

ESSB 5235 - H COMM AMD
By Committee on Local Government

NOT ADOPTED 04/07/2021

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that local zoning
4 laws can contribute to limiting the housing available for
5 Washingtonians. The legislature finds that reducing these barriers
6 can increase affordable housing options. The legislature finds that
7 accessory dwelling units can be one way to add affordable long-term
8 housing and to provide a needed increase in housing density. The
9 legislature finds that owner-occupancy requirements may provide an
10 appropriate means for local governments to ensure community impacts
11 of accessory dwelling units are mitigated, allow for relaxation of
12 other requirements, and may provide an appropriate mechanism to
13 reduce short-term rental of accessory dwelling units, which has been
14 shown to increase displacement and decrease affordability. Some
15 accessory dwelling units, however, are removed from the market due to
16 owner-occupancy requirements when an owner, due to a hardship, is
17 forced to move from the primary residence. In these circumstances,
18 these requirements may then remove a rental property from the housing
19 stock and impose an undue hardship on an owner that wishes to retain
20 the primary residence but who may no longer be able to comfortably
21 and safely reside there. It is the intent of the legislature with
22 this act to provide an exemption for owners suffering from such
23 hardship. The legislature also intends to remove barriers and
24 limitations on the number of unrelated occupants living together,
25 which will provide additional affordable housing options.

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

28 The definitions in this section apply throughout RCW 36.70A.697
29 and 36.70A.698 unless the context clearly requires otherwise.

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

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

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

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

10 (5) "Detached accessory dwelling unit" means an accessory
11 dwelling unit that consists partly or entirely of a building that is
12 separate and detached from a single-family housing unit, duplex,
13 triplex, townhome, or other housing unit and is on the same property.

14 ~~((+5))~~ (6) "Dwelling unit" means a residential living unit that
15 provides complete independent living facilities for one or more
16 persons and that includes permanent provisions for living, sleeping,
17 eating, cooking, and sanitation.

18 ~~((+6))~~ (7) "Major transit stop" means:

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

21 (b) Commuter rail stops;

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

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

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

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

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

34 (10) "Short-term rental" means a lodging use, that is not a hotel
35 or motel or bed and breakfast, in which a dwelling unit, or portion
36 thereof, is offered or provided to a guest by a short-term rental
37 operator for a fee for fewer than 30 consecutive nights.

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

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

5 ((+2)) (b) Beginning July 1, 2021, the requirements of RCW
6 36.70A.698(1):

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

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

12 (2)(a) Cities and counties must adopt or amend by ordinance, and
13 incorporate into their development regulations, zoning regulations,
14 and other official controls the requirements of RCW 36.70A.698(2)(a)
15 to take effect within two years of the next applicable deadline for
16 its comprehensive plan to be reviewed under RCW 36.70A.130 after July
17 1, 2021.

18 (b) Beginning two years after the next applicable deadline for
19 the review of a county's or city's comprehensive plan under RCW
20 36.70A.130 after July 1, 2021, and until such time as a city or
21 county has complied with the requirements of RCW 36.70A.698(2)(a),
22 the requirements of RCW 36.70A.698(2)(b):

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

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

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

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

36 ((+2)) (b) A city may require the provision of off-street
37 parking for an accessory dwelling unit located within one-quarter
38 mile of a major transit stop if the city has determined that the
39 accessory dwelling unit is in an area with a lack of access to street

1 parking capacity, physical space impediments, or other reasons
2 supported by evidence that would make on-street parking infeasible
3 for the accessory dwelling unit.

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

8 (2)(a) Through ordinances, development regulations, and other
9 official controls adopted or amended as required under RCW
10 36.70A.697(2)(a), cities and counties that impose owner-occupancy
11 requirements on lots containing accessory dwelling units must provide
12 for a hardship exemption from any owner-occupancy requirements
13 applicable to a housing or dwelling unit on the same lot as an
14 accessory dwelling unit. Such an exemption must allow an owner to
15 offer for rental for periods of 30-days or longer a dwelling unit or
16 housing unit as if a dwelling or housing unit on the property was
17 owner occupied, when the owner no longer occupies the primary
18 residence due to age, illness, financial hardship due to the death of
19 a spouse, domestic partner, or co-owner of the property, disability
20 status, the deployment, activation, mobilization, or temporary duty,
21 as those terms are defined in RCW 26.09.004, of a service member of
22 the armed forces, or other such reason that would make the owner-
23 occupancy requirement an undue hardship on the owner. A city or
24 county shall develop and implement a process for the review of
25 hardship applications.

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

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.21
2 RCW to read as follows:

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

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 35A.21
11 RCW to read as follows:

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

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.01
20 RCW to read as follows:

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

28 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.

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