**5235-S.E AMH SHEW H1484.2 - NOT FOR FLOOR USE**

**ESSB 5235** - H AMD **569**

By Representative Shewmake

**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. However, the legislature finds that research from several cities shows that when accessory dwelling units are built and offered for short-term rental for tourists and business visitors, they may not improve housing affordability. Therefore, it is the intent of the legislature to encourage reducing barriers to accessory dwelling units when local governments have programs to incentivize or assure that they will be utilized for long-term housing. 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 and allow for relaxation of other requirements, when they are an element of a program to reduce short-term rental of accessory dwelling units. The legislature also intends to remove barriers and restrictions on the number of unrelated occupants permitted to live 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) "Owner" means any person who has at least 50 percent ownership in a property on which an accessory dwelling unit is located.

(9) "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) 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, the requirements of RCW 36.70A.698(2) apply and take effect in any city or county that has not adopted or amended ordinances, regulations, or other official controls as required under this section, and preempt any conflicting development regulations.

**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) Through ordinances, development regulations, and other official controls adopted or amended as required under RCW 36.70A.697(2):

(a) Cities and counties may not impose or enforce an owner occupancy requirement on any housing or dwelling unit on a lot containing an accessory dwelling unit, unless an accessory dwelling unit on the lot is being offered or used for short-term rental, except that:

(i) Cities and counties may impose and enforce an owner occupancy requirement for the first year after initial occupation of the unit or primary residence following permitting; and

(ii) Cities and counties may impose an owner occupancy requirement for an additional period if such a requirement is supported by findings of the need for such an increased requirement adopted by the city or county after at least two public hearings are held on the proposal, and any ordinance, development regulations, and other official controls finally adopted directly address feedback from the community. Such an additional period of owner occupancy restrictions must be geographically limited, and may not apply to all of the residential zones within the city or county.

(b) Cities and counties may adopt ordinances, development regulations, and other official controls, including the imposition of fees, impact fees, or taxes, or the waiver of taxes, fees, or specific regulations, to encourage use of accessory dwelling units for long-term housing. Cities and counties may only offer such reduced impact fees, deferral of taxes, or other incentives for the development or construction of accessory dwelling units if such units are subject to effective binding commitments or covenants that the units will not be regularly offered for short-term rental and the city or county has a program to audit compliance with such commitments or covenants.

(c) 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. 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 this subsection 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 pursuant to (a) of this subsection (2) may be imposed and enforced if the owner of the lot offers an accessory dwelling unit for short-term rental within the county 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 definition of nonprofit entity, and adds definitions of owner and of short-term rental.

(2) Prohibits cities and counties from imposing owner-occupancy requirements on a lot containing an accessory dwelling unit unless the accessory dwelling unit on the lot is being used as a short-term rental, if it is within the first year of occupancy of the ADU or primary residence after permitting, or, for a restriction lasting longer than one year, if the city or county makes findings after at least two public hearings that such a restriction is necessary and the restriction is limited in geographic scope; and removes exceptions that would have allowed owner-occupancy requirements to be imposed if the owner of the lot owned more than five accessory dwelling units in the same city or county.

(3) Prohibits cities and counties from offering incentives for the construction or development of accessory dwelling units unless the units are subject to effective binding commitments or covenants providing that the units will not be regularly offered for short-term rental, and the city or county has a program to audit compliance with such commitments or covenants.

(4) 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; provides circumstances that would qualify for an exemption; provides that a city or county that has failed to adopt a hardship exemption by the deadline may not impose owner-occupancy requirements outside of limited circumstances; and adds related definitions.

(5) Establishes new deadlines for cities and counties to conform to the restrictions on owner-occupancy regulations.

(6) 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.