SENATE BILL REPORT
SB 6239

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, February 1, 2016

Title: An act relating to providing local governments with options to preserve affordable housing in their communities.

Brief Description: Authorizing local governments to adopt a property tax exemption program for the preservation of certain affordable housing.

Sponsors: Senators Fain, Frockt, Cleveland, Rolfes, Keiser, Darneille, McAuliffe and Chase.

Brief History:
Committee Activity: Human Services, Mental Health & Housing: 1/18/16, 1/26/16, 2/01/16 [DPS-WM].

Brief Summary of Substitute Bill

A city or county may adopt a property tax exemption program to preserve affordable housing for very low-income households. To qualify for this exemption, a minimum of twenty-five percent of units in a multiple-unit property must be affordable, and in return the property is exempt from property taxes (except for the state portion) for fifteen successive years.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: That Substitute Senate Bill No. 6239 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Hargrove and Padden.

Staff: Alison Mendiola (786-7444)

Background: Affordable Housing Advisory Board (AHAB). In 2015, AHAB conducted a housing needs assessment which include the following findings regarding affordable housing:

- Thirty-six percent (936,260) of Washington's households are cost-burdened (paying more than 30% for housing expenses).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- More than 390,000 households (15.2%) are severely cost-burdened. The proportion of the lowest-earning households (earning less than 30% of the state's median family income) that are severely cost-burdened is greater than those who can reasonably afford their housing.
- Every county in Washington has affordability problems, but they vary greatly by county.
- For extremely low- and very low-income households, Washington State has a deficit of 327,136 affordable and available housing units. For every 100 extremely low and very low-income households, only 51 units are affordable and available to them.

Housing and Quality Standards. The U.S. Department of Housing and Urban Development has developed Housing Quality Standards to ensure that units rented under the Housing Choice Voucher program are decent, safe, and sanitary. There are thirteen key aspects of housing quality which include:

- sanitary facilities;
- food preparation and refuse disposal;
- space and security;
- thermal environment;
- illumination and electricity;
- structure and materials;
- interior air quality;
- water supply;
- lead-based paint;
- access;
- site and neighborhood;
- sanitary condition; and
- smoke detectors.

Property Tax. All real and personal property in the state is subject to property tax each year based on its value, unless specific exemption is provided by law. The Washington Constitution requires that taxes be uniform within a class of property. Uniformity requires both an equal rate of tax and equality in valuing the property taxes. The are exemptions from property tax, established either by statute or constitutionally. Examples of exemptions include churches, nonprofit hospitals, private schools and colleges, and agricultural products.

Summary of Bill (Recommended Substitute): Property tax exemption program. A city or county may adopt a property tax exemption program to preserve affordable housing for very low-income households. To qualify for this exemption, a minimum of twenty-five percent of units in a multiple-unit property must be affordable, and in return the property is exempt from property taxes (except for the state portion) for fifteen successive years. The governing authority may extend the duration of the exemption period by three years for properties meeting energy and water efficiency standards. The property must meet certain standards to qualify for the exemption however the governing authority may waive certain standards for up to three years if the owner of the property submits a rehabilitation plan to comply with the housing quality standards.

Duty of the governing authority. Upon adoption of a property tax exemption program, the governing authority is to establish standards for very low-income rental housing. This must include rent limits and income guidelines consistent with local housing needs in order to assist very low-income households that cannot afford market rate housing. Affordable housing units must be below market rate levels and affordable to households with an income of 50% or less than the county median income, adjusted for family size.

The governing authority may adopt a program for single-family dwelling units occupied by tenants who meet these affordability requirements. Basic requirements of this program include:
- an application process and procedures;
- an inspection policy and procedures to ensure the property complies with housing, heath, and quality standards; and
- ensuring that income and rent limits are met.

Standards may apply to all or part of a jurisdiction, and different standards may be applied to different areas within a jurisdiction or to different types of development. Programs may modified to meet local needs and may include provision not expressly authorized.

Public hearings. A governing authority may establish lower income levels or lower rent levels after holding a public hearing. Conversely, a governing authority of a high-cost area may establish higher income levels after holding a public hearing. These are not to exceed 60% of the county median area family income, adjusted for family size.

Eligible properties. A governing authority may require that more than 25 percent of units in a multiple-unit building be affordable. Affordable units must be comparable in terms of quality and living conditions to market rate units in the building. At least 90 percent of the units in a multiple-unit property must be occupied by tenants at the time of application. The property must be part of a residential or mixed-use project, and provide a minimum of fifty percent of the space in each building for permanent residential occupancy.

The properties 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, and health and quality standards, among other adopted requirements.

The property owner must enter into a contract with the city or county, under which the property owner has agreed to the terms and conditions satisfactory to the governing authority.

To be eligible for tax exemption, the property must also comply with all applicable land use regulations, zoning requirements, and building and housing code requirements. The governing authority may establish additional standards to meet local needs.

The property must be inspected at the time of application for tax exemption, and thereafter at least once every three years, as established by the government authority.

Application process, approval, denial. The application for this program must include:
- information setting forth the grounds supporting the requested exemption;
- a description of the project and site plan; a statement that the applicant is aware of the potential tax liability when the property ceases to be eligible for the exemption; and

- a certification of family size and annual income.

