
SUBSTITUTE SENATE BILL 5387

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Wojahn, Winsley, Franklin, Haugen, Rasmussen, McCaslin and West)

Read first time 02/23/95.

1 AN ACT Relating to taxation of new and rehabilitated multiple-unit
2 housing in urban centers; and adding a new chapter to Title 84 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds:

5 (1) That in many of Washington's urban centers there is
6 insufficient availability of desirable and convenient residential units
7 to meet the needs of a growing number of the public who would live in
8 these urban centers if these desirable, convenient, attractive, and
9 livable places to live were available;

10 (2) That the lack of these sufficient residential opportunities has
11 resulted in an underutilization of these areas as a place to live by
12 permanent residents and such absence of permanent residents has
13 contributed to the existence of vandalism, juvenile delinquency, the
14 proclivity by some to commit crimes, unreported crimes, and a
15 perception by a large segment of the public that some urban centers are
16 unsafe or undesirable areas to visit or to inhabit after normal working
17 hours;

18 (3) That the development of additional and desirable residential
19 units in these urban centers that will attract and maintain a

1 significant increase in the number of permanent residents in these
2 areas will help to alleviate the detrimental conditions and social
3 liability that tend to exist in the absence of a viable residential
4 population and will help to achieve the planning goals mandated by the
5 growth management act under RCW 36.70A.020, including, but not limited
6 to, the encouragement of development in urban areas where adequate
7 public facilities and services exist or can be provided in an efficient
8 manner, the reduction of sprawl, the efficient utilization of multimode
9 transportation systems, and the increased availability of housing to
10 all economic segments of the population of this state;

11 (4) That planning solutions to solve the problems of urban sprawl
12 often lack incentive and implementation techniques needed to encourage
13 residential redevelopment in those urban centers lacking sufficient
14 residential opportunities, and it is in the public interest and will
15 benefit, provide, and promote the public health, safety, and welfare to
16 stimulate new or enhanced residential opportunities within urban
17 centers through a tax incentive as provided by this chapter; and

18 (5) That in order to maximize the purpose of this chapter to
19 provide needed livable and attractive places to live in urban centers
20 and to achieve the objectives of the growth management act, it is
21 necessary to allow for the maximum participation by cities in
22 determining where the greatest need for increased residential
23 opportunity exists within urban centers and the location,
24 configuration, and amenities of such residential redevelopment which
25 will best meet the objectives of this chapter and the growth management
26 plan of a city adopted in conformance with the growth management act.

27 NEW SECTION. **Sec. 2.** It is the purpose of this chapter to
28 encourage increased residential opportunities for individuals of all
29 income levels in cities that are required to plan or choose to plan
30 under the growth management act within urban centers where the
31 legislative body of the affected city has found there is insufficient
32 housing opportunities, and that a particular residential development or
33 redevelopment is needed to properly advance the intent and purposes of
34 this chapter. It is further the purpose of this chapter to stimulate
35 the construction of new multifamily housing and the rehabilitation of
36 existing vacant and underutilized buildings for multifamily housing in
37 urban centers having insufficient housing opportunities that will
38 increase and improve residential opportunities within these urban

1 centers and that will assist in reducing urban sprawl, locating housing
2 close to work locations, promoting land use patterns that support and
3 encourage the use of public transit or other alternatives to automobile
4 use and in making these urban centers a place where more people can,
5 and will, live. To achieve these purposes, this chapter provides for
6 special valuations for eligible improvements associated with multiunit
7 housing in residentially deficient urban centers.

8 NEW SECTION. **Sec. 3.** Unless the context clearly requires
9 otherwise, the definitions in this section apply throughout this
10 chapter.

11 (1) "City" means a city or town located in a county planning under
12 the growth management act.

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

16 (3) "Growth management act" means chapter 36.70A RCW.

17 (4) "Multiple-unit housing" or "multifamily housing" means a
18 building having four or more dwelling units not designed or used as
19 transient accommodations and not including hotels and motels.
20 Multifamily units may result from new construction or rehabilitated or
21 conversion of vacant, underutilized, or substandard buildings to
22 multifamily housing. At least twenty percent of the units must be set
23 aside for households that earn no more than fifty percent of the median
24 income or forty percent of the units must be set aside for households
25 who earn no more than sixty percent of the median income, adjusted for
26 household size.

