

## ASSEMBLY CONSTITUTIONAL AMENDMENT 10 (Haney)

### HOUSING AS A HUMAN RIGHT

#### FREQUENTLY ASKED QUESTIONS

##### **ACA 10 Bill Text:**

*“The state hereby recognizes the fundamental human right to adequate housing for everyone in California. It is the shared obligation of state and local jurisdictions to respect, protect, and fulfill this right, on a non-discriminatory and equitable basis, with a view to achieving progressively the full realization of the right, by all appropriate means including the adoption and amendment of legislative measures, to the maximum of available resources.”*

##### **Q: What will this bill do?**

The bill is a state constitutional amendment recognizing that adequate housing is a fundamental human right in California and that state and local governments have an obligation to “respect, protect, and fulfill” this right through progressively implemented measures, to the maximum of available resources. Once it is passed by two-thirds in both houses of the legislature, this measure will be put on the ballot for voters statewide to decide whether or not it will become part of our state constitution by a majority vote.

##### **Q: Is this bill just symbolic?**

No. The bill enshrines in the State Constitution both a legally enforceable right to adequate housing and the obligation of local and state jurisdictions to “respect, protect, and fulfill this right.” California has the opportunity to become the first state in the U.S. to have such a right in its constitution, following the lead of many other countries that include this as a constitutional or statutory right, with real benefits to their citizens.

##### **Q: What does it mean for adequate housing to be a human right?**

Recognizing adequate housing as a human right in our constitution does not mean the state is obligated to *immediately* provide a single-family home to every Californian. Rather, human rights standards require that the state, including its municipalities, takes *progressive steps* to *respect, protect, and fulfill* the right, to the *maximum of available resources*, in a non-discriminatory, equitable manner.

According to international standards, the human right to adequate housing consists of seven elements: (1) security of tenure; (2) availability of services, materials, and infrastructure; (3) affordability; (4) accessibility; (5) habitability; (6) location; and (7) cultural adequacy. The

government can use a wide variety of measures, from market regulation to subsidies, funding for public housing to tax policy, to help ensure the right. But at the end of the day, it requires that *affirmative* steps be taken to ensure fully adequate housing is accessible to every Californian: housing that is secure, safe, affordable, accessible, and has access to adequate public infrastructure to ensure a fully healthy and dignified life.

Naming housing as a right means that we, the citizens of the state, are the rights-holders, and the state is the duty-holder. When we say the rent is too high, or we don't have enough supportive housing in our communities for people with disabilities, or our community infrastructure is crumbling, we aren't begging for charity from the government to fix these issues, we are demanding it meet its duty to us.

**Q: If this amendment becomes part of the State Constitution, does it obligate the state to do more? Will more housing actually get created?**

This bill is one piece of a larger puzzle. It commits our state to the notion that adequate housing is a right, not a privilege, *and* clarifies that the government, therefore, has the job of ensuring that this right is afforded to all Californians. It sets the stage for future legislative, regulatory, and legal action, and gives us a tool to hold the government accountable for its action or inaction.

The author and proponents support a number of parallel bills and budget requests that help to bring this constitutional commitment to life by measures such as:

- Creating new development or preservation of affordable housing directly through funding, vouchers, or construction of public housing;
- Protecting Californians from arbitrary evictions or foreclosures through measures like rent control, tenant protections, and the right to counsel in housing court;
- Enforcing housing codes and non-discrimination laws through inspections and testing to keep dwellings safe, clean, habitable, and accessible;
- Taking immediate steps to ensure every unhoused Californian has access to safe, permanent housing, with their family members, pets, and belongings;
- Addressing the needs of disaster-victims facing housing insecurity or homelessness; and
- Creating public enforcement mechanisms to hold governments at the state and municipal levels responsible and affirming the state's commitment to ensuring Californians have safe, adequate and affordable permanent housing.

This bill clarifies that both the state and local governments have an affirmative obligation to work to ensure that all Californians have access to adequate housing, and a legal obligation to actually make progress toward that end.

