
SENATE BILL 5856

State of Washington

61st Legislature

2009 Regular Session

By Senators Murray, Kohl-Welles, Keiser, Shin, and McDermott

Read first time 02/04/09. Referred to Committee on Financial Institutions, Housing & Insurance.

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.** (1) The legislature recognizes that
5 household incomes have not kept pace with rising housing costs in many
6 areas of the state. The legislature further recognizes that there are
7 many factors contributing to the escalation in housing costs that
8 include the rapid development or redevelopment within specific
9 geographic areas that have been identified for increased population and
10 employment growth in regional and local growth management plans. The
11 legislature further recognizes that the escalation in housing costs,
12 particularly in high cost areas, has forced many low-income and
13 moderate-income households to use excessive amounts of their income to
14 pay for housing, commute long distances from home to work, or delay
15 their opportunity for homeownership. The legislature further
16 recognizes that the state benefits from increased tax revenues from
17 development or redevelopment activity in these locations.

18 (2) The legislature finds that the provision of affordable housing
19 meets one of the stated planning goals of the state's growth management

1 act to encourage the availability of affordable housing to all economic
2 segments in locations close to jobs, transportation, and services. The
3 legislature further finds that housing needed to accommodate new
4 households in locations close to jobs, transportation, and services
5 will largely be provided through new construction and, without specific
6 public policies, incentives, and investments, this housing will often
7 be unaffordable to low and moderate-income households who are employed
8 in these locations or who rely on public transit provided in these
9 locations. Therefore, the legislature further finds that it is in the
10 public interest to create an affordable housing financing program
11 focused on high-growth areas that creates or preserves affordable
12 housing by leveraging local government funding for affordable housing
13 with state revenues through a local sales and use tax that is credited
14 against the state sales and use tax.

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

17 (1) "Affordable housing" means housing that is affordable to and
18 rented by an eligible household. For the purposes of housing intended
19 for owner occupancy, "affordable housing" means housing that is
20 affordable to and purchased by an eligible household.

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

23 (3) "Department" means the department of community, trade, and
24 economic development.

25 (4) "Designated area" means a compact identifiable geographic
26 subarea that is located within the boundaries of a local government's
27 urban growth area and where commercial and residential growth is
28 projected. A designated area must contain a mixture of commercial and
29 residential uses and must have high capacity transit or frequent
30 transit service, or both.

31 (5) "Eligible household" means a single person, family, or
32 unrelated persons living together whose adjusted income is at or below
33 eighty percent of the median family income, adjusted for family size,
34 that is in effect for the county where the project is located.

35 (6) "Local government" means a city or town. "Local government"
36 also includes a joint application for funding under this chapter by a
37 city or town and the county in which the city or town is located.

1 (7) "Local public sources" means the local government's financial
2 contribution dedicated to the financing of affordable housing under
3 this chapter. "Local public sources" includes, but is not limited to:
4 The local government's portion of the property tax, including amounts
5 from a property tax levy imposed by the local government that is
6 dedicated to financing affordable housing under this chapter; the local
7 government's sales and use tax; and proceeds from bonds issued by the
8 local government that are used to finance affordable housing under this
9 chapter. "Local public sources" also includes expenditures by the
10 local government associated with the administration of affordable
11 housing programs under this chapter. "Local public sources" does not
12 include: Federal funds received by the local government; local sales
13 and use taxes that are authorized under section 10 of this act; or
14 funds generated from the surcharges authorized under RCW 36.22.178,
15 36.22.179, and 36.22.1791.

16 (8) "Project award" means the amount of state contribution awarded
17 to a local government for affordable housing activities eligible under
18 section 4 of this act.

19 NEW SECTION. **Sec. 3.** The housing everyone financing tool program
20 is created in the department for the purpose of making project awards
21 to local governments for the financing of affordable housing within the
22 local government's designated area or areas. The program must be
23 developed and administered by the department with advice and input from
24 the affordable housing advisory board established in RCW 43.185B.020.

25 NEW SECTION. **Sec. 4.** (1) Beginning July 1, 2011, the department
26 shall make project awards to local governments to assist in the
27 financing of affordable housing within the local government's
28 designated area or areas.

