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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5287

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AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**State of Washington**                      **67th Legislature**                      **2021 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Das, Kuderer, Conway, Keiser, Liias, Nguyen, Nobles, Pedersen, Randall, Salomon, and Wilson, C.)

READ FIRST TIME 02/22/21.

1            AN ACT Relating to affordable housing incentives; amending RCW  
2 84.14.005, 84.14.010, 84.14.020, 84.14.040, 84.14.100, 84.14.030, and  
3 84.14.090; adding a new section to chapter 84.14 RCW; creating new  
4 sections; and providing an expiration date.

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

6            **Sec. 1.** RCW 84.14.005 and 2007 c 430 s 1 are each amended to  
7 read as follows:

8            (1) The legislature finds:

9            ~~((1))~~ (a) That in many of Washington's urban centers there is  
10 insufficient availability of desirable and convenient residential  
11 units, including affordable housing units, to meet the needs of a  
12 growing number of the public who would live in these urban centers if  
13 these desirable, convenient, attractive, affordable, and livable  
14 places to live were available;

15            ~~((2))~~ (b) That the development of additional and desirable  
16 residential units, including affordable housing units, in these urban  
17 centers that will attract and maintain a significant increase in the  
18 number of permanent residents in these areas will help to alleviate  
19 the detrimental conditions and social liability that tend to exist in  
20 the absence of a viable mixed income residential population and will

1 help to achieve the planning goals mandated by the growth management  
2 act under RCW 36.70A.020; and

3 ~~((3))~~ (c) That planning solutions to solve the problems of  
4 urban sprawl often lack incentive and implementation techniques  
5 needed to encourage residential redevelopment in those urban centers  
6 lacking a sufficient variety of residential opportunities, and it is  
7 in the public interest and will benefit, provide, and promote the  
8 public health, safety, and welfare to stimulate new or enhanced  
9 residential opportunities, including affordable housing  
10 opportunities, within urban centers through a tax incentive as  
11 provided by this chapter.

12 (2) Therefore, the legislature intends to achieve multiple goals  
13 by incentivizing the development of multiple-unit housing including  
14 creating additional affordable housing, encouraging urban development  
15 and density, increasing market rate workforce housing, developing  
16 permanently affordable housing opportunities, promoting economic  
17 investment and recovery, and creating family-wage jobs.

18 **Sec. 2.** RCW 84.14.010 and 2017 c 52 s 16 are each amended to  
19 read as follows:

20 The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22 (1) "Affordable housing" means residential housing that is rented  
23 by a person or household whose monthly housing costs, including  
24 utilities other than telephone, do not exceed thirty percent of the  
25 household's monthly income. For the purposes of housing intended for  
26 owner occupancy, "affordable housing" means residential housing that  
27 is within the means of low or moderate-income households.

28 (2) "Campus facilities master plan" means the area that is  
29 defined by the University of Washington as necessary for the future  
30 growth and development of its campus facilities for campuses  
31 authorized under RCW 28B.45.020.

32 (3) "City" means either (a) a city or town with a population of  
33 at least fifteen thousand, (b) the largest city or town, if there is  
34 no city or town with a population of at least fifteen thousand,  
35 located in a county planning under the growth management act, ~~((e))~~  
36 (c) a city or town with a population of at least five thousand  
37 located in a county subject to the provisions of RCW 36.70A.215, or  
38 (d) any city that otherwise does not meet the qualifications under  
39 (a) through (c) of this subsection, until December 31, 2031, that

1 complies with RCW 84.14.020(1)(a)(iii) or section 7(1)(b) of this  
2 act.

3 (4) "County" means a county with an unincorporated population of  
4 at least (~~(three hundred fifty thousand)~~) 170,000.

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

8 (6) "Growth management act" means chapter 36.70A RCW.

9 (7) (~~("High cost area" means a county where the third quarter~~  
10 ~~median house price for the previous year as reported by the~~  
11 ~~Washington center for real estate research at Washington State~~  
12 ~~University is equal to or greater than one hundred thirty percent of~~  
13 ~~the statewide median house price published during the same time~~  
14 ~~period.~~

15 ~~(8))~~ (8) "Household" means a single person, family, or unrelated  
16 persons living together.

