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ENGROSSED SUBSTITUTE SENATE BILL 5875

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State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senator Hill)

READ FIRST TIME 03/11/14.

1 AN ACT Relating to a surcharge for local homeless housing and  
2 assistance; amending RCW 36.22.179, 43.185C.060, and 43.185C.240; and  
3 providing an expiration date.

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

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 from~~  
12 ~~July 1, 2015, through June 30, 2017, the surcharge shall be thirty~~  
13 ~~dollars.~~) From September 1, 2012, through June 30, ((2015)) 2019, the  
14 surcharge shall be forty dollars. The funds collected pursuant to this  
15 section are to be distributed and used as follows:

16 (a) The auditor shall retain two percent for collection of the fee,  
17 and of the remainder shall remit sixty percent to the county to be  
18 deposited into a fund that must be used by the county and its cities  
19 and towns to accomplish the purposes of chapter 484, Laws of 2005, six

1 percent of which may be used by the county for administrative costs  
2 related to its homeless housing plan, and the remainder for programs  
3 which directly accomplish the goals of the county's local homeless  
4 housing plan, except that for each city in the county which elects as  
5 authorized in RCW 43.185C.080 to operate its own local homeless housing  
6 program, a percentage of the surcharge assessed under this section  
7 equal to the percentage of the city's local portion of the real estate  
8 excise tax collected by the county shall be transmitted at least  
9 quarterly to the city treasurer, without any deduction for county  
10 administrative costs, for use by the city for program costs which  
11 directly contribute to the goals of the city's local homeless housing  
12 plan; of the funds received by the city, it may use six percent for  
13 administrative costs for its homeless housing program.

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

24 (i) Provide housing and shelter for homeless people including, but  
25 not limited to: Grants to operate, repair, and staff shelters; grants  
26 to operate transitional housing; partial payments for rental  
27 assistance; consolidated emergency assistance; overnight youth  
28 shelters; grants and vouchers designated for victims of human  
29 trafficking and their families; and emergency shelter assistance; and

30 (ii) Fund the homeless housing grant program.

31 (2) ~~((The surcharge imposed in this section applies to documents~~  
32 ~~required to be recorded or filed under RCW 65.04.030(1) including, but~~  
33 ~~not limited to: Full reconveyance; deeds of trust; deeds; liens~~  
34 ~~related to real property; release of liens related to real property;~~  
35 ~~notice of trustee sales; judgments related to real property; and all~~  
36 ~~other documents pertaining to real property as determined by the~~  
37 ~~department. However, the surcharge does not apply to (a) assignments~~

1 or substitutions of previously recorded deeds of trust, or (b)  
2 documents recording a birth, marriage, divorce, or death or any  
3 documents otherwise exempted from a recording fee under state law.

4 ~~(3) By August 31, 2012, the department shall submit to each county~~  
5 ~~auditor a list of documents that are subject to the surcharge~~  
6 ~~established in subsection (1) of this section.~~

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

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

18 The home security fund account is created in the state treasury,  
19 subject to appropriation. The state's portion of the surcharge  
20 established in RCW 36.22.179 and 36.22.1791 must be deposited in the  
21 account. Expenditures from the account may be used only for homeless  
22 housing programs as described in this chapter. If an independent audit  
23 finds that the department has failed to set aside at least forty-five  
24 percent of funds received under RCW 36.22.179(1)(b) after the effective  
25 date of this section for the use of private rental housing payments,  
26 the department must submit a corrective action plan to the office of  
27 financial management within thirty days of receipt of the independent  
28 audit. The office of financial management must monitor the  
29 department's corrective action plan and expenditures from this account  
30 for the remainder of the fiscal year. If the department is not in  
31 compliance with RCW 36.22.179(1)(b) in any month of the fiscal year  
32 following submission of the corrective action plan, the office of  
33 financial management must reduce the department's allotments from this  
34 account and hold in reserve status a portion of the department's  
35 appropriation equal to the expenditures made during the month not in  
36 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 read  
2 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 the  
16 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 to  
20 private rental housing landlords. The department must make reasonable  
21 efforts to ensure that local providers conduct outreach to private  
22 rental housing landlords each calendar quarter regarding opportunities  
23 to provide rental housing to the homeless and the availability of  
24 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 individuals  
28 and households receiving housing vouchers to identify successes,  
29 barriers, and process improvements. The local government is not  
30 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  
35 services to individuals and households receiving housing vouchers, that  
36 include the following: Total amount expended from document recording  
37 fees; amount expended on, number of households that received, and  
38 number of housing vouchers issued in each of the private, public, and

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

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

13 (b) Any local government receiving more than three million five  
14 hundred thousand dollars during the previous calendar year from  
15 document recording surcharge funds collected pursuant to RCW 36.22.178,  
16 36.22.179, and 36.22.1791, must apply to the Washington state quality  
17 award program, or similar Baldrige assessment organization, for an  
18 independent assessment of its quality management, accountability, and  
19 performance system. The first assessment may be a lite assessment.  
20 After submitting an application, a local government is required to  
21 reapply at least every two years.

