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HOUSE BILL 1611

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State of Washington

68th Legislature

2023 Regular Session

By Representatives Reed and Hutchins

1 AN ACT Relating to local government permitting; amending RCW  
2 36.70B.060, 36.70B.070, and 36.70B.080; adding a new section to  
3 chapter 36.70B RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that delays in the  
6 permitting process can impose significant costs and time on the  
7 creation of new affordable housing. The legislature also finds that  
8 adopting deadlines for local governments to review and process  
9 permits will increase certainty and financing options for new  
10 projects and reduce the amount of time it takes for new housing units  
11 to be completed. Therefore, it is the intent of the legislature to  
12 reduce overall project cost, and to increase financing options,  
13 housing supply, and affordability by improving the certainty and  
14 speed of permitting review involving the development of housing.

15 **Sec. 2.** RCW 36.70B.060 and 1995 c 347 s 407 are each amended to  
16 read as follows:

17 Not later than March 31, 1996, each local government planning  
18 under RCW 36.70A.040 shall establish by ordinance or resolution an  
19 integrated and consolidated project permit process that may be  
20 included in its development regulations. No later than March 31,

1 2024, each local government planning under RCW 36.70A.040 with a  
2 population of 20,000 or more shall adopt or amend ordinances or  
3 resolutions to comply with the requirements of section 5 of this act.  
4 No later than March 31, 2025, each local government planning under  
5 RCW 36.70A.040 with a population of fewer than 20,000 shall adopt or  
6 amend ordinances or resolutions to comply with the requirements of  
7 section 5 of this act. In addition to the elements required by RCW  
8 36.70B.050, the process shall include the following elements:

9 (1) A determination of completeness to the applicant as required  
10 by RCW 36.70B.070 or section 5 of this act;

11 (2) A notice of application to the public and agencies with  
12 jurisdiction as required by RCW 36.70B.110;

13 (3) Except as provided in RCW 36.70B.140, an optional  
14 consolidated project permit review process as provided in RCW  
15 36.70B.120. The review process shall provide for no more than one  
16 consolidated open record hearing and one closed record appeal. If an  
17 open record predecision hearing is provided prior to the decision on  
18 a project permit, the process shall not allow a subsequent open  
19 record appeal hearing;

20 (4) Provision allowing for any public meeting or required open  
21 record hearing to be combined with any public meeting or open record  
22 hearing that may be held on the project by another local, state,  
23 regional, federal, or other agency, in accordance with provisions of  
24 RCW (~~(36.70B.090 and)~~) 36.70B.110;

25 (5) A single report stating all the decisions made as of the date  
26 of the report on all project permits included in the consolidated  
27 permit process that do not require an open record predecision hearing  
28 and any recommendations on project permits that do not require an  
29 open record predecision hearing. The report shall state any  
30 mitigation required or proposed under the development regulations or  
31 the agency's authority under RCW 43.21C.060. The report may be the  
32 local permit. If a threshold determination other than a determination  
33 of significance has not been issued previously by the local  
34 government, the report shall include or append this determination;

35 (6) Except for the appeal of a determination of significance as  
36 provided in RCW 43.21C.075, if a local government elects to provide  
37 an appeal of its threshold determinations or project permit  
38 decisions, the local government shall provide for no more than one  
39 consolidated open record hearing on such appeal. The local government  
40 need not provide for any further appeal and may provide an appeal for

1 some but not all project permit decisions. If an appeal is provided  
2 after the open record hearing, it shall be a closed record appeal  
3 before a single decision-making body or officer;

4 (7) A notice of decision as required by RCW 36.70B.130 and issued  
5 within the time period provided in RCW 36.70B.080 and (~~36.70B.090~~)  
6 section 5 of this act;

7 (8) Completion of project review by the local government,  
8 including environmental review and public review and any appeals to  
9 the local government, within any applicable time periods under (~~RCW~~  
10 ~~36.70B.090~~) section 5 of this act; and

11 (9) Any other provisions not inconsistent with the requirements  
12 of this chapter or chapter 43.21C RCW.

