

Date of Hearing: August 19, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 9 (Atkins) – As Amended August 16, 2021

Policy Committee:	Local Government	Vote:	5 - 1
	Housing and Community Development		5 - 1

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill requires ministerial approval of duplexes and urban lot splits, as specified, and allows the life of subdivision maps to be extended by one year. Among its provisions, this bill:

- 1) Requires a city or county, including a charter city or county, to:
 - a) Provide ministerial approval, not subject to the California Environmental Quality Act (CEQA), of a proposed housing development within a single-family residential zone containing no more than two residential units (a duplex), that meets specified criteria.
 - b) Provide ministerial approval, not subject to CEQA review, of a parcel map or tentative and final map dividing a lot into two approximately equal parts of not less than 1,200 square feet each for residential use (an urban lot split) that meets specified criteria.
- 2) Requires an eligible project be located within an urbanized area or urban cluster, as defined, and not be located on prime farmland, wetlands, a hazardous waste site, certain environmentally protected land, a site on an historic register or in a very high fire severity zone, earthquake zone or floodplain.
- 3) Prohibits an eligible project from requiring demolition or alteration of housing subject to rent control, restricted to affordable rent levels, or occupied by tenants within the last three years.
- 4) Requires a city or county to restrict the rental term of any unit created under this bill to a term of more than 30 days.
- 5) Specifies a city or county is not required to permit accessory dwelling units (ADUs) on parcels subdivided through an urban lot split and have two residential units on the parcel.
- 6) Requires a city or county to include specified data in the annual housing element report submitted to the Department of Housing and Community Development (HCD).
- 7) Allows a city or county to adopt an ordinance to implement the provisions of the bill and provides that such an ordinance is not a project under CEQA.
- 8) Allows a city or county to extend the life of subdivision maps by an additional 12 months, up to a total of four years.
- 9) Recent amendments do the following:

- a) Authorize a local agency to deny a proposed housing development or lot split if the building official makes a written finding that the development or lot split would have an adverse impact on public health, safety, or the physical environment that cannot be mitigated.
- b) Make the owner occupancy provision a statewide requirement instead of a local opt-in and remove the sunset date; require an applicant of a lot split to sign an affidavit stating the applicant intends to occupy one of the units as their principal residence for a minimum of three years following the approval of the lot split.
- c) Make clarifying changes to the definition of a non-profit corporation that meets the owner occupancy requirement to ensure the community land trust model is fully included.

FISCAL EFFECT:

- 1) The Department of Housing and Community Development (HCD) estimates costs of \$89,000 (GF) annually for 0.5 PY of staff time to provide technical assistance and outreach education to local agencies and affordable housing developers.
- 2) Unknown state-mandated local costs to establish streamlined project review processes for proposed duplex housing developments and tentative maps for urban lot splits, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates.

COMMENTS:

- 1) **Purpose.** This bill seeks to promote small-scale neighborhood residential development by streamlining the process to create a duplex or subdivide an existing lot on residential land. According to the author:

[This bill] provides options for homeowners by streamlining the process for a homeowner to create a duplex or subdivide an existing lot. Building off the successes of ADU law, [This bill] strikes an appropriate balance between respecting local control and creating an environment and opportunity for neighborhood housing that benefits the broader community.

- 2) **Background.** The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory elements, including a housing element that establishes the locations and densities of housing, among other requirements. Zoning ordinances establish the type of land uses that are authorized in a designated area, as well as other uses that may be allowed if they meet conditions imposed by the local agency.
- 3) **Ministerial Approval.** A project subject to ministerial review requires only an administrative review designed to ensure the project is consistent with existing general plan and zoning rules, as well as meets standards for building quality, health and safety. The local government must approve a ministerial permit if the application is complete. Most large housing projects are not allowed ministerial review. Instead, these projects are discretionary

and vetted through both public hearings and administrative review, including design review and appeals processes. Most housing projects that require discretionary review and approval are subject to CEQA review, while projects permitted ministerially are not. This bill requires ministerial approval of duplexes and urban lot splits on land zoned for residential single-family housing.

Existing law requires local agencies to ministerially permit the development of accessory dwelling units (ADUs) on residential parcels, either within the space of an existing single family home or in a new or converted structure in the rear of a property, or both, regardless of local zoning restrictions. ADU law places numerous specified limitations on the ability of local governments to impose requirements on ADUs to encourage small-scale neighborhood development. This bill does not require a local agency to allow an ADU on parcels subdivided through an urban lot split and also have two residential units on the parcel.

- 4) **Subdivision Map Act.** The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land into parcels for sale, lease or financing. Local subdivision approvals must be consistent with city and county general plans. For smaller subdivisions that create four or fewer parcels, local officials usually use parcel maps, but they can require tentative parcel maps followed by final parcel maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months. This bill allows a local agency to extend the life of subdivision maps by an additional year, up to a total of four years.
- 5) **Arguments in Support.** Supporters of the bill, primarily affordable housing advocates and builders, argue the bill has the potential to facilitate a substantial amount of new housing at a small-scale, neighborhood level, and this new housing will help address the housing crisis by lowering rents and home prices.
- 6) **Arguments in Opposition.** Opponents of the bill, primarily local governments and residential neighborhood groups, argue the bill would override the traditional ability of localities to control the development process.
- 7) **Prior Legislation.**

SB 1120 (Atkins), of the 2019-20 Legislative Session, was substantially similar to this bill. SB 1120 was not taken up for a concurrence vote on the Senate Floor.

SB 35 (Wiener), Chapter 366, Statutes of 2017, created a streamlined, ministerial approval process for infill developments in cities and counties that have failed to meet their RHNA production targets.