
SUBSTITUTE SENATE BILL 6239

State of Washington

64th Legislature

2016 Regular Session

By Senate Human Services, Mental Health & Housing (originally sponsored by Senators Fain, Frockt, Cleveland, Rolfes, Keiser, Darneille, McAuliffe, and Chase)

READ FIRST TIME 02/02/16.

1 AN ACT Relating to providing local governments with options to
2 preserve affordable housing in their communities; and adding a new
3 chapter to Title 84 RCW.

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

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

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

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

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

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

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

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

4 (7) Property owners require additional resources to make health,
5 safety, and quality improvements to buildings without raising rents
6 to pay for repairs; and

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

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

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

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

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

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

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

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

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

11 (7) "Owner" means the property owner of record.

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

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

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

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

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

38 NEW SECTION. **Sec. 4.** A city governing authority may adopt a
39 property tax exemption program to preserve affordable housing that

1 meets health and quality standards for very low-income households at
2 risk of displacement or that cannot afford market-rate housing. A
3 county governing authority may adopt a property tax exemption program
4 for unincorporated areas of the county to preserve affordable housing
5 that meets health and quality standards for very low-income
6 households at risk of displacement or that cannot afford market-rate
7 housing.

8 NEW SECTION. **Sec. 5.** (1) Upon adoption of a property tax
9 exemption program, the governing authority must establish standards
10 for very low-income household rental housing under this chapter,
11 including rent limits and income guidelines consistent with local
12 housing needs, to assist very low-income households that cannot
13 afford market-rate housing. Affordable housing units must be:

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

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

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

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

25 (3) Rent levels for affordable housing units may not exceed
26 thirty percent of county median income, as established by the
27 governing authority, and must include tenant-paid utilities other
28 than telephone and any mandatory fees required as a condition of
29 tenancy.

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

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

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

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

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

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

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

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

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

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

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

38 (5) The property must meet guidelines as adopted by the governing
39 authority that may include height, density, public benefit features,

1 number and size of proposed development, parking, income limits for
2 occupancy, limits on rents, health and quality standards, and other
3 adopted requirements indicated as necessary by the governing
4 authority. The required amenities should be relative to the size of
5 the project and tax benefit to be obtained;

6 (6) For residential real property, a governing authority may opt
7 to pay distinct prevailing wage rates to workers employed in any
8 residential construction that occurs on such residential real
9 property. For the purposes of this subsection, "residential
10 construction" means construction, alteration, repair, improvement, or
11 maintenance of single-family dwellings, duplexes, apartments,
12 condominiums, and other residential structures not to exceed four
13 stories in height, and all incidental items such as site work,
14 parking areas, utilities, streets, and sidewalks, pursuant to the
15 United States department of labor "all agency Memorandum No. 130:
16 Application of the standard of comparison "projects of a character
17 similar" under the Davis-Bacon and related acts," dated March 17,
18 1978; and

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

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

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

38 (b) The governing authority must establish minimum health and
39 quality standards for properties to qualify for a waiver under (a) of

1 this subsection. The governing authority may not waive health and
2 quality standards that endanger or impair the health and safety of
3 any tenant.

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

6 (3) The property must be inspected for compliance with
7 subsections (1) and (2) of this section at the time of application
8 for tax exemption and, thereafter, as established by the governing
9 authority at least once every three years.

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

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

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

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

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

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

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

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

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

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

5 (a) An application process and procedures;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (3) The authorized representative of the governing authority may
34 waive the unit affordability and occupancy restrictions for an
35 incidental number of units occupied by existing over-income tenants
36 at the time of application. The waiver should be limited for a
37 specified period, but not to exceed three years.

1 NEW SECTION. **Sec. 12.** (1) The governing authority, or an
2 administrative official or commission authorized by the governing
3 authority, must approve or deny an application filed under this
4 chapter within one hundred twenty days. The governing authority may
5 adopt standards to extend the period to approve or deny an
6 application filed under this chapter for a property that does not
7 meet health and quality standards.