27 (5) "Owner" means the property owner of record.

28 (6) "Permanent residential occupancy" means multiunit housing that
29 provides either rental or owner occupancy on a nontransient basis.
30 This includes owner-occupied or rental accommodation that is leased for
31 a period of at least one month. This excludes hotels and motels that
32 predominately offer rental accommodation on a daily or weekly basis.

33 (7) "Public benefit features" means amenities, uses, and other
34 features of benefit to the public as may be locally designated.
35 Examples include, but are not limited to, plazas, public open spaces,
36 sidewalk surfacing, midblock connections, light standards, street level
37 awnings, canopies or other weather protection features, street level
38 retail uses, street furniture, pedestrian amenities, miniparks, tot

1 lots, daycare centers, common meeting rooms, and other public
2 amenities.

3 (8) "Rehabilitation improvements" means modifications made to
4 existing structures that have been vacant for at least twelve months
5 and failed to comply with one or more standards of the applicable state
6 or local building or housing codes on or after the effective date of
7 this section.

8 (9) "Residential targeted area" means an area within an urban
9 center that has been designated by the governing authority as a
10 residential targeted area in accordance with this chapter.

11 (10) "Substantial compliance" means compliance with local building
12 or housing code requirements that are typically required for
13 rehabilitation as opposed to new construction.

14 (11) "Urban center" means a compact identifiable district where
15 urban residents may obtain a variety of products and services. An
16 urban center must contain:

17 (a) Several existing or previous, or both, business establishments
18 that may include but are not limited to shops, offices, banks,
19 restaurants, governmental agencies;

20 (b) Adequate public facilities including streets, sidewalks,
21 lighting, transit, domestic water, and sanitary sewer systems; and

22 (c) A mixture of uses and activities that may include housing,
23 recreation, and cultural activities in association with either
24 commercial or office, or both, use.

25 NEW SECTION. **Sec. 4.** The provisions of this chapter relating to
26 special valuation apply only to locally designated residential targeted
27 areas of those cities planning under the growth management act.

28 NEW SECTION. **Sec. 5.** (1) The appraised value of new housing
29 construction, conversion, rehabilitation improvements, and public
30 benefit features qualifying under this chapter is exempt from ad
31 valorem property taxation, for ten successive years beginning January
32 1 of the year immediately following the calendar year after issuance of
33 the certificate of tax exemption eligibility. However, the exemption
34 does not include the value of land or nonhousing-related improvements
35 not qualifying under this chapter.

36 (2) In the case of rehabilitation of existing buildings, the
37 exemption does not include the value of improvements constructed prior

1 to the submission of the application required under this chapter. The
2 incentive provided by this chapter is in addition to any other
3 incentives, tax credits, grants, or other incentives provided by law.

4 (3) This chapter does not apply to increases in assessed valuation
5 made by the assessor on nonqualifying portions of building and value of
6 land nor to increases made by lawful order of a county board of
7 equalization, the department of revenue, or a county, to a class of
8 property throughout the county or specific area of the county to
9 achieve the uniformity of assessment or appraisal required by law.

10 NEW SECTION. **Sec. 6.** An owner of property making application
11 under this chapter must meet the following requirements:

12 (1) The new or rehabilitated multiple-unit housing must be located
13 in a residential targeted area as designated by the city;

14 (2) The multiple-unit housing must meet the guidelines as adopted
15 by the governing authority that may include height, density, public
16 benefit features, number and size of proposed development, parking,
17 design, and other adopted requirements indicated necessary by the city.
18 The required amenities should be relative to the size of the project
19 and tax benefit to be obtained. The governing authority may determine
20 design and other criteria necessary for the new or rehabilitated
21 multihousing unit to attract and keep permanent residents and to
22 properly enhance the appearance and livability of the residential
23 targeted area in which it is to be located;

24 (3) The new, converted, or rehabilitated multiple-unit housing must
25 provide for a minimum of fifty percent of the space for permanent
26 residential occupancy. At least twenty percent of the units must be
27 set aside for households that earn no more than fifty percent of the
28 median income or forty percent of the units must be set aside for
29 households who earn no more than sixty percent of the median income,
30 adjusted for household size;

