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**ENGROSSED SUBSTITUTE SENATE BILL 5235**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**State of Washington                      67th Legislature                      2021 Regular Session**

**By** Senate Housing & Local Government (originally sponsored by Senators Lias, Das, Nguyen, Nobles, Saldaña, and Wilson, C.)

READ FIRST TIME 02/05/21.

1            AN ACT Relating to increasing housing unit inventory by removing  
2 arbitrary limits on housing options; amending RCW 36.70A.696,  
3 36.70A.697, and 36.70A.698; adding a new section to chapter 35.21  
4 RCW; adding a new section to chapter 35A.21 RCW; adding a new section  
5 to chapter 36.01 RCW; and creating a new section.

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

7            NEW SECTION.    **Sec. 1.**    The legislature finds that local zoning  
8 laws can contribute to limiting the housing available for  
9 Washingtonians. The legislature finds that reducing these barriers  
10 can increase affordable housing options. The legislature finds that  
11 accessory dwelling units can be one way to add affordable long-term  
12 housing and to provide a needed increase in housing density. However,  
13 the legislature finds that research from several cities shows that  
14 when accessory dwelling units are built and offered for short-term  
15 rental for tourists and business visitors, they may not improve  
16 housing affordability. Therefore, it is the intent of the legislature  
17 to encourage reducing barriers to accessory dwelling units when local  
18 governments have programs to incentivize or assure that they will be  
19 utilized for long-term housing. The legislature finds that owner  
20 occupancy requirements may provide an appropriate means for local  
21 governments to ensure community impacts of accessory dwelling units

1 are mitigated and allow for relaxation of other requirements, when  
2 they are an element of a program to reduce short-term rental of  
3 accessory dwelling units. The legislature also intends to remove  
4 barriers and restrictions on the number of unrelated occupants  
5 permitted to live together, which will provide additional affordable  
6 housing options.

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

9 The definitions in this section apply throughout RCW 36.70A.697  
10 and 36.70A.698 unless the context clearly requires otherwise.

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

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

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

19 (4) "County" means any county planning under RCW 36.70A.040.

20 (5) "Detached accessory dwelling unit" means an accessory  
21 dwelling unit that consists partly or entirely of a building that is  
22 separate and detached from a single-family housing unit, duplex,  
23 triplex, townhome, or other housing unit and is on the same property.

24 ~~((5))~~ (6) "Dwelling unit" means a residential living unit that  
25 provides complete independent living facilities for one or more  
26 persons and that includes permanent provisions for living, sleeping,  
27 eating, cooking, and sanitation.

28 ~~((6))~~ (7) "Major transit stop" means:

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

31 (b) Commuter rail stops;

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

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

36 (e) Stops for a bus or other transit mode providing actual fixed  
37 route service at intervals of at least fifteen minutes for at least  
38 five hours during the peak hours of operation on weekdays.

1 (8) "Owner" means any person who has at least 50 percent  
2 ownership in a property on which an accessory dwelling unit is  
3 located.

4 (9) "Short-term rental" means a lodging use, that is not a hotel  
5 or motel or bed and breakfast, in which a dwelling unit, or portion  
6 thereof, is offered or provided to a guest by a short-term rental  
7 operator for a fee for fewer than 30 consecutive nights.

8 **Sec. 3.** RCW 36.70A.697 and 2020 c 217 s 3 are each amended to  
9 read as follows:

10 (1) (a) Cities must adopt or amend by ordinance, and incorporate  
11 into their development regulations, zoning regulations, and other  
12 official controls the requirements of RCW 36.70A.698(1) to take  
13 effect by July 1, 2021.

14 ~~((2))~~ (b) Beginning July 1, 2021, the requirements of RCW  
15 36.70A.698(1):

16 ~~((a))~~ (i) Apply and take effect in any city that has not  
17 adopted or amended ordinances, regulations, or other official  
18 controls as required under this section; and

19 ~~((b))~~ (ii) Supersede, preempt, and invalidate any local  
20 development regulations that conflict with RCW 36.70A.698(1).

21 (2) (a) Cities and counties must adopt or amend by ordinance, and  
22 incorporate into their development regulations, zoning regulations,  
23 and other official controls the requirements of RCW 36.70A.698(2)  
24 within two years of the next applicable deadline for its  
25 comprehensive plan to be reviewed under RCW 36.70A.130 after July 1,  
26 2021.

27 (b) Beginning two years after the next applicable deadline for  
28 the review of a county's or city's comprehensive plan under RCW  
29 36.70A.130 after July 1, 2021, the requirements of RCW 36.70A.698(2)  
30 apply and take effect in any city or county that has not adopted or  
31 amended ordinances, regulations, or other official controls as  
32 required under this section, and preempt any conflicting development  
33 regulations.

34 **Sec. 4.** RCW 36.70A.698 and 2020 c 217 s 4 are each amended to  
35 read as follows:

36 (1) (a) Except as provided in ~~((subsection[s] (2) and (3) of this~~  
37 section)) (b) and (c) of this subsection, through ordinances,  
38 development regulations, zoning regulations, and other official

1 controls as required under RCW 36.70A.697(1)(a), cities may not  
2 require the provision of off-street parking for accessory dwelling  
3 units within one-quarter mile of a major transit stop.

