

Expanding Homeowners' Rights to Build Accessory Dwelling Units Will Encourage ADU Construction Across Connecticut

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Co-chairs Rahman and Kavros DeGraw, Vice Chairs Chafee and Needleman, and members of the Committee on Planning and Development, thank you for allowing me to offer informational testimony relating to House Bill 5507, titled "An act concerning accessory dwelling units." I am Charles Gardner, a senior research fellow at the Mercatus Center at George Mason University. I study housing policy across the country and, as part of my research, have recommended reforms to land use laws like those proposed in this bill as one way to generate needed housing.

The Rapidly Changing ADU Landscape

When Connecticut enacted its first statewide accessory dwelling unit (ADU) law in 2021, it became one of only seven states to have an ADU statute on the books. Just five years later, 11 additional states have an ADU law.¹ Another 15 states are considering ADU legislation in the current legislative session, with one of those states, West Virginia, having sent its ADU bill to the governor for signature just two days ago.² By now, the benefits of state ADU laws for individual property owners, for municipalities, and for housing supply overall are well known, and their popularity continues to grow.³

¹ Emily Hamilton and Kol Peterson, "A Taxonomy of State Accessory Dwelling Unit Laws 2025" (Mercatus Policy Brief, Mercatus Center at George Mason University, August 2025). Until 2017, only three states—California (1982), Washington (1993), and Vermont (2005)—had state ADU laws. These states were followed by New Hampshire (2017), Oregon (2017), Utah (2021), and Connecticut (2021). Since then, the floodgates have opened, with Maine (2022), Rhode Island (2022), Montana (2023), Arizona (2024), Colorado (2024), Hawaii (2024), Massachusetts (2024), Arkansas (2025), Iowa (2025), Maryland (2025), and Nevada (2025) all enacting ADU laws.

² See West Virginia S.B.659 (2026). According to a review of pending legislation, other states considering ADU laws in the current legislative session include Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Michigan, Minnesota, Nebraska, New Mexico, Pennsylvania, Tennessee, Virginia, and Wisconsin.

³ For examples of Mercatus testimony on the benefits of implementing state ADU laws, see Kevin Erdmann, "Accessory Dwelling Units Can Help Unlock Housing Affordability in Colorado" (Testimony Before the House Committee on Transportation, Housing, and Local Government, Mercatus Center at George Mason University, February 27, 2024) and Emily Hamilton, "Allowing Accessory Dwelling Units Would Contribute to Housing Affordability in Maryland" (Testimony

Most of the new ADU laws go further than Connecticut’s 2021 law. Eight of the 11 new ADU laws—including those in Massachusetts and Maine—prohibit localities from requiring that homeowners reside in the primary residence in order to rent out an ADU. Additionally, among those states that had a state ADU law prior to 2021, several have revisited those laws to add a similar prohibition on owner-occupancy requirements. Other states have legalized the construction of larger ADUs or have taken the step of preempting homeowners’ association ADU bans. And none of the 17 other states with ADU laws allow municipal opt-outs as Connecticut does.

These recent state ADU reforms have not been random or experimental but instead reflect experience and research—including Mercatus research—showing that local land use regulations have restricted homeowners’ ability to build ADUs and often resulted in few being constructed.

Commonsense Changes Can Help Unlock ADU Construction

The amendments proposed to Connecticut’s existing ADU law incorporate the lessons learned in other states. In California, for example, enhancements of homeowners’ rights to build ADUs, most recently the prohibition of local owner-occupancy requirements, have resulted in a significant increase in ADU construction.⁴

In addition to repealing the existing municipal opt-out provision, which no other state has imitated, the bill under consideration would make several changes that include the following:

1. Ending the practice of requiring that the owner of the main home occupy that home (or the ADU) to rent the ADU or main home. While it is open to question whether municipalities have the authority to impose such regulations—because Connecticut’s delegated zoning powers allow regulation of form and use but not tenure⁵—these regulations limit ADU construction by constraining financing options and reducing their attractiveness to homeowners. Granting homeowners the freedom to do as they wish with their ADUs will increase both the appeal and feasibility of ADUs.
2. Legalizing ADUs of at least 1,000 square feet regardless of the size of the primary home. The current ADU law allows localities to arbitrarily restrict ADU size to a third of the square footage of the existing home. This policy (1) rewards the owners of the largest homes, who may be more affluent, by granting them enhanced property rights, (2) reflects aesthetic concerns rather than genuine health and safety issues, and (3) results in needless unpredictability from lot to lot and from home to home. Although any limitation on ADU size reflects an inherent aesthetic and value judgment, establishing a baseline for ADU size will promote uniformity, predictability, and fairness for property owners, and will end the practice of penalizing owners of small homes by limiting their ability to build ADUs of reasonable size.
3. Establishing a program creating and incentivizing the use of preapproved plans for accessory dwelling units. In tandem with the uniform baseline for ADU size, this sort of program—which

Before the Senate Committee on Education, Health, and Environmental Affairs, Mercatus Center at George Mason University, March 3, 2022).

⁴ M. Nolan Gray, “California ADU Reform: A Retrospective” (California YIMBY Education Fund, 2024).

⁵ See Conn. Gen. Stat. § 8-2.

has been pioneered by cities such as Portland and Seattle—can help streamline the process of building not only ADUs but smaller homes of all types.

4. Preempting restrictive covenants that purport to prohibit the construction of ADUs. Compared to certain other states, Connecticut has relatively few single-family detached homes subject to bylaws imposed by homeowners' associations, but an unknown and potentially large number of other homes are subject to long-standing private deed restrictions. Colorado ADU legislation from 2024 has a similar provision, but it is limited to declarations, bylaws, or rules of an association, and does not apply to all private restrictions.⁶ Should there be concern over the breadth of this provision and its applicability to private contract, it could be limited by (1) applying prospectively only; (2) applying only to homeowners' associations; or (3) being limited to attached ADUs to avoid conflicting with private restrictions governing building location, setbacks, or other dimensional constraints.

Conclusion

High housing costs continue to financially burden Connecticut residents, and local land use regulations that limit property owners' right to build housing have been a major contributor to those costs. Expanding homeowners' rights to build ADUs is one way to provide greater housing choice and allow for a greater range of housing options for all Connecticut residents. Reforms such as those proposed in House Bill 5507 would bring Connecticut's ADU laws in line with recent developments in other states and allow ADU construction to flourish, thereby helping to address Connecticut's ongoing housing shortage.

⁶ See Colorado HB24-1152 (2024).