2SSB 6239 - H COMM AMD
By Committee on Community Development, Housing & Tribal Affairs

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that:

(1) Families, senior citizens, and workers with fewer financial resources are more likely to experience unhealthy and unsafe housing conditions;

(2) Healthy homes promote good physical and mental health. When adequate housing protects individuals and families from harmful exposures and provides them with a sense of privacy, security, stability, and control, it can make important contributions to health and well-being;

(3) Affordable housing is a necessary component of strong, thriving neighborhoods with healthy physical and social environments;

(4) Very low-income household renters should have the opportunity to live in homes in neighborhoods close to major infrastructure investments like transit, quality schools for children, and vital services like health care, grocery shopping, and employment;

(5) Community members with critical occupations, senior citizens, and families are struggling to afford rent around the state;

(6) Rising rents are causing the displacement of very low-income household renters and long-time community members, risking the loss of cultural communities;

(7) Nonprofit property owners require additional resources to make health, safety, and quality improvements to buildings without raising rents to pay for repairs; and

(8) Communities need a wide range of local tools to create healthy, affordable homes and address affordable housing needs.

NEW SECTION. **Sec. 2.** It is the purpose of this chapter to give communities a local option to preserve and increase healthy, high-quality affordable rental housing opportunities for very low-income households for which the governing authority has found that there are insufficient healthy affordable housing opportunities. It is also the purpose of this chapter to ensure that housing opportunities are affordable to renters at below-market rent levels, as determined by the governing authority, with consideration of community needs, market rental costs, and income levels of renters.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Energy and water efficiency standards" means housing that meets standards substantially equivalent to evergreen sustainable development standards, as established by the Washington state department of commerce.

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

(3) "Health and quality standards" means standards substantially equivalent to uniform physical condition standards, as established by the United States department of housing and urban development, or the national healthy housing standard, as established by the national center for healthy housing and the American public health association. Governing authority may use a residential housing inspection program within the jurisdiction that has established the tax exemption, as long as the standards are substantially equivalent to uniform physical condition standards or the national healthy housing standard.

(4) "High-cost area" means a county where the third quarter median house price for the previous year as reported by the Runstad center for real estate studies at the University of Washington is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

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

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

(7) "Multifamily dwelling" means a building consisting of more than one dwelling unit, as further defined by the governing authority.

(8) "Nonprofit" or "nonprofit entity" means a nonprofit that is exempt from federal income taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended.

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

(10) "Permanent residential occupancy" means housing that provides rental occupancy on a nontransient basis. "Permanent residential occupancy" includes rental accommodation that is leased for a period of at least one month. "Permanent residential occupancy" excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(11) "Property" means a multifamily dwelling not designed as transient accommodations, and the land upon which the dwelling is located. "Property" excludes hotels or motels. "Property" may also include a single-family dwelling and the land upon which the dwelling is located if the governing authority adopts a program for such property as provided in section 9(1)(e) of this act.

(12) "Rehabilitation improvements" means modifications to existing property made to achieve substantial compliance with health and quality standards or energy and water efficiency standards.

(13) "Single-family dwelling unit" means an individual detached dwelling, as further defined by the governing authority.

(14) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median family income adjusted for family size, for the county in which the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "very low-income household" means a household that has an income at or below sixty percent of the median family income adjusted for family size, for the county in which the project is located.

NEW SECTION. **Sec. 4.** A city governing authority may adopt a property tax exemption program to preserve affordable housing that meets health and quality standards for very low-income households at risk of displacement or that cannot afford market-rate housing. A county governing authority may adopt a property tax exemption program for unincorporated areas of the county to preserve affordable housing that meets health and quality standards for very low-income households at risk of displacement or that cannot afford market-rate housing.

NEW SECTION. **Sec. 5.** (1) Only properties owned by a nonprofit entity may qualify for a property tax exemption program under this chapter.

(2) Upon adoption of a property tax exemption program, the governing authority must establish standards for very low-income household rental housing under this chapter, including rent limits and income guidelines consistent with local housing needs, to assist very low-income households that cannot afford market-rate housing. Affordable housing units must be:

(a) Below market rent levels as determined by the governing authority; and

(b) Affordable to households with an income of fifty percent or less of the county median family income, adjusted for family size.

(3)(a) The governing authority, after holding a public hearing, may also establish lower income levels or lower rent levels adjusted to serve very low-income household renters in the community.

(b) The governing authority of a high-cost area, after holding a public hearing, may also establish higher income levels. The higher income level may not exceed sixty percent of the county area median family income, adjusted for family size.

