

HOUSE BILL REPORT

ESHB 1042

As Passed Legislature

Title: An act relating to the creation of additional housing units in existing buildings.

Brief Description: Concerning the use of existing buildings for residential purposes.

Sponsors: House Committee on Housing (originally sponsored by Representatives Walen, Ryu, Barkis, Simmons, Duerr, Goodman, Bateman, Reed, Ramel, Peterson, Pollet, Doglio, Macri, Reeves, Mena, Tharinger, Wylie, Gregerson, Springer, Bergquist, Thai, Kloba, Santos and Ormsby).

Brief History:

Committee Activity:

Housing: 1/10/23, 1/19/23 [DPS].

Floor Activity:

Passed House: 2/8/23, 96-0.

Senate Amended.

Passed Senate: 4/5/23, 45-3.

House Concurred.

Passed House: 4/14/23, 96-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Prohibits cities from imposing certain restrictions or requirements on existing buildings zoned for commercial or mixed use.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

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:

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.

The GMA directs fully planning jurisdictions to adopt internally consistent, comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. 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. In developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Cities and counties that do not fully plan under the GMA may, under the state's optional planning statutes, adopt comprehensive plans, zoning ordinances, and other official controls regulating land uses within their boundaries.

Land use regulations may generally include: the location and the use of buildings, structures, and land for residence, industry, trade, and other purposes; the height, construction, and design of buildings and structures; the size of yards, open spaces, lots, and tracts; the setback of buildings; the subdivision and development of land; parking requirements; and adoption of standard building codes and fire regulations.

The State Building Code Council (SBCC) is responsible for adopting, amending, and maintaining the State Building Code. The SBCC must regularly review updated versions of the model codes and adopt a process for reviewing proposed statewide and local amendments.

Summary of Engrossed Substitute Bill:

Beginning no later than six months after its next periodic comprehensive plan update, a city may not impose any of the following on an existing building that is zoned for commercial or mixed use:

- restrictions on housing unit density that prevent the addition of housing at a density up to 50 percent more than what is allowed in the underlying zone if constructed entirely within an existing building envelope and generally applicable health and safety standards can be met;
- parking requirements due to the addition of housing units; however, cities may require the retention of existing parking that is required to satisfy existing residential

- parking requirements and for nonresidential uses that remain after new units are added;
- permitting requirements beyond those requirements generally applicable to all residential development within the building's zone, unless used as emergency or transitional housing;
 - design standard requirements, including setbacks, lot coverage, and floor area ratio requirements beyond those requirements generally applicable to all residential development within the building's zone;
 - exterior design or architectural requirements beyond those necessary for health and safety of the use of the interior of the building or to preserve character-defining streetscapes, unless the building is a designated landmark or is within a historic district established through a local preservation ordinance;
 - prohibitions on the addition of housing units in any specific part of a building except ground floor commercial or retail that is along a major pedestrian corridor, unless the units would violate applicable building codes or health and safety standards;
 - current energy code requirements for unchanged portions of the building solely due to the addition of housing units; however, if any portion of an existing building is converted to new dwelling units, each of those new units must meet the requirements of the current energy code; or
 - a transportation concurrency or State Environmental Policy Act (SEPA) study.

In addition, a city may not deny a building permit application for new housing units in an existing building due to the nonconformity of the existing structure including parking, height, setbacks, elevator size for gurney transport, or modulation, unless the city official with decision-making authority makes written findings that the nonconformity is causing a significant detriment to the surrounding area.

A city is not required to approve a building permit application for new housing units within an existing building that cannot satisfy life safety standards.

By no later than six months after its next periodic comprehensive plan update, cities must incorporate the standards into their development and zoning regulations or any conflicting local development regulations are superseded, preempted, and invalidated. Adoption or amendment of ordinances, development regulations, zoning regulations, and other official controls made by cities to meet these requirements are categorically exempt from SEPA.

Existing building means a building that received a certificate of occupancy at least three years prior to the permit application to add housing units.

By January 1, 2024, the SBBC must amend the State Energy Code to waive the requirement for unchanged portions of an existing building to meet current energy code requirements solely due to the addition of new dwelling units in the building. New dwelling units created within the existing building must meet the requirements of the current energy code.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 bill deals with the existing inventory of buildings and meeting the urgent need for more housing. Nothing can be done to create more housing faster than this policy. There are buildings sitting empty or nearly empty in every city across the state. These buildings could be transformed into housing. While it makes sense to convert vacant buildings to residential housing, it does not pencil out for developers. Current laws and regulations make it impossible or nearly impossible to convert offices or other existing buildings to housing. Things like parking requirements can completely prohibit these projects. Homes for people are more important than storage of cars.

(Opposed) None.

(Other) Changes are needed to address parking requirements and life safety protections.

Persons Testifying: (In support) Representative Amy Walen, prime sponsor; Greg Hanon, NAIOP; Angela Rozmyn, Natural and Built Environments; Robert Pantley; Mike Ennis, Association of Washington Business; and Dan Bertolet, Sightline Institute.

(Other) Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.