

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2347 and 1106**

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 15, 2024

The Senate Community and Urban Affairs Committee reports favorably a committee substitute for Senate Bill Nos. 2347 and 1106.

As substituted, this bill permits the development of accessory dwelling units (ADUs), as defined in the bill, on property zoned for single- or two-family residential use and requires a municipality to adopt one of two model ordinances promulgated by the Commissioner of Community Affairs (commissioner) pursuant to the bill.

Specifically, this bill requires a municipality to adopt one of the two model land use ordinances prescribed by the commissioner, and requires that municipal land use regulations, which differ from one of the two model land use ordinances, are to be submitted to the Department of Community Affairs within 60 days of the date of adoption for approval, pursuant to the procedures and approval process provided in the bill.

The bill further requires that an application to develop an ADU is to be considered and approved as a ministerial action, without public hearing, and without review beyond that necessary to determine compliance with the provisions of the bill. The bill requires a municipal agency to provide an applicant with its decision on an application to develop an ADU within 60 days of the date the applicant submits a complete application. Unless the applicant agrees to toll this 60-day time period, if the municipal agency does not act upon the application within the 60-day time period, the application is to be deemed approved.

If an application to develop an ADU is submitted together with an application to develop a new single-family dwelling on the same lot, upon the applicant's request, the appropriate municipal agency is to consider and act upon both applications as a single application. The bill would prohibit a municipal agency from imposing conditions, beyond those necessary to comply with the provisions of the bill, upon the approval of an application to develop an ADU, if the application is submitted together with an application to develop a new single-family dwelling on the same lot.

Additionally, the bill would prohibit a municipality from:

- interpreting and applying a provision of any other municipal ordinance, policy, or regulation so to delay or deny approval of an application to develop an ADU; or
- conditioning approval of an application to develop an ADU upon the correction of a nonconforming zoning condition.

The bill also provides that associations formed for the management of common elements and facilities of a planned real estate development are prohibited from adopting or enforcing a restriction, covenant, bylaw, rule, regulation, master deed provision, or governing document provision that prohibits or unreasonably restricts the development or use of an ADU on a lot zoned for single-family residential use if the proposed ADU is consistent with the bill's requirements. Under the bill, any such provisions are void and unenforceable if the ADU is consistent with the requirements of the bill, but certain conditions on the development of an ADU, such as certain landscape conditions, that do not unreasonably increase the cost to construct an ADU, are permitted.

The bill requires the commissioner to adopt rules and regulations as necessary to implement the provisions of the bill, which are to include the promulgation of two model ordinances as provided by the bill, one of which every municipality that seeks to promulgate any municipal land use regulations concerning ADUs is required to adopt in identical form, except as to technical distinctions necessary for the adoption of the municipal land use regulations, or as to municipal land use regulations that are approved by the commissioner pursuant to the procedures set forth in the bill. The model ordinances are to be published on the department's Internet website and conform to distinct requirements as specifically set forth in the bill.

The bill would take effect on the first day of the sixth month following the date of enactment, except that the commissioner would be permitted to take anticipatory action necessary to effectuate the provisions of the bill.