
HOUSE BILL 2668

State of Washington

66th Legislature

2020 Regular Session

By Representative Ryu

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

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 limited financial
7 resources are likely to experience fewer housing choices;

8 (2) Affordable housing is a necessary component of strong,
9 thriving neighborhoods;

10 (3) Limited income household renters should have the opportunity
11 to live in homes in neighborhoods close to major infrastructure
12 investments like transit, quality schools, and vital services like
13 health care, grocery shopping, and employment;

14 (4) Community members with critical occupations, senior citizens,
15 and families are struggling to afford rent around the state;

16 (5) Rising rents are causing the displacement of low and very
17 low-income households and long-time community members; and

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

1 NEW SECTION. **Sec. 2.** The purpose of this chapter is to give
2 communities a local option to preserve and increase healthy, high
3 quality, affordable rental housing opportunities for low and very
4 low-income households when the governing authority has found that
5 there are insufficient affordable housing opportunities available. It
6 is also the purpose of this chapter to encourage affordable housing
7 opportunities that are affordable to renters at below market rent
8 levels, as determined by the governing authority, with consideration
9 of community needs, market rental costs, and income levels of
10 renters.

11 NEW SECTION. **Sec. 3.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise.

14 (1) "Governing authority" means the local legislative authority
15 of a city or county having jurisdiction over the property for which
16 an exemption may be applied under this chapter.

17 (2) "Health and quality standards" means standards substantially
18 equivalent to uniform physical condition standards, as established by
19 the United States department of housing and urban development, or the
20 national healthy housing standard, as established by the national
21 center for healthy housing and the American public health
22 association.

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

25 (4) "Low-income household" means a single person, family, or
26 unrelated persons living together whose adjusted income is at or
27 below eighty percent of the median family income adjusted for family
28 size, for the county in which the project is located, as reported by
29 the United States department of housing and urban development.

30 (5) "Multifamily dwelling" means a residential community
31 comprised of four or more units.

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

33 (7) "Permanent residential occupancy" means housing that provides
34 rental occupancy on a nontransient basis that is leased for a period
35 of at least one year. "Permanent residential occupancy" excludes
36 hotels and motels that predominately offer rental accommodation on a
37 daily or weekly basis.

38 (8) "Single-family dwelling" means an individual detached
39 dwelling.

1 (9) "Very low-income household" means a single person, family, or
2 unrelated persons living together whose adjusted income is at or
3 below fifty percent of the median family income adjusted for family
4 size, for the county in which the project is located, as reported by
5 the United States department of housing and urban development.

6 NEW SECTION. **Sec. 4.** A city governing authority may by
7 ordinance or resolution adopt a property tax exemption program to
8 preserve affordable housing within the city that meets health and
9 quality standards for low and very low-income households at risk of
10 displacement or that cannot afford market rate housing. A county
11 governing authority may by ordinance or resolution adopt a property
12 tax exemption program for unincorporated areas to preserve affordable
13 housing that meets health and quality standards for low and very low-
14 income households at risk of displacement or that cannot afford
15 market rate housing.

16 NEW SECTION. **Sec. 5.** (1) A property tax exemption program
17 adopted by the governing authority under this chapter must establish
18 qualifying standards for low and very low-income household rental
19 housing. Such standards must include rent limits and income
20 guidelines consistent with local housing needs, to assist households
21 that cannot afford market rate housing.

22 (2) In order to qualify for a property tax exemption under this
23 chapter, housing units must be:

24 (a) Rented at below market rent levels, as determined by the
25 governing authority's appraisal or market study;

26 (b) For multifamily dwellings, affordable to very low-income
27 households and part of a building that is at least forty years old;
28 and

29 (c) For a single-family dwelling or an attached or detached
30 accessory dwelling unit that is accessory to a single-family
31 dwelling, affordable to low-income households. Either the single-
32 family dwelling or the accessory dwelling unit must remain owner
33 occupied.

34 (3) The governing authority may establish income or rent
35 thresholds below those indicated in subsection (1) of this section
36 where it determines that such an adjustment is warranted to reflect
37 the value of the exemption.

1 (4) Rent levels for qualifying affordable housing units,
2 including any mandatory fees for tenant paid utilities that are
3 required as a condition of tenancy, may not exceed thirty percent of
4 the income limit for the very low-income housing unit.

5 NEW SECTION. **Sec. 6.** (1) The value of residential housing
6 improvements and land qualifying under this chapter is exempt from ad
7 valorem property taxation for six successive years beginning January
8 1st of the year immediately following the calendar year that the
9 certificate of tax exemption is filed with the county assessor in
10 accordance with section 12 of this act. Subject to application to and
11 approval by the governing authority, the exemption may be extended
12 one time for an additional six years.

13 (2) The exemption provided under this chapter may be applied in
14 addition to any tax credits, grants, or other incentives provided by
15 law when required to increase the rental affordability already
16 secured by such incentives.

