SENATE THIRD READING
SB 1069 (Wieckowski)
As Amended August 25, 2016
Majority vote

SENATE VOTE: 29-3

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<tr>
<th>Committee</th>
<th>Votes</th>
<th>Ayes</th>
<th>Noes</th>
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<td>Housing</td>
<td>6-0</td>
<td>Chiu, Steinorth, Burke, Chau, Lopez, Mullin</td>
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<td>Local Government</td>
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<td>Waldron, Beth Gaines</td>
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SUMMARY: Makes a number of changes to state law regarding second units. Specifically, this bill:

1) Makes legislative findings and declarations regarding the importance of Accessory Dwelling Units (ADUs) as an essential element of the state's housing supply.

2) Replaces "second units" with "ADUs" throughout the chapter.

3) Requires a local agency, in its ADU ordinance, to do the following:
   a) Designate areas within the jurisdiction where ADUs may be permitted, which may be based upon criteria including but not limited to the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety.
   b) Impose standards on ADUs including but not limited to parking, height, setback, lot coverage, architectural review, and maximum size of the unit.
   c) Provide that ADUs do not exceed the allowable density for the lot upon which the second unit is located, and that the ADU is consistent with the existing general plan and zoning designation for the lot.

4) Requires a local agency with an ADU ordinance to consider permits within 120 days of submittal of a complete building permit application.

5) Requires a local agency that has not adopted an ADU ordinance to ministerially approve the creation of an ADU if the ADU meets the following requirements:
   a) The unit is not intended for sale separate from the primary residence and may be rented.
   b) The lot is zoned for single-family or multifamily use.
c) The lot contains an existing single-family dwelling.

d) The ADU is either attached to the existing dwelling and located within the living area of the existing dwelling or detached and located on the same lot as the existing dwelling.

e) The increased floor area of an attached ADU shall not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.

f) The total area floor space of the ADU shall not exceed 1,200 square feet.

g) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

h) Local building code requirements, that apply to detached dwellings as appropriate.

i) Approved by the local health officer where a private sewage disposal system is being used.

6) Removes the exemption for a local agency to adopt an ADU ordinance upon findings that the ordinance may limit housing opportunities of the region, and further contains findings that specific adverse impacts on the public health, safety, and welfare would result.

7) Provides that a local agency may establish maximum and minimum unit size requirements for both attached and detached ADUs, however no maximum or minimum size for an ADU, or size based upon a percentage of the existing dwelling unit, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards.

8) Provides that no additional standards, other than those in this section, shall be utilized or imposed to evaluate proposed ADUs, except that a local agency may require an applicant for a permit to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

9) Removes the provision permitting additional parking upon a finding that additional parking is required related to the use of the ADU and consistent with existing neighborhood standards.

10) States that parking requirements may be provided as tandem parking in an existing driveway.

11) Provides that offstreet parking must 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 fire and life safety conditions.

12) Prohibits a local agency from imposing parking standards for an ADU in any of the following instances:

   i) The ADU is located within ½ mile of public transit;

   ii) The ADU is located within an architecturally and historically significant historic district;
iii) The ADU is part of an existing primary residence or an existing accessory structure;

iv) When on-street parking permits are required, but not offered to the occupant of the ADU; or

v) When there is a car-share vehicle located within one block of the ADU.

13) Provides that ADUs shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

14) Requires ministerial approval by a local agency for a building permit to create an ADU if the ADU is contained within an existing single-family home, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence.

a) For above-described ADUs contained within an existing single-family home, a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

15) Allows, for ADUs not described in 15) above, a local agency to require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Government Code Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed ADU, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

16) Provides that no reimbursement is required 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.

17) Incorporates amendments to avoid chartering conflicts with AB 2299 (Bloom) of the current legislative session.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Background: ADUs, which are referred to in existing law as "second units", 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 person. This includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

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. A local government may provide for the construction of ADUs by ordinance, and may designate areas where ADUs are allowed, as well as require standards for parking, setback, lot coverage, and maximum size. If a local government has not adopted an ordinance governing ADUs, it must grant a variance or special use permit for the creation of ADUs if the unit complies with requirements specified in statute, including size and zoning restrictions.

University of California (UC) Berkeley ADU study: According to a UC Berkeley study, Yes in My Backyard: Mobilizing the Market for Secondary Units by Karen Chapple, second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. The study, which evaluated five adjacent cities in the East Bay, concluded that there is substantial market of interested homeowners; cities could reduce parking requirements without contributing to parking issues; second units could accommodate future growth and affordable housing; and that scaling up second unit strategy could mean economic and fiscal benefits for cities.

