

SHB 1797 - H AMD 314

By Representative Peterson

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

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

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

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

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

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

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

14 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
15 section apply throughout this chapter unless the context clearly
16 requires otherwise.

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

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

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

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

29 (5) "Cities" means (a) all cities, code cities, and towns with a
30 population of ten thousand or more, and (b) all cities, code cities,
31 and towns with a population of at least two thousand five hundred but
32 less than ten thousand in which any portion of the city, code city,
33 or town lies within the boundaries of a regional transit authority or
34 a transit agency as defined in RCW 81.104.015.

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

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

1 (8) "Single-family housing unit" means a single-family detached
2 house, and excludes a duplex, triplex, townhome, or other housing
3 unit.

4 NEW SECTION. **Sec. 3.** ACCESSORY DWELLING UNIT REGULATIONS
5 REQUIRED. (1) Cities and counties must adopt or amend by ordinance
6 and incorporate into their development regulations, zoning
7 regulations, and other official controls, an authorization for the
8 creation of accessory dwelling units that is consistent with this
9 chapter.

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

14 (3) Cities and counties must implement the requirements of this
15 chapter by June 1, 2021. Any city or county that does not comply with
16 this subsection must consider any permit application it receives
17 under this chapter in accordance with this chapter unless it adopts
18 its own ordinance, development regulation, or other official control
19 in accordance with this subsection within sixty days after receipt of
20 the application.

21 (4) Any action taken by a county or city to comply with the
22 requirements of this chapter within its urban growth area boundary is
23 not subject to legal challenge under chapter 36.70A or 43.21C RCW.
24 This subsection is retroactive, as well as prospective, and applies
25 to any legal challenge commenced on or after January 1, 2018.

26 NEW SECTION. **Sec. 4.** GENERAL REGULATORY REQUIREMENTS. (1)
27 Ordinances, development regulations, and other official controls
28 adopted or amended as required by this chapter:

29 (a) Must allow, on lots on which there is a single-family housing
30 unit either one attached accessory dwelling unit or one detached
31 accessory dwelling unit. To allow local flexibility, the requirement
32 under this subsection (1)(a) is subject to such regulations,
33 conditions, procedures, and limitations as determined by the local
34 legislative authority except as provided in this section. Attached or
35 detached accessory dwelling units may not be considered as
36 contributing to the overall underlying density within the urban
37 growth area boundary of a county for purposes of compliance with
38 chapter 36.70A RCW;

1 (b) May not impose a minimum lot size requirement for the siting
2 of accessory dwelling units;

3 (c) May not be inconsistent with water availability requirements,
4 water system plans, small water system management plans, or
5 established policies adopted by cities or counties. Any connection
6 fees or capacity charges for attached or detached accessory dwelling
7 units must be proportionate to the burden of the proposed accessory
8 dwelling unit upon the water or sewer system;

9 (e) Must require an accessory dwelling unit to be accessible to
10 fire department apparatus by way of a public street or approved fire
11 apparatus access;

12 (f) May not count residents of accessory dwelling units against
13 any limits on the number of unrelated residents on a single-family
14 lot;

15 (g) May not establish a requirement for the provision of off-
16 street parking for accessory dwelling units within one mile of a
17 transit stop for fixed rail or for bus service that is scheduled at
18 least every fifteen minutes for no less than ten hours per day.
19 Except as provided in this subsection (1)(g), jurisdictions may
20 require up to one additional off-street parking space per lot in
21 which there is at least one accessory dwelling unit; and

22 (h) May not count the gross floor area of an accessory dwelling
23 unit against any floor area ratio limitations that apply to single-
24 family housing units.

25 (2) Attached or detached accessory dwelling units may not be
26 considered as contributing to the overall underlying density within
27 the urban growth area boundary of a county for purposes of compliance
28 with chapter 36.70A RCW.

29 NEW SECTION. **Sec. 5.** DEVELOPMENT STANDARDS. (1) Ordinances,
30 development regulations, and other official controls adopted or
31 amended as required by this chapter are encouraged to minimize the
32 impact of these ordinances and regulations on the construction cost
33 of an accessory dwelling unit, and without adopted findings:

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

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

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

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

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

7 (2) Such ordinances, regulations, and controls may exempt
8 designated historical districts that are recognized as such under
9 local ordinance.

10 (3) Cities are encouraged to allow detached accessory dwelling
11 units to be sited at the lot line of the rear yard if the rear yard
12 is adjacent to an alley.

