

AMENDED IN SENATE MARCH 14, 2022

**SENATE BILL**

**No. 897**

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**Introduced by Senator Wieckowski**

February 1, 2022

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An act to amend Section 65852.22 of, to add Section 65852.23 to, and to repeal and amend Section 65852.2 of, the Government Code, and to *amend Section 17980.12 of, and to add Chapter 6.9 (commencing with Section 50678) to Part 2 of Division 31 of the Health and Safety Code, relating to land use.*

LEGISLATIVE COUNSEL'S DIGEST

SB 897, as amended, Wieckowski. Accessory dwelling units: junior accessory dwelling units.

(1) Existing law, the Planning and Zoning Law, authorizes a local agency, by ordinance or ministerial approval, to provide for the creation of accessory dwelling units in areas zoned for residential use, as specified. ~~Existing~~ *Existing law authorizes a local agency to impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, and maximum size of a unit.*

*This bill would require that the standards imposed on accessory dwelling units be objective. For purposes of this requirement, the bill would define "objective standard" as a standard that involves no personal or subjective judgment by a public official and is uniformly verifiable, as specified.*

*This bill would require a local agency to review and issue a demolition permit for a detached garage that is to be replaced by an accessory dwelling unit at the same time as it reviews and issues the permit for the accessory dwelling unit. The bill would prohibit an applicant from*

*being required to provide written notice or post a placard for the demolition of a detached garage that is to be replaced by an accessory dwelling unit, as specified.*

Existing law provides that an accessory dwelling unit may either be an attached or detached residential dwelling unit, and prescribes the minimum and maximum unit size requirements, height limitations, and setback requirements that a local agency may establish, including a 16-foot height limitation and a 4-foot side and rear setback requirement.

This bill would increase the maximum height limitation that may be imposed by a local agency on an accessory dwelling unit to 25 feet.

Existing law requires an ordinance that provides for the creation of an accessory dwelling unit to require accessory dwelling units to comply with local building code requirements that apply to detached dwellings, as appropriate. Existing law also prohibits an ordinance from requiring an accessory dwelling unit to provide fire sprinklers if they are not required for the primary residence.

This bill would provide that the construction of an accessory dwelling unit does not constitute an occupancy change under the local building code. The bill would also prohibit the construction of an accessory dwelling unit from triggering a requirement that fire sprinklers be installed in the proposed or existing primary dwelling.

Existing law provides that a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create not more than 2 accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation of 16 feet and a 4-foot side and rear setback requirement.

This bill would change the height limitation applicable to an accessory dwelling unit subject to ministerial approval to 25 feet. The bill, if the existing multifamily dwelling exceeds a height of 25 feet or has a rear or side setback of less than 4 feet, would prohibit a local agency from requiring any modification to the existing multifamily dwelling to satisfy these requirements. The bill would prohibit a local agency from rejecting an application for an accessory dwelling unit because the existing multifamily dwelling exceeds a height of 25 feet or has a rear or side setback of less than 4 feet.

Existing law, until January 1, 2025, prohibits a local agency from imposing an owner-occupant requirement on a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling.

This bill would delete the expiration date of this provision.

*Existing law prohibits a local agency from imposing parking standards on certain accessory dwelling units, including those that are located within  $\frac{1}{2}$ -mile walking distance of public transit.*

*This bill would require a local agency, when a permit application for an accessory dwelling unit is submitted with a permit application to create new multifamily dwelling units, to reduce the number of required parking spaces for the multifamily dwelling by 2 parking spaces for each accessory dwelling unit located on the lot.*

(2) Existing law also provides for the creation of junior accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires an ordinance that provides for the creation of a junior accessory dwelling unit ~~to~~ *to, among other things, (A) require that the unit* ~~to~~ *be constructed within the walls of the proposed or existing single-family residence and to residence, (B) require that the unit* ~~to~~ *include a separate entrance from the main entrance to the proposed or existing single-family residence. residence, and (C) require owner-occupancy in the single-family residence in which the junior accessory dwelling unit is permitted.*

This bill would specify that enclosed uses within the proposed or existing single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence. The bill would require a junior accessory dwelling unit that does not include separate sanitation facilities to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. *The bill would delete the requirement that the ordinance include an owner-occupancy requirement in the single-family residence.*

(3) Existing law requires a local agency, in enforcing building standards applicable to accessory dwelling units, to delay enforcement for up to 5 years upon the owner submitting an application requesting the delay on the basis that correcting the violation is not necessary to protect health and safety.

*This bill would extend that delay in enforcement to the building standards applicable to the primary dwelling of the accessory dwelling unit, provided that correcting the violation is not necessary to protect health and safety.*

This bill would prohibit a local agency from denying a permit for a constructed, but unpermitted, accessory dwelling unit ~~because~~ *because, among other things, the unit is in violation of building standards or*

state or local standards applicable to accessory dwelling units, unless the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure

(4) Existing law requires the Department of Housing and Community Development to administer various programs intended to promote the development of housing, including the Multifamily Housing Program, pursuant to which the department provides financial assistance in the form of deferred payment loans to pay for the eligible costs of development for specified activities.

This bill, upon appropriation by the Legislature, would require the department to establish and administer a grant program for the purpose of funding the construction and maintenance of accessory dwelling units and junior accessory dwelling units. The bill would create the California Accessory Dwelling Unit Fund and, upon appropriation by the Legislature, require the department to distribute moneys in the fund to eligible recipients.