17 (3) The exemption in this chapter does not apply to any
18 nonqualifying portions of a building or land.

19 (4) The governing authority must provide local taxing districts
20 in the designated exemption area notice and an opportunity to be
21 heard prior to establishing a tax exemption program under this
22 chapter.

23 NEW SECTION. **Sec. 7.** To be eligible for the property tax
24 exemption under this chapter, in addition to any other requirements
25 in this chapter, the property must be in compliance with the
26 following for the entire exemption period:

27 (1) A minimum of twenty-five percent of residential units in a
28 multifamily property subject to tax exemption must be affordable as
29 described in section 5 of this act. A governing authority may require
30 that more than twenty-five percent of the units in multifamily
31 dwellings are affordable to address local market conditions. Up to
32 and including the midpoint, the percentage requirement may be rounded
33 down to the nearest whole number of units;

34 (2) Qualified affordable units must be comparable in terms of
35 quality, living conditions, and mix of unit types to market rate
36 units in the building;

1 (3) At least ninety percent of the residential units of a
2 multifamily property must be occupied by tenants at the time of
3 application;

4 (4) The property must be part of a multifamily residential or
5 mixed use (residential and nonresidential) project or a single-family
6 property with an affordable attached or detached accessory dwelling
7 unit;

8 (5) With respect to a single-family dwelling or attached or
9 detached accessory dwelling unit accessory to a single-family
10 dwelling, only the designated affordable improvement area and
11 underlying land dedicated solely to the affordable dwelling may
12 qualify for the exemption;

13 (6) The multifamily, mixed-use property must provide for a
14 minimum of fifty percent of the space in each building for permanent
15 residential occupancy;

16 (7) If a multifamily or mixed-use property has dedicated less
17 than one hundred percent of its total square footage to qualifying
18 units, only that dedicated percent portion of the land beneath the
19 building footprint is subject to the exemption under this chapter;
20 and

21 (8) The property owner must enter into a contract with the city
22 or county agreeing to terms and conditions required satisfactory to
23 the governing authority.

24 NEW SECTION. **Sec. 8.** (1) To be eligible for the exemption under
25 this chapter, the property must also comply with all applicable land
26 use regulations, zoning requirements, and building and housing code
27 requirements, including space and occupancy, structural, mechanical,
28 fire, safety, and security standards, and health and quality
29 standards. At a minimum, the standard for housing quality must be
30 substantially equivalent to uniform physical condition standards. The
31 governing authority may establish additional standards to meet local
32 needs.

33 (2) The property must be inspected for compliance with subsection
34 (1) of this section prior to awarding the tax exemption under this
35 chapter and thereafter, as established by the governing authority.
36 The governing authority must deny an application for tax exemption
37 for failure to comply with health and quality standards.

1 NEW SECTION. **Sec. 9.** (1) The governing authority may establish
2 additional requirements for tax exemption eligibility or program
3 rules under this chapter including, but not limited to:

4 (a) The designation of particular targeted residential eligible
5 areas based on community needs to prevent displacement, provide
6 affordable housing options near community infrastructure such as
7 transportation or public schools, or other local factors;

8 (b) Standards for property size, unit size, unit type, mix of
9 unit types, or mix of unit sizes; and

10 (c) Any additional requirements to reduce displacement of very
11 low-income household tenants.

12 (2) The governing authority must adopt and implement standards
13 and guidelines to be utilized in considering applications and making
14 the determinations required under this chapter. The standards and
15 guidelines must include:

16 (a) An application process and procedures;

17 (b) Guidelines and requirements that may include height, density,
18 public benefit features, number and size of proposed development,
19 parking, income limits for occupancy, health and quality standards,
20 and other adopted requirements indicated as necessary by the
21 governing authority. The required amenities should be commensurate
22 with the size of the project and tax benefit to be obtained;

23 (c) An inspection policy and procedures to ensure the property
24 complies with housing and health and quality standards;

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

27 (e) Documentation necessary to establish income eligibility of
28 households in affordable housing units; and

29 (f) Fees required of the applicant in order to process the
30 application and monitor compliance with eligibility criteria. Such
31 fees must be commensurate with the cost anticipated by the governing
32 authority to administer this chapter.

33 (3) Standards may apply to part or all of a jurisdiction and
34 different standards may be applied to different areas within a
35 jurisdiction or to different types of development. Programs
36 authorized under this section may include provisions not expressly
37 provided in this section in order to meet local needs.

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

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

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

8 (b) A description of the project, including the floor plan of
9 units and other information requested;

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

13 (d) A certification of family size and annual income in a form
14 acceptable to the governing authority for designated affordable
15 housing units.

16 (2) The applicant must verify the information provided in the
17 application by oath or affirmation.

18 (3) The applicant must submit a fee, if any, with the application
19 as required under this chapter.

20 NEW SECTION. **Sec. 11.** Prior to approval of an application
21 meeting the requirements of section 10 of this act, the city or
22 county must inspect the property to certify compliance with health
23 and quality standards.

