
ENGROSSED SUBSTITUTE SENATE BILL 5810

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Governmental Operations (originally sponsored by Senators Rasmussen, McCaslin and L. Smith).

Read first time March 6, 1991.

1 AN ACT Relating to the creation of state-wide affordable housing;
2 adding new sections to chapter 35.63 RCW; adding new sections to
3 chapter 35A.63 RCW; adding new sections to chapter 36.70 RCW; adding
4 new sections to chapter 36.70A RCW; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 affordable housing act.

8 NEW SECTION. **Sec. 2.** (1) The legislature finds and declares
9 that there is a tremendous unmet need for new housing to shelter
10 Washington's population. The unmet housing needs will be further
11 aggravated by the severe cutbacks in federal housing programs.

12 (2) The legislature finds and declares that our existing housing
13 resources are vastly underutilized due in large part to the changes in
14 social patterns. The improved utilization of this state's existing

1 housing resources offers an innovative and cost-effective solution to
2 this housing crisis.

3 (3) The legislature finds and declares that the state has a role in
4 increasing the utilization of our housing resources and in reducing the
5 barriers to the provision of affordable housing.

6 (4) The legislature finds and declares that there are many benefits
7 associated with the creation of second-family residential units on
8 existing single-family lots, which include:

9 (a) Providing a cost-effective means of serving development through
10 the use of existing infrastructures, as contrasted to requiring the
11 construction of new costly infrastructures to serve development in
12 undeveloped areas; and

13 (b) Providing relatively affordable housing for low and moderate-
14 income households without public subsidy.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.63 RCW
16 to read as follows:

17 Each city and county may issue a zoning variance, special use
18 permit, or conditional use permit for a dwelling unit to be
19 constructed, or which is attached to or detached from, a primary
20 residence on a parcel zoned for a single-family residence, if the
21 dwelling unit is intended for the sole occupancy of one adult or two
22 adult persons one of whom is sixty years of age or over, and the area
23 of floor space of the attached dwelling unit does not exceed thirty
24 percent of the existing living area or the area of the floor space of
25 the detached dwelling unit does not exceed one thousand two hundred
26 square feet.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 35A.63 RCW
28 to read as follows:

1 Each city and code city may issue a zoning variance, special use
2 permit, or conditional use permit for a dwelling unit to be
3 constructed, or which is attached to or detached from, a primary
4 residence on a parcel zoned for a single-family residence, if the
5 dwelling unit is intended for the sole occupancy of one adult or two
6 adult persons one of whom is sixty years of age or over, and the area
7 of floor space of the attached dwelling unit does not exceed thirty
8 percent of the existing living area or the area of the floor space of
9 the detached dwelling unit does not exceed one thousand two hundred
10 square feet.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70 RCW
12 to read as follows:

13 Each county may issue a zoning variance, special use permit, or
14 conditional use permit for a dwelling unit to be constructed, or which
15 is attached to or detached from, a primary residence on a parcel zoned
16 for a single-family residence, if the dwelling unit is intended for the
17 sole occupancy of one adult or two adult persons one of whom is sixty
18 years of age or over, and the area of floor space of the attached
19 dwelling unit does not exceed thirty percent of the existing living
20 area or the area of the floor space of the detached dwelling unit does
21 not exceed one thousand two hundred square feet.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A RCW
23 to read as follows:

24 Each city and county may issue a zoning variance, special use
25 permit, or conditional use permit for a dwelling unit to be
26 constructed, or which is attached to or detached from, a primary
27 residence on a parcel zoned for a single-family residence, if the
28 dwelling unit is intended for the sole occupancy of one adult or two

1 adult persons one of whom is sixty years of age or over, and the area
2 of floor space of the attached dwelling unit does not exceed thirty
3 percent of the existing living area or the area of the floor space of
4 the detached dwelling unit does not exceed one thousand two hundred
5 square feet.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 35.63 RCW
7 to read as follows:

8 (1) Each city and county may, by ordinance, provide for the
9 creation of second units in single-family and multifamily residential
10 zones consistent with all of the following provisions:

