

SENATE BILL REPORT

SB 5612

As of February 19, 2025

Title: An act relating to a categorical exemption for multiunit housing development within the incorporated areas in an urban growth area under the state environmental policy act.

Brief Description: Creating a categorical exemption for multiunit housing development within the incorporated areas in an urban growth area under the state environmental policy act.

Sponsors: Senators Salomon, Lias and Nobles.

Brief History:

Committee Activity: Housing: 2/19/25.

Brief Summary of Bill

- Amends the categorical exemption for all project actions that propose to develop one or more residential housing or middle housing units within a city west of the crest of the Cascade Mountains with a population of 700,000 or more in place until September 30, 2025, to extend it to September 30, 2028, and provide that development include two or more residential housing or middle housing units, rather than one.
- Establishes a categorical exemption for all project actions that propose to develop four or more attached residential housing or middle housing units within the incorporated areas in an urban growth area (UGA) until September 30, 2027.
- Provides that the categorical exemptions may not be construed to waive or preempt any other duly enacted state or local development regulations, including certain development standards.
- Requires a city or county to notify any federally recognized tribe that may be impacted by a project action under the incorporated areas in UGAs categorical exemption.

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.

SENATE COMMITTEE ON HOUSING

Staff: Benjamin Omdal (786-7442)

Background: State Environmental Policy Act. The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts.

Government decisions that the SEPA checklist process identifies as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS). Under SEPA, certain nonproject actions are categorically exempt from threshold determinations and EISs in rule. Examples of categorical exemptions include various kinds of minor new construction and minor land use decisions.

State Environmental Policy Act Categorical Exemptions in Housing Development. All project actions that propose to develop one or more residential housing units within the incorporated areas in an urban growth area (UGA) or middle housing within the unincorporated areas in an urban growth area and that meet certain criteria are categorically exempt from SEPA.

Before adopting the categorical exemption jurisdictions must satisfy the following criteria:

- the proposed development must be consistent with all development regulations implementing an applicable comprehensive plan under the Growth Management Act (GMA) adopted by the jurisdiction in which the development is proposed, with the exception of any development regulation inconsistent with applicable provisions of the GMA; and
- the city or county has prepared an environmental analysis that considers the proposed use or density and intensity of use in the area proposed for exemption and analyzes multimodal transportation impacts.

Before finalizing the environmental analysis the local government must provide a minimum of 60 days' notice to affected tribes, relevant state agencies, other jurisdictions that may be impacted, and the public and address any probable adverse impacts.

The environmental analysis must include documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted. The city or county must document its consultation with the Washington Department of Transportation on impacts to state-owned transportation facilities including consideration of whether mitigation is necessary for impacts to transportation facilities. The categorical exemption is

effective 30 days after the requirements of the environmental analysis are completed by a local government.

Until September 30, 2025, all project actions that propose to develop one or more residential housing or middle housing units within a city west of the crest of the Cascade Mountains with a population of 700,000 or more are categorically exempt from SEPA. After September 30, 2025, project actions that propose to develop one or more residential housing or middle housing units within the city may utilize the categorical exemption in the manner provided for cities and counties generally.

Summary of Bill: The categorical exemption for project actions that propose to develop one or more residential housing or middle housing units within a city west of the crest of the Cascade Mountains with a population of 700,000 or more is modified to:

- limit the exemption to project actions that propose to develop two or more residential housing or middle housing units; and
- extend the exemption until September 30, 2028.

Until September 30, 2027, all project actions that propose to develop four or more attached residential housing or middle housing units within the incorporated areas of a UGA are categorically exempt from SEPA requirements. After that date, such project actions may utilize the existing categorical exemptions for housing development.

In no event may these two exemptions be construed to waive or preempt any other duly enacted state or local development regulations, including without limitation any development regulations related to:

- zoning;
- protection of critical areas or shorelines;
- protection of cultural resources,
- endangered species;
- trees;
- agricultural or industrial lands;
- urban separators;
- utilities or transportation access; or
- other development standards.

A city or county must notify any federally recognized tribe that may be impacted by a project action exempted under the provisions of these exemptions.

Appropriation: None.

Fiscal Note: Requested on February 14, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The exemption in Seattle has resulted in permit applications for apartments to go up significantly. This bill expands the exemptions to other urban growth areas and would be highly impactful in creating housing and creating housing affordability. There is language that requires notification of tribes, but there is a broader discussion to see if further language can be developed. Expanding this exemption to other UGAs will build upon the success of the current exemption. When projects are completed in a timely, cost-effective manner, it has benefits for builders and renters.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Alex Harrington, NAIOP Washington State.

Persons Signed In To Testify But Not Testifying: No one.