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**SUBSTITUTE SENATE BILL 5412**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Salomon, Lias, Kuderer, Lovelett, Mullet, and Pedersen)

READ FIRST TIME 02/08/23.

1 AN ACT Relating to reducing local governments' land use  
2 permitting workloads, by ensuring objective and timely design review  
3 for housing and other land use proposals within cities and counties  
4 and allowing proposed housing within urban growth boundaries to rely  
5 on environmental reviews completed at the comprehensive planning  
6 level; amending RCW 36.70B.160 and 43.21C.229; and adding a new  
7 section to chapter 36.70A RCW.

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

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

11 (1) For purposes of this section, "design review" means a  
12 formally adopted local government process by which projects are  
13 reviewed for compliance with design standards for the type of use  
14 adopted through local ordinance.

15 (2) Except as provided in subsection (3) of this section,  
16 counties and cities planning under RCW 36.70A.040 may apply in any  
17 design review process only clear and objective development  
18 regulations governing the exterior design of new development. For  
19 purposes of this section, a clear and objective development  
20 regulation:

1 (a) Must include one or more ascertainable guideline, standard,  
2 or criterion by which an applicant can determine whether a given  
3 building design is permissible under that development regulation; and

4 (b) May not result in a reduction in density, height, bulk, or  
5 scale below the generally applicable development regulations for a  
6 development proposal in the applicable zone.

7 (3) The provisions of subsection (2) of this section do not apply  
8 to development regulations that apply only to structures listed in  
9 the Washington heritage register as described in RCW 27.34.220 or the  
10 national register of historic places as defined in the national  
11 historic preservation act of 1966 (Title 1, Sec. 101, Public Law  
12 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter  
13 amended.

14 (4) Any design review process must be conducted concurrently, or  
15 otherwise logically integrated, with the consolidated review and  
16 decision process for project permits set forth in RCW 36.70B.120(3),  
17 and no design review process may include more than one public meeting  
18 within the meaning of RCW 36.70B.020.

19 **Sec. 2.** RCW 36.70B.160 and 1995 c 347 s 420 are each amended to  
20 read as follows:

21 (1) Each local government is encouraged to adopt further project  
22 review provisions to provide prompt, coordinated and objective review  
23 and ensure accountability to applicants and the public, including  
24 expedited review for project permit applications for projects that  
25 are consistent with adopted development regulations and within the  
26 capacity of systemwide infrastructure improvements.

27 (2) Nothing in this chapter is intended or shall be construed to  
28 prevent a local government from requiring a preapplication conference  
29 or a public meeting by rule, ordinance, or resolution, where  
30 otherwise permitted by applicable state law.

31 (3) Each local government shall adopt procedures to monitor and  
32 enforce permit decisions and conditions.

33 (4) Nothing in this chapter modifies any independent statutory  
34 authority for a government agency to appeal a project permit issued  
35 by a local government.

36 **Sec. 3.** RCW 43.21C.229 and 2020 c 87 s 1 are each amended to  
37 read as follows:

1           (1) (~~In order~~) The purpose of this section is to accommodate  
2 infill and housing development and thereby realize the goals and  
3 policies of comprehensive plans adopted according to chapter 36.70A  
4 RCW(~~(1-a)~~).

5           (2) A city or county planning under RCW 36.70A.040 is authorized  
6 by this section to establish categorical exemptions from the  
7 requirements of this chapter. (~~An exemption adopted under this~~  
8 ~~section applies even if it differs from the categorical exemptions~~  
9 ~~adopted by rule of the department under RCW 43.21C.110(1)(a).~~) An  
10 exemption may be adopted by a city or county under this subsection if  
11 it meets the following criteria:

12           (a) It categorically exempts government action related to  
13 development proposed to fill in an urban growth area, designated  
14 according to RCW 36.70A.110, where current density and intensity of  
15 use in the area is roughly equal to or lower than called for in the  
16 goals and policies of the applicable comprehensive plan and the  
17 development is either:

18           (i) Residential development;

19           (ii) Mixed-use development; or

20           (iii) Commercial development up to (~~sixty-five thousand~~) 65,000  
21 square feet, excluding retail development;

22           (b) It does not exempt government action related to development  
23 that is inconsistent with the applicable comprehensive plan or would  
24 clearly exceed the density or intensity of use called for in the  
25 goals and policies of the applicable comprehensive plan;

26           (c) The local government considers the specific probable adverse  
27 environmental impacts of the proposed action and determines that  
28 these specific impacts are adequately addressed by the development  
29 regulations or other applicable requirements of the comprehensive  
30 plan, subarea plan element of the comprehensive plan, planned action  
31 ordinance, or other local, state, or federal rules or laws; and

32           (d) (i) The city or county's applicable comprehensive plan was  
33 previously subjected to environmental analysis through an  
34 environmental impact statement under the requirements of this chapter  
35 prior to adoption; or

36           (ii) The city or county has prepared an environmental impact  
37 statement that considers the proposed use or density and intensity of  
38 use in the area proposed for an exemption under this section.

39           (~~(2) Any~~) (3) All project actions that propose to develop one  
40 or more residential housing units within the incorporated areas in an

1 urban growth area designated pursuant to RCW 36.70A.110 or middle  
2 housing within the unincorporated areas in an urban growth area  
3 designated pursuant to RCW 36.70A.110, and that meet the criteria  
4 identified in (a) and (b) of this subsection, are categorically  
5 exempt from the requirements of this chapter. This categorical  
6 exemption applies to proposed projects that do not have existing or  
7 anticipated transportation system safety or operational deficiencies  
8 including all modes where a plan to correct these deficiencies does  
9 not exist consistent with RCW 36.70A.070. A city or county must  
10 consult with the Washington state department of transportation to  
11 determine if anticipated transportation system safety or operation  
12 deficiencies exist in connection with a proposed project. For  
13 purposes of this subsection, "middle housing" means fourplexes,  
14 attached and detached accessory dwelling units, cottage housing,  
15 stacked flats, townhouses with more than four units, and courtyard  
16 apartments. A project action is eligible for categorical exemption  
17 under this subsection only if it meets the following criteria:

18 (a) The proposed development is consistent with all development  
19 regulations implementing an applicable comprehensive plan adopted  
20 according to chapter 36.70A RCW by the jurisdiction in which the  
21 development is proposed, with the exception of any development  
22 regulation that is inconsistent with applicable provisions of chapter  
23 36.70A RCW; and

24 (b) The city or county's applicable comprehensive plan was  
25 previously subjected to environmental analysis under the requirements  
26 of this chapter prior to adoption.

27 (4) Any categorical exemption adopted by a city or county under  
28 this section applies even if it differs from the categorical  
29 exemptions adopted by rule of the department under RCW  
30 43.21C.110(1)(a). However, any categorical exemption adopted by a  
31 city or county under this section shall be subject to the rules of  
32 the department adopted according to RCW 43.21C.110(1)(a) that provide  
33 exceptions to the use of categorical exemptions adopted by the  
34 department.

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