SENATE BILL REPORT
SB 5182

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, February 8, 2017

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

Brief Description: Providing local governments with options to preserve affordable housing in their communities.

Sponsors: Senators Fain, Frockt, Miloscia, Liias, Walsh, Cleveland, Bailey, Chase, Zeiger, Rolfes, Keiser, Darneille, Palumbo, Pedersen and Conway.

Brief History:
Committee Activity: Human Services, Mental Health & Housing: 1/23/17, 2/08/17 [DP-WM, w/oRec].

Brief Summary of Bill

- Allows a city or county to adopt a property tax exemption program to preserve affordable housing for very low-income households. To qualify for this exemption, a minimum of 25 percent of units in a multiple-unit property must be affordable, and in return the property is exempt from local property taxes for 15 consecutive years.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Carlyle and Hunt.

Minority Report: That it be referred without recommendation.
Signed by Senator Padden.

Staff: Alison Mendiola (786-7444)

Background: All real and personal property in the state is subject to a state property tax, unless specifically exempted under law. All property taxes must be applied uniformly within

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each taxing district. Property taxes are based on the assessed fair market value of the property. There are exemptions from property tax, established either by statute or constitutionally. Examples of exemptions include churches, nonprofit hospitals, private schools and colleges, agricultural products, and affordable housing.

Summary of Bill: 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 25 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 15 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.

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 percent or less than the county median income, adjusted for family size.

The governing authority may adopt a program for single-family dwelling units and accessory 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 health and quality standards; and
- ensuring that income and rent limits are met.

Public Hearings. A governing authority may establish lower income levels or lower rent levels after holding a public hearing. A governing authority of a high-cost area may establish higher income levels after holding a public hearing. These higher income levels are not to exceed 60 percent 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 50 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 30 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 in the designated affordable housing units. Annually, the property owner is 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 to meet Evergreen Sustainable Development building performance standards, a progress report on compliance; and
- any other information required to determine compliance with program requirements or to measure program performance.

Annual Reporting to the Department of Commerce (Commerce). A governing authority that issues certificates of exemption is to report annually to 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 cancelled 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 local building, safety and health code requirements; 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 improvements and land in the amount normally imposed, plus a 20 percent penalty of the additional tax. 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, 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.

Definitions. Accessory dwelling unit means one or more rooms that are located within a single-family dwelling unit or within an accessory structure on the same lot as a single-family dwelling unit.

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

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 130 percent of the statewide median house price published during the same time period. King, San Juan, and Snohomish Counties are high cost counties for 2016.

Very low-income household means a single person, family, or unrelated persons living together whose adjusted income is at or below 50 percent of the median family income, adjusted for family size, for the county in which the project is located as reported by the US Department of Housing and Urban Development (HUD). In high cost areas, very low-income household means a household that has an income at or below 60 percent of the median family income adjusted for family size, for the county in which the project is located, as reported by HUD.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This bill is similar to a bill passed by the committee last year. The bill looks at market based approaches to addressing affordable housing, using the private sector not just government based subsidy. This bill helps address the issue of affordable housing—great idea to expand into existing construction, low investment, high yield. Rising property taxes can result in deferred maintenance and a new owner is likely to increase rent. This proposal gets in front of this issue with a market-based tool. The Multifamily Property Tax Exemption program has been successful and this bill is modeled after this current exemption. Creates affordable units more quickly than new construction, this policy makes good use of existing resources. Accessory dwelling units have been added per the King County Assessor's request. This bill was one of Seattle's Housing Affordability and Livability 65 recommendations. There is no other program like this but a lot of work has gone into this proposal to ensure it's success.

OTHER: There are many administrative issues, many processes are missing that were included in last year's bill. The dates are not realistic. Property tax doesn't end at the city line, new construction isn't addressed, and there is no description of how you calculate new construction.

Persons Testifying: PRO: Senator Joe Fain, Prime Sponsor; Roger Valdez, Smart Growth Seattle; Joe Levin, Colliers International; Dan Swanson, Kidder Mathews; Robin Koskey, City of Seattle Office of Housing.

OTHER: Monty Cobb, WA Assn. of County Officials.

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