

SB 827 2.0: What are the implications for communities in the Bay Area?

Policy Brief

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Senate Bill 827 (SB 827), introduced by Senator Scott Weiner in early 2018, aimed to rezone areas near high-frequency transit across the state to make it easier to build more densely. While [Wiener stated that the goals of the bill were to address the housing crisis, reduce greenhouse gas emissions, and advance fair housing](#), a number of critics came out against SB 827. [Many, including cities, resisted the challenge to local control](#), and [equity advocates](#) contended that the bill did not sufficiently address displacement, or ensure affordability, and that it potentially undermined existing affordable housing and equitable development policies. In response, ultimately, [SB 827 was amended](#) to place special protections around rent-controlled housing, to further restrict demolitions, to guarantee no net loss for rent-controlled and subsidized affordable housing, to clarify that local inclusionary housing requirements applied to SB 827-enabled projects and to mandate inclusionary housing requirements on SB 827 projects where local ordinances do not exist, [among other subsequent amendments](#). Despite the amendments, [SB 827 still died in committee](#).

With an “SB 827 2.0” likely on its way at the time of writing, we partnered with our colleagues at [MapCraft.io](#) to understand the potential implications of SB 827. Using Mapcraft.io’s development feasibility calculators for the Bay Area, we focused on trying to understand what kinds of neighborhoods would have been affected by SB 827, how much new housing capacity would have been added in different types of neighborhoods, and where communities might have expected demolitions of existing units.

We looked at neighborhood type in two ways:

- 1) Using our [typology maps](#), which [classify neighborhoods](#) based on their stage of gentrification and displacement pressures, or the extent to which they are exclusive of low-income households. This classification is based on demographic change data, housing cost data, and gentrification and displacement risk factors.
- 2) Using the neighborhood resource levels as defined by the California Fair Housing Task Force and adopted by the [California Tax Credit Allocation Committee](#) (TCAC) to guide affordable housing investments. This typology [classifies neighborhoods](#) by resource level, based on economic, education, and environmental health indicators, as well as metrics on racial segregation.

Our key findings are below. We organize them around “potential harms” and “potential benefits” as we find evidence of both.

Potential Harms

- Nearly half of the developable land in the Bay Area that would have been subject to SB 827 was in areas experiencing gentrification and displacement pressures or that were at risk of gentrification, while only 11% of the total acres covered under SB 827 were in areas considered more affluent or exclusive enclaves.
- Looking at financially-feasible development capacity (not just physical capacity allowed under zoning), the added capacity under SB 827 roughly mirrors the same geographic distribution of the capacity under current conditions: about 60% of the net new financially-feasible unit capacity would have been located in low-income and gentrifying areas.
- Our closest measure of potential direct displacement is based on places where construction of financially-feasible development capacity would require demolition of existing non-rent-controlled units. Over 65% of potential residential demolitions would have occurred in low-income or gentrifying neighborhoods.

Potential Benefits

- When compared to development potential under today’s policies, SB 827 would have produced a six-fold increase in financially-feasible market-rate housing capacity and a seven-fold increase in financially-feasible inclusionary unit capacity - affordable units that would be required under the bill’s inclusionary housing stipulations.
- Looking at neighborhood resource levels, SB 827 would have increased financially-feasible development potential for market-rate units six-fold in the high and highest resourced areas of the region (from 130,000 units to about 820,000 units).
- SB 827 could have significantly increased capacity for inclusionary affordable units in the high and highest resourced areas (from 24,000 to 163,000 units). The greatest increase in capacity for inclusionary units would have been in moderate resource neighborhoods – from 20,000 to 139,000 units.

As with most policies, we find that there would be both potential benefits and consequences of a bill like SB 827. We are hopeful that further deliberations and data-driven analysis will help policy makers design a bill that can realistically achieve its stated environmental, fair housing, and equity goals.

What neighborhoods would have been subject to SB 827?

Before considering the impacts of SB 827, we first ask, “What types of communities would have been subject to SB 827?” Roughly 160,000 acres of the Bay Area would have been subject to SB 827, including more than 420,000 parcels and about 2% of the residentially zoned land area in the region.

