
HOUSE BILL 2484

State of Washington 52nd Legislature 1992 Regular Session

By Representatives Nelson, Mitchell, Franklin, Winsley, Wineberry,
Dellwo, Jones, Haugen, Sprenkle, J. Kohl, Valle and Pruitt

Read first time 01/17/92. Referred to Committee on Housing/Revenue.

1 AN ACT Relating to housing; amending RCW 82.45.010, 82.45.020,
2 82.45.030, 82.45.032, 82.45.060, 82.45.070, 82.45.080, 82.45.090,
3 82.45.100, 82.45.150, 82.46.010, 82.46.035, 82.46.050, 82.46.070,
4 30.60.010, 30.60.030, 30.04.212, 32.40.010, 32.40.030, 19.27.015,
5 19.27.035, 19.27.040, 19.27.074, 19.27.078, 19.27.085, 36.70A.030,
6 36.70A.020, 36.70A.070, 35.21.685, 36.32.415, 82.02.050, 49.60.030,
7 49.60.222, 49.60.223, 49.60.224, 49.60.225, 49.60.227, 49.60.230,
8 49.60.250, 49.60.260, 43.63A.510, 36.34.135, 47.12.063, 18.85.310, and
9 18.85.315; amending 1985 c 329 s 1 (uncodified); reenacting and
10 amending RCW 82.46.040, 82.46.060, 42.17.310, 19.27.031, 19.27.060, and
11 49.60.040; adding a new section to chapter 82.08 RCW; adding a new
12 section to chapter 82.12 RCW; adding a new section to chapter 84.36
13 RCW; adding a new section to chapter 82.45 RCW; adding new sections to
14 chapter 30.60 RCW; adding new sections to chapter 32.40 RCW; adding a
15 new section to chapter 30.04 RCW; adding a new section to chapter 31.12
16 RCW; adding a new section to chapter 32.04 RCW; adding a new section to

1 chapter 33.04 RCW; adding new sections to chapter 19.27 RCW; adding a
2 new section to chapter 36.70A RCW; adding a new section to chapter 8.26
3 RCW; adding new sections to chapter 49.60 RCW; adding a new section to
4 chapter 28A.335 RCW; adding new sections to chapter 35.21 RCW; adding
5 a new section to chapter 36.34 RCW; adding a new section to chapter
6 43.19 RCW; adding a new section to chapter 36.32 RCW; adding new
7 chapters to Title 43 RCW; adding new chapters to Title 82 RCW; adding
8 new chapters to Title 84 RCW; adding a new chapter to Title 33 RCW;
9 creating new sections; repealing RCW 82.45.035, 82.45.105, and
10 82.45.120; prescribing penalties; and providing an effective date.

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

12 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

13 (a) Housing is of vital state-wide importance to the health,
14 safety, and welfare of the residents of the state;

15 (b) Decent housing is an essential motivating force in helping
16 people achieve self-sufficiency;

17 (c) A healthy housing market is one in which residents of this
18 state have a choice of housing opportunities and one in which the
19 housing consumer may effectively choose within the free market;

20 (d) A healthy housing market is fundamentally related to a healthy
21 state economy and can contribute significantly to the employment factor
22 in Washington;

23 (e) The federal government has reduced its involvement in the
24 provision of affordable housing;

25 (f) State involvement in the provision of affordable housing has
26 increased;

27 (g) Public and private sector activity in the provision of
28 affordable housing has increased;

1 (h) The lack of a coherent state housing policy has hindered the
2 effective delivery of housing and supportive services to very low-
3 income and low-income households and special needs populations;

4 (i) The state has a vital interest in ensuring that resources for
5 housing exist; and

6 (j) It is in the public interest to adopt a statement of housing
7 policy objectives.

8 (2) The legislature declares that the purposes of the Washington
9 housing policy act are to:

10 (a) Provide policy direction to the public and private sector in
11 their attempts to meet the shelter needs of Washington residents;

12 (b) Reevaluate housing-related activities affected by legislation
13 in order to ensure proper coordination of those activities to meet the
14 shelter needs of Washington residents;

15 (c) Expand and improve the delivery of state services and
16 assistance to very low-income and low-income households and special
17 needs populations;

18 (d) Strengthen partnerships among all levels of government, and the
19 public and private sector, including for-profit and nonprofit
20 organizations, in the production and operation of housing that is
21 affordable to very low-income, low-income and moderate-income
22 households; and

23 (e) Increase the supply of housing with necessary supportive
24 services needed to enable persons with special needs to live with
25 dignity and independence.

