

HOUSE BILL REPORT

HB 1745

As Reported by House Committee On:
Housing, Community Development & Veterans

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: Representatives Ryu, Appleton, Doglio, Dolan, Pollet, Kloba and Tharinger.

Brief History:

Committee Activity:

Housing, Community Development & Veterans: 2/8/19, 2/13/19 [DPS].

Brief Summary of Substitute Bill

- Authorizes a city or county to exempt from property taxation qualifying affordable housing that meets health and quality standards for low- and very low-income households at risk of displacement or that cannot afford market rate housing.

HOUSE COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT & VETERANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Ryu, Chair; Morgan, Vice Chair; Gildon, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Corry, Entenman, Frame, Leavitt and Reeves.

Staff: Cassie Jones (786-7303).

Background:

Property Tax.

All property in Washington is subject to property tax each year that is based on the highest and best use of the property, unless a specific exemption is provided by law. Property tax

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exemptions are currently made available to qualifying organizations, including schools, churches, nonprofit hospitals, nursing homes, museums, and public meeting halls.

Tax Preferences.

All new tax preference legislation is required to include a tax preference performance statement. The performance statement must clearly specify the public policy objectives of the tax preference and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference. In addition, an automatic 10-year expiration date is applied to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

Summary of Substitute Bill:

A city or county governing authority may, by ordinance or resolution, adopt a property tax exemption program (program) to preserve affordable housing that meets health and quality standards for low- and very low-income households at risk of displacement or that cannot afford market rate housing.

Property Tax Exemption.

Under a program, qualifying residential housing improvements and land are exempt from ad valorem property taxation for six successive years and the exemption may be extended one time for an additional six years. The governing authority must provide local taxing districts in the designated exemption area notice and an opportunity to be heard prior to establishing the program.

Qualifying Standards for Rental Housing.

A program must establish qualifying standards for rental housing that must include rent limits and income guidelines consistent with local housing needs. Qualifying housing units must be:

- rented at below market rent levels, as determined by the governing authority's appraisal or market study;
- for multifamily dwellings, affordable to very low-income households and part of a building that is at least 25 years old; and
- for a single-family dwelling or an attached or detached accessory dwelling unit that is accessory to a single-family dwelling, affordable to low-income households.

Rent levels for qualifying affordable housing units, including any mandatory fees for tenant-paid utilities that are required as a condition of tenancy, may not exceed 30 percent of the income limit for a very low-income housing unit. Residential units for which a city or county's property tax exemption is approved must meet affordability standards for a period of 25 years, regardless of any change of ownership.

Mandatory Standards for Program Compliance.

To be eligible for the property tax exemption, the property must be in compliance with the following for the entire exemption period:

- a minimum of 50 percent of residential units in a multiple-unit property subject to tax exemption must be affordable;
- qualified affordable units must be comparable in terms of quality, living conditions, and mix of unit types to market rate units in the building;
- at least 90 percent of the residential units of 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, or a single-family property with an affordable attached or detached accessory dwelling unit;
- with respect to an affordable attached or detached accessory dwelling unit accessory to single-family property, only the designated improvement area and its underlying land may qualify for the exemption;
- the multiple-unit, mixed-use property must provide for a minimum of 50 percent of the space in each building for permanent residential occupancy;
- if a multiple-unit or mixed-use property has dedicated less than 100 percent of its total square footage to qualifying units, only that dedicated portion of the land beneath the building footprint is subject to the exemption under this chapter;
- the property owner must enter into a contract with the city or county agreeing to terms and conditions required satisfactory to the governing authority; and
- the property must comply with all applicable land use regulations, zoning requirements, and building code requirements.

Optional Standards for Program Compliance.

The governing authority may establish additional requirements for tax exemption eligibility or program rules including, but not limited to:

- the designation of particular targeted residential eligible areas based on community needs to prevent displacement, provide affordable housing options near community infrastructure such as transportation or public schools, or other local factors;
- standards for property size, unit size, unit type, mix of unit types, or mix of unit sizes; and
- any additional requirements to reduce displacement of very low-income household tenants.

Program Application Process.