17 (~~(9))~~) (8) "Low-income household" means a single person, family,  
18 or unrelated persons living together whose adjusted income is at or  
19 below eighty percent of the median family income adjusted for family  
20 size, for the county, city, or metropolitan statistical area, where  
21 the project is located, as reported by the United States department  
22 of housing and urban development. (~~(For cities located in high-cost~~  
23 ~~areas, "low-income household" means a household that has an income at~~  
24 ~~or below one hundred percent of the median family income adjusted for~~  
25 ~~family size, for the county where the project is located.~~

26 ~~(10))~~ (9) "Moderate-income household" means a single person,  
27 family, or unrelated persons living together whose adjusted income is  
28 more than eighty percent but is at or below one hundred fifteen  
29 percent of the median family income adjusted for family size, for the  
30 county, city, or metropolitan statistical area, where the project is  
31 located, as reported by the United States department of housing and  
32 urban development. (~~(For cities located in high-cost areas,~~  
33 ~~"moderate-income household" means a household that has an income that~~  
34 ~~is more than one hundred percent, but at or below one hundred fifty~~  
35 ~~percent, of the median family income adjusted for family size, for~~  
36 ~~the county where the project is located.~~

37 ~~(11))~~ (10) "Multiple-unit housing" means a building or a group  
38 of buildings having four or more dwelling units not designed or used  
39 as transient accommodations and not including hotels and motels.  
40 Multifamily units may result from new construction or rehabilitated

1 or conversion of vacant, underutilized, or substandard buildings to  
2 multifamily housing.

3 ~~((12))~~ (11) "Owner" means the property owner of record.

4 ~~((13))~~ (12) "Permanent residential occupancy" means multiunit  
5 housing that provides either rental or owner occupancy on a  
6 nontransient basis. This includes owner-occupied or rental  
7 accommodation that is leased for a period of at least one month. This  
8 excludes hotels and motels that predominately offer rental  
9 accommodation on a daily or weekly basis.

10 ~~((14))~~ (13) "Rehabilitation improvements" means modifications  
11 to existing structures, that are vacant for twelve months or longer,  
12 that are made to achieve a condition of substantial compliance with  
13 existing building codes or modification to existing occupied  
14 structures which increase the number of multifamily housing units.

15 ~~((15))~~ (14) "Residential targeted area" means an area within an  
16 urban center or urban growth area that has been designated by the  
17 governing authority as a residential targeted area in accordance with  
18 this chapter. With respect to designations after July 1, 2007,  
19 "residential targeted area" may not include a campus facilities  
20 master plan.

21 ~~((16))~~ (15) "Rural county" means a county with a population  
22 between fifty thousand and seventy-one thousand and bordering Puget  
23 Sound.

24 ~~((17))~~ (16) "Substantial compliance" means compliance with  
25 local building or housing code requirements that are typically  
26 required for rehabilitation as opposed to new construction.

27 ~~((18))~~ (17) "Urban center" means a compact identifiable  
28 district where urban residents may obtain a variety of products and  
29 services. An urban center must contain:

30 (a) Several existing or previous, or both, business  
31 establishments that may include but are not limited to shops,  
32 offices, banks, restaurants, governmental agencies;

33 (b) Adequate public facilities including streets, sidewalks,  
34 lighting, transit, domestic water, and sanitary sewer systems; and

35 (c) A mixture of uses and activities that may include housing,  
36 recreation, and cultural activities in association with either  
37 commercial or office, or both, use.

38 **Sec. 3.** RCW 84.14.020 and 2020 c 237 s 2 are each amended to  
39 read as follows:

1 (1) (a) The value of new housing construction, conversion, and  
2 rehabilitation improvements qualifying under this chapter is exempt  
3 from ad valorem property taxation, as follows:

4 (i) For properties for which applications for certificates of tax  
5 exemption eligibility are submitted under this chapter before July  
6 22, 2007, the value is exempt for ten successive years beginning  
7 January 1 of the year immediately following the calendar year of  
8 issuance of the certificate; ~~((and))~~

9 (ii) For properties for which applications for certificates of  
10 tax exemption eligibility are submitted under this chapter on or  
11 after July 22, 2007, the value is exempt:

12 (A) For eight successive years beginning January 1st of the year  
13 immediately following the calendar year of issuance of the  
14 certificate; ~~((or))~~

