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HOUSE BILL 1337

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State of Washington

67th Legislature

2021 Regular Session

By Representatives Gregerson and Barkis

1       AN ACT Relating to accessory dwelling units; amending RCW  
2   36.70A.696 and 43.21C.495; adding new sections to chapter 36.70A RCW;  
3   adding new sections to chapter 82.14 RCW; creating a new section; and  
4   repealing RCW 35.63.210, 35A.63.230, 36.70A.400, 36.70.677, and  
5   43.63A.215.

6   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7       NEW SECTION.   **Sec. 1.**   (1) The legislature makes the following  
8   findings:

9       (a) Washington state is experiencing a housing affordability  
10   crisis. Many communities across the state are in need of more housing  
11   for renters across the income spectrum.

12       (b) Many cities dedicate the majority of residentially zoned land  
13   to single-detached houses that are increasingly financially out of  
14   reach for many households. Due to their smaller size, accessory  
15   dwelling units can provide a more affordable housing option in those  
16   single-family zones.

17       (c) Localities can start to correct for historic economic and  
18   racial exclusion in single-family zones by opening up these  
19   neighborhoods to more diverse housing types, including accessory  
20   dwelling units, that provide lower cost homes. Increasing housing  
21   options in expensive, high-opportunity neighborhoods will give more

1 families access to schools, parks, and other public amenities  
2 otherwise accessible to only the wealthy.

3 (d) Accessory dwelling units are frequently rented below market  
4 rate, providing additional affordable housing options for renters.

5 (e) Accessory dwelling units can also help to provide housing for  
6 very low-income households. More than 10 percent of accessory  
7 dwelling units in some areas are occupied by tenants who pay no rent  
8 at all; among these tenants are grandparents, adult children, family  
9 members with disabilities, friends going through life transitions,  
10 and community members in need. Accessory dwelling units meet the  
11 needs of these people who might otherwise require subsidized housing  
12 space and resources.

13 (f) Accessory dwelling units can meet the needs of Washington's  
14 growing senior population, making it possible for this population to  
15 age in their communities by offering senior-friendly housing, which  
16 prioritizes physical accessibility, in walkable communities near  
17 amenities essential to successful aging in place, including transit  
18 and grocery stores, without requiring costly renovations of existing  
19 housing stock.

20 (g) Homeowners who add an accessory dwelling unit may benefit  
21 from added income and an increased sense of security.

22 (h) Encouraging localities to adopt measures that spur accessory  
23 dwelling unit construction would create jobs as the state recovers  
24 from the COVID-19 economic shutdown.

25 (i) Accessory dwelling units provide environmental benefits. On  
26 average they are more energy efficient than single-detached houses,  
27 and they incentivize adaptive reuse of existing homes and materials.

28 (j) Siting accessory dwelling units near transit hubs, employment  
29 centers, and public amenities can help to reduce greenhouse gas  
30 emissions by increasing walkability, shortening household commutes,  
31 and curtailing sprawl.

32 (2) The legislature intends to promote and encourage the creation  
33 of accessory dwelling units as a means to address the need for  
34 additional affordable housing options.

35 (3) The legislature intends to accelerate production of accessory  
36 dwelling units by offering local governments the equivalent of the  
37 state's portion of sales tax generated by accessory dwelling unit  
38 construction in their jurisdiction, if they adopt state-approved  
39 model code requirements for accessory dwelling units. This program

will be assisted by the department of commerce, which will verify the amount of new accessory dwelling unit construction that has occurred.

**Sec. 2.** RCW 36.70A.696 and 2020 c 217 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 36.70A.697 ~~((and)), 36.70A.698, and sections 3 and 4 of this act~~ unless the context clearly requires otherwise.

(1) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(3) "City" means any city, code city, and town located in a county planning under RCW 36.70A.040.

(4) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(5) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(6) "Gross floor area" means the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

(7) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least fifteen minutes during the peak hours of operation.

1       (8) "Principal unit" means the single-family housing unit,  
2 duplex, triplex, townhome, or other housing unit located on the same  
3 lot as an accessory dwelling unit.

