
SUBSTITUTE SENATE BILL 5810

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Governmental Operations (originally sponsored by Senators Rasmussen, McCaslin and L. Smith).

Read first time March 6, 1991.

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
9 that 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

1 housing resources offers an innovative and cost-effective solution to
2 this housing crisis.

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

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

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

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

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

17 Each city and county may issue a zoning variance, special use
18 permit, or conditional use permit for a dwelling unit to be
19 constructed, or which is attached to or detached from, a primary
20 residence on a parcel zoned for a single-family residence, if the
21 dwelling unit is intended for the sole occupancy of one adult or two
22 adult persons one of whom is sixty years of age or over, and the area
23 of floor space of the attached dwelling unit does not exceed thirty
24 percent of the existing living area or the area of the floor space of
25 the detached dwelling unit does not exceed one thousand two hundred
26 square feet.

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

1 Each city and code city may issue a zoning variance, special use
2 permit, or conditional use permit for a dwelling unit to be
3 constructed, or which is attached to or detached from, a primary
4 residence on a parcel zoned for a single-family residence, if the
5 dwelling unit is intended for the sole occupancy of one adult or two
6 adult persons one of whom is sixty years of age or over, and the area
7 of floor space of the attached dwelling unit does not exceed thirty
8 percent of the existing living area or the area of the floor space of
9 the detached dwelling unit does not exceed one thousand two hundred
10 square feet.

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

13 Each county may issue a zoning variance, special use permit, or
14 conditional use permit for a dwelling unit to be constructed, or which
15 is attached to or detached from, a primary residence on a parcel zoned
16 for a single-family residence, if the dwelling unit is intended for the
17 sole occupancy of one adult or two adult persons one of whom is sixty
18 years of age or over, and the area of floor space of the attached
19 dwelling unit does not exceed thirty percent of the existing living
20 area or the area of the floor space of the detached dwelling unit does
21 not exceed one thousand two hundred square feet.

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

24 Each city and county may issue a zoning variance, special use
25 permit, or conditional use permit for a dwelling unit to be
26 constructed, or which is attached to or detached from, a primary
27 residence on a parcel zoned for a single-family residence, if the
28 dwelling unit is intended for the sole occupancy of one adult or two

1 adult persons one of whom is sixty years of age or over, and the area
2 of floor space of the attached dwelling unit does not exceed thirty
3 percent of the existing living area or the area of the floor space of
4 the detached dwelling unit does not exceed one thousand two hundred
5 square feet.

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

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

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

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

16 (c) Standards may be imposed on second units which include, but are
17 not limited to, parking, height, setback, lot coverage, architectural
18 review, and maximum size of a unit;

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

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

27 (f) Each city and county may establish a process for the issuance
28 of a conditional use permit for second units.

1 (2) When a city or county which has not adopted an ordinance
2 governing second units in accordance with subsection (1) of this
3 section receives its first application on or after July 1, 1992, for a
4 conditional use permit pursuant to this subsection, it shall accept the
5 application and approve or disapprove the application pursuant to this
6 subsection unless it adopts an ordinance in accordance with subsection
7 (1) of this section within one hundred twenty days after receiving the
8 application. Each city or county shall grant a special use or a
9 conditional use permit for the creation of a second unit if the second
10 unit complies with all of the following:

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

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

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

14 (d) The second unit is either attached to the existing dwelling and
15 located within the living area of the existing dwelling or detached
16 from the existing dwelling and located on the same lot as the existing
17 dwelling;

18 (e) Any increase in the floor area of an attached second unit shall
19 not exceed thirty percent of the existing living area;

20 (f) The total area of floor space for a detached second unit shall
21 not exceed one thousand two hundred square feet;

22 (g) Any construction shall conform to height, setback, lot
23 coverage, architectural review, site plan review, fees, charges, and
24 other zoning requirements generally applicable to residential
25 construction in the zone in which the property is located;

26 (h) Local building code requirements which apply to detached
27 dwellings, as appropriate; and

28 (i) Approval by the local health officer where a private sewage
29 disposal system is being used, if required.

1 (3)(a) No other local ordinance, policy, or regulation shall be the
2 basis for the denial of a building permit or a use permit under
3 subsection (2) of this section.

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

12 (c) This subsection does not limit the authority of local agencies
13 to adopt less restrictive requirements for the creation of second
14 units.

