
HOUSE BILL 2324

State of Washington

59th Legislature

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

Read first time 04/14/2005. Referred to Committee on Local Government.

1 AN ACT Relating to density bonus incentives to provide affordable
2 housing; and adding a new chapter to Title 36 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that housing
5 prices in metropolitan areas of the state have been increasing faster
6 than the ability of many households to afford suitable housing and that
7 costs of land and new housing construction are impeding the adequate
8 provision of affordable housing units. The legislature further finds
9 that the growth management act requires many counties, cities, and
10 towns to concentrate new growth within designated urban growth areas
11 and at the same time to encourage the availability of affordable
12 housing for all economic segments of the population. The legislature
13 further finds that incentives offered to private developers are useful
14 in creating public benefit amenities, including affordable housing,
15 within private developments.

16 (2) The legislature declares that it is the purpose of this act to:
17 (a) Increase the supply of affordable housing within jurisdictions
18 subject to the growth management act, (b) promote infill development

1 and diversity of housing within urban growth areas, and (c) rely on
2 voluntary participation by private property owners through optional
3 incentives rather than mandatory inclusion standards.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Affordable housing" means housing that has a sales price or
7 rental amount that is within the means of a household that may occupy
8 moderate-income or low-income housing. In the case of dwelling units
9 for sale, affordable housing means housing in which annual housing
10 costs do not exceed thirty percent of such gross annual household
11 income for a household of the size that may occupy the particular unit.
12 In the case of dwelling units for rent, affordable housing means
13 housing for which the affordable rent does not exceed thirty percent of
14 such gross annual household income for a household of the size that may
15 occupy the particular unit.

16 (2) "Affordable housing development" means any housing development
17 that is subsidized by the federal, state, or local government, or any
18 housing development in which at least twenty percent of the dwelling
19 units are subject to covenants or restrictions that require such
20 dwelling units to be sold or rented at prices that ensure the units
21 remain as affordable housing.

22 (3) "Affordable housing density bonus incentive" means a density
23 bonus incentive granted to an applicant for an affordable housing
24 development under an ordinance required by this chapter.

25 (4) "Affordable rent" means monthly housing expenses, including a
26 reasonable allowance for utilities, for affordable housing units that
27 are for rent to moderate-income or low-income households.

28 (5) "Affordable sales price" means a sales price at which moderate-
29 income or low-income households can qualify for the purchase of
30 affordable housing, calculated on the basis of underwriting standards
31 or mortgage financing available for the housing development.

32 (6) "Density bonus" means the percentage of density increase
33 granted over the otherwise maximum allowable net density under the
34 applicable development regulations as of the date of application to the
35 permitting government for affordable housing density bonus incentives.
36 The density bonus applicable to affordable housing shall be at least a

1 twenty-five percent increase and shall apply to the site of the
2 affordable housing development.

3 (7) "Development agreement" means a development agreement
4 authorized by RCW 36.70B.170 and required by this chapter.

5 (8) "Housing development" means construction, including
6 rehabilitation, projects consisting of five or more residential units,
7 including single-family, two-family, and multiple-family residences for
8 sale or rent.

9 (9) "Low-income housing" means housing that is affordable,
10 according to standards of the United States department of housing and
11 urban development, for either ownership or rental and that is occupied,
12 reserved, or marketed for occupancy by households with a gross
13 household income that does not exceed eighty percent of the median
14 gross household income for households of the same size within the
15 county in which the housing is located.

16 (10) "Moderate-income housing" means housing that is affordable,
17 according to standards of the United States department of housing and
18 urban development, for either ownership or rental and that is occupied,
19 reserved, or marketed for occupancy by households with a gross
20 household income that is greater than eighty percent but not in excess
21 of one hundred twenty percent of the median gross household income for
22 households of the same size within the county in which the housing is
23 located.

24 NEW SECTION. **Sec. 3.** (1) All cities, towns, and counties planning
25 under RCW 36.70A.040 shall adopt or amend by ordinance and incorporate
26 into their development regulations, zoning regulation, or other
27 official control an authorization for density bonus incentives for the
28 provision of affordable housing that apply to urban growth areas as
29 designated under RCW 36.70A.110 and that are consistent with this
30 chapter. Any other city, town, or county may adopt an ordinance
31 authorizing density bonus incentives for the provision of affordable
32 housing.

33 (2) The legislative body of a city, town, or county may adopt or
34 amend an ordinance authorizing density bonus incentives for affordable
35 housing only after the legislative body has adopted or amended the
36 housing element of its comprehensive plan to include a policy for
37 density bonus incentives that is consistent with this chapter.

