
HOUSE BILL 2308

State of Washington

68th Legislature

2024 Regular Session

By Representatives Walen, Hutchins, Robertson, Santos, Barkis, and Shavers

Read first time 01/11/24. Referred to Committee on Housing.

1 AN ACT Relating to housing affordability tax incentives for
2 existing structures; adding a new section to chapter 82.08 RCW;
3 adding a new section to chapter 82.12 RCW; adding a new chapter to
4 Title 84 RCW; creating a new section; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that through tax
7 incentives, the private market can assist Washington in meeting its
8 housing goals, allowing the state to focus its resources on serving
9 households making below 50 percent of the area median income.
10 Furthermore, by providing adequate housing stock for households
11 making 50 to 80 percent of the area median income, those households
12 will not compete with persons in lower income brackets for more
13 affordable units.

14 (2) The legislature also finds that constructing new housing
15 units can take years, and many existing buildings can be repurposed
16 quickly to meet the state's workforce and affordable housing needs.
17 Many existing buildings are located in downtown centers, near work
18 and services where there is limited land available for new
19 construction.

20 (3) The legislature finds that many downtown centers lack
21 available affordable housing, which results in long commutes that

1 increase greenhouse gas emissions. The legislature recognizes that by
2 using existing buildings to create affordable housing units, units
3 can be available more quickly and with a reduced impact on waste
4 streams and the environment compared to newly constructed units.

5 (4) It is the intent of the legislature to incentivize the
6 repurposing of existing buildings for workforce and affordable
7 housing by creating a property tax shift and a sales and use tax
8 remittance.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires
11 otherwise.

12 (1) "Affordable housing" means:

13 (a) Residential rental housing that is rented by a person or
14 household whose monthly housing costs, including utilities other than
15 telephone, do not exceed 30 percent of the required household monthly
16 area median income to qualify as a low-income household under this
17 chapter.

18 (b) Residential homeownership housing that is owned or occupied
19 by a low-income household whose monthly housing costs do not exceed
20 the percentage of family income that may be spent on monthly housing
21 costs, including utilities other than telephone, established by the
22 department of commerce.

23 (2) "Area median income" means:

24 (a) For an area within a standard metropolitan statistical area,
25 the area median income reported by the United States department of
26 housing and urban development for that standard metropolitan
27 statistical area; or

28 (b) For an area not within a standard metropolitan statistical
29 area, the county median income reported by the department of
30 commerce.

31 (3) "Governing authority" means the legislative authority of a
32 city having jurisdiction over the property for which an exemption may
33 be applied under this chapter.

34 (4) "Low-income household" means single persons, families, or
35 unrelated persons living together whose adjusted income is at or
36 below 80 percent of the median family income, adjusted for household
37 size for the county, city, or metropolitan statistical area where the
38 building is located as reported by the United States department of
39 housing and urban development.

1 (5) "Multiunit residential building" means a building permanently
2 affixed to the ground having four or more dwelling units not designed
3 or used as transient accommodations and not including hotels and
4 motels.

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

6 (7) "Residential improvements" means any improvement to real
7 property that is for residential use.

8 NEW SECTION. **Sec. 3.** (1) A city governing authority may by
9 ordinance or resolution establish a state and local property tax
10 exemption program for the value of real property that consists of a
11 multiunit residential building converted from a market rate
12 residential building to a building that contains affordable housing
13 units for low-income households, excluding land.

14 (2) A city governing authority may by ordinance or resolution
15 establish a state and local property tax exemption program for
16 property owners for the value of real property that consists of a
17 commercial building converted from a commercial building to a
18 multiunit residential building and contains affordable housing units
19 for low-income households, excluding land and nonhousing-related
20 improvements not qualifying under this chapter.

21 NEW SECTION. **Sec. 4.** (1) An existing building conversion
22 exemption program adopted by the governing authority under this
23 chapter must be amended to include qualifying standards for
24 affordable housing consistent with this chapter.

25 (2) In order to qualify for a property tax exemption for
26 multiunit residential building conversion into affordable housing
27 under this chapter, housing units must:

28 (a) Be a multiunit residential building;

29 (b) Have a certificate of occupancy issued not more than 25 years
30 prior to the effective date of this section; and

31 (c) Be in possession of the owner or, if purchased after the
32 effective date of this section, be acquired by using a loan from a
33 lender overseen by the United States federal housing finance agency
34 offered for the purposes of generating affordable housing units. The
35 lender or servicing agency must have oversight over the conversion,
36 including quarterly reports verifying affordable housing units are
37 being rented or sold to low-income households.