(5) By imposing new duties on local governments with respect to the approval of accessory dwelling units and junior accessory dwelling units, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65852.2 of the Government Code, as  
2 amended by Section 1 of Chapter 343 of the Statutes of 2021, is  
3 amended to read:  
4 65852.2. (a) (1) A local agency may, by ordinance, provide  
5 for the creation of accessory dwelling units in areas zoned to allow  
6 single-family or multifamily dwelling residential use. The  
7 ordinance shall do all of the following:  
8 (A) Designate areas within the jurisdiction of the local agency  
9 where accessory dwelling units may be permitted. The designation  
10 of areas may be based on the adequacy of water and sewer services

1 and the impact of accessory dwelling units on traffic flow and  
2 public safety. A local agency that does not provide water or sewer  
3 services shall consult with the local water or sewer service provider  
4 regarding the adequacy of water and sewer services before  
5 designating an area where accessory dwelling units may be  
6 permitted.

7 (B) (i) Impose *objective* standards on accessory dwelling units  
8 that include, but are not limited to, parking, height, setback,  
9 landscape, architectural review, maximum size of a unit, and  
10 standards that prevent adverse impacts on any real property that  
11 is listed in the California Register of Historical Resources. These  
12 standards shall not include requirements on minimum lot size.

13 (ii) Notwithstanding clause (i), a local agency may reduce or  
14 eliminate parking requirements for any accessory dwelling unit  
15 located within its jurisdiction.

16 (C) Provide that accessory dwelling units do not exceed the  
17 allowable density for the lot upon which the accessory dwelling  
18 unit is located, and that accessory dwelling units are a residential  
19 use that is consistent with the existing general plan and zoning  
20 designation for the lot.

21 (D) Require the accessory dwelling units to comply with all of  
22 the following:

23 (i) Except as provided in Section 65852.26, the accessory  
24 dwelling unit may be rented separate from the primary residence,  
25 but may not be sold or otherwise conveyed separate from the  
26 primary residence.

27 (ii) The lot is zoned to allow single-family or multifamily  
28 dwelling residential use and includes a proposed or existing  
29 dwelling.

30 (iii) The accessory dwelling unit is either attached to, or located  
31 within, the proposed or existing primary dwelling, including  
32 attached garages, storage areas or similar uses, or an accessory  
33 structure or detached from the proposed or existing primary  
34 dwelling and located on the same lot as the proposed or existing  
35 primary dwelling.

36 (iv) If there is an existing primary dwelling, the total floor area  
37 of an attached accessory dwelling unit shall not exceed 50 percent  
38 of the existing primary dwelling.

39 (v) The total floor area for a detached accessory dwelling unit  
40 shall not exceed 1,200 square feet.

1 (vi) No passageway shall be required in conjunction with the  
2 construction of an accessory dwelling unit.

3 (vii) No setback shall be required for an existing living area or  
4 accessory structure or a structure constructed in the same location  
5 and to the same dimensions as an existing structure that is  
6 converted to an accessory dwelling unit or to a portion of an  
7 accessory dwelling unit, and a setback of no more than four feet  
8 from the side and rear lot lines shall be required for an accessory  
9 dwelling unit that is not converted from an existing structure or a  
10 new structure constructed in the same location and to the same  
11 dimensions as an existing structure.

12 (viii) Local building code requirements that apply to detached  
13 dwellings, ~~as appropriate~~, except that the construction of an  
14 accessory dwelling unit shall not constitute an occupancy change  
15 under the local building code.

16 (ix) Approval by the local health officer where a private sewage  
17 disposal system is being used, if required.

18 (x) (I) Parking requirements for accessory dwelling units shall  
19 not exceed one parking space per accessory dwelling unit or per  
20 bedroom, whichever is less. These spaces may be provided as  
21 tandem parking on a driveway.

22 (II) Offstreet parking shall be permitted in setback areas in  
23 locations determined by the local agency or through tandem  
24 parking, unless specific findings are made that parking in setback  
25 areas or tandem parking is not feasible based upon specific site or  
26 regional topographical or fire and life safety conditions.

27 (III) This clause shall not apply to an accessory dwelling unit  
28 that is described in subdivision (d).

29 (xi) When a garage, carport, or covered parking structure is  
30 demolished in conjunction with the construction of an accessory  
31 dwelling unit or converted to an accessory dwelling unit, the local  
32 agency shall not require that those offstreet parking spaces be  
33 replaced.

34 (xii) Accessory dwelling units shall not be required to provide  
35 fire sprinklers if they are not required for the primary residence.  
36 The construction of an accessory dwelling unit shall not trigger a  
37 requirement for fire sprinklers to be installed in the proposed or  
38 existing primary dwelling.

39 (2) The ordinance shall not be considered in the application of  
40 any local ordinance, policy, or program to limit residential growth.

