

---

**SUBSTITUTE HOUSE BILL 1163**

---

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Finance (originally sponsored by Representative Fey)

READ FIRST TIME 01/30/23.

1       AN ACT Relating to exempting certain leasehold interests in  
2 arenas with a seating capacity of more than 2,000 from the leasehold  
3 excise tax; amending RCW 82.29A.130 and 82.29A.130; creating a new  
4 section; providing effective dates; and providing an expiration date.

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

6       **Sec. 1.** RCW 82.29A.130 and 2022 c 147 s 1 are each amended to  
7 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 that is assessed and taxed as a  
12 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  
24 (~~ninety~~) 90 percent of fair market rental, to be determined by the  
25 department of revenue using the same criteria used to establish  
26 taxable rent in RCW 82.29A.020(2)(g).

27 (8) All leasehold interests for which annual taxable rent is less  
28 than (~~two hundred fifty dollars~~) \$250 per year. For purposes of  
29 this subsection leasehold interests held by the same lessee in  
30 contiguous properties owned by the same lessor are deemed a single  
31 leasehold interest.

32 (9) All leasehold interests which give use or possession of the  
33 leased property for a continuous period of less than (~~thirty~~) 30  
34 days: PROVIDED, That for purposes of this subsection, successive  
35 leases or lease renewals giving substantially continuous use of  
36 possession of the same property to the same lessee are deemed a  
37 single leasehold interest: PROVIDED FURTHER, That no leasehold  
38 interest is deemed to give use or possession for a period of less  
39 than (~~thirty~~) 30 days solely by virtue of the reservation by the

1 public lessor of the right to use the property or to allow third  
2 parties to use the property on an 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 1,000,000, that has a seating capacity of over (~~forty thousand~~)  
28 40,000, and that is constructed on or after January 1, 1995. "Public  
29 or entertainment areas" include ticket sales areas, ramps and stairs,  
30 lobbies and concourses, parking areas, concession areas, restaurants,  
31 hospitality and stadium club areas, kitchens or other work areas  
32 primarily servicing other public or entertainment areas, public rest  
33 room 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~~  
17 ~~hundred~~) 100 percent of the cost of constructing the amphitheater  
18 which is not reimbursed by the public owner, both the public owner  
19 and the private lessee sponsor events at the facility on a regular  
20 basis, the lessee is responsible under the lease or agreement to  
21 operate and maintain the facility, and the amphitheater has a seating  
22 capacity of over (~~seventeen thousand~~) 17,000 reserved and general  
23 admission seats and is in a county that had a population of over  
24 (~~three hundred fifty thousand~~) 350,000, but less than (~~four~~  
25 ~~hundred twenty-five thousand~~) 425,000 when the amphitheater first  
26 opened to the public.

27 For the purposes of this subsection, "public or entertainment  
28 areas" include box offices or other ticket sales areas, entrance  
29 gates, ramps and stairs, lobbies and concourses, parking areas,  
30 concession areas, restaurants, hospitality areas, kitchens or other  
31 work areas primarily servicing other public or entertainment areas,  
32 public rest room areas, press and media areas, control booths,  
33 broadcast and production areas, retail sales areas, museum and  
34 exhibit areas, scoreboards or other public displays, storage areas,  
35 loading, staging, and servicing areas, seating areas including lawn  
36 seating areas and suites, stages, and any other areas to which the  
37 public has access or which are used for the production of the  
38 entertainment event or other public usage, and any other personal  
39 property used for these purposes. "Public or entertainment areas"  
40 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~~) 2,000;

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

15 (iii) Is owned by a city with a population over (~~two hundred  
16 thousand~~) 200,000 within a county with a population of less than  
17 (~~one million five hundred thousand~~) 1,500,000.

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 (22) All leasehold interests in facilities owned by the state  
22 parks and recreation commission that are listed on the national  
23 register of historic places or the Washington heritage register.

