
SENATE BILL 5027

State of Washington

53rd Legislature

1993 Regular Session

By Senator A. Rasmussen

Read first time 01/11/93. Referred to Committee on Government Operations.

1 AN ACT Relating to the creation of state-wide affordable housing;
2 adding new sections to chapter 35.63 RCW; adding new sections to
3 chapter 35A.63 RCW; adding new sections to chapter 36.70 RCW; adding
4 new sections to chapter 36.70A RCW; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 affordable housing act.

8 NEW SECTION. **Sec. 2.** (1) The legislature finds and declares that
9 there is a tremendous unmet need for new housing to shelter
10 Washington's population. The unmet housing needs will be further
11 aggravated by the severe cutbacks in federal housing programs.

12 (2) The legislature finds and declares that our existing housing
13 resources are vastly underutilized due in large part to the changes in
14 social patterns. The improved utilization of this state's existing
15 housing resources offers an innovative and cost-effective solution to
16 this housing crisis.

1 (3) The legislature finds and declares that the state has a role in
2 increasing the utilization of our housing resources and in reducing the
3 barriers to the provision of affordable housing.

4 (4) The legislature finds and declares that there are many benefits
5 associated with the creation of second-family residential units on
6 existing single-family lots, which include:

7 (a) Providing a cost-effective means of serving development through
8 the use of existing infrastructures, as contrasted to requiring the
9 construction of new costly infrastructures to serve development in
10 undeveloped areas; and

11 (b) Providing relatively affordable housing for low and moderate-
12 income households without public subsidy.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.63 RCW
14 to read as follows:

15 Each city may issue a zoning variance, special use permit, or
16 conditional use permit for a dwelling unit to be constructed, or which
17 is attached to or detached from, a primary residence on a parcel zoned
18 for a single-family residence.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 35A.63 RCW
20 to read as follows:

21 Each code city may issue a zoning variance, special use permit, or
22 conditional use permit for a dwelling unit to be constructed, or which
23 is attached to or detached from, a primary residence on a parcel zoned
24 for a single-family residence.

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

27 Each county may issue a zoning variance, special use permit, or
28 conditional use permit for a dwelling unit to be constructed, or which
29 is attached to or detached from, a primary residence on a parcel zoned
30 for a single-family residence.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A RCW
32 to read as follows:

33 Each city and county may issue a zoning variance, special use
34 permit, or conditional use permit for a dwelling unit to be

1 constructed, or which is attached to or detached from, a primary
2 residence on a parcel zoned for a single-family residence.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 35.63 RCW
4 to read as follows:

5 (1) Each city may, by ordinance, provide for the creation of second
6 units in single-family and multifamily residential zones consistent
7 with all of the following provisions:

8 (a) Areas may be designated within the jurisdiction of each city
9 where second units may be permitted;

10 (b) The designation of areas may be based on criteria, which may
11 include, but are not limited to, the adequacy of water and sewer
12 services and the impact of second units on traffic flow;

13 (c) Each city may find that second units do not exceed the
14 allowable density for the lot upon which the second unit is located,
15 and that second units are a residential use that is consistent with
16 the existing general plan and zoning designation for the lot;

17 (d) The second units created shall not be considered in the
18 application of any local ordinance, policy, or program to limit
19 residential growth; and

20 (e) Each city may establish a process for the issuance of a
21 conditional use permit for second units. Before a city designates
22 areas within the city where second units may be permitted, it shall
23 provide neighborhood groups an opportunity to submit a neighborhood
24 plan that addresses how the impacts of second units on parking and
25 other matters may be mitigated. The city shall assist neighborhood
26 groups with the development of the plan when possible.

