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**SUBSTITUTE SENATE BILL 5190**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Housing (originally sponsored by Senators Trudeau, Lovelett, Braun, Frame, Hasegawa, Hunt, Kuderer, Lias, Nguyen, Nobles, Pedersen, Shewmake, and C. Wilson)

1 AN ACT Relating to creating more homes for Washington by  
2 increasing middle housing in areas traditionally dedicated to single-  
3 family detached housing; amending RCW 36.70A.030, 36.70A.280, and  
4 43.21C.495; adding new sections to chapter 36.70A RCW; adding a new  
5 section to chapter 64.34 RCW; adding a new section to chapter 64.32  
6 RCW; adding a new section to chapter 64.38 RCW; adding a new section  
7 to chapter 64.90 RCW; and creating a new section.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that Washington is  
10 facing an unprecedented housing shortage for its current population  
11 and without significant action will not meet its goal of creating  
12 1,000,000 homes by 2044.

13 Increasing housing options that are more affordable to various  
14 income levels is critical to achieving the state's housing goals,  
15 including those codified by the legislature under chapter 254, Laws  
16 of 2021.

17 There is continued need for the development of housing at all  
18 income levels, including middle housing that will provide a wider  
19 variety of housing options and configurations to allow Washingtonians  
20 to live near where they work.

1 To unlock opportunity for Washingtonians it is necessary to lift  
2 bans on the development of modest home choices in cities near job  
3 centers, transit, and amenity-rich neighborhoods.

4 Homes developed at higher densities and gentle density housing  
5 types are more affordable by design for Washington residents both in  
6 their construction and reduced household energy and transportation  
7 costs.

8 While creating more housing options, it is essential for cities  
9 to identify areas at higher risk of displacement and establish  
10 antidisplacement policies as required in Engrossed Second Substitute  
11 House Bill No. 1220 (chapter 254, Laws of 2021).

12 The state has made historic investments in subsidized affordable  
13 housing through the housing trust fund, yet even with these historic  
14 investments, the magnitude of the housing shortage requires both  
15 public and private investment.

16 In addition to addressing the housing shortage, allowing more  
17 housing options in areas already served by urban infrastructure will  
18 reduce the pressure to develop natural and working lands, support key  
19 strategies for climate change, food security, and Puget Sound  
20 recovery, and save taxpayers and ratepayers money.

21 **Sec. 2.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to  
22 read as follows:

23 Unless the context clearly requires otherwise, the definitions in  
24 this section apply throughout this chapter.

25 (1) "Administrative design review" means a development permit  
26 process whereby an application is reviewed, approved, or denied by  
27 the planning director or the planning director's designee based  
28 solely on objective design and development standards without a public  
29 meeting or hearing, unless such review is otherwise required by state  
30 or federal law or the structure is listed on a local historic  
31 register through a local preservation ordinance.

32 (2) "Adopt a comprehensive land use plan" means to enact a new  
33 comprehensive land use plan or to update an existing comprehensive  
34 land use plan.

35 ((+2)) (3) "Affordable housing" means, unless the context  
36 clearly indicates otherwise, residential housing whose monthly costs,  
37 including utilities other than telephone, do not exceed thirty  
38 percent of the monthly income of a household whose income is:

1 (a) For rental housing, sixty percent of the median household  
2 income adjusted for household size, for the county where the  
3 household is located, as reported by the United States department of  
4 housing and urban development; or

5 (b) For owner-occupied housing, eighty percent of the median  
6 household income adjusted for household size, for the county where  
7 the household is located, as reported by the United States department  
8 of housing and urban development.

9 ~~((3))~~ (4) "Agricultural land" means land primarily devoted to  
10 the commercial production of horticultural, viticultural,  
11 floricultural, dairy, apiary, vegetable, or animal products or of  
12 berries, grain, hay, straw, turf, seed, Christmas trees not subject  
13 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish  
14 in upland hatcheries, or livestock, and that has long-term commercial  
15 significance for agricultural production.

16 ~~((4))~~ (5) "City" means any city or town, including a code city.

17 ~~((5))~~ (6) "Community amenity" means:

18 (a) A public school as defined in RCW 28A.150.010, a common  
19 school as defined in RCW 28A.150.020, or a private school approved  
20 under RCW 28A.195.010; or

21 (b) A designated entrance or pedestrian access point to a park  
22 operated by the state or a local government for the use of the  
23 general public.

