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**SECOND SUBSTITUTE HOUSE BILL 1843**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Finance (originally sponsored by Representatives Morris, Lytton, and Tarleton)

AN ACT Relating to creating a residential energy efficiency incentive pilot program; and adding a new chapter to Title 84 RCW.

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

NEW SECTION. **Sec.**  (1) The legislature finds that increased energy efficiency investments in Washington's residential building stock will achieve significant reductions in energy consumption, create sustained cost savings on utility bills for building occupants, and increase the overall health and safety of communities where energy efficiency projects occur. A residential energy efficiency incentive pilot program provides a unique opportunity to collect important data on the actual costs and benefits of energy efficiency retrofits among various residential building types. The data collected from this pilot program will be used to inform future decisions relating to energy efficiency investments in the residential building stock in Washington.

(2)(a) This section is the tax preference performance statement for the tax preference contained in this chapter. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(c) It is the legislature's specific public policy objective to encourage the implementation of energy efficiency retrofit projects by low and moderate-income owners of single-family residences and owners of multifamily housing who rent to low and moderate-income occupants. It is the legislature's intent to allow local jurisdictions to exempt property tax levied by participating local jurisdictions for qualifying taxpayers.

(d) If a review finds participating jurisdictions are increasing the number of energy efficiency retrofits occurring in targeted communities; and that those retrofits are meeting the modeled energy savings; and that the energy savings is contributing to overall utility cost savings, then the legislature intends to extend the expiration date of the tax preference.

(e) In order to obtain the data necessary to perform the review in (d) of this subsection (2), the joint legislative audit and review committee may refer to:

(i) The taxpayer applications required in section 4 of this act;

(ii) The annual surveys required in section 7 of this act;

(iii) The department of commerce; and

(iv) Any other data sources needed by the joint legislative audit and review committee.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate-income households.

(2) "Approved energy modeling technique" means a predictive tool that is currently in use and commonly relied upon in the energy-auditing marketplace, and is deemed appropriate for a given building type by the department of commerce and the local governing body for making eligibility determinations under this chapter.

(3) "Approved green building certification" means a certification that is currently in use and commonly relied upon in the green building marketplace, and is deemed appropriate for a given building type by the department of commerce and the local governing body for making eligibility determinations under this chapter.

(4) "Eligible new construction" means construction of a residential building that is not otherwise defined in the state building code as an addition, alteration, or repair.

(5) "Eligible retrofit project" or "project" means an installation or modification that is designed to reduce energy consumption in a qualified single-family or multiple family residential property. The term includes, but is not limited to: Insulation; storm windows and doors; automatic energy control systems; heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants; caulking and weather stripping; energy recovery systems; geothermal heat pumps; and day lighting systems.

(6) "Eligible structure" means a building in which an eligible retrofit project is undertaken or a building that is newly constructed located within a participating local jurisdiction.

(7) "Governing authority" means the local legislative authority of a city or a county having jurisdiction over the property for which an exemption may be applied for under this chapter.

(8) "Household" means a single person, family, or unrelated persons living together.

(9) "Local jurisdiction" means a city or a county.

(10) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

(11) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

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

(13) "Net-zero energy building" means a building with net energy consumption of zero over a typical year as determined by the department of commerce.

(14) "Owner" means the property owner of record.

(15) "Participating local jurisdiction" means a city or county that, by legislative authority, has chosen to exempt property tax for qualifying taxpayers, in accordance with the terms of this chapter, and that meets the conditions set forth in section 3(1) of this act.

(16) "Preexisting" means a single-family residence or multiple family building that is fully operational before the commencement of the eligible project.

(17) "Single-family residence" means a building with two or fewer dwelling units, including duplexes and single-family homes, with or without accessory dwelling units.

(18) "Taxpayer" means a low or moderate-income owner of a single-family residence, or an owner of a multiple family building.