13 **Sec. 3.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to  
14 read as follows:

15 (1) (~~Within twenty-eight days after receiving a project permit~~  
16 ~~application~~) Except as otherwise provided for in section 5 of this  
17 act, a local government planning pursuant to RCW 36.70A.040 shall  
18 mail or provide in person a written determination to the  
19 applicant(~~(7)~~) within 28 days after receiving a project permit  
20 application stating either:

21 (a) That the application is complete; or

22 (b) That the application is incomplete and what is necessary to  
23 make the application complete.

24 To the extent known by the local government, the local government  
25 shall identify other agencies of local, state, or federal governments  
26 that may have jurisdiction over some aspect of the application.

27 (2) A project permit application is complete for purposes of this  
28 section when it meets the procedural submission requirements of the  
29 local government and is sufficient for continued processing even  
30 though additional information may be required or project  
31 modifications may be undertaken subsequently. The determination of  
32 completeness shall not preclude the local government from requesting  
33 additional information or studies either at the time of the notice of  
34 completeness or subsequently if new information is required or  
35 substantial changes in the proposed action occur.

36 (3) The determination of completeness may include the following  
37 as optional information:

38 (a) A preliminary determination of those development regulations  
39 that will be used for project mitigation;

1 (b) A preliminary determination of consistency, as provided under  
2 RCW 36.70B.040; or

3 (c) Other information the local government chooses to include.

4 (4) (a) An application shall be deemed complete under this section  
5 if the local government does not provide a written determination to  
6 the applicant that the application is incomplete as provided in  
7 subsection (1) (b) of this section.

8 (b) Within fourteen days after an applicant has submitted to a  
9 local government additional information identified by the local  
10 government as being necessary for a complete application, the local  
11 government shall notify the applicant whether the application is  
12 complete or what additional information is necessary.

13 **Sec. 4.** RCW 36.70B.080 and 2004 c 191 s 2 are each amended to  
14 read as follows:

15 (1) Development regulations adopted pursuant to RCW 36.70A.040  
16 must establish and implement time periods for local government  
17 actions for each type of project permit application, except those for  
18 which time periods are specified in section 5 of this act, and  
19 provide timely and predictable procedures to determine whether a  
20 completed project permit application meets the requirements of those  
21 development regulations. ((The)) Except as provided for in section 5  
22 of this act, the time periods for local government actions for each  
23 type of complete project permit application or project type should  
24 not exceed ((one hundred twenty)) 120 days, unless the local  
25 government makes written findings that a specified amount of  
26 additional time is needed to process specific complete project permit  
27 applications or project types.

28 The development regulations must, for each type of permit  
29 application, specify the contents of a completed project permit  
30 application necessary for the complete compliance with the time  
31 periods and procedures.

32 (2) (a) Counties subject to the requirements of RCW 36.70A.215 and  
33 the cities within those counties that have populations of at least  
34 twenty thousand must, for each type of permit application, identify  
35 the total number of project permit applications for which decisions  
36 are issued according to the provisions of this chapter. For each type  
37 of project permit application identified, these counties and cities  
38 must establish and implement a deadline for issuing a notice of final  
39 decision as required by subsection (1) of this section and minimum

1 requirements for applications to be deemed complete under RCW  
2 36.70B.070 as required by subsection (1) of this section.

3 (b) Counties and cities subject to the requirements of this  
4 subsection also must prepare annual performance reports that include,  
5 at a minimum, the following information for each type of project  
6 permit application identified in accordance with the requirements of  
7 (a) of this subsection:

8 (i) Total number of complete applications received during the  
9 year;

10 (ii) Number of complete applications received during the year for  
11 which a notice of final decision was issued before the deadline  
12 established under this subsection;

13 (iii) Number of applications received during the year for which a  
14 notice of final decision was issued after the deadline established  
15 under this subsection;

16 (iv) Number of applications received during the year for which an  
17 extension of time was mutually agreed upon by the applicant and the  
18 county or city;

19 (v) Variance of actual performance, excluding applications for  
20 which mutually agreed time extensions have occurred, to the deadline  
21 established under this subsection during the year; and

22 (vi) The mean processing time and the number standard deviation  
23 from the mean.

