

SENATE BILL REPORT

E2SHB 1167

As Reported by Senate Committee On:
Local Government, Land Use & Tribal Affairs, March 16, 2023
Ways & Means, April 3, 2023

Title: An act relating to residential housing regulations.

Brief Description: Concerning residential housing regulations.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Duerr, Low, Walen, Reed, Bateman, Ramel, Fitzgibbon, Taylor, Macri, Gregerson, Wylie, Pollet, Kloba and Tharinger).

Brief History: Passed House: 3/4/23, 95-0.

Committee Activity: Local Government, Land Use & Tribal Affairs: 3/14/23, 3/16/23 [DPA-WM, w/oRec].

Ways & Means: 3/23/23, 4/03/23 [DPA, DNP, w/oRec].

Brief Summary of Amended Bill

- Requires that, beginning six months after its next comprehensive plan update, a fully planning city or county may only require an administrative design review to determine whether a housing development permit application is in compliance with any applicable design standards.
- Prohibits a city from imposing any development regulations for middle housing that are more restrictive than those for detached single-family residences with certain exceptions.
- Requires the Department of Commerce to establish and maintain a selection of preapproved accessory dwelling unit plans and provide the selection to counties and cities for adoption.
- Directs the State Building Code Council to convene a work group to recommend a mechanism in the International Residential Code for

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adopting by reference, provisions for multiplex housing contained in the International Building Code, and a technical advisory group to recommend modifications and limitations to allow a single-exit stairway to serve multifamily residential structures up to six stories above grade plane.

- Requires the Office of Regulatory and Innovation Assistance to contract for the development of an optional standard plan set that meets or exceeds all energy code regulations for residential housing subject to the International Residential Code.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Kauffman.

Minority Report: That it be referred without recommendation.
Signed by Senators Torres, Ranking Member; Short.

Staff: Karen Epps (786-7424)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.
Signed by Senators Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Nguyen, Pedersen, Saldaña, Van De Wege and Wellman.

Minority Report: Do not pass.
Signed by Senators Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Wagoner.

Minority Report: That it be referred without recommendation.
Signed by Senators Rolfes, Chair; Boehnke, Braun, Muzzall and Torres.

Staff: Trevor Press (786-7446)

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—planning jurisdictions—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.

When a fully planning county or city is reviewing a project, its comprehensive plan and development regulations must serve as the basis for the project permit review. When determining if a proposed project is consistent with the comprehensive plan and development regulations, the county or city must consider the type of land use, the level of development or density proposed, and the availability of infrastructure needed to service the development.

Project Permits. Before developing land, a developer must obtain permits from the local government allowing the development. These permits can include land use permits, environmental permits, building permits, and others, and are known as project permits. Fully planning counties and cities must comply with additional project permit processing requirements, including establishing an integrated or consolidated permit process that:

- provides a written determination of completion to an applicant within 28 days of receipt of the application;
- provides notice of the application to the public, and to relevant departments and agencies, within 14 days of the determination of completeness;
- provides an optional consolidated process for reviewing two or more project permit applications relating to a proposed project as part of a single process, with a designated permit coordinator for all of the project permits and allowing no more than one open record hearing and one closed record appeal on the project;
- allows any required open record hearing or public meeting on the project to be combined with any other public meeting or hearing that may be held on the project by another agency;
- provides a single report containing all of the decisions made on all project permits included in the consolidated process, as well as any recommendations on project permits that do not require an open record predecision hearing and any mitigation required under the State Environmental Policy Act;
- requires no more than one consolidated open record hearing on appeal if the local government allows appeals; and
- requires a notice of decision on the project permit within 120 days, unless the county or city has adopted a longer time period after making written findings that a longer time period is required to process a specific application or project type.

Counties and cities that do not plan under the GMA may choose to incorporate some or all of the integrated or consolidated permit process into their permitting processes.

Design Review. Design review is a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance. Design review focuses on the appearance of new construction, site planning, and items such as landscaping, signage, and other aesthetic issues. A design

element is an optional element of a comprehensive plan, and many jurisdictions have included design elements in their comprehensive plans.

State Building Code. The State Building Code (Code) establishes minimum performance standards and requirements for construction and construction materials in the state, consistent with accepted standards of engineering, fire, and life safety. The Code comprises a number of model codes and standards, developed and published by international and national organizations, which are adopted by reference in the State Building Code Act (Act). Model codes and standards adopted in the Act include the International Building Code (IBC), the International Residential Code (IRC), and the Energy Code.

The IBC establishes minimum requirements for all buildings except detached one- and two-family dwellings and townhouses up to three stories. The IRC comprises all building, plumbing, mechanical, fuel gas, and electrical requirements for one- and two-family dwellings and townhouses up to three stories.

The State Building Code Council (Council) is responsible for adopting, amending, and maintaining the model codes and standards adopted by reference in the Act. Amendments to the model codes and standards adopted by the Council are codified in the Washington Administrative Code. The Council reviews updated editions of each model code and standard every three years.

