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**SUBSTITUTE HOUSE BILL 2480**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives McBride, Gregerson, Hayes, Eslick, Stanford, Doglio, and Tharinger)

AN ACT Relating to providing local governments with options to preserve affordable housing in single-family neighborhoods; adding a new chapter to Title 84 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Families, senior citizens, and workers with limited financial resources are likely to experience fewer housing choices;

(b) Affordable housing is a necessary component of strong, thriving neighborhoods;

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

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

(e) Rising rents are causing the displacement of low-income households and long-time community members; and

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

(2) It is the purpose of this chapter to give communities a local option to preserve and increase healthy, high-quality affordable rental housing opportunities for low-income households for which the governing authority has found that there are insufficient affordable housing opportunities. It is also the purpose of this chapter to ensure that housing opportunities are affordable to renters at below-market rent levels, as determined by the governing authority, with consideration of community needs, market rental costs, and income levels of renters.

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

(1) "Affordable accessory dwelling unit" means a living area that is:

(a) Attached to, or detached from, a property; and

(b) Designed for residential use by one household that:

(i) Is rented at below-market rent levels for the city or county in which it is located, as determined by a governing authority appraisal or market study;

(ii) Is affordable to low-income households; and

(iii) Meets additional qualification requirements established by the governing authority in which the unit is located.

(2) "Governing authority" means the local legislative authority of a city or county.

(3) "Health and quality standards" means:

(a) Standards substantially equivalent to uniform physical condition standards, as established by the United States department of housing and urban development; or

(b) The national healthy housing standard, as established by the national center for healthy housing and the American public health association.

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

(5) "Low-income household" means a household whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county in which the property is located, as reported by the United States department of housing and urban development.

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

(7) "Property" means a single-family residence with an affordable accessory dwelling unit, but does not include hotels or motels.

NEW SECTION. **Sec.**  (1) A city governing authority may adopt the exemption for affordable accessory dwelling units under this chapter. The exemption applies to all property tax levies, except county property tax levies, unless the legislative authority of the county adopts a resolution and notifies the city governing authority of its intent to allow the tax exemption. The city governing authority must provide local taxing districts in the designated exemption area notice and an opportunity to be heard prior to establishment of a tax exemption under this chapter.

(2) A county governing authority may adopt the exemption for affordable accessory dwelling units under this chapter, and provide an exemption from county property tax levies that applies to property located in the unincorporated area of the county.

NEW SECTION. **Sec.**  (1) The tax exemption adopted by a governing authority under this chapter may apply only to that portion of the property, including improvements, on which the affordable accessory dwelling unit is located.

(2) The value of the affordable housing unit may be exempt from property taxation for up to six successive years, beginning January 1st of the year immediately following the calendar year of issuance of the certificate of tax exemption. Subject to application approval by the governing authority, the exemption may be extended one time for an additional six years. The extension will result in a total of no more than twelve successive years of exemption under the existing terms and conditions.

(3) The exemption provided under this chapter may be applied in addition to any tax credits, grants, or other incentives.

NEW SECTION. **Sec.**  (1) In order to apply the tax exemption under this chapter, the governing authority must ensure the following requirements are met:

(a) The property, including the affordable accessory dwelling unit, must comply with all applicable land use regulations, zoning requirements, and building and housing code requirements, including space and occupancy, structural, mechanical, fire, safety, security, and health and quality standards.

(b) The affordable accessory dwelling unit must be occupied by a low-income household for the duration of the exemption period.

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

(2) Prior to adopting the tax exemption under this chapter, the governing authority must adopt and implement standards and guidelines to be utilized in considering applications and making determinations required under section 6 of this act.

(a) The standards and guidelines must establish basic requirements including:

(i) Application process and procedures;

(ii) Requirements that address rent limits and income guidelines;

(iii) Structural requirements that may include height, density, public benefit features, size, parking, and health and quality standards;

(iv) Required amenities, which should be relative to the size of the affordable housing unit;

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

(vi) Documentation necessary to establish income eligibility of households in affordable housing units.

(b) Standards and guidelines may apply to part or all of a jurisdiction and different standards may be applied to different areas within a jurisdiction.

(3) The governing authority may establish additional requirements for tax exemption eligibility or program rules under this chapter including, but not limited to:

(a) A limit on the total number of affordable housing units that may qualify for the exemption under this chapter;

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

(c) Standards for property size, unit size, unit type, mix of unit types, or mix of unit sizes.