- Nearly half of the transit-served areas that would have been subject to SB 827 were experiencing gentrification pressures or were at risk of gentrification.
- When compared to the distribution of neighborhoods in the urbanized area (Figure 1), gentrifying and exclusionary neighborhoods would have been over-represented, whereas more stable neighborhoods (both low and moderate/high income) would have been under-represented.
- Only 11% of the acres subject to SB 827 in the Bay Area would have been in exclusive neighborhoods (advanced and ongoing exclusion).

The argument that the majority of the neighborhoods targeted by the bill would have been neighborhoods that are gentrifying or at risk of gentrification appears to hold true; at least sixty percent of the land area subject to SB 827 was in these neighborhoods, while the land area considered exclusive enclaves that could have been opened up to new development was modest.

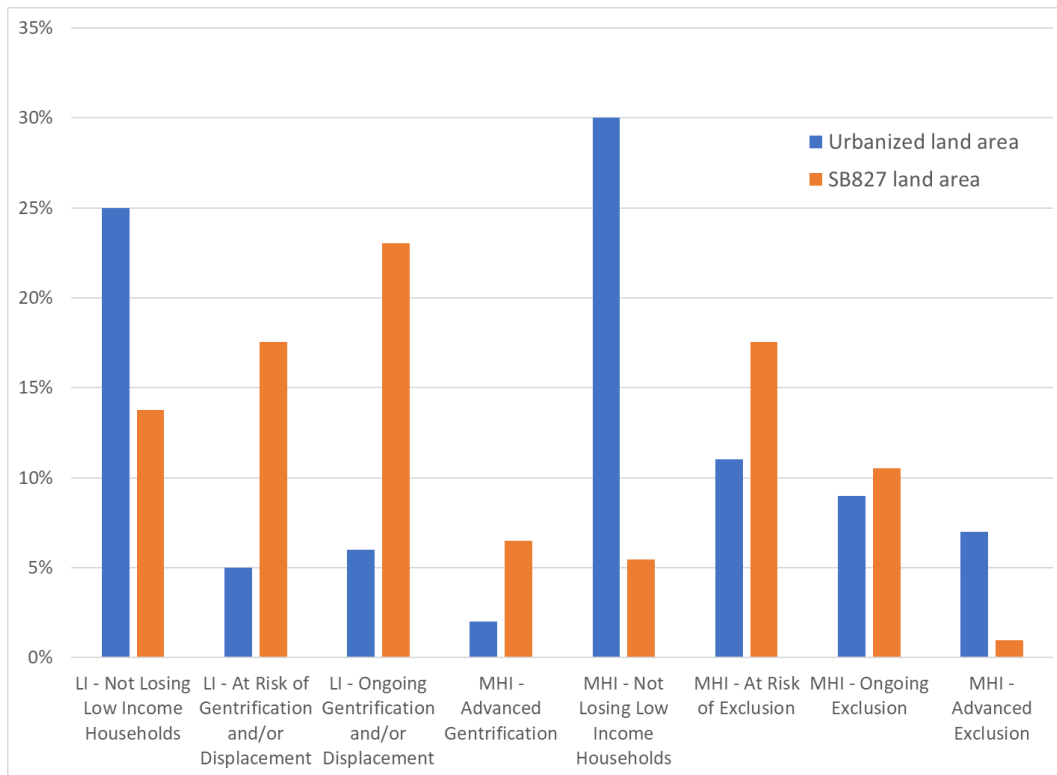


Figure 1 Distribution of Total Urbanized Land Area and Land Area Subject to SB827 in the SF Bay Area by UDP Gentrification/Displacement Typology

How much more market-rate housing capacity would have been added under SB 827?

It's one thing to determine what kinds of neighborhoods would be upzoned as a result of SB 827, and another to say where we could have expected to see more housing development. One would not expect upzoning to result in dramatic increases in housing production in all neighborhoods. Because of the nature of housing markets, developers will choose to build in places that can command high enough prices to make a profit; in some neighborhoods, it may still be economically infeasible to build even if density is increased.

