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**HOUSE BILL 1035**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Kloba, Ryu, Ortiz-Self, Duerr, Wylie, Tharinger, Ramel, Gregerson, Valdez, Hackney, Callan, Santos, Pollet, and Harris-Talley

AN ACT Relating to providing local governments with options to grant rent relief and preserve affordable housing in their communities; adding a new chapter to Title 84 RCW; and creating a new section.

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

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

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

(2) Affordable housing is a necessary component of strong, thriving neighborhoods;

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

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

(5) Rising rents are causing the displacement of low-income households, very low-income households, and long-time community members; and

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

NEW SECTION. **Sec.**  The purpose of this chapter is to give communities a local option to preserve and increase healthy, high quality, and affordable rental housing opportunities for low-income households and very low-income households when the governing authority has found that there are insufficient affordable housing opportunities available. It is also the purpose of this chapter to encourage housing opportunities that are affordable to renters at below market rent levels, as determined by the governing authority upon considering community needs, market rental costs, and income levels of renters.

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

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

(2) "Health and quality standards" means guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents or sale prices, and other adopted requirements indicated necessary by the city or county. The required amenities should be relative to the size of the project and tax benefit to be obtained. The property must comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995.

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

(4) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the area median income adjusted for family size, for the county in which the project is located, as reported by the United States department of housing and urban development.

(5) "Manufactured home" means a single-family dwelling built according to the United States department of housing and urban development manufactured home construction and safety standards act, which is a national preemptive building code. A "manufactured home" also: (a) Includes plumbing, heating, air conditioning, and electrical systems; (b) is built on a permanent chassis; and (c) can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported, or when installed on the site is three hundred twenty square feet or greater.

(6) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the United States department of housing and urban development code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the United States department of housing and urban development manufactured home construction and safety standards act.

(7) "Mobile home lot" means a portion of a mobile home park or manufactured housing community designated as the location of one mobile home, manufactured home, or park model and its accessory buildings, and intended for the exclusive use as a primary residence by the occupants of that mobile home, manufactured home, or park model.

(8) "Mobile home park," "manufactured housing community," or "manufactured home or mobile home community" means any real property which is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy.

(9) "Multifamily housing" means a building permanently affixed to the ground having four or more dwelling units not designed or used as transient accommodations and not including hotels and motels.

(10) "Owner" means the property owner of record.

(11) "Permanent residential occupancy" means multifamily or manufactured home or mobile home housing that provides rental occupancy on a nontransient basis. This includes rental accommodation that is leased for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(12) "Single-family dwelling" means an individual detached dwelling permanently affixed to the ground.

(13) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the area median income adjusted for family size, for the county in which the project is located, as reported by the United States department of housing and urban development.

NEW SECTION. **Sec.**  A city governing authority may by ordinance or resolution establish an affordable housing incentive program to preserve affordable housing within the city that meets health and quality standards for low-income households and very low-income households at risk of displacement or that cannot afford market rate housing. A county governing authority may by ordinance or resolution establish an affordable housing incentive program for unincorporated areas to preserve affordable housing that meets health and quality standards for low-income households and very low-income households at risk of displacement or that cannot afford market rate housing.

NEW SECTION. **Sec.**  (1) An affordable housing incentive program adopted by the governing authority under this chapter must include qualifying standards for low-income household and very low-income household rental housing. Such standards must include rent limits and income guidelines consistent with local housing needs to assist households that cannot afford market rate housing.

(2) In order to qualify for a property tax exemption under this chapter, housing units or mobile home lots must be:

(a) Rented at below market rent levels, as determined by the applicable area median income as reported by the United States department of housing and urban development;

(b) For multifamily dwellings permanently affixed to the land, affordable to very low-income households and part of a building that is at least twenty-five years old; and

(c) Owner-occupied for either a single-family dwelling or an attached or detached accessory dwelling unit that is affordable to low-income households.

(3) The governing authority may establish income or rent thresholds other than those indicated in subsection (1) of this section where it determines that such an adjustment is needed to serve particular needs of very low-income renters in either (a) manufactured homes or mobile homes or (b) multifamily units in the community.

(4) Rent levels for qualifying affordable housing units, including any mandatory fees for tenant-paid utilities that are required as a condition of tenancy, may not exceed thirty percent of the income limit for the very low-income multifamily housing unit.

NEW SECTION. **Sec.**  (1) For single-family and multifamily dwellings permanently affixed to the land, the value of residential housing improvements and land qualifying under this chapter is exempt from ad valorem property taxation for six successive years beginning January 1st of the year immediately following the calendar year that the certificate of tax exemption is filed with the county assessor in accordance with section 12 of this act. For manufactured homes or mobile homes, only the mobile home lot dedicated to the qualified tenant is exempt from ad valorem property taxation for six successive years. The exemption for qualifying single-family, multifamily, or manufactured home or mobile home properties may be renewed for one additional six-year period.

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

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

(4) The governing authority must provide local taxing districts in the designated exemption area notice and an opportunity to be heard prior to establishing an affordable housing incentive program under this chapter.