(4) Rent levels for affordable housing units may not exceed thirty percent of the income limit for the very low-income housing unit, as established by the governing authority, and must include tenant-paid utilities other than telephone and any mandatory fees required as a condition of tenancy.

NEW SECTION. **Sec. 6.** (1) The value of residential real property qualifying under this chapter is exempt from ad valorem property taxation, except taxes levied by the state, for a period of fifteen successive years beginning January 1st of the calendar year immediately following the calendar year in which a certificate of tax exemption is filed with the county assessor in accordance with section 12 of this act.

(2) The governing authority may extend the duration of the exemption period by three years for properties meeting energy and water efficiency standards.

(3) The incentive provided under this chapter is in addition to any tax credits, grants, or other incentives provided by law.

(4) This chapter neither applies to increases in assessed valuation made by the assessor on nonqualifying portions of building or land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

(5) The exemption does not apply to any county property tax unless the legislative authority of the county adopts a resolution and notifies the governing authority of the jurisdiction within the county that has established a tax exempt program of its intent to allow the property to be exempt.

(6) The governing authority must notify local taxing districts in the designated exemption area when a tax exemption program is established under this chapter.

NEW SECTION. **Sec. 7.** To be eligible for the exemption from property taxation under this chapter, in addition to other requirements set forth in this chapter, the property must be in compliance with the following applicable requirements for the entire exemption period:

(1) The property must be owned by a nonprofit entity;

(2)(a) A minimum of twenty-five percent of units in a multiple-unit property subject to tax exemption must be affordable as described in section 5 of this act. A governing authority may require more than twenty-five percent affordable units in multiple-unit housing buildings subject to tax exemption to address local market conditions. Affordable units must be comparable in terms of quality and living conditions to market rate units in the building.

(b) If a nonprofit entity acquires a property that meets the requirements under (a) of this subsection, and which also had within the previous twelve-month period at least an additional twenty-five percent of its units affordable to low-income households, then the property must continue to provide no less than the same number of additional units affordable to low-income households or very low-income households;

(3) At least ninety percent of the units of multiple-unit property must be occupied by tenants at the time of application;

(4) The property must be part of a residential or mixed-use (residential and nonresidential) project;

(5) The property must provide for a minimum of fifty percent of the space in each building for permanent residential occupancy;

(6) The property must meet guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents, health and quality standards, and other adopted requirements indicated as necessary by the governing authority. The required amenities should be relative to the size of the project and tax benefit to be obtained; and

(7) The nonprofit property owner must enter into a contract with the city or county approved by the governing authority, or an administrative official or commission authorized by the governing authority, under which the nonprofit property owner has agreed to terms and conditions satisfactory to the governing authority.

NEW SECTION. **Sec. 8.** (1) To be eligible for the exemption from taxation under this chapter, the property must also comply with all applicable land use regulations, zoning requirements, and building and housing code requirements, including space and occupancy, structural, mechanical, fire, safety, and security standards, and health and quality standards. The governing authority may establish additional standards to meet local needs.

(2)(a) The governing authority may waive certain health and quality standards for up to two years if the owner of the nonprofit property submits a rehabilitation plan to comply with health and quality standards. The nonprofit owner must notify the governing authority at the time of completion of rehabilitation. The waiver of certain health and quality standards only applies to rehabilitation improvements specifically included in the rehabilitation plan.

(b) The governing authority must establish minimum health and quality standards for properties to qualify for a waiver under (a) of this subsection. The governing authority may not waive health and quality standards that endanger or impair the health and safety of any tenant.

(c) Nothing in this subsection may exempt or waive any obligations under federal, state, and local laws.

(3) The property must be inspected for compliance with subsections (1) and (2) of this section at the time of application

for tax exemption and, thereafter, as established by the governing authority at least once every three years.

(4) If the governing authority grants a waiver of certain health and quality standards under subsection (2) of this section, the property must be inspected when the nonprofit owner notifies the governing authority that rehabilitation has been completed or at the end of the waiver period, whichever occurs first.

(5) The governing authority or its duly authorized representative may deny an application for tax exemption or revoke an existing exemption under this chapter for failure to comply with health and quality standards.

NEW SECTION. **Sec. 9.** (1) The governing authority may establish additional requirements for tax exemption eligibility or program rules under this chapter including, but not limited to:

(a) A limit on the total number of affordable housing units subject to exemption under this chapter;

(b) The designation of targeted residential areas for property to align with community needs, including to prevent displacement, preserve cultural communities, and provide affordable housing options near community infrastructure such as transportation or public schools;

(c) Standards for property size, unit size, unit type, mix of unit types, or mix of unit sizes;

(d) An exemption extension for property meeting minimum energy and water efficiency standards substantially equivalent to evergreen sustainable development building performance standards;

(e) A program for single-family dwelling rental units occupied by tenants complying with affordability requirements under this chapter as adopted by the governing authority;

(f) Any additional requirements to reduce displacement of very low-income household tenants.