**Q: Who supports this bill?**

Polls show that an overwhelming majority of Californians believe that access to adequate housing must be approached as a basic need to which everyone has a right. Additionally, public interest groups around the state - in the areas of housing justice, public health, civil rights, disability rights, racial justice, and more - are calling on our state to adopt a constitutional right to housing. A small sampling of these organizations include:

- Alliance of Californians for Community Empowerment (ACCE) Action
- ACLU California Action
- Abundant Housing LA
- California Nurses Association
- Courage California
- Disability Rights California
- End Poverty in California (EPIC)
- Golden State Opportunity
- Housing Now
- Inner City Law Center
- National Association of Social Workers (NASW) California Chapter
- National Homelessness Law Center
- National Housing Law Project
- PowerCA Action
- The Children's Partnership
- The Public Interest Law Project
- Western Center on Law and Poverty

**Q: Is this the same as efforts in Sacramento and New York?**

No. The [Sacramento effort](#) was opposed by housing justice advocates. It redefined “housing” to include congregate shelters and sanctioned tent encampments, and it included criminal enforcement against unhoused people. In contrast, this bill obligates the government to take progressive steps - to the maximum of available resources - to provide adequate and permanent housing for all Californians. Sacramento’s effort also included a so-called “duty to accept” placement into housing (which, again, could include shelter or even another encampment). Human rights law is premised on the dignity and autonomy of each individual, so forcing people to accept certain, inadequate housing options under threat of arrest is contrary to a human rights approach.

This bill is also very different from NYC’s “right to shelter” model, which is also premised on a “shelter first” rather than a “housing first” model. This bill recognizes the right to *adequate* housing for all in the state constitution, with the definition of “adequate” including affordable, permanent, habitable, and safe.

**Q: Does calling housing a human right make this a matter of international law?**

Enshrining the right in our state constitution makes it part of our domestic law, to be implemented through our own state and local democratically-elected officials and interpreted by our own state courts. It also brings our state in line with many other countries around the globe, and enables our state officials to look at other countries or international experts for guidance on how others interpret the right, but the decisions remain with our state officials.

**Q: In what specific ways would ACA 10 be implemented/enforced?**

**A:** *The right will primarily be implemented through legislative action.*

The purpose of putting this amendment into the constitution is to ground the legislature and all legislative bodies throughout the state (e.g. cities, counties, agencies) with the understanding that they have an *obligation* to ensure the right to adequate housing. This means that passing and implementing policies to alleviate our housing crisis is no longer *optional* - it is a *legal duty*. Doing nothing, or continuing the same failed policies, is no longer an option.

There is not just one way to create a right to housing. Legislative bodies will have options in terms of how they implement the right. They can choose which measures work best for their communities. Some examples include enacting a Right to Counsel to protect tenants in eviction proceedings, adding just-cause eviction protections to help keep people in their homes, creating and strengthening housing voucher programs, providing renter tax credits, implementing social housing and publicly-funded housing programs. All of these options and more are on the table, and it is up to legislatures to find the best ways to ensure the right to housing.

The idea of “progressive realization” of the right to housing means that not everything needs to be done at once. But the legislature needs to have a vision for how to ensure the right to housing, and a plan for how to get there. And, legislatures will need to actually follow through. There is a legal obligation to actually implement the plan, or otherwise ensure the right is protected.

*Enforcement is an option only where the right is violated:*

If the legislature fails to act to implement a right to housing, or if the government interferes with a right to housing, then affected parties or the state could bring an enforcement action. Examples might include:

- As with the California Right to Education, an individual or group might sue on equal protection grounds for violations of their fundamental right to housing. One example might be a lawsuit against a municipality for racially discriminatory zoning laws that block affordable housing for low-income communities of color.
- There is also a public right of action for violations of the right to housing. For example, there might be an enforcement action by the state attorney general against a jurisdiction that has not implemented any measures to alleviate its local housing crisis in violation of the right to housing.

- Organizational plaintiffs might also seek to enforce the right in certain circumstances. For example, a housing justice organization might litigate to stop a city's restrictive zoning law that blocks affordable housing.
- The right might also be used by unhoused rights advocates to challenge jurisdictions that focus on law enforcement criminalization of houselessness rather than enacting real solutions to the housing crisis.

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