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**HOUSE BILL 2881**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Frame, Tarleton, and Santos

Read first time 01/28/20. Referred to Committee on Finance.

1 AN ACT Relating to a property tax exemption for eligible  
2 commercial properties located within designated business districts;  
3 adding a new chapter to Title 84 RCW; creating new sections;  
4 prescribing penalties; and providing an expiration date.

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

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

7 (1) Qualified owners of small properties and their business  
8 tenants in commercially zoned communities within designated districts  
9 are likely to experience economic displacement as a result of market  
10 forces due to speculative development;

11 (2) A competitive "brick and mortar" retail sector is a necessary  
12 component of strong, thriving neighborhoods;

13 (3) Small businesses in commercially zoned neighborhoods should  
14 be able to thrive in areas where major infrastructure investments  
15 like transit, quality schools, and vital services like housing, arts  
16 and music, health care, and employment hubs are colocated;

17 (4) Rising property values are causing the displacement of small  
18 business tenants in commercial properties that supply the physical  
19 space to locate locally owned businesses that serve long-time  
20 community residents; and

1 (5) Communities need a wide range of local tools to create and  
2 maintain healthy, affordable small business communities and to  
3 provide local, affordable, and convenient access to essential  
4 commercial goods and services in business districts.

5 NEW SECTION. **Sec. 2.** The purpose of this chapter is to provide  
6 a property tax exemption for eligible commercial properties located  
7 within designated business districts that counties and cities have  
8 opted to promote in their communities. It is also the purpose of this  
9 chapter to encourage commercial opportunities that provide small  
10 business operators vitality and balance to address rising property  
11 values based on the highest and best use of the property, growing  
12 community needs, and financial challenges to small commercial  
13 properties.

14 NEW SECTION. **Sec. 3.** The definitions in this section apply  
15 throughout this chapter unless the context clearly requires  
16 otherwise.

17 (1) "Designated business district" means a district designated by  
18 the governing authority as a business district that it intends to  
19 promote for the benefit of the community.

20 (2) "Governing authority" means the local legislative authority  
21 of a city or county having jurisdiction over the property for which  
22 an exemption may be applied under this chapter.

23 (3) "Qualified owner" means the owner of a small property in the  
24 designated business district, whose gross revenues from active  
25 commercial operations on the property either directly, or due to  
26 tenant business, are within thresholds that the governing authority  
27 determines it wishes to preserve.

28 (4) "Quality standards" means requirements adopted by the  
29 governing authority, including requirements concerning the age of the  
30 building, the business district designation, evidence of existing  
31 commercial tenants, and any other requirements that the city or  
32 county determines are necessary.

33 (5) "Small properties" means properties, whether or not the  
34 properties are owner-occupied or commercial rentals, that are located  
35 in a designated district that is zoned as a neighborhood commercial  
36 district, or similarly zoned, of which the commercial component is  
37 comprised of less than fifty thousand square feet in area and  
38 contains significant improvements that are more than forty years old.

1        NEW SECTION.    **Sec. 4.**    (1) A city governing authority may, by  
2 ordinance or resolution, establish designated business district areas  
3 to promote small commercial properties that meet quality standards  
4 adopted by the city.

5        (2) A county governing authority may, by ordinance or resolution,  
6 establish a business district exemption area within unincorporated  
7 areas to promote small commercial properties that meet quality  
8 standards adopted by the county.

9        NEW SECTION.    **Sec. 5.**    (1) An exemption program adopted by the  
10 governing authority under this chapter must include qualifying  
11 standards for small commercial properties. Such standards may  
12 consider property tax savings to the property owner that are  
13 reflected in a triple net lease to tenants, tenant improvement or  
14 deferred maintenance support, or business-related assistance for the  
15 commercial tenant.

16        (2) In order to qualify for a property tax exemption under this  
17 chapter, small properties within the designated business district  
18 must:

19        (a) Be rented at established or below market rent levels that the  
20 governing authority determines are necessary to promote relevant  
21 community amenities; or

22        (b) Otherwise benefit directly from the net property tax savings  
23 resulting from this exemption. The direct benefit under this  
24 subsection (2)(b) must be determined based upon a demonstration by  
25 the applicant that the property's gross annual revenue is within  
26 thresholds that the governing authority determines are necessary to  
27 promote relevant community amenities.

28        NEW SECTION.    **Sec. 6.**    (1) The value of commercial improvements  
29 and land qualifying under this chapter is exempt from ad valorem  
30 property taxation for three successive years beginning January 1st of  
31 the year immediately following the calendar year that the certificate  
32 of tax exemption is filed with the county assessor in accordance with  
33 section 12 of this act. The exemption for qualifying properties may  
34 be renewed for successive three-year periods at the discretion of the  
35 governing authority.

