

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5387

Chapter 375, Laws of 1995

(partial veto)

54th Legislature
1995 Regular Session

TAXATION OF NEW AND REHABILITATED MULTIPLE-UNIT DWELLINGS
IN URBAN CENTERS

EFFECTIVE DATE: 7/23/95

Passed by the Senate April 19, 1995
YEAS 40 NAYS 2

JOEL PRITCHARD

President of the Senate

Passed by the House April 13, 1995
YEAS 85 NAYS 10

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 16, 1995, with the
exception of section 4, which is
vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SECOND SUBSTITUTE SENATE BILL 5387 as
passed by the Senate and the House of
Representatives on the dates hereon
set forth.

MARTY BROWN

Secretary

FILED

May 16, 1995 - 11:25 a.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5387

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators
Wojahn, Winsley, Franklin, Haugen, Rasmussen, McCaslin and West)

Read first time 03/06/95.

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 development of additional and desirable residential
11 units in these urban centers that will attract and maintain a
12 significant increase in the number of permanent residents in these
13 areas will help to alleviate the detrimental conditions and social
14 liability that tend to exist in the absence of a viable residential
15 population and will help to achieve the planning goals mandated by the
16 growth management act under RCW 36.70A.020; and

17 (3) That planning solutions to solve the problems of urban sprawl
18 often lack incentive and implementation techniques needed to encourage
19 residential redevelopment in those urban centers lacking sufficient

1 residential opportunities, and it is in the public interest and will
2 benefit, provide, and promote the public health, safety, and welfare to
3 stimulate new or enhanced residential opportunities within urban
4 centers through a tax incentive as provided by this chapter.

5 NEW SECTION. **Sec. 2.** It is the purpose of this chapter to
6 encourage increased residential opportunities in cities that are
7 required to plan or choose to plan under the growth management act
8 within urban centers where the legislative body of the affected city
9 has found there is insufficient housing opportunities. It is further
10 the purpose of this chapter to stimulate the construction of new
11 multifamily housing and the rehabilitation of existing vacant and
12 underutilized buildings for multifamily housing in urban centers having
13 insufficient housing opportunities that will increase and improve
14 residential opportunities within these urban centers. To achieve these
15 purposes, this chapter provides for special valuations for eligible
16 improvements associated with multiunit housing in residentially
17 deficient urban centers.

18 NEW SECTION. **Sec. 3.** Unless the context clearly requires
19 otherwise, the definitions in this section apply throughout this
20 chapter.

21 (1) "City" means a city or town with a population of at least one
22 hundred fifty thousand located in a county planning under the growth
23 management act.

24 (2) "Governing authority" means the local legislative authority of
25 a city having jurisdiction over the property for which an exemption may
26 be applied for under this chapter.

27 (3) "Growth management act" means chapter 36.70A RCW.

28 (4) "Multiple-unit housing" means a building having four or more
29 dwelling units not designed or used as transient accommodations and not
30 including hotels and motels. Multifamily units may result from new
31 construction or rehabilitated or conversion of vacant, underutilized,
32 or substandard buildings to multifamily housing.

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

34 (6) "Permanent residential occupancy" means multiunit housing that
35 provides either rental or owner occupancy on a nontransient basis.
36 This includes owner-occupied or rental accommodation that is leased for

1 a period of at least one month. This excludes hotels and motels that
2 predominately offer rental accommodation on a daily or weekly basis.

3 (7) "Rehabilitation improvements" means modifications to existing
4 structures, that are vacant for twelve months or longer, that are made
5 to achieve a condition of substantial compliance with existing building
6 codes or modification to existing occupied structures which increase
7 the number of multifamily housing units.

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

11 (9) "Substantial compliance" means compliance with local building
12 or housing code requirements that are typically required for
13 rehabilitation as opposed to new construction.

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

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

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

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

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

28 ****Sec. 4 was vetoed. See message at end of chapter.***

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

36 (2) In the case of rehabilitation of existing buildings, the
37 exemption does not include the value of improvements constructed prior

1 to the submission of the application required under this chapter. The
2 incentive provided by this chapter is in addition to any other
3 incentives, tax credits, grants, or other incentives provided by law.