1 (3) A permit application for an accessory dwelling unit or a  
2 junior accessory dwelling unit shall be considered and approved  
3 ministerially without discretionary review or a hearing,  
4 notwithstanding Section 65901 or 65906 or any local ordinance  
5 regulating the issuance of variances or special use permits. The  
6 permitting agency shall ~~act on~~ *either approve or deny* the  
7 application to create an accessory dwelling unit or a junior  
8 accessory dwelling unit within 60 days from the date the local  
9 agency receives a completed application if there is an existing  
10 single-family or multifamily dwelling on the lot. If the permit  
11 application to create an accessory dwelling unit or a junior  
12 accessory dwelling unit is submitted with a permit application to  
13 create a new single-family *or multifamily* dwelling on the lot, the  
14 permitting agency may delay ~~acting on~~ *approving or denying* the  
15 permit application for the accessory dwelling unit or the junior  
16 accessory dwelling unit until the permitting agency ~~acts~~ *approves*  
17 *or denies* on the permit application to create the new single-family  
18 dwelling, but the application to create the accessory dwelling unit  
19 or junior accessory dwelling unit shall be considered without  
20 discretionary review or hearing. If the applicant requests a delay,  
21 the 60-day time period shall be tolled for the period of the delay.  
22 If the local agency has not ~~acted upon~~ *approved or denied* the  
23 completed application within 60 days, the application shall be  
24 deemed approved. A local agency may charge a fee to reimburse  
25 it for costs incurred to implement this paragraph, including the  
26 costs of adopting or amending any ordinance that provides for the  
27 creation of an accessory dwelling unit.

28 (4) *The ordinance shall require that a demolition permit for a*  
29 *detached garage that is to be replaced with an accessory dwelling*  
30 *unit be reviewed with the application for the accessory dwelling*  
31 *unit and issued at the same time.*

32 (5) *The ordinance shall not require, and the applicant shall not*  
33 *be otherwise required, to provide written notice or post a placard*  
34 *for the demolition of a detached garage that is to be replaced with*  
35 *an accessory dwelling unit, unless the property is located within*  
36 *an architecturally and historically significant historic district.*

37 ~~(4)~~

38 (6) An existing ordinance governing the creation of an accessory  
39 dwelling unit by a local agency or an accessory dwelling ordinance  
40 adopted by a local agency shall provide an approval process that

1 includes only ministerial provisions for the approval of accessory  
 2 dwelling units and shall not include any discretionary processes,  
 3 provisions, or requirements for those units, except as otherwise  
 4 provided in this subdivision. If a local agency has an existing  
 5 accessory dwelling unit ordinance that fails to meet the  
 6 requirements of this subdivision, that ordinance shall be null and  
 7 void and that agency shall thereafter apply the standards established  
 8 in this subdivision for the approval of accessory dwelling units,  
 9 unless and until the agency adopts an ordinance that complies with  
 10 this section.

11 ~~(5)~~

12 (7) No other local ordinance, policy, or regulation shall be the  
 13 basis for the delay or denial of a building permit or a use permit  
 14 under this subdivision.

15 ~~(6)~~

16 (8) This subdivision establishes the maximum standards that  
 17 local agencies shall use to evaluate a proposed accessory dwelling  
 18 unit on a lot that includes a proposed or existing single-family  
 19 dwelling. No additional standards, other than those provided in  
 20 this subdivision, shall be used or imposed, including any  
 21 owner-occupant requirement, except that a local agency may  
 22 require that the property be used for rentals of terms longer than  
 23 30 days.

24 ~~(7)~~

25 (9) A local agency may amend its zoning ordinance or general  
 26 plan to incorporate the policies, procedures, or other provisions  
 27 applicable to the creation of an accessory dwelling unit if these  
 28 provisions are consistent with the limitations of this subdivision.

29 ~~(8)~~

30 (10) An accessory dwelling unit that conforms to this  
 31 subdivision shall be deemed to be an accessory use or an accessory  
 32 building and shall not be considered to exceed the allowable density  
 33 for the lot upon which it is located, and shall be deemed to be a  
 34 residential use that is consistent with the existing general plan and  
 35 zoning designations for the lot. The accessory dwelling unit shall  
 36 not be considered in the application of any local ordinance, policy,  
 37 or program to limit residential growth.

38 (b) When a local agency that has not adopted an ordinance  
 39 governing accessory dwelling units in accordance with subdivision

40 (a) receives an application for a permit to create an accessory



1 dwelling unit pursuant to this subdivision, the local agency shall  
2 approve or disapprove the application ministerially without  
3 discretionary review pursuant to subdivision (a). The permitting  
4 agency shall ~~act on~~ *either approve or deny* the application to create  
5 an accessory dwelling unit or a junior accessory dwelling unit  
6 within 60 days from the date the local agency receives a completed  
7 application if there is an existing single-family or multifamily  
8 dwelling on the lot. If the permit application to create an accessory  
9 dwelling unit or a junior accessory dwelling unit is submitted with  
10 a permit application to create a new single-family *or multifamily*  
11 dwelling on the lot, the permitting agency may delay ~~acting on~~  
12 *approving or denying* the permit application for the accessory  
13 dwelling unit or the junior accessory dwelling unit until the  
14 permitting agency ~~acts on~~ *approves or denies* the permit application  
15 to create the new single-family dwelling, but the application to  
16 create the accessory dwelling unit or junior accessory dwelling  
17 unit shall still be considered ministerially without discretionary  
18 review or a hearing. If the applicant requests a delay, the 60-day  
19 time period shall be tolled for the period of the delay. If the local  
20 agency has not ~~acted upon~~ *approved or denied* the completed  
21 application within 60 days, the application shall be deemed  
22 approved.

