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**SUBSTITUTE HOUSE BILL 1797**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** House Local Government (originally sponsored by Representatives Gregerson, Barkis, Ryu, Peterson, Orwall, Stokesbary, Doglio, Macri, Davis, Jinkins, Lekanoff, Fitzgibbon, Young, Frame, and Goodman)

AN ACT Relating to local governments planning and zoning for accessory dwelling units; amending RCW 35.63.210, 35A.63.230, 36.70.677, and 36.70A.400; adding a new section to chapter 19.27 RCW; adding a new chapter to Title 36 RCW; and repealing RCW 43.63A.215.

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

NEW SECTION. **Sec.**  FINDINGS AND INTENT. (1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis. Many communities across the state are in need of more housing options for renters.

(b) Accessory dwelling units typically rent below market rate, providing additional affordable housing options for renters.

(c) Accessory dwelling units also help to provide housing for very low-income households. More than ten percent of accessory dwelling units in some areas are occupied by tenants who pay no rent at all; among these tenants are grandparents, adult children, family members with disabilities, and friends going through life transitions. Accessory dwelling units meet the needs of these people who might otherwise require subsidized housing space and resources needed by other households.

(d) Homeowners who add an accessory dwelling unit to her or his property may benefit from added income and an increased sense of security.

(e) Accessory dwelling units can also benefit neighborhoods by expanding rental options near public amenities such as schools, parks, and transit without changing the look and feel of existing neighborhoods.

(f) Accessory dwelling units may reduce economic displacement in existing communities by expanding the range of available housing options and prices.

(g) Accessory dwelling units are a housing choice that provides environmental benefits. They promote energy conservation compared with average size single-family homes. In addition, the siting of additional accessory dwelling units near transit hubs can help to reduce greenhouse gas emissions.

(h) Removing certain regulatory barriers to the construction of accessory dwelling units, such as inflexible design standards and siting restrictions, may substantially reduce construction costs, thereby enabling more homeowners to add accessory dwelling units to their properties. The increased availability of accessory dwelling units will provide benefits to homeowners, renters, the community, and the environment.

(2) The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options. The legislature encourages local governments to increase the availability of affordable housing by subsidizing accessory dwelling units with local sales tax revenue, as authorized by House Bill No. 1406.

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

(1) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit.

(3) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit.

(4) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(5) "Cities" means all cities, code cities, and towns with a population of ten thousand or more, and cities with a population of two thousand five hundred or more in which any portion of the city lies within a transit service district.

(6) "Counties" means all counties with a population of fifteen thousand or more.

(7) "Gross floor area" means the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

NEW SECTION. **Sec.**  ACCESSORY DWELLING UNIT REGULATIONS REQUIRED. (1) Cities and counties may adopt or amend by ordinance and incorporate into their development regulations, zoning regulations, and other official controls, an authorization for the creation of accessory dwelling units.

(2) Ordinances, development regulations, and other official controls adopted or amended pursuant to this chapter may only apply in the portions of counties that are within designated urban growth areas.

(3) Counties will be held harmless from growth management act and state environmental policy act related appeals when taking action necessary to meet the requirements of this act.

NEW SECTION. **Sec.**  GENERAL REGULATORY REQUIREMENTS. Ordinances, development regulations, and other official controls adopted or amended as required by this chapter:

(1) May allow, on all lots on which there is a single-family housing unit, the first of either an attached accessory dwelling unit and one detached accessory dwelling unit. To allow local flexibility, this requirement shall be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority except as provided in this section;

(2) May only require installation of a new or separate utility connection between an attached accessory dwelling unit and a utility after finding that site-specific technical, environmental, or financial considerations warrant separation of utility connections for accessory dwellings from preexisting structures;

(3) Are encouraged not to consider attached accessory dwelling units to be new residential uses for the purpose of calculating connection fees or capacity charges for utilities. Any connection fees or system development charges must: (a) Be proportionate to the burden of the proposed accessory dwelling unit upon the water or sewer system; and (b) not exceed the reasonable cost of providing the service;

(4) May require a new or separate utility connection directly between a detached accessory dwelling unit and a utility and may subject the connection to a connection fee or capacity charge that must: (a) Be proportionate to the burden of the proposed accessory dwelling unit upon the water or sewer system; and (b) not exceed the reasonable cost of providing the service;

(5) Are encouraged not to count residents of accessory dwelling units against any limits on the number of unrelated residents on a single-family lot;

(6) Are encouraged not to count the gross floor area of an accessory dwelling unit against any floor area ratio limitations that apply to single-family housing units;

(7) Cities with a population of one hundred thousand or more, are encouraged not to require the owner of a lot on which there is an accessory dwelling unit to reside in or occupy the accessory dwelling unit or another housing unit on the same lot; and

(8) May require an accessory dwelling unit to be accessible to fire department apparatus by way of a public street or approved fire apparatus access.

