
Housing Committee

HB 1235

Brief Description: Ensuring compliance with the housing element requirements of the growth management act.

Sponsors: Representatives Peterson, Berry, Ramel, Alvarado, Macri, Cortes, Ryu, Doglio, Simmons, Street, Duerr, Nance and Lekanoff.

Brief Summary of Bill

- Requires cities and counties that are required or have chosen to plan under the Growth Management Act to submit their housing elements and housing development regulations to the Department of Commerce for review within certain timelines, in order for their housing elements and housing development regulations to take effect.
- Prohibits these cities and counties from denying an affordable or moderate-income housing development unless they have received a final determination of compliance from Commerce, or certain other conditions are met.

Hearing Date: 1/21/25

Staff: Audrey Vasek (786-7383).

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

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those counties, that are required or have chosen to plan under the GMA.

Counties that are required or have chosen to 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 planning county must be included in a UGA, and UGAs must include sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

Comprehensive Plans.

Cities and counties that are required or have chosen to plan under the GMA must adopt internally consistent comprehensive land use plans. A comprehensive plan and any locally adopted development regulations must be reviewed and, if necessary, revised every 10 years to ensure that they comply with the GMA. Certain cities and counties are also required to provide implementation progress reports detailing the progress they have achieved in implementing their comprehensive plans five years after the required 10-year review and revision.

Comprehensive plan update deadlines for each county, and the cities within those counties, are specified in the GMA. Amendments to a comprehensive plan may occur no more frequently than once per year, with certain exceptions.

Housing Element.

Each comprehensive plan must have a housing element that:

- includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, including units for low-income housing, emergency housing and shelter, and permanent supportive housing;
- includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences and, within UGA boundaries, moderate density housing options such as duplexes, triplexes, and townhomes;
- identifies sufficient land for housing, including government-assisted housing, low-income housing, manufactured housing, multifamily housing, group homes, foster care facilities, emergency housing and shelters, permanent supportive housing, and within UGA boundaries, duplexes, triplexes, and townhomes;
- makes adequate provisions for existing and projected needs of all economic segments of the community;
- identifies local policies and regulations that result in, and policies to address and undo, racially disparate impacts, displacement, and exclusion in housing; and
- identifies areas that may be at higher risk of displacement from certain market forces and establishes anti-displacement policies.

Eligibility for Certain Infrastructure Funding.

In order to receive grants, loans, pledges, or financial guarantees for certain public works projects, counties and cities must:

- comply with the comprehensive plan update deadlines specified in the GMA; or

- for development regulations that protect critical areas, demonstrate substantial progress towards compliance with the comprehensive plan update deadlines.

Growth Management Hearings Board.

The Growth Management Hearings Board (GMHB) is a quasi-judicial board that hears petitions and resolves disputes concerning the GMA. Generally, petitions relating to whether an adopted comprehensive plan or development regulations are in compliance with the GMA must be filed within 60 days after publication of the ordinance adopting the comprehensive plan or development regulations.

If the GMHB finds that a city or county is out of compliance with the GMA, it must give the city or county a reasonable time, not to exceed six months in a normal case, to come into compliance. The GMHB will then hold another hearing to determine whether the city or county has achieved compliance. If the city or county is still out of compliance, the Governor is authorized to impose certain sanctions. These sanctions can include the withholding of tax revenue until compliance is achieved.

Summary of Bill:

Mandatory Review of Housing Elements and Housing Development Regulations.

Counties or cities that are required or have chosen to plan under the GMA must submit any housing elements and housing development regulations to the Department of Commerce (Commerce) for review to determine whether they comply with the following laws and regulations:

- the GMA housing planning goal;
- the GMA housing element requirements;
- any relevant rules adopted by Commerce;
- any relevant State Environmental Policy Act (SEPA) requirements;
- the county's or city's comprehensive plan;
- emergency shelter, transitional housing, emergency housing, and permanent supportive housing requirements;
- co-living housing requirements;
- density bonus requirements;
- parking requirements; and
- certain other GMA housing requirements.

Commerce must publish a defined set of minimum objective compliance standards within six months of the effective date of the bill.

Generally, the review requirement applies to housing elements and housing development regulations adopted on or after the effective date of the bill; however, Commerce may review housing development regulations adopted or amended before the effective date of the bill if amendments are necessary to implement the housing element or the specified laws and regulations. Housing elements and housing development regulations subject to review by

Commerce do not take effect until Commerce issues a final decision determining compliance.

"Housing development regulations" are defined as any development regulations related to the GMA housing element requirements including, but not limited to, development regulations related to affordable housing, middle housing, co-living housing, accessory dwelling units, emergency shelters, transitional housing, emergency housing, permanent supportive housing, conversions of nonresidential buildings to residential use, and any zoning maps and zoning districts.

Application and Timeline for Review.