27 (2) When a city with a population of at least twenty thousand which
28 has not adopted an ordinance governing second units in accordance with
29 subsection (1) of this section receives its first application on or
30 after July 1, 1995, for a conditional use permit pursuant to this
31 subsection, it shall accept the application and approve or disapprove
32 the application pursuant to this subsection unless it adopts an
33 ordinance in accordance with subsection (1) of this section within one
34 hundred twenty days after receiving the application. Each city shall
35 grant a special use or a conditional use permit for the creation of a
36 second unit if the second unit complies with all of the following:

37 (a) The unit is not intended for sale and may be rented;

38 (b) The lot is zoned for single-family or multifamily use;

1 (c) The lot contains an existing single-family dwelling;

2 (d) The second unit is either attached to the existing dwelling and
3 located within the living area of the existing dwelling or detached
4 from the existing dwelling and located on the same lot as the existing
5 dwelling;

6 (e) Any construction shall conform to height, setback, lot
7 coverage, architectural review, site plan review, fees, charges, and
8 other zoning requirements generally applicable to residential
9 construction in the zone in which the property is located;

10 (f) Local building code requirements which apply to detached
11 dwellings, as appropriate; and

12 (g) Approval by the local health officer where a private sewage
13 disposal system is being used, if required.

14 A city is not required to grant special use or conditional use
15 permits under this section for failing to adopt an ordinance
16 authorizing the siting of secondary units if the city makes a finding
17 that adequate affordable housing exists within the city, or that
18 adequate affordable housing will be provided through increased
19 densities or other means.

20 (3)(a) Subsection (2) of this section establishes the maximum
21 standards that local agencies shall use to evaluate proposed second
22 units on lots zoned for residential use which contain an existing
23 single-family dwelling. No additional standards, other than those
24 provided in subsection (1) or (2) of this section, shall be utilized or
25 imposed, except that a city may require an applicant for a permit
26 issued pursuant to subsection (2) of this section to be an owner-
27 occupant.

28 (b) This subsection does not limit the authority of local agencies
29 to adopt less restrictive requirements for the creation of second
30 units.

31 (c) No changes in zoning ordinances or other ordinances or any
32 changes in the general plan shall be required to implement this
33 subsection. Any local agency may amend its zoning ordinance or general
34 plan to incorporate the policies, procedures, or other provisions
35 applicable to the creation of second units if these provisions are
36 consistent with the limitations of this subsection.

37 (d) A second unit which conforms to the requirements of this
38 subsection shall not be considered to exceed the allowable density for
39 the lot upon which it is located, and shall be deemed to be a

1 residential use which is consistent with the existing general plan and
2 zoning designations for the lot. The second units shall not be
3 considered in the application of any local ordinance, policy, or
4 program to limit residential growth.

5 (e) A city shall not adopt an ordinance which totally precludes
6 second units within single-family and multifamily zoned areas unless
7 the ordinance contains findings acknowledging that the ordinance may
8 limit housing opportunities of the region and further contains findings
9 that specific adverse impacts on the public health, safety, and welfare
10 that would result from allowing second units within single-family and
11 multifamily zoned areas justify adopting the ordinance.

12 NEW SECTION. Sec. 8. A new section is added to chapter 35A.63 RCW
13 to read as follows:

14 (1) Each code city may, by ordinance, provide for the creation of
15 second units in single-family and multifamily residential zones
16 consistent with all of the following provisions:

17 (a) Areas may be designated within the jurisdiction of each code
18 city where second units may be permitted;

19 (b) The designation of areas may be based on criteria, which may
20 include, but are not limited to, the adequacy of water and sewer
21 services and the impact of second units on traffic flow;

22 (c) Each code city may find that second units do not exceed the
23 allowable density for the lot upon which the second unit is located,
24 and that second units are a residential use that is consistent with
25 the existing general plan and zoning designation for the lot;

26 (d) The second units created shall not be considered in the
27 application of any local ordinance, policy, or program to limit
28 residential growth; and

29 (e) Each code city may establish a process for the issuance of a
30 conditional use permit for second units. Before a city designates
31 areas within the city where second units may be permitted, it shall
32 provide neighborhood groups an opportunity to submit a neighborhood
33 plan that addresses how the impacts of second units on parking and
34 other matters may be mitigated. The city shall assist neighborhood
35 groups with the development of the plan when possible.

