HOUSE BILL REPORT
HB 1096

As Reported by House Committee On:
Housing

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

Brief Description: Increasing housing options through lot splitting.

Sponsors: Representatives Barkis, Ryu, Connors, Leavitt, Klicker, Reed, Fitzgibbon, Richards, Couture, Macri, Callan, Doglio, Bronoske, Tharinger, Wylie, Duerr, Timmons, Ormsby, Fosse, Stonier, Bernbaum and Hill.

Brief History:
Committee Activity:
Housing: 1/13/25, 1/27/25 [DPS].

Brief Summary of Substitute Bill

- Requires cities subject to middle housing minimum residential density requirements to establish a process for simultaneous review and approval of an administrative lot split and residential building permits for new single-family or middle housing.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Peterson, Chair; Hill, Vice Chair; Richards, Vice Chair; Low, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Manjarrez, Assistant Ranking Minority Member; Barkis, Connors, Engell, Entenman, Gregerson, Lekanoff, Reed, Thomas, Timmons and Zahn.

Minority Report: Without recommendation. Signed by 1 member: Representative Dufault.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Serena Dolly (786-7150).

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.

Counties that fully plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Each city in a county must be included in a UGA. Fully planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

The GMA also directs fully planning jurisdictions to adopt internally consistent 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. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute. Fully planning counties and cities must review and, if necessary, revise their comprehensive plans every 10 years to ensure they comply with the GMA.

Middle Housing Minimum Density Requirements.
No later than six months after its next required comprehensive plan update, fully planning cities meeting population requirements must allow for the development of a minimum number of units on all residential lots as follows:

- Cities with a population of at least 75,000 must allow at least four units on all residential lots, at least six units on all residential lots within 0.25 miles walking distance of a major transit stop, and at least six units if two are affordable housing.
- Cities with a population of at least 25,000 but less than 75,000 must allow at least two units on all residential lots, at least four units on all residential lots within 0.25 miles walking distance of a major transit stop, and at least four units if one unit is affordable housing.
- Cities with a population of less than 25,000, within a contiguous UGA with the largest city in a county with a population of more than 275,000, must allow two units on all residential lots.

Cities must allow at least six types of middle housing and may allow accessory dwelling units to achieve the minimum density requirements. Middle housing is defined as buildings that are compatible in scale, form, and character with single-family houses and contain two

or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

Subdivisions and Plats.
The state subdivision law governs the way cities and counties administer the division of land into parcels for sale, lease, or other transfers of ownership. Short subdivisions are divisions of land into four or fewer lots for sale or lease. Cities may increase the number of lots that can be regulated as short subdivisions up to nine.

Plats and short plats are maps or representations of subdivisions and short subdivisions that show the division of land into lots as well as streets, alleys, and easements. State law requires cities and counties to establish systems for short subdivisions but leaves the details largely up to city or county control. Once established, all long and short subdivisions are subject to certain statutory requirements.

Cities and counties are required to include in their short plat regulations procedures for unit lot subdivisions allowing division of a parent lot into separately owned unit lots.

Project Permit Process.
Before developing land, a developer must obtain permits from the local government allowing the development. These permits can include land use permits, environmental permits, building permits, and others, and are known as project permits. When a county or city planning under the GMA is reviewing a project, its comprehensive plan and development regulations must serve as the basis for the project permit review.

Summary of Substitute Bill:

Cities required to comply with the middle housing minimum density requirements must include in their development or subdivision regulations a process for an applicant to seek simultaneous review and approval of an administrative lot split and residential building permits for new single-family or middle housing. The application process for a lot split may only require an administrative decision through which the application is reviewed and approved or denied by the planning director or other designee without a pre-decision public hearing.

A new buildable lot and residential building permit must be approved and is not subject to administrative appeal if:

- the planning director or other designee determines that the lot split and building permit comply with all applicable development regulations;
- the lot split survey has been approved by the planning director or other designee and notes on the face of the survey that further lot splits of the parent lot and newly created lot are not authorized;
- no more than one newly created lot is created through the lot split;

- both the parent lot and the newly created lot meet minimum size requirements;
- the parent lot was not created through the splitting of a residential lot;
- the parent lot is located in a residential zone;
- the applicant recommends a displacement mitigation strategy if the demolition or alteration of any existing housing displaces a renter;
- the applicable sewer and water purveyors have issued certificates of availability to serve the newly created lot and dwelling unit; and
- access and utility rights for the maximum number of dwelling units that could be developed on the newly created lot have been granted or conveyed.

The newly created lots must meet any locally adopted minimum density requirements. A city may not impose a limit on the number of dwelling units allowed on the parent lot or newly created lot that is less than the number of dwelling units allowed by the underlying zoning of the parent lot prior to the lot split.

Any construction on the newly created lot is subject to all existing state and local laws, including the State Building Code, unless otherwise specified. Lots that are not buildable according to locally adopted developments regulations, including, but not limited to, critical areas, shorelines, stormwater, setbacks, impervious surface areas, and building coverage standards, are not eligible for a lot split.

