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**SENATE BILL 5553**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Salomon, Shewmake, Liias, Nobles, and Slatter

AN ACT Relating to providing a sales and use tax incentive for multifamily affordable housing; and amending RCW 82.59.007, 82.59.020, 82.59.030, 82.59.040, 82.59.070, 82.59.130, and 82.59.140.

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

**Sec.**  RCW 82.59.007 and 2024 c 332 s 2 are each amended to read as follows:

(1) It is the purpose of this chapter to encourage the redevelopment of underutilized commercial property in targeted urban areas, thereby increasing affordable housing, employment opportunities, and helping accomplish the other planning goals of Washington cities. The legislative authorities of cities to which this chapter applies may authorize a sales and use tax deferral for an investment project within the city if the legislative authority of the city finds that there are significant areas of underutilized commercial property and a lack of affordable housing in areas proximate to the land.

(2) It is further the purpose of this chapter to stimulate the construction of new multifamily affordable housing in areas having insufficient housing thereby increasing housing opportunities, including affordable housing opportunities, and helping accomplish the planning goals of Washington cities. The legislative authorities of cities to which this chapter applies may authorize a sales and use tax deferral for an investment project within the city if the legislative authority of the city finds that there are significant housing needs in the area proximate to the land.

(3) If a conditional recipient maintains the property for qualifying purposes for at least 10 years, deferred sales and use taxes need not be repaid.

**Sec.**  RCW 82.59.020 and 2024 c 332 s 4 are each amended to read as follows:

(1) For the purpose of creating a sales and use tax deferral program for conversion of a commercial building or construction of new multifamily housing to provide affordable housing under this chapter, the governing authority must adopt a resolution of intention to create a sales and use tax deferral program as generally described in the resolution. The resolution must state the time and place of a hearing to be held by the governing authority to consider the creation of the tax deferral program and may include such other information pertaining to the creation of the deferral program as the governing authority determines to be appropriate to apprise the public of the action intended. However, the resolution must provide information pertaining to:

(a) The application process;

(b) The approval process;

(c) The appeals process for applications denied approval; and

(d) Additional requirements, conditions, and obligations that must be followed postapproval of an application.

(2) The governing authority must give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than 30 days before the date of the hearing in a paper having a general circulation in the city. The notice must state the time, date, place, and purpose of the hearing.

(3) Following the hearing or a continuance of the hearing, the governing authority may authorize the creation of the program.

**Sec.**  RCW 82.59.030 and 2024 c 332 s 5 are each amended to read as follows:

An owner of ((~~underutilized commercial~~)) the property seeking a sales and use tax deferral for conversion of ((~~a~~)) an underutilized commercial building or construction of new multifamily housing to provide affordable housing under this chapter on an investment project must complete the following procedures:

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

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

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

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

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

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

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

(g) A statement that the applicant would not have built in this location but for the availability of the tax deferral under this chapter;

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

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

**Sec.**  RCW 82.59.040 and 2024 c 332 s 6 are each amended to read as follows:

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

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

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

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

(3) ((~~The~~)) For conversion of an underutilized commercial building, the investment project will occur on land that constitutes, at the time of application, underutilized commercial property;

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

(5) For construction of new multifamily housing, the investment project has a conditional certificate of acceptance of tax exemption for the tax exemptions under RCW 84.14.021 and 84.14.020(1)(a) (ii)(B) and (C) and (iii);

(6) The terms and conditions of the implementation of the development meets the requirements of this chapter and any requirements of the city that are not otherwise inconsistent with this chapter;

((~~(6)~~)) (7) The land where the investment project will occur was not acquired through a condemnation proceeding under Title 8 RCW; and

((~~(7)~~)) (8) All other requirements of this chapter have been satisfied as well as any other requirements of the city that are not otherwise inconsistent with this chapter.