A county's or city's application for review must be submitted within 10 days after any final action to amend, repeal, or replace the housing element or housing development regulations, and no later than six months after the comprehensive plan update or five-year implementation progress report is due. The application must include a cover letter, a copy of the ordinance or resolution adopting the housing element or housing development regulations, a statement explaining how the adopted housing element or housing development regulations comply with the laws and regulations specified for review, and a copy of the record for any public meetings or hearings at which action was taken on the housing element or housing development regulations.

Commerce must issue a final decision on compliance within 90 days of the receipt of an application for review. The final decision must be issued as a written statement including findings of fact and conclusions, noting the date of issuance, and conspicuously and plainly stating that it is the final decision. Commerce must promptly publish its final decision by notifying the city or county in writing, publishing a notice of action in the Washington State Register (WSR), posting a notice on its website, and notifying other relevant state agencies.

Appeals.

Commerce's final decision on compliance may be appealed by filing a petition with the GMHB. The GMHB is authorized to hear and determine any petition alleging that Commerce's final decision on compliance is clearly erroneous. Such a petition must be filed within 60 days after Commerce publishes its final decision in the WSR or on its website, whichever is later. A GMHB decision concerning an appeal of Commerce's final decision must be based solely on whether the relevant housing element or housing development regulations comply with the laws and regulations specified for review.

Similarly, petitions relating to whether housing elements or housing development regulations are in compliance with the GMA must be filed within 60 days of the date of publication, which is defined for the purposes of GMHB appeals as the date when Commerce publishes its final decision on compliance in the WSR or on its website, whichever is later.

Local Government Compliance List.

Commerce must publish and regularly update a local government compliance list, publicly available on its website, that includes at least the following information for each city or county:

- whether the city or county is subject to the housing element and housing development

- regulation review requirements;
- whether the city or county has applied for a determination of compliance and, if so, the date that it applied; and
- whether Commerce has issued a final decision on compliance for that city or county, the date the decision was issued, and the status or outcome of any appeals.

Builder's Remedy.

A city or county subject to the housing element and housing development regulation review requirements may not deny an affordable or moderate-income housing development, or approve an affordable or moderate-income housing development with conditions that have a substantial, adverse impact on the viability or affordability of the development, unless at least one of the following conditions is met:

- the city or county has received a final decision from Commerce determining that its housing element and any housing development regulations are in compliance;
- the denial of the affordable or moderate-income housing development, or the approval of the housing development with conditions or restrictions that have a substantial, adverse impact on the viability or affordability of the development, is required to comply with specific state or federal law;
- the affordable or moderate-income housing development or proposed development site is located outside a UGA, in a critical area, critical area buffer, or area where residential uses are not allowed by the shoreline master program; or
- the affordable or moderate-income housing development or proposed development site is located in an area where neither the local jurisdiction's comprehensive plan nor zoning ordinance permits residential or mixed uses.

The county or city must require the developer of an affordable or moderate-income housing development to include legally binding, enforceable restrictions on the development, recorded as a covenant or deed restriction, to ensure that the measures of affordability are met for a minimum 25-year period. The county or city must periodically audit or otherwise ensure compliance with the affordability restrictions.

An "affordable or moderate-income housing development" is defined as a residential housing development where the developer has agreed to include legally binding, enforceable restrictions on the development, recorded as a covenant or deed restriction, to ensure that for at least 25-years:

- at least 20 percent of the units are for rental housing with monthly costs that do not exceed 30 percent of the monthly income of a household whose income is at 60 percent of the area median income (AMI);
- at least 20 percent of the units are for owner-occupied housing with monthly costs that do not exceed 30 percent of the monthly income of a household whose income is at 80 percent of the AMI;
- all of the units are for rental housing with monthly costs that do not exceed 30 percent of the monthly income of a household whose income is at 100 percent of the AMI; or
- all of the units are for owner-occupied housing with monthly costs that do not exceed 30

percent of the monthly income of a household whose income is at 120 percent of the AMI.

Comprehensive Plan Amendments.

Amendments to comprehensive plans may be considered more frequently than once per year as needed for the adoption or amendment of any housing element or any housing development regulations necessary to receive a determination of compliance from Commerce.

Eligibility for Certain Infrastructure Funding.

A county or city demonstrates substantial progress towards compliance with its comprehensive plan update deadlines for any housing element and any housing development regulations required to be submitted to Commerce for review, and is therefore eligible for certain grants, loans, pledges, or financial guarantees for infrastructure funding, if it applies to Commerce for review within the required timelines.

A county or city remains eligible for this infrastructure funding until Commerce, the GMHB, or a court of competent jurisdiction issues a final decision determining that the county's or city's housing element or any related housing development regulations are not in compliance with the laws and regulations specified for review.

State Environmental Policy Act Appeals Exemption for Nonproject Actions.

Adoptions of ordinances, development regulations, and other nonproject actions by a city or county to implement housing element requirements are not subject to administrative or judicial appeals under the SEPA.

Other Provisions.

Commerce may adopt any rules necessary to implement the bill. The bill may be known and cited as the Housing Accountability Act. A severability clause is included.

Appropriation: None.

Fiscal Note: Available.

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