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**SENATE BILL 5387**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senators Wojahn, Winsley, Franklin, Haugen, Rasmussen, McCaslin and West

Read first time . Referred to Committee on .

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

1 assist in reducing urban sprawl, locating housing close to work  
2 locations, promoting land use patterns that support and encourage the  
3 use of public transit or other alternatives to automobile use and in  
4 making these urban centers a place where more people can, and will,  
5 live. To achieve these purposes, this chapter provides for special  
6 valuations for eligible improvements associated with multiunit housing  
7 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" means a building having four or more  
18 dwelling units not designed or used as transient accommodations and not  
19 including hotels and motels. Multifamily units may result from new  
20 construction or rehabilitated or conversion of vacant, underutilized,  
21 or substandard buildings to multifamily housing.

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

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

28 (7) "Public benefit features" means amenities, uses, and other  
29 features of benefit to the public as may be locally designated.  
30 Examples include, but are not limited to, plazas, public open spaces,  
31 sidewalk surfacing, midblock connections, light standards, street level  
32 awnings, canopies or other weather protection features, street level  
33 retail uses, street furniture, pedestrian amenities, miniparks, tot  
34 lots, daycare centers, common meeting rooms, and other public  
35 amenities.

36 (8) "Rehabilitation improvements" means modifications to vacant,  
37 for twelve months or longer, existing structures which are made to  
38 achieve a condition of substantial compliance with existing building

1 codes or modification to existing occupied structures which increase  
2 the number of multifamily housing units.

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

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

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

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

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

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

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

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

31 (2) In the case of rehabilitation of existing buildings, the  
32 exemption does not include the value of improvements constructed prior  
33 to the submission of the application required under this chapter. The  
34 incentive provided by this chapter is in addition to any other  
35 incentives, tax credits, grants, or other incentives provided by law.

36 (3) This chapter does not apply to increases in assessed valuation  
37 made by the assessor on nonqualifying portions of building and value of

1 land nor to increases made by lawful order of a county board of  
2 equalization, the department of revenue, or a county, to a class of  
3 property throughout the county or specific area of the county to  
4 achieve the uniformity of assessment or appraisal required by law.

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

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

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

19 (3) The new, converted, or rehabilitated multiple-unit housing must  
20 provide for a minimum of fifty percent of the space for permanent  
21 residential occupancy. In the case of existing occupied multifamily  
22 development, the multifamily housing must also provide for a minimum of  
23 four additional multifamily units. Existing multifamily vacant housing  
24 that has been vacant for twelve months or more does not have to provide  
25 additional multifamily units;

26 (4) New construction multifamily housing and rehabilitation  
27 improvements must be completed within three years from the date of  
28 approval of the application;

29 (5) Property proposed to be rehabilitated must either or both: Be  
30 vacant at least twelve months before submitting an application; or fail  
31 to comply with one or more standards of the applicable state or local  
32 building or housing codes on or after the effective date of this  
33 section; and

34 (6) The applicant must enter into a contract with the city approved  
35 by the governing body under which the applicant has agreed to the  
36 implementation of the development on terms and conditions satisfactory  
37 to the governing authority.

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

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

5        (b) The area must lack, as determined by the governing authority,  
6 sufficient available, desirable, and convenient residential housing to  
7 meet the needs of the public who would be likely to live in the urban  
8 center, if the desirable, attractive, and livable places to live were  
9 available; and

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

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

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

29       (4) Following the hearing, or a continuance of the hearing, the  
30 governing authority may designate all or a portion of the area  
31 described in the resolution of intent as a residential targeted area if  
32 it finds, in its sole discretion, that the criteria in subsections (1)  
33 through (3) of this section have been met.

34       (5) After designation of a residential targeted area, the governing  
35 authority shall adopt standards and guidelines to be utilized in  
36 considering applications and making the determinations required under  
37 section 9 of this act. The standards and guidelines must establish  
38 basic requirements for both new construction and rehabilitation

1 including application process and procedures. These guidelines may  
2 include the following:

3 (a) Requirements that address demolition of existing structures and  
4 site utilization;

5 (b) Building design requirements that may include elements  
6 addressing aesthetics, parking, height, density, environmental impact,  
7 public benefit features, and compatibility with the existing  
8 surrounding property and such other amenities as will attract and keep  
9 permanent residents and that will properly enhance the appearance and  
10 livability of the residential targeted area in which they are to be  
11 located; and

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

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

16 (1) In the case of rehabilitation or where demolition or new  
17 construction is required, the owner shall secure from the governing  
18 authority or duly authorized agent, before commencement of  
19 rehabilitation improvements or new construction, verification of  
20 property noncompliance with applicable building and housing codes;

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

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

27 (b) A description of the project and site plan, including location  
28 of public facilities, floor plan of units, and other information  
29 requested;

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

33 (3) The applicant must verify the application by oath or  
34 affirmation; and

35 (4) The application must be made on or before April 1 of each year,  
36 and must be accompanied by the application fee, if any, required under  
37 section 10 of this act. The governing authority may permit the

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

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

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

7 (2) A minimum of four new units are being constructed or in the  
8 case of occupied rehabilitation or conversion a minimum of four  
9 additional multifamily units are being developed;

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

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

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

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

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

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

34 (4) Upon denial by a duly authorized administrative official or  
35 commission, an applicant may appeal the denial to the governing  
36 authority within thirty days after receipt of the denial. The appeal  
37 before the governing authority will be based upon the record made



1 before the administrative official with the burden of proof on the  
2 applicant to show that there was no substantial evidence to support the  
3 administrative official's decision. The decision of the governing body  
4 in denying or approving the application is final.