15 (B) For twelve successive years beginning January 1st of the year  
16 immediately following the calendar year of issuance of the  
17 certificate, if the property otherwise qualifies for the exemption  
18 under this chapter and meets the conditions in this subsection  
19 (1) (a) (ii) (B). For the property to qualify for the twelve-year  
20 exemption under this subsection, the applicant must commit to renting  
21 or selling at least twenty percent of the multifamily housing units  
22 as affordable housing units to low and moderate-income households,  
23 and the property must satisfy that commitment and any additional  
24 affordability and income eligibility conditions adopted by the local  
25 government under this chapter. In the case of projects intended  
26 exclusively for owner occupancy, the minimum requirement of this  
27 subsection (1) (a) (ii) (B) may be satisfied solely through housing  
28 affordable to moderate-income households; or

29 (C) For 20 successive years beginning January 1st of the year  
30 immediately following the calendar year of issuance of the  
31 certificate, if the property otherwise qualifies for the exemption  
32 under this chapter and meets the conditions in this subsection  
33 (1) (a) (ii) (C). For the property to qualify for the 20-year exemption  
34 under this subsection, the project must be located within one mile of  
35 high capacity transit of at least 15 minute scheduled frequency, in a  
36 city that has implemented, as of the effective date of this section,  
37 a mandatory inclusionary zoning requirement for affordable housing  
38 that ensures affordability of housing units for a period of at least  
39 99 years and that has a population of no more than 65,000 as measured  
40 on the effective date of this section. To qualify for the exemption

1 provided in this subsection (1)(a)(ii)(C), the applicant must commit  
2 to renting at least 20 percent of the dwelling units as affordable to  
3 low-income households for a term of at least 99 years, and the  
4 property must satisfy that commitment and all required affordability  
5 and income eligibility conditions adopted by the local government  
6 under this chapter. A city must require the applicant to record a  
7 covenant or deed restriction that ensures the continuing rental of  
8 units subject to these affordability requirements consistent with the  
9 conditions in this subsection (1)(a)(ii)(C) for a period of no less  
10 than 99 years. The covenant or deed restriction must also address  
11 criteria and policies to maintain public benefit if the property is  
12 converted to a use other than which continues to provide for  
13 permanently affordable low-income housing consistent with this  
14 subsection (1)(a)(ii)(C); and

15 (iii) Until December 31, 2026, for a city as defined in RCW  
16 84.14.010(3)(d), for 12 successive years beginning January 1st of the  
17 year immediately following the calendar year of issuance of the  
18 certificate, if the property otherwise qualifies for the exemption  
19 under this chapter and meets the conditions in this subsection  
20 (1)(a)(iii). For the property to qualify for the 12-year exemption  
21 under this subsection, the applicant must commit to renting or  
22 selling at least 20 percent of the multifamily housing units as  
23 affordable housing units to low and moderate-income households, the  
24 property must satisfy that commitment and any additional  
25 affordability and income eligibility conditions adopted by the local  
26 government under this chapter, and the area must be zoned to have an  
27 average minimum density equivalent to 15 dwelling units or more per  
28 gross acre, or for cities with a population over 20,000, the area  
29 must be zoned to have an average minimum density equivalent to 25  
30 dwelling units or more per gross acre. In the case of projects  
31 intended exclusively for owner occupancy, the minimum requirement of  
32 this subsection (1)(a)(iii) may be satisfied solely through housing  
33 affordable to low-income or moderate-income households.

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

37 (c) For properties receiving an exemption as provided in  
38 (a)(ii)(B) of this subsection that are in compliance with existing  
39 contracts and where the certificate of tax exemption is set to expire  
40 after June 11, 2020, but before December 31, 2021, the exemption is

1 extended until December 31, 2021, provided that the property must  
2 satisfy any eligibility criteria or limitations provided in this  
3 chapter as a condition to the existing exemption for a given property  
4 continue to be met. For all properties eligible to receive an  
5 extension pursuant to this subsection (1)(c), the city or county that  
6 issued the initial certificate of tax exemption, as required in RCW  
7 84.14.090, must notify the county assessor and the applicant of the  
8 extension of the certificate of tax exemption.

9 (2) When a local government adopts guidelines pursuant to RCW  
10 84.14.030(2) and includes conditions that must be satisfied with  
11 respect to individual dwelling units, rather than with respect to the  
12 multiple-unit housing as a whole or some minimum portion thereof, the  
13 exemption may, at the local government's discretion, be limited to  
14 the value of the qualifying improvements allocable to those dwelling  
15 units that meet the local guidelines.

