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SENATE BILL 5810

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators Rasmussen, McCaslin and L. Smith.

Read first time February 21, 1991.      Referred to Committee on  
Governmental Operations.

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 who are sixty years of age or over, and the area of floor  
23 space of the attached dwelling unit does not exceed thirty percent of  
24 the existing living area or the area of the floor space of the detached  
25 dwelling unit does not exceed one thousand two hundred square feet.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 35A.63 RCW  
27 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 who are sixty years of age or over, and the area of floor  
7 space of the attached dwelling unit does not exceed thirty percent of  
8 the existing living area or the area of the floor space of the detached  
9 dwelling unit does not exceed one thousand two hundred square feet.

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

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

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

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

1 space of the attached dwelling unit does not exceed thirty percent of  
2 the existing living area or the area of the floor space of the detached  
3 dwelling unit does not exceed one thousand two hundred square feet.

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

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

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

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

14 (c) Standards may be imposed on second units which include, but are  
15 not limited to, parking, height, setback, lot coverage, architectural  
16 review, and maximum size of a unit;

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

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

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

27 (2) When a city or county which has not adopted an ordinance  
28 governing second units in accordance with subsection (1) of this  
29 section receives its first application on or after July 1, 1992, for a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 and welfare that would result from allowing second units within single-  
2 family and multifamily zoned areas justify adopting the ordinance.

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

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

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

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

13 (c) Standards may be imposed on second units which include, but are  
14 not limited to, parking, height, setback, lot coverage, architectural  
15 review, and maximum size of a unit;

16 (d) Each city and code city may find that second units do not  
17 exceed 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 (e) 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 (f) Each city and code city may establish a process for the  
25 issuance of a conditional use permit for second units.

26 (2) When a city or code city 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 code city 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 code city may require an applicant for  
5 a 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 code city 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. 9.**    A new section is added to chapter 36.70 RCW

2    to read as follows:

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

6        (a) Areas may be designated within the jurisdiction of each county  
7    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) Standards may be imposed on second units which include, but are  
12   not limited to, parking, height, setback, lot coverage, architectural  
13   review, and maximum size of a unit;

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

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

21       (f) Each county may establish a process for the issuance of a  
22   conditional use permit for second units.

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

1 the creation of a second unit if the second unit complies with all of  
2 the following:

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

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

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

6 (d) The second unit is either attached to the existing dwelling and  
7 located within the living area of the existing dwelling or detached  
8 from the existing dwelling and located on the same lot as the existing  
9 dwelling;

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

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

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

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

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

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

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

1 issued pursuant to subsection (2) of this section to be an owner-  
2 occupant.

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

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

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

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

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

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

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

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

9 (c) Standards may be imposed on second units which include, but are  
10 not limited to, parking, height, setback, lot coverage, architectural  
11 review, and maximum size of a unit;

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

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

20 (f) Each city and county may establish a process for the issuance  
21 of a conditional use permit for second units.

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

1 conditional use permit for the creation of a second unit if the second  
2 unit complies with all of the following:

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

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

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

6 (d) The second unit is either attached to the existing dwelling and  
7 located within the living area of the existing dwelling or detached  
8 from the existing dwelling and located on the same lot as the existing  
9 dwelling;

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

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

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

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

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

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

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

1 permit issued pursuant to subsection (2) of this section to be an  
2 owner-occupant.

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

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

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

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