
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No: AB 671 **Hearing Date:** 7/10/2023
Author: Ward
Version: 4/13/2023
Urgency: No **Fiscal:** Yes
Consultant: Aiyana Cortez

SUBJECT: CalHome Program: accessory dwelling units

DIGEST: This bill authorizes community land trusts (CLTs) to utilize CalHome Program funds for the purchase, construction, and leasing of ADUs and JADUs.

ANALYSIS:

Existing law:

- 1) Defines a CLT for purpose of assessing land as land that is subject to a contract where the following apply:
 - a) The contract is a renewable 99-year ground lease between a community land trust and the qualified owner of an owner-occupied single-family dwelling or an owner-occupied unit in a multifamily dwelling;
 - b) The contract subjects a single-family dwelling or unit in a multifamily dwelling, and the land on which the dwelling or unit is situated that is leased to the qualified owner by a community land trust for the convenient occupation and use of that dwelling or unit, to affordability restrictions;
 - c) One of the following public agencies or officials has made a finding that the affordability restrictions in the contract serve the public interest to create and preserve the affordability of residential housing for persons and families of low or moderate income:
 - i) The director of the local housing authority or equivalent agency;
 - ii) The county counsel;
 - iii) The director of a county housing department;
 - iv) The city attorney; and
 - v) The director of a city housing department
 - d) The contract is recorded and is provided to the assessor.

- 2) CalHOME, under the Department of Housing and Community Development (HCD), provides grants to individual homebuyers to purchase a home and loans to non-profit developers to construct single-family homes. The program also provides grants to non-profit organizations and local governments to make loans to individual homeowners to construct ADUs or JADUs.
- 3) CalHOME provides grants to local agencies or nonprofit corporations to construct, repair, reconstruct, or rehabilitate ADUs or JADUs.

This bill:

- 1) Authorizes CLTs, as specified, to utilize CalHome Program funds to:
 - a) Purchase residential real property in fee simple.
 - b) Construct accessory dwelling units or junior accessory dwelling units.
 - c) Separately lease each dwelling unit to separate households or separately convey the dwelling units on separate parcels.
- 2) Requires CLTs to conform to all applicable zoning and subdivision laws when undergoing process of lot splitting or separately conveying units.

COMMENTS:

- 1) Author's statement. "In the past couple of years, the Legislature has passed several policies that encourage the construction of ADUs on single family parcels. As a result, Community Land Trusts (CLTs) are purchasing single family properties and constructing ADUs on the land. On each lot, residents either own their building or rent it from the CLT, and in either case, the CLT owns the underlying land to ensure the property remains affordable housing in perpetuity. CLTs constructing ADUs on single family lots doubles the affordable housing on a single lot. In some circumstances where greater density is appropriate, a single family lot can become three or even four affordable homes. Unfortunately, the CalHome grant does not clearly allow CLTs to use these funds to develop ADUs. AB 671 will give HCD the explicit authority to allow CLTs and local agencies to build ADUs with CalHome funds. This flexibility enables CLTs to develop more ADUs to add to a depleted housing inventory and offer more housing opportunities for low and moderate income Californians."
- 2) *CalHOME*. The CalHOME Program provides loans and grants to nonprofit corporations and local governments to support homeownership activities. Grants provide down payment assistance to qualified households and loans to

fund the construction of ownership units. To qualify, households must be lower income (making 80% of the area median income or less); however, grants may be made to households making up to 120 of the area median income in areas where the Governor has declared a state of emergency due to a disaster. In 2019, AB 101 (Committee on Budget) expanded the uses of CalHOME to include grants to local governments or nonprofit corporations to develop and construct ADUs and JADUs. The program makes grants to local agencies that then loan funds to qualifying homeowners who build ADUs or JADUs and rent them out. The program is intended to increase the supply of affordable housing and provide income to lower income homeowners. Although the CalHOME program provides loans to nonprofit corporations that build ownership units for qualifying families, it does not allow nonprofits to construct ADUs or JADUs and sell them as separate units.

- 3) *CLTs*. A CLT is a nonprofit corporation that holds land on behalf of a place-based community, while serving as the long-term steward for affordable housing, community gardens, civic buildings, commercial spaces, and other community assets on behalf of a community. The title to the land is held by a single nonprofit corporation. The lands are never resold, but are removed permanently from the market and managed on behalf of the CLT. Any buildings on this community-owned land are sold off to homeowners, cooperatives, nonprofits, or other corporations or individuals. These structures may already exist when the nonprofit acquires the land, or they may be constructed years later. CLTs record ground leases that are typically 99 years long to record the interest of the nonprofit landowner and the building owners. The lease is inheritable and subject to a mortgage, allowing the owners of residential or commercial buildings to obtain private financing to construct or to improve their structures.

CLTs are using the CalHOME program to purchase existing homes or construct new homes and convey them to homeowners under the CLT model. Currently, CLTs are not able to use CalHOME funding to construct an ADU or JADU and sell or lease that unit to a homeowner.

- 4) *Separate Conveyance of ADUs*. AB 587 (Friedman, Chapter 587, Statutes of 2019), and subsequently AB 345 (Quirk-Silva, Chapter 343, Statutes of 2021), require a local government to allow an ADU to be sold or conveyed separately from the primary residence. To qualify the ADU must be built and/or developed by a qualified non-profit organization; be sold to a lower-income household; have an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation; the property must be held pursuant to a recorded tenancy in common agreement; a grant deed must be recorded in the county where the

property is located; and the ADU must have a separate water, sewer, and utility hook-up from the primary home.

- 5) *Lot Splitting*. SB 9 (Atkins, Chapter 162, Statutes of 2021), requires local agencies to ministerially approve subdivisions of specific types of parcels, called urban lot splits. To qualify, the two parcels must be equal in size and at least 1,200 square feet. A property owner must agree to occupy one of the housing units as their principal residence for a minimum of three years. However, CLTs and other qualifying non-profits like Habitat for Humanity are exempt from the requirement that the property owner live in one of the units; as a result, a CLT could split a lot and sell each of the homes to a different buyer.
- 6) *Increasing homeownership*. This bill would further the goal of CalHOME – creating homeownership opportunities for lower-income households – by making clear that CLTs can use CalHOME funds to develop an ADU and sell it separately, rather than leasing it to a low income renter. This bill assures that the process of splitting a lot or separately conveying a unit is done consistent with the Subdivision Map Act and applicable zoning laws by making clear that a CLT must conform to all applicable zoning and subdivision laws.

RELATED LEGISLATION:

SB 9 (Atkins, Chapter 162, Statutes of 2021) — required ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

AB 345 (Quirk-Silva, Chapter 343, Statutes of 2021) — facilitated the sale of an accessory dwelling unit (ADU) to a qualified buyer.

AB 101 (Committee on Budget, Chapter 159, Statutes of 2019) — authorized HCD to make CalHome Program grants to local agencies or nonprofit associations for the construction, repair, reconstruction, or rehabilitation of ADUs and JADUs.

AB 587 (Friedman, Chapter 587, Statutes of 2019) — allowed for an ADU to be sold or conveyed separately from the primary residence to a qualified buyer under specified circumstances.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, July 5, 2023.)

SUPPORT:

California Community Land Trust Network (Sponsor)
California Latinas for Reproductive Justice
East Bay YIMBY
Grow the Richmond
How to ADU
Inland Equity Partnership
Livable California
Mountain View Solidarity Fund
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
San Francisco YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
Slo County YIMBY
South Bay YIMBY
Southside Forward
Ventura County YIMBY
YIMBY Action

OPPOSITION:

None received.

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