

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 891

(Senators M. Washington and Kagan)

Education, Energy, and the Environment

Environment and Transportation

Land Use and Real Property - Accessory Dwelling Units - Requirements and Prohibitions

This bill establishes a State policy to promote and encourage the creation of accessory dwelling units (ADUs) on land with a single-family detached dwelling unit as the primary dwelling unit, to meet housing needs. The bill also (1) requires adoption of specified local laws authorizing ADUs; (2) prohibits a restriction on use of a property from unreasonably limiting the ability of an owner to develop or offer for rent an ADU; and (3) authorizes homeowners associations (HOAs) to treat an ADU as a separate lot for purposes of voting and assessments.

Fiscal Summary

State Effect: The bill is not expected to directly affect State finances.

Local Effect: Local government finances may be affected, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Policy of the State – and – Effect on Local Zoning Authority

The bill establishes that it is the policy of the State to promote and encourage the creation of ADUs on land with a single-family detached dwelling unit as the primary dwelling unit in order to meet the housing needs of the citizens of Maryland.

The bill defines an ADU as a secondary dwelling unit that is (1) on the same lot, parcel, or tract as a primary single-family detached dwelling unit and (2) not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit. An ADU includes a structure that is separate from, or attached as an addition to, the primary single-family detached dwelling unit.

Except as provided in the bill, the bill does not alter or abrogate any zoning power or related authority granted to a local jurisdiction under Title 4 (“Zoning”) of the Land Use Article; however, local jurisdictions must establish policies that further the intent of the bill.

Adoption of Local Law Authorizing Accessory Dwelling Units

The bill requires each legislative body of a local jurisdiction (county or municipality) to adopt – by October 1, 2026 – a local law authorizing the development of ADUs in accordance with the bill. A local law adopted under the bill must:

- provide for construction of ADUs that meet public health, safety, and welfare standards, including relevant building codes and adequate public facilities provisions;
- exclude the development of an ADU from the calculation of density and application of any residential growth limitation measures; and
- not establish setback requirements that exceed the existing accessory structure setback requirements from the side and rear lot lines.

A local law adopted under the bill may:

- establish standards for ADU safety;
- prohibit the full or partial conversion of an accessory structure as an ADU if the only vehicular access to the accessory structure is from an alley; and
- establish additional off-street parking requirements (provided a parking study is completed and a waiver process is established) that consider, among other things, the cost to construct off-street parking, and whether sufficient curb area exists along the front line of the property to accommodate on-street parking.

Restrictions on Use

Except for historic property listed in or eligible for the Maryland Register of Historic Properties, the bill establishes that if a property owner has the exclusive right to use the property and abides by all applicable laws and regulations, a restriction on use (*e.g.*, a covenant, restriction, or condition in a deed, a contract, a security instrument, or HOA bylaws or rules) regarding land use may not impose or act to impose an unreasonable

limitation on the ability of the property owner to develop or offer for rent an ADU. An unreasonable limitation (1) includes a limitation that prohibits, either explicitly or by effect of the restrictions, the development of an ADU and (2) does not include a limitation on the short-term rental of an ADU.

Homeowners Association Voting and Assessments

The bill authorizes the governing body of an HOA to treat an ADU as a separate lot for purposes of voting on HOA matters and levying assessments.

Current Law: There are no statewide requirements governing ADUs. State law specifies that it is the policy of the State that (1) the orderly development and use of land and structures requires comprehensive regulation through implementation of planning and zoning controls and (2) planning and zoning controls must be implemented by local government. State law includes various provisions authorizing local governments to regulate the location, size, and use of structures through zoning regulations.

Chapters 798 and 799 of 2023 established an Accessory Dwelling Unit Policy Task Force staffed by the Maryland Department of Planning (MDP) that was required to [report](#) its findings and recommendations by June 1, 2024.

Local Fiscal Effect: Local government expenditures and revenues may be affected by the bill, as a result of (1) local jurisdictions' development and adoption of local laws, pursuant to the bill, including any costs of a parking study (required under the bill if parking requirements are established) and (2) any increased expenditures and fee revenues associated with review and approval of ADU development that does not occur in the absence of the bill.

The net direct impact of the bill on local government finances, however, cannot be reliably estimated, and local jurisdictions indirectly benefit from increased housing for jurisdiction residents resulting from ADU development.

MDP notes that, as part of the Accessory Dwelling Unit Policy Task Force's work, the department conducted an inventory of ADU ordinances, and of the 155 counties and municipalities inventoried, 81 jurisdictions (52%) had some form of ADU provisions in their zoning regulations.

Small Business Effect: Small businesses engaged in construction, and small business owners of single-family residential properties, may meaningfully benefit from increased development of ADUs resulting from the bill.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 871 and HB 1259 of 2022.

Designated Cross File: HB 1466 (Delegate Stewart, *et al.*) - Environment and Transportation.

Information Source(s): Maryland Association of County Health Officers; Kent, Montgomery, Washington, and Worcester counties; Maryland Association of Counties; Washington Suburban Sanitary Commission; Maryland Municipal League; Office of the Attorney General (Consumer Protection Division); Secretary of State; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Maryland Department of Planning; Department of Legislative Services

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