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

31 (a) New construction, rehabilitation, or acquisition of affordable
32 housing including, but not limited to, public improvements directly
33 related to the affordable housing financed under this chapter and
34 planning, engineering, architectural, and financial services associated
35 with affordable housing financed under this chapter;

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

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

4 (3) A local government approved for a project award shall enter
5 into agreements with the project developer receiving funds under this
6 chapter that specifies, at a minimum, the number of affordable housing
7 units to be provided, the income of households to be served, affordable
8 rent or prices, and other requirements as determined. Agreements must
9 ensure that housing financed under this chapter will be maintained as
10 affordable housing for a minimum of fifty years.

11 (4) A local government approved for a project award shall report
12 annually to the department regarding the status of affordable housing
13 development in the designated area, the use of the state award funds
14 and local public sources, and affordability agreements entered into
15 with project developers. The local government shall continue to
16 provide annual reports to the department until all state award funds
17 are expended and all housing developments receiving state award funds
18 have completed one year of operation.

19 NEW SECTION. **Sec. 5.** (1) As a condition to imposing a sales and
20 use tax under section 10 of this act, a local government must apply to
21 the department and be approved for a project award. The application
22 must be in a form and manner prescribed by the department and include,
23 but not be limited to:

24 (a) Information on the designated area or areas, including area
25 boundaries; current land uses and other characteristics; availability
26 of high capacity transit or frequent transit service, or both; and a
27 survey of any existing affordable housing, including a plan for
28 preserving or replacing the housing or assisting low-income tenants who
29 may be displaced;

30 (b) Information on projected construction-related development or
31 redevelopment activity within the designated area or areas and the
32 anticipated increase in state revenues generated by the imposition of
33 taxes under Title 84 RCW and chapters 82.08 and 82.12 RCW that is
34 expected to occur as a result of projected construction-related
35 development or redevelopment activity;

36 (c) Information on the type and number of affordable housing units

1 that are expected to be constructed or preserved under this chapter
2 within the designated area or areas and the anticipated timeline for
3 completion of affordable housing development;

4 (d) The amount of local public sources that will be dedicated to
5 affordable housing financed under this chapter;

6 (e) The amount of state award funds requested to be dedicated to
7 affordable housing financed under this chapter and how the state award
8 funds will be used;

9 (f) The anticipated effective date for imposing the local sales and
10 use tax under section 10 of this act, subject to RCW 82.14.055(2), and
11 the estimated number of years that the tax will need to be imposed, but
12 not to exceed twenty-five years; and

13 (g) Other information the department deems necessary.

14 (2) In evaluating applications for project awards, the department
15 shall give priority consideration to applications from a local
16 government that propose to:

17 (a) Provide financing for moderate or high density residential
18 development, or both, including mixed residential-commercial
19 developments;

20 (b) Provide financing for affordable housing that is within one-
21 half mile walking distance of a high capacity transportation station or
22 within one-quarter mile walking distance of high frequency transit
23 service;

24 (c) Maximize the affordability to low and very low-income
25 households;

26 (d) Leverage other available public and private fund sources for
27 the development and operation of affordable housing;

28 (e) Maintain the affordability of the housing for the greatest
29 period of time; and

30 (f) Demonstrate a readiness to proceed.

31 (3) The department may not approve a project award amount that
32 exceeds the amount dedicated as the local public source by the local
33 government for the financing of affordable housing.

34 (4)(a) Once the department has approved the local government to use
35 housing everyone financing tool financing, notification of a project
36 award must be sent by the department to the local government
37 authorizing the local government to impose the local sales and use tax

1 authorized and subject to the conditions under section 10 of this act.
2 The department must also send notification of project awards to the
3 department of revenue.

4 (b) A notice of approval to use housing everyone financing tool
5 financing must contain a project award letter that states the amount
6 available to a local government each fiscal year for financing
7 affordable housing under this chapter, for a period not to exceed
8 twenty-five years.

9 (c) A determination of a project award by the department is final.

10 (5) The department shall monitor the use of a project award by the
11 local government and the status of affordable housing production. If
12 the local government fails to produce affordable housing as specified
13 in the notice of approval, the department may require repayment of the
14 project award.

15 NEW SECTION. **Sec. 6.** The department shall periodically report on
16 the implementation of the housing everyone financing tool program to
17 the governor and the legislature as the department deems appropriate,
18 and recommend amendments to, changes in, and modifications to this
19 chapter when appropriate.