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

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

21 (a) A statement of the amount of rehabilitation or construction  
22 expenditures made with respect to each housing unit and the composite  
23 expenditures made in the rehabilitation or construction of the entire  
24 property;

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

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

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

1 (3) If the rehabilitation, conversion, or construction is completed  
2 within three years of the date the application for limited exemption is  
3 filed under this chapter, or within an authorized extension of this  
4 time limit, and the authorized representative of the city determines  
5 that improvements were constructed consistent with the application and  
6 other applicable requirements and the owner's property is qualified for  
7 limited exemption under this chapter, the city shall file the  
8 certificate of tax exemption with the county assessor within ten days  
9 of the expiration of the thirty-day period provided under subsection  
10 (2) of this section.

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

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

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

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

21 (5) If the authorized representative of the city finds that  
22 construction or rehabilitation of multiple-unit housing was not  
23 completed within the required time period due to circumstances beyond  
24 the control of the owner and that the owner has been acting and could  
25 reasonably be expected to act in good faith and with due diligence, the  
26 governing authority or the city official authorized by the governing  
27 authority may extend the deadline for completion of construction or  
28 rehabilitation for a period not to exceed twenty-four consecutive  
29 months.

30 (6) The governing authority may provide by ordinance for an appeal  
31 of a decision by the deciding officer or authority that an owner is not  
32 entitled to a certificate of tax exemption to the governing authority,  
33 a hearing examiner, or other city officer authorized by the governing  
34 authority to hear the appeal in accordance with such reasonable  
35 procedures and time periods as provided by ordinance of the governing  
36 authority. The owner may appeal a decision by the deciding officer or  
37 authority that is not subject to local appeal or a decision by the  
38 local appeal authority that the owner is not entitled to a certificate  
39 of tax exemption in superior court under RCW 34.05.510 through

1 34.05.598, if the appeal is filed within thirty days of notification by  
2 the city to the owner of the decision being challenged.

3 NEW SECTION. **Sec. 13.** Thirty days after the anniversary of the  
4 date of the certificate of tax exemption and each year for a period of  
5 ten years, the owner of the rehabilitated or newly constructed property  
6 shall file with a designated agent of the city an annual report  
7 indicating the following:

8 (1) A statement of occupancy and vacancy of the rehabilitated or  
9 newly constructed property during the twelve months ending with the  
10 anniversary date;

11 (2) A certification by the owner that the property has not changed  
12 use since the date of the certificate approved by the city;

13 (3) A certification that all public amenities and improvements are  
14 still available for use by the public;

15 (4) A description of changes or improvements constructed after  
16 issuance of the certificate of tax exemption.

17 NEW SECTION. **Sec. 14.** (1) If improvements have been exempted  
18 under this chapter, the improvements continue to be exempted and not be  
19 converted to another use for at least ten years from date of issuance  
20 of the certificate of tax exemption. If the owner intends to convert  
21 the multifamily development to another use, the owner shall notify the  
22 assessor within sixty days of the change in use. If, after a  
23 certificate of tax exemption has been filed with the county assessor  
24 the city or assessor or agent discovers that a portion of the property  
25 is changed or will be changed to a use that is other than residential  
26 or that housing or amenities no longer meet the requirements as  
27 previously approved or agreed upon by contract between the governing  
28 authority and the owner and that the multifamily housing, or a portion  
29 of the housing, no longer qualifies for the exemption, the tax  
30 exemption must be canceled and the following must occur:

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

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

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

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

34 (3) Upon determination by the governing authority or authorized  
35 representative to terminate an exemption, the county officials having  
36 possession of the assessment and tax rolls shall correct the rolls in  
37 the manner provided for omitted property under RCW 84.40.080. The  
38 county assessor shall make such a valuation of the property and  
39 improvements as is necessary to permit the correction of the rolls.

1 The owner may appeal the valuation to the county board of equalization  
2 under chapter 84.48 RCW. If there has been a failure to comply with  
3 this chapter, the property must be listed as an omitted assessment for  
4 assessment years beginning January 1 of the calendar year in which the  
5 noncompliance first occurred.

6 NEW SECTION. **Sec. 15.** If any provision of this act or its  
7 application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

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

--- END ---