

SB 391 A STAFF MEASURE SUMMARY
Senate Committee On Housing and Development

Carrier: Sen. Dembrow

Action Date: 03/30/21
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-1-0-0
Yeas: 4 - Anderson, Golden, Jama, Patterson
Nays: 1 - Linthicum
Fiscal: No fiscal impact
Revenue: No revenue impact
Prepared By: Devin Edwards, LPRO Analyst
Meeting Dates: 2/23, 3/30

WHAT THE MEASURE DOES:

Allows counties to authorize owners of lot or parcel in rural residential zones to construct one accessory dwelling unit (ADU) on lot or parcel if certain requirements are met. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Wildfire map creation and high-risk zones
- Use of ADUs for vacation occupancy
- Local government land use authority
- Setback requirements
- Climate change

EFFECT OF AMENDMENT:

Removes provisions disallowing simultaneous use of ADUs and single-family dwellings for vacation occupancy. Disallows general use of ADUs for vacation occupancy. Requires counties maintain regulations on adequate setbacks from adjacent land zoned for resource use, adequate access to ADUs for firefighting and evacuation, and defensible space and fuel break standards developed with local fire protection service providers. Clarifies water rights and uses for ADUs.

BACKGROUND:

Until 2017, construction of an accessory dwelling unit (ADU) on land zoned for either exclusive farm use or rural residential use was only allowed if the ADU would be used for farmworkers. House Bill 3012, enacted during the 2017 legislative session, allowed the construction of a new single-family dwelling unit, subject to certain conditions, in an area zoned for residential use, and the conversion of a historic home on the same lot or parcel into an accessory dwelling unit. The measure prohibited the subdivision of the lot or parcel, limited modifications to the ADU, prohibited rebuilding of the structure in the case of fire, and did not allow the construction of an additional ADU on the same lot or parcel. The measure also authorized counties to require that the new dwelling be served by the same water supply source as the ADU and allowed counties to impose additional conditions for approval.

Senate Bill 391 A allows counties to authorize owners of a lot or parcel in rural residential zones to construct one ADU on their lot or parcel. The measure outlines a series of criteria that must be met for county approval, including: construction consistent with the county's comprehensive plan; on lots or parcels of at least two acres with one single-family dwelling, excluding specially designated areas; complying with sanitation, wastewater disposal and treatment, and State Board of Forestry rules and regulations; no larger than 900 square feet and no farther than 100 feet from the existing single-family dwelling; no general vacation occupancy; and counties must require regulations on adequate setbacks from adjacent land zoned for resource use, adequate access to ADUs for

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firefighting and evacuation, and defensible space and fuel break standards developed with local fire protection service providers. In addition, county authorization of ADU construction in rural residential zones is contingent on the future approval of statewide wildfire risk maps and ADU compliance with associated wildfire hazard mitigation requirements. Senate Bill 391 A also clarifies that an existing single-family dwelling and ADU on the same lot or parcel fall under the same exemptions for ground water rights requirements.