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**HOUSE BILL 1252**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Bateman, Hutchins, Barkis, Fitzgibbon, Robertson, Tharinger, Reed, Christian, Schmidt, and Pollet

Read first time 01/12/23. Referred to Committee on Housing.

1 AN ACT Relating to impact fee deferrals; and amending RCW  
2 82.02.050.

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

4 **Sec. 1.** RCW 82.02.050 and 2015 c 241 s 1 are each amended to  
5 read as follows:

6 (1) It is the intent of the legislature:

7 (a) To ensure that adequate facilities are available to serve new  
8 growth and development;

9 (b) To promote orderly growth and development by establishing  
10 standards by which counties, cities, and towns may require, by  
11 ordinance, that new growth and development pay a proportionate share  
12 of the cost of new facilities needed to serve new growth and  
13 development; and

14 (c) To ensure that impact fees are imposed through established  
15 procedures and criteria so that specific developments do not pay  
16 arbitrary fees or duplicative fees for the same impact.

17 (2) Counties, cities, and towns that are required or choose to  
18 plan under RCW 36.70A.040 are authorized to impose impact fees on  
19 development activity as part of the financing for public facilities,  
20 provided that the financing for system improvements to serve new

1 development must provide for a balance between impact fees and other  
2 sources of public funds and cannot rely solely on impact fees.

3 (3) (a) ~~((i))~~ Counties, cities, and towns collecting impact fees  
4 must, by September 1, ~~((2016))~~ 2024, adopt and maintain a system for  
5 the deferred collection of impact fees for single-family detached and  
6 attached residential construction. The deferral system must include a  
7 process by which an applicant for a building permit for a single-  
8 family detached or attached residence may request a voluntary  
9 agreement with counties, cities, towns, or other municipal  
10 corporations that allows for a deferral of the full impact fee  
11 payment. ~~((The deferral system offered by a county, city, or town~~  
12 ~~under this subsection (3) must include one or more of the following~~  
13 ~~options:~~

14 ~~(A) Deferring collection of the impact fee payment until final~~  
15 ~~inspection;~~

16 ~~(B) Deferring collection of the impact fee payment until~~  
17 ~~certificate of occupancy or equivalent certification; or~~

18 ~~(C) Deferring collection of the impact fee payment until the time~~  
19 ~~of closing of the first sale of the property occurring after the~~  
20 ~~issuance of the applicable building permit.~~

21 ~~((ii)) Counties, cities, and towns utilizing the deferral process~~  
22 ~~required by this subsection (3) (a))~~ The offered agreement must be  
23 publicly posted and must include a provision for payment of the  
24 impact fee:

25 (i) At the time of the issuance of a certificate of occupancy or  
26 equivalent certification for the lot or unit;

27 (ii) At the time of the closing of the first sale of the lot or  
28 unit occurring after the issuance of the applicable building permit;  
29 or

30 (iii) At the time of final inspection.

31 (b) If a county, city, or town has determined that payment of the  
32 impact fees is due at the time of the issuance of the certificate of  
33 occupancy or equivalent certification or at the time of the final  
34 inspection, the county, city, or town may withhold certification of  
35 final inspection, the certificate of occupancy, or equivalent  
36 certification until the impact fees have been paid in full.

37 ~~((iii))~~ (c) The amount of impact fees that may be deferred  
38 under this subsection (3) must be determined by the fees in effect at  
39 the time the applicant applies for a deferral.

1       ~~((iv))~~ (d) (i) Unless an agreement to the contrary is reached  
2 between the buyer and seller, the payment of impact fees due at  
3 closing of a sale must be made from the seller's proceeds. In the  
4 absence of an agreement to the contrary, the seller bears strict  
5 liability for the payment of the impact fees.

6       ~~((b))~~ (ii) The seller must provide written disclosure of a  
7 deferral agreement to the buyer as required by chapter 64.06 RCW.

8       (e) The term of an impact fee deferral under this subsection (3)  
9 may not exceed ~~((eighteen))~~ 18 months from the date of building  
10 permit issuance.

11       ~~((c) Except as may otherwise be authorized in accordance with~~  
12 ~~(f) of this subsection (3), an applicant seeking a deferral under~~  
13 ~~this subsection (3) must grant and record a deferred impact fee lien~~  
14 ~~against the property in favor of the county, city, or town in the~~  
15 ~~amount of the deferred impact fee. The deferred impact fee lien,~~  
16 ~~which must include the legal description, tax account number, and~~  
17 ~~address of the property, must also be:~~

18       ~~(i) In a form approved by the county, city, or town;~~

19       ~~(ii) Signed by all owners of the property, with all signatures~~  
20 ~~acknowledged as required for a deed, and recorded in the county where~~  
21 ~~the property is located;~~

22       ~~(iii) Binding on all successors in title after the recordation;~~  
23 ~~and~~

24       ~~(iv) Junior and subordinate to one mortgage for the purpose of~~  
25 ~~construction upon the same real property granted by the person who~~  
26 ~~applied for the deferral of impact fees.~~

