

# SENATE BILL REPORT

## SB 5364

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As Reported by Senate Committee On:  
Local Government, Land Use & Tribal Affairs, February 2, 2023

**Title:** An act relating to increasing housing options through lot splitting.

**Brief Description:** Increasing housing options through lot splitting.

**Sponsors:** Senators Frame, Gildon, Lias, Nguyen, Saldaña, Shewmake, Torres, Van De Wege and Wilson, C..

**Brief History:**

**Committee Activity:** Local Government, Land Use & Tribal Affairs: 1/26/23, 2/02/23 [DPS].

**Brief Summary of First Substitute Bill**

- Requires cities planning under the Growth Management Act to incorporate certain lot splitting regulations into their development regulations, zoning regulations, and other official controls.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

**Majority Report:** That Substitute Senate Bill No. 5364 be substituted therefor, and the substitute bill do pass.

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Torres, Ranking Member; Kauffman and Short.

**Staff:** Maggie Douglas (786-7279)

**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

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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.*

Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be fully planning under the GMA.

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 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 enumerated elements, including mandatory land use and housing elements. The housing element must ensure the vitality and character of established residential neighborhoods and among other requirements consider the role of accessory dwelling units in meeting housing needs.

Increased Residential Building Capacity. Cities planning fully under the GMA are encouraged to take two or more of the following actions to increase residential building capacity:

- authorize development of at least 50 residential units per acre in one or more areas of not fewer than 500 acres that include one or more train stations served by commuter rail or light rail;
- authorize development of an average of at least 25 residential units per acre in one or more areas of not fewer than 500 acres in cities with a population greater than 40,000, or areas of not fewer than 250 acres in cities with a population less than 40,000, that include one or more bus stops served by scheduled bus service of at least four times per hour for 12 or more hours per day;
- authorize at least one duplex, triplex, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences unless a city documents a specific infrastructure or physical constraint that would make this requirement unfeasible for a particular parcel;
- authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;
- authorize accessory dwelling units on all lots located in zoning districts that permit single-family residences, subject to certain restrictions;
- adopt a subarea plan pursuant to the State Environmental Policy Act (SEPA);
- adopt a planned action pursuant to the planned action provisions of SEPA, except that an Environmental Impact Statement (EIS) need not be prepared for such a planned action;
- adopt increases in categorical exemptions pursuant to the infill development provisions of SEPA for single-family and multifamily development;
- adopt a form-based code in one or more zoning districts that permit residential uses;

- authorize a duplex on each corner lot within all zoning districts that permit single-family residences;
- allow for the division or redivision of land into the maximum number of lots through the short subdivision process; and
- authorize a minimum net density of six dwelling units per acre in all residential zones.

**Summary of Bill (First Substitute):** Cities fully planning under the GMA must adopt or amend their development regulations, zoning regulations, or other official controls prior to July 1, 2024, to allow for splitting residential lots under certain conditions. When regulating lot splitting, such cities may not:

- prohibit splitting a residential lot within a residential zone if the following conditions are met:
  1. the resulting lots are at least 1500 square feet;
  2. the resulting lots are at least 40 percent of the size of the original lot;
  3. the original lot was not created through splitting a single residential lot authorized by this act;
  4. the lot split would not require the demolition or alteration of any housing that is rent restricted, rent subsidized, or that has been occupied by a tenant paying market-rate rent within the preceding 12 months;
  5. any construction on the resulting lots is subject to all existing state and local laws regarding stormwater runoff, critical areas, shorelines, and conservation areas; and
- impose regulations on a residential lot that is the result of a lot split that:
  1. requires more than one off-street parking space per lot;
  2. requires more than 20 feet of frontage width per lot;
  3. requires easement widths of more than four feet for access to rear lots;
  4. imposes permitting requirements, or other standards and fees on the construction on a lot resulting from a lot split greater than those imposed on new residential construction within the same zone;
  5. imposes requirements for the dedications of rights-of-way, or for the construction of off-site improvements.

Beginning July 1, 2024, the requirements of this act apply and take effect in any city that has not adopted or amended their development regulations, zoning regulations, or other official controls and supersede, preempt, and invalidate any conflicting local development regulations.

**EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS COMMITTEE (First Substitute):**

- Provides that the resulting lots from a lot split under this act are subject to existing laws regarding minimum review standards for subdivisions.
- Clarifies that cities may not require easement widths of more than four feet unless site

- specific require otherwise.
- Clarifies that cities may not impose requirements for dedications of rights-of-way or for the construction of off-site improvements unless site specific conditions require otherwise.
  - Provides that any construction on the resulting lots is subject to all existing state and local laws, except for the provisions outlined in this act.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**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: This bill has 2 key benefits. It gives existing owners a chance to stay in their communities and provides the potential to build more starter homes by selling off the back part of their lot. Lot splitting will increase accessibility for homeownership, especially for first time home buyers. Current land use codes make housing limited and prices too high. This bill will provide the flexibility needed to allow for things like building two small homes on the same space, creating more opportunities for housing and supplying more housing units at a time when they are desperately needed. Zoning that mandates a large lot for every house makes it financially infeasible for families to purchase. This bill will let homeowners decide if they want to split their lot. This will help close the racial home ownership gap. This is an important piece of the housing puzzle.

OTHER: There are concerns with the implementation provisions and timeline. The timeline for compliance of July 1, 2024, is unrealistic. A change of this magnitude should provide cities with at least two years to plan and implement. Please consider the total volume of planning work local governments will be asked to take on in the next couple of years. Rigid prohibition on easements of no more than four feet across for access to rear lots will prove unworkable. Not all public utility infrastructure is located at the front of the lot. Prohibition on dedications of right-of-way is unrealistic. They are often needed to ensure appropriate access for first responders and utilities.

**Persons Testifying:** PRO: Senator Noel Frame, Prime Sponsor; Dan Bertolet, Sightline Institute; Ryan Donohue, Habitat for Humanity Seattle-King & Kittitas Counties; Bryan Kirschner; Josie Cummings, Building Industry Association of Washington; Alex Hur, Master Builders Association of King and Snohomish Counties; Sol Villarreal, Washington Realtors.

OTHER: Salim Furth, The Mercatus Center at George Mason University; Luke Esser, City

of Mercer Island; Carl Schroeder, Association of Washington Cities.

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