4 ~~((2))~~ (b) A city may require the provision of off-street  
5 parking for an accessory dwelling unit located within one-quarter  
6 mile of a major transit stop if the city has determined that the  
7 accessory dwelling unit is in an area with a lack of access to street  
8 parking capacity, physical space impediments, or other reasons  
9 supported by evidence that would make on-street parking infeasible  
10 for the accessory dwelling unit.

11 ~~((3))~~ (c) A city that has adopted or substantively amended  
12 accessory dwelling unit regulations within the four years previous to  
13 June 11, 2020, is not subject to the requirements of this ~~(section)~~  
14 subsection (1).

15 (2) Through ordinances, development regulations, and other  
16 official controls adopted or amended as required under RCW  
17 36.70A.697(2):

18 (a) Cities and counties may not impose or enforce an owner  
19 occupancy requirement on any housing or dwelling unit on a lot  
20 containing an accessory dwelling unit, unless an accessory dwelling  
21 unit on the lot is being offered or used for short-term rental,  
22 except that:

23 (i) Cities and counties may impose and enforce an owner occupancy  
24 requirement for the first year after initial occupation of the unit  
25 or primary residence following permitting; and

26 (ii) Cities and counties may impose an owner occupancy  
27 requirement for an additional period if such a requirement is  
28 supported by findings of the need for such an increased requirement  
29 adopted by the city or county after at least two public hearings are  
30 held on the proposal, and any ordinance, development regulations, and  
31 other official controls finally adopted directly address feedback  
32 from the community. Such an additional period of owner occupancy  
33 restrictions must be geographically limited, and may not apply to all  
34 of the residential zones within the city or county.

35 (b) Cities and counties may adopt ordinances, development  
36 regulations, and other official controls, including the imposition of  
37 fees, impact fees, or taxes, or the waiver of taxes, fees, or  
38 specific regulations, to encourage use of accessory dwelling units  
39 for long-term housing. Cities and counties may only offer such  
40 reduced impact fees, deferral of taxes, or other incentives for the

1 development or construction of accessory dwelling units if such units  
2 are subject to effective binding commitments or covenants that the  
3 units will not be regularly offered for short-term rental and the  
4 city or county has a program to audit compliance with such  
5 commitments or covenants.

6 (c) Cities and counties that impose owner occupancy requirements  
7 on lots containing accessory dwelling units must provide for a  
8 hardship exemption from any owner occupancy requirements applicable  
9 to a housing or dwelling unit on the same lot as an accessory  
10 dwelling unit. Such an exemption must allow an owner to offer for  
11 rental for periods of 30 days or longer a dwelling unit or housing  
12 unit as if a dwelling or housing unit on the property was owner  
13 occupied, when the owner no longer occupies the primary residence due  
14 to age, illness, financial hardship due to the death of a spouse,  
15 domestic partner, or co-owner of the property, disability status, the  
16 deployment, activation, mobilization, or temporary duty, as those  
17 terms are defined in RCW 26.09.004, of a service member of the armed  
18 forces, or other such reason that would make the owner occupancy  
19 requirement an undue hardship on the owner. A city or county shall  
20 develop and implement a process for the review of hardship  
21 applications. Any city or county that imposes an owner occupancy  
22 requirement on lots containing accessory dwelling units and has not  
23 provided a hardship exemption from the requirement through  
24 ordinances, development regulations, or other official controls as  
25 required by this subsection may not impose or enforce an owner  
26 occupancy requirement on any lot containing an accessory dwelling  
27 unit until such time as the city or county has adopted the required  
28 hardship exemption, except that an owner-occupancy requirement  
29 pursuant to (a) of this subsection (2) may be imposed and enforced if  
30 the owner of the lot offers an accessory dwelling unit for short-term  
31 rental within the county or if the owner of the lot owns more than  
32 three accessory dwelling units within the county.

33 NEW SECTION. Sec. 5. A new section is added to chapter 35.21  
34 RCW to read as follows:

35 Except for occupant limits on group living arrangements regulated  
36 under state law or on short-term rentals as defined in RCW 64.37.010  
37 and any lawful limits on occupant load per square foot or generally  
38 applicable health and safety provisions as established by applicable  
39 building code or city ordinance, a city or town may not regulate or

1 limit the number of unrelated persons that may occupy a household or  
2 dwelling unit.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 35A.21  
4 RCW to read as follows:

5 Except for occupant limits on group living arrangements regulated  
6 under state law or on short-term rentals as defined in RCW 64.37.010  
7 and any lawful limits on occupant load per square foot or generally  
8 applicable health and safety provisions as established by applicable  
9 building code or city ordinance, a code city may not regulate or  
10 limit the number of unrelated persons that may occupy a household or  
11 dwelling unit.

12 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.01  
13 RCW to read as follows:

14 Except for occupant limits on group living arrangements regulated  
15 under state law or on short-term rentals as defined in RCW 64.37.010  
16 and any lawful limits on occupant load per square foot or generally  
17 applicable health and safety provisions as established by applicable  
18 building code or county ordinance, a county may not regulate or limit  
19 the number of unrelated persons that may occupy a household or  
20 dwelling unit.

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