
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No: AB 561
Author: Ting
Version: 4/6/2021
Urgency: No
Consultant: Erin Riches

Hearing Date: 7/8/2021
Fiscal: Yes

SUBJECT: Help Homeowners Add New Housing Program: accessory dwelling unit financing

DIGEST: This bill requires the State Treasurer's Office (STO) to establish and administer the Help Homeowners Add New Housing Program (Program) to help homeowners qualify for loans to construct additional housing units on their property, including accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

ANALYSIS:

Existing law:

- 1) Establishes the Tax Credit Allocation Committee (TCAC) and the California Debt Limit Allocation Committee (CDLAC) under the STO. TCAC administers the federal and state low-income housing tax credit programs, which promote private investment in housing affordable to low-income Californians. CDLAC sets and allocates California's annual debt ceiling and administers the state's tax-exempt bond program to issue the debt. CDLAC's programs are used to finance affordable housing developments for low-income Californians, build solid waste disposal and waste recycling facilities, and finance industrial development projects.
- 2) Establishes the California Housing Finance Agency (CalHFA), which provides first mortgage loans and down payment assistance to first-time homebuyers, as well as financing and programs for affordable rental housing. CalHFA is a self-supporting state agency; its bonds are repaid by revenues generated through mortgage loans.
- 3) Provides for the following, under ADU law:
 - a) Provides that if a locality adopts a local ADU ordinance, it must meet certain requirements and cannot impose certain requirements, as specified.

- b) Requires a local agency to ministerially approve, within 60 days, an application for a building permit to create an ADU and a JADU, as specified.
- c) Prohibits a local ordinance from requiring an applicant for an ADU to be an owner occupant.
- d) Imposes certain minimum and maximum square footage, height, and setback limits for ADUs.
- e) Provides for a tiered schedule of impact fees based on the size of the ADU, as specified.

This bill, as proposed to be amended:

- 1) Requires the STO, no later than April 1, 2022, to establish and administer the Help Homeowners Add New Housing Program (Program) to help homeowners qualify for loans to construct additional housing units on their property, including ADUs and JADUs. Requires the STO, in establishing the Program, to:
 - a) Consult with HCD and CalHFA in establishing and administering the Program, as well as other entities including but not limited to the federal mortgage agencies, private lenders, community development financial institutions, community-based organizations, local housing trust funds, joint powers authorities, regional housing finance authorities, and credit unions.
 - b) Conduct at least one public meeting prior to adopting regulations to implement the program.
- 2) Requires the STO to ensure that the Program:
 - a) Designates a share of assistance for homeowners at or below 100% of the area median income (AMI) for the county in which the home is located.
 - b) Requires participating homeowners to rent or lease out ADUs built under the Program for a minimum of two years.
 - c) Prohibits balloon repayment plans for homeowners participating in the Program.
 - d) Provides for a reasonable rate of participation across all areas of the state.
- 3) Authorizes the STO to include conventional first mortgages, participating second mortgages, and grants as Program options.
- 4) Requires the STO to conduct outreach activities, particularly in disadvantaged communities, to disseminate information about the program to eligible homeowners.

- 5) Requires the STO report to the Legislature by April 1, 2023 and annually thereafter, detailing progress toward the stated goal of increasing ADU production, as well as the average income of participating homeowners and their renters.

COMMENTS:

