



install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge, unless the ADU was constructed with a new single-family dwelling or upon separate conveyance of the ADU, as specified.

- 5) Allows a local agency, special district or water corporation to require a new or separate utility connection directly between the ADU and the utility, if the ADU is a new detached structure. Allows the local agency, special district or water corporation to charge a connection fee or capacity charge. If a connection fee or capacity charge is imposed, then the fee or charge shall be proportionate to the burden imposed by the new ADU.
- 6) Delays the enforcement of building standards at the request of the owner on ADUs built prior to January 1, 2020 or if the ADU was built on or after January 1, 2020 in a jurisdiction that at the time had a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made. However, the ADU is still subject to health and safety standards, as specified.
- 7) Creates a limited amnesty program for unpermitted ADUs by prohibiting a local agency from denying a permit for an ADU constructed prior to January 1, 2018 because the ADU was in violation of building standards, as specified, or the ADU does not comply with state law or local ordinance. Allows a local agency to deny a permit to an ADU that is deemed substandard and that would put the health and safety of the occupants at risk.

**This bill:**

- 1) Extends the unpermitted ADU amnesty program to include ADUs built between January 1, 2018 and January 1, 2020 and to include it to JADUs.
- 2) Requires a local agency to inform the public about the options to permit an unpermitted ADU or JADU including posting on its website a checklist of health and safety standards that the units would need to meet and informing homeowners that they may obtain a confidential third-party inspection from a licensed contractor to determine the unit's existing condition or potential scope of improvements necessary to meet health and safety standards.
- 3) Provides that a homeowner applying for a previously unpermitted ADU or JADU constructed before January 1, 2020, shall not be required to pay impact fees or connection fees or capacity charges except when utility infrastructure is required to comply with State Housing Law and when the fee is authorized for specified utility connections under ADU law.

- 4) Provides that, upon receiving an application to permit a previously unpermitted ADU or JADU constructed before January 1, 2020, an inspector from the local agency may inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards necessary to obtain a permit. If the inspector finds noncompliance with health and safety standards, the local agency shall not penalize an applicant for having the unpermitted ADU or JADU and shall approve necessary permits to correct noncompliance with health and safety standards.

**COMMENTS:**

- 1) *Author's statement.* "ADUs are an important asset for middle and low-income homeowners to build generational resources and for multigenerational families to care for each other. These units are providing critically needed homes for renters amidst a housing crisis and steady supplemental income for owners at risk of displacement. While no one solution will solve the housing crisis, AB 2533 intends to support and empower cost-burdened homeowners by providing a pathway to legalize their unpermitted ADUs, so they may safely house family or community members."
- 2) *ADUs/JADUs.* California's high — and rising — land costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. In a 2016 analysis, the Legislative Analyst's Office (LAO) found that the housing density of a typical neighborhood in California's coastal metropolitan areas increased only by four percent during the 2000s. In addition, the pattern of development in California has changed in ways that limit new housing opportunities. A 2016 analysis by BuildZoom found that new development has shifted from moderate but widespread density to pockets of high-density housing near downtown cores surrounded by vast swaths of low-density single-family housing. Specifically, construction of moderately-dense housing (2 to 49 units) in California peaked in the 1960s and 1970s and has slowed in recent decades.

Recently, there has been a national trend to allow for more "gentle density" (e.g., ADUs, duplexes, fourplexes, townhomes, and other moderately dense developments that were common before the imposition of zoning). The Legislature has also taken a more active role in facilitating this type of gentle density. In 2016, AB 2299 (Bloom, Chapter 735, Statutes of 2016) and SB 1069 (Wieckowski, Chapter 720, Statutes of 2016), permitted ADUs by-right on all residentially-zoned parcels in the state. By permitting an ADU as a

second unit on all single-family lots, these laws effectively doubled their allowed density.

A research paper by UCLA's Lewis Center for Regional Policy Studies, *One to Four: The Market Potential of Fourplexes in California's Single-Family Neighborhoods* (June 2020), found that because state law now requires cities to allow ADUs and JADUs in single-family neighborhoods, there is potential for 1.5 million new units in the form of ADUs and JADUs.

- 3) *How Many ADUs are Being Built in California?* Recent ADU legislation, especially the bills that went into effect on January 1, 2020, are having a significant impact. Prior to the Legislature requiring ministerial approval of ADUs in 2017, ADUs were less than one percent of permitted new construction. Now they are approximately 10%, at over 9,600 completed units in 2022.