24 (7) "Comprehensive land use plan," "comprehensive plan," or  
25 "plan" means a generalized coordinated land use policy statement of  
26 the governing body of a county or city that is adopted pursuant to  
27 this chapter.

28 ~~((6))~~ (8) "Cottage housing" means detached dwelling units  
29 arranged on two or more sides of a landscaped central area.

30 (9) "Courtyard apartments" means attached dwelling units arranged  
31 on two or more sides of a landscaped central courtyard.

32 (10) "Critical areas" include the following areas and ecosystems:

33 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
34 used for potable water; (c) fish and wildlife habitat conservation  
35 areas; (d) frequently flooded areas; and (e) geologically hazardous  
36 areas. "Fish and wildlife habitat conservation areas" does not  
37 include such artificial features or constructs as irrigation delivery  
38 systems, irrigation infrastructure, irrigation canals, or drainage  
39 ditches that lie within the boundaries of and are maintained by a  
40 port district or an irrigation district or company.

1           (~~(7)~~) (11) "Department" means the department of commerce.

2           (~~(8)~~) (12) "Development regulations" or "regulation" means the  
3 controls placed on development or land use activities by a county or  
4 city, including, but not limited to, zoning ordinances, critical  
5 areas ordinances, shoreline master programs, official controls,  
6 planned unit development ordinances, subdivision ordinances, and  
7 binding site plan ordinances together with any amendments thereto. A  
8 development regulation does not include a decision to approve a  
9 project permit application, as defined in RCW 36.70B.020, even though  
10 the decision may be expressed in a resolution or ordinance of the  
11 legislative body of the county or city.

12           (~~(9)~~) (13) "Emergency housing" means temporary indoor  
13 accommodations for individuals or families who are homeless or at  
14 imminent risk of becoming homeless that is intended to address the  
15 basic health, food, clothing, and personal hygiene needs of  
16 individuals or families. Emergency housing may or may not require  
17 occupants to enter into a lease or an occupancy agreement.

18           (~~(10)~~) (14) "Emergency shelter" means a facility that provides  
19 a temporary shelter for individuals or families who are currently  
20 homeless. Emergency shelter may not require occupants to enter into a  
21 lease or an occupancy agreement. Emergency shelter facilities may  
22 include day and warming centers that do not provide overnight  
23 accommodations.

24           (~~(11)~~) (15) "Extremely low-income household" means a single  
25 person, family, or unrelated persons living together whose adjusted  
26 income is at or below thirty percent of the median household income  
27 adjusted for household size, for the county where the household is  
28 located, as reported by the United States department of housing and  
29 urban development.

30           (~~(12)~~) (16) "Forestland" means land primarily devoted to  
31 growing trees for long-term commercial timber production on land that  
32 can be economically and practically managed for such production,  
33 including Christmas trees subject to the excise tax imposed under RCW  
34 84.33.100 through 84.33.140, and that has long-term commercial  
35 significance. In determining whether forestland is primarily devoted  
36 to growing trees for long-term commercial timber production on land  
37 that can be economically and practically managed for such production,  
38 the following factors shall be considered: (a) The proximity of the  
39 land to urban, suburban, and rural settlements; (b) surrounding  
40 parcel size and the compatibility and intensity of adjacent and

1 nearby land uses; (c) long-term local economic conditions that affect  
2 the ability to manage for timber production; and (d) the availability  
3 of public facilities and services conducive to conversion of  
4 forestland to other uses.

5 ~~((13))~~ (17) "Freight rail dependent uses" means buildings and  
6 other infrastructure that are used in the fabrication, processing,  
7 storage, and transport of goods where the use is dependent on and  
8 makes use of an adjacent short line railroad. Such facilities are  
9 both urban and rural development for purposes of this chapter.  
10 "Freight rail dependent uses" does not include buildings and other  
11 infrastructure that are used in the fabrication, processing, storage,  
12 and transport of coal, liquefied natural gas, or "crude oil" as  
13 defined in RCW 90.56.010.

14 ~~((14))~~ (18) "Geologically hazardous areas" means areas that  
15 because of their susceptibility to erosion, sliding, earthquake, or  
16 other geological events, are not suited to the siting of commercial,  
17 residential, or industrial development consistent with public health  
18 or safety concerns.