4       NEW SECTION.   **Sec. 3.**   A new section is added to chapter 36.70A  
5 RCW to read as follows:

6       (1) Cities and counties may adopt or amend by ordinance and  
7 incorporate into their development regulations, zoning regulations,  
8 and other official controls, an authorization for the creation of  
9 accessory dwelling units that is consistent with this section and  
10 section 4 of this act. A city or county that complies with the  
11 provisions of this section and section 4 of this act is eligible to  
12 apply for a distribution from the accessory dwelling unit incentive  
13 account under section 6 of this act.

14       (2) Ordinances, development regulations, and other official  
15 controls adopted or amended pursuant to this section and section 4 of  
16 this act need only apply in the portions of towns, cities, and  
17 counties that are within urban growth areas designated under this  
18 chapter.

19       (3) Attached or detached accessory dwelling units may not be  
20 considered as contributing to the overall underlying density within  
21 the urban growth area boundary of a county for purposes of compliance  
22 with this chapter.

23       (4) Any action taken by a city or county to comply with the  
24 requirements of this section or section 4 of this act is not subject  
25 to legal challenge under this chapter or chapter 43.21C RCW.

26       (5) Nothing in this section or section 4 of this act requires or  
27 authorizes a city or county to authorize the construction of an  
28 accessory dwelling unit in a location where development is restricted  
29 under other laws, rules, or ordinances as a result of physical  
30 proximity to on-site sewage system infrastructure, critical areas, or  
31 other unsuitable physical characteristics of a property.

32       NEW SECTION.   **Sec. 4.**   A new section is added to chapter 36.70A  
33 RCW to read as follows:

34       (1) In addition to ordinances, development regulations, and other  
35 official controls adopted or amended to comply with section 3 of this  
36 act and subsections (2) and (3) of this section, a city or county  
37 must comply with a minimum of three of the following policies to

1 qualify for a distribution from the accessory dwelling unit incentive  
2 account under section 6 of this act:

3 (a) The city or county may not establish a requirement for the  
4 provision of off-street parking for accessory dwelling units;

5 (b) The city or county may not assess impact fees on the  
6 construction of accessory dwelling units;

7 (c) The city or county may not require the owner of a lot on  
8 which there is an accessory dwelling unit to reside in or occupy the  
9 accessory dwelling unit or another housing unit on the same lot; and

10 (d) The city or county must allow at least two accessory dwelling  
11 units on all lots that are located in all zoning districts that allow  
12 for single-family homes in the following configurations:

13 (i) One attached accessory dwelling unit and one detached  
14 accessory dwelling unit;

15 (ii) Two attached accessory dwelling units; or

16 (iii) Two detached accessory dwelling units, which may be  
17 comprised of either one or two detached structures.

18 (2) Through ordinances, development regulations, and other  
19 official controls adopted or amended to comply with section 3 of this  
20 act and subsections (1) and (3) of this section, a city or county  
21 must also comply with a minimum of five of the following policies to  
22 qualify for a distribution from the accessory dwelling unit incentive  
23 account under section 6 of this act:

24 (a) The city or county may not count residents of accessory  
25 dwelling units against existing limits on the number of unrelated  
26 residents on a lot;

27 (b) The city or county may not establish a minimum gross floor  
28 area for accessory dwelling units that exceeds the state building  
29 code;

30 (c) The city or county may not count the gross floor area of an  
31 accessory dwelling unit against floor-area-ratio limitations that  
32 apply to principal units;

33 (d) The city or county may not count indoor parking, unheated  
34 storage, or heated basements against the gross floor area limits for  
35 accessory dwelling units;

36 (e) The city or county must make the same allowances for  
37 accessory dwelling units' roof decks, balconies, and porches to  
38 encroach on setbacks as are allowed for the principal unit;

39 (f) The city or county must allow accessory dwelling units to  
40 encroach on setbacks if there is written approval from the property

owner with whom the lot line is shared on file in the jurisdiction in which the detached accessory dwelling unit is located and the encroachment is not prohibited by the applicable local fire code;

(g) The city or county must apply abutting lot setbacks to accessory dwelling units on lots abutting zones with lower setback requirements;

(h) The city or county must adopt model accessory dwelling unit architectural plans that are preapproved for public use under local permitting requirements; and

(i) The city or county must establish an amnesty program to help owners of unpermitted accessory dwelling units to obtain a permit.