36 (2) When a code city with a population of at least twenty thousand
37 which has not adopted an ordinance governing second units in accordance
38 with subsection (1) of this section receives its first application on

1 or after July 1, 1995, for a conditional use permit pursuant to this
2 subsection, it shall accept the application and approve or disapprove
3 the application pursuant to this subsection unless it adopts an
4 ordinance in accordance with subsection (1) of this section within one
5 hundred twenty days after receiving the application. Each code city
6 shall grant a special use or a conditional use permit for the creation
7 of a second unit if the second unit complies with all of the following:

- 8 (a) The unit is not intended for sale and may be rented;
- 9 (b) The lot is zoned for single-family or multifamily use;
- 10 (c) The lot contains an existing single-family dwelling;
- 11 (d) The second unit is either attached to the existing dwelling and
12 located within the living area of the existing dwelling or detached
13 from the existing dwelling and located on the same lot as the existing
14 dwelling;
- 15 (e) Any construction shall conform to height, setback, lot
16 coverage, architectural review, site plan review, fees, charges, and
17 other zoning requirements generally applicable to residential
18 construction in the zone in which the property is located;
- 19 (f) Local building code requirements which apply to detached
20 dwellings, as appropriate; and
- 21 (g) Approval by the local health officer where a private sewage
22 disposal system is being used, if required.

23 A city is not required to grant special use or conditional use
24 permits under this section for failing to adopt an ordinance
25 authorizing the siting of secondary units if the city makes a finding
26 that adequate affordable housing exists within the city, or that
27 adequate affordable housing will be provided through increased
28 densities or other means.

29 (3)(a) Subsection (2) of this section establishes the maximum
30 standards that local agencies shall use to evaluate proposed second
31 units on lots zoned for residential use which contain an existing
32 single-family dwelling. No additional standards, other than those
33 provided in subsection (1) or (2) of this section, shall be utilized or
34 imposed, except that a code city may require an applicant for a permit
35 issued pursuant to subsection (2) of this section to be an owner-
36 occupant.

37 (b) This subsection does not limit the authority of local agencies
38 to adopt less restrictive requirements for the creation of second
39 units.

1 (c) No changes in zoning ordinances or other ordinances or any
2 changes in the general plan shall be required to implement this
3 subsection. Any local agency may amend its zoning ordinance or general
4 plan to incorporate the policies, procedures, or other provisions
5 applicable to the creation of second units if these provisions are
6 consistent with the limitations of this subsection.

7 (d) A second unit which conforms to the requirements of this
8 subsection shall not be considered to exceed the allowable density for
9 the lot upon which it is located, and shall be deemed to be a
10 residential use which is consistent with the existing general plan and
11 zoning designations for the lot. The second units shall not be
12 considered in the application of any local ordinance, policy, or
13 program to limit residential growth.

14 (e) A code city shall not adopt an ordinance which totally
15 precludes second units within single-family and multifamily zoned areas
16 unless the ordinance contains findings acknowledging that the ordinance
17 may limit housing opportunities of the region and further contains
18 findings that specific adverse impacts on the public health, safety,
19 and welfare that would result from allowing second units within single-
20 family and multifamily zoned areas justify adopting the ordinance.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70 RCW
22 to read as follows:

23 (1) Each county may, by ordinance, provide for the creation of
24 second units in single-family and multifamily residential zones
25 consistent with all of the following provisions:

26 (a) Areas may be designated within the jurisdiction of each county
27 where second units may be permitted;

28 (b) The designation of areas may be based on criteria, which may
29 include, but are not limited to, the adequacy of water and sewer
30 services and the impact of second units on traffic flow;

31 (c) Each county may find that second units do not exceed the
32 allowable density for the lot upon which the second unit is located,
33 and that second units are a residential use that is consistent with the
34 existing general plan and zoning designation for the lot;

35 (d) The second units created shall not be considered in the
36 application of any local ordinance, policy, or program to limit
37 residential growth; and

1 (e) Each county may establish a process for the issuance of a
2 conditional use permit for second units. Before a city designates
3 areas within the county where second units may be permitted, it shall
4 provide neighborhood groups an opportunity to submit a neighborhood
5 plan that addresses how the impacts of second units on parking and
6 other matters may be mitigated. The county shall assist neighborhood
7 groups with the development of the plan when possible.

