
SUBSTITUTE SENATE BILL 5396

State of Washington

67th Legislature

2021 Regular Session

By Senate Housing & Local Government (originally sponsored by Senators Lovelett, Saldaña, Conway, Das, Kuderer, Nguyen, and Wilson, C.)

READ FIRST TIME 02/12/21.

1 AN ACT Relating to expanding the sales and use tax exemption for
2 farmworker housing; amending RCW 82.08.02745 and 82.12.02685;
3 creating a new section; and providing expiration dates.

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

5 **Sec. 1.** RCW 82.08.02745 and 2014 c 140 s 18 are each amended to
6 read as follows:

7 (1) The tax levied by RCW 82.08.020 does not apply to charges
8 made for labor and services rendered by any person in respect to the
9 constructing, repairing, decorating, or improving of new or existing
10 buildings or other structures, in which at least 50 percent of
11 housing units in the development are used as ((agricultural
12 employee)) farmworker housing, or to sales of tangible personal
13 property that becomes an ingredient or component of the buildings or
14 other structures during the course of the constructing, repairing,
15 decorating, or improving the buildings or other structures. The
16 exemption is provided for all housing units in the development and is
17 available only if the buyer provides the seller with an exemption
18 certificate in a form and manner prescribed by the department by
19 rule.

20 (2) The exemption provided in this section for ((agricultural
21 employee)) farmworker housing provided ((to)) on a year-round

1 (~~employees of the agricultural employer,~~) basis only applies if
2 that housing is built to the current building code for single-family
3 or multifamily dwellings according to the state building code,
4 chapter 19.27 RCW.

5 (3) Any (~~agricultural employee~~) farmworker housing built under
6 this section must be used according to this section for at least five
7 consecutive years from the date the housing is approved for
8 occupancy, or the full amount of tax otherwise due is immediately due
9 and payable together with interest, but not penalties, from the date
10 the housing is approved for occupancy until the date of payment. If
11 at any time (~~agricultural employee~~) farmworker housing (~~that is~~
12 ~~not located on agricultural land~~) ceases to be used in the manner
13 specified in subsection (2) of this section, the full amount of tax
14 otherwise due is immediately due and payable with interest, but not
15 penalties, from the date the housing ceases to be used as
16 (~~agricultural employee~~) farmworker housing until the date of
17 payment.

18 (4) The exemption provided in this section does not apply to
19 housing built for the occupancy of an employer, family members of an
20 employer, or persons owning stock or shares in a farm partnership or
21 corporation business. The exemption provided in this section does not
22 apply to housing built exclusively for workers in the United States
23 on an H-2A visa under the United States citizenship and immigration
24 services.

25 (5) For purposes of this section and RCW 82.12.02685, the
26 following definitions apply unless the context clearly requires
27 otherwise.

28 (a) (~~"Agricultural employee" or "employee" has the same meaning~~
29 ~~as given in RCW 19.30.010;~~

30 ~~(b))~~ "Agricultural employer" or "employer" has the same meaning
31 as given in RCW 19.30.010 (~~;~~ and

32 ~~(c) "Agricultural employee"), and includes any employer engaged~~
33 in aquaculture as defined in RCW 15.85.020.

34 (b) "Farm work" means services relating to:

35 (i) Cultivating the soil, raising or harvesting, or catching,
36 netting, handling, planting, drying, packing, grading, storing, or
37 preserving in its unmanufactured state any agricultural or
38 aquacultural commodity;

1 (ii) Delivering to storage, market, or a carrier for
2 transportation to market or to processing any agricultural or
3 aquacultural commodity; or

4 (iii) Working in a processing plant and directly handling
5 agricultural or aquacultural product.

6 (c) "Farmworker" means a single person, family, or unrelated
7 persons living together with incomes derived from farm work of at
8 least \$3,000 per year.

