
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) Any city or county planning under RCW 36.70A.040 may enact or
11 expand affordable housing incentive programs that encourage or require
12 the development of low-income housing units through development
13 regulations. An affordable housing incentive program may include, but
14 is not limited to: (a) Density bonuses within the urban growth area;
15 (b) height bonuses; (c) conditions on permits for commercial, mixed-
16 use, or multifamily developments; (d) fee waivers or exemptions; (e)
17 parking reductions; or (f) expedited permitting, conditioned on
18 provision of low-income housing units. The city or county may enact or
19 expand such programs whether or not the programs may impose a tax, fee,
20 or charge on the development or construction of property.

21 (2) Affordable housing incentive programs that are enacted or
22 expanded pursuant to the authority of this act shall comply with the
23 following:

24 (a) The incentives or bonuses shall encourage or require the
25 construction of low-income housing units;

26 (b) Jurisdictions shall set requirements for low-income renter or
27 owner occupancy housing, including income guidelines consistent with
28 local housing needs, for the purpose of assisting low-income households
29 that cannot afford market-rate housing. Low-income households are
30 defined for renter and owner occupancy program purposes as follows:

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

34 (ii) Owner occupancy housing units shall be affordable to and
35 occupied by households with an income of eighty percent or less of the
36 county median family income adjusted for family size. The legislative
37 authority of a jurisdiction, after holding a public hearing, may set

1 lower income levels. The legislative authority of a jurisdiction,
2 after holding a public hearing, may also set higher income levels for
3 rental housing or for owner occupancy housing upon finding that higher
4 income levels are needed to address local housing market conditions.
5 The higher income level for rental housing may not exceed eighty
6 percent of the county area median family income. The higher income
7 level for owner occupancy housing may not exceed one hundred percent of
8 the county area median family income. These set higher income levels
9 must be considered "low-income" for the purposes of this section;

10 (c) The jurisdiction shall set a maximum rent level or sales price
11 for each low-income housing unit developed under the terms of a
12 program, which may provide for adjustment based on the average size of
13 the household expected to occupy the unit. For renter-occupied housing
14 units, the total housing costs, including basic utilities as determined
15 by the jurisdiction, shall not exceed thirty percent of the income
16 limit for the low-income housing unit;

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

27 (e) Low-income housing units developed under an affordable housing
28 incentive program shall be committed to continuing affordability for at
29 least fifty years; however, a local government may accept payments in
30 lieu of continuing affordability. The program shall include measures
31 to enforce continuing affordability and income standards, which may
32 include, but are not limited to, covenants, options, or other
33 agreements to be executed and recorded by owners and developers;

34 (f) Programs authorized under subsection (1) of this section may
35 cover part or all of a jurisdiction and different requirements may be
36 applied to different parts of a jurisdiction. Programs authorized by
37 this section may be tailored to meet local needs and may include
38 provisions or requirements not expressly provided in this act; and

1 (g) Required low-income housing units are encouraged to be provided
2 within market-rate housing developments for which a bonus or incentive
3 is provided. However, programs may allow units to be provided in an
4 adjacent building and may allow payments of money or property in lieu
5 of low-income housing units if the payment approximately equals the
6 cost of developing the same number and quality of housing units that
7 would otherwise be developed. Any city or county may use these funds
8 or property to support the development of low-income housing, including
9 support provided through loans or grants to public or private owners or
10 developers of housing.

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

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

30 This section does not prohibit voluntary agreements with counties,
31 cities, towns, or other municipal corporations that allow a payment in
32 lieu of a dedication of land or to mitigate a direct impact that has
33 been identified as a consequence of a proposed development,
34 subdivision, or plat. A local government shall not use such voluntary
35 agreements for local off-site transportation improvements within the
36 geographic boundaries of the area or areas covered by an adopted

1 transportation program authorized by chapter 39.92 RCW. Any such
2 voluntary agreement is subject to the following provisions:

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

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

8 (3) Any payment not so expended shall be refunded with interest to
9 be calculated from the original date the deposit was received by the
10 county and at the same rate applied to tax refunds pursuant to RCW
11 84.69.100; however, if the payment is not expended within five years
12 due to delay attributable to the developer, the payment shall be
13 refunded without interest.

14 No county, city, town, or other municipal corporation shall require
15 any payment as part of such a voluntary agreement which the county,
16 city, town, or other municipal corporation cannot establish is
17 reasonably necessary as a direct result of the proposed development or
18 plat.

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

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

29 Nothing in this section prohibits counties, cities, or towns from
30 imposing or permits counties, cities, or towns to impose water, sewer,
31 natural gas, drainage utility, and drainage system charges: PROVIDED,
32 That no such charge shall exceed the proportionate share of such
33 utility or system's capital costs which the county, city, or town can
34 demonstrate are attributable to the property being charged: PROVIDED
35 FURTHER, That these provisions shall not be interpreted to expand or
36 contract any existing authority of counties, cities, or towns to impose
37 such charges.

1 Nothing in this section prohibits a transportation benefit district
2 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
3 the legislative authority of a county, city, or town from approving the
4 imposition of such fees within a transportation benefit district.

5 Nothing in this section prohibits counties, cities, or towns from
6 imposing transportation impact fees authorized pursuant to chapter
7 39.92 RCW.

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

11 Nothing in this section limits the authority of counties, cities,
12 or towns to implement programs consistent with section 2 of this act,
13 nor to enforce agreements made pursuant to such programs.

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

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

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