction in the state in 2022.

Specifically, the HCD letter called out Temple City's use of square footage restrictions, height and story restrictions, courtyard requirements, parking limitations, LEED standards, underground requirements, and affordability deed restrictions. All told, such requirements for SB 9-related projects, which go beyond standards for other projects, may be construed as governmental constraints. We encouraged jurisdictions to identify and justify such constraints in their Housing Elements.

SB 9 was also notable in that while the law went into effect in 2022, the state's housing law enforcers at the Department of Housing and Community Development (HCD) were not initially given explicit enforcement authority to crack down on cities that were breaking the law in implementing it. Neither the California Attorney General's Office nor nonprofit housing law enforcers like YIMBY Law had the capacity to monitor, let alone take action to enforce the law when hundreds of cities were adopting implementation ordinances in short order. It wasn't until AB 434 (2023) went into effect on January 1, 2024, that HCD had the clear authority to enforce the provisions of SB 9 that are independent of other state laws that HCD could already enforce, such as ADU law or the Housing Crisis Act of 2019. This was unfortunate as most cities that intended to limit the feasibility of SB 9 projects did so via urgency ordinance in 2021 or 2022 while the state's Housing Accountability Unit was

[3] HCD - Temple City Technical Assistance Letter, April 29, 2022

prevented from enforcing the provisions of SB 9 directly. Instead, they relied on their other authorities in reviewing SB 9 implementation ordinances.

Since HCD was given explicit authority to enforce SB 9 in 2024, the state has only issued three SB 9 technical assistance memos to local jurisdictions.[4] Despite YIMBY Law's limited capacity compared to the state, our organization was able to be significantly more responsive and involved in ensuring SB 9 implementation was lawful, as we distributed hundreds of memos to cities about how to comply with the law.

In addition to our own experience reviewing SB 9 ordinances and talking to developers who had shared details of their projects with us, we can also gain insights from a report by UC Berkeley's Center for Community Innovation, which also studied the efficacy of SB 9. The report, entitled *Missing No Longer*[5] says, "Despite high expectations, SB 9 has produced very little new housing thus far. Out of 6.1 million eligible parcels, only 266 projects have been permitted or completed as of the end of 2023."

Through interviews with stakeholders, the UC Berkeley report notes that in addition to the challenges with inconsistent and even illegal local design standards for SB 9 projects, homeowners with mortgages have faced challenges working with their existing lenders to approve partial lien releases necessary to move forward with a lot split.

The report also found that the owner-occupancy requirements (required by state law for lot splits, and sometimes imposed by local jurisdictions for duplexes) make SB 9 projects much less appealing to a homeowner, who is ill-suited to take on such a project as opposed to an experienced developer. "...the added costs and complications of splitting a lot and building up to three units of housing, all while living in the midst of a multi-unit construction site, make SB 9 development much more difficult for a homeowner than building an ADU in their backyard."

The UC Berkeley report also notes that high fees for SB 9 projects are a significant barrier to development. "Upfront fees to apply for a lot split can be as much as $30,000 to $50,000;

[4] See HCD's Technical Assistance and Enforcement Letters Archive
[5] Missing No Longer? Taking Stock of Local and Statewide Middle Housing Reforms in California, December 2024

and total utility connection fees can cost $50,000 to $100,000 depending on the jurisdiction. These fees prevent many homeowners and developers from utilizing the law."

Finally, the report notes that SB 9 projects proposed on properties subject to HOA regulations face private contractual barriers through the enforcement of restrictive covenants that prevent such developments, with some local jurisdictions even advising HOAs to adopt new restrictions to prevent SB 9 projects. "In its official SB 9 guidance, the City of Loomis urges HOAs to "act quickly" to update its CC&Rs to prohibit lot splits and duplex construction."

SB 450, the 2024 update to SB 9, does offer some optimism that SB 9 will become more effective. SB 450 requires cities passing SB 9 ordinances to be no more restrictive with regard to their design standards than the underlying single-family zoning allows. For example, if the underlying single family zoning allows a 4000 sf single-family home, under SB 450, the SB 9 ordinance now must allow two units of 2000 sf. As detailed above, previously, cities attempted to limit SB 9 developments to the minimums explicitly required by the law; because SB 9 allowed 800 sf units, cities interpreted that allowance as carte blanche to restrict all SB 9 units to be no more than 800 sf; some cities even required SB 9 units to be exactly 800 sf. SB 450 is intended to end that practice and could even allow the division of one large existing home into two equally sized apartments.

SB 450 also has added a "shot clock" to SB 9 - it requires the local agency to consider and approve or deny the proposed housing development application within 60 days from the date the local agency receives the completed application, and - this is a significant new policy - would deem the application approved after that time. Most other shot clocks in California state law do not automatically deem an application as approved; ADUs and SB 684 units are exceptions. The SB 9 shot clock is significant, because while SB 9 required local agencies to ministerially approve an SB 9 development project, without a required entitlement timeline, local agencies could indefinitely delay an SB 9 project's approval.

