
HOUSE BILL 1035

State of Washington

67th Legislature

2021 Regular Session

By Representatives Kloba and Ryu

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1 AN ACT Relating to providing local governments with options to
2 grant rent relief and preserve affordable housing in their
3 communities; adding a new chapter to Title 84 RCW; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Families, senior citizens, and workers with limited financial
8 resources are likely to experience fewer housing choices;

9 (2) Affordable housing is a necessary component of strong,
10 thriving neighborhoods;

11 (3) Limited income household renters should have the opportunity
12 to live in homes in neighborhoods close to major infrastructure
13 investments like transit, quality schools, and vital services like
14 health care, grocery shopping, and employment;

15 (4) Community members with critical occupations, senior citizens,
16 and families are struggling to afford rent around the state;

17 (5) Rising rents are causing the displacement of low-income
18 households, very low-income households, and long-time community
19 members; and

20 (6) Communities need a wide range of local tools to create
21 healthy, affordable homes and address affordable housing needs.

1 NEW SECTION. **Sec. 2.** The purpose of this chapter is to give
2 communities a local option to preserve and increase healthy, high
3 quality, and affordable rental housing opportunities for low-income
4 households and very low-income households when the governing
5 authority has found that there are insufficient affordable housing
6 opportunities available. It is also the purpose of this chapter to
7 encourage housing opportunities that are affordable to renters at
8 below market rent levels, as determined by the governing authority
9 upon considering community needs, market rental costs, and income
10 levels of renters.

11 NEW SECTION. **Sec. 3.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise.

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

17 (2) "Health and quality standards" means guidelines as adopted by
18 the governing authority that may include height, density, public
19 benefit features, number and size of proposed development, parking,
20 income limits for occupancy, limits on rents or sale prices, and
21 other adopted requirements indicated necessary by the city or county.
22 The required amenities should be relative to the size of the project
23 and tax benefit to be obtained. The property must comply with one or
24 more standards of the applicable state or local building or housing
25 codes on or after July 23, 1995.

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

28 (4) "Low-income household" means a single person, family, or
29 unrelated persons living together whose adjusted income is at or
30 below eighty percent of the area median income adjusted for family
31 size, for the county in which the project is located, as reported by
32 the United States department of housing and urban development.

33 (5) "Manufactured home" means a single-family dwelling built
34 according to the United States department of housing and urban
35 development manufactured home construction and safety standards act,
36 which is a national preemptive building code. A "manufactured home"
37 also: (a) Includes plumbing, heating, air conditioning, and
38 electrical systems; (b) is built on a permanent chassis; and (c) can
39 be transported in one or more sections with each section at least

1 eight feet wide and forty feet long when transported, or when
2 installed on the site is three hundred twenty square feet or greater.

3 (6) "Mobile home" means a factory-built dwelling built prior to
4 June 15, 1976, to standards other than the United States department
5 of housing and urban development code, and acceptable under
6 applicable state codes in effect at the time of construction or
7 introduction of the home into the state. Mobile homes have not been
8 built since the introduction of the United States department of
9 housing and urban development manufactured home construction and
10 safety standards act.

11 (7) "Mobile home lot" means a portion of a mobile home park or
12 manufactured housing community designated as the location of one
13 mobile home, manufactured home, or park model and its accessory
14 buildings, and intended for the exclusive use as a primary residence
15 by the occupants of that mobile home, manufactured home, or park
16 model.

17 (8) "Mobile home park," "manufactured housing community," or
18 "manufactured home or mobile home community" means any real property
19 which is rented or held out for rent to others for the placement of
20 two or more mobile homes, manufactured homes, or park models for the
21 primary purpose of production of income, except where such real
22 property is rented or held out for rent for seasonal recreational
23 purpose only and is not intended for year-round occupancy.

24 (9) "Multifamily housing" means a building permanently affixed to
25 the ground having four or more dwelling units not designed or used as
26 transient accommodations and not including hotels and motels.

