CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1085**

Chapter 302, Laws of 2018

(partial veto)

65th Legislature

2018 Regular Session

SINGLE FAMILY DETACHED HOMES--MINIMUM FLOOR AREA

EFFECTIVE DATE: June 7, 2018

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| Passed by the House January 24, 2018  Yeas 97 Nays 0  FRANK CHOPP  **Speaker of the House of Representatives**  Passed by the Senate February 27, 2018  Yeas 49 Nays 0  CYRUS HABIB  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1085** as passed by House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved March 28, 2018 1:27 PM with the exception of Section 1, which is vetoed. | March 29, 2018 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**HOUSE BILL 1085**

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Passed Legislature - 2018 Regular Session

**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Blake, Vick, J. Walsh, Chapman, Buys, and McBride

AN ACT Relating to regulation of the minimum dimensions of habitable spaces in single-family residential buildings; amending RCW 19.27.060, 35.63.080, 35A.63.100, 36.43.010, and 36.70.750; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that there is a growing need for ecologically sustainable and affordable housing, and small home construction is a way to meet this need. The legislature also finds that regulations mandating a minimum gross floor area for single-family dwellings, such as minimum floor or room area requirements, that do not further fire, life safety, or environmental purposes, objectives, or standards prevent construction of small homes. It is the intent of the legislature that counties, cities, and towns may adopt regulations eliminating any minimum gross floor area requirement for single-family dwellings or providing a minimum gross floor area requirement that is below the minimum performance standards and objectives contained in the state building code, unless such regulations are necessary to ensure that buildings meet fire, life safety, or environmental standards.

**Sec.**  RCW 19.27.060 and 2015 c 226 s 1 are each amended to read as follows:

(1) The governing bodies of counties and cities may amend the codes enumerated in RCW 19.27.031 as amended and adopted by the state building code council as they apply within their respective jurisdictions, but the amendments shall not result in a code that is less than the minimum performance standards and objectives contained in the state building code except as provided in subsection (2) of this section.

(a) Except as provided in subsection (2) of this section, no amendment to a code enumerated in RCW 19.27.031 as amended and adopted by the state building code council that affects single-family or multifamily residential buildings shall be effective unless the amendment is approved by the building code council under RCW 19.27.074(1)(b).

(b) Any county or city amendment to a code enumerated in RCW 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue to be effective after any action is taken under RCW 19.27.074(1)(a) without necessity of reapproval under RCW 19.27.074(1)(b) unless the amendment is declared null and void by the council at the time any action is taken under RCW 19.27.074(1)(a) because such action in any way altered the impact of the amendment.

(2) The legislative body of a county or city, in exercising the authority provided under subsection (1) of this section to amend the code enumerated in RCW 19.27.031(1)(b), may adopt amendments that eliminate any minimum gross floor area requirement for single-family detached dwellings or that provide a minimum gross floor area requirement below the minimum performance standards and objectives contained in the state building code.

(3) Except as permitted or provided otherwise under this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any governmental subdivision or unit of local government.

((~~(3)~~)) (4) The governing body of each county or city may limit the application of any portion of the state building code to exclude specified classes or types of buildings or structures according to use other than single-family or multifamily residential buildings. However, in no event shall fruits or vegetables of the tree or vine stored in buildings or warehouses constitute combustible stock for the purposes of application of the uniform fire code. A governing body of a county or city may inspect facilities used for temporary storage and processing of agricultural commodities.

((~~(4)~~)) (5) No provision of the uniform fire code concerning roadways shall be part of the state building code: PROVIDED, That this subsection shall not limit the authority of a county or city to adopt street, road, or access standards.

((~~(5)~~)) (6) The provisions of the state building code may be preempted by any city or county to the extent that the code provisions relating to the installation or use of sprinklers in jail cells conflict with the secure and humane operation of jails.

((~~(6)~~)) (7)(a) Effective one year after July 23, 1989, the governing bodies of counties and cities may adopt an ordinance or resolution to exempt from permit requirements certain construction or alteration of either group R, division 3, or group M, division 1 occupancies, or both, as defined in the uniform building code, 1988 edition, for which the total cost of fair market value of the construction or alteration does not exceed fifteen hundred dollars. The permit exemption shall not otherwise exempt the construction or alteration from the substantive standards of the codes enumerated in RCW 19.27.031, as amended and maintained by the state building code council under RCW 19.27.070.

(b) Prior to July 23, 1989, the state building code council shall adopt by rule, guidelines exempting from permit requirements certain construction and alteration activities under (a) of this subsection.

**Sec.**  RCW 35.63.080 and 1979 ex.s. c 170 s 4 are each amended to read as follows:

(1) The council or board may provide for the preparation by its commission and the adoption and enforcement of coordinated plans for the physical development of the municipality. For this purpose the council or board, in such measure as is deemed reasonably necessary or requisite in the interest of health, safety, morals, and the general welfare, upon recommendation by its commission, by general ordinances of the city or general resolution of the board, may:

(a) Regulate and restrict:

(i) The location and the use of buildings, structures, and land for residence, trade, industrial, and other purposes;

(ii) The height, number of stories, size, construction, and design of buildings and other structures;

(iii) The size of yards, courts, and other open spaces on the lot or tract;

(iv) The density of population;

(v) The set-back of buildings along highways, parks, or public water frontages; and

(vi) The subdivision and development of land; ((~~and may~~))

(b) Eliminate the minimum gross floor area requirements for single-family detached dwellings or reduce the requirements below the minimum performance standards and objectives contained in the state building code; and

(c) Encourage and protect access to direct sunlight for solar energy systems.