36        (2) The exemption provided under this chapter is in addition to  
37 any tax credits, grants, or other incentives provided by law to  
38 increase affordability.

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

3 (4) The governing authority must provide local taxing districts  
4 in the designated exemption area notice and an opportunity to be  
5 heard prior to establishing a commercial property affordability  
6 program under this chapter.

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

11 (1) The qualifying commercial space must be owner-occupied or  
12 occupied by a business tenant;

13 (2) The property may be part of a multiple use (e.g. commercial  
14 and residential) project, if a portion of the space in each building  
15 in the multiple use project is put to an eligible commercial use. If  
16 a building that is part of a multiple use project has dedicated less  
17 than one hundred percent of its total square footage to an eligible  
18 commercial use, only the portion of the land beneath the building  
19 footprint that is dedicated to an eligible commercial use is subject  
20 to the exemption under this chapter; and

21 (3) The property owner must enter into a contract with the city  
22 or county agreeing to terms and conditions required to satisfy  
23 eligibility criteria of the designated business district exemption  
24 program.

25 NEW SECTION. **Sec. 8.** (1) To be eligible for the exemption under  
26 this chapter, the property must also comply with all applicable land  
27 use regulations, zoning requirements, and building code requirements,  
28 including space and occupancy, structural, mechanical, fire, safety,  
29 and security standards; quality standards as defined in section 2 of  
30 this act; and qualifying standards established in section 5 of this  
31 act. The governing authority may establish additional standards to  
32 meet local needs.

33 (2) The property must be inspected for compliance with subsection  
34 (1) of this section prior to approval of the tax exemption  
35 application under this chapter, and must be inspected for compliance  
36 thereafter in a manner and frequency as established by the governing  
37 authority. The governing authority must deny an application for a tax

1 exemption under this chapter for failure to comply with the  
2 requirements of subsection (1) of this section.

3 NEW SECTION. **Sec. 9.** (1) The governing authority may limit  
4 program participation to either, or both, of the following:

5 (a) Particular designated areas that present unique risks of  
6 displacement, or that provide unique opportunities near community  
7 infrastructure such as transportation; or

8 (b) Properties of a particular size that present a special  
9 antidisplacement opportunity for small or emerging businesses.

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

13 (a) An application process and procedures;

14 (b) The requirements described in section 8 of this act;

15 (c) An inspection policy and procedures to determine whether the  
16 property complies with building and quality standards;

17 (d) Documentation submittal requirements necessary to establish  
18 annual gross revenues and other eligibility requirements; and

19 (e) Fees required of the applicant in order to process the  
20 application and monitor ongoing compliance with eligibility criteria.  
21 The fees must be commensurate with the cost anticipated by the  
22 governing authority to administer this chapter.

23 NEW SECTION. **Sec. 10.** (1) An owner of property who is applying  
24 for the exemption under this chapter must meet the following  
25 requirements:

26 (a) The applicant must apply to the city or county on forms  
27 adopted by the governing authority. The application must contain the  
28 following:

29 (i) Information setting forth the grounds supporting the  
30 requested exemption, including information indicated on the  
31 application form and other requirements specified in the governing  
32 authority's adopted exemption program;

33 (ii) A description of the project, including the floor plan and  
34 other information requested;

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

1 (iv) A certification of annual gross revenue or rent requirements  
2 for the commercial space in a form acceptable to the governing  
3 authority.

4 (b) The applicant must verify the information provided in the  
5 application by oath or affirmation.

6 (c) The applicant must submit a fee, if any, with the application  
7 as required under this chapter.

8 (2) The applicant should also provide an estimate of the  
9 anticipated tax savings from the exemption under this chapter and a  
10 description of how those tax savings will be passed on to tenants, as  
11 well as tenant acknowledgment and approval of how those tax savings  
12 will be passed on to the tenant.

13 NEW SECTION. **Sec. 11.** The governing authority may establish an  
14 application fee. This fee may not exceed an amount that the city or  
15 county determines is necessary to cover the cost likely to be  
16 incurred by the governing authority and the assessor in administering  
17 this chapter. The application fee must be paid at the time the  
18 application for exemption is filed. If the application is denied, the  
19 governing authority may retain that portion of the application fee  
20 attributable to its own administrative costs and refund the balance  
21 to the applicant.

22 NEW SECTION. **Sec. 12.** (1) The owner of rented commercial  
23 property receiving a tax exemption under this chapter must obtain  
24 from the tenant operating a business in the designated commercial  
25 space and submit to the city or county, an annual certification of  
26 occupancy and business operation in a form acceptable to the  
27 governing authority.