(2) The governing authority must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under this chapter. The standards and guidelines must establish basic requirements to include:

(a) An application process and procedures;

(b) Guidelines that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents, health and quality standards, and other adopted requirements indicated as necessary by the governing authority. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(c) An inspection policy and procedures to ensure the property complies with housing and health and quality standards;

(d) Income and rent limits as required under section 5 of this act; and

(e) Documentation necessary to establish income eligibility of households in affordable housing units.

(3) Standards may apply to part or all of a jurisdiction and different standards may be applied to different areas within a jurisdiction or to different types of development. Programs authorized under this section may be modified to meet local needs and may include provisions not expressly provided in this section.

NEW SECTION. **Sec. 10.** A nonprofit property owner making an application under this chapter must apply by August 1st of the year prior to the first calendar year in which the taxes for collection are to be considered for exemption and meet the following requirements:

(1) The applicant must apply to the city or county on forms adopted by the governing authority. The application must contain the following:

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

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

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

(d) When the governing authority finds that rehabilitation is required to meet health and quality standards or evergreen sustainable development building performance standards, a rehabilitation plan outlining rehabilitation improvements, budget, and proposed schedule for repairs; and

(e) A certification of family size and annual income in a form acceptable to the governing authority for designated affordable housing units;

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

(3) The applicant must submit a fee, if any, with the application as required under this chapter. The governing authority may permit the applicant to revise an application before final action by the governing authority.

NEW SECTION. **Sec. 11.** (1) Upon receipt of an application meeting the requirements of section 10 of this act, the governing authority must inspect the property to certify compliance with health and quality standards or to grant a waiver upon submission of a rehabilitation plan by the nonprofit owner of the property.

(2) The duly authorized administrative official or committee of the governing authority may approve the application if it finds that:

(a) The property meets affordable housing requirements as described in section 5 of this act;

(b) The property meets health and quality standards, or a waiver is granted upon submission of a rehabilitation plan by the nonprofit property owner;

(c) The property rehabilitation plan is of appropriate scope to be completed within the designated time frame of waiver and will result in property compliance with health and quality standards, as outlined in section 8 of this act; and

(d) The nonprofit owner has complied with all standards and guidelines adopted by the governing authority under this chapter.

NEW SECTION. **Sec. 12.** (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 one hundred twenty days. The governing authority may adopt standards to extend the period to approve or deny an application filed under this chapter for a property that does not meet health and quality standards.

(2)(a) If the application is approved, the governing authority must issue the nonprofit property owner a certificate of tax exemption and file the certificate of exemption with the county assessor no later than December 1st of the year prior to the first calendar year in which the taxes for collection are to be exempt. If the certificate of exemption is filed after December 1st and before January 1st, the certificate of exemption is deemed filed in the next calendar year. 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.

(b) The governing authority may issue a conditional certificate of acceptance of tax exemption if a property must complete a rehabilitation plan in order to comply with health and quality standards. The rehabilitation must be completed within two years of the date of application for a tax exemption.

(3)(a) 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.

(b) Upon denial by the 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 or commission with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official or commission's decision. The decision of the governing body in denying or approving the application is final.

NEW SECTION. **Sec. 13.** The governing authority may establish an application fee or other fees to 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, if established, must be paid at the time the application is submitted. If the application is approved, the governing authority must 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. 14.** The authorized representative of the governing authority must notify the applicant that a certificate of tax exemption will be denied or canceled if the authorized representative determines that:

(1) The affordable housing requirements as described in section 5 of this act were not met;

(2) The property did not meet health and quality standards; or

(3) The nonprofit owner's property is otherwise not qualified for limited exemption under this chapter.

NEW SECTION. **Sec. 15.** (1) The nonprofit owner of property receiving a tax exemption under this chapter must obtain from each tenant living in designated affordable housing units, no less than annually, a certification of family size and annual income in a form acceptable to the governing authority.

(2) The nonprofit property owner must file a report at least annually by a date established by the governing authority indicating the following:

(a) Family size and annual income for each tenant living in designated affordable housing rental units and a statement that the property is in compliance with affordable housing requirements described in section 5 of this act;

(b) A statement of occupancy and vacancy;

(c) A schedule of rents charged in market-rate units;

(d) A certification that the property has not changed use;

(e) A description of changes or improvements;

(f) When rehabilitation is required to meet health and quality standards or evergreen sustainable development building performance standards, a progress report on compliance with the rehabilitation plan, budget, and proposed schedule for repairs; and

(g) Any other information required to determine compliance with program requirements or to measure program performance.

