S-4225.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5118**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2024 Regular Session**

**By** Senate Housing (originally sponsored by Senators Kuderer, Wellman, Frame, Hunt, Keiser, Liias, Lovelett, Nobles, and Randall)

AN ACT Relating to modifying the multifamily property tax exemption to promote development of long-term affordable housing; amending RCW 84.14.010, 84.14.020, 84.14.021, 84.14.040, 84.14.070, 84.14.100, and 84.14.110; and creating a new section.

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

**Sec.**  RCW 84.14.010 and 2021 c 187 s 2 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 monthly housing costs, including utilities other than telephone, do not exceed 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, (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, or (d) any city that otherwise does not meet the qualifications under (a) through (c) of this subsection, until December 31, 2031, that complies with RCW 84.14.020(1)(a)(iii) or 84.14.021(1)(b)~~)) any city or town, including a code city.

(4) "Conversion" means either the conversion of an existing residential building, in whole or in part, or the conversion of a nonresidential building, in whole or in part, to multiple-unit housing under this chapter.

(5) "County" means a county with an unincorporated population of at least 170,000.

((~~(5)~~)) (6) "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)~~)) (7) "Growth management act" means chapter 36.70A RCW.

((~~(7)~~)) (8) "Household" means a single person, family, or unrelated persons living together.

((~~(8)~~)) (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 area median ((~~family~~)) income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the United States department of housing and urban development.

((~~(9)~~)) (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 area median ((~~family~~)) income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the United States department of housing and urban development.

((~~(10)~~)) (11) "Multiple-unit housing" means a building or a group of buildings 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 or conversion of vacant, underutilized, or substandard residential or nonresidential buildings to multifamily housing.

((~~(11)~~)) (12) "Owner" means the property owner of record.

((~~(12)~~)) (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.

((~~(13)~~)) (14) "Rehabilitation improvements" means modifications to existing residential or nonresidential structures, that are vacant or underutilized 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.

((~~(14)~~)) (15) "Residential targeted area" means an area within an urban center or urban growth area that 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.

((~~(15)~~)) (16) "Rural county" means a county with a population between fifty thousand and seventy-one thousand and bordering Puget Sound.

((~~(16)~~)) (17) "Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

((~~(17)~~)) (18) "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 2021 c 187 s 3 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 before July 22, 2007, the value is exempt for~~ ((~~ten~~)) ~~10 successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate;~~

~~(ii) For properties for which applications for certificates of tax exemption eligibility are submitted under this chapter 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;

((~~(B)~~)) (ii) For ((~~twelve~~)) 12 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 and meets the conditions in this subsection (1)(a)(ii)((~~(B)~~)). For the property to qualify for the ((~~twelve~~)) 12-year exemption under this subsection, the applicant must commit to renting or selling at least ((~~twenty~~)) 20 percent of the multifamily housing living units net square footage as affordable housing units to a mix of low and moderate‑income households, ensuring that the number of bedrooms for the designated affordable dwelling units is proportional to the number of bedrooms provided at the property as market rate units, 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 authorizing authority must require the applicant to record a covenant or deed restriction that defines the affordability requirements and their duration and the minimum requirement of this subsection (1)(a)(ii)((~~(B)~~)) may be satisfied solely through housing affordable to moderate‑income households; ((~~or~~

~~(C)~~)) (iii) For 20 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 and meets the conditions in this subsection (1)(a)((~~(ii)(C)~~)) (iii). For the property to qualify for the 20-year exemption under this subsection, the project must be located within ((~~one mile of~~)) a residential targeted area that includes areas with high capacity transit of at least 15 minute scheduled frequency, in a city that has implemented((~~, as of July 25, 2021,~~)) a mandatory inclusionary zoning requirement for affordable housing that ensures affordability of housing units for a period of at least 99 years ((~~and that has a population of no more than 65,000 as measured on July 25, 2021~~)). To qualify for the exemption provided in this subsection (1)(a)((~~(ii)(C)~~)) (iii), the applicant must commit to renting at least 20 percent of the ((~~dwelling~~)) living units net square footage as affordable housing units to low-income households for a term of at least 99 years, ensuring that the number of bedrooms for the designated affordable dwelling units is proportional to the number of bedrooms provided at the property as market rate units, and the property must satisfy that commitment and all required affordability and income eligibility conditions adopted by the local government under this chapter. A city must require the applicant to record a covenant or deed restriction that ensures the continuing rental of units subject to these affordability requirements consistent with the conditions in this subsection (1)(a)((~~(ii)(C)~~)) (iii) for a period of no less than 99 years. The covenant or deed restriction must also address criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanently affordable low-income housing consistent with this subsection (1)(a)((~~(ii)(C)~~)) (iii); and

