

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### SENATE, No. 345

# STATE OF NEW JERSEY

DATED: MARCH 7, 2022

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 345.

The bill concerns the development of accessory dwelling units. Under this bill, an accessory dwelling unit would be permitted on a lot that contains a single-family dwelling. The bill allows a municipality to restrict occupancy of an accessory dwelling unit to those who qualify for low and moderate income housing.

The bill provides a municipal zoning ordinance may require a principal dwelling unit with an accessory dwelling unit to be subject to the same dimensional controls and other controls as are required for the same principal dwelling unit without the accessory dwelling unit, as long as such restrictions do not prohibit the construction of accessory dwelling units, as specified in the bill.

Under this bill a municipal zoning ordinance would be prohibited from requiring:

- (1) a passageway between an accessory dwelling unit and a principal dwelling unit;
- (2) an exterior door for an accessory dwelling;
- (3) any more than one parking space for an accessory dwelling unit;
- (4) a familial, marital, or employment relationship between occupants of a principal dwelling unit and an accessory dwelling unit;
- (5) a minimum age requirement for occupants of an accessory dwelling unit;
- (6) a separate billing of utilities otherwise connected to, or used by, the principal dwelling unit; or
- (7) periodic renewals for permits for accessory dwelling units.

The bill provides, however, that an accessory dwelling unit is not exempt from:

- (1) applicable building code requirements;
- (2) restrictions on the use of an accessory dwelling unit for short-term rentals or vacation stays; or
- (3) sewerage system related requirements where a private sewerage system is being used, provided that approval for an accessory dwelling unit shall not be unreasonably withheld.

The bill requires that a municipal agency not condition the approval of an accessory dwelling unit on the correction of a nonconforming use, structure or lot, or require the installation of fire

sprinklers in an accessory dwelling unit if sprinklers are not required for the principal dwelling unit located on the same developable site.

Under the bill, an accessory dwelling unit would not be considered a new residential use for the purpose of calculating or imposing connection fees or capacity charges for a purveyor of water and sewer service, unless the accessory dwelling unit is constructed together with a new single-family dwelling unit on the same lot, or requires the installation of a new or separate utility connection directly to the accessory dwelling unit.

The bill provides that a municipality may amend its land use regulations to comply with the provisions of "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), prior to January 1, 2023. On and after January 1, 2023, any provision of a municipality's land use regulations that are inconsistent with the provisions of the bill or other regulation would be null and void and a municipal agency would approve or deny applications for the development of accessory dwelling units in accordance with the requirements for regulations set forth under the bill. Under the bill, a municipality is prohibited from imposing additional standards related to the regulation of accessory dwelling units, except as provided for in the bill.

Under the bill the governing body of a municipality, by a two-thirds vote of the full authorized membership, may opt out of the allowance of accessory dwelling units, provided the governing body:

- (1) convenes a public hearing;
- (2) states upon its record the reasons for opting out; and
- (3) not later than 15 days after such decision has been rendered, notifies the Division of Local Government Services in the Department of Community Affairs (DCA) that the municipality has elected to opt out of the requirements and publishes notice of such decision in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

The bill also prohibits a zoning ordinance from:

- (1) establishing for any dwelling unit a minimum floor area that is greater than the minimum floor area set pursuant to the "State Uniform Construction Code Act," and any regulations adopted thereafter; and
- (2) requiring more than one parking space for each studio or one-bedroom dwelling unit, or more than two parking spaces for each dwelling unit with two or more bedrooms, unless the municipality opts out. The governing body of a municipality, by a two-thirds vote of the full authorized membership, may opt out regarding limitations on parking spaces for dwelling units, provided the governing body:

- (1) convenes a public hearing;
- (2) states upon its record the reasons for opting out; and
- (3) not later than 15 days after such decision has been rendered, notifies DCA that the municipality has elected to opt out of the requirements and publishes notice of such decision in the official

newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

The bill would also amend the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), to require a municipality's master plan housing element to contain a consideration of lands and existing structures that are appropriate for the development of accessory dwelling units that can provide low- and moderate-income housing, and to provide that accessory dwelling units built or permitted after January 1, 2022, would only be credited towards a municipality's fair share affordable housing obligation as the equivalent of a studio apartment, which is affordable to a one person household.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.