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

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

29 (5) At the conclusion of the exemption period, the ~~((new or  
30 rehabilitated housing cost shall))~~ value of the new housing  
31 construction, conversion, or rehabilitation improvements must be  
32 considered as new construction for the purposes of ((chapter 84.55  
33 RCW)) chapters 84.55 and 36.21 RCW as though the property was not  
34 exempt under this chapter.

35 (6) For properties that qualified for, satisfied the conditions  
36 of, and utilized the exemption under subsection (1)(a)(ii)(A) or (B)  
37 of this section, following the initial exemption period or the  
38 extension period authorized in subsection (1)(c) of this section, the  
39 exemption period may be extended for an additional 12 years for  
40 projects that are within 18 months of expiration contingent on city

1 or county approval. For the property to qualify for an extension  
2 under this subsection (6), the applicant must meet at a minimum the  
3 locally adopted requirements for the property to qualify for an  
4 exemption under subsection (1)(a)(ii)(B) of this section as  
5 applicable at the time of the extension application, and the  
6 applicant commits to renting or selling at least 20 percent of the  
7 multifamily housing units as affordable housing units for low-income  
8 households.

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

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

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

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

37 **Sec. 4.** RCW 84.14.040 and 2014 c 96 s 4 are each amended to read  
38 as follows:



1 (1) The following criteria must be met before an area may be  
2 designated as a residential targeted area:

3 (a) The area must be within an urban center, as determined by the  
4 governing authority;

5 (b) The area must lack, as determined by the governing authority,  
6 sufficient available, desirable, and convenient residential housing,  
7 including affordable housing, to meet the needs of the public who  
8 would be likely to live in the urban center, if the affordable,  
9 desirable, attractive, and livable places to live were available;

10 (c) The providing of additional housing opportunity, including  
11 affordable housing, in the area, as determined by the governing  
12 authority, will assist in achieving one or more of the stated  
13 purposes of this chapter; (~~and~~)

14 (d) If the residential targeted area is designated by a county,  
15 the area must be located in an unincorporated area of the county that  
16 is within an urban growth area under RCW 36.70A.110 and the area must  
17 be: (i) In a rural county, served by a sewer system and designated by  
18 a county prior to January 1, 2013; or (ii) in a county that includes  
19 a campus of an institution of higher education, as defined in RCW  
20 28B.92.030, where at least one thousand two hundred students live on  
21 campus during the academic year; and (iii) until July 15, 2024, in a  
22 county seeking to promote transit supportive densities and efficient  
23 land use in an area that is located within a designated urban growth  
24 area and within .25 miles of a corridor where bus service is  
25 scheduled at least every thirty minutes for no less than 10 hours per  
26 weekday and is in service or is planned for service to begin within  
27 five years of designation; and

28 (e) For a residential targeted area designated by a county after  
29 the effective date of this section, the county governing authority  
30 must conduct an evaluation of the risk of potential displacement of  
31 residents currently living in the area if the tax incentives  
32 authorized in this chapter were to be used in the area. The county  
33 may use an existing analysis if one exists. An area may not be  
34 designated as a residential targeted area unless: (i) The evaluation  
35 finds that the risk of displacement is minimal; or (ii) the governing  
36 authority mitigates the risk of displacement with locally adopted  
37 mitigation measures such as, but not limited to, ensuring that those  
38 directly or indirectly displaced have a first right of refusal to  
39 occupy the newly created dwelling units receiving an exemption under

1 this chapter, including the affordable units if they otherwise meet  
2 the qualifications.

3 (2) For the purpose of designating a residential targeted area or  
4 areas, the governing authority may adopt a resolution of intention to  
5 so designate an area as generally described in the resolution. The  
6 resolution must state the time and place of a hearing to be held by  
7 the governing authority to consider the designation of the area and  
8 may include such other information pertaining to the designation of  
9 the area as the governing authority determines to be appropriate to  
10 apprise the public of the action intended.

11 (3) The governing authority must give notice of a hearing held  
12 under this chapter by publication of the notice once each week for  
13 two consecutive weeks, not less than seven days, nor more than thirty  
14 days before the date of the hearing in a paper having a general  
15 circulation in the city or county where the proposed residential  
16 targeted area is located. The notice must state the time, date,  
17 place, and purpose of the hearing and generally identify the area  
18 proposed to be designated as a residential targeted area.

