

FREQUENTLY ASKED QUESTIONS

Assembly Bill 1033 (Ting) - Separate Sale or Conveyance of ADUs

What does AB 1033 (Ting) propose to do?

Current law does not permit accessory dwelling units (ADUs) to be sold or conveyed separately from the primary residence. AB 1033 reverses existing law and mandates local jurisdictions to establish an ordinance that allows for the separate conveyance of accessory dwelling units from a primary residence with no limitations.

Why is C.A.R. currently opposed to AB 1033 (March 9 version)?

AB 1033 is extraordinarily broad and fails to include any guardrails or specifics on how a separate sale or conveyance of an ADU would operate. As drafted, AB 1033 will create many challenges for homeowners, neighborhoods, and communities. Specifically, the challenges include:

- **Creates an Untenable Workaround for New Home Construction Requirements:** ADUs are not subject to the same state safety standards as new construction. AB 1033 effectively allows a developer to build a new ADU not subject to the building code's current high standards for new homes and then sell it to a new owner, getting around the building and safety standards for new home construction.
- **Places Homeowners at Risk of Violating Federal Loan Terms:** Any sale or transfer of real property or a portion thereof will almost always trigger the due on sale clause in a homeowner's mortgage. If a homeowner conveys their ADU to a third party as permitted under AB 1033, the homeowner risks foreclosure or having to refinance at today's higher rates.
- **Allows Any Form of Conveyance:** AB 1033 does not limit how the ADU may be conveyed. This could permit many different forms of ownership including, but not limited to, timeshares, Tenants in Common ownership models, lot splits, or fractional ownership -none of which can require owner occupancy.
- **Does NOT Ensure the Creation of Ownership Units:** AB 1033 would prohibit local governments from mandating an owner occupancy requirement within their local ordinances. In fact, AB 1033 allows an ADU to effectively be sold to anyone, including large REIT and corporate investors, like Blackstone and Invitation Homes, dramatically reducing opportunities for homeownership statewide.
- **Risks Consumer Protection:** AB 1033 is open-ended and does not constrain how a conveyance may be done and could trigger significant title issues that will inhibit a seller's ability to sell their property. Furthermore, primary homes and ADUs conveyed under AB 1033 will, in most cases, not be eligible for conventional, FHA, and VA financing programs harming seniors, veterans, and low-income families.
- **Jeopardizes SB 9 Protections Against Rapid Neighborhood Change:** AB 1033 jeopardizes many of the protections established within SB 9 (Atkins, 2021) that help to preserve neighborhoods while increasing homeownership opportunities. AB 1033, instead, opens the door for speculative ADU developers to rapidly gentrify and transform neighborhoods with limited local input.

Will AB 1033 complicate mortgage and title?

AB 1033 does not state or address condominium or common interest developments, therefore the guidelines for lenders around converting properties to condos is not applicable. AB 1033 focuses on ADUs and the allowance, by ordinance, to sell or convey the ADU from the primary residence to a third party. ADUs do not have to meet the same building and safety standards as new construction or remodels.

Isn't AB 1033 meant to just help create condominium conversions to expand homeownership opportunities?

Nowhere does AB 1033 actually mention condominium or other forms of common interest developments. As stated above there are no limits or guardrails about how the ADU may be sold or conveyed. It does not facilitate conversion of a single-family home with an ADU to a common interest development and fails to address the many complexities, requirements and standards of condo development and conversion requirements contained in existing law.

Other states such as Washington, Oregon and Texas are successfully allowing ADUs to be sold as condos; Why not California?

C.A.R. is not opposed to discussing a path forward to have ADU's and primary residences become condos or other common interest development forms of ownership. However, AB 1033 remains silent on condos, common interest developments or conversion ownership models. Instead, AB 1033 requires local governments to allow ADUs to be sold or conveyed to a third party, separate from the primary residence, without any constraint, guidance or limitations. If the bill sought to streamline common interest development conversions or development, it must be drafted to facilitate that form of ownership guided by proper consumer protections and consistent with the laws governing common interest developments and the subdivision map act.

Could AB 1033 be amended to fix the concerns in the March 9th version?

Yes. C.A.R. is prepared and has expressed a willingness to work with the Author to help achieve the objective to convert, establish and streamline two-unit common interest developments but only with proper consumer and homeowner protections which are consistent with the various existing laws governing common interest developments and lot splits.



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