
SENATE BILL 5951

State of Washington

66th Legislature

2019 Regular Session

By Senators Braun, Takko, Palumbo, Short, Salomon, Zeiger, Rivers, Becker, Lovelett, Honeyford, and Wilson, L.

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1 AN ACT Relating to tax incentives to encourage residential and
2 mixed-use development in urban infill areas; adding a new section to
3 chapter 82.08 RCW; adding a new chapter to Title 84 RCW; and
4 providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** FINDINGS AND PURPOSE. (1) The legislature
7 finds that certain urban communities have significant vacant land
8 within city limits, which, for various reasons, has been passed over
9 the normal course of urbanization. The legislature further finds that
10 an increased emphasis on developing these passed-over parcels within
11 developed areas, and on maximizing smart growth in areas that are
12 already largely developed or have the potential to be transit-
13 oriented and walkable, with convenient access to neighborhood
14 schools, mixed-use and commercial development, and a range of
15 employment and housing choices, provides a great public benefit to
16 the citizens of Washington.

17 (2) Therefore, it is the intent of the legislature to establish a
18 special property tax valuation incentive and sales tax incentive to
19 encourage increased residential and mixed-use opportunities in the
20 infill areas of urban centers of the state.

1 NEW SECTION. **Sec. 2.** TAX PREFERENCE PERFORMANCE STATEMENT. (1)

2 This section is the tax preference performance statement for the tax
3 preferences created in sections 4 and 16, chapter . . . , Laws of
4 2019 (sections 4 and 16 of this act). This performance statement is
5 only intended to be used for subsequent evaluation of the tax
6 preference.

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

10 (3) It is the legislature's specific public policy objective to
11 incentivize property owners to develop residential and mixed-use
12 properties for urban infill areas as provided in section 4 of this
13 act. It is the legislature's intent to provide a property tax
14 exemption and sales tax exemption that may be used to offset the
15 costs of construction and rehabilitation for these types of
16 properties.

17 (4) If the joint legislative audit and review committee finds
18 that the property tax exemption and sales tax exemption has led to a
19 significant increase in mixed-use and residential development in the
20 urban infill areas of the state in the ten years following enactment
21 of these tax preferences, then the legislature intends to extend the
22 expiration dates of the tax preferences.

23 (5) In order to obtain the data necessary to perform the review
24 in subsection (4) of this section, the joint legislative audit and
25 review committee may refer to the reports required in section 12 of
26 this act.

27 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
28 section apply throughout this chapter unless the context clearly
29 requires otherwise.

30 (1) "Affordable housing" means the sale or rental price of the
31 dwelling unit is below the median sales or rental price of the urban
32 area where the dwelling unit is located.

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

36 (3) "Infill development" means the development of vacant or
37 under-used parcels within existing urban areas that are largely
38 developed or have the potential to be developed.

1 (4) "Urban area" means urban growth area as defined in RCW
2 36.70A.110.

3 NEW SECTION. **Sec. 4.** EXEMPTION—DURATION—VALUATION. (1)(a) The
4 value of new construction, conversion, and rehabilitation
5 improvements in infill development areas, as designated by the
6 governing authority of a city or county, is exempt from ad valorem
7 property taxation for eight years, as follows:

8 (i) For construction, conversion, or rehabilitation of
9 multifamily residential properties that result in the property
10 attaining an urban density of one hundred fifty affordable housing
11 units or more per acre, one hundred percent of the value of new
12 construction, conversion, or rehabilitation; and

13 (ii) For construction, conversion, or rehabilitation of mixed-use
14 properties, seventy-five percent of the value of new construction,
15 conversion, or rehabilitation. Mixed-use properties must provide for
16 a minimum of fifty percent of the space for affordable housing units.

17 (b) The exemptions provided in (a)(i) and (ii) of this subsection
18 do not include the value of land or unrelated improvements not
19 qualifying under this chapter.

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

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

32 (4) At the conclusion of the exemption period, the new or
33 rehabilitated construction cost must be considered as new
34 construction for the purposes of chapter 84.55 RCW.

35 (5) This section expires January 1, 2030.