19 (4) Following the hearing, or a continuance of the hearing, the  
20 governing authority may designate all or a portion of the area  
21 described in the resolution of intent as a residential targeted area  
22 if it finds, in its sole discretion, that the criteria in subsections  
23 (1) through (3) of this section have been met.

24 (5) After designation of a residential targeted area, the  
25 governing authority must adopt and implement standards and guidelines  
26 to be utilized in considering applications and making the  
27 determinations required under RCW 84.14.060. The standards and  
28 guidelines must establish basic requirements for both new  
29 construction and rehabilitation, which must include:

30 (a) Application process and procedures;

31 (b) Income and rent standards for affordable units;

32 (c) Requirements that address demolition of existing structures  
33 and site utilization; and

34 ~~((e))~~ (d) Building requirements that may include elements  
35 addressing parking, height, density, environmental impact, and  
36 compatibility with the existing surrounding property and such other  
37 amenities as will attract and keep permanent residents and that will  
38 properly enhance the livability of the residential targeted area in  
39 which they are to be located.

1 (6) (a) The governing authority may adopt and implement, either as  
2 conditions to eight-year exemptions or as conditions to an extended  
3 exemption period under RCW 84.14.020(1)(a)(ii) (B) or (C), or  
4 ((both)) as conditions to any combination of exemptions authorized  
5 under this chapter, more stringent income eligibility, rent, or sale  
6 price limits, including limits that apply to a higher percentage of  
7 units, than the minimum conditions for an extended exemption period  
8 under RCW 84.14.020(1)(a)(ii) (B) or (C).

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

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

16 (ii) Payroll record requirements consistent with RCW  
17 39.12.120(1);

18 (iii) Apprenticeship utilization requirements consistent with RCW  
19 39.04.310; and

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

22 (7) For any multiunit housing located in an unincorporated area  
23 of a county, a property owner seeking tax incentives under this  
24 chapter must commit to renting or selling at least twenty percent of  
25 the multifamily housing units as affordable housing units to low and  
26 moderate-income households. In the case of multiunit housing intended  
27 exclusively for owner occupancy, the minimum requirement of this  
28 subsection ((+6+)) (7) may be satisfied solely through housing  
29 affordable to moderate-income households.

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

33 **Sec. 5.** RCW 84.14.100 and 2012 c 194 s 9 are each amended to  
34 read as follows:

35 (1) Thirty days after the anniversary of the date of the  
36 certificate of tax exemption and each year for the tax exemption  
37 period, the owner of the rehabilitated or newly constructed property,  
38 or the qualified nonprofit or local government that will assure  
39 permanent affordable homeownership for at least 25 percent of the

1 units for properties receiving an exemption under section 7 of this  
2 act, must file with a designated authorized representative of the  
3 city or county an annual report indicating the following:

4 (a) A statement of occupancy and vacancy of the rehabilitated or  
5 newly constructed property during the twelve months ending with the  
6 anniversary date;

7 (b) A certification by the owner that the property has not  
8 changed use and, if applicable, that the property has been in  
9 compliance with the affordable housing requirements as described in  
10 RCW 84.14.020 since the date of the certificate approved by the city  
11 or county;

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

14 (d) Any additional information requested by the city or county in  
15 regards to the units receiving a tax exemption.

16 (2) All cities or counties, which issue certificates of tax  
17 exemption for multiunit housing that conform to the requirements of  
18 this chapter, must report annually by (~~December 31st~~) April 1st of  
19 each year, beginning in 2007, to the department of commerce. A city  
20 or county must be in compliance with the reporting requirements of  
21 this section to offer certificates of tax exemption for multiunit  
22 housing authorized in this chapter. The report must include the  
23 following information:

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

25 (b) The total number and type of units produced or to be  
26 produced;

27 (c) The number, size, and type of units produced or to be  
28 produced meeting affordable housing requirements;

29 (d) The actual development cost of each unit produced;

30 (e) The total monthly rent or total sale amount of each unit  
31 produced;

32 (f) The annual household income (~~(of each renter household at the~~  
33 ~~time of initial occupancy and the income of each initial purchaser of~~  
34 ~~owner-occupied units at the time of purchase)) and household size for  
35 each of the affordable units receiving a tax exemption and a summary  
36 of these figures for the city or county; and~~

37 (g) The value of the tax exemption for each project receiving a  
38 tax exemption and the total value of tax exemptions granted.

39 (3)(a) The department of commerce must adopt and implement a  
40 program to effectively audit or review that the owner or operator of

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

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

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

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

40 (5) This section expires January 1, 2058.