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

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

28 (f) A city or county shall not adopt an ordinance which totally
29 precludes second units within single-family and multifamily zoned areas
30 unless the ordinance contains findings acknowledging that the ordinance

1 may limit housing opportunities of the region and further contains
2 findings that specific adverse impacts on the public health, safety,
3 and welfare that would result from allowing second units within single-
4 family and multifamily zoned areas justify adopting the ordinance.

5 NEW SECTION. **Sec. 8.** A new section is added to chapter 35A.63 RCW
6 to read as follows:

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

10 (a) Areas may be designated within the jurisdiction of each city
11 and code city where second units may be permitted;

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

15 (c) Standards may be imposed on second units which include, but are
16 not limited to, parking, height, setback, lot coverage, architectural
17 review, and maximum size of a unit;

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

23 (e) The second units created shall not be considered in the
24 application of any local ordinance, policy, or program to limit
25 residential growth; and

26 (f) Each city and code city may establish a process for the
27 issuance of a conditional use permit for second units.

28 (2) When a city or code city which has not adopted an ordinance
29 governing second units in accordance with subsection (1) of this

1 section receives its first application on or after July 1, 1992, for a
2 conditional use permit pursuant to this subsection, it shall accept the
3 application and approve or disapprove the application pursuant to this
4 subsection unless it adopts an ordinance in accordance with subsection
5 (1) of this section within one hundred twenty days after receiving the
6 application. Each city or code city shall grant a special use or a
7 conditional use permit for the creation of a second unit if the second
8 unit complies with all of the following:

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

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

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

12 (d) The second unit is either attached to the existing dwelling and
13 located within the living area of the existing dwelling or detached
14 from the existing dwelling and located on the same lot as the existing
15 dwelling;

16 (e) Any increase in the floor area of an attached second unit shall
17 not exceed thirty percent of the existing living area;

18 (f) The total area of floor space for a detached second unit shall
19 not exceed one thousand two hundred square feet;

20 (g) Any construction shall conform to height, setback, lot
21 coverage, architectural review, site plan review, fees, charges, and
22 other zoning requirements generally applicable to residential
23 construction in the zone in which the property is located;

24 (h) Local building code requirements which apply to detached
25 dwellings, as appropriate; and

26 (i) Approval by the local health officer where a private sewage
27 disposal system is being used, if required.

28 (3)(a) No other local ordinance, policy, or regulation shall be the
29 basis for the denial of a building permit or a use permit under
30 subsection (2) of this section.

1 (b) 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 city and code city may require an applicant for
7 a permit issued pursuant to subsection (2) of this section to be an
8 owner-occupant.

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

12 (d) 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 (e) 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 (f) A city or code city shall not adopt an ordinance which totally
26 precludes second units within single-family and multifamily zoned areas
27 unless the ordinance contains findings acknowledging that the ordinance
28 may limit housing opportunities of the region and further contains
29 findings that specific adverse impacts on the public health, safety,

1 and welfare that would result from allowing second units within single-
2 family and multifamily zoned areas justify adopting the ordinance.

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

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

8 (a) Areas may be designated within the jurisdiction of each county
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) Standards may be imposed on second units which include, but are
14 not limited to, parking, height, setback, lot coverage, architectural
15 review, and maximum size of a unit;

16 (d) Each county may find that second units do not exceed the
17 allowable density for the lot upon which the second unit is located,
18 and that second units are a residential use that is consistent with the
19 existing general plan and zoning designation for the lot;

20 (e) The second units created shall not be considered in the
21 application of any local ordinance, policy, or program to limit
22 residential growth; and

23 (f) Each county may establish a process for the issuance of a
24 conditional use permit for second units.

