

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1332 (Juan Carrillo) – As Amended April 10, 2023

SUBJECT: Accessory dwelling units: preapproved plans.

SUMMARY: Requires local agencies to create a program for the pre-approval of Accessory Dwelling Units (ADUs). Specifically, **this bill:**

- 1) Requires, by January 1, 2025, cities and counties to create a program for the pre-approval of ADUs. The program must comply with all of the following:
 - a) The local agency must accept ADU plan submissions for pre-approval.
 - b) The local agency must approve or deny the application for pre-approval pursuant to existing ADU law. In reviewing and approving a submission for pre-approval, the local agency may charge the applicant the same permitting fees that the local agency would charge an applicant seeking approval of an ADU of the same size.
 - c) The local agency must post pre-approved ADU plans to their internet website. The posting must include the contact information provided by the applicant.
- 2) Requires local agencies to approve or disapprove an application for a detached ADU within 30 days from the date the local agency receives a completed application, if the application utilizes either of the following:
 - a) A plan for an ADU that has been pre-approved by the local agency pursuant to (1), above.
 - b) A plan that is identical to a plan used in an application for a detached ADU approved by the local agency within the current triennial California Building Standards Code rulemaking cycle.
- 3) Provides that the Legislature finds and declares that the lack of housing is a matter of statewide concern and is not a municipal affair. Therefore, this act would apply to all cities, including charter cities.
- 4) Provides that no reimbursement is required by this bill, pursuant to Section 6 of Article XIII B of the California Constitution, 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 bill.

EXISTING LAW:

- 1) Establishes ADU Law, which among other provisions establishes the following:
 - a) Defines ADU to mean an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence.

- b) Requires local agencies to ministerially approve, within specified timelines, an application for a building permit within a residential or mixed-use zone to create one or more ADUs that meet all state and local requirements.
 - c) Provides that a local agency may establish local development standards for both attached and detached ADUs, except that they cannot establish the following:
 - i) A minimum square footage requirement for either an attached or detached ADU that prohibits an efficiency unit.
 - ii) A maximum square footage requirement for either an attached or detached ADU that is less than 850 square feet, or 1,000 square feet for an ADU that provides more than one bedroom.
 - iii) A height limit of less than 16 to 25 feet, depending on the specified circumstance.
 - iv) Specified requirements that preclude development of an ADU of at least 800 square feet and that four-foot side and rear yard setbacks, including minimum or maximum size, limits on lot coverage, limits on floor area ratio, requirements for open space, requirements for front setbacks, and minimum lot size.
 - d) Starting January 1, 2025, a local agency may impose an owner-occupant requirement on a parcel containing an ADU (Government Code § 65852.2).
- 2) Requires each city and county to prepare, adopt, and administer a general plan for their jurisdiction, which must include a housing element, to shape the future growth of its community (Government Code § 65300 – 65404).

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Author’s Statement.** According to the author, “Throughout the past decade California has built less than half of the housing units required to keep up with population growth. Our failure to keep pace is exacerbating the housing crisis and driving housing prices to increasingly unaffordable levels. In addition to providing important infill and often affordable housing, ADUs can be an important asset for middle and low-income homeowners to build generational resources and for multigenerational families to care for each other.

“Despite significant progress made in recent years, making ADUs easier to build in many communities throughout California, the simple fact remains that building an ADU is an expensive process for most families. The first, and often most daunting step in this process is planning and designing the unit itself. This requires the homeowner to spend thousands of dollars to [hire]r an architect or engineer just to get an estimate of how much building the unit will cost, for many low and middle income that is a prohibitive requirement. AB 1332 will save residents thousands of dollars and will increase access for low and middle income property owners.”

- 2) **Bill Summary.** This bill would require all cities and counties to develop a program for pre-approval of ADUs by January 1, 2025. This bill requires local agencies to review the plans for applicants for pre-approval just as they would for an ADU proposed for a specific site, except that the pre-approved plans would not be specific to a particular site. The local agency could charge the same permitting fees to review these pre-approved plans as they would a site-specific ADU. Once the plans were pre-approved, the local agency would be required to post the plans on their website, along with the contact information as provided by the applicant.
- 3) **Accessory Dwellings.** ADUs are additional living quarters that are independent of the primary residence on the same lot. ADUs are either attached to, or detached from, the primary residence and provide complete independent living facilities for one or more persons, including separate access from the property's primary unit. This includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

Over the past few years, the Legislature has passed a number of bills to ease zoning restrictions and expedite approval processes for ADUs at the local level, which has contributed to the increased supply of ADUs throughout the state.

