

FINAL BILL REPORT

E2SSB 5287

C 187 L 21
Synopsis as Enacted

Brief Description: Concerning affordable housing incentives.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Das, Kuderer, Conway, Keiser, Liias, Nguyen, Nobles, Pedersen, Randall, Salomon and Wilson, C.).

Senate Committee on Housing & Local Government
Senate Committee on Ways & Means
House Committee on Finance

Background: All property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law. The Multi-Family Property Tax Exemption (MFTE) exempts real property associated with the construction, conversion, or rehabilitation of qualified, multiple-unit residential structures located in residential targeted areas (RTAs) contained within an urban center. The tax exemption applies only to the value of the construction, conversion, or rehabilitation projects and does not exempt the value of the underlying property or other improvements on the property.

The tax exemption on qualifying property lasts for eight consecutive years. However, the exemption is available for a 12-year period if the owner commits to renting or selling at least 20 percent of multiple-family housing units as affordable housing to low and moderate-income (LMI) households.

To qualify for an exemption, the housing project must be located within an RTA designated by a qualifying county or city. The RTA must be in an urban center that lacks sufficient residential housing, including affordable housing, to meet the needs of the public who would likely live in the urban center if housing were available.

Cities with a population of 15,000 or more may designate an RTA. Certain smaller cities are also eligible. Counties with an unincorporated population over 350,000 are eligible to designate an RTA. The county-designated RTA must be in an unincorporated area of the

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county that is within an urban growth area under the Growth Management Act.

Property owners within a designated RTA must submit an application for the tax exemption to the designating city or county. The city or county may include additional eligibility requirements for the tax exemption, including a higher percentage of units used for affordable housing to qualify for the 12-year exemption. Counties eligible to apply the tax exemption must require owners to commit to selling or renting at least 20 percent of the multiple-family housing units for affordable housing to qualify for the 12-year exemption.

For properties receiving a 12-year exemption where that exemption is set to expire after June 11, 2020, but prior to December 31, 2021, the exemption is extended until December 31, 2021. Any eligibility criteria or limitations that apply to the underlying exemption also apply to the extension.

At the conclusion of the exemption period, the new or rehabilitated housing cost shall be considered as new construction for property tax purposes.

For the purpose of the MFTE, affordable housing is housing for low-to-moderate income households that does not exceed one-third of the household's monthly income. Low-income households must have an income no more than 80 percent of the median income of their county. Moderate-income households must have an income between 80 and 115 percent of the median income of their county. For high cost areas—areas in a county where the third quarter median house price for the previous year as reported by the Washington Center for Real Estate Research at Washington State University, is equal to or greater than 130 percent of the statewide median house price published during the same time period—higher median family incomes are allowed. For cities located in high-cost areas, low-income household means a household that has an income at or below 100 percent of the median family income adjusted for family size, for the county where the project is located. In addition, for cities located in high-cost areas, moderate-income household means a household that has an income more than 100 percent, but at or below 150 percent, of the median family income adjusted for family size, for the county where the project is located.

Summary: Until December 31, 2026, a city not otherwise eligible to offer the MFTE program may offer the 12-year MFTE to qualifying properties in areas zoned for average density of 15 dwelling units per acre, or for cities with a population over 20,000, a minimum density equivalent of 25 dwelling units or more per acre. Counties with an unincorporated population over 170,000 are eligible to designate an RTA for the MFTE program.

The definition of multiple-unit housing is modified to include a group of buildings with four or more dwelling units. When calculating median family income, city and metropolitan statistical area family median income may be used in addition to county family median income.

High cost areas and the associated low-income household and median-income household median family income thresholds for high cost areas are removed from the MFTE program.

A property that qualified for and used an 8-year or 12-year exemption and is within 18 months of expiration may apply to extend the exemption for an additional 12 years if it meets minimum locally adopted requirements for affordability. To qualify, an applicant must be approved by the city or county and commit to rent or sell at least 20 percent of the housing units to low income households.

An MFTE applicant must provide notice to tenants of rent restricted units at the end of both the 10th and 11th years of the exemption period. An MFTE applicant must provide tenant relocation assistance to a qualified tenant in an amount equal to one month's rent at the time the exemption expires. To be eligible for tenant relocation assistance, the tenant must occupy an income-restricted unit and qualify as a low-income household. If affordability requirements consistent with the requirements of the program remain in place after the expiration of the exemption, relocation assistance must be provided at the time that any such additional affordability requirements cease to apply.