1        NEW SECTION.    **Sec. 6.**    (1) This section is the tax preference  
2 performance statement for the tax preferences contained in section 3,  
3 chapter . . . , Laws of 2021 (section 3 of this act). This performance  
4 statement is only intended to be used for subsequent evaluation of  
5 the tax preferences. It is not intended to create a private right of  
6 action by any party or be used to determine eligibility for  
7 preferential tax treatment.

8        (2) The legislature categorizes these tax preferences as ones  
9 intended to induce certain designated behavior by taxpayers, as  
10 indicated in RCW 82.32.808(2) (a).

11        (3) It is the legislature's specific public policy objective to:

12        (a) Incentivize developers to construct or rehabilitate  
13 multifamily housing;

14        (b) Incentivize local governments and multifamily housing owners  
15 to maintain or expand existing income-restricted unit stock that have  
16 been incentivized through the tax exemption provided under chapter  
17 84.14 RCW via new authority to renew the property tax abatement in  
18 exchange for continued or additional affordability; and

19        (c) Further encourage multifamily construction in cities and  
20 certain unincorporated urban growth areas by expanding access to the  
21 multifamily tax exemption program to a broader set of jurisdictions.

22        (4) It is the legislature's intent to provide the value of new  
23 housing construction, conversion, and rehabilitation improvements  
24 qualifying under chapter 84.14 RCW an exemption from ad valorem  
25 property taxation for eight to 12 years or more, as provided for in  
26 RCW 84.14.020, in order to provide incentives to developers to  
27 construct or rehabilitate multifamily housing thereby increasing the  
28 number of affordable housing units, or preserving the state's stock  
29 of income-restricted units, for low-income to moderate-income  
30 residents in certain urban growth areas.

31        (5) The legislature intends to extend the expiration date of the  
32 tax preferences in section 3, chapter . . . , Laws of 2021 (section 3  
33 of this act), if a review finds that:

34        (a) Projects receiving an initial eight-year or 12-year exemption  
35 regularly enter into subsequent 12-year extensions in exchange for  
36 continued or increased income restrictions on affordable units; and

37        (b) At least 20 percent of the new housing is developed and  
38 occupied by households earning:

1 (i) At or below 80 percent of the area median income, at the time  
2 of occupancy, adjusted for family size for the county in which the  
3 project is located; or

4 (ii) Where the housing is intended exclusively for owner  
5 occupancy, up to 115 percent of the area median income, at the time  
6 of sale, adjusted for family size for the county in which the project  
7 is located.

8 (6) In order to obtain the data necessary to perform the review  
9 in subsection (4) of this section, the joint legislative audit and  
10 review committee must refer to the annual reports compiled by the  
11 department of commerce under RCW 84.14.100 and may refer to data  
12 provided by counties or cities in which persons are utilizing the  
13 preferences, the office of financial management, the department of  
14 commerce, the United States department of housing and urban  
15 development, and any other data sources, as needed by the joint  
16 legislative audit and review committee.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 84.14  
18 RCW to read as follows:

19 (1)(a) The value of new housing construction, conversion, and  
20 rehabilitation improvements qualifying under this chapter is exempt  
21 from ad valorem property taxation, as follows: For 20 successive  
22 years beginning January 1st of the year immediately following the  
23 calendar year of issuance of the certificate, if the property  
24 otherwise qualifies for the exemption under this chapter and meets  
25 the conditions in this section. For the property to qualify for the  
26 20-year exemption under this section, at least 25 percent of the  
27 units must be built by or sold to a qualified nonprofit or local  
28 government that will assure permanent affordable homeownership. The  
29 remaining 75 percent of units may be rented or sold at market rates.

30 (b) Until December 31, 2031, for a city as defined in RCW  
31 84.14.010(3)(d), in any city the value of new housing construction,  
32 conversion, and rehabilitation improvements qualifying under this  
33 chapter is exempt from ad valorem property taxation, as follows: For  
34 20 successive years beginning January 1st of the year immediately  
35 following the calendar year of issuance of the certificate, if the  
36 property otherwise qualifies for the exemption under this chapter and  
37 meets the conditions in this section. For the property to qualify for  
38 the 20-year exemption under this section, at least 25 percent of the  
39 units must be sold to a qualified nonprofit or local government

1 partner that will assure permanent affordable homeownership. The  
2 remaining 75 percent of units may be rented or sold at market rates.  
3 The area must be zoned to have an average minimum density equivalent  
4 to 15 dwelling units or more per gross acre, or for cities with a  
5 population over 20,000, the area must be zoned to have an average  
6 minimum density equivalent to 25 dwelling units or more per gross  
7 acre.

