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AB-587 Accessory dwelling units: sale or separate conveyance. (2019-2020)

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Assembly Bill No. 587

CHAPTER 657

An act to add Section 65852.26 to the Government Code, relating to land use.

[Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 587, Friedman. Accessory dwelling units: sale or separate conveyance.

The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and requires a local agency that has not adopted an ordinance to ministerially approve an application for an accessory dwelling unit, and sets forth required ordinance standards, including that the ordinance prohibit the sale or conveyance of the accessory dwelling unit separately from the primary residence.

Existing property tax law establishes a welfare exemption under which property is exempt from taxation if the property is owned and operated by a nonprofit corporation that is organized and operated for the purpose of building and rehabilitating single-family or multifamily residences for sale, as provided, at cost to low-income families.

This bill would authorize a local agency to allow, by ordinance, an accessory dwelling unit that was created pursuant to the process described above to be sold or conveyed separately from the primary residence to a qualified buyer if certain conditions are met. Those conditions include, among others, that the property was built or developed by a qualified nonprofit corporation that is receiving the above-described welfare exemption, a recorded contract exists between the qualified buyer and the qualified nonprofit corporation that imposes an enforceable restriction upon the sale and conveyance of the property that ensures the property will be preserved for affordable housing, and that the property is held pursuant to a recorded tenancy in common agreement that includes specified provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65852.26 is added to the Government Code, immediately following Section 65852.25, to read:

65852.26. (a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

- (1) The property was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.