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**SECOND SUBSTITUTE SENATE BILL 6411**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Das, Zeiger, Cleveland, Wilson, C., Lovelett, Nguyen, Braun, Keiser, Mullet, Hunt, Liias, and Randall; by request of Office of the Governor)

AN ACT Relating to expanding the property tax exemption for new and rehabilitated multiple-unit dwellings in urban growth areas; amending RCW 84.14.007, 84.14.010, 84.14.020, 84.14.040, 84.14.060, and 84.14.100; and creating a new section.

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

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

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

(3) It is the legislature's specific public policy objective to:

(a) Incentivize developers to construct or rehabilitate multifamily housing;

(b) Incentivize local governments and multifamily housing owners to maintain or expand existing income-restricted unit stock that have been incentivized through the tax exemption provided under chapter 84.14 RCW via new authority to renew the property tax abatement in exchange for continued or additional affordability; and

(c) Further encourage multifamily construction in cities and certain unincorporated urban growth areas by expanding access to the multifamily tax exemption program to a broader set of jurisdictions.

(4) It is the legislature's intent to provide the value of new housing construction, conversion, and rehabilitation improvements qualifying under chapter 84.14 RCW an exemption from ad valorem property taxation for eight to twelve years or more, as provided for in RCW 84.14.020, in order to provide incentives to developers to construct or rehabilitate multifamily housing thereby increasing the number of affordable housing units, or preserving the state's stock of income-restricted units, for low-income to moderate-income residents in certain urban growth areas.

(5) The legislature intends to extend the expiration date of the tax preferences in section 4, chapter . . ., Laws of 2020 (section 4 of this act), if a review finds that:

(a) Projects receiving an initial eight-year or twelve-year exemption regularly enter into subsequent twelve-year extensions in exchange for continued or increased income restrictions on affordable units; and

(b) At least twenty percent of the new housing is developed and occupied by households earning:

(i) At or below eighty percent of the area median income, at the time of occupancy, adjusted for family size for the city or county in which the project is located; or

(ii) Where the housing is intended exclusively for owner occupancy, up to one hundred fifteen percent of the area median income, at the time of sale, adjusted for family size for the city or county in which the project is located.

(6) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee must refer to the annual reports compiled by the department of commerce under RCW 84.14.100 and may refer to data provided by counties or cities in which persons are utilizing the preferences, the office of financial management, the department of commerce, the United States department of housing and urban development, and any other data sources, as needed by the joint legislative audit and review committee.

**Sec.**  RCW 84.14.007 and 2014 c 96 s 2 are each amended to read as follows:

It is the purpose of this chapter to encourage increased residential opportunities, including affordable housing opportunities, in residential targeted areas of cities ((~~that are required to plan or choose to plan under the growth management act within urban centers~~)) where the governing authority of the affected city has found there is insufficient housing opportunities, including affordable housing opportunities. It is further the purpose of this chapter to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in ((~~urban centers~~)) residential targeted areas having insufficient housing opportunities that will increase and improve residential opportunities, including affordable housing opportunities((~~, within these urban centers~~)). To achieve these purposes, this chapter provides for special valuations in ((~~residentially deficient urban centers~~)) designated residential targeted areas for eligible improvements associated with multiunit housing, which includes affordable housing. It is an additional purpose of this chapter to allow unincorporated areas of ((~~rural~~)) counties that are within urban growth areas to stimulate housing opportunities ((~~and for certain counties to stimulate housing opportunities near college campuses~~)), to incentivize redevelopment of areas in urban growth areas to promote transit supportive densities and more efficient land use, and to promote dense, transit-oriented, walkable college communities near college campuses.

**Sec.**  RCW 84.14.010 and 2017 c 52 s 16 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affordable housing" means residential housing ((~~that is rented by a person or household whose~~)) for rental occupancy which, as long as the housing is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, ((~~do not exceed~~)) of no more than thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate‑income households.

(2) "Campus facilities master plan" means the area that is defined by the University of Washington as necessary for the future growth and development of its campus facilities for campuses authorized under RCW 28B.45.020.

(3) "City" means ((~~either (a) a city or town with a population of at least fifteen thousand, (b) the largest city or town, if there is no city or town with a population of at least fifteen thousand, located in a county planning under the growth management act, or (c) a city or town with a population of at least five thousand located in a county subject to the provisions of RCW 36.70A.215~~)) any city or town.