The Permit Streamlining Act, which does apply to SB 9 projects, did not provide an effective shot clock for SB 9 projects because it only compels a local agency to approve or deny a housing development project within 60 days of the local agency's determination that the project is exempt from CEQA, not within 60 days of a completed application being

submitted. While CEQA's regulations require a local agency to make an exemption determination within 30 days of receiving a development application that purports to be exempt from CEQA, failure to make that finding does not result in automatic approval of the project, and a lawsuit to compel a local agency to make that determination can be prohibitively expensive for a homeowner-developer because CEQA lawsuits require the project applicant to pay for the preparation of the administrative record, which can cost in the tens of thousands of dollars prior to going to trial.[6]

We anticipate SB 450 to be a useful tool in unlocking the intent and potential of SB 9. A majority of the local ordinances noted in this report that frustrated SB 9 by limiting unit sizes to a maximum of 800sf are rendered unlawful by SB 450. However, as we experienced with the implementation of SB 9 when cities applied illegal objective design standards, we expect many jurisdictions to blatantly disregard the new law that limits their discretion in applying objective standards. Ensuring cities follow the law will continue to require direct intervention from the state or private parties.

SB 450 does not address all of the problems with SB 9. It does not address restrictive locally imposed owner-occupancy requirements, or impact fees, inclusionary zoning requirements, and other similar regulations that may apply to the underlying single-family zoning which frustrate smaller projects because they are overly burdensome for individual homeowners to comply with.

Widespread utilization of SB 9 will also continue to be saddled by the law's owner-occupancy requirement for lot splits, as well as SB 9's restriction that prevents developers from building on adjacent parcels: these restrictions limit the pool of potential developers to owner-occupants and prevent professional developers with experience and access to capital from participating in the development opportunity that SB 9 created.

[6] Of note, while AB 1633 (Ting, 2023) also created a process for a project applicant to challenge a local agency's failure to make a CEQA exemption determination, and if the local agency fails to make a timely exemption determination, a lawsuit can be brought under the Housing Accountability Act, which does not require the project applicant to pay for the preparation of the administrative record, that law requires the applicant to wait at least 60 days after submitting their application before they can file a formal notice to the local agency requesting the exemption determination, and the local agency has up to 90 days (plus a 90 day extension) from receipt of the notice to make such a determination, and AB 1633 is not applicable to projects with a density of less than 15 du/acre, which means a two-unit SB 9 project would be ineligible for the protections of AB 1633 if proposed on a lot larger than 5,800 square feet, and a one-unit SB 9 project would not be eligible under AB 1633 if it was proposed on a lot larger than 2,900 square feet.

Production under SB 9 would benefit from eliminating the owner-occupancy requirements for lot splits as well as from explicitly preempting local governments from enacting owner-occupancy requirements on non-split SB 9 projects. SB 9 would also benefit from state preemption of restrictive CC&Rs which can prevent duplexes or lot splits, and for limitations on fees, mirroring similar reforms taken for ADUs. In addition, the legislature should consider allowing condo maps for SB 9 projects by-right. Even when the underlying zoning allows condo developments, issuance of condo maps is often a local discretionary process which can be used to frustrate an otherwise by-right development. If the legislature intends for SB 9 to produce significant homes, these barriers to development must be addressed.

Assembly Bill 2011 (Wicks) & Senate Bill 6 (Caballero)

Background

AB 2011 and SB 6, tied at the hip through political dealmaking between legislators backed by dueling coalitions of labor unions, were passed as part of a housing package signed into law in September 2022 with the goal of allowing more housing on commercially zoned land. Both bills went into effect on July 1, 2023. Each of the bills had different political constituencies, and thus took a different policy approach. AB 2011, backed by affordable housing developers and the Carpenters Union, focused on by-right, streamlined approval of housing on commercially zoned land. SB 6, backed by the Construction Trades, did not offer a by-right streamlined pathway on its own, but preempted local zoning to allow housing on commercially zoned land. Essentially, SB 6 provided a slightly broader geographic scope of areas that could be developed for market-rate housing, but required more restrictive labor standards and did not provide entitlements streamlining or exemptions from CEQA, while AB 2011 offered a somewhat narrower geographical area that could be developed for market-rate housing without quite as restrictive labor standards, and with streamlining and a CEQA exemption. Both bills essentially allowed the same geographical areas to be developed for 100% affordable housing. AB 2243 was a 2024 update to AB 2011 that expanded AB 2011's scope and made it more effective by allowing the law to be used to entitle homes closer to freeways, and allowed the by-right approval of projects to redevelop shopping malls into housing.