11 (a) Areas may be designated within the jurisdiction of each city
12 and county where second units may be permitted;

13 (b) The designation of areas may be based on criteria, which may
14 include, but are not limited to, the adequacy of water and sewer
15 services and the impact of second units on traffic flow;

16 (c) Each city and county may find that second units do not exceed
17 the allowable density for the lot upon which the second unit is
18 located, and that second units are a residential use that is
19 consistent with the existing general plan and zoning designation for
20 the lot;

21 (d) The second units created shall not be considered in the
22 application of any local ordinance, policy, or program to limit
23 residential growth; and

24 (e) Each city and county may establish a process for the issuance
25 of a conditional use permit for second units.

26 (2) When a city or county which has not adopted an ordinance
27 governing second units in accordance with subsection (1) of this
28 section receives its first application on or after July 1, 1992, for a
29 conditional use permit pursuant to this subsection, it shall accept the

1 application and approve or disapprove the application pursuant to this
2 subsection unless it adopts an ordinance in accordance with subsection
3 (1) of this section within one hundred twenty days after receiving the
4 application. Each city or county shall grant a special use or a
5 conditional use permit for the creation of a second unit if the second
6 unit complies with all of the following:

7 (a) The unit is not intended for sale and may be rented;

8 (b) The lot is zoned for single-family or multifamily use;

9 (c) The lot contains an existing single-family dwelling;

10 (d) The second unit is either attached to the existing dwelling and
11 located within the living area of the existing dwelling or detached
12 from the existing dwelling and located on the same lot as the existing
13 dwelling;

14 (e) Any increase in the floor area of an attached second unit shall
15 not exceed thirty percent of the existing living area;

16 (f) The total area of floor space for a detached second unit shall
17 not exceed one thousand two hundred square feet;

18 (g) Any construction shall conform to height, setback, lot
19 coverage, architectural review, site plan review, fees, charges, and
20 other zoning requirements generally applicable to residential
21 construction in the zone in which the property is located;

22 (h) Local building code requirements which apply to detached
23 dwellings, as appropriate; and

24 (i) Approval by the local health officer where a private sewage
25 disposal system is being used, if required.

26 (3)(a) No other local ordinance, policy, or regulation shall be the
27 basis for the denial of a building permit or a use permit under
28 subsection (2) of this section.

29 (b) Subsection (2) of this section establishes the maximum
30 standards that local agencies shall use to evaluate proposed second

1 units on lots zoned for residential use which contain an existing
2 single-family dwelling. No additional standards, other than those
3 provided in subsection (1) or (2) of this section, shall be utilized or
4 imposed, except that a city and county may require an applicant for a
5 permit issued pursuant to subsection (2) of this section to be an
6 owner-occupant.

7 (c) This subsection does not limit the authority of local agencies
8 to adopt less restrictive requirements for the creation of second
9 units.

10 (d) No changes in zoning ordinances or other ordinances or any
11 changes in the general plan shall be required to implement this
12 subsection. Any local agency may amend its zoning ordinance or general
13 plan to incorporate the policies, procedures, or other provisions
14 applicable to the creation of second units if these provisions are
15 consistent with the limitations of this subsection.

16 (e) A second unit which conforms to the requirements of this
17 subsection shall not be considered to exceed the allowable density for
18 the lot upon which it is located, and shall be deemed to be a
19 residential use which is consistent with the existing general plan and
20 zoning designations for the lot. The second units shall not be
21 considered in the application of any local ordinance, policy, or
22 program to limit residential growth.

