
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0706.1/16

ATTY/TYPIST: BP:amh

BRIEF DESCRIPTION: Authorizing local governments to adopt a property tax exemption program for certain affordable housing.

1 AN ACT Relating to providing local governments with options to
2 preserve affordable housing in their communities; and adding a new
3 chapter to Title 84 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Families, senior citizens, and workers with fewer financial
7 resources are more likely to experience unhealthy and unsafe housing
8 conditions;

9 (2) Healthy homes promote good physical and mental health. When
10 adequate housing protects individuals and families from harmful
11 exposures and provides them with a sense of privacy, security,
12 stability, and control, it can make important contributions to health
13 and well-being;

14 (3) Affordable housing is a necessary component of strong,
15 thriving neighborhoods with healthy physical and social environments;

16 (4) Very low-income household renters should have the opportunity
17 to live in homes in neighborhoods close to major infrastructure
18 investments like transit, quality schools for children, and vital
19 services like health care and grocery shopping;

20 (5) Community members with critical occupations, senior citizens,
21 and families are struggling to afford rent around the state;

1 (6) Rising rents are causing the displacement of very low-income
2 household renters and long-time community members, risking the loss
3 of cultural communities;

4 (7) Property owners require additional resources to make health,
5 safety, and quality improvements to buildings without raising rents
6 to pay for repairs; and

7 (8) Communities need a wide range of local tools to create
8 healthy, affordable homes and address affordable housing needs.

9 NEW SECTION. **Sec. 2.** It is the purpose of this chapter to give
10 communities a local option to preserve and increase healthy, high-
11 quality affordable rental housing opportunities for very low-income
12 households for which the governing authority has found that there are
13 insufficient healthy affordable housing opportunities. It is also the
14 purpose of this chapter to ensure that housing opportunities are
15 affordable to renters at below-market rent levels, as determined by
16 the governing authority, with consideration of community needs,
17 market rental costs, and income levels of renters.

18 NEW SECTION. **Sec. 3.** The definitions in this section apply
19 throughout this chapter unless the context clearly requires
20 otherwise.

21 (1) "Affordable housing" means residential housing that is rented
22 by a person or household whose monthly housing costs do not exceed
23 thirty percent of the household's monthly income.

24 (2) "Energy and water efficiency standards" means housing that
25 meets standards substantially equivalent to evergreen sustainable
26 development standards, as established by the Washington state
27 department of commerce.

28 (3) "Governing authority" means the local legislative authority
29 of a city or county having jurisdiction over the property for which
30 an exemption may be applied under this chapter.

31 (4) "Health and quality standards" means standards substantially
32 equivalent to uniform physical condition standards, as established by
33 the United States department of housing and urban development, or the
34 national healthy housing standard, as established by the national
35 center for healthy housing and the American public health
36 association.

37 (5) "High-cost area" means a county where the third quarter
38 median house price for the previous year as reported by the Runstad

1 center for real estate studies at the University of Washington is
2 equal to or greater than one hundred thirty percent of the statewide
3 median house price published during the same time period.

4 (6) "Household" means a single person, family, or unrelated
5 persons living together.

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

7 (8) "Permanent residential occupancy" means housing that provides
8 rental occupancy on a nontransient basis. "Permanent residential
9 occupancy" includes rental accommodation that is leased for a period
10 of at least one month. "Permanent residential occupancy" excludes
11 hotels and motels that predominately offer rental accommodation on a
12 daily or weekly basis.

13 (9) "Property" means a residential building not designed as
14 transient accommodations. "Property" excludes hotels or motels.

15 (10) "Rehabilitation improvements" means modifications to
16 existing structures made to achieve substantial compliance with
17 health and quality standards or energy and water efficiency
18 standards.

19 (11) "Single-family dwelling unit" means an individual detached
20 dwelling.

21 (12) "Very low-income household" means a single person, family,
22 or unrelated persons living together whose adjusted income is at or
23 below fifty percent of the median family income adjusted for family
24 size, for the county in which the project is located, as reported by
25 the United States department of housing and urban development. For
26 cities located in high-cost areas, "very low-income household" means
27 a household that has an income at or below sixty percent of the
28 median family income adjusted for family size, for the county in
29 which the project is located.

30 NEW SECTION. **Sec. 4.** A governing authority may adopt a property
31 tax exemption program to preserve healthy and affordable housing for
32 very low-income households that cannot afford market-rate housing.