13 NEW SECTION. **Sec. 6.** IMPACT FEE REVIEW. Cities and counties
14 must review their impact fees to ensure that any impact fees imposed
15 for accessory dwelling units, in accordance with RCW 82.02.060(9),
16 are commensurate with the actual impact of the accessory dwelling
17 unit and are less than impact fees for single-family housing units.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.27
19 RCW to read as follows:

20 By April 1, 2020, the building code council shall adopt rules
21 pertaining to accessory dwelling units that are consistent with the
22 definitions and standards in chapter 36.--- RCW (the new chapter
23 created in section 14 of this act).

24 **Sec. 8.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to
25 read as follows:

26 The local ordinance by which impact fees are imposed:

27 (1) Shall include a schedule of impact fees which shall be
28 adopted for each type of development activity that is subject to
29 impact fees, specifying the amount of the impact fee to be imposed
30 for each type of system improvement. The schedule shall be based upon
31 a formula or other method of calculating such impact fees. In
32 determining proportionate share, the formula or other method of
33 calculating impact fees shall incorporate, among other things, the
34 following:

35 (a) The cost of public facilities necessitated by new
36 development;

1 (b) An adjustment to the cost of the public facilities for past
2 or future payments made or reasonably anticipated to be made by new
3 development to pay for particular system improvements in the form of
4 user fees, debt service payments, taxes, or other payments earmarked
5 for or proratable to the particular system improvement;

6 (c) The availability of other means of funding public facility
7 improvements;

8 (d) The cost of existing public facilities improvements; and

9 (e) The methods by which public facilities improvements were
10 financed;

11 (2) May provide an exemption for low-income housing, and other
12 development activities with broad public purposes, from these impact
13 fees, provided that the impact fees for such development activity
14 shall be paid from public funds other than impact fee accounts;

15 (3) May provide an exemption from impact fees for low-income
16 housing. Local governments that grant exemptions for low-income
17 housing under this subsection (3) may either: Grant a partial
18 exemption of not more than eighty percent of impact fees, in which
19 case there is no explicit requirement to pay the exempted portion of
20 the fee from public funds other than impact fee accounts; or provide
21 a full waiver, in which case the remaining percentage of the exempted
22 fee must be paid from public funds other than impact fee accounts. An
23 exemption for low-income housing granted under subsection (2) of this
24 section or this subsection (3) must be conditioned upon requiring the
25 developer to record a covenant that, except as provided otherwise by
26 this subsection, prohibits using the property for any purpose other
27 than for low-income housing. At a minimum, the covenant must address
28 price restrictions and household income limits for the low-income
29 housing, and that if the property is converted to a use other than
30 for low-income housing, the property owner must pay the applicable
31 impact fees in effect at the time of conversion. Covenants required
32 by this subsection must be recorded with the applicable county
33 auditor or recording officer. A local government granting an
34 exemption under subsection (2) of this section or this subsection (3)
35 for low-income housing may not collect revenue lost through granting
36 an exemption by increasing impact fees unrelated to the exemption. A
37 school district who receives school impact fees must approve any
38 exemption under subsection (2) of this section or this subsection
39 (3);

1 (4) Shall provide a credit for the value of any dedication of
2 land for, improvement to, or new construction of any system
3 improvements provided by the developer, to facilities that are
4 identified in the capital facilities plan and that are required by
5 the county, city, or town as a condition of approving the development
6 activity;

7 (5) Shall allow the county, city, or town imposing the impact
8 fees to adjust the standard impact fee at the time the fee is imposed
9 to consider unusual circumstances in specific cases to ensure that
10 impact fees are imposed fairly;

11 (6) Shall include a provision for calculating the amount of the
12 fee to be imposed on a particular development that permits
13 consideration of studies and data submitted by the developer to
14 adjust the amount of the fee;

15 (7) Shall establish one or more reasonable service areas within
16 which it shall calculate and impose impact fees for various land use
17 categories per unit of development; and

18 (8) May provide for the imposition of an impact fee for system
19 improvement costs previously incurred by a county, city, or town to
20 the extent that new growth and development will be served by the
21 previously constructed improvements provided such fee shall not be
22 imposed to make up for any system improvement deficiencies.