27 (10) "Owner" means the property owner of record.

28 (11) "Permanent residential occupancy" means multifamily or
29 manufactured home or mobile home housing that provides rental
30 occupancy on a nontransient basis. This includes rental accommodation
31 that is leased for a period of at least one month. This excludes
32 hotels and motels that predominately offer rental accommodation on a
33 daily or weekly basis.

34 (12) "Single-family dwelling" means an individual detached
35 dwelling permanently affixed to the ground.

36 (13) "Very low-income household" means a single person, family,
37 or unrelated persons living together whose adjusted income is at or
38 below fifty percent of the area median income adjusted for family
39 size, for the county in which the project is located, as reported by
40 the United States department of housing and urban development.

1 NEW SECTION. **Sec. 4.** A city governing authority may by
2 ordinance or resolution establish an affordable housing incentive
3 program to preserve affordable housing within the city that meets
4 health and quality standards for low-income households and very low-
5 income households at risk of displacement or that cannot afford
6 market rate housing. A county governing authority may by ordinance or
7 resolution establish an affordable housing incentive program for
8 unincorporated areas to preserve affordable housing that meets health
9 and quality standards for low-income households and very low-income
10 households at risk of displacement or that cannot afford market rate
11 housing.

12 NEW SECTION. **Sec. 5.** (1) An affordable housing incentive
13 program adopted by the governing authority under this chapter must
14 include qualifying standards for low-income household and very low-
15 income household rental housing. Such standards must include rent
16 limits and income guidelines consistent with local housing needs to
17 assist households that cannot afford market rate housing.

18 (2) In order to qualify for a property tax exemption under this
19 chapter, housing units or mobile home lots must be:

20 (a) Rented at below market rent levels, as determined by the
21 applicable area median income as reported by the United States
22 department of housing and urban development;

23 (b) For multifamily dwellings permanently affixed to the land,
24 affordable to very low-income households and part of a building that
25 is at least twenty-five years old; and

26 (c) Owner-occupied for either a single-family dwelling or an
27 attached or detached accessory dwelling unit that is affordable to
28 low-income households.

29 (3) The governing authority may establish income or rent
30 thresholds other than those indicated in subsection (1) of this
31 section where it determines that such an adjustment is needed to
32 serve particular needs of very low-income renters in either (a)
33 manufactured homes or mobile homes or (b) multifamily units in the
34 community.

35 (4) Rent levels for qualifying affordable housing units,
36 including any mandatory fees for tenant-paid utilities that are
37 required as a condition of tenancy, may not exceed thirty percent of
38 the income limit for the very low-income multifamily housing unit.

1 NEW SECTION. **Sec. 6.** (1) For single-family and multifamily
2 dwellings permanently affixed to the land, the value of residential
3 housing improvements and land qualifying under this chapter is exempt
4 from ad valorem property taxation for six successive years beginning
5 January 1st of the year immediately following the calendar year that
6 the certificate of tax exemption is filed with the county assessor in
7 accordance with section 12 of this act. For manufactured homes or
8 mobile homes, only the mobile home lot dedicated to the qualified
9 tenant is exempt from ad valorem property taxation for six successive
10 years. The exemption for qualifying single-family, multifamily, or
11 manufactured home or mobile home properties may be renewed for one
12 additional six-year period.

13 (2) The exemption provided under this chapter is in addition to
14 any tax credits, grants, or other incentives provided by law to
15 increase the rental affordability.

16 (3) The exemption in this chapter does not apply to any
17 nonqualifying portions of a building or land.

18 (4) The governing authority must provide local taxing districts
19 in the designated exemption area notice and an opportunity to be
20 heard prior to establishing an affordable housing incentive program
21 under this chapter.

