



HOUSE OF REPRESENTATIVES

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HB 3414 Amendments

Objective	Create processes to cut through red tape on middle, multifamily, mixed-use, and affordable housing development that can realistically expedite those developments.
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Problem (the -6)	<p>Currently, the -6 amendment is problematic in several ways:</p> <ul style="list-style-type: none"> ● Aside from a small list of exceptions, it allows developers to request exemption from any local planning and development regulations including those that implement HB 2001's (2019) middle housing requirements, tree canopy protections, siting and design standards, and more. <ul style="list-style-type: none"> ○ Cities are required outright to approve these exemptions unless they can assert in writing that they relate to one of the allowed exceptions. This creates substantial concerns about the workload of justifying any denials. ● It creates a new Housing Accountability and Production Office (HAPO) with the power to receive allegations of local governments' violations of housing laws. There are no restrictions related to the standing of a complainant and there is no consideration of other prosecutorial pathways. <ul style="list-style-type: none"> ○ ANY person or entity, at any time before or after a permitting decision, may allege a violation whether or not the decision was appealed and whether or not it even affected the outcome of the permitting decision. This creates another gigantic tool that is ripe for NIMBY abuse, that will create further liability concerns and legal costs for cities, and that will likely have a serious chilling effect on permit approval processes. ○ It also does not contemplate the larger context of permitting decisions. Under this amendment, a city could face simultaneous legal proceedings on the same decision through HAPO, LUBA, and the court system. This creates further costs, bogs down the process, and creates even more uncertainty if contradictory rulings are reached concurrently. ● It creates an open door for single family housing to reassert its stranglehold on areas that cities have been working to open up for middle, multifamily, and affordable housing for the last four years. <ul style="list-style-type: none"> ○ Nothing in the -6 says the new exemptions cannot be used to force approval of development of \$700,000 single family homes. In many cases, if not most, this is the most profitable type of housing to build and will be what gets selected by the developers.
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	<ul style="list-style-type: none"> ○ Not only will it (re)encourage single family housing in these areas, it also outright allows these dwellings to supercede lot coverage maximums by up to 10%. We should not be further incentivizing the creation of more large and unaffordable homes in these times.
<p>Solution (the -5)</p>	<p>In the -5, we have worked with cities, environmentalists, land use professionals, and more to create an amendment that we believe will cut through red tape, expedite the development process, preserve and prioritize more affordable housing types, and respect local environmental protections. Some highlights of our -5 amendment:</p> <ul style="list-style-type: none"> ● It creates a clearer and more efficient process for requesting and approving an adjustment to a local regulation. <ul style="list-style-type: none"> ○ Instead of the small and nebulous list of exceptions for which cities can deny a request with substantial justification (while forcing them to accept everything else), the -5 sets out a list of adjustments that cities <i>must accept</i>. This creates needed clarity for both developers and cities, which simplifies the process and reduces time and cost. ○ It also sets out an approval timeline of 30 days for these adjustments and allows 30 more days for an applicant to submit additional evidence if declined. With the added clarity of an explicit list of adjustments, this timeline is realistically achievable by cities. ● It adds siderails for the HAPO to prevent NIMBY abuse and frivolous allegations. <ul style="list-style-type: none"> ○ Only residential developers are allowed to submit allegations, and only when they have not already filed a notice of appeal with LUBA or initiated related private litigation. ○ If an applicant is dissatisfied with the HAPO’s ruling, the -5 explicitly allows them to then also file a notice of appeal with LUBA within 21 days. ○ Outside of any matters under the clear and exclusive jurisdiction of LUBA, all other enforcement powers granted to the HAPO are the same as those in the -6. ● Most importantly, the -5 explicitly allows these new adjustment processes to <i>only</i> be used for middle, multifamily, mixed use and affordable housing. <ul style="list-style-type: none"> ○ These housing types need to be placed at less of a competitive disadvantage. This way, the free market will produce more of what we really need.