33 NEW SECTION. **Sec. 5.** (1) Upon adoption of a property tax
34 exemption program, the governing authority must establish standards
35 for very low-income household rental housing under this chapter,
36 including rent limits and income guidelines consistent with local
37 housing needs, to assist very low-income households that cannot
38 afford market-rate housing. Affordable housing units must be:

1 (a) Below-market rent levels; and

2 (b) Affordable to households with an income of fifty percent or
3 less of the county median family income, adjusted for family size.

4 (2)(a) The governing authority, after holding a public hearing,
5 may also establish lower income levels or lower rent levels adjusted
6 to serve very low-income household renters in the community.

7 (b) The governing authority of a high-cost area, after holding a
8 public hearing, may also establish higher income levels. The higher
9 income level may not exceed sixty percent of the county area median
10 family income.

11 NEW SECTION. **Sec. 6.** (1) The value of residential housing
12 improvements and land qualifying under this chapter are exempt from
13 ad valorem property taxation, except the state of Washington portion,
14 for fifteen successive years beginning January 1st of the year
15 immediately following the calendar year of issuance of the
16 certificate.

17 (2) The governing authority may extend the duration of the
18 exemption period by three years for properties meeting the evergreen
19 sustainable development standards, or a substantially equivalent
20 sustainable development standard.

21 (3) The incentive provided under this chapter is in addition to
22 any tax credits, grants, or other incentives provided by law.

23 (4) This chapter neither applies to increases in assessed
24 valuation made by the assessor on nonqualifying portions of building
25 or land nor to increases made by lawful order of a county board of
26 equalization, the department of revenue, or a county, to a class of
27 property throughout the county or specific area of the county to
28 achieve the uniformity of assessment or appraisal required by law.

29 NEW SECTION. **Sec. 7.** To be eligible for the exemption from
30 property taxation under this chapter, in addition to other
31 requirements set forth in this chapter, the property must be in
32 compliance with the following applicable requirements for the entire
33 exemption period:

34 (1) A minimum of twenty-five percent of units in a multiple-unit
35 property subject to tax exemption must be affordable as described in
36 section 5 of this act. A governing authority may require more than
37 twenty-five percent affordable units in multiple-unit housing
38 buildings subject to tax exemption to address local market

1 conditions. Affordable units must be comparable in terms of quality
2 and living conditions to market rate units in the building;

3 (2) At least sixty percent of the units of multiple-unit property
4 must be occupied by tenants at the time of application;

5 (3) The property must be part of a residential or mixed-use
6 (residential and nonresidential) project;

7 (4) The property must provide for a minimum of fifty percent of
8 the space in each building for permanent residential occupancy;

9 (5) The property must meet guidelines as adopted by the governing
10 authority that may include height, density, public benefit features,
11 number and size of proposed development, parking, income limits for
12 occupancy, limits on rents or sale prices, health and quality
13 standards, and other adopted requirements indicated as necessary by
14 the governing authority. The required amenities should be relative to
15 the size of the project and tax benefit to be obtained; and

16 (6) The property owner must enter into a contract with the city
17 or county approved by the governing authority, or an administrative
18 official or commission authorized by the governing authority, under
19 which the property owner has agreed to terms and conditions
20 satisfactory to the governing authority.

21 NEW SECTION. **Sec. 8.** (1) To be eligible for the exemption from
22 taxation under this chapter, the property must also comply with all
23 applicable land use regulations, zoning requirements, and building
24 and housing code requirements, including space and occupancy,
25 structural, mechanical, fire, safety, and security standards,
26 substantially equivalent to the uniform physical condition standards,
27 as established by the United States department of housing and urban
28 development. The governing authority may establish additional
29 standards to meet local needs.

30 (2)(a) The governing authority may waive certain standards for up
31 to three years if the owner of the property submits a rehabilitation
32 plan to comply with housing quality standards substantially
33 equivalent to uniform physical condition standards. The owner must
34 notify the governing authority at the time of completion of
35 rehabilitation.

36 (b) The governing authority may establish minimum health and
37 quality standards for properties to qualify for a waiver under (a) of
38 this subsection.

1 (3) The property must be inspected at the time of application for
2 tax exemption and, thereafter, as established by the governing
3 authority at least once every three years.

4 (4) If the governing authority grants a waiver of certain housing
5 quality standards under subsection (2) of this section, the property
6 must be inspected when the owner notifies the governing authority
7 that rehabilitation has been completed or at the end of the waiver
8 period, whichever occurs first.

9 (5) The governing authority may deny an application for tax
10 exemption for failure to comply with health and quality standards.