Analysis and Recommendations

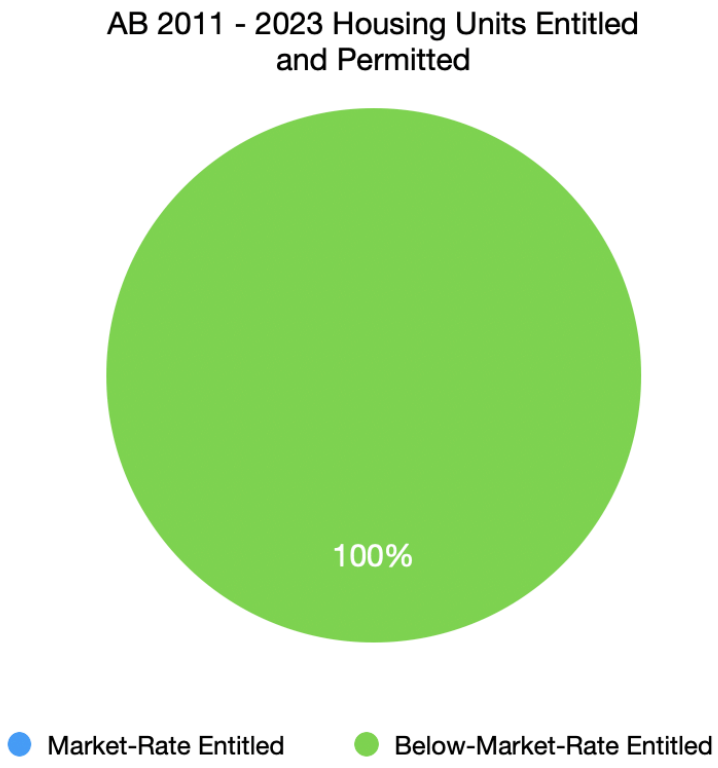
YIMBY Law's database contains records for eight AB 2011 projects proposed around the state that sought entitlements in 2024. All of these proposals were for 100% affordable projects. Of these, four of the proposals were submitted as a partnership between a developer and the pro-housing legal organization California Housing Defense Fund (CalHDF) in the city of Novato[7], in Marin County. Only two of those projects have been approved without issue.

[7] CalHDF Submits Applications for Novato Affordable Housing Developments

There is no record of an entitled SB 6 project according to the state's APR data, and YIMBY Law has had no contact with any developers who have proposed or are considering proposing an SB 6 project.

While the state does require AB 2011 project permits to be reported by local jurisdictions as part of their housing element annual progress report, because the law is so new and interest rates have been relatively high compared to their recent historic lows, few AB 2011 projects are known to have completed entitlements. According to HCD's APR reporting, in 2023 there were only two entitled AB 2011 projects, totaling 142 units, including 19 low-income units and 123 very low-income units: 1) 48 units of 100% affordable housing in the city of Colusa in Colusa County, and 2) 94 units of 100% affordable housing located in the city of Visalia in Tulare County.

There were no market-rate or moderate-income units entitled using AB 2011 in 2023. All but two low-income AB 2011 units were deed-restricted. The Colusa project, which was entirely for very low-income tenants, was the only AB 2011 project issued building permits in 2023.



2023 HCD APR Data

	Market-Rate Entitled	Below-Market-Rate Entitled
AB 2011	0	142

As of this writing, three of CalHDF's projects have been entitled. These three projects include a total of 532 affordable homes. The city of Novato imposed an illegal condition of approval on one of CalHDF's projects that reduced the project's height by ten feet below what had been proposed by the developer. CalHDF is currently in litigation over that project because it is illegal for a city to issue any condition of approval for a by-right, ministerial project, including AB 2011 projects, let alone issue a condition of approval that

alters the design of the project when the project meets all of the city's objective design standards or qualifies for relief from those standards under the state's density bonus law.[8]

One of the first AB 2011 projects to receive a tax credit allocation from the state's Tax Credit Allocation Committee is a 100-unit, 100% affordable project for seniors and veterans located in the city of Scotts Valley, in Santa Cruz County. This project was submitted for approval in 2024 and entitled in January 2025, despite the city's hostility. In announcing the approval of the project, the city manager's newsletter stated, "Scotts Valley needs more housing and supports the development of new affordable housing at appropriate locations; however this project leaves us concerned about the potential impacts on our local economy, the aesthetics of Scotts Valley Drive and likely conflicts that will arise over inadequate parking."[9]

Like SB 35[10], it appears that AB 2011 is poised to be most useful as a tool for affordable housing developers rather than market-rate housing developers. This is largely due to the high labor costs and affordability requirements that are already part of the cost structure in many affordable housing projects.

