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**SENATE BILL 5612**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Salomon and Lias

1 AN ACT Relating to a categorical exemption for multiunit housing  
2 development within the incorporated areas in an urban growth area  
3 under the state environmental policy act; and amending RCW  
4 43.21C.229.

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

6 **Sec. 1.** RCW 43.21C.229 and 2023 c 368 s 1 are each amended to  
7 read as follows:

8 (1) The purpose of this section is to accommodate infill and  
9 housing development and thereby realize the goals and policies of  
10 comprehensive plans adopted according to chapter 36.70A RCW.

11 (2) A city or county planning under RCW 36.70A.040 is authorized  
12 by this section to establish categorical exemptions from the  
13 requirements of this chapter. An exemption may be adopted by a city  
14 or county under this subsection if it meets the following criteria:

15 (a) It categorically exempts government action related to  
16 development proposed to fill in an urban growth area, designated  
17 according to RCW 36.70A.110, where current density and intensity of  
18 use in the area is roughly equal to or lower than called for in the  
19 goals and policies of the applicable comprehensive plan and the  
20 development is either:

21 (i) Residential development;

1 (ii) Mixed-use development; or

2 (iii) Commercial development up to 65,000 square feet, excluding  
3 retail development;

4 (b) It does not exempt government action related to development  
5 that is inconsistent with the applicable comprehensive plan or would  
6 clearly exceed the density or intensity of use called for in the  
7 goals and policies of the applicable comprehensive plan;

8 (c) The local government considers the specific probable adverse  
9 environmental impacts of the proposed action and determines that  
10 these specific impacts are adequately addressed by the development  
11 regulations or other applicable requirements of the comprehensive  
12 plan, subarea plan element of the comprehensive plan, planned action  
13 ordinance, or other local, state, or federal rules or laws; and

14 (d) (i) The city or county's applicable comprehensive plan was  
15 previously subjected to environmental analysis through an  
16 environmental impact statement under the requirements of this chapter  
17 prior to adoption; or

18 (ii) The city or county has prepared an environmental impact  
19 statement that considers the proposed use or density and intensity of  
20 use in the area proposed for an exemption under this section.

21 (3) All project actions that propose to develop one or more  
22 residential housing units within the incorporated areas in an urban  
23 growth area designated pursuant to RCW 36.70A.110 or middle housing  
24 within the unincorporated areas in an urban growth area designated  
25 pursuant to RCW 36.70A.110, and that meet the criteria identified in  
26 (a) and (b) of this subsection, are categorically exempt from the  
27 requirements of this chapter. For purposes of this section, "middle  
28 housing" has the same meaning as in RCW 36.70A.030 as amended by  
29 chapter 332, Laws of 2023. Jurisdictions shall satisfy the following  
30 criteria prior to the adoption of the categorical exemption under  
31 this subsection (3):

32 (a) The city or county shall find that the proposed development  
33 is consistent with all development regulations implementing an  
34 applicable comprehensive plan adopted according to chapter 36.70A RCW  
35 by the jurisdiction in which the development is proposed, with the  
36 exception of any development regulation that is inconsistent with  
37 applicable provisions of chapter 36.70A RCW; and

38 (b) The city or county has prepared environmental analysis that  
39 considers the proposed use or density and intensity of use in the  
40 area proposed for an exemption under this section and analyzes

1 multimodal transportation impacts, including impacts to neighboring  
2 jurisdictions, transit facilities, and the state transportation  
3 system.

4 (i) Such environmental analysis shall include documentation that  
5 the requirements for environmental analysis, protection, and  
6 mitigation for impacts to elements of the environment have been  
7 adequately addressed for the development exempted. The requirements  
8 may be addressed in locally adopted comprehensive plans, subarea  
9 plans, adopted development regulations, other applicable local  
10 ordinances and regulations, or applicable state and federal  
11 regulations. The city or county must document its consultation with  
12 the department of transportation on impacts to state-owned  
13 transportation facilities including consideration of whether  
14 mitigation is necessary for impacts to transportation facilities.

15 (ii) Before finalizing the environmental analysis pursuant to  
16 (b)(i) of this subsection (3), the city or county shall provide a  
17 minimum of 60 days' notice to affected tribes, relevant state  
18 agencies, other jurisdictions that may be impacted, and the public.  
19 If a city or county identifies that mitigation measures are necessary  
20 to address specific probable adverse impacts, the city or county must  
21 address those impacts by requiring mitigation identified in the  
22 environmental analysis pursuant to this subsection (3)(b) through  
23 locally adopted comprehensive plans, subarea plans, development  
24 regulations, or other applicable local ordinances and regulations.  
25 Mitigation measures shall be detailed in an associated environmental  
26 determination.

27 (iii) The categorical exemption is effective 30 days following  
28 action by a city or county pursuant to (b)(ii) of this subsection  
29 (3).

30 (4) (a) Until September 30, ~~((2025))~~ 2028, all project actions  
31 that propose to develop ~~((one))~~ two or more residential housing or  
32 middle housing units within a city west of the crest of the Cascade  
33 mountains with a population of 700,000 or more are categorically  
34 exempt from the requirements of this chapter. After September 30,  
35 ~~((2025))~~ 2028, project actions ~~((that propose to develop one or more  
36 residential housing or middle housing units within the city))~~ may  
37 utilize the categorical exemption in subsection (3) of this section.

38 (b) Until September 30, 2027, all project actions that propose to  
39 develop four or more attached residential housing or middle housing  
40 units within the incorporated areas in an urban growth area

1 designated pursuant to RCW 36.70A.110 are categorically exempt from  
2 the requirements of this chapter. After September 30, 2027, such  
3 project actions may utilize the categorical exemption in subsection  
4 (3) of this section.

5 (c) In no event may the exemption provided by this subsection (4)  
6 be construed to waive or preempt any other duly enacted state or  
7 local development regulations, including without limitation any  
8 development regulations related to zoning, protection of critical  
9 areas or shorelines, protection of cultural resources, endangered  
10 species, trees, agricultural or industrial lands, urban separators,  
11 utilities or transportation access, or other development standards.

12 (d) A city or county must notify any federally recognized tribe  
13 that may be impacted by a project action exempt under this subsection  
14 (4).

15 (5) Any categorical exemption adopted by a city or county under  
16 this section applies even if it differs from the categorical  
17 exemptions adopted by rule of the department under RCW  
18 43.21C.110(1)(a). Nothing in this section shall invalidate  
19 categorical exemptions or environmental review procedures adopted by  
20 a city or county under a planned action pursuant to RCW 43.21C.440.  
21 However, any categorical exemption adopted by a city or county under  
22 this section shall be subject to the rules of the department adopted  
23 according to RCW 43.21C.110(1)(a) that provide exceptions to the use  
24 of categorical exemptions adopted by the department.

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