SENATE BILL REPORT
SB 5901

As Reported by Senate Committee On:
Local Government, Land Use & Tribal Affairs, January 25, 2024

Title: An act relating to legalizing inexpensive housing choices through co-living housing.

Brief Description: Concerning co-living housing.

Sponsors: Senators Salomon, Gildon, Frame, Kuderer, Liias, Mullet, Pedersen and Shewmake.

Brief History:
Committee Activity: Local Government, Land Use & Tribal Affairs: 1/09/24, 1/25/24 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Requires cities and counties fully planning under the Growth Management Act to adopt ordinances, development regulations, zoning regulations or other official controls to allow co-living housing in any zone within an urban growth area that allows multifamily residential uses no later than six months after the jurisdiction's next periodic comprehensive plan update.
- Prohibits cities and counties from imposing certain standards on co-living housing, including standards that are more restrictive than those required for other types of residential uses in the same zone.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Majority Report: That Substitute Senate Bill No. 5901 be substituted therefor, and the substitute bill do pass.

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Torres, Ranking Member; Kauffman.

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.

Minority Report: That it be referred without recommendation.
Signed by Senator Short.

Staff: Maggie Douglas (786-7279)

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. These jurisdictions are sometimes said to be fully planning under the GMA.

The GMA also 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. Comprehensive plans must be reviewed and, if necessary, revised every ten years to ensure it complies with the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

State Building Code. The State Building Code (SBC) provides a set of statewide standards and requirements related to building construction. The SBC is comprised of various international model codes (model codes), including building, residential, fire, and plumbing codes, adopted by reference by the Legislature. The model codes are promulgated by the International Code Council.

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

Cities and counties may amend the SBC as applied within their jurisdiction, except that amendments may not be below minimum performance standards and no amendment affecting single or multifamily residential buildings may be effective until approved by the SBCC.

Middle Housing. In 2023, the Legislature passed E2SHB 1110, requiring certain cities planning under the GMA to authorize minimum development densities on lots zoned predominantly for residential use and defining provisions related to middle housing within six months of the city's next required comprehensive plan update.

A fully planning city with a population of at least 25,000 but less than 75,000 must include authorization for at least two units per lot, four units per lot within one-quarter mile walking distance of a major transit stop, and four units per lot if at least one unit is affordable

housing. A fully planning city with a population of at least 75,000 must include authorization for at least four units per lot, six units per lot within one-quarter mile walking distance of a major transit stop, and six units per lot if at least two units are affordable housing.

A city must allow at least six of the nine types of middle housing and may allow accessory dwelling units (ADUs) to achieve the minimum density requirements. Middle housing is defined as buildings compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing. Cities are not required to allow ADUs or middle housing types beyond the density requirements.

Summary of Bill (First Substitute): Beginning six months after its next periodic comprehensive plan update, cities and counties fully planning under the GMA must allow co-living housing as a permitted use in any zone within an urban growth area that allows multifamily residential uses, including mixed use development.

A city or county subject to this act may not require co-living housing to:
- contain room dimensional standards larger than required by the state building code;
- provide a mix of unit sizes or number of bedrooms;
- include other uses;
- provide off-street parking within one-half mile walking distance of a major transit stop; and
- provide more than one-quarter off-street parking space per sleeping unit.

A city or county subject to this act may not:
- require any standards for co-living housing more restrictive than those required for other types of residential uses in the same zone;
- exclude co-living housing from participating in affordable housing incentive programs; and
- treat a sleeping unit in co-living housing as more than one-quarter of a dwelling unit for purposes of calculating dwelling unit density or fees for permitting and utility connection.

A city or county may only require a review, notice, or public meeting for co-living housing that is required for other types of residential uses in the same location, unless otherwise required by state law.

Any conflicting provisions in local development regulations after the deadline are superseded, preempted, and invalidated.

EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS COMMITTEE (First Substitute):

- Provides that the off-street parking limitations for co-living housing do not apply in the following circumstances:
    1. If the jurisdiction submits to Commerce an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce finds and certifies, that the application of the off-street parking limitations for co-living housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location; or
    2. To portions of cities within a one-mile radius of a commercial airport in Washington with at least 9 million annual enplanements.
- Clarifies that a city or county may not:
    1. Require any standards for co-living housing that are more restrictive than those required for multifamily residential uses in the same zone, instead of those required for any residential uses in the same zone;
    2. Treat a sleeping unit in co-living housing as more than one-quarter of a dwelling unit for purposes of calculating dwelling unit density; and
    3. Treat a sleeping unit in co-living housing as more than one-half of a dwelling unit for purposes of calculating fees for utility connections.
- Provides that cities and counties must allow co-living housing as a permitted use on any lot located within an urban growth area that allows at least six multifamily residential units.
- Requires a city or county subject to this act to allow co-living housing within its jurisdiction no later than December 31, 2025.
- Exempts any action by a city or county to implement co-living housing requirements from a legal challenge under the Growth Management Act or the State Environmental Policy Act.

Appropriation: None.

Fiscal Note: Available.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There is a growing interest in low-cost, private market housing that is able to rent 50-80 percent of area median income. Unfortunately many jurisdictions have banned them and where these types of units used to make up about 10 percent of housing stock, they now make up close to 0 percent. We are not investing enough into public housing support and we need to make these kinds of investments to support more affordable housing. This helps address the supply and affordability component of the housing needs in the state. There should be additional conversations about fees associated with this type of housing, and adjusting fees should be

more holistic rather than by type of housing. Co-living is high density and works on small lots and excessive parking mandates will prevent this type of housing to be built in most cases, and if a lot of parking is added, it could add costs that make the units unaffordable. This bill would help promote affordable employee housing so that individuals can live closer to where they work and help keep older adults in secure housing.

OTHER: Local governments regulate parking because they need to. Not having access to off street parking leads to public safety problems, public transportation problems, and inflates parking demand that would have to be fulfilled by local governments. Local governments do not have the financial means to provide this, which is why they require developers to provide it. We are concerned about the timing of these requirements. The jurisdictions that are required to update their comprehensive plans by December 31, 2024 are well underway this process and would benefit from having an extension for implementing the bill. Cities planning on the 2024 cycle have conducted environmental reviews based upon assumption of densities and development that their codes allow. To implement this now would require them to restart this work and amend their comprehensive plans which would then drive costs. We are also concerned about the "fees" component included in the bill. Fees are based on square footage, not on sleeping units. There should additional conversations about fees because jurisdictions have to have cost recovery for a new development's impact to infrastructure and utilities.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; David Neiman, Neiman Taber Architects PLLC; Benjamin Maritz, Great Expectations LLC; Dan Bertolet, Sightline Institute; Cynthia Stewart, League of Women Voters of WA; Ben Stuckart, Spokane Low Income Housing Consortium; Dave Andersen, Washington State Department of Commerce; Cathy MacCaul, AARP Washington State; Angela Rozmyn, Natural and Built Environments; Bryce Yadon, Futurewise ; Morgan Irwin, Association of Washington Business.

OTHER: Carl Schroeder, Association of Washington Cities; Paul Jewell, Washington State Association of Counties.

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