SENATE, No. 1786

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

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SYNOPSIS

Concerns development of accessory dwelling units and related regulations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 5/11/2026)

AN ACT concerning accessory dwelling units, supplementing P.L.1975, c.291 (C.40:55D-1 et seq.), and amending P.1985, c.222 (C.52:27D-301 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) a. The Legislature finds and declares that:

(1) The State of New Jersey faces a significant housing shortage that has negatively impacted opportunities for homeownership and housing across generations and income levels. To meet its residents' housing needs, the State has an interest in providing a variety of housing options that are versatile and suitable for persons of differing incomes, including young-adult and senior family members, persons with disabilities, veterans, students, and workers.

(2) Accessory dwelling units are an underused housing option that may help the State meet its housing needs in a manner that is cost-effective for residents and municipalities and consistent with smart planning and sustainability principles.

(3) Accessory dwelling units often provide housing at below-market prices within existing neighborhoods.

(4) Accessory dwelling units may serve as a source of income for homeowners or an opportunity for them to provide housing for family members without compromising privacy.

(5) Accessory dwelling units may offer a lower-cost option to increase housing availability on developed land within a community while maintaining the architectural character of a community.

b. It is the intent of the Legislature that municipal land use regulations authorize, not prohibit or restrict, the development of accessory dwelling units, which comply with the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

2. (New section) As used in sections 1 through 7 of P.L. , c. (C. through C.) (pending before the Legislature as this bill):

"Accessory dwelling unit" means a residential dwelling unit that provides complete independent living facilities for one or more persons on the same lot as a primary dwelling. An "accessory dwelling unit" may be: located within a primary dwelling; located within an accessory structure; constructed in whole or part as an extension to a primary dwelling; or constructed as a separate, detached structure on the same lot as a primary dwelling.

"Accessory structure" means a structure that is accessory, and incidental to, a primary dwelling.

"Agency" means an agency of a municipality.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

"Buildable area" means that area within the rear yard of a lot on which a primary dwelling is located that is beyond a five-foot setback line from the side and rear property lines.

"Commissioner" means the Commissioner of Community Affairs.

"Complete application" means a description of the proposed accessory dwelling unit, a floor plan, and, for any proposed accessory dwelling unit that requires the construction of a detached unit or addition to a preexisting dwelling, a property survey.

"Complete independent living facilities" means space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

"Department" means the Department of Community Affairs.

"Dwelling" means a building or structure or part thereof containing one or more dwelling units.

"Dwelling unit" means a room or group of rooms, or any part thereof, located within a building and forming a single habitable unit with facilities, which are used, or designed to be used, for living, sleeping, cooking, and eating.

"Lot" means a designated parcel, tract, or area of land, established by a plat or otherwise, as permitted by law, to be used, developed, or built upon as a dwelling unit.

"Personal purpose" means occupancy of an accessory dwelling unit by the property owner, family members, or non-paying guests, and excludes the use of the accessory dwelling unit as a rental property for compensation.

"Primary dwelling" means a single-family or two-family dwelling proposed or existing on a lot in an area in which single-family and two-family dwellings are permitted uses.

"Single-family dwelling" means a dwelling that is detached or semi-detached, including a row house or townhouse that is not part of a planned real estate development, as defined pursuant to subsection h. of section 3 of P.L.1977, c.419 (C.45:22A-23), which contains a dwelling unit designed for residential use by one family on an individual lot in an area in which single-family dwellings are permitted uses.

"Two-family dwelling" means a dwelling that contains two separate dwelling units, whether separated horizontally or vertically, which are designed for residential use by two families on an individual lot in an area in which two-family dwellings are permitted uses.