Market-rate housing developers may be slower to utilize AB 2011 as an entitlement tool because it requires both a percentage of the units to be set aside as deed-restricted affordable units and requires payment of prevailing wage for all projects, as well as health benefits for projects over 50 units. These requirements can add significantly to development costs, reducing profit margins and potentially making financing infeasible in markets that do not command high rents without additional subsidies such as tax credits, grants, or fee waivers.

Reciprocal Easement Agreements[11], or REAs, which are private contracts governing land use, are another significant barrier to commercial redevelopment that should be addressed in order to make AB 2011 and SB 6 more effective. REAs are contracts between property owners who have a shared business interest in the use of each other's land, such as

[8] See Cox, Castle & Nicholson LLP's 2022 article *Density Bonus Law Does Not Allow Lead Agencies To Play Architect*
[9] See the City of Scotts Valley's Community Newsletter, issued 2/3/2025
[10] See the Terner Center's 2023 Report, *Findings from the First Five Years of SB 35*
[11] See *The ABCs of REAs: An Introduction to Shopping Center Reciprocal Easement Agreements*, 2018 US Shopping Center Law Conference

owners of separate parcels that combine to form a shopping center. REAs allow landowners, and sometimes even parties to the agreement who are not landowners, to veto development projects that are not consistent with the terms of the agreement. If there is disagreement about a development between parties to an REA, even if the city approves permits for the project, the REA can allow a party to sue for breach of contract to stop the development.

REA agreements are often decades old, and typically exist to govern the land use of a shopping center when that shopping center includes land owned by multiple different parties. REAs typically create easements to allow business operations such as loading/unloading or parking on another landowner's property and can govern construction, maintenance obligations, architectural themes, or impose other limitations or restrictions on various land uses.

We received feedback from one Southern California developer who stated that "the primary deterrent to moving forward on reuse to poorly performing retail corridors and sites is the existing Reciprocal Easement Agreements. [It's] to the point that the major retailers that own the REA use it as a negotiation tool to increase their land value, which in essence makes delivery of housing at any level (affordable to market rate) too expensive. The irony is that the REAs create value for underperforming retail properties and as such the REAs are an economic and transactional antidote to the intent of AB 2011 as pertaining to retail corridors."

A court recently blocked a housing project that had been approved by the city of Riverside, on a site which had been included in the city's housing element because an REA party asserted their right to stop the project via enforcement of the REA. "The plaintiffs — Northgate Gonzalez LLC, Wilson Holdings LP and Los Altos XXVII — alleged in the lawsuit that the project violates a 43-year-old easement agreed to by property owners. That agreement was designed to ensure the land would be used solely for commercial development so as not to disrupt access and traffic flow to and from businesses." [12] That case was appealed, and YIMBY Law participated by writing an amicus brief for the appellate case in support of the housing project, but the appeal was dismissed by the 4th District

[12] See *Judge Blocks Riverside Magnolia Flats Project Over Traffic Concerns, The Press Enterprise, July 5, 2022*

Court of Appeals and the lower court's ruling which blocked the project was allowed to stand.

While REAs do serve a legitimate purpose to protect the interests of commercial property owners, they can also serve as a means to legally extort a developer who intends to redevelop REA-covered properties when the intended development is not permitted by the REA. Reforms of REA contract law should be explored to allow a fair negotiation or modification process.

Reform of the contamination clearance letter process to account for potential residential uses would also be beneficial for AB 2011 and similar laws that allow residential uses on non-residentially zoned land. One of the CalHDF Novato projects has been delayed because it was proposed on a site with an underground fuel tank. While there has already been some mitigation and the site has received a clearance letter from the state for development to move forward, the clearance letter was based on the potential land uses available under the existing zoning, which did not anticipate housing. Thus, the project is currently delayed while seeking a clearance letter that anticipates residential uses for the site. AB 2011 does not apply to projects proposed on hazardous waste sites unless it is a site with an underground storage tank that has received a uniform closure letter issued based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses.

We are aware of developers having difficulty using AB 2011 in certain circumstances, in places like the City of Lawndale, where the city's commercial zoning allows light industrial uses, but where there are no actual industrial uses occurring, because AB 2011 does not apply to industrially zoned land. We have not researched how widespread the zoning practice of allowing light industrial uses on commercial corridors is. A developer who had interest in redeveloping a former church site into housing could not use AB 2011 for their project in Lawndale because of the industrial uses allowed by the zoning, even though the site was surrounded on two sides by housing and the other two sides by commercial uses.

Similarly, a developer who was interested in adaptively reusing an abandoned hotel adjacent to an industrial park in a Bay Area city by converting it into housing could not do so utilizing AB 2011 because of its restrictions for projects on or adjacent to industrially

zoned lands. A 2017 report by the UC Berkeley Center for Community Innovation[13] recommends several criteria for industrial land that is well suited for conversion, including land in close proximity to transit, adjacent to residential, and in areas with high industrial vacancy rates. The report also notes that cities like San Francisco already allow other uses in nearly half of their industrially zoned land, with 87 parcels of industrial land having already been converted to residential use from 2007 to 2013.

