

HOUSE BILL REPORT

HB 1353

As Reported by House Committee On:
Local Government

Title: An act relating to establishing a self-certification program for accessory dwelling unit project permit applications.

Brief Description: Establishing a self-certification program for accessory dwelling unit project permit applications.

Sponsors: Representatives Ramel, Duerr, Reed, Doglio and Nance.

Brief History:

Committee Activity:

Local Government: 2/4/25, 2/12/25 [DPS].

Brief Summary of Substitute Bill

- Allows cities planning under the Growth Management Act to operate self-certification programs through which registered architects can certify compliance with applicable building codes for the construction or development of detached accessory dwelling units.
- Requires each city operating a self-certification program to adopt rules and a self-certification form for its program, and provides minimum requirements that must be included in the rules and on the form.
- Requires each city operating a self-certification program to provide a report on its program to the Department of Commerce by July 31, 2028, and requires the Department of Commerce to summarize the information received from cities and submit a report to the Legislature by December 31, 2028.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Duerr, Chair; Parshley, Vice Chair; Klicker, Ranking Minority Member; Stuebe, Assistant Ranking Minority Member; Griffey, Hunt and Zahn.

Staff: Kellen Wright (786-7134).

Background:

The Growth Management Act.

The Growth Management Act (GMA) requires that certain counties, and the cities within those counties, engage in planning for future population growth. Whether a county is required to plan or not was determined by its population and population growth as of 1995, its population growth after 1995, or its choice to become subject to the requirements of the GMA. Currently, 28 counties fully plan under the GMA and 11 do not. The centerpiece of the planning process is the comprehensive plan. The city or county (local government) must adopt development regulations to implement the comprehensive plan.

An urban growth area is an area in which there is such intensive use of the land for buildings, structures, and impermeable surfaces that the land cannot be used primarily for agriculture, natural resources, or for rural uses. Within a designated urban growth area, urban growth must be encouraged, while outside of a designated urban growth area, such growth must be prohibited. Counties planning under the GMA are required to designate urban growth areas, and each city within such a county must be included in an urban growth area.

Building Permits and the State Building Code.

Before developing land, a developer must obtain various permits from the local government with jurisdiction over the land allowing the development. One such permit is a building permit. Building permits are required in order to ensure that a development is compliant with the applicable building code. The State Building Code (Code) is adopted by the State Building Code Council (Council). The Code consists of the State Energy Code, model codes adopted by reference, as well as any amendments made to the model codes by the Council. The model codes are the International Building Code, the International Residential Code, the International Mechanical Code, the International Fire Code, the Uniform Plumbing Code Standards, and portions of the International Wildland Urban Interface Code. The Code is updated on a three-year cycle, following the update cycle of the model codes.

Local governments may also adopt local amendments to the Code, though the amendments cannot diminish the minimum performance standards required by the Code, and local governments cannot increase energy efficiency requirements for residences beyond what is

required in the Code.

Accessory Dwelling Units.

Accessory dwelling units (ADUs) are independent residential living units that are attached to, or located on, the same lot as a principle dwelling unit. Accessory dwelling units can be either attached or detached. An attached ADU is physically connected to a principle unit, while a detached ADU is not.

Local governments planning under the GMA must allow at least two ADUs per lot, in any configuration of attached and detached, in all zoning districts within an urban growth area that allow for the development of single-family homes, and must allow at least one ADU on any lot that meets the minimum lot size required for the principle unit.

Registered Architects.

In order to practice architecture in Washington, an architect must be registered in the state. In order to qualify for registration, an architect must meet education or work experience and training requirements, and must pass an examination. Registrations are renewed every two years, upon the completion of professional development requirements and the payment of a fee.

Self-Certification and Third-Party Review Programs.

Some cities and states, including New York City, the City of Chicago, the City of Phoenix, and New Jersey, have adopted programs that allow design professionals, usually professional or structural engineers and registered architects, to self-certify that an application for a building permit is in compliance with the applicable building code. Each jurisdiction's program is somewhat different, but generally, under a self-certification system, a jurisdiction only checks a self-certified application to ensure that it is complete and that the required documents are present. If they are, then the jurisdiction will issue the permit without further review. Under each program, some percentage of applications are randomly audited, and some jurisdictions can also decide to audit particular applications. Most jurisdictions also require that the permit applicant or owner agree to hold the jurisdiction harmless for any issues arising from the permit application.

There are differences between the programs, including which projects are eligible for self-certification. In Phoenix, for example, all new buildings, with some limited exceptions for high-rises and hazardous projects, are eligible. In New Jersey, projects must be under a certain square footage in order to be eligible, with the applicable square footage different for each category of building. In Phoenix and Chicago, some projects require peer review in addition to self-certification.

