
HOUSE BILL 2984

State of Washington

59th Legislature

2006 Regular Session

By Representatives Springer, Jarrett, Simpson, Clibborn, B. Sullivan, Hasegawa, Sells, P. Sullivan, Moeller, Santos and Green

Read first time 01/17/2006. Referred to Committee on Local Government.

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, which can cause adverse socioeconomic
15 effects. The legislature encourages cities, towns, and counties to
16 enact or expand affordable housing incentive programs, including
17 density bonuses and other incentives, to increase the availability of
18 low-income housing for renter and owner occupancy located in largely
19 market rate housing developments throughout the community consistent

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

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

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

21 (2) Affordable housing incentive programs that are enacted or
22 expanded after the effective date 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, with the intent 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 Rental housing units to be developed shall be affordable to and
32 occupied by households with an income of no more than fifty percent of
33 the county median family income adjusted for family size; and owner
34 occupancy housing units shall be affordable to and occupied by
35 households with an income of no more than eighty percent of the county
36 median family income adjusted for family size. A jurisdiction's
37 legislative body, after holding a public hearing, may set lower income

1 levels. A jurisdiction's legislative body after holding a public
2 hearing may also set higher income levels for rental housing, up to
3 eighty percent of the county area median family income, or for owner
4 occupancy housing, up to one hundred percent of the county area median
5 family income, upon finding that higher income levels are needed to
6 address local housing market conditions;

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

14 (d) Low-income housing units shall be of comparable quality to the
15 other units in the housing projects developed under a program;

16 (e) The low-income housing units developed under an affordable
17 housing incentive program shall be committed to continuing
18 affordability for at least fifty years; however, a local government may
19 accept payments in lieu of continuing affordability. The program shall
20 include measures to enforce continuing affordability and income
21 standards, which may include, but are not limited to, covenants,
22 options, or other agreements to be executed and recorded by owners and
23 developers, which shall be enforceable by the local government and
24 shall run with the land and bind successors in interest,
25 notwithstanding common law requirements for running covenants and
26 common law rules respecting restraints on alienation;

27 (f) Programs authorized under subsection (1) of this section may
28 cover part or all of a jurisdiction and different requirements may
29 apply to different parts of a jurisdiction. Programs authorized by
30 this section may be tailored to meet local needs and include provisions
31 or requirements not expressly provided in this act; and

32 (g) Required low-income housing units are encouraged to be provided
33 within market rate housing developments for which a bonus or incentive
34 is provided; however, programs may allow payments in lieu of low-income
35 housing units, as long as the payment amounts to approximately the cost
36 of developing the same number and quality of housing units that would
37 otherwise be developed. Any city or county may use such funds to

1 support the development of low-income housing, including support
2 through loans or grants to public or private owners or developers of
3 housing.

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

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

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

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

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

1 (3) Any payment not so expended shall be refunded with interest to
2 be calculated from the original date the deposit was received by the
3 county and at the same rate applied to tax refunds pursuant to RCW
4 84.69.100; however, if the payment is not expended within five years
5 due to delay attributable to the developer, the payment shall be
6 refunded without interest.

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

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

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

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

31 Nothing in this section prohibits a transportation benefit district
32 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
33 the legislative authority of a county, city, or town from approving the
34 imposition of such fees within a transportation benefit district.

35 Nothing in this section prohibits counties, cities, or towns from
36 imposing transportation impact fees authorized pursuant to chapter
37 39.92 RCW.

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

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

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

10 NEW SECTION. **Sec. 4.** The powers granted in this act are
11 supplemental and additional to the powers otherwise held by local
12 governments, and nothing in this act shall be construed as a limit on
13 such powers.

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