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**SENATE BILL 5279**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators J. Wilson and Lovick

Read first time 01/11/23. Referred to Committee on Housing.

1 AN ACT Relating to expanding a sales and use tax deferral program  
2 for affordable housing to include structures initially used as  
3 temporary employee housing for employees constructing warehouses,  
4 distribution centers, and other large facilities; amending RCW  
5 82.92.005, 82.92.007, 82.92.010, 82.92.030, and 82.92.040; and  
6 creating a new section.

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

8 **Sec. 1.** RCW 82.92.005 and 2022 c 241 s 1 are each amended to  
9 read as follows:

10 The legislature finds that:

11 (1) Many cities in Washington are actively planning for growth  
12 under the growth management act, chapter 36.70A RCW;

13 (2) The construction industry provides living wage jobs for  
14 families across Washington;

15 (3) In the current economic climate, the creation of additional  
16 affordable housing units is essential to the economic health of our  
17 cities and our state;

18 (4) It is critical that Washington state promote its cities and  
19 its property owners that will provide affordable housing;

20 (5) A meaningful, fair, and predictable economic incentive should  
21 be created to stimulate the redevelopment of underdeveloped property

1 in targeted urban areas through a limited sales and use tax deferral  
2 program as provided by this chapter;

3 (6) This limited tax deferral will help the owners of  
4 underdeveloped property and housing equity property achieve the  
5 highest and best use of land and enable cities to more fully realize  
6 their planning goals and will help ensure limited resources are  
7 narrowly focused on affordable housing; and

8 (7) Data regarding the number of additional affordable units  
9 created due to the limited tax deferral will be evaluated to  
10 determine if this tool could be used to increase affordable housing  
11 in other areas of the state.

12 **Sec. 2.** RCW 82.92.007 and 2022 c 241 s 2 are each amended to  
13 read as follows:

14 It is the purpose of this chapter to encourage the redevelopment  
15 of underdeveloped land in targeted urban areas, thereby increasing  
16 affordable housing, employment opportunities, and helping accomplish  
17 the other planning goals of Washington cities. Additionally, it is  
18 the purpose of this chapter to support investments by regional  
19 affordable housing collaborators by maximizing the use of these funds  
20 directly for affordable housing. The legislative authorities of  
21 cities to which this chapter applies may authorize a sales and use  
22 tax deferral for an investment project within the city if the  
23 legislative authority of the city finds that it has housing equity  
24 property or there are significant areas of underdeveloped land and a  
25 lack of affordable housing in areas proximate to the land. If a  
26 conditional recipient maintains the property for qualifying purposes  
27 for at least 10 years, deferred sales and use taxes need not be  
28 repaid.

29 **Sec. 3.** RCW 82.92.010 and 2022 c 241 s 3 are each amended to  
30 read as follows:

31 The definitions in this section apply throughout this chapter  
32 unless the context clearly requires otherwise.

33 (1) "Affordable homeownership housing" means housing intended for  
34 owner occupancy to low or moderate-income households whose monthly  
35 housing costs, including utilities other than telephone, do not  
36 exceed 30 percent of the household's monthly income.

37 (2) "Affordable rental housing" means housing for very low or  
38 low-income households whose monthly housing costs, including

1 utilities other than telephone, do not exceed 30 percent of the  
2 household's monthly income.

3 (3) "Applicant" means an owner of underdeveloped property.

4 (4) "City" means a city with a population of at least 135,000 and  
5 not more than 250,000, or a city with housing equity property located  
6 in a county that does not plan under the growth management act, at  
7 the time the city initially establishes the program under this  
8 section.

9 (5) "Conditional recipient" means an owner of underdeveloped land  
10 granted a conditional certificate of program approval under this  
11 chapter, which includes any successor owner of the property.

12 (6) "County median price" means the most recently published  
13 quarterly data of median home prices by the Washington center for  
14 real estate research.

15 (7) "Eligible investment project" means an investment project  
16 that is located in a city and receiving a conditional certificate of  
17 program approval.