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

(1) A minimum of twenty-five percent of residential units in a multifamily property subject to tax exemption must be affordable as described in section 5 of this act. A governing authority may require that more than twenty-five percent of the units in multifamily housing buildings are affordable to address local market conditions. Up to and including the midpoint, the percentage requirement may be rounded down to the nearest whole number of units;

(2) Qualified affordable units must be comparable in terms of quality, living conditions, and mix of unit types to market rate units in the building;

(3) At least ninety percent of the total residential units of a multifamily structure permanently affixed to the ground must be occupied by tenants at the time of application;

(4) The qualifying property must be part of a multifamily residential or mixed-use, both residential and nonresidential, project, a single-family property, an affordable attached or detached dwelling unit that is accessory to a single-family dwelling, or a mobile home lot in a mobile home park;

(5) With respect to a single-family dwelling or an attached or detached dwelling unit that is accessory to a single-family dwelling, only the designated affordable improvement area and underlying land dedicated solely to the affordable dwelling may qualify for the exemption;

(6) The multifamily, mixed-use property must provide for a minimum of fifty percent of the space in each building for permanent residential occupancy;

(7) If a multifamily or mixed-use property has dedicated less than one hundred percent of its total square footage to qualifying units, only that dedicated percent portion of the land beneath the building footprint is subject to the exemption under this chapter; and

(8) The property owner must enter into a contract with the city or county agreeing to terms and conditions required to satisfy eligibility criteria of the affordable housing incentive program.

NEW SECTION. **Sec.**  (1) To be eligible for the exemption under this chapter, the property must also comply with all applicable land use regulations; zoning requirements; building and housing code requirements, including space and occupancy, structural, mechanical, fire, safety, and security standards; and health and quality standards as established in section 4 of this act. At a minimum, the standard for housing quality must be substantially equivalent to uniform physical condition standards. The governing authority may establish additional standards to meet local needs.

(2) The property must be inspected for compliance with subsection (1) of this section prior to awarding the tax exemption under this chapter and thereafter, as established by the governing authority. The governing authority must deny an application for tax exemption for failure to comply with health and quality standards as described in section 4 of this act.

NEW SECTION. **Sec.**  (1) The governing authority may limit participation in the affordable housing incentive program to:

(a) Particular targeted areas that present particular risk or displacement or that provide unique affordable housing opportunities near community infrastructure such as transportation or public schools; and

(b) Properties of a particular size, unit type, or mix of unit size or type that present special antidisplacement opportunity for very low-income household tenants.

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

(a) An application process and procedures;

(b) Guidelines and requirements as described in section 8 of this act;

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

(d) Income and rent limits as required under section 5 of this act;

(e) Documentation submittal requirements necessary to establish income eligibility of households in affordable housing units; and

(f) Fees required of the applicant in order to process the application and monitor compliance with eligibility criteria. Such fees must be commensurate with the cost anticipated by the governing authority to administer this chapter.

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

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

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

(b) A description of the project, including the floor plan of units and other information requested;

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

(d) A certification of family size and annual income requirements in a form acceptable to the governing authority for designated affordable housing units;

(2) The applicant must verify the information provided in the application by oath or affirmation; and

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

NEW SECTION. **Sec.**  Prior to approval of an application meeting the requirements of section 10 of this act, the applicable city or county agency must inspect the property to certify compliance with health and quality standards.

NEW SECTION. **Sec.**  (1) The governing authority or its designated administrative official or agent may approve the application if it finds that the property and owner satisfy the requirements of this chapter.

(2) If the application is approved, the governing authority must issue the owner a certificate of tax exemption. The certificate must contain a statement specifying that the property satisfies the requirements of this chapter. The governing authority must submit a copy of the certificate to the assessor no later than October 1st of the year before the exemption is to be applied.

(3) If the application is denied, the governing authority must state in writing the reasons for denial and issue notice to the applicant by regular or certified mail to the applicant's last known address, or by other means reasonably calculated to provide notice, within ten days of the denial.

(4) An applicant may appeal the governing authority's decision to the governing authority or its designated agent within thirty days after receipt. The appeal must be based upon the record made before the administrative official or commission, and the burden is on the applicant to show that the governing authority's decision is not supported by substantial evidence.

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

NEW SECTION. **Sec.**  (1) The owner receiving a tax exemption under this chapter must obtain from each tenant living in a designated affordable housing unit an annual certification of family size and annual income in a form acceptable to the governing authority.

(2) The owner must file an annual report with the governing authority's designated official indicating the following:

(a) Family size and annual income for each tenant living in a designated affordable housing rental unit, and a statement that the property is in compliance with affordable housing requirements described in section 5 of this act;

(b) A statement of occupancy and vacancy;

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

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

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

(a) The number of tax exemption certificates granted;

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

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

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

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

NEW SECTION. **Sec.**  (1) Land and improvements exempted under this chapter continue to be exempted for the applicable period under section 6 of this act, if the improvements continue to satisfy all applicable conditions. If the owner intends to discontinue compliance with the affordable housing requirements as described in section 6 of this act or any other condition to the exemption, the owner must notify tenants and the jurisdiction within sixty days of the owner's intended discontinuance. If the city or county is notified by the owner, or if the city or town discovers that a portion of the property no longer meets the qualifications of the city's or county's exemption program, the tax exemption must be canceled, and the following must occur:

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

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

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

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

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

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

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preferences contained in chapter . . ., Laws of 2021 (this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

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

(2) It is the legislature's specific public policy objective to preserve quality and healthy affordable housing where housing options, including quality and healthy affordable housing options, are severely limited. It is the legislature's intent to provide an exemption from ad valorem property taxation for residential improvements and land qualifying under chapter . . ., Laws of 2021 (this act) and to provide incentives to property owners to preserve affordable housing units for low-income households.

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

**--- END ---**