

HB0398S01 compared with HB0398

~~{Omitted text}~~ shows text that was in HB0398 but was omitted in HB0398S01

inserted text shows text that was not in HB0398 but was inserted into HB0398S01

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Auxiliary Housing Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Steve Eliason
Senate Sponsor:

13 **LONG TITLE**

14 **General Description:**

15 This bill amends provisions regarding auxiliary housing.

16 **Highlighted Provisions:**

17 This bill:

- 18 ▶ ~~{amends provisions of owner-occupancy requirements for primary dwelling units; and }~~
- 19 ▶ requires municipalities and counties process land use applications to build an internal accessory dwelling unit within a certain time;
- 20 ▶ allows an applicant to submit a land use application to the Division of Facilities and Construction Management under certain circumstances; and
- 21 ▶ makes technical changes and conforming changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 AMENDS:

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19 **10-9a-530** , as last amended by Laws of Utah 2023, Chapter 501 , as last amended by Laws of Utah
2023, Chapter 501

20 **17-27a-526** , as last amended by Laws of Utah 2023, Chapter 501 , as last amended by Laws of
Utah 2023, Chapter 501

21

22 *Be it enacted by the Legislature of the state of Utah:*

23 Section 1. Section **10-9a-530** is amended to read:

24 **10-9a-530. Internal accessory dwelling units.**

22 (1) As used in this section:

23 (a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

24 (i) within a primary dwelling;

25 (ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal
accessory dwelling unit is created; and

27 (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

28 (b)

(i) "Primary dwelling" means a single-family dwelling that ~~{:}{ } is detached.~~

29 ~~{(A) is detached; and}~~

30 ~~{(B) is occupied as the primary residence of the owner of record.}~~

31 (ii) "Primary dwelling" includes a garage if the garage:

32 (A) is a habitable space; and

33 (B) is connected to the primary dwelling by a common wall.

34 (2) In any area zoned primarily for residential use:

35 (a) the use of an internal accessory dwelling unit is a permitted use;

36 (b) except as provided in Subsections (3) and ~~[(4)] (7)~~, a municipality may not establish any restrictions
or requirements for the construction or use of one internal accessory dwelling unit within a primary
dwelling, including a restriction or requirement governing:

40 (i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

41 (ii) total lot size;

42 (iii) street frontage; ~~{ or }~~

43 (iv) internal connectivity; ~~{ and }~~ ~~or }~~

44 ~~{(v) owner-occupancy of the primary dwelling; and }~~

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- 45 (c) a municipality's regulation of architectural elements for internal accessory dwelling units shall be
consistent with the regulation of single-family units, including single-family units located in historic
districts.
- 48 (3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.
- 52 (4) A municipality shall:
- 53 (a) within 14 days from the day that the municipality receives a completed land application from
a home owner to build an internal accessory dwelling unit, process the land use application in
accordance with Sections 10-9a-509 and 10-9a-509.5;
- 56 (b)
- (i) within seven days from the day the municipality receives the application described in Subsection (4)
(a), notify the applicant whether the land use application is complete or incomplete;
- 59 (ii) if the application described in Subsection (4) is incomplete, notify the applicant in writing of the
reason for an incomplete application; and
- 61 (iii) give the applicant 10 days from the day in which notice is provided under Subsection (4)(b) to cure
any defects in the application; and
- 63 (c) within 10 days from the day that the applicant submits the correct application, approve the land use
application.
- 65 (5) If a municipality fails to process a land use application in accordance with Subsection (4), the
applicant may submit the land use application to the Division of Facilities and Construction
Management.
- 68 (6) The Division of Facilities and Construction Management may charge the municipality for the cost of
processing the land use application.
- 50 ~~(4)~~ (7) A municipality may:
- 51 (a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;
- 53 (b) require that an internal accessory dwelling unit be designed in a manner that does not change the
appearance of the primary dwelling as a single-family dwelling;
- 55 (c) require a primary dwelling:
- 56 (i) regardless of whether the primary dwelling is existing or new construction, to include one additional
on-site parking space for an internal accessory dwelling unit, in addition to the parking spaces
required under the municipality's land use regulation, except that if the municipality's land use

