
SUBSTITUTE SENATE BILL 5950

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on State & Local Government (originally sponsored by Senators Patterson, Roach and Kline)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to tax deferrals for multifamily housing within
2 transit corridors; and adding a new chapter to Title 84 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** It is the purpose of this chapter to
5 stimulate the construction and rehabilitation of multifamily housing
6 within transit corridors to promote the goals of the growth management
7 act by reducing urban sprawl, encouraging transit use, and stimulating
8 the private sector in creating housing and economic opportunities near
9 transit corridors serving urban centers. To achieve these purposes,
10 this chapter provides for tax deferrals for eligible construction and
11 improvements associated with multiunit housing in transit corridors.

12 NEW SECTION. **Sec. 2.** Unless the context clearly requires
13 otherwise, the definitions in this section apply throughout this
14 chapter.

15 (1) "City" means a city served by a public transportation system
16 defined in chapter 35.58 RCW or regional transit system defined in
17 chapter 81.112 RCW operating on a transit corridor.

1 (2) "Governing authority" means the local legislative authority of
2 a city having jurisdiction over the property for which a deferral may
3 be applied for under this chapter.

4 (3) "Growth management act" means chapter 36.70A RCW.

5 (4) "Multiple-unit housing" means a building having four or more
6 dwelling units not designed or used as transient accommodations and not
7 including hotels and motels. Multifamily units may result from new
8 construction or rehabilitated or conversion of vacant, underutilized,
9 or substandard buildings to multifamily housing.

10 (5) "Owner" means the property owner of record.

11 (6) "Permanent residential occupancy" means multiunit housing that
12 provides either rental or owner occupancy on a nontransient basis.
13 This includes owner-occupied or rental accommodation that is leased for
14 a period of at least one month. This excludes hotels and motels that
15 predominately offer rental accommodation on a daily or weekly basis.

16 (7) "Rehabilitation improvements" means modifications to existing
17 structures, that are vacant for twelve months or longer, that are made
18 to achieve a condition of substantial compliance with existing building
19 codes or modification to existing occupied structures which increase
20 the number of multifamily housing units.

21 (8) "Residential targeted area" means an area within transit
22 corridor that has been designated by the governing authority as a
23 residential targeted area in accordance with this chapter.

24 (9) "Substantial compliance" means compliance with local building
25 or housing code requirements that are typically required for
26 rehabilitation as opposed to new construction.

27 (10) "Transit corridor" means a route of public transportation by
28 fixed route bus, regional express bus, light rail, commuter rail,
29 ferry, other public transit vehicle, or any combination of these
30 connecting urban centers.

31 (11) "Transit facility" means an off-street transit center, bus
32 layover, park and ride, light rail or commuter rail station, ferry
33 terminal, or other similar capital facility which is owned or leased by
34 the state, a city, county, county transportation authority,
35 metropolitan municipality, public transportation benefit area, or
36 regional transit authority.

37 (12) "Urban center" has the meaning provided under RCW 84.14.010.

1 NEW SECTION. **Sec. 3.** (1) Property taxes on new housing
2 construction, conversion, and rehabilitation improvements qualifying
3 under this chapter are deferred for ten successive years beginning
4 January 1 of the year immediately following the calendar year of
5 issuance of the certificate of tax deferral eligibility. However, the
6 deferral does not include the value of land or nonhousing-related
7 improvements not qualifying under this chapter.

8 (2) In the case of rehabilitation of existing buildings, the
9 deferral does not include the value of improvements constructed prior
10 to the submission of the application required under this chapter. The
11 incentive provided by this chapter is in addition to any other
12 incentives, tax exemptions, tax credits, grants, or other incentives
13 provided by law.

14 (3) This chapter does not apply to increases in assessed valuation
15 made by the assessor on nonqualifying portions of building and value of
16 land nor to increases made by lawful order of a county board of
17 equalization, the department of revenue, or a county, to a class of
18 property throughout the county or specific area of the county to
19 achieve the uniformity of assessment or appraisal required by law.