23 (9) May provide an exemption from impact fees for accessory
24 dwelling units as defined in section 2 of this act, but may not
25 establish an impact fee amount for accessory dwelling units within
26 one-half mile of a transit stop for fixed rail or for bus service
27 that is scheduled at least every fifteen minutes for no less than ten
28 hours per day that is greater than fifty percent of the amount set
29 for single-family residences.

30 For purposes of this section, "low-income housing" means housing
31 with a monthly housing expense, that is no greater than thirty
32 percent of eighty percent of the median family income adjusted for
33 family size, for the county where the project is located, as reported
34 by the United States department of housing and urban development.

35 **Sec. 9.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to
36 read as follows:

37 Any (~~local government~~) city or county, as defined in ((RCW
38 ~~43.63A.215~~) section 2 of this act, that is planning under this

1 chapter shall comply with ((RCW 43.63A.215(3))) chapter 36.--- RCW
2 (the new chapter created in section 14 of this act).

3 **Sec. 10.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to
4 read as follows:

5 Any ((local government)) city or county, as defined in ((RCW
6 43.63A.215)) section 2 of this act, that is planning under this
7 chapter shall comply with ((RCW 43.63A.215(3))) chapter 36.--- RCW
8 (the new chapter created in section 14 of this act).

9 **Sec. 11.** RCW 36.70.677 and 1993 c 478 s 10 are each amended to
10 read as follows:

11 Any ((local government)) city or county, as defined in ((RCW
12 43.63A.215)) section 2 of this act, that is planning under this
13 chapter shall comply with ((RCW 43.63A.215(3))) chapter 36.--- RCW
14 (the new chapter created in section 14 of this act).

15 **Sec. 12.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to
16 read as follows:

17 Any ((local government)) city or county, as defined in ((RCW
18 43.63A.215)) section 2 of this act, that is planning under this
19 chapter shall comply with ((RCW 43.63A.215(3))) chapter 36.--- RCW
20 (the new chapter created in section 14 of this act).

21 NEW SECTION. **Sec. 13.** RCW 43.63A.215 (Accessory apartments—
22 Development and placement—Local governments) and 1993 c 478 s 7 are
23 each repealed.

24 NEW SECTION. **Sec. 14.** Sections 1 through 6 of this act
25 constitute a new chapter in Title 36 RCW."

26 Correct the title.

EFFECT: (1) Clarifies that any action taken by counties and
cities to comply with this act within urban growth area (UGA)
boundaries are not subject to legal challenge brought, on or after
January 1, 2018, under the GMA or SEPA.

(2) Modifies the requirement that local ordinances and
development regulations must allow for ADUs on all lots that contain
a single-family housing unit, duplex, or triplex to single-family
housing lots only with the allowance restricted to either an attached
ADU or detached ADU, and subjects this requirement to any local

regulations and limitations as determined by the local legislative authority.

(3) Clarifies that ADUs may not be considered as contributing to the underlying density with the UGA boundary of a county for GMA compliance purposes.

(4) Removes language addressing new or separate utility connections and basing connection fees and capacity charges on the size and number of plumbing fixtures for ADUs.

(5) Requires local ADU regulations to not be inconsistent with water availability requirements, water system plans, or established policies adopted by cities or counties.

(6) Removes the restriction on the prohibition on the sale or conveyance of a condo unit based on the grounds it was originally an ADU.

(7) Requires ADUs to be accessible to fire department apparatus by way of public street or approved fire apparatus access.

(8) Modifies the off-street parking prohibition to ADUs within 1 miles of a transit stop for fixed rail or for regular bus service.

(9) Encourages local regulations to minimize their impact on ADU construction costs.

(10) Encourages, instead of mandates, local regulations not to establish setback regulations for ADUs more restrictive than single-family housing unit regulations.

(11) Removes the prohibition on establishing tree retention requirements for ADUs in addition to those for single-family units.

(12) Authorizes local regulations to exempt designated historical districts.

(13) Requires cities and counties to review impact fees to ensure that impact fees on ADUs are commensurate with actual impact of the ADU and are less than impact fees on single-family housing units.

(14) Removes the requirement that cities and counties adopt ordinances and regulations regarding minimum gross floor area consistent with the act.

(15) Clarifies that cities of at least 2,500 and less than 10,000 and of which any portion lies within the boundaries of a regional transit authority or a transit agency are subject to the requirements of the act.

(16) Removes the prohibition on requiring an owner to occupy the ADU or other housing unit on the property.

(17) clarifies that attached or detached ADUs may not be considered as contributing to the overall underlying density with an urban growth area boundary of a county.

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