((~~A~~)) (2) The council of a city where ((~~such~~)) ordinances adopted in accordance with this section are in effect((~~,~~)) may, on the recommendation of its commission, provide for the appointment of a board of adjustment((~~,~~)) to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent and in accordance with general or specific rules therein contained.

**Sec.**  RCW 35A.63.100 and 1979 ex.s. c 170 s 8 are each amended to read as follows:

After approval of the comprehensive plan((~~, as set forth above~~)) in accordance with provisions of this chapter, the legislative body, in developing the municipality and in regulating the use of land, may implement or give effect to the comprehensive plan or parts thereof by ordinance or other action to such extent as the legislative body deems necessary or appropriate. Such ordinances or other action may provide for:

(1) Adoption of an official map and regulations relating thereto designating locations and requirements for one or more of the following: Streets, parks, public buildings, and other public facilities, and protecting such sites against encroachment by buildings and other physical structures.

(2)(a)(i) Dividing the municipality, or portions thereof, into appropriate zones within which specific standards, requirements, and conditions may be provided for regulating: The use of public and private land, buildings, and structures((~~, and~~)); the location, height, bulk, number of stories, and size of buildings and structures((~~,~~)); size of yards, courts, and open spaces((~~,~~)); density of population((~~,~~)); ratio of land area to the area of buildings and structures((~~,~~)); setbacks((~~,~~)); area required for off-street parking((~~,~~)); protection of access to direct sunlight for solar energy systems((~~,~~)); and such other standards, requirements, regulations, and procedures as are appropriately related thereto.

(ii) Eliminating the minimum gross floor area requirements for single-family detached dwellings or reducing the requirements below the minimum performance standards and objectives contained in the state building code.

(b) The ordinance encompassing the matters of this subsection (2) is hereinafter called the "zoning ordinance." No zoning ordinance, or amendment thereto, shall be enacted by the legislative body without at least one public hearing, notice of which shall be given as set forth in RCW 35A.63.070. Such hearing may be held before the planning agency or the board of adjustment or such other body as the legislative body shall designate.

(3) Adoption of design standards, requirements, regulations, and procedures for the subdivision of land into two or more parcels, including, but not limited to, the approval of plats, dedications, acquisitions, improvements, and reservation of sites for public use.

(4) Scheduling public improvements on the basis of recommended priorities over a period of years, subject to periodic review.

(5) Such other matters as may be otherwise authorized by law or as the legislative body deems necessary or appropriate to effectuate the goals and objectives of the comprehensive plan or parts thereof and the purposes of this chapter.

**Sec.**  RCW 36.43.010 and 1963 c 4 s 36.43.010 are each amended to read as follows:

(1) The boards of county commissioners may adopt standard building codes and standard fire regulations to be applied within their respective jurisdictions.

(2) The boards of county commissioners may eliminate the minimum gross floor area requirements for single-family detached dwellings or reduce the requirements below the minimum performance standards and objectives contained in the state building code.

**Sec.**  RCW 36.70.750 and 1963 c 4 s 36.70.750 are each amended to read as follows:

Any board, by ordinance, may establish classifications, within each of which, specific controls are identified, and which will regulate:

(1) ((~~Regulate~~)) The use of buildings, structures, and land as between agriculture, industry, business, residence, and other purposes;

(2) ((~~Regulate~~)) The location, height, bulk, number of stories, and size of buildings and structures; the size of yards, courts, and other open spaces; the density of population; the percentage of a lot which may be occupied by buildings and structures; and the area required to provide off-street facilities for the parking of motor vehicles; and

(3) The minimum gross floor area requirements for single-family detached dwellings, including the elimination of such requirements or reduction of such requirements below the minimum performance standards and objectives contained in the state building code.

**--- END ---**

Passed by the House January 24, 2018.

Passed by the Senate February 27, 2018.

Approved by the Governor March 28, 2018, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 2018.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 1, House Bill No. 1085 entitled:

"AN ACT Relating to regulation of the minimum dimensions of habitable spaces in single-family residential buildings."

House Bill 1085 authorizes the governing body of a city or county to adopt ordinances eliminating floor space requirements for single-family dwellings or reduce the requirements for floor space below the minimum gross floor area standards of the state building code. Currently, the state building code requires that habitable rooms have a minimum floor area of at least 70 square feet and must be at least seven feet wide. While I support the broader intent of this legislation, which allows for ecologically sustainable and affordable small home construction, I am concerned that Section 1 establishes legislative intent and precedent to create exemptions to the building code standards, without considering how these exemptions will be implemented consistently by local governments.

The Washington State Building Codes Council adopts statewide residential construction standards in consultation with technical experts, after rigorous review of international best practices. Smaller sleeping and living spaces should only be allowed after a rigorous review to ensure safety and health of occupants. I am asking the Council to develop, through a technical advisory group or other such means, appropriate guidance for consideration by local jurisdictions in implementation of this statute so that life, health and safety considerations are properly addressed when square footage of habitable space is reduced.

I encourage the local jurisdictions to request opinions from the State Building Codes Council with respect to reducing gross floor area requirements as they relate to other performance standards and objectives. This guidance will be beneficial to local officials in determining how best to adopt any proposed reduction to minimum gross floor area requirements while ensuring occupant health, safety and quality of life.

For these reasons I have vetoed Section 1 of House Bill No. 1085.

With the exception of Section 1, House Bill No. 1085 is approved."