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**HOUSE BILL 1301**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Kirby, Fey, Jinkins, Kilduff, Morgan, Leavitt, and Wylie

Read first time 01/18/19. Referred to Committee on Finance.

1 AN ACT Relating to exempting certain leasehold interests in  
2 arenas with a seating capacity of more than two thousand from the  
3 leasehold excise tax; amending RCW 82.29A.130; creating a new  
4 section; and providing an effective date.

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

6 **Sec. 1.** RCW 82.29A.130 and 2017 3rd sp.s. c 37 s 1303 are each  
7 amended to read as follows:

8 The following leasehold interests are exempt from taxes imposed  
9 pursuant to RCW 82.29A.030 and 82.29A.040:

10 (1) All leasehold interests constituting a part of the operating  
11 properties of any public utility (~~which~~) that is assessed and taxed  
12 as a public utility pursuant to chapter 84.12 RCW.

13 (2) All leasehold interests in facilities owned or used by a  
14 school, college or university which leasehold provides housing for  
15 students and which is otherwise exempt from taxation under provisions  
16 of RCW 84.36.010 and 84.36.050.

17 (3) All leasehold interests of subsidized housing where the fee  
18 ownership of such property is vested in the government of the United  
19 States, or the state of Washington or any political subdivision  
20 thereof but only if income qualification exists for such housing.

1 (4) All leasehold interests used for fair purposes of a nonprofit  
2 fair association that sponsors or conducts a fair or fairs which  
3 receive support from revenues collected pursuant to RCW 67.16.100 and  
4 allocated by the director of the department of agriculture where the  
5 fee ownership of such property is vested in the government of the  
6 United States, the state of Washington or any of its political  
7 subdivisions. However, this exemption does not apply to the leasehold  
8 interest of any sublessee of such nonprofit fair association if such  
9 leasehold interest would be taxable if it were the primary lease.

10 (5) All leasehold interests in any property of any public entity  
11 used as a residence by an employee of that public entity who is  
12 required as a condition of employment to live in the publicly owned  
13 property.

14 (6) All leasehold interests held by enrolled Indians of lands  
15 owned or held by any Indian or Indian tribe where the fee ownership  
16 of such property is vested in or held in trust by the United States  
17 and which are not subleased to other than to a lessee which would  
18 qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

19 (7) All leasehold interests in any real property of any Indian or  
20 Indian tribe, band, or community that is held in trust by the United  
21 States or is subject to a restriction against alienation imposed by  
22 the United States. However, this exemption applies only where it is  
23 determined that contract rent paid is greater than or equal to ninety  
24 percent of fair market rental, to be determined by the department of  
25 revenue using the same criteria used to establish taxable rent in RCW  
26 82.29A.020(2)(g).

27 (8) All leasehold interests for which annual taxable rent is less  
28 than two hundred fifty dollars per year. For purposes of this  
29 subsection leasehold interests held by the same lessee in contiguous  
30 properties owned by the same lessor are deemed a single leasehold  
31 interest.

32 (9) All leasehold interests which give use or possession of the  
33 leased property for a continuous period of less than thirty days:  
34 PROVIDED, That for purposes of this subsection, successive leases or  
35 lease renewals giving substantially continuous use of possession of  
36 the same property to the same lessee are deemed a single leasehold  
37 interest: PROVIDED FURTHER, That no leasehold interest is deemed to  
38 give use or possession for a period of less than thirty days solely  
39 by virtue of the reservation by the public lessor of the right to use

1 the property or to allow third parties to use the property on an  
2 occasional, temporary basis.

3 (10) All leasehold interests under month-to-month leases in  
4 residential units rented for residential purposes of the lessee  
5 pending destruction or removal for the purpose of constructing a  
6 public highway or building.

7 (11) All leasehold interests in any publicly owned real or  
8 personal property to the extent such leasehold interests arises  
9 solely by virtue of a contract for public improvements or work  
10 executed under the public works statutes of this state or of the  
11 United States between the public owner of the property and a  
12 contractor.

13 (12) All leasehold interests that give use or possession of state  
14 adult correctional facilities for the purposes of operating  
15 correctional industries under RCW 72.09.100.

16 (13) All leasehold interests used to provide organized and  
17 supervised recreational activities for persons with disabilities of  
18 all ages in a camp facility and for public recreational purposes by a  
19 nonprofit organization, association, or corporation that would be  
20 exempt from property tax under RCW 84.36.030(1) if it owned the  
21 property. If the publicly owned property is used for any taxable  
22 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and  
23 82.29A.040 must be imposed and must be apportioned accordingly.

