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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)

READ FIRST TIME 01/30/18.

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

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

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

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

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

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

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

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

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

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

10 NEW SECTION. **Sec. 2.** The definitions in this section apply  
11 throughout this chapter unless the context clearly requires  
12 otherwise.

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

- 15 (a) Attached to, or detached from, a property; and
- 16 (b) Designed for residential use by one household that:
  - 17 (i) Is rented at below-market rent levels for the city or county
  - 18 in which it is located, as determined by a governing authority
  - 19 appraisal or market study;
  - 20 (ii) Is affordable to low-income households; and
  - 21 (iii) Meets additional qualification requirements established by
  - 22 the governing authority in which the unit is located.

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

25 (3) "Health and quality standards" means:

- 26 (a) Standards substantially equivalent to uniform physical  
27 condition standards, as established by the United States department  
28 of housing and urban development; or
- 29 (b) The national healthy housing standard, as established by the  
30 national center for healthy housing and the American public health  
31 association.

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

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

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

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

3 NEW SECTION. **Sec. 3.** (1) A city governing authority may adopt  
4 the exemption for affordable accessory dwelling units under this  
5 chapter. The exemption applies to all property tax levies, except  
6 county property tax levies, unless the legislative authority of the  
7 county adopts a resolution and notifies the city governing authority  
8 of its intent to allow the tax exemption. The city governing  
9 authority must provide local taxing districts in the designated  
10 exemption area notice and an opportunity to be heard prior to  
11 establishment of a tax exemption under this chapter.

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

16 NEW SECTION. **Sec. 4.** (1) The tax exemption adopted by a  
17 governing authority under this chapter may apply only to that portion  
18 of the property, including improvements, on which the affordable  
19 accessory dwelling unit is located.

20 (2) The value of the affordable housing unit may be exempt from  
21 property taxation for up to six successive years, beginning January  
22 1st of the year immediately following the calendar year of issuance  
23 of the certificate of tax exemption. Subject to application approval  
24 by the governing authority, the exemption may be extended one time  
25 for an additional six years. The extension will result in a total of  
26 no more than twelve successive years of exemption under the existing  
27 terms and conditions.

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

30 NEW SECTION. **Sec. 5.** (1) In order to apply the tax exemption  
31 under this chapter, the governing authority must ensure the following  
32 requirements are met:

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

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

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

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

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

14 (i) Application process and procedures;

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

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

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

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 6.**    A property owner making an application for  
2 the tax exemption under this chapter must apply to the city or county  
3 on forms adopted by the governing authority.

4        (1) The application must contain the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 NEW SECTION. **Sec. 7.** (1) The property owner receiving a tax  
31 exemption under this chapter must obtain from each tenant living in  
32 designated affordable accessory dwelling units, no less than  
33 annually, a certification of family size and annual income in a form  
34 acceptable to the governing authority.

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

37 (a) Family size and annual income for each tenant living in a  
38 designated affordable accessory dwelling unit and a statement that

1 the property is in compliance with requirements for affordable  
2 accessory dwelling units, as provided in this chapter;

3 (b) A statement of occupancy and vacancy;

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

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

6 (e) A description of changes or improvements; and

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

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

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

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

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

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

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

22 NEW SECTION. **Sec. 8.** (1) If an affordable accessory dwelling  
23 unit is exempt from tax under this chapter, the unit will continue to  
24 be exempt for the applicable period, so long as it is not converted  
25 to another use and continues to satisfy all applicable conditions. If  
26 the owner intends to convert the affordable accessory dwelling unit  
27 to another use, or, if applicable, if the owner intends to  
28 discontinue compliance with the affordable housing requirements as  
29 described in this act or any other condition to exemption, the owner  
30 must notify the jurisdiction within sixty days of the change in use  
31 or intended discontinuance.

32 (2) If, after a certificate of tax exemption has been filed with  
33 the county assessor, the authorized representative of the governing  
34 authority is notified by the owner, or discovers that a portion of  
35 the property is changed or will be changed to a use that is other  
36 than residential or that housing or amenities no longer meet the  
37 requirements as previously approved or agreed upon by contract  
38 between the governing authority and the owner and that the property

1 no longer qualifies for the exemption, the tax exemption must be  
2 canceled and the following must occur:

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

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

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

29 (3) Upon a determination that a tax exemption is to be canceled  
30 for a reason stated in this section, the governing authority or  
31 authorized representative must notify the record owner of the  
32 property as shown by the tax rolls by mail, return receipt requested,  
33 of the determination to cancel the exemption. The owner may appeal  
34 the determination to the governing authority or authorized  
35 representative, within thirty days by filing a notice of appeal with  
36 the clerk of the governing authority, which notice must specify the  
37 factual and legal basis on which the determination of cancellation is  
38 alleged to be erroneous. The governing authority or a hearing  
39 examiner or other official authorized by the governing authority may  
40 hear the appeal. At the hearing, all affected parties may be heard



1 and all competent evidence received. After the hearing, the deciding  
2 body or officer must either affirm, modify, or repeal the decision of  
3 cancellation of exemption based on the evidence received. An  
4 aggrieved party may appeal the decision of the deciding body or  
5 officer to the superior court under RCW 34.05.510 through 34.05.598.  
6 The county assessor must make such a valuation of the property and  
7 improvements as is necessary to permit the correction of the rolls.

8 NEW SECTION. **Sec. 9.** This chapter expires January 1, 2029.

9 NEW SECTION. **Sec. 10.** (1) This section is the tax preference  
10 performance statement for the tax preference contained in this act.  
11 This performance statement is only intended to be used for subsequent  
12 evaluation of the tax preference. It is not intended to create a  
13 private right of action by any party or be used to determine  
14 eligibility for preferential tax treatment.

15 (2) The legislature categorizes this tax preference as one  
16 intended to induce certain designated behavior by taxpayers, as  
17 indicated in RCW 82.32.808(2)(a).

18 (3) It is the legislature's specific public policy objective to  
19 preserve quality and healthy affordable housing where housing  
20 options, including quality and healthy affordable housing options,  
21 are severely limited. It is the legislature's intent to provide the  
22 value of residential improvements and land qualifying under this  
23 chapter an exemption from ad valorem property taxation for six years,  
24 as provided for in this chapter, to provide incentives to property  
25 owners to preserve affordable housing units for low-income  
26 households.

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

31 NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act  
32 constitute a new chapter in Title 84 RCW.

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