NEW SECTION. **Sec.**  DEVELOPMENT STANDARDS. Ordinances, development regulations, and other official controls adopted or amended as required by this chapter should look to minimize the impact of these regulations on the construction cost of an accessory dwelling unit, and without adopted findings:

(1) Should not establish a root height limitation on detached accessory dwelling units that is less than twenty-four feet;

(2) Should not establish a wall height limitation on detached accessory dwelling units that is less than seventeen feet;

(3) Should not establish a maximum gross floor area for accessory dwelling units that is less than one thousand square feet;

(4) Should not establish a minimum gross floor area for accessory dwelling units that is greater than one hundred forty square feet;

(5) Should not establish setback regulations for accessory dwelling units that are more restrictive than regulations for single-family housing units;

(6) The legislature encourages cities to allow detached accessory dwelling units to be sited at the lot line of the rear yard if the rear yard is adjacent to an alley;

(7) Should not establish a requirement for the provision of off-street parking for accessory dwelling units within one-half mile of a fixed guideway transit stop;

(8)(a) Local ordinances may establish a requirement for the provision of one parking space per accessory dwelling unit for any accessory dwelling unit that will be used as a short-term rental.

(b)(i) For the purposes of this section, "short-term rental" means a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, is offered or provided to a guest by a short-term rental operator for a fee for fewer than thirty consecutive nights.

(ii) "Short-term rental" does not include any of the following:

(A) A dwelling unit that is occupied by the owner for at least six months during the calendar year and in which fewer than three rooms are rented at any time;

(B) A dwelling unit, or portion thereof, that is used by the same person for thirty or more consecutive nights; or

(C) A dwelling unit, or portion thereof, that is operated by an organization or government entity that is registered as a charitable organization with the secretary of state, state of Washington, or classified by the federal internal revenue service as a public charity or a private foundation, and provides temporary housing to individuals who are being treated for trauma, injury, or disease, or their family members;

(9) May exempt designated historical districts that have been recognized as such under local ordinance.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27 RCW to read as follows:

By April 1, 2020, the building code council shall adopt rules pertaining to accessory dwelling units that are consistent with the definitions and standards in chapter 36.--- RCW (the new chapter created in section 12 of this act).

**Sec.**  RCW 35.63.210 and 1993 c 478 s 8 are each amended to read as follows:

Any ((~~local government~~)) city or county, as defined in ((~~RCW 43.63A.215~~)) section 2 of this act, that is planning under this chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW (the new chapter created in section 12 of this act).

**Sec.**  RCW 35A.63.230 and 1993 c 478 s 9 are each amended to read as follows:

Any ((~~local government~~)) city or county, as defined in ((~~RCW 43.63A.215~~)) section 2 of this act, that is planning under this chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW (the new chapter created in section 12 of this act).

**Sec.**  RCW 36.70.677 and 1993 c 478 s 10 are each amended to read as follows:

Any ((~~local government~~)) city or county, as defined in ((~~RCW 43.63A.215~~)) section 2 of this act, that is planning under this chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW (the new chapter created in section 12 of this act).

**Sec.**  RCW 36.70A.400 and 1993 c 478 s 11 are each amended to read as follows:

Any ((~~local government~~)) city or county, as defined in ((~~RCW 43.63A.215~~)) section 2 of this act, that is planning under this chapter shall comply with ((~~RCW 43.63A.215(3)~~)) chapter 36.--- RCW (the new chapter created in section 12 of this act).

NEW SECTION. **Sec.**  RCW 43.63A.215 (Accessory apartments—Development and placement—Local governments) and 1993 c 478 s 7 are each repealed.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 36 RCW.

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