According to HCD's data, there were no SB 6 projects entitled in 2023. The "skilled and trained" labor standard is known to be a significant barrier to utilization, as this labor standard limits the availability of labor for projects that meet this requirement; many union carpenters do not qualify under this standard.

In addition to the challenging labor requirements of SB 6, because the bill does not offer a by-right pathway for approval without being used in combination with another law such as SB 35, a project entitled by SB 6 still faces the significant expenses and risks associated with the discretionary approval process, such as environmental consultants, CEQA litigation risk, and potentially even bespoke conditions of approval that may reduce the feasibility of the project.

[13] *The Conversion of Industrially Zoned Land*

Senate Bill 4 (Wiener)

Background

SB 4, also known colloquially as the Yes in God's Back Yard (YIGBY) bill, which was passed on October 11, 2023 and went into effect on January 1, 2024, allows faith organizations such as churches, synagogues, and mosques, as well as independent higher-educational organizations, to build 100% affordable housing on their land.

The law both streamlines[14] by-right approval of these 100% affordable projects and establishes a state preemption of local zoning to allow projects to have more homes than the local zoning might otherwise allow. SB 4 allows projects of at least 10-30 dwelling units per acre[15] , essentially allowing housing types ranging from single-family cluster housing and townhouses to manor homes and garden apartments[16], plus even denser housing types if the developer chooses to utilize any applicable state density bonus[17]. These projects are also allowed to be at least one story taller than the local zoning allows without the need for a density bonus, although density bonus waivers may be used to further increase building heights beyond one additional story in residentially zoned areas.

According to the UC Berkeley Terner Center, roughly 171,000 acres of land throughout the state that are owned by faith and higher-ed institutions are eligible for the benefits available under SB 4 and may be well-positioned for new affordable housing development,[18] however, we do not have good estimates for how many faith and higher-ed land owners plan to take advantage of this entitlement pathway.

In 2024, there was a proposal introduced in the legislature to require cities to track the number of building permits issued under SB 4; the bill also would have required HCD to produce model development agreements for use by faith institutions in their business dealings with developers, because some stakeholders believe that there is limited technical ability and business expertise within the faith community in working with developers to

[14] 60-90 day timelines
[15] The Mullin density
[16] See JHP Architecture/Urban Design's Density Guide
[17] State Density Bonus Law is Explained in Meyers Nave's 2024 California Housing Developers Toolkit
[18] The Housing Potential for Land Owned by Faith-Based Organizations and Colleges

achieve their housing development goals. This bill, AB 2728 (Gabriel), died in committee in 2024.

Analysis and Recommendations

Not one SB 4 project has come to our attention, and only one potential project sponsor has reached out for advice. The lack of uptake is striking, even for a new law. And it is even more striking given that we know funders have given grants to advocacy organizations with the explicit goal of increasing uptake of this bill. While there is some evidence that more faith-based organizations are beginning to explore building housing, so far they are utilizing other bills, such as AB 2162 or SB 35, rather than using the legislation intended for their use case.

Where we see the future benefits of this bill would be in jurisdictions with limited land available for housing development that do not have many viable alternative sites for affordable housing development. 100% affordable housing developments typically require sites that can accommodate a "sweet spot" for a development of 50-60 units for "9% tax credit" projects and are typically proposed at an average density of 50 units per acre.[19] SB 4 can be beneficial for building 100% affordable housing developments in areas suitable for residential development with adequate amenities and services because churches, typically located on larger parcels in residential areas, have parking lots that are large enough to accommodate such a project.

There is potential for this bill to be beneficial, especially in jurisdictions with limited land available for housing development. However, the projects that are allowed under this bill require complex financing plans that are generally reliant on competitive state and local funding sources for subsidized affordable housing to be developed. We therefore recommend reforms to allow more options for project financing. Because the organizations that are allowed to develop their land—faith and educational organizations—have limited experience with real estate development, more efforts are necessary to educate and empower these organizations to work with capable developers, as evidenced by the need for AB 2728. Without reforms that allow for more flexibility in financing these projects,

[19] See The Terner Center's *The Costs of Affordable Housing Production: Insights from California's 9% Low-Income Housing Tax Credit Program*, pp. 13-14

more funding for subsidized affordable housing in general is key to unlocking the full potential of streamlining tools like SB 4 which require developers to propose 100% affordable projects in order to be utilized.

According to a report by Enterprise Community Partners[20], as of April 2024, there were over 46,000 units (491 projects) of entitled, low-income housing awaiting funding in California. In the last round of funding, the state's flagship affordable housing subsidy program, the Multifamily Housing Program, was oversubscribed 7-1, meaning there were seven entitled, shovel-ready, 100% affordable projects eligible for that financing for every one that was funded. More affordable housing funding is necessary in order for affordable projects of all types, including SB 4 projects, to come to fruition.