22 NEW SECTION. **Sec. 7.** To be eligible for the property tax
23 exemption under this chapter, in addition to any other requirements
24 in this chapter, the property must be in compliance with the
25 following for the entire exemption period:

26 (1) A minimum of twenty-five percent of residential units in a
27 multifamily property subject to tax exemption must be affordable as
28 described in section 5 of this act. A governing authority may require
29 that more than twenty-five percent of the units in multifamily
30 housing buildings are affordable to address local market conditions.
31 Up to and including the midpoint, the percentage requirement may be
32 rounded down to the nearest whole number of units;

33 (2) Qualified affordable units must be comparable in terms of
34 quality, living conditions, and mix of unit types to market rate
35 units in the building;

36 (3) At least ninety percent of the total residential units of a
37 multifamily structure permanently affixed to the ground must be
38 occupied by tenants at the time of application;

1 (4) The qualifying property must be part of a multifamily
2 residential or mixed-use, both residential and nonresidential,
3 project, a single-family property, an affordable attached or detached
4 dwelling unit that is accessory to a single-family dwelling, or a
5 mobile home lot in a mobile home park;

6 (5) With respect to a single-family dwelling or an attached or
7 detached dwelling unit that is accessory to a single-family dwelling,
8 only the designated affordable improvement area and underlying land
9 dedicated solely to the affordable dwelling may qualify for the
10 exemption;

11 (6) The multifamily, mixed-use property must provide for a
12 minimum of fifty percent of the space in each building for permanent
13 residential occupancy;

14 (7) If a multifamily or mixed-use property has dedicated less
15 than one hundred percent of its total square footage to qualifying
16 units, only that dedicated percent portion of the land beneath the
17 building footprint is subject to the exemption under this chapter;
18 and

19 (8) The property owner must enter into a contract with the city
20 or county agreeing to terms and conditions required to satisfy
21 eligibility criteria of the affordable housing incentive program.

22 NEW SECTION. **Sec. 8.** (1) To be eligible for the exemption under
23 this chapter, the property must also comply with all applicable land
24 use regulations; zoning requirements; building and housing code
25 requirements, including space and occupancy, structural, mechanical,
26 fire, safety, and security standards; and health and quality
27 standards as established in section 4 of this act. At a minimum, the
28 standard for housing quality must be substantially equivalent to
29 uniform physical condition standards. The governing authority may
30 establish additional standards to meet local needs.

31 (2) The property must be inspected for compliance with subsection
32 (1) of this section prior to awarding the tax exemption under this
33 chapter and thereafter, as established by the governing authority.
34 The governing authority must deny an application for tax exemption
35 for failure to comply with health and quality standards as described
36 in section 4 of this act.

37 NEW SECTION. **Sec. 9.** (1) The governing authority may limit
38 participation in the affordable housing incentive program to:

1 (a) Particular targeted areas that present particular risk or
2 displacement or that provide unique affordable housing opportunities
3 near community infrastructure such as transportation or public
4 schools; and

5 (b) Properties of a particular size, unit type, or mix of unit
6 size or type that present special antidisplacement opportunity for
7 very low-income household tenants.

8 (2) The governing authority must adopt and implement standards to
9 be utilized in considering applications and making the determinations
10 required under this chapter. The standards must include:

11 (a) An application process and procedures;

12 (b) Guidelines and requirements as described in section 8 of this
13 act;

14 (c) An inspection policy and procedures to ensure the property
15 complies with housing and health and quality standards;

16 (d) Income and rent limits as required under section 5 of this
17 act;

18 (e) Documentation submittal requirements necessary to establish
19 income eligibility of households in affordable housing units; and

20 (f) Fees required of the applicant in order to process the
21 application and monitor compliance with eligibility criteria. Such
22 fees must be commensurate with the cost anticipated by the governing
23 authority to administer this chapter.