24 (23)(a) All leasehold interests in the public or entertainment  
25 areas of an arena if:

26 (i) The arena has a seating capacity of more than 2,000;

27 (ii) The arena is located on city-owned land;

28 (iii) The arena is located within a city with a population over  
29 100,000;

30 (iv) The arena is a multipurpose sports and entertainment  
31 facility that was redeveloped to attract a professional ice hockey  
32 franchise; and

33 (v) Private entities were responsible for 100 percent of the cost  
34 of constructing improvements to the arena, which were not reimbursed  
35 by the public owner.

36 (b) For the purposes of this subsection (23), "public or  
37 entertainment areas" has the same meaning as provided in subsection  
38 (18) of this section; except that it also includes office areas used  
39 predominately by the lessee.

1 (c) This subsection (23) does not apply to leasehold interests  
2 arising on or after October 1, 2033.

3 **Sec. 2.** RCW 82.29A.130 and 2019 c 335 s 1 are each amended to  
4 read as follows:

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

7 (1) All leasehold interests constituting a part of the operating  
8 properties of any public utility that is assessed and taxed as a  
9 public utility pursuant to chapter 84.12 RCW.

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

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

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

27 (5) All leasehold interests in any property of any public entity  
28 used as a residence by an employee of that public entity who is  
29 required as a condition of employment to live in the publicly owned  
30 property.

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

36 (7) All leasehold interests in any real property of any Indian or  
37 Indian tribe, band, or community that is held in trust by the United  
38 States or is subject to a restriction against alienation imposed by  
39 the United States. However, this exemption applies only where it is

1 determined that contract rent paid is greater than or equal to  
2 (~~ninety~~) 90 percent of fair market rental, to be determined by the  
3 department of revenue using the same criteria used to establish  
4 taxable rent in RCW 82.29A.020(2)(g).

5 (8) All leasehold interests for which annual taxable rent is less  
6 than (~~two hundred fifty dollars~~) \$250 per year. For purposes of  
7 this subsection leasehold interests held by the same lessee in  
8 contiguous properties owned by the same lessor are deemed a single  
9 leasehold interest.

10 (9) All leasehold interests which give use or possession of the  
11 leased property for a continuous period of less than (~~thirty~~) 30  
12 days: PROVIDED, That for purposes of this subsection, successive  
13 leases or lease renewals giving substantially continuous use of  
14 possession of the same property to the same lessee are deemed a  
15 single leasehold interest: PROVIDED FURTHER, That no leasehold  
16 interest is deemed to give use or possession for a period of less  
17 than (~~thirty~~) 30 days solely by virtue of the reservation by the  
18 public lessor of the right to use the property or to allow third  
19 parties to use the property on an occasional, temporary basis.

20 (10) All leasehold interests under month-to-month leases in  
21 residential units rented for residential purposes of the lessee  
22 pending destruction or removal for the purpose of constructing a  
23 public highway or building.

24 (11) All leasehold interests in any publicly owned real or  
25 personal property to the extent such leasehold interests arises  
26 solely by virtue of a contract for public improvements or work  
27 executed under the public works statutes of this state or of the  
28 United States between the public owner of the property and a  
29 contractor.

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

33 (13) All leasehold interests used to provide organized and  
34 supervised recreational activities for persons with disabilities of  
35 all ages in a camp facility and for public recreational purposes by a  
36 nonprofit organization, association, or corporation that would be  
37 exempt from property tax under RCW 84.36.030(1) if it owned the  
38 property. If the publicly owned property is used for any taxable  
39 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and  
40 82.29A.040 must be imposed and must be apportioned accordingly.

1 (14) All leasehold interests in the public or entertainment areas  
2 of a baseball stadium with natural turf and a retractable roof or  
3 canopy that is in a county with a population of over (~~one million~~)  
4 1,000,000, that has a seating capacity of over (~~forty thousand~~)  
5 40,000, and that is constructed on or after January 1, 1995. "Public  
6 or entertainment areas" include ticket sales areas, ramps and stairs,  
7 lobbies and concourses, parking areas, concession areas, restaurants,  
8 hospitality and stadium club areas, kitchens or other work areas  
9 primarily servicing other public or entertainment areas, public rest  
10 room areas, press and media areas, control booths, broadcast and  
11 production areas, retail sales areas, museum and exhibit areas,  
12 scoreboards or other public displays, storage areas, loading,  
13 staging, and servicing areas, seating areas and suites, the playing  
14 field, and any other areas to which the public has access or which  
15 are used for the production of the entertainment event or other  
16 public usage, and any other personal property used for these  
17 purposes. "Public or entertainment areas" does not include locker  
18 rooms or private offices exclusively used by the lessee.