Unfortunately, it appears that this bill is not creating the intended "easy path" for faith-based organizations to develop housing because of the complex nature of the financing required for these projects, although it does allow streamlined approval, which can be helpful in the face of local political opposition.

Because the bill can only be used to develop land owned by the organization on January 1, 2024, not newly acquired land purchased for the purpose of development, faith-based and educational organizations that have interest in housing development generally, and may even have financing resources but do not have suitable existing land holdings, would not be able to take advantage of this tool.

During the drafting of SB 4, YIMBY Law staff consulted with our network of developers, including a non-profit developer who specializes in partnering with churches, primarily Black churches in Oakland, to build affordable housing on their land. These conversations caused us to recommend that SB 4 not be limited to 100% affordable developments because that limited the financing options available to churches and their developer partners for building housing. The non-profit faith-lands housing developers we consulted with use an innovative social impact investment fund model to finance their projects; the deed restrictions required by SB 4 frustrate that type of financing. Unfortunately, our recommendation was not incorporated into the bill.

[20]The California Affordable Housing Pipeline | April 2024

Restricting the policy to 100% affordable housing is unlikely to create an explosion of affordable housing projects without massive additional subsidies. By limiting SB 4 projects to only 100% affordable housing, the legislature has chosen to allow streamlining for projects which, because of the lack of a new source of subsidy funding, must compete with other worthy projects for limited capital resources and fail to expand the total supply of housing given these constraints. While SB 4 will help to unlock affordable housing in new locations, and could marginally bring down the cost per unit because of reduced land costs, as well as help leverage private faith-based funding sources, as a tool for unlocking massive housing production, SB 4 should not be expected to be a powerful tool that substantially increases housing production.

SB 4's requirements for 100% affordable developments and prevailing wage requirements limit its usefulness as a tool for developing housing on faith and higher educational lands at scale. Because SB 4 requires 100% affordable development, its use is limited to landowners with sophisticated developer partners who are able to apply for and obtain financial subsidies such as Low Income Housing Tax Credits. SB 4's prevailing wage labor requirement, which raises costs of construction, makes financing more challenging as the labor requirements increase the costs per unit. Especially in places like the outer Bay Area city of Novato or in Santa Cruz County, established regulated prevailing wage rates tend to be significantly higher than market labor rates and can undermine some of the benefits that SB 4 otherwise provides. While some other sources of financing already include prevailing wage labor standards such as federally assisted projects covered by the Davis-Bacon Act, city-financed projects covered by public works laws, and HCD-financed projects, not all affordable housing projects are necessarily required to meet these labor standards given their sources of funding. However, SB 4 requires prevailing wage regardless of the requirements of a project's financing.

While well-intended, prevailing wage requirements in streamlining bills like SB 4 or AB 2011 can undercut their usefulness for a developer looking to build a project with already marginal financial returns. Costs per unit can also be a negative factor when affordable housing financing is scored by the state's tax credit allocation committee in awarding state-administered tax credits, potentially putting these projects at a competitive

disadvantage when competing with other affordable housing projects for limited tax credit allocations.

One of the potential reasons a faith or educational organization might want to develop housing would be to subsidize its operations or provide housing for its clergy, educators, or staff. By requiring only low income housing, SB 4 removes these incentives from the projects, making them less worthwhile for potential project sponsors unless undertaken primarily as a public benefit project.

Some other compromises that occurred during the legislative process when SB 4 was passed in 2023 also limit the geographic scope of the bill: SB 4 is not applicable, and thus a project cannot be located:

- adjacent to a site where more than two-thirds of the square footage is dedicated to light industrial use;
- within 1,200 feet of a site permitted for heavy industrial use;
- within 1,600 feet of a site permitted for Title V industrial use; or
- within 3,200 feet of an oil or natural gas refinery or an active oil well.

Especially in Southern California, the 3,200-foot buffer around active oil wells results in large areas that are exempted from SB 4 despite their being zoned for and already providing residential uses.

The legislature may wish to expand the income eligibility requirements for SB 4 projects to include moderate-income or above-moderate-income residents, and allow faith and higher ed organizations the ability to acquire new land to develop housing projects. The legislature should also consider allowing these housing developments in closer proximity to oil wells or industrial uses, with appropriate health and safety mitigations; these recommendations would expand the total housing production potential of this tool.

It's worth noting that SB 4 has been successful in inspiring a great deal of activity in the faith community about the concept of building housing. Many consultants and nonprofit developers report an uptick in engaging and promising conversations with faith-based organizations about the potential for developing their land. These consultants and nonprofit developers report that recent changes to the larger landscape of affordable

housing has created a menu of bills that faith-based organizations and nonprofit developers can reach for with the goal to say yes in God's backyard.