In fact, SB 827 introduced new inclusionary housing requirements in areas where they did not previously exist, so the financial feasibility of potential development would have been influenced by these stipulations as well. Furthermore, there may not be sufficient developable land that landowners are willing to sell in certain places. Or there may be existing development on a property that would be too costly to demolish and rebuild.

To better understand development potential that SB 827 would have added, we used [MapCraft.io](#)'s unique tool that is able to conduct pro forma financial feasibility assessments of development across hundreds of thousands of parcels. We refer to this development capacity as *financially-feasible market-rate housing capacity*, described in further detail in Mapcraft.io's [April Medium post](#). To be clear, this financially-feasible capacity is what a developer could optimally do with a site tomorrow to maximize their returns given local regulations, market conditions, and existing land uses. While our analysis considered the implications of SB 827's inclusionary requirements on the feasibility of potential developments, the estimates in this section refer to the capacity for market-rate housing units only and we report on the inclusionary portion of the housing capacity in a subsequent section.

Based on our analysis of the most recent [April 9th version of the bill](#), which included demolition controls and inclusionary requirements, we find that financially-feasible market-rate housing capacity in the Bay Area's transit corridors would have increased six-fold. Specifically, the projected net financially-feasible market-rate housing development capacity in the Bay Area could have increased from 380,000 to 2,300,000 units if SB 827 had passed. Note, these estimates are net of the replacement units for any demolitions needed for build-out, as well as the inclusionary affordable units that would have been mandated as part of the bill, both of which are discussed in further detail below..

[Mapcraft.io](#)'s analysis, however, does not suggest that hundreds of thousands of financially-feasible market-rate housing units would be built tomorrow - neither under today's policies nor under SB 827. That is in large part because landowners are seldom willing to part with their land even if a developer could feasibly redevelop the property. For example,

even if an existing auto body shop could be feasibly redeveloped into an apartment building or a single-family home could be profitably replaced with a four-unit building, that does not mean the business owner or homeowner would sell their property to a housing developer.

To be clear, it is very common for landowners to retain their properties even if they could reasonably be sold to a developer who would demolish them to build new housing. In fact, [Mapcraft.io](#) estimates that in the SB 827 geography alone, which represents less than 2% of the region’s residentially zoned land area, over 380,000 market-rate units could be feasibly developed under today’s zoning—including existing inclusionary housing policies—and market conditions without any new upzoning or streamlining requirements. Yet, there are fewer than 20,000 new housing units built across the entire Bay Area each year ([the Metropolitan Transportation Commission](#) estimates that the 9-county region issued approximately 18,000 new housing permits on average each year between 2006-2016, and produced approximately 16,000 housing units each year between 2007-2017). So, obviously zoning is not the only factor constraining financially-feasible housing development from being built. For housing development to occur, all of the stars would need to align, including there being a willing seller of a developable parcel.

Where would we have expected to see additional market-rate housing capacity?

The financially-feasible market-rate housing development capacity enabled by SB 827 roughly mirrors the same geographic distribution of capacity that exists under current conditions. Both today and under an SB 827 scenario, roughly 60% of the net new market-rate housing unit capacity would have been located in low-income and gentrifying areas.

In Table 1, we compare the financially-feasible market-rate capacity under current zoning conditions with the SB 827 scenario:

- We find that low-income neighborhoods not currently undergoing gentrification pressures would have seen the financially-feasible market-rate capacity increase 9-fold, whereas advanced gentrification neighborhoods would have seen capacity increase 5-fold.
- When looking at moderate to high-income neighborhoods, significant financially-feasible market-rate capacity would have been enabled in these neighborhoods as well. The growth in capacity within the more stable “moderate/high income-not losing low income households” category would have experienced the largest increases.
- More moderate increases in financially-feasible market-rate capacity would have occurred in the “at-risk” and “ongoing/advanced exclusion” moderate/high-income neighborhoods, but in absolute values they represent over 730,000 financially-feasible units.