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- ordinance requires four off-street parking spaces, the municipality may not require the additional space contemplated under this Subsection ~~[(4)(e)(i);]~~ (7)(c)(i); and
- 62 (ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is a habitable space;
- 65 (d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;
- 67 (e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;
- 69 (f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:
- 71 (i) 25% or less of the total area in the municipality that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units that:
- 74 (A) have a final plat approval dated on or after October 1, 2021; and
- 75 (B) comply with applicable land use regulations; or
- 76 (ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;
- 79 (g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;
- 81 (h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;
- 83 (i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;
- 85 ~~{(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;}~~
- 88 ~~{(k){} {(j)-}~~ hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection ~~[(5);]~~ (8); and
- 90 ~~{(l){} {(k)-}~~ record a notice for an internal accessory dwelling unit in accordance with Subsection ~~[(6);]~~ (9).
- 92 ~~[(5)]~~ (8)

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- (a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:
- 95 (i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection ~~[(4);]~~ (7);
- 97 (ii) the municipality provides a written notice of violation in accordance with Subsection ~~[(5)(b);]~~ (8)(b);
- 99 (iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection ~~[(5)(d);]~~ (8)(d), if the owner files a written objection in accordance with Subsection ~~[(5)(b)(iv);]~~ (8)(b)(iv);
- 102 (iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection ~~[(5)(b);]~~ (8)(b);
- 104 (v) the municipality provides a written notice of lien in accordance with Subsection ~~[(5)(e);]~~ (8)(c); and
- 106 (vi) the municipality records a copy of the written notice of lien described in Subsection ~~[(5)(a)(v)]~~ (8)(a)(v) with the county recorder of the county in which the property is located.
- 109 (b) The written notice of violation shall:
- 110 (i) describe the specific violation;
- 111 (ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:
- 113 (A) no less than 14 days after the day on which the municipality sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or
- 117 (B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;
- 119 (iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection ~~[(5)(b)(ii);]~~ (8)(b)(ii), the municipality may hold a lien against the property in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires;
- 123 (iv) notify the owner of the property:
- 124 (A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

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- 127 (B) of the name and address of the municipal office where the owner may file the written objection;
129 (v) be mailed to:
- 130 (A) the property's owner of record; and
131 (B) any other individual designated to receive notice in the owner's license or permit records; and
133 (vi) be posted on the property.
- 134 (c) The written notice of lien shall:
- 135 (i) comply with the requirements of Section 38-12-102;
136 (ii) state that the property is subject to a lien;
137 (iii) specify the lien amount, in an amount of up to \$100 for each day of violation after the day on which
the opportunity to cure the violation expires;
- 139 (iv) be mailed to:
- 140 (A) the property's owner of record; and
141 (B) any other individual designated to receive notice in the owner's license or permit records; and
143 (v) be posted on the property.
- 144 (d)
- (i) If an owner of property files a written objection in accordance with Subsection ~~[(5)(b)(iv),]~~ (8)(b)
(iv), the municipality shall:
- 146 (A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to
conduct a review and determine whether the specific violation described in the written notice of
violation under Subsection ~~[(5)(b)]~~ (8)(b) has occurred; and
- 150 (B) notify the owner in writing of the date, time, and location of the hearing described in Subsection
(5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.
- 153 (ii) If an owner of property files a written objection under Subsection ~~[(5)(b)(iv),]~~ (8)(b)(iv), a
municipality may not record a lien under this Subsection ~~[(5)]~~ (8) until the municipality holds a
hearing and determines that the specific violation has occurred.
- 156 (iii) If the municipality determines at the hearing that the specific violation has occurred, the
municipality may impose a lien in an amount of up to \$100 for each day of violation after the day on
which the opportunity to cure the violation expires, regardless of whether the hearing is held after
the day on which the opportunity to cure the violation has expired.
- 161 (e) If an owner cures a violation within the time period prescribed in the written notice of violation
under Subsection ~~[(5)(b),]~~ (8)(b), the municipality may not hold a lien against the property, or

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impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection ~~[(5)(b)].~~ [(8)(b)].

165 ~~[(6)]~~ [(9)]

(a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

170 (b) The notice described in Subsection ~~[(6)(a)]~~ [(9)(a)] shall include:

171 (i) a description of the primary dwelling;

172 (ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

174 (iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.

