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SENATE BILL NO. 304

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government)
(Patron Prior to Substitute—Senator Salim)
Senate Amendments in [] - February 7, 2024

A BILL to amend the Code of Virginia by adding a section numbered 15.2-2292.2, relating to zoning; development and use of accessory dwelling units.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2292.2 as follows:

§ 15.2-2292.2. Development and use of accessory dwelling units.

A. As used in this section, "accessory dwelling unit" or "ADU" means an independent dwelling unit on a residential dwelling lot with its own living, bathroom, and kitchen space. An ADU is accessory to and within, attached to, or detached from the single-family dwelling that is the primary use on the lot.

B. Zoning ordinances for single-family residential zoning districts shall be deemed to include accessory dwelling units as a permitted accessory use, and no locality shall require a special use permit for an ADU or compliance with any other requirements except as provided in this section.

C. Any person proposing an ADU shall first obtain an ADU permit from the locality, for which the locality may charge a fee of no more than \$250. A locality shall issue the permit if the applicant demonstrates that the ADU complies with the requirements outlined in this section.

D. Localities may require the following:

1. No more than one ADU to be located on a lot with a single-family dwelling;

2. A lease term for the rental of the ADU of 30 consecutive days or longer;

3. Replacement of a primary dwelling's required parking if the construction of the ADU eliminates such parking;

4. Dedicated parking for the ADU;

5. Square footage of the ADU to not exceed 1,500 square feet or 50 percent of the primary dwelling's square footage, whichever is less;

6. Compliance with (i) building codes; (ii) water, sewer, septic, emergency access, and stormwater requirements; and (iii) historic and architectural districts and corridor protection restrictions;

7. Owner occupancy of the ADU or the primary dwelling, but not both; and

8. That the ADU shall be no more than 500 feet from the primary dwelling.

E. Localities shall not require the following:

1. Rear or side setbacks for the ADU that are greater than the setback required for the primary dwelling, or [four feet the setback required for accessory structures on the residential lot], whichever is less; and

2. Consanguinity or affinity between the occupants of the ADU and the primary dwelling.

F. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.).

G. Nothing in this section shall apply to any existing permits for an ADU approved by the locality prior to [January July] 1, 2025.

H. Nothing in this section shall be construed to restrict a locality's passage prior to July 1, 2025, of an ADU ordinance that substantially complies with the requirements of this section or its regulation of short-term rentals.

I. Nothing in this section shall apply to a locality that adopted an ADU ordinance prior to January 1, 2024, if such ordinance does not deem an attached or detached ADU to be a special use.

2. That the provisions of this act shall become effective on July 1, 2025.

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