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

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

16 (4) The exemptions in this section do not include the value of  
17 land or nonhousing-related improvements not qualifying under this  
18 chapter.

19 (5) At the conclusion of the exemption period, the value of the  
20 new housing construction, conversion, or rehabilitation improvements  
21 must be considered as new construction for the purposes of chapters  
22 84.55 and 36.21 RCW as though the property was not exempt under this  
23 chapter.

24 (6) For purposes of this section, "permanently affordable  
25 homeownership" means homeownership that, in addition to meeting the  
26 definition of "affordable housing" in RCW 43.185A.010, is:

- 27 (a) Sponsored by a nonprofit organization or governmental entity;
- 28 (b) Subject to a ground lease or deed restriction that includes:
  - 29 (i) A resale restriction designed to provide affordability for  
30 future low and moderate-income homebuyers;
  - 31 (ii) A right of first refusal for the sponsor organization to  
32 purchase the home at resale; and
  - 33 (iii) A requirement that the sponsor must approve any  
34 refinancing, including home equity lines of credit; and
- 35 (c) Sponsored by a nonprofit organization or governmental entity  
36 and the sponsor organization:
  - 37 (i) Executes a new ground lease or deed restriction with a  
38 duration of at least 99 years at the initial sale and with each  
39 successive sale; and



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

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

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

9 NEW SECTION. **Sec. 8.** (1) This section is the tax preference  
10 performance statement for the tax preference contained in section 7,  
11 chapter . . ., Laws of 2021 (section 7 of this act). This performance  
12 statement is only intended to be used for subsequent evaluation of  
13 the tax preferences. It is not intended to create a private right of  
14 action by any party or be used to determine eligibility for  
15 preferential tax treatment.

16 (2) The legislature categorizes these tax preferences as ones  
17 intended to induce certain designated behavior by taxpayers, as  
18 indicated in RCW 82.32.808(2) (a).

19 (3) It is the legislature's specific public policy objective to  
20 incentivize developers to construct or rehabilitate permanently  
21 affordable homeownership units.

22 (4) It is the legislature's intent to provide the value of new  
23 housing construction, conversion, and rehabilitation improvements  
24 qualifying under chapter 84.14 RCW an exemption from ad valorem  
25 property taxation for 20 years, as provided for in section 7 of this  
26 act, in order to provide incentives to developers to construct or  
27 rehabilitate multifamily housing thereby increasing the number of  
28 permanently affordable homeownership units.

29 (5) The legislature intends to extend the expiration date of the  
30 tax preferences in section 7, chapter . . ., Laws of 2021 (section 7  
31 of this act), if a review finds that:

32 (a) The number of local governments utilizing the permanently  
33 affordable homeownership tax exemption program authorized in section  
34 7 of this act increases over time;

35 (b) The number of permanently affordable homeownership units  
36 increases; and

37 (c) The income level of those households benefiting from the  
38 permanently affordable homeownership units is consistent with the  
39 requirements of section 7 of this act.

1 (6) In order to obtain the data necessary to perform the review  
2 in subsection (5) of this section, the joint legislative audit and  
3 review committee must refer to the annual reports compiled by the  
4 department of commerce under RCW 84.14.100 and may refer to data  
5 provided by counties or cities in which persons are utilizing the  
6 preferences, the office of financial management, the department of  
7 commerce, the United States department of housing and urban  
8 development, and any other data sources, as needed by the joint  
9 legislative audit and review committee.