20 NEW SECTION. **Sec. 4.** An owner of property making application
21 under this chapter must meet the following requirements:

22 (1) The new or rehabilitated multiple-unit housing must be located
23 in a residential targeted area as designated by the city;

24 (2) The multiple-unit housing must meet the guidelines as adopted
25 by the governing authority that may include height, density, public
26 benefit features, number and size of proposed development, parking,
27 low-income or moderate-income occupancy requirements, and other adopted
28 requirements indicated necessary by the city. The required amenities
29 should be relative to the size of the project and tax benefit to be
30 obtained;

31 (3) The new, converted, or rehabilitated multiple-unit housing must
32 provide for a minimum of fifty percent of the space for permanent
33 residential occupancy. In the case of existing occupied multifamily
34 development, the multifamily housing must also provide for a minimum of
35 four additional multifamily units. Existing multifamily vacant housing
36 that has been vacant for twelve months or more does not have to provide
37 additional multifamily units;

1 (4) New construction multifamily housing and rehabilitation
2 improvements must be completed within three years from the date of
3 approval of the application;

4 (5) Property proposed to be rehabilitated must be vacant at least
5 twelve months before submitting an application and fail to comply with
6 one or more standards of the applicable state or local building or
7 housing codes on or after July 23, 1995; and

8 (6) The applicant must enter into a contract with the city approved
9 by the governing body under which the applicant has agreed to the
10 implementation of the development on terms and conditions satisfactory
11 to the governing authority.

12 NEW SECTION. **Sec. 5.** (1) The following criteria must be met
13 before an area may be designated as a residential targeted area:

14 (a) The area must be within a transit corridor, as determined by
15 the governing authority;

16 (b) The area must lack, as determined by the governing authority,
17 sufficient available, desirable, and convenient residential housing to
18 meet the needs of the public who would be likely to live in the transit
19 corridor, if the desirable, attractive, and livable places to live were
20 available;

21 (c) The providing of additional housing opportunity in the area, as
22 determined by the governing authority, will assist in achieving one or
23 more of the stated purposes of this chapter;

24 (d) The entire area must be within one-quarter mile of a fixed
25 route transit or regional bus stop or within one-half mile of a transit
26 facility on a transit corridor;

27 (e) The area must be zoned for multiple-unit housing at an allowed
28 density of at least twenty dwelling units per acre. This zoning may
29 also allow other transit supportive land uses;

30 (f) The area must have or be programmed for pedestrian amenities
31 including sidewalks connecting the multiple-unit housing to transit
32 services; and

33 (g) Development in the area will likely result in increased public
34 or regional transportation ridership and decreased automobile trips.

35 (2) For the purpose of designating a residential targeted area or
36 areas, the governing authority may adopt a resolution of intention to
37 so designate an area as generally described in the resolution. The
38 resolution must state the time and place of a hearing to be held by the

1 governing authority to consider the designation of the area and may
2 include other information pertaining to the designation of the area as
3 the governing authority determines to be appropriate to apprise the
4 public of the action intended.

5 (3) The governing authority shall give notice of a hearing held
6 under this chapter by publication of the notice once each week for two
7 consecutive weeks, not less than seven days, nor more than thirty days
8 before the date of the hearing in a paper having a general circulation
9 in the city where the proposed residential targeted area is located.
10 The notice must state the time, date, place, and purpose of the hearing
11 and generally identify the area proposed to be designated as a
12 residential targeted area.

13 (4) Following the hearing, or a continuance of the hearing, the
14 governing authority may designate all or a portion of the area
15 described in the resolution of intent as a residential targeted area if
16 it finds, in its sole discretion, that the criteria in subsections (1)
17 through (3) of this section have been met.

18 (5) After designation of a residential targeted area, the governing
19 authority shall adopt standards and guidelines to be utilized in
20 considering applications and making the determinations required under
21 section 7 of this act. The standards and guidelines must establish
22 basic requirements for both new construction and rehabilitation
23 including application process and procedures. These guidelines may
24 include the following:

25 (a) Requirements that address demolition of existing structures and
26 site utilization; and

27 (b) Building requirements that may include elements addressing
28 parking, height, density, environmental impact, and compatibility with
29 the existing surrounding property and such other amenities as will
30 attract and keep permanent residents and that will properly enhance the
31 livability of the residential targeted area in which they are to be
32 located.

