



AIA Washington Council

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Issue Brief

Oppose Anti-Vesting Bill — HB 1463/SB 5507

Background

Washington state laws on building codes and growth management include a provision that allows a project to be protected from future changes to the laws by allowing them to lock-in the laws under which a project must be completed. This process is called “vesting.” In Washington, vesting occurs when a permit application is filed and certified as complete. This is the most appropriate time in a project to vest because designs and project plans are substantially complete and construction is often poised to begin when a permit application is filed.

Vesting Laws Provide Clarity and Predictability

The current process for vesting projects provides owners, architects and building officials with clear and predictable guidelines for construction and development. Washington’s current laws provide that when the documentation is submitted for a permit and the application is certified to be complete, the project is vested and the laws in effect on that date are applied. This system gives the owner, the public, design professionals and building officials predictability as the project moves through the review process.

Property owners spend large sums of time and money preparing to apply for permits to build structures or develop land. During the design process, it is the architect’s responsibility to research the existing laws and be sure that the project conforms to these laws. But, there is no way for an architect to predict how those laws may change in the future.

Some changes in laws, such as Critical Areas Ordinances, take several years to work through the public process, and may go through dozens or even hundreds of revisions during their development. It is impossible for architects or their clients to guess which revisions will be finally adopted and which provisions will not be kept by a government entity revising laws or adopting new laws.

HB 1463/SB 5507 Would Create Chaos in the Construction Markets

The anti-vesting legislation would remove the clarity and predictability built into the current permitting laws and regulations. It would result in project delays and projects being cancelled for the lack of predictability.

If the project is not vested at the time a permit is submitted, any change in any regulation could send the owner “back to the drawing board” requiring considerable expense and time delay. That degree of unpredictability would be an unfair burden, and it would fall on all homeowners, business owners and developers working responsibly within the regulatory and statutory framework.

HB 1463/SB 5507 Would Increase Architect Liability Costs

This lack of predictability would also create a huge liability concern for architects. Architects are responsible for ensuring that projects are designed to meet all applicable codes, laws and regulations. If an architect’s designs do not meet such standards, he or she can be held liable for the cost of changes to bring the project into compliance. This is a reasonable standard, provided that the laws are clear and are not changed after the designs are completed. Applying changes retroactively to completed designs creates an unreasonable burden on architects to predict the future.