



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

**Bill #** SB0397

**Title:** Generally revise laws related to accessory dwelling units

**Primary Sponsor:** Hertz, Greg

**Status:** As Introduced

- Significant Local Gov Impact     
  Needs to be included in HB 2     
  Technical Concerns  
 Included in the Executive Budget     
  Significant Long-Term Impacts     
  Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	unknown	unknown	unknown	unknown
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>unknown</u>	<u>unknown</u>	<u>unknown</u>	<u>unknown</u>

**Description of fiscal impact:** SB 397 prevents local governments and/or county commissioners from enforcing existing or adopting new zoning regulations that prohibit the ability to build second residences on lots that were previously approved for a single-family residence. As described in the assumptions below, the Department of Environmental Quality (DEQ) is not able to determine the fiscal impacts from this bill.

### FISCAL ANALYSIS

#### Assumptions:

- Notwithstanding the Technical Note below, SB 397 will likely increase the workload within the DEQ's Public Water, Wastewater, and Subdivision Review Section by minimizing a local authority's ability to regulate development. With no prohibitions from a local authority, existing lot owners will likely be incentivized to further develop their property, especially during periods of economic growth and limited housing.
- For parcels with a Certificate of Subdivision Approval (COSA), any changes or modifications to the conditions of said COSA must go through review according to the Sanitation in Subdivision Act. Adding a second residence to a COSA that specifies a single-family residence is one such change that must be reviewed. In this instance, DEQ would need to conduct a re-review of the COSA, per Title 17, Chapter 36, Section 112, ARM.
- It is likely lot owners will take advantage of the proposed limited authority of local government and build second residences on individual lots. However, it is impractical to project a number for this as any increased effort is directly tied to the economy and the real estate market. As these fluctuate, so does DEQ's workload.

**Technical Notes:**

1. SB 397 appears to conflict with the Sanitation in Subdivisions Act, 76-4-1, MCA. The Act requires any parcels with Certificate of Subdivision Approvals (COSAs) to go through review per 76-4-part 1, MCA, to modify or change the terms of the COSA. Adding second residences to lots with single residence requirements would be one such issue requiring a re-write to the COSA. It is unclear if SB 397 is intended to supersede the corresponding parts of 76-4-part 1, MCA.

**Local Government Impacts:**

1. Approximately 12 counties have part 2 zoning. If a county wished to issue licenses allowed under SB 397, they may be required to adopt applicable building codes and the permit process for the special zoning districts. As the bill is written, this appears to be discretionary.
2. If a county chose to adopt building codes and enforcement as it pertains to ADUs, it is estimated to cost an additional \$20,000 for each county who doesn't have building codes and wishes to enact the regulations. The fiscal impact would reduce in subsequent years.

**NO SPONSOR SIGNATURE**

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<i>Sponsor's Initials</i>	<i>Date</i>	<i>Budget Director's Initials</i>	<i>Date</i>