

ASSEMBLY THIRD READING
AB 812 (Boerner)
As Amended April 10, 2023
Majority vote

SUMMARY

Allows a city or county to set aside 10% of any locally-required affordable housing units in cultural districts for artists.

Major Provisions

- 1) Defines "artist" to mean the creator of any work of visual, graphic, or performing art of any media, including, but not limited to, painting, printing, drawing, sculpture, craft, photography, film, or performance.
- 2) Defines "affordable housing" to mean units dedicated to moderate-income, lower income, very low-income, or extremely low-income households, as specified.
- 3) Allows a city or county to reserve for artists 10% of any affordable housing units that the city or county requires as a condition of approval of residential development in a cultural district, if all of the following conditions are satisfied:
 - a) The reserved units are located within a state-designated or locally-designated cultural district;
 - b) The city or county adopts an ordinance for reserving affordable units for artists that does all of the following:
 - i) Is consistent with the Local Tenant Preferences to Prevent Displacement Act;
 - ii) Prohibits an existing tenant from being evicted in favor of an artist; and
 - iii) Contains a fair and comprehensive vetting process that includes status verification of the artist.
- 4) Provides that the Legislature finds and declares that this act addresses a matter of statewide concern rather than a municipal affair. Therefore, this act applies to all cities, including charter cities.

COMMENTS

Affordable Housing for Artists: The state's housing crisis affects people of all occupations, including artists. There are approximately 93,000 professional artists in California.¹ Their mean hourly income of \$41.26 exceeds the statewide mean wage of \$34.27.² However, there is

¹ Based on data from the Economic Development Department for the following professions: actors, art directors, craft artists, dancers, fine artists, music directors and composers, musicians and singers, photographers, writers and authors, and "artists and related workers: all other." Data from the 1st quarter of 2022.

<https://labormarketinfo.edd.ca.gov/data/oes-employment-and-wages.html>

² Ibid.

substantial variance in the incomes of artists, and a significant number of artists would qualify for affordable housing, which is typically available to households making less than 80% of the area median income.

Many local governments have policies to support the arts and artists. However, besides being broadly supportive of housing production at all income levels, local governments have limited tools for supporting affordable housing for artists.

One potential tool for creating artist-specific housing is through publicly-financed, 100%-affordable housing projects dedicated to artists. Pursuant to the federal Internal Revenue Code, artist-only housing is an allowable use for projects that receive federal tax credits, and not a violation of fair housing standards.³ Most affordable housing projects in California receive state or federal tax credits. There are several notable 100% artist projects in the state, including the 116-unit WAL project on R Street in Sacramento. However, because public funding for affordable housing is limited, local governments have limited ability to create 100% affordable housing dedicated to artists.

Local government have other tools to increase the supply of affordable housing. Inclusionary housing ordinances require developers to include a percentage of affordable housing in a development or pay an in lieu fee. Developers also can use density bonus law to request increased density and waivers of concession and incentives in return for including affordable housing in a development.

This bill would allow cities and counties to reserve 10% of their locally-required affordable housing units for artists in mixed-income housing projects built in cultural districts. Local governments may already reserve units for artists in mixed-income housing projects. However, no such program exists in the state. This may be because local governments believe reserving units for artists would run afoul of the state's Fair Employment and Housing Law (FEHA). FEHA makes it illegal for the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of that person. The provision against discrimination based on source of income might be interpreted to mean that a unit reserved for an artist would be discriminatory against non-artists. By affirming in state law that it is legal for local governments to reserve units for artists, this bill would clarify that such an action would not interfere with FEHA .

According to the Author

"Artists are the lifeblood of our cultural communities and help preserve the cultural footprint of the region. AB 812 would authorize a city and/or county to set aside up to 10 percent of deed-restricted housing units within a state or locally-designated cultural district for eligible artists and cultural workers. This prevents artists from having to move away from the neighborhoods they contribute so much to, simply because they can no longer afford to live there."

³ US Internal Revenue Code Section 42(g)(9)

Arguments in Support

According to the California Arts Advocates, "Surveys across California indicate the huge demand for affordable housing for artists. Keeping neighborhoods affordable to the culture bearers in our local communities and avoiding the displacement of artists protects our cultural heritage, and it creates robust economic zones. Without them, the special culture of the place leaves with them, dispersed and diluted. A cultural district is no longer a cultural district if those people who made it cannot afford to live and work there themselves."

Arguments in Opposition

None on file.

FISCAL COMMENTS

None.

VOTES

ASM HOUSING AND COMMUNITY DEVELOPMENT: 6-2-0

YES: Wicks, Wendy Carrillo, Zbur, Kalra, Quirk-Silva, Ward

NO: Joe Patterson, Sanchez

ASM ARTS, ENTERTAINMENT, SPORTS, AND TOURISM: 5-1-1

YES: Quirk-Silva, Mike Fong, Friedman, Hart, Valencia

NO: Lackey

ABS, ABST OR NV: Wallis

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