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**ENGROSSED HOUSE BILL 1337**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Gregerson, Barkis, Berry, Christian, Duerr, Fitzgibbon, Taylor, Ramel, Reeves, Simmons, Walen, Graham, Bateman, Reed, Lekanoff, Doglio, Tharinger, Cortes, Macri, and Stonier

Read first time 01/16/23. Referred to Committee on Housing.

1       AN ACT Relating to expanding housing options by easing barriers  
2 to the construction and use of accessory dwelling units; amending RCW  
3 36.70A.696, 43.21C.495, and 36.70A.280; adding new sections to  
4 chapter 36.70A RCW; creating a new section; and repealing RCW  
5 35.63.210, 35A.63.230, 36.70A.400, 36.70.677, and 43.63A.215.

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

7       NEW SECTION.   **Sec. 1.**   (1) The legislature makes the following  
8 findings:

9       (a) Washington state is experiencing a housing affordability  
10 crisis. Many communities across the state are in need of more housing  
11 for renters across the income spectrum.

12       (b) Many cities dedicate the majority of residentially zoned land  
13 to single detached houses that are increasingly financially out of  
14 reach for many households. Due to their smaller size, accessory  
15 dwelling units can provide a more affordable housing option in those  
16 single-family zones.

17       (c) Localities can start to correct for historic economic and  
18 racial exclusion in single-family zones by opening up these  
19 neighborhoods to more diverse housing types, including accessory  
20 dwelling units, that provide lower cost homes. Increasing housing  
21 options in expensive, high-opportunity neighborhoods will give more

1 families access to schools, parks, and other public amenities  
2 otherwise accessible to only the wealthy.

3 (d) Accessory dwelling units are frequently rented below market  
4 rate, providing additional affordable housing options for renters.

5 (e) Accessory dwelling units can also help to provide housing for  
6 very low-income households. More than 10 percent of accessory  
7 dwelling units in some areas are occupied by tenants who pay no rent  
8 at all; among these tenants are grandparents, adult children, family  
9 members with disabilities, friends going through life transitions,  
10 and community members in need. Accessory dwelling units meet the  
11 needs of these people who might otherwise require subsidized housing  
12 space and resources.

13 (f) Accessory dwelling units can meet the needs of Washington's  
14 growing senior population, making it possible for this population to  
15 age in their communities by offering senior-friendly housing, which  
16 prioritizes physical accessibility, in walkable communities near  
17 amenities essential to successful aging in place, including transit  
18 and grocery stores, without requiring costly renovations of existing  
19 housing stock.

20 (g) Homeowners who add an accessory dwelling unit may benefit  
21 from added income and an increased sense of security.

22 (h) Accessory dwelling units provide environmental benefits. On  
23 average they are more energy efficient than single detached houses,  
24 and they incentivize adaptive reuse of existing homes and materials.

25 (i) Siting accessory dwelling units near transit hubs, employment  
26 centers, and public amenities can help to reduce greenhouse gas  
27 emissions by increasing walkability, shortening household commutes,  
28 and curtailing sprawl.

29 (2) The legislature intends to promote and encourage the creation  
30 of accessory dwelling units as a means to address the need for  
31 additional affordable housing options.

32 **Sec. 2.** RCW 36.70A.696 and 2021 c 306 s 2 are each amended to  
33 read as follows:

34 The definitions in this section apply throughout RCW 36.70A.697  
35 ~~((and)), 36.70A.698, and sections 3 and 4 of this act~~ unless the  
36 context clearly requires otherwise.

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

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

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

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

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

11 (6) "Dwelling unit" means a residential living unit that provides  
12 complete independent living facilities for one or more persons and  
13 that includes permanent provisions for living, sleeping, eating,  
14 cooking, and sanitation.

15 (7) "Gross floor area" means the interior habitable area of a  
16 dwelling unit including basements and attics but not including a  
17 garage or accessory structure.

18 (8) "Major transit stop" means:

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

21 (b) Commuter rail stops;

22 (c) Stops on rail or fixed guideway systems, including  
23 transitways;

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

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

29 ~~((8))~~ (9) "Owner" means any person who has at least 50 percent  
30 ownership in a property on which an accessory dwelling unit is  
31 located.

32 ~~((9))~~ (10) "Principal unit" means the single-family housing  
33 unit, duplex, triplex, townhome, or other housing unit located on the  
34 same lot as an accessory dwelling unit.

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

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

3        (1) (a) Cities and counties planning under this chapter must adopt  
4    or amend by ordinance, and incorporate into their development  
5    regulations, zoning regulations, and other official controls the  
6    requirements of this section and of section 4 of this act, to take  
7    effect six months after the jurisdiction's next periodic  
8    comprehensive plan update required under RCW 36.70A.130.

9        (b) In any city or county that has not adopted or amended  
10    ordinances, regulations, or other official controls as required under  
11    this section, the requirements of this section and section 4 of this  
12    act supersede, preempt, and invalidate any conflicting local  
13    development regulations.

14        (2) Ordinances, development regulations, and other official  
15    controls adopted or amended pursuant to this section and section 4 of  
16    this act must only apply in the portions of towns, cities, and  
17    counties that are within urban growth areas designated under this  
18    chapter.

