# SENATE BILL REPORT
# SB 6411

As Reported by Senate Committee On:
Housing Stability & Affordability, February 5, 2020
Ways & Means, February 11, 2020

**Title**: An act relating to expanding the property tax exemption for new and rehabilitated multiple-unit dwellings in urban growth areas.

**Brief Description**: Expanding the property tax exemption for new and rehabilitated multiple-unit dwellings in urban growth areas.

**Sponsors**: Senators Das, Zeiger, Cleveland, Wilson, C., Lovelett, Nguyen, Braun, Keiser, Mullet, Hunt, Liias and Randall; by request of Office of the Governor.

**Brief History:**
**Committee Activity**: Housing Stability & Affordability: 1/22/20, 2/05/20 [DPS-WM, w/oRec].
Ways & Means: 2/10/20, 2/11/20 [DP2S, w/oRec, DNP].

**Brief Summary of Second Substitute Bill**

- Extends the ability for counties planning under the Growth Management Act and all cities to establish residential targeted areas to use the multi-family tax exemption (MFTE).
- Authorizes local governments to adopt qualifying guidelines to extend existing 8 year and 12 year MFTEs up to an additional 12 years.

## SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

**Majority Report**: That Substitute Senate Bill No. 6411 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Kuderer, Chair; Das, Vice Chair; Zeiger, Ranking Member; Saldaña.

**Minority Report**: That it be referred without recommendation.
Signed by Senators Darneille and Warnick.

**Staff**: Jeff Olsen (786-7428)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report**: That Second Substitute Senate Bill No. 6411 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Billig, Carlyle, Dhingra, Hunt, Keiser, Liias, Muzzall, Pedersen, Rivers, Van De Wege and Wagoner.

**Minority Report**: That it be referred without recommendation.

Signed by Senators Brown, Assistant Ranking Member, Operating; Becker, Conway, Darneille, Warnick and Wilson, L..

**Minority Report**: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Hasegawa and Schoesler.

**Staff**: Alia Kennedy (786-7405)

**Background**: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Jurisdictions fully planning under the GMA must designate urban growth areas (UGAs), within which urban growth is encouraged and outside of which growth may only occur if it is not urban in nature. Seven counties fully planning under the GMA also participate in the Buildable Lands Program. This review and evaluation program determines if participating counties, and the cities within them, have designated adequate amounts of residential, commercial, and industrial lands to meet the growth need incorporated in their comprehensive plans. The seven participating counties include Clark, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom.

Property Tax Exemption. Eligible cities and counties may exempt from property tax the value of the construction, conversion, and rehabilitation of certain multi-unit residential housing projects in urban centers. The tax exemption applies only to the value of the construction or rehabilitation projects and does not exempt the value of the underlying property. The tax exemption on a qualifying property lasts for eight consecutive years. The exemption is extended to 12 years if the owner commits to renting or selling at least 20 percent of the units as affordable housing to low and moderate-income households.

To qualify for an exemption, the housing project must be located within a residential targeted area (RTA) designated by a qualifying county or city. The RTA must be in an urban center lacking sufficient residential housing, including affordable housing, to meet the needs of the public who would likely live in the urban center if housing were available.

Qualifying cities and towns that may designate RTAs include:

- cities or towns with a population of at least 15,000;
- the largest city or town located in a county planning under the GMA, if there is no city or town with a population of at least 15,000; and
- cities or towns with a population of at least 5000 located in a county participating in the Buildable Lands Program.

County-designated RTAs must be in an unincorporated area of the county, within a UGA, and either:

- in a county with an unincorporated population over 350,000 including a college campus where at least 1200 students live; or
- be designated before January 1, 2013, by a rural county with a population between 50,000 and 71,000 that borders Puget Sound.

Property owners within a designated RTA must submit an application for the tax exemption to the designating city or county. The city or county may include additional eligibility requirements for the tax exemption, including a higher percentage of units used for affordable housing to qualify for the 12-year exemption. Counties eligible to apply the tax exemption must require owners to commit to selling or renting at least 20 percent of the multi-family housing units for affordable housing to qualify for either the eight or 12 year exemption.