Summary of Amended Bill: Beginning six months after its next comprehensive plan update, a fully planning city may not impose any development regulations for middle housing that are more restrictive than those for detached single-family residences, unless otherwise required by state law, including shoreline regulations, building codes, energy codes, electrical codes, or critical areas protection. A city may apply any objective development regulations that are required for detached single-family residences, including setback and tree canopy and retention requirements. Beginning July 1, 2026, cities may use provisions in the state building code to allow a single stairway in residential buildings of six or fewer stories if the conditions established by the state building code council for the IBC are met.

Cities and counties may adopt regulations that create a simple, low-cost, expedited permit process for development of single-family, duplex, triplex, or accessory dwelling housing units with less than 1,801 square feet per unit in locations designated for residential housing. The expedited process should:

- make it easy for an applicant to submit and receive approval for all permits required to build housing units; and
- lower costs and simplify the building of housing units tailored to be priced for extremely low-income, low-income, or moderate-income households.

Beginning six months after its next comprehensive plan update, a fully planning city or county may only require an administrative design review to determine whether a housing

development permit application is in compliance with any applicable design standards. Administrative design review means a development permit process whereby an application is reviewed, approved, or denied by the planning director, or the planning director's designee, based solely on objective design and development standards without a public meeting or hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance.

The Department of Commerce must establish and maintain a selection of preapproved accessory dwelling unit plans and provide the selection to counties and cities for the adoption of preapproved accessory dwelling unit (ADU) plans. A preapproved ADU plan is a selection of architectural plans that have been reviewed by county or city code officials and approved for compliance with applicable building codes. When a preapproved ADU plan is submitted for permit approval, the county or city's review of the preapproved plan may not be more than administrative.

The Council must convene a work group for the purpose of simplifying the production of middle housing by recommending a mechanism in the IRC that adopts by reference the provisions for multiplex housing in the IBC. The mechanism must include those sections from the IBC necessary to ensure public health, safety, and general welfare in multiplex housing, and may not reduce any requirements for multiplex housing contained in the IBC.

The Council must convene a technical advisory group to recommend modifications and limitations to the IBC that would allow a single exit stairway to serve multifamily residential structures up to six stories above grade plane. The recommendations must include considerations for adequate and available water supply, the presence and response time of a professional fire department, and any other provisions necessary to ensure public health, safety, and general welfare.

The work group and the technical advisory group must provide their recommendations to the Council in time for the Council to adopt or amend rules or codes as necessary for implementation in the 2024 IBC. The Council must adopt the additions and amendments to rules or codes as necessary by July 1, 2026.

The Office of Regulatory and Innovation Assistance must contract with an external consultant or entity to develop an optional standard plan set that demonstrates a prescriptive compliance pathway that meets or exceeds all energy code regulations for residential housing subject to the IRC. The standard plan set may be used, but is not required, by local governments and building industries. When developing the standard plan set, the consultant must seek feedback from cities, counties, building industries, and building officials. The standard plan set must be completed by June 30, 2024.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Removes the grant program to provide direct financial assistance to counties and cities for the adoption of preapproved accessory dwelling unit plans.
- Requires the Department of Commerce to establish and maintain a selection of preapproved accessory dwelling unit plans and provide the selection to counties and cities for adoption.

EFFECT OF LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS COMMITTEE AMENDMENT(S):

- Requires the State Building Code Council to convene a technical advisory group, rather than a work group for the purpose of recommending modifications and limitations that would allow for a single exit stairway to serve certain multifamily residential structures.
- Requires the recommendations to include considerations for available water supply and response time of a professional fire department.
- Establishes that cities may use provisions in the state building code to allow single exit stairways in certain residential buildings if the conditions established by the State Building Code Council are met.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

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 Engrossed Second Substitute House Bill (Local Government, Land Use & Tribal Affairs): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is aimed at efficiency, permitting efficiency, land use efficiency, and planning efficiency. This bill is aimed at promoting efficiency in the permitting process. Bold action is needed to address housing availability and this bill plans for growth and streamlines permitting and other processes. This bill addresses the use of single exit staircases. This bill will make affordable homeownership happen. Affordable housing is more duplexes, triplexes, quads, and currently the building code makes it harder to build homes, not easier, and this bill will help fix that. This bill is an important piece of the overall package that is needed to actually get more homes built.

Persons Testifying (Local Government, Land Use & Tribal Affairs): PRO: Representative Davina Duerr, Prime Sponsor; Ryan Donohue, Habitat for Humanity Seattle-King & Kittitas Counties; Lacey Jane Wolfe, City of Bellevue; Todd Beyreuther, Mercer Mass Timber.

Persons Signed In To Testify But Not Testifying (Local Government, Land Use & Tribal Affairs): No one.

Staff Summary of Public Testimony on Bill as Amended by Local Government, Land Use & Tribal Affairs (Ways & Means): *The committee recommended a different version of the bill than what was heard.* OTHER: Cities support the idea of updating the building code to address middle housing. Section 3 could be struck as it is duplicative of the middle housing bill. They support the idea of having administrative review standards. Please review the local government fiscal notes for all bills that drive code development changes. Each bill creates large amounts of local government costs.

Persons Testifying (Ways & Means):

OTHER: Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.