Senate Bill 684 (Caballero)

Background

Signed into law in October 2023, SB 684 built upon the already established Starter Home Revitalization Act of 2021 by streamlining entitlements for small, separately sold housing projects of up to ten units, including single-family home subdivisions and small townhouse and condo projects. The majority of SB 684's provisions went into effect on July 1, 2024. SB 684's purported goal is to foster more missing middle homeownership of naturally affordable housing. There is also a state zoning pre-emption aspect to SB 684: when the local zoning is less than the Mullin density, the project applicant can use the Mullin density, which ranges from 10 to 30 dwelling units per acre depending on the locality. Under SB 648, eligible sites must be zoned for multifamily housing. An amendment to SB 684, SB 1123, expands the scope of the law to vacant parcels that are zoned for single-family homes, and goes into effect on July 1, 2025.

Analysis and Recommendations

In the approximately six months that SB 684 has been in operation, we are aware of one project that has attempted to seek entitlements using this law. While some developers and local governments may need more time to familiarize themselves with this new entitlement pathway, the one project we are aware of may be exemplary of the difficulties in utilizing it.

The UC Berkeley Terner Center published a report in June 2024, *Making Missing Middle Pencil: The Math Behind Small-Scale Housing Development*,[21] which analyzed the financial feasibility of various small two-, four-, and ten-unit multifamily projects across various markets in California. They found that one of the major driving factors of feasibility was the extra costs that the California Building Code imposes on multifamily buildings with three or more units, and thus the duplex was the only "missing middle" multifamily construction type that was financially feasible according to the Terner Center analysis. While SB 684 facilitates missing middle construction, including for-sale duplexes, the Terner analysis found that the four-plex for-sale multifamily building project that is possible under SB 684 was the least feasible development type of any housing type that they analyzed (duplex

[21] Missing Middle Development Math

for-sale, fourplex for-sale and for-rent, and ten-plex for rent). In the present economic and regulatory environment, SB 684 developments may be most feasible as either duplex or small subdivision single-family home projects.

Where three- and four-unit developments are financially feasible, SB 684's density pre-emption doesn't necessarily allow them. In smaller, typically suburban jurisdictions (cities with a population of less than 25k in a metropolitan area larger than 2 million),[22] the Mullin density, which is referenced by SB 684, is as low as 20 units per acre. In these jurisdictions, typical lot sizes range from 5,000 to 7,000 square feet,[23] which means SB 684 allows developments of 2.8-3.3 homes per average lot (which are rounded down to the nearest whole number of 2-3 units per lot).

In 2024, we were contacted by a project sponsor in the city of Morro Bay who was attempting to use SB 684 to entitle a small lot subdivision project. Morro Bay is located in San Luis Obispo County, in a metropolitan area of less than 2 million people, and has a population of approximately 10,589, which means it is considered a "suburban" jurisdiction for the purpose of the Mullin density. The proposed lot to be developed is 6,000 square feet, and the relevant Mullin density is 20 units per acre, allowing the developer to build 2.75 homes on his lot, which is a uselessly low number when rounded down to the next whole number (two units) for that market. Developing two high-end single-family homes in Morro Bay is unlikely to result in a competitive for-sale product, and market rents are not high enough in Morro Bay for a two-unit rental project, or even four-unit rental project with two ADUs, to be financially feasible. The developer could make a moderately-priced three-home for-sale project work on the parcel, but the city's current zoning and the Mullin density are not high enough to support a financially feasible for-sale development in Morro Bay.

The legislature should consider the following recommendations to improve the usefulness of SB 684: Increase the allowed density for SB 684 projects to at least 36 units per acre in all jurisdictions, allowing up to four units per 5,000 square foot lot, which would provide more flexibility for developers to build financially viable for-sale missing middle housing projects

[22] HCD, Default Density Standard - 2020 Census Update
[23] Lynch, John, "California's average lot size is larger than only one other state, housing report says", The Tribune, August 27, 2022

