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HOUSE BILL 2480

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State of Washington

65th Legislature

2018 Regular Session

By Representatives McBride, Gregerson, Hayes, Eslick, Stanford, Doglio, and Tharinger

Read first time 01/10/18. Referred to Committee on Community Development, Housing & Tribal Affairs.

1 AN ACT Relating to providing local governments with options to  
2 preserve affordable housing in single-family neighborhoods; adding a  
3 new chapter to Title 84 RCW; creating a new section; and providing an  
4 expiration date.

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

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

7 (1) Families, senior citizens, and workers with limited financial  
8 resources are likely to experience fewer housing choices;

9 (2) Affordable housing is a necessary component of strong,  
10 thriving neighborhoods;

11 (3) Limited income household renters should have the opportunity  
12 to live in homes in neighborhoods close to major infrastructure  
13 investments like transit, quality schools, and vital services like  
14 health care, grocery shopping, and employment;

15 (4) Community members with critical occupations, senior citizens,  
16 and families are struggling to afford rent around the state;

17 (5) Rising rents are causing the displacement of low-income  
18 households and long-time community members; and

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

1        NEW SECTION.    **Sec. 2.**    It is the purpose of this chapter to give  
2 communities a local option to preserve and increase healthy, high-  
3 quality affordable rental housing opportunities for low-income  
4 households for which the governing authority has found that there are  
5 insufficient affordable housing opportunities. It is also the purpose  
6 of this chapter to ensure that housing opportunities are affordable  
7 to renters at below-market rent levels, as determined by the  
8 governing authority, with consideration of community needs, market  
9 rental costs, and income levels of renters.

10       NEW SECTION.    **Sec. 3.**    The definitions in this section apply  
11 throughout this chapter unless the context clearly requires  
12 otherwise.

13       (1) "Governing authority" means the local legislative authority  
14 of a city or county having jurisdiction over the property for which  
15 an exemption may be applied under this chapter.

16       (2) "Health and quality standards" means standards substantially  
17 equivalent to uniform physical condition standards, as established by  
18 the United States department of housing and urban development, or the  
19 national healthy housing standard, as established by the national  
20 center for healthy housing and the American public health  
21 association.

22       (3) "Household" means a single person, family, or unrelated  
23 persons living together.

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

29       (5) "Owner" means the property owner of record.

30       (6) "Permanent residential occupancy" means housing that provides  
31 rental occupancy on a nontransient basis that is leased for a period  
32 of at least one year. "Permanent residential occupancy" excludes  
33 hotels and motels that predominately offer rental accommodation on a  
34 daily or weekly basis.

35       (7) "Property" means a single-family dwelling, of any age, and  
36 the land upon which the dwelling is located with an attached or  
37 detached accessory dwelling unit. "Property" excludes hotels or  
38 motels.

1 (8) "Single-family dwelling" means an individual detached  
2 dwelling.

3 NEW SECTION. **Sec. 4.** A city governing authority may adopt a  
4 property tax exemption program to preserve affordable housing that  
5 meets health and quality standards for low-income households at risk  
6 of displacement or that cannot afford market-rate housing. A county  
7 governing authority may adopt a property tax exemption program for  
8 unincorporated jurisdictions to preserve affordable housing that  
9 meets health and quality standards for these households at risk of  
10 displacement or that cannot afford market-rate housing.

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

17 (1) Below-market rent levels as determined by the governing  
18 authority appraisal or market study; and

19 (2) For single-family dwellings with an attached or detached  
20 accessory dwelling unit, affordable to low-income households with an  
21 income of eighty percent or less of the area median income, adjusted  
22 for family size.

23 NEW SECTION. **Sec. 6.** (1) The value of residential housing  
24 improvements and land qualifying under this chapter are exempt from  
25 ad valorem property taxation for six successive years beginning  
26 January 1st of the year immediately following the calendar year of  
27 issuance of the certificate of tax exemption is filed with the county  
28 assessor in accordance with section 12 of this act. Subject to  
29 application to and approval by the governing authority, the exemption  
30 may be extended one time for an additional six years. The extension  
31 will result in a total of twelve successive years of exemption under  
32 the existing terms and conditions.

33 (2) The incentive provided under this chapter may be applied in  
34 addition to any tax credits, grants, or other incentives provided by  
35 law when required to increase the rental affordability already  
36 secured by such incentives.

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

7 (4) The exemption does not apply to any county property tax  
8 unless the legislative authority of the county adopts a resolution  
9 and notifies the governing authority of the jurisdiction within the  
10 county that has established a tax exempt program of its intent to  
11 allow the property to be exempt.

12 (5) The governing authority must provide local taxing districts  
13 in the designated exemption area notice and an opportunity to be  
14 heard prior to establishment of a tax exemption program under this  
15 chapter.