23 (c) (1) Subject to paragraph (2), a local agency may establish  
24 minimum and maximum unit size requirements for both attached  
25 and detached accessory dwelling units.

26 (2) Notwithstanding paragraph (1), a local agency shall not  
27 establish by ordinance any of the following:

28 (A) A minimum square footage requirement for either an  
29 attached or detached accessory dwelling unit that prohibits an  
30 efficiency unit.

31 (B) A maximum square footage requirement for either an  
32 attached or detached accessory dwelling unit that is less than either  
33 of the following:

34 (i) 850 square feet.

35 (ii) 1,000 square feet for an accessory dwelling unit that provides  
36 more than one bedroom.

37 (C) Any other minimum or maximum size for an accessory  
38 dwelling unit, size based upon a percentage of the proposed or  
39 existing primary dwelling, or limits on lot coverage, floor area  
40 ratio, open space, and minimum lot size, for either attached or

1 detached dwellings that does not permit at least an 800 square foot  
 2 accessory dwelling unit that is at least 25 feet in height with  
 3 four-foot side and rear yard setbacks to be constructed in  
 4 compliance with all other local development standards.

5 *(D) Any requirement for a zoning clearance or separate zoning*  
 6 *review for either attached or detached dwellings that does not*  
 7 *permit at least an 800 square foot accessory dwelling unit that is*  
 8 *at least 25 feet in height with four-foot side and rear yard setbacks*  
 9 *to be constructed in compliance with all other local development*  
 10 *standards.*

11 (d) Notwithstanding any other law, a local agency, whether or  
 12 not it has adopted an ordinance governing accessory dwelling units  
 13 in accordance with subdivision ~~(a)~~, ~~shall not impose parking~~  
 14 ~~standards for an accessory dwelling unit in any of the following~~  
 15 ~~instances:~~ *(a), both of the following shall apply:*

16 *(1) The local agency shall not impose any parking standards*  
 17 *for an accessory dwelling unit in any of the following instances:*

18 ~~(1) The~~

19 *(A) Where the accessory dwelling unit is located within one-half*  
 20 *mile walking distance of public transit.*

21 ~~(2) The~~

22 *(B) Where the accessory dwelling unit is located within an*  
 23 *architecturally and historically significant historic district.*

24 ~~(3) The~~

25 *(C) Where the accessory dwelling unit is part of the proposed*  
 26 *or existing primary residence or an accessory structure.*

27 ~~(4)~~

28 *(D) When on-street parking permits are required but not offered*  
 29 *to the occupant of the accessory dwelling unit.*

30 ~~(5)~~

31 *(E) When there is a car share vehicle located within one block*  
 32 *of the accessory dwelling unit.*

33 *(F) When a permit application for an accessory dwelling unit*  
 34 *is submitted with a permit application to create a new single-family*  
 35 *dwelling on the same lot.*

36 *(2) When a permit application for an accessory dwelling unit*  
 37 *is submitted with a permit application to create new multifamily*  
 38 *dwelling units, the local agency shall reduce the number of*  
 39 *required parking spaces for the multifamily dwelling by 2 parking*

1 *spaces for each proposed detached accessory dwelling unit on the*  
2 *same lot.*

3 (e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a  
4 local agency shall ministerially approve an application for a  
5 building permit within a residential or mixed-use zone to create  
6 any of the following:

7 (A) One accessory dwelling unit and one junior accessory  
8 dwelling unit per lot with a proposed or existing single-family  
9 dwelling if all of the following apply:

10 (i) The accessory dwelling unit or junior accessory dwelling  
11 unit is within the proposed space of a single-family dwelling or  
12 existing space of a single-family dwelling or accessory structure  
13 and may include an expansion of not more than 150 square feet  
14 beyond the same physical dimensions as the existing accessory  
15 structure. An expansion beyond the physical dimensions of the  
16 existing accessory structure shall be limited to accommodating  
17 ingress and egress.

18 (ii) The space has exterior access from the proposed or existing  
19 single-family dwelling.

20 (iii) The side and rear setbacks are sufficient for fire and safety.

21 (iv) The junior accessory dwelling unit complies with the  
22 requirements of Section 65852.22.

23 (B) One detached, new construction, accessory dwelling unit  
24 that does not exceed four-foot side and rear yard setbacks for a lot  
25 with a proposed or existing single-family dwelling. The accessory  
26 dwelling unit may be combined with a junior accessory dwelling  
27 unit described in subparagraph (A). A local agency may impose  
28 the following conditions on the accessory dwelling unit:

29 (i) A total floor area limitation of not more than 800 square feet.

30 (ii) A height limitation of 25 feet.

31 (C) (i) Multiple accessory dwelling units within the portions  
32 of existing multifamily dwelling structures that are not used as  
33 livable space, including, but not limited to, storage rooms, boiler  
34 rooms, passageways, attics, basements, or garages, if each unit  
35 complies with state building standards for dwellings.

36 (ii) A local agency shall allow at least one accessory dwelling  
37 unit within an existing multifamily dwelling and shall allow up to  
38 25 percent of the existing multifamily dwelling units.

39 (D) (i) Not more than two accessory dwelling units that are  
40 located on a lot that has an existing *or proposed* multifamily

1 dwelling, but are detached from that multifamily dwelling and are  
2 subject to a height limit of 25 feet and rear yard and side setbacks  
3 of no more than 4 feet.