(3) A governing authority that issues certificates of tax exemption for property that conform to the requirements of this chapter must report annually by July 1st to the department of commerce the following information:

(a) The number of tax exemption certificates granted;

(b) The number and type of units in building properties receiving a tax exemption;

(c) The number and type of units meeting affordable housing requirements;

(d) The total monthly rent amount for each affordable and market-rate unit; and

(e) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

NEW SECTION. **Sec. 16.** (1) After a certificate of exemption has been filed with the county assessor, the tax exemption must be canceled by the authorized representative of the governing authority under the following circumstances:

(a) The owner intends to convert the property to another use that is not residential or the owner intends to discontinue compliance with affordable housing requirements;

(b) The owner fails to file annual reports;

(c) The owner fails to maintain the property in substantial compliance with all applicable local building, safety, and health code requirements;

(d) The owner fails to complete rehabilitation improvements as outlined in the rehabilitation plan;

(e) The owner fails to meet affordable housing requirements; or

(f) The property is transferred to an owner who is not a nonprofit entity.

(2)(a) Notification of a canceled certificate of exemption must be made by the governing authority or authorized representative of the governing authority to the county assessor within thirty days of the cancellation. Upon notice of a canceled tax exemption certificate, additional real property tax must be imposed upon the value of the improvements and land that no longer qualify for exemption under this chapter in the amount that would have been imposed had the property not been exempt under this act, plus a penalty of twenty percent of the additional tax. This additional tax is calculated from January 1st of the year the certificate of tax exemption first became effective.

(b) Interest must be included upon the amounts of the additional tax at the same rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the property had been assessed at a value without regard to this chapter.

(c) The additional tax, penalty, and interest must be collected by the county treasurer. The additional tax must be distributed by the county treasurer in the same manner in which current property taxes applicable to the subject property are distributed. The additional taxes, penalty, and interest must be payable in full thirty days following the date on which the treasurer's statement of additional tax due is issued.

(d) The additional tax owed together with the interest and penalty becomes a lien on the land and attaches at the time the property or portion of the property is removed from use as affordable housing or the amenities no longer meet applicable requirements, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon the expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent.

(e) The county auditor may not accept an instrument of conveyance unless the additional tax, interest, and penalty has been paid or the governing authority or authorized representative has determined that the property is not subject to the additional tax, interest, or penalty.

(f) A certificate of exemption may be continued for the remainder of the exemption period upon sale or transfer of all or a portion of the exempt property to a new nonprofit owner, if the new nonprofit owner has signed a notice of exemption continuance. The notice of exemption continuance must be in a form approved by the governing authority or its authorized representative. If the notice of continuance is not signed by the new nonprofit owner and attached to the real estate excise tax affidavit, all additional tax, penalty, and interest calculated in accordance with this section become due and payable by the owner, including the seller or transferor, at time of sale.

(3) Upon a determination that a property tax exemption is to be canceled for any reason stated in this section, the governing authority or authorized representative of the governing authority must notify the record nonprofit owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The nonprofit owner may appeal the

determination to the governing authority or authorized representative within thirty days by filing a notice of appeal with the clerk of the governing authority, which must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598.

(4) Upon the expiration of the exemption period or upon cancellation of the exemption, the value of new construction or improvements to the property, not previously considered as new construction during the exemption period, must be considered as new construction for purposes of calculating levies under chapter 84.55 RCW.

NEW SECTION. **Sec. 17.** Tenant identifying information and income data obtained by the governing authority and the assessor may be used only to administer this affordable housing exemption. Notwithstanding any provision of law to the contrary, absent written consent by the person about whom the information or facts have been obtained, the tenant identifying information and income data may not be disclosed by the jurisdiction or assessor or their agents or employees to anyone other than their agents or employees except in an administrative or judicial proceeding pertaining to the taxpayer's entitlement to the tax exemption.

NEW SECTION. **Sec. 18.** The exemption in this chapter applies to taxes levied for collection in 2017 and thereafter.

NEW SECTION. **Sec. 19.** Sections 1 through 18 of this act constitute a new chapter in Title 84 RCW."

Correct the title.

EFFECT: (1) Limits the eligibility for the tax exemption to properties owned by a nonprofit entity.

(2) Provides that properties acquired by a nonprofit entity, with at least 25 percent of its units affordable to households under 50 percent of median income and at least 25 percent of the other units affordable to households below 60 percent of median income, are eligible for the tax exemption only if the property continues to provide at least the same number of additional units affordable to households under 60 percent of median income.

--- END ---