The governing authority must adopt and implement standards and guidelines to be utilized when considering applications. The standards and guidelines must include:

- an application process and procedures;
- guidelines and requirements that may include height, density, public benefit features, number and size of proposed developments, parking, income limits for occupancy, health and quality standards, and other adopted requirements indicated as necessary by the governing authority;
- an inspection policy and procedures to ensure the property complies with housing and health and quality standards;
- income and rent limits;
- documentation necessary to establish income eligibility of households in affordable housing units; and
- fees required of the applicant in order to process the application and monitor compliance with eligibility criteria.

An owner of property applying to the program must apply to the city or county on forms adopted by the governing authority. The application must contain the following:

- information setting forth the grounds supporting the requested exemption;
- a description of the project, including the floor plan of units;
- a statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter; and
- a certification of family size and annual income in a form acceptable to the governing authority for designated affordable housing units.

The applicant must verify the information provided in the application by oath or affirmation and must submit a fee, if any, with the application. Upon receipt of an application meeting all requirements, the city or county must inspect the property to certify compliance with health and safety standards.

The governing authority may approve the application if it finds that:

- the property meets affordable housing requirements;
- the property meets health and quality standards; and
- the owner has complied with all standards and guidelines adopted by the governing authority.

If the application is approved, the governing authority must issue the owner a certificate of acceptance of tax exemption and submit a copy of the certificate to the assessor. If the application is denied, the governing authority must state in writing the reasons for denial and issue notice to the applicant by regular or certified mail to the applicant's last known address within 10 days of the denial. An applicant may appeal the governing authority's decision to the governing authority or its designated agent within 30 days after receipt.

Family Size and Income Verification and Other Reporting Requirements.

The owner receiving the tax exemption must annually obtain from each tenant living in designated affordable housing units a certification of family size and annual income in a form acceptable to the governing authority and file the certification with the governing authority. The owner must also report a statement of occupancy and vacancy, a schedule of rents charged in market rate units, and a description of any changes or improvements.

A governing authority that issues certificates of tax exemption must report annually to the Department of Commerce the following information:

- the number of tax exemption certificates granted;
- the number and type of units in building properties receiving a tax exemption;
- the number and type of units meeting affordable housing requirements;
- the total monthly rent amount for each affordable and market rate unit; and
- the dollar amount of the tax exemption issued for each project and the total dollar amount of tax exemptions granted within the city or county.

Program Noncompliance.

If property no longer complies with program requirements, the tax exemption is canceled, and the following must occur:

- additional real property tax must be imposed on the property. This additional tax is the difference between the property tax paid and the property tax that would have

- been paid if the property had included the value of the nonqualifying improvements, for each of the prior six years during which the exemption was claimed;
- additional interest is owed upon the amounts of the additional property tax at the same statutory rate charged on delinquent property taxes, calculated from the dates on which the additional tax would have been payable without the tax exemption;
 - a penalty must be imposed in the amount equal to 20 percent of the additional property tax imposed under this section; and
 - the additional tax, interest, and penalty are declared to be a lien on the real property and attach at the time the property or portion of the property is removed from the tax exemption program.

An owner may appeal a determination of noncompliance within 30 days of the date the notice of noncompliance is received.

Tax Preference Performance Statement.

A tax preference performance statement is included specifying the public policy objective of the exemption is to preserve quality and healthy affordable housing where such housing options are severely limited. The bill is exempt from the automatic 10-year expiration.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- provides that residential units for which a city or county's property tax exemption is approved must meet the affordability standards for a period of 25 years, regardless of any transfer of ownership;
- clarifies that a single-family dwelling that meets affordability and other standards may qualify for the property tax exemption program; and
- makes technical corrections.

Appropriation: None.

Fiscal Note: Requested on January 29, 2019.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill creates another tool to preserve affordable housing. The biggest concern with this proposal is that there would be investors who would attempt to flip these properties. This concern is addressed in the bill, and there are clear steps in the bill to make the program work. There are beautiful, old brownstone apartment buildings throughout the state that used to be affordable for working people. The rents in these buildings are now out of reach for these people, and neighborhoods are changing as a result. This is a local option bill, and there are oversight and protections built in.

(Opposed) None.

Persons Testifying: Representative Ryu, prime sponsor; and Michael Moran, King County Assessor's Office.

Persons Signed In To Testify But Not Testifying: None.