1 (3) In order to qualify for a property tax exemption for
2 conversion of a commercial building to affordable housing under this
3 chapter, housing units must:

4 (a) Be a building whose immediate prior use was predominantly or
5 exclusively for commercial use; and

6 (b) Have a complete project permit application submitted to the
7 city or county prior to January 1, 2029.

8 (4) The governing authority may request input from the Washington
9 housing finance commission and the department of commerce in
10 developing affordability requirements for units dedicated to
11 affordable housing.

12 (5) Except as provided in subsection (6) of this section, rent
13 levels for qualifying affordable housing units, including any
14 mandatory fees for tenant-paid utilities that are required as a
15 condition of tenancy, may not exceed 30 percent of the income limit
16 for the affordable housing unit.

17 (6) The governing authority may establish income or rent levels
18 other than those indicated in this chapter where it determines that
19 such an adjustment is needed to serve the needs of low-income
20 household affordable housing units in the community. The governing
21 authority shall conduct public outreach to interested parties prior
22 to adopting a program with income or rent levels other than those
23 indicated under this chapter.

24 NEW SECTION. **Sec. 5.** (1) For residential conversions, the value
25 of real property qualifying under this chapter is exempt from ad
26 valorem property taxation for 20 successive years beginning January
27 1st of the year immediately following the calendar year that the
28 certificate of tax exemption is filed with the county assessor in
29 accordance with section 8 of this act.

30 (a) For the first 10 years, the exemption amount is equal to 100
31 percent of the value of the residential building.

32 (b) For the second 10 years, the exemption amount is equal to 50
33 percent of the value of the residential building.

34 (2) For commercial building conversions, the value of real
35 property qualifying under this chapter is exempt from ad valorem
36 property taxation for 30 successive years beginning January 1st of
37 the year immediately following the calendar year that the certificate
38 of tax exemption is filed with the county assessor in accordance with
39 section 8 of this act.

1 (3) The exemption provided under this chapter may not be granted
2 if the owner receives an exemption under chapter 84.14 RCW.

3 (4) The exemption in this chapter excludes land and nonhousing
4 related improvements not qualifying under this chapter.

5 NEW SECTION. **Sec. 6.** To be eligible for the property tax
6 exemptions under this chapter, in addition to any other requirements
7 in this chapter, the property must be in compliance with the
8 following for the entire exemption period:

9 (1)(a) For residential conversions, a minimum of 30 percent of
10 residential units in a multiunit residential building subject to a
11 tax exemption under this chapter must be rented or sold as affordable
12 housing units to low-income households for a period no less than 30
13 years. Transitioning units to be rented or sold as affordable housing
14 units is not an acceptable reason for a landlord to evict a tenant,
15 consistent with RCW 59.18.650. Units must be transitioned to serve
16 low-income households through natural turnover. The tax exemption
17 under this chapter does not apply until the minimum number of units
18 under this section have been rented or sold as affordable housing
19 units to low-income households. A governing authority may require
20 that more than 30 percent of the units in multifamily housing
21 buildings be affordable housing to address local market conditions.
22 Up to and including the midpoint, the percentage requirement may be
23 rounded down to the nearest whole number of units.

24 (b) For commercial conversions, a minimum of 20 percent of
25 residential units in a multiunit residential building subject to a
26 tax exemption under this chapter must be rented or sold as affordable
27 housing units to low-income households for a period no less than 30
28 years to address local market conditions. Up to and including the
29 midpoint, the percentage requirement may be rounded down to the
30 nearest whole number of units.

31 (2) For any units within the multiunit residential building that
32 are rented to low-income households at the time of the exemption
33 application, the units must remain as affordable housing and are
34 additive to the percentage of units required to be affordable housing
35 under this section.

36 (3) Affordable housing units must be distributed throughout the
37 building and be comparable in terms of quality, living conditions,
38 size, and mix of unit types to market rate units in the building.

1 NEW SECTION. **Sec. 7.** An owner of property must meet the
2 following requirements to receive an exemption under this chapter:

3 (1) The applicant must apply to the city on forms adopted by the
4 city. The application must contain the following:

5 (a) Information supporting the requested exemption, including
6 information indicated on the application form and other requirements
7 specified in the governing authority's adopted exemption;

8 (b) For residential conversions, documentation that indicates the
9 units in the building were rented at over 80 percent area median
10 income prior to conversion to affordable housing by providing the
11 average rent charged to tenants from the previous two years as well
12 as the anticipated amount of time needed to transition units to
13 serving low-income households;

14 (c) A floor plan of units and other information requested;

15 (d) A statement that the applicant is aware of the potential tax
16 liability involved when the property ceases to be eligible for the
17 exemption provided under this chapter; and

18 (e) A certification of family size and annual income requirements
19 in a form acceptable to the city for designated affordable housing
20 units.