33 NEW SECTION. **Sec. 6.** An owner of property seeking tax incentives
34 under this chapter must complete the following procedures:

35 (1) In the case of rehabilitation or where demolition or new
36 construction is required, the owner shall secure from the governing
37 authority or duly authorized agent, before commencement of

1 rehabilitation improvements or new construction, verification of
2 property noncompliance with applicable building and housing codes;

3 (2) In the case of new and rehabilitated multifamily housing, the
4 owner shall apply to the city on forms adopted by the governing
5 authority. The application must contain the following:

6 (a) Information setting forth the grounds supporting the requested
7 deferral including information indicated on the application form or in
8 the guidelines;

9 (b) A description of the project and site plan, including the floor
10 plan of units and other information requested;

11 (c) A statement that the applicant is aware of the potential tax
12 liability involved when the property ceases to be eligible for the
13 incentive provided under this chapter;

14 (3) The applicant must verify the application by oath or
15 affirmation; and

16 (4) The application must be accompanied by the application fee, if
17 any, required under section 9 of this act. The governing authority may
18 permit the applicant to revise an application before final action by
19 the governing authority.

20 NEW SECTION. **Sec. 7.** The duly authorized administrative official
21 or committee of the city may approve the application if it finds that:

22 (1) A minimum of four new units are being constructed or in the
23 case of occupied rehabilitation or conversion a minimum of four
24 additional multifamily units are being developed;

25 (2) The proposed project is or will be, at the time of completion,
26 in conformance with all local plans and regulations that apply at the
27 time the application is approved;

28 (3) The owner has complied with all standards and guidelines
29 adopted by the city under this chapter; and

30 (4) The site is located in a residential targeted area of a transit
31 corridor that has been designated by the governing authority in
32 accordance with procedures and guidelines indicated in section 5 of
33 this act.

34 NEW SECTION. **Sec. 8.** (1) The governing authority or an
35 administrative official or commission authorized by the governing
36 authority shall approve or deny an application filed under this chapter
37 within ninety days after receipt of the application.

1 (2) If the application is approved, the city shall issue the owner
2 of the property a conditional certificate of acceptance of tax
3 deferral. The certificate must contain a statement by a duly
4 authorized administrative official of the governing authority that the
5 property has complied with the required findings indicated in section
6 6 of this act.

7 (3) If the application is denied by the authorized administrative
8 official or commission authorized by the governing authority, the
9 deciding administrative official or commission shall state in writing
10 the reasons for denial and send the notice to the applicant at the
11 applicant's last known address within ten days of the denial.

12 (4) Upon denial by a duly authorized administrative official or
13 commission, an applicant may appeal the denial to the governing
14 authority within thirty days after receipt of the denial. The appeal
15 before the governing authority will be based upon the record made
16 before the administrative official with the burden of proof on the
17 applicant to show that there was no substantial evidence to support the
18 administrative official's decision. The decision of the governing body
19 in denying or approving the application is final.

20 NEW SECTION. **Sec. 9.** The governing authority may establish an
21 application fee. This fee may not exceed an amount determined to be
22 required to cover the cost to be incurred by the governing authority
23 and the assessor in administering this chapter. The application fee
24 must be paid at the time the application for deferral is filed. If the
25 application is approved, the governing authority shall pay the
26 application fee to the county assessor for deposit in the county
27 current expense fund, after first deducting that portion of the fee
28 attributable to its own administrative costs in processing the
29 application. If the application is denied, the governing authority may
30 retain that portion of the application fee attributable to its own
31 administrative costs and refund the balance to the applicant.

