

SSB 5875 - S AMD 692

By Senators Angel, Benton, Hobbs, Frockt

ADOPTED 03/13/2014

1 Strike everything after the enacting clause and insert the
2 following:

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4
5 "Sec. 1. RCW 36.22.179 and 2012 c 90 s 1 are each amended to read
6 as follows:

7 (1) In addition to the surcharge authorized in RCW 36.22.178, and
8 except as provided in subsection (2) of this section, an additional
9 surcharge of ten dollars shall be charged by the county auditor for
10 each document recorded, which will be in addition to any other charge
11 allowed by law. (~~From July 1, 2009, through August 31, 2012, and~~
12 ~~from July 1, 2015, through June 30, 2017, the surcharge shall be~~
13 ~~thirty dollars.~~) From September 1, 2012, through June 30, ((2015))
14 2019, the surcharge shall be forty dollars. The funds collected
15 pursuant to this section are to be distributed and used as follows:

16 (a) The auditor shall retain two percent for collection of the
17 fee, and of the remainder shall remit sixty percent to the county to
18 be deposited into a fund that must be used by the county and its
19 cities and towns to accomplish the purposes of chapter 484, Laws of
20 2005, six percent of which may be used by the county for
21 administrative costs related to its homeless housing plan, and the
22 remainder for programs which directly accomplish the goals of the
23 county's local homeless housing plan, except that for each city in the
24 county which elects as authorized in RCW 43.185C.080 to operate its
25 own local homeless housing program, a percentage of the surcharge
26 assessed under this section equal to the percentage of the city's
27 local portion of the real estate excise tax collected by the county

1 shall be transmitted at least quarterly to the city treasurer, without
2 any deduction for county administrative costs, for use by the city for
3 program costs which directly contribute to the goals of the city's
4 local homeless housing plan; of the funds received by the city, it may
5 use six percent for administrative costs for its homeless housing
6 program.

7 (b) The auditor shall remit the remaining funds to the state
8 treasurer for deposit in the home security fund account. The
9 department may use twelve and one-half percent of this amount for
10 administration of the program established in RCW 43.185C.020,
11 including the costs of creating the statewide homeless housing
12 strategic plan, measuring performance, providing technical assistance
13 to local governments, and managing the homeless housing grant program.
14 Of the remaining eighty-seven and one-half percent, at least forty-
15 five percent must be set aside for the use of private rental housing
16 payments, and the remainder is to be used by the department to:

17 (i) Provide housing and shelter for homeless people including, but
18 not limited to: Grants to operate, repair, and staff shelters; grants
19 to operate transitional housing; partial payments for rental
20 assistance; consolidated emergency assistance; overnight youth
21 shelters; grants and vouchers designated for victims of human
22 trafficking and their families; and emergency shelter assistance; and

23 (ii) Fund the homeless housing grant program.

24 ~~(2) ((The surcharge imposed in this section applies to documents~~
25 ~~required to be recorded or filed under RCW 65.04.030(1) including, but~~
26 ~~not limited to: Full reconveyance; deeds of trust; deeds; liens~~
27 ~~related to real property; release of liens related to real property;~~
28 ~~notice of trustee sales; judgments related to real property; and all~~
29 ~~other documents pertaining to real property as determined by the~~
30 ~~department. However, the surcharge does not apply to (a)~~
31 ~~assignment or substitutions of previously recorded deeds of trust, or~~
32 ~~(b) documents recording a birth, marriage, divorce, or death or any~~
33 ~~documents otherwise exempted from a recording fee under state law.~~

34 ~~(3) By August 31, 2012, the department shall submit to each county~~

1 ~~auditor a list of documents that are subject to the surcharge~~
2 ~~established in subsection (1) of this section.~~

3 ~~— (4) If section 2, chapter 90, Laws of 2012 is not enacted into law~~
4 ~~by July 31, 2012, section 1, chapter 90, Laws of 2012 is null and~~
5 ~~void.)~~) The surcharge imposed in this section does not apply to (a)
6 assignments or substitutions of previously recorded deeds of trust,
7 (b) documents recording a birth, marriage, divorce, or death, (c) any
8 recorded documents otherwise exempted from a recording fee or
9 additional surcharges under state law, (d) marriage licenses issued by
10 the county auditor, or (e) documents recording a state, county, or
11 city lien or satisfaction of lien.