- 4) **2016 ADU Laws.** SB 1069 (Wieckowski), Chapter 720, Statutes of 2016, and AB 2299 (Bloom), Chapter 735 Statutes of 2016, revised ADU Law to address some of the barriers to ADU creation that had been adopted by local agencies. These changes to ADU law prohibited local ordinances that entirely ban ADUs and required local agencies to, among other provisions:
 - a) Designate areas within the jurisdiction where ADUs may be permitted.
 - b) Impose standards on ADUs, including minimum lot sizes and requiring ADUs to be set back from the property line ("setbacks").
 - c) Consider permit applications within 120 days.
 - d) Approve or disapprove an application for an ADU ministerially without discretionary review if the local agency does not have an ADU ordinance when it receives a permit application.
 - e) Approve building permits to create an ADU ministerially if the ADU is within an existing residence, has independent exterior access, and meets certain fire safety requirements.

These bills also limited the cases when local agencies could require new utility connections for water and sewer, and limited the fees to be proportionate to the burden created by the ADU. AB 2406 (Thurmond), Chapter 755, Statutes of 2016, also allowed local agencies to adopt an ordinance regulating Junior Accessory Dwelling Units (JADUs), which are smaller ADUs that are under 500 square feet, are contained entirely within an existing single-family residence, and may or may not have separate sanitation facilities.

- 5) **2019 Changes to ADU Law.** The Legislature expanded on many aspects of ADU law through a set of three bills: SB 13 (Wieckowski), Chapter 653, Statutes of 2019; AB 68 (Ting), Chapter 655, Statutes of 2019; and AB 881 (Bloom), Chapter 659, Statutes of 2019. The most significant provisions of these bills:

- a) Require local agencies to allow at least an 800 square foot ADU of up to 16 feet on the lot, regardless of local zoning standards.
- b) Require local agencies to allow one ADU and one JADU on a single-family parcel (even if the jurisdiction has not adopted an ordinance allowing JADUs).
- c) Allow up to two detached ADUs on the same site as an existing multifamily dwelling and the ministerial creation of multiple ADUs within the portions of existing multifamily buildings that are not used as livable space, as long as each unit complies with state building standards for dwellings.
- d) Deem approved an application for an ADU if a local agency doesn't act on it within 60 days.
- e) Exempt ADUs under 750 square feet from impact fees and require impact fees for larger ADUs to be proportional to the square footage of the primary unit.
- f) Allows, until January 1, 2030, ADU owners to request a delay of up to five years in any enforcement actions for violations of building standards if the enforcement agency determines that the standards are not necessary to protect public health and safety.
- g) Require the Department of Housing and Community Development (HCD) to notify local agencies if they are in violation of ADU Law and allows HCD to refer alleged violations to the Attorney General.
- h) Prohibit local agencies from requiring owner occupancy, until January 1, 2025.

Related Legislation. AB 976 (Ting) would make permanent the existing prohibition on local government's ability to require owner-occupancy on a parcel containing an ADU. This bill is pending in the Assembly Committee on Appropriations.

AB 1033 (Ting) would allow ADUs to be sold separately from the primary property. This bill is currently pending in this Committee.

- 6) **Previous Legislation.** AB 68 (Ting), Chapter 655, Statutes of 2019, AB 881 (Bloom), Chapter 659, Statutes of 2019, and SB 13 (Wieckowski), Chapter 653, Statutes of 2019: Collectively, these bills made changes to ADU and JADU laws, including narrowing the criteria by which local jurisdictions can limit where ADUs are permitted, clarifying that ADUs must be ministerially approved if constructed in existing garages, eliminating for five years the potential for local agencies to place owner-occupancy requirements on the units, prohibiting an ordinance from imposing a minimum lot size for an ADU, and eliminating impact fees on ADUs that are 750 square feet or less and capping fees on ADUs that are 750 square feet or more to 25 percent.

AB 2299 (Bloom), Chapter 735, Statutes of 2016 and SB 1069 (Wieckowski), Chapter 720, Statutes of 2016: Collectively, these bills required a local agency to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements. These bills also allowed local agencies to impose owner-occupancy requirements.

- 7) **Double-Referral.** This bill was double-referred to the Housing and Community Development Committee, where it passed on a 7-0 vote on April 19, 2023.
- 8) **Arguments in Support.** The Casita Coalition writes in support, “Pre-approved ADU plans programs have the potential to raise community awareness of what’s possible for homeowners, reduce staff time for jurisdictions, improve the process for repeatability of plans used before, shorten the design phase and lower associated costs, and assist local builders/designers in connecting with interested homeowners.”
- 9) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
Casita Coalition

Support if Amended

California Building Officials

Opposition

None on file.

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