

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 345 (Quirk-Silva) – As Amended March 9, 2021

Policy Committee:	Housing and Community Development	Vote:	8 - 0
	Local Government		7 - 1

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill requires a city or county to allow an accessory dwelling unit (ADU) to be sold separately from the primary dwelling unit if certain conditions are met and clarifies the tenancy in common agreement to facilitate such sales. Specifically, this bill:

- 1) Requires rather than authorizes a city or county to allow an ADU to be sold separately from the primary residence on the same parcel to a qualified nonprofit corporation under specified conditions.
- 2) Requires any tenancy-in-common agreement for the sale of an ADU recorded after December 31, 2021, to additionally include:
 - a) All areas of the property that are for the exclusive use of a co-tenant, as specified.
 - b) Each co-tenant's responsibility for taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property, as specified.
 - c) Procedures for dispute resolution among parties prior to legal action.

FISCAL EFFECT:

- 1) State-mandated local costs to cities and counties, unknown but likely greater than \$150,000 (GF) statewide. These costs are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates, should a city or county choose to submit a claim.
- 2) Minor and absorbable costs to the Department of Housing and Community Development.

COMMENTS:

- 1) **Purpose.** This bill seeks to make it easier for qualified non-profits, such as Habitat for Humanity, to sell ADUs to low- and moderate-income households. According to the author:

This measure allows the separate sale of ADUs (in limited circumstances) as the default in California, rather than requiring local jurisdictions to first pass ordinances, which can be drawn out processes. By removing this requirement, and

adding language clarifying the tenant in common agreement, this measure will allow nonprofits, like Habitat for Humanity to expand their reach, offering additional ownership opportunities.

- 2) **Background.** ADUs have proven to be important to solving California’s housing crisis. Over the past few years, the Legislature has enacted a number of bills to ease zoning restrictions and expedite approval processes of ADUs at the local level, which has contributed to the increased supply of ADUs throughout the state.

Until 2019, state law prohibited local ADU ordinances from allowing ADUs to be sold or otherwise conveyed separately from the primary residence. AB 587 (Friedman, Chapter 657, Statutes of 2019) created an exemption to this prohibition by allowing tenancy in common sales to occur, but only if the primary residence and ADU are built by a non-profit whose mission is to sell those units to low-income families. AB 587 requires both the primary residence and the ADU be sold to low-income families, and requires any subsequent sale to also be to a low-income family.

Because the law created by AB 587 makes it permissive for local governments to allow these sales, a city or county must first adopt a local ordinance to authorize such sales. Habitat for Humanity believes this step creates construction delays and limits their ability to increase production, adding an additional barrier to providing low-income families with home ownership opportunities. This bill addresses this issue by removing local ordinance requirements and additionally improves the clarity and efficacy of the legal agreements between homeowners.

- 3) **Habitat for Humanity Model.** There are several non-profit organizations in the state that leverage public funding and philanthropy to facilitate the purchase of homes by lower income households. The most well-known of these is Habitat for Humanity, which is a global organization with over 40 local affiliates in California, and which requires that its home purchasers contribute “sweat equity” to the construction of their own home. The average Habitat for Humanity homeowner has an income that is less than half of the area’s median income. Additionally, over 80 percent of Habitat’s homebuyers are people of color. Habitat for Humanity and similar organizations build or rehabilitate about 1,000 units a year in California.
- 4) **Accessory Dwelling Units.** ADUs, also known as second units, in-law apartments, or “granny flats,” are additional living quarters independent of the primary residence on the same lot. ADUs are either attached to or detached from the primary residence, and provide complete independent living facilities for one or more persons, including separate access from the property’s primary unit. This includes permanent provisions for living, sleeping, eating, cooking and sanitation.