
SENATE BILL 5412

State of Washington

68th Legislature

2023 Regular Session

By Senators Salomon, Lias, Kuderer, Lovelett, Mullet, and Pedersen

Read first time 01/17/23. Referred to Committee on Local Government, Land Use & Tribal Affairs.

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 have the effect, either alone or together with other
5 development regulations, of discouraging needed housing through
6 unreasonable cost, delay, or uncertainty.

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(~~(7-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) through (c) of this subsection, are categorically
5 exempt from the requirements of this chapter. For purposes of this
6 subsection, "middle housing" means fourplexes, attached and detached
7 accessory dwelling units, cottage housing, stacked flats, townhouses
8 with more than four units, and courtyard apartments. A project action
9 is eligible for categorical exemption under this subsection only if
10 it meets the following criteria:

11 (a) The proposed development is not inconsistent with an
12 applicable comprehensive plan adopted according to chapter 36.70A RCW
13 by the jurisdiction in which the development is proposed;

14 (b) The proposed development would not exceed the density or
15 intensity of use called for in the goals and policies of that
16 applicable comprehensive plan; and

17 (c) (i) The city or county's applicable comprehensive plan was
18 previously subjected to environmental analysis through an
19 environmental impact statement under the requirements of this chapter
20 prior to adoption; or

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

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

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