19 ~~((15))~~ (19) "Long-term commercial significance" includes the  
20 growing capacity, productivity, and soil composition of the land for  
21 long-term commercial production, in consideration with the land's  
22 proximity to population areas, and the possibility of more intense  
23 uses of the land.

24 ~~((16))~~ (20) "Low-income household" means a single person,  
25 family, or unrelated persons living together whose adjusted income is  
26 at or below eighty percent of the median household income adjusted  
27 for household size, for the county where the household is located, as  
28 reported by the United States department of housing and urban  
29 development.

30 ~~((17))~~ (21)(a) "Major transit stop," except as provided in (b)  
31 of this subsection, means:

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

34 (ii) Commuter rail stops;

35 (iii) Stops on rail or fixed guideway systems, including  
36 transitways; or

37 (iv) Stops on bus rapid transit routes.

38 (b) Alternatively, a definition of "major transit stop" adopted  
39 before the effective date of this section by a regional agency  
40 planning under the multicounty planning policies authority pursuant

1 to RCW 36.70A.210(7) shall apply to counties and cities which are  
2 subject to those multicounty planning policies.

3 (22) "Middle housing" means buildings that are compatible in  
4 scale, form, and character with single-family houses and contain two  
5 or more attached, stacked, or clustered homes including duplexes,  
6 triplexes, fourplexes, fiveplexes, sixplexes, townhouses, courtyard  
7 apartments, and cottage housing.

8 (23) "Minerals" include gravel, sand, and valuable metallic  
9 substances.

10 ~~((18))~~ (24) "Moderate-income household" means a single person,  
11 family, or unrelated persons living together whose adjusted income is  
12 at or below 120 percent of the median household income adjusted for  
13 household size, for the county where the household is located, as  
14 reported by the United States department of housing and urban  
15 development.

16 ~~((19))~~ (25) "Permanent supportive housing" is subsidized,  
17 leased housing with no limit on length of stay that prioritizes  
18 people who need comprehensive support services to retain tenancy and  
19 utilizes admissions practices designed to use lower barriers to entry  
20 than would be typical for other subsidized or unsubsidized rental  
21 housing, especially related to rental history, criminal history, and  
22 personal behaviors. Permanent supportive housing is paired with on-  
23 site or off-site voluntary services designed to support a person  
24 living with a complex and disabling behavioral health or physical  
25 health condition who was experiencing homelessness or was at imminent  
26 risk of homelessness prior to moving into housing to retain their  
27 housing and be a successful tenant in a housing arrangement, improve  
28 the resident's health status, and connect the resident of the housing  
29 with community-based health care, treatment, or employment services.  
30 Permanent supportive housing is subject to all of the rights and  
31 responsibilities defined in chapter 59.18 RCW.

32 ~~((20))~~ (26) "Public facilities" include streets, roads,  
33 highways, sidewalks, street and road lighting systems, traffic  
34 signals, domestic water systems, storm and sanitary sewer systems,  
35 parks and recreational facilities, and schools.

36 ~~((21))~~ (27) "Public services" include fire protection and  
37 suppression, law enforcement, public health, education, recreation,  
38 environmental protection, and other governmental services.

39 ~~((22))~~ (28) "Recreational land" means land so designated under  
40 RCW 36.70A.1701 and that, immediately prior to this designation, was

1 designated as agricultural land of long-term commercial significance  
2 under RCW 36.70A.170. Recreational land must have playing fields and  
3 supporting facilities existing before July 1, 2004, for sports played  
4 on grass playing fields.

5 ~~((23))~~ (29) "Rural character" refers to the patterns of land  
6 use and development established by a county in the rural element of  
7 its comprehensive plan:

8 (a) In which open space, the natural landscape, and vegetation  
9 predominate over the built environment;

10 (b) That foster traditional rural lifestyles, rural-based  
11 economies, and opportunities to both live and work in rural areas;

12 (c) That provide visual landscapes that are traditionally found  
13 in rural areas and communities;

14 (d) That are compatible with the use of the land by wildlife and  
15 for fish and wildlife habitat;

16 (e) That reduce the inappropriate conversion of undeveloped land  
17 into sprawling, low-density development;

18 (f) That generally do not require the extension of urban  
19 governmental services; and

20 (g) That are consistent with the protection of natural surface  
21 water flows and groundwater and surface water recharge and discharge  
22 areas.

