

SENATE BILL REPORT

SB 5613

As of February 6, 2025

Title: An act relating to the development of clear and objective standards, conditions, and procedures for residential development.

Brief Description: Concerning the development of clear and objective standards, conditions, and procedures for residential development.

Sponsors: Senators Salomon, Trudeau, Lias and Nobles.

Brief History:

Committee Activity: Housing: 2/07/25.

Brief Summary of Bill

- Requires the Department of Commerce (Commerce) to form a stakeholder work group to analyze development regulations that create barriers to housing types and suggest model codes that contain clear and objective standards, conditions, and procedures.
- Requires Commerce to develop and adopt by rule clear and objective standards, conditions, and procedures, and a model code that may be adopted by cities and counties.
- Provides that a city or county may adopt and apply only clear and objective standards, conditions, and procedures regulating residential development.
- Allows a city or county to adopt an alternative approval process for applications and permits for residential development that are not clear and objective under certain conditions.
- Establishes that the model code, once adopted by a city or county, is subject to a petition for review or appeal under limited circumstances.

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: 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.

The GMA 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.

Growth Management Hearings Board. The Growth Management Hearings Board (GMHB) hears petitions and resolves disputes concerning the GMA. The GMHB is comprised of five members appointed by the Governor. Petitions are heard by three-member regional panels that generally include two members from the region where the case arose, and one member from a different region.

The GMHB may hear and determine petitions alleging that a state agency or planning jurisdiction is not in compliance with the GMA. The GMHB may issue a final order finding compliance or it may remand for plans and regulations to be brought into compliance. If a plan or regulation is found to be not in compliance, the GMHB must remand it back to the affected state agency, county, or city.

Summary of Bill: Stakeholder Work Group. The Department of Commerce (Commerce) shall form a stakeholder work group (work group) to analyze development regulations that create barriers to housing types and suggest model codes that contain clear and objective standards, conditions, and procedures.

The work group shall consist of members representing:

- cities;
- counties;
- the building industry;
- the construction trades;
- the planning profession;
- the architecture profession; and
- organizations advocating for sustainable land use.

The work group shall help guide implementation of the clear and objective standards,

conditions, and procedures, and a model code for residential development that Commerce must adopt under the act.

Clear and Objective Standards. Except under certain conditions, a city or county planning under the GMA may adopt and apply only clear and objective standards, conditions, and procedures regulating residential development. The standards, conditions, and procedures:

- may include, but are not limited to, one or more provisions regulating the density, height, bulk, or scale of a development; and
- may not have the effect, either in themselves or cumulatively, of discouraging development through unreasonable cost or delay.

A planning city or county may adopt and apply an alternative approval process for applications and permits based on approval criteria regulating appearance or aesthetics that are not clear and objective if:

- the applicant retains the option of proceeding under the approval process that meets the clear and objective requirements; and
- the approval criteria for the alternative approval process complies with the GMA and does not authorize a density of less than the density authorized in the comprehensive plan and that would be authorized under the clear and objective standards process.

These limitations shall not infringe on the prerogative of a city or county to set approval standards under which a particular housing type is permitted outright, impose special conditions upon approval of a specific development proposal, or establish approval procedures.

Definitions under the Growth Management Act. Certain definitions are modified with respect to the GMA.

The definition of "development regulations" is modified to require that those adopted under the GMA must be clear and objective. In determining whether a development regulation is clear and objective the regulation must be interpreted in a manner that does not inhibit or prohibit either development of middle housing or accessory dwelling or achievement of minimum density requirements under the GMA.

"Clear and objective" is defined as standards, conditions, and procedures adopted under the GMA that must establish clear, objective, ascertainable, and uniform guidelines so that interpretation is not left solely to the ad hoc, subjective discretion of administrative bodies or local officials.

A clear and objective standard, condition, or procedure:

- must include one or more ascertainable guidelines, standard, or criterion by which an applicant can determine whether a given proposal is permissible under the standard, condition, or procedure;
- may not result in a reduction in density, height, bulk, or scale below the generally

- applicable development regulations for a development proposal in the applicable zone; and
- may provide discretion to administrative bodies or local officials but must include objective criteria for how that discretion is to be exercised.

Other Requirements. Commerce must develop and adopt by rule clear and objective standards, conditions, and procedures, and a model code that meets city and county clear and objective planning requirements. The clear and objective standards, conditions, and procedures should focus on development regulations and processes, give applicants predictability, and provide uniformity across jurisdictions.

Petitions challenging the following are added to the list of petitions the GMHB may hear:

- that a clear and objective model ordinance adopted by Commerce and adopted by a planning city or county is not in compliance with the GMA; and
- that a clear and objective model ordinance adopted by a county or city is not consistent with Commerce's model ordinance.

In making a determination on whether a model ordinance is in compliance with the GMA, the GMHB must give substantial weight to Commerce's expertise.

Appropriation: None.

Fiscal Note: Requested on February 3, 2025.

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

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