



June 22, 2018

The Honorable Cecilia Aguiar-Curry
Chair, Assembly Local Government Committee
State Capitol, Room 5144
Sacramento, CA 95814

**Re: SB 831 (Wieckowski): Land use: accessory dwelling units
As amended on May 25, 2018 – OPPOSE
Set for Hearing on June 27, 2018 – Assembly Local Government Committee**

Dear Assembly Member Aguiar-Curry,

The California State Association of Counties (CSAC), the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), and the League of California Cities (LCC) are opposed to Senate Bill 831 by Senator Bob Wieckowski. This bill would significantly amend the statewide standards that apply to locally-adopted ordinances concerning accessory dwelling units (ADUs), even though the law was thoroughly revised in the 2016 Legislative Session. These revisions were a product of two carefully-negotiated bills that only became effective in January 2017, with further amendments during the 2017 Legislative Session. All local agencies that worked in good faith to implement those laws would have to reopen their ordinances yet again to comply with the provisions of SB 831. Our organizations are opposed to this complete rewrite of the statutes pertaining to ADU's for the following reasons:

Differs From ADU Legislation Already Passed by the Committee. SB 831 includes several significant divergences from the policy direction indicated by the Committee's passage of AB 2890 by Assembly Member Ting in April. AB 2890 makes substantial amendments to the same sections of ADU law as SB 831. Among those key differences are a reversal of the existing law's framework for local ordinances (described below), a prohibition on owner-occupancy requirements for the creation of ADUs, an overly-broad "deemed approved" remedy based on an accelerated timeframe for application approval, and no requirement that new ministerial ADUs shall only be rented for periods of thirty days or longer.

Reverses Framework of Existing ADU Law. The current ADU statute requires local jurisdictions to designate areas within their jurisdictions where ADUs shall be permitted, while requiring ministerial approval of ADUs within existing space of a single family dwelling or an associated accessory structure. SB 831 flips this framework on its head only two years after the last major reworking of ADU law; instead requiring that ADUs be allowed in areas zoned for single-family or multifamily residential use *unless* they are precluded based on health and safety reasons. The bill requires any such prohibitions to be based on clear findings supported by substantial evidence. Local agencies are concerned that existing health and safety-focused limitations on ADUs, including prohibitions on ADUs in high fire hazard severity zones and hillside management zones, may not be able to meet this test.

Loophole around Health and Safety Prohibitions. Section 3 of SB 831 circumvents the limited health and safety controls that otherwise apply to accessory dwelling units. Specifically, up to two new-construction ADUs on a parcel with a multifamily dwelling, unlimited ADUs converted from existing space with a multifamily building, a new-construction ADU on a parcel with a single family home, and conversions of existing space to create an ADU within a single family home or associated accessory structure would have to be allowed on any residential or mixed use parcel, irrespective of prohibitions adopted pursuant to Government Code Section 65852.2 (a)(1)(A).

Precludes Legitimate Restrictions on Parcel Size and Lot Coverage. In unincorporated areas, where many parcels do not have public water or sewer service, parcel sizes and lot coverage standards are important regulatory tools for ensuring that a particular lot can actually accommodate an ADU. Instead of allowing counties to establish reasonable, generally applicable standards identifying those parcels unable to accommodate required well and septic services, this bill requires such issues to be considered on a case-by-case, which will create uncertainty and confusion for applicants. As an alternative, local agencies should be able to impose reasonable lot size or coverage standards based on health and safety issues, including, but not limited to, the State Water Resources Control Board's 2012 Onsite Wastewater Treatment Systems Policy.

Timing for Approval. We recognize that the sixty-day timeframe for permit approval is based on a similar standard for discretionary applications under the Permit Streamlining Act. We hope to work with the author to ensure that any similar timeframe for ADU permits is workable in the context of granting a ministerial permit. A "deemed approved" remedy is only appropriate in cases where the timeframe for application approval requires the submittal of a *complete* application.

Multifamily ADUs. We oppose requiring the by-right approval of standalone accessory dwelling units on parcels with existing multifamily buildings. Such a requirement would constitute a loophole around local requirements that multifamily projects include open space for the benefit of tenants, among other requirements. Moreover, reasonable limitations should be imposed on the number of additional units that may be created from existing space within multifamily buildings.

Owner Occupancy Requirements. Many local governments have elected to require owner occupancy of either the primary dwelling unit or the accessory dwelling unit when an accessory dwelling unit is constructed on a lot with a single family home. Local governments should retain the ability to include such requirements in their accessory dwelling unit ordinances.

For these reasons, we respectfully oppose SB 831. If you need additional information regarding our position on this measure, please do not hesitate to contact Christopher Lee of CSAC at (916) 327-7500 (clee@counties.org), Tracy Rhine of RCRC at (916) 447-4806 (trhine@rcrcnet.org), Jolena Voorhis of UCC at (916) 327-7531 (jolena@urbancounties.com), Jason Rhine of LCC at (916) 658-8200 (jrhine@cacities.org), or Lauren De Valencia of APA at (916) 443-5301 (lauren@stefangeorge.com).

Sincerely,



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cc: The Honorable Bob Wieckowski, Member of the State Senate
Members of the Assembly Local Government Committee
Debbie Michel, Chief Consultant, Assembly Local Government Committee
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