25 (2) When a county which has not adopted an ordinance governing
26 second units in accordance with subsection (1) of this section receives
27 its first application on or after July 1, 1992, for a conditional use
28 permit pursuant to this subsection, it shall accept the application and
29 approve or disapprove the application pursuant to this subsection

1 unless it adopts an ordinance in accordance with subsection (1) of this
2 section within one hundred twenty days after receiving the application.
3 Each county shall grant a special use or a conditional use permit for
4 the creation of a second unit if the second unit complies with all of
5 the following:

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

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

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

9 (d) The second unit is either attached to the existing dwelling and
10 located within the living area of the existing dwelling or detached
11 from the existing dwelling and located on the same lot as the existing
12 dwelling;

13 (e) Any increase in the floor area of an attached second unit shall
14 not exceed thirty percent of the existing living area;

15 (f) The total area of floor space for a detached second unit shall
16 not exceed one thousand two hundred square feet;

17 (g) Any construction shall conform to height, setback, lot
18 coverage, architectural review, site plan review, fees, charges, and
19 other zoning requirements generally applicable to residential
20 construction in the zone in which the property is located;

21 (h) Local building code requirements which apply to detached
22 dwellings, as appropriate; and

23 (i) Approval by the local health officer where a private sewage
24 disposal system is being used, if required.

25 (3)(a) No other local ordinance, policy, or regulation shall be the
26 basis for the denial of a building permit or a use permit under
27 subsection (2) of this section.

28 (b) Subsection (2) of this section establishes the maximum
29 standards that local agencies shall use to evaluate proposed second
30 units on lots zoned for residential use which contain an existing

1 single-family dwelling. No additional standards, other than those
2 provided in subsection (1) or (2) of this section, shall be utilized or
3 imposed, except that a county may require an applicant for a permit
4 issued pursuant to subsection (2) of this section to be an owner-
5 occupant.

6 (c) This subsection does not limit the authority of local agencies
7 to adopt less restrictive requirements for the creation of second
8 units.

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

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

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

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A

2 RCW to read as follows:

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

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

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

11 (c) Standards may be imposed on second units which include, but are
12 not limited to, parking, height, setback, lot coverage, architectural
13 review, and maximum size of a unit;

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

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

22 (f) Each city and county may establish a process for the issuance
23 of a conditional use permit for second units.

24 (2) When a city or county which has not adopted an ordinance
25 governing second units in accordance with subsection (1) of this
26 section receives its first application on or after July 1, 1992, for a
27 conditional use permit pursuant to this subsection, it shall accept the
28 application and approve or disapprove the application pursuant to this
29 subsection unless it adopts an ordinance in accordance with subsection
30 (1) of this section within one hundred twenty days after receiving the

1 application. Each city or county shall grant a special use or a
2 conditional use permit for the creation of a second unit if the second
3 unit complies with all of the following:

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

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

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

7 (d) The second unit is either attached to the existing dwelling and
8 located within the living area of the existing dwelling or detached
9 from the existing dwelling and located on the same lot as the existing
10 dwelling;

11 (e) Any increase in the floor area of an attached second unit shall
12 not exceed thirty percent of the existing living area;

13 (f) The total area of floor space for a detached second unit shall
14 not exceed one thousand two hundred square feet;

15 (g) 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 (h) Local building code requirements which apply to detached
20 dwellings, as appropriate; and

21 (i) Approval by the local health officer where a private sewage
22 disposal system is being used, if required.

23 (3)(a) No other local ordinance, policy, or regulation shall be the
24 basis for the denial of a building permit or a use permit under
25 subsection (2) of this section.

26 (b) Subsection (2) of this section establishes the maximum
27 standards that local agencies shall use to evaluate proposed second
28 units on lots zoned for residential use which contain an existing
29 single-family dwelling. No additional standards, other than those
30 provided in subsection (1) or (2) of this section, shall be utilized or

1 imposed, except that a city and county may require an applicant for a
2 permit issued pursuant to subsection (2) of this section to be an
3 owner-occupant.

4 (c) This subsection does not limit the authority of local agencies
5 to adopt less restrictive requirements for the creation of second
6 units.

7 (d) No changes in zoning ordinances or other ordinances or any
8 changes in the general plan shall be required to implement this
9 subsection. Any local agency may amend its zoning ordinance or general
10 plan to incorporate the policies, procedures, or other provisions
11 applicable to the creation of second units if these provisions are
12 consistent with the limitations of this subsection.

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

20 (f) A city or county shall not adopt an ordinance which totally
21 precludes second units within single-family and multifamily zoned areas
22 unless the ordinance contains findings acknowledging that the ordinance
23 may limit housing opportunities of the region and further contains
24 findings that specific adverse impacts on the public health, safety,
25 and welfare that would result from allowing second units within single-
26 family and multifamily zoned areas justify adopting the ordinance.