
HOUSE BILL 2849

State of Washington 60th Legislature 2008 Regular Session

By Representatives Ormsby, Miloscia, Morrell, Wood, and Santos

Read first time 01/16/08. Referred to Committee on Housing.

1 AN ACT Relating to affordable housing financing; adding a new
2 section to chapter 82.14 RCW; and adding a new chapter to Title 43 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature recognizes that household
5 incomes have not kept pace with rising housing costs in many areas of
6 the state. The legislature further recognizes that there are many
7 factors contributing to the escalation in housing costs that include
8 either rapid development or redevelopment, or both, within specific
9 geographic areas. The legislature further recognizes that the
10 escalation in housing costs, particularly in high-cost areas, has
11 forced many low-income and moderate-income households to pay excessive
12 amounts of their income for housing or delayed their opportunity for
13 homeownership. The legislature further recognizes that what is needed
14 is a financing program to help mitigate the impacts of escalating
15 housing costs on low and moderate-income households by capturing a
16 portion of the state tax revenue associated with either development or
17 redevelopment activities, or both, within a specified geographic area
18 of a local government.

1 (2) The legislature finds that it is in the public interest to
2 create an affordable housing financing program that invests a portion
3 of the revenues generated from either development or redevelopment
4 activity, or both, within a local government's designated area to fund
5 affordable housing projects through a credit against the state sales
6 and use taxes.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Affordable housing" means residential housing that is rented
10 by a household that is within the means of low-income households for a
11 period of not less than fifty years. For the purposes of housing
12 intended for owner occupancy, "affordable housing" means residential
13 housing that is within the means of low or moderate-income households
14 for a period of not less than fifty years.

15 (2) "Annual state contribution limit" means fifteen million dollars
16 statewide per fiscal year.

17 (3) "Base year" means the calendar year prior to when a local
18 government receives approval by the department for a project award
19 under this chapter.

20 (4) "Department" means the department of community, trade, and
21 economic development.

22 (5) "Designated area" means a compact identifiable geographic
23 subarea that is located within the boundaries of a local government's
24 urban growth area and where residents may obtain a variety of products
25 and services. A designated area must contain:

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

29 (b) Public facilities that include, but are not limited to streets,
30 lighting, transit, domestic water, and sanitary sewer systems;

31 (c) A mixture of uses and activities that may include housing,
32 recreation, and cultural activities in association with uses identified
33 in (a) of this subsection.

34 (6) "High-cost area" means a county where the third quarter median
35 house price for the previous year as reported by the Washington center
36 for real estate research at Washington State University is equal to or

1 greater than one hundred thirty percent of the statewide median house
2 price published during the same time period.

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

5 (8) "Local government" means a city, town, or county.

6 (9) "Low-income household" means a single person, family, or
7 unrelated persons living together whose adjusted income is at or below
8 eighty percent of the median family income adjusted for family size,
9 for the county where the project is located. For cities located in
10 high-cost areas, "low-income household" means a household that has an
11 income at or below one hundred percent of the median family income
12 adjusted for family size, for the county where the project is located.

13 (10) "Moderate-income household" means a single person, family, or
14 unrelated persons living together whose adjusted income is more than
15 eighty percent but is at or below one hundred fifteen percent of the
16 median family income adjusted for family size, for the county where the
17 project is located. For cities located in high-cost areas,
18 "moderate-income household" means a household that has an income that
19 is more than one hundred percent, but at or below one hundred fifty
20 percent, of the median family income adjusted for family size, for the
21 county where the project is located.

22 (11) "Project award" means that amount of state contribution
23 awarded to a local government for affordable housing activities
24 eligible under section 4 of this act.

25 (12) "Revenue from local public sources" means the local
26 government's portion of property taxes and local sales and use taxes
27 dedicated to the financing of affordable housing under this chapter.
28 "Revenue from local public sources" also includes bonds issued by the
29 local government that are used to finance affordable housing under this
30 chapter or amounts from a property tax levy imposed by the local
31 government that is dedicated to financing affordable housing under this
32 chapter. Expenditures by the local government associated with the
33 administration of affordable housing programs financed under this
34 chapter shall be considered "revenue from local public sources."

35 (13) "State contribution" means the lesser of:

36 (a) Five million dollars per fiscal year, for a period not to
37 exceed twenty-five years;

1 (b) The estimated total increase of state property taxes and state
2 sales and use taxes, above the base year, within the designated area
3 for a period not to exceed twenty-five years; or

4 (c) An amount equal to the revenue from local public sources that
5 is dedicated by the local government for the financing of affordable
6 housing developments within the designated area for a period not to
7 exceed twenty-five years.

8 NEW SECTION. **Sec. 3.** The housing everyone financing tool program
9 is created in the department for the purpose of providing direct grants
10 to local governments that are used for financing affordable housing by
11 capturing a portion of the anticipated growth in state revenues, within
12 a designated area of a local government, that are the direct result of
13 development or redevelopment. The program shall be developed and
14 administered by the department with advice and input from the
15 department of revenue and the affordable housing advisory board
16 established in RCW 43.185B.020.

