



July 11, 2021

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

**Re: AB 215 (Chiu): Housing element: regional housing need: relative progress determination
As amended on June 23, 2021 – Oppose
Set for hearing in Senate Appropriations Committee – July 15, 2021**

Dear Senator Portantino,

The California State Association of Counties (CSAC), League of California Cities (Cal Cities), Urban Counties of California (UCC), and Rural County Representatives of California (RCRC) are regrettably opposed to Assembly Bill 215 by Assemblymember Chiu, which would create a new mid-cycle regional housing needs progress determination process with significant costs for both the Department of Housing and Community Development (HCD) and local agencies. The bill would mandate an open-ended consultation between HCD and local governments where housing production has lagged for specified income levels. Our primary concern, however, is the provision of the bill that would create a new mandate for this subset of jurisdictions to achieve HCD's designation as a prohousing jurisdiction. Any action taken to meet this requirement, including "providing financial subsidies," would likely be a reimbursable state mandate.

As you know, the 2019 Budget Act declared the state's intent to incentivize jurisdictions to create "prohousing" environments at the local level through the form of additional points when applying for competitive housing and infrastructure grant programs. Specifically, the bill directed HCD to promulgate emergency regulations no later than July 1, 2021 to establish a prohousing designation program for cities or counties that have enacted local policies to facilitate housing development. AB 215 turns what was created only two years ago as an incentive program into a mandatory requirement for some jurisdictions.

Our organizations expressed concerns with the Prohousing Policies Framework Paper and Survey in October 2019; some of which were not addressed in the emergency regulations the HCD released earlier this month. **While the emergency regulations appear to be flexible enough to allow many types of local governments to achieve the designation, the regulations explicitly require direct financial subsidies of affordable housing projects as a prerequisite for achieving the designation (25 CCR 6606(b))¹.** While many

¹ "Applicants shall demonstrate that they have enacted or proposed at least one policy that significantly contributes to the Acceleration of Housing Production in each of the four categories [including 'Providing Financial Subsidies']."
<https://www.hcd.ca.gov/community-development/prohousing/docs/prohousing-regulation-text.pdf>

jurisdictions help subsidize affordable housing with limited local funds, it may be difficult for jurisdictions with limited budgets or lower tax bases to meet this requirement. In the context of a state-mandated local program, providing such a subsidy would be a reimbursable mandate. Finally, as an incentive-based program, the regulations provide HCD with significant discretion to rescind the designation, including based on any action the Department considers inconsistent with the “principles” of the prohousing designation. While such a criterion may be appropriate when awarding an incentive, this language is overly broad for the purposes of a mandatory program.

In addition, we are concerned with the additional mid-cycle housing element review process and question whether the “relative progress” metric it relies upon is calibrated to produce the intended outcome. California’s regions are incredibly diverse, with significant variation in local economies. Imperial County, with an unemployment rate of 15.9%, is in the same region as Ventura and Orange Counties, which each have a 5.8% rate. Unincorporated areas tend to have fewer areas served by urban infrastructure, fewer employment options, and other economic limitations that can make housing production lag compared to cities. In most cases, a lower rate of “relative progress” toward RHNA goals will simply reflect these economic realities.

In cases where lack of housing construction is related to a jurisdiction failing to meet its housing element obligations, several recent changes in the law give the state new enforcement tools. HCD can review any action or failure to act by a jurisdiction that is inconsistent with the jurisdiction’s adopted housing element, including a failure to implement its housing element programs; revoke the Department’s prior findings that a jurisdiction’s housing element is compliant; and refer a non-compliant jurisdiction to the Attorney General. The Attorney General can bring the local agency to court to compel compliance with non-compliant jurisdictions becoming subject to significant fines. Rather than create a costly, new mid-cycle housing element review process that is unlikely to be exclusively targeted at jurisdictions that are failing to meet their obligations, the state should remain focused on using the tools in existing law to promote housing element adoption and implementation.

We are committed to aiding the state in meeting housing production goals. However, we cannot support the transition of an incentive-based program into a mandatory HCD program with significant unfunded costs for local governments. For these reasons, we must respectfully oppose AB 215. Should you have any questions, please do not hesitate to contact Christopher Lee (CSAC) at clee@counties.org, Jason Rhine (Cal Cities) at jrhine@counties.org, Jean Kinney Hurst (UCC) at jkh@hbeadvocacy.com, or Tracy Rhine (RCRC) at trhine@rcrcnet.org.

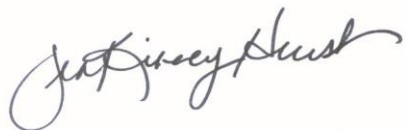
Sincerely,



Christopher Lee
California State Association of Counties



Jason Rhine
League of California Cities



Jean Kinney Hurst
Urban Counties of California



Tracy Rhine
Rural County Representatives of California

cc: The Honorable David Chiu, California State Assembly
Honorable Members, Senate Appropriations Committee
Mark McKenzie, Staff Director, Senate Appropriations Committee
Ted Morley, Consultant, Senate Republican Caucus