32 NEW SECTION. **Sec. 10.** (1) Upon completion of rehabilitation or
33 new construction for which an application for tax deferral under this
34 chapter has been approved and after issuance of the certificate of
35 occupancy, the owner shall file with the city the following:

36 (a) A statement of the amount of rehabilitation or construction
37 expenditures made with respect to each housing unit and the composite

1 expenditures made in the rehabilitation or construction of the entire
2 property;

3 (b) A description of the work that has been completed and a
4 statement that the rehabilitation improvements or new construction on
5 the owner's property qualify the property for tax deferral under this
6 chapter; and

7 (c) A statement that the work has been completed within three years
8 of the issuance of the conditional certificate of tax deferral.

9 (2) Within thirty days after receipt of the statements required
10 under subsection (1) of this section, the authorized representative of
11 the city shall determine whether the work completed is consistent with
12 the application and the contract approved by the governing authority
13 and is qualified for tax deferral under this chapter. The city shall
14 also determine which specific improvements completed meet the
15 requirements and required findings.

16 (3) If the rehabilitation, conversion, or construction is completed
17 within three years of the date the application for tax deferral is
18 filed under this chapter, or within an authorized extension of this
19 time limit, and the authorized representative of the city determines
20 that improvements were constructed consistent with the application and
21 other applicable requirements and the owner's property is qualified for
22 tax deferral under this chapter, the city shall file the certificate of
23 tax deferral with the county assessor within ten days of the expiration
24 of the thirty-day period provided under subsection (2) of this section.

25 (4) The authorized representative of the city shall notify the
26 applicant that a certificate of tax deferral is not going to be filed
27 if the representative determines that:

28 (a) The rehabilitation or new construction was not completed within
29 three years of the application date, or within any authorized extension
30 of the time limit;

31 (b) The improvements were not constructed consistent with the
32 application or other applicable requirements; or

33 (c) The owner's property is otherwise not qualified for tax
34 deferral under this chapter.

35 (5) If the authorized representative of the city finds that
36 construction or rehabilitation of multiple-unit housing was not
37 completed within the required time period due to circumstances beyond
38 the control of the owner and that the owner has been acting and could
39 reasonably be expected to act in good faith and with due diligence, the

1 governing authority or the city official authorized by the governing
2 authority may extend the deadline for completion of construction or
3 rehabilitation for a period not to exceed twenty-four consecutive
4 months.

5 (6) The governing authority may provide by ordinance for an appeal
6 of a decision by the deciding officer or authority that an owner is not
7 entitled to a certificate of tax deferral to the governing authority,
8 a hearing examiner, or other city officer authorized by the governing
9 authority to hear the appeal in accordance with reasonable procedures
10 and time periods as provided by ordinance of the governing authority.
11 The owner may appeal a decision by the deciding officer or authority
12 that is not subject to local appeal or a decision by the local appeal
13 authority that the owner is not entitled to a certificate of tax
14 deferral in superior court under RCW 34.05.510 through 34.05.598, if
15 the appeal is filed within thirty days of notification by the city to
16 the owner of the decision being challenged.

17 NEW SECTION. **Sec. 11.** Thirty days after the anniversary of the
18 date of the certificate of tax deferral and each year for a period of
19 ten years, the owner of the rehabilitated or newly constructed property
20 shall file with a designated agent of the city an annual report
21 indicating the following:

22 (1) A statement of occupancy and vacancy of the rehabilitated or
23 newly constructed property during the twelve months ending with the
24 anniversary date;

25 (2) A certification by the owner that the property has not changed
26 use since the date of the certificate approved by the city; and

27 (3) A description of changes or improvements constructed after
28 issuance of the certificate of tax deferral.