Table 1 Financially-feasible market-rate unit capacity under current conditions and SB827 scenario by UDP displacement typology

UDP Neighborhood Typology	Market-rate units that could feasibly be built under current conditions	Market-rate units that could feasibly be built under SB827 scenario
LI* - Not Losing Low Income Households	41,000	379,000
LI* - At Risk of Gentrification and/or Displacement	85,000	451,000
LI* - Ongoing Gentrification and/or Displacement	88,000	483,000
MHI** - Advanced Gentrification	24,000	121,000
MHI** - Not Losing Low Income Households	9,000	97,000
MHI** - At Risk of Exclusion	70,000	434,000
MHI** - Ongoing and Advanced Exclusion	47,000	305,000

* LI = Low Income. See https://www.urbandisplacement.org/sites/default/files/images/methodology_summary.pdf

** MHI - Moderate/High Income

We also explored what the distribution of financially-feasible market-rate unit capacity under SB 827 would have been by neighborhood resource level. Fair housing advocates would hope that new development opportunities presented by SB 827 would be in high resource areas to ensure that more households have access to neighborhood opportunities that significantly affect life outcomes. To assess the distribution of financially-feasible market-rate unit capacity that would have been enabled by SB 827, we used definitions of neighborhood resource levels developed by the California Fair Housing Task Force and adopted by the [California Tax Credit Allocation Committee](#) (TCAC) in December 2017. TCAC uses these resource designations in the administration of the [Low Income Housing Tax Credit](#) (LIHTC) program across California to incentivize affordable housing development in areas with more resources.

We found that the policy could have "unlocked" development in high resource areas (high and highest resource areas in the Fair Housing Task Force typology); these areas would have seen an over 600,000 increase in the number of financially-feasible market-rate unit capacity under SB 827 (see Table 2). At the same time, however, moderate and low resource areas would have seen nearly double the increase in financially-feasible capacity. Highly segregated areas and areas with high levels of poverty would have had more modest increases.

Table 2 Financially-feasible market-rate unit capacity under current conditions and SB827 scenario by neighborhood opportunity level

<i>Neighborhood Opportunity Level</i>	<i>Market-rate units that could feasibly be built under current conditions</i>	<i>Market-rate units that could feasibly be built under SB827 scenario</i>
High Segregation & Poverty	25,000	112,000
Low Resource	103,000	688,000
Moderate Resource	124,000	699,000
High Resource	73,000	440,000
Highest Resource	57,000	379,000

Where would new inclusionary affordable units be feasible?

After three iterations, the final SB 827 proposal evolved to respect existing inclusionary housing policies while advancing new affordable housing requirements where none previously existed. “[Inclusionary housing](#)” or “below market-rate housing” policies refer to mandates that a certain percentage of newly developed housing units be affordable to low-income households. In the case of SB 827, the policy would have required that developers provide affordable units on site where no local inclusionary policy previously existed and required that developers follow any existing local inclusionary policies.

With data on [inclusionary housing policies from UDP](#), [Mapcraft.io](#)’s prior analyses of SB 827 were enhanced to better account for the affordable housing elements of SB 827. The refined analysis found that there would have been more than a six-fold increase in the financially-feasible inclusionary housing capacity in the Bay Area had SB 827 passed.

Using the Fair Housing Task Force’s neighborhood resources categories, we found that large increases in inclusionary housing capacity would have occurred in the highest resourced areas (Table 3). Taking high and highest resource areas together, there would have been an almost seven-fold capacity increase from current conditions in these areas, which would have represented more than 35% of the inclusionary housing capacity under SB 827. This finding is particularly striking given the historically poor track record of affordable housing delivery in high-resourced areas. For example, from 2000-2016, [only 7% of the Low-Income Housing Tax Credit \(LIHTC\) program¹ developments in the Bay Area were built in high/highest resource tracts.](#)

In large part, the capacity increase is due to the fact that market rents in high resource areas are high enough to allow projects with inclusionary units to be financially viable. Yet, looking at the increase in inclusionary affordable housing capacity for the gentrification and displacement typologies, we find that in Ongoing and Advanced Exclusion areas (Table

¹ 9%, large family.