4 (ii) If the existing multifamily dwelling exceeds a height of 25  
5 feet or has a rear or side setback of less than 4 feet, the local agency  
6 shall not require any modification of the existing multifamily  
7 dwelling to satisfy the requirements of this subparagraph.

8 (iii) A local agency shall not reject an application to construct  
9 an accessory dwelling unit authorized under this subparagraph on  
10 the basis that the existing multifamily dwelling exceeds a height  
11 of 25 feet or has a rear or side setback of less than 4 feet.

12 (2) A local agency shall not require, as a condition for ministerial  
13 approval of a permit application for the creation of an accessory  
14 dwelling unit or a junior accessory dwelling unit, the correction  
15 of nonconforming zoning conditions.

16 (3) The installation of fire sprinklers shall not be required in an  
17 accessory dwelling unit if sprinklers are not required for the  
18 primary residence. The construction of an accessory dwelling unit  
19 shall not trigger a requirement for fire sprinklers to be installed in  
20 the proposed or existing multifamily dwelling.

21 (4) A local agency shall require that a rental of the accessory  
22 dwelling unit created pursuant to this subdivision be for a term  
23 longer than 30 days.

24 (5) A local agency may require, as part of the application for a  
25 permit to create an accessory dwelling unit connected to an onsite  
26 wastewater treatment system, a percolation test completed within  
27 the last five years, or, if the percolation test has been recertified,  
28 within the last 10 years.

29 (6) Notwithstanding subdivision (c) and paragraph (1) a local  
30 agency that has adopted an ordinance by July 1, 2018, providing  
31 for the approval of accessory dwelling units in multifamily  
32 dwelling structures shall ministerially consider a permit application  
33 to construct an accessory dwelling unit that is described in  
34 paragraph (1), and may impose *objective* standards including, but  
35 not limited to, design, development, and historic standards on said  
36 accessory dwelling units. These standards shall not include  
37 requirements on minimum lot size.

38 (f) (1) Fees charged for the construction of accessory dwelling  
39 units shall be determined in accordance with Chapter 5

1 (commencing with Section 66000) and Chapter 7 (commencing  
2 with Section 66012).

3 (2) An accessory dwelling unit shall not be considered by a  
4 local agency, special district, or water corporation to be a new  
5 residential use for purposes of calculating connection fees or  
6 capacity charges for utilities, including water and sewer service,  
7 unless the accessory dwelling unit was constructed with a new  
8 single-family dwelling.

9 (3) (A) A local agency, special district, or water corporation  
10 shall not impose any impact fee upon the development of an  
11 accessory dwelling unit less than 750 square feet. Any impact fees  
12 charged for an accessory dwelling unit of 750 square feet or more  
13 shall be charged proportionately in relation to the square footage  
14 of the primary dwelling unit.

15 (B) For purposes of this paragraph, “impact fee” has the same  
16 meaning as the term “fee” is defined in subdivision (b) of Section  
17 66000, except that it also includes fees specified in Section 66477.  
18 “Impact fee” does not include any connection fee or capacity  
19 charge charged by a local agency, special district, or water  
20 corporation.

21 (4) For an accessory dwelling unit described in subparagraph  
22 (A) of paragraph (1) of subdivision (e), a local agency, special  
23 district, or water corporation shall not require the applicant to  
24 install a new or separate utility connection directly between the  
25 accessory dwelling unit and the utility or impose a related  
26 connection fee or capacity charge, unless the accessory dwelling  
27 unit was constructed with a new single-family dwelling.

28 (5) For an accessory dwelling unit that is not described in  
29 subparagraph (A) of paragraph (1) of subdivision (e), a local  
30 agency, special district, or water corporation may require a new  
31 or separate utility connection directly between the accessory  
32 dwelling unit and the utility. Consistent with Section 66013, the  
33 connection may be subject to a connection fee or capacity charge  
34 that shall be proportionate to the burden of the proposed accessory  
35 dwelling unit, based upon either its square feet or the number of  
36 its drainage fixture unit (DFU) values, as defined in the Uniform  
37 Plumbing Code adopted and published by the International  
38 Association of Plumbing and Mechanical Officials, upon the water  
39 or sewer system. This fee or charge shall not exceed the reasonable  
40 cost of providing this service.

1 (g) This section does not limit the authority of local agencies  
 2 to adopt less restrictive requirements for the creation of an  
 3 accessory dwelling unit.

4 (h) (1) A local agency shall submit a copy of the ordinance  
 5 adopted pursuant to subdivision (a) to the Department of Housing  
 6 and Community Development within 60 days after adoption. After  
 7 adoption of an ordinance, the department may submit written  
 8 findings to the local agency as to whether the ordinance complies  
 9 with this section.

10 (2) (A) If the department finds that the local agency’s ordinance  
 11 does not comply with this section, the department shall notify the  
 12 local agency and shall provide the local agency with a reasonable  
 13 time, no longer than 30 days, to respond to the findings before  
 14 taking any other action authorized by this section.

15 (B) The local agency shall consider the findings made by the  
 16 department pursuant to subparagraph (A) and shall do one of the  
 17 following:

- 18 (i) Amend the ordinance to comply with this section.
- 19 (ii) Adopt the ordinance without changes. The local agency  
 20 shall include findings in its resolution adopting the ordinance that  
 21 explain the reasons the local agency believes that the ordinance  
 22 complies with this section despite the findings of the department.

