

# HOUSE BILL REPORT

## HB 2325

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### As Reported by House Committee On: Local Government

**Title:** An act relating to the development of affordable housing through flexible short subdivision.

**Brief Description:** Encouraging the development of affordable housing.

**Sponsors:** Representatives Simpson, Tom, B. Sullivan, Springer, Sells, Holmquist, McCune, O'Brien, Pettigrew, Ahern, DeBolt, Jarrett, Appleton, Miloscia, Ormsby, Dunn, Priest, Roach, Dunshee, Woods, Hunter and Ericks.

#### **Brief History:**

##### **Committee Activity:**

Local Government: 1/12/06, 2/2/06 [DPS].

#### **Brief Summary of Substitute Bill**

- Requires local governments planning under the Growth Management Act to enact land use ordinances permitting the division of single lots into multiple nonconforming lots, subject to specified conditions.
- Requires local governments planning under the Growth Management Act to enact land use ordinances permitting boundary line adjustments between abutting properties that result in the creation of a nonconforming lot(s), subject to specified conditions.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Simpson, Chair; Clibborn, Vice Chair; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan, Takko and Woods.

**Staff:** Thamas Osborn (786-7129).

#### **Background:**

##### **Regulation of land divisions by local governments.**

The legislative body of a city, county, or town must adopt regulations and procedures governing the approval of proposed divisions of land within its jurisdictional boundaries. Such

regulations must be adopted by ordinance and are enforced by appointed administrative personnel, who must provide written factual findings supporting decisions to approve or deny proposed land divisions.

A property owner must have a proposed division of land reviewed and approved by the county, city, or town in which the land is located. Such divisions of land are generally categorized as either "subdivisions" or "short subdivisions." Subdivisions are defined as land divisions resulting in five or more lots, tracts, or parcels. Short subdivisions are defined as land divisions resulting in four or fewer lots, tracts, or parcels. However, a city, town or Growth Management Act (GMA) planning county may adopt a local ordinance increasing to a maximum of nine the number of lots, tracts, or parcels that may be contained in a short subdivision located within the boundary of an urban growth area (UGA).

**The GMA and residential density requirements within a UGA.**

Although the GMA includes provisions pertaining to density and the reduction of sprawling low-density development, neither "density" nor "residential density" is defined in the Act. The Department of Community, Trade, and Economic Development, defined "residential density" in its September 2004, guidance paper, *Urban Densities - Central Puget Sound Edition*, as, in part, the number of dwelling units over a specified land area.

The GMA does not prescribe a uniform minimum residential density, nor does the Act require jurisdictions to establish uniform minimum residential densities. Growth Management Hearings Boards have, however, issued decisions pertaining to residential densities. The Central Puget Sound Growth Management Hearings Board (CPSGMHB), for example, noted in its 1995 decision from *Bremerton, et al., v. Kitsap County*, that:

*"...rather than adopt a maximum urban lot size, the Board instead adopts as a general rule a "bright line" at four net dwelling units per acre. Any residential pattern at that density, or higher, is clearly compact urban development and satisfies the low end of the range required by the [GMA]. Any larger urban lots will be subject to increased scrutiny by the Board to determine if the number, locations, configurations and rationale for such lot sizes complies with the goals and requirements of the [GMA]...Any new residential land use pattern within an UGA that is less dense is not a compact urban development pattern, constitutes urban sprawl, and is prohibited. There are exceptions to this general rule...However, this circumstance can be expected to be infrequent within the UGA and must not constitute a pattern over large areas."*

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**Summary of Substitute Bill:**

**Mandatory zoning ordinances permitting the division of single lots into multiple nonconforming lots.**

Subject to specified conditions, cities, towns, and counties planning under the GMA *must* have zoning ordinances that permit a single lot to be divided into two or more lots which will be recognized as legal and conforming for purposes of development. This requirement applies under the following circumstances:

- The original lot must be at least twice the minimum lot size required under existing zoning regulations.
- The *averaged area* of all resulting lots shall be not less than the legally required minimum lot size.
- The lot or parcel must be located in a residentially zoned district within an UGA.
- All of the resulting lots must have adequate access to a public street.

A city, town, or county not planning under the GMA has the option of adopting such zoning ordinances, but is not under a legal requirement to do so.

**Mandatory zoning ordinances permitting boundary line adjustments that result in nonconforming lots.**

Subject to specified conditions, cities, towns, and counties planning under the GMA *must* have zoning ordinances that permit the adjustment of boundary lines between abutting lots under the same ownership so as to allow the creation of one or more lots of nonconforming size or dimension that are recognized as legal and conforming for purposes of development. These requirements apply under the following circumstances:

- The adjustment of the boundary line does not result in the creation of additional lots.
- The *averaged area* of all resulting lots shall be not less than the legally required minimum lot size.
- The lot or parcel must be located in a residentially zoned district within an UGA.
- All of the resulting lots must have adequate access to a public street.

A city, town, or county not planning under the GMA has the option of adopting such zoning ordinances, but is not under a legal requirement to do so.

**Substitute Bill Compared to Original Bill:**

- Eliminates the requirement that street access for nonconforming lots or parcels be accomplished by either "direct frontage or easement."
- Eliminates the requirement that all nonconforming lots or parcels have an "averaged width and depth of at least 50 percent of the applicable minimum requirements" for such lots or parcels.
- Makes technical language changes for the purpose of simplifying and clarifying the provisions of the bill.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** This bill will add statutory provisions needed to encourage local governments to create greater urban densities and will help remedy the shortage of affordable

housing. Its passage will help communities to increase their housing stocks and decrease prices. "Infill" in urban areas is vital in order to discourage sprawl and to concentrate populations in areas where urban levels of service are already available. This bill will encourage local governments to create zoning regulations that will increase the supply of affordable housing. Many local development regulations present obstacles to creating infill housing. "Density" is an unpopular word in many communities and local officials need this legislation in order to take the steps necessary to create adequate urban densities. The regulations in the bill will encourage communities to carve out additional buildable lots in older neighborhoods.

(With Concerns) The provisions in the bill should provide local governments with options rather than mandating the implementation of these infill zoning provisions. Approaches to planning for infill housing should merely be a tool available to local governments, not an ironclad requirement.

**Testimony Against:** None.

**Persons Testifying:** (In support) Representative Simpson, prime sponsor; Micheal Luis, The Housing Partnership; Timothy Harris; Building Industry Association of Washington; and Bryan Wahl, Washington Realtors.

(With concerns) Eric Johnson, Washington Association of Counties; and Dave Williams, Association of Washington Cities.

**Persons Signed In To Testify But Not Testifying:** None.