20 NEW SECTION. **Sec. 7.** The department may adopt rules under chapter
21 34.05 RCW necessary for the administration of this chapter.

22 NEW SECTION. **Sec. 8.** This act may be known and cited as the
23 housing everyone financing tool act.

24 NEW SECTION. **Sec. 9.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.14 RCW
29 to read as follows:

30 (1) A local government that has been approved by the department of
31 community, trade, and economic development to use housing everyone
32 financing tool financing under chapter 43.-- RCW (the new chapter
33 created in section 11 of this act) may impose a sales and use tax in

1 accordance with the terms of this chapter and subject to the criteria
2 set forth in this section. Except as provided in this section, the tax
3 is in addition to other taxes authorized by law and shall be collected
4 from those persons who are taxable by the state under chapters 82.08
5 and 82.12 RCW upon the occurrence of any taxable event within the
6 taxing jurisdiction of the local government. The rate of tax may not
7 exceed the rate provided in RCW 82.08.020(1), less the aggregate rates
8 of any other local sales and use taxes imposed by any local government
9 on the same taxable events that are credited against the state sales
10 and use taxes imposed under chapters 82.08 and 82.12 RCW. The tax rate
11 must be no higher than what is reasonably necessary for the local
12 government to receive its entire project award for any fiscal year in
13 a ten-month period of time. The rate of tax may be changed only on the
14 first day of a fiscal year as needed. Notice of rate changes must be
15 provided to the department on the first day of March to be effective on
16 July 1st of the next fiscal year.

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

22 (3)(a) A tax may not be imposed under the authority of this
23 section:

24 (i) Before July 1, 2012; and

25 (ii) Before approval by the department of community, trade, and
26 economic development of the local government's application for housing
27 everyone financing tool financing under chapter 43.-- RCW (the new
28 chapter created in section 11 of this act).

29 (b)(i) The tax imposed under this section expires on the earlier
30 of: (A) The first day of the month following the month that the local
31 government's bonds issued to finance affordable housing under chapter
32 43.-- RCW (the new chapter created in section 11 of this act) are
33 retired; (B) the first day of the month following the month that the
34 local government has received the entire amount of the project award
35 from the distributions of the taxes imposed under the authority of this
36 section for the number of years indicated in the project award
37 notification from the department of community, trade, and economic
38 development; or (C) twenty-five years after the tax is imposed.

1 (ii) The local government must give the department at least thirty
2 days' notice before the expiration of the tax imposed under the
3 authority of this section.

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

6 (a) The tax must first be imposed on the first day of a fiscal
7 year;

8 (b) The cumulative amount of tax received by the local government
9 in any fiscal year may not exceed the amount of the project award for
10 that fiscal year;

11 (c) The tax must cease to be distributed for the remainder of any
12 fiscal year in which the amount of tax received by the local government
13 equals the amount of the project award for that fiscal year;

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

17 (e) The state is entitled to any revenue generated by the tax in
18 excess of the project award.

19 (5) The department shall determine when tax distributions for the
20 fiscal year equal the amount of the project award for that fiscal year
21 as provided in subsection (6) of this section. Determinations by the
22 department of the amount of tax distributions attributable to each
23 local government are final and may not be used to challenge the
24 validity of any tax imposed under this section. The department shall
25 remit any tax receipts in excess of the project award to the state
26 treasurer who shall deposit the money in the general fund.

27 (6) The amount of tax distributions received in any fiscal year
28 from taxes imposed under the authority of this section by all local
29 governments may not exceed the annual state contribution limit.

30 (7) Subject to chapter 43.-- RCW (the new chapter created in
31 section 11 of this act), the tax imposed under the authority of this
32 section may be applied to provide for the payment of debt service on
33 bonds issued by the local government to finance affordable housing
34 under chapter 43.-- RCW (the new chapter created in section 11 of this
35 act) or to pay affordable housing costs on a pay-as-you-go basis, or
36 both.

37 (8) For the purposes of this section, "affordable housing," "annual

1 state contribution limit," "local government," and "project award" all
2 have the same meaning as in section 2 of this act.

3 NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act constitute
4 a new chapter in Title 43 RCW.

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