NEW SECTION. **Sec.**  (1) A residential energy efficiency incentive pilot program is created. A city or county that is participating in national competitions targeting energy savings, is implementing a climate action plan, or has established long-term conservation goals may exempt qualifying low and moderate-income owners of single-family residences and qualifying owners of multiple family buildings, as determined under this chapter, from property taxation levied by the participating local jurisdiction.

(2) An eligible structure and the land upon which the eligible structure is or will be built is exempt from property taxation levied by the participating local jurisdiction, as follows:

(a) For four successive years beginning January 1st of the year immediately following the calendar year of issuance of a certificate under section 5 of this act if the eligible structure is a:

(i) Preexisting single-family residence and an eligible retrofit project is expected to reduce cumulative energy consumption at least twenty percent compared to the average yearly consumption predicted by an energy model before implementation of the eligible retrofit project;

(ii) Preexisting multiple family building and an eligible retrofit project is expected to reduce cumulative energy consumption at least fifteen percent compared to the average yearly consumption predicted by an energy model before implementation of the eligible retrofit project; or

(iii) Newly constructed multiple family building and the new construction meets the requirements of green building certification and sells or rents at least ten percent of the total housing units as affordable housing to low and moderate-income households during the tax-exempted period specified in this section.

(b) For six successive years beginning January 1st of the year immediately following the calendar year of issuance of a certificate under section 5 of this act if the eligible structure is a:

(i) Preexisting single-family residence and an eligible retrofit project is expected to reduce cumulative energy consumption at least twenty-five percent compared to the average yearly consumption predicted by an energy model before implementation of the eligible retrofit project; or

(ii) Preexisting multiple family building and an eligible retrofit project is expected to reduce cumulative energy consumption at least twenty percent compared to the average yearly consumption predicted by an energy model before implementation of the eligible retrofit project.

(c) For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of a certificate under section 5 of this act if the eligible structure is a:

(i) Preexisting single-family residence and an eligible retrofit project is expected to reduce cumulative energy consumption at least thirty percent compared to the average yearly consumption predicted by an energy model before implementation of the eligible retrofit project;

(ii) Preexisting multiple family building and an eligible retrofit project is expected to reduce cumulative energy consumption at least twenty-five percent compared to the average yearly consumption predicted by an energy model before implementation of the eligible retrofit project; or

(iii) Newly constructed multiple family building and the new construction qualifies as a net-zero energy building and sells or rents at least ten percent of the total housing units as affordable housing units to low and moderate-income households during the tax-exempted period specified in this section.

(3) An exemption provided in subsection (2) of this section does not include those improvements or structures on the land that do not meet the definition of "eligible structure" as provided in section 2 of this act.

(4) A taxpayer who owns a preexisting multiple family building and receives an exemption for an eligible retrofit project under this chapter qualifies for four additional years of tax exemption status if the taxpayer rents or sells at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households during the tax-exempted period specified in this section.

(5) In the case of eligible retrofit projects performed in preexisting buildings, the exemption does not apply if the eligible project commenced prior to the approval of the application required under this chapter.

(6) Except as otherwise provided, the tax exemption provided by this chapter is in addition to any other incentives, tax credits, or grants, provided by law.

(7) At the conclusion of the exemption period, the new or rehabilitated housing cost must be considered as new construction for the purposes of chapter 84.55 RCW.

(8) A taxpayer may not claim the tax exemption provided in this chapter while the taxpayer is claiming the tax exemption in RCW 82.08.998 or participating in the program provided in chapter 70.164 RCW.

(9) The governing authority of a participating local jurisdiction may limit or cap the number or total dollar amount of exemptions issued under this section.

(10) At no time shall the value of an exemption for an eligible retrofit project under this section exceed the property owner's cost of retrofit by more than one hundred percent.

NEW SECTION. **Sec.**  A taxpayer seeking a tax exemption under this chapter must complete the following procedures:

(1) The taxpayer must apply to the participating local jurisdiction on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested tax exemption including information indicated on the application form or in the guidelines;

(b) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the tax exemption provided under this chapter; and

(c) For a preexisting building, the monthly energy consumption and cost of energy consumed during the past twelve calendar months prior to the date the application is submitted.