19        (3) Attached or detached accessory dwelling units may not be  
20    considered as contributing to the overall underlying density within  
21    the urban growth area boundary of a county for purposes of compliance  
22    with this chapter.

23        (4) Any action taken by a city or county to comply with the  
24    requirements of this section or section 4 of this act is not subject  
25    to legal challenge under this chapter or chapter 43.21C RCW.

26        (5) Nothing in this section or section 4 of this act requires or  
27    authorizes a city or county to authorize the construction of an  
28    accessory dwelling unit in a location where development is restricted  
29    under other laws, rules, or ordinances as a result of physical  
30    proximity to on-site sewage system infrastructure, critical areas, or  
31    other unsuitable physical characteristics of a property.

32        (6) Nothing in this section or in section 4 of this act prohibits  
33    a city or county from:

34        (a) Restricting the use of accessory dwelling units for short-  
35    term rentals;

36        (b) Applying public health, safety, building code, and  
37    environmental permitting requirements to an accessory dwelling unit  
38    that would be applicable to the principal unit, including regulations  
39    to protect ground and surface waters from on-site wastewater;

1 (c) Applying generally applicable development regulations to the  
2 construction of an accessory unit, except when the application of  
3 such regulations would be contrary to this section or to section 4 of  
4 this act;

5 (d) Prohibiting the construction of accessory dwelling units on  
6 lots that are not connected to or served by public sewers; or

7 (e) Prohibiting or restricting the construction of accessory  
8 dwelling units in residential zones with a density of one dwelling  
9 unit per acre or less that are within areas designated as wetlands,  
10 fish and wildlife habitats, flood plains, or geologically hazardous  
11 areas.

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

14 (1) In addition to ordinances, development regulations, and other  
15 official controls adopted or amended to comply with section 3 of this  
16 act and subsection (2) of this section, a city or county must comply  
17 with a minimum of three of the following policies:

18 (a) The city or county may not establish a requirement for the  
19 provision of off-street parking for accessory dwelling units;

20 (b) The city or county may not assess impact fees on the  
21 construction of accessory dwelling units that are greater than 50  
22 percent of the impact fees that would be imposed on the principal  
23 unit;

24 (c) The city or county may not require the owner of a lot on  
25 which there is an accessory dwelling unit to reside in or occupy the  
26 accessory dwelling unit or another housing unit on the same lot; and

27 (d) The city or county must allow at least two accessory dwelling  
28 units on all lots that are located in all zoning districts within an  
29 urban growth area that allow for single-family homes in the following  
30 configurations:

31 (i) One attached accessory dwelling unit and one detached  
32 accessory dwelling unit;

33 (ii) Two attached accessory dwelling units; or

34 (iii) Two detached accessory dwelling units, which may be  
35 comprised of either one or two detached structures.

36 (2) Through ordinances, development regulations, and other  
37 official controls adopted or amended to comply with section 3 of this  
38 act and subsection (1) of this section, a city or county must also  
39 comply with all of the following policies:

1 (a) The city or county must permit accessory dwelling units in  
2 structures detached from the principal unit;

3 (b) The city or county must allow an accessory dwelling unit on  
4 any lot that meets the minimum lot size required for the principal  
5 unit;

6 (c) The city or county may not establish a maximum gross floor  
7 area requirement for accessory dwelling units that is less than 1,000  
8 square feet;

9 (d) The city or county may not establish roof height limits on an  
10 accessory dwelling unit of less than 24 feet, unless the height  
11 limitation that applies to the principal unit is less than 24 feet,  
12 in which case a city or county may not impose roof height limitation  
13 on accessory dwelling units that is less than the height limitation  
14 that applies to the principal unit;

15 (e) A city or county may not impose setback requirements, yard  
16 coverage limits, tree retention mandates, restrictions on entry door  
17 locations, aesthetic requirements, or requirements for design review  
18 for accessory dwelling units that are more restrictive than those for  
19 principal units;

20 (f) A city or county must allow detached accessory dwelling units  
21 to be sited at a lot line if the lot line abuts a public alley,  
22 unless the city or county routinely plows snow on the public alley;

23 (g) A city or county must allow accessory dwelling units to be  
24 converted from existing structures, including but not limited to  
25 detached garages, even if they violate current code requirements for  
26 setbacks or lot coverage;

27 (h) A city or county may not prohibit the sale or other  
28 conveyance of a condominium unit independently of a principal unit  
29 solely on the grounds that the condominium unit was originally built  
30 as an accessory dwelling unit; and

31 (i) A city or county may not require public street improvements  
32 as a condition of permitting accessory dwelling units.

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

35 To encourage the use of accessory dwelling units for long-term  
36 housing, cities and counties may adopt ordinances, development  
37 regulations, and other official controls which waive or defer fees,  
38 including impact fees, defer the payment of taxes, or waive specific  
39 regulations. Cities and counties may only offer such reduced or

1 deferred fees, deferred taxes, waivers, or other incentives for the  
2 development or construction of accessory dwelling units if:

3 (1) The units are located within an urban growth area; and

4 (2) The units are subject to a program adopted by the city or  
5 county with effective binding commitments or covenants that the units  
6 will be primarily utilized for long-term housing consistent with the  
7 public purpose for this authorization.

