Housing Committee

HB 2308

Brief Description: Concerning housing affordability tax incentives for existing structures.

Sponsors: Representatives Walen, Hutchins, Robertson, Santos, Barkis and Shavers.

Brief Summary of Bill

- Authorizes city governing authorities to establish a property tax exemption program for properties which are converted into buildings that contain affordable housing units for low-income households.

Hearing Date: 1/22/24

Staff: Austin Borcherding (786-7094).

Background:

Tax Incentives for Creating or Developing Affordable Housing.
The Multi-Family Property Tax Exemption.
All property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided. The Multi-Family Property Tax Exemption (MFTE) exempts real property associated with the construction, conversion, or rehabilitation of qualified, multiple-unit residential structures located in residential targeted areas (RTA) contained within an urban center.

The MFTE applies only to the value of the construction, conversion, or rehabilitation projects and does not exempt the value of the underlying property or other improvements on the property.

The MFTE on qualifying property lasts for eight consecutive years. However, the exemption is available for a 12-year period if the owner commits to renting or selling at least 20 percent of multiple-family housing units as affordable housing to low- and moderate-income (LMI) households.

For the purpose of the MFTE, affordable housing is housing for low- to moderate-income households that does not exceed one-third of the household's monthly income. Low-income households must have an income that is no more than 80 percent of the median income of their county. Moderate-income households must have an income between 80 and 115 percent of the median income of their county.

Low-Income Housing Tax Credit Program.
The Washington State Housing Finance Commission (Commission) administers the Low-Income Housing Tax Credit (LIHTC) program, which finances construction of low-income housing through federal tax incentives. Housing financed through the LIHTC program must be affordable to households with incomes at 60 percent or less than the area median income. LIHTC provides an indirect subsidy to housing developers where federal tax credits are allocated at the state level. The Commission awards these state tax credits to developers under two different LIHTC programs. Under one LIHTC program, after a competitive application process in which projects are evaluated and scored according to established policy criteria, a developer may receive a 9 percent tax credit that typically generates equity for 70 percent of a project's development cost. Scoring categories include type of population served, targeted income levels, length of commitment to keeping units affordable, project costs, project location, and developer type. Tax credits are limited to an annual allocation to each state on a per capita basis. The Commission partners closely with the Department of Commerce (Commerce) to align the competitive process with the state Housing Trust Fund (HTF), where, for example, 75 percent of projects under this program included HTF funding in 2019. Nonprofits and housing authorities are typical recipients, although for-profit developers are eligible under this program especially when establishing partnerships with nonprofits. Under a second LIHTC program, a developer may receive a combination of a 4 percent tax credit and tax-exempt bonds that typically generates equity for 30 percent of a project's development costs as long as 50 percent of the costs are financed by tax-exempt bonds. Tax credits are unlimited in this program. Typical eligible recipients are nonprofits, housing authorities, and for-profit developers. Under both LIHTC programs, the developer transfers the credits to an investor that funds the housing. The investor becomes a majority owner of the housing and uses the credit to reduce its federal income tax liability. The developer uses the money received from the investor to build low-income housing.

Summary of Bill:

<u>Property Tax Exemption Program</u>.
City governing authorities (City) may establish a Property Tax Exemption Program (Program) for residential and commercial properties which are converted into multiunit residential buildings that contain affordable housing units for low-income households.

"Governing authority" means the legislative authority of a city having jurisdiction over the property for which an exemption may be applied.

"Low-income household" refers to households whose income is at or below 80 percent of the area median income (AMI) where the building is located.

"Affordable housing" means either of the following:
- residential rental housing rented by a household whose monthly housing costs do not exceed 30 percent of the 80 percent cutoff to qualify as a low-income household based on AMI; or
- residential homeownership housing that is owned or occupied by a low-income household whose monthly housing costs do not exceed the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, established by Commerce.

Residential Buildings.
If the converted building was a residential building prior to the conversion, then to qualify for a property tax exemption, the building must:
- be a multiunit residential building;
- have a certificate of occupancy issued not more than 25 years prior to the effective date of this section; and
- be in possession of the owner or, if purchased after the tax exemption is established, be acquired by using a loan from a lender overseen by the United States Federal Housing Finance Agency offered for the purposes of generating affordable housing units. The lender or servicing agency must have oversight over the conversion, including quarterly reports verifying affordable housing units are being rented or sold to low-income households.

Under the Program, the value of qualifying property is exempt from ad valorem property taxation for 20 successive years starting the year after application for exemption is approved. The exemption is structured as follows:
- For the first 10 years, the exemption amount is equal to 100 percent of the value of the residential building.
- For the second 10 years, the exemption amount is equal to 50 percent of the value of the residential building.