24 (c) Counties and cities subject to the requirements of this  
25 subsection must:

26 (i) Provide notice of and access to the annual performance  
27 reports through the county's or city's website; and

28 (ii) Post electronic facsimiles of the annual performance reports  
29 through the county's or city's website. Postings on a county's or  
30 city's website indicating that the reports are available by  
31 contacting the appropriate county or city department or official do  
32 not comply with the requirements of this subsection.

33 If a county or city subject to the requirements of this  
34 subsection does not maintain a website, notice of the reports must be  
35 given by reasonable methods, including but not limited to those  
36 methods specified in RCW 36.70B.110(4).

37 (3) Nothing in this section prohibits a county or city from  
38 extending a deadline for issuing a decision for a specific project  
39 permit application for any reasonable period of time mutually agreed  
40 upon by the applicant and the local government.

1           (4) The department of (~~community, trade, and economic~~  
2 ~~development~~) commerce shall work with the counties and cities to  
3 review the potential implementation costs of the requirements of  
4 subsection (2) of this section. The department, in cooperation with  
5 the local governments, shall prepare a report summarizing the  
6 projected costs, together with recommendations for state funding  
7 assistance for implementation costs, and provide the report to the  
8 governor and appropriate committees of the senate and house of  
9 representatives by January 1, 2005.

10           NEW SECTION.   **Sec. 5.** A new section is added to chapter 36.70B  
11 RCW to read as follows:

12           (1)(a) Within 14 days of receiving a residential use permit  
13 application or a mixed use that involves a residential use permit  
14 application, a local government planning pursuant to RCW 36.70A.040  
15 must mail or provide in person a written determination to the  
16 applicant, stating either:

17           (i) That the application is complete; or

18           (ii) That the application is incomplete and what is necessary to  
19 make the application complete.

20           (b) To the extent known by the local government, the local  
21 government shall identify other agencies of local, state, or federal  
22 governments that may have jurisdiction over some aspect of the  
23 application.

24           (c)(i) A project permit application is complete for purposes of  
25 this section when it meets the procedural submission requirements of  
26 the local government, it is sufficient for continued processing, and  
27 no further information or project modifications are required. After  
28 an application has been deemed complete, no additional informational  
29 requirements may be imposed by the local government on the completed  
30 application.

31           (ii) A notice of completeness provided under this section may  
32 include the optional information provided for in RCW 36.70B.070(3).

33           (d) After March 31, 2025, an application shall be deemed complete  
34 under this section if the local government does not provide a written  
35 determination to the applicant that the application is incomplete as  
36 provided in (a) of this subsection.

37           (e) Within seven days after an applicant has submitted to a local  
38 government additional information identified by the local government  
39 as being necessary for a complete application, the local government

1 must notify the applicant whether the application is complete or what  
2 additional information is necessary.

3 (2) (a) The following time frames apply to local government  
4 processing of residential permits or of mixed-use permits that  
5 involve residential use:

6 (i) Review of project permits comprised of five or fewer dwelling  
7 units must be completed within 120 days of notifying the applicant  
8 that the application is complete;

9 (ii) Review of project permits comprised of between more than  
10 five but fewer than 101 dwelling units must be completed within 180  
11 days of notifying the applicant that the application is complete;

12 (iii) Review of project permits comprised of 101 or more units  
13 must be completed within 270 days of notifying the applicant that the  
14 application is complete.