For the purpose of the property tax exemption, affordable housing is housing for low-to-moderate income households with housing costs not exceeding one-third of the household's monthly income. Low-income households must have an income that is no more than 80 percent of the median income of their county. Moderate-income households must have an income between 80 and 115 percent of the median income of their county.

Under current law, all cities and counties with an MFTE program must report to the Department of Commerce (Commerce) by December 31st of each year the following information:

- number of tax exemption certificates granted;
- number and type of units produced or to be produced, including the number and type of units produced or to be produced meeting affordable housing requirements;
- actual development cost of each unit produced;
- total monthly rent or total sale amount of each unit produced;
- the income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption; and
- the value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

**Summary of Bill (Second Substitute)**: The public policy objective for the MFTE is to incentivize developers to construct or rehabilitate multifamily housing and to incentivize local governments and multifamily housing owners to maintain or expand existing income-restricted housing units.

The restrictions for only certain sized cities, towns, and counties to designate RTAs for using the MFTE are eliminated. Any city and a county fully planning under the GMA are eligible to designate an RTA. An RTA must be zoned to have an average minimum density equivalent to 15 dwelling units or more per acre, or for cities over 20,000 in population, a minimum density equivalent to 25 dwelling units or more per acre. Until July 1, 2024, a county seeking to promote transit supportive densities and efficient land use may designate an RTA in certain transit corridors. After designating an RTA, the governing authority must notify the county assessor's office and Commerce of their intention to offer the tax exemption with a projected fiscal impact and expiration date. The value of the new construction or rehabilitation improvements must be considered as new construction under the property tax code as thought the property was not exempt under this chapter.

Local governments may extend the 8 year or 12 year exemptions for an additional 12 years if they adopt qualifying guidelines for the extension. To qualify for the exemption, a property must meet the locally adopted requirements for the 12 year exemption. Local governments may adopt more stringent requirements than those required for the 12 year exemption.

Applicant for the 12 year exemption must provide units for a variety of household sizes proportional to the property as a whole. Cities and counties must conduct an analysis of a project's profitability with and without the property tax exemption in the process of reviewing applications for approval. For projects seeking a 12 year exemption, the analysis must assess proposed rent levels, and projects must result in rent levels less than fair market rents to be approved. For for rent-restricted project applications after July 1, 2020, local jurisdictions must enter into an agreement with the project applicant to provide at least one form of tenant protection such as rent increase protection, rental assistance, or relocation assistance.

By December 1, 2020, Commerce must consult with stakeholders and consider revising reporting requirements including strategies to provide rental and relocation assistance. Annual reporting requirements are modified to be submitted by June 30th each year and must include income and household size for affordable units.

A city or county that fails to meet the MFTE reporting requirements may not approve applications for new tax-exempt properties in the calendar year following the year in which the city or county failed to meet the reporting requirements. If the Commerce determines a city or county failed to meet the reporting requirements, then it must notify the city or county and the Department of Revenue. Commerce may provide in rule a mechanism allowing a city or county failing to meet the reporting requirements to reestablish its eligibility to approve applications for new tax-exempt properties.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute)**:

- Prohibits a city or county from approving applications for new tax-exempt properties in the following calendar year if the city or county fails to meet the MFTE reporting requirements.

**EFFECT OF CHANGES MADE BY HOUSING STABILITY & AFFORDABILITY COMMITTEE (First Substitute)**:

- Adds city area median income to the definition of low-income and moderate-income household to determine affordability for the program.
- Requires projects that use the 12-year exemption to provide low and moderate-income households of a variety of sizes proportional to the property as a whole.

- Clarifies the process for county assessors to record the value of qualifying construction projects.
- Adds notification requirements for occupants of affordable housing units before the exemption expires.
- Directs cities and counties to conduct an analysis on the benefit to the public of the exemption.
- Requires jurisdictions and developers to provide at least one form of tenant protection.
- Directs Commerce to work with stakeholders to review and consider revising required reporting requirements.

