

## **SB 5235:** Increasing housing options by lifting bans on sharing and renting

*SB 5235 would end laws that discriminate against renters and non-traditional households.*

### Talking Points

This bill improves housing fairness and affordability in two ways:

1. It lifts unnecessary caps on the number of unrelated people allowed to share a home.
2. It lifts discriminatory prohibitions on renters residing on lots with accessory dwellings.

#### Part 1

Almost all Washington cities impose **arbitrary occupancy limits** that apply only to people who are not legally related. These laws:

- discriminate against non-traditional families and households with members who may not be related in the eyes of the law;
- worsen the state's housing crisis by preventing full utilization of homes (for example the laws might prohibit a group of **five unrelated retirees** from sharing a large house);
- exclude lower-income people from detached-house neighborhoods;
- are redundant: cities already have occupancy limits in building codes for safety, along with limits on building size, bedroom count, or occupants per bedroom.

#### Part 2

Most **Washington cities** ban renters from living in some units on the site of an accessory dwelling unit (ADU) by requiring the owner to live on the property. These laws:

- discriminate against renters;
- are one of the many forms of zoning rules that perpetuate the legacy of economic and racial exclusion that was an historic impetus for zoning intended to keep out renters;
- impede ADU construction by raising financial risk for homeowners and constraining their future choice of where to live;
- prevent the addition of rental ADUs to lots where the main house is also rented (typically about one in five houses);
- unfairly target ADUs with a restriction not imposed on any other type of home---owners are not required to live on the property of any other type of rental.

#### Benefits

The pandemic has made it crystal clear that health and housing security for all Washingtonians depends on creating more housing options that better meet their community's affordability needs. The two policy changes in this bill are common sense solutions that undo discriminatory rules and help address our state-wide housing crisis, freeing up available homes and expanding modest housing choices at no cost to the state budget.

## SB 5235: Technical Details

### Part 1

Prohibits cities and counties planning under the GMA from imposing laws that put an arbitrary limit on the number of people allowed to share a home if they are not legally related.

Municipalities impose no such limits on members of a legally related extended family: the US Supreme Court **struck down** limits on *related* occupants in 1977. Underscoring how archaic occupancy laws are, the city of Yakima doesn't count "**live-in servants**" against its limit of five unrelated occupants. In 2017, Iowa **passed a similar bill** banning unrelated occupancy limits, with bipartisan support.

On a typical night around one in six of Washington's bedrooms **sit empty**—that's more than **one million bedrooms**. If we assume that unrelated occupant limits are to blame for just one in fifty of those, repealing those limits statewide could potentially free up **housing for 20,000 people** at zero cost to the public purse.

Of 228 Washington cities Sightline surveyed in 2020, 162 (71 percent) impose limits on unrelated occupants and 66 do not. Limits range from 12 all the way down to zero, with an average of five. Cities with the tightest limits:

- *Zero*: Granger, Hunts Point
- *Two*: Cheney
- *Three*: 13 cities, including Bellingham, Des Moines, La Conner, Normandy Park, Pullman
- *Four*: 10 cities, including Kent, Auburn, Bellevue, Oak Harbor, Renton
- *Five*: 78 cities, including Bainbridge, Edmonds, Federal Way, Issaquah, Kirkland, Lynnwood, Spokane Valley, Yakima

### Part 2

Prohibits cities and counties planning under the GMA from imposing laws that require the property owner to live on site if the property has an ADU. *Exception*: Cities and counties may impose owner occupancy requirements in cases where the owner has five or more properties with an ADU. However, this exception does not apply to nonprofit housing providers.

At least 89 Washington cities enforce owner occupancy rules including Spokane, Bellevue, Kent, Everett, Redmond, Shoreline, Bothell, Edmonds, and Lynnwood. Some of these cities---Bellingham and Renton, for example---allow exemptions, but the risk and hassle of the extra bureaucratic process can still dissuade owners from pursuing ADUs. A few cities---Monroe and Connell, for example---take the restriction even further, outright banning ADUs from being rented out in all cases.

A handful of Washington cities **jettisoned** owner occupancy requirements for ADUs. Oregon and California have both passed statewide laws banning them.