

Date of Hearing: April 3, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 69 (Ting) – As Amended March 27, 2019

SUBJECT: Land use: accessory dwelling units

SUMMARY: Creates building standards specific to accessory dwelling units (ADUs) and small homes. Specifically, **this bill:**

- 1) Requires the Department of Housing and Community Development (HCD) to propose “small home building standards” to for ADUs and homes smaller than 800 square feet.
- 2) Requires the building standards to do all of the following:
 - a) Be drafted to achieve the most cost-effective construction standards possible, and be similar or more cost effective than standards in the 2007 edition of the California Building Standards Code;
 - b) Include allowances for small kitchens and bathrooms with small appliances; and,
 - c) Be submitted to the California Building Standards Commission for adoption on or before January 1, 2021.

EXISTING LAW:

- 1) States that ADUs are an essential component of California’s housing supply (Government Code Section 65852.150).
- 2) Authorizes the California Building Standards Commission (CBSC) to approve and adopt building standards. Every three years building standards rulemaking is undertaken to revise and update the California Building Standards Code (BSC). (Title 24 of the California Code of Regulations)
- 3) Directs HCD to propose the adoption, amendment, or repeal of building standards to the CBSC for all hotels, motels, lodging houses, apartment houses, and dwellings, and structures accessory thereto. (Health & Safety Code Section 17921)

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the Bill: According to the author, “Currently, accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) are subject to the same building standards as traditional homes despite their smaller scale.” This bill would create new Building Code standards to make these smaller units easier and cheaper to build.

Background: ADUs are additional living quarters that are independent of the primary dwelling unit on the same lot. ADUs are either attached or detached to the primary dwelling unit, and

provide complete independent living facilities for one or more person, including separate access from the property's primary unit. This includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

ADUs have been identified as an important piece of the solution to California's housing crisis. Because of their size and lower cost to construct, the Turner Center for Housing Innovation at UC Berkeley found that 58% of ADUs are rented out at below market rate.

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. For example, in the city of Los Angeles, since 2017 a total of 9,247 applications have been received for ADUs. This represents an approximate 30-fold increase as compared to the citywide average in the many years before the state law was amended to remove barriers to ADUs. Similarly, the city of Santa Rosa received 118 applications for ADUs in 2018, compared to 54 total from 2008-2016.

ADU Costs and Efficiencies: ADUs can provide naturally affordable housing. Because of their size, they are cheaper and faster to build than other forms of housing. According to the Turner Center for Housing Innovation at UC Berkeley's "ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes" (December 2017), the average cost to build an ADU in California (\$156,000) is less than half of the average cost to build a unit of affordable housing. A separate Turner Center survey reported that 83 percent of ADUs were designed and built in 18 months or less.

The Turner Center report then speaks to how costs to build could be reduced further, stating that "the new 2016 Title 24 requirements – intended to raise standards of energy efficiency in new construction and rehabilitation – actually inhibit the ability of builders to deliver affordable and attractive ADUs. The 2016 Title 24 requirements pose several specific barriers. When applied to typically-sized new homes (2,500sf), the new allowable glass area standards in Title 24 are easier to meet as the homes' glass can be spread across a relatively large square footage. However, for ADU-sized structures (which average just over 600sf), Title 24 requires builders to compensate for a standard number of windows by incorporating other energy efficiency features that can substantially raise the overall cost of the ADU. In many instances, these features include greater wall thickness or insulation. Given the need to maximize the usable space of these smaller ADU units – particularly as they may be located in an existing detached structure with a limited footprint – these insulation requirements pose dilemmas for builders, as well as added cost for the owner. In some instances, the required additional insulation or wall thickness forces builders to compensate for the added wall thickness by moving the unit to maintain setbacks, or reduce the already limited interior living space. This is just one example of many instances where 2016 Title 24 requirements do not scale well to small structures, causing added costs and complications to homeowners considering an ADU."

This bill would require HCD to propose for adoption "small home building standards" to apply to ADUs and homes smaller than 800 square feet. These standards would need to be drafted to achieve the most cost-effective construction standards possible, and be similar or more cost effective than standards in the 2007 edition of the California Building Standards Code. They also must include allowances for small kitchens and bathrooms with small appliances. These standards would need to be submitted to the California Building Standards Commission for adoption on or before January 1, 2021.

Staff Comments: As written, it is unclear whether this bill would apply to all ADUs or just those smaller than 800 feet. The Committee may consider clarifying that this only applies to ADUs smaller than 800 feet.

The bill does not include a definition of small home, meaning that it could be construed to apply to small units in larger buildings. Application of the 2007 edition of the California Building Standards Code could result in a substantial reduction in energy efficiency and other standards. Additionally, many ADUs and all JADUs are built within existing residential buildings. For those, the application of the 2007 edition of the California Building Standards Code could create inconsistent systems and requirements within the same building. As such, the Committee may consider amending the bill to only apply the 2007 edition of the California Building Standards Code to ADUs and other small homes that are detached from other dwelling, including those built in existing uninhabited structures. Additionally, the Committee may wish to consider clarifying that the allowances for small kitchens and bathrooms with small appliances should only apply to ADUs and JADUs and not other small homes.

Committee Amendments: To address the issues raised above, the Committee may wish to consider the following amendments:

- Clarify that this bill only applies to ADUs smaller than 800 feet;
- Amend the bill to only apply the 2007 edition of the California Building Standards Code to ADUs and other small homes that are detached from other dwelling, including those built in existing uninhabited structures; and
- Clarify that the allowances for small kitchens and bathrooms with small appliances should only apply to ADUs and JADUs and not other small homes.

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. It would increase enforcement capacity against local jurisdictions regarding their ADU ordinances. This bill is pending hearing in this committee.

AB 587 (Friedman) (2019): This bill would allow ADUs to be sold or conveyed separately from the primary residence 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. This bill was heard in this committee on March 27, 2019 and was passed out by a vote of 8-0. The bill is pending hearing at the Assembly Committee on Local Government.

AB 670 (Friedman): AB 670 (Friedman) (2019): This bill would make it illegal for new or amended governing documents of common interest developments to prohibit the construction of ADUs or JADUs. This bill is pending hearing in this committee.

AB 671 (Friedman) (2019): This bill would require local jurisdictions to require in their Housing Elements a plan that incentivizes and promotes production of ADUs for very-low, low-, and moderate-income households. Requires the Department of Housing and Community Development to develop and post to its website a list of state programs that could help subsidize ADUs for very-low, low-, and moderate-income households. 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

AARP California
ADU Task Force (East Bay)
Bay Area Council
BRIDGE Housing
Building Industry Association of the Bay Area
California Apartment Association
California Association of Realtors
California Community Builders
California YIMBY
Casita Coalition
Community Legal Services in East Palo Alto
EAH Housing
Eden Housing
Enterprise Community Partners
Greenbelt Alliance
Habitat for Humanity California

Hello Housing
La-Mas
League of Women Voters of California
Non-Profit Housing Association of Northern California
North Bay Leadership Council
OpenScope Studio
PICO California
PrefabADU
Related California
San Francisco Housing Action Coalition
SV@Home
SPUR
Tent Makers
The Two Hundred
TMG Partners
Turner Center for Housing Innovation
Urban Displacement Project
Working Partnerships USA
Individual(s) 1

Support If Amended

Habitat for Humanity East Bay/Silicon Valley
San Francisco Foundation

Opposition

None on file

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