23 (3) (A) If the local agency does not amend its ordinance in  
 24 response to the department’s findings or does not adopt a resolution  
 25 with findings explaining the reason the ordinance complies with  
 26 this section and addressing the department’s findings, the  
 27 department shall notify the local agency and may notify the  
 28 Attorney General that the local agency is in violation of state law.

29 (B) Before notifying the Attorney General that the local agency  
 30 is in violation of state law, the department may consider whether  
 31 a local agency adopted an ordinance in compliance with this section  
 32 between January 1, 2017, and January 1, 2020.

33 (i) The department may review, adopt, amend, or repeal  
 34 guidelines to implement uniform standards or criteria that  
 35 supplement or clarify the terms, references, and standards set forth  
 36 in this section. The guidelines adopted pursuant to this subdivision  
 37 are not subject to Chapter 3.5 (commencing with Section 11340)  
 38 of Part 1 of Division 3 of Title 2.

39 (j) As used in this section, the following terms mean:

1 (1) “Accessory dwelling unit” means an attached or a detached  
2 residential dwelling unit that provides complete independent living  
3 facilities for one or more persons and is located on a lot with a  
4 proposed or existing primary residence. It shall include permanent  
5 provisions for living, sleeping, eating, cooking, and sanitation on  
6 the same parcel as the single-family or multifamily dwelling is or  
7 will be situated. An accessory dwelling unit also includes the  
8 following:

9 (A) An efficiency unit.

10 (B) A manufactured home, as defined in Section 18007 of the  
11 Health and Safety Code.

12 (2) “Accessory structure” means a structure that is accessory  
13 and incidental to a dwelling located on the same lot.

14 (3) “Efficiency unit” has the same meaning as defined in Section  
15 17958.1 of the Health and Safety Code.

16 (4) “Living area” means the interior habitable area of a dwelling  
17 unit, including basements and attics, but does not include a garage  
18 or any accessory structure.

19 (5) “Local agency” means a city, county, or city and county,  
20 whether general law or chartered.

21 (6) “Nonconforming zoning condition” means a physical  
22 improvement on a property that does not conform with current  
23 zoning standards.

24 (7) *“Objective standards” means standards that involve no*  
25 *personal or subjective judgment by a public official and are*  
26 *uniformly verifiable by reference to an external and uniform*  
27 *benchmark or criterion available and knowable by both the*  
28 *development applicant or proponent and the public official prior*  
29 *to submittal.*

30 ~~(7)~~

31 (8) “Passageway” means a pathway that is unobstructed clear  
32 to the sky and extends from a street to one entrance of the accessory  
33 dwelling unit.

34 ~~(8)~~

35 (9) “Proposed dwelling” means a dwelling that is the subject of  
36 a permit application and that meets the requirements for permitting.

37 ~~(9)~~

38 (10) “Public transit” means a location, including, but not limited  
39 to, a bus stop or train station, where the public may access buses,

1 trains, subways, and other forms of transportation that charge set  
 2 fares, run on fixed routes, and are available to the public.

3 ~~(10)~~

4 (11) “Tandem parking” means that two or more automobiles  
 5 are parked on a driveway or in any other location on a lot, lined  
 6 up behind one another.

7 (k) A local agency shall not issue a certificate of occupancy for  
 8 an accessory dwelling unit before the local agency issues a  
 9 certificate of occupancy for the primary dwelling.

10 (l) Nothing in this section shall be construed to supersede or in  
 11 any way alter or lessen the effect or application of the California  
 12 Coastal Act of 1976 (Division 20 (commencing with Section  
 13 30000) of the Public Resources Code), except that the local  
 14 government shall not be required to hold public hearings for coastal  
 15 development permit applications for accessory dwelling units.

16 (m) A local agency may count an accessory dwelling unit for  
 17 purposes of identifying adequate sites for housing, as specified in  
 18 subdivision (a) of Section 65583.1, subject to authorization by the  
 19 department and compliance with this division.

20 (n) In enforcing building standards pursuant to Article 1  
 21 (commencing with Section 17960) of Chapter 5 of Part 1.5 of  
 22 Division 13 of the Health and Safety Code for an accessory  
 23 dwelling unit described in paragraph (1) or (2) ~~below~~, *below or*  
 24 *the primary dwelling for one of those units*, a local agency, upon  
 25 request of an owner of an accessory dwelling unit for a delay in  
 26 enforcement, shall delay enforcement of a building standard,  
 27 subject to compliance with Section 17980.12 of the Health and  
 28 Safety Code:

29 (1) The accessory dwelling unit was built before January 1,  
 30 2020.

31 (2) The accessory dwelling unit was built on or after January  
 32 1, 2020, in a local jurisdiction that, at the time the accessory  
 33 dwelling unit was built, had a noncompliant accessory dwelling  
 34 unit ordinance, but the ordinance is compliant at the time the  
 35 request is made.

36 SEC. 2. Section 65852.2 of the Government Code, as amended  
 37 by Section 2 of Chapter 343 of the Statutes of 2021, is repealed.

38 SEC. 3. Section 65852.22 of the Government Code is amended  
 39 to read:



1 65852.22. (a) Notwithstanding Section 65852.2, a local agency  
2 may, by ordinance, provide for the creation of junior accessory  
3 dwelling units in single-family residential zones. The ordinance  
4 may require a permit to be obtained for the creation of a junior  
5 accessory dwelling unit, and shall do all of the following:

6 (1) Limit the number of junior accessory dwelling units to one  
7 per residential lot zoned for single-family residences with a  
8 single-family residence built, or proposed to be built, on the lot.