4), which serve to mark some of the more exclusive neighborhoods in the Bay Area, the growth in capacity went up from roughly 8,000 to 53,000 units under SB827 – or roughly 13% of the total feasible inclusionary housing capacity. This is likely due to the fact that few of these areas are within half a mile radius of transit stations. In other words, SB827 would not have created many opportunities for income-restricted affordable units in the more exclusive neighborhoods because the policy applied to a disproportionately small subset of these areas in this region (see Figure 1).²

Table 3 Affordable housing units feasible under current inclusionary housing policies and SB 827 scenario by neighborhood opportunity level

<i>Neighborhood Opportunity Level</i>	<i>Inclusionary units that could feasibly be built under current conditions</i>	<i>Inclusionary units that could feasibly be built under SB827 scenario</i>
High Segregation & Poverty	4,000	11,000
Low Resource	16,000	97,000
Moderate Resource	20,000	139,000
High Resource	15,000	90,000
Highest Resource	9,000	73,000

Table 4 Affordable housing units feasible under current inclusionary housing policies and SB 827 scenario by UDP displacement typology

<i>UDP Neighborhood Typology</i>	<i>Inclusionary units that could feasibly be built under current conditions</i>	<i>Inclusionary units that could feasibly be built under SB827 scenario</i>
LI* - Not Losing Low Income Households	7,000	75,000
LI* - At Risk of Gentrification and/or Displacement	11,000	65,000
LI* - Ongoing Gentrification and/or Displacement	16,000	85,000
MHI** - Advanced Gentrification	4,000	21,000
MHI** - Not Losing Low Income Households	2,000	23,000
MHI** - At Risk of Exclusion	13,000	80,000
MHI** - Ongoing and Advanced Exclusion	8,000	53,000

² “Advanced exclusion” areas make up about 8% of land area in the 9-county Bay Area.

What about displacement?

Although we are not able to estimate the impacts of added capacity on housing prices, rents, and economic displacement, our analysis did consider where units are threatened with demolitions, which is an indicator of potential direct displacement from non-rent-controlled units (see treatment of rent-controlled units below). [MapCraft.io](#)'s feasibility calculator considers what land uses currently exist on parcels, so we know whether existing housing units would have to be demolished to make way for the development of financially-feasible market-rate housing capacity. According to our estimates, over 65% of potential demolitions, and therefore potential direct displacement from non-rent controlled units, would occur in low-income or gentrifying neighborhoods.

In fact, the financially-feasible market-rate capacity outlined in the sections above represents the additional housing unit capacity net a certain number of demolished units that would have been replaced by larger-scale development. For instance, the financially-feasible market-rate development capacity under existing zoning in SB 827 areas is 580,000 units, however there are currently 200,000 housing units in those areas. These 200,000 units would need to be demolished and redeveloped to achieve the 580,000 total - therefore, we state in the above sections that the additional financially-feasible capacity is 380,000 units. The 2,300,000 units of financially-feasible market-rate housing capacity that SB 827 would have enabled excludes 360,000 units that would have replaced the same number of currently existing units, which would have been demolished to make way for new development.

It is important to note that none of the 360,000 units that would be threatened of demolition under SB 827 are rent controlled units. Our estimates are based on development assumptions that reflect the latest version of the bill, which restricted the demolition of rent controlled units and would have required developers to fund the relocation of existing tenants. Although the last version of the bill provided a clause for jurisdictions to override this restriction, it is infeasible for us to predict which jurisdictions would adopt such practices. Therefore, it should be noted that these potential demolition estimates are conservative and could be higher under different assumptions.