22 (c) The department must:

23 (i) Require contractors that provide housing vouchers to distribute  
24 the interested landlord list created by the appropriate local  
25 government to individuals and households receiving the housing  
26 vouchers;

27 ~~(ii) ((Using cost-effective methods of communication, annually  
28 convene local governments issuing housing vouchers, landlord  
29 association representatives, and agencies providing services to  
30 individuals and households receiving housing vouchers to identify  
31 successes, barriers, and process improvements. The department is not  
32 required to reimburse any participants for expenses related to  
33 attendance;~~

34 ~~(iii))~~ Convene a stakeholder group by March 1, 2017, consisting of  
35 landlords, homeless housing advocates, real estate industry  
36 representatives, cities, counties, and the department to meet to  
37 discuss long-term funding strategies for homeless housing programs that

1 do not include a surcharge on document recording fees. The stakeholder  
2 group must provide a report of its findings to the legislature by  
3 December 1, 2017;

4 (iii) Develop a sampling methodology to obtain data required under  
5 this section when a local government or contractor does not have such  
6 information readily available. The process for developing the sampling  
7 methodology must include providing notification to and the opportunity  
8 for public comment by local governments issuing housing vouchers,  
9 landlord association representatives, and agencies providing services  
10 to individuals and households receiving housing vouchers;

11 (iv) Develop a report, limited to document recording fee uses and  
12 expenditures, on a calendar year basis (~~(in)~~) that may include  
13 consultation with local governments, landlord association  
14 representatives, and agencies providing services to individuals and  
15 households receiving housing vouchers, that includes the following:  
16 Total amount expended from document recording fees; amount expended on,  
17 number of households that received, and number of housing vouchers  
18 issued in each of the private, public, and nonprofit markets; amount  
19 expended on, number of households that received, and number of housing  
20 placement payments provided in each of the private, public, and  
21 nonprofit markets; amount expended on and number of eviction prevention  
22 services provided in the private market; the total amount of funds set  
23 aside for private rental housing payments as required in RCW  
24 36.22.179(1)(b); and amount expended on and number of other tenant-  
25 based rent assistance services provided in the private market. The  
26 information in the report must include data submitted by local  
27 governments and data on all additional document recording fee  
28 activities for which the department contracted that were not otherwise  
29 reported. The data, samples, and sampling methodology used to develop  
30 the report must be made available upon request and for the audits  
31 required in this section;

32 (v) Annually submit the calendar year report to the legislature by  
33 December 15th, with a preliminary report submitted by December 15,  
34 2012, and full calendar year reports submitted beginning December 15,  
35 2013; and

36 (vi) Work with the Washington state quality award program, local  
37 governments, and any other organizations to ensure the appropriate

1 scheduling of assessments for all local governments meeting the  
2 criteria described in subsection (1)(b) of this section.

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

24 (e) The office of financial management must contract with an  
25 independent auditor to conduct a performance audit of the programs  
26 funded by document recording surcharge funds collected pursuant to RCW  
27 36.22.178, 36.22.179, and 36.22.1791. The audit must provide findings  
28 to determine if the funds are being used effectively, efficiently, and  
29 for their intended purpose. The audit must review the department's  
30 performance in meeting all statutory requirements related to document  
31 recording surcharge funds including, but not limited to, the data the  
32 department collects, the timeliness and quality of required reports,  
33 and whether the data and required reports provide adequate information  
34 and accountability for the use of the document recording surcharge  
35 funds. The audit must include recommendations for policy and  
36 operational improvements to the use of document recording surcharges by  
37 counties and the department. The performance audit must be submitted  
38 to the legislature by December 1, 2016.

1 (2) For purposes of this section:

2 (a) "Housing placement payments" means one-time payments, such as  
3 first and last month's rent and move-in costs, funded by document  
4 recording surcharges collected pursuant to RCW 36.22.178, 36.22.179, or  
5 36.22.1791 that are made to secure a unit on behalf of a tenant.

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

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

16 (d) "Private rental housing" means housing owned by a private  
17 landlord and does not include housing owned by a nonprofit housing  
18 entity or government entity.

19 (3) This section expires June 30, ((2017)) 2019.

20 ~~((4) If section 1, chapter 90, Laws of 2012 is not enacted into~~  
21 ~~law by July 31, 2012, this section is null and void.))~~

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