SENATE BILL REPORT
EHB 2294

As of February 19, 2026

Title: An act relating to prohibiting negative use restrictions on real property that have the effect of limiting consumer access to food and medicine.

Brief Description: Prohibiting negative use restrictions on real property that have the effect of limiting consumer access to food and medicine.

Sponsors: Representatives Farivar, Zahn, Berry, Parshley, Ryu, Tharinger, Reeves, Reed, Ramel, Obras, Cortes, Nance, Street, Duerr, Kloba, Taylor, Doglio, Gregerson, Scott, Goodman, Macri, Fosse, Thai, Pollet, Bernbaum and Salahuddin.

Brief History: Passed House: 2/13/26, 69-25.
Committee Activity: Business, Trade & Economic Development: 2/19/26.

Brief Summary of Bill

- Prohibits agreements that impose restrictions on real property that prevent or restrict the use of the property for a grocery store or pharmacy.
- Includes exceptions for temporary restrictions for grocery stores or pharmacies relocating nearby or within a retail center, which may be modified by local governments.
- Requires notice of an agreement and creates an enforcement mechanism for the attorney general and local governments through judicial action.

SENATE COMMITTEE ON BUSINESS, TRADE & ECONOMIC DEVELOPMENT

Staff: William Bridges (786-7312)

Background: By using negative use restrictions, private parties may agree to restrict the use of real property through contracts, deed restrictions, restrictive covenants, leases,

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memoranda of leases, or other recorded or unrecorded instruments. Several local jurisdictions in Washington, such as Bellingham, Kent, and Seattle, have enacted ordinances prohibiting negative use restrictions on real property if the restrictions regard grocery stores, drug stores, or pharmacies.

Summary of Bill: Prohibiting Specified Negative Use Restrictions on Real Property. Subject to exceptions, a private agreement that imposes a negative use restriction upon real property so as to prohibit or restrict the use of the property for a grocery store or pharmacy when the use would otherwise be permitted under applicable law, is declared to be against public policy, prohibited, void, and unenforceable on or after the effective date of the bill.

The prohibition:

- applies to any private agreement incorporated into a contract, deed restriction, restrictive covenant, lease, memorandum of lease, or any other recorded or unrecorded instrument;
- includes a private agreement limiting the size of a grocery store or pharmacy; and
- applies to negative use restrictions that prohibit or restrict the use of real property for a pharmacy alone and to negative use restrictions that prohibit or restrict the use of real property for a drug store that includes a pharmacy within the establishment.

Creating Exceptions. *Existing Restriction Exception.* The prohibition does not apply to an agreement imposing a negative use restriction that became effective prior to the effective date of the bill.

Relocation Exception. The prohibition does not apply to an agreement imposing a negative use restriction prohibiting or restricting the use of real property for a grocery store or pharmacy after an owner or operator of a grocery store or pharmacy discontinues operations of the grocery store or pharmacy on the property for the purpose of relocating the grocery store or pharmacy, if the following conditions are met:

- when compared to the discontinued store, the relocated store or pharmacy is similar in size or larger and similar in the scope of products sold;
- the relocated grocery store or pharmacy is located within two miles of the discontinued site, subject to local modification;
- relocation and the commencement of operations at the new site occur within two years following the discontinued store or pharmacy's closure, subject to force majeure and local modification; and
- the negative use restriction imposed on the prior site does not have a term in excess of five years from the date of the closure, subject to local modification.

Retail Center Exception. The prohibition does not apply to an agreement imposing a negative use restriction prohibiting or restricting the use of real property for a grocery store or pharmacy in order to limit competition or conflicting uses within the confines of a retail center by allowing only a limited number of grocery stores or pharmacies within the retail center. However, it remains unlawful for any owner or operator who discontinues grocery

store or pharmacy use at a site within a retail center for a period exceeding one year, subject to local modification and the separate relocation exception, to enforce a negative use restriction prohibiting or restricting grocery store or pharmacy uses within the center.

Allowing Modifications by Local Governments. Upon the written request of an owner or operator and the requestor's presentation of evidence establishing extenuating circumstances that demonstrate good cause for the extension, a city, town, or county may, by written determination, extend the following requirements as they apply to the requestor:

- for the relocation exception, that the relocated grocery store or pharmacy is located within two miles of the discontinued site is changed to no more than five miles;
- for the relocation exception, that relocation and commencement of operations at the new site occurs within two years following the discontinued store or pharmacy's closure;
- for the relocation exception, that the negative use restriction imposed on the prior site not have a term in excess of five years from the date of the closure; and
- for the retail center exception, the one-year limit for an owner or operator who discontinues grocery store or pharmacy use at a site within a retail center for enforcing a negative use restriction prohibiting or restricting grocery store or pharmacy uses within the retail center.

Factors for considering good cause include but are not limited to the following:

- maintaining or increasing food and medicine access in the surrounding area, including the area around the discontinued site;
- needs related to financing and construction for the new location; and
- promoting private investment in the surrounding area.

Requiring Notifications. A party who enters a private agreement that imposes a negative use restriction upon real property so as to prohibit or restrict the use of the property for a grocery store or pharmacy when the use would otherwise be permitted by law, must within ten days of entering the private agreement, notify the attorney general and the appropriate local jurisdiction.

Providing for Enforcement by the Attorney General and Local Governments. The attorney general or a city, town, or county may judicially enforce the prohibition of negative use restrictions, including declaratory relief, injunctive relief, or other legal or equitable remedies. A city or town may enforce the prohibition with respect to real property located in the city or town. A county may only enforce the prohibition with respect to real property located in an unincorporated area of the county.

Nothing in the bill prevents a city, town, or county from enacting or enforcing an ordinance imposing a civil penalty, or authorizing other relief, for a violation of a local ordinance that is similar to the prohibition in the bill.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The Lake City neighborhood lost its only major grocery store and pharmacy last fall, which was devastating for the community. Food access is a major issue with the closing of brick and motor grocery stores. This bill is one of three that is addressing this issue. This bill is a simple concept that prohibits a grocery store or pharmacy leaving a community from preventing another one from moving in. Zip code should not determine if you have access to fresh and healthy food. This bill represents the first line of defense in assuring this access.

Some stores are concerned they have been prevented from offering services after a competitor has left a location. Preventing covenants is a positive step in helping neighborhood, family-owned grocery stores move into communities that may be better served by a smaller store. This bill helps to protect independent grocers and communities during a time of peak affordability challenges.

OTHER: The work of the sponsor is recognized for addressing issues affecting brick and motor grocery stores. Some of these issues are increasing operational costs and on-going retail crime. Restrictive covenants are used as a tool to protect investments made in the store that is closing and for other stores in the area that are struggling to continue to operate. There are provisions in the bill that address some business concerns; for example, provisions regarding the relocation of stores. Additional language is requested to perfect the provision regarding retail centers.

Persons Testifying: PRO: Representative Darya Farivar, Prime Sponsor; Molly Pfaffenroth, Washington Food Industry Association.

OTHER: Brandon Houskeeper, NW Grocery Retail Association.

Persons Signed In To Testify But Not Testifying: No one.