
HOUSE BILL 1163

State of Washington

68th Legislature

2023 Regular Session

By Representative Fey

Prefiled 01/06/23. Read first time 01/09/23. Referred to Committee on Finance.

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 4,000;

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; and

30 (iv) Private entities were responsible for 100 percent of the
31 cost of constructing improvements to the arena, which were not
32 reimbursed by the public owner.

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

37 (c) A taxpayer claiming an exemption under this subsection (23)
38 must file a tax performance report as provided in RCW 82.32.534.

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

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

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

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

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

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

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

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

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

34 (7) All leasehold interests in any real property of any Indian or
35 Indian tribe, band, or community that is held in trust by the United
36 States or is subject to a restriction against alienation imposed by
37 the United States. However, this exemption applies only where it is
38 determined that contract rent paid is greater than or equal to
39 (~~ninety~~) 90 percent of fair market rental, to be determined by the

1 department of revenue using the same criteria used to establish
2 taxable rent in RCW 82.29A.020(2)(g).

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

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

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

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

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

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

39 (14) All leasehold interests in the public or entertainment areas
40 of a baseball stadium with natural turf and a retractable roof or

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

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

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

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

29 (18) All leasehold interests in the public or entertainment areas
30 of an amphitheater if a private entity is responsible for (~~one~~
31 ~~hundred~~) 100 percent of the cost of constructing the amphitheater
32 which is not reimbursed by the public owner, both the public owner
33 and the private lessee sponsor events at the facility on a regular
34 basis, the lessee is responsible under the lease or agreement to
35 operate and maintain the facility, and the amphitheater has a seating
36 capacity of over (~~seventeen thousand~~) 17,000 reserved and general
37 admission seats and is in a county that had a population of over
38 (~~three hundred fifty thousand~~) 350,000, but less than (~~four~~
39 ~~hundred twenty five thousand~~) 425,000 when the amphitheater first
40 opened to the public.

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

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

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

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

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

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

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

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

- 37 (i) The arena has a seating capacity of more than 4,000;
38 (ii) The arena is located on city-owned land;
39 (iii) The arena is located within a city with a population over
40 100,000; and

1 (iv) Private entities were responsible for 100 percent of the
2 cost of constructing improvements to the arena, which were not
3 reimbursed by the public owner.

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

8 (c) A taxpayer claiming an exemption under this subsection (22)
9 must file a tax performance report as provided in RCW 82.32.534.

10 (d) This subsection (22) does not apply to leasehold interests
11 arising on or after October 1, 2033.

12 NEW SECTION. Sec. 3. RCW 82.32.805 and 82.32.808 do not apply
13 to this act.

14 NEW SECTION. Sec. 4. Section 1 of this act takes effect October
15 1, 2023.

16 NEW SECTION. Sec. 5. Section 1 of this act expires January 1,
17 2034.

18 NEW SECTION. Sec. 6. Section 2 of this act takes effect January
19 1, 2034.

--- END ---