18 (8) "Fair market rent" means the estimates of 40th percentile  
19 gross rents for standard quality units within counties as published  
20 by the federal department of housing and urban development.

21 (9) "Governing authority" means the local legislative authority  
22 of a city having jurisdiction over the property for which a deferral  
23 may be granted under this chapter.

24 (10) "Household" means a single person, family, or unrelated  
25 persons living together.

26 (11) "Housing equity property" means an investment project that  
27 is or will be funded in whole or in part through contributions by a  
28 regional affordable housing collaborator where the property was  
29 initially used as temporary employee housing by the regional  
30 affordable housing collaborator.

31 (12)(a) "Initiation of construction" means the date that a  
32 building permit is issued under the building code adopted under RCW  
33 19.27.031 for construction of the qualified building, if the  
34 underlying ownership of the building vests exclusively with the  
35 person receiving the economic benefit of the deferral.

36 (b) "Initiation of construction" does not include soil testing,  
37 site clearing and grading, site preparation, or any other related  
38 activities that are initiated before the issuance of a building  
39 permit for the construction of the foundation of the building.

1 (c) If the investment project is a phased project, "initiation of  
2 construction" applies separately to each phase.

3 ~~((12))~~ (13) "Investment project" means an investment in  
4 multifamily housing, including labor, services, and materials  
5 incorporated in the planning, installation, and construction of the  
6 project. "Investment project" includes investment in related  
7 facilities such as playgrounds and sidewalks as well as facilities  
8 used for business use for mixed-use development.

9 ~~((13))~~ (14) "Low-income household" means a single person,  
10 family, or unrelated persons living together whose adjusted income is  
11 more than 50 percent but is at or below 80 percent of the median  
12 family income adjusted for family size, for the county, city, or  
13 metropolitan statistical area, where the project is located, as  
14 reported by the United States department of housing and urban  
15 development.

16 ~~((14))~~ (15) "Moderate-income household" means a single person,  
17 family, or unrelated persons living together whose adjusted income is  
18 more than 80 percent but is at or below 115 percent of the median  
19 family income adjusted for family size, for the county, city, or  
20 metropolitan statistical area, where the project is located, as  
21 reported by the United States department of housing and urban  
22 development.

23 ~~((15))~~ (16) "Multifamily housing" means a building or a group  
24 of buildings having two or more dwelling units not designed or used  
25 as transient accommodations and not including hotels and motels.  
26 Multifamily units may result from new construction or rehabilitation  
27 or conversion of vacant, underutilized, or substandard buildings to  
28 multifamily housing.

29 ~~((16))~~ (17) "Owner" means the property owner of record.

30 ~~((17))~~ (18) "Regional affordable housing collaborator" means a  
31 private employer that has established a housing equity property fund  
32 to create housing through grants to housing partners such as  
33 nonprofit organizations and public entities.

34 (19) "Underdeveloped property" means land used as a surface  
35 parking lot for parking of motor vehicles off the street or highway,  
36 that is open to public use with or without charge, as of June 9,  
37 2022.

38 ~~((18))~~ (20) "Very low-income household" means a single person,  
39 family, or unrelated persons living together whose adjusted income is  
40 at or below 50 percent of the median family income adjusted for

1 family size, for the county, city, or metropolitan statistical area,  
2 where the project is located, as reported by the United States  
3 department of housing and urban development.

4 **Sec. 4.** RCW 82.92.030 and 2022 c 241 s 5 are each amended to  
5 read as follows:

6 An owner of underdeveloped property or housing equity property  
7 seeking a sales and use tax deferral under this chapter on an  
8 investment project must complete the following procedures:

9 (1) The owner must apply to the city on forms adopted by the  
10 governing authority. The application must contain the following:

11 (a) Information setting forth the grounds supporting the  
12 requested deferral including information indicated on the application  
13 form or in the guidelines;

14 (b) A description of the investment project and site plan, and  
15 other information requested;

16 (c) A statement of the expected number of affordable housing  
17 units to be created;