12
13 **Sec. 2.** RCW 43.185C.060 and 2007 c 427 s 6 are each amended to
14 read as follows:

15 The home security fund account is created in the state treasury,
16 subject to appropriation. The state's portion of the surcharge
17 established in RCW 36.22.179 and 36.22.1791 must be deposited in the
18 account. Expenditures from the account may be used only for homeless
19 housing programs as described in this chapter. If an independent
20 audit finds that the department has failed to set aside at least
21 forty-five percent of funds received under RCW 36.22.179(1)(b) after
22 the effective date of this section for the use of private rental
23 housing payments, the department must submit a corrective action plan
24 to the office of financial management within thirty days of receipt of
25 the independent audit. The office of financial management must
26 monitor the department's corrective action plan and expenditures from
27 this account for the remainder of the fiscal year. If the department
28 is not in compliance with RCW 36.22.179(1)(b) in any month of the
29 fiscal year following submission of the corrective action plan, the
30 office of financial management must reduce the department's allotments
31 from this account and hold in reserve status a portion of the
32 department's appropriation equal to the expenditures made during the
33 month not in compliance with RCW 36.22.179(1)(b).

1 **Sec. 3.** RCW 43.185C.240 and 2012 c 90 s 2 are each amended to
2 read as follows:

3 (1) As a means of efficiently and cost-effectively providing
4 housing assistance to very-low income and homeless households:

5 (a) Any local government that has the authority to issue housing
6 vouchers, directly or through a contractor, using document recording
7 surcharge funds collected pursuant to RCW 36.22.178, 36.22.179, or
8 36.22.1791 must:

9 (i)(A) Maintain an interested landlord list, which at a minimum,
10 includes information on rental properties in buildings with fewer than
11 fifty units;

12 (B) Update the list at least once per quarter;

13 (C) Distribute the list to agencies providing services to
14 individuals and households receiving housing vouchers;

15 (D) Ensure that a copy of the list or information for accessing
16 the list online is provided with voucher paperwork; and

17 (E) (~~Use reasonable best efforts to~~) Communicate and interact
18 with landlord and tenant associations located within its jurisdiction
19 to facilitate development, maintenance, and distribution of the list
20 to private rental housing landlords. The department must make
21 reasonable efforts to ensure that local providers conduct outreach to
22 private rental housing landlords each calendar quarter regarding
23 opportunities to provide rental housing to the homeless and the
24 availability of funds;

25 (ii) Using cost-effective methods of communication, convene, on a
26 semiannual or more frequent basis, landlords represented on the
27 interested landlord list and agencies providing services to
28 individuals and households receiving housing vouchers to identify
29 successes, barriers, and process improvements. The local government
30 is not required to reimburse any participants for expenses related to
31 attendance;

32 (iii) Produce data, limited to document recording fee uses and
33 expenditures, on a calendar year basis in consultation with landlords
34 represented on the interested landlord list and agencies providing

1 services to individuals and households receiving housing vouchers,
2 that include the following: Total amount expended from document
3 recording fees; amount expended on, number of households that
4 received, and number of housing vouchers issued in each of the
5 private, public, and nonprofit markets; amount expended on, number of
6 households that received, and number of housing placement payments
7 provided in each of the private, public, and nonprofit markets; amount
8 expended on and number of eviction prevention services provided in the
9 private market; and amount expended on and number of other tenant-
10 based rent assistance services provided in the private market. If
11 these data elements are not readily available, the reporting
12 government may request the department to use the sampling methodology
13 established pursuant to (c)(iii) of this subsection to obtain the
14 data; and

15 (iv) Annually submit the calendar year data to the department by
16 October 1st, with preliminary data submitted by October 1, 2012, and
17 full calendar year data submitted beginning October 1, 2013.

