

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 587 (Friedman) – As Introduced February 14, 2019

SUBJECT: Accessory dwelling units: sale or separate conveyance

SUMMARY: Revises ownership requirements for accessory dwelling units (ADUs).

Specifically, **this bill:**

- 1) Requires local ADU ordinances to allow ADUs to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:
 - a) The property was built or developed by a qualified nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.
 - b) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer, who must be a person or family of low- or moderate-income and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.
 - c) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
 - i. The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies;
 - ii. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property;
 - iii. A requirement that the qualified buyer occupy the property as the buyer's principal residence; and,
 - iv. Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing and will be sold or resold to a qualified buyer.

EXISTING LAW:

- 1) States that ADUs are an essential component of California's housing supply (Government Code Section 65852.150).

- 2) Allows local governments to choose whether or not to adopt a local ordinance regarding ADUs (Government Code Section 65852.2). Those local ordinance are required to:
 - a) Designate areas within the jurisdiction of the local agency where ADUs may be permitted, subject to certain requirements;
 - b) Impose standards on ADUs that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places;
 - c) Allow that the ADU may be rented separate from the primary residence, buy may not be sold or otherwise conveyed separate from the primary residence.

FISCAL EFFECT: None

COMMENTS:

Purpose of the Bill: According to the author, “Due to the limited availability of land, particularly in coastal communities, land costs have reached an all-time high. This bill would better utilize single family lots by providing two homes for low-income families in need; one being the primary residence and the second, an ADU on the same parcel of land.”

Background: ADUs have been identified as an important piece of the solution to California’s housing crisis. Over the past few years, the legislature has passed a number of bills to ease zoning restrictions and expedite approval processes at the local level, which has contributed to the increased supply of ADUs throughout the state. State law allows local jurisdictions to create their own ADU ordinances subject to certain requirements or if no local ordinances exists approval of ADU are subject to state statute.

Separate Ownership of ADUs: Existing law prohibits local ADU ordinances from allowing ADUs to be sold or otherwise conveyed separate from the primary residence. For cities with local ordinances, this requirement therefore prohibits shared ownership models that occur in California, such as tenancy in common.

AB 587 creates an exemption to this prohibition by allowing such tenancy in common sales to occur, but only in a very limited and narrow manner where the house and ADU are built by a non-profit whose mission is to sell those units to low-income families, that both the primary house and the ADU are sold to low-income families, and that any subsequent sale also be to a low-income family. The purpose of this bill is to enable affordable housing organization such as Habitat for Humanity to create ownership units for low-income families.

Numerous studies have shown that homeownership is the best way for a family to create economic security and build assets. For over 40 years, Habitat for Humanity has been helping low-income families climb the economic ladder by leveraging the facilitating home ownership in a partnership model whereby the non-profit’s resources and labor are matched by the homebuyer’s.

Arguments in Support: According to the California Apartment Association, this bill allows “a narrow exemption in the law for affordable housing organizations to sell deed-restricted land to eligible low-income homeowners, providing the necessary housing to those in need.”

Arguments in Opposition: According to the California Assessors Association, “Our Association has no issue with the intent to provide ownership opportunities for participants in programs like Habitat for Humanity. However, we are concerned about being able to properly administer our Constitutional duties to identify and assess transfers of these properties, and/or any partial ownership interests. The Los Angeles County Assessor's Office has begun discussions with Assembly Member Friedman's office to explain our concerns, and the discussions are going well. We feel that our concerns can be addressed.”

Related Legislation: The following bills related to ADUs have been introduced and are currently being considered by the legislature:

AB 68 (Ting) (2019): This bill would make several changes to further reduce barriers to production of ADUs. It would expand the definition of owner-occupancy to include members of trusts as well as units owned by a non-profit and deed restricted for affordability. This bill is pending hearing in this committee.

AB 69 (Ting) (2019): This bill would increase enforcement capacity against local jurisdictions regarding their ADU ordinances, and would facilitate the creation of new Building Code standards for ADUs and other small homes. This bill is pending hearing in this committee.

AB 881 (Bloom) (2019): This bill would make several changes to further reduce barriers to production of ADUs. It would remove the ability for local jurisdictions to create owner occupancy requirements for ADUs. This bill is pending hearing in this committee.

SB 13 (Wieckowski) (2019): This bill would make several changes to further reduce barriers to production of ADUs. It would remove the ability for local jurisdictions to create owner occupancy requirements for ADUs. This bill is pending hearing in Senate Housing Committee.

Previous Legislation:

SB 1069 (Wieckowski), Chapter 720, Statutes of 2016: This bill made several changes to reduce the barriers to the development of ADUs and expanded capacity for their development, including changes to parking, fees, fire requirements, and process.

AB 2299 (Bloom), Chapter 735, Statutes of 2016: This bill requires a local government to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements.

Double referred: This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Habitat for Humanity California (sponsor)
California Apartment Association
California YIMBY

Opposition

California Assessors' Association (oppose unless amended)
Individuals (4)

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