In Washington, Grant County offers a somewhat similar program in which a third-party

design professional can review certain residential building permit applications in lieu of county review. The program is seasonal, and only operates when the county determines that it cannot manage the permitting workload.

Summary of Substitute Bill:

Cities planning under the GMA may operate self-certification programs for the construction or development of detached ADUs on residential properties. If a permit application has been self-certified as required by the program, then, after determining that the application is complete, the city may consider the application to be in compliance with applicable Code requirements, as well as with local building, electric, plumbing, mechanical, and fire code requirements. Only registered architects may participate in a self-certification program. A permit issued pursuant to a self-certification program has the same effect as a permit issued after a full project review.

Each city must adopt rules for its self-certification program. The rules must include, at a minimum:

- any requirements other than registration for an architect to qualify for the program;
- requirements for random audits of self-certified program applications in order to verify that applications are compliant with applicable building code requirements, including that at least 20 percent of applications, or five applications, whichever is fewer, must be audited each year, in addition to any nonrandom audits the city deems necessary;
- any penalties for failing an audit, including that an architect who certifies an application that subsequently fails an audit must be temporarily prohibited from participating in the self-certification program for at least one year, and that an architect who fails two audits within a five-year period must be barred from participating in the program; and
- requirements for architects participating in the program to maintain appropriate levels of professional liability insurance.

Each city may, at its discretion, adopt additional rules or exceed the minimum required rules for its program.

Each city must create a standardized self-certification program form as part of its program. The form must include:

- an attestation that the certifying architect will correct any false or inaccurate statements in the application as soon as the architect learns of them;
- an acknowledgement from the architect that participation in the program is conditioned upon accuracy in the certification, and that the discovery of inaccuracies or errors may result in being suspended or removed from the program;
- an agreement signed by the architect, the property owner, and the owner or a representative of the company that will construct the ADU that releases the city from

- any liability for claims or injuries connected with the design, construction, or issuance of a project permit for the ADU; and
- an acknowledgment from the property owner that it will be the owner's responsibility to correct any nonconformities with applicable building code requirements within a reasonable time after they are discovered.

Cities operating self-certification programs must report any penalties imposed for failed audits to the Department of Commerce (Department), and the Department must maintain a database available to cities of architects that are currently subject to penalties. Cities may not accept a self-certified application from an architect who is subject to penalties because of a failed audit in another city. The Department must provide for administrative hearing procedures to resolve any disputes over audit results and penalties.

A city operating a self-certification program must submit a report on its program to the Department by July 31, 2028. The report must include the number of self-certification applications received, the number of permits issued through the self-certification program, the average length of time that it took for a project permit to be issued on a detached ADU application for self-certified permit applications and non-self-certified permit applications, and the results of the city's audits of self-certified project permit applications. The Department must summarize the information that it receives from cities in a report to the Legislature by December 31, 2028.

Self-certification and similar programs operated by local governments prior to July 26, 2025, may continue to operate outside of the requirements otherwise applicable to self-certification programs.

Substitute Bill Compared to Original Bill:

Compared to the original bill, the substitute bill:

- removes the requirement that the Department adopt rules for self-certification programs, and instead requires each city that operates a self-certification program to adopt rules for its program, including certain minimum requirements;
- provides that the rules adopted by a city for a self-certification program must include a requirement that at least 20 percent of applications or five applications, whichever is fewer, be audited each calendar year in addition to any other audits the city deems necessary;
- removes the requirement that the Department adopt a standardized self-certification form for voluntary use by cities, and instead requires each city operating a self-certification program to adopt a self-certification form that meets certain requirements; and
- removes annual reporting requirements applicable to cities and the Department, and instead requires that a city operating a self-certification program submit a report to the Department on its program by July 31, 2028, and that the Department submit a report to the Legislature by December 31, 2028, that summarizes the information

received from cities.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 13, 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) This is an idea that is working elsewhere in the country to bring down costs and permitting times. It allows architects to review their own plans to certify that they're in compliance. It would reduce permitting workloads for cities and improve turnaround times for permits. This would speed up construction of additional housing units. If the architects missed something, they would be responsible for correcting errors and bringing the building up to code, and there is an auditing process and an inspection to catch issues. If an architect repeatedly misuses the program, they would lose their privileges under the program. This program would be voluntary for cities, and they would be able to opt-in to the program. The program would be narrow, and limited to some of the least complex constructions: detached ADUs. It would help improve the availability of ADUs. This would help to address part of the housing crisis, and it could be expanded in the future if the results are good. Structural engineers should be allowed to self-certify as well.

(Opposed) None.

Persons Testifying: Representative Alex Ramel, prime sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Andrea Smiley, Building Industry Association of Washington; and Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.