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

21 (1) The property must be a single-family property with an  
22 affordable attached or detached accessory dwelling unit;

23 (2) Only that portion of the single-family property land and  
24 improvements designated exclusively as an affordable attached or  
25 detached accessory dwelling unit qualifies for the exemption;

26 (3) The property must meet guidelines as adopted by the governing  
27 authority that may include height, density, public benefit features,  
28 number and size of proposed development, parking, income limits for  
29 occupancy, limits on rents, health and quality standards, and other  
30 adopted requirements indicated as necessary by the governing  
31 authority. The required amenities should be relative to the size of  
32 the project and tax benefit to be obtained; and

33 (4) The property owner must enter into a contract with the city  
34 or county approved by the governing authority, or an administrative  
35 official or commission authorized by the governing authority, under  
36 which the property owner has agreed to terms and conditions  
37 satisfactory to the governing authority.

1        NEW SECTION.    **Sec. 8.**    (1) To be eligible for the exemption from  
2 taxation under this chapter, the property must also comply with all  
3 applicable land use regulations, zoning requirements, and building  
4 and housing code requirements, including space and occupancy,  
5 structural, mechanical, fire, safety, and security standards, and  
6 health and quality standards. At a minimum, the standard for housing  
7 quality must be substantially equivalent to uniform physical  
8 condition standards. The governing authority may establish additional  
9 standards to meet local needs.

10        (2) The property must be inspected for compliance with subsection  
11 (1) of this section prior to awarding the tax exemption and  
12 thereafter, as established by the governing authority. The governing  
13 authority may deny an application for tax exemption for failure to  
14 comply with health and quality standards.

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

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

20        (b) The designation of targeted residential areas for property to  
21 align with community needs, including to prevent displacement and  
22 provide affordable housing options near community infrastructure such  
23 as transportation or public schools;

24        (c) Standards for property size, unit size, unit type, mix of  
25 unit types, or mix of unit sizes; and

26        (d) Any additional requirements to reduce displacement of low-  
27 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, health and quality standards, and other adopted  
36 requirements indicated as necessary by the governing authority. The  
37 required amenities should be relative to the size of the project and  
38 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, including the floor plan of  
21 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; and

25 (d) A certification of family size and annual income in a form  
26 acceptable to the governing authority for designated affordable  
27 housing units;

28 (2) The applicant must verify the application by oath or  
29 affirmation; and

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

34 NEW SECTION. **Sec. 11.** (1) Upon receipt of an application  
35 meeting the requirements of section 10 of this act, the governing  
36 authority must inspect the property to certify compliance with health  
37 and quality standards.

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

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

5 (b) The property meets health and quality standards; and

6 (c) The owner has complied with all standards and guidelines  
7 adopted by the governing authority under this chapter.

8 NEW SECTION. **Sec. 12.** (1) The governing authority, or an  
9 administrative official or commission authorized by the governing  
10 authority, must approve or deny an application filed under this  
11 chapter.

12 (2) If the application is approved, the governing authority must  
13 issue the owner of the property a certificate of acceptance of tax  
14 exemption. The certificate must contain a statement by a duly  
15 authorized administrative official of the governing authority that  
16 the property has complied with the required findings indicated in  
17 this chapter. The governing authority must file a copy of the  
18 certificate with the assessor no later than October 1st of the year  
19 before the exemption is to be applied.

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

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

35 NEW SECTION. **Sec. 13.** The governing authority may establish an  
36 application fee or other fees not to exceed an amount determined to  
37 be required to cover the cost to be incurred by the governing  
38 authority and the assessor in administering this chapter. The

1 application fee, if established, must be paid at the time the  
2 application is submitted. If the application is approved, the  
3 governing authority must pay the application fee to the county  
4 assessor for deposit in the county current expense fund, after first  
5 deducting that portion of the fee attributable to its own  
6 administrative costs in processing the application. If the  
7 application is denied, the governing authority may retain that  
8 portion of the application fee attributable to its own administrative  
9 costs and refund the balance to the applicant.

10 NEW SECTION. **Sec. 14.** The authorized representative of the  
11 governing authority must notify the applicant that a certificate of  
12 tax exemption is not going to be filed if the authorized  
13 representative determines that:

14 (1) The affordable housing requirements as described in section 5  
15 of this act were not met;

16 (2) The property did not meet health and quality standards; or

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

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

24 (2) The property owner must file a report with the governing  
25 authority at least annually indicating the following:

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

30 (b) A statement of occupancy and vacancy;

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

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

33 (e) A description of changes or improvements; and

34 (f) Any other information required to determine compliance with  
35 program requirements.

36 (3) A governing authority that issues certificates of tax  
37 exemption for property that conform to the requirements of this



1 chapter must report annually to the department of commerce the  
2 following information:

- 3 (a) The number of tax exemption certificates granted;
- 4 (b) The number and type of units in building properties receiving  
5 a tax exemption;
- 6 (c) The number and type of units meeting affordable housing  
7 requirements;
- 8 (d) The total monthly rent amount for each affordable and market-  
9 rate unit; and
- 10 (e) The value of the tax exemption for each project receiving a  
11 tax exemption and the total value of tax exemptions granted.

