

SENATE BILL REPORT

ESHB 1245

As of March 14, 2023

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

Brief Description: Increasing housing options through lot splitting.

Sponsors: House Committee on Housing (originally sponsored by Representatives Barkis, Robertson, Wylie, Fitzgibbon, Peterson, Walsh, Chambers, Kloba, Gregerson, Graham, Waters, Reed, Walen, Christian, Riccelli, Macri, Bateman and Doglio).

Brief History: Passed House: 3/1/23, 94-2.

Committee Activity: Local Government, Land Use & Tribal Affairs: 3/14/23.

Brief Summary of 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.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

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 Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are 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

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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: Cities fully planning under the GMA must adopt or amend their development regulations, zoning regulations, or other official controls prior to allow for the splitting of residential lots under certain conditions. These regulations must take effect six months after the jurisdiction's next periodic comprehensive plan update. When regulating lot splitting, cities may not:

- prohibit the splitting of a residential lot within a residential zone if the following conditions are met:
 1. the resulting lots are at least 2000 square feet;
 2. the resulting lots are at least 40 percent of the size of the original lot;
 3. the resulting lots are consistent with the minimum review standards for subdivisions;
 4. the original lot was not created through the splitting of a single residential lot as authorized by this act; and
 5. 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; 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. require easement widths of more than five feet for access to rear lots unless site-specific conditions require otherwise;
 4. impose permitting requirements or other standards and fees on the construction on a lot resulting from a lot split that are greater than those imposed on new residential construction within the same zone; or
 5. impose requirements for the dedications of rights-of-way or for the construction of off-site improvements unless site specific conditions require otherwise.

Any construction on the resulting lots is subject to all existing state and local laws regarding stormwater runoff, critical areas, shorelines, and conservation areas.

The requirements of this act apply and take effect in any city that has not adopted or amended their development regulations, regulations, or other official controls and supersede, preempt, and invalidate any conflicting local development regulations within six months after the jurisdiction's next periodic comprehensive plan update.

Appropriation: None.

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: PRO: This bill is part of a suite of bills that we have

been working on around housing supply this session. It increases the supply and the opportunity to build and create density. There are some technical changes that need to be made as the bill advances to be clear in what the lot splitting process is. We need to move away from the current housing market trend of building exceedingly large homes and instead have compatible lot sizes with the homes that builders want to build and buyers want to buy. This bill helps trim additional land acquisition costs, which in turn can help builders better address urban infill development. Consequentially this increases the diversity and flexibility in what kind of homes can be built and is available to buyers. This will help address the racial homeownership gap by moving away from the large lot sizes that single-family homes must be built on.

CON: There is a concern for how this bill will combine with the other land use bills being discussed by the Legislature. This bill has the potential to double the impact of the other bills discussed, thereby adding strain to infrastructure. This bill does not address anti-displacement measures, strain on infrastructure, and other potential issues like undevelopable lands. The process to review a lot split is unclear, and is challenging to explain to the public how a lot that is already the minimum lot size may then be divided again into smaller lots. Minimum review standards mentioned in the bill are undefined and it is unclear how those standards apply. This bill preempts local control and imposes unfunded mandates on cities.

OTHER: The biggest issue facing lot splitting is not the minimum size, but that permitting and engineering costs makes lot splitting unfeasible. This bill won't work unless it limits the costs associated with the lot split.

Persons Testifying: PRO: Representative Andrew Barkis, Prime Sponsor; Ryan Donohue, Habitat for Humanity Seattle-King & Kittitas Counties; Alex Hur, Master Builders Association of King and Snohomish Counties; Bill Clarke, WA REALTORS; Dan Bertolet, Sightline Institute; Josie Cummings, BIAW.

CON: Carla Nichols; CARL SCHROEDER, Association of Washington Cities; Lacey Jane Wolfe, City of Bellevue; Kristen Holdsworth, City of Kent Long Range Planning Manager; Salim Nice, City of Mercer Island.

OTHER: Jakob Perry.

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