**5235-S.E AMH LG H1326.2 - NOT FOR FLOOR USE**

**ESSB 5235** - H COMM AMD

By Committee on Local Government

**NOT ADOPTED 04/07/2021**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature finds that local zoning laws can contribute to limiting the housing available for Washingtonians. The legislature finds that reducing these barriers can increase affordable housing options. The legislature finds that accessory dwelling units can be one way to add affordable long-term housing and to provide a needed increase in housing density. The legislature finds that owner-occupancy requirements may provide an appropriate means for local governments to ensure community impacts of accessory dwelling units are mitigated, allow for relaxation of other requirements, and may provide an appropriate mechanism to reduce short-term rental of accessory dwelling units, which has been shown to increase displacement and decrease affordability. Some accessory dwelling units, however, are removed from the market due to owner-occupancy requirements when an owner, due to a hardship, is forced to move from the primary residence. In these circumstances, these requirements may then remove a rental property from the housing stock and impose an undue hardship on an owner that wishes to retain the primary residence but who may no longer be able to comfortably and safely reside there. It is the intent of the legislature with this act to provide an exemption for owners suffering from such hardship. The legislature also intends to remove barriers and limitations on the number of unrelated occupants living together, which will provide additional affordable housing options.

**Sec.**  RCW 36.70A.696 and 2020 c 217 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 36.70A.697 and 36.70A.698 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, duplex, triplex, townhome, or other housing unit.

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

(3) "City" means any city, code city, and town located in a county planning under RCW 36.70A.040.

(4) "County" means any county planning under RCW 36.70A.040.

(5) "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, duplex, triplex, townhome, or other housing unit and is on the same property.

((~~(5)~~)) (6) "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.

((~~(6)~~)) (7) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing actual fixed route service at intervals of at least fifteen minutes for at least five hours during the peak hours of operation on weekdays.

(8) "Nonprofit entity" means any entity that is exempt from income tax under section 501(c) of the federal internal revenue code.

(9) "Owner" means any person who has at least 50 percent ownership in a property on which an accessory dwelling unit is located.

(10) "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 30 consecutive nights.

**Sec.**  RCW 36.70A.697 and 2020 c 217 s 3 are each amended to read as follows:

(1)(a) Cities must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of RCW 36.70A.698(1) to take effect by July 1, 2021.

((~~(2)~~)) (b) Beginning July 1, 2021, the requirements of RCW 36.70A.698(1):

((~~(a)~~)) (i) Apply and take effect in any city that has not adopted or amended ordinances, regulations, or other official controls as required under this section; and

((~~(b)~~)) (ii) Supersede, preempt, and invalidate any local development regulations that conflict with RCW 36.70A.698(1).

(2)(a) Cities and counties must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of RCW 36.70A.698(2)(a) to take effect within two years of the next applicable deadline for its comprehensive plan to be reviewed under RCW 36.70A.130 after July 1, 2021.

(b) Beginning two years after the next applicable deadline for the review of a county's or city's comprehensive plan under RCW 36.70A.130 after July 1, 2021, and until such time as a city or county has complied with the requirements of RCW 36.70A.698(2)(a), the requirements of RCW 36.70A.698(2)(b):

(i) Apply and take effect in any city or county that has not adopted or amended ordinances, regulations, or other official controls as required in RCW 36.70A.698(2)(a); and

(ii) Supersede, preempt, and invalidate any local development regulations that conflict with RCW 36.70A.698(2)(b).

**Sec.**  RCW 36.70A.698 and 2020 c 217 s 4 are each amended to read as follows:

(1)(a) Except as provided in ((~~subsection[s] (2) and (3) of this section~~)) (b) and (c) of this subsection, through ordinances, development regulations, zoning regulations, and other official controls as required under RCW 36.70A.697 (1)(a), cities may not require the provision of off-street parking for accessory dwelling units within one-quarter mile of a major transit stop.

((~~(2)~~)) (b) A city may require the provision of off-street parking for an accessory dwelling unit located within one-quarter mile of a major transit stop if the city has determined that the accessory dwelling unit is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the accessory dwelling unit.

((~~(3)~~)) (c) A city that has adopted or substantively amended accessory dwelling unit regulations within the four years previous to June 11, 2020, is not subject to the requirements of this ((~~section~~)) subsection (1).

(2)(a) Through ordinances, development regulations, and other official controls adopted or amended as required under RCW 36.70A.697(2)(a), cities and counties that impose owner-occupancy requirements on lots containing accessory dwelling units must provide for a hardship exemption from any owner-occupancy requirements applicable to a housing or dwelling unit on the same lot as an accessory dwelling unit. Such an exemption must allow an owner to offer for rental for periods of 30-days or longer a dwelling unit or housing unit as if a dwelling or housing unit on the property was owner occupied, when the owner no longer occupies the primary residence due to age, illness, financial hardship due to the death of a spouse, domestic partner, or co-owner of the property, disability status, the deployment, activation, mobilization, or temporary duty, as those terms are defined in RCW 26.09.004, of a service member of the armed forces, or other such reason that would make the owner-occupancy requirement an undue hardship on the owner. A city or county shall develop and implement a process for the review of hardship applications.

(b) Any city or county that imposes an owner-occupancy requirement on lots containing accessory dwelling units and has not provided a hardship exemption from the requirement through ordinances, development regulations, or other official controls as required by (a) of this subsection within two years of the next applicable deadline for its comprehensive plan to be reviewed under RCW 36.70A.130 after July 1, 2021, may not impose or enforce an owner-occupancy requirement on any lot containing an accessory dwelling unit until such time as the city or county has adopted the required hardship exemption, except that an owner-occupancy requirement may be imposed and enforced if the owner of the lot offers an accessory dwelling unit for short-term rental within the state or if the owner of the lot owns more than three accessory dwelling units within the county.

NEW SECTION. **Sec.**  A new section is added to chapter 35.21 RCW to read as follows:

Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or city ordinance, a city or town may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.21 RCW to read as follows:

Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or city ordinance, a code city may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.

NEW SECTION. **Sec.**  A new section is added to chapter 36.01 RCW to read as follows:

Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or county ordinance, a county may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit."

Correct the title.

EFFECT: (1) Removes provisions that would have prohibited cities and counties planning under the Growth Management Act from requiring owner-occupancy on a lot containing an accessory dwelling unit unless the owner of the lot owned more than five accessory dwelling units in the same city or county, and removes related provisions providing deadlines for this prohibition to take effect.

(2) Adds requirement that counties and cities planning under the Growth Management Act adopt a hardship exemption from owner-occupancy requirements associated with accessory dwelling units within two years of the county's or city's next required comprehensive plan review deadline after July 1, 2021, provides circumstances that would qualify for an exemption, and adds related definitions.

(3) Provides that cities and counties that have failed to adopt the hardship exemption by the deadline may not impose owner-occupancy requirements on a lot with an accessory dwelling unit unless the owner of the lot offers an accessory dwelling unit as a short-term rental within the state or if the owner of the lot owns more than three accessory dwelling units within the county.

(4) Allows generally applicable health and safety provisions in applicable building codes or county ordinances to regulate or limit the number of unrelated persons that may occupy a housing or dwelling unit.