9 ~~(2) Require owner-occupancy in the single-family residence in~~  
10 ~~which the junior accessory dwelling unit will be permitted. The~~  
11 ~~owner may reside in either the remaining portion of the structure~~  
12 ~~or the newly created junior accessory dwelling unit.~~  
13 ~~Owner-occupancy shall not be required if the owner is another~~  
14 ~~governmental agency, land trust, or housing organization.~~

15 ~~(3)~~

16 (2) Require the recordation of a deed restriction, which shall  
17 run with the land, shall be filed with the permitting agency, and  
18 shall include both of the following:

19 (A) A prohibition on the sale of the junior accessory dwelling  
20 unit separate from the sale of the single-family residence, including  
21 a statement that the deed restriction may be enforced against future  
22 purchasers.

23 (B) A restriction on the size and attributes of the junior accessory  
24 dwelling unit that conforms with this section.

25 ~~(4)~~

26 (3) Require a permitted junior accessory dwelling unit to be  
27 constructed within the walls of the proposed or existing  
28 ~~single-family residence: residence or attached to a detached~~  
29 ~~accessory dwelling unit.~~ For purposes of this paragraph, enclosed  
30 uses within the residence, such as attached garages, are considered  
31 a part of the proposed or existing single-family residence.

32 ~~(5)~~

33 (4) (A) Require a permitted junior accessory dwelling unit to  
34 include a separate entrance from the main entrance to the proposed  
35 ~~or existing single-family residence: residence or attached to a~~  
36 ~~detached accessory dwelling unit.~~

37 (B) If a permitted junior accessory dwelling unit does not include  
38 separate sanitation facilities, the permitted junior accessory  
39 dwelling unit shall include a separate entrance from the main

1 entrance to the structure, with an interior entry to the main living  
2 area.

3 ~~(6)~~

4 (5) Require the permitted junior accessory dwelling unit to  
5 include an efficiency kitchen, which shall include all of the  
6 following:

7 (A) A cooking facility with appliances.

8 (B) A food preparation counter and storage cabinets that are of  
9 reasonable size in relation to the size of the junior accessory  
10 dwelling unit.

11 (b) (1) An ordinance shall not require additional parking as a  
12 condition to grant a permit.

13 (2) This subdivision shall not be interpreted to prohibit the  
14 requirement of an inspection, including the imposition of a fee for  
15 that inspection, to determine if the junior accessory dwelling unit  
16 complies with applicable building standards.

17 (c) An application for a permit pursuant to this section shall,  
18 notwithstanding Section 65901 or 65906 or any local ordinance  
19 regulating the issuance of variances or special use permits, be  
20 considered ministerially, without discretionary review or a hearing.  
21 The permitting agency shall ~~act on~~ *either approve or deny* the  
22 application to create a junior accessory dwelling unit within 60  
23 days from the date the local agency receives a completed  
24 application if there is an existing single-family dwelling on the  
25 lot. If the permit application to create a junior accessory dwelling  
26 unit is submitted with a permit application to create a new  
27 single-family dwelling on the lot, the permitting agency may delay  
28 ~~acting on approving or denying~~ the permit application for the junior  
29 accessory dwelling unit until the permitting agency ~~acts on~~  
30 *approves or denies* the permit application to create the new  
31 single-family dwelling, but the application to create the junior  
32 accessory dwelling unit shall still be considered ministerially  
33 without discretionary review or a hearing. If the applicant requests  
34 a delay, the 60-day time period shall be tolled for the period of the  
35 delay. A local agency may charge a fee to reimburse the local  
36 agency for costs incurred in connection with the issuance of a  
37 permit pursuant to this section.

38 (d) For purposes of any fire or life protection ordinance or  
39 regulation, a junior accessory dwelling unit shall not be considered  
40 a separate or new dwelling unit. This section shall not be construed

1 to prohibit a city, county, city and county, or other local public  
2 entity from adopting an ordinance or regulation relating to fire and  
3 life protection requirements within a single-family residence that  
4 contains a junior accessory dwelling unit so long as the ordinance  
5 or regulation applies uniformly to all single-family residences  
6 within the zone regardless of whether the single-family residence  
7 includes a junior accessory dwelling unit or not.

8 (e) For purposes of providing service for water, sewer, or power,  
9 including a connection fee, a junior accessory dwelling unit shall  
10 not be considered a separate or new dwelling unit.

11 (f) This section shall not be construed to prohibit a local agency  
12 from adopting an ordinance or ~~regulation, related to parking or~~  
13 *regulation related to* a service or a connection fee for water, sewer,  
14 or power, that applies to a single-family residence that contains a  
15 junior accessory dwelling unit, so long as that ordinance or  
16 regulation applies uniformly to all single-family residences  
17 regardless of whether the single-family residence includes a junior  
18 accessory dwelling unit.

19 (g) If a local agency has not adopted a local ordinance pursuant  
20 to this section, the local agency shall ministerially approve a permit  
21 to construct a junior accessory dwelling unit that satisfies the  
22 requirements set forth in subparagraph (A) of paragraph (1) of  
23 subdivision (e) of Section 65852.2 and the requirements of this  
24 section.

