

# SENATE BILL REPORT

## SB 5027

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As Reported by Senate Committee On:  
Housing, February 17, 2023

**Title:** An act relating to promoting housing affordability by incentivizing the construction of American dream homes.

**Brief Description:** Promoting housing affordability by incentivizing the construction of American dream homes.

**Sponsors:** Senators Fortunato, Padden, Holy, Wilson, J., Braun, Short, Warnick and Gildon.

**Brief History:**

**Committee Activity:** Housing: 1/11/23, 2/17/23 [DP-WM, w/oRec].

### Brief Summary of Bill

- Authorizes a person to request a permit until December 31, 2033, for an American Dream Home to encourage the development of single family homes for low-income housing.
- Limits permit fees to \$1,250 and exempts impact fees on the development of American Dream Homes.
- Distributes the state portion of certain sales and use taxes from the construction of American Dream Homes to counties and cities.
- Provides builders of an American Dream Home a 4 percent business and occupation tax credit on the sale price of the home.
- Exempts the value of an American Dream Home from property taxation for 12 years.

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### SENATE COMMITTEE ON HOUSING

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

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*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.*

Signed by Senators Kuderer, Chair; Frame, Vice Chair; Fortunato, Ranking Member; Gildon, Rivers, Shewmake, Trudeau and Wilson, J..

**Minority Report:** That it be referred without recommendation.

Signed by Senators Cleveland and Saldaña.

**Staff:** Riley Bengé (786-7316)

**Background:** Counties and cities may impose impact fees on development activity as part of financing public facilities needed to serve new growth and development. This financing cannot rely solely on impact fees and must provide a balance between impact fees and other sources of public funds. Impact fees may only be imposed for system improvements reasonably related to the new development, may not exceed a proportionate share of the costs of system improvements, and must be used for system improvements that will reasonably benefit the new development.

County and city ordinances imposing impact fees must conform with specific requirements. Among other obligations, these ordinances:

- must include a schedule of impact fees for each type of development activity for which a fee is imposed;
- may provide an exemption for low-income housing and other development activities with broad public purposes; and
- must allow the imposing jurisdiction to adjust the standard impact fee for unusual circumstances in specific cases to ensure fees are imposed fairly.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. Local sales and use tax rates vary depending on the location.

Washington's major business tax is the business and occupation (B&O) tax. B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted.

**Summary of Bill:** Until December 31, 2033, a person may request a permit for an American Dream Home to encourage development of single family housing for low-income households. An American Dream Home is an owner-occupied single-family residential detached dwelling of 1700 square feet or less serving low-income households. Low-income household means a single person, family, or unrelated persons living together whose adjusted income is less than 80 percent of the median family income for the city or county where the project is located.

A permit for a new American Dream Home must be approved in a city or county if:

- the home is exempt from impact fees;
- the city or county does not charge cumulative permitting fees exceeding \$1,250;
- provisions are included to ensure each home is owner-occupied and reserved for low-income households, even upon resale if sold before December 31, 2033; and
- the home conforms to the residential building code in effect where the home is built.

A city or county may authorize the siting of an American Dream Home outside the urban growth area and may authorize the extension of public facilities and utilities to serve residential building sites for American Dream Homes.

A city or county may receive a distribution equal to the state portion of the sales and use tax for labor and services rendered during the construction of American Dream Homes. The Department of Revenue must remit qualifying amounts at least annually to cities and counties.

The builder of an American Dream Home is allowed an annual credit against the B&O tax. The credit equals 4 percent of the gross selling price of the home and may be taken through June 30, 2033. The credit may be carried over until used, but no credits can be claimed after June 30, 2034.

The value of an American Dream Home is exempt from property taxation for a period of 12 years beginning January 1st of the year immediately following the calendar year in which construction of the American Dream Home is completed. The exemption applies to both the value of new construction and the underlying land.

By March 1, 2033, a city or county must report to the Department of Commerce the number of American Dream Home permits issued in its jurisdiction. The Department of Commerce must compile the data and program participation by jurisdiction and report it to the Legislature.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2023.

**Staff Summary of Public Testimony:** PRO: The object is to build an entry level home, 1,700 square feet or less. Over a period of 10 years the house needs to stay affordable. The property tax exemption is based on the same exemption used for multifamily housing. The bill allows building outside the UGA. The bill is basically the Habitat for Humanity model.

The 4% B&O tax credit is to incentivize the private market to build these types of houses. Historically, the voluntary nature of the bill was appreciated, but now the bill uses "must" and would ask for guidance as to whether cities and counties are compelled to act under this bill. Including the option for local governments to be reimbursed with rebate on state portion of the sales tax is appreciated. A property tax exemption for 12 years that applies to the underlying property could result in a tax shift, which is concerning, and it would be important for that provision to be excluded from the bill.

CON: Concerned about a property tax shift. Exempting certain types of housing/people shifts burden to other people trying to build other types of houses making them more expensive. Limiting the sale cost of homes limits the potential equity for the homeowner during the 10 years. It is unclear as to what happens if while you own the home but grow above 80% AMI while you own. The extension of services beyond the urban growth boundary and allowing siting beyond UGA is concerning. A 12 year tax exemption for a 10 year program could be problematic. Exempting impact fees could result in less moneys available for important services in local jurisdictions.

OTHER: Allowing the extension of urban governmental services outside the urban growth area is very expensive. The tax preference in the bill is out of scale with other tax preferences. The tax preference is for 12 years, but the bill only has a 10 year affordability requirement. Natural habitats are not considered under the bill. The need is for more houses for extremely low-income persons. A tiered approach to the tax exemption and benefits would allow for extremely low-income persons to participate in the program.

**Persons Testifying:** PRO: Senator Phil Fortunato, Prime Sponsor; Paul Jewell, Washington State Association of Counties.

CON: Jan Himebaugh, Building Industry Association of Washington; Bryce Yadon, Futurewise.

OTHER: Dave Andersen, Washington Department of Commerce; Stacey Valenzuela.

**Persons Signed In To Testify But Not Testifying:** No one.