

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 229 (Wieckowski) – As Amended July 3, 2017

**SENATE VOTE:** 37-0

**SUBJECT:** Accessory dwelling units.

**SUMMARY:** Makes various clarifying and technical changes to Accessory Dwelling Unit (ADU) law. Specifically, **this bill:**

- 1) Specifies that an ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- 2) Specifies that a lot containing an ADU must be zoned to allow single-family or multifamily use and must include a proposed or existing single-family dwelling.
- 3) Requires an ADU to be either attached to or located within the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling, and located on the same lot as the proposed or existing primary dwelling.
- 4) Specifies that the total area of floor space of an ADU shall not exceed 50% of the proposed or existing primary dwelling living area or 1,200 square feet.
- 5) Specifies procedures for local agencies that require offstreet parking spaces to be replaced when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU.
- 6) Clarifies that ADU law applies to both *proposed* ADUs and *existing* primary dwellings.
- 7) Clarifies that a local agency, special district, or water corporation shall not consider an ADU to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.
- 8) Clarifies that a local agency, special district, or water corporation shall not require those applicants who qualify for ministerial approval of a building permit to create one ADU within a zone for single-family use on a single-family lot, as specified, to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity change.
- 9) Clarifies that a local agency, special district, or water corporation may require a new or separate utility connection directly between an ADU and the utility for those who do not qualify for ministerial approval of a building permit, as specified.
- 10) Authorizes the Department of Housing and Community Development to review and comment on the copy of the local agency's ADU ordinance.
- 11) Defines "Tandem Parking" to mean a situation where two or more automobiles are parked lined up behind one another.

- 12) Provides that no reimbursement is required by this act because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.
- 13) Makes various stylistic and clarifying technical changes.

**EXISTING LAW:**

- 1) Allows a local agency, by ordinance, to provide for the creation of ADUs in single-family and multifamily residential zones that include specified criteria governing the standards, location, and density, among other things.
- 2) Requires a local agency that has not adopted an ADU ordinance to accept and approve or disapprove the application ministerially, without discretionary review or hearing, within 120 days after receiving the application. Requires every local agency to grant a variance or special permit for the creation of a second unit, if the second unit complies with all of the following:
  - a) The unit is not intended for sale and may be rented;
  - b) The lot is zoned for single-family or multifamily use;
  - c) The lot contains an existing single-family dwelling;
  - d) The ADU is either attached to the existing dwelling or located within the living area of the existing dwelling or detached and located on the same lot as the existing dwelling;
  - e) The increased floor area of an ADU shall not exceed 50% of the existing living area;
  - f) The total area floor space shall not exceed 1,200 square feet;
  - g) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located;
  - h) Local building code requirements that apply to detached dwellings; and,
  - i) The unit is approved by the local health officer where a private sewage disposal system is being used.
- 3) Specifies the standards, location, and density for ADU applications to a local agency on existing single-family or multifamily dwellings.
- 4) Provides that parking requirements shall not exceed one parking space per unit or per bedroom, but that additional parking may be required with a finding that additional parking requirements are directly related to use of the second unit and consistent with existing neighborhood standards.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Rule, 28.8, this bill contains negligible state costs.

**COMMENTS:**

- 1) **ADUs.** ADUs, also known as accessory dwellings, second units, mother-in-law units, granny flats, or tiny homes, are additional living quarters on single-family and multifamily lots that are independent of the primary dwelling unit. ADUs may be either attached or detached from the primary dwelling unit, and must provide complete, independent, and permanent living facilities for one or more people. These living facilities must include permanent provisions for living, sleeping, eating, cooking, and sanitation.

Existing law specifies the standards, location, and density for ADU applications received by local agencies that have or have not adopted an ordinance to provide for the creation of ADUs. The current organization of the law was put in place in 2016, with AB 2299 (Bloom), Chapter 735, Statutes of 2016, and SB 1069 (Wieckowski), Chapter 720, Statutes of 2016. These bills reorganized existing law to apply one standard for the ADU permit review process, regardless of whether a local government has adopted an ordinance or not, changed specified ADU building and parking standards, and placed limitations on utility connection fees and capacity charges for ADUs. Current law does not specify how this law applies to proposed dwellings.

- 2) **Author's Statement and Bill Summary.** According to the author, "Last year, the Governor signed SB 1069 (Wieckowski, 2016), which eliminated the most onerous barriers to the construction of accessory dwelling units (ADUs). The new law requires ministerial review of ADUs, relaxes parking requirements, reduces duplicative fees, and grants automatic approval of a permit to create an ADU within an existing space on a lot. As a result of these changes, the number of ADU permit applications has skyrocketed. Between 1993 and 2016, the City of Santa Barbara approved 16 ADU applications; this year, Santa Barbara has already received over 60 applications. The City of Los Angeles has received as many ADU permit applications since the signing of SB 1069 as they have in the past five years combined.

"However, some provisions of SB 1069 are unclear. Although the bill restricted water and sewer fees, homeowners are shocked to discover they are still being charged up to \$75,000 in water and sewer fees for their ADUs. Such significant fees are often the most significant deterrent to the construction of ADUs and cause many homeowners to reconsider their decisions to build an ADU. To solve this issue, SB 229 clarifies that the limits on connection fees and capacity charges apply to special districts and water corporations, as well as cities and counties. Additionally, the bill defines tandem parking and clarifies that parking structures converted to an ADU can be replaced in any configuration on the same lot. SB 229 furthers the important work of SB 1069 by making clarifications to carry out the intent of SB 1069 and encourage the development of ADUs free of excessive fees and parking requirements."

This bill makes clarifying changes to ADU law. It clarifies the specified standards, location, and density for ADU law as it applies to ADUs on a proposed *or* existing dwelling. This bill also clarifies that the existing law for utility connection fees and capacity charges a local agency may impose for an ADU *also* applies to special districts and water corporations. This bill is author-sponsored.

- 3) **Arguments in Support.** The California Apartment Association, in support, writes that "Given California's housing crises, SB 229 will help to ensure that property owners who

wish to construct accessory units can do so. The clarification to existing law for connection fees, conversions, and tandem parking should help ease the burden for construction of this type of housing. Accessory units are one important component to help California meet its housing needs.”

- 4) **Arguments in Opposition.** The California Fire Chiefs Association and the Fire Districts Association of California, in opposition, write that “the legislation enacted last year [AB 2406 (Thurmond), Chapter 755, Statutes of 2016], provided exemptions for certain accessory dwelling units from fire sprinkler requirements. The CFCA and FDAC believe strongly that fire and life safety issues must be a heightened concern due to this development and expanding an already fast-tracked review system does not provide sufficient safeguards to ensure this takes place.”
- 5) **Double-referral.** This bill was heard by the Housing and Community Development Committee on June 28, 2017, where it passed with a 7-0 vote.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Association of Realtors  
California Apartment Association  
California Building Industry Association  
Bay Area Council

##### **Opposition**

City of Camarillo  
California Fire Chiefs Association  
Fire Districts Association

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