((~~(iii)~~)) (iv) Until December 31, 2026, ((~~for a city as defined in RCW 84.14.010(3)(d),~~)) for 12 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 and meets the conditions in this subsection (1)(a)((~~(iii)~~)) (iv). For the property to qualify for the 12-year exemption under this subsection, the applicant must commit to renting or selling at least 20 percent of the multifamily housing living units net square footage as affordable housing units to low and moderate-income households, ensuring that the number of bedrooms for the designated affordable dwelling units is proportional to the number of bedrooms provided at the property as market rate units, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the local government under this chapter, and the ((~~area~~)) project must ((~~be zoned to~~)) have an average minimum density equivalent to 15 dwelling units or more per ((~~gross~~)) net acre, or for cities with a population over 20,000, the ((~~area~~)) project must ((~~be zoned to~~)) have an average minimum density equivalent to 25 dwelling units or more per ((~~gross~~)) net acre. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection (1)(a)((~~(iii)~~)) (iv) may be satisfied solely through housing affordable to low-income or moderate-income households.

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

((~~(c) For properties receiving an exemption as provided in (a)(ii)(B) of this subsection that are in compliance with existing contracts and where the certificate of tax exemption is set to expire after June 11, 2020, but before December 31, 2021, the exemption is extended until December 31, 2021, provided that the property must satisfy any eligibility criteria or limitations provided in this chapter as a condition to the existing exemption for a given property continue to be met. For all properties eligible to receive an extension pursuant to this subsection (1)(c), the city or county that issued the initial certificate of tax exemption, as required in RCW 84.14.090, must notify the county assessor and the applicant of the extension of the certificate of tax exemption.~~))

(ii) The exemptions provided in (a)(ii) and (iii) of this subsection include the value of the new housing constructed and that portion of the land value determined by multiplying the land value by the percentage of square footage of affordable housing constructed in comparison to the total square footage of housing for a qualifying project. The exemptions do not include the value of 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 or conversion of nonresidential buildings to multiple-unit housing, the exemption does not include the value of improvements constructed prior to the submission of the application required under this chapter unless such improvements are integral to the use of the building for multiple-unit housing purposes. 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 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) or (B)~~)) (i) or (ii) of this section, following the initial exemption period ((~~or the extension period authorized in subsection (1)(c) of this section~~)), the exemption period may be extended for an additional 12 years for projects that are within 18 months of expiration contingent on city or county approval. For the property to qualify for an extension under this subsection (6), 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)~~)) (i) or (ii) of this section as applicable at the time of the extension application, and the applicant commits to renting or selling at least 20 percent of the multifamily housing living units net square footage as affordable housing units for low-income households.

(7) At the end of both the ((~~tenth~~)) 10th and ((~~eleventh~~)) 11th years of an extension, for ((~~twelve~~)) 12-year extensions of the exemption, applicants must provide tenants of rent-restricted units with notification of intent to provide the tenant with rental relocation assistance as provided in subsection (8) of this section.

(8)(a) Except as provided in (b) of this subsection, for any 12-year exemption authorized under subsection (1)(a)(ii)((~~(B)~~)) or ((~~(iii)~~)) (iv) of this section after July 25, 2021, or for any 12-year exemption extension authorized under subsection (6) of this section, at the expiration of the exemption the applicant must provide tenant relocation assistance in an amount equal to one month's rent to a qualified tenant within the final month of the qualified tenant's lease. To be eligible for tenant relocation assistance under this subsection, the tenant must occupy an income-restricted unit at the time the exemption expires and must qualify as a low-income household under this chapter at the time relocation assistance is sought.

(b) If affordability requirements consistent, at a minimum, with those required under subsection (1)(a)(ii)((~~(B)~~)) or ((~~(iii)~~)) (iv) of this section remain in place for the unit after the expiration of the exemption, relocation assistance in an amount equal to one month's rent must be provided to a qualified tenant within the final month of a qualified tenant's lease who occupies an income-restricted unit at the time those additional affordability requirements cease to apply to the unit.

(9) Annual household incomes of tenants within income-restricted units may increase to up to 150 percent of the established unit income limit without eviction or penalty at lease renewal.

(10) To calculate square footage for living units in each project as required under this section, the following procedure must be applied:

(a) Each living unit must be measured to the inside finished surface of the exterior wall and to the inside surface of walls separating living units from other living units and common areas. These calculations are to establish the net living area of all units in a project qualifying under this chapter.

(b) Each individual unit's net square footage must then be calculated as a percentage of all living units' net square footage in the project.

(11) For the purpose of defining bedroom parity under subsection (1)(a)(ii), (iii), or (iv) of this section, market rate units with three or more bedrooms must be considered equivalent to three-bedroom affordable dwelling units.

