

SENATE BILL REPORT

ESSB 6617

As Amended by House, March 6, 2020

Title: An act relating to accessory dwelling unit regulation.

Brief Description: Concerning accessory dwelling unit regulation.

Sponsors: Senate Committee on Housing Stability & Affordability (originally sponsored by Senators Liias and Das).

Brief History:

Committee Activity: Housing Stability & Affordability: 1/29/20, 2/05/20 [DPS, DNP].

Floor Activity:

Passed Senate: 2/19/20, 31-17.

Passed House: 3/06/20, 94-3.

Brief Summary of Engrossed First Substitute Bill

- Authorizes counties planning under the Growth Management Act (GMA) and cities within such counties to allow up to two accessory dwelling units (ADUs) per lot and to remove any requirement that an owner occupy an ADU or other housing unit on the lot.
- Prohibits counties planning under the GMA and cities within such counties from requiring the provision of off-street parking for ADUs close to major transit stops.

SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

Majority Report: That Substitute Senate Bill No. 6617 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Darneille and Saldaña.

Minority Report: Do not pass.

Signed by Senators Zeiger, Ranking Member; Warnick.

Staff: Brandon Popovac (786-7465)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA and a reduced number of directives for all other counties and cities. Twenty-eight of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

Urban Growth Areas. Counties fully planning 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. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

State Environmental Policy Act. The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that the SEPA-checklist process identifies as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an Environmental Impact Statement (EIS).

Local Planning for Accessory Apartments. Local governments are required to have accessory apartment commonly referred to as ADUs, provisions incorporated in their development regulations, zoning regulations, or official controls. These provisions must be consistent with a 1993 report from the Department of Community, Trade, and Economic Development (CTED) that provided recommendations to the Legislature designed to encourage the development and placement of accessory apartments in areas zoned for single-family residential use. The CTED recommendations include standards and criteria regarding size, parking, design, and quantity of accessory apartments. "Local government" means a county planning under the GMA, a city with a population of over 20,000, and a county with a population of over 125,000.

Accessory Dwelling Unit Regulation. In 2019, the Legislature encouraged fully planning cities to take an array of specified planning actions to increase residential building capacity. Specified planning actions relating to ADUs include authorizing attached ADUs on all parcels containing single-family homes where the lot is at least 3200 square feet in size, and permitting both attached and detached ADUs on all parcels containing single-family homes if the lots are at least 4356 square feet in size. If this planning action is taken:

- qualifying city ordinances or regulations could not provide for on-site parking requirements, owner occupancy requirements, or square footage limitations below 1000 square feet for the ADU or prohibit the separate rental or sale of ADUs and the primary residence;
- cities would be required to set applicable impact fees at no more than the projected impact of the ADU; and
- to allow other local flexibility, ADUs would be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative

authority, and be required to follow all applicable state and federal laws and local ordinances.

Summary of Engrossed First Substitute Bill: By July 1, 2021, any county planning under the GMA and any city within such county must adopt or amend ordinances, regulations, or other official controls that do not establish a requirement for the provision of off-street parking for ADUs within 0.5 mile of a major transit stop within designated UGAs.

Any counting planning under the GMA and any city within such county through amended or adopted ordinances, regulations, or other official controls may, within designated UGAs:

- allow up to two ADUs (attached or detached) on all lots containing a single-family housing unit, duplex, triplex, fourplex, rowhouse, townhome, or apartment building, regardless of zoning district;
- remove any requirement that the owner of a lot on which there is an ADU reside in or occupy the ADU or another housing unit on the same lot.

Any action taken by a city or county to comply with the new ADU requirements is not subject to legal challenge under the GMA or to legal challenge or administrative or judicial appeals under the SEPA.