24 NEW SECTION. **Sec. 10.** An owner of property making an
25 application under this chapter must meet the following requirements:

26 (1) The applicant must apply to the city or county on forms
27 adopted by the governing authority. The application must contain the
28 following:

29 (a) Information setting forth the grounds supporting the
30 requested exemption, including information indicated on the
31 application form and other requirements specified in the governing
32 authority's adopted exemption program;

33 (b) A description of the project, including the floor plan of
34 units and other information requested;

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

1 (d) A certification of family size and annual income requirements
2 in a form acceptable to the governing authority for designated
3 affordable housing units;

4 (2) The applicant must verify the information provided in the
5 application by oath or affirmation; and

6 (3) The applicant must submit a fee, if any, with the application
7 as required under this chapter.

8 NEW SECTION. **Sec. 11.** Prior to approval of an application
9 meeting the requirements of section 10 of this act, the applicable
10 city or county agency must inspect the property to certify compliance
11 with health and quality standards.

12 NEW SECTION. **Sec. 12.** (1) The governing authority or its
13 designated administrative official or agent may approve the
14 application if it finds that the property and owner satisfy the
15 requirements of this chapter.

16 (2) If the application is approved, the governing authority must
17 issue the owner a certificate of tax exemption. The certificate must
18 contain a statement specifying that the property satisfies the
19 requirements of this chapter. The governing authority must submit a
20 copy of the certificate to the assessor no later than October 1st of
21 the year before the exemption is to be applied.

22 (3) If the application is denied, the governing authority must
23 state in writing the reasons for denial and issue notice to the
24 applicant by regular or certified mail to the applicant's last known
25 address, or by other means reasonably calculated to provide notice,
26 within ten days of the denial.

27 (4) An applicant may appeal the governing authority's decision to
28 the governing authority or its designated agent within thirty days
29 after receipt. The appeal must be based upon the record made before
30 the administrative official or commission, and the burden is on the
31 applicant to show that the governing authority's decision is not
32 supported by substantial evidence.

33 NEW SECTION. **Sec. 13.** The governing authority may establish an
34 application fee. This fee may not exceed an amount determined to be
35 required to cover the cost to be incurred by the governing authority
36 and the assessor in administering this chapter. The application fee
37 must be paid at the time the application for limited exemption is

1 filed. If the application is approved, the governing authority shall
2 pay the application fee to the county assessor for deposit in the
3 county current expense fund, after first deducting that portion of
4 the fee attributable to its own administrative costs in processing
5 the application. If the application is denied, the governing
6 authority may retain that portion of the application fee attributable
7 to its own administrative costs and refund the balance to the
8 applicant.

9 NEW SECTION. **Sec. 14.** (1) The owner receiving a tax exemption
10 under this chapter must obtain from each tenant living in a
11 designated affordable housing unit an annual certification of family
12 size and annual income in a form acceptable to the governing
13 authority.

14 (2) The owner must file an annual report with the governing
15 authority's designated official indicating the following:

16 (a) Family size and annual income for each tenant living in a
17 designated affordable housing rental unit, and a statement that the
18 property is in compliance with affordable housing requirements
19 described in section 5 of this act;

20 (b) A statement of occupancy and vacancy;

21 (c) A schedule of rents charged in market rate units; and

22 (d) Any other information required by the city or county to
23 determine compliance with program requirements.

24 (3) A governing authority that issues certificates of tax
25 exemption under this chapter must report annually to the department
26 of commerce the following information:

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

28 (b) The number and type of units in building properties receiving
29 a tax exemption;

30 (c) The number and type of units meeting affordable housing
31 requirements;

32 (d) The total monthly rent amount for each affordable and market
33 rate unit; and

34 (e) The dollar amount of the tax exemption issued for each
35 project and the total dollar amount of tax exemptions granted within
36 the city or county.

