

FINAL BILL REPORT

ESSB 5235

PARTIAL VETO

C 306 L 21

Synopsis as Enacted

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

Sponsors: Senate Committee on Housing & Local Government (originally sponsored by Senators Liias, Das, Nguyen, Nobles, Saldaña and Wilson, C.).

Senate Committee on Housing & Local Government
House Committee on Local Government

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.

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.

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.

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: Accessory Dwelling Unit Regulation. Certain definitions concerning the regulation of ADUs relating to the provision of off-street parking within 0.25 mile of a major transit stop are modified, including clarifying that a detached ADU is one that is on the same property as a single-family housing unit, duplex, triplex, townhome, or other housing unit and clarifying that a major transit stop includes 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 peak hours of operation on weekdays. In addition, owner is defined as any person who has at least 50 percent ownership in a property on which an ADU is located, and short-term rental is defined as a lodging use, that is not a hotel, motel, or bed and breakfast, in which the dwelling unit is offered or provided to a guest by a short-term rental operator for a fee for fewer than 30 consecutive nights.

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 any

occupant limits on group living arrangements regulated under state law or on short-term rentals 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.

Votes on Final Passage:

Senate	43	6	
House	57	40	(House amended)
Senate	30	18	(Senate concurred)

Effective: July 25, 2021

Partial Veto Summary:

The following provisions are removed:

- prohibiting the imposition or enforcement of owner-occupancy requirements on any housing or dwelling unit on a lot with an ADU unless the ADU is offered or used as a short-term rental, with exceptions;
- authorizing the imposition or waiver of certain fees or taxes or the provision of other incentives, including reduced impact fees or deferral of taxes, to encourage construction or development of ADUs for long-term housing if certain conditions are met; and
- requiring the provision of a hardship exemption from such requirements that allows an owner to offer for rental for periods of 30 days or more a dwelling unit or housing unit as if the dwelling unit or housing unit on the property was owner occupied under certain circumstances.

The requirement that such ADU provisions be adopted by or amended into ordinance, regulation, or other official control within two years of the next applicable comprehensive review deadline for a GMA county or city within such county is removed.

Legislative findings and intent are removed.