12 NEW SECTION. **Sec. 16.** (1) If improvements have been exempted  
13 under this chapter, the improvements continue to be exempted for the  
14 applicable period under section 6 of this act, so long as they are  
15 not converted to another use and continue to satisfy all applicable  
16 conditions. If the owner intends to convert the accessory dwelling  
17 unit to another use, or, if applicable, if the owner intends to  
18 discontinue compliance with the affordable housing requirements as  
19 described in section 6 of this act or any other condition to  
20 exemption, the owner must notify the jurisdiction within sixty days  
21 of the change in use or intended discontinuance. If, after a  
22 certificate of tax exemption has been filed with the county assessor,  
23 the authorized representative of the governing authority is notified  
24 by the owner, or discovers that a portion of the property is changed  
25 or will be changed to a use that is other than residential or that  
26 housing or amenities no longer meet the requirements, including, if  
27 applicable, affordable housing requirements, as previously approved  
28 or agreed upon by contract between the city or county and the owner  
29 and that the multifamily housing, or a portion of the housing, no  
30 longer qualifies for the exemption, the tax exemption must be  
31 canceled and the following must occur:

- 32 (a) Additional real property tax must be imposed upon the value  
33 of the nonqualifying improvements in the amount that would normally  
34 be imposed, plus a penalty must be imposed amounting to twenty  
35 percent. This additional tax is calculated based upon the difference  
36 between the property tax paid and the property tax that would have  
37 been paid if it had included the value of the nonqualifying  
38 improvements, for each exempt year, dated back to the date that the  
39 improvements were converted to a nonaffordable housing use;

1 (b) The tax must include interest upon the amounts of the  
2 additional tax at the same statutory rate charged on delinquent  
3 property taxes from the dates on which the additional tax could have  
4 been paid without penalty if the improvements had been assessed at a  
5 value without regard to this chapter; and

6 (c) The additional tax owed together with interest and penalty  
7 must become a lien on the land and attach at the time the property or  
8 portion of the property is removed from nonaffordable housing use or  
9 the amenities no longer meet applicable requirements, and has  
10 priority to and must be fully paid and satisfied before a  
11 recognizance, mortgage, judgment, debt, obligation, or responsibility  
12 to or with which the land may become charged or liable. The lien may  
13 be foreclosed upon expiration of the same period after delinquency  
14 and in the same manner provided by law for foreclosure of liens for  
15 delinquent real property taxes. An additional tax unpaid on its due  
16 date is delinquent. From the date of delinquency until paid, interest  
17 must be charged at the same rate applied by law to delinquent ad  
18 valorem property taxes.

19 (2) Upon a determination that a tax exemption is to be canceled  
20 for a reason stated in this section, the governing authority or  
21 authorized representative must notify the record owner of the  
22 property as shown by the tax rolls by mail, return receipt requested,  
23 of the determination to cancel the exemption. The owner may appeal  
24 the determination to the governing authority or authorized  
25 representative, within thirty days by filing a notice of appeal with  
26 the clerk of the governing authority, which notice must specify the  
27 factual and legal basis on which the determination of cancellation is  
28 alleged to be erroneous. The governing authority or a hearing  
29 examiner or other official authorized by the governing authority may  
30 hear the appeal. At the hearing, all affected parties may be heard  
31 and all competent evidence received. After the hearing, the deciding  
32 body or officer must either affirm, modify, or repeal the decision of  
33 cancellation of exemption based on the evidence received. An  
34 aggrieved party may appeal the decision of the deciding body or  
35 officer to the superior court under RCW 34.05.510 through 34.05.598.  
36 The county assessor must make such a valuation of the property and  
37 improvements as is necessary to permit the correction of the rolls.

38 NEW SECTION. **Sec. 17.** This chapter expires January 1, 2029.

1        NEW SECTION.    **Sec. 18.**    (1) This section is the tax preference  
2 performance statement for the tax preference contained in  
3 chapter . . . , Laws of 2018 (this act). This performance statement is  
4 only intended to be used for subsequent evaluation of the tax  
5 preference. It is not intended to create a private right of action by  
6 any party or be used to determine eligibility for preferential tax  
7 treatment.

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

11        (3) It is the legislature's specific public policy objective to  
12 preserve quality and healthy affordable housing where housing  
13 options, including quality and healthy affordable housing options,  
14 are severely limited. It is the legislature's intent to provide the  
15 value of residential improvements and land qualifying under this  
16 chapter an exemption from ad valorem property taxation for six years,  
17 as provided for in this chapter, to provide incentives to property  
18 owners to preserve affordable housing units for low-income  
19 households.

20        (4) To measure the effectiveness of the exemption provided in  
21 chapter . . . , Laws of 2018 (this act) in achieving the specific  
22 public policy objective described in subsection (3) of this section,  
23 the joint legislative audit and review committee must evaluate this  
24 preference.

25        NEW SECTION.    **Sec. 19.**    Sections 1 through 17 of this act  
26 constitute a new chapter in Title 84 RCW.

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