

HOUSE BILL REPORT

HB 1596

As Reported by House Committee On:

Local Government
Finance

Title: An act relating to providing local governments with options to increase affordable housing in their communities.

Brief Description: Providing local governments with options to increase affordable housing in their communities.

Sponsors: Representatives Kloba, Bateman, Goodman, Springer, Reed, Ryu, Reeves, Ramel, Doglio, Pollet and Hackney.

Brief History:

Committee Activity:

Local Government: 2/8/23, 2/15/23 [DPS];

Finance: 2/22/23 [DPS(LG)].

Brief Summary of Substitute Bill

- Allows King County, and cities within the county, to establish an Affordable Housing Exemption Program that can exempt accessory dwelling units rented to very low-income households from property taxation for six-year periods.
- Specifies conditions for the granting of an exemption and continuing requirements for an exemption to be maintained.
- Provides for the cancellation of a tax exemption, and for the imposition of back property taxes, interest, and a monetary penalty if the cancellation is because of noncompliance with the exemption requirements.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Berg and Riccelli.

Minority Report: Without recommendation. Signed by 2 members: Representatives Jacobsen, Assistant Ranking Minority Member; Griffey.

Staff: Kellen Wright (786-7134).

Background:

All property, real and personal, in Washington is subject to annual property taxation based on its highest and best use unless specifically exempted. Property tax is an ad valorem tax, meaning that the property is taxed according to its value. Property taxes can be imposed by the state or, when authorized by the Legislature, by local governments. The state Constitution requires that all classes of property must be taxed at a uniform rate, and that all real estate constitutes a class of property. The Constitution, however, also grants the Legislature a general power to exempt property from taxation, and the specific power to grant property tax relief to retired persons.

There have been numerous property tax exemptions granted by the Legislature. Churches, libraries, various nonprofit organizations, and schools may all qualify for a property tax exemption, as can residential properties owned by retirees that are 61 or older, or by veterans with a service-related disability. Multiple-family properties in urban centers can also qualify for a property tax exemption under certain conditions, with a longer exemption available for properties that rent or sell a certain percentage of the units to low-income households. Improvements to single-family dwellings, including the construction of an attached or detached accessory dwelling unit (ADU) on the property are also exempt from property taxation for three years after completion, to the extent that the improvement represents 30 percent or less of the value of the original structure. This exemption can only be claimed once every five years.

Generally, an ADU is a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

Summary of Substitute Bill:

Affordable Housing Exemption Programs.

The legislative authority of a county with a population of 1.5 million or more, or of a city within such a county (local governments), may establish an Affordable Housing Incentive Program. This program can offer ad valorem property tax exemptions to attached, detached, or built-in ADUs that are used for very low-income rental housing. Under such a

program, the local government must adopt standards consistent with local housing needs for determining which properties qualify, including rent and tenant income limitations. The local government must also adopt health and quality standards that must be met by a property in order to qualify, including standards for density, parking, and amenities. The health and quality standards must, at a minimum, be comparable to United States Housing and Urban Development standards applicable to public housing. A household is very low income if those within the household make, when adjusted for the size of the household, below 50 percent of the area median income for the county in which the household is located.

A local government may limit eligibility for a tax exemption to particular areas that are at risk of displacement or that present affordable housing opportunities near community infrastructure. A local government may also limit the program to only apply to ADUs that are detached from a single-family dwelling.

General Requirements for Qualification.

In order for a property to qualify for the exemption, certain conditions must be met:

- The property must have a single-family residence and an attached, detached, or built-in ADU permanently affixed to the land.
- The property owner must live in the main house or the ADU.
- The ADU must comply with the local government's adopted standards, it must be affordable to very low-income households, and the rent, including required utilities, cannot be more than 30 percent of the tenant's income limit.
- The ADU must comply with all applicable land use regulations, building code requirements, and safety standards.
- The property must pass an inspection by the local government made to ensure compliance with the conditions.

To have the property qualified, the property owner must:

- apply to the local government for the tax exemption using an application process and procedures adopted by the local government;
- provide information setting out the grounds for the exemption, and providing a description of the project;
- certify that the tenant family size and annual income requirements are met;
- pay an application fee to cover local government and county assessor costs associated with the Affordable Housing Incentive Program, with the portion of the fee that is designated for county assessor costs to be refunded if the application is denied; and
- enter into a contract agreeing to the terms and conditions of the tax exemption.

Application Approval.

If these conditions are met, the local government may approve the application and issue a certificate of tax exemption to the property owner. The exemption can only apply to the ADU and to that portion of the underlying land that is dedicated solely to the ADU. The local government must submit a copy of the certificate of tax exemption to the county

assessor by August 1 of the year prior to the exemption going into effect. Beginning January 1 of the year after the certificate of exemption is filed with the county assessor, the property is exempt from property taxation for six years. The exemption may be renewed for subsequent six-year periods for as long as the property remains qualified.

