

Date of Hearing: April 18, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2071 (Bloom) – As Introduced February 7, 2018

SUBJECT: Accessory dwelling units: improvements: liability.

SUMMARY: Waives liability for local agencies that permitted Accessory Dwelling Units (ADUs) in specified situations. Specifically, **this bill:**

- 1) Prohibits a public entity, as defined, from being liable for any personal injury, death, property damage, or inverse condemnation that has arisen from or is related to the use of an accessory dwelling unit and that is proximately caused by any utility system, as defined, that the public entity owns, operates, or maintains, if the legislative body of a local agency has permitted the water, electrical system equipment, or ADU, to remain in the same location as it existed prior to January 1, 2018.
- 2) Applies the above to the use of an ADU that meets both of the following:
 - a) The ADU was constructed prior to January 1, 2018, pursuant to an ordinance adopted pursuant to Government Code Section 65852.2 as that section read on December 31, 2017; and,
 - b) The owner of the ADU, at the time of the personal injury, death, property damage, or inverse condemnation, was attempting to bring the ADU into compliance with applicable local agency rules, regulations, or ordinances.
- 3) Specifies, for provisions of the bill, that a public entity includes, but is not limited to, a city, county, or city and county, public officer, including, but not limited to, a member of the legislative body of a city, county, or city and county, or an employee of a public entity.
- 4) Specifies, for provisions of the bill, that a utility system includes, but is not limited to, a water system or electrical system equipment that the public entity owns, operates, or maintains.

EXISTING LAW:

- 1) Permits a locality, by ordinance, to provide for the creation of ADUs in single-family and multifamily residential zones.
- 2) Requires that, when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, and the locality requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the ADU.

FISCAL EFFECT: None

COMMENTS:

- 1) **ADUs.** ADUs are additional living quarters on single-family lots that are independent of the primary dwelling unit. Also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, ADUs are either attached or detached to the primary dwelling unit, and provide complete independent living facilities for one or more persons. This includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

In 2002, AB 1866 (Wright), Chapter 1062, Statutes of 2002, required local governments to use a ministerial process for approving ADUs, notwithstanding other laws that regulate the issuance of variances or special use permits. A local government may provide for the construction of ADUs by ordinance, and may designate areas where ADUs are allowed, as well as require specified standards for parking, setback, lot coverage, and maximum size.

In 2016, AB 2299 (Bloom), Chapter 735, Statutes of 2016, and SB 1069 (Wieckowski), Chapter 720, Statutes of 2016, made a number of changes to state law in order to ease some of the local barriers to the development of ADUs. These changes were numerous and included reorganizing existing law to apply one standard for the ADU permit review process, regardless of whether a local government has adopted an ordinance or not, changing specified ADU building and parking standards, and placing limitations on utility connection fees and capacity charges and requirements.

- 2) **Bill Summary.** This bill prohibits a public entity from being liable for any personal injury, death, property damage, or inverse condemnation that has arisen from or is related to the use of an ADU and that is proximately caused by any utility system that the public entity owns, operates, or maintains, if the legislative body of a local agency has permitted the water, electrical system equipment, or ADU, to remain in the same location as it existed prior to January 1, 2018.

This bill is an author-sponsored measure.

- 3) **Author's Statement.** According to the author, "I authored AB 2299 which eased and streamlined a number of requirements for the building of ADUs. Since the passage of that bill, we have seen an explosion of permits for ADUs across the state. Some cities are still in the dark on the new rules and we are working on that, and others continue to drag their feet, but we are making a dent in our housing needs with these relatively small changes that didn't cost the state a single dime. AB 2299 has led to the construction of more than 4,000 ADUs across the state. Nearly 1,800 have been permitted in the [City of] Los Angeles.

"This year, I am carrying AB 2071 on ADU restrictions that when passed could free up another 400-600 permits that are currently stalled due to this very specific and unique issue concerning powerlines and garage conversions for existing homes."

- 4) **Background.** According to the City of Los Angeles, this bill is important because the current Los Angeles Department of Water and Power (LADWP) rules governing water and power allow for buildings to be built in the power line easement (i.e. in the drop line of high voltage line or at the edge of a property line) if they are uninhabited buildings. This resulted in a trend of garages or recreation rooms being built in these easements. The City notes that there have been an influx of applications to convert these buildings into ADUs. Some of these buildings have already been converted to habitat buildings. Without this change

provided in AB 2071, LADWP will not be able to allow these units to be converted, unless part of the building is removed from the easement, which will add significant cost to applicants and potentially reduce the number of units built in the City. The intent of the bill is to remove liability related to utility systems' failures and damage to structures built before January 1, 2017, that are converted to ADUs after January 1, 2017.

- 5) **Arguments in Support.** According to supporters, California's housing affordability crisis is an issue of supply and demand, and ADUs provide communities with one of the quickest, most cost-effective options for building the housing Californians desperately need.
- 6) **Arguments in Opposition.** None on file.
- 7) **Double-referral.** This bill is double-referred to the Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Forward Action Fund

Opposition

None on file

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