4 (3) This chapter does not apply to increases in assessed valuation
5 made by the assessor on nonqualifying portions of building and value of
6 land nor to increases made by lawful order of a county board of
7 equalization, the department of revenue, or a county, to a class of
8 property throughout the county or specific area of the county to
9 achieve the uniformity of assessment or appraisal required by law.

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

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

14 (2) The multiple-unit housing must meet the guidelines as adopted
15 by the governing authority that may include height, density, public
16 benefit features, number and size of proposed development, parking, and
17 other adopted requirements indicated necessary by the city. The
18 required amenities should be relative to the size of the project and
19 tax benefit to be obtained;

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

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

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

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

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

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

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

21 (a) Information setting forth the grounds supporting the requested
22 exemption including information indicated on the application form or in
23 the guidelines;

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

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

29 (3) The applicant must verify the application by oath or
30 affirmation; and

31 (4) The application must be made on or before April 1 of each year,
32 and must be accompanied by the application fee, if any, required under
33 section 10 of this act. The governing authority may permit the
34 applicant to revise an application before final action by the governing
35 authority.

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

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

4 (2) The proposed project is or will be, at the time of completion,
5 in conformance with all local plans and regulations that apply at the
6 time the application is approved;

7 (3) The owner has complied with all standards and guidelines
8 adopted by the city under this chapter; and

9 (4) The site is located in a residential targeted area of an urban
10 center that has been designated by the governing authority in
11 accordance with procedures and guidelines indicated in section 7 of
12 this act.

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

17 (2) If the application is approved, the city shall issue the owner
18 of the property a conditional certificate of acceptance of tax
19 exemption. The certificate must contain a statement by a duly
20 authorized administrative official of the governing authority that the
21 property has complied with the required findings indicated in section
22 8 of this act.

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

28 (4) Upon denial by a duly authorized administrative official or
29 commission, an applicant may appeal the denial to the governing
30 authority within thirty days after receipt of the denial. The appeal
31 before the governing authority will be based upon the record made
32 before the administrative official with the burden of proof on the
33 applicant to show that there was no substantial evidence to support the
34 administrative official's decision. The decision of the governing body
35 in denying or approving the application is final.

36 NEW SECTION. **Sec. 11.** The governing authority may establish an
37 application fee. This fee may not exceed an amount determined to be

1 required to cover the cost to be incurred by the governing authority
2 and the assessor in administering this chapter. The application fee
3 must be paid at the time the application for limited exemption is
4 filed. If the application is approved, the governing authority shall
5 pay the application fee to the county assessor for deposit in the
6 county current expense fund, after first deducting that portion of the
7 fee attributable to its own administrative costs in processing the
8 application. If the application is denied, the governing authority may
9 retain that portion of the application fee attributable to its own
10 administrative costs and refund the balance to the applicant.

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

15 (a) A statement of the amount of rehabilitation or construction
16 expenditures made with respect to each housing unit and the composite
17 expenditures made in the rehabilitation or construction of the entire
18 property;

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

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

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

32 (3) If the rehabilitation, conversion, or construction is completed
33 within three years of the date the application for limited exemption is
34 filed under this chapter, or within an authorized extension of this
35 time limit, and the authorized representative of the city determines
36 that improvements were constructed consistent with the application and
37 other applicable requirements and the owner's property is qualified for
38 limited exemption under this chapter, the city shall file the

1 certificate of tax exemption with the county assessor within ten days
2 of the expiration of the thirty-day period provided under subsection
3 (2) of this section.

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

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

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

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

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

23 (6) The governing authority may provide by ordinance for an appeal
24 of a decision by the deciding officer or authority that an owner is not
25 entitled to a certificate of tax exemption to the governing authority,
26 a hearing examiner, or other city officer authorized by the governing
27 authority to hear the appeal in accordance with such reasonable
28 procedures and time periods as provided by ordinance of the governing
29 authority. The owner may appeal a decision by the deciding officer or
30 authority that is not subject to local appeal or a decision by the
31 local appeal authority that the owner is not entitled to a certificate
32 of tax exemption in superior court under RCW 34.05.510 through
33 34.05.598, if the appeal is filed within thirty days of notification by
34 the city to the owner of the decision being challenged.

