

EHB 1337 - S COMM AMD

By Committee on Local Government, Land Use & Tribal Affairs

ADOPTED AND ENGROSSED 04/06/2023

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature makes the following
4 findings:

5 (a) Washington state is experiencing a housing affordability
6 crisis. Many communities across the state are in need of more housing
7 for renters across the income spectrum.

8 (b) Many cities dedicate the majority of residentially zoned land
9 to single detached houses that are increasingly financially out of
10 reach for many households. Due to their smaller size, accessory
11 dwelling units can provide a more affordable housing option in those
12 single-family zones.

13 (c) Localities can start to correct for historic economic and
14 racial exclusion in single-family zones by opening up these
15 neighborhoods to more diverse housing types, including accessory
16 dwelling units, that provide lower cost homes. Increasing housing
17 options in expensive, high-opportunity neighborhoods will give more
18 families access to schools, parks, and other public amenities
19 otherwise accessible to only the wealthy.

20 (d) Accessory dwelling units are frequently rented below market
21 rate, providing additional affordable housing options for renters.

22 (e) Accessory dwelling units can also help to provide housing for
23 very low-income households. More than 10 percent of accessory
24 dwelling units in some areas are occupied by tenants who pay no rent
25 at all; among these tenants are grandparents, adult children, family
26 members with disabilities, friends going through life transitions,
27 and community members in need. Accessory dwelling units meet the
28 needs of these people who might otherwise require subsidized housing
29 space and resources.

30 (f) Accessory dwelling units can meet the needs of Washington's
31 growing senior population, making it possible for this population to
32 age in their communities by offering senior-friendly housing, which

1 prioritizes physical accessibility, in walkable communities near
2 amenities essential to successful aging in place, including transit
3 and grocery stores, without requiring costly renovations of existing
4 housing stock.

5 (g) Homeowners who add an accessory dwelling unit may benefit
6 from added income and an increased sense of security.

7 (h) Accessory dwelling units provide environmental benefits. On
8 average they are more energy efficient than single detached houses,
9 and they incentivize adaptive reuse of existing homes and materials.

10 (i) Siting accessory dwelling units near transit hubs, employment
11 centers, and public amenities can help to reduce greenhouse gas
12 emissions by increasing walkability, shortening household commutes,
13 and curtailing sprawl.

14 (2) The legislature intends to promote and encourage the creation
15 of accessory dwelling units as a means to address the need for
16 additional affordable housing options.

17 **Sec. 2.** RCW 36.70A.696 and 2021 c 306 s 2 are each amended to
18 read as follows:

19 The definitions in this section apply throughout RCW 36.70A.697
20 (~~and~~), 36.70A.698, and sections 3 and 4 of this act unless the
21 context clearly requires otherwise.

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

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

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

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

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

35 (6) "Dwelling unit" means a residential living unit that provides
36 complete independent living facilities for one or more persons and
37 that includes permanent provisions for living, sleeping, eating,
38 cooking, and sanitation.

1 (7) "Gross floor area" means the interior habitable area of a
2 dwelling unit including basements and attics but not including a
3 garage or accessory structure.

4 (8) "Major transit stop" means:

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

7 (b) Commuter rail stops;

8 (c) Stops on rail or fixed guideway systems, including
9 transitways;

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

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

15 (~~(8)~~) (9) "Owner" means any person who has at least 50 percent
16 ownership in a property on which an accessory dwelling unit is
17 located.

18 (~~(9)~~) (10) "Principal unit" means the single-family housing
19 unit, duplex, triplex, townhome, or other housing unit located on the
20 same lot as an accessory dwelling unit.

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

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
26 RCW to read as follows:

27 (1)(a) Cities and counties planning under this chapter must adopt
28 or amend by ordinance, and incorporate into their development
29 regulations, zoning regulations, and other official controls the
30 requirements of this section and of section 4 of this act, to take
31 effect six months after the jurisdiction's next periodic
32 comprehensive plan update required under RCW 36.70A.130.

33 (b) In any city or county that has not adopted or amended
34 ordinances, regulations, or other official controls as required under
35 this section, the requirements of this section and section 4 of this
36 act supersede, preempt, and invalidate any conflicting local
37 development regulations.

38 (2) Ordinances, development regulations, and other official
39 controls adopted or amended pursuant to this section and section 4 of

1 this act must only apply in the portions of towns, cities, and
2 counties that are within urban growth areas designated under this
3 chapter.

4 (3) Any action taken by a city or county to comply with the
5 requirements of this section or section 4 of this act is not subject
6 to legal challenge under this chapter or chapter 43.21C RCW.