36 NEW SECTION. **Sec. 5.** APPLICATION—REQUIREMENTS. An owner of
37 property applying for the exemption under this chapter must meet the
38 following requirements:

1 (1) The new or rehabilitated property must be located within an
2 infill development area as identified by the governing authority;

3 (2) The property must meet guidelines as adopted by the governing
4 authority that may include height, density, public benefit features,
5 number and size of proposed development, parking, income limits for
6 occupancy, limits on rents or sale prices, and other adopted
7 requirements indicated necessary by the city or county. The required
8 amenities should be relative to the size of the project and tax
9 benefit to be obtained;

10 (3) New construction and rehabilitation improvements must be
11 completed within three years from the date of approval of the
12 application;

13 (4) Property proposed to be rehabilitated must fail to comply
14 with one or more standards of the applicable state or local building
15 or housing codes. If the property proposed to be rehabilitated is not
16 vacant, an applicant must provide each existing tenant housing of
17 comparable size, quality, and price and a reasonable opportunity to
18 relocate; and

19 (5) The applicant must enter into a contract with the city or
20 county approved by the governing authority, or an administrative
21 official or commission authorized by the governing authority, under
22 which the applicant has agreed to the implementation of the
23 development on terms and conditions satisfactory to the governing
24 authority.

25 NEW SECTION. **Sec. 6.** DESIGNATION OF INFILL DEVELOPMENT AREA.

26 (1) The infill development area must be within an existing developed
27 area or an area with potential to be developed, as determined by the
28 governing authority, and would benefit from additional mixed-use
29 development or residential housing, including affordable housing, to
30 meet the needs of the public who would be likely to live in the area.

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

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

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

14 (5) After designation of an infill development area, the
15 governing authority must adopt and implement standards and guidelines
16 to be utilized in considering applications and making the
17 determinations required under section 8 of this act. The standards
18 and guidelines must establish basic requirements for both new
19 construction and rehabilitation, which must include:

20 (a) Application process and procedures;

21 (b) Requirements that address demolition of existing structures
22 and site utilization; and

23 (c) Building requirements that may include elements addressing
24 parking, height, density, environmental impact, and compatibility
25 with the existing surrounding property and such other amenities as
26 will attract and keep permanent residents and that will properly
27 enhance the livability of the infill development area in which they
28 are to be located.

29 NEW SECTION. **Sec. 7.** APPLICATION PROCEDURES. An owner of
30 property seeking tax incentives under this chapter must complete the
31 following procedures:

32 (1) In the case of rehabilitation or where demolition or new
33 construction is required, the owner must secure from the governing
34 authority or duly authorized representative, before commencement of
35 rehabilitation improvements or new construction, verification of
36 property noncompliance with applicable building and housing codes;

37 (2) In the case of new and rehabilitated mixed-use development or
38 multifamily housing, the owner must apply to the city or county on

1 forms adopted by the governing authority. The application must
2 contain the following:

3 (a) Information setting forth the grounds supporting the
4 requested exemption including information indicated on the
5 application form or in the guidelines;

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

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

11 (3) The applicant must verify the application by oath or
12 affirmation; and

13 (4) The application must be accompanied by the application fee,
14 if any, required under section 10 of this act. The governing
15 authority may permit the applicant to revise an application before
16 final action by the governing authority.

17 NEW SECTION. **Sec. 8.** APPROVAL—REQUIRED FINDINGS. The duly
18 authorized administrative official or committee of the city or county
19 may approve the application if it finds that:

20 (1) The proposed project meets the minimum requirements for the
21 type of property development as provided in section 4 of this act;

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

25 (3) The owner has complied with all standards and guidelines
26 adopted by the city or county under this chapter; and

27 (4) The site is located in an infill development area that has
28 been designated by the governing authority in accordance with
29 procedures and guidelines indicated in section 6 of this act.

30 NEW SECTION. **Sec. 9.** PROCESSING—APPROVAL—DENIAL—APPEAL. (1)
31 The governing authority or an administrative official or commission
32 authorized by the governing authority must approve or deny an
33 application filed under this chapter within ninety days after receipt
34 of the application.

35 (2) If the application is approved, the city or county must issue
36 the owner of the property a conditional certificate of acceptance of
37 tax exemption. The certificate must contain a statement by a duly
38 authorized administrative official of the governing authority that

1 the property has complied with the required findings indicated in
2 section 8 of this act.

3 (3) If the application is denied by the authorized administrative
4 official or commission authorized by the governing authority, the
5 deciding administrative official or commission must state in writing
6 the reasons for denial and send the notice to the applicant at the
7 applicant's last known address within ten days of the denial.

