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**ENGROSSED HOUSE BILL 1398**

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**State of Washington**                      **62nd Legislature**                      **2011 Regular Session**

**By**            Representatives    Fitzgibbon,    Seaquist,    Orwall,    Springer,  
Upthegrove, and Kenney

Read first time 01/20/11.    Referred to Committee on Community  
Development & Housing.

1            AN ACT Relating to exempting low-income housing from impact fees;  
2 and amending RCW 82.02.060 and 43.21C.065.

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

4            **Sec. 1.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each  
5 amended to read as follows:

6            The local ordinance by which impact fees are imposed:

7            (1) Shall include a schedule of impact fees which shall be adopted  
8 for each type of development activity that is subject to impact fees,  
9 specifying the amount of the impact fee to be imposed for each type of  
10 system improvement. The schedule shall be based upon a formula or  
11 other method of calculating such impact fees. In determining  
12 proportionate share, the formula or other method of calculating impact  
13 fees shall incorporate, among other things, the following:

14            (a) The cost of public facilities necessitated by new development;

15            (b) An adjustment to the cost of the public facilities for past or  
16 future payments made or reasonably anticipated to be made by new  
17 development to pay for particular system improvements in the form of  
18 user fees, debt service payments, taxes, or other payments earmarked  
19 for or proratable to the particular system improvement;

1 (c) The availability of other means of funding public facility  
2 improvements;

3 (d) The cost of existing public facilities improvements; and

4 (e) The methods by which public facilities improvements were  
5 financed;

6 (2) May provide an exemption for low-income housing((~~τ~~)) and other  
7 development activities with broad public purposes((~~τ~~)) from these  
8 impact fees, provided that the impact fees for ((~~such~~)) development  
9 ((~~activity~~)) activities with broad public purposes shall be paid from  
10 public funds other than impact fee accounts. Local governments that  
11 grant exemptions for low-income housing under this subsection (2) are  
12 not obligated to pay the exempted fees. An exemption for low-income  
13 housing granted under this subsection (2) must be conditioned upon  
14 requiring the developer to record a covenant that, except as provided  
15 otherwise by this subsection, prohibits using the property for any  
16 purpose other than for low-income housing. The covenant must provide  
17 that if the property is converted to a use other than for low-income  
18 housing, the property owner must pay the applicable impact fees in  
19 effect at the time of conversion. Covenants required by this  
20 subsection must be recorded with the applicable county auditor or  
21 recording officer. A local government granting an exemption under this  
22 subsection for low-income housing may not: (a) Collect revenue lost  
23 through granting an exemption by increasing impact fees unrelated to  
24 the exemption; or (b) impose a fee under RCW 43.21C.060 for the system  
25 improvements for which the exemption applies;

26 (3) Shall provide a credit for the value of any dedication of land  
27 for, improvement to, or new construction of any system improvements  
28 provided by the developer, to facilities that are identified in the  
29 capital facilities plan and that are required by the county, city, or  
30 town as a condition of approving the development activity;

31 (4) Shall allow the county, city, or town imposing the impact fees  
32 to adjust the standard impact fee at the time the fee is imposed to  
33 consider unusual circumstances in specific cases to ensure that impact  
34 fees are imposed fairly;

35 (5) Shall include a provision for calculating the amount of the fee  
36 to be imposed on a particular development that permits consideration of  
37 studies and data submitted by the developer to adjust the amount of the  
38 fee;

1 (6) Shall establish one or more reasonable service areas within  
2 which it shall calculate and impose impact fees for various land use  
3 categories per unit of development; and

4 (7) May provide for the imposition of an impact fee for system  
5 improvement costs previously incurred by a county, city, or town to the  
6 extent that new growth and development will be served by the previously  
7 constructed improvements provided such fee shall not be imposed to make  
8 up for any system improvement deficiencies.

9 **Sec. 2.** RCW 43.21C.065 and 1992 c 219 s 1 are each amended to read  
10 as follows:

11 (1) A person required to pay an impact fee for system improvements  
12 pursuant to RCW 82.02.050 through 82.02.090 shall not be required to  
13 pay a fee pursuant to RCW 43.21C.060 for those same system  
14 improvements.

15 (2) A local government granting an exemption under RCW 82.02.060(2)  
16 for low-income housing shall not impose a fee pursuant to RCW  
17 43.21C.060 for the system improvements for which the exemption applies.

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