35 NEW SECTION. **Sec. 13.** Thirty days after the anniversary of the
36 date of the certificate of tax exemption and each year for a period of
37 ten years, the owner of the rehabilitated or newly constructed property

1 shall file with a designated agent of the city an annual report
2 indicating the following:

3 (1) A statement of occupancy and vacancy of the rehabilitated or
4 newly constructed property during the twelve months ending with the
5 anniversary date;

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

8 (3) A description of changes or improvements constructed after
9 issuance of the certificate of tax exemption.

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

24 (a) Additional real property tax must be imposed upon the value of
25 the nonqualifying improvements in the amount that would normally be
26 imposed, plus a penalty must be imposed amounting to twenty percent.
27 This additional tax is calculated based upon the difference between the
28 property tax paid and the property tax that would have been paid if it
29 had included the value of the nonqualifying improvements dated back to
30 the date that the improvements were converted to a nonmultifamily use;

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

36 (c) The additional tax owed together with interest and penalty must
37 become a lien on the land and attach at the time the property or
38 portion of the property is removed from multifamily use or the

1 amenities no longer meet applicable requirements, and has priority to
2 and must be fully paid and satisfied before a recognizance, mortgage,
3 judgment, debt, obligation, or responsibility to or with which the land
4 may become charged or liable. The lien may be foreclosed upon
5 expiration of the same period after delinquency and in the same manner
6 provided by law for foreclosure of liens for delinquent real property
7 taxes. An additional tax unpaid on its due date is delinquent. From
8 the date of delinquency until paid, interest must be charged at the
9 same rate applied by law to delinquent ad valorem property taxes.

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

26 (3) Upon determination by the governing authority or authorized
27 representative to terminate an exemption, the county officials having
28 possession of the assessment and tax rolls shall correct the rolls in
29 the manner provided for omitted property under RCW 84.40.080. The
30 county assessor shall make such a valuation of the property and
31 improvements as is necessary to permit the correction of the rolls.
32 The owner may appeal the valuation to the county board of equalization
33 under chapter 84.48 RCW. If there has been a failure to comply with
34 this chapter, the property must be listed as an omitted assessment for
35 assessment years beginning January 1 of the calendar year in which the
36 noncompliance first occurred, but the listing as an omitted assessment
37 may not be for a period more than three calendar years preceding the
38 year in which the failure to comply was discovered.

1 NEW SECTION. **Sec. 15.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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

 Passed the Senate April 19, 1995.

 Passed the House April 13, 1995.

 Approved by the Governor May 16, 1995, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State May 16, 1995.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 4,
3 Second Substitute Senate Bill No. 5387 entitled:

4 "AN ACT Relating to taxation of new and rehabilitated multiple-unit
5 housing in urban centers;"

6 Second Substitute Senate Bill No. 5387 represents an attempt to
7 increase the availability of residential housing in urban areas.

8 I have concerns with this bill. No provision is included to
9 prevent the erosion of low-income housing as property owners seek the
10 benefit of the special valuation and build new housing or renovate
11 existing housing stocks. Neither is any attempt made to mitigate the
12 impact on low-income tenants who must relocate if their current
13 residence is renovated.

14 It is clearly the intent of the legislature to provide local
15 governments flexibility in determining specific building requirements
16 to address the public interest in a number of areas related to real
17 estate use and urban development. It is hard to imagine, given the
18 history of the discussions which led to this legislation, that the
19 legislature intended to ignore the pressing need to maintain the
20 state's supply of low-income housing. In signing this bill, it is my
21 expectation that local jurisdictions ensure that the amount of low-
22 income housing is not eroded and that low-income tenants do not bear
23 the burden of relocating when a property owner enjoys the benefit of
24 the special valuation created by this law.

25 Section 4 of Second Substitute Senate Bill No. 5387 restates
26 limitations contained in separate sections of the bill. Section 4
27 limits the use of the special valuations authorized under the act to
28 applicants within locally designated residential targeted areas of
29 cities planning under the Growth Management Act. Section 3(1) limits
30 the definition of a city to a city or town of 150,000 population
31 planning under the Growth Management Act. Section 6(1) requires
32 applicants for the special valuation to be located in a residential
33 targeted area designated by a city. Because the limitations in section
34 4 are addressed elsewhere, this provision is unnecessary.

1 For this reason, I have vetoed section 4 of Second Substitute
2 Senate Bill No. 5387.

3 With the exception of section 4, Second Substitute Senate Bill No.
4 5387 is approved."