27       ~~(d) (i) If impact fees are not paid in accordance with a deferral~~  
28 ~~authorized by this subsection (3), and in accordance with the term~~  
29 ~~provisions established in (b) of this subsection (3), the county,~~  
30 ~~city, or town may institute foreclosure proceedings in accordance~~  
31 ~~with chapter 61.12 RCW.~~

32       ~~(ii) If the county, city, or town does not institute foreclosure~~  
33 ~~proceedings for unpaid school impact fees within forty-five days~~  
34 ~~after receiving notice from a school district requesting that it do~~  
35 ~~so, the district may institute foreclosure proceedings with respect~~  
36 ~~to the unpaid impact fees.~~

37       ~~(e) (i) Upon receipt of final payment of all deferred impact fees~~  
38 ~~for a property, the county, city, or town must execute a release of~~  
39 ~~deferred impact fee lien for the property. The property owner at the~~

1 ~~time of the release, at his or her expense, is responsible for~~  
2 ~~recording the lien release.~~

3 ~~(ii) The extinguishment of a deferred impact fee lien by the~~  
4 ~~foreclosure of a lien having priority does not affect the obligation~~  
5 ~~to pay the impact fees as a condition of final inspection,~~  
6 ~~certificate of occupancy, or equivalent certification, or at the time~~  
7 ~~of closing of the first sale.))~~

8 (f) A county, city, or town with an impact fee deferral process  
9 on or before April 1, 2015, is exempt from the requirements of this  
10 subsection (3) if the deferral process delays all impact fees and  
11 remains in effect after September 1, 2016.

12 ~~((g) (i) Each applicant for a single-family residential~~  
13 ~~construction permit, in accordance with his or her contractor~~  
14 ~~registration number or other unique identification number, is~~  
15 ~~entitled to annually receive deferrals under this subsection (3) for~~  
16 ~~the first twenty single-family residential construction building~~  
17 ~~permits per county, city, or town. A county, city, or town, however,~~  
18 ~~may elect, by ordinance, to defer more than twenty single-family~~  
19 ~~residential construction building permits for an applicant. If the~~  
20 ~~county, city, or town collects impact fees on behalf of one or more~~  
21 ~~school districts for which the collection of impact fees could be~~  
22 ~~delayed, the county, city, or town must consult with the district or~~  
23 ~~districts about the additional deferrals. A county, city, or town~~  
24 ~~considering additional deferrals must give substantial weight to~~  
25 ~~recommendations of each applicable school district regarding the~~  
26 ~~number of additional deferrals. If the county, city, or town~~  
27 ~~disagrees with the recommendations of one or more school districts,~~  
28 ~~the county, city, or town must provide the district or districts with~~  
29 ~~a written rationale for its decision.~~

30 ~~(ii) For purposes of this subsection (3) (g), an "applicant"~~  
31 ~~includes an entity that controls the applicant, is controlled by the~~  
32 ~~applicant, or is under common control with the applicant.~~

33 ~~(h) Counties, cities, and towns may collect reasonable~~  
34 ~~administrative fees to implement this subsection (3) from permit~~  
35 ~~applicants who are seeking to delay the payment of impact fees under~~  
36 ~~this subsection (3).~~

37 ~~(i) In accordance with RCW 44.28.812 and 43.31.980, counties,~~  
38 ~~cities, and towns must cooperate with and provide requested data,~~  
39 ~~materials, and assistance to the department of commerce and the joint~~  
40 ~~legislative audit and review committee.))~~

1 (4) The impact fees:  
2 (a) Shall only be imposed for system improvements that are  
3 reasonably related to the new development;  
4 (b) Shall not exceed a proportionate share of the costs of system  
5 improvements that are reasonably related to the new development; and  
6 (c) Shall be used for system improvements that will reasonably  
7 benefit the new development.

8 (5) (a) Impact fees may be collected and spent only for the public  
9 facilities defined in RCW 82.02.090 which are addressed by a capital  
10 facilities plan element of a comprehensive land use plan adopted  
11 pursuant to the provisions of RCW 36.70A.070 or the provisions for  
12 comprehensive plan adoption contained in chapter 36.70, 35.63, or  
13 35A.63 RCW. After the date a county, city, or town is required to  
14 adopt its development regulations under chapter 36.70A RCW, continued  
15 authorization to collect and expend impact fees is contingent on the  
16 county, city, or town adopting or revising a comprehensive plan in  
17 compliance with RCW 36.70A.070, and on the capital facilities plan  
18 identifying:

19 (i) Deficiencies in public facilities serving existing  
20 development and the means by which existing deficiencies will be  
21 eliminated within a reasonable period of time;  
22 (ii) Additional demands placed on existing public facilities by  
23 new development; and  
24 (iii) Additional public facility improvements required to serve  
25 new development.

26 (b) If the capital facilities plan of the county, city, or town  
27 is complete other than for the inclusion of those elements which are  
28 the responsibility of a special district, the county, city, or town  
29 may impose impact fees to address those public facility needs for  
30 which the county, city, or town is responsible.

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