37 NEW SECTION. **Sec. 15.** (1) Land and improvements exempted under
38 this chapter continue to be exempted for the applicable period under

1 section 6 of this act, if the improvements continue to satisfy all
2 applicable conditions. If the owner intends to discontinue compliance
3 with the affordable housing requirements as described in section 6 of
4 this act or any other condition to the exemption, the owner must
5 notify tenants and the jurisdiction within sixty days of the owner's
6 intended discontinuance. If the city or county is notified by the
7 owner, or if the city or town discovers that a portion of the
8 property no longer meets the qualifications of the city's or county's
9 exemption program, the tax exemption must be canceled, and the
10 following must occur:

11 (a) Additional real property tax must be imposed on the property.
12 This additional tax is the difference between the property tax paid
13 and the property tax that would have been paid if the property had
14 included the value of the nonqualifying improvements, for each of the
15 prior six years during which the exemption was in effect;

16 (b) Additional interest is owed upon the amounts of the
17 additional property tax at the same statutory rate charged on
18 delinquent property taxes, calculated from the dates on which the
19 additional tax would have been payable without the tax exemption;

20 (c) A penalty is owed in the amount equal to twenty percent of
21 the additional property tax imposed under this section; and

22 (d) The additional tax, interest, and penalty are declared to be
23 a lien on the real property and attach at the time the property or
24 portion of the property is removed from the tax exemption program.
25 The lien has priority to, and must be fully paid and satisfied
26 before, a recognizance, mortgage, judgment, debt, obligation, or
27 responsibility to or with which the land may become charged or
28 liable, except that the lien is of equal rank with liens for amounts
29 deferred under chapter 84.37 or 84.38 RCW. The lien may be foreclosed
30 upon expiration of the same period after delinquency and in the same
31 manner provided by law for foreclosure of liens for delinquent real
32 property taxes. An additional tax unpaid on its due date is
33 delinquent. From the date of delinquency until paid, interest must be
34 charged at the same rate applied by law to delinquent ad valorem
35 property taxes.

36 (2) Upon a determination that a tax exemption is to be canceled
37 for a reason stated in this section, the governing authority or
38 authorized representative of the governing authority must notify the
39 taxpayer, shown by the tax rolls by certified mail, of the
40 determination to cancel the tax exemption. The owner may appeal the

1 determination within thirty days of the date of the notice by filing
2 a notice of appeal with the clerk of the governing authority,
3 specifying the factual and legal basis upon which the determination
4 of cancellation is alleged to be erroneous. The governing authority
5 or its authorized agent may hear the appeal. At the hearing, all
6 affected parties may be heard and all competent evidence received.
7 The burden is on the taxpayer to show that the governing authority's
8 decision is not supported by substantial evidence. After the hearing,
9 the decision maker must affirm, modify, or overturn the decision to
10 cancel the tax exemption based on the evidence received. An aggrieved
11 party may appeal the decision of the deciding body or officer to the
12 superior court.

13 (3) The assessor must annually value the exempt and nonexempt
14 portions of the property and improvements as necessary to permit the
15 correction of the rolls in accordance with this section.

16 NEW SECTION. **Sec. 16.** This section is the tax preference
17 performance statement for the tax preferences contained in
18 chapter . . ., Laws of 2021 (this act). This performance statement is
19 only intended to be used for subsequent evaluation of the tax
20 preference. It is not intended to create a private right of action by
21 any party or be used to determine eligibility for preferential tax
22 treatment.

23 (1) The legislature categorizes this tax preference as one
24 intended to induce certain designated behavior by taxpayers, as
25 indicated in RCW 82.32.808(2) (a).

26 (2) It is the legislature's specific public policy objective to
27 preserve quality and healthy affordable housing where housing
28 options, including quality and healthy affordable housing options,
29 are severely limited. It is the legislature's intent to provide an
30 exemption from ad valorem property taxation for residential
31 improvements and land qualifying under chapter . . ., Laws of 2021
32 (this act) and to provide incentives to property owners to preserve
33 affordable housing units for low-income households.

34 NEW SECTION. **Sec. 17.** Sections 1 through 15 of this act
35 constitute a new chapter in Title 84 RCW.

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