

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5235

Chapter 306, Laws of 2021

(partial veto)

67th Legislature
2021 Regular Session

HOUSING UNIT INVENTORY—REMOVING LIMITS

EFFECTIVE DATE: July 25, 2021

Passed by the Senate April 14, 2021
Yeas 30 Nays 18

DENNY HECK

President of the Senate

Passed by the House April 7, 2021
Yeas 57 Nays 40

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 13, 2021 11:53 AM with
the exception of sections 1, 3, and
4, which are vetoed.

JAY INSLIE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **ENGROSSED
SUBSTITUTE SENATE BILL 5235** as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 13, 2021

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5235

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By Senate Housing & Local Government (originally sponsored by Senators Lias, Das, Nguyen, Nobles, Saldaña, and Wilson, C.)

READ FIRST TIME 02/05/21.

1 AN ACT Relating to increasing housing unit inventory by removing
2 arbitrary limits on housing options; amending RCW 36.70A.696,
3 36.70A.697, and 36.70A.698; adding a new section to chapter 35.21
4 RCW; adding a new section to chapter 35A.21 RCW; adding a new section
5 to chapter 36.01 RCW; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 ***NEW SECTION. Sec. 1. The legislature finds that local zoning**
8 **laws can contribute to limiting the housing available for**
9 **Washingtonians. The legislature finds that reducing these barriers**
10 **can increase affordable housing options. The legislature finds that**
11 **accessory dwelling units can be one way to add affordable long-term**
12 **housing and to provide a needed increase in housing density. However,**
13 **the legislature finds that research from several cities shows that**
14 **when accessory dwelling units are built and offered for short-term**
15 **rental for tourists and business visitors, they may not improve**
16 **housing affordability. Therefore, it is the intent of the legislature**
17 **to encourage reducing barriers to accessory dwelling units when local**
18 **governments have programs to incentivize or assure that they will be**
19 **utilized for long-term housing. The legislature finds that owner**
20 **occupancy requirements may provide an appropriate means for local**
21 **governments to ensure community impacts of accessory dwelling units**

1 are mitigated and allow for relaxation of other requirements, when
2 they are an element of a program to reduce short-term rental of
3 accessory dwelling units. The legislature also intends to remove
4 barriers and restrictions on the number of unrelated occupants
5 permitted to live together, which will provide additional affordable
6 housing options.

*Sec. 1 was vetoed. See message at end of chapter.

7 **Sec. 2.** RCW 36.70A.696 and 2020 c 217 s 2 are each amended to
8 read as follows:

9 The definitions in this section apply throughout RCW 36.70A.697
10 and 36.70A.698 unless the context clearly requires otherwise.

11 (1) "Accessory dwelling unit" means a dwelling unit located on
12 the same lot as a single-family housing unit, duplex, triplex,
13 townhome, or other housing unit.

14 (2) "Attached accessory dwelling unit" means an accessory
15 dwelling unit located within or attached to a single-family housing
16 unit, duplex, triplex, townhome, or other housing unit.

17 (3) "City" means any city, code city, and town located in a
18 county planning under RCW 36.70A.040.

19 (4) "County" means any county planning under RCW 36.70A.040.

20 (5) "Detached accessory dwelling unit" means an accessory
21 dwelling unit that consists partly or entirely of a building that is
22 separate and detached from a single-family housing unit, duplex,
23 triplex, townhome, or other housing unit and is on the same property.

24 ~~((+5))~~ (6) "Dwelling unit" means a residential living unit that
25 provides complete independent living facilities for one or more
26 persons and that includes permanent provisions for living, sleeping,
27 eating, cooking, and sanitation.

28 ~~((+6))~~ (7) "Major transit stop" means:

29 (a) A stop on a high capacity transportation system funded or
30 expanded under the provisions of chapter 81.104 RCW;

31 (b) Commuter rail stops;

32 (c) Stops on rail or fixed guideway systems, including
33 transitways;

34 (d) Stops on bus rapid transit routes or routes that run on high
35 occupancy vehicle lanes; or

36 (e) Stops for a bus or other transit mode providing actual fixed
37 route service at intervals of at least fifteen minutes for at least
38 five hours during the peak hours of operation on weekdays.

1 (8) "Owner" means any person who has at least 50 percent
2 ownership in a property on which an accessory dwelling unit is
3 located.