A local government that issues tax exemptions must submit an annual report to the Department of Commerce with the total number of exemption certificates granted, the total monthly rent of each ADU, and the dollar amount issued for each exemption.

Application Denial.

If the application is denied, the local government must provide the reasons for the denial in writing to the applicant within 10 days of the denial. The applicant may appeal the decision within 30 days to the local government or its designated agent, with burden on the applicant to show that the local government's decision was not supported by substantial evidence.

Continuing Eligibility Requirements and Cancellation of an Exemption.

In order to remain qualified for the property tax exemption during the six-year exemption period, the property owner must file an annual report and maintain compliance with the program's requirement.

Each year, the property owner must file a report with the local government with an annual certification of family size and annual income obtained from each tenant, a statement that the property remains in compliance with the local government standards, and any other information required by the local government to determine compliance. Annual household income requalification, however, is not required after a household initially qualifies, unless the adults living in the ADU change.

The property must also remain in compliance with all of the tax exemption requirements. The county assessor must continue to annually value the exempt portions of the property. If a property owner intends to discontinue compliance, then the owner must notify tenants and the local government at least 60 days prior to discontinuing compliance. The exemption is then canceled. An exemption must also be canceled if the local government finds that a portion of the property is no longer in compliance.

If cancellation occurs because of noncompliance, then an additional property tax must be imposed on the property, along with interest on the additional property tax and a penalty. The additional property tax must be the amount of the difference between the tax paid on the property with the exemption in place and the tax that would have been paid if there had been no exemption. Additional interest is due on this amount at the rate that interest is imposed on delinquent property taxes, with the interest calculated from the dates that the additional tax amount would have been payable without the exemption. Finally, a penalty equal to 20 percent of the additional tax amount must be imposed. The additional tax, interest, and penalty are a lien on the property and attach at the time that the tax exemption is canceled. The lien has priority over other obligations except for those related to deferred

property taxes, and may be foreclosed on if unpaid. The additional tax is due at the time of the next property tax payment on the property.

If a tax exemption is going to be canceled, the local government must notify the taxpayer and the assessor of the cancelation. The property owner may appeal the determination within 30 days, and must specify the factual and legal basis for the appeal. The local government may hear the appeal, during which all parties may be heard and competent evidence received. The burden is on the taxpayer to show that the local government's decision was not supported by substantial evidence. After the hearing, the local government's decision must be affirmed, denied, or modified by the decisionmaker. This decision can be appealed to superior court.

Substitute Bill Compared to Original Bill:

The substitute bill:

- limits the governing authorities that can establish an affordable housing incentive program to the legislative authority of a county with 1.5 million or more people, or of a city within such a county; and
- provides that tax preference expiration dates do not apply to the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Accessory dwelling units provide a critical opportunity to create housing for all residents, including for those with lower incomes. Cities can incentivize ADUs and make them easier to build, but rental of these units have slowed as construction costs have gone up. This bill would help to increase the financial incentives for the creation and rental of ADUs. This bill is a win for the renter, the community, and for the property owner. The intent is to limit the land receiving the exemption to the land underlying the ADUs. There are reporting requirements in the bill to ensure that there is not any malfeasance in claiming the tax exemption. There are some concerns about the practicability of the program in the bill, and other counties have expressed concerns about their ability to comply. The bill should be narrowed to just King County so that King County can act as a pilot project to show that the program is workable and effective.

(Opposed) Government programs have added more bureaucracy, which has caused homelessness problems to go unresolved. There needs to be a wider tax base. Cargo and

delivery services should be taxed, and bureaucracy should be limited. Transit oriented development will lead to more money for developers.

Persons Testifying: (In support) Neal Black and Brian Enslow, City of Kirkland.

(Opposed) John Worthington.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill by Committee on Local Government be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Berg, Chair; Street, Vice Chair; Ramel, Santos, Springer, Thai, Walen and Wylie.

Minority Report: Do not pass. Signed by 2 members: Representatives Orcutt, Ranking Minority Member; Barnard.

Minority Report: Without recommendation. Signed by 3 members: Representatives Jacobsen, Assistant Ranking Minority Member; Chopp and Stokesbary.

Staff: Rachelle Harris (253-444-316).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Local Government:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 21, 2023.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is one of many that is attempting to solve the problem of affordable housing. This is a private sector approach to fix the housing shortage. Houses are often people's largest asset. The program is voluntary that cities can adopt if it is a helpful tool, and they have discretion over several parts of the program. There are strong safeguards against homeowners trying to game the system as well as a strong claw back provision. If the owner wants to stop participation, they must notify the local government of cancellation.

(Opposed) None.

Persons Testifying: Representative Shelley Kloba, prime sponsor; and Kelli Curtis, City of Kirkland.

Persons Signed In To Testify But Not Testifying: None.