11 NEW SECTION. **Sec. 9.** (1) The governing authority may establish
12 additional requirements for tax exemption eligibility or program
13 rules under this chapter, including:

14 (a) A limit on the total number of affordable housing units
15 subject to exemption under this chapter;

16 (b) The designation of targeted residential areas for property to
17 align with community needs, including to prevent displacement,
18 preserve cultural communities, and provide affordable housing options
19 near community infrastructure such as transportation or public
20 schools;

21 (c) Standards for property size, unit size, unit type, mix of
22 unit types, or mix of unit sizes;

23 (d) An exemption extension for property meeting minimum energy
24 and water efficiency standards substantially equivalent to evergreen
25 sustainable development building performance standards;

26 (e) A program for single-family dwelling rental units occupied by
27 tenants complying with affordability requirements under this chapter
28 as adopted by the governing authority;

29 (f) Any additional requirements to reduce displacement of very
30 low-income household tenants.

31 (2) The governing authority must adopt and implement standards
32 and guidelines to be utilized in considering applications and making
33 the determinations required under this chapter. The standards and
34 guidelines must establish basic requirements to include:

35 (a) An application process and procedures;

36 (b) Guidelines that may include height, density, public benefit
37 features, number and size of proposed development, parking, income
38 limits for occupancy, limits on rents or sale prices, health and
39 quality standards, and other adopted requirements indicated as

1 necessary by the governing authority. The required amenities should
2 be relative to the size of the project and tax benefit to be
3 obtained;

4 (c) An inspection policy and procedures to ensure the property
5 complies with housing and health and quality standards substantially
6 equivalent to uniform physical condition standards;

7 (d) Income and rent limits as required under section 5 of this
8 act; and

9 (e) Documentation necessary to establish income eligibility of
10 households in affordable housing units.

11 (3) Standards may apply to part or all of a jurisdiction and
12 different standards may be applied to different areas within a
13 jurisdiction or to different types of development. Programs
14 authorized under this section may be modified to meet local needs and
15 may include provisions not expressly provided in this section.

16 NEW SECTION. **Sec. 10.** An owner of property making application
17 under this chapter must meet the following requirements:

18 (1) The applicant must apply to the city or county on forms
19 adopted by the governing authority. The application must contain the
20 following:

21 (a) Information setting forth the grounds supporting the
22 requested exemption, including information indicated on the
23 application form or in the guidelines;

24 (b) A description of the project and site plan, including the
25 floor plan of units and other information requested;

26 (c) A statement that the applicant is aware of the potential tax
27 liability involved when the property ceases to be eligible for the
28 incentive provided under this chapter;

29 (d) When rehabilitation is required to meet health and quality
30 standards or evergreen sustainable development building performance
31 standards, a plan, budget, and proposed schedule for repairs; and

32 (e) A certification of family size and annual income in a form
33 acceptable to the governing authority for designated affordable
34 housing units;

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

37 (3) The applicant must submit a fee, if any, with the application
38 as required under this chapter. The governing authority may permit

1 the applicant to revise an application before final action by the
2 governing authority.

3 NEW SECTION. **Sec. 11.** (1) Upon receipt of an application, the
4 governing authority must inspect the property to certify compliance
5 with health and quality standards substantially equivalent to uniform
6 physical condition standards or to grant a waiver upon submission of
7 a rehabilitation plan by the owner of the property.

8 (2) The duly authorized administrative official or committee of
9 the governing authority may approve the application if it finds that:

10 (a) The property meets affordable housing requirements as
11 described in section 5 of this act;

12 (b) The property meets health and quality guidelines
13 substantially equivalent to uniform physical condition standards, or
14 a waiver is granted upon submission of a rehabilitation plan by the
15 property owner;

16 (c) The property rehabilitation plan is of appropriate scope to
17 be completed within the designated time frame of waiver and will
18 result in property compliance with health and quality standards, as
19 outlined in section 8 of this act; and

20 (d) The owner has complied with all standards and guidelines
21 adopted by the governing authority under this chapter.

22 (3) The authorized representative of the governing authority may
23 waive the unit affordability and occupancy restrictions for an
24 incidental number of units occupied by existing over-income tenants.
25 The waiver should be limited for a specified period, but not to
26 exceed three years. The property owner must maintain affordable
27 housing units for a term equal to the period that units were occupied
28 by over-income tenants after the tax exemption has expired.

29 NEW SECTION. **Sec. 12.** (1) The governing authority, or an
30 administrative official or commission authorized by the governing
31 authority, must approve or deny an application filed under this
32 chapter within ninety days after receipt of the application.

33 (2) If the application is approved, the governing authority must
34 issue the owner of the property a conditional certificate of
35 acceptance of tax exemption. The certificate must contain a statement
36 by a duly authorized administrative official of the governing
37 authority that the property has complied with the required findings
38 indicated in this chapter.

