

ESSB 6617 - H AMD 1790

By Representative DeBolt

WITHDRAWN 03/06/2020

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A
4 RCW to read as follows:

5 The definitions in this section apply throughout sections 2, 3,
6 and 4 of this act unless the context clearly requires otherwise.

7 (1) "Accessory dwelling unit" means a dwelling unit located on
8 the same lot as a single-family housing unit, duplex, triplex,
9 townhome, or other housing unit.

10 (2) "Attached accessory dwelling unit" means an accessory
11 dwelling unit located within or attached to a single-family housing
12 unit, duplex, triplex, townhome, or other housing unit.

13 (3) "Covered cities" means all cities, code cities, and towns
14 located in a county planning under RCW 36.70A.040 and that had a
15 population of at least two thousand five hundred, as determined by
16 the office of financial management.

17 (4) "Covered counties" means all counties planning under
18 36.70A.040 that have a population of at least fifteen thousand, as
19 determined by the office of financial management.

20 (5) "Detached accessory dwelling unit" means an accessory
21 dwelling unit that consists partly or entirely of a building that is
22 separate and detached from a single-family housing unit, duplex,
23 triplex, townhome, or other housing unit.

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

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

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A
2 RCW to read as follows:

3 (1) Covered cities and covered counties must adopt or amend by
4 ordinance and incorporate into their development regulations, zoning
5 regulations, and other official controls, an authorization for the
6 creation of accessory dwelling units that is consistent with this
7 section and section 3 of this act.

8 (2) Ordinances, development regulations, and other official
9 controls adopted or amended pursuant to this section and sections 3
10 and 4 of this act are only required to apply in the portions of
11 towns, cities, and counties that are within urban growth areas
12 designated under this chapter.

13 (3) Attached or detached accessory dwelling units may not be
14 considered as contributing to the overall underlying density within
15 the urban growth area boundary of a county for purposes of compliance
16 with this chapter.

17 (4) (a) Any action taken by a covered city or covered county to
18 comply with the requirements of this section and section 3 of this
19 act, or to implement the options specified in section 4 of this act
20 within its urban growth area boundary is not subject to legal
21 challenge under this chapter or chapter 43.21C RCW.

22 (b) A covered city or covered county that does not comply with
23 the requirements of this section and section 3 of this act is subject
24 to legal challenge under this chapter.

25 (5) (a) (i) Covered cities that had a population of at least two
26 thousand five hundred and counties that had a population of at least
27 fifteen thousand as of April 1, 2019, must adopt ordinances,
28 regulations, or other official controls to implement the requirements
29 of section 3 of this act that take effect by July 1, 2021.

30 (ii) A city or county that becomes a covered city or county as a
31 result of population growth must adopt ordinances, regulations, or
32 other official controls to implement the requirements of section 3 of
33 this act that take effect no later than twelve months after a
34 determination by the office of financial management that the city in
35 a county planning under RCW 36.70A.040 has a population of two
36 thousand five hundred or a county planning under RCW 36.70A.040 has a
37 population that exceeds fifteen thousand.

38 (b) Beginning July 1, 2021, the requirements of section 3 of this
39 act:

1 (i) Apply and take effect in any covered city or covered county
2 that has not adopted ordinances, regulations, or other official
3 controls as required by this section; and

4 (ii) Supersede, preempt, and invalidate any local development
5 regulations that conflict with the provisions of section 3 of this
6 act.

7 (6) Nothing in this section or section 3 or 4 of this act
8 requires or authorizes a city or county to authorize the construction
9 of an accessory dwelling unit in a location where development is
10 restricted under other laws, rules, or ordinances as a result of
11 physical proximity to on-site sewage system infrastructure, critical
12 areas, or other unsuitable physical characteristics of a property.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
14 RCW to read as follows:

15 Through ordinances, development regulations, and other official
16 controls adopted or amended as required by section 2 of this act,
17 covered cities and covered counties:

18 (1)(a) Must allow at least one accessory dwelling unit on all
19 lots that are located in all zoning districts that allow for single-
20 family homes; the accessory dwelling units allowed under this
21 subsection (1)(a) may be either attached accessory dwelling units or
22 detached accessory dwelling units; if the unit is a detached
23 accessory dwelling unit, the lot must be at least three thousand
24 five-hundred square feet.

25 (b) May not establish a requirement for the provision of off-
26 street parking for accessory dwelling units;

27 (c) May not require the owner of a lot on which there is an
28 accessory dwelling unit to reside in or occupy the accessory dwelling
29 unit or another housing unit on the same lot, and may not require a
30 period of continuous ownership before permitting construction of an
31 accessory dwelling unit on a lot;

32 (d) May not charge permitting and plan review fees under chapter
33 19.27 RCW for accessory dwelling units that exceed fifty percent of
34 the fees charged for single-family residences;

35 (e) May not establish an impact fee amount for accessory dwelling
36 units that is greater than fifty percent of the amount set for
37 single-family residences; and

38 (f)(i) May not require installation of a new or separate utility
39 connection between an accessory dwelling unit and a utility unless

1 the jurisdiction finds that the site-specific technical,
2 environmental, or financial considerations warrant a separation of
3 utility connections for accessory dwelling units from other housing
4 units on the lot;

5 (ii) May not consider attached accessory dwelling units to be new
6 residential uses for the purpose of calculating connection fees or
7 capacity charges for utilities; and

8 (iii) May require a new or separate utility connection directly
9 between an accessory dwelling unit and a utility and may subject the
10 connection to a connection fee or capacity charge that must:

11 (A) Be proportionate to the burden of the proposed accessory
12 dwelling unit, based on its size or number of plumbing fixtures, upon
13 the water or sewer system;