18 (d) A statement that the applicant is aware of the potential tax  
19 liability involved if the investment project ceases to be used for  
20 eligible uses under this chapter;

21 (e) A statement that the applicant is aware that the investment  
22 project must be completed within three years from the date of  
23 approval of the application;

24 (f) A statement that the applicant is aware that the governing  
25 authority or the city official authorized by the governing authority  
26 may extend the deadline for completion of construction or  
27 rehabilitation for a period not to exceed 24 consecutive months; and

28 (g) A statement by an owner of underdeveloped property that the  
29 applicant would not have built in this location but for the  
30 availability of the tax deferral under this chapter;

31 (2) The applicant must verify the application by oath or  
32 affirmation; and

33 (3) The application must be accompanied by the application fee,  
34 if any, required under this chapter. The duly authorized  
35 administrative official or committee of the city may permit the  
36 applicant to revise an application before final action by the duly  
37 authorized administrative official or committee of the city.

1       **Sec. 5.** RCW 82.92.040 and 2022 c 241 s 6 are each amended to  
2 read as follows:

3       The duly authorized administrative official or committee of the  
4 city may approve the application and grant a conditional certificate  
5 of program approval if it finds that:

6       (1)(a) The investment project is set aside primarily for  
7 multifamily housing units and the applicant commits to renting or  
8 selling at least 50 percent of the units as affordable rental housing  
9 or affordable homeownership housing to very low, low, and moderate-  
10 income households. In a mixed use project, only the ground floor of a  
11 building may be used for commercial purposes with the remainder  
12 dedicated to multifamily housing units;

13       (b) At least 50 percent of the investment project set aside for  
14 multifamily housing units will be rented at a price at or below fair  
15 market rent for the county or sold at a price at or below county  
16 median price; and

17       (c) The applicant commits to any additional affordability and  
18 income eligibility conditions adopted by the local government under  
19 this chapter not otherwise inconsistent with this chapter;

20       (2) The investment project is, or will be, at the time of  
21 completion, in conformance with all local plans and regulations that  
22 apply at the time the application is approved;

23       (3) The investment project will occur on land that constitutes  
24 underdeveloped property or housing equity property;

25       (4) The area where the investment project will occur is located  
26 within an area zoned for residential or mixed uses;

27       (5) The terms and conditions of the implementation of the  
28 development meets the requirements of this chapter and any  
29 requirements of the city that are not otherwise inconsistent with  
30 this chapter;

31       (6) The land where the investment project will occur was not  
32 acquired through a condemnation proceeding under Title 8 RCW; and

33       (7) All other requirements of this chapter have been satisfied as  
34 well as any other requirements of the city that are not otherwise  
35 inconsistent with this chapter.

36       NEW SECTION.   **Sec. 6.** (1) This section is the tax preference  
37 performance statement for the tax preference contained in  
38 chapter . . . , Laws of 2023 (this act). This performance statement is  
39 only intended to be used for subsequent evaluation of the tax

1 preference. It is not intended to create a private right of action by  
2 any party or to be used to determine eligibility for preferential tax  
3 treatment.

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

7 (3) It is the legislature's specific public policy objective to  
8 expand affordable housing options for very low to moderate-income  
9 households, specifically in underdeveloped urban areas and urban  
10 areas where a substantial influx of employees related to a small  
11 number of very large employers have contributed to a lack of  
12 affordable housing.

13 (4) (a) To measure the effectiveness of the tax preference in this  
14 act, the joint legislative audit and review committee must evaluate  
15 the number of increased housing units on housing equity property. If  
16 a review finds that the number of affordable housing units has not  
17 increased, then the legislature intends to repeal this tax  
18 preference.

19 (b) The review must be provided to the fiscal committees of the  
20 legislature by December 31, 2030.

21 (5) In order to obtain the data necessary to perform the review  
22 in subsection (4) of this section, the joint legislative audit and  
23 review committee may refer to any available data source, including  
24 data collected by the department under RCW 82.92.080.

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