3. (New section) a. No municipal ordinance or resolution shall prohibit or restrict the development of an accessory dwelling unit that complies with the requirements of P.L. , c. (C.) (pending before the Legislature as this bill) if the municipality:

(1) has a population density of less than 9,000 people per square mile, as determined by the most recent federal decennial census; or

(2) has a population density of greater than or equal to 9,000 people per square mile, as determined by the most recent federal decennial census, and has adopted an ordinance or resolution to permit the development of accessory dwelling units as of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

The proposed or actual use of an accessory dwelling unit shall be a permitted use as of right if the accessory dwelling unit is used or intended to be used for personal purposes. The provisions of P.L. , c. (C.) (pending before the Legislature as this bill) shall not apply to a municipality that has adopted an ordinance or resolution permitting and providing a reasonable opportunity for the development of accessory dwelling units, which has taken effect on or before January 1, 2025, and still remains in effect.

b. (1) Within 90 days of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), a municipality that meets the requirements of subsection a. of this section shall adopt a municipal ordinance incorporating the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) and shall follow the requirements of the ordinance in approving or denying an application for development of an accessory dwelling unit.

(2) A municipality that has a population density of greater than or equal to 9,000 people per square mile, as determined by the most recent federal decennial census, that has not adopted a municipal ordinance to permit the development of accessory dwelling units as of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) and elects to adopt such ordinance shall incorporate the provisions of subsection c. of this section into the ordinance and shall follow the requirements of the ordinance in approving or denying an application for development of an accessory dwelling unit.

c. A municipal ordinance adopted pursuant to subsection b. of this section shall provide that:

(1) An accessory dwelling unit may only be developed on a lot upon which a single-family dwelling or two-family dwelling is a permitted use, unless the applicable municipal zoning ordinance permits development of an accessory dwelling unit at other locations;

(2) An accessory dwelling unit shall contain at least 300 square feet of complete independent living facilities per unit;

(3) The height of a proposed accessory dwelling unit shall not exceed the height of the primary dwelling;

(4) An accessory dwelling unit shall not be located closer than five feet from the lot line;

(5) An accessory dwelling unit may provide direct exterior access that is separate from the direct exterior access for the primary dwelling;

(6) Additional off-street parking for an accessory dwelling unit shall not be required; and

(7) The installation of fire sprinklers shall not be required in an accessory dwelling unit that is within, or an extension to, a preexisting primary dwelling that is not required to install fire sprinklers.

d. A municipal land use ordinance may include one or more of the following provisions:

(1) reasonable landscaping standards for detached accessory dwelling units;

(2) architectural review requirements for an application for development of an accessory dwelling unit within an area designated as a historic district, if the development requires either new construction or exterior modification of an existing structure;

(3) an accessory dwelling unit shall not be rented for a period of less than 30 days and may set forth penalties that may be imposed upon the owner of an accessory dwelling unit that violates this paragraph;

(4) an accessory dwelling unit is a permitted use in addition to those types of zoning districts identified in P.L. , c. (C.) (pending before the Legislature as this bill); or

(5) the maximum size of an accessory dwelling unit that is constructed separately from a primary dwelling shall be limited to a square footage that is not in excess of 60 percent of the lot's buildable area.

4. (New section) A homeowner may file an application for development of an accessory dwelling unit with a municipal agency on a lot zoned for residential single-family or two-family dwellings.

5. (New section) A municipal agency shall not approve an application for development of an accessory dwelling unit if:

a. the proposed development site is located within an area in which there exists insufficient public sewer or water service, and within which there exists severe constraints on the use of wells or septic tanks, as determined by a competent authority, so to render the addition of a dwelling unit hazardous to the public health; or

b. the proposed site is located on a lot that cannot accommodate a 300 square foot structure without violating the minimum sideyard or rearyard setback requirements of paragraph (4) of subsection c. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

6. (New section) a. (1) A municipal agency shall consider and approve an application for development of an accessory dwelling unit as a ministerial action without a public hearing or review beyond that which is necessary to determine an applicant's compliance with the provisions of P.L. , c. (C.) (pending

before the Legislature as this bill). A municipal agency may charge an applicant a reasonable fee for submitting an application for development of an accessory dwelling unit, which fee may cover the costs associated with reviewing and approving the application for development, and may, for any development application, impose a surcharge in an amount necessary to cover the anticipated costs the municipality may incur complying with P.L. , c. (C.) (pending before the Legislature as this bill). .