14 (B) Not exceed the reasonable cost of providing the service; and

15 (C) Not be inconsistent with water availability requirements,
16 water system plans, small water system management plans, or
17 established policies adopted by the water or sewer utility provider;
18 and

19 (2) Must achieve at least three of the following five policy
20 outcomes that apply in all zoning districts that allow for single-
21 family homes:

22 (a) Allow at least two accessory dwelling units on all lots on
23 which there is a single-family housing unit, duplex, triplex,
24 fourplex, rowhouse, townhome, or apartment building, regardless of
25 zoning district; the two accessory dwelling units may be in any of
26 the following configurations:

27 (i) One attached accessory dwelling unit and one detached
28 accessory dwelling unit;

29 (ii) Two attached accessory dwelling units; or

30 (iii) Two detached accessory dwelling units, which may be
31 comprised of either one or two detached structures;

32 (b) Do not establish a maximum gross floor area requirement for
33 accessory dwelling units that is less than one thousand square feet;

34 (c) Do not establish a roof height limitation on accessory
35 dwelling units of less than twenty-four feet;

36 (d) Adopt model accessory dwelling unit architectural plans that
37 are preapproved for public use under some or all local building and
38 environmental permitting requirements; or

39 (e) Allow detached accessory dwelling units to be sited at the
40 lot line of the rear yard if the rear yard is adjacent to an alley.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
2 RCW to read as follows:

3 Covered cities and counties are encouraged, but not required, to
4 adopt ordinances, development regulations, and other official
5 controls that:

6 (1) Do not require impact fees under chapter 82.02 RCW for
7 accessory dwelling units;

8 (2) Do not establish tree retention requirements for accessory
9 dwelling units that are in addition to any tree retention
10 requirements for single-family housing units;

11 (3) Do not prohibit the sale or other conveyance of a condominium
12 unit solely on the grounds that the unit was originally built as an
13 accessory dwelling unit;

14 (4) Require an accessory dwelling unit to be accessible to fire
15 department apparatus by way of a public street or approved fire
16 apparatus access;

17 (5) Do not establish a minimum gross floor area requirement for
18 accessory dwelling units that is greater than two hundred square
19 feet;

20 (6) Do not establish a limit for the percent of the rear yard
21 that an accessory dwelling unit may cover that is less than sixty
22 percent of the rear yard;

23 (7) Do not establish setback regulations that are more
24 restrictive than for single-family housing units;

25 (8) Do not require that the exterior design or appearance of an
26 accessory dwelling unit be similar to the exterior design or
27 appearance of the principal housing unit, including through
28 regulations that require an accessory dwelling unit to have similar
29 roof pitch, siding, or windows as the primary housing unit;

30 (9) Do not count the gross floor area of an accessory dwelling
31 unit against any floor area ratio limitations that apply to single-
32 family or other primary housing units;

33 (10) Allow detached accessory dwelling units to be sited within
34 five feet of a lot line if there is written approval from the
35 property owner with whom the lot line is shared on file in the
36 jurisdiction in which the detached accessory dwelling unit is
37 located; and

38 (11) Do not regulate the location of the entry doors of accessory
39 dwelling units.

1 **Sec. 5.** RCW 43.21C.495 and 2019 c 348 s 4 are each amended to
2 read as follows:

3 (1) If adopted by April 1, 2021, amendments to development
4 regulations and other nonproject actions taken by a city to implement
5 RCW 36.70A.600 (1) or (4), with the exception of the action specified
6 in RCW 36.70A.600(1)(f), are not subject to administrative or
7 judicial appeals under this chapter.

8 (2) Amendments to development regulations and other nonproject
9 actions taken by a covered city or county consistent with the
10 requirements of sections 2 and 3 of this act or to achieve the
11 options encouraged in section 4 of this act are not subject to
12 administrative or judicial appeals under this chapter.

13 **Sec. 6.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to
14 read as follows:

15 Any (~~local government~~) covered city or covered county, as
16 defined in (~~RCW 43.63A.215~~) section 1 of this act, that is planning
17 under this chapter shall comply with (~~RCW 43.63A.215(3)~~) sections 2
18 and 3 of this act.

19 **Sec. 7.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to
20 read as follows:

21 Any (~~local government~~) covered city or covered county, as
22 defined in (~~RCW 43.63A.215~~) section 1 of this act, that is planning
23 under this chapter shall comply with (~~RCW 43.63A.215(3)~~) sections 2
24 and 3 of this act.

25 **Sec. 8.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to
26 read as follows:

27 Any (~~local government~~) city or county, as defined in (~~RCW~~
28 ~~43.63A.215~~) section 1 of this act, that is planning under this
29 chapter shall comply with (~~RCW 43.63A.215(3)~~) sections 2 and 3 of
30 this act.

31 NEW SECTION. **Sec. 9.** The following acts or parts of acts are
32 each repealed:

- 33 (1) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and
34 (2) RCW 43.63A.215 (Accessory apartments—Development and
35 placement—Local governments) and 1993 c 478 s 7."

1 Correct the title.

EFFECT: Requires GMA-planning cities and counties that exceed specified population thresholds (covered jurisdictions) to adopt six specified policies related to Accessory Dwelling Units, rather than one parking-related requirement. Requires covered jurisdictions to adopt three of five additional specified policies related to ADUs. Encourages covered jurisdictions to adopt 11 optional specified policies related to ADUs. Provides that the adoption of the ADU policies that covered jurisdictions are required or encouraged to implement are exempt from appeals under the GMA and the State Environmental Policy Act (SEPA). Repeals requirements applicable to certain counties and cities that direct the adoption of ADU policies consistent with a 1993 report to the Legislature from the predecessor agency to the Department of Commerce.

--- END ---