NEW SECTION. **Sec.**  A property owner making an application for the tax exemption under this chapter must apply to the city or county on forms adopted by the governing authority.

(1) The application must contain the following:

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

(b) A description of the affordable accessory dwelling unit;

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

(d) A certification of family size and annual income in a form acceptable to the governing authority for each designated affordable accessory dwelling unit; and

(e) A verification by oath or affirmation of the information provided in the application.

(2) The governing authority may establish an application fee or other fees not to exceed an amount determined to be required to cover the cost to be incurred by the governing authority and the assessor in administering this chapter. The application fee, if established, must be paid at the time the application is submitted. If the application is approved, the governing authority must pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the governing authority may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

(3) Upon receipt of an application for the exemption under this chapter, the governing authority must inspect the property to certify compliance with health and quality standards.

(4) The governing authority, or an administrative official or commission authorized by the governing authority, must approve or deny the application. The application may be approved only if the owner has complied with all standards and guidelines adopted by the governing authority under this chapter. If the application is approved:

(a) The governing authority must issue the owner of the property a certificate of acceptance of tax exemption;

(b) The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required findings indicated in this chapter; and

(c) The governing authority must file a copy of the certificate with the assessor no later than October 1st of the year before the exemption is to be applied.

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

(a) The authorized representative of the governing authority must notify the applicant that a certificate of tax exemption is not going to be filed if the authorized representative determines that:

(i) The requirements for an affordable accessory dwelling unit were not met;

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

(iii) The owner's property is otherwise not qualified for the tax exemption under this chapter.

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

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

(2) The property owner must file a report with the governing authority at least annually, indicating the following:

(a) Family size and annual income for each tenant living in a designated affordable accessory dwelling unit and a statement that the property is in compliance with requirements for affordable accessory dwelling units, as provided in this chapter;

(b) A statement of occupancy and vacancy;

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

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

(e) A description of changes or improvements; and

(f) Any other information required to determine compliance with program requirements.

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

(a) The number of tax exemption certificates granted;

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

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

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

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

NEW SECTION. **Sec.**  (1) If an affordable accessory dwelling unit is exempt from tax under this chapter, the unit will continue to be exempt for the applicable period, so long as it is not converted to another use and continues to satisfy all applicable conditions. If the owner intends to convert the affordable accessory dwelling unit to another use, or, if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in this act or any other condition to exemption, the owner must notify the jurisdiction within sixty days of the change in use or intended discontinuance.

(2) If, after a certificate of tax exemption has been filed with the county assessor, the authorized representative of the governing authority is notified by the owner, or discovers that a portion of the property is changed or will be changed to a use that is other than residential or that housing or amenities no longer meet the requirements as previously approved or agreed upon by contract between the governing authority and the owner and that the property no longer qualifies for the exemption, the tax exemption must be canceled and the following must occur:

(a) Additional real property tax must be imposed upon the value of the nonqualifying improvements in the amount that would normally be imposed, plus a penalty must be imposed amounting to twenty percent. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements, for each exempt year, dated back to the date that the improvements were converted to a nonqualifying use;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(c) The additional tax owed together with interest and penalty must become a lien on the land and attach at the time the property or portion of the property is removed from nonqualifying use or the amenities no longer meet applicable requirements, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(3) Upon a determination that a tax exemption is to be canceled for a reason stated in this section, the governing authority or authorized representative must notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority or authorized representative, within thirty days by filing a notice of appeal with the clerk of the governing authority, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598. The county assessor must make such a valuation of the property and improvements as is necessary to permit the correction of the rolls.

NEW SECTION. **Sec.**  This chapter expires January 1, 2029.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in 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 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 preserve quality and healthy affordable housing where housing options, including quality and healthy affordable housing options, are severely limited. It is the legislature's intent to provide the value of residential improvements and land qualifying under this chapter an exemption from ad valorem property taxation for six years, as provided for in this chapter, to provide incentives to property owners to preserve affordable housing units for low-income households.

(4) To measure the effectiveness of the exemption provided in this act in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must evaluate this preference.

NEW SECTION. **Sec.**  Sections 1 through 9 of this act constitute a new chapter in Title 84 RCW.

**--- END ---**