23 (f) A city or county shall not adopt an ordinance which totally
24 precludes second units within single-family and multifamily zoned areas
25 unless the ordinance contains findings acknowledging that the ordinance
26 may limit housing opportunities of the region and further contains
27 findings that specific adverse impacts on the public health, safety,
28 and welfare that would result from allowing second units within single-
29 family and multifamily zoned areas justify adopting the ordinance.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 35A.63 RCW
2 to read as follows:

3 (1) Each city and code city may, by ordinance, provide for the
4 creation of second units in single-family and multifamily residential
5 zones consistent with all of the following provisions:

6 (a) Areas may be designated within the jurisdiction of each city
7 and code city where second units may be permitted;

8 (b) The designation of areas may be based on criteria, which may
9 include, but are not limited to, the adequacy of water and sewer
10 services and the impact of second units on traffic flow;

11 (c) Each city and code city may find that second units do not
12 exceed the allowable density for the lot upon which the second unit is
13 located, and that second units are a residential use that is
14 consistent with the existing general plan and zoning designation for
15 the lot;

16 (d) The second units created shall not be considered in the
17 application of any local ordinance, policy, or program to limit
18 residential growth; and

19 (e) Each city and code city may establish a process for the
20 issuance of a conditional use permit for second units.

21 (2) When a city or code city which has not adopted an ordinance
22 governing second units in accordance with subsection (1) of this
23 section receives its first application on or after July 1, 1992, for a
24 conditional use permit pursuant to this subsection, it shall accept the
25 application and approve or disapprove the application pursuant to this
26 subsection unless it adopts an ordinance in accordance with subsection
27 (1) of this section within one hundred twenty days after receiving the
28 application. Each city or code city shall grant a special use or a
29 conditional use permit for the creation of a second unit if the second
30 unit complies with all of the following:

- 1 (a) The unit is not intended for sale and may be rented;
- 2 (b) The lot is zoned for single-family or multifamily use;
- 3 (c) The lot contains an existing single-family dwelling;
- 4 (d) The second unit is either attached to the existing dwelling and
5 located within the living area of the existing dwelling or detached
6 from the existing dwelling and located on the same lot as the existing
7 dwelling;
- 8 (e) Any increase in the floor area of an attached second unit shall
9 not exceed thirty percent of the existing living area;
- 10 (f) The total area of floor space for a detached second unit shall
11 not exceed one thousand two hundred square feet;
- 12 (g) Any construction shall conform to height, setback, lot
13 coverage, architectural review, site plan review, fees, charges, and
14 other zoning requirements generally applicable to residential
15 construction in the zone in which the property is located;
- 16 (h) Local building code requirements which apply to detached
17 dwellings, as appropriate; and
- 18 (i) Approval by the local health officer where a private sewage
19 disposal system is being used, if required.

20 (3)(a) No other local ordinance, policy, or regulation shall be the
21 basis for the denial of a building permit or a use permit under
22 subsection (2) of this section.

23 (b) Subsection (2) of this section establishes the maximum
24 standards that local agencies shall use to evaluate proposed second
25 units on lots zoned for residential use which contain an existing
26 single-family dwelling. No additional standards, other than those
27 provided in subsection (1) or (2) of this section, shall be utilized or
28 imposed, except that a city and code city may require an applicant for
29 a permit issued pursuant to subsection (2) of this section to be an
30 owner-occupant.

1 (c) This subsection does not limit the authority of local agencies
2 to adopt less restrictive requirements for the creation of second
3 units.

4 (d) No changes in zoning ordinances or other ordinances or any
5 changes in the general plan shall be required to implement this
6 subsection. Any local agency may amend its zoning ordinance or general
7 plan to incorporate the policies, procedures, or other provisions
8 applicable to the creation of second units if these provisions are
9 consistent with the limitations of this subsection.

10 (e) A second unit which conforms to the requirements of this
11 subsection shall not be considered to exceed the allowable density for
12 the lot upon which it is located, and shall be deemed to be a
13 residential use which is consistent with the existing general plan and
14 zoning designations for the lot. The second units shall not be
15 considered in the application of any local ordinance, policy, or
16 program to limit residential growth.

