
SENATE BILL 5544

State of Washington

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By Senators McDermott, Fairley, Kline, Kastama, Hobbs, Kilmer, Pridemore, and Kohl-Welles

Read first time 01/26/09. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to affordable housing incentive programs; and
2 amending RCW 36.70A.540.

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

4 **Sec. 1.** RCW 36.70A.540 and 2006 c 149 s 2 are each amended to read
5 as follows:

6 (1)(a) Any city or county planning under RCW 36.70A.040 may enact
7 or expand affordable housing incentive programs providing for the
8 development of low-income housing units through development regulations
9 or conditions on rezoning or permit decisions, or both, on one or more
10 of the following types of development: Residential; commercial;
11 industrial; or mixed-use. An affordable housing incentive program may
12 include, but is not limited to, one or more of the following:

- 13 (i) Density bonuses within the urban growth area;
14 (ii) Height and bulk bonuses;
15 (iii) Fee waivers or exemptions;
16 (iv) Parking reductions; or
17 (v) Expedited permitting(~~(, conditioned on provision of low income~~
18 ~~housing units; or~~
19 ~~(vi) Mixed use projects)).~~

1 (b) The city or county may enact or expand such programs whether or
2 not the programs may impose a tax, fee, or charge on the development or
3 construction of property.

4 (c) If a developer chooses not to participate in an optional
5 affordable housing incentive program adopted and authorized under this
6 section, a city, county, or town may not condition, deny, or delay the
7 issuance of a permit or development approval that is consistent with
8 zoning and development standards on the subject property absent
9 incentive provisions of this program.

10 (2) Affordable housing incentive programs enacted or expanded under
11 this section shall comply with the following:

12 (a) The incentives or bonuses shall provide for the
13 (~~construction~~) development of low-income housing units;

14 (b) Jurisdictions shall establish standards for low-income renter
15 or owner occupancy housing, including income guidelines consistent with
16 local housing needs, to assist low-income households that cannot afford
17 market-rate housing. Low-income households are defined for renter and
18 owner occupancy program purposes as follows:

19 (i) Rental housing units to be developed shall be affordable to and
20 occupied by households with an income of fifty percent or less of the
21 county median family income, adjusted for family size; (~~and~~)

22 (ii) Owner occupancy housing units shall be affordable to and
23 occupied by households with an income of eighty percent or less of the
24 county median family income, adjusted for family size. The legislative
25 authority of a jurisdiction, after holding a public hearing, may
26 establish lower income levels(~~(-)~~); and

27 (iii) The legislative authority of a jurisdiction, after holding a
28 public hearing, may also establish higher income levels for rental
29 housing or for owner occupancy housing upon finding that higher income
30 levels are needed to address local housing market conditions. The
31 higher income level for rental housing may not exceed eighty percent of
32 the county area median family income. The higher income level for
33 owner occupancy housing may not exceed one hundred percent of the
34 county area median family income. These established higher income
35 levels (~~(must be)~~) are considered "low-income" for the purposes of this
36 section;

37 (c) The jurisdiction shall establish a maximum rent level or sales
38 price for each low-income housing unit developed under the terms of a

1 program and may adjust these levels or prices based on the average size
2 of the household expected to occupy the unit. For renter-occupied
3 housing units, the total housing costs, including basic utilities as
4 determined by the jurisdiction, may not exceed thirty percent of the
5 income limit for the low-income housing unit;

6 (d) Where a developer is utilizing a housing incentive program
7 authorized under this chapter to develop market rate housing, and is
8 developing low-income housing to satisfy the requirements of the
9 housing incentive program, the low-income housing units shall be
10 provided in a range of sizes comparable to those units that are
11 available to other residents. To the extent practicable, the number of
12 bedrooms in low-income units must be in the same proportion as the
13 number of bedrooms in units within the entire ((building)) development.
14 The low-income units shall generally be distributed throughout the
15 ((building, except that units may be provided in an adjacent building.
16 The low-income units shall)) development and have substantially the
17 same functionality as the other units in the ((building or buildings))
18 development;

19 (e) Low-income housing units developed under an affordable housing
20 incentive program shall be committed to continuing affordability for at
21 least fifty years. A local government, however, may accept payments in
22 lieu of continuing affordability. The program shall include measures
23 to enforce continuing affordability and income standards applicable to
24 low-income units constructed under this section that may include, but
25 are not limited to, covenants, options, or other agreements to be
26 executed and recorded by owners and developers;

27 (f) Programs authorized under subsection (1) of this section may
28 apply to part or all of a jurisdiction and different standards may be
29 applied to different areas within a jurisdiction or to different types
30 of development. Programs authorized under this section may be modified
31 to meet local needs and may include provisions not expressly provided
32 in this section or RCW 82.02.020; ((and))

33 (g) Low-income housing units developed under an affordable housing
34 incentive program are encouraged to be provided within ((market rate
35 housing)) developments for which a bonus or incentive is provided.
36 However, programs may allow units to be provided in ((an adjacent)) a
37 building ((and)) located in the general area of the development for
38 which a bonus or incentive is provided; and

1 (h) Affordable housing incentive programs may allow a payment~~((s))~~
2 of money or property in lieu of low-income housing units if the
3 ~~((payment equals))~~ jurisdiction determines that the payment achieves a
4 result equal to or better than providing the affordable housing on-
5 site, as long as the payment does not exceed the approximate cost of
6 developing the same number and quality of housing units that would
7 otherwise be developed. Any city or county shall use these funds or
8 property to support the development of low-income housing, including
9 support provided through loans or grants to public or private owners or
10 developers of housing.

11 (3) Affordable housing incentive programs enacted or expanded under
12 this section may be applied within the jurisdiction to address the need
13 for increased residential development, consistent with local growth
14 management and housing policies, as follows:

15 (a) The jurisdiction shall identify certain land use designations
16 within a geographic area where increased residential development will
17 assist in achieving local growth management and housing policies;

18 (b) The jurisdiction shall provide increased residential
19 development capacity through zoning changes, bonus densities, height
20 and bulk increases, parking reductions, or other regulatory changes or
21 other incentives;

22 (c) The jurisdiction shall determine that increased residential
23 development capacity or other incentives can be achieved within the
24 identified area, subject to consideration of other regulatory controls
25 on development; and

26 (d) The jurisdiction may establish a minimum amount of affordable
27 housing that must be provided by all residential developments being
28 built under the revised regulations, consistent with the requirements
29 of this section.

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