24 (14) All leasehold interests in the public or entertainment areas  
25 of a baseball stadium with natural turf and a retractable roof or  
26 canopy that is in a county with a population of over one million,  
27 that has a seating capacity of over forty thousand, and that is  
28 constructed on or after January 1, 1995. "Public or entertainment  
29 areas" include ticket sales areas, ramps and stairs, lobbies and  
30 concourses, parking areas, concession areas, restaurants, hospitality  
31 and stadium club areas, kitchens or other work areas primarily  
32 servicing other public or entertainment areas, public rest room  
33 areas, press and media areas, control booths, broadcast and  
34 production areas, retail sales areas, museum and exhibit areas,  
35 scoreboards or other public displays, storage areas, loading,  
36 staging, and servicing areas, seating areas and suites, the playing  
37 field, and any other areas to which the public has access or which  
38 are used for the production of the entertainment event or other  
39 public usage, and any other personal property used for these

1 purposes. "Public or entertainment areas" does not include locker  
2 rooms or private offices exclusively used by the lessee.

3 (15) All leasehold interests in the public or entertainment areas  
4 of a stadium and exhibition center, as defined in RCW 36.102.010,  
5 that is constructed on or after January 1, 1998. For the purposes of  
6 this subsection, "public or entertainment areas" has the same meaning  
7 as in subsection (14) of this section, and includes exhibition areas.

8 (16) All leasehold interests in public facilities districts, as  
9 provided in chapter 36.100 or 35.57 RCW.

10 (17) All leasehold interests in property that is: (a) Owned by  
11 the United States government or a municipal corporation; (b) listed  
12 on any federal or state register of historical sites; and (c) wholly  
13 contained within a designated national historic reserve under 16  
14 U.S.C. Sec. 461.

15 (18) All leasehold interests in the public or entertainment areas  
16 of an amphitheater if a private entity is responsible for one hundred  
17 percent of the cost of constructing the amphitheater which is not  
18 reimbursed by the public owner, both the public owner and the private  
19 lessee sponsor events at the facility on a regular basis, the lessee  
20 is responsible under the lease or agreement to operate and maintain  
21 the facility, and the amphitheater has a seating capacity of over  
22 seventeen thousand reserved and general admission seats and is in a  
23 county that had a population of over three hundred fifty thousand,  
24 but less than four hundred twenty-five thousand when the amphitheater  
25 first opened to the public.

26 For the purposes of this subsection, "public or entertainment  
27 areas" include box offices or other ticket sales areas, entrance  
28 gates, ramps and stairs, lobbies and concourses, parking areas,  
29 concession areas, restaurants, hospitality areas, kitchens or other  
30 work areas primarily servicing other public or entertainment areas,  
31 public rest room areas, press and media areas, control booths,  
32 broadcast and production areas, retail sales areas, museum and  
33 exhibit areas, scoreboards or other public displays, storage areas,  
34 loading, staging, and servicing areas, seating areas including lawn  
35 seating areas and suites, stages, and any other areas to which the  
36 public has access or which are used for the production of the  
37 entertainment event or other public usage, and any other personal  
38 property used for these purposes. "Public or entertainment areas"  
39 does not include office areas used predominately by the lessee.

1 (19) All leasehold interests in real property used for the  
2 placement of military housing meeting the requirements of RCW  
3 84.36.665.

4 (20) All leasehold interests in facilities owned or used by a  
5 community college or technical college, which leasehold interest  
6 provides:

7 (a) Food services for students, faculty, and staff;

8 (b) The operation of a bookstore on campus; or

9 (c) Maintenance, operational, or administrative services to the  
10 community college or technical college.

11 (21)(a) All leasehold interests in the public or entertainment  
12 areas of an arena if it:

13 (i) Has a seating capacity of more than two thousand;

14 (ii) Is located on city-owned land; and

15 (iii) Is owned by a city with a population over two hundred  
16 thousand within a county with a population of less than one million  
17 five hundred thousand.

18 (b) For the purposes of this subsection (21), "public or  
19 entertainment areas" has the same meaning as provided in subsection  
20 (18) of this section.

21 NEW SECTION. Sec. 2. The provisions of RCW 82.32.805 and  
22 82.32.808 do not apply to this act.

23 NEW SECTION. Sec. 3. This act takes effect January 1, 2020.

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