17 (f) A city or code city shall not adopt an ordinance which totally
18 precludes second units within single-family and multifamily zoned areas
19 unless the ordinance contains findings acknowledging that the ordinance
20 may limit housing opportunities of the region and further contains
21 findings that specific adverse impacts on the public health, safety,
22 and welfare that would result from allowing second units within single-
23 family and multifamily zoned areas justify adopting the ordinance.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70 RCW
25 to read as follows:

26 (1) Each county may, by ordinance, provide for the creation of
27 second units in single-family and multifamily residential zones
28 consistent with all of the following provisions:

1 (a) Areas may be designated within the jurisdiction of each county
2 where second units may be permitted;

3 (b) The designation of areas may be based on criteria, which may
4 include, but are not limited to, the adequacy of water and sewer
5 services and the impact of second units on traffic flow;

6 (c) Each county may find that second units do not exceed the
7 allowable density for the lot upon which the second unit is located,
8 and that second units are a residential use that is consistent with the
9 existing general plan and zoning designation for the lot;

10 (d) The second units created shall not be considered in the
11 application of any local ordinance, policy, or program to limit
12 residential growth; and

13 (e) Each county may establish a process for the issuance of a
14 conditional use permit for second units.

15 (2) When a county which has not adopted an ordinance governing
16 second units in accordance with subsection (1) of this section receives
17 its first application on or after July 1, 1992, for a conditional use
18 permit pursuant to this subsection, it shall accept the application and
19 approve or disapprove the application pursuant to this subsection
20 unless it adopts an ordinance in accordance with subsection (1) of this
21 section within one hundred twenty days after receiving the application.
22 Each county shall grant a special use or a conditional use permit for
23 the creation of a second unit if the second unit complies with all of
24 the following:

25 (a) The unit is not intended for sale and may be rented;

26 (b) The lot is zoned for single-family or multifamily use;

27 (c) The lot contains an existing single-family dwelling;

28 (d) The second unit is either attached to the existing dwelling and
29 located within the living area of the existing dwelling or detached

1 from the existing dwelling and located on the same lot as the existing
2 dwelling;

3 (e) Any increase in the floor area of an attached second unit shall
4 not exceed thirty percent of the existing living area;

5 (f) The total area of floor space for a detached second unit shall
6 not exceed one thousand two hundred square feet;

7 (g) Any construction shall conform to height, setback, lot
8 coverage, architectural review, site plan review, fees, charges, and
9 other zoning requirements generally applicable to residential
10 construction in the zone in which the property is located;

11 (h) Local building code requirements which apply to detached
12 dwellings, as appropriate; and

13 (i) Approval by the local health officer where a private sewage
14 disposal system is being used, if required.

15 (3)(a) No other local ordinance, policy, or regulation shall be the
16 basis for the denial of a building permit or a use permit under
17 subsection (2) of this section.

18 (b) Subsection (2) of this section establishes the maximum
19 standards that local agencies shall use to evaluate proposed second
20 units on lots zoned for residential use which contain an existing
21 single-family dwelling. No additional standards, other than those
22 provided in subsection (1) or (2) of this section, shall be utilized or
23 imposed, except that a county may require an applicant for a permit
24 issued pursuant to subsection (2) of this section to be an owner-
25 occupant.

26 (c) This subsection does not limit the authority of local agencies
27 to adopt less restrictive requirements for the creation of second
28 units.

29 (d) No changes in zoning ordinances or other ordinances or any
30 changes in the general plan shall be required to implement this

1 subsection. Any local agency may amend its zoning ordinance or general
2 plan to incorporate the policies, procedures, or other provisions
3 applicable to the creation of second units if these provisions are
4 consistent with the limitations of this subsection.

5 (e) A second unit which conforms to the requirements of this
6 subsection shall not be considered to exceed the allowable density for
7 the lot upon which it is located, and shall be deemed to be a
8 residential use which is consistent with the existing general plan and
9 zoning designations for the lot. The second units shall not be
10 considered in the application of any local ordinance, policy, or
11 program to limit residential growth.