26 PART I

27 GOAL AND POLICY OBJECTIVES

1 NEW SECTION. **Sec. 101.** It is the goal of the state of
2 Washington to coordinate, encourage, and direct, when necessary, the
3 efforts of the public and private sectors of the state and to cooperate
4 and participate, when necessary, in the attainment of a decent home in
5 a suitable environment for every resident of the state. The
6 legislature declares that attainment of that goal is a state priority.

7 NEW SECTION. **Sec. 102.** The objectives of the Washington housing
8 policy act shall be to attain the state's goal of providing a decent
9 home in a suitable environment for every resident of the state by
10 strengthening public and private institutions that are able to:

11 (1) Develop an adequate and affordable supply of housing for all
12 economic segments of the population;

13 (2) Encourage and maintain home ownership opportunities;

14 (3) Reduce life cycle housing costs while preserving public health
15 and safety;

16 (4) Preserve the supply of existing affordable housing;

17 (5) Provide housing and necessary supportive services for special
18 needs populations;

19 (6) Ensure fair and equal access to the housing market;

20 (7) Increase the availability of mortgage credit at affordable
21 interest rates; and

22 (8) Coordinate and be consistent with the goals and objectives of
23 the state's growth management act.

24 NEW SECTION. **Sec. 103.** Unless the context clearly requires
25 otherwise, the definitions in this section apply throughout this
26 chapter.

27 (1) "Affordable housing" means residential housing that is rented
28 or owned by a person who qualifies as a very low-income, low-income, or

1 moderate-income household and special needs populations, and whose
2 monthly housing costs, including utilities other than telephone, do not
3 exceed thirty percent of the household's monthly income.

4 (2) "Affordable housing development" means either: (a) Residential
5 rental housing in which (i) twenty percent or more of the dwelling
6 units in the development are occupied by households with incomes at or
7 below fifty percent of the median income, adjusted for household size,
8 for the county where the housing development is located and rented at
9 affordable rents or (ii) forty percent or more of the dwelling units in
10 the development are occupied by households with incomes at or below
11 sixty percent of the median income, adjusted for household size, for
12 the county where the housing development is located and rented at
13 affordable rents; or (b) residential housing for private individual
14 ownership that is occupied by households with incomes at or below
15 eighty percent of the median income, adjusted for household size, for
16 the county where the housing development is located.

17 (3) "Affordable rent" means that the gross rent paid by the
18 household does not exceed thirty percent of the applicable qualifying
19 income, adjusted for household size, for the county where the housing
20 development is located.

21 (4) "First-time homebuyer" means an individual or his or her spouse
22 who has not owned a residence during the three-year period prior to the
23 purchase of a home.

24 (5) "Gross rent" means the monthly rent agreed to or contracted for
25 and includes all utilities, other than telephone expenses, but does not
26 include payments made under a federal, state, or local rent subsidy
27 program designed to make the dwelling unit in the structure affordable
28 to very low-income or low-income households.

29 (6) "Residence" means a single-family dwelling unit whether such
30 unit be separate or part of a multi-unit dwelling, including the land

1 on which such dwelling stands not to exceed one acre. The term shall
2 also include a share ownership in a cooperate housing association,
3 corporation, or partnership if the share represents a specific unit.
4 The term also includes a mobile home which has substantially lost its
5 identity as a mobile unit by virtue of its being fixed in location upon
6 land owned or leased by the owner of the mobile home and placed on a
7 post or block foundation with fixed pipe connections with sewer, water,
8 or other utilities.

9 (7) "Nonprofit organization" means any public or private nonprofit
10 organization that: (a) Is organized under federal, state, or local
11 laws; (b) has no part of its net earnings inuring to the benefit of any
12 member, founder, contributor, or individual; and (c) has among its
13 purposes significant activities related to the provision of decent
14 housing that is affordable to very low-income, low-income, or moderate-
15 income households and special needs populations.

16 (8) "Tenant-based organization" means a nonprofit organization
17 whose governing body includes a majority of members who reside in the
18 housing development and are considered low-income households.

19 (9) "Very low-income household" means a single person, family, or
20 unrelated persons living together whose income is at or below fifty
21 percent of the median income, adjusted for household size, for the
22 county where the housing development is located.

23 (10) "Low-income household" means a single person, family, or
24 unrelated persons living together whose income is more than fifty
25 percent but is at or below eighty percent of the median income,
26 adjusted for household size, for the county where the housing
27 development is located.

28 (11) "Moderate-income household" means a single person, family, or
29 unrelated persons living together whose income is more than eighty
30 percent but is at or below one hundred fifteen percent of the median

1 income, adjusted for household size, for the county where the housing
2 development is located.