By July 1, 2021, the new ADU requirements apply and take effect in any GMA county or city that has not adopted or amended such regulations and supersede, preempt, and invalidate any conflicting local development regulations.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The state can achieve more affordable housing options in every community by expanding the use of ADUs in a cost-effective way to help individuals age in place, earn extra income, and create options for other people to rent. Research shows that the two biggest barriers to ADU development are requirements to provide parking and for owner occupancy. The no minimum parking requirement for an ADU that is close to transit makes sense because anyone that is going to be rent these units are likely to use that transit service. California and Oregon have recently passed similar bans on owner occupancy requirements and parking requirements near transit. The city of Lacey is now offering pre-approved plans for ADUs. The bill should include minimum height requirements of 18 feet at most with an allowance of two stories, allow a connection to water and electric utilities through the main house without added hook up fees, and allow a reduction of impact fees due to the public good these homes can provide. We need more smaller and diverse of housing options that are affordable. ADUs provide a great opportunity to have gentle infill that will increase density and often be below market value. Allowing gentle infill development with ADUs into existing neighborhoods is critically

important to address sprawl and climate change resulting from people having to seek affordable housing away from jobs and producing longer and more climate-unfriendly commutes. Even if some cities are adopting and changing ordinances and regulations to be more ADU friendly, many jurisdictions have regulations that are not friendly to build ADUs or do not have regulations in place. ADUs provide a better opportunity for individuals to be able to afford to live in the city and support each other and their community as well. ADUs are a key piece of providing affordable housing in existing neighborhoods and allowing residents to offer a place to live for their family members and friends. There is no need to make people pay extra cost for creating parking for ADUs near transit. These housing types are compatible in scale with buildings that are in historic districts and allow more housing in historic districts without demolishing existing buildings. ADUs will permit individuals to be more financially stable for future retirement as a supplemental retirement fund. This legislation creates more opportunities for families to stick together. Minimum parking mandates would require more project financing, the removal of trees, and additional environmental hazards for storm water.

CON: Cities are already providing ADU regulation, including cities of Renton and Kent that have conditional use and waiver processes in place. At least 115 cities in the state, with 59 cities voluntarily, have adopted ADU policies; this covers 90 percent of the incorporated population of the state. There is a preference to keep policies for cities under ESSB Bill 1923, which provides some assistance for local governments to update their codes. This bill would supersede what cities have already provided in terms of ADU regulation. Not enough modest homes have been built and this bill would increase the price of property.

OTHER: The growth management hearings board has found on numerous occasions that ADUs must be considered as contributing to the underlying density of certain zoning districts in fully planning counties, and the counties overall zoning scheme must be in concert with its buildable lands inventory and population projections. Increased density due to mandated ADUs will likely lead to a decrease in density elsewhere or a contracting in the size of the UGA in order to be compliant with the GMA.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Lysett Cadena, City of Burien; Holly Davies, citizen; Dani Madrone, Olympia City Council; Brian Wilcock, citizen; Chris Van Daalen, citizen; Dan Bertolet, Sightline Institute; Alice Lockhart, Seattle350.org; Laura Loe Bernstein, citizen.

CON: Doug Levy, Cities of Renton, Lake Stevens, Fife; Phyllis Booth, citizen; Carl Schroeder, Association of Washington Cities.

OTHER: Paul Jewell, Washington State Association of Counties.

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

EFFECT OF HOUSE AMENDMENT(S):

- Limits the scope of the bill to GMA-planning cities and not to GMA-planning counties.
- Removes the authority for GMA-planning cities and counties to:

- authorize up to two ADUs on all lots on which there is a single-family housing unit, duplex, triplex, fourplex, rowhouse, townhome, or apartment building regardless of zoning district; and
- remove any requirement that the owner of a lot on which there is an ADU reside in or occupy the ADU or another housing unit on the same lot.
- Modifies the prohibition that cities may not require the provision of off-street parking for ADUs within one-half mile from a major transit stop to within one-quarter of a mile from a major transit stop.
- Modifies the types of bus and other fixed route service stops that qualify as major transit stops to those that are served at least every 15 minutes during peak hours of operation rather than at least every 30 minutes during peak hours.
- Authorizes cities to require the provision of off-street parking for an ADU located within one-quarter of a mile from a major transit stop if the city has determined the ADU is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible.
- Exempts cities that have adopted or substantively amended ADU regulations within the previous four years from new ADU requirements regarding off-street parking.
- Removes the exemption from GMA and SEPA legal challenges for any action taken to comply with the new ADU requirements under the bill.
- Provides that the bill does not modify or limit rights or interests legally recorded in the governing documents of condominium, homeowner, or common interest ownership associations.