**Appropriation**: None.

**Fiscal Note**: Available.

**Creates Committee/Commission/Task Force that includes Legislative members**: No.

**Effective Date**: Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Housing Stability & Affordability)**: *The committee recommended a different version of the bill than what was heard.* PRO: Washington has a housing crisis in all parts of the state and has a shortage of approximately 225,000 homes, especially for lower income families. By extending the MFTE to additional areas, there is an incentive to create more housing, including affordable housing. Clark County has areas within the urban growth area that are outside the city limits where additional housing is needed. There is a shortage of affordable rental units, and the MFTE is designed to address this issue. The ability for local governments to extend the exemption for those agreements that are expiring would preserve affordable housing. Tacoma has used the MFTE to expand housing units in downtown Tacoma. The bill contains provisions to require a minimum amount of density, and there are additional reporting requirements to determine the effectiveness of the MFTE. The MFTE has been an effective tool in creating additional housing and should be extended to retain low-income units in danger of being converted to market rate. Kitsap County supports the bill to use the MFTE to build additional housing in areas not currently allowed in the program. Seattle needs additional affordable housing, and has been using the MFTE to create additional low-income housing since 1998.

CON: There is a lack of protection measures for renters. There must be better reporting from developers and local governments to determine if the MFTE is effective. The income caps in the bill should be adjusted to 70 percent of the average median income or below. Renewal of expiring leases should include provisions for affordable housing. Why expand the MFTE when a recent report concludes that it is not clear if it is working? The MFTE reduced low-income housing in Olympia. There needs to be stronger safeguard to make sure the MFTE creates affordable low-income housing.

OTHER: It appears that the bill includes building requirements for counties around transit, which is zoning in a tax bill.

**Persons Testifying (Housing Stability & Affordability)**: PRO: Senator Mona Das, Prime Sponsor; John Blom, Clark County Councilor; Mike Kingsella, Up for Growth Action; David Schroedal, Tacoma Pierce County Chamber; Jeff Robinson, City of Tacoma Director of Community & Econ Dev; Michael Mann, Sustainable Living Innovations; Tom Mcbride, Kitsap County; John Flanagan, Governor's Office; Anne Fritzel, Department of Commerce; Robin Koskey, City of Seattle Office of Housing; Mike Ennis, Association of Washington Business; Bryce Yadon, Futurewise; Carl Schroeder, Association of Washington Cities.

CON: Michele Thomas, Washington Low Income Housing Alliance; Arthur West, citizen.

OTHER: Steve Gano, Building Industry Association of Washington.

**Persons Signed In To Testify But Not Testifying (Housing Stability & Affordability)**: No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means)**: *The committee recommended a different version of the bill than what was heard.* PRO: The bill contains many of the provisions that were a priority of the Governor this year. The bill has broad agreement and bipartisan support. There is still work to be done but this bill is a good start to improving the current tax exemption program. Counties that experienced growth after implementation of the Growth Management Act are not able to take part in the program. The bill would allow more local governments to implement the program and begin developing affordable housing. The multifamily property tax exemption program is an important tool for encouraging development because it directly benefits developers. Middle-income individuals in certain areas are struggling to pay rent. The extension of the affordable housing exemption ensures affordable housing units do not expire. Removal of the population requirements will encourage development in areas that lack housing options.

OTHER: The bill is a work in progress. The bill makes a number of improvements to the multifamily property tax exemption, but there is work to be done to protect low-income tenants after the exemption expires. Many people cannot afford market rate homes. It is important to ensure these programs are not subsidizing luxury homes.

**Persons Testifying (Ways & Means)**: PRO: Josh Weiss, Clark County; John Flanagan, Governor's Office; Carl Schroeder, Association of Washington Cities; Tom McBride, Kitsap County; Robin Koskey, City of Seattle.

OTHER: Michele Thomas, Washington Low Income Housing Alliance.

**Persons Signed In To Testify But Not Testifying (Ways & Means)**: No one.