12 (f) A county shall not adopt an ordinance which totally precludes
13 second units within single-family and multifamily zoned areas unless
14 the ordinance contains findings acknowledging that the ordinance may
15 limit housing opportunities of the region and further contains findings
16 that specific adverse impacts on the public health, safety, and welfare
17 that would result from allowing second units within single-family and
18 multifamily zoned areas justify adopting the ordinance.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A
20 RCW to read as follows:

21 (1) Each city and county may, by ordinance, provide for the
22 creation of second units in single-family and multifamily residential
23 zones consistent with all of the following provisions:

24 (a) Areas may be designated within the jurisdiction of each city
25 and county where second units may be permitted;

26 (b) The designation of areas may be based on criteria, which may
27 include, but are not limited to, the adequacy of water and sewer
28 services and the impact of second units on traffic flow;

1 (c) Each city and county may find that second units do not exceed
2 the allowable density for the lot upon which the second unit is
3 located, and that second units are a residential use that is
4 consistent with the existing general plan and zoning designation for
5 the lot;

6 (d) The second units created shall not be considered in the
7 application of any local ordinance, policy, or program to limit
8 residential growth; and

9 (e) Each city and county may establish a process for the issuance
10 of a conditional use permit for second units.

11 (2) When a city or county which has not adopted an ordinance
12 governing second units in accordance with subsection (1) of this
13 section receives its first application on or after July 1, 1992, for a
14 conditional use permit pursuant to this subsection, it shall accept the
15 application and approve or disapprove the application pursuant to this
16 subsection unless it adopts an ordinance in accordance with subsection
17 (1) of this section within one hundred twenty days after receiving the
18 application. Each city or county shall grant a special use or a
19 conditional use permit for the creation of a second unit if the second
20 unit complies with all of the following:

21 (a) The unit is not intended for sale and may be rented;

22 (b) The lot is zoned for single-family or multifamily use;

23 (c) The lot contains an existing single-family dwelling;

24 (d) The second unit is either attached to the existing dwelling and
25 located within the living area of the existing dwelling or detached
26 from the existing dwelling and located on the same lot as the existing
27 dwelling;

28 (e) Any increase in the floor area of an attached second unit shall
29 not exceed thirty percent of the existing living area;

1 (f) The total area of floor space for a detached second unit shall
2 not exceed one thousand two hundred square feet;

3 (g) Any construction shall conform to height, setback, lot
4 coverage, architectural review, site plan review, fees, charges, and
5 other zoning requirements generally applicable to residential
6 construction in the zone in which the property is located;

7 (h) Local building code requirements which apply to detached
8 dwellings, as appropriate; and

9 (i) Approval by the local health officer where a private sewage
10 disposal system is being used, if required.

11 (3)(a) No other local ordinance, policy, or regulation shall be the
12 basis for the denial of a building permit or a use permit under
13 subsection (2) of this section.

14 (b) Subsection (2) of this section establishes the maximum
15 standards that local agencies shall use to evaluate proposed second
16 units on lots zoned for residential use which contain an existing
17 single-family dwelling. No additional standards, other than those
18 provided in subsection (1) or (2) of this section, shall be utilized or
19 imposed, except that a city and county may require an applicant for a
20 permit issued pursuant to subsection (2) of this section to be an
21 owner-occupant.

22 (c) This subsection does not limit the authority of local agencies
23 to adopt less restrictive requirements for the creation of second
24 units.

25 (d) No changes in zoning ordinances or other ordinances or any
26 changes in the general plan shall be required to implement this
27 subsection. Any local agency may amend its zoning ordinance or general
28 plan to incorporate the policies, procedures, or other provisions
29 applicable to the creation of second units if these provisions are
30 consistent with the limitations of this subsection.

1 (e) A second unit which conforms to the requirements of this
2 subsection shall not be considered to exceed the allowable density for
3 the lot upon which it is located, and shall be deemed to be a
4 residential use which is consistent with the existing general plan and
5 zoning designations for the lot. The second units shall not be
6 considered in the application of any local ordinance, policy, or
7 program to limit residential growth.

8 (f) A city or county shall not adopt an ordinance which totally
9 precludes second units within single-family and multifamily zoned areas
10 unless the ordinance contains findings acknowledging that the ordinance
11 may limit housing opportunities of the region and further contains
12 findings that specific adverse impacts on the public health, safety,
13 and welfare that would result from allowing second units within single-
14 family and multifamily zoned areas justify adopting the ordinance.