Despite existing state law, which requires each city in the state to have a ministerial process for approving second units, the study found that local regulations often impede development. Easing these burdens to permit more ADUs could permit a family to rent out the unit (about 49% of the units) or provide housing for a family member (about 51% of the units). In fact, the study found that the average second unit was advertised at a rental rate that makes it affordable to a household earning 62% of the area median income.

This bill implements several policy recommendations from this study by easing the most significant barriers to the construction and permitting of ADUs. These changes include:

a) Provides alternatives and exceptions to parking requirements, such as the case of an ADU located near public transit or if the ADU is part of an existing dwelling.

b) Requires a local agency with an ADU ordinance to consider permits within 120 days of submittal of a complete building permit application.

c) Increases the size of an ADU from 30% of the existing dwelling to 50%, with a maximum increase in floor area of 1,200 square feet.

d) Removes the ability of a local agency to adopt an ordinance that completely precludes the construction of ADUs.

e) Requires ministerial approval of an ADU contained within an existing single-family home that has independent access from the existing residence and has rear and side setbacks sufficient for fire safety, and removes the requirement for an ADU to have fire sprinklers if they were not required for the primary residence.

f) Allows a local agency to require an applicant for a permit to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

Need for this bill: According to the author,

"In a 2015 Legislative Analyst's Office report, the Legislature was advised to facilitate the development of significantly more private homes and apartments in California. The lack of
housing in California has caused a crisis harming communities and families throughout the state. The average California home currently costs about two and half times the national average home price. A person earning minimum wage must work three full-time jobs in order to afford a two-bedroom unit. In California’s more heavily populated metropolitan areas, a minimum wage worker would have to pick up a fourth and fifth job to afford the same two-bedroom unit. Throughout the state, the bottom 25% of income earners spends 67% of their income on housing. The high cost of housing is one of the biggest drivers of institutional and generational poverty cycles and will not be resolved until more housing can be developed, especially close to jobs and schools which is consistent with State SB 375 [(Steinberg), Chapter 728, Statutes of 2008] Climate Change Planning Goals. The Legislative Analyst’s Office has advised that it is imperative the Legislature facilitate the development of significantly more housing to address the affordability crisis.

"Accessory dwellings provide part of the solution to the housing crisis. They are the only source of housing that can be added within a year at an affordable price, in existing developed communities served by infrastructure consistent with SB 375, without public subsidy, and action by the State on a few issues will make this possible for tens of thousands of owners to immediately benefit and help their communities. The importance of ADUs as a critical source of infill housing and the barriers preventing them have been documented in studies from UC Berkeley and UCLA [University of California, Los Angeles] including Yes in My Backyard by Karen Chapple."

"SB 1069 proposes a common-sense, cost-effective approach that will allow homeowners to share empty rooms in their homes and property, add incomes to meet family budgets, improve the safety of accessory dwellings, and make good use of existing infill property across California while easing the housing crisis. The Governor supported the bill on page 52 of the May Revision of the 2016 Budget, stating that this bill will increase the state’s housing supply without creating a state reimbursable mandate."

Administration Support: According to the Governor’s 2016-17 May Revision:

"The Administration is also supportive of other initiatives to increase housing supply where such initiatives do not create a state reimbursable mandate. This includes using inventory such as accessory dwelling units (additional living quarters on single-family lots that are independent of the primary dwelling unit). ...Policies can increase the availability of accessory dwelling units with expanded ministerial approval, shortened permitting timelines, reduced duplicative fees, and relaxed parking requirements, consistent with the principles identified by SB 1069 (2016). The state can further increase supply by eliminating overly burdensome requirements for accessory dwelling units identified by AB 2299 (2016), such as passageways to public streets and setbacks of five feet from lot lines."

Related legislation:

AB 2299 (Bloom) of the current legislative session: Would require, rather than permit, a local government to adopt an ordinance for the creation of second units in single-family and multifamily residential zones. Would restrict the standards local governments may impose on second units by prohibiting imposition of parking requirements on second units within a half-mile of transit, shopping, or within a historic district, constraining the setbacks that local governments may require, and repealing ability to prohibit second units. The bill is pending on the Senate Floor."
AB 2406 (Thurmond) of the current legislative session: Would allow local agencies to adopt an ordinance that authorizes the construction of "junior accessory dwelling units" of 500 square feet or less and includes standards that local agencies may adopt regarding those units. The bill is pending a concurrence vote on the Assembly Floor.

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