(12) No new exemptions may be provided under this section beginning on or after January 1, 2032. No extensions may be granted under subsection (6) of this section on or after January 1, 2046.

**Sec.**  RCW 84.14.021 and 2021 c 187 s 7 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: For 20 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 and meets the conditions in this section. For the property to qualify for the 20-year exemption under this section, at least 25 percent of the units must be built by or sold to a qualified nonprofit or local government that will assure permanent affordable homeownership. The remaining 75 percent of units may be rented or sold at market rates.

(b) Until December 31, 2031, ((~~for a city as defined in RCW 84.14.010(3)(d),~~)) in any city the value of new housing construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation, as follows: For 20 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 and meets the conditions in this section. For the property to qualify for the 20-year exemption under this section, at least 25 percent of the units must be sold to a qualified nonprofit or local government partner that will assure permanent affordable homeownership. The remaining 75 percent of units may be rented or sold at market rates. The ((~~area~~)) project must ((~~be zoned to~~)) have an average minimum density equivalent to 15 dwelling units or more per ((~~gross~~)) net acre, or for cities with a population over 20,000, the area must be zoned to have an average minimum density equivalent to 25 dwelling units or more per gross acre.

(2) Permanently affordable homeownership units or permanently affordable rental units must be sold or rented to households earning no more than 80 percent of the ((~~average~~)) area median income for the city or local jurisdiction in which the unit is located.

(3) A local jurisdiction may assign and collect an administration fee at each point of sale to cover the administrative costs for oversight of the program to maintain permanently affordable housing units consistent with this section.

(4) The exemptions in this section do not include the value of ((~~land or~~)) nonhousing-related improvements not qualifying under this chapter. The exemptions in this section include the value of the new housing constructed and that portion of the land value determined by multiplying the overall land value by the percentage of square footage of affordable housing constructed in comparison to the total square footage of housing for a qualifying project.

(5) At the conclusion of the exemption period, 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 purposes of this section, "permanently affordable homeownership" means homeownership that, in addition to meeting the definition of "affordable housing" in RCW 43.185A.010, is:

(a) Sponsored by a nonprofit organization or governmental entity;

(b) Subject to a ground lease or deed restriction that includes:

(i) A resale restriction designed to provide affordability for future low and moderate-income homebuyers;

(ii) A right of first refusal for the sponsor organization to purchase the home at resale; and

(iii) A requirement that the sponsor must approve any refinancing, including home equity lines of credit; and

(c) Sponsored by a nonprofit organization or governmental entity and the sponsor organization:

(i) Executes a new ground lease or deed restriction with a duration of at least 99 years at the initial sale and with each successive sale; and

(ii) Supports homeowners and enforces the ground lease or deed restriction.

(7) The department of commerce must develop a template for permanent affordability for home or condo ownership through deed restrictions that can be used by a city or local government to ensure compliance with this section.

(8) No new exemptions may be provided under this section beginning on or after January 1, 2032.

**Sec.**  RCW 84.14.040 and 2021 c 187 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 an urban center, as determined by the governing authority;

(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;

(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~~)) with a population greater than 275,000; ((~~and~~)) or (iii) until July 15, ((~~2024~~)) 2026, 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 .25 miles of a corridor where bus service is scheduled at least every thirty minutes for no less than 10 hours per weekday and is in service or is planned for service to begin within five years of designation; and

(e) For a residential targeted area designated by a county after July 25, 2021, the county governing authority must conduct an evaluation of the risk of potential displacement of residents currently living in the area if the tax incentives authorized in this chapter were to be used in the area. The county may use an existing analysis if one exists. An area may not be designated as a residential targeted area unless: (i) The evaluation finds that the risk of displacement is minimal; or (ii) the governing authority mitigates the risk of displacement with locally adopted mitigation measures such as, but not limited to, ensuring that those directly or indirectly displaced have a first right of refusal to occupy the newly created dwelling units receiving an exemption under this chapter, including the affordable units if they otherwise meet the qualifications.

(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. The notice must be sent to the affected taxing district.

(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

(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)(a) 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 ((~~(C)~~)) (iii), or as conditions to any combination of exemptions authorized under this chapter, 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)~~)) or ((~~(C)~~)) (iii).

(b) Additionally, a governing authority may adopt and implement as a contractual prerequisite to any exemption granted pursuant to RCW 84.14.020:

(i) A requirement that applicants pay at least the prevailing rate of hourly wage established under chapter 39.12 RCW for journey level and apprentice workers on residential and commercial construction;

(ii) Payroll record requirements consistent with RCW 39.12.120(1);

(iii) Apprenticeship utilization requirements consistent with RCW 39.04.310; and

(iv) A contracting inclusion plan developed in consultation with the office of minority and women's business enterprises.