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

10 (1) No restrictive covenant or deed restriction created after the  
11 effective date of this section and applicable to a property located  
12 within an urban growth area may impose any restriction or prohibition  
13 on the construction, development, or use on a lot of an accessory  
14 dwelling unit that the city or county in which the urban growth area  
15 is located would be prohibited from imposing under section 4 of this  
16 act.

17 (2) For the purposes of this section, "urban growth area" has the  
18 same meaning as in RCW 36.70A.030.

19 (3) A city or county issuing a permit for the construction of an  
20 accessory dwelling unit may not be held civilly liable on the basis  
21 that the construction of the accessory dwelling unit would violate a  
22 restrictive covenant or deed restriction.

23 **Sec. 7.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to  
24 read as follows:

25 (1) Adoption of ordinances, development regulations and  
26 amendments to such regulations, and other nonproject actions taken by  
27 a city to implement: The actions specified in section 2, chapter 246,  
28 Laws of 2022 unless the adoption of such ordinances, development  
29 regulations and amendments to such regulations, or other nonproject  
30 actions has a probable significant adverse impact on fish habitat;  
31 and the increased residential building capacity actions identified in  
32 RCW 36.70A.600(1), with the exception of the action specified in RCW  
33 36.70A.600(1)(f), are not subject to administrative or judicial  
34 appeals under this chapter.

35 (2) Adoption of ordinances, development regulations and  
36 amendments to such regulations, and other nonproject actions taken by  
37 a city or county consistent with the requirements of sections 3 and 4

1 of this act are not subject to administrative or judicial appeals  
2 under this chapter.

3 **Sec. 8.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to  
4 read as follows:

5 (1) The growth management hearings board shall hear and determine  
6 only those petitions alleging either:

7 (a) That, except as provided otherwise by this subsection, a  
8 state agency, county, or city planning under this chapter is not in  
9 compliance with the requirements of this chapter, chapter 90.58 RCW  
10 as it relates to the adoption of shoreline master programs or  
11 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
12 development regulations, or amendments, adopted under RCW 36.70A.040  
13 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
14 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~)  
15 based on a city or county's actions taken to implement the  
16 requirements of sections 3 and 4 of this act within an urban growth  
17 area;

18 (b) That the (~~twenty~~) 20-year growth management planning  
19 population projections adopted by the office of financial management  
20 pursuant to RCW 43.62.035 should be adjusted;

21 (c) That the approval of a work plan adopted under RCW  
22 36.70A.735(1)(a) is not in compliance with the requirements of the  
23 program established under RCW 36.70A.710;

24 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not  
25 regionally applicable and cannot be adopted, wholly or partially, by  
26 another jurisdiction; or

27 (e) That a department certification under RCW 36.70A.735(1)(c) is  
28 erroneous.

29 (2) A petition may be filed only by: (a) The state, or a county  
30 or city that plans under this chapter; (b) a person who has  
31 participated orally or in writing before the county or city regarding  
32 the matter on which a review is being requested; (c) a person who is  
33 certified by the governor within (~~sixty~~) 60 days of filing the  
34 request with the board; or (d) a person qualified pursuant to RCW  
35 34.05.530.

36 (3) For purposes of this section "person" means any individual,  
37 partnership, corporation, association, state agency, governmental  
38 subdivision or unit thereof, or public or private organization or  
39 entity of any character.



1 (4) To establish participation standing under subsection (2)(b)  
2 of this section, a person must show that his or her participation  
3 before the county or city was reasonably related to the person's  
4 issue as presented to the board.

5 (5) When considering a possible adjustment to a growth management  
6 planning population projection prepared by the office of financial  
7 management, the board shall consider the implications of any such  
8 adjustment to the population forecast for the entire state.

9 The rationale for any adjustment that is adopted by the board  
10 must be documented and filed with the office of financial management  
11 within ten working days after adoption.

12 If adjusted by the board, a county growth management planning  
13 population projection shall only be used for the planning purposes  
14 set forth in this chapter and shall be known as the "board adjusted  
15 population projection." None of these changes shall affect the  
16 official state and county population forecasts prepared by the office  
17 of financial management, which shall continue to be used for state  
18 budget and planning purposes.

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

21 (1) By December 31, 2023, the department must revise its  
22 recommendations for encouraging accessory dwelling units to include  
23 the provisions of sections 3 and 4 of this act.

24 (2) During each comprehensive plan review required by RCW  
25 36.70A.130, the department must review local government comprehensive  
26 plans and development regulations for compliance with sections 3 and  
27 4 of this act and the department's recommendations under subsection  
28 (1) of this section.

29 NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
30 each repealed:

- 31 (1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;
- 32 (2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;
- 33 (3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;
- 34 (4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and
- 35 (5) RCW 43.63A.215 (Accessory apartments—Development and  
36 placement—Local governments) and 1993 c 478 s 7.

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