
SENATE BILL 6239

State of Washington

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2016 Regular Session

By Senators Fain, Frockt, Cleveland, Rolfes, Keiser, Darneille, McAuliffe, and Chase

Read first time 01/13/16. Referred to Committee on Human Services, Mental Health & Housing.

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.

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

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

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

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

10 (8) "Property" means a residential building not designed as
11 transient accommodations. "Property" excludes hotels or motels.

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

15 (10) "Single-family dwelling unit" means an individual detached
16 dwelling.

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

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

34 NEW SECTION. **Sec. 5.** (1) Upon adoption of a property tax
35 exemption program, the governing authority must establish standards
36 for very low-income household rental housing under this chapter,
37 including rent limits and income guidelines consistent with local

1 housing needs, to assist very low-income households that cannot
2 afford market-rate housing. Affordable housing units must be:

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

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

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

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

14 NEW SECTION. **Sec. 6.** (1) The value of residential housing
15 improvements and land qualifying under this chapter are exempt from
16 ad valorem property taxation, except the state of Washington portion,
17 for fifteen successive years beginning January 1st of the year
18 immediately following the calendar year of issuance of the
19 certificate.

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

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

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

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

36 (1) A minimum of twenty-five percent of units in a multiple-unit
37 property subject to tax exemption must be affordable as described in
38 section 5 of this act. A governing authority may require more than

1 twenty-five percent affordable units in multiple-unit housing
2 buildings subject to tax exemption to address local market
3 conditions. Affordable units must be comparable in terms of quality
4 and living conditions to market rate units in the building;

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

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

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

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

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

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

30 (2)(a) The governing authority may waive certain standards for up
31 to three years if the owner of the property submits a rehabilitation
32 plan to comply with housing quality standards. The owner must notify
33 the governing authority at the time of completion of rehabilitation.

34 (b) The governing authority may establish minimum health and
35 quality standards for properties to qualify for a waiver under (a) of
36 this subsection.

37 (3) The property must be inspected at the time of application for
38 tax exemption and, thereafter, as established by the governing
39 authority at least once every three years.

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

6 (5) The governing authority may deny an application for tax
7 exemption for failure to comply with health and quality standards.

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

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

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

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

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

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

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

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

32 (a) An application process and procedures;

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

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

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

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

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

12 NEW SECTION. **Sec. 10.** An owner of property making application
13 under this chapter must meet the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (3) The authorized representative of the governing authority may
20 waive the unit affordability and occupancy restrictions for an
21 incidental number of units occupied by existing over-income tenants
22 at the time of application. The waiver should be limited for a
23 specified period, but not to exceed three years. After the tax
24 exemption has expired, the property owner must maintain affordable
25 housing units for a term equal to the period that units were occupied
26 by over-income tenants.

27 NEW SECTION. **Sec. 12.** (1) The governing authority, or an
28 administrative official or commission authorized by the governing
29 authority, must approve or deny an application filed under this
30 chapter.

31 (2)(a) If the application is approved, the governing authority
32 must issue the owner of the property a certificate of acceptance of
33 tax exemption. The certificate must contain a statement by a duly
34 authorized administrative official of the governing authority that
35 the property has complied with the required findings indicated in
36 this chapter.

37 (b) The governing authority may issue a conditional certificate
38 of acceptance of tax exemption if a property must complete a
39 rehabilitation plan in order to comply with housing quality

1 standards. The rehabilitation must be completed within three years of
2 the date of application for a tax exemption.

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

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

18 NEW SECTION. **Sec. 13.** The governing authority may establish an
19 application fee or other fees to not exceed an amount determined to
20 be required to cover the cost to be incurred by the governing
21 authority and the assessor in administering this chapter. The
22 application fee, if established, must be paid at the time the
23 application is submitted. If the application is approved, the
24 governing authority must pay the application fee to the county
25 assessor for deposit in the county current expense fund, after first
26 deducting that portion of the fee attributable to its own
27 administrative costs in processing the application. If the
28 application is denied, the governing authority may retain that
29 portion of the application fee attributable to its own administrative
30 costs and refund the balance to the applicant.

31 NEW SECTION. **Sec. 14.** The authorized representative of the
32 governing authority must notify the applicant that a certificate of
33 tax exemption is not going to be filed if the authorized
34 representative determines that:

- 35 (1) The affordable housing requirements as described in section 5
36 of this act were not met;
- 37 (2) The property did not meet health and quality standards; or

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

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

8 (2) The property owner must file a report at least annually
9 indicating the following:

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

14 (b) A statement of occupancy and vacancy;

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

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

17 (e) A description of changes or improvements;

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

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

24 (3) A governing authority that issues certificates of tax
25 exemption for property that conform to the requirements of this
26 chapter must report annually to the department of commerce the
27 following information:

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

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

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

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

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

37 NEW SECTION. **Sec. 16.** (1) After a certificate of exemption has
38 been filed with the county assessor, the tax exemption must be

1 canceled by the authorized representative of the governing authority
2 under the following circumstances:

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

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

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

10 (d) The owner fails to complete rehabilitation improvements as
11 outlined in the application for tax exemption; or

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

13 (2)(a) Upon cancellation of the property tax exemption,
14 additional real property tax must be imposed upon the value of the
15 nonqualifying improvements and land in the amount that would be
16 normally imposed, plus a penalty must be imposed that amounts to
17 twenty percent. This additional tax is calculated from January 1st of
18 the year immediately following the year of issuance of the
19 certificate of tax exemption.

20 (b) The tax must include interest upon the amounts of the
21 additional tax at the same rate charged on delinquent property taxes
22 from the dates on which the additional tax could have been paid
23 without penalty if the property had been assessed at a value without
24 regard to this chapter.

25 (c) The additional tax owed together with the interest and
26 penalty becomes a lien on the land and attaches at the time the
27 property or portion of the property is removed from use as affordable
28 housing or the amenities no longer meet applicable requirements, and
29 has priority to and must be fully paid and satisfied before a
30 recognizance, mortgage, judgment, debt, obligation, or responsibility
31 to or with which the land may become charged or liable. The lien may
32 be foreclosed upon the expiration of the same period after
33 delinquency and in the same manner provided by law for foreclosure of
34 liens for delinquent real property taxes. An additional tax unpaid on
35 its due date is delinquent. From the date of delinquency until paid,
36 interest must be charged at the same rate applied by law to
37 delinquent ad valorem property taxes.

38 (3) Upon a determination that a property tax exemption is to be
39 canceled for any reason stated in this section, the governing
40 authority or authorized representative of the governing authority

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

16 (4) Upon a determination by the governing authority or authorized
17 representative to cancel a property tax exemption, the county
18 officials having possession of the assessment and tax rolls must
19 correct the rolls in the manner provided for omitted property under
20 RCW 84.40.080. The county assessor must make such a valuation of the
21 property and improvements as is necessary to permit the correction of
22 the rolls. The owner may appeal the valuation to the county board of
23 equalization under chapter 84.48 RCW and in accordance with RCW
24 84.40.038. If there has been a failure to comply with this chapter,
25 the property must be listed as an omitted assessment for assessment
26 years beginning January 1st of the calendar year in which the
27 noncompliance first occurred, but the listing as an omitted
28 assessment may not be for a period more than three calendar years
29 preceding the year in which the failure to comply was discovered.

30 NEW SECTION. **Sec. 17.** This section is the tax preference
31 performance statement for the tax preference contained in this
32 chapter. This performance statement is only intended to be used for
33 subsequent evaluation of the tax preference. It is not intended to
34 create a private right of action by any party or be used to determine
35 eligibility for preferential tax treatment.

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

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

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

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