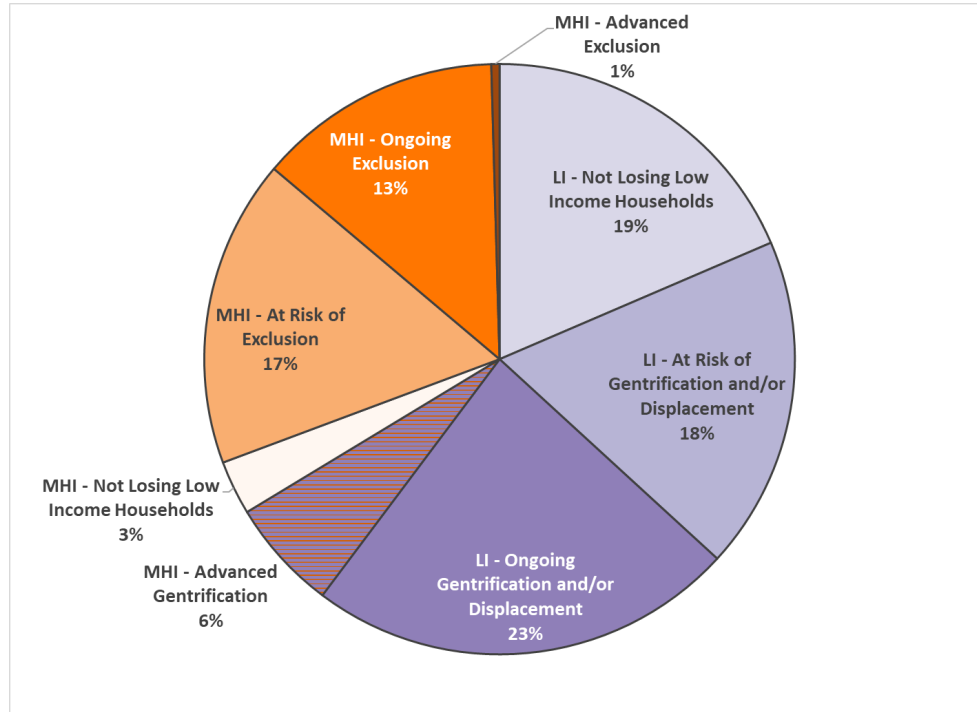


Figure 2 Distribution of Potential Demolitions under SB827

Where do we go from here?

Our analysis indicates that although SB827 would have dramatically increased financially feasible capacity of both market-rate and inclusionary affordable units in higher resource neighborhoods in the Bay Area, communities undergoing or at risk of gentrification would have been disproportionately represented, both in land area and in the financially-feasible development capacity that would have been enabled by SB 827. Further, communities undergoing or at risk of gentrification would have disproportionately borne the potential demolitions that come with new development. Given that an influx of real estate investment has the potential to change these neighborhoods, it is important to think through how an “SB 827 2.0” could differentiate between the neighborhood contexts where it is applied, to ensure that its implementation leads to positive housing outcomes rather than more displacement and economic inequality.

A working group of [CASA](#), a multi-stakeholder regional housing committee of Bay Area governments, equity advocates and developers, among others, has been exploring just this question. With our support providing data and [mapping](#), CASA has identified ‘sensitive census tracts’ – where there is a high concentration of populations vulnerable to displacement. The goal is to identify such communities in order to provide them with extra time for community planning and other potential support under a policy like SB 827. While the working group is still considering the best way to create policies that are responsive to residents and address their concerns, these conversations serve as a testbed to think

through how communities with concerns about displacement might get additional protections and process under the next iteration of this bill.

Secondly, from a fair housing perspective, while SB 827 would not have necessarily led to many more units in the region's most exclusive neighborhoods, it is encouraging that the bill could lead to more development, including affordable units, in higher resource areas. To the extent that any new policy can prioritize housing options in these areas, perhaps an SB 827 2.0 could help address [recent disturbing trends of re-segregation in the Bay Area](#).

To embody the [principles of equitable development](#), "SB 827 2.0" will need to consider all of these realities – and translate them into a modified bill that reflects differences in communities. Finally, it is critical that analyses like this be conducted to ensure that the bill's intended goals match its likely policy outcomes. To advance this goal this year we will be working with Professor Carolina Reid on an SB1-funded grant to expand our analysis statewide to ensure that the next version of the bill balances tenant protections and housing needs.