3 PART II

4 TAX PROVISIONS

5 NEW SECTION. **Sec. 201.** A new section is added to chapter 82.08
6 RCW to read as follows:

7 (1) The tax levied by RCW 82.08.020 shall not apply to the retail
8 sale of building materials used in the remodeling, rehabilitation, or
9 new construction of affordable housing developments or to the labor
10 used to incorporate such building materials into real estate. As used
11 in this section, affordable housing development is as defined in
12 section 103(2)(a) of this act.

13 (2) In order to qualify for the exemption of retail sales tax on
14 materials or labor under this section, the affordable housing
15 development must meet the following requirements:

16 (a) The affordable housing development must be located in
17 Washington;

18 (b) The affordable housing development must be owned by an
19 organization eligible to receive assistance through the Washington
20 housing trust fund created in chapter 43.185 RCW;

21 (c) The affordable housing development must contain two or more
22 residential rental dwelling units. Rental units used on a transient
23 basis shall not be considered under this section; and

24 (d) The dwelling units identified for lower-income households in
25 subsection (1) of this section shall be available for a period of at
26 least twenty-five years.

27 (3) The department of revenue, in consultation with the department
28 of community development, shall adopt rules specifying the

1 administrative procedures applicable to applicants for exemption from
2 retail sales tax on materials or labor, the form, manner, and time in
3 which applications shall be filed, the information to be contained
4 therein, and criteria for the approval or denial of requests for the
5 exemption from retail sales tax on materials or labor under this
6 chapter. The rules shall apply to both the department of revenue and
7 the department of community development.

8 (4) The department of revenue shall grant an exemption from retail
9 sales tax on materials or labor for affordable housing developments
10 that are approved by the department of community development. The
11 department of revenue shall keep a running total of exemptions granted
12 under this section and section 202 of this act during each fiscal
13 biennium. The department of revenue shall not allow any exemption that
14 would cause the tabulation for a biennium to exceed two million
15 dollars.

16 (5) This section shall expire January 1, 2002.

17 NEW SECTION. **Sec. 202.** A new section is added to chapter 82.12
18 RCW to read as follows:

19 (1) The provisions of this chapter shall not apply in respect to
20 the use of building materials used in the remodeling, rehabilitation,
21 or new construction of affordable housing developments or to the labor
22 used to incorporate such building materials into real estate. As used
23 in this section, affordable housing development is as defined in
24 section 103(2)(a) of this act.

25 (2) In order to qualify for the exemption granted by this section,
26 the affordable housing development must meet the following
27 requirements:

28 (a) The affordable housing development must be located in
29 Washington;

1 (b) The affordable housing development must be owned by an
2 organization eligible to receive assistance through the Washington
3 housing trust fund created in chapter 43.185 RCW;

4 (c) The affordable housing development must contain two or more
5 residential rental dwelling units. Rental units used on a transient
6 basis shall not be considered under this section; and

7 (d) The dwelling units identified for lower-income households in
8 subsection (1) of this section shall be available for a period of at
9 least twenty-five years.

10 (3) The department of revenue, in consultation with the department
11 of community development, shall adopt rules specifying the
12 administrative procedures applicable to applicants for the tax
13 exemption under this section, the form, manner, and time in which
14 applications shall be filed, the information to be contained therein,
15 and criteria for the approval or denial of requests for the tax
16 exemption under this chapter. The rules shall apply to both the
17 department of revenue and the department of community development.

18 (4) The department of revenue shall grant a tax exemption under
19 this section for affordable housing developments that are approved by
20 the department of community development. The department of revenue
21 shall keep a running total of exemptions granted under this section and
22 section 201 of this act during each fiscal biennium. The department of
23 revenue shall not allow any exemption that would cause the tabulation
24 for a biennium to exceed two million dollars.

25 (5) This section shall expire January 1, 2002.

26 NEW SECTION. **Sec. 203.** The state of Washington has an acute
27 shortage of affordable housing. The reductions in federal funding have
28 hampered the ability of state and local governments to meet this need.
29 The provision of housing assistance through the state's tax system can

1 be used to provide an incentive for the development, preservation, or
2 acquisition of affordable housing. It is the purpose and intent of the
3 legislature to promote private financial assistance in meeting the
4 state's need for affordable housing by creating a tax incentive for
5 contributions.

6 NEW SECTION. **Sec. 204.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Affordable housing development" has the same meaning as in
10 section 103 of this act.