23 ~~((24))~~ (30) "Rural development" refers to development outside  
24 the urban growth area and outside agricultural, forest, and mineral  
25 resource lands designated pursuant to RCW 36.70A.170. Rural  
26 development can consist of a variety of uses and residential  
27 densities, including clustered residential development, at levels  
28 that are consistent with the preservation of rural character and the  
29 requirements of the rural element. Rural development does not refer  
30 to agriculture or forestry activities that may be conducted in rural  
31 areas.

32 ~~((25))~~ (31) "Rural governmental services" or "rural services"  
33 include those public services and public facilities historically and  
34 typically delivered at an intensity usually found in rural areas, and  
35 may include domestic water systems~~((7))~~ and fire and police  
36 protection services~~(, transportation and public transit services,~~  
37 ~~and other public utilities))~~ associated with rural development and  
38 normally not associated with urban areas. Rural services do not  
39 include storm or sanitary sewers, except as otherwise authorized by  
40 RCW 36.70A.110(4).

1        ~~((26))~~ (32) "Short line railroad" means those railroad lines  
2 designated class II or class III by the United States surface  
3 transportation board.

4        ~~((27))~~ (33) "Townhouses" means dwelling units constructed in a  
5 row of two or more attached units where each dwelling unit shares at  
6 least one common wall with an adjacent unit and is accessed by a  
7 separate outdoor entrance.

8        (34) "Urban governmental services" or "urban services" include  
9 those public services and public facilities at an intensity  
10 historically and typically provided in cities, specifically including  
11 storm and sanitary sewer systems, domestic water systems, street  
12 cleaning services, fire and police protection services, public  
13 transit services, and other public utilities associated with urban  
14 areas and normally not associated with rural areas.

15        ~~((28))~~ (35) "Urban growth" refers to growth that makes  
16 intensive use of land for the location of buildings, structures, and  
17 impermeable surfaces to such a degree as to be incompatible with the  
18 primary use of land for the production of food, other agricultural  
19 products, or fiber, or the extraction of mineral resources, rural  
20 uses, rural development, and natural resource lands designated  
21 pursuant to RCW 36.70A.170. A pattern of more intensive rural  
22 development, as provided in RCW 36.70A.070(5)(d), is not urban  
23 growth. When allowed to spread over wide areas, urban growth  
24 typically requires urban governmental services. "Characterized by  
25 urban growth" refers to land having urban growth located on it, or to  
26 land located in relationship to an area with urban growth on it as to  
27 be appropriate for urban growth.

28        ~~((29))~~ (36) "Urban growth areas" means those areas designated  
29 by a county pursuant to RCW 36.70A.110.

30        ~~((30))~~ (37) "Very low-income household" means a single person,  
31 family, or unrelated persons living together whose adjusted income is  
32 at or below fifty percent of the median household income adjusted for  
33 household size, for the county where the household is located, as  
34 reported by the United States department of housing and urban  
35 development.

36        ~~((31))~~ (38) "Wetland" or "wetlands" means areas that are  
37 inundated or saturated by surface water or groundwater at a frequency  
38 and duration sufficient to support, and that under normal  
39 circumstances do support, a prevalence of vegetation typically  
40 adapted for life in saturated soil conditions. Wetlands generally



1 include swamps, marshes, bogs, and similar areas. Wetlands do not  
2 include those artificial wetlands intentionally created from  
3 nonwetland sites, including, but not limited to, irrigation and  
4 drainage ditches, grass-lined swales, canals, detention facilities,  
5 wastewater treatment facilities, farm ponds, and landscape amenities,  
6 or those wetlands created after July 1, 1990, that were  
7 unintentionally created as a result of the construction of a road,  
8 street, or highway. Wetlands may include those artificial wetlands  
9 intentionally created from nonwetland areas created to mitigate  
10 conversion of wetlands.

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

13 (1) Any city that is required or chooses to plan under RCW  
14 36.70A.040 must provide by ordinance and incorporate into its  
15 development regulations, zoning regulations, and other official  
16 controls, authorization for the following:

17 (a) For cities with a population of at least 25,000 but less than  
18 75,000 based on office of financial management population estimates:

19 (i) The development of at least two units per lot on all lots  
20 zoned predominantly for residential use;

21 (ii) The development of at least four units per lot on all lots  
22 zoned predominantly for residential use within one-half mile walking  
23 distance of a major transit stop or community amenity; and

24 (iii) The development of at least four units per lot on all lots  
25 zoned predominantly for residential use if at least one unit is  
26 affordable housing.