According to cities' and counties' latest Annual Progress Reports, nearly 25,000 ADUs were permitted statewide in 2022. Most of the ADU activity is concentrated in metropolitan areas, particularly areas with high home values and rents, though ADU development in Los Angeles is taking place in more low-resource areas. The median lot size for ADUs is 6,930 square feet, and most ADUs (about 80%) are built on lots ranging from 3,000 to 14,000 square feet. Homeowners who build ADUs are disproportionately likely to have bought their property within the last five years; those who have owned for more than 10 years are slightly less likely to build an ADU. In general, properties held by individuals rather than companies are most likely to build ADUs.

- 4) *Legalization of Unpermitted ADUs.* According to a 2016 report by McKinsey and Company entitled *A Tool Kit to Close California's Housing Gap: 3.5 Million Homes by 2025*, one way to encourage homeowners to add ADUs is to create an amnesty path for ADUs that are not properly permitted. The reasons for constructing ADUs without permits may vary; some may wish to avoid the perceived complexity, while others may wish to avoid the cost of obtaining the required permits. According to the McKinsey report, as many as 8% of ADUs in San Francisco are illegal. In 2018, UCLA Professor Vinit Mukhija estimated that there were at least 50,000 unpermitted ADUs on single-family lots in the City of Los Angeles alone. Providing homeowners with the opportunity to legalize these unpermitted units has the following benefits:
- a) Habitability and safety. ADU legalizations allow these unpermitted units to be inspected for health and safety standards, and updated to comply with those building standards that would ensure the health and safety of the

occupant, as needed. Without a pathway to legalization, owners of unpermitted ADUs would not stop using their ADUs, including renting them out to tenants, but rather would likely just forego the necessary health and safety upgrades.

- b) Meeting Regional Housing Needs Assessment (RHNA). Allowing local jurisdictions to bring unpermitted units into the formal housing stock would enable those jurisdictions to count the ADUs towards their RHNA numbers, and give the jurisdictions a better understanding of their local housing stock and increasing the supply of habitable homes.
- c) Reducing enforcement costs. Providing a pathway for ADU legalization may shift the focus of local governments from punitive code enforcement measures, including, in some instances, forcing homeowners to remove these homes, to supportive ones by creating a pathway to help owners legalize their units.
- d) Raise property tax revenue. Because of the increased property value the ADU brings, this would generate additional local property tax revenue.

In 2022, the Legislature created a limited ADU amnesty program through the passage of SB 897 (Wieckowski, Chapter 664). Specifically, SB 897 prohibited local agencies from denying a permit for such ADUs if:

- a) The ADU is in violation of building standards, but correction of the violation is not necessary to protect the health and safety of the public or occupants of the structure;
- b) The ADU does not comply with state or local ADU law; or
- c) There are violations on the site, but they are not related to the ADU.

This bill would apply the existing amnesty program provisions contained in SB 897 (Wieckowski) to apply to both unpermitted ADUs and unpermitted JADUs built before January 1, 2020, rather than January 1, 2018. A local agency could not deny a permit to unpermitted ADUs and JADUs built prior to 2020, unless the structure poses a threat to health and safety. This bill prohibits an owner of an unpermitted ADU or JADU from having to pay impact fees, connection fees, or capacity charges, unless it is a utility connection required to comply with State Housing Law and minimum health and safety standards, or when the fee is authorized for specified utility connections under ADU law. This bill also requires local agencies to post a checklist that provides the conditions necessary to comply with health and safety standards and that inform homeowners that they may seek a third-party code inspection from a licensed contractor prior to filing an application with their local agency. This bill allows the local agency to inspect the unit for compliance with health and safety standards and requires the approval of permits necessary to correct noncompliance.

5) *Double referral.* This bill was also referred to the Local Government Committee.

**RELATED LEGISLATION:**

**SB 897 (Wieckowski, Chapter 664, Statutes of 2022)** — created a process for the permitting of unpermitted ADUs.

**SB 1226 (Bates, Chapter 1010, Statutes of 2018)** — required HCD to propose the adoption of a building standard to authorize a local enforcement official to determine the date of construction of a residential unit, apply the building standards in effect of that date of construction, and issue a retroactive building permit when a record of the issuance of a building permit for the construction of an existing residential unit does not exist.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: Yes

**POSITIONS:** (Communicated to the committee before noon on Wednesday, June 12, 2024.)

**SUPPORT:**

Bay Area Council (Co-Sponsor)  
Casita Coalition (Co-Sponsor)  
AARP  
California Apartment Association  
California Community Builders  
California YIMBY  
Council of Infill Builders  
Enterprise Community Partners, INC.  
HPP Cares  
The Unity Council  
Two Valleys Community Land Trust

**OPPOSITION:**

None received.

**-- END --**