

Accessory Dwelling Units – Background & Bill Overview

Background

Secondary units have been identified as a way that a significant number of units, affordable and energy efficient by design, can be produced in areas currently zoned for housing.

Over the past three years a number of bills have been enacted to remove barriers that have impeded the development of accessory dwelling units (ADUs) in neighborhoods. Of note, as accessory uses, ADUs and Junior ADUs are not considered an increase in density when added to a proposed new construction project or existing single-family home.

On January 1, 2017 three separate ADU bills took effect; SB 1069 (Wieckowski), AB 2299 (Bloom), and AB 2406 (Thurmond). Each of them required local jurisdictions to develop and adopt ordinances to make it easier for homeowners to build ADUs. In 2018, two new ADU laws took effect SB 229 (Wieckowski) and AB 494 (Bloom). These bills allow ADUs to be built concurrently with a new single-family home, open areas where ADUs can be built to include all zoning districts that allow single-family uses, modify fees from utilities, such as special districts and water corporations, and reduce parking requirements.

Local jurisdictions have had varying capacity to implement these changes. Some have made wholesale changes to their fee structure and zoning, while others are still trying to figure out how to create a streamlined ADU application for ministerial approval. There is some wariness as there has been a lot of legislative changes at the state level, with little time to see how things are working out in implementation.

In the current legislative session five additional pieces of ADU legislation have been introduced. In general, the suite of ADU bills points to a direction of authorizing the creation of accessory dwelling units by right in areas zoned to allow residential uses, further reduction of fees, and limiting local jurisdictions ability apply zoning and development limitations on ADUs/JADUs.

Summary of Bills

Attached is a matrix comparing AB 68, AB 881 and SB 13. AB 69, AB 587 and AB 671 are summarized below.

AB 69 (Ting) –Development of Small Home Building Standards - This bill would require the Department of Housing and Community Development to propose small home building standards governing accessory dwelling units and homes smaller than 800 square feet. The legislation performance directive of the new building standards is to achieve most cost effective construction standards possible and shall be similar or more cost effective than standards in the 2007 edition of the California Building Standards Code. The bill would require the small home building standards to be submitted to the California Building Standards Commission for adoption on or before January 1, 2021.

ADU Bill Background

April 10, 2019

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AB 69

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

Opposed: None on file

AB 587 (Friedman) – Authorizes an ADU that was ministerially approved to be sold or conveyed separately from the primary residence to a qualified buyer if the property was built or developed by a qualified nonprofit corporation and a deed restriction exists that ensures the property will be preserved for affordable housing. These new construction units would be sold as Tenants in Common.

Support

Habitat for Humanity California [Sponsor]

California Apartment Association
California YIMBY
City of Santa Cruz

Opposed

None on file

AB 671 (Friedman) – Requires a local government to include a plan in their housing element to incentivize and promote the creation of accessory dwelling units (ADUs) that can be offered at an affordable rent for very-low, low-, and moderate-income households. Requires HCD to develop a list of existing state grant and financial incentives to promote planning, construction, and operation of ADUs at an affordable rent.

Support

California Apartment Association

Support if Amended

California Association of Realtors

Opposition

None on file

Production-Focused Accessory Dwelling Units Bills Under Consideration
As of April 9, 2019

	AB 68 (Ting)	AB 881 (Bloom)	SB 13 (Wieckowski)
Location	Assembly Local Gov. Committee	Assembly Local Gov. Committee	Sen. Gov & Finance Committee
Setback requirements	Prohibits or reduces setback requirements allowed under existing law		
Owner-Occupancy Requirement	Allows owner occupancy requirement for either primary residence or ADU on a single-family lot	Removes existing authority to require owner occupancy for either primary residence or ADU	Prohibits owner occupancy requirement
Application approvals	Reduces permit approval to 60 days from 120 days		Reduces permit approval to 60 days from 120 days and deems permit approved if not acted upon within that period
State Oversight	Requires local agencies to submit ADU ordinances to HCD and authorizes HCD to make findings of non-compliance, require correction and work with Attorney General on enforcement		Requires local agencies to submit ADU ordinances to HCD and authorizes HCD to make findings of non-compliance, require correction and work with Attorney General on enforcement
By Right	Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 800 sq. ft. ADU and at least a 16-foot high ADU		Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 800 sq. ft. ADU, at least 16 ft tall with four-foot side and rear setbacks

	AB 68 (Ting)	AB 881 (Bloom)	SB 13 (Wieckowski)
Zoning	Removes restriction to single-family zones and instead applies to residential and mixed-use zones	Removes restriction to single-family zones	Removes restriction to single-family zones
Sprinkler Requirement	Explicitly prohibits requiring sprinklers for ADU if not required for primary residence [Already stated in current law but bill adds new provision due to apparent ambiguity in current law]	Strikes second reference to prohibition on requiring sprinklers for ADU if not required for primary residence	
Impact fees			Provides for a tiered structure of fees based on size of ADU
RHNA			Authorizes a local agency to count an ADU for purpose of identifying adequate sites for its housing element.
Parking	Prohibits local agencies from requiring replacement parking for spaces that are lost due to construction of ADU, and on imposing any parking requirements if within ½-mile of public transit.		Prohibits local agencies from requiring replacement parking for spaces that are lost due to construction of ADU, and on imposing any parking requirements if within ½-mile of public transit.
Building Standard Amnesty			Requires a local agency to delay enforcement of a building standard that is not necessary to protect health and safety upon request by an ADU owner and provides for a 10-year amnesty

