

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
AB 976 (Ting) – As Introduced February 14, 2023

**SUBJECT:** Accessory dwelling units: owner-occupancy requirements.

**SUMMARY:** Makes permanent the existing prohibition on the ability of local agencies to require owner-occupancy on a parcel containing an Accessory Dwelling Unit (ADU).

**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 (GC) § 65300 – 65404).

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **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.

- 2) **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.

- 3) **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.
- 4) **Bill Summary and Author's Statement.** This bill makes permanent the existing prohibition on the ability of local agencies to require owner-occupancy on a parcel containing an ADU.

According to the author, "ADU's have been critical to promoting infill development, building generational wealth for homeowners, and bolstering efforts for older Californians to age in place. Owner occupancy requirements threaten the existing financing market for ADU construction and would have detrimental effects to the construction of affordable units in desirable neighborhoods. AB 976 removes the owner occupancy sunrise on ADUs which provides consistency for the emerging ADU market and encourages the continued growth of infill development."

This bill is sponsored by California YIMBY.

- 5) **Related Legislation.** AB 1033 (Ting), would allow ADUs to be sold separately from the primary property. This bill is currently pending in the Assembly Housing and Community Development 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 March 29, 2023.
- 8) **Arguments in Support.** California YIMBY writes in support, “AB 976 is a straightforward solution that will extend a successful program to increase California’s housing supply by removing the owner occupancy sunset provision in AB 881 (Bloom, 2020), permanently enabling property owners to provide more low-cost ADUs for rent.”
- 9) **Arguments in Opposition.** None on file.

## REGISTERED SUPPORT / OPPOSITION:

### Support

California YIMBY [SPONSOR]

Abodu

Bequall

East Bay for Everyone

East Bay Yimby

Grow the Richmond

How to Adu

Inland So Cal Housing Collective

Mountain View Yimby

Napa-solano for Everyone

North Bay Leadership Council

Northern Neighbors Sf

Oak Impact Group

Peninsula for Everyone

People for Housing Orange County

Progress Noe Valley

Rebuilding Green

Samara Living, INC.

San Francisco Bay Area Planning and Urban Research Association

San Francisco Yimby

Santa Cruz Yimby

Santa Rosa Yimby

Snapadu

South Bay Yimby

Southside Forward

Sunrise Silicon Valley

Todd Jersey Architecture

Ventura County Yimby

Villa

Westside for Everyone

Yimby Action

Yimby SLO

**Opposition**

None on file

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