24 NEW SECTION. **Sec. 12.** (1) The governing authority or its
25 designated administrative official or agent may approve the
26 application if it finds that:

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

29 (b) The property meets health and quality standards; and

30 (c) The owner has complied with all standards and guidelines
31 adopted by the governing authority under this chapter.

32 (2) If the application is approved, the governing authority must
33 issue the owner a certificate of acceptance of tax exemption. The
34 certificate must contain a statement specifying that the property has
35 complied with the required findings indicated in this chapter. The
36 governing authority must submit a copy of the certificate with the
37 assessor no later than October 1st of the year before the exemption
38 is to be applied.

1 (3) If the application is denied, the governing authority must
2 state in writing the reasons for denial and issue notice to the
3 applicant by regular or certified mail to the applicant's last known
4 address, or by other means reasonably calculated to provide notice,
5 within ten days of the denial.

6 (4) An applicant may appeal the governing authority decision to
7 the governing authority or its designated agent within thirty days
8 after receipt. The appeal must be based upon the record made before
9 the administrative official or commission, and the burden is on the
10 applicant to show that the governing authority's decision is not
11 supported by substantial evidence.

12 NEW SECTION. **Sec. 13.** The governing authority may establish an
13 application fee or other fees to not exceed an amount determined to
14 be required to cover the anticipated cost to be incurred by the city
15 and county in administering this chapter. The application fee, if
16 established, must be paid at the time the application is submitted.
17 If the application is denied, the governing authority may retain that
18 portion of the application fee attributable to their own
19 administrative costs and refund the balance to the applicant.

20 NEW SECTION. **Sec. 14.** (1) The owner receiving a tax exemption
21 under this chapter must obtain from each tenant living in designated
22 affordable housing units, no less than annually, a certification of
23 family size and annual income in a form acceptable to the governing
24 authority.

25 (2) The owner must file a report with the governing authority's
26 designated official at least annually indicating the following:

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

31 (b) A statement of occupancy and vacancy;

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

33 (d) A description of any changes or improvements; and

34 (e) Any other information required to determine compliance with
35 program requirements.

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

- 1 (a) The number of tax exemption certificates granted;
- 2 (b) The number and type of units in building properties receiving
3 a tax exemption;
- 4 (c) The number and type of units meeting affordable housing
5 requirements;
- 6 (d) The total monthly rent amount for each affordable and market
7 rate unit; and
- 8 (e) The dollar amount of the tax exemption issued for each
9 project and the total dollar amount of tax exemptions granted within
10 the city or county.

11 NEW SECTION. **Sec. 15.** (1) Improvements exempted under this
12 chapter continue to be exempted for the applicable period under
13 section 6 of this act, if the improvements continue to satisfy all
14 applicable conditions. If the owner intends to discontinue compliance
15 with the affordable housing requirements as described in section 6 of
16 this act or any other condition to the exemption, the owner must
17 notify the tenants and the jurisdiction within sixty days of the
18 owner's intended discontinuance. If the city or county is notified by
19 the owner, or if the city or town discovers that a portion of the
20 property no longer meets the qualifications of the city or county's
21 exemption program, the tax exemption is canceled, and the following
22 must occur:

23 (a) Additional real property tax must be imposed on the property.
24 This additional tax is the difference between the property tax paid
25 and the property tax that would have been paid if the property had
26 included the value of the nonqualifying improvements, for each of the
27 prior six years during which the exemption was claimed;

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

32 (c) A penalty must be imposed in the amount equal to twenty
33 percent of the additional property tax imposed under this section;
34 and

35 (d) The additional tax, interest, and penalty are declared to be
36 a lien on the real property and attach at the time the property or
37 portion of the property is removed from the tax exemption program.
38 The lien has priority to and must be fully paid and satisfied before
39 a recognizance, mortgage, judgment, debt, obligation, or

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

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

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

30 NEW SECTION. **Sec. 16.** This section is the tax preference
31 performance statement for the tax preferences contained in
32 chapter . . . , Laws of 2020 (this act). This performance statement is
33 only intended to be used for subsequent evaluation of the tax
34 preference. It is not intended to create a private right of action by
35 any party or be used to determine eligibility for preferential tax
36 treatment.

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

1 (2) It is the legislature's specific public policy objective to
2 preserve quality and healthy affordable housing where housing
3 options, including quality and healthy affordable housing options,
4 are severely limited. It is the legislature's intent to provide the
5 value of residential improvements and land qualifying under
6 chapter . . . , Laws of 2020 (this act) an exemption from ad valorem
7 property taxation for six years, as provided for in chapter . . . ,
8 Laws of 2020 (this act), to provide incentives to property owners to
9 preserve affordable housing units for low-income households.

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

12 NEW SECTION. **Sec. 18.** This act is exempt from the provisions of
13 RCW 82.32.805(1) (a) .

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