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**SUBSTITUTE SENATE BILL 6417**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Local Government (originally sponsored by Senators Palumbo and Rivers)

AN ACT Relating to enabling Washington cities and counties to encourage residential development around transit; amending RCW 82.02.060; adding a new section to chapter 36.22 RCW; and adding a new chapter to Title 35 RCW.

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

NEW SECTION. **Sec.**  FINDINGS AND INTENT. (1) The legislature finds that:

(a) Local jurisdictions have the ability to utilize their zoning authority to constrain the delivery of housing by limiting the scale of development, especially in high-opportunity locations;

(b) This state is in a housing state of emergency. The department of commerce's 2015 housing needs assessment found that there is a housing supply gap of three hundred thirty-seven thousand nine hundred seventy-four units for households earning zero to fifty percent of area median income across the entire state of Washington. The King county housing affordability task force found that there is a total supply gap of one hundred fifty-six thousand units for 2017 above current growth. Their analysis went farther and found that the county requires two hundred forty-four thousand new homes above current growth projects to address countywide affordability by 2040;

(c) This housing shortage leads to housing unaffordability and economic displacement, which disproportionally impacts low-income households and historically disadvantaged communities, limits economic growth and productivity, limits economic mobility, and severely curtails the state's ability to meet its climate goals, including carbon reduction; and

(d) More compact and efficient development within a one-half mile distance around transit facilities have shown value in providing affordable housing, reducing household spending, reducing greenhouse gas emissions, enhancing walkability, reducing need for automobiles, improving health outcomes, and strengthening local economies.

(2) The intent of the legislature is to create an opt-in pilot program for Washington cities and counties to enable and encourage compact and efficient development within a one-half mile distance around transit facilities. This voluntary program which cities and counties may choose to participate in offers the opportunity to access financial resources in exchange for streamlined residential project approval and reduced fees charged to specific housing projects, in order to increase transit-oriented housing production.

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

(1) "Affordable unit" means:

(a) A rental unit restricted for thirty years to households earning eighty percent or less of median family income; or

(b) A for-sale unit restricted for ninety-nine years to households earning one hundred percent or less of median family income.

(2) "Housing opportunity zone" means those parcels of land designated as such pursuant to section 3 of this act.

(3) "Jurisdiction" means a county or a city within a county that has a population greater than seven hundred thousand but less than eight hundred thousand persons as of January 1, 2017.

NEW SECTION. **Sec.**  DESIGNATION OF HOUSING OPPORTUNITY ZONES. (1) Any jurisdiction desiring to designate a housing opportunity zone may submit an application to the department of commerce, together with detailed maps describing the parcels of land to be included in the zone.

(2) A housing opportunity zone created under subsection (1) of this section must:

(a) Include only parcels of land that are intersected within one-half linear mile of a transit service stop with fixed station infrastructure, including heavy rail and Amtrak, commuter rail, light rail, streetcars, and bus rapid transit; and

(b) Contain no less than ninety percent of the total land within the one-half linear mile area described in (a) of this subsection.

(3) Prior to submitting an application under subsection (1) of this section, the jurisdiction must provide for appropriate area wide environmental mitigation by completing an area environmental impact statement under RCW 43.21C.031 and WAC 197-11-164 for the area of the proposed housing opportunity zone.

NEW SECTION. **Sec.**  ZONING OF HOUSING OPPORTUNITY ZONE. All parcels that are within a designated housing opportunity zone are, in addition to any other allowed uses, by right developable for residential use.

NEW SECTION. **Sec.**  BUILDABLE HEIGHTS WITHIN HOUSING OPPORTUNITY ZONE. (1) All cities and unincorporated areas with a population greater than five hundred thousand must have at minimum the following buildable heights within housing opportunity zones:

(a) Within one-half mile of each designated transit stop, two hundred feet; and

(b) Within one-quarter mile of each designated transit stop, five hundred fifty feet.

(2) All cities and unincorporated areas with a population less than five hundred thousand but greater than two hundred thousand must have at minimum the following buildable heights within housing opportunity zones:

(a) Within one-half mile of each designated transit stop, one hundred twenty-five feet; and

(b) Within one-quarter mile of each designated transit stop, two hundred forty feet.

(3) All cities and unincorporated areas with a population of less than two hundred thousand must have at minimum an eighty-five foot buildable height within housing opportunity zone areas that are within one-half mile of each designated transit stop.

(4) All parcels that are within a designated housing opportunity zone are developable to the minimum buildable heights provided in this section, without restriction on the number of units allowed, lot coverage, or other restrictions that limit the developability of the parcel except as provided in section 9 of this act.

NEW SECTION. **Sec.**  HOUSING OPPORTUNITY ZONE MULTIFAMILY TAX EXEMPTION REQUIREMENT. (1) All residential developments within a designated housing opportunity zone may participate in a city's or county's multifamily tax exemption program, or similar program authorized under chapter 84.14 RCW, even if outside of a designated residential target area.

