
Local Government Committee

HB 3028

Brief Description: Authorizing accessory dwelling units in rural counties.

Sponsors: Representatives Quall, Morris, Jarrett, Hinkle, Linville, Bailey, McDermott and Simpson, G..

Brief Summary of Bill

- Allows local governments in rural counties to authorize the construction and use of one single-family residence and one accessory dwelling unit for each parcel in designated rural and resource lands.
- Requires local governments that authorize the construction and use of accessory dwelling units to adopt regulations, procedures, and other limitations necessary to protect rural character, environmentally sensitive areas, and open space, and to conserve the capacity of resource lands for commercial resource production.

Hearing Date: 2/2/04

Staff: Kiki Keizer (786-7109).

Background:

Current law requires that the following goals, among others, are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under the Growth Management Act (GMA):

1. To reduce sprawl by reducing the inappropriate conversion of undeveloped land into sprawling, low-density development and
2. To encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

With respect to accessory apartments, current law provides:

1. Unless otherwise provided by the Legislature, by December 31, 1994, local governments planning under the GMA must have incorporated, into their development or zoning regulations, the Department of Community, Trade and Economic Development's (CTED)

recommendations that are designed to encourage accessory apartments in areas zoned for single-family use.

2. The accessory apartment provisions must be part of the local government's development regulation, zoning regulation, and official control. To allow for local flexibility, the recommendation must be subject to such regulations, conditions, procedures, and limitations, as determined by the local legislative authority.

In April 2003, the Western Washington Growth Management Hearings Board (the Board) heard a challenge to San Juan County's ordinance that allows one principal residence and one internal, attached or detached accessory dwelling unit (ADU) on certain parcels of land. In its lengthy Corrected Final Decision and Order and Compliance Order, the Board distinguished between detached ADUs and internal or attached ADUs. The Board determined, in pertinent part, that:

1. Regulations that allow a freestanding ADU on a natural resource land parcel can be made to be consistent with the GMA only under the following conditions: (1) The ADU can only be available for occupancy or rent on a long-term basis to family members or other workers employed by the property owner in resource production; (2) The regulations include specific locational standards that clearly do not allow interference with resource production; and (3) The freestanding ADU is counted as a dwelling unit for the purposes of calculating the appropriate density on a parcel of resource land.
2. By the nature of their construction, internal and attached ADUs in resource lands are unlikely to interfere with the production of the natural resource. Therefore, permitting internal and attached ADUs in resource lands are consistent with the GMA.

Both parties that were before the Board appealed the Board's decision on various grounds. Among other matters, the Superior Court of Thurston County stated that it affirmed the Board's decision regarding attached ADUs. However, the court reversed the Board's decision invalidating San Juan County's ordinance with respect to the siting of detached ADUs on resource lands. Specifically, the court reversed the Board's decision requiring that the ordinance limit the occupancy to certain classes of renters and further limiting the terms of the rental agreement. The court also reversed the Board's decision that the current ordinance does not adequately address locational standards to protect the resource. The court stated that it was not reversing the Board's decision with regard to counting freestanding ADUs as separate dwellings for purposes of calculating the appropriate density on resource lands.

Summary of Bill:

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Requires local governments that authorize the construction and use of accessory dwelling units to adopt regulations, procedures, and other limitations necessary to protect rural character, environmentally sensitive areas, and open space, and to conserve the capacity of resource lands for commercial resource production.

Defines "accessory dwelling unit" to mean a structure or living unit that is accessory to a principal single-family residence, whether attached or detached, and that provides basic sleeping quarters, kitchen facilities, and sanitation.

Defines "rural county" as a county with a population density of fewer than one hundred persons per square mile.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.