27 (b) For cities with a population of at least 75,000, or any city  
28 within a contiguous urban growth area with a city with a population  
29 above 200,000, based on office of financial management population  
30 estimates:

31 (i) The development of at least four units per lot on all lots  
32 zoned predominantly for residential use;

33 (ii) The development of at least six units per lot on all lots  
34 zoned predominantly for residential use within one-half mile walking  
35 distance of a major transit stop or community amenity; and

36 (iii) The development of at least six units per lot on all lots  
37 zoned predominantly for residential use if at least two units are  
38 affordable housing.

1           (2) To qualify for the additional units allowed under subsection  
2 (1) of this section, the applicant must commit to renting or selling  
3 the required number of units as affordable housing. The units must be  
4 maintained as affordable for a term of at least 50 years, and the  
5 property must satisfy that commitment and all required affordability  
6 and income eligibility conditions adopted by the local government  
7 under this chapter. The square footage of the units dedicated as  
8 affordable must be equal to the average square footage of the market  
9 rate units on the same lot. A city must require the applicant to  
10 record a covenant or deed restriction that ensures the continuing  
11 rental of units subject to these affordability requirements  
12 consistent with the conditions in chapter 84.14 RCW for a period of  
13 no less than 50 years. The covenant or deed restriction must also  
14 address criteria and policies to maintain public benefit if the  
15 property is converted to a use other than which continues to provide  
16 for permanently affordable low-income housing.

17           (3) Any combination of middle housing types must be allowed to  
18 achieve the unit density required in subsection (1) of this section.

19           (4) Any city subject to the requirements of this section:

20           (a) May only adopt objective development and design standards on  
21 the development of middle housing;

22           (b) May only apply administrative design review;

23           (c) Except as provided in (a) of this subsection, shall not  
24 require through development regulations any standards for middle  
25 housing that are more restrictive than those required for detached  
26 single-family residences;

27           (d) Shall apply to middle housing the same development permit and  
28 environmental review processes that apply to detached single-family  
29 residences, unless otherwise required by state law including, but not  
30 limited to, shoreline regulations under chapter 90.58 RCW, building  
31 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,  
32 or electrical codes under chapter 19.28 RCW;

33           (e) Shall not require off-street parking as a condition of  
34 permitting development of middle housing within one-half mile walking  
35 distance of a major transit stop;

36           (f) Shall not require more than one off-street parking space per  
37 unit as a condition of permitting development of middle housing on  
38 lots smaller than 6,000 square feet; and

1 (g) Shall not require more than two off-street parking spaces per  
2 unit as a condition of permitting development of middle housing on  
3 lots greater than 6,000 square feet.

4 (5) The provisions of subsection (4)(e) through (g) of this  
5 section do not apply if the city or county makes a determination,  
6 supported by empirical evidence and best practices in a study that is  
7 prepared by a credentialed transportation or land use planning  
8 expert, that the lack of minimum parking requirements in a defined  
9 area would make on-street parking infeasible or unsafe for the  
10 authorized units. The department must develop guidance to assist  
11 cities on items to include in the study.

12 (6) The provisions of this section do not apply to lots  
13 designated with critical areas or their buffers as designated in RCW  
14 36.70A.060.

15 (7) Nothing in this section prohibits a city from permitting  
16 detached single-family residences.

17 (8) A city must comply with the requirements of this section on  
18 the latter of:

19 (a) Six months after its next periodic comprehensive plan update  
20 required under RCW 36.70A.130; or

21 (b) 12 months after a determination by the office of financial  
22 management that the city has reached a population threshold  
23 established under this section.

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

26 Population associated with permits for middle housing units are  
27 exempt from the threshold of an office of financial management  
28 population projection to a county or a county population allocation  
29 to a city.

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

32 (1)(a) The department is directed to provide technical assistance  
33 to cities as they implement the requirements under section 3 of this  
34 act.

35 (b) The department shall prioritize such technical assistance to  
36 cities demonstrating the greatest need.

1 (2) (a) The department shall publish model middle housing  
2 ordinances no later than six months following the effective date of  
3 this section.

4 (b) In any city subject to section 3 of this act that has not  
5 passed ordinances, regulations, or other official controls within the  
6 time frames provided under section 3(8) of this act, the model  
7 ordinance supersedes, preempts, and invalidates local development  
8 regulations until the city takes all actions necessary to implement  
9 section 3 of this act.