(2) A municipal agency shall provide a written decision on an application for development of an accessory dwelling unit to the applicant within 60 days of the date on which the applicant submitted a complete application. If the municipal agency does not act upon a complete application within the 60-day time period, the application shall be deemed approved, unless an applicant agrees to extend the deadline. If the municipality or municipal agency denies an application, the written decision shall explain in detail the reason for the denial and provide recommendations to correct any application deficiencies.

(3) If a property owner submits an application for development of an accessory dwelling unit to a municipal agency together with an application to develop a new single-family or two-family dwelling on the same lot, upon the applicant's request, the municipal agency shall consider and act upon both applications within the timeframe that governs single-family or two-family dwellings respectively. A municipal agency that approves an application for development of an accessory dwelling unit that is submitted together with an application for development of a new single-family dwelling on the same lot, shall not impose conditions or requirements on development of the accessory dwelling unit beyond those set forth in P.L. , c. (C.) (pending before the Legislature as this bill).

b. A municipality shall not interpret or apply a provision of any other municipal ordinance, policy, or regulation so as to delay or deny approval of an application for development of an accessory dwelling unit.

c. A municipality shall not condition approval of an application for development of an accessory dwelling unit upon the correction of a nonconforming zoning condition.

d. (1) For an accessory dwelling unit created within an existing primary dwelling, or as an extension of an existing primary dwelling, the municipal agency shall not require installation of a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit is constructed together with a new single-family dwelling.

(2) For an accessory dwelling unit that is created as a separate structure that is not part of an existing primary dwelling, the municipal agency may require installation of a new or separate

utility connection directly between the accessory dwelling unit and the utility, in which case the connection may be subject to a connection fee or capacity charge that shall be no more than half the fee charged for a new primary dwelling and shall not exceed the reasonable cost of providing this service.

e. Nothing contained in this section shall supersede provisions of the State Uniform Construction Code, promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), applicable to the construction of an accessory dwelling unit; provided, however, that with respect to an accessory dwelling unit or part thereof being constructed within an existing primary dwelling, the provisions of the rehabilitation subcode adopted pursuant to subsection b. of section 5 of P.L.1975, c.217 (C.52:27D-123) shall apply.

f. An enforcing agency shall not issue a certificate of occupancy for an accessory dwelling unit prior to issuing a certificate of occupancy for the primary dwelling.

7. (New section) A municipality shall certify its compliance with the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) to the department within 60 days of the date that the municipality adopts a municipal ordinance incorporating the provisions of P.L. , c. (C.) (pending before the Legislature as this bill). A municipality that does not comply with the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) may be subject to penalties or other action as deemed appropriate by the department.

8. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to read as follows:

4. As used in P.L.1985, c.222 (C.52:27D-301 et al.):

a. "Council" means the Council on Affordable Housing established in P.L.1985, c.222 (C.52:27D-301 et al.), abolished pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1).

b. "Housing region" means a geographic area established pursuant to subsection b. of section 6 of P.L.2024, c.2 (C.52:27D-304.2).

c. "Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

d. "Moderate-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by

households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

e. (Deleted by amendment, P.L.2024, c.2)

f. "Inclusionary development" means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate-income households.

g. "Conversion" means the conversion of existing commercial, industrial, or residential structures for low- and moderate-income housing purposes where a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate-income households.

h. "Development" means any development for which permission may be required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

i. "Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et seq.).

j. "Prospective need" means a projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c.2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations.

k. "Person with a disability" means a person with a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, aging, or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, the inability to speak or a speech impairment, or physical reliance on a service animal, wheelchair, or other remedial appliance or device.

l. "Adaptable" means constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and in accordance with the provisions of section 5 of P.L.2005, c.350 (C.52:27D-123.15).