7 (4) Nothing in this section or section 4 of this act requires or
8 authorizes a city or county to authorize the construction of an
9 accessory dwelling unit in a location where development is restricted
10 under other laws, rules, or ordinances as a result of physical
11 proximity to on-site sewage system infrastructure, critical areas, or
12 other unsuitable physical characteristics of a property.

13 (5) Nothing in this section or in section 4 of this act prohibits
14 a city or county from:

15 (a) Restricting the use of accessory dwelling units for short-
16 term rentals;

17 (b) Applying public health, safety, building code, and
18 environmental permitting requirements to an accessory dwelling unit
19 that would be applicable to the principal unit, including regulations
20 to protect ground and surface waters from on-site wastewater;

21 (c) Applying generally applicable development regulations to the
22 construction of an accessory unit, except when the application of
23 such regulations would be contrary to this section or to section 4 of
24 this act;

25 (d) Prohibiting the construction of accessory dwelling units on
26 lots that are not connected to or served by public sewers; or

27 (e) Prohibiting or restricting the construction of accessory
28 dwelling units in residential zones with a density of one dwelling
29 unit per acre or less that are within areas designated as wetlands,
30 fish and wildlife habitats, flood plains, or geologically hazardous
31 areas.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
33 RCW to read as follows:

34 (1) In addition to ordinances, development regulations, and other
35 official controls adopted or amended to comply with this section and
36 section 3 of this act, a city or county must comply with all of the
37 following policies:

38 (a) The city or county may not assess impact fees on the
39 construction of accessory dwelling units that are greater than 50

1 percent of the impact fees that would be imposed on the principal
2 unit;

3 (b) The city or county may not require the owner of a lot on
4 which there is an accessory dwelling unit to reside in or occupy the
5 accessory dwelling unit or another housing unit on the same lot;

6 (c) The city or county must allow at least two accessory dwelling
7 units on all lots that are located in all zoning districts within an
8 urban growth area that allow for single-family homes in the following
9 configurations:

10 (i) One attached accessory dwelling unit and one detached
11 accessory dwelling unit;

12 (ii) Two attached accessory dwelling units; or

13 (iii) Two detached accessory dwelling units, which may be
14 comprised of either one or two detached structures;

15 (d) The city or county must permit accessory dwelling units in
16 structures detached from the principal unit;

17 (e) The city or county must allow an accessory dwelling unit on
18 any lot that meets the minimum lot size required for the principal
19 unit;

20 (f) The city or county may not establish a maximum gross floor
21 area requirement for accessory dwelling units that is less than 1,000
22 square feet;

23 (g) The city or county may not establish roof height limits on an
24 accessory dwelling unit of less than 24 feet, unless the height
25 limitation that applies to the principal unit is less than 24 feet,
26 in which case a city or county may not impose roof height limitation
27 on accessory dwelling units that is less than the height limitation
28 that applies to the principal unit;

29 (h) A city or county may not impose setback requirements, yard
30 coverage limits, tree retention mandates, restrictions on entry door
31 locations, aesthetic requirements, or requirements for design review
32 for accessory dwelling units that are more restrictive than those for
33 principal units;

34 (i) A city or county must allow detached accessory dwelling units
35 to be sited at a lot line if the lot line abuts a public alley,
36 unless the city or county routinely plows snow on the public alley;

37 (j) A city or county must allow accessory dwelling units to be
38 converted from existing structures, including but not limited to
39 detached garages, even if they violate current code requirements for
40 setbacks or lot coverage;

1 (k) A city or county may not prohibit the sale or other
2 conveyance of a condominium unit independently of a principal unit
3 solely on the grounds that the condominium unit was originally built
4 as an accessory dwelling unit; and

5 (1) A city or county may not require public street improvements
6 as a condition of permitting accessory dwelling units.

7 (2)(a) A city or county subject to the requirements of this
8 section may not:

9 (i) Require off-street parking as a condition of permitting
10 development of accessory dwelling units within one-half mile walking
11 distance of a major transit stop;

12 (ii) Require more than one off-street parking space per unit as a
13 condition of permitting development of accessory dwelling units on
14 lots smaller than 6,000 square feet before any zero lot line
15 subdivisions or lot splits; and

16 (iii) Require more than two off-street parking spaces per unit as
17 a condition of permitting development of accessory dwelling units on
18 lots greater than 6,000 square feet before any zero lot line
19 subdivisions or lot splits.

20 (b) The provisions of (a) of this subsection do not apply:

21 (i) If a local government submits to the department an empirical
22 study prepared by a credentialed transportation or land use planning
23 expert that clearly demonstrates, and the department finds and
24 certifies, that the application of the parking limitations of (a) of
25 this subsection for accessory dwelling units will be significantly
26 less safe for vehicle drivers or passengers, pedestrians, or
27 bicyclists than if the jurisdiction's parking requirements were
28 applied to the same location for the same number of detached houses.
29 The department must develop guidance to assist cities and counties on
30 items to include in the study; or

31 (ii) To portions of cities within a one mile radius of a
32 commercial airport in Washington with at least 9,000,000 annual
33 enplanements.

