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**SECOND SUBSTITUTE HOUSE BILL 1167**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Duerr, Low, Walen, Reed, Bateman, Ramel, Fitzgibbon, Taylor, Macri, Gregerson, Wylie, Pollet, Kloba, and Tharinger)

1 AN ACT Relating to residential housing regulations; amending RCW  
2 43.21C.229; adding new sections to chapter 36.70A RCW; adding a new  
3 section to chapter 19.27 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A  
6 RCW to read as follows:

7 (1) The department shall develop and administer a grant program  
8 to provide direct financial assistance to counties and cities for the  
9 adoption of preapproved accessory dwelling unit plans.

10 (2) When a preapproved plan is submitted to a county or city  
11 during the process of seeking permit approval for the development of  
12 an accessory dwelling unit, the county's or city's review of the  
13 preapproved plan may not be more than administrative.

14 (3) For the purpose of this section, "preapproved accessory  
15 dwelling unit plans" means a selection of architectural plans for  
16 accessory dwelling units that have been reviewed by county or city  
17 code officials and approved for compliance with applicable building  
18 codes within the county or city.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.27  
20 RCW to read as follows:

1 (1) (a) The state building code council shall convene a work group  
2 for the purpose of simplifying the production of middle housing by  
3 recommending a mechanism in the international residential code that  
4 adopts by reference the provisions for multiplex housing in the  
5 international building code. The mechanism must include those  
6 sections from the international building code necessary to ensure  
7 public health, safety, and general welfare in multiplex housing, and  
8 may not reduce any requirements for multiplex housing contained in  
9 the international building code.

10 (b) The work group shall provide its recommendations to the  
11 council in time for the council to adopt or amend rules or codes as  
12 necessary for implementation in the 2024 international residential  
13 code. The council shall take action to adopt additions and amendments  
14 to rules or codes as necessary to apply the new reference mechanism  
15 in the international residential code to multiplex housing by July 1,  
16 2026.

17 (c) For purposes of this subsection, "multiplex housing" means a  
18 building with at least three but no more than six dwelling units in a  
19 single structure with common walls and floors and a functional  
20 primary street entrance, with no more than three stories above grade  
21 plane.

22 (2) (a) The state building code council shall convene a work group  
23 for the purpose of recommending modifications and limitations to the  
24 international building code that would allow a single exit stairway  
25 to serve multifamily residential structures up to six stories above  
26 grade plane. The recommendations must include considerations for  
27 water supply, the presence of a professional fire department, and any  
28 other provisions necessary to ensure public health, safety, and  
29 general welfare.

30 (b) The work group shall provide its recommendations to the  
31 council in time for the council to adopt or amend rules or codes as  
32 necessary for implementation in the 2024 international building code.  
33 The council shall take action to adopt additions and amendments to  
34 rules or codes as necessary by July 1, 2026.

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

37 (1) Counties planning under RCW 36.70A.040 and cities within such  
38 counties must adopt or amend by ordinance and incorporate into their  
39 development regulations, zoning regulations, and other official

1 controls the requirements of subsection (3) of this section, to take  
2 effect six months after the jurisdiction's next periodic  
3 comprehensive plan update required under RCW 36.70A.130, within urban  
4 growth areas designated according to RCW 36.70A.110.

5 (2) Beginning July 1, 2025, the requirements of subsection (3) of  
6 this section:

7 (a) Apply and take effect in any city or county that has not  
8 adopted or amended ordinances, regulations, or other official  
9 controls as required under this section; and

10 (b) Supersede, preempt, and invalidate any local development  
11 regulations that conflict with this section.

12 (3)(a) Within residential zones that allow for middle housing,  
13 counties and cities may not impose or require zoning, development,  
14 siting, or other standards for middle housing that are more  
15 restrictive than those required for detached single-family  
16 residences, unless otherwise required by state law including, but not  
17 limited to, shoreline regulations under chapter 90.58 RCW, building  
18 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,  
19 electrical codes under chapter 19.28 RCW, or critical areas  
20 protection.