8 (2)(a) If the application is approved, the governing authority
9 must issue the owner of the property a certificate of tax exemption
10 and file the certificate of exemption with the county assessor no
11 later than December 1st of the year prior to the first calendar year
12 in which the taxes for collection are to be exempt. If the
13 certificate of exemption is filed after December 1st and before
14 January 1st, the certificate of exemption is deemed filed in the next
15 calendar year. The certificate must contain a statement by a duly
16 authorized administrative official of the governing authority that
17 the property has complied with the required findings indicated in
18 this chapter.

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

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

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

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

14 NEW SECTION. **Sec. 14.** The authorized representative of the
15 governing authority must notify the applicant that a certificate of
16 tax exemption will be denied or canceled if the authorized
17 representative determines that:

- 18 (1) The affordable housing requirements as described in section 5
19 of this act were not met;
- 20 (2) The property did not meet health and quality standards; or
- 21 (3) The owner's property is otherwise not qualified for limited
22 exemption under this chapter.

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

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

- 30 (a) Family size and annual income for each tenant living in
31 designated affordable housing rental units and a statement that the
32 property is in compliance with affordable housing requirements
33 described in section 5 of this act;
- 34 (b) A statement of occupancy and vacancy;
- 35 (c) A schedule of rents charged in market-rate units;
- 36 (d) A certification that the property has not changed use;
- 37 (e) A description of changes or improvements;

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

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

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

11 (a) The number of tax exemption certificates granted;

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

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

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

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

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

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

27 (b) The owner fails to file annual reports;

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

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

33 (e) The owner fails to meet affordable housing requirements.

34 (2)(a) Notification of a canceled certificate of exemption must
35 be made by the governing authority or authorized representative of
36 the governing authority to the county assessor within thirty days of
37 the cancellation. Upon notice of a canceled tax exemption
38 certificate, additional real property tax must be imposed upon the
39 value of the improvements and land that no longer qualify for

1 exemption under this chapter in the amount that would have been
2 imposed had the property not been exempt under this act, plus a
3 penalty of twenty percent of the additional tax. This additional tax
4 is calculated from January 1st of the year the certificate of tax
5 exemption first became effective.

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

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

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

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

34 (f) A certificate of exemption may be continued for the remainder
35 of the exemption period upon sale or transfer of all or a portion of
36 the exempt property to a new owner, if the new owner has signed a
37 notice of exemption continuance. The notice of exemption continuance
38 must be in a form approved by the governing authority or its
39 authorized representative. If the notice of continuance is not signed
40 by the new owner and attached to the real estate excise tax

1 affidavit, all additional tax, penalty, and interest calculated in
2 accordance with this section become due and payable by the owner,
3 including the seller or transferor, at time of sale.

4 (3) Upon a determination that a property tax exemption is to be
5 canceled for any reason stated in this section, the governing
6 authority or authorized representative of the governing authority
7 must notify the record owner of the property as shown by the tax
8 rolls by mail, return receipt requested, of the determination to
9 cancel the exemption. The owner may appeal the determination to the
10 governing authority or authorized representative within thirty days
11 by filing a notice of appeal with the clerk of the governing
12 authority, which must specify the factual and legal basis on which
13 the determination of cancellation is alleged to be erroneous. The
14 governing authority or a hearing examiner or other official
15 authorized by the governing authority may hear the appeal. At the
16 hearing, all affected parties may be heard and all competent evidence
17 received. After the hearing, the deciding body or officer must either
18 affirm, modify, or repeal the decision of cancellation of exemption
19 based on the evidence received. An aggrieved party may appeal the
20 decision of the deciding body or officer to the superior court under
21 RCW 34.05.510 through 34.05.598.

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

28 NEW SECTION. **Sec. 17.** The exemption in this chapter applies to
29 taxes levied for collection in 2017 and thereafter.

30 NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act
31 constitute a new chapter in Title 84 RCW.

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