1 (3)(a) If the application is denied by the authorized
2 administrative official or commission authorized by the governing
3 authority, the deciding administrative official or commission must
4 state in writing the reasons for denial and send the notice to the
5 applicant at the applicant's last known address within ten days of
6 the denial.

7 (b) Upon denial by the authorized administrative official or
8 commission, an applicant may appeal the denial to the governing
9 authority within thirty days after receipt of the denial. The appeal
10 before the governing authority must be based upon the record made
11 before the administrative official or commission with the burden of
12 proof on the applicant to show that there was no substantial evidence
13 to support the administrative official or commission's decision. The
14 decision of the governing body in denying or approving the
15 application is final.

16 NEW SECTION. **Sec. 13.** The governing authority may establish an
17 application fee to not exceed an amount determined to be required to
18 cover the cost to be incurred by the governing authority and the
19 assessor in administering this chapter. The application fee, if
20 established, must be paid at the time the application is submitted.
21 If the application is approved, the governing authority must pay the
22 application fee to the county assessor for deposit in the county
23 current expense fund, after first deducting that portion of the fee
24 attributable to its own administrative costs in processing the
25 application. If the application is denied, the governing authority
26 may retain that portion of the application fee attributable to its
27 own administrative costs and refund the balance to the applicant.

28 NEW SECTION. **Sec. 14.** (1) The authorized representative of the
29 governing authority must notify the applicant that a certificate of
30 tax exemption is not going to be filed if the authorized
31 representative determines that:

32 (a) The affordable housing requirements as described in section 5
33 of this act were not met;

34 (b) The property did not meet health and quality standards; or

35 (c) The owner's property is otherwise not qualified for limited
36 exemption under this chapter.

37 (2) The governing authority may provide by ordinance for an
38 appeal of a decision by the deciding officer or authority that an

1 owner is not entitled to a certificate of tax exemption to the
2 governing authority, a hearing examiner, or other city or county
3 officer authorized by the governing authority to hear the appeal in
4 accordance with such reasonable procedures and time periods as
5 provided by ordinance of the governing authority. The owner may
6 appeal a decision by the deciding officer or authority that is not
7 subject to local appeal or a decision by the local appeal authority
8 that the owner is not entitled to a certificate of tax exemption in
9 superior court under RCW 34.05.510 through 34.05.598, if the appeal
10 is filed within thirty days of notification by the governing
11 authority to the owner of the decision being challenged.

12 NEW SECTION. **Sec. 15.** (1) Owner of property receiving a tax
13 exemption under this chapter must obtain from each tenant living in
14 designated affordable housing units, no less than annually, a
15 certification of family size and annual income in a form acceptable
16 to the governing authority.

17 (2) The property owner must file a report at least annually
18 indicating the following:

19 (a) Family size and annual income for each tenant living in
20 designated affordable housing rental units and a statement that the
21 property is in compliance with affordable housing requirements
22 described in section 5 of this act;

23 (b) A statement of occupancy and vacancy;

24 (c) A certification that the property has not changed use;

25 (d) A description of changes or improvements;

26 (e) When rehabilitation is required to meet health and quality
27 standards or evergreen sustainable development building performance
28 standards, a progress report on compliance with the rehabilitation
29 plan, budget, and proposed schedule for repairs; and

30 (f) Any other information required to determine compliance with
31 program requirements or to measure program performance.

32 (3) A governing authority that issues certificates of tax
33 exemption for property that conform to the requirements of this
34 chapter must report annually to the department of commerce the
35 following information:

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

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

1 (c) The number and type of units meeting affordable housing
2 requirements;

3 (d) The total monthly rent amount for each affordable and market-
4 rate unit;

5 (e) The income of each rental household at the time of initial
6 occupancy and the income of each initial purchaser of owner-occupied
7 units at the time of purchase for each of the units receiving a tax
8 exemption and a summary of these figures for the governing authority;
9 and

10 (f) The value of the tax exemption for each project receiving a
11 tax exemption and the total value of tax exemptions granted.

12 NEW SECTION. **Sec. 16.** (1) After a certificate of exemption has
13 been filed with the county assessor, the tax exemption must be
14 canceled by the authorized representative of the governing authority
15 under the following circumstances:

16 (a) The owner intends to convert the property to another use that
17 is not residential or the owner intends to discontinue compliance
18 with affordable housing requirements;

19 (b) The owner fails to file annual reports;

20 (c) The owner fails to maintain the property in substantial
21 compliance with all applicable local building, safety, and health
22 code requirements;

23 (d) The owner fails to complete rehabilitation improvements as
24 outlined in the application for tax exemption; or

25 (e) The owner fails to meet affordable housing requirements.