21 (2) The owner must apply on or before the application expiration
22 date of December 31, 2029.

23 (3) The applicant must verify the information provided in the
24 application by oath or affirmation.

25 NEW SECTION. **Sec. 8.** (1) The governing authority's designated
26 administrative official or agent may approve the application if it
27 finds that the property and owner satisfy the requirements of this
28 chapter and its locally adopted program.

29 (2) Applications should be processed within 30 days of submittal
30 to facilitate project financing.

31 (3) (a) If the application is approved, the designated
32 administrative official or agent must issue the owner a conditional
33 certificate of tax exemption. The certificate must contain a
34 statement specifying that the applicant complies with the
35 requirements of section 7 of this act. The city and applicant must
36 enter into a contract stipulating that a tax exemption will be
37 provided if the applicant complies with the provisions outlined in
38 the conditional certificate of tax exemption.

1 (b) Within two years of the issuance of the conditional
2 certificate of exemption, the applicant shall submit information
3 indicating that it has complied with the terms of the conditional
4 certificate of tax exemption. The applicant can apply to the
5 governing authority for an extension of an additional 12 months to
6 receive a final certificate of tax exemption.

7 (c) Within 30 days of receipt of the statement required under (b)
8 of this subsection (3), the governing authority's designated
9 administrative official or agent must determine whether the
10 affordability of the units is consistent with the conditional
11 certificate of tax exemption. If the authorized representative of the
12 city determines that the affordability is consistent with the
13 contract issued with the conditional certificate of tax exemption,
14 the city must file a final certificate of tax exemption with the
15 county assessor within 10 days of such determination.

16 (4) If the application is denied, the designated administrative
17 official or agent must state in writing the reasons for denial and
18 issue notice to the applicant by regular or certified mail to the
19 applicant's last known address, or by other means reasonably
20 calculated to provide notice, within 10 days of the denial.

21 (5) An applicant may appeal the decision of the designated
22 administrative official or agent within 30 days after receipt. The
23 appeal must be based upon the record made before the administrative
24 official or agent, and the burden is on the applicant to show that
25 the decision is not supported by substantial evidence.

26 NEW SECTION. **Sec. 9.** (1) The owner receiving a tax exemption
27 under this chapter must obtain from each tenant living in a
28 designated affordable housing unit an annual certification of family
29 size and annual income in a form acceptable to the governing
30 authority.

31 (2) The owner must file an annual report with the governing
32 authority's designated administrative official or agent indicating
33 the following:

34 (a) Family size and annual income for each tenant living in a
35 designated affordable housing rental unit, and a statement that the
36 property is in compliance with affordable housing requirements
37 described in section 4 of this act;

38 (b) A statement of occupancy and vacancy;

39 (c) A schedule of rents charged in market rate units; and

1 (d) Any other information required by the city to determine
2 compliance with exemption requirements.

3 (3) A governing authority that issues certificates of tax
4 exemption under this chapter must report annually to the department
5 of commerce the following information:

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

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

9 (c) The number and type of units meeting affordable housing
10 requirements;

11 (d) The total monthly rent amount for each affordable and market
12 rate unit; and

13 (e) The dollar amount of the tax exemption issued for each
14 conversion and the total dollar amount of tax exemptions granted
15 within the city.

16 NEW SECTION. **Sec. 10.** (1) Real property exempted under this
17 chapter continue to be exempted for the applicable period under
18 section 5 of this act if the improvements continue to satisfy all
19 applicable conditions. If the owner intends to discontinue compliance
20 with the affordable housing requirements as described in section 5 of
21 this act or any other condition to the exemption, the owner must
22 notify tenants and the jurisdiction 60 days before the owner's
23 discontinuance. If the city is notified by the owner, or if the city
24 discovers that a portion of the property no longer meets the
25 qualifications of the tax exemption, the tax exemption is canceled,
26 and the following must occur:

27 (a) Additional real property tax must be imposed on the property.
28 This additional tax is the difference between the property tax paid
29 and the property tax that would have been paid if the property had
30 included the value of the nonqualifying improvements, for each of the
31 prior 10 years during which the exemption was in effect;