(2) If the jurisdiction designating a housing opportunity zone does not have a multifamily tax exemption program, or similar program authorized under chapter 84.14 RCW, the jurisdiction must authorize a multifamily tax exemption program with:

(a) An eight-year tax abatement for residential development; and

(b) A twelve-year tax abatement for twenty percent of the total housing units being affordable to moderate-income households earning eighty percent of median income.

NEW SECTION. **Sec.**  IMPACT FEES, LINKAGE FEES, AND OTHER CHARGES. (1) Impact fees. Development that conforms to this chapter and is in a designated housing opportunity zone may not be charged impact fees under chapter 82.02 RCW. The legislature finds that this fee exemption is appropriate because transit-oriented development has shown to have a reduced impact on public infrastructure in the long run.

(2) State environmental policy act mitigation fees. Any state environmental policy act mitigation fees as a result of the environmental impact statement required under section 3(3) of this act may not be charged to development within the housing opportunity zone, but is instead funded pursuant to section 8(1)(c) of this act.

(3) Other charges. No other charges imposed by the state, a county, a city, or another jurisdiction, beyond reasonable fees related exclusively to the processing of a building permit, may be assessed to development that conforms to this chapter and is in a designated housing opportunity zone.

NEW SECTION. **Sec.**  REIMBURSEMENT OF FUNDS. (1)(a) Until December 31, 2023, for impact fees, including impact fees for parks, transportation, fire services, and other impact fees authorized under chapter 82.02 RCW, waived within housing opportunity zones under section 7(1) of this act, jurisdictions may request reimbursement for funding lost by operation of section 7(1) of this act, at the impact fee rate established on January 1, 2018. Jurisdictions must have established fee rates and collection procedures on January 1, 2018, to request reimbursement.

(b) Until December 31, 2023, school districts may request reimbursement for funding lost by operation of section 7(1) of this act, at the impact fee rate established on January 1, 2018. School districts must have established fee rates and collection procedures with local jurisdictions on January 1, 2018, to request reimbursement.

(c) Jurisdictions may request reimbursement for environmental impact statement costs, state environmental policy act mitigation fees, and planning activities as required under section 3(2) of this act.

(d) Jurisdictions may request funding in the amount of two thousand dollars per unit developed under this chapter.

(2) Funding and reimbursements under this section are limited to fifteen million dollars per fiscal year. Requests for funding or reimbursement under this section must be submitted to the department of commerce, to be paid from the services for transit-oriented communities special account. If requests for funding and reimbursement under this section exceed the balance of the account or the limit imposed by this subsection, then the department of commerce shall reduce the amount of funding and reimbursement paid in a manner prescribed by rule.

NEW SECTION. **Sec.**  BUILDING STANDARDS. All development within housing opportunity zones must conform to the codes described in RCW 19.27.031 (1) through (4), as most recently adopted pursuant to RCW 19.27.031.

NEW SECTION. **Sec.**  CHAPTER WILL CONTROL OVER CONFLICTING LOCAL STATUTES AND REGULATIONS. This chapter controls over conflicting local statutes and regulations.

NEW SECTION. **Sec.**  MAINTENANCE OF ZONES. The department of commerce shall maintain maps of housing opportunity zones, and areas eligible for designation as housing opportunity zones, and update them annually.

NEW SECTION. **Sec.**  The services for transit-oriented communities special account is created in the custody of the state treasurer. The state's portion of the surcharge established in section 14 of this act must be deposited in the account. Expenditures from the account may only be used for section 8 of this act. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec.**  Beginning in the following calendar year after the first designation of a housing opportunity zone, the department of commerce by December 1st of each year must make an annual report to the appropriate committees of the legislature, in compliance with RCW 43.01.036, on the progress of designated housing opportunity zones in the state.

NEW SECTION. **Sec.**  A new section is added to chapter 36.22 RCW to read as follows:

(1) In addition to the surcharges authorized in RCW 36.22.178 and 36.22.179, an additional surcharge in the amount determined under subsection (2) of this section shall be charged by the county auditor for each document recorded, which will be in addition to any other charge allowed by law. The auditor shall retain two percent for collection of the fee, and shall remit the remainder to the state to be deposited into the services for transit-oriented communities special account.

(2) The surcharge imposed by subsection (1) of this section must be sufficient to provide fifteen million dollars of deposits to the services for transit-oriented communities special account each fiscal year. The office of financial management shall establish, and periodically adjust, the surcharge at an amount no higher than necessary to meet this requirement.

**Sec.**  RCW 82.02.060 and 2012 c 200 s 1 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

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

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

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

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

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

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

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) May provide an exemption from impact fees for low-income housing. Local governments that grant exemptions for low-income housing under this subsection (3) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts. An exemption for low-income housing granted under subsection (2) of this section or this subsection (3) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. Covenants required by this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (3) for low-income housing may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (3);

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

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

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

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

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

(9) Shall provide for the exemptions required by section 7 of this act.

For purposes of this section, "low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

NEW SECTION. **Sec.**  Sections 1 through 13 of this act constitute a new chapter in Title 35 RCW.

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