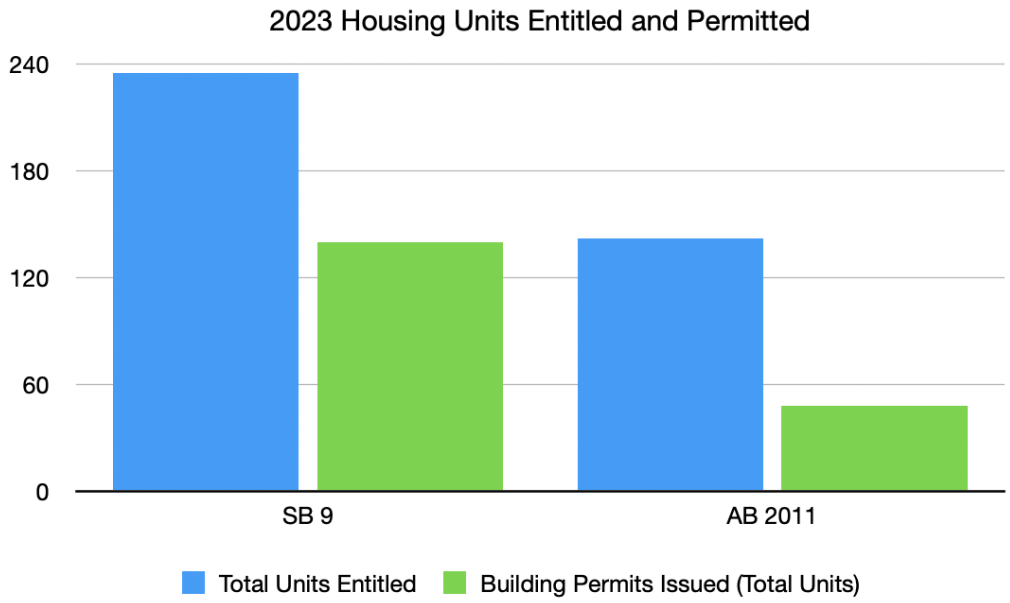
on the most common-sized residential lots. In addition, the legislature should consider allowing condominium plans for SB 684 projects by right. Condominium plans, or condo maps, are required by the Davis-Sterling Act, which regulates common-interest developments[24], and are often required to be established by a local discretionary process that can be used to frustrate an otherwise by-right development. Condominium plans under the Davis-Sterling Act are regulated separately from subdivision plans under the Subdivision Map Act, which SB 684 amended, so while SB 684 created a ministerial approval process for recording subdivision maps, that by-right process is not applicable to condominium plans.

[24] See the Davis-Sterling Act, Civil Code Section 4285

Analysis of HCD Data

HCD's most recently available Annual Progress Report (or APR) data is for projects entitled or issued building permits in 2023. Unfortunately, this data is known to be rife with data-entry and other reporting errors and is not independently verified by HCD before publication. APR submissions are due to the state by April 1st of each year and cover the preceding calendar year, so calendar year 2023 is currently the most recent APR data set available and is the primary source of permitting data for this report. Please note that in 2023, the state tracked permitting for housing projects entitled via SB 35 (Wiener, 2017), AB 2011, SB 6, and SB 9, but SB 4 and SB 684 were not yet law.

According to the APR data, in 2023 there were more units entitled or permitted under SB 9 than under AB 2011, while there were no units entitled or permitted at all under SB 6. This is not surprising considering that AB 2011 and SB 6 only went into effect on July 1, 2023, so the APR data represents only six months of those laws being in effect. However, it is notable because SB 9 did not have an approval shot clock in 2023 even though it required by-right, ministerial processing, while AB 2011 did have an approval shot clock. Because SB 6 did not include either an approval shot clock or ministerial approval procedure, we did not expect to see any uptake of that law in just the six months of 2023 it was in effect, and the data bears that out, as there have been no entitled SB 6 projects to date.



2023 HCD APR Data

	Total Units Entitled	Building Permits Issued (Total Units)
SB 9	235	140
AB 2011	142	48

While not the subject of this report, for comparison purposes, we'll also highlight the housing production of 2017's SB 35, which allows streamlined ministerial approval for housing projects in jurisdictions that are not on track to meet their target housing production goals.[25] In 2023, according to HCD's data (which contains many errors), there were at least 308 projects entitled via SB 35, totaling 4,766 entitled units and 2,578 permitted units. Of these totals, 434 entitled units were market-rate units, and 97 market-rate units were issued building permits. 4,332 entitled SB 35 units were for below market-rate tenants. These numbers indicate that financing of SB 35 projects is predominantly via subsidized low-income housing tax credits for 100% affordable developments.

[25] California's Regional Housing Needs Allocation, a.k.a RHNA

Conclusion

While the laws we've discussed represent significant steps toward addressing California's housing crisis, their implementation has been hindered by various challenges. Local resistance, financial feasibility concerns, and enforcement issues have all played a role in limiting the effectiveness of these laws. We also simply don’t have widespread data collection available to analyze, compare, and contrast the effectiveness of all of the housing laws passed in recent years by the legislature.

To fully realize the potential of these streamlining and upzoning measures, policymakers, local governments, and housing advocates must work together to overcome these obstacles. By addressing the specific challenges identified in this report and implementing our recommendations, California can create a more effective and efficient housing development process that fosters the production of much-needed housing for all residents.

If you would like to provide information for the next iteration of this report, please contact Rafa Sonnenfeld at rafa@yimbylaw.org



California's Streamlining Laws Report

YIMBY LAW