

SENATE BILL REPORT

SB 5235

As of January 24, 2021

Title: An act relating to increasing housing unit inventory by removing arbitrary limits on housing options.

Brief Description: Increasing housing unit inventory by removing arbitrary limits on housing options.

Sponsors: Senators Liias, Das, Nguyen, Nobles, Saldaña and Wilson, C..

Brief History:

Committee Activity: Housing & Local Government: 1/26/21.

Brief Summary of Bill

- Prohibits counties planning under the Growth Management Act and cities within such counties from prohibiting primarily renter occupied housing units on the same lot as an accessory dwelling unit, with exceptions.
- Prohibits local governments from limiting the number of unrelated persons occupying a home, with exceptions.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Staff: Brandon Popovac (786-7465)

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA and a reduced number of directives for all other counties and cities. Twenty-eight of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Local Planning for Accessory Apartments. Local governments are required to have accessory apartments (ADUs) provisions incorporated in their development regulations, zoning regulations, or official controls. These provisions must be consistent with a 1993 report from the Department of Community, Trade, and Economic Development (CTED) that provided recommendations to the Legislature designed to encourage the development and placement of accessory apartments in areas zoned for single-family residential use. The CTED recommendations include standards and criteria regarding size, parking, design, and quantity of accessory apartments. However, local communities have some flexibility to adapt these recommendations to local needs and preferences. "Local government" means a county planning under the GMA, a city with a population of over 20,000, and a county with a population of over 125,000.

Accessory Dwelling Unit Regulation. In 2019, the Legislature encouraged fully planning cities to take an array of specified planning actions to increase residential building capacity. Specified planning actions relating to ADUs include authorizing attached and detached ADUs on all parcels containing single-family homes on lots of a certain size.

In 2020, the Legislature required any city within a county planning under the GMA, that has not adopted or substantively amended its ADU regulations within the previous four years, to adopt or amend ordinances, regulations, or other official controls that do not require the provision of off-street parking for ADUs within 0.25 mile of a major transit stop, with exceptions.

Unrelated Occupants. Many local ordinances make a distinction between what constitutes family and unrelated persons, usually with a limit on the total number of unrelated individuals when regulating residential uses in single or multi-family zones. A local jurisdiction can limit the number of unrelated individuals living together as long as it does not conflict with the Federal Fair Housing Act or any state laws regulating certain group living arrangements. For example, adult family homes are regulated under state law as residential homes in which persons provide personal care, special care, room, and board to qualifying persons. Adult family homes consist of at least one, but no more than six adults who are not related by blood or marriage to the persons providing services.

Some local ordinances set occupancy limits for short-term rentals, or, as defined in state statute with exceptions, any 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. Any short-term rental operator who offers a dwelling unit, or portion thereof, for short-term rental use must post the maximum occupancy limit for the unit in a conspicuous place.

There is a federal prohibition on limiting the number of related persons or family residing together pursuant to the United States Supreme Court case, *Moore v. City of East Cleveland* (1977).

Summary of Bill: Accessory Dwelling Unit Regulation. By July 1, 2022, any county planning under the GMA and any city within such county must adopt or amend ordinances, regulations, or other official controls that do not prohibit any housing unit on the same lot as an ADU from being primarily renter occupied, unless the owner of the lot owns more than five accessory dwelling units within the same city or county.

This exception for an owner who owns more than five accessory dwelling units within the same city or county does not apply to ADUs owned by a nonprofit entity.

By July 1, 2022, the new ADU requirement applies and takes effect in any GMA county or city that has not adopted or amended such regulations and supersede, preempt, and invalidate any conflicting local development regulations.

Unrelated Occupants. Cities, towns, code cities, and counties may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit except for occupant limits on group living arrangements regulated under state law or on short-term rentals and any restrictions on occupant load of the structure within the applicable building code.

Appropriation: None.

Fiscal Note: Requested on January 16, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.