15 (b) Project permits submitted after March 31, 2025, that are not  
16 approved, approved with conditions, or denied with cause within the  
17 time frames in (a) of this subsection shall be deemed approved if:

18 (i) The project permit involves more than five dwelling units and  
19 at least 20 percent of the dwelling units involved, rounded to the  
20 nearest whole number, are affordable to low-income households; or

21 (ii) The project permit involved more than five dwelling units  
22 and all of the dwelling units involved are affordable to moderate-  
23 income households.

24 (c) In determining the number of days that have elapsed after  
25 notifying the applicant that the application is complete, the  
26 following periods are excluded:

27 (i) Any period during which the applicant has been requested by  
28 the local government to correct plans or to otherwise take a required  
29 action. Such a period must be calculated from the date the local  
30 government notifies the applicant of the need for the action until  
31 the earlier of the date the local government determines whether the  
32 action satisfies the local government or 14 days after the  
33 information demonstrating that the action has been taken has been  
34 provided to the local government. If the local government determines  
35 that the action taken by the applicant is insufficient, it must  
36 notify the applicant of the deficiencies and the procedures under  
37 this subsection apply as if a new request had been made;

38 (ii) Any period during which an environmental impact statement is  
39 being prepared following a determination of significance pursuant to  
40 chapter 43.21C RCW, if the local government by ordinance or

1 resolution has established time periods for completion of  
2 environmental impact statements, or if the local government and the  
3 applicant in writing agree to a time period for completion of an  
4 environmental impact statement;

5 (iii) Any period for administrative appeals of project permits,  
6 if an open record appeal hearing or a closed record appeal, or both,  
7 are allowed. The local government by ordinance or resolution must  
8 establish a time period to consider and decide such appeals. The time  
9 period may not exceed: (A) 90 days for an open record appeal hearing;  
10 or (B) 60 days for a closed record appeal. The parties to an appeal  
11 may agree to extend these time periods; and

12 (iv) Any extension of time mutually agreed upon by the applicant  
13 and the local government.

14 (d) If an application is substantially revised by an applicant  
15 after it has been deemed complete, the applicable time limits under  
16 (a) of this subsection run from the date that the revised project  
17 application is determined to be complete.

18 (e) The time limits under (a) of this subsection do not apply to  
19 new fully contained communities as provided for in RCW 36.70A.350.

20 (3) After March 31, 2025, a county or city may not collect an  
21 excise tax imposed under RCW 82.46.010, 82.46.035, 82.46.070, or  
22 82.46.075 on the first sale of any residential or mixed use involving  
23 residential use real property for which a permit was sought after  
24 March 31, 2025, and to which this section is applicable, unless the  
25 permit was issued within the time frames provided for in subsection  
26 (2)(a) of this section.

27 (4) For the purposes of this section:

28 (a) A dwelling unit is affordable if it requires payment of  
29 monthly housing costs, including utilities other than telephone, of  
30 no more than 30 percent of the family's income.

31 (b) "Dwelling unit" means a residential living unit that provides  
32 complete independent living facilities for one or more persons and  
33 that includes permanent provisions for living, sleeping, eating,  
34 cooking, and sanitation, and that is sold or rented separately from  
35 other dwelling units.

36 (c) "Low-income household" means a single person, family, or  
37 unrelated persons living together whose adjusted income is less than  
38 80 percent of the median family income, adjusted for household size,  
39 for the county where the project is located, as reported by the  
40 United States department of housing and urban development, or less



1 than 80 percent of the city's median income if the project is located  
2 in the city, the city has median income of more than 20 percent above  
3 the county median income, and the city has adopted an alternative  
4 local median income.

5 (d) "Moderate-income household" means a single person, family, or  
6 unrelated persons living together whose adjusted income is at or  
7 below 120 percent of the median household income, adjusted for  
8 household size, for the county where the household is located, as  
9 reported by the United States department of housing and urban  
10 development, or less than 120 percent of the city's median income if  
11 the project is located in the city, the city has median income of  
12 more than 20 percent above the county median income, and the city has  
13 adopted an alternative local median income.

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