
Local Government Committee

ESSB 5235

Brief Description: Increasing housing unit inventory by removing arbitrary limits on housing options.

Sponsors: Senate Committee on Housing & Local Government (originally sponsored by Senators Liias, Das, Nguyen, Nobles, Saldaña and Wilson, C.).

Brief Summary of Engrossed Substitute Bill

- Prohibits a county or city planning under the Growth Management Act from requiring that a housing unit on the same lot as an accessory dwelling unit be owner-occupied, unless the owner of the lot is not a non-profit and owns more than five accessory dwelling units within the same city or county.
- Prohibits cities and counties from regulating or limiting the number of unrelated people who can occupy a house or other dwelling unit, outside of occupant limits on group living arrangements regulated under state law, limits on short-term rentals, and limits based on occupant load per square foot established in an ordinance or applicable building code.

Hearing Date: 3/10/21

Staff: Kellen Wright (786-7134).

Background:

The Growth Management Act (GMA) requires that certain counties, and the cities within those counties, engage in planning for future population growth. Counties that have a population of 50,000 or more and, prior to May 16, 1995, had its population grow by 10 percent or more, or, after May 16, 1995, by 17 percent or more in the prior 10 years are covered by the GMA.

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.

Generally, so too is any county that experiences population growth of 20 percent. Counties that do not meet the standards for automatic inclusion in the GMA may nonetheless choose to be included. Currently, 18 counties are required to plan, 10 have chosen to plan, and 11 are not subject to the full GMA planning requirements.

An accessory dwelling unit (ADU) is a residential living unit providing complete, independent living facilities and permanent provisions for sleeping, cooking, sanitation, and living on the same lot as a single-family house, duplex, triplex, townhome, or other housing unit. As of July 1, 2021, cities located in counties planning under the GMA are prohibited from requiring the provision of off-street parking for ADUs within a quarter mile of a high capacity transportation system stop, a rail stop, or certain bus stops unless the city determines that on-street parking is infeasible for the ADU.

Local governments regulate the residential use of property in various ways. One way is by limiting the occupancy of a household or dwelling unit by ordinance. These ordinances often distinguish between occupation by "family" and occupation by "unrelated persons." The number of family members that occupy a household or dwelling unit is generally not restricted, and the United States Supreme Court has found some limitations on the number of family members who can share a dwelling to be unconstitutional. In contrast, the number of unrelated persons living together is often restricted. Such restrictions are permissible, as long as they do not conflict with the Federal Fair Housing Act or any state laws regulating certain group living arrangements. For example, certain restrictions on group homes for persons with disabilities may be prohibited by the Fair Housing Act or the Washington Housing Policy Act.

Another way that the use of property can be limited is through zoning. Zoning regulations often limit the number of units that can be located on an acre of property. For example, an area zoned R-6 would be zoned for residential use, with a limit of six dwelling units per acre.

Summary of Engrossed Substitute Bill:

Counties and cities planning under the GMA may not prohibit a housing unit on the same lot as an ADU from being renter-occupied, unless the owner of the lot is not a non-profit and owns more than five ADUs within the same city or county. Cities and counties must have amended or adopted by ordinance development and zoning regulations and other official controls to conform to this limitation by July 1, 2022 for new housing subdivisions; by July 1, 2024 for existing subdivisions and for new construction within existing housing subdivisions; and by July 1, 2025 for any existing housing subdivisions with a residential zoning density of R-8 or higher. Any ordinances, regulations, or official controls that have not been amended as required are superseded and invalidated for each of the identified housing subdivisions as of the deadline applicable to that particular type of housing subdivision.

Except for occupant limits on group living arrangements regulated under state law or on short-term rentals, and limitations based on occupant load per square foot established in an ordinance or applicable building code, cities and counties cannot regulate or limit the number of unrelated

people who may occupy a house or other dwelling unit.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.