(4) "County" means ((~~a county with an unincorporated population of at least three hundred fifty thousand~~)) all counties fully planning under RCW 36.70A.040.

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

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

(7) "High cost area" means a county where the third quarter median house price for the previous year as reported by the Washington center for real estate research at Washington State University is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

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

(9) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the city or county where the project is located, as reported by the United States department of housing and urban development. For cities located in high‑cost areas, "low‑income household" means a household that has an income at or below one hundred percent of the median family income adjusted for family size, for the city or county where the project is located.

(10) "Moderate‑income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the city or county where the project is located, as reported by the United States department of housing and urban development. For cities located in high‑cost areas, "moderate‑income household" means a household that has an income that is more than one hundred percent, but at or below one hundred fifty percent, of the median family income adjusted for family size, for the city or county where the project is located.

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

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

(13) "Permanent residential occupancy" means multiunit housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-occupied or 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.

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

(15) "Residential targeted area" means an area within an urban center or urban growth area that: (a)(i) Is zoned to allow an average minimum density equivalent to fifteen dwelling units or more per gross acre; or (ii) for cities with a population over twenty thousand, is zoned to allow an average minimum density equivalent to twenty-five dwelling units or more per gross acre; and (b) has been designated by the governing authority as a residential targeted area in accordance with this chapter. With respect to designations after July 1, 2007, "residential targeted area" may not include a campus facilities master plan.

(16) ((~~"Rural county" means a county with a population between fifty thousand and seventy-one thousand and bordering Puget Sound.~~

~~(17)~~)) "Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

((~~(18)~~)) (17) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

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

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

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

**Sec.**  RCW 84.14.020 and 2007 c 430 s 4 are each amended to read as follows:

(1)(a) The value of new housing construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation, as follows:

(i) For properties for which applications for certificates of tax exemption eligibility are submitted under this chapter ((~~84.14 RCW~~)) before July 22, 2007, the value is exempt for ten successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate; and

(ii) For properties for which applications for certificates of tax exemption eligibility are submitted under this chapter ((~~84.14 RCW~~)) on or after July 22, 2007, the value is exempt:

(A) For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate; or

(B) For twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate, if the property otherwise qualifies for the exemption under this chapter ((~~84.14 RCW~~)) and meets the conditions in this subsection (1)(a)(ii)(B). For the property to qualify for the twelve-year exemption under this subsection, the applicant must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing ((~~units~~)) to low and moderate‑income households, the applicant must provide units for a variety of household sizes by providing affordable units of different sizes substantially proportional to the property as a whole, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the local government under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection (1)(a)(ii)(B) may be satisfied solely through housing affordable to moderate‑income households.

(b) The exemptions provided in (a)(i) and (ii) of this subsection do not include the value of land or nonhousing-related improvements not qualifying under this chapter.

(2) When a local government adopts guidelines pursuant to RCW 84.14.030(2) and includes conditions that must be satisfied with respect to individual dwelling units, rather than with respect to the multiple-unit housing as a whole or some minimum portion thereof, the exemption may, at the local government's discretion, be limited to the value of the qualifying improvements allocable to those dwelling units that meet the local guidelines.

(3) In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to the submission of the application required under this chapter. The incentive provided by this chapter is in addition to any other incentives, tax credits, grants, or other incentives provided by law.

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

(5) ((~~At the conclusion of the exemption period, the new or rehabilitated housing cost shall~~)) The value of the new housing construction, conversion, or rehabilitation improvements must be considered as new construction for the purposes of chapters 84.55 and 36.21 RCW as though the property was not exempt under this chapter.

(6) For properties that qualified for, satisfied the conditions of, and utilized the exemption under subsection (1)(a)(ii)(A) of this section, following the initial eight-year exemption period, the exemption period may be extended for an additional twelve years, provided that the local government adopts qualifying guidelines for such an extension, and the applicant meets at a minimum the locally adopted requirements for the property to qualify for an exemption under subsection (1)(a)(ii)(B) of this section.

(7) For properties that qualified for, satisfied the conditions of, and utilized the exemption under subsection (1)(a)(ii)(B) of this section, following the initial twelve-year exemption period, the exemption period may be extended for an additional twelve years, provided that the local government adopts qualifying guidelines for such an extension. The local government may adopt and implement more stringent requirements, including limits that apply to a higher percentage of units than the minimum conditions required for the exemption as provided under subsection (1)(a)(ii)(B) of this section in order to qualify for an extension. For the property to qualify for an extension under this subsection (7), the applicant must meet at a minimum the locally adopted requirements for the property to qualify for an exemption under subsection (1)(a)(ii)(B) of this section.