18 (b) Any local government receiving more than three million five
19 hundred thousand dollars during the previous calendar year from
20 document recording surcharge funds collected pursuant to RCW
21 36.22.178, 36.22.179, and 36.22.1791, must apply to the Washington
22 state quality award program, or similar Baldrige assessment
23 organization, for an independent assessment of its quality management,
24 accountability, and performance system. The first assessment may be a
25 lite assessment. After submitting an application, a local government
26 is required to reapply at least every two years.

27 (c) The department must:

28 (i) Require contractors that provide housing vouchers to
29 distribute the interested landlord list created by the appropriate
30 local government to individuals and households receiving the housing
31 vouchers;

32 (ii) ~~((Using cost effective methods of communication, annually
33 convene local governments issuing housing vouchers, landlord
34 association representatives, and agencies providing services to~~

1 ~~individuals and households receiving housing vouchers to identify~~
2 ~~successes, barriers, and process improvements. The department is not~~
3 ~~required to reimburse any participants for expenses related to~~
4 ~~attendance;~~

5 ~~—(iii))~~ Convene a stakeholder group by March 1, 2017, consisting
6 of landlords, homeless housing advocates, real estate industry
7 representatives, cities, counties, and the department to meet to
8 discuss long-term funding strategies for homeless housing programs
9 that do not include a surcharge on document recording fees. The
10 stakeholder group must provide a report of its findings to the
11 legislature by December 1, 2017;

12 (iii) Develop a sampling methodology to obtain data required under
13 this section when a local government or contractor does not have such
14 information readily available. The process for developing the
15 sampling methodology must include providing notification to and the
16 opportunity for public comment by local governments issuing housing
17 vouchers, landlord association representatives, and agencies providing
18 services to individuals and households receiving housing vouchers;

19 (iv) Develop a report, limited to document recording fee uses and
20 expenditures, on a calendar year basis ~~((in))~~ that may include
21 consultation with local governments, landlord association
22 representatives, and agencies providing services to individuals and
23 households receiving housing vouchers, that includes the following:
24 Total amount expended from document recording fees; amount expended
25 on, number of households that received, and number of housing vouchers
26 issued in each of the private, public, and nonprofit markets; amount
27 expended on, number of households that received, and number of housing
28 placement payments provided in each of the private, public, and
29 nonprofit markets; amount expended on and number of eviction
30 prevention services provided in the private market; the total amount
31 of funds set aside for private rental housing payments as required in
32 RCW 36.22.179(1)(b); and amount expended on and number of other
33 tenant-based rent assistance services provided in the private market.
34 The information in the report must include data submitted by local

1 governments and data on all additional document recording fee
2 activities for which the department contracted that were not otherwise
3 reported. The data, samples, and sampling methodology used to develop
4 the report must be made available upon request and for the audits
5 required in this section;

6 (v) Annually submit the calendar year report to the legislature by
7 December 15th, with a preliminary report submitted by December 15,
8 2012, and full calendar year reports submitted beginning December 15,
9 2013; and

10 (vi) Work with the Washington state quality award program, local
11 governments, and any other organizations to ensure the appropriate
12 scheduling of assessments for all local governments meeting the
13 criteria described in subsection (1)(b) of this section.

14 (d) The office of financial management must secure an independent
15 audit of the department's data and expenditures of state funds
16 received under RCW 36.22.179(1)(b) on an annual basis. The
17 independent audit must review a random sample of local governments,
18 contractors, and housing providers that is geographically and
19 demographically diverse. The independent auditor must meet with the
20 department and a landlord representative to review the preliminary
21 audit and provide the department and the landlord representative with
22 the opportunity to include written comments regarding the findings
23 that must be included with the audit. The first audit of the
24 department's data and expenditures will be for calendar year 2014 and
25 is due July 1, 2015. Each audit thereafter will be due July 1st
26 following the department's submission of the report to the
27 legislature. If the independent audit finds that the department has
28 failed to set aside at least forty-five percent of the funds received
29 under RCW 36.22.179(1)(b) after the effective date of this section for
30 private rental housing payments, the independent auditor must notify
31 the department and the office of financial management of its finding.
32 In addition, the independent auditor must make recommendations to the
33 office of financial management and the legislature on alternative
34 means of distributing the funds to meet the requirements of RCW

1 36.22.179(1)(b).