32 (b) Additional interest is owed upon the amounts of the
33 additional property tax at the same statutory rate charged on
34 delinquent property taxes, calculated from the dates on which the
35 additional tax would have been payable without the tax exemption;

36 (c) A penalty is owed in the amount equal to 20 percent of the
37 additional property tax imposed under this section; and

38 (d) The additional tax, interest, and penalty are a lien on the
39 real property and attach at the time the property or portion of the

1 property is removed from exempted status. The lien has priority to,
2 and must be fully paid and satisfied before, a recognizance,
3 mortgage, judgment, debt, obligation, or responsibility to or with
4 which the land may become charged or liable, except that the lien is
5 of equal rank with liens for amounts deferred under chapter 84.37 or
6 84.38 RCW. The lien may be foreclosed upon expiration of the same
7 period after delinquency and in the same manner provided by law for
8 foreclosure of liens for delinquent real property taxes. An
9 additional tax unpaid on its due date is delinquent. From the date of
10 delinquency until paid, interest must be charged at the same rate
11 applied by law to delinquent ad valorem property taxes.

12 (2) Upon a determination that a tax exemption is to be canceled
13 for a reason stated in this section, the governing authority or
14 designated administrative official or agent of the governing
15 authority must notify the taxpayer, shown by the tax rolls by
16 certified mail, and the assessor, of the determination to cancel the
17 tax exemption. The owner may appeal the determination within 30 days
18 of the date of the notice by filing a notice of appeal with the clerk
19 of the governing authority, specifying the factual and legal basis
20 upon which the determination of cancellation is alleged to be
21 erroneous. The governing authority or designated administrative
22 official or agent may hear the appeal. At the hearing, all affected
23 parties may be heard and all competent evidence received. The burden
24 is on the taxpayer to show that the governing authority's decision is
25 not supported by substantial evidence. After the hearing, the
26 decision maker must affirm, modify, or overturn the decision to
27 cancel the tax exemption based on the evidence received. An aggrieved
28 party may appeal the decision of the deciding body or officer to the
29 superior court. The governing authority must also notify the assessor
30 of the final disposition of the appeal.

31 (3) The assessor must annually value the exempt and nonexempt
32 portions of the property and improvements as necessary to permit the
33 correction of the rolls in accordance with this section.

34 NEW SECTION. **Sec. 11.** If the owner intends to convert any
35 affordable housing rental units to market rate units before the 30-
36 year exemption period or after the exemption period ends, the owner
37 must provide tenants of affordable housing rental units with
38 notification of intent to provide the tenant with rental relocation
39 assistance. The owner must provide tenant relocation assistance in an

1 amount equal to one month's rent to a low-income household within the
2 final month of the low-income household's lease. To be eligible for
3 tenant relocation assistance under this section, the tenant must
4 occupy an affordable housing unit at the time the exemption expires
5 and must qualify as a low-income household under this section at the
6 time relocation assistance is sought.

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.08
8 RCW to read as follows:

9 (1) Subject to the requirements of chapter 84.--- RCW (the new
10 chapter created in section 15 of this act), the tax levied by RCW
11 82.08.020 does not apply to:

12 (a) The sale of or charge made for tangible personal property
13 incorporated as a component of a conversion of a commercial building
14 into affordable housing; and

15 (b) Labor and services rendered for the conversion of a
16 commercial building into affordable housing.

17 (2)(a) The exemption in this section is in the form of a
18 remittance.

19 (b) A qualifying owner claiming an exemption under this section
20 must pay all applicable state and local sales taxes imposed or
21 authorized under RCW 82.08.020 on all purchases qualifying for the
22 remittance.

23 (c) The amount of the remittance is 100 percent of the state
24 sales paid on purchases qualifying under subsection (1) of this
25 section.

26 (d) A qualifying owner claiming an exemption under this section
27 shall rent or sell a minimum of 10 percent of residential units in a
28 multiunit residential building subject to a tax exemption under
29 chapter 84.--- RCW (the new chapter created in section 15 of this
30 act) to low-income households for at least 10 years. Up to and
31 including the midpoint, the percentage requirement may be rounded
32 down to the nearest whole number of units.

33 (3) An owner must specify the amount of exempted tax claimed and
34 the qualifying purchases or uses for which the exemption is claimed.
35 The owner must retain, in adequate detail, records to enable the
36 department to determine whether the qualifying owner is entitled to
37 an exemption under this section, including invoices, proof of tax
38 paid, and construction contracts.

1 (4) The department must determine eligibility under this section
2 based on information provided by the qualifying owner, including the
3 annual certification required under section 9 of this act. Owner
4 eligibility is subject to audit verification by the department.

