

HOUSE BILL REPORT

ESHB 2003

As Passed Legislature

Title: An act relating to an exemption to the leasehold excise tax for leases on public lands.

Brief Description: Concerning an exemption to the leasehold excise tax for leases on public lands.

Sponsors: House Committee on Finance (originally sponsored by Representatives Connors, Leavitt, Klicker, Couture, Schmidt, Chapman, Graham, Peterson, Sandlin, Reeves and Shavers; by request of Department of Natural Resources).

Brief History:

Committee Activity:

Finance: 1/16/24, 1/30/24 [DPS].

Floor Activity:

Passed House: 2/12/24, 95-2.

Passed Senate: 2/29/24, 46-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Creates a leasehold excise tax exemption when public lands are used for affordable housing.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard, Ramel, Santos, Springer, Thai, Walen, Wilcox and Wylie.

Minority Report: Do not pass. Signed by 1 member: Representative Chopp.

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.

Staff: Tracey Taylor (786-7152).

Background:

Leasehold Excise Tax.

State leasehold excise taxes are levied and collected on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest. A leasehold interest is an interest in publicly owned real or personal property that exists by virtue of any lease, permit, license, or other written or verbal agreement between a public owner and a person who would not be exempt from property taxes if that person owned the property. The leasehold excise tax is levied at a rate of 12.84 percent of taxable rent.

The legislative body of any county or town may also levy and collect a leasehold excise tax on leasehold interests in publicly owned property within the territorial limits of the county or city. The tax levied by a county may not exceed 6 percent of taxable rent and, by a city, may not exceed 4 percent of taxable rent. If imposed, the local leasehold tax is credit against the state tax, so the maximum total rate remains 12.84 percent.

There are several leasehold excise tax exemptions. The exemptions include subsidized military housing as well as space in state prisons used by the division of the Department of Corrections.

Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Engrossed Substitute Bill:

A leasehold excise tax exemption is created for public lands when used for qualified affordable housing. An exemption is provided when the lessee commits to renting or leasing 100 percent of the housing units to low- and moderate-income households and the lease term is at least 20 years. The bill also makes affordable housing for low-income households a priority for the Department of Natural Resources and any lessee when receiving this leasehold excise tax exemption.

"Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30

percent of the household's monthly income.

"Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 80 percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area where the project is located, as reported by the United States Department of Housing and Urban Development (US HUD).

"Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than 80 percent but is at or below 115 percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area where the project is located, as reported by the US HUD.

"Public lands" means lands of the State of Washington administered by the department including but not limited to state lands, state forestlands, lands included in a state forestland pool, and aquatic lands.

A TPPS is included stating that it is the legislature's specific public policy goal to incentivize the placement of affordable housing on public lands and the legislature intends to continue the preference if the JLARC review finds that the tax preference results in the placement of more units of affordable housing on public lands. The bill is exempt from the automatic 10 year expiration for tax preferences.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Commissioner of Public Lands is committed to managing the Department of Natural Resources (DNR) trust lands to address the housing crisis. It is important to bring additional revenues to state, schools, and other public land trust beneficiaries. The DNR has brought on board housing experts and believes that leasing the public land is the best solution. Leasing keeps the land in state hands while allowing for the development of housing. The DNR has about 8,000 acres within Urban Growth Areas and many are small parcels surrounded by development. Although some are still being used for forestry and agriculture, there are 3,000 acres vacant and not producing revenue. It makes sense to do long-term leases with a leasehold excise tax exemption to encourage the building of affordable housing. This bill would authorize a standard state agency leasehold excise tax exemption while using the current multi-family property tax exemption criteria for the definitions of affordable housing and the income limits. Since some locations in

Washington may be in more expensive areas the bill includes moderate-income housing.

(Opposed) None.

Persons Testifying: Representative April Connors, prime sponsor; Brian Considine and Krosbie Carter, Department of Natural Resources; and Michele Thomas, Washington Low Income Housing Alliance.

Persons Signed In To Testify But Not Testifying: None.