(3) Through ordinances, development regulations, and other official controls adopted or amended to comply with section 3 of this act and subsections (1) and (2) of this section, a city or county must also comply with all of the following policies to qualify for an accessory dwelling unit incentive account distribution under section 6 of this act:

(a) The city or county must permit accessory dwelling units in structures detached from the principal unit, must allow an accessory dwelling unit on any lot that meets the minimum lot size required for the principal unit, and must allow attached accessory dwelling units on any lot with a principal unit that is nonconforming solely because the lot is smaller than the minimum size, as long as the accessory dwelling unit would not increase nonconformity of the residential use with respect to building height, bulk, or lot coverage;

(b) The city or county may not establish a maximum gross floor area requirement for accessory dwelling units that are less than 1,000 square feet or 60 percent of the principal unit, whichever is greater, or that exceeds 1,200 square feet;

(c) The city or county may not establish roof height limits, setback requirements, rear yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for accessory dwelling units that are more restrictive than those for principal units;

(d) A city or county must allow detached accessory dwelling units to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley;

(e) A city or county must allow accessory dwelling units to be converted from existing structures, including but not limited to

1 detached garages, even if they violate current code requirements for  
2 setbacks or lot coverage;

3 (f) A city or county may not prohibit the sale or other  
4 conveyance of a condominium unit independently of a principal unit  
5 solely on the grounds that the condominium unit was originally built  
6 as an accessory dwelling unit;

7 (g) A city or county may not charge permitting or plan review  
8 fees for accessory dwelling units greater than those that would be  
9 charged for a project of similar value or square footage in a  
10 principal unit;

11 (h) A city or county may not require public street improvements  
12 as a condition of permitting accessory dwelling units; and

13 (i) A city or county may not require installation of a new or  
14 separate utility connection between an accessory dwelling unit and a  
15 utility unless unusual site conditions make it unavoidable, and if  
16 such connection is necessary, the connection fees or capacity charges  
17 must:

18 (i) Be proportionate to the burden of the proposed accessory  
19 dwelling unit upon the water or sewer system, based on its size or  
20 number of plumbing fixtures;

21 (ii) Not exceed the reasonable cost of providing the service; and

22 (iii) Not be inconsistent with water availability requirements,  
23 water system plans, small water system management plans, or  
24 established policies adopted by the water or sewer utility provider.

25 **Sec. 5.** RCW 43.21C.495 and 2020 c 173 s 2 are each amended to  
26 read as follows:

27 (1) If adopted by April 1, 2023, amendments to development  
28 regulations and other nonproject actions taken by a city to implement  
29 RCW 36.70A.600 (1) or (4), with the exception of the action specified  
30 in RCW 36.70A.600(1)(f), are not subject to administrative or  
31 judicial appeals under this chapter.

32 (2) Amendments to development regulations and other nonproject  
33 actions taken by a covered city or county consistent with the  
34 requirements of sections 3 and 4 of this act are not subject to  
35 administrative or judicial appeals under this chapter.

36 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.14  
37 RCW to read as follows:

1 (1) A city or county may apply for a distribution from the  
2 accessory dwelling unit incentive account based on new accessory  
3 dwelling unit construction within urban growth areas designated under  
4 chapter 36.70A RCW. This distribution shall occur yearly and must be  
5 made subject to the requirements of this section and section 7 of  
6 this act.

7 (2) In order to qualify for a distribution, a city or county  
8 must:

9 (a) Have adopted and maintained all of the policies required in  
10 sections 3 and 4 of this act for the prior fiscal year;

11 (b) Have maintained sufficient data for the department of  
12 commerce to verify the amount of new accessory dwelling unit  
13 construction that has occurred in urban growth areas within the city  
14 in the case of cities, or within the unincorporated areas within the  
15 county in the case of counties; and

16 (c) Have submitted an application for a distribution as well as  
17 proof of verification of new accessory dwelling unit construction to  
18 the department of commerce within 12 months of the conclusion of the  
19 fiscal year for which a distribution is sought.