21 (b) Within one-quarter mile of a community core location, cities  
22 and counties may not mandate setbacks or development regulations for  
23 middle housing that would prohibit the development from achieving the  
24 underlying zoning or density allowed, except for building codes,  
25 health and safety requirements, and public utility access and utility  
26 meter access requirements.

27 (4) Beginning July 1, 2026, cities may not require more than a  
28 single stairway in residential buildings of six or fewer stories if  
29 the conditions in the international building code are met.

30 (5) For the purposes of this section:

31 (a) "Community core location" 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;

37 (iv) Stops on bus rapid transit routes;

38 (v) A stop designated as a "major transit stop" prior to the  
39 effective date of this section by a regional agency planning under  
40 the multicounty planning policies authority of RCW 36.70A.210(7);

1 (vi) Public schools as defined in RCW 28A.150.010, common schools  
2 as defined in RCW 28A.150.020, and private schools approved under RCW  
3 28A.195.010; or

4 (vii) Public parks operated by the state or by a local government  
5 for the use of the general public.

6 (b) "Cottage housing" means residential units on a lot with a  
7 common open space that either: (i) Is owned in common; or (ii) has  
8 units owned as condominium units with property owned in common and a  
9 minimum of 20 percent of the lot size as open space.

10 (c) "Courtyard apartments" means up to four attached dwelling  
11 units arranged on two or three sides of a yard or court.

12 (d) "Middle housing" means buildings that are compatible in  
13 scale, form, and character with single-family homes and contain two  
14 or more attached, stacked, or clustered homes, duplexes, triplexes,  
15 fourplexes, fiveplexes, sixplexes, cottage housing, stacked flats,  
16 townhouses, or courtyard apartments.

17 (e) "Stacked flat" means dwelling units in a residential building  
18 of no more than three stories on a residential zoned lot in which  
19 each floor may be separately rented or owned.

20 (f) "Townhouses" means buildings that contain three or more  
21 attached single-family dwelling units that extend from foundation to  
22 roof and that have a yard or public way on not less than two sides.

23 **Sec. 4.** RCW 43.21C.229 and 2020 c 87 s 1 are each amended to  
24 read as follows:

25 (1) In order to accommodate infill development and thereby  
26 realize the goals and policies of comprehensive plans adopted  
27 according to chapter 36.70A RCW, a city or county planning under RCW  
28 36.70A.040 is authorized by this section to establish categorical  
29 exemptions from the requirements of this chapter. An exemption  
30 adopted under this section applies even if it differs from the  
31 categorical exemptions adopted by rule of the department under RCW  
32 43.21C.110(1)(a). An exemption may be adopted by a city or county  
33 under this section if it meets the following criteria:

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

1 (i) Residential development;  
2 (ii) Mixed-use development; or  
3 (iii) Commercial development up to sixty-five thousand square  
4 feet, excluding retail development;

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

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

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

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

22 (2) Any categorical exemption adopted by a city or county under  
23 this section shall be subject to the rules of the department adopted  
24 according to RCW 43.21C.110(1)(a) that provide exceptions to the use  
25 of categorical exemptions adopted by the department.

26 (3) In addition to the exemption allowed in subsection (1)(a) of  
27 this section, government action related to residential development  
28 proposed to fill in an urban growth area designated according to RCW  
29 36.70A.110 are categorically exempt from the requirements of this  
30 chapter within one-quarter mile of a community core location as  
31 defined in section 3 of this act.

32 NEW SECTION. **Sec. 5.** The office of regulatory innovation and  
33 assistance shall contract with a qualified external consultant or  
34 entity to develop a standard plan set demonstrating a prescriptive  
35 compliance pathway that will meet or exceed all energy code  
36 regulations for residential housing in the state subject to the  
37 international residential code. The standard plan set may be used,  
38 but is not required, by local governments and building industries. In  
39 developing the standard plan set, the consultant shall, at a minimum,

1 seek feedback from cities, counties, building industries, and  
2 building officials. The standard plan set must be completed by June  
3 30, 2024.

4 NEW SECTION. **Sec. 6.** If specific funding for the purposes of  
5 this act, referencing this act by bill or chapter number, is not  
6 provided by June 30, 2023, in the omnibus appropriations act, this  
7 act is null and void.

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