**Sec.**  RCW 82.59.070 and 2024 c 332 s 9 are each amended to read as follows:

(1) Within 30 days of the issuance of a certificate of occupancy for an eligible investment project, the conditional recipient must file with the city the following:

(a) A description of the work that has been completed and a statement that the eligible investment project qualifies the property for a sales and use tax deferral under this chapter;

(b) A statement of the new affordable housing to be offered as a result of the conversion of underutilized commercial property to multifamily housing or construction of new multifamily housing; and

(c) A statement that the work has been completed within three years of the issuance of the conditional certificate of program approval.

(2) Within 30 days after receipt of the statements required under subsection (1) of this section, the city must determine and notify the conditional recipient as to whether the work completed and the affordable housing to be offered are consistent with the application and the contract approved by the city, and the investment project continues to qualify for a tax deferral under this chapter. The conditional recipient must notify the department within 30 days from receiving the city's determination to report the project is operationally complete so the department can certify the project and determine the qualifying deferred taxes. The department must determine the amount of sales and use taxes qualifying for the deferral. If the department determines that purchases were not eligible for deferral it must assess interest, but not penalties, on the nonqualifying amounts.

(3) The city must notify the conditional recipient within 30 days that a tax deferral under this chapter is denied if the city determines that:

(a) The work was not completed within three years of the application date;

(b) The work was not constructed consistent with the application or other applicable requirements;

(c) The affordable housing units to be offered are not consistent with the application and criteria of this chapter; or

(d) The owner's property is otherwise not qualified for a sales and use tax deferral under this chapter.

(4) If the city finds that the work was not completed within the required time period due to circumstances beyond the control of the conditional recipient and that the conditional recipient has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority may extend the deadline for completion of the work for a period not to exceed 24 consecutive months, and must notify the department of the extension.

(5) The city's governing authority may enact an ordinance to provide a process for a conditional recipient to appeal a decision by the city that the conditional recipient is not entitled to a deferral of sales and use taxes. The conditional recipient may appeal a decision by the city to deny a deferral of sales and use taxes in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within 30 days of notification by the city to the conditional recipient.

(6) A city denying a conditional recipient of a sales and use tax deferral under subsection (3) of this section must notify the department and taxes deferred under this chapter are immediately due and payable, subject to any appeal by the conditional recipient. The department must assess interest at the rate provided for delinquent taxes, but not penalties, retroactively to the date of deferral. A debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

**Sec.**  RCW 82.59.130 and 2024 c 332 s 15 are each amended to read as follows:

(1) This section is the tax preference performance statement for the tax preference contained in chapter 332, Laws of 2024, and chapter . . ., Laws of 2025 (this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

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

(3) It is the legislature's specific public policy objective to expand affordable housing options for low-income households, specifically in urban areas where there is underutilized commercial property and in areas having insufficient housing supply.

(4)(a) To measure the effectiveness of the tax preference in chapter 332, Laws of 2024, the joint legislative audit and review committee must evaluate the number of increased housing units on underutilized commercial property and in areas having insufficient housing supply. If a review finds that the number of affordable housing units has not increased, then the legislature intends to repeal this tax preference.

(b) The review must be provided to the fiscal committees of the legislature by December 31, 2032.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any available data source, including data collected by the department under RCW 82.59.080.

**Sec.**  RCW 82.59.140 and 2024 c 332 s 16 are each amended to read as follows:

(1) An owner of underutilized commercial property claiming a sales and use tax deferral under this chapter may also apply for the multiple-unit housing property tax exemption program under chapter 84.14 RCW. For applicants receiving the property tax exemption under chapter 84.14 RCW, the amount of affordable housing units required for eligibility under this chapter is in addition to the affordability conditions in chapter 84.14 RCW.

(2) An owner of property claiming a sales and use tax deferral under this chapter for new construction of multifamily housing must also apply for the multiple-unit housing property tax exemption program under RCW 84.14.021 and 84.14.020(1)(a) (ii)(B) and (C) and (iii). For applicants receiving the property tax exemption under chapter 84.14 RCW, the amount of affordable housing units required for eligibility under this chapter is in addition to the affordability conditions in chapter 84.14 RCW.

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