
Local Government Committee

HB 1335

Brief Description: Concerning review and property owner notification of recorded documents with unlawful racial restrictions.

Sponsors: Representatives Valdez, Rude, Berry, Fitzgibbon, Morgan, Santos, Shewmake, Davis, Berg, Gilday, Bergquist, Fey, Bateman, Lekanoff, Lovick, Callan, Riccelli, Rule, Pollet, Senn and Harris-Talley.

Brief Summary of Bill

- Requires counties to review existing recorded covenants and deed restrictions to identify unlawful restrictions based on race or other protected class, and to notify current property owners of the restrictions and provide information on how to remove them.
- Allows counties and cities to use revenue from real estate excise taxes to fund the covenant and deed restriction review and notification requirements.

Hearing Date: 2/2/21

Staff: Elizabeth Allison (786-7129).

Background:

Washington Law Against Discrimination.

The Washington Law Against Discrimination (WLAD) prohibits discriminatory practices in employment; places of public resort, accommodation, or amusement; real estate transactions; and credit and insurance. The law protects persons from discrimination based on their race, creed, color, national origin, citizenship or immigration status, families with children, sex, marital status, sexual orientation, age, honorably discharged veterans, or military status. The law also

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protects persons from discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

The WLAD declares void any provision in a written instrument relating to real property that purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease of the property to individuals within a protected class. If a written instrument contains a provision void under the WLAD, the owner, occupant, or tenant of the property or the homeowners' association board may bring an action in superior court to have the provision stricken from the public records.

Growth Management Act.

The Growth Management Act (GMA) is the state's comprehensive land use planning framework for counties and cities. Eighteen counties and the cities within them are required by population-based criteria to fully plan under the GMA, while other counties and cities can opt to fully plan.

The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a much wider array of planning duties for the fully planning 29 counties.

Fully planning jurisdictions are directed to adopt internally consistent comprehensive plans that are generalized, coordinated land use policy statements. Comprehensive plans must include specific planning elements, each of which is a subset of a comprehensive plan. Examples include a capital facilities plan, a housing element, and a land use element. The comprehensive plan must be updated every eight years.

The capital facilities plan must include the following:

- an inventory of existing capital facilities owned by public entities showing the location and capacities of the capital facilities;
- a forecast of future needs for such capital facilities;
- the proposed locations and capacities of expanded new capital facilities;
- at least a six-year plan that will finance such capital facilities and clearly identifies sources of public money to do so; and
- a requirement to reassess the land use element if probable funding falls short of meeting existing needs.

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Real Estate Excise Tax.

Counties and cities are authorized to impose a real estate excise tax (REET) on the sale of real property. Counties may impose the tax within the unincorporated areas of the county, and cities may impose the tax within their incorporated boundaries. The tax rate may not exceed .25 percent of the selling price.

Revenue from the REET must be used for capital projects and improvements, which include public works projects for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of various types of facilities and infrastructures, which include:

- streets, roads, highways, and sidewalks;
- street and road lighting systems;

- traffic signals;
- bridges;
- domestic water systems;
- storm and sanitary sewer systems;
- parks and recreational facilities;
- law enforcement and fire protection services;
- trails;
- libraries;
- administrative and judicial facilities; and
- river and waterway flood control projects.

Counties and cities that are required to plan under the GMA are authorized to impose an additional REET on the sale of real property at a rate of .25 percent of the selling price. Counties and cities that choose to plan may impose the additional REET upon approval by a majority of voters. Revenue from the additional REET must be used for financing capital projects specified within the capital facilities plan element of the comprehensive plan including the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, and improvement of:

- streets, roads, highways, and sidewalks;
- street and road lighting systems;
- traffic signals;
- bridges;
- domestic water systems;
- storm and sanitary systems; and
- parks.

Until January 1, 2026, counties and cities are authorized to use revenue from the additional REET for the planning, acquisition, construction, reconstruction, repair, rehabilitation, replacement, or improvement of facilities serving the homeless and affordable housing projects.

Summary of Bill:

Prior to the date a county or city is required to update its comprehensive plan of the GMA, counties and cities must work cooperatively to review existing recorded covenants and deed restrictions to identify documents that include racial or other restrictions on property ownership against protected classes. Counties and cities must notify current property owners of such restrictions after they have been identified and must provide information to property owners on how to strike and void unenforceable provisions from the original document. Costs are to be apportioned among the cities and counties based on population.

Beginning July 1, 2021, until the date a county or city is required to update its GMA comprehensive plan, counties and cities may use revenue from REET toward the review and property owner notification requirements.

Appropriation: None.

Fiscal Note: Requested on 2/1/2021.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.