8 (2) When a county with a population of at least one hundred twenty-
9 five thousand which has not adopted an ordinance governing second units
10 in accordance with subsection (1) of this section receives its first
11 application on or after July 1, 1995, for a conditional use permit
12 pursuant to this subsection, it shall accept the application and
13 approve or disapprove the application pursuant to this subsection
14 unless it adopts an ordinance in accordance with subsection (1) of this
15 section within one hundred twenty days after receiving the application.
16 Each county shall grant a special use or a conditional use permit for
17 the creation of a second unit if the second unit complies with all of
18 the following:

19 (a) The unit is not intended for sale and may be rented;

20 (b) The lot is zoned for single-family or multifamily use;

21 (c) The lot contains an existing single-family dwelling;

22 (d) The second unit is either attached to the existing dwelling and
23 located within the living area of the existing dwelling or detached
24 from the existing dwelling and located on the same lot as the existing
25 dwelling;

26 (e) Any construction shall conform to height, setback, lot
27 coverage, architectural review, site plan review, fees, charges, and
28 other zoning requirements generally applicable to residential
29 construction in the zone in which the property is located;

30 (f) Local building code requirements which apply to detached
31 dwellings, as appropriate; and

32 (g) Approval by the local health officer where a private sewage
33 disposal system is being used, if required.

34 A county is not required to grant special use or conditional use
35 permits under this section for failing to adopt an ordinance
36 authorizing the siting of secondary units if the county makes a finding
37 that adequate affordable housing exists within the county, or that
38 adequate affordable housing will be provided through increased
39 densities or other means.

1 (3)(a) Subsection (2) of this section establishes the maximum
2 standards that local agencies shall use to evaluate proposed second
3 units on lots zoned for residential use which contain an existing
4 single-family dwelling. No additional standards, other than those
5 provided in subsection (1) or (2) of this section, shall be utilized or
6 imposed, except that a county may require an applicant for a permit
7 issued pursuant to subsection (2) of this section to be an owner-
8 occupant.

9 (b) This subsection does not limit the authority of local agencies
10 to adopt less restrictive requirements for the creation of second
11 units.

12 (c) No changes in zoning ordinances or other ordinances or any
13 changes in the general plan shall be required to implement this
14 subsection. Any local agency may amend its zoning ordinance or general
15 plan to incorporate the policies, procedures, or other provisions
16 applicable to the creation of second units if these provisions are
17 consistent with the limitations of this subsection.

18 (d) A second unit which conforms to the requirements of this
19 subsection shall not be considered to exceed the allowable density for
20 the lot upon which it is located, and shall be deemed to be a
21 residential use which is consistent with the existing general plan and
22 zoning designations for the lot. The second units shall not be
23 considered in the application of any local ordinance, policy, or
24 program to limit residential growth.

25 (e) A county shall not adopt an ordinance which totally precludes
26 second units within single-family and multifamily zoned areas unless
27 the ordinance contains findings acknowledging that the ordinance may
28 limit housing opportunities of the region and further contains findings
29 that specific adverse impacts on the public health, safety, and welfare
30 that would result from allowing second units within single-family and
31 multifamily zoned areas justify adopting the ordinance.

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A
33 RCW to read as follows:

34 (1) Each city and county may, by ordinance, provide for the
35 creation of second units in single-family and multifamily residential
36 zones consistent with all of the following provisions:

37 (a) Areas may be designated within the jurisdiction of each city
38 and county where second units may be permitted;

1 (b) The designation of areas may be based on criteria, which may
2 include, but are not limited to, the adequacy of water and sewer
3 services and the impact of second units on traffic flow;

4 (c) Each city and county may find that second units do not exceed
5 the allowable density for the lot upon which the second unit is
6 located, and that second units are a residential use that is
7 consistent with the existing general plan and zoning designation for
8 the lot;

9 (d) The second units created shall not be considered in the
10 application of any local ordinance, policy, or program to limit
11 residential growth; and

12 (e) Each city and county may establish a process for the issuance
13 of a conditional use permit for second units. Before a city or county
14 designates areas within the city or county where second units may be
15 permitted, it shall provide neighborhood groups with an opportunity to
16 submit a neighborhood plan that addresses how the impacts of second
17 units on parking and other matters may be mitigated. The county shall
18 assist neighborhood groups with the development of the plan when
19 possible.