34 (3) When regulating accessory dwelling units, cities and counties
35 may impose a limit of two accessory dwelling units, in addition to
36 the principal unit, on a residential lot of 2,000 square feet or
37 less.

38 (4) The provisions of this section do not apply to lots
39 designated with critical areas or their buffers as designated in RCW
40 36.70A.060, or to a watershed serving a reservoir for potable water

1 if that watershed is or was listed, as of the effective date of this
2 section, as impaired or threatened under section 303(d) of the
3 federal clean water act (33 U.S.C. Sec. 1313(d)).

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
5 RCW to read as follows:

6 To encourage the use of accessory dwelling units for long-term
7 housing, cities and counties may adopt ordinances, development
8 regulations, and other official controls which waive or defer fees,
9 including impact fees, defer the payment of taxes, or waive specific
10 regulations. Cities and counties may only offer such reduced or
11 deferred fees, deferred taxes, waivers, or other incentives for the
12 development or construction of accessory dwelling units if:

- 13 (1) The units are located within an urban growth area; and
14 (2) The units are subject to a program adopted by the city or
15 county with effective binding commitments or covenants that the units
16 will be primarily utilized for long-term housing consistent with the
17 public purpose for this authorization.

18 **Sec. 6.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to
19 read as follows:

20 (1) Adoption of ordinances, development regulations and
21 amendments to such regulations, and other nonproject actions taken by
22 a city to implement: The actions specified in section 2, chapter 246,
23 Laws of 2022 unless the adoption of such ordinances, development
24 regulations and amendments to such regulations, or other nonproject
25 actions has a probable significant adverse impact on fish habitat;
26 and the increased residential building capacity actions identified in
27 RCW 36.70A.600(1), with the exception of the action specified in RCW
28 36.70A.600(1)(f), are not subject to administrative or judicial
29 appeals under this chapter.

30 (2) Adoption of ordinances, development regulations and
31 amendments to such regulations, and other nonproject actions taken by
32 a city or county consistent with the requirements of sections 3 and 4
33 of this act are not subject to administrative or judicial appeals
34 under this chapter.

35 **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
36 read as follows:

1 (1) The growth management hearings board shall hear and determine
2 only those petitions alleging either:

3 (a) That, except as provided otherwise by this subsection, a
4 state agency, county, or city planning under this chapter is not in
5 compliance with the requirements of this chapter, chapter 90.58 RCW
6 as it relates to the adoption of shoreline master programs or
7 amendments thereto, or chapter 43.21C RCW as it relates to plans,
8 development regulations, or amendments, adopted under RCW 36.70A.040
9 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
10 to hear petitions alleging noncompliance ((with RCW 36.70A.5801))
11 based on a city or county's actions taken to implement the
12 requirements of sections 3 and 4 of this act within an urban growth
13 area;

14 (b) That the ((twenty-)) 20-year growth management planning
15 population projections adopted by the office of financial management
16 pursuant to RCW 43.62.035 should be adjusted;

17 (c) That the approval of a work plan adopted under RCW
18 36.70A.735(1)(a) is not in compliance with the requirements of the
19 program established under RCW 36.70A.710;

20 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
21 regionally applicable and cannot be adopted, wholly or partially, by
22 another jurisdiction; or

23 (e) That a department certification under RCW 36.70A.735(1)(c) is
24 erroneous.

25 (2) A petition may be filed only by: (a) The state, or a county
26 or city that plans under this chapter; (b) a person who has
27 participated orally or in writing before the county or city regarding
28 the matter on which a review is being requested; (c) a person who is
29 certified by the governor within ((sixty)) 60 days of filing the
30 request with the board; or (d) a person qualified pursuant to RCW
31 34.05.530.

32 (3) For purposes of this section "person" means any individual,
33 partnership, corporation, association, state agency, governmental
34 subdivision or unit thereof, or public or private organization or
35 entity of any character.

36 (4) To establish participation standing under subsection (2)(b)
37 of this section, a person must show that his or her participation
38 before the county or city was reasonably related to the person's
39 issue as presented to the board.

1 (5) When considering a possible adjustment to a growth management
2 planning population projection prepared by the office of financial
3 management, the board shall consider the implications of any such
4 adjustment to the population forecast for the entire state.

5 The rationale for any adjustment that is adopted by the board
6 must be documented and filed with the office of financial management
7 within ten working days after adoption.