To be eligible for the tax exemptions, the property must be in compliance with the following for the entire exemption period:
- A minimum of 30 percent of residential units must be rented or sold as affordable housing units to low-income households for a period no less than 30 years.
- A landlord may not evict current tenants for the purpose of meeting this requirement, and cities may require more than this 30 percent to address local market conditions.
- Units that are rented to low-income households at the time of the exemption application must remain as affordable housing and are additive to the percentage of required affordable housing units.

- Affordable housing units must be distributed throughout the building and be comparable to market rate units in the building.

Commercial Buildings.
If the converted building was a commercial building prior to the conversion, then to qualify for a property tax exemption, the building must:
- be a building whose immediate prior use was predominantly or exclusively for commercial use; and
- have a complete project permit application submitted to the City or county prior to January 1, 2029.

Under the program, the value of qualifying property is exempt from ad valorem property taxation for 30 successive years starting the year after application for exemption is approved.

To be eligible for the tax exemptions, the property must be in compliance with the following for the entire exemption period:
- a minimum of 20 percent of the residential units must be rented or sold as affordable housing units to low-income households for a period no less than 30 years;
- units that are rented to low-income households at the time of the exemption application must remain as affordable housing and are additive to the percentage of required affordable housing units; and
- affordable housing units must be distributed throughout the building and be comparable to market rate units in the building.

Program Application.
Once an application for exemption is approved, the following must occur:
- the approving City and the applicant must enter into a contract stipulating that a tax exemption will be provided if the applicant complies with the requirements of the exemption;
- within two years, the applicant must submit proof of compliance with those requirements; and
- within 30 days of receipt of the applicant's proof of compliance, the City must determine whether the affordability of the units is consistent with the requirements of the exemption.

If an application is denied, the reasons for the denial must be provided in writing and notice of the denial must be issued within 10 days of the denial.   An applicant may appeal this decision, and the appeal must be submitted within 30 days after the applicant's receipt of the denial decision.

The application expiration date is December 31, 2029.

Requirements of Owners.
The owner of a property which receives a tax exemption, must:
- obtain from each tenant living in a designated affordable housing unit an annual certification of family size and annual income in a form acceptable to the City; and

- file an annual report with the City indicating the following:
  - family size and annual income for each tenant living in a designated affordable housing rental unit, and a statement that the property is in compliance with the exemption program's affordable housing requirements;
  - a statement of occupancy and vacancy;
  - a schedule of rents charged in market rate units; and
  - any other information required by the City to determine compliance with exemption requirements.

If an owner intends to discontinue compliance with the affordable housing requirements of the program, the owner must notify tenants and the jurisdiction 60 days before the owner's discontinuance.

If the owner intends to convert any affordable housing rental units to market rate units before the 30-year exemption period or after the exemption period ends, the owner must:
- provide tenants of affordable housing rental units with notification of intent to provide the tenant with rental relocation assistance; and
- provide tenant relocation assistance in an amount equal to one month's rent to a low-income household within the final month of the low-income household's lease.

<u>Requirements of Cities</u>.
A City that issues a tax exemption must report the following to the Commerce every year:
- the number of tax exemption certificates granted;
- the number and type of units in building properties receiving a tax exemption;
- the number and type of units meeting affordable housing requirements;
- the total monthly rent amount for each affordable and market rate unit; and
- the dollar amount of the tax exemption issued for each conversion and the total dollar amount of tax exemptions granted within the City.

If the City is notified by the owner, or if the City discovers that a portion of the property no longer meets the qualifications of the tax exemption, the tax exemption is canceled, and the following applies:
- additional real property tax must be imposed on the property, and additional interest is owed upon the amounts of the additional property tax;
- a penalty is owed in the amount equal to 20 percent of the additional property tax imposed under this section; and
- the additional tax, interest, and penalty are a lien on the real property and attach at the time the property or portion of the property is removed from exempted status.

When a City plans to cancel a tax exemption, the City must notify the taxpayer and the county assessor. The owner may appeal the determination within 30 days of the date of the notice by filing a notice of appeal with the clerk of the governing authority.

If a City adopts an existing building conversion exemption program to provide the tax exemptions described above, it must be modify that program to include the qualifying standards for affordable housing described above.

Tax Incentives for Property Conversion.
An exemption is created for sales and use tax imposed on goods and services incorporated as a component of a conversion of a commercial building into affordable housing.

To qualify for the sales and use tax exemption, the owner of a commercial building which is converted into affordable housing must rent or sell a minimum of 10 percent of the residential units in the property to low-income households for at least 10 years. If the owner intends to discontinue compliance with the affordable housing requirements or the department discovers that eligibility conditions for the exemption are no longer met, the owner must repay the total amount of the exemption received plus a 20 percent penalty.

Appropriation: None.

Fiscal Note: Requested on January 17, 2024.

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