

State of California Law

SB 1818 - Density Bonus

SB 1818 (Hollingsworth) (Chapter 928, Statutes of 2004) amends density bonus law (Gov. Code Section 65915) in a number of important ways. Effective January 1, 2005, applicants are eligible for a range of density bonuses up to 35%, based on the percentage of affordable units in a development. Applicants are also eligible for an innovative new land donation density bonus. Localities are required to offer at least 1-3 incentives (reductions in parking, for example) rather than one, based on the percentage of affordable units in a development. SB 1818 also limits parking requirements that localities may impose. (Also see our summary of changes to density bonus law made in 2002 by AB 1866 (Wright) in our Second Units/Density Bonus Fact Sheet).

What SB 1818 Does:

- Creates a range of density bonuses by decreasing the percentage of affordable units needed to obtain a reduced density bonus, and by increasing the maximum density bonus to 35%. Existing law requires localities to grant a flat density bonus of 25% for developments with 20% lower income units, 10% very low, or 50% for seniors, and a flat 10% density bonus for condominiums with 20% moderate income units.

Under SB 1818, instead of having to provide 20% low-income units, 10% very-low, or 20% moderate, an applicant can obtain a density bonus by providing 10% low, 5% very-low, or 10% moderate. The applicant receives a reduced density bonus for this reduced level of targeting: a 20% density bonus for the reduced level of low- and very-low income units, and a 5% density bonus for this level of moderate income units. This permits an applicant to obtain a lower-income density bonus of 20-35%, a very low-income density bonus of 20-35%, and (in a condo/PUD) a moderate income density bonus of 5-35%.

Within the ranges, the density bonus increases as the percentage of affordable units increases. The low income density bonus increases by 1.5% for each 1% increase in low-income units above 10%, up to the maximum of 35%; the very low-income density bonus increases by 2.5% for each 1% increase in very low-income units above 5%, up to the maximum 35%; and the moderate income (condo/PUD) density bonus increases by 1% for each 1% increase in moderate income units above 10%, up to a maximum of 35%.

- Requires localities to offer 1-3 incentives (reductions in parking, setbacks, open space, etc.), rather than one as under current law, based on the percentage of targeted units; and requires any incentive to "result in identifiable, financially sufficient and actual cost reductions". Under existing law the applicant is entitled to the incentives they request and must waive or reduce other standards that make it impossible to build at the established density, unless the locality makes specific findings.
- Applies the moderate income density bonus to PUDs (planned unit developments) not just condo developments as in current law; requires the first occupant to be moderate income rather than requiring a 10-year term of affordability; and requires equity sharing on resale.
- Gives a flat 20% density bonus for all senior housing rather than a 25% bonus for housing with 50% seniors as under current law.
- Creates a land donation density bonus for applicants who donate land for very low-income housing to a local government or a developer approved by the locality if the land meets requirements related to by-right zoning, location, size, etc. An applicant must donate land sufficient to provide at least 10% of the units in the development for very low-income households (the zoning of the donated land determines the number of units that can be built). For a 10% land donation an applicant receives a 15% density bonus above the maximum allowable density for the entire development. The density bonus increases by 1% for each 1% increase

in very-low income units that can be built on the donated land, up to a maximum of 35%. For example, an applicant for a 1,000 unit development gets a 15% density bonus for donating 5 acres of land (if it was zoned for 100 units), permitting the applicant to build 150 additional units on the undonated land. By comparison, a donation of land for 300 units entitles the applicant to a 35% density bonus, or 350 units. The land donation density bonus and general density bonus can also be used together, up to a combined maximum of 35%.

- Intent language in SB 1818 clarifies the bill's impact on certain local land use ordinances. In particular, the Assembly floor analysis made it clear that local inclusionary ordinances are not affected by SB 1818. For example, even though SB 1818 provides a density bonus for developments with 10% low income units, that does not mean that the bill creates a right to build that preempts a 15% local inclusionary requirement.
- Limits parking standards that localities can impose on density bonus developments, reflecting changes made in AB 2348 (Mullin).