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

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

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

31 (18) All leasehold interests in the public or entertainment areas  
32 of an amphitheater if a private entity is responsible for (~~one~~  
33 ~~hundred~~) 100 percent of the cost of constructing the amphitheater  
34 which is not reimbursed by the public owner, both the public owner  
35 and the private lessee sponsor events at the facility on a regular  
36 basis, the lessee is responsible under the lease or agreement to  
37 operate and maintain the facility, and the amphitheater has a seating  
38 capacity of over (~~seventeen thousand~~) 17,000 reserved and general  
39 admission seats and is in a county that had a population of over  
40 (~~three hundred fifty thousand~~) 350,000, but less than (~~four~~



1 ~~hundred twenty-five thousand~~) 425,000 when the amphitheater first  
2 opened to the public.

3 For the purposes of this subsection, "public or entertainment  
4 areas" include box offices or other ticket sales areas, entrance  
5 gates, ramps and stairs, lobbies and concourses, parking areas,  
6 concession areas, restaurants, hospitality areas, kitchens or other  
7 work areas primarily servicing other public or entertainment areas,  
8 public rest room areas, press and media areas, control booths,  
9 broadcast and production areas, retail sales areas, museum and  
10 exhibit areas, scoreboards or other public displays, storage areas,  
11 loading, staging, and servicing areas, seating areas including lawn  
12 seating areas and suites, stages, and any other areas to which the  
13 public has access or which are used for the production of the  
14 entertainment event or other public usage, and any other personal  
15 property used for these purposes. "Public or entertainment areas"  
16 does not include office areas used predominately by the lessee.

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

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

- 23 (a) Food services for students, faculty, and staff;  
24 (b) The operation of a bookstore on campus; or  
25 (c) Maintenance, operational, or administrative services to the  
26 community college or technical college.

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

- 29 (i) Has a seating capacity of more than (~~two thousand~~) 2,000;  
30 (ii) Is located on city-owned land; and  
31 (iii) Is owned by a city with a population over (~~two hundred~~  
32 ~~thousand~~) 200,000 within a county with a population of less than  
33 (~~one million five hundred thousand~~) 1,500,000.

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

37 (22)(a) All leasehold interests in the public or entertainment  
38 areas of an arena if:

- 39 (i) The arena has a seating capacity of more than 2,000;  
40 (ii) The arena is located on city-owned land;

1       (iii) The arena is located within a city with a population over  
2 100,000;

3       (iv) The arena is a multipurpose sports and entertainment  
4 facility that was redeveloped to attract a professional ice hockey  
5 franchise; and

6       (v) Private entities were responsible for 100 percent of the cost  
7 of constructing improvements to the arena, which were not reimbursed  
8 by the public owner.

9       (b) For the purposes of this subsection (22), "public or  
10 entertainment areas" has the same meaning as provided in subsection  
11 (18) of this section; except that it also includes office areas used  
12 predominately by the lessee.

13       (c) This subsection (22) does not apply to leasehold interests  
14 arising on or after October 1, 2033.

15       NEW SECTION.   Sec. 3.   RCW 82.32.805 and 82.32.808 do not apply  
16 to this act.

17       NEW SECTION.   Sec. 4.   Section 1 of this act takes effect October  
18 1, 2023.

19       NEW SECTION.   Sec. 5.   Section 1 of this act expires January 1,  
20 2034.

21       NEW SECTION.   Sec. 6.   Section 2 of this act takes effect January  
22 1, 2034.

--- END ---