10 (3) (a) The department is directed to establish a process by which  
11 cities implementing the requirements of section 3 of this act may  
12 seek approval of alternative local action necessary to meet the  
13 requirements of this act.

14 (b) The department may approve actions for cities that have, by  
15 the effective date of this section, adopted a comprehensive plan and  
16 development regulations that are substantially similar to the  
17 requirements of this act. In determining whether a city's adopted  
18 comprehensive plan and permanent development regulations are  
19 substantially similar, the department must view favorably plans and  
20 regulations that authorize an overall increase in density throughout  
21 the city in units allowed per single-family lot that is at least 75  
22 percent of the overall single-family density throughout the city in  
23 units allowed per lot, if the specific provisions of this act were  
24 adopted.

25 (c) Any local actions approved by the department pursuant to (a)  
26 of this subsection to implement the requirements under section 3 of  
27 this act are exempt from appeals under this chapter and chapter  
28 43.21C RCW.

29 (d) The department's final decision to approve or reject actions  
30 by cities implementing section 3 of this act may be appealed to the  
31 growth management hearings board by filing a petition as provided in  
32 RCW 36.70A.290.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A  
34 RCW to read as follows:

35 Any city subject to the requirements of section 3 of this act may  
36 apply to the department for, and the department may certify, an  
37 extension for areas at risk of displacement as determined by the  
38 antidisplacement analysis that a jurisdiction is required to complete  
39 under RCW 36.70A.070(2). The city must create a plan for implementing

1 antidisplacement policies by their next implementation progress  
2 report required by RCW 36.70A.130(9).

3 **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to  
4 read as follows:

5 (1) The growth management hearings board shall hear and determine  
6 only those petitions alleging either:

7 (a) That, except as provided otherwise by this subsection, a  
8 state agency, county, or city planning under this chapter is not in  
9 compliance with the requirements of this chapter, chapter 90.58 RCW  
10 as it relates to the adoption of shoreline master programs or  
11 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
12 development regulations, or amendments, adopted under RCW 36.70A.040  
13 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
14 to hear petitions alleging noncompliance with RCW 36.70A.5801;

15 (b) That the twenty-year growth management planning population  
16 projections adopted by the office of financial management pursuant to  
17 RCW 43.62.035 should be adjusted;

18 (c) That the approval of a work plan adopted under RCW  
19 36.70A.735(1)(a) is not in compliance with the requirements of the  
20 program established under RCW 36.70A.710;

21 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not  
22 regionally applicable and cannot be adopted, wholly or partially, by  
23 another jurisdiction; ((~~or~~))

24 (e) That a department certification under RCW 36.70A.735(1)(c) is  
25 erroneous; or

26 (f) That the department's final decision to approve or reject  
27 actions by a city implementing section 3 of this act is erroneous.

28 (2) A petition may be filed only by: (a) The state, or a county  
29 or city that plans under this chapter; (b) a person who has  
30 participated orally or in writing before the county or city regarding  
31 the matter on which a review is being requested; (c) a person who is  
32 certified by the governor within sixty days of filing the request  
33 with the board; or (d) a person qualified pursuant to RCW 34.05.530.

34 (3) For purposes of this section "person" means any individual,  
35 partnership, corporation, association, state agency, governmental  
36 subdivision or unit thereof, or public or private organization or  
37 entity of any character.

38 (4) To establish participation standing under subsection (2)(b)  
39 of this section, a person must show that his or her participation

1 before the county or city was reasonably related to the person's  
2 issue as presented to the board.

3 (5) When considering a possible adjustment to a growth management  
4 planning population projection prepared by the office of financial  
5 management, the board shall consider the implications of any such  
6 adjustment to the population forecast for the entire state.

7 The rationale for any adjustment that is adopted by the board  
8 must be documented and filed with the office of financial management  
9 within ten working days after adoption.

10 If adjusted by the board, a county growth management planning  
11 population projection shall only be used for the planning purposes  
12 set forth in this chapter and shall be known as the "board adjusted  
13 population projection." None of these changes shall affect the  
14 official state and county population forecasts prepared by the office  
15 of financial management, which shall continue to be used for state  
16 budget and planning purposes.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A  
18 RCW to read as follows:

19 (1) Any city subject to the requirements under section 3 of this  
20 act may apply to the department for, and the department may certify,  
21 an extension of the implementation timelines established under  
22 section 3(8) of this act.