- 1) *Author statement.* “Though there have been local initiatives and pilot programs throughout the state for ADU construction, in order to see the ADU streamlining legislation that California has enacted become a reality, we need to see government agencies and government-sponsored enterprises develop mortgage products tailored towards ADU financing. As the State Treasurer’s Office (STO) works with federal mortgage agencies to compile a program providing ADU construction loans to low and moderate income homeowners, AB 561 outlines parameters by which the STO will design, establish, and implement the “Help Homeowners Add New Housing” program. These parameters include, among others, ensuring the program goes towards those who need it most – at or below 100% AMI, prohibiting balloon repayment plans to protect homeowners, and requiring it to be ready for homeowner participation by April 1, 2022. At a time when more families are struggling to make ends meet and the consequences of homelessness are growing, AB 561 will help get more affordable units online and money in families’ pockets.”
- 2) *Background: ADUs.* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law. Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom.
- 3) *Encouraging ADU construction.* Second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Several recent bills, particularly SB 13 (Wieckowski, 2019) and AB 68 (Ting, 2019), have relaxed multiple requirements for the construction and permitting of ADUs and JADUs. Construction costs, however, can still be high. A recent study by the Tenner Center for Housing Innovation at UC Berkeley found that

while ADU permitting has risen significantly, major barriers remain for low to moderate income homeowners who do not have access to cash savings and cannot leverage home equity.¹ While rental income from ADUs could help these homeowners meet the financial barriers, existing lending tools do not take future rental income into account when determining a homeowner's loan eligibility.

- 4) *Current state funding for ADUs.* Currently, the only state program that provides funding for ADU construction is a pilot program under CalHFA. Under this program, CalHFA is partnering with Self-Help Housing Enterprises, a community development organization based in the San Joaquin Valley, to use \$2.5 million in CalHFA funding to act as the construction lender for the City of Clovis' Cottage Home Program. The city is providing three design templates to homeowners at no cost, in addition to expedited reviews and fee waivers, for ADU projects. The home plans, each less than 400 square feet, are intended to orient onto alleys in an effort to both revitalize alleys and create more housing. No other pilots have been implemented at this time.
- 5) *Trying again.* Last year, AB 69 (Ting, 2020) aimed to establish a similar ADU financing program, funded with revenue bonds issued by CalHFA. The Governor vetoed it, noting that although access to ADU financing needs to be addressed, "the financial structure proposed in this bill would negatively impact affordable housing production, as it could harm CalHFA's credit ratings." This bill excludes CalHFA if the STO determines that CalHFA participation would negatively impact CalHFA's ratings. This bill (as will be amended) also includes specific parameters for the Program (see Comment #6 below) that were not included in AB 69.
- 6) *Committee amendments.* The author's office is continuing to work with stakeholders to develop the structure of the Program. To help provide clear direction, **the author will accept committee amendments to establish several parameters for the program, including a requirement for participating homeowners to rent out an ADU built under the Program for at least two years; a requirement that a portion of the program be designated to homeowners at or below 100% AMI; a requirement for the STO to hold at least one public meeting prior to developing program regulations and to conduct specified outreach; and a requirement for the STO to submit an annual report to the Legislature, as specified.**

¹ Karen Chapple, David Garcia, Eric Valchuis, and Julian Tucker. *Reaching California's ADU Potential: Progress to Date and the Need for ADU Finance* (Terner Center for Housing Innovation and UC Berkeley Center for Community Innovation, August 2020). <https://ternercenter.berkeley.edu/wp-content/uploads/2020/12/ADU-Brief-2020.pdf>

RELATED LEGISLATION:

AB 69 (Ting, 2020) — would have established a new program in the STO to help homeowners finance additional housing units, including ADUs and JADUs, and would have authorized CalHFA to issue revenue bonds to fund the program. *This bill was vetoed by the Governor.*

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

POSITIONS: (Communicated to the committee before noon on Thursday, July 1, 2021.)

SUPPORT:

Bay Area Council (Sponsor)
California Apartment Association
California Building Industry Association
California YIMBY
Casita Coalition
Council of Infill Builders
Eden Housing
Fieldstead and Company
Habitat for Humanity California
Hello Housing
Hollywood Chamber of Commerce
Housing Action Coalition
LISC San Diego
MidPen Housing
Richmond Neighborhood Housing Services
Sacramento Area Council of Governments
San Francisco Bay Area Planning and Research Association (SPUR)
Silicon Valley @ Home
Southern California Rental Housing Association
TMG Partners
9 Individuals

OPPOSITION:

None received