A governing authority may adopt requirements that applicants pay prevailing wages, follow certain payroll requirements, use apprenticeship requirements, or include a contracting inclusion plan developed in consultation with the Office of Minority and Women's Business Enterprises. A governing authority may adopt additional requirements, as a contractual prerequisite or otherwise.

A county must conduct an evaluation of the risk of potential displacement prior to designating any new residential targeted area. The analysis must find the risk of displacement is minimal, or the county must mitigate the risk.

An owner of rehabilitated or newly constructed property must file additional information with the city or county including unit size, annual income and household size. All cities and counties that issue certificates of tax exemption must report annually by April 1st of each year. For properties receiving an exemption under the permanently affordable homeownership exemption program, any required reporting must be completed by the qualified nonprofit or local government that will assure permanent affordable homeownership. A city or county must be in compliance with reporting requirements to offer certificates of tax exemption under the MFTE program. Reporting requirements expire January 1, 2058.

At the conclusion of the exemption period, the value of the new housing, construction, conversion or rehabilitation improvements must be considered as new construction for property tax purposes as though the property was not exempt under the MFTE program. No new MFTE applications may be approved on or after January 1, 2032, or any extensions of existing tax exemptions on or after January 1, 2046.

A city with a mandatory inclusionary zoning requirement for affordable housing which ensures affordability of housing units for at least 99 years and which has a population of no more than 65,000 may offer a 20-year tax exemption program for properties that commit to renting at least 20 percent of units as affordable to low-income households for at least 99 years, if the property is within one mile of high-capacity transit of at least 15 minute scheduled frequency.

A new 20-year tax exemption is created for properties that sell or rent 25 percent of the units to non-profit organizations or local government partners that assure permanently affordable homeownership. Permanently affordable homeownership units must be sold to households earning no more than 80 percent of the average median income for the city or local jurisdiction in which the unit is located. A local jurisdiction may assign and collect an administration fee at each point of sale to cover the administrative costs for oversight of the permanently affordable homeownership program. Permanently affordable homeownership is housing sponsored by a nonprofit organization or local government that restricts resale to low and moderate income buyers and executes at least a 99-year ground lease or deed restriction with each sale. Commerce must develop a template for deed restrictions that can be used by local governments.

Until December 31, 2031, a city not otherwise qualified to offer the 20-year permanently affordable homeownership exemption may offer the 20-year MFTE to qualifying properties in areas zoned for average density of 15 dwelling units per acre, or for cities with a population over 20,000, a minimum density equivalent of 25 dwelling units or more per acre.

Commerce must provide an annual report to the appropriate committees of the Legislature and JLARC on city and county compliance with MFTE reporting requirements.

For preliminary or final applications submitted on or before February 15, 2020, with any outstanding application requirements, such as obtaining a temporary certificate of occupancy, the city or county may choose to extend the deadline for completion for an additional five years. The five-year extension begins immediately following the completion of any outstanding applications or previously authorized extensions, whichever is later.

The Department of Commerce (Commerce) must establish a program to audit or review that the owner or operator of each property receiving a tax exemption under the MFTE program is offering the number of units at rents as committed to in the approved application and that tenants are being properly screened to be qualified for income-restricted units. The program may be based on auditing a percentage of properties or units annually, provided that each property must be audited at least once every five years. A fee may be imposed and collected to cover the costs of the audit or review. If a property is found to be out of compliance with program requirements, Commerce must notify the city or county and the city or county must impose a sliding scale penalty not to exceed an amount calculated by subtracting the amount of rents that would have been collected had the owner or operator

complied with their commitments from the amount of rents that the owner or operator actually collected. A finding of continued noncompliance in a subsequent audit must result in cancellation of the exemption. Properties owned or operated by a nonprofit and properties receiving an exemption from a city or county that operates an independent audit or review program are not subject to the audit or review program administered by Commerce.

Votes on Final Passage:

Senate	43	5	
House	81	16	(House amended)
Senate	41	7	(Senate concurred)

Effective: July 25, 2021