31 (4) New construction of multifamily housing and rehabilitation
32 improvements must be completed within three years from the date of
33 approval of the application;

34 (5) Property proposed to be rehabilitated must be vacant at least
35 twelve months before submitting an application and fail to comply with
36 one or more standards of the applicable state or local building or
37 housing codes on or after the effective date of this section;

1 (6) The applicant must enter into a contract with the city approved
2 by the governing body under which the applicant has agreed to the
3 implementation of the development on terms and conditions satisfactory
4 to the governing authority; and

5 (7) The applicant must not have received an exemption under this
6 chapter for this multiunit housing project.

7 NEW SECTION. **Sec. 7.** (1) The following criteria must be met
8 before an area may be designated as a residential targeted area:

9 (a) The area must be within an urban center, as determined by the
10 governing authority;

11 (b) The area must lack, as determined by the governing authority,
12 sufficient available, desirable, and convenient residential housing for
13 persons of all incomes to meet the needs of the public who would be
14 likely to live in the urban center, if the desirable, attractive, and
15 livable places to live were available; and

16 (c) The providing of additional housing opportunity in the area, as
17 determined by the governing authority, will assist in achieving one or
18 more of the stated purposes of this chapter.

19 (2) For the purpose of designating a residential targeted area or
20 areas, the governing authority may adopt a resolution of intention to
21 so designate an area as generally described in the resolution. The
22 resolution must state the time and place of a hearing to be held by the
23 governing authority to consider the designation of the area and may
24 include such other information pertaining to the designation of the
25 area as the governing authority determines to be appropriate to apprise
26 the public of the action intended.

27 (3) The governing authority shall give notice of a hearing held
28 under this chapter by publication of the notice once each week for two
29 consecutive weeks, not less than seven days, nor more than thirty days
30 before the date of the hearing in a paper having a general circulation
31 in the city where the proposed residential targeted area is located.
32 The notice must state the time, date, place, and purpose of the hearing
33 and generally identify the area proposed to be designated as a
34 residential targeted area.

35 (4) Following the hearing, or a continuance of the hearing, the
36 governing authority may designate by resolution, all or a portion of
37 the area described in the resolution of intent as a residential

1 targeted area if it finds, in its sole discretion, that the criteria in
2 subsections (1) through (3) of this section have been met.

3 (5) After designation of a residential targeted area, the governing
4 authority shall adopt standards and guidelines to be utilized in
5 considering applications and making the determinations required under
6 section 9 of this act. The standards and guidelines must establish
7 basic requirements for both new construction and rehabilitation
8 including application process and procedures. These guidelines may
9 include the following:

10 (a) Requirements that address demolition of existing structures and
11 site utilization;

12 (b) Building design requirements that may include elements
13 addressing aesthetics, parking, height, density, environmental impact,
14 public benefit features, and compatibility with the existing
15 surrounding property and such other amenities as will attract and keep
16 permanent residents and that will properly enhance the appearance and
17 livability of the residential targeted area in which they are to be
18 located; and

19 (c) Provision for providing public benefit features and continued
20 use of public facilities constructed.

21 NEW SECTION. **Sec. 8.** An owner of property seeking tax incentives
22 under this chapter must complete the following procedures:

23 (1) In the case of rehabilitation or where demolition or new
24 construction is required, the owner shall secure from the governing
25 authority or duly authorized agent, before commencement of
26 rehabilitation improvements or new construction, verification of
27 property noncompliance with applicable building and housing codes;

28 (2) In the case of new and rehabilitated multifamily housing, the
29 owner shall apply to the city on forms adopted by the governing
30 authority. The application must contain the following:

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

34 (b) A description of the project and site plan, including location
35 of public facilities, floor plan of units, and other information
36 requested;

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

4 (3) The applicant must verify the application by oath or
5 affirmation; and

6 (4) The application must be made on or before April 1 and must be
7 accompanied by the application fee, if any, required under section 10
8 of this act. The governing authority may permit the applicant to
9 revise an application before final action by the governing authority.