17 NEW SECTION. **Sec. 4.** (1) The department shall make project awards
18 to local governments to assist in the financing of affordable housing
19 within designated areas.

20 (2) Activities eligible for assistance under this chapter include,
21 but are not limited to:

22 (a) New construction, rehabilitation, or acquisition of affordable
23 housing, including but not limited to public improvements directly
24 related to the affordable housing financed under this chapter and
25 planning, engineering, architectural, and financial services associated
26 with affordable housing financed under this chapter;

27 (b) Acquisition of existing housing units for resale or rent as
28 affordable housing; and

29 (c) Acquisition of land that will be used for affordable housing.

30 NEW SECTION. **Sec. 5.** (1) Prior to applying to the department to
31 use housing everyone financing tool financing, a local government
32 shall:

33 (a) Designate a designated area as defined in section 2(5) of this
34 act;

1 (b) Provide public notice as required in section 6(2) of this act;
2 and

3 (c) Pass an ordinance adopting the designated area as required in
4 section 6(1) of this act.

5 (2)(a) As a condition to imposing a sales and use tax under section
6 7 of this act, a local government must apply to the department and be
7 approved for a project award amount. The application shall be in a
8 form and manner prescribed by the department and include but not be
9 limited to:

10 (i) Information on the type and number of affordable housing units
11 to be financed within the designated area;

12 (ii) Information establishing that the applicant is an eligible
13 candidate to impose the local sales and use tax under section 7 of this
14 act;

15 (iii) The anticipated effective date for imposing the tax, taking
16 into consideration the requirements of RCW 82.14.055(2);

17 (iv) The estimated number of years that the tax, under section 7 of
18 this act, will need to be imposed;

19 (v) The amount of revenue from local public sources that will be
20 dedicated to affordable housing in the designated area;

21 (vi) An estimate of the amount of tax revenue to be received in
22 each fiscal year that the tax will be imposed; and

23 (vii) Other information the department and the department of
24 revenue deems necessary.

25 (b) The department shall make available forms to be used for this
26 purpose.

27 (3) In evaluating applications for project awards, the department
28 shall give priority consideration to:

29 (a) Applications from local governments that plan or elect to plan
30 under the state's growth management act, chapter 36.70A RCW; and

31 (b) Applications from local governments that provide financing for
32 affordable housing that supports transit-oriented development.

33 (4)(a) Once the department has approved the local government to use
34 housing everyone financing tool financing, notification of a project
35 award must be sent by the department to the local government
36 authorizing the local government to impose the local sales and use tax
37 authorized under section 7 of this act, subject to the conditions in
38 section 7 of this act.

1 (b) A notice of approval to use housing everyone financing tool
2 financing shall contain a project award that represents the maximum
3 amount of state contribution that the local government can earn each
4 year that housing everyone financing tool financing is used. The total
5 of all project awards may not exceed the annual state contribution
6 limit. The determination of a project award shall be made based on
7 information contained in the application and the remaining amount of
8 annual state contribution limit to be awarded. Determination of a
9 project award by the department is final.

10 (5) Money collected from the taxes imposed under section 7 of this
11 act may be used only for the purpose of paying all or a portion of the
12 debt service on bonds issued by the local government to finance
13 affordable housing within the designated area or to pay for affordable
14 housing within the designated area on a pay-as-you-go basis, or both.

15 NEW SECTION. **Sec. 6.** (1) To designate an area as a designated
16 area, a local government must adopt an ordinance establishing the
17 designated area that:

18 (a) Describes the boundaries of the designated area;

19 (b) Certifies that the designated area meets the requirements of
20 section 2(5) of this act;

21 (c) Estimates the type, number, and cost of affordable housing
22 units that will receive financial assistance under this chapter; and

23 (d) Estimates the time period of the local government's commitment
24 to provide revenue from local public sources to finance affordable
25 housing within the designated area.

26 (2) The local government must hold a public hearing on the proposed
27 financing of affordable housing under this chapter before passage of
28 the ordinance establishing the designated area. The public hearing
29 shall be held by the legislative authority of the local government.
30 The public hearing is subject to the notice requirements of applicable
31 state and local laws.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.14 RCW
33 to read as follows:

34 (1) A local government that has been approved by the department of
35 community, trade, and economic development to use affordable housing
36 financing under chapter 43.--- RCW (sections 1 through 6, 8 through 10,

1 and 12 of this act) may impose sales and use taxes in accordance with
2 the terms of this chapter and subject to the criteria set forth in this
3 section. Except as provided in this section, the tax is in addition to
4 other taxes authorized by law and shall be collected from those persons
5 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
6 the occurrence of any taxable event within the taxing jurisdiction of
7 the sponsoring local government or cosponsoring local government. The
8 rate of tax may not exceed the rate provided in RCW 82.08.020(1), less
9 the aggregate rates of any other local sales and use taxes imposed on
10 the same taxable events that are credited against the state sales and
11 use taxes imposed under chapters 82.08 and 82.12 RCW. The rate of tax
12 may be changed only on the first day of a fiscal year as needed.
13 Notice of rate changes must be provided to the department on the first
14 day of March to be effective on July 1st of the next fiscal year.