20 (2) When a city with a population of at least twenty thousand or a
21 county with a population of at least one hundred twenty-five thousand
22 which has not adopted an ordinance governing second units in accordance
23 with subsection (1) of this section receives its first application on
24 or after July 1, 1995, for a conditional use permit pursuant to this
25 subsection, it shall accept the application and approve or disapprove
26 the application pursuant to this subsection unless it adopts an
27 ordinance in accordance with subsection (1) of this section within one
28 hundred twenty days after receiving the application. Each city or
29 county shall grant a special use or a conditional use permit for the
30 creation of a second unit if the second unit complies with all of the
31 following:

32 (a) The unit is not intended for sale and may be rented;

33 (b) The lot is zoned for single-family or multifamily use;

34 (c) The lot contains an existing single-family dwelling;

35 (d) The second unit is either attached to the existing dwelling and
36 located within the living area of the existing dwelling or detached
37 from the existing dwelling and located on the same lot as the existing
38 dwelling;

1 (e) Any construction shall conform to height, setback, lot
2 coverage, architectural review, site plan review, fees, charges, and
3 other zoning requirements generally applicable to residential
4 construction in the zone in which the property is located;

5 (f) Local building code requirements which apply to detached
6 dwellings, as appropriate; and

7 (g) Approval by the local health officer where a private sewage
8 disposal system is being used, if required.

9 A city or county is not required to grant special use or
10 conditional use permits under this section for failing to adopt an
11 ordinance authorizing the siting of secondary units if the city or
12 county makes a finding that adequate affordable housing exists within
13 the city or county, or that adequate affordable housing will be
14 provided through increased densities or other means.

15 (3)(a) Subsection (2) of this section establishes the maximum
16 standards that local agencies shall use to evaluate proposed second
17 units on lots zoned for residential use which contain an existing
18 single-family dwelling. No additional standards, other than those
19 provided in subsection (1) or (2) of this section, shall be utilized or
20 imposed, except that a city and county may require an applicant for a
21 permit issued pursuant to subsection (2) of this section to be an
22 owner-occupant.

23 (b) This subsection does not limit the authority of local agencies
24 to adopt less restrictive requirements for the creation of second
25 units.

26 (c) No changes in zoning ordinances or other ordinances or any
27 changes in the general plan shall be required to implement this
28 subsection. Any local agency may amend its zoning ordinance or general
29 plan to incorporate the policies, procedures, or other provisions
30 applicable to the creation of second units if these provisions are
31 consistent with the limitations of this subsection.

32 (d) A second unit which conforms to the requirements of this
33 subsection shall not be considered to exceed the allowable density for
34 the lot upon which it is located, and shall be deemed to be a
35 residential use which is consistent with the existing general plan and
36 zoning designations for the lot. The second units shall not be
37 considered in the application of any local ordinance, policy, or
38 program to limit residential growth.

1 (e) A city or county shall not adopt an ordinance which totally
2 precludes second units within single-family and multifamily zoned areas
3 unless the ordinance contains findings acknowledging that the ordinance
4 may limit housing opportunities of the region and further contains
5 findings that specific adverse impacts on the public health, safety,
6 and welfare that would result from allowing second units within single-
7 family and multifamily zoned areas justify adopting the ordinance.

8 (4) The designation of areas by a city or county where second units
9 may be permitted shall constitute evidence that a city or county is
10 making progress in meeting its fair share affordable housing goals.
11 For purposes of this section, "fair share affordable housing goals"
12 means a goal established pursuant to a regional policy plan process for
13 each city and county that is required or chooses to plan under RCW
14 36.70A.040.

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