4 (9) "Short-term rental" means a lodging use, that is not a hotel
5 or motel or bed and breakfast, in which a dwelling unit, or portion
6 thereof, is offered or provided to a guest by a short-term rental
7 operator for a fee for fewer than 30 consecutive nights.

8 ***Sec. 3. RCW 36.70A.697 and 2020 c 217 s 3 are each amended to**
9 **read as follows:**

10 **(1)(a) Cities must adopt or amend by ordinance, and incorporate**
11 **into their development regulations, zoning regulations, and other**
12 **official controls the requirements of RCW 36.70A.698(1) to take**
13 **effect by July 1, 2021.**

14 **((2)) (b) Beginning July 1, 2021, the requirements of RCW**
15 **36.70A.698(1):**

16 **((a)) (i) Apply and take effect in any city that has not**
17 **adopted or amended ordinances, regulations, or other official**
18 **controls as required under this section; and**

19 **((b)) (ii) Supersede, preempt, and invalidate any local**
20 **development regulations that conflict with RCW 36.70A.698(1).**

21 **(2)(a) Cities and counties must adopt or amend by ordinance, and**
22 **incorporate into their development regulations, zoning regulations,**
23 **and other official controls the requirements of RCW 36.70A.698(2)**
24 **within two years of the next applicable deadline for its**
25 **comprehensive plan to be reviewed under RCW 36.70A.130 after July 1,**
26 **2021.**

27 **(b) Beginning two years after the next applicable deadline for**
28 **the review of a county's or city's comprehensive plan under RCW**
29 **36.70A.130 after July 1, 2021, the requirements of RCW 36.70A.698(2)**
30 **apply and take effect in any city or county that has not adopted or**
31 **amended ordinances, regulations, or other official controls as**
32 **required under this section, and preempt any conflicting development**
33 **regulations.**

***Sec. 3 was vetoed. See message at end of chapter.**

34 ***Sec. 4. RCW 36.70A.698 and 2020 c 217 s 4 are each amended to**
35 **read as follows:**

36 **(1)(a) Except as provided in ((subsection[s] (2) and (3) of this**
37 **section)) (b) and (c) of this subsection, through ordinances,**

1 development regulations, zoning regulations, and other official
2 controls as required under RCW 36.70A.697(1)(a), cities may not
3 require the provision of off-street parking for accessory dwelling
4 units within one-quarter mile of a major transit stop.

5 ~~((2))~~ (b) A city may require the provision of off-street
6 parking for an accessory dwelling unit located within one-quarter
7 mile of a major transit stop if the city has determined that the
8 accessory dwelling unit is in an area with a lack of access to street
9 parking capacity, physical space impediments, or other reasons
10 supported by evidence that would make on-street parking infeasible
11 for the accessory dwelling unit.

12 ~~((3))~~ (c) A city that has adopted or substantively amended
13 accessory dwelling unit regulations within the four years previous to
14 June 11, 2020, is not subject to the requirements of this ~~((section))~~
15 subsection (1).

16 (2) Through ordinances, development regulations, and other
17 official controls adopted or amended as required under RCW
18 36.70A.697(2):

19 (a) Cities and counties may not impose or enforce an owner
20 occupancy requirement on any housing or dwelling unit on a lot
21 containing an accessory dwelling unit, unless an accessory dwelling
22 unit on the lot is being offered or used for short-term rental,
23 except that:

24 (i) Cities and counties may impose and enforce an owner occupancy
25 requirement for the first year after initial occupation of the unit
26 or primary residence following permitting; and

27 (ii) Cities and counties may impose an owner occupancy
28 requirement for an additional period if such a requirement is
29 supported by findings of the need for such an increased requirement
30 adopted by the city or county after at least two public hearings are
31 held on the proposal, and any ordinance, development regulations, and
32 other official controls finally adopted directly address feedback
33 from the community. Such an additional period of owner occupancy
34 restrictions must be geographically limited, and may not apply to all
35 of the residential zones within the city or county.