1 NEW SECTION. **Sec. 4.** All affordable housing density bonus
2 incentives ordinances adopted as required by this chapter shall include
3 the following minimum provisions:

4 (1) A statement of purpose that is consistent with the stated
5 purposes of this chapter;

6 (2) A statement of consistency with the housing element of the
7 applicable city, town, or county comprehensive plan and the applicable
8 countywide planning policy document required under RCW 36.70A.210;

9 (3) Definitions as appropriate for such words or terms included in
10 the affordable housing density bonus incentive ordinance, provided that
11 where words or terms are defined in this chapter the ordinance shall
12 incorporate those definitions, either directly or by reference;

13 (4) Procedures, standards, and decision maker for the review and
14 decision on applications for affordable housing density bonus
15 incentives that: (a) Are consistent with this chapter; and (b) are
16 consistent with and may be consolidated with the procedures and
17 standards for the review of the project application to which the
18 incentives will apply;

19 (5) A requirement that every project applicant who is to receive
20 affordable housing density bonus incentives shall enter into a
21 development agreement with the applicable city, town, or county that is
22 consistent with section 6 of this act;

23 (6) Provisions for enforcement of the development agreement,
24 including the issuance of certificates of compliance; and

25 (7) Provisions to ensure that, after the affordable housing project
26 has been constructed, the availability of the affordable housing units
27 will be maintained through measures that establish income
28 qualifications for affordable housing renters or purchasers, promote
29 affirmative marketing, and regulate the rent or price, including resale
30 price, of affordable housing units.

31 NEW SECTION. **Sec. 5.** (1) An affordable housing density bonus
32 incentives ordinance may require that any new housing development
33 within the jurisdiction of the ordinance contain at least twenty
34 percent affordable housing if such a requirement is consistent with a
35 policy included in the applicable city, town, or county comprehensive
36 plan.

1 (2) If the requirement of subsection (1) of this section is
2 included in the ordinance, the affordable housing density bonus
3 incentives offered to the project applicant shall be of at least
4 equivalent financial value to the cost at the time of construction of
5 making the affordable housing units affordable.

6 NEW SECTION. **Sec. 6.** The development agreement entered into
7 between the applicant for the project that is to include affordable
8 housing units and the city, town, or county that must grant the project
9 approval and the affordable housing density bonus shall include
10 provisions to ensure the availability of the affordable housing units
11 for sale or rent.

12 (1) The development agreement shall provide for a period of
13 availability for affordable housing as follows:

14 (a) Newly constructed moderate-income and low-income sales and
15 rental housing units shall be subject to affordability controls for a
16 period of at least fifteen years, which period may be renewed pursuant
17 to the development agreement;

18 (b) Rehabilitated owner-occupied single-family housing units that
19 are improved to code standards shall be subject to affordability
20 controls for at least five years;

21 (c) Rehabilitated renter-occupied housing units that are improved
22 to code standards shall be subject to affordability controls on
23 rerelease for at least ten years;

24 (d) Any dwelling unit created through the conversion of a
25 nonresidential structure shall be considered a new housing unit and
26 shall be subject to affordability controls as delineated in (a) of this
27 subsection;

28 (e) Affordability controls on owner-occupied or renter-occupied
29 accessory apartments shall be applicable for a period of at least five
30 years; and

31 (f) Alternatives not otherwise described in this subsection shall
32 be controlled in a manner deemed suitable to the city, town, or county
33 and shall provide assurances that such arrangements will house
34 moderate-income or low-income households for at least ten years.

35 (2) In the case of for-sale housing units, the development
36 agreement shall include the following affordability controls governing
37 the initial sale and use and any resale:

1 (a) All conveyances of newly constructed affordable housing units
2 subject to the affordable housing density bonus incentives ordinance
3 that are for sale shall contain a deed restriction and mortgage lien,
4 which shall be recorded with the applicable county department of
5 records and elections; any restrictions on future resale shall be
6 included in the deed restriction as a condition of approval enforceable
7 through legal and equitable remedies;

8 (b) Affordable housing units shall upon initial sale and upon
9 resale during the period covered by the development agreement be sold
10 to eligible moderate-income and low-income households at an affordable
11 sales price and housing cost; and

12 (c) Affordable housing units shall be occupied by eligible
13 moderate-income or low-income households during the period covered by
14 the development agreement.

15 (3) In the case of rental housing units, the development agreement
16 shall include the following affordability controls governing the use of
17 affordable housing units during the use restriction period:

18 (a) Rules and procedures for qualifying tenants, establishing
19 affordable rent, filling vacancies, and maintaining affordable housing
20 rental units for qualified tenants;

21 (b) Requirements that owners verify tenant incomes and maintain
22 books and records to demonstrate compliance with the agreement and with
23 the ordinance; and

24 (c) Requirements that owners submit an annual report to the local
25 government demonstrating compliance with the agreement and with the
26 ordinance.

27 NEW SECTION. **Sec. 7.** The granting of affordable housing density
28 bonus incentives shall constitute a development permit. The review and
29 decision procedures for an application for such incentives permit shall
30 be included in the local project review process as established by each
31 city, town, or county.

32 NEW SECTION. **Sec. 8.** This chapter does not require or limit the
33 provision of direct financial aid by the city, town, or county, the
34 provision of publicly owned land, or the waiver or reduction of fees,
35 including impact fees, or of dedication or exaction requirements

1 required under the city, town, or county codes to assist the
2 development of affordable housing.

3 NEW SECTION. **Sec. 9.** The department of community, trade, and
4 economic development shall within one year after the effective date of
5 this act prepare and distribute to cities, towns, and counties that are
6 subject to this chapter a model affordable housing density bonus
7 incentives ordinance that is consistent with this chapter. The
8 department may also prepare and distribute guidelines that are
9 consistent with this chapter to assist cities, towns, and counties in
10 complying with this chapter.

11 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
12 a new chapter in Title 36 RCW.

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