10 NEW SECTION. **Sec. 9.** The duly authorized administrative official
11 or committee of the city may approve the application if it finds that:

12 (1) The owner has agreed to include in the new construction or
13 rehabilitation of housing one or more public benefit features;

14 (2) A minimum of four units are being constructed or rehabilitated;

15 (3) The proposed project is or will be, at the time of completion,
16 in conformance with all local plans and regulations that apply at the
17 time the application is approved;

18 (4) The owner has complied with all standards and guidelines
19 adopted by the city under this chapter; and

20 (5) The site is located in a residential targeted area of an urban
21 center that has been designated by the governing authority in
22 accordance with procedures and guidelines indicated in section 7 of
23 this act.

24 NEW SECTION. **Sec. 10.** (1) The governing authority or an
25 administrative official or commission authorized by the governing
26 authority shall approve or deny an application filed under this chapter
27 within ninety days after receipt of the application.

28 (2) If the application is approved, the city shall issue the owner
29 of the property a conditional certificate of acceptance of tax
30 exemption. The certificate must contain a statement by a duly
31 authorized administrative official of the governing authority that the
32 property has complied with the required findings indicated in section
33 8 of this act.

34 (3) If the application is denied by the authorized administrative
35 official or commission authorized by the governing authority, the
36 deciding administrative official or commission shall state in writing

1 the reasons for denial and send the notice to the applicant at the
2 applicant's last known address within ten days of the denial.

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

11 NEW SECTION. **Sec. 11.** The governing authority may establish an
12 application fee. This fee may not exceed an amount determined to be
13 required to cover the cost to be incurred by the governing authority
14 and the assessor in administering this chapter. The application fee
15 must be paid at the time the application for limited exemption is
16 filed. If the application is approved, the governing authority shall
17 pay the application fee to the county assessor for deposit in the
18 county current expense fund, after first deducting that portion of the
19 fee attributable to its own administrative costs in processing the
20 application. If the application is denied, the governing authority
21 shall retain that portion of the application fee attributable to its
22 own administrative costs and refund the balance to the applicant.

23 NEW SECTION. **Sec. 12.** (1) Upon completion of rehabilitation or
24 new construction for which an application for limited exemption under
25 this chapter has been approved and after issuance of the certificate of
26 occupancy, the owner shall file with the city the following:

27 (a) A statement of the amount of rehabilitation or construction
28 expenditures made with respect to each housing unit and the composite
29 expenditures made in the rehabilitation or construction of the entire
30 property;

31 (b) A description of the work that has been completed and a
32 statement that the rehabilitation improvements or new construction on
33 the owner's property qualify the property for limited exemption under
34 this chapter; and

35 (c) A statement that the work has been completed within three years
36 of the issuance of the conditional certificate of tax exemption.

1 (2) Within thirty days after receipt of the statements required
2 under subsection (1) of this section, the authorized representative of
3 the city shall determine whether the work completed is consistent with
4 the application and the contract approved by the governing authority
5 and is qualified for limited exemption under this chapter. The city
6 shall also determine which specific improvements completed meet the
7 requirements and required findings.

8 (3) If the rehabilitation, conversion, or construction is completed
9 within three years of the date the application for limited exemption is
10 filed under this chapter, or within an authorized extension of this
11 time limit, and the authorized representative of the city determines
12 that improvements were constructed consistent with the application and
13 other applicable requirements and the owner's property is qualified for
14 limited exemption under this chapter, the city shall file the
15 certificate of tax exemption with the county assessor within ten days
16 of the expiration of the thirty-day period provided under subsection
17 (2) of this section. The county assessor shall determine the appraised
18 value of the improvements eligible for the tax exemption under this
19 chapter.

20 (4) The authorized representative of the city shall notify the
21 applicant that a certificate of tax exemption is not going to be filed
22 if the representative determines that:

23 (a) The rehabilitation or new construction was not completed within
24 three years of the application date, or within any authorized extension
25 of the time limit;

26 (b) The improvements were not constructed consistent with the
27 application or other applicable requirements; or

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

30 (5) If the authorized representative of the city finds that
31 construction or rehabilitation of multiple-unit housing was not
32 completed within the required time period due to circumstances beyond
33 the control of the owner and that the owner has been acting and could
34 reasonably be expected to act in good faith and with due diligence, the
35 governing authority or the city official authorized by the governing
36 authority may extend the deadline for completion of construction or
37 rehabilitation for a period not to exceed twenty-four consecutive
38 months.