176 (c) The municipality shall, upon recording the notice described in Subsection ~~[(6)(a)].~~ [(9)(a)], deliver a copy of the notice to the owner of the internal accessory dwelling unit.

201 Section 2. Section **17-27a-526** is amended to read:

202 **17-27a-526. Internal accessory dwelling units.**

180 (1) As used in this section:

181 (a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

182 (i) within a primary dwelling;

183 (ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

185 (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

186 (b)

(i) "Primary dwelling" means a single-family dwelling that ~~{(A)} is detached.~~

187 {(A) is detached; and}

188 {(B) is occupied as the primary residence of the owner of record.}

189 (ii) "Primary dwelling" includes a garage if the garage:

190 (A) is a habitable space; and

191 (B) is connected to the primary dwelling by a common wall.

192 (2) In any area zoned primarily for residential use:

193 (a) the use of an internal accessory dwelling unit is a permitted use;

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- 194 (b) except as provided in Subsections (3) and ~~[(4)]~~ (7), a county may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:
- 198 (i) the size of the internal accessory dwelling unit in relation to the primary dwelling;
- 199 (ii) total lot size;
- 200 (iii) street frontage; ~~{ or }~~
- 201 (iv) internal connectivity; ~~{ and }~~ or
- 202 ~~{ (v) owner-occupancy of the primary dwelling; and }~~
- 203 (c) a county's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family units, including single-family units located in historic districts.
- 206 (3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.
- 230 (4) A county shall:
- 231 (a) within 14 days from the day that the county receives a completed land application from a home owner to build an internal accessory dwelling unit, process the land use application in accordance with Sections 17-27a-508 and 17-27a-509.5;
- 234 (b)
- (i) within seven days from the day the county receives the application described in Subsection (4)(a), notify the applicant whether the land use application is complete or incomplete;
- 237 (ii) if the application described in Subsection (4) is incomplete, notify the applicant in writing of the reason for an incomplete application; and
- 239 (iii) give the applicant 10 days from the day in which notice is provided under Subsection (4)(b) to cure any defects in the application; and
- 241 (c) within 10 days from the day that the applicant submits the corrected application, approve the land use application.
- 243 (5) If a county fails to process a land use application in accordance with Subsection (4), the applicant may submit the land use application to the Division of Facilities and Construction Management.
- 246 (6) The Division of Facilities and Construction Management may charge the county for the cost of processing the land use application.
- 208 ~~[(4)]~~ (7) A county may:
- 209 (a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

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- 211 (b) require that an internal accessory dwelling unit be designed in a manner that does not change the
appearance of the primary dwelling as a single-family dwelling;
- 213 (c) require a primary dwelling:
- 214 (i) regardless of whether the primary dwelling is existing or new construction, to include one additional
on-site parking space for an internal accessory dwelling unit, in addition to the parking spaces
required under the county's land use ordinance, except that if the county's land use ordinance
requires four off-street parking spaces, the county may not require the additional space contemplated
under this Subsection ~~[(4)(c)(i);]~~ [(7)(c)(i);] and
- 220 (ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling
unit is created within the garage or carport and is habitable space;
- 223 (d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in
Section 57-16-3;
- 225 (e) require the owner of a primary dwelling to obtain a permit or license for renting an internal
accessory dwelling unit;
- 227 (f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area
that is equivalent to 25% or less of the total unincorporated area in the county that is zoned primarily
for residential use, except that the county may not prohibit newly constructed internal accessory
dwelling units that:
- 231 (i) have a final plat approval dated on or after October 1, 2021; and
- 232 (ii) comply with applicable land use regulations;
- 233 (g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a
failing septic tank;
- 235 (h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling
is 6,000 square feet or less in size;
- 237 (i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less
than 30 consecutive days;
- 239 ~~{(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is
located in a dwelling that is not occupied as the owner's primary residence;}~~
- 242 ~~{(k){}~~ ~~{(j)-}~~ hold a lien against a property that contains an internal accessory dwelling unit in
accordance with Subsection ~~[(5);]~~ [(8);] and
- 244

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~~{(1){}}~~ ~~{(k)}~~ record a notice for an internal accessory dwelling unit in accordance with Subsection ~~[(6)]~~ [(9)].