Source: Senate Housing Committee Analysis of SB 13, revised and augmented by MTC/ABAG staff

Bill Positions
(as of March 27, 2019)

AB 68 (Ting)

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 Teamsters
Public Affairs Council
Casita Coalition
cityLAB - UCLA
Community Legal Services

in East Palo Alto
EAH Housing
Facebook
Greenbelt Alliance
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SV@Home
SPUR
Tent Makers
The Two Hundred
TMG Partners
Turner Center for Housing Innovation
UNITE HERE, AFL-CIO
Urban Displacement Project
Working Partnerships USA
Eden Housing

Support If Amended

Habitat for Humanity East Bay/Silicon Valley
The San Francisco Foundation

Opposed

American Planning Association (oppose unless amended)

AB 881

Support

California Apartment Association
California Association of Realtors
California Community
California YIMBY

California Building Industry Association (if amended)

Opposed

None on file

SB 13

Support

Bay Area Council
California Apartment Association
Eden Housing; LA-MAS
PrefabADU
SV@Home

Terner Center, University of California, Berkeley

Opposed

American Planning Association, California Chapter

Analysis of ADU Bills

Bill Number	Funding	Production	Protection	Flexibility	Jobs/ Housing Balance
AB 68 (Ting) <i>ADU Streamlining</i>		Increase in ADUs as a result of fewer restrictions, faster approvals, by right minimum standards and broader eligible land area, including residential and mixed-use. Allows an ADU and JDU in single family lots and 2 detached ADUs in multifamily lots.		Applicable statewide; Does not take into account neighborhood differences	
AB 69 (Ting) <i>Small home building standard</i>		Potential increase in small homes and ADUs that are more affordable to construct		Applicable statewide	
AB 587 (Friedman) <i>ADUs for sale</i>		Potential increase in affordable housing for sale by allowing for ADUs to be sold separately	Allows for deed-restricted ADUs to be sold separately as tenants-in-common. Habitat for Humanity is sponsor.		
AB 671 (Friedman) <i>ADU Plan</i>		Potential increase in production of low-income ADU housing resulting from plan	Potential increase in availability of low-income ADU housing resulting from plan	Applicable statewide	

Analysis of ADU Bills (cont'd)

Bill Number	Funding	Production	Protection	Flexibility	Jobs/ Housing Balance
AB 881 (Bloom) <i>ADU streamlining</i>		<ul style="list-style-type: none"> Expands scope of ADU ordinance outside single family home zones Requires ministerial approval for units built in garages 		Applicable statewide Does not take into account neighborhood differences	
SB 13 (Wieckowski) <i>ADU streamlining</i>	Reduces cost of ADU construction by eliminating fees for ADUs < 750 sf. and reducing to 25% ADUs greater than 750 sf. (allows ADUs up to 1,000 sf if more than 1 bedroom)	<ul style="list-style-type: none"> Cost to review and act on ADU permits in 60 days Expands where ADUs can be built by removing limitation on ADU ordinance only applying in single-family zone Amnesty program could result in more ADUs on the rental market 		Applicable statewide Does not take into account neighborhood differences	

Analysis of ADU Bills (cont'd)

Bill Number	Reward Best Practices	Financial Impact	Trans & Infrastructure Impacts	Resilience	Parallel Policy Mandates
AB 68 (Ting) <i>ADU Streamlining</i>	Applicable statewide	<ul style="list-style-type: none"> • Additional cost to review and act on ADU permits within 60 days • No change in fees 	Potential impacts from new ADUs/residents	<ul style="list-style-type: none"> • Requires setbacks be sufficient for fire and safety • Prohibits sprinklers from being required if not required for primary residence 	
AB 69 (Ting) <i>Small home standard</i>			Indirect; Potential impacts from new ADUs/residents	Potential increases in energy consumption due to lower building standards	
AB 587 (Friedman) <i>Deed-restricted ADUs for sale</i>					
AB 671 (Friedman) <i>ADU Plan</i>	Applicable statewide	Cost of preparing plan	Indirect		

Analysis of ADU Bills (cont'd)

Bill Number	Reward Best Practices	Financial Impact	Trans & Infrastructure Impacts	Resilience	Parallel Policy Mandates
AB 881 (Bloom) <i>ADU streamlining</i>		Potential increase in ADU apps to review Removal or owner-occupancy requirement could encourage institutional investors or speculation in single family home market, which could drive up costs of single family homes.	Unknown, increased impacts from new residents with cap on fees to mitigate	Potential increases in energy consumption due to lower building standards	

Analysis of ADU Bills (cont'd)

Bill Number	Reward Best Practices	Financial Impact	Trans & Infrastructure Impacts	Resilience	Parallel Policy Mandates
SB 13 (Wieckowski) <i>ADU streamlining</i>		Removes fees for utilities, including water and sewer for units less than 750 sf; for > 750 sf, caps fees at 75% Same as above, plus applies to new construction of single family homes	Unknown, increased impacts from new residents with cap on fees to mitigate		Allows ADUs to count towards RHNA