8 If adjusted by the board, a county growth management planning
9 population projection shall only be used for the planning purposes
10 set forth in this chapter and shall be known as the "board adjusted
11 population projection." None of these changes shall affect the
12 official state and county population forecasts prepared by the office
13 of financial management, which shall continue to be used for state
14 budget and planning purposes.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A
16 RCW to read as follows:

17 (1) By December 31, 2023, the department must revise its
18 recommendations for encouraging accessory dwelling units to include
19 the provisions of sections 3 and 4 of this act.

20 (2) During each comprehensive plan review required by RCW
21 36.70A.130, the department must review local government comprehensive
22 plans and development regulations for compliance with sections 3 and
23 4 of this act and the department's recommendations under subsection
24 (1) of this section.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 64.34
26 RCW to read as follows:

27 (1) Except a declaration created to protect public health and
28 safety, and ground and surface waters from on-site wastewater, a
29 declaration created after the effective date of this section and
30 applicable to a property located within an urban growth area may not
31 impose any restriction or prohibition on the construction,
32 development, or use on a lot of an accessory dwelling unit that the
33 city or county in which the urban growth area is located would be
34 prohibited from imposing under section 4 of this act.

35 (2) For the purposes of this section, "urban growth area" has the
36 same meaning as in RCW 36.70A.030.

37 (3) A city or county issuing a permit for the construction of an
38 accessory dwelling unit may not be held civilly liable on the basis

1 that the construction of the accessory dwelling unit would violate a
2 restrictive covenant or deed restriction.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 64.32
4 RCW to read as follows:

5 (1) Except a declaration created to protect public health and
6 safety, and ground and surface waters from on-site wastewater, a
7 declaration created after the effective date of this section and
8 applicable to a property located within an urban growth area may not
9 impose any restriction or prohibition on the construction,
10 development, or use on a lot of an accessory dwelling unit that the
11 city or county in which the urban growth area is located would be
12 prohibited from imposing under section 4 of this act.

13 (2) For the purposes of this section, "urban growth area" has the
14 same meaning as in RCW 36.70A.030.

15 (3) A city or county issuing a permit for the construction of an
16 accessory dwelling unit may not be held civilly liable on the basis
17 that the construction of the accessory dwelling unit would violate a
18 restrictive covenant or deed restriction.

19 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.38
20 RCW to read as follows:

21 (1) Except governing documents of associations created to protect
22 public health and safety, and ground and surface waters from on-site
23 wastewater, governing documents of associations created after the
24 effective date of this section and applicable to a property located
25 within an urban growth area may not impose any restriction or
26 prohibition on the construction, development, or use on a lot of an
27 accessory dwelling unit that the city or county in which the urban
28 growth area is located would be prohibited from imposing under
29 section 4 of this act.

30 (2) For the purposes of this section, "urban growth area" has the
31 same meaning as in RCW 36.70A.030.

32 (3) A city or county issuing a permit for the construction of an
33 accessory dwelling unit may not be held civilly liable on the basis
34 that the construction of the accessory dwelling unit would violate a
35 restrictive covenant or deed restriction.

36 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.90
37 RCW to read as follows:

1 (1) Except declarations and governing documents of common
2 interest communities created to protect public health and safety, and
3 ground and surface waters from on-site wastewater, declarations and
4 governing documents of common interest communities created after the
5 effective date of this section and applicable to a property located
6 within an urban growth area may not impose any restriction or
7 prohibition on the construction, development, or use on a lot of an
8 accessory dwelling unit that the city or county in which the urban
9 growth area is located would be prohibited from imposing under
10 section 4 of this act.

11 (2) For the purposes of this section, "urban growth area" has the
12 same meaning as in RCW 36.70A.030.

13 (3) A city or county issuing a permit for the construction of an
14 accessory dwelling unit may not be held civilly liable on the basis
15 that the construction of the accessory dwelling unit would violate a
16 restrictive covenant or deed restriction.

17 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
18 each repealed:

- 19 (1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;
20 (2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;
21 (3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;
22 (4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and
23 (5) RCW 43.63A.215 (Accessory apartments—Development and
24 placement—Local governments) and 1993 c 478 s 7."

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ADOPTED 04/06/2023

25 On page 1, line 2 of the title, after "units;" strike the
26 remainder of the title and insert "amending RCW 36.70A.696,
27 43.21C.495, and 36.70A.280; adding new sections to chapter 36.70A
28 RCW; adding a new section to chapter 64.34 RCW; adding a new section
29 to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW;
30 adding a new section to chapter 64.90 RCW; creating a new section;
31 and repealing RCW 35.63.210, 35A.63.230, 36.70A.400, 36.70.677, and
32 43.63A.215."

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