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

13 NEW SECTION. **Sec. 13.** (1) Within thirty days of the anniversary
14 of the date of the certificate of tax exemption and each year for a
15 period of ten years, the owner of the rehabilitated or newly
16 constructed property shall file with a designated agent of the city an
17 annual report indicating the following:

18 (a) A statement of occupancy and vacancy of the rehabilitated or
19 newly constructed property during the previous twelve months ending
20 with the anniversary date;

21 (b) A certification by the owner that the property has not changed
22 use since the date of the certificate approved by the city;

23 (c) A certification that all public amenities and improvements are
24 still available for use by the public;

25 (d) A description of changes or improvements constructed after
26 issuance of the certificate of tax exemption; and

27 (e) A certification of income eligibility for low-income tenants
28 inhabiting the rehabilitated or newly constructed housing units during
29 the previous twelve months.

30 (2) The designated agent of the city shall forward a copy of the
31 annual report to the county assessor.

32 NEW SECTION. **Sec. 14.** (1) If improvements have been exempted
33 under this chapter, the improvements continue to be exempted and not be
34 converted to another use for at least ten years from date of issuance
35 of the certificate of tax exemption. If the owner intends to convert
36 the multifamily development to another use, the owner shall notify the
37 assessor within sixty days of the change in use. If, after a

1 certificate of tax exemption has been filed with the county assessor
2 the city or assessor or agent discovers that a portion of the property
3 is changed or will be changed to a use that is other than residential
4 or that housing or amenities no longer meet the requirements as
5 previously approved or agreed upon by contract between the governing
6 authority and the owner and that the multifamily housing, or a portion
7 of the housing, no longer qualifies for the exemption, the tax
8 exemption must be canceled and the following must occur:

9 (a) Additional real property tax must be imposed upon the value of
10 the nonqualifying improvements in the amount that would normally be
11 imposed, plus a penalty amounting to twenty percent. The tax shall be
12 imposed on the value of the improvement at the time the tax exemption
13 certificate was issued. This additional tax is calculated based upon
14 the difference between the property tax paid and the property tax that
15 would have been paid if it had included the value of the nonqualifying
16 improvements dated back to the date that the improvements were
17 converted to a nonmultifamily use;

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

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

35 (2) Upon a determination that a tax exemption is to be canceled for
36 a reason stated in this section, the governing authority shall notify
37 the record owner of the property as shown by the tax rolls by mail,
38 return receipt requested, of the determination to cancel the exemption.
39 The owner may appeal the determination to the governing authority

1 within thirty days by filing a notice of appeal with the clerk of the
2 governing authority, which notice must specify the factual and legal
3 basis on which the determination of cancellation is alleged to be
4 erroneous. The governing authority or a hearing examiner or other
5 official authorized by the governing authority may hear the appeal. At
6 the hearing, all interested parties may be heard and all competent
7 evidence received. After the hearing, the deciding body or officer
8 shall either affirm, modify, or repeal the decision of cancellation of
9 exemption based on the evidence received. An aggrieved party may
10 appeal the decision of the deciding body or officer to the superior
11 court under RCW 34.05.510 through 34.05.598.

12 (3) Upon determination by the governing authority or authorized
13 representative to terminate an exemption, the county officials having
14 possession of the assessment and tax rolls shall correct the rolls in
15 the manner provided for omitted property under RCW 84.40.080. The
16 county assessor shall make such a valuation of the property and
17 improvements as is necessary to permit the correction of the rolls.
18 The owner may appeal the valuation to the county board of equalization
19 under chapter 84.48 RCW. If there has been a failure to comply with
20 this chapter, the property must be listed as an omitted assessment for
21 assessment years beginning January 1 of the calendar year in which the
22 noncompliance first occurred, but the listing as an omitted assessment
23 may not be for a period more than three calendar years preceding the
24 year in which the failure to comply was discovered.

25 NEW SECTION. **Sec. 15.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act shall
30 constitute a new chapter in Title 84 RCW.

--- END ---