2 (e) The office of financial management must contract with an
3 independent auditor to conduct a performance audit of the programs
4 funded by document recording surcharge funds collected pursuant to RCW
5 36.22.178, 36.22.179, and 36.22.1791. The audit must provide findings
6 to determine if the funds are being used effectively, efficiently, and
7 for their intended purpose. The audit must review the department's
8 performance in meeting all statutory requirements related to document
9 recording surcharge funds including, but not limited to, the data the
10 department collects, the timeliness and quality of required reports,
11 and whether the data and required reports provide adequate information
12 and accountability for the use of the document recording surcharge
13 funds. The audit must include recommendations for policy and
14 operational improvements to the use of document recording surcharges
15 by counties and the department. The performance audit must be
16 submitted to the legislature by December 1, 2016.

17 (2) For purposes of this section:

18 (a) "Housing placement payments" means one-time payments, such as
19 first and last month's rent and move-in costs, funded by document
20 recording surcharges collected pursuant to RCW 36.22.178, 36.22.179,
21 or 36.22.1791 that are made to secure a unit on behalf of a tenant.

22 (b) "Housing vouchers" means payments, including private rental
23 housing payments, funded by document recording surcharges collected
24 pursuant to RCW 36.22.178, 36.22.179, or 36.22.1791 that are made by a
25 local government or contractor to secure: (i) A rental unit on behalf
26 of an individual tenant; or (ii) a block of units on behalf of
27 multiple tenants.

28 (c) "Interested landlord list" means a list of landlords who have
29 indicated to a local government or contractor interest in renting to
30 individuals or households receiving a housing voucher funded by
31 document recording surcharges.

32 (d) "Private rental housing" means housing owned by a private landlord
33 and does not include housing owned by a nonprofit housing entity or
34 government entity.

1 (3) This section expires June 30, ((2017)) 2019.
2 ((4) If section 1, chapter 90, Laws of 2012 is not enacted into
3 law by July 31, 2012, this section is null and void.)"

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5 On page 1, line 2 of the title, after "assistance;" strike the
6 remainder of the title and insert "amending RCW 36.22.179,
7 43.185C.060, and 43.185C.240; and providing an expiration date."

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9

10 EFFECT: (1) The \$40 document recording surcharge is extended to
June 30, 2019. Documents subject to the recording surcharge are
simplified and the exemption from the surcharge is expanded.

(2) Of the recording surcharge funds used by the
Department of Commerce (Commerce), at least 45 percent must be
used for private rental housing payments. "Private rental
housing" is defined to mean housing owned by a private landlord
and does not include housing owned by a nonprofit housing entity
or government entity. The term private rental housing voucher
is changed to private rental housing payment.

(3) Requires Commerce to make reasonable efforts to
ensure local providers conduct outreach to private rental
housing landlords each calendar quarter regarding availability
of funds.

(4) Requires the Office of Financial Management (OFM) to
obtain an independent audit of Commerce's expenditures of
document recording surcharge funds annually. The audit must
review a random sample of local governments, contractors, and
providers that is geographically and demographically diverse. A
preliminary audit report must be presented to Commerce and one
landlord representative to make comments regarding the findings
to include in the audit. The first audit is due July 1, 2015
for the calendar year 2014 report, and each July 1st thereafter
following the department's submission of the report to the
legislature.

(5) If the independent audit finds that Commerce fails to
use 45 percent of its funds for private rental housing payments,
Commerce must submit a correction action plan to OFM. If
Commerce does not correct its actions, OFM must reduce
Commerce's allotments and expenditures in the same amount. The
independent audit must recommend an alternative method
distributing funds in this event.

(6) OFM must contract for an independent audit to conduct
a performance audit of the use of document recording surcharges
provided in RCW 36.22.178, 36.22.179, and 36.22.1791. The
performance audit is due December 1, 2016.

(7) Commerce must convene a stakeholder group to discuss long-term funding options for homeless housing programs that do not include document recording surcharges. The group must be convened by March 1, 2017, and report to the legislature by December 1, 2017.

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