

HOUSE BILL REPORT

ESHB 1042

As Amended by the Senate

Title: An act relating to the creation of additional housing units in existing buildings.

Brief Description: Concerning the use of existing buildings for residential purposes.

Sponsors: House Committee on Housing (originally sponsored by Representatives Walen, Ryu, Barkis, Simmons, Duerr, Goodman, Bateman, Reed, Ramel, Peterson, Pollet, Doglio, Macri, Reeves, Mena, Tharinger, Wylie, Gregerson, Springer, Bergquist, Thai, Kloba, Santos and Ormsby).

Brief History:

Committee Activity:

Housing: 1/10/23, 1/19/23 [DPS].

Floor Activity:

Passed House: 2/8/23, 96-0.

Senate Amended.

Passed Senate: 4/5/23, 45-3.

Brief Summary of Engrossed Substitute Bill

- Prohibits cities from imposing certain restrictions or requirements on new housing units constructed within an existing building that is located in a zone that permits multifamily housing.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

Staff: Serena Dolly (786-7150).

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.

Background:

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be "fully planning" under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent, comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. In developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Cities and counties that do not fully plan under the GMA may, under the state's optional planning statutes, adopt comprehensive plans, zoning ordinances, and other official controls regulating land uses within their boundaries.

Land use regulations may generally include: the location and the use of buildings, structures, and land for residence, industry, trade, and other purposes; the height, construction, and design of buildings and structures; the size of yards, open spaces, lots, and tracts; the setback of buildings; the subdivision and development of land; parking requirements; and adoption of standard building codes and fire regulations.

Summary of Engrossed Substitute Bill:

Beginning July 1, 2024, a city may not impose any of the following on new housing units constructed within an existing building that is located in a zone that permits multifamily housing:

- restrictions on housing unit density that prevent additional units in the building, so long as generally applicable health and safety standards can be met;
- parking requirements;
- permitting requirements beyond those requirements generally applicable to all residential development within the building's zone;
- design standard requirements, including setbacks, lot coverage, and floor area ratio requirements beyond those requirements generally applicable to all residential development within the building's zone;
- exterior design or architectural requirements beyond those necessary for health and safety of the use of the interior of the building, unless the building is listed on a local, state, or national historic register;
- prohibitions on the addition of housing units in any specific part of a building, unless the units would violate applicable building codes or health and safety standards;

- current energy code requirements solely due to the addition of housing units; or
- a transportation concurrency or State Environmental Policy Act study.

In addition, a city may not deny a building permit application for new housing units in an existing building due to the nonconformity of the existing structure including parking, height, setbacks, elevator size for gurney transport, or modulation, unless the city's legislative authority makes written findings that the nonconformity is causing a significant detriment to the surrounding area.

A city is not required to approve a building permit application for new housing units within an existing building that cannot satisfy life safety standards.

By July 1, 2024, cities must incorporate the standards into their development and zoning regulations or any conflicting local development regulations are superseded, preempted, and invalidated.

By January 1, 2024, the State Building Code Council must amend the State Energy Code to waive the requirement for an existing building to meet current energy code requirements solely due to the addition of new dwelling units in the building.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment limits the provisions of the bill to existing buildings that are zoned for commercial or mixed-use. It also requires cities to adopt or amend their regulations and other official controls no later than six months after its next periodic comprehensive plan update, rather than by July 1, 2024.

The Senate amendment provides that cities may not impose a restriction on housing unit density that prevents the addition of housing units constructed entirely within an existing building envelope at a density up to 50 percent more than what is allowed in the underlying zone, instead of prohibiting cities from imposing any density restriction.

The Senate amendment allows cities to require the retention of existing parking that is required to satisfy existing residential parking requirements under local laws and for nonresidential uses that remain after the new units are added.

The Senate amendment allows cities to impose permitting requirements on the use of an existing building for emergency and transitional housing beyond those generally applicable to all residential development within the building's zone.

The Senate amendment allows cities to impose exterior design or architectural requirements if necessary to preserve character-defining streetscapes. It also modifies the exemption for historic buildings to those designated as a landmark or located within a historic district established through a local preservation ordinance.

The Senate amendment provides an exception to the prohibition from disallowing additional housing units in any specific part of a building for ground floor commercial or retail that is along a major pedestrian corridor.

The Senate amendment requires any portion of an existing building that is converted to new dwelling units to meet the requirements of the current energy code.

The Senate amendment clarifies that cities cannot deny a building permit for the addition of housing units within an existing building due to nonconformity of parking, height, setbacks, elevator size for gurney transport, or modulation, rather than for nonconformity of the existing structure.

The Senate amendment defines "existing building" as a building that received a certificate of occupancy at least three years prior to the permit application to add housing units.

The Senate amendment exempts adoption or amendment of ordinances, development regulations, zoning regulations, and other official controls necessary to comply with the bill from the State Environmental Policy Act.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill deals with the existing inventory of buildings and meeting the urgent need for more housing. Nothing can be done to create more housing faster than this policy. There are buildings sitting empty or nearly empty in every city across the state. These buildings could be transformed into housing. While it makes sense to convert vacant buildings to residential housing, it does not pencil out for developers. Current laws and regulations make it impossible or nearly impossible to convert offices or other existing buildings to housing. Things like parking requirements can completely prohibit these projects. Homes for people are more important than storage of cars.

(Opposed) None.

(Other) Changes are needed to address parking requirements and life safety protections.

Persons Testifying: (In support) Representative Amy Walen, prime sponsor; Greg Hanon, NAIOP; Angela Rozmyn, Natural and Built Environments; Robert Pantley; Mike Ennis,

Association of Washington Business; and Dan Bertolet, Sightline Institute.

(Other) Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.