(8)(a) At the end of both the tenth and eleventh years of an exemption provided under (1)(a)(ii)(B) of this section, applicants must provide tenants of rent-restricted units with notification of intent to apply for an additional exemption period, or intent to increase rents at the close of the exemption.

(b) At the end of both the tenth and eleventh years of an extended exemption provided under subsection (6) or (7) of this section, applicants must provide tenants of rent-restricted units with notification of intent to increase rents at the close of the exemption.

**Sec.**  RCW 84.14.040 and 2014 c 96 s 4 are each amended to read as follows:

(1) The following criteria must be met before an area may be designated as a residential targeted area:

(a) The area must be within a city, or for a county, within an urban center, as determined by the governing authority, and must be zoned to allow an average minimum density equivalent to fifteen dwelling units or more per gross acre, or for cities with a population over twenty thousand, be zoned to allow an average minimum density equivalent to twenty-five dwelling units or more per gross acre;

(b) The area must lack, as determined by the governing authority, sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the urban center, if the affordable, desirable, attractive, and livable places to live were available;

(c) The providing of additional housing opportunity, including affordable housing, in the area, as determined by the governing authority, will assist in achieving one or more of the stated purposes of this chapter; and

(d) If the residential targeted area is designated by a county, the area must be located in an unincorporated area of the county that is within an urban growth area under RCW 36.70A.110 and the area must be: (i) In a ((~~rural~~)) county, served by a sewer system and designated by a county prior to January 1, 2013; ((~~or~~)) (ii) in a county that includes a campus of an institution of higher education, as defined in RCW 28B.92.030, where at least one thousand two hundred students live on campus during the academic year; or (iii) until July 1, 2024, in a county seeking to promote transit supportive densities and efficient land use in an area that is located within a designated urban growth area and within one-quarter of a mile of a corridor where bus service is scheduled at least every twenty minutes for no less than ten hours per weekday and is in service or is planned for service to begin within five years of designation.

(2) For the purpose of designating a residential targeted area or areas, the governing authority may adopt a resolution of intention to so designate an area as generally described in the resolution. The resolution must state the time and place of a hearing to be held by the governing authority to consider the designation of the area and may include such other information pertaining to the designation of the area as the governing authority determines to be appropriate to apprise the public of the action intended.

(3) The governing authority must give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city or county where the proposed residential targeted area is located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a residential targeted area.

(4) Following the hearing, or a continuance of the hearing, the governing authority may designate all or a portion of the area described in the resolution of intent as a residential targeted area if it finds, in its sole discretion, that the criteria in subsections (1) through (3) of this section have been met.

(5) After designation of a residential targeted area, the governing authority must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under RCW 84.14.060. The standards and guidelines must establish basic requirements for both new construction and rehabilitation, which must include:

(a) Application process and procedures;

(b) Income and rent standards for affordable units;

(c) Requirements that address demolition of existing structures and site utilization; and

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

(6) The governing authority may adopt and implement((~~, either~~)) as conditions to ((~~eight-year exemptions or as conditions to an extended exemption period under RCW 84.14.020(1)(a)(ii)(B), or both,~~)) any exemption granted pursuant to RCW 84.14.020 more stringent income eligibility, rent, or sale price limits, including limits that apply to a higher percentage of units, than the minimum conditions for an extended exemption period under RCW 84.14.020(1)(a)(ii)(B). For any multiunit housing located in an unincorporated area of a county, a property owner seeking tax incentives under this chapter must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households. In the case of multiunit housing intended exclusively for owner occupancy, the minimum requirement of this subsection (6) may be satisfied solely through housing affordable to moderate-income households.

(7) After designation of a residential targeted area, the governing authority must notify the county assessor's office of the county in which the residential targeted area is located and the department of commerce of the intention to offer the tax exemption provided under this chapter with a projected fiscal impact and potential expiration date.