15 (2) The tax authorized under subsection (1) of this section shall
16 be credited against the state taxes imposed under chapter 82.08 or
17 82.12 RCW. The department shall perform the collection of such taxes
18 on behalf of the local government at no cost to the local government
19 and shall remit the taxes as provided in RCW 82.14.060.

20 (3)(a) No tax may be imposed under the authority of this section:

21 (i) Before July 1, 2009;

22 (ii) Before approval by the department of community, trade, and
23 economic development of the local government's application for
24 affordable housing financing under chapter 43.--- RCW (sections 1
25 through 6, 8 through 10, and 12 of this act); and

26 (iii) Before the local government has certified to the department
27 of community, trade, and economic development that the revenue from
28 local public sources, as defined in section 2(12) of this act, is
29 available to finance its portion of affordable housing.

30 (b) The tax imposed under this section shall expire when either (i)
31 the local government's bonds issued to finance affordable housing under
32 chapter 43.--- RCW (sections 1 through 6, 8 through 10, and 12 of this
33 act) are retired, but not more than twenty-five years after the tax is
34 first imposed or (ii) the local government has received the amount of
35 the project award, as determined by the department of community, trade,
36 and economic development.

37 (4) An ordinance adopted by the legislative authority of a local
38 government imposing a tax under this section shall provide that:

1 (a) The tax shall first be imposed on the first day of a fiscal
2 year;

3 (b) The cumulative amount of tax received by the local government
4 in any fiscal year shall not exceed the amount of the state
5 contribution;

6 (c) The tax shall cease to be distributed for the remainder of any
7 fiscal year in which either:

8 (i) The amount of tax received by the local government equals the
9 amount of the state contribution; or

10 (ii) The amount of tax received by the local government equals the
11 amount of project award granted in the approval notice described in
12 section 5 of this act;

13 (d) The tax shall be distributed again, should it cease to be
14 distributed for any of the reasons provided in (c) of this subsection,
15 at the beginning of the next fiscal year, subject to the restrictions
16 in this section; and

17 (e) Any revenue generated by the tax in excess of the amounts
18 specified in (c) of this subsection shall belong to the state of
19 Washington.

20 (5) The department shall determine the amount of tax receipts
21 distributed to each local government imposing sales and use tax under
22 this section and shall advise a local government when tax distributions
23 for the fiscal year equal the amount of state contribution for that
24 fiscal year as provided in subsection (6) of this section.
25 Determinations by the department of the amount of tax distributions
26 attributable to each local government are final and may not be used to
27 challenge the validity of any tax imposed under this section. The
28 department shall remit any tax receipts in excess of the amounts
29 specified in subsection (4) (c) of this section to the state treasurer
30 who shall deposit the money in the general fund.

31 (6) Each year, the amount of taxes approved by the department for
32 distribution to a local government in the next fiscal year shall be
33 equal to the state contribution and shall be no more than the total
34 revenue from local public sources as described in section 2(12) of this
35 act. A local government may not receive, in any fiscal year, more
36 revenues from taxes imposed under the authority of this section than
37 the amount approved annually by the department. The department shall

1 not approve the receipt of more distributions of sales and use tax
2 under this section to a local government than is authorized under
3 subsection (4) of this section.

4 (7) The amount of tax distributions received from taxes imposed
5 under the authority of this section by all local governments is limited
6 annually to not more than fifteen million dollars.

7 (8) Subject to chapter 43.--- RCW (sections 1 through 6, 8 through
8 10, and 12 of this act), the tax imposed under the authority of this
9 section may be applied either to provide for the payment of debt
10 service on bonds issued by the local government to finance affordable
11 housing under chapter 43.--- RCW (sections 1 through 6, 8 through 10,
12 and 12 of this act) by the local government or to pay affordable
13 housing costs on a pay-as-you-go basis, or both.

14 (9) The definitions in section 2 of this act apply to this section
15 unless the context clearly requires otherwise.

16 NEW SECTION. **Sec. 8.** The department and the department of revenue
17 shall periodically report on the implementation of the housing everyone
18 financing tool program to the governor and the legislature as the
19 department and the department of revenue deems appropriate and
20 recommend such amendments, changes in, and modifications of this act as
21 seem proper.

22 NEW SECTION. **Sec. 9.** The department and the department of revenue
23 may adopt rules under chapter 34.05 RCW they consider necessary for the
24 administration of this chapter.

25 NEW SECTION. **Sec. 10.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 11.** Sections 1 through 6, 8 through 10, and 12
30 of this act are each added to Title 43 RCW and codified with the
31 chapter heading "housing everyone financing tool program."

1 NEW SECTION. **Sec. 12.** This chapter may be known and cited as the
2 "housing everyone financing tool act."

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