



April 26, 2021

The Honorable Jay Inslee, Governor
Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002

Re: Veto Request for Sections 2, 3, and 4 of ESSB 5235

Dear Governor Inslee:

Sightline Institute is a public policy research center with the goal of making the Pacific Northwest a global model for sustainability. Currently our largest program is focused on creating abundant housing as a solution to the pressing challenges of both affordability and climate.

We are writing to request that you veto Sections 2, 3, and 4 of [ESSB 5235](#).

State-level leadership to address our housing shortage is vital. Sightline strongly supported ESSB 5235 as [originally written](#) and as passed in the Senate. It would have lifted local prohibitions on renters residing in properties with accessory dwellings units (ADUs). These rules not only discriminate against renters, but are a major impediment to the addition of ADUs.

However, based on our analysis, the final version of ESSB 5235 as amended by the House would solve neither problem, and all told, would likely amount to a step backward on ADU policy for the state. We believe that state progress on addressing the housing crisis would be better served by passing ESSB 5235 without any of its ADU-related provisions.

We ask that you retain Sections 5, 6, and 7 of ESSB 5235. We strongly support these sections that [strike arbitrary caps](#) on the number of unrelated people allowed to share a home. These caps discriminate against non-traditional families and worsen the state's housing crisis by preventing full utilization of homes.

Explanation

ADUs provide modest infill housing options in neighborhoods across the state where a mix of homes are needed near jobs, schools, and transit. Sightline has been researching ADU policy since 2012, and in the past three Washington legislative sessions we have worked with legislators on ADU bills. ADUs alone will not solve the state's housing shortage. But they are the

gentlest way communities can add relatively affordable homes that offer lower income families more choices and allow seniors to age in place.

There is a consensus among policy experts nationwide that laws requiring the owner of a property with an ADU to live on site are one of the biggest barriers to ADU production (see for example AARP's new [ADU guidelines](#)). That is why both Oregon and California have [passed statewide bans](#) on local ADU owner occupancy requirements. But [at least 89](#) Washington cities still impose these rules.

[ESSB 5235](#) does technically strike down owner occupancy requirements, but it includes such a tangle of loopholes, contingencies, and delays that, on our assessment, it would yield essentially zero housing benefits. None of the flaws described below were in the [earlier version of the bill](#) passed by the Senate by a bipartisan 43 - 6 vote.

Section 4 has multiple flaws

- The bill's single biggest flaw is a loophole allowing local governments an easy out. Holding two public meetings and demonstrating "need" is a low bar for cities or individual neighborhoods that want to retain ADU owner occupancy requirements indefinitely. The places most likely to take such action would be high-cost, exclusionary communities that have the resources and political motivation, but that are also where ADUs are needed most.
- It allows cities to impose owner occupancy requirements for the first year, which would prevent the owner of a rental house from adding an ADU. In a typical city, that's about 1 in 5 houses eliminated from the pool that could have an ADU. The one year exception could also preclude the construction of a new house and ADU at the same time.
- It omits an exclusion for non-profit affordable housing providers, which means they would be subject to first-year owner occupancy requirements that would prevent them from adding ADUs to their rental properties.
- The "hardship exemption" would only marginally reduce risk for homeowners considering ADU construction. No one wants to deal with extra bureaucratic hassle when faced with a personal crisis.
- It's bad policy to try to regulate short-term rentals (STRs) indirectly through ADU owner occupancy rules. STRs are a legitimate concern in some communities, but the correct approach is to regulate STRs directly and equally applied to all housing types, which many cities already do. ADUs are a small fraction of housing that can be used for STRs, and there is no legitimate policy reason to single them out for extra STR restrictions ([AARP recommends against it](#), for example). Even after California struck down owner occupancy requirements statewide, only about [8 percent](#) of the state's ADUs are used for STRs. That means the affordability gains from ADUs used as long term rentals vastly outweighs any loss caused by STRs.
- The prohibition on local ADU incentives unless short-term rentals are banned is counterproductively prescriptive. Housing and tourism markets vary hugely between cities and each community should have flexibility to craft local ADU incentives that meet their specific needs.

Section 3 delays any required action for four to six years

The bill specifies that no action is required until “within two years of the next applicable deadline for [the] comprehensive plan.” This would mean July 2026 for most Washington cities. Such a delay hurts people who need housing now, and fails to address the urgency of Washington’s housing crisis.

Section 2 undermines last year’s bill that lifted parking mandates for ADUs near transit

It would increase the portion of new ADUs that would have to include parking. The result would be fewer ADUs built due to expense or site constraints, or the construction of unneeded parking that reinforces car dependence and [works against the state’s climate goals](#).

Thank you for your consideration of this partial veto of Sections 2, 3, and 4 in ESSB 5235. Sightline is grateful for your leadership, and we are committed to working with stakeholders in the next legislative session to enable more housing choices for our diverse and growing population.

Sincerely,



Alan Durning
Executive Director
Sightline Institute



Dan Bertolet
Research Director, Housing & Urbanism
Sightline Institute