20 (3) The maximum cumulative distributions under this section in  
21 any fiscal year may not exceed the maximum amount deposited into the  
22 accessory dwelling unit incentive account under section 7 of this  
23 act.

24 (4)(a) The department of commerce shall review and verify the  
25 amount of new accessory dwelling unit construction that has occurred  
26 within an applicant city or county within 90 days of receiving a  
27 request for verification from a city or county. The department of  
28 commerce shall only verify the amount of new accessory dwelling unit  
29 construction that has occurred if the applicant city or county has  
30 submitted sufficient information to establish:

31 (i) The amount of new accessory dwelling unit construction during  
32 a fiscal year for which a distribution is sought; and

33 (ii) The average number of accessory dwelling units constructed  
34 during the baseline years.

35 (b) The department of commerce shall publish guidelines for use  
36 by cities and counties when seeking verification under this section.

37 (c) The department of commerce's determination on whether  
38 verification can occur is not subject to judicial review.

39 (5) Upon approval of an application, and subject to the limit  
40 provided in subsection (3) of this section, the department of



1 commerce shall approve the distribution from the accessory dwelling  
2 unit incentive account to an applicant city or county of \$10,000 per  
3 new accessory dwelling unit constructed during the fiscal year for  
4 which the application was made. This distribution shall be made on a  
5 first-come basis, and subject to the limit provided in subsection (3)  
6 of this section. If the limit provided in subsection (3) of this  
7 section has been reached during a fiscal year, no further  
8 distributions may be made for that fiscal year. A city or county  
9 shall not receive credit nor be allowed to carry forward any new  
10 accessory dwelling unit construction that occurred during a fiscal  
11 year for which it did not receive a distribution.

12 (6) For the purposes of this section, the following definitions  
13 apply:

14 (a) "Accessory dwelling unit" has the same meaning as in RCW  
15 36.70A.696;

16 (b) "New accessory dwelling unit construction" means the increase  
17 in new accessory dwelling units constructed within an urban growth  
18 area within an applicant city or an urban growth area within an  
19 unincorporated area of an applicant county during the fiscal year for  
20 which an application was made over the average number of accessory  
21 dwelling units constructed during the baseline years, as verified by  
22 the department of commerce;

23 (c) "Average number of accessory dwelling units constructed  
24 during the baseline years" means the average number of accessory  
25 dwelling units, rounded up to the nearest whole number, constructed  
26 in the five fiscal years immediately prior to a city or county  
27 adopting the policies set out in sections 3 and 4 of this act, as  
28 verified by the department of commerce. If there is insufficient  
29 information for the department of commerce to verify the number of  
30 accessory dwelling units constructed prior to adopting the policies  
31 set out in sections 3 and 4 of this act, then the baseline years are  
32 the first five consecutive fiscal years for which such verification  
33 is possible, whether or not the policies set out in sections 3 and 4  
34 of this act have been adopted by the city or county; and

35 (d) "Fiscal year" means the year beginning July 1st and ending  
36 the following June 30th.

37 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.14  
38 RCW to read as follows:

1       (1) The accessory dwelling unit incentive account is created in  
2 the custody of the state treasurer. Beginning in fiscal year 2022,  
3 the state treasurer must deposit the sum of \$1,000,000 from the  
4 general fund into the accessory dwelling unit incentive account.  
5 Expenditures from this account may only be made pursuant to the  
6 application and distribution process in section 6 of this act. Only  
7 the director of the department of commerce or the director's designee  
8 may authorize expenditures from the account. An appropriation is not  
9 required for expenditures.

10       (2) The state treasurer shall return any funds not distributed  
11 from the accessory dwelling unit incentive account during a fiscal  
12 year to the general fund.

13       NEW SECTION.   **Sec. 8.**   The following acts or parts of acts are  
14 each repealed:

- 15       (1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;  
16       (2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;  
17       (3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;  
18       (4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and  
19       (5)   RCW   43.63A.215   (Accessory   apartments—Development   and  
20 placement—Local governments) and 1993 c 478 s 7.

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