FINAL BILL REPORT
EHB 1337

PARTIAL VETO
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Synopsis as Enacted

Brief Description: Expanding housing options by easing barriers to the construction and use of accessory dwelling units.

Sponsors: Representatives Gregerson, Barkis, Berry, Christian, Duerr, Fitzgibbon, Taylor, Ramel, Reeves, Simmons, Walen, Graham, Bateman, Reed, Lekanoff, Doglio, Tharinger, Cortes, Macri and Stonier.

House Committee on Housing
Senate Committee on Local Government, Land Use & Tribal Affairs

Background:

Growth Management Act.
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.

Counties that fully plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Each city in a county must be included in a UGA. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

The GMA also directs fully planning jurisdictions to adopt internally consistent, comprehensive land use plans. 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. Comprehensive plans must be

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reviewed and, if necessary, revised every ten years to ensure that it complies with the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Each comprehensive plan must include a plan, scheme, or design for certain mandatory elements, including a housing element. The housing element must ensure the vitality and character of established residential neighborhoods and, among other requirements, consider the role of accessory dwelling units (ADUs) in meeting housing needs.

Accessory Dwelling Units.
An ADU is a residential living unit providing independent living facilities and permanent provisions for sleeping, cooking, sanitation, and living on the same lot as a single-family home, duplex, triplex, townhome, or other housing unit. An attached ADU is a dwelling unit located within or attached to another housing unit. A detached ADU is separate and detached from another housing unit.

Cities with more than 20,000 people, counties with more than 125,000 people, and fully planning counties are required to incorporate in their development and zoning regulations recommendations made in 1993 by the then Department of Community, Trade, and Economic Development, now the Department of Commerce, for the development and placement of accessory apartments.

As of July 1, 2021, fully planning cities may not require the provision of off-street parking for ADUs within a quarter mile of a major transit stop, such as a high-capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the ADU.

Summary:

Beginning six months after its next periodic comprehensive plan update, a fully planning city or county must ensure local development regulations allow for the construction of accessory dwelling units (ADUs) within urban growth areas (UGAs) and comply with the following policies:

- not assessing impact fees on the construction of ADUs that are greater than 50 percent of the impact fees that would be imposed on the principal unit;
- not requiring the owner of a lot on which there is an ADU to reside in or occupy the ADU or another housing unit on the same lot;
- allowing at least two ADUs on all lots that allow for single-family homes within a UGA in the following configurations: one attached ADU and one detached ADU, two attached ADUs, or two detached ADUs;
- permitting ADUs in structures detached from the principal unit;
- allowing an ADU on any lot that meets the minimum lot size required for the principal unit;
- not establishing a maximum gross floor area requirement for ADUs that is less than

1,000 square feet;
- not establishing roof height limits on an ADU of less than 24 feet, unless the height limit on the principal unit is less than 24 feet;
- not imposing setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for ADUs that are more restrictive than those for principal units;
- allowing detached ADUs to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley;
- allowing ADUs to be converted from existing structures, including detached garages;
- not prohibiting the sale of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an ADU; and
- not requiring public street improvements as a condition of permitting ADUs.

The requirements do not apply to lots designated with critical areas or their buffers or to a watershed serving as a reservoir for potable water if that watershed is or was listed as impaired or threatened under the United States Clean Water Act. A city or county may impose a limit of two accessory dwelling units, in addition to the principal unit, on a residential lot of 2000 square feet or less. A city or county may not authorize the construction of an ADU in a location where development is restricted under other laws, rules, or ordinances as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property.

In addition, a city or county may not:
- require off-street parking as a condition of permitting development of ADUs within 0.5 miles walking distance of a major transit stop;
- require more than one off-street parking space per unit as a condition of permitting development of ADUs on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits; and
- require more than two off-street parking spaces per unit as a condition of permitting development of ADUs on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

The provisions for off-street parking do not apply:
- if a local government submits to the Department of Commerce (Commerce) an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce finds and certifies, that the application of the established parking limitations for ADUs will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the local government's parking requirements were applied to the same location for the same number of detached houses. Commerce must develop guidance to assist cities and counties on items to include in the study; or
- to portions of cities within a 1-mile radius of a commercial airport in Washington with at least 9 million annual enplanements.

Cities and counties may apply certain regulations to ADUs, including:

- generally applicable development regulations;
- public health, safety, building code, and environmental permitting requirements that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater;
- a prohibition on the construction of ADUs that are not connected to or served by public sewers;
- a prohibition or restriction on the construction of ADUs in residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas; and
- restrictions on the use of ADUs for short-term rentals.

Any conflicting provisions in local development regulations after the deadline are superseded, preempted, and invalidated. Actions taken to adopt these regulations within a UGA may not be challenged under the Growth Management Act (GMA) or the State Environmental Policy Act.

Declarations or governing documents for condominiums, homeowners' associations, and common interest communities created after the effective date of the act may not prohibit the construction, development, or use of an ADU within a UGA unless such declarations or governing documents were created to protect public health and safety or to protect ground and surface waters from on-site wastewater. A city or county that issues a permit for the construction of an ADU may not be held civilly liable on the basis that the construction would violate the restrictive covenant or deed restriction created after the effective date of the act.

By December 31, 2023, Commerce must revise its recommendations for encouraging ADUs to include the provisions in this act, and during each required comprehensive plan review, Commerce must review local government comprehensive plans and development regulations for compliance with the recommendations. The provisions requiring cities and counties to incorporate in their regulations the recommendations made by the then Department of Community, Trade, and Economic Development for accessory dwelling apartments are repealed.

Votes on Final Passage:

House	81	15	
Senate	39	7	(Senate amended)
House	85	11	(House concurred)

Effective: July 23, 2023

Partial Veto Summary: The Governor vetoed the section that allowed counties and cities to waive or defer fees, defer payment of taxes, or waive other regulations for the

development of accessory dwelling units only if certain condition were met.