5 (5) If the owner intends to discontinue compliance with the
6 affordable housing requirements as described under this section or
7 any other condition to the exemption, the owner must notify the
8 department at least 60 days before the owner's discontinuance. If the
9 department discovers that eligibility conditions for the exemption
10 are no longer met, the department shall notify the owner within 60
11 days. The owner shall pay the total remittance granted under this
12 section and an additional 20 percent of the total remittance granted
13 as a penalty.

14 (6) The department may adopt rules necessary to implement this
15 section.

16 (7) The provisions of chapter 82.32 RCW apply to this section.

17 (8) The definitions in section 2 of this act apply to this
18 section.

19 (9) This section expires December 31, 2029.

20 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.12
21 RCW to read as follows:

22 (1) Subject to the requirements of chapter 84.--- RCW (the new
23 chapter created in section 15 of this act), the tax levied by RCW
24 82.12.020 does not apply to:

25 (a) The use of tangible personal property incorporated as a
26 component of a conversion of a commercial building into affordable
27 housing; and

28 (b) Labor and services rendered for the conversion of a
29 commercial building into affordable housing.

30 (2)(a) The exemption in this section is in the form of a
31 remittance.

32 (b) A qualifying owner claiming an exemption under this section
33 must pay all applicable state and local use taxes imposed or
34 authorized under RCW 82.12.020 for all uses qualifying for the
35 remittance.

36 (c) The amount of the remittance is 100 percent of the state
37 sales and use taxes paid on purchases and uses qualifying under
38 subsection (1) of this section.

1 (d) A qualifying owner claiming an exemption under this section
2 shall rent or sell a minimum of 10 percent of residential units in a
3 multiunit residential building subject to a tax exemption under
4 chapter 84.--- RCW (the new chapter created in section 15 of this
5 act) to low-income households for at least 10 years. Up to and
6 including the midpoint, the percentage requirement may be rounded
7 down to the nearest whole number of units.

8 (3) An owner must specify the amount of exempted tax claimed and
9 the qualifying uses for which the exemption is claimed. The owner
10 must retain, in adequate detail, records to enable the department to
11 determine whether the qualifying owner is entitled to an exemption
12 under this section, including invoices, proof of tax paid, and
13 construction contracts.

14 (4) The department must determine eligibility under this section
15 based on information provided by the qualifying owner, including the
16 annual certification required under section 9 of this act. Owner
17 eligibility is subject to audit verification by the department.

18 (5) If the owner intends to discontinue compliance with the
19 affordable housing requirements as described under this section or
20 any other condition to the exemption, the owner must notify the
21 department at least 60 days before the owner's discontinuance. If the
22 department discovers that eligibility conditions for the exemption
23 are no longer met, the department shall notify the owner within 60
24 days. The owner shall pay the total remittance granted under this
25 section and an additional 20 percent of the total remittance granted
26 as a penalty.

27 (6) The department may adopt rules necessary to implement this
28 section.

29 (7) The provisions of chapter 82.32 RCW apply to this section.

30 (8) The definitions in section 2 of this act apply to this
31 section.

32 (9) This section expires December 31, 2029.

33 NEW SECTION. **Sec. 14.** (1) This section is the tax preference
34 performance statement for the tax preferences contained in
35 chapter . . ., Laws of 2024 (this act). This performance statement is
36 only intended to be used for subsequent evaluation of the tax
37 preference. It is not intended to create a private right of action by
38 any party or be used to determine eligibility for preferential tax
39 treatment.

1 (2) The legislature categorizes these tax preferences as ones
2 intended to induce certain designated behavior by taxpayers, as
3 indicated in RCW 82.32.808(2) (a).

4 (3) It is the legislature's specific public policy objective to
5 incentivize the repurposing of existing buildings for affordable
6 housing.

7 (4) It is the legislature's intent to provide an exemption from
8 ad valorem property taxation for residential improvements qualifying
9 under chapter 84.--- RCW (the new chapter created in section 15 of
10 this act) and to provide other incentives to property owners to
11 convert existing market rate and commercial buildings into affordable
12 housing units for low-income households.

13 (5) In order to obtain the data necessary to measure the
14 effectiveness of these tax preferences in achieving the public policy
15 objective described in this section, the joint legislative audit and
16 review committee may refer to any data collected by the state.

17 NEW SECTION. **Sec. 15.** Sections 1 through 11 of this act
18 constitute a new chapter in Title 84 RCW.

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