8 (4) Upon denial by a duly authorized administrative official or
9 commission, an applicant may appeal the denial to the governing
10 authority within thirty days after receipt of the denial. The appeal
11 before the governing authority must be based upon the record made
12 before the administrative official with the burden of proof on the
13 applicant to show that there was no substantial evidence to support
14 the administrative official's decision. The decision of the governing
15 body in denying or approving the application is final.

16 NEW SECTION. **Sec. 10.** FEES. The governing authority may
17 establish an application fee. This fee may not exceed an amount
18 determined to be required to cover the cost to be incurred by the
19 governing authority and the assessor in administering this chapter.
20 The application fee must be paid at the time the application for
21 limited exemption is filed. If the application is approved, the
22 governing authority shall pay the application fee to the county
23 assessor for deposit in the county current expense fund, after first
24 deducting that portion of the fee attributable to its own
25 administrative costs in processing the application. If the
26 application is denied, the governing authority may retain that
27 portion of the application fee attributable to its own administrative
28 costs and refund the balance to the applicant.

29 NEW SECTION. **Sec. 11.** FILING REQUIREMENTS. (1) Upon completion
30 of rehabilitation or new construction for which an application for a
31 limited tax exemption under this chapter has been approved, the owner
32 must file with the city or county the following:

33 (a) A statement of the amount of rehabilitation or construction
34 expenditures made with respect to the property;

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

1 (c) If applicable, a statement that the project meets the
2 specific development requirements in section 4 of this act; and

3 (d) A statement that the work has been completed within three
4 years of the issuance of the conditional certificate of tax
5 exemption.

6 (2) Within thirty days after receipt of the statements required
7 under subsection (1) of this section, the authorized representative
8 of the city or county must determine whether the work completed is
9 consistent with the application and the contract approved by the city
10 or county and is qualified for a limited tax exemption under this
11 chapter. The city or county must also determine which specific
12 improvements completed meet the requirements and required findings.

13 (3) If the rehabilitation, conversion, or construction is
14 completed within three years of the date the application for a
15 limited tax exemption is filed under this chapter, or within an
16 authorized extension of this time limit, and the authorized
17 representative of the city or county determines that improvements
18 were constructed consistent with the application and other applicable
19 requirements, and the owner's property is qualified for a limited tax
20 exemption under this chapter, the city or county must file the
21 certificate of tax exemption with the county assessor within ten days
22 of the expiration of the thirty-day period provided under subsection
23 (2) of this section.

24 (4) The authorized representative of the city or county must
25 notify the applicant that a certificate of tax exemption is not going
26 to be filed if the authorized representative determines that:

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

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

32 (c) If applicable, the specific development requirements in
33 section 4 of this act were not met; or

34 (d) The owner's property is otherwise not qualified for limited
35 exemption under this chapter.

36 (5) If the authorized representative of the city or county finds
37 that construction or rehabilitation of the property was not completed
38 within the required time period due to circumstances beyond the
39 control of the owner and that the owner has been acting and could
40 reasonably be expected to act in good faith and with due diligence,

1 the governing authority or the city or county official authorized by
2 the governing authority may extend the deadline for completion of
3 construction or rehabilitation for a period not to exceed twenty-four
4 consecutive months.

5 (6) The governing authority may provide by ordinance for an
6 appeal of a decision by the deciding officer or authority that an
7 owner is not entitled to a certificate of tax exemption to the
8 governing authority, a hearing examiner, or other city or county
9 officer authorized by the governing authority to hear the appeal in
10 accordance with such reasonable procedures and time periods as
11 provided by ordinance of the governing authority. The owner may
12 appeal a decision by the deciding officer or authority that is not
13 subject to local appeal or a decision by the local appeal authority
14 that the owner is not entitled to a certificate of tax exemption in
15 superior court under RCW 34.05.510 through 34.05.598, if the appeal
16 is filed within thirty days of notification by the city or county to
17 the owner of the decision being challenged.

18 NEW SECTION. **Sec. 12.** REPORT—FILING. (1) Thirty days after the
19 anniversary of the date of the certificate of tax exemption and each
20 year for the tax exemption period, the owner of the rehabilitated or
21 newly constructed property must file with a designated authorized
22 representative of the city or county an annual report indicating the
23 following:

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

27 (b) A certification by the owner that the property has not
28 changed use since the date of the certificate approved by the city or
29 county;

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

32 (d) Any additional information requested by the city or county.

