
SUBSTITUTE HOUSE BILL 1624

State of Washington

62nd Legislature

2011 Regular Session

By House Community Development & Housing (originally sponsored by Representatives Ormsby, Kenney, Dunshee, Upthegrove, Cody, Fitzgibbon, Roberts, and Billig)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to promoting residential infrastructure development
2 in urban growth areas; and adding a new chapter to Title 43 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature recognizes that one goal of
5 the growth management act is to encourage development in urban areas
6 where adequate public facilities and services exist or can be provided
7 in an efficient manner.

8 A second goal of the growth management act is to encourage the
9 availability of affordable housing to all economic segments of the
10 population, to promote a variety of residential densities and housing
11 types, and to encourage the preservation of existing housing stock.

12 The legislature recognizes also that these goals can be promoted
13 through efforts to thoughtfully and efficiently foster residential
14 infrastructure development in urban growth areas, the locally
15 designated population and activity centers to which local governments
16 are encouraged to direct growth. The legislature, therefore, intends
17 to establish new policies for promoting residential infrastructure in
18 urban growth areas designated under the growth management act.

1 NEW SECTION. **Sec. 2.** (1) "Affordable residential development"

2 means:

3 (a) For ownership housing, sales price affordable to a household up
4 to one hundred twenty percent of median income adjusted by the
5 household size presumed to occupy the unit based on the number of
6 bedrooms, using conventional or federal housing administration lending
7 standards, and taking into account mortgage principal and interest,
8 property taxes, homeowner's insurance, and condominium dues, if
9 applicable.

10 (b) For rental housing, housing costs, including rent and basic
11 utilities, do not exceed thirty percent of eighty percent of median
12 income for the average size household presumed to occupy the unit based
13 on the number of bedrooms using United States department of housing and
14 urban development guidelines.

15 (2) "Comparable replacement housing" means any dwelling that is (a)
16 decent, safe, and sanitary; (b) adequate in size to accommodate the
17 occupants; (c) within the financial means of the displaced person; (d)
18 functionally equivalent; (e) in an area not subject to unreasonably
19 adverse environmental conditions; and (f) in a location generally not
20 less desirable than the location of the displaced person's dwelling
21 with respect to public utilities, facilities, services, and the
22 displaced person's place of employment.

23 (3) "Consumer price index" means, for any calendar year, that
24 year's annual average consumer price index, for Washington state, for
25 wage earners and clerical workers, all items, compiled by the bureau of
26 labor and statistics, United States department of labor.

27 (4) "Dense" means the same as transit-supportive density.

28 (5) "Department" means the department of commerce.

29 (6) "Director" means the director of the department of commerce.

30 (7) "Eligible jurisdiction" means a county or city planning under
31 RCW 36.70A.040 or a federally recognized Indian tribe in the state of
32 Washington.

33 (8) "High capacity transit station" means a stop or station for
34 public transportation that operates on a fixed guideway rail system or
35 designated bus rapid transit line.

36 (9) "Low-income household" means a single person, family, or
37 unrelated persons living together whose income, adjusted for household
38 size, is no more than eighty percent of median income.

1 (10) "Major transit stop" means a stop for a bus or other transit
2 mode providing fixed route service in intervals of at least every
3 thirty minutes during peak hours of operation.

4 (11) "Market rate" means the current average market interest rate
5 that is determined at the time an individual loan is closed upon, or
6 grant is awarded, using a widely recognized current market interest
7 rate measurement to be selected for use by the department. This
8 interest rate must be noted in an attachment to the closing documents
9 for any loan and in any grant contract for reference if the loan or
10 grant must be repaid with interest.

11 (12) "Median income" has the same meaning as determined annually by
12 the United States department of housing and urban development for the
13 metropolitan area or county in which an individual resides.

14 (13) "Nonprofit organization" means an organization that is tax
15 exempt, or not required to apply for an exemption, under section
16 501(c)(3) of the federal internal revenue code, or similar successor
17 provisions.

18 (14) "Residential development" means a unit of housing that is
19 contained within a single, multifamily, or mixed use development.