10 **Sec. 9.** RCW 84.14.030 and 2012 c 194 s 3 are each amended to  
11 read as follows:

12 An owner of property making application under this chapter must  
13 meet the following requirements:

14 (1) The new or rehabilitated multiple-unit housing must be  
15 located in a residential targeted area as designated by the city or  
16 county;

17 (2) The multiple-unit housing must meet 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;

24 (3) The new, converted, or rehabilitated multiple-unit housing  
25 must provide for a minimum of fifty percent of the space for  
26 permanent residential occupancy. In the case of existing occupied  
27 multifamily development, the multifamily housing must also provide  
28 for a minimum of four additional multifamily units. Existing  
29 multifamily vacant housing that has been vacant for twelve months or  
30 more does not have to provide additional multifamily units;

31 (4) New construction multifamily housing and rehabilitation  
32 improvements must be completed within three years from the date of  
33 approval of the application, plus any extension authorized under RCW  
34 84.14.090(5);

35 (5) Property proposed to be rehabilitated must fail to comply  
36 with one or more standards of the applicable state or local building  
37 or housing codes on or after July 23, 1995. If the property proposed  
38 to be rehabilitated is not vacant, an applicant must provide each

1 existing tenant housing of comparable size, quality, and price and a  
2 reasonable opportunity to relocate; and

3 (6) The applicant must enter into a contract with the city or  
4 county approved by the governing authority, or an administrative  
5 official or commission authorized by the governing authority, under  
6 which the applicant has agreed to the implementation of the  
7 development on terms and conditions satisfactory to the governing  
8 authority.

9 **Sec. 10.** RCW 84.14.090 and 2012 c 194 s 8 are each amended to  
10 read as follows:

11 (1) Upon completion of rehabilitation or new construction for  
12 which an application for a limited tax exemption under this chapter  
13 has been approved and after issuance of the certificate of occupancy,  
14 the owner must file with the city or county the following:

15 (a) A statement of the amount of rehabilitation or construction  
16 expenditures made with respect to each housing unit and the composite  
17 expenditures made in the rehabilitation or construction of the entire  
18 property;

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

23 (c) If applicable, a statement that the project meets the  
24 affordable housing requirements as described in RCW 84.14.020; and

25 (d) A statement that the work has been completed within three  
26 years of the issuance of the conditional certificate of tax  
27 exemption.

28 (2) Within thirty days after receipt of the statements required  
29 under subsection (1) of this section, the authorized representative  
30 of the city or county must determine whether the work completed, and  
31 the affordability of the units, is consistent with the application  
32 and the contract approved by the city or county and is qualified for  
33 a limited tax exemption under this chapter. The city or county must  
34 also determine which specific improvements completed meet the  
35 requirements and required findings.

36 (3) If the rehabilitation, conversion, or construction is  
37 completed within three years of the date the application for a  
38 limited tax exemption is filed under this chapter, or within an  
39 authorized extension of this time limit, and the authorized

1 representative of the city or county determines that improvements  
2 were constructed consistent with the application and other applicable  
3 requirements, including if applicable, affordable housing  
4 requirements, and the owner's property is qualified for a limited tax  
5 exemption under this chapter, the city or county must file the  
6 certificate of tax exemption with the county assessor within ten days  
7 of the expiration of the thirty-day period provided under subsection  
8 (2) of this section.

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

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

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

17 (c) If applicable, the affordable housing requirements as  
18 described in RCW 84.14.020 were not met; or

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

21 (5) If the authorized representative of the city or county finds  
22 that construction or rehabilitation of multiple-unit housing was not  
23 completed within the required time period due to circumstances beyond  
24 the control of the owner and that the owner has been acting and could  
25 reasonably be expected to act in good faith and with due diligence,  
26 the governing authority or the city or county official authorized by  
27 the governing authority may extend the deadline for completion of  
28 construction or rehabilitation for a period not to exceed twenty-four  
29 consecutive months. For preliminary or final applications submitted  
30 on or before February 15, 2020, with any outstanding application  
31 requirements, such as obtaining a temporary certificate of occupancy,  
32 the city or county may choose to extend the deadline for completion  
33 for an additional five years. The five-year extension begins  
34 immediately following the completion of any outstanding applications  
35 or previously authorized extensions, whichever is later.

36 (6) The governing authority may provide by ordinance for an  
37 appeal of a decision by the deciding officer or authority that an  
38 owner is not entitled to a certificate of tax exemption to the  
39 governing authority, a hearing examiner, or other city or county  
40 officer authorized by the governing authority to hear the appeal in

1 accordance with such reasonable procedures and time periods as  
2 provided by ordinance of the governing authority. The owner may  
3 appeal a decision by the deciding officer or authority that is not  
4 subject to local appeal or a decision by the local appeal authority  
5 that the owner is not entitled to a certificate of tax exemption in  
6 superior court under RCW 34.05.510 through 34.05.598, if the appeal  
7 is filed within thirty days of notification by the city or county to  
8 the owner of the decision being challenged.

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