(2) The applicant must verify the application by oath or affirmation.

(3) The application must be accompanied by an application fee, if required by a local jurisdiction under this chapter. The governing authority may allow the applicant to revise an application before final action by the governing authority.

(4) The applicant must enter into a contract with the participating local jurisdiction, or an administrative official or commission authorized by the governing authority, under which the applicant has agreed to the implementation of the eligible retrofit project on terms and conditions satisfactory to the governing authority.

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

(2) If the application is approved, the participating local jurisdiction must issue to the owner of the property a conditional certificate of acceptance of tax exemption. The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required findings indicated in this chapter.

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

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

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

NEW SECTION. **Sec.**  (1) On April 1st of each year beginning after the first twelve months of exemption under this chapter, a taxpayer who receives a tax exemption under this chapter must file with the local jurisdiction the following:

(a) The monthly energy consumption and cost of energy consumed during the previous twelve calendar months;

(b) A statement of the amount of rehabilitation or construction expenditures associated with the eligible retrofit project or new construction made with respect to each housing unit and the composite expenditures made in the rehabilitation or construction associated with the eligible retrofit project or eligible new construction of the entire property;

(c) A description of changes or improvements constructed in association with the eligible retrofit project or eligible new construction after issuance of the certificate of tax exemption;

(d) If applicable, a statement that the building meets the affordable housing requirements as described in this chapter; and

(e) Any additional information requested by the city or county in regards to the units receiving a tax exemption.

(2) All participating local jurisdictions that issue certificates of tax exemption provided in this chapter must submit an annual report by December 31st of each year, beginning the first year the exemption is offered by the jurisdiction, to the department of commerce. The report must include the following information:

(a) The number of tax exemption applicants;

(b) The number of tax exemption participants;

(c) The total number and type of units approved for the exemption;

(d) The actual eligible retrofit project or eligible new construction cost performed in each unit;

(e) The average and total taxpayer savings from the tax exemptions granted;

(f) If feasible, the overall change in energy consumption in the local jurisdiction during the previous twelve-month period as a result of the pilot program;

(g) The change in energy consumption for each eligible retrofit project during the past twelve months, including both anticipated reductions in energy consumption modeled by an approved energy modeling technique and actual change in energy consumption and energy billing; and

(h) If applicable, a statement that the building meets the affordable housing requirements as described in this chapter.

NEW SECTION. **Sec.**  (1) The department of commerce must create a list of approved energy modeling techniques that may be used to determine projected reductions in energy consumption for eligible retrofit projects under this chapter. This list must include at least three recognized energy modeling techniques and must include energy modeling techniques that are applicable to single and multifamily housing.

(2) The department of commerce must create a list of approved third-party green building certifications for newly constructed multiple family buildings, including LEED platinum or gold and four or five-star built green certifications, in order to determine eligibility under this chapter.

(3) By December 31, 2019, and in compliance with RCW 43.01.036, the department of commerce must submit to the appropriate committees of the legislature a report on the pilot program that includes:

(a) A list of all participating local jurisdictions;

(b) The total number of tax exemptions granted for each participating jurisdiction;

(c) The total number and type of buildings that implemented eligible retrofit projects or obtained green building certification in each jurisdiction;

(d) The difference in energy consumption for each project, including both anticipated reductions in energy consumption modeled by an approved energy modeling technique and actual difference in energy consumption and energy billing;

(e) The taxpayer savings for each approved eligible retrofit and eligible new construction project and the total taxpayer savings for all tax exemptions granted; and

(f) If feasible, the net change in energy consumption for all participating local jurisdictions as a result of the pilot program.

NEW SECTION. **Sec.**  No new application for a tax exemption under this chapter may be accepted as of the date that is six years after the effective date of section 4 of this act.

NEW SECTION. **Sec.**  Sections 1 through 9 of this act constitute a new chapter in Title 84 RCW.

**--- END ---**