

# SENATE BILL REPORT

## SB 5012

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As Reported by Senate Committee On:  
Housing & Local Government, February 3, 2021

**Title:** An act relating to providing a local government option for the funding of essential affordable housing programs.

**Brief Description:** Providing a local government option for the funding of essential affordable housing programs.

**Sponsors:** Senators Lovelett, Das, Kuderer, Nguyen, Robinson, Saldaña, Stanford and Wilson, C..

**Brief History:**

**Committee Activity:** Housing & Local Government: 1/13/21, 2/03/21 [DPS-WM, DNP].

**Brief Summary of First Substitute Bill**

- Authorizes local governments to levy a special excise tax up to 10 percent on the furnishing of lodging of short-term rentals and use those revenues for affordable housing programs.

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### SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

**Majority Report:** That Substitute Senate Bill No. 5012 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Cleveland, Lovelett and Salomon.

**Minority Report:** Do not pass.

Signed by Senators Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Short, Assistant Ranking Member; Warnick.

**Staff:** Jeff Olsen (786-7428)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Hotel-Motel Tax. The state imposes an excise tax of 6.5 percent on the sale of goods and services provided within the state, including furnishing lodging for hotel, motel, or similar short-term accommodation. Cities and counties are authorized to impose an additional special local excise tax on lodging services, known as a local hotel-motel tax. One type of local hotel-motel tax allows cities and counties to levy up to 2 percent of a lodging charge, which is credited against the state tax rate of 6.5 percent. This tax is sometimes referred to as the basic state-shared hotel-motel tax. Counties that impose the basic state-shared hotel-motel tax must also provide a credit for a similar tax imposed by any city within the county.

Most counties and cities may levy an additional local tax up to 2 percent. This tax is sometimes referred to as the additional special local hotel-motel tax. This additional special 2 percent tax is not credited against the state sales tax and may only be levied so long as the total tax rate—including the state sales tax, the public facilities district sales tax, the hotel-motel taxes, the city, county, and transit district sales taxes, and the convention and trade center tax—does not exceed the statutory limit. The combined tax rate on sales of lodging must not exceed the greater of 12 percent or the rate effective on December 1, 2000.

**Summary of Bill (First Substitute):** A county, city, or town may levy and collect up to a 10 percent special excise tax on furnishing short-term rentals. The legislative body of the local government must adopt a resolution of intent prior to imposing the tax. Adoption of the tax requires a simple majority approval of the enacting legislative authority. The tax may be imposed in unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax. Local governments may develop criteria to exempt up to one short-term rental per person based on a person's age and/or income. The tax on short-term rentals is not subject to the statutory cap on all other taxes imposed on lodging.

Revenues from the special excise tax must be used for operating and capital costs of affordable housing programs including homeless housing assistance, temporary shelters, and other related services. A city or town may contract with nonprofit organizations or public housing authorities for affordable housing programs and services. A local government may retain up to 5 percent of the moneys collected for the direct and indirect costs to administer services and programs.

**EFFECT OF CHANGES MADE BY HOUSING & LOCAL GOVERNMENT COMMITTEE (First Substitute):**

- Removes the reference to imposition of a special excise on internet-based short-term rentals.
- Specifies that the tax may be imposed in unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax.
- Authorizes local governments to develop criteria to exempt up to one short-term rental per person based on a person's age or income or both.

- Makes technical and clarifying changes for collection of the tax.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The San Juan Islands have many Internet-based rental properties that have impacted local housing affordability. Local governments do not have authority to enact their own tax, and the bill provides an option for local governments to opt-in and adopt the tax if necessary in their area. The state is facing a significant shortage of affordable housing with vacancy rates less than 3 percent. Many areas across the state need more support for low-income housing and these resources could help create affordable housing. Hunger and housing are closely related, and local jurisdictions need more funding options. Individuals with mental health conditions need access to affordable housing. In tourist areas, long-term rental properties have been converted to short-term rentals, making housing affordability worse during the pandemic. Homelessness increases as rental prices increase. Certain areas have called for a moratorium on vacation rentals to address issues including impacts to police and fire services. The local tax option is not sufficient and the state should consider permanent structural fixes to address housing affordability.

CON: Small businesses will be impacted by the new tax, especially in areas without other accommodations. The tax would not impact larger hotels and businesses that can afford to pay the tax. Tax rates for operators of short-term rentals already pay high lodging and B&O tax rates. Income from short-term rentals is critical, especially during the pandemic. Federal law prohibits certain taxes that only impact the online marketplaces and is a violation of the Tax Freedom Act. The tax would decrease demand for short-term rentals. Operators of short-term rentals provide jobs and other economic benefits in rural areas. Short-term rentals are a safer option to stay in during the pandemic. Sales and lodging taxes should be eliminated and replaced with an income tax.

**Persons Testifying:** PRO: Senator Liz Lovelett, Prime Sponsor; Kate Dean, Jefferson County; Lisa Byers, OPAL Community Land Trust; Nick Federici, Washington Low Income Housing Alliance; Jamie Stephens, San Juan County; Katherine Seibel, National Alliance on Mental Illness Washington; Claire Lane, Anti-Hunger and Nutrition Coalition; Carl Schroeder, Association of Washington Cities.

CON: Don MacKenzie, citizen; Rose Feliciano, Internet Association; Chris Moody, citizen; Susan Williams, Armour Street Guest Apartment; Peter Filmer, Windermere Real Estate;

Robbie Wright, Bloomer Estates Vacation Rentals; Phil Freeman, Copper Creek Inn.

**Persons Signed In To Testify But Not Testifying:** No one.