28 (2) The owner of property receiving a tax exemption under this  
29 chapter must submit to the city or county certification of its annual  
30 gross revenue from the property in a form acceptable to the governing  
31 authority.

32 (3) The owner of property receiving a tax exemption under this  
33 chapter must file an annual report with the governing authority's  
34 designated official indicating the following:

35 (a) Business tenant occupancy and operation of a business for  
36 each tenant, or for itself if the space is owner-occupied and  
37 operated, in a designated commercial space, and a statement that the

1 property is in compliance with building code and quality requirements  
2 of this chapter;

3 (b) A statement of occupancy and vacancy;

4 (c) A schedule of rents charged, unless owner-occupied and  
5 operated, and adjustments reflecting property tax savings; and

6 (d) Any other information required by the city or county to  
7 determine compliance with program requirements.

8 (4) A governing authority that issues certificates of tax  
9 exemption under this chapter must report annually to the department  
10 of commerce the following information:

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

12 (b) The number of units in building properties receiving a tax  
13 exemption;

14 (c) The total monthly rent amount for each unit, if applicable,  
15 and any adjustments to reflect the tax savings resulting from the  
16 exemption; and

17 (d) The dollar amount of the tax exemption issued for each  
18 project and the total dollar amount of tax exemptions granted within  
19 the city or county.

20 NEW SECTION. **Sec. 13.** (1) Improvements and land exempted under  
21 this chapter continue to be exempted for the applicable period under  
22 section 6 of this act, if the improvements continue to satisfy all  
23 applicable conditions. If the owner intends to discontinue compliance  
24 with the requirements as described in section 6 of this act or any  
25 other condition to the exemption, the owner must notify the  
26 jurisdiction within sixty days of the owner's intended  
27 discontinuance. If the city or county is notified by the owner, or if  
28 the city or county discovers that a portion of the property no longer  
29 meets the qualifications of the city or county's exemption program,  
30 the tax exemption must be canceled, and the following must occur:

31 (a) Additional real property tax must be imposed on the property.  
32 This additional tax is the difference between the property tax paid  
33 and the property tax that would have been paid if the property had  
34 included the value of the nonqualifying improvements, for each of the  
35 prior three years during which the exemption was in effect;

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

1 (c) A penalty is owed in the amount equal to twenty percent of  
2 the additional property tax imposed under this section; and

3 (d) The additional tax, interest, and penalty are declared to be  
4 a lien on the real property and attach at the time the property or  
5 portion of the property is removed from the tax exemption program.  
6 The lien has priority to and must be fully paid and satisfied before  
7 a recognizance, mortgage, judgment, debt, obligation, or  
8 responsibility to or with which the land may become charged or  
9 liable, except that the lien is of equal rank with liens for amounts  
10 deferred under chapter 84.37 or 84.38 RCW. The lien may be foreclosed  
11 upon expiration of the same period after delinquency and in the same  
12 manner provided by law for foreclosure of liens for delinquent real  
13 property taxes. An additional tax unpaid on its due date is  
14 delinquent. From the date of delinquency until paid, interest must be  
15 charged at the same rate applied by law to delinquent ad valorem  
16 property taxes.

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

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

37 NEW SECTION. **Sec. 14.** This chapter expires January 1, 2031.



1        NEW SECTION.     **Sec. 15.**     Sections 1 through 14 of this act  
2 constitute a new chapter in Title 84 RCW.

3        NEW SECTION.     **Sec. 16.**     (1) This section is the tax preference  
4 performance statement for the tax preferences contained in  
5 chapter . . ., Laws of 2020 (this act). This performance statement is  
6 only intended to be used for subsequent evaluation of the tax  
7 preferences. It is not intended to create a private right of action  
8 by any party or be used to determine eligibility for preferential tax  
9 treatment.

10        (2) The legislature categorizes these tax preferences as ones  
11 intended to induce certain designated behavior by taxpayers, as  
12 indicated in RCW 82.32.808(2) (a).

13        (3) It is the legislature's specific public policy objective to  
14 reduce economic displacement due to speculative development.

15        (4) If a review finds that less economic displacement occurs in  
16 designated business areas as compared to adjacent business areas,  
17 then the legislature intends to extend the expiration date of these  
18 tax preferences.

19        (5) In order to obtain the data necessary to perform the review  
20 in subsection (4) of this section, the joint legislative audit and  
21 review committee may refer to any data collected by the state.

22        NEW SECTION.     **Sec. 17.**     This act applies to taxes levied for  
23 collection in 2021 and thereafter.

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