20 (15) "Rural and resource land transfer of development rights" or
21 "transfer of development rights" includes methods for protecting land
22 from development by voluntarily removing the development rights from a
23 transfer of development rights sending site and transferring them to a
24 transfer of development receiving site for the purpose of increasing
25 development density in the receiving site. Methods for protecting
26 sending sites and increasing the development density in receiving sites
27 include awarding bonuses or regulatory flexibility to receiving sites
28 when persons within a receiving site purchase development rights from
29 a sending site through a transfer of development rights bank or from a
30 landowner who is a willing development rights seller. Bonuses include,
31 but are not limited to, increased height, density, or floor area ratio.
32 Options for regulations on which a jurisdiction could award increased
33 flexibility include, but are not limited to, parking requirements,
34 impervious surface limits, or setbacks.

35 (16) "Transfer of development rights receiving site" or "transfer
36 of development rights sending site" means an area that a city or county
37 has designated as either a receiving site or sending site in accordance
38 with a rural and resource land transfer of development rights program.

1 (17) "Transit-proximate" means within one-half mile walking
2 distance of a high capacity transit station or within one-quarter mile
3 of another major transit stop.

4 (18) "Transit-supportive density" means a minimum average of fifty
5 units of development for each acre of land within one-half mile walking
6 distance of a high capacity transit station, and a minimum of ten
7 development units for each acre of land within one-quarter mile of
8 another major transit stop.

9 (19) "Very low-income household" means a single person, family, or
10 unrelated persons living together whose income, adjusted for household
11 size, is no more than fifty percent of median income.

12 NEW SECTION. **Sec. 3.** (1) Subject to the availability of amounts
13 appropriated for this specific purpose, the residential infrastructure
14 program is created in the department to provide loans to eligible
15 jurisdictions and grants to nonprofit organizations for public
16 infrastructure that supports increased capacity for dense, affordable
17 residential development in transit-proximate areas.

18 (2) The department may provide direct loans to eligible
19 jurisdictions for projects meeting the requirements of subsection (3)
20 of this section or provide grants to nonprofit organizations for
21 projects meeting the requirements of subsection (4) of this section.
22 Funds appropriated through the program must be used to pay for the cost
23 of public infrastructure projects that support increased capacity for
24 dense, affordable residential development in transit-proximate areas,
25 including the planning, construction, repair, reconstruction,
26 replacement, rehabilitation, or improvement of sidewalks, streets and
27 roads, bridges, publicly owned utilities, drinking water systems, and
28 storm and sanitary sewage systems. The department may also provide
29 loans to eligible jurisdictions or grants to nonprofit organizations
30 for the acquisition of real property when the acquisition is directly
31 related to the development of public infrastructure projects to support
32 dense, affordable residential development in transit-proximate areas.

33 (3) An eligible jurisdiction seeking funding from the residential
34 infrastructure program must:

35 (a) Designate a project area within its urban growth area
36 designated under RCW 36.70A.110 and demonstrate with official plans
37 that overall development within the project area will increase the

1 supply of dense, affordable residential development units and that the
2 project area currently, or will within eight years of the loan award,
3 meets the definitions of transit-proximate and will achieve minimum
4 transit-supportive density;

5 (b) Demonstrate that designated infrastructure projects, for which
6 an eligible jurisdiction seeks funding:

7 (i) Are contained in the eligible jurisdictions' capital facilities
8 element of the comprehensive plan under RCW 36.70A.070;

9 (ii) Maximize the use of existing infrastructure; and

10 (iii) Will increase existing system capacity to accommodate
11 projected population growth in a manner that supports infill and
12 redevelopment of existing urban areas;

13 (c) Demonstrate a commitment to promoting affordable residential
14 development within the designated project area through:

15 (i) Local funding commitments to affordable residential housing
16 projects in the proposed project area; or

17 (ii) The official adoption and implementation of policies and
18 ordinances that include affordable housing incentive initiatives, such
19 as those outlined within RCW 36.70A.540, or other policies and programs
20 intended to promote the creation of affordable housing;

21 (d) Include a plan to construct, or pay for the construction of,
22 comparable replacement housing within the eligible jurisdiction when
23 housing units are lost as a direct result of the public infrastructure
24 projects funded under this program. The plan must include the
25 following:

26 (i) A residential unit lost as a result of the infrastructure
27 project must be replaced one-for-one with a unit at an equal or better
28 affordability rate;

29 (ii) Households that are displaced must receive priority for
30 obtaining replacement units, by being provided with a forty-five day
31 option to obtain a replacement unit prior to the unit being made
32 available to nondisplaced households. If a household rejects a unit
33 prior to the forty-fifth day, the priority option period will conclude
34 for that household. All displaced households interested in the
35 replacement units must be given priority before any such units are made
36 available to non-displaced households;

37 (iii) Relocation assistance must be paid to any displaced
38 households; and

1 (iv) Projects receiving financing from the residential
2 infrastructure program must comply with any relocation standards and
3 requirements and real property acquisition policies established by the
4 department as a condition of residential infrastructure program
5 assistance; and

6 (e) Commit to complying with the provisions of chapter 39.12 RCW.

