
ENGROSSED SUBSTITUTE HOUSE BILL 2984

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Springer, Jarrett, Simpson, Clibborn, B. Sullivan, Hasegawa, Sells, P. Sullivan, Moeller, Santos and Green)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to affordable housing incentive programs; amending
2 RCW 82.02.020; adding a new section to chapter 36.70A RCW; and creating
3 new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that as new market-
6 rate housing developments are constructed and housing costs rise, there
7 is a significant and growing number of low-income households that
8 cannot afford market-rate housing in Washington state. The legislature
9 finds that assistance to low-income households that cannot afford
10 market-rate housing requires a broad variety of tools to address this
11 serious, statewide problem. The legislature further finds that absent
12 any incentives to provide low-income housing, market conditions will
13 result in housing developments in many areas that lack units affordable
14 to low-income households, circumstances that can cause adverse
15 socioeconomic effects.

16 The legislature encourages cities, towns, and counties to enact or
17 expand affordable housing incentive programs, including density bonuses
18 and other incentives, to increase the availability of low-income
19 housing for renter and owner occupancy that is located in largely

1 market-rate housing developments throughout the community, consistent
2 with local needs and adopted comprehensive plans. While this act
3 establishes minimum standards for those cities, towns, and counties
4 choosing to implement or expand upon an affordable housing incentive
5 program, cities, towns, and counties are encouraged to enact programs
6 that address local circumstances and conditions while simultaneously
7 contributing to the statewide need for additional low-income housing.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
9 to read as follows:

10 (1)(a) Any city or county planning under RCW 36.70A.040 may enact
11 or expand affordable housing incentive programs providing for the
12 development of low-income housing units through development
13 regulations. An affordable housing incentive program may include, but
14 is not limited to:

- 15 (i) Density bonuses within the urban growth area;
- 16 (ii) Height bonuses;
- 17 (iii) Fee waivers or exemptions;
- 18 (iv) Parking reductions; or
- 19 (v) Expedited permitting, conditioned on provision of low-income
20 housing units.

21 (b) The city or county may enact or expand such programs whether or
22 not the programs may impose a tax, fee, or charge on the development or
23 construction of property.

24 (c) A city, county, or town may not condition, deny, or delay the
25 issuance of a permit or development approval based on the provisions in
26 this chapter due to the absence of participation in a program adopted
27 under this section.

28 (2) Affordable housing incentive programs enacted or expanded under
29 this section or RCW 82.02.020 shall comply with the following:

30 (a) The incentives or bonuses shall provide for the construction of
31 low-income housing units;

32 (b) Jurisdictions shall establish standards for low-income renter
33 or owner occupancy housing, including income guidelines consistent with
34 local housing needs, to assist low-income households that cannot afford
35 market-rate housing. Low-income households are defined for renter and
36 owner occupancy program purposes as follows:

1 (i) Rental housing units to be developed shall be affordable to and
2 occupied by households with an income of fifty percent or less of the
3 county median family income, adjusted for family size; and

4 (ii) Owner occupancy housing units shall be affordable to and
5 occupied by households with an income of eighty percent or less of the
6 county median family income, adjusted for family size. The legislative
7 authority of a jurisdiction, after holding a public hearing, may
8 establish lower income levels. The legislative authority of a
9 jurisdiction, after holding a public hearing, may also establish higher
10 income levels for rental housing or for owner occupancy housing upon
11 finding that higher income levels are needed to address local housing
12 market conditions. The higher income level for rental housing may not
13 exceed eighty percent of the county area median family income. The
14 higher income level for owner occupancy housing may not exceed one
15 hundred percent of the county area median family income. These
16 established higher income levels must be considered "low-income" for
17 the purposes of this section;

18 (c) The jurisdiction shall establish a maximum rent level or sales
19 price for each low-income housing unit developed under the terms of a
20 program and may adjust these levels or prices based on the average size
21 of the household expected to occupy the unit. For renter-occupied
22 housing units, the total housing costs, including basic utilities as
23 determined by the jurisdiction, may not exceed thirty percent of the
24 income limit for the low-income housing unit;

25 (d) Low-income housing units shall be provided in a range of sizes
26 comparable to those units that are available to other residents. To
27 the extent practicable, the number of bedrooms in low-income units must
28 be in the same proportion as the number of bedrooms in units within the
29 entire building. The low-income units shall generally be distributed
30 throughout the building, except that units may be provided in an
31 adjacent building. The low-income units shall have substantially the
32 same equipment and amenities, excluding luxury amenities such as
33 fireplaces and spa bathtubs, as the other units in the building or
34 buildings;

35 (e) Low-income housing units developed under an affordable housing
36 incentive program shall be committed to continuing affordability for at
37 least fifty years. A local government, however, may accept payments in
38 lieu of continuing affordability. The program shall include measures

1 to enforce continuing affordability and income standards applicable to
2 low-income units constructed under this section that may include, but
3 are not limited to, covenants, options, or other agreements to be
4 executed and recorded by owners and developers;

5 (f) Programs authorized under subsection (1) of this section may
6 apply to part or all of a jurisdiction and different standards may be
7 applied to different areas within a jurisdiction. Programs authorized
8 under this section may be modified to meet local needs and may include
9 provisions not expressly provided in this section or RCW 82.02.020; and

10 (g) Required low-income housing units are encouraged to be provided
11 within market-rate housing developments for which a bonus or incentive
12 is provided. However, programs may allow units to be provided in an
13 adjacent building and may allow payments of money or property in lieu
14 of low-income housing units if the payment equals the approximate cost
15 of developing the same number and quality of housing units that would
16 otherwise be developed. Any city or county may use these funds or
17 property to support the development of low-income housing, including
18 support provided through loans or grants to public or private owners or
19 developers of housing.

