

## ASSEMBLY THIRD READING

AB 345 (Quirk-Silva)

As Amended March 9, 2021

Majority vote

**SUMMARY**

Facilitates the sale of an accessory dwelling unit (ADU) to a qualified buyer.

**Major Provisions**

- 1) Requires rather than authorizes a local agency to allow ADUs to be sold separately from the primary residence if the ADU meets specified conditions.
- 2) Requires that any tenancy in common agreement for the sale of an ADU recorded after December 31, 2021, must 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; and
  - c) Procedures for dispute resolution among parties prior to legal action.

**COMMENTS**

*ADUs and the Housing Crisis:* ADUs have proven to be an 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. According to the Department of Housing and Community Development, there has been a 30% year-to-year increase in ADU production. However, the market potential for ADUs is greater: a 2020 report from the UCLA Lewis Center for Regional Studies (Monkkonen et al) determined that there is economic feasibility for at least 1.5 million new ADUs in California.

*The 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 their 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% 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.

*Separate Ownership of ADUs:* 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. AB 587 allows for tenancy in common sales to occur, but only in a very limited and narrow manner where the house and ADU are built by a non-profit whose mission is to sell those units to low-income families. AB 587 requires that both the primary house and the ADU are sold to low-income families, and that any subsequent sale must be to a low-income family. As such, AB 587

enabled affordable housing organizations to create additional ownership units for low-income families.

Habitat for Humanity has expressed concern that the existing law is discretionary because it requires a local government to pass an ordinance to allow for the separate conveyance of an ADU. This has proved to be an additional barrier to providing very low- and low-income Californians with opportunities to achieve wealth and equity through ownership. In addition, the current language does not clearly define the tenant in common agreement elements, creating ambiguity for nonprofit developers looking to utilize this ownership structure.

This bill makes it easier for qualified non-profits, such as Habitat for Humanity, to sell ADUs to low- and moderate-income households, as follows:

- 1) It requires cities and counties to allow such sales. Currently, local agencies have discretion over whether to allow such sales, and if so, requires them to pass an ordinance to do so.
- 2) Includes language that would increase the clarity and efficacy of the legal agreements between the homeowners.

#### **According to the Author**

"AB 345 would make a modest change to current law, removing existing barriers for nonprofit affordable ownership developers building homes for very low-and low-income Californians. 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."

#### **Arguments in Support**

Supporters argue that this bill will help reduce the time and cost necessary to make ADUs available to low-income households. According to Habitat for Humanity, this bill "eases barriers to development, allowing us the opportunity to increase land use, and double the number of low income families we serve through homeownership."

#### **Arguments in Opposition**

No opposition on file

### **FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

- 1) State-mandated local costs to cities and counties, unknown but likely greater than \$150,000 (General Fund) 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.

**VOTES**

**ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0**

**YES:** Chiu, Seyarto, Gabriel, Kalra, Kiley, Maienschein, Quirk-Silva, Wicks

**ASM LOCAL GOVERNMENT: 7-1-0**

**YES:** Aguiar-Curry, Lackey, Bloom, Ramos, Luz Rivas, Robert Rivas, Voepel

**NO:** Boerner Horvath

**ASM APPROPRIATIONS: 16-0-0**

**YES:** Lorena Gonzalez, Bigelow, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

**UPDATED**

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