36 (b) Cities and counties may adopt ordinances, development
37 regulations, and other official controls, including the imposition of
38 fees, impact fees, or taxes, or the waiver of taxes, fees, or
39 specific regulations, to encourage use of accessory dwelling units
40 for long-term housing. Cities and counties may only offer such

1 reduced impact fees, deferral of taxes, or other incentives for the
2 development or construction of accessory dwelling units if such units
3 are subject to effective binding commitments or covenants that the
4 units will not be regularly offered for short-term rental and the
5 city or county has a program to audit compliance with such
6 commitments or covenants.

7 (c) Cities and counties that impose owner occupancy requirements
8 on lots containing accessory dwelling units must provide for a
9 hardship exemption from any owner occupancy requirements applicable
10 to a housing or dwelling unit on the same lot as an accessory
11 dwelling unit. Such an exemption must allow an owner to offer for
12 rental for periods of 30 days or longer a dwelling unit or housing
13 unit as if a dwelling or housing unit on the property was owner
14 occupied, when the owner no longer occupies the primary residence due
15 to age, illness, financial hardship due to the death of a spouse,
16 domestic partner, or co-owner of the property, disability status, the
17 deployment, activation, mobilization, or temporary duty, as those
18 terms are defined in RCW 26.09.004, of a service member of the armed
19 forces, or other such reason that would make the owner occupancy
20 requirement an undue hardship on the owner. A city or county shall
21 develop and implement a process for the review of hardship
22 applications. Any city or county that imposes an owner occupancy
23 requirement on lots containing accessory dwelling units and has not
24 provided a hardship exemption from the requirement through
25 ordinances, development regulations, or other official controls as
26 required by this subsection may not impose or enforce an owner
27 occupancy requirement on any lot containing an accessory dwelling
28 unit until such time as the city or county has adopted the required
29 hardship exemption, except that an owner-occupancy requirement
30 pursuant to (a) of this subsection (2) may be imposed and enforced if
31 the owner of the lot offers an accessory dwelling unit for short-term
32 rental within the county or if the owner of the lot owns more than
33 three accessory dwelling units within the county.

*Sec. 4 was vetoed. See message at end of chapter.

34 NEW SECTION. Sec. 5. A new section is added to chapter 35.21
35 RCW to read as follows:

36 Except for occupant limits on group living arrangements regulated
37 under state law or on short-term rentals as defined in RCW 64.37.010
38 and any lawful limits on occupant load per square foot or generally

1 applicable health and safety provisions as established by applicable
2 building code or city ordinance, a city or town may not regulate or
3 limit the number of unrelated persons that may occupy a household or
4 dwelling unit.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 35A.21
6 RCW to read as follows:

7 Except for occupant limits on group living arrangements regulated
8 under state law or on short-term rentals as defined in RCW 64.37.010
9 and any lawful limits on occupant load per square foot or generally
10 applicable health and safety provisions as established by applicable
11 building code or city ordinance, a code city may not regulate or
12 limit the number of unrelated persons that may occupy a household or
13 dwelling unit.

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.01
15 RCW to read as follows:

16 Except for occupant limits on group living arrangements regulated
17 under state law or on short-term rentals as defined in RCW 64.37.010
18 and any lawful limits on occupant load per square foot or generally
19 applicable health and safety provisions as established by applicable
20 building code or county ordinance, a county may not regulate or limit
21 the number of unrelated persons that may occupy a household or
22 dwelling unit.

Passed by the Senate April 14, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 13, 2021, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 1, 3,
and 4, Engrossed Substitute Senate Bill No. 5235 entitled:

"AN ACT Relating to increasing housing unit inventory by
removing arbitrary limits on housing options."

Section 3 allows cities to delay local implementation of statewide
requirements around siting of accessory dwelling units until two
years after their next required comprehensive plan update. Accessory
dwelling units play an important role in creating additional housing
options in urban areas and the state is currently facing a housing
crisis.

Section 4 limits the ability for local governments to require owner
occupancy on lots containing an accessory dwelling unit, but it also
creates numerous exceptions to that limitation which are problematic.
I am concerned that the language may allow a local government to

prevent the siting and development of accessory dwelling units in perpetuity with very little justification.

Section 1 establishes the intent of the bill. Due to the vetoes of Sections 3 and 4, the original statement of intent no longer fully applies to this bill.

For these reasons I have vetoed Sections 1, 3, and 4 of Engrossed Substitute Senate Bill No. 5235.

With the exception of Sections 1, 3, and 4, Engrossed Substitute Senate Bill No. 5235 is approved."

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