9 (d) "Farmworker housing" means all facilities provided by an
10 agricultural employer, housing authority, local government, state or
11 federal agency, nonprofit community or neighborhood-based
12 organization that is exempt from income tax under section 501(c) of
13 the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), or for-
14 profit provider of housing for housing ((agricultural—employees))
15 farmworkers on a year-round or seasonal basis, including bathing,
16 food handling, hand washing, laundry, and toilet facilities, single-
17 family and multifamily dwelling units and dormitories, and includes
18 labor camps under RCW 70.114A.110. ("Agricultural employee))

19 (i) "Farmworker housing" includes:

20 (A) Housing occupied by a household with at least one member who
21 is a farmworker; and

22 (B) Housing occupied by a farmworker on a seasonal basis, where
23 the housing is not used as farmworker housing for a portion of the
24 year.

25 (ii) "Farmworker housing" does not include:

26 ((+i)) (A) Housing regularly provided on a commercial basis to
27 the general public;

28 ((+ii)) (B) Housing provided by a housing authority unless at
29 least eighty percent of the occupants are ((agricultural—employees))
30 farmworkers whose adjusted income is less than fifty percent of
31 median family income, adjusted for household size, for the county
32 where the housing is provided; and

33 ((+iii)) (C) Housing provided to ((agricultural—employees))
34 farmworkers providing services related to the growing, raising, or
35 producing of marijuana.

36 (6) This section expires January 1, 2032.

37 **Sec. 2.** RCW 82.12.02685 and 1997 c 438 s 2 are each amended to
38 read as follows:

1 (1) The provisions of this chapter shall not apply in respect to
2 the use of tangible personal property that becomes an ingredient or
3 component of buildings or other structures, in which at least 50
4 percent of housing units are used as (~~agricultural employee~~)
5 farmworker housing, during the course of constructing, repairing,
6 decorating, or improving the buildings or other structures by any
7 person.

8 (2) The exemption provided in this section for (~~agricultural~~
9 ~~employee~~) farmworker housing provided (~~to~~) on a year-round
10 (~~employees of the agricultural employer,~~) basis only applies if
11 that housing is built to the current building code for single-family
12 or multifamily dwellings according to the state building code,
13 chapter 19.27 RCW.

14 (3) Any (~~agricultural employee~~) farmworker housing built under
15 this section shall be used according to this section for at least
16 five consecutive years from the date the housing is approved for
17 occupancy, or the full amount of a tax otherwise due shall be
18 immediately due and payable together with interest, but not
19 penalties, from the date the housing is approved for occupancy until
20 the date of payment. If at any time (~~agricultural employee~~)
21 farmworker housing (~~that is not located on agricultural land~~)
22 ceases to be used in the manner specified in subsection (2) of this
23 section, the full amount of tax otherwise due shall be immediately
24 due and payable with interest, but not penalties, from the date the
25 housing ceases to be used as (~~agricultural employee~~) farmworker
26 housing until the date of payment.

27 (4) The exemption provided in this section shall not apply to
28 housing built for the occupancy of an employer, family members of an
29 employer, or persons owning stock or shares in a farm partnership or
30 corporation business.

31 (5) The definitions in RCW 82.08.02745(5) apply to this section.

32 (6) This section expires January 1, 2032.

33 NEW SECTION. Sec. 3. (1) This section is the tax preference
34 performance statement for the tax preferences contained in sections 1
35 and 2, chapter . . ., Laws of 2021 (sections 1 and 2 of this act).
36 This performance statement is only intended to be used for subsequent
37 evaluation of the tax preferences. It is not intended to create a
38 private right of action by any party or to be used to determine
39 eligibility for preferential tax treatment.

1 (2) The legislature categorizes these tax preferences as ones
2 intended to induce certain designated behavior by taxpayers as
3 indicated in RCW 82.32.808(2)(a).

4 (3) It is the legislature's specific public policy objective to
5 increase the supply of farmworker housing.

6 (4) If a review finds that new farmworker housing is developed
7 utilizing these preferences, then the legislature intends to extend
8 the expiration date of these tax preferences.

9 (5) In order to obtain the data necessary to perform the review
10 in subsection (4) of this section, the joint legislative audit and
11 review committee may refer to any data collected by the state.

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