Parent lots and newly created lots approved must be recorded with the county assessor with a notation that future lot splits are not allowed on the lot. If a lot split results in a lot of a size that would allow for further land division, the lot may be divided under other land subdivision processes.

Ordinances adopted to comply with lot splitting requirements are not subject to administrative or judicial appeal under the State Environmental Policy Act. Cities are immune from any liability, loss, or other damage suffered by another that is related to the city's approval of a lot split, including if the lot split creates a lot that is later determined to not be buildable.

The Department of Commerce (Commerce) must:
- develop implementation guidance for cities; and
- provide grants to cities for the full cost of implementing the lot splitting requirements.

A city with a comprehensive plan review due by December 31, 2024, must comply with the lot splitting requirements no later than 12 months after Commerce finalizes the implementation guidance and distributes grant funding. All other cities must comply with the requirements no later than six months after its next comprehensive plan update.

Substitute Bill Compared to Original Bill:

The substitute requires the planning director to:

- determine that the lot split application follows all applicable development regulations; and
- approve the lot split survey and note on the survey that further lot splits of the parent lot and newly created lot are not authorized.

The substitute requires parent lots and newly created lots also to be recorded with the county assessor with a notation that future lot splits are not allowed. It also specifies that any lot resulting from a lot split may be divided under other land subdivision processes if the lots meet size requirements.

The substitute prohibits a lot split for lots that are not buildable according to locally adopted development regulations including, but not limited to, critical areas, shorelines, stormwater, setbacks, impervious surface areas, and building coverage standards. It also requires utility rights to be granted prior to a lot split.

The original bill prohibited a lot split if it would require demolition or alteration of any existing housing that is rent restricted, is rent subsidized, or has been occupied by a tenant paying market-rate rent within the preceding 12 months. The substitute allows an existing residence to be demolished or altered and requires the lot split applicant to recommend a displacement mitigation strategy if any renters will be displaced.

The substitute specifies that cities are immune from any liability, loss, or other damage suffered by another that is related to the city's approval of a lot split, including if the lot split creates a lot that is later determined to not be buildable. Additionally, it exempts any city ordinances adopted to comply with the lot splitting requirements from appeals under the State Environmental Policy Act.

The substitute requires Commerce to establish implementation guidance and provide grants to cities for the full cost of implementing the lot splitting requirements. It also requires a city with a comprehensive plan review due by December 31, 2024, to comply with the lot splitting requirements no later than 12 months after Commerce finalizes the implementation guidance and distributes grant funding. All other cities must comply with the requirements no later than six months after their next comprehensive plan update.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 27, 2025.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Lot splitting is integral to increasing the supply of housing within the confines of urban growth areas and the GMA. Stakeholders worked together this interim to address concerns with the implementation of lot splitting. The bill only applies to cities subject to middle housing requirements and does not create density beyond what is required for middle housing. The bill only requires a city to approve a lot split if there are adequate water and sewer services and it complies with setback and access requirements. Lot splitting provides options for homeowners to allow a parent or child to build their own home nearby. The people who will live on these new lots may be people who are underhoused. Lot splitting will create affordable homeownership opportunities.

(Opposed) Lot splitting would allow property owners to sell their backyards while preempting critical area regulations. It sets the stage for dangerous consequences. California is battling devastating wildfires fueled by wind and steep slopes. This bill risks bringing similar dangers to Washington. The state is still recovering from the recent bomb cyclone with gale force winds similar to those in Los Angeles. These disasters highlight the vulnerabilities of places like Mercer Island, where steep slopes, high population density, and limited water supply create significant risks.

(Other) Containing lot splits within the existing short plat framework will not make economic sense for many landowners. To make lot splits feasible: the water and sewer requirements need to be removed, permit costs need to be reduced, lot splits need to be separate from the building permit process, and cities should be required to report back to the Legislature on how many splits were completed. Lot splits should be exempt from the State Environmental Policy Act. Cities need guidance from Commerce and additional time to implement the bill's requirements. Removing public participation eliminates a key step in verification of critical area findings, and lots with critical areas should not be eligible for a lot split. The bill should not exempt lot splitting from the Land Use Petition Act because it protects the rights of all parties. It is not clear whether cities would be able to impose things like tree retention ordinances, concurrency requirements, or safe routes to schools.

Persons Testifying: (In support) Representative Andrew Barkis, prime sponsor; Ryan Donohue, Habitat for Humanity Seattle-King and Kittitas Counties; Dan Bertolet, Sightline Institute; Denise Rodriguez, Washington Homeownership Resource Center; Scott Hazlegrove, Master Builders Association of King and Snohomish Counties; Morgan Irwin, Association of Washington Business; Charlotte Kayne-Amoureux; and Andrea Smiley, Building Industry Association of Washington.

(Opposed) Salim Nice, Mayor, City of Mercer Island.

(Other) Jakob Perry; Salina Lyons, City of Covington; Karl Almgren, City of Lynnwood; and Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: Ruby Holland; Bill Clarke, WA Realtors; and McKenzie Darr, NAIOPWA .