23 (2) An extension certified under this section may be applied only  
24 to specific areas where a city can demonstrate that water, sewer, or  
25 stormwater services lack capacity to accommodate the density required  
26 in section 3 of this act, and the city has:

27 (a) Included an improvement within its capital facilities plan to  
28 increase capacity; or

29 (b) Identified which special district is responsible for  
30 providing the necessary infrastructure, if the infrastructure is  
31 provided by a special purpose district.

32 (3) An extension granted under this section remains in effect  
33 until the earliest of:

34 (a) The infrastructure is improved to accommodate the capacity;

35 (b) The city completes its next periodic comprehensive plan  
36 update under RCW 36.70A.130; or

37 (c) The city submits its implementation progress report to the  
38 department as required under RCW 36.70A.130(9).

1 (4) A city that has received an extension under this section may  
2 reapply for any needed extension with its next periodic comprehensive  
3 plan update under RCW 36.70A.130 or its implementation progress  
4 report to the department under RCW 36.70A.130(9). The application for  
5 an additional extension must include a list of infrastructure  
6 improvements necessary to meet the capacity required in section 3 of  
7 this act.

8 (5) The department may establish by rule any standards or  
9 procedures necessary to implement this section.

10 (6) The department must provide the legislature with a list of  
11 projects identified in a city's capital facilities plan that were the  
12 basis for the extension under this section, including planning level  
13 estimates. Additionally, the city must contact special purpose  
14 districts to identify additional projects associated with extensions  
15 under this section.

16 (7) A city granted an extension for a specific area must allow  
17 development as provided under section 3 of this act if the developer  
18 commits to providing the necessary water, sewer, or stormwater  
19 infrastructure.

20 **Sec. 9.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to  
21 read as follows:

22 (1) Adoption of ordinances, development regulations and  
23 amendments to such regulations, and other nonproject actions taken by  
24 a city to implement: The actions specified in section 2, chapter 246,  
25 Laws of 2022 unless the adoption of such ordinances, development  
26 regulations and amendments to such regulations, or other nonproject  
27 actions has a probable significant adverse impact on fish habitat;  
28 and the increased residential building capacity actions identified in  
29 RCW 36.70A.600(1), with the exception of the action specified in RCW  
30 36.70A.600(1)(f), are not subject to administrative or judicial  
31 appeals under this chapter.

32 (2) Amendments to development regulations and other nonproject  
33 actions taken by a city to implement the requirements under section 3  
34 of this act pursuant to section 5(3)(b) of this act are not subject  
35 to administrative or judicial appeals under this chapter.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A  
37 RCW to read as follows:

1 A city that adopts development regulations that are consistent  
2 with and implement this act and RCW 35A.21.430 or 35.21.683 shall be  
3 deemed in compliance with the requirements of RCW 36.70A.070(2)(d)  
4 until June 30, 2032.

5 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.34  
6 RCW to read as follows:

7 A declaration created after the effective date of this section  
8 and applicable to an area within a city subject to the middle housing  
9 requirements in section 3 of this act may not actively or effectively  
10 prohibit the construction, development, or use of additional housing  
11 units as required in section 3 of this act.

12 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.32  
13 RCW to read as follows:

14 A declaration created after the effective date of this section  
15 and applicable to an association of apartment owners located within  
16 an area of a city subject to the middle housing requirements in  
17 section 3 of this act may not actively or effectively prohibit the  
18 construction, development, or use of additional housing units as  
19 required in section 3 of this act.

20 NEW SECTION. **Sec. 13.** A new section is added to chapter 64.38  
21 RCW to read as follows:

22 Governing documents of associations within cities subject to the  
23 middle housing requirements in section 3 of this act that are created  
24 after the effective date of this section may not actively or  
25 effectively prohibit the construction, development, or use of  
26 additional housing units as required in section 3 of this act.

27 NEW SECTION. **Sec. 14.** A new section is added to chapter 64.90  
28 RCW to read as follows:

29 Declarations and governing documents of a common interest  
30 community within cities subject to the middle housing requirements in  
31 section 3 of this act that are created after the effective date of  
32 this section may not actively or effectively prohibit the  
33 construction, development, or use of additional housing units as  
34 required in section 3 of this act.

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