7 (4) A nonprofit organization seeking funding from the residential
8 infrastructure program must:

9 (a) Demonstrate that the funding will support public infrastructure
10 projects or the acquisition of property related to the development of
11 infrastructure projects, as described in subsection (2) of this
12 section, related to a specific affordable residential development that
13 has also received a commitment of funding from the Washington housing
14 trust fund under chapter 43.185 or 43.185A RCW or the Washington state
15 housing finance commission under chapter 43.180 RCW;

16 (b) Demonstrate that the area in which the infrastructure project
17 will take place is within an urban growth area designated by a local
18 jurisdiction under RCW 36.70A.110, and demonstrate with official plans
19 from the jurisdiction that overall development within the project area
20 will increase the supply of dense, affordable residential development
21 and that the project area currently, or will within eight years of the
22 grant award, meets the definitions of transit-proximate and will
23 achieve minimum transit-supportive density;

24 (c) Demonstrate that the specific affordable housing development
25 described in (a) of this subsection will, within eight years of the
26 grant award, contribute to an increase in the supply of dense,
27 affordable residential development within the area referenced in (b) of
28 this subsection; and

29 (d) Comply with the requirements of subsection (3)(d) of this
30 section, related to the provision of comparable replacement housing and
31 relocation standards and requirements.

32 (5) The department must determine each year the total amount of
33 funding available in loans and grants and must establish the total
34 amount of financial assistance to be awarded to eligible jurisdiction
35 and nonprofit organization applicants based on (a) the total amount of
36 money appropriated to the program; (b) the quality of applications
37 received; and (c) the best available projections of total revenue
38 likely to be available for the program for the subsequent three years.

1 The total amount of financial assistance allocated must not exceed ten
2 million dollars per project for eligible jurisdictions and not exceed
3 one million dollars per project for nonprofit organizations. The
4 maximum project funding limits established in this section must be
5 adjusted for inflation by the office of financial management every
6 other year beginning July 1, 2012, based upon changes in the consumer
7 price index during the time period since the last adjustment. If the
8 bureau of labor and statistics develops more than one consumer price
9 index for areas within the state, the index covering the greatest
10 number of people, covering areas exclusively within the boundaries of
11 the state, and including all items shall be used for the adjustments
12 for inflation in this section. The office of financial management must
13 calculate the new maximum project funding limits and transmit those new
14 limits to the department.

15 (6) Loan interest rates must not exceed one-half of one percent a
16 year. The department shall establish policies, priorities, and
17 procedures by which all or part of a loan may be forgiven if an
18 eligible jurisdiction:

19 (a) Creates a significantly greater number of affordable
20 residential housing units within the project area than the number
21 agreed to during loan contract negotiations;

22 (b) Creates a significant number of residential units that are
23 available and affordable to households of income levels significantly
24 below the maximum income levels allowable under the program; or

25 (c) Significantly exceeds program expectations in other ways to be
26 identified by the department.

27 (7) During each fiscal year in which funds are available for use by
28 the department for the residential infrastructure program, the
29 department shall announce to all known interested parties a competitive
30 application period of at least ninety days' duration. This
31 announcement must be made as often as the director deems appropriate
32 for proper utilization of resources.

33 (8) The department shall establish a competitive process for loan
34 and grant awards and shall review and prioritize proposals in
35 consultation with the public works board and the transportation
36 improvement board or designees selected by those boards to represent
37 them.

38 (a) Priority must be awarded to projects that include plans to:

- 1 (i) Maximize capacity to accommodate growth;
- 2 (ii) Maximize residential density;
- 3 (iii) Maximize the number of affordable housing units;
- 4 (iv) Maintain the affordability of the housing for the longest
- 5 period of time;
- 6 (v) Maximize affordability to low-income households and very low-
- 7 income households;
- 8 (vi) Maximize access to public transit; and
- 9 (vii) Demonstrate readiness to proceed.