(7) ((~~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 (7) may be satisfied solely through housing affordable to moderate-income households.~~

~~(8)~~)) Nothing in this section prevents a governing authority from adopting and implementing additional requirements to any exemption granted under RCW 84.14.020.

**Sec.**  RCW 84.14.070 and 2012 c 194 s 7 are each amended to read as follows:

(1) The governing authority or an administrative official or commission authorized by the governing authority must approve or deny an application filed under this chapter within ninety days after receipt of the application.

(2) If the application is approved, the city or county must issue the owner of the property a conditional certificate of acceptance of tax exemption. The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required findings indicated in RCW 84.14.060. This certificate must be sent to the county assessor upon issuance.

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

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

**Sec.**  RCW 84.14.100 and 2021 c 187 s 5 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, or the qualified nonprofit or local government that will assure permanent affordable homeownership for at least 25 percent of the units for properties receiving an exemption under RCW 84.14.021, 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 April 1st of each year, beginning in 2007, to the department of commerce. A city or county must be in compliance with the reporting requirements of this section to offer certificates of tax exemption for multiunit housing authorized in this chapter. 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 annual household income and household size for each of the affordable 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; and

(h) Contracts executed, amended, or extended under RCW 84.14.030(6) during the previous year.

(3)(a) The department of commerce must adopt and implement a program to effectively audit or review that the owner or operator of each property for which a certificate of tax exemption has been issued, except for those properties receiving an exemption that are owned or operated by a nonprofit or for those properties receiving an exemption from a city or county that operates an independent audit or review program, is offering the number of units at rents as committed to in the approved application for an exemption and that the tenants are being properly screened to be qualified for an income-restricted unit. The audit or review program must be adopted in consultation with local governments and other stakeholders and may be based on auditing a percentage of income-restricted units or properties annually. A private owner or operator of a property for which a certificate of tax exemption has been issued under this chapter, must be audited at least once every five years.

(b) If the review or audit required under (a) of this subsection for a given property finds that the owner or operator is not offering the number of units at rents as committed to in the approved application or is not properly screening tenants for income-restricted units, the department of commerce must notify the city or county and the city or county must impose and collect a sliding scale penalty not to exceed an amount calculated by subtracting the amount of rents that would have been collected had the owner or operator complied with their commitment from the amount of rents collected by the owner or operator for the income-restricted units, with consideration of the severity of the noncompliance. If a subsequent review or audit required under (a) of this subsection for a given property finds continued substantial noncompliance with the program requirements, the exemption certificate must be canceled pursuant to RCW 84.14.110.

(c) The department of commerce may impose and collect a fee, not to exceed the costs of the audit or review, from the owner or operator of any property subject to an audit or review required under (a) of this subsection.

(d) The department of commerce may develop rules necessary for the implementation of this section.

(4) The department of commerce must provide guidance to cities and counties, which issue certificates of tax exemption for multiunit housing that conform to the requirements of this chapter, on best practices in managing and reporting for the exemption programs authorized under this chapter, including guidance for cities and counties to collect and report demographic information for tenants of units receiving a tax exemption under this chapter.

(5) This section expires January 1, 2058.

**Sec.**  RCW 84.14.110 and 2012 c 194 s 10 are each amended to read as follows:

(1) If improvements have been exempted under this chapter, the improvements continue to be exempted for the applicable period under RCW 84.14.020, so long as they are not converted to another use and continue to satisfy all applicable conditions. If the owner intends to convert the multifamily development to another use, or if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in RCW 84.14.020 or any other condition to exemption, the owner must notify the assessor within sixty days of the change in use or intended discontinuance. If, after a certificate of tax exemption has been filed with the county assessor, the authorized representative of the governing authority discovers that a portion of the property is changed or will be changed to a use that is other than residential or that housing or amenities no longer meet the requirements, including, if applicable, affordable housing requirements, as previously approved or agreed upon by contract between the city or county and the owner and that the multifamily housing, or a portion of the housing, no longer qualifies for the exemption, the tax exemption must be canceled and the following must occur:

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

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

(c) The additional tax owed together with interest and penalty must become a lien on the land and attach at the time the property or portion of the property is removed from multifamily use or the amenities no longer meet applicable requirements, and 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. 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; and

(d) If the owner of an income-restricted unit intended solely for owner occupancy sells that unit at market rate and a penalty applies, the city or county may assign the highest penalty to the owner who caused the project to be out of compliance and assign a lesser or no penalty to the other owners.

(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 must notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority or authorized representative, within thirty days by filing a notice of appeal with the clerk of the governing authority, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598.

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

NEW SECTION. **Sec.**  RCW 82.32.805 and 82.32.808 do not apply to this act.

**--- END ---**