20 (3) Affordable housing incentive programs enacted or expanded under
21 this section may be applied within the jurisdiction to address the need
22 for increased residential development, consistent with local growth
23 management and housing policies, as follows:

24 (a) The jurisdiction shall identify certain land use designations
25 within a geographic area where increased residential development will
26 assist in achieving local growth management and housing policies;

27 (b) The jurisdiction shall provide increased residential
28 development capacity through zoning changes, bonus densities, height
29 increases, parking reductions, or other regulatory changes or other
30 incentives;

31 (c) The jurisdiction shall determine that increased residential
32 development capacity or other incentives can be achieved within the
33 identified area, subject to consideration of other regulatory controls
34 on development; and

35 (d) The jurisdiction may establish a minimum amount of affordable
36 housing that must be provided by all residential developments being
37 built under the revised regulations, consistent with the requirements
38 of this section.

1 **Sec. 3.** RCW 82.02.020 and 2005 c 502 s 5 are each amended to read
2 as follows:

3 Except only as expressly provided in chapters 67.28 and 82.14 RCW,
4 the state preempts the field of imposing taxes upon retail sales of
5 tangible personal property, the use of tangible personal property,
6 parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances,
7 and cigarettes, and no county, town, or other municipal subdivision
8 shall have the right to impose taxes of that nature. Except as
9 provided in RCW 82.02.050 through 82.02.090, no county, city, town, or
10 other municipal corporation shall impose any tax, fee, or charge,
11 either direct or indirect, on the construction or reconstruction of
12 residential buildings, commercial buildings, industrial buildings, or
13 on any other building or building space or appurtenance thereto, or on
14 the development, subdivision, classification, or reclassification of
15 land. However, this section does not preclude dedications of land or
16 easements within the proposed development or plat which the county,
17 city, town, or other municipal corporation can demonstrate are
18 reasonably necessary as a direct result of the proposed development or
19 plat to which the dedication of land or easement is to apply.

20 This section does not prohibit voluntary agreements with counties,
21 cities, towns, or other municipal corporations that allow a payment in
22 lieu of a dedication of land or to mitigate a direct impact that has
23 been identified as a consequence of a proposed development,
24 subdivision, or plat. A local government shall not use such voluntary
25 agreements for local off-site transportation improvements within the
26 geographic boundaries of the area or areas covered by an adopted
27 transportation program authorized by chapter 39.92 RCW. Any such
28 voluntary agreement is subject to the following provisions:

29 (1) The payment shall be held in a reserve account and may only be
30 expended to fund a capital improvement agreed upon by the parties to
31 mitigate the identified, direct impact;

32 (2) The payment shall be expended in all cases within five years of
33 collection; and

34 (3) Any payment not so expended shall be refunded with interest to
35 be calculated from the original date the deposit was received by the
36 county and at the same rate applied to tax refunds pursuant to RCW
37 84.69.100; however, if the payment is not expended within five years

1 due to delay attributable to the developer, the payment shall be
2 refunded without interest.

3 No county, city, town, or other municipal corporation shall require
4 any payment as part of such a voluntary agreement which the county,
5 city, town, or other municipal corporation cannot establish is
6 reasonably necessary as a direct result of the proposed development or
7 plat.

8 Nothing in this section prohibits cities, towns, counties, or other
9 municipal corporations from collecting reasonable fees from an
10 applicant for a permit or other governmental approval to cover the cost
11 to the city, town, county, or other municipal corporation of processing
12 applications, inspecting and reviewing plans, or preparing detailed
13 statements required by chapter 43.21C RCW.

14 This section does not limit the existing authority of any county,
15 city, town, or other municipal corporation to impose special
16 assessments on property specifically benefitted thereby in the manner
17 prescribed by law.

18 Nothing in this section prohibits counties, cities, or towns from
19 imposing or permits counties, cities, or towns to impose water, sewer,
20 natural gas, drainage utility, and drainage system charges: PROVIDED,
21 That no such charge shall exceed the proportionate share of such
22 utility or system's capital costs which the county, city, or town can
23 demonstrate are attributable to the property being charged: PROVIDED
24 FURTHER, That these provisions shall not be interpreted to expand or
25 contract any existing authority of counties, cities, or towns to impose
26 such charges.

27 Nothing in this section prohibits a transportation benefit district
28 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
29 the legislative authority of a county, city, or town from approving the
30 imposition of such fees within a transportation benefit district.

31 Nothing in this section prohibits counties, cities, or towns from
32 imposing transportation impact fees authorized pursuant to chapter
33 39.92 RCW.

34 Nothing in this section prohibits counties, cities, or towns from
35 requiring property owners to provide relocation assistance to tenants
36 under RCW 59.18.440 and 59.18.450.

37 Nothing in this section limits the authority of counties, cities,

1 or towns to implement programs consistent with section 2 of this act,
2 nor to enforce agreements made pursuant to such programs.

3 This section does not apply to special purpose districts formed and
4 acting pursuant to Titles 54, 57, or 87 RCW, nor is the authority
5 conferred by these titles affected.

6 NEW SECTION. **Sec. 4.** The powers granted in this act are
7 supplemental and additional to the powers otherwise held by local
8 governments, and nothing in this act shall be construed as a limit on
9 such powers. The authority granted in this act shall extend to any
10 affordable housing incentive program enacted or expanded prior to the
11 effective date of this act if the extension is adopted by the
12 applicable local government in an ordinance or resolution.

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