29 NEW SECTION. **Sec. 12.** (1) If taxes on improvements have been
30 deferred under this chapter, the improvements continue to be deferred
31 and not be converted to another use for at least ten years from date of
32 issuance of the certificate of tax deferral. If the owner intends to
33 convert the multifamily development to another use, the owner shall
34 notify the assessor within sixty days of the change in use. If, after
35 a certificate of tax deferral has been filed with the county assessor
36 the city or assessor or agent discovers that a portion of the property
37 is changed or will be changed to a use that is other than residential

1 or that housing or amenities no longer meet the requirements as
2 previously approved or agreed upon by contract between the governing
3 authority and the owner and that the multifamily housing, or a portion
4 of the housing, no longer qualifies for the deferral, the tax deferral
5 must be canceled and the following must occur:

6 (a) Real property tax must be immediately imposed upon the value of
7 the nonqualifying improvements in the amount that would have been
8 imposed each year property tax was deferred, plus a penalty must be
9 imposed amounting to twenty percent;

10 (b) The tax must include interest upon the amounts of the deferred
11 tax at the same statutory rate charged on delinquent property taxes
12 from the dates on which the deferred tax could have been paid without
13 penalty if the improvements had been taxed without regard to this
14 chapter; and

15 (c) The deferred tax owed together with interest and penalty must
16 become a lien on the land and attach at the time the property or
17 portion of the property is removed from multifamily use or the
18 amenities no longer meet applicable requirements, and has priority to
19 and must be fully paid and satisfied before a recognizance, mortgage,
20 judgment, debt, obligation, or responsibility to or with which the land
21 may become charged or liable. The lien may be foreclosed upon
22 expiration of the same period after delinquency and in the same manner
23 provided by law for foreclosure of liens for delinquent real property
24 taxes. A deferred tax unpaid on its due date is delinquent. From the
25 date of delinquency until paid, interest must be charged at the same
26 rate applied by law to delinquent property taxes.

27 (2) Upon a determination that a tax deferral is to be canceled for
28 a reason stated in this section, the governing authority shall notify
29 the record owner of the property as shown by the tax rolls by mail,
30 return receipt requested, of the determination to cancel the deferral.
31 The owner may appeal the determination to the governing authority
32 within thirty days by filing a notice of appeal with the clerk of the
33 governing authority, which notice must specify the factual and legal
34 basis on which the determination of cancellation is alleged to be
35 erroneous. The governing authority or a hearing examiner or other
36 official authorized by the governing authority may hear the appeal. At
37 the hearing, all affected parties may be heard and all competent
38 evidence received. After the hearing, the deciding body or officer
39 shall either affirm, modify, or repeal the decision of cancellation of

1 deferral based on the evidence received. An aggrieved party may appeal
2 the decision of the deciding body or officer to the superior court
3 under RCW 34.05.510 through 34.05.598.

4 (3) Upon determination by the governing authority or authorized
5 representative to terminate a deferral, the county officials having
6 possession of the assessment and tax rolls shall correct the rolls in
7 the manner provided for omitted property under RCW 84.40.080. The
8 county assessor shall make a valuation of the property and improvements
9 as necessary to permit the correction of the rolls. The owner may
10 appeal the valuation to the county board of equalization under chapter
11 84.48 RCW. If there has been a failure to comply with this chapter,
12 the property must be listed as an omitted assessment for assessment
13 years beginning January 1 of the calendar year in which the
14 noncompliance first occurred, but the listing as an omitted assessment
15 may not be for a period more than three calendar years preceding the
16 year in which the failure to comply was discovered.

17 NEW SECTION. **Sec. 13.** (1) The owner will begin paying the
18 deferred taxes in the tenth year after the date the certificate of
19 deferral was certified by the governing authority. The first payment
20 is due April 30th of the tenth calendar year after this certified date,
21 with subsequent annual payments due on April 30th of the following nine
22 years. The payments will equal ten percent of the taxes deferred for
23 every year in which the ten-year deferral period has expired.

24 (2) The governing authority may authorize an accelerated repayment
25 schedule upon request of the owner.

26 (3) Interest will not be charged on any taxes deferred under this
27 chapter for the period of the deferral, although all other penalties
28 and interest applicable to delinquent property taxes may be assessed
29 and imposed for delinquent payments under this chapter. The debt for
30 deferred taxes is not extinguished by insolvency or other failure of
31 the owner.

32 NEW SECTION. **Sec. 14.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act
2 constitute a new chapter in Title 84 RCW.

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