26 (2)(a) Upon cancellation of the property tax exemption,
27 additional real property tax must be imposed upon the value of the
28 nonqualifying improvements and land in the amount that would be
29 normally imposed, plus a penalty for the cost of administration by
30 the governing authority. This additional tax is calculated from
31 January 1st of the year immediately following the year of issuance of
32 the certificate of tax exemption.

33 (b) The tax must include interest upon the amounts of the
34 additional tax at the same rate charged on delinquent property taxes
35 from the dates on which the additional tax could have been paid
36 without penalty if the property had been assessed at a value without
37 regard to this chapter.

38 (c) The additional tax owed together with the interest and
39 penalty becomes a lien on the land and attaches at the time the

1 property or portion of the property is removed from use as affordable
2 housing or the amenities no longer meet applicable requirements, and
3 has priority to and must be fully paid and satisfied before a
4 recognizance, mortgage, judgment, debt, obligation, or responsibility
5 to or with which the land may become charged or liable. The lien may
6 be foreclosed upon the expiration of the same period after
7 delinquency and in the same manner provided by law for foreclosure of
8 liens for delinquent real property taxes. An additional tax unpaid on
9 its due date is delinquent. From the date of delinquency until paid,
10 interest must be charged at the same rate applied by law to
11 delinquent ad valorem property taxes.

12 (3) Upon a determination that a property tax exemption is to be
13 canceled for any reason stated in this section, the governing
14 authority or authorized representative of the governing authority
15 must notify the record owner of the property as shown by the tax
16 rolls by mail, return receipt requested, of the determination to
17 cancel the exemption. The owner may appeal the determination to the
18 governing authority or authorized representative within thirty days
19 by filing a notice of appeal with the clerk of the governing
20 authority, which must specify the factual and legal basis on which
21 the determination of cancellation is alleged to be erroneous. The
22 governing authority or a hearing examiner or other official
23 authorized by the governing authority may hear the appeal. At the
24 hearing, all affected parties may be heard and all competent evidence
25 received. After the hearing, the deciding body or officer must either
26 affirm, modify, or repeal the decision of cancellation of exemption
27 based on the evidence received. An aggrieved party may appeal the
28 decision of the deciding body or officer to the superior court under
29 RCW 34.05.510 through 34.05.598.

30 (4) Upon a determination by the governing authority or authorized
31 representative to cancel a property tax exemption, the county
32 officials having possession of the assessment and tax rolls must
33 correct the rolls in the manner provided for omitted property under
34 RCW 84.40.080. The county assessor must make such a valuation of the
35 property and improvements as is necessary to permit the correction of
36 the rolls. The owner may appeal the valuation to the county board of
37 equalization under chapter 84.48 RCW and in accordance with RCW
38 84.40.038. If there has been a failure to comply with this chapter,
39 the property must be listed as an omitted assessment for assessment
40 years beginning January 1st of the calendar year in which the

1 noncompliance first occurred, but the listing as an omitted
2 assessment may not be for a period more than three calendar years
3 preceding the year in which the failure to comply was discovered.

4 NEW SECTION. **Sec. 17.** This section is the tax preference
5 performance statement for the tax preference contained in this
6 chapter. This performance statement is only intended to be used for
7 subsequent evaluation of the tax preference. It is not intended to
8 create a private right of action by any party or be used to determine
9 eligibility for preferential tax treatment.

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

13 (2) It is the legislature's specific public policy objective to
14 preserve affordable housing where housing options, including
15 affordable housing options, are severely limited. It is the
16 legislature's intent to provide the value of residential improvements
17 and land qualifying under this chapter an exemption from ad valorem
18 property taxation for fifteen years, as provided for in this chapter,
19 to provide incentives to developers to preserve affordable housing
20 units for very low-income households.

21 (3) If a review finds that at least twenty-five percent of the
22 preserved affordable housing is occupied by households making at or
23 below sixty percent of the area median income, at the time of
24 occupancy, adjusted for family size for the county in which the
25 project is located, the household may earn up to one hundred fifteen
26 percent of the area median income, at the time of sale, adjusted for
27 family size for the county in which the project is located, and the
28 legislature intends to extend the expiration date of the tax
29 preference.

30 (4) To obtain the data necessary to perform the review in
31 subsection (3) of this section, the joint legislative audit and
32 review committee may refer to data provided by counties in which
33 beneficiaries are utilizing the preference, the office of financial
34 management, the department of commerce, the United States department
35 of housing and urban development, and other data sources as needed by
36 the joint legislative audit and review committee.

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

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