10 (b) In awarding loans and grants from the program established in
11 subsection (1) of this section, the department must consider whether
12 the jurisdiction has completed a Washington state quality award program
13 assessment of management systems.

14 (c) The department shall give additional consideration to
15 jurisdictions that demonstrate a commitment to creating receiving areas
16 for rural and resource land transfer of development rights, which may
17 be demonstrated through one of the following actions, listed in order
18 of highest value and priority:

19 (i) The jurisdiction has in place at the time of application,
20 within the area specified by the application or in other areas within
21 the jurisdiction, designated receiving sites for rural and resource
22 land transfer of development rights established through an ordinance by
23 the jurisdiction and an interlocal agreement with a sending site
24 jurisdiction that enables transfers from rural and resource lands;

25 (ii) The jurisdiction has in place at the time of application,
26 within the area specified by the application or in other areas within
27 the jurisdiction, designated receiving sites for rural and resource
28 land transfer of development rights established through an ordinance by
29 the jurisdiction; or

30 (iii) The jurisdiction states in its comprehensive plan at the time
31 of application a commitment to consider the development and
32 implementation of a rural and resource land transfer of development
33 rights program.

34 (9) Eligible jurisdictions and nonprofit organizations that receive
35 support from the residential infrastructure program must report to the
36 department annually by December 31st of each year following the date of
37 the receipt of the loan or grant until ten years after the completion
38 of the infrastructure project.

1 (a) Reporting before and during the construction of the
2 infrastructure project must include information on the status of the
3 project, the estimated completion date, and any variations from the
4 approved proposal.

5 (b) Reporting after completion of the project must include a
6 description of how the project area is transit-proximate and has
7 achieved transit-supportive density requirements or how the eligible
8 jurisdiction or nonprofit organization is working toward complying with
9 those requirements. The report must also include information about the
10 status of the residential development occurring within the project
11 area, including:

12 (i) The total number of residential units developed or under
13 construction; and

14 (ii) The total number of residential units meeting the definition
15 of affordable residential development.

16 (10)(a) If an infrastructure project funded by the residential
17 infrastructure program is not completed by the agreed upon date or
18 varies substantially from the approved proposal in a way that will
19 result in the creation of less affordable residential development than
20 that agreed to at the time of the project funding award as a condition
21 of the funding, the eligible jurisdiction or nonprofit organization
22 associated with the project shall make the necessary project
23 adjustments as determined by the department or refund all or a portion
24 of the loan or grant amount.

25 (b) If an eligible jurisdiction rescinds its public commitment to
26 promoting affordable residential development within the designated
27 project area by changing officially adopted policies and ordinances or
28 failing to implement these policies and ordinances, eligible
29 jurisdictions may be required to refund all or a portion of the
30 principal loan amount plus compounded interest calculated at the
31 current market rate.

32 (c) If a nonprofit organization fails to produce the agreed upon
33 number of affordable residential units within its designated project,
34 the nonprofit organizations may be required to refund all or a portion
35 of its grant amount plus compounded interest calculated at the current
36 market rate.

37 (d) The department may grant a partial or total exemption from the
38 repayment requirement under this section if the department determines

1 that a project is substantially complete or that the property has been
2 substantially used in keeping with the original affordable residential
3 housing purpose of the loan or grant.

4 (11)(a) Jurisdictions and nonprofit organizations that receive more
5 than two hundred fifty thousand dollars in total loans or grants in a
6 calendar year from the program established in subsection (1) of this
7 section or other state housing-related funding sources, including the
8 housing trust fund, programs of the housing finance commission, and
9 surcharges established in RCW 36.22.178 and 36.22.179, must apply to
10 the Washington state quality award program for an assessment of
11 management systems.

12 (b) Jurisdictions and nonprofit organizations that receive more
13 than two hundred fifty thousand dollars in total loans or grants in a
14 calendar year from the program established in subsection (1) of this
15 section or other state housing-related funding sources, including the
16 housing trust fund, programs of the housing finance commission, and
17 surcharges established in RCW 36.22.178 and 36.22.179, for three or
18 more consecutive calendar years must apply to the Washington state
19 quality award program for an assessment of management systems every
20 three years.

21 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act constitute
22 a new chapter in Title 43 RCW.

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