

Date of Hearing: April 19, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 494 (Bloom) – As Amended March 28, 2017

SUBJECT: Land use: accessory dwelling units.

SUMMARY: Makes a number of changes to the Accessory Dwelling Unit (ADU) review process and standards. Specifically, **this bill:**

- 1) Provides that a local agency's ADU ordinance may require that the ADU is not intended for sale separate from the primary residence and may be rented separately from the primary residence.
- 2) Provides that parking requirements for ADUs not exceed one parking space per unit or per bedroom, whichever is less.
- 3) Removes the option for local agencies to prohibit offstreet parking in setback areas or through tandem parking where that parking is not allowed anywhere else in the jurisdiction.
- 4) Allows a local agency to require replacement parking spaces in any configuration on the same lot as the ADU when a garage, carport, or covered parking structure is converted to an ADU.
- 5) Defines “tandem parking” as two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another.
- 6) Provides that no setback shall be required for an existing garage that is converted to a portion of an ADU.
- 7) Provides that, when a local agency must ministerially approve an ADU application if the unit is contained within the existing space of a single-family residence or accessory structure and meets other specified requirements:
 - a) That "accessory structure" includes, but is not limited to, a studio, pool house, or other similar structure; and,
 - b) Authorizes a city to require owner occupancy for either the primary or the accessory unit created through this process.
- 8) Makes technical, clarifying changes.
- 9) 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.

EXISTING LAW:

- 1) Makes legislative findings and declarations regarding the importance of ADUs as an essential element of the state's housing supply (Govt. Code Section 65852.150).
- 2) Provides that a local government may adopt an ordinance allowing ADUs in single-family and multifamily residential zones.
- 3) Provides that the ordinance must require the ADU to comply with certain conditions, including, but not limited to, that the ADU is not intended for sale separate from the primary residence and may be rented.
- 4) Provides that no setback shall be required for an existing garage that is converted to an ADU.
- 5) Requires a local agency to ministerially approve an application for a building permit to create within a single-family residential zone one ADU per single-family lot if the unit meets the following requirements:
 - a) It is contained within the existing space of a single-family residence or accessory structure; and,
 - b) It has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.
- 6) Provides the following parking requirements for ADUs:
 - i) Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway;
 - ii) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction; and,
 - iii) These parking requirements do not apply to a unit that is described above in 5).
- 7) Requires that when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration, including as tandem parking, on the same lot as the ADU.

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

COMMENTS:

- 1) **Background on ADUs.** ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are either attached or detached to the primary dwelling units, and are intended to provide complete independent living facilities for one or more persons. In 2002, AB 1866 (Wright, Chapter 1062), required local governments to use a

ministerial process for approving ADUs, notwithstanding other laws that regulate the issuance of variances or special use permits. Through the provisions of AB 1866, a city or county could, by ordinance, require specific standards for ADUs, including parking, setbacks, lot coverage, and maximize size, and also designate areas where ADUs were allowed.

Last year there were two measures that made a number of changes to state law in order to ease some of the local barriers to the development of ADUs – 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.

- 2) **Bill Summary.** This bill makes a number of changes to ADU law, including owner occupancy, parking, and setback requirements. This bill is an author-sponsored measure.
- 3) **Author’s Statement.** According to the author, “California is struggling to adequately meet its housing needs, especially for housing that is affordable near jobs centers and public transportation. While second units can serve as much needed rental housing, they can also provide homes for college students, elderly parents, or individuals with disabilities who are caregivers who need to live close by.

“AB 494 clarifies the intent of AB 2299 and makes technical changes to AB 2299, helping ease and streamline current statewide regulations as well as encourages the building of ADUs as a way to create more housing options.”

- 4) **Arguments in Support.** Supporters believe this bill will alleviate our housing shortage while capitalizing on limited land resources.
- 5) **Arguments in Opposition.** Opponents are concerned that fire and life safety issues must be a heightened concern due to [ADU] development and expanding an already fast-tracked review system does not provide sufficient safeguards.
- 6) **Double-Referral.** This bill was heard in the Housing and Community Development Committee on April 5, 2017 and passed on a 7-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Realtors

Opposition

California Fire Chiefs Association
Fire Districts Association of California

Analysis Prepared by: Debbie Michel / L. GOV. / (916) 319-3958