33 (2) All cities or counties, which issue certificates of tax
34 exemption under this chapter, must report annually by December 31st
35 of each year, beginning in 2020, to the department of commerce. The
36 report must include the following information:

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

38 (b) The total number and types of developments constructed or to
39 be constructed;

- 1 (c) The actual development cost of each property;
- 2 (d) The total monthly rent or total sale amount of each unit
- 3 produced; and
- 4 (e) The value of the tax exemption for each project receiving a
- 5 tax exemption and the total value of tax exemptions granted.

6 NEW SECTION. **Sec. 13.** CANCELLATION OF EXEMPTION. (1) If
7 improvements have been exempted under this chapter, the improvements
8 continue to be exempted for the applicable period under section 4 of
9 this act, so long as they are not converted to another use and
10 continue to satisfy all applicable conditions. If the owner intends
11 to convert the development to another use, or if applicable, if the
12 owner intends to discontinue compliance with any other condition to
13 exemption, the owner must notify the assessor within sixty days of
14 the change in use or intended discontinuance. If, after a certificate
15 of tax exemption has been filed with the county assessor, the
16 authorized representative of the governing authority discovers that a
17 portion of the property is changed or will be changed to a use that
18 no longer meets the requirements, as previously approved or agreed
19 upon by contract between the city or county and the owner, the tax
20 exemption must be canceled and the following must occur:

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

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

34 (c) The additional tax owed together with interest and penalty
35 must become a lien on the land and attach at the time the property or
36 portion of the property no longer meets applicable requirements, and
37 has priority to and must be fully paid and satisfied before a
38 recognizance, mortgage, judgment, debt, obligation, or responsibility
39 to or with which the land may become charged or liable. The lien may

1 be foreclosed upon expiration of the same period after delinquency
2 and in the same manner provided by law for foreclosure of liens for
3 delinquent real property taxes. An additional tax unpaid on its due
4 date is delinquent. From the date of delinquency until paid, interest
5 must be charged at the same rate applied by law to delinquent ad
6 valorem property taxes.

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

24 (3) Upon determination by the governing authority or authorized
25 representative to terminate an exemption, the county officials having
26 possession of the assessment and tax rolls must correct the rolls in
27 the manner provided for omitted property under RCW 84.40.080. The
28 county assessor must make such a valuation of the property and
29 improvements as is necessary to permit the correction of the rolls.
30 The value of the new construction, conversion, and rehabilitation
31 improvements added to the rolls is considered as new construction for
32 the purposes of chapter 84.55 RCW. The owner may appeal the valuation
33 to the county board of equalization under chapter 84.48 RCW and
34 according to the provisions of RCW 84.40.038. If there has been a
35 failure to comply with this chapter, the property must be listed as
36 an omitted assessment for assessment years beginning January 1st of
37 the calendar year in which the noncompliance first occurred, but the
38 listing as an omitted assessment may not be for a period more than
39 three calendar years preceding the year in which the failure to
40 comply was discovered.

1 NEW SECTION. **Sec. 14.** GROWTH MANAGEMENT HEARINGS BOARD AND
2 STATE ENVIRONMENTAL POLICY ACT REVIEW. (1) Any plans, development
3 regulations, or amendments adopted by a city or county to implement
4 this act are not subject to review under RCW 36.70A.280 until the
5 next periodic update as required under RCW 36.70A.130.

6 (2) Any state environmental policy act decision, as referenced in
7 chapter 43.21C RCW, that arises from subsection (1) of this section
8 or qualified projects under section 8 of this act are not subject to
9 appeal under RCW 43.21C.075.

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

12 NEW SECTION. **Sec. 16.** A new section is added to chapter 82.08
13 RCW to read as follows:

14 (1) (a) The tax levied by RCW 82.08.020 does not apply to sales to
15 a developer or property owner for the cost of labor for qualifying
16 projects under section 8 of this act.

17 (b) Sellers making tax-exempt sales under this section must
18 obtain from the purchaser an exemption certificate in a form and
19 manner prescribed by the department by rule. The seller must retain a
20 copy of the certificate for the seller's files.

21 (2) This section expires January 1, 2030.

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