m. "Very low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or

less of the median gross household income for households of the same size within the housing region in which the housing is located.

n. "Accessory dwelling unit" means a residential dwelling unit that provides complete independent living facilities **[**with a private entrance**]** , as the term is defined pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), for one or more persons **[**, consisting of provisions for living, sleeping, eating, sanitation, and cooking, including a stove and refrigerator, and is**]** on the same lot as the primary dwelling. An "accessory dwelling unit" may be: located within a **[**proposed or existing**]** primary dwelling **[**,**]** ; located within an **[**existing or proposed**]** accessory structure **[**that is accessory to a dwelling on the same lot,**]** ; constructed in whole or part as an extension to a **[**proposed or existing**]** primary dwelling **[**,**]** ; or constructed as a separate, detached structure on the same lot as **[**the existing or proposed**]** a primary dwelling.

o. "Builder's remedy" means court-imposed, site-specific relief for a litigant who seeks to build affordable housing for which the court requires a municipality to utilize zoning techniques, such as mandatory set-asides or density bonuses, including techniques which provide for the economic viability of a residential development by including housing that is not for low- and moderate-income households.

p. "Commissioner" means the Commissioner of Community Affairs.

q. "Compliance certification" means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a "judgment of compliance" or "judgment of repose." The term "compliance certification" shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313).

r. "County-level housing judge" means a judge appointed pursuant to section 5 of P.L.2024, c.2 (C.52:27D-313.2), to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal fair share plans and housing elements, with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

s. "Deficient housing unit" means housing that: (1) is over fifty years old and overcrowded; (2) lacks complete plumbing; or (3) lacks complete kitchen facilities.

t. "Department" means the Department of Community Affairs.

u. "Exclusionary zoning litigation" means litigation to challenge the fair share plan, housing element, or ordinances or resolutions implementing the fair share plan or housing element of a

municipality based on alleged noncompliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder's remedy.

v. "Fair share plan" means the plan or proposal that is in a form which may readily be adopted, with accompanying ordinances and resolutions, pursuant to subsection f. of section 3 of P.L.2024, c.2 (C.52:27D-304.1), by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use regulations.

w. "Highlands-conforming municipality" means a municipality that has adopted a land development ordinance implementing the municipality's plan conformance petition and which land development ordinance has been certified by the Highlands Water Protection and Planning Council as consistent with the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et seq.), the Highlands regional master plan, and the municipality's plan conformance approval. The term "land development ordinance" shall be inclusive of any amendment to the municipality's land development ordinances that is adopted to further the municipality's petition of plan conformance.

x. "Housing element" means that portion of a municipality's master plan consisting of reports, statements, proposals, maps, diagrams, and text designed to meet the municipality's fair share of its region's present and prospective housing needs, particularly with regard to low- and moderate-income housing, and which shall contain the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. of section 3 of P.L.2024, c.2 (C.52:27D-304.1).

y. "Program" means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.2024, c.2 (C.52:27D-313.2).

z. "State Development and Redevelopment Plan" or "State Plan" means the plan prepared pursuant to sections 1 through 12 of the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), designed to represent a balance of development and conservation objectives best suited to meet the needs of the State, and for the purpose of coordinating planning activities and establishing Statewide planning objectives in the areas of land use, housing, economic development, transportation, natural resource

conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination pursuant to subsection f. of section 5 of P.L.1985, c.398 (C.52:18A-200).

aa. "Transitional housing" means temporary housing that:

(1) includes, but is not limited to, single-room occupancy housing or shared living and supportive living arrangements;

(2) provides access to on-site or off-site supportive services for very low-income households who have recently been homeless or lack stable housing;

(3) is licensed by the department; and

(4) allows households to remain for a minimum of six months.

(cf: P.L.2024, c.2, s.2)

9. The Commissioner of Community Affairs shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations as necessary to implement the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

10. This act shall take effect immediately.

STATEMENT

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.