
SECOND SUBSTITUTE HOUSE BILL 1843

State of Washington

64th Legislature

2015 Regular Session

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

READ FIRST TIME 02/27/15.

1 AN ACT Relating to creating a residential energy efficiency
2 incentive pilot program; 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.** (1) The legislature finds that increased
5 energy efficiency investments in Washington's residential building
6 stock will achieve significant reductions in energy consumption,
7 create sustained cost savings on utility bills for building
8 occupants, and increase the overall health and safety of communities
9 where energy efficiency projects occur. A residential energy
10 efficiency incentive pilot program provides a unique opportunity to
11 collect important data on the actual costs and benefits of energy
12 efficiency retrofits among various residential building types. The
13 data collected from this pilot program will be used to inform future
14 decisions relating to energy efficiency investments in the
15 residential building stock in Washington.

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

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

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

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

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

- 20 (i) The taxpayer applications required in section 4 of this act;
21 (ii) The annual surveys required in section 7 of this act;
22 (iii) The department of commerce; and
23 (iv) Any other data sources needed by the joint legislative audit
24 and review committee.

25 NEW SECTION. **Sec. 2.** The definitions in this section apply
26 throughout this chapter unless the context clearly requires
27 otherwise.

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

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

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

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

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

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

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

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

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

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

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

38 (12) "Multiple family building" means a building having four or
39 more dwelling units not designed or used as transient accommodations
40 and not including hotels and motels. Multifamily units may result

1 from new construction or rehabilitated or conversion of vacant,
2 underutilized, or substandard buildings to multifamily housing.

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

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

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

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

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

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

19 NEW SECTION. **Sec. 3.** (1) A residential energy efficiency
20 incentive pilot program is created. A city or county that is
21 participating in national competitions targeting energy savings, is
22 implementing a climate action plan, or has established long-term
23 conservation goals may exempt qualifying low and moderate-income
24 owners of single-family residences and qualifying owners of multiple
25 family buildings, as determined under this chapter, from property
26 taxation levied by the participating local jurisdiction.

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

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

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

38 (ii) Preexisting multiple family building and an eligible
39 retrofit project is expected to reduce cumulative energy consumption

1 at least fifteen percent compared to the average yearly consumption
2 predicted by an energy model before implementation of the eligible
3 retrofit project; or

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (8) A taxpayer may not claim the tax exemption provided in this
23 chapter while the taxpayer is claiming the tax exemption in RCW
24 82.08.998 or participating in the program provided in chapter 70.164
25 RCW.

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

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

32 NEW SECTION. **Sec. 4.** A taxpayer seeking a tax exemption under
33 this chapter must complete the following procedures:

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

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

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

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

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

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

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

19 NEW SECTION. **Sec. 5.** (1) The governing authority or an
20 administrative official or commission authorized by the governing
21 authority must approve or deny an application filed under this
22 chapter within ninety days after receipt of the application.

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

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

34 (4) Upon denial by a duly authorized administrative official or
35 commission, an applicant may appeal the denial to the governing
36 authority within thirty days after receipt of the denial. The appeal
37 before the governing authority must be based upon the record made
38 before the administrative official with the burden of proof on the
39 applicant to show that there was no substantial evidence to support

1 the administrative official's decision. The decision of the governing
2 body in denying or approving the application is final.

3 NEW SECTION. **Sec. 6.** The governing authority may establish an
4 application fee. This fee may not exceed an amount determined to be
5 required to cover the cost to be incurred by the governing authority
6 and the assessor in administering this chapter. The application fee
7 must be paid at the time the application for tax exemption is filed.
8 If the application is approved, the governing authority shall pay the
9 application fee to the county assessor for deposit in the county
10 current expense fund, after first deducting that portion of the fee
11 attributable to its own administrative costs in processing the
12 application. If the application is denied, the governing authority
13 may retain that portion of the application fee attributable to its
14 own administrative costs and refund the balance to the applicant.

15 NEW SECTION. **Sec. 7.** (1) On April 1st of each year beginning
16 after the first twelve months of exemption under this chapter, a
17 taxpayer who receives a tax exemption under this chapter must file
18 with the local jurisdiction the following:

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

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

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

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

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

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

- 1 (a) The number of tax exemption applicants;
- 2 (b) The number of tax exemption participants;
- 3 (c) The total number and type of units approved for the
4 exemption;
- 5 (d) The actual eligible retrofit project or eligible new
6 construction cost performed in each unit;
- 7 (e) The average and total taxpayer savings from the tax
8 exemptions granted;
- 9 (f) If feasible, the overall change in energy consumption in the
10 local jurisdiction during the previous twelve-month period as a
11 result of the pilot program;
- 12 (g) The change in energy consumption for each eligible retrofit
13 project during the past twelve months, including both anticipated
14 reductions in energy consumption modeled by an approved energy
15 modeling technique and actual change in energy consumption and energy
16 billing; and
- 17 (h) If applicable, a statement that the building meets the
18 affordable housing requirements as described in this chapter.

19 NEW SECTION. **Sec. 8.** (1) The department of commerce must create
20 a list of approved energy modeling techniques that may be used to
21 determine projected reductions in energy consumption for eligible
22 retrofit projects under this chapter. This list must include at least
23 three recognized energy modeling techniques and must include energy
24 modeling techniques that are applicable to single and multifamily
25 housing.

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

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

- 34 (a) A list of all participating local jurisdictions;
- 35 (b) The total number of tax exemptions granted for each
36 participating jurisdiction;
- 37 (c) The total number and type of buildings that implemented
38 eligible retrofit projects or obtained green building certification
39 in each jurisdiction;

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

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

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

10 NEW SECTION. **Sec. 9.** No new application for a tax exemption
11 under this chapter may be accepted as of the date that is six years
12 after the effective date of section 4 of this act.

13 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act
14 constitute a new chapter in Title 84 RCW.

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