

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2299 (Bloom) – As Amended April 5, 2016

SUBJECT: Land use: housing: 2nd units.

SUMMARY: Requires, instead of allows, a local agency to, by ordinance, provide for the creation of second units in single-family and multifamily residential zones, and makes a number of other changes specifying what is required to be in the ordinance. Specifically, **this bill:**

- 1) Requires, instead of permits, a local agency by ordinance, to provide for the creation of second units in single-family and multifamily residential zones, and specifies what is required to be in the ordinance.
- 2) Prohibits a local agency, in the ordinance, from imposing parking standards for a second unit that is located within one-half mile of public transit or shopping or is within an architecturally and historically significant historic district.
- 3) Allows, in the ordinance, a local agency to reduce or eliminate parking requirements for any second unit located within its jurisdiction, as specified.
- 4) Prohibits a local government, in the ordinance, from requiring a passageway or pathway clear to the sky between the second unit and a public street when constructing a second unit.
- 5) Prohibits a local government, in the ordinance, from requiring a setback more than five feet from the side and rear lot line for a second unit constructed above a garage located on an alley.
- 6) Specifies that when a garage, carport, or covered parking structure is demolished in conjunction with the construction of a second unit, and the local government requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the second unit, including, but not limited to, covered spaces, uncovered spaces, or tandem spaces or by the use of mechanical automobile parking lifts.
- 7) Provides that a second unit that conforms to this section of law shall be deemed to be an accessory use or an accessory building, as specified.
- 8) Makes other technical and corresponding changes.
- 9) Declares that no reimbursement is required because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

EXISTING LAW:

- 1) After July 1, 2003, applications for a second unit shall be considered by local governments ministerially, without discretionary review or hearing, regardless of any local ordinance regulating the issuance of special use permits.

- 2) Provides that a local government may by ordinance provide for the creation of second units in single-family and multi-family zones.
- 3) Provides that a local ordinance for second units may do all of the following:
 - a) Designate areas where second units may be permitted based on criteria that may include consider the adequacy of water and sewer services and the impact on traffic flow;
 - b) Impose parking standards, height, setback, lot coverage, architectural review, maximum size of a unit and standards that prevent adverse impacts on any property listed in California Register of Historic Places; and,
 - c) Provide that second units do not exceed the allowable density for the lot on which it is located and that second units are a residential use that is consistent with the existing general plan and zoning designation on a lot.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary and Background.** Local governments are authorized to adopt ordinances for the creation of second units in single family and multifamily zones; however, they are not required to do so. State law allows local governments to limit the areas that second units may be permitted based on availability of adequate water and sewer services as well as the impact on traffic flow. They can also impose parking standards. AB 1866 (Wright), Chapter 1066, Statutes of 2003, required that local governments approve a second unit ministerially without discretionary review or hearing or require a special use permit.

This bill requires, instead of allows, a local agency to, by ordinance, provide for the creation of second units in single-family and multifamily residential zones, and makes a number of other changes specifying what is required to be in the ordinance. This bill prohibits a local agency, in the ordinance, from imposing parking standards for a second unit that is located within one-half mile of public transit or shopping or is within an architecturally and historically significant historic district, and allows, in the ordinance, a local agency to reduce or eliminate parking requirements for any second unit located within its jurisdiction, as specified. The bill also prohibits a local government, in the ordinance, from requiring a passageway or pathway clear to the sky between the second unit and a public street when constructing a second unit, and prohibits a local government, in the ordinance, from requiring a setback more than five feet from the side and rear lot line for a second unit constructed above a garage located on an alley.

The bill also specifies that when a garage, carport, or covered parking structure is demolished in conjunction with the construction of a second unit, and the local government requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the second unit, including, but not limited to, covered spaces, uncovered spaces, or tandem spaces or by the use of mechanical automobile parking lifts.

This bill is sponsored by the California Apartment Association.

- 2) **Author’s Statement.** According to the author, “California’s implementation of SB 375 is putting new pressure on communities to support infill and affordable housing development. As the San Francisco Bay Area adds over two million new residents by 2040, infilling the core could accommodate over half of the new population, according to the Association of Bay Area Governments. But at the same time, infill could increase housing costs and exacerbate the region’s affordability crisis. One potential solution is secondary units (also called in-law units or accessory dwelling units). Self-contained, smaller living units on the lot of a single-family home, secondary units can either be attached to the primary house, such as an above-the-garage unit or a basement unit, or detached (an independent cottage). Secondary units are particularly well-suited as an infill strategy for low-density residential areas because they offer hidden density, housing units not readily apparent from the street and relatively less objectionable to the neighbors.

“Recognizing the potential of secondary units as a housing strategy, California has passed several laws to lower local regulatory barriers to construction, most recently AB 1866 of 2003, which requires that each city in the state have a ministerial process for approving secondary units.

“AB 2299 will ease and streamline current statewide regulations as well as encourage the building of accessory dwelling units (ADUs) as a way to create more housing options. Currently several cities are looking at local ordinance to improve or incentivize the creation of ADUs as a way to create more rental properties and incomes for families to stay in their current homes. Simply reducing parking requirements in transit-rich areas where most tenants don’t have a car will encourage more building of ADUs.”

- 3) **Arguments in Support.** Supporters argue that this bill will help alleviate our housing shortage, while capitalizing on limited land resources.
- 4) **Arguments in Opposition.** Opposition argues that this bill adds costs at the local level that are ultimately passed on in the form of higher development fees, and also assumes that all communities are appropriate for second units.
- 5) **Double-Referral.** This bill was heard by the Housing and Community Development Committee on April 13, 2016, where it passed with a 5-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Apartment Association [SPONSOR]
American Planning Association, California Chapter (if amended)
California Association of Realtors

Opposition

California State Association of Counties
League of California Cities

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