When approved, the governing authority is to issue the owner of the property a certificate of acceptance, or of conditional acceptance if rehabilitation is to be completed. If the application is denied, a written statement is to be provided, listing the reasons for the denial. Upon receipt of the denial, the owner has thirty days to appeal. The burden of proof is 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 approving or denying the appeal is final.

Requirements after approval. At least annually, the owner of the property receiving a tax exemption is to obtain a certification of family size and annual income from each tenant living the designated affordable housing units. Annually, the property owner to file a report that also includes:

- a statement of occupancy and vacancy;
- a schedule of rents charged in the market-rate units;
- a certification that the property has not changed use;
- a description of changes or improvements;
- when rehabilitation is required, a progress report on compliance;
- and any other information required to determine compliance with program requirements or to measure program performance.

A governing authority that issues certificates of exemption is to report annually to the Department of Commerce:

- the number of certificates granted,
- the number and type of units in buildings receiving a tax exemption;
- the number and type of units meeting affordable housing requirements;
- the total monthly rent amount of each affordable and market-rate unit;
- the value of the tax exemption for each project; and
- the total value of tax exemptions granted.

Cancelling a tax exemption. After a certificate of exemption has been filed with the county assessor, the tax exemption must be canceled by the governing authority when:

- the owner intends to convert the property to another use that is not residential;
- the owner intends to discontinue compliance with affordable housing requirements;
- the owner fails to maintain the property in substantial compliance with applicable code requirements;
- the owner fails to complete rehabilitation improvements as previously agreed upon; or
- the owner fails to meet affordable housing requirements.

Penalties and lien priority. Upon cancellation, additional real property tax is to be imposed upon the value of nonqualifying improvements and land in the amount normally imposed, plus a twenty percent penalty. The additional tax owed together with the interest and penalty becomes a lien on the land and attaches at the time the property or a portion of the property is no longer used as affordable housing. The lien 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 and liable. The lien may be foreclosed upon in the same manner provided for by law for foreclosure of liens for delinquent property taxes.

Tax Preference Statement. It is the legislature's specific public policy objective to preserve quality and healthy affordable housing where housing options, including quality and healthy affordable housing options, are severely limited. It is the legislature's intent to provide the value of residential improvements and land qualifying under this chapter an exemption from ad valorem property taxation for fifteen years, as provided for in this chapter, to provide incentives to developers to preserve affordable housing units for very low-income households.

Definitions. "Energy and water efficiency standards" means housing that meets standards substantially equivalent to Evergreen Sustainable Development, as developed by the Department of Commerce.

"Very low-income household" means a household whose adjusted income is at or below 50 percent of the median family income adjusted for family size (AMI), for the county where the housing is located, as reported by the US Department of Housing and Urban Development.

In high cost areas, "very low-income household" means a household that has an income at or below sixty percent of the AMI.

"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. King and San Juan County are high cost counties for 2016.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (Recommended Substitute): For any residential construction occurring on real property that is exempt from property taxation, the governing authority may decide that the residential workers will be paid prevailing wage rates.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: In the Central Puget Sound there is a significant crunch in housing stock for working families. Rent control is not the best in the long term interest. We still need to lower the cost of construction - but this bill provides flexibility for local governments, making allowances for properties to be less expensive. This may help with gentrification or prevent a building from being torn down and rebuilt as town homes. We don't want only six-figure families to benefit from infrastructure.

It can be very economically difficult for an older building to get up to code so the bill provides a tool to help preserve older housing stock and not lose a source of affordable housing. This bill comes from the City of Seattle's Housing Affordability and Livability Agenda (HALA) workgroup recommendations. There has been a suburbanization of poverty, not a problem limited to Seattle. This bill is supported by cities around Seattle as well. This exemption does not drain the State as the exemption only applies to local taxes. In 2014, Seattle Mayor Ed Murray convened HALA whose 28-member workgroup included renters, owners, and developers. HALA published a report with 65 recommendations and this bill represents one of the recommendations.

This bill targets households up to 50 percent of the area median income - or up to 60 percent in a high cost area. Support the idea of a voluntary exemption. This local option bill will help people live where they work, provide stable housing and allow for civic engagement where a person works and lives. You can't build yourself out of this problem, but with 65 HALA recommendations there is no silver bullet. This bill is part of the overall approach to different way of creating and preserving affordable housing. South Lake Union, Seattle, is the fastest growing neighborhood in America and this area includes low-income employees. Through incentive programs, Vulcan has contributed to building housing for low-income households. Housing affordability is predicated on ability to provide housing for the workforce and this bill provides for exactly that type of program; market incentive based solutions.

CON: The bill as written allows the adopting city to exempt the county without the county having any say. The county should have a choice. This is a mandate for county. A simple fix - the county can choose - there is precedent for this in other statutes. Under this bill, it's unlikely that taxing districts will receive any taxes.

Persons Testifying on Original Bill: PRO: Senator Fain, Prime Sponsor; Senator Frockt; Kim Herman, WA State Housing Finance Commission; Catherine Stanford, Building Owners and Managers Association; Lyset Cadena, Robin Koskey, City of Seattle; Bill Hinkle, Rental Housing Association; Carl Schroeder, Association of Washington Cities; Barb Wilson, Vulcan.

CON: Monty Cobb, WA Association of County Officials; Josh Weiss, Washington State Association of Counties.

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