25 (h) For purposes of this section, the following terms have the  
26 following meanings:

27 (1) “Junior accessory dwelling unit” means a unit that is no  
28 more than 500 square feet in size and contained entirely within a  
29 single-family residence. A junior accessory dwelling unit may  
30 include separate sanitation facilities, or may share sanitation  
31 facilities with the existing structure.

32 (2) “Local agency” means a city, county, or city and county,  
33 whether general law or chartered.

34 SEC. 4. Section 65852.23 is added to the Government Code,  
35 to read:

36 65852.23. (a) Notwithstanding any other law, and except as  
37 otherwise provided in subdivision (b), a local agency shall not  
38 deny a permit for a constructed, but unpermitted, accessory  
39 dwelling unit due to ~~either~~ any of the following:

1 (1) The accessory dwelling unit is in violation of building  
2 standards pursuant to Article 1 (commencing with Section 17960)  
3 of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety  
4 Code.

5 (2) The accessory dwelling unit does not comply with Section  
6 65852.2 or any local ordinance regulating accessory dwelling units.

7 (3) *The correction of nonconforming zoning conditions or*  
8 *unpermitted structures that are not affected by the construction of*  
9 *the accessory dwelling unit.*

10 (b) Notwithstanding subdivision (a), a local agency may deny  
11 a permit for an accessory dwelling unit subject to subdivision (a)  
12 if the local agency makes a finding that correcting the violation is  
13 necessary to protect the health and safety of the public or occupants  
14 of the structure.

15 *SEC. 5. Section 17980.12 of the Health and Safety Code is*  
16 *amended to read:*

17 17980.12. (a) (1) An enforcement agency, until January 1,  
18 2030, that issues to an owner of an accessory dwelling unit  
19 described in subparagraph (A) or (B) below, a notice to correct a  
20 violation of any provision of any building standard pursuant to  
21 this part shall include in that notice a statement that the owner of  
22 the unit has a right to request a delay in enforcement pursuant to  
23 this subdivision:

24 (A) The accessory dwelling unit was built before January 1,  
25 2020.

26 (B) The accessory dwelling unit was built on or after January  
27 1, 2020, in a local jurisdiction that, at the time the accessory  
28 dwelling unit was built, had a noncompliant accessory dwelling  
29 unit ordinance, but the ordinance is compliant at the time the  
30 request is made.

31 (2) The owner of an accessory dwelling unit that receives a  
32 notice to correct violations or abate nuisances as described in  
33 paragraph (1) may, in the form and manner prescribed by the  
34 enforcement agency, submit an application to the enforcement  
35 agency requesting that enforcement of the violation be delayed for  
36 five years on the basis that correcting the violation is not necessary  
37 to protect health and safety.

38 (3) *A delay in enforcement granted for an accessory dwelling*  
39 *unit, as described in paragraph (2), shall also apply to a violation*  
40 *of any provision of any building standard that applies to the*

1 *primary dwelling of the accessory dwelling unit, provided that*  
2 *correcting the violation is not necessary to protect health and*  
3 *safety.*

4 ~~(3)~~

5 (4) The enforcement agency shall grant an application described  
6 in paragraph (2) if the enforcement agency determines that  
7 correcting the violation is not necessary to protect health and safety.  
8 In making this determination, the enforcement agency shall consult  
9 with the entity responsible for enforcement of building standards  
10 and other regulations of the State Fire Marshal pursuant to Section  
11 13146.

12 ~~(4)~~

13 (5) The enforcement agency shall not approve any applications  
14 pursuant to this section on or after January 1, 2030. However, any  
15 delay that was approved by the enforcement agency before January  
16 1, 2030, shall be valid for the full term of the delay that was  
17 approved at the time of the initial approval of the application  
18 pursuant to paragraph~~(3)~~. (4).

19 (b) For purposes of this section, “accessory dwelling unit” has  
20 the same meaning as defined in Section 65852.2.

21 (c) This section shall remain in effect only until January 1, 2035,  
22 and as of that date is repealed.

23 ~~SEC. 5.~~

24 SEC. 6. Chapter 6.9 (commencing with Section 50678) is added  
25 to Part 2 of Division 31 of the Health and Safety Code, to read:

26

27 CHAPTER 6.9. ACCESSORY DWELLING UNIT FUNDING

28

29 50678. (a) Upon appropriation of the Legislature, the  
30 department shall establish and administer a grant program for the  
31 purpose of funding the construction and maintenance of accessory  
32 dwelling units and junior accessory dwelling units, as defined in  
33 ~~Section~~ Sections 65852.2 and 65852.22 of the Government Code.

34 (b) The California Accessory Dwelling Unit Fund is hereby  
35 established in the State Treasury. The fund shall receive all moneys  
36 derived pursuant to this chapter. Upon appropriation by the  
37 Legislature, the department shall distribute moneys in the fund to  
38 eligible recipients in accordance with this chapter.

1     ~~SEC. 6.~~  
2     *SEC. 7.* No reimbursement is required by this act pursuant to  
3 Section 6 of Article XIII B of the California Constitution because  
4 a local agency or school district has the authority to levy service  
5 charges, fees, or assessments sufficient to pay for the program or  
6 level of service mandated by this act, within the meaning of Section  
7 17556 of the Government Code.

O