**Sec.**  RCW 84.14.060 and 2014 c 96 s 5 are each amended to read as follows:

(1) The duly authorized administrative official or committee of the city or county may approve the application if it finds that:

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

(b) If applicable, the proposed multiunit housing project meets the affordable housing requirements as described in RCW 84.14.020;

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

(d) The owner has complied with all standards and guidelines adopted by the city or county under this chapter, including jurisdiction-specific income and rent standards; ((~~and~~))

(e) The site is located in a residential targeted area of an urban center or urban growth area that has been designated by the governing authority in accordance with procedures and guidelines indicated in RCW 84.14.040; and

(f)(i) The city or county has conducted an analysis of the project's benefit to the public with and without a property tax exemption. Such an analysis must include, but not be limited to, an assessment of displacement of existing residents, gentrification of existing neighborhoods, and the project's contribution to the housing needs of the community.

(ii) For projects applying for the exemption under RCW 84.14.020(1)(a)(ii)(B), the analysis must additionally assess the proposed rent levels for income-restricted units at the time of issuance of the exemption compared to fair market rents in similar areas. If income-restricted rent levels do not result in rents lower than the fair market rent, the project may not receive an exemption under RCW 84.14.020(1)(a)(ii)(B), but may apply for an exemption under RCW 84.14.020(1)(a)(ii)(A).

(2) For all newly exempted projects after July 1, 2020, with a specific rent-restricted affordable housing requirement pursuant to RCW 84.14.020, as a condition of approval of an application under this section, a local jurisdiction must enter into an agreement with the project applicant to provide at least one of the following to tenants occupying rent-restricted units:

(a) At the close of the exemption, a gradual monthly rent increase from the specified affordable rate to market rate over a period of months equivalent to the number of years that a tenant resided within a rent-restricted unit;

(b) Rental assistance for a period not to exceed one year, or until the tenant exits a given rent-restricted unit; or

(c) At the close of the exemption, relocation assistance including, but not limited to, advance payments required for moving into a new residence, and any application fees.

(3) By June 1, 2024, and every four years thereafter, a governing jurisdiction shall conduct a cumulative assessment of public benefit of all exemptions granted under this chapter. A governing jurisdiction shall evaluate whether its exemption program should be revised to address cumulative impacts to disadvantaged communities, and whether the program has resulted in additional housing opportunities or displacement of existing residents.

(4) An application may not be approved after July 1, 2007, if any part of the proposed project site is within a campus facilities master plan, except as provided in RCW 84.14.040(1)(d).

((~~(3) An application may not be approved for a residential targeted area in a rural county on or after January 1, 2020.~~))

**Sec.**  RCW 84.14.100 and 2012 c 194 s 9 are each amended to read as follows:

(1) Thirty days after the anniversary of the date of the certificate of tax exemption and each year for the tax exemption period, the owner of the rehabilitated or newly constructed property must file with a designated authorized representative of the city or county an annual report indicating the following:

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

(b) A certification by the owner that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the certificate approved by the city or county;

(c) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and

(d) Any additional information requested by the city or county in regards to the units receiving a tax exemption.

(2) All cities or counties, which issue certificates of tax exemption for multiunit housing that conform to the requirements of this chapter, must report annually by ((~~December 31st of each~~)) June 30th of the following year, beginning in ((~~2007~~)) 2020, to the department of commerce. The report must include the following information:

(a) The number of tax exemption certificates granted;

(b) The total number and type of units produced or to be produced;

(c) The number, size, and type of units produced or to be produced meeting affordable housing requirements;

(d) The actual development cost of each unit produced;

(e) The total monthly rent or total sale amount of each unit produced;

(f) ((~~The~~)) For affordable units, the annual income and household size of each renter or owner 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 a summary of these figures for the city or county; and

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

(3) By December 1, 2020, the department of commerce shall consult with affected stakeholders to review and consider revising the reporting required by this section. The department shall consider amending or providing additional guidance and forms to facilitate effective data collection, compilation, and reporting. The department shall consult participants on effective strategies to provide rental and relocation assistance via a statewide approach. The guidance must also address calculation of equivalent densities in residential targeted areas and methods for evaluating the public benefit pursuant to RCW 84.14.060(1)(f).

(4)(a) A city or county that fails to meet the reporting requirements of this section may not approve applications under RCW 84.14.070 in the calendar year following the year in which the city or county failed to meet the reporting requirements under this section.

(b) The department of commerce must notify the city or county, and the department of revenue, if the department of commerce determines that the city or county failed to meet the reporting requirements under this section.

(c) The department of commerce may provide in rule a mechanism whereby a city or county failing to meet the reporting requirements under this section is able to reestablish its eligibility to approve applications under RCW 84.14.070.

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