246 [(5)] [(8)]

(a) In addition to any other legal or equitable remedies available to a county, a county may hold a lien against a property that contains an internal accessory dwelling unit if:

248 (i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection ~~[(4)]~~ [(7)];

250 (ii) the county provides a written notice of violation in accordance with Subsection ~~[(5)(b)]~~ [(8)(b)];

252 (iii) the county holds a hearing and determines that the violation has occurred in accordance with Subsection ~~[(5)(d)]~~ [(8)(d)], if the owner files a written objection in accordance with Subsection ~~[(5)(b)(iv)]~~ [(8)(b)(iv)];

255 (iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection ~~[(5)(b)]~~ [(8)(b)];

257 (v) the county provides a written notice of lien in accordance with Subsection ~~[(5)(e)]~~ [(8)(c)]; and

259 (vi) the county records a copy of the written notice of lien described in Subsection ~~[(5)(a)(v)]~~ [(8)(a)(v)] with the county recorder of the county in which the property is located.

261 (b) The written notice of violation shall:

262 (i) describe the specific violation;

263 (ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

265 (A) no less than 14 days after the day on which the county sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

269 (B) no less than 30 days after the day on which the county sends the written notice of violation, for any other violation;

271 (iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection ~~[(5)(b)(ii)]~~ [(8)(b)(ii)], the county may hold a lien against the property in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires;

275 (iv) notify the owner of the property:

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- (A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and
- 279 (B) of the name and address of the county office where the owner may file the written objection;
- 281 (v) be mailed to:
- 282 (A) the property's owner of record; and
- 283 (B) any other individual designated to receive notice in the owner's license or permit records; and
- 285 (vi) be posted on the property.
- 286 (c) The written notice of lien shall:
- 287 (i) comply with the requirements of Section 38-12-102;
- 288 (ii) describe the specific violation;
- 289 (iii) specify the lien amount, in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires;
- 291 (iv) be mailed to:
- 292 (A) the property's owner of record; and
- 293 (B) any other individual designated to receive notice in the owner's license or permit records; and
- 295 (v) be posted on the property.
- 296 (d)
- (i) If an owner of property files a written objection in accordance with Subsection ~~[(5)(b)(iv),]~~ (8)(b)(iv), the county shall:
- 298 (A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection ~~[(5)(b)]~~ (8)(b) has occurred; and
- 302 (B) notify the owner in writing of the date, time, and location of the hearing described in Subsection ~~[(5)(d)(i)(A)]~~ (8)(d)(i)(A) no less than 14 days before the day on which the hearing is held.
- 305 (ii) If an owner of property files a written objection under Subsection ~~[(5)(b)(iv),]~~ (8)(b)(iv), a county may not record a lien under this Subsection ~~[(5)]~~ (8) until the county holds a hearing and determines that the specific violation has occurred.
- 308 (iii) If the county determines at the hearing that the specific violation has occurred, the county may impose a lien in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

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- 313 (e) If an owner cures a violation within the time period prescribed in the written notice of violation
under Subsection ~~[(5)(b),]~~ (8)(b), the county may not hold a lien against the property, or impose
any penalty or fee on the owner, in relation to the specific violation described in the written notice
of violation under Subsection ~~[(5)(b),]~~ (8)(b).
- 317 ~~[(6)]~~ (9)
- (a) A county that issues, on or after October 1, 2021, a permit or license to an owner of a primary
dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary
dwelling to create an internal accessory dwelling unit, may record a notice in the office of the
recorder of the county in which the primary dwelling is located.
- 322 (b) The notice described in Subsection ~~[(6)(a)]~~ (9)(a) shall include:
- 323 (i) a description of the primary dwelling;
- 324 (ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and
- 326 (iii) a statement that the internal accessory dwelling unit may only be used in accordance with the
county's land use regulations.
- 328 (c) The county shall, upon recording the notice described in Subsection ~~[(6)(a),]~~ (9)(a), deliver a copy
of the notice to the owner of the internal accessory dwelling unit.

372 Section 3. **Effective date.**

This bill takes effect on May 7, 2025.

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