11 (2) "Business firm" means any incorporated or unincorporated
12 business entity authorized to do business in the state and subject to
13 the state's business and occupation taxes levied in chapter 82.04 RCW.

14 (3) "Contributions" means furnishing of financial assistance,
15 labor, material, or technical assistance to aid in the construction,
16 rehabilitation, or acquisition of affordable housing developments.

17 (4) "Department" means the department of revenue.

18 (5) "Recipient" means the person or business firm receiving tax
19 credits under this chapter.

20 (6) "Tax year" or "taxable year" means either the calendar year or
21 the taxpayer's fiscal year if permission is obtained from the
22 department to use a fiscal year in lieu of the calendar year.

23 NEW SECTION. **Sec. 205.** The department shall establish a program
24 to provide tax credits to business firms making contributions to
25 affordable housing developments developed, sponsored, or managed by
26 organizations that are eligible to receive housing trust fund
27 assistance as eligible organizations under RCW 43.185.060. The tax

1 credits may be used as a credit against any of the taxes imposed on the
2 business firm under chapter 82.04 RCW.

3 NEW SECTION. **Sec. 206.** (1) Application for tax credits under
4 this chapter must be made before the actual contribution to the
5 affordable housing development is made. The application shall be made
6 to the department of community development in a form and manner
7 prescribed by the department of revenue and the department of community
8 development.

9 (2) The department of community development shall transmit a copy
10 of the completed application for tax credits to the department of
11 revenue, with its recommendations, within ten working days after
12 receipt thereof. Within thirty days after receipt of the completed
13 application from the department of community development, the
14 department of revenue shall determine the amount of tax credits to be
15 allocated to the business firm. The department of revenue shall notify
16 the department of community development of its decision within ten
17 days.

18 (3) The department of revenue, with approval of the department of
19 community development, shall adopt rules specifying the administrative
20 procedures applicable to applicants for tax credits, the form and
21 manner in which the applications shall be filed, the information to be
22 contained therein, and criteria for the approval or denial of requests
23 for tax credits under this chapter. The rules shall apply to both the
24 department of revenue and the department of community development.

25 (4) This section shall expire January 1, 2002.

26 NEW SECTION. **Sec. 207.** In order to qualify for the tax credits
27 in section 205 of this act, the affordable housing development must
28 meet the following requirements:

1 (1) The affordable housing development must be located in
2 Washington;

3 (2) The affordable housing development must be owned or managed by
4 an organization eligible to receive assistance through the Washington
5 housing trust fund created in chapter 43.185 RCW, or a partnership the
6 majority of which is owned by an organization eligible to receive
7 assistance through the Washington housing trust fund created in chapter
8 43.185 RCW;

9 (3) The housing development is an affordable housing development as
10 defined in section 103 of this act. Rental units used on a transient
11 basis shall not be considered under this section; and

12 (4) The residential rental dwelling units identified for lower-
13 income households in subsection (3) of this section shall be available
14 for a period of at least twenty-five years.

15 NEW SECTION. **Sec. 208.** (1) No tax credit for an affordable
16 housing development shall be issued after December 31, 2001.

17 (2) The department shall grant a credit against the tax due under
18 chapter 82.04 RCW of an amount equal to twenty percent of the approved
19 amount contributed by the business firm for eligible housing activities
20 during the taxable year.

21 (3) The department shall keep a running total of all tax credits
22 granted under this chapter during each fiscal biennium. The department
23 shall not allow any credits which would cause the tabulation for a
24 biennium to exceed two million dollars. If all or part of an
25 application for credit is disallowed under this subsection, the
26 disallowed portion shall be carried over for approval the next
27 biennium.

28 (4) Any tax credit not used during the taxable year in which the
29 contribution was made may be carried forward for the five immediately

1 succeeding calendar or fiscal years until the full credit has been
2 used.

3 (5) No tax credit shall be granted to any bank, bank and trust
4 company, insurance company, trust company, national bank, savings
5 association, or savings and loan association for activities that are a
6 part of its normal course of business.

7 (6) No recipient is eligible for tax credits in excess of five
8 hundred thousand dollars during the taxable year.

9 NEW SECTION. **Sec. 209.** Applications and any other information
10 received by the department under this chapter shall not be confidential
11 and shall be subject to disclosure.

12 NEW SECTION. **Sec. 210.** The department, in consultation with the
13 department of community development, shall report to the appropriate
14 committees of the legislature on the progress and status of the tax
15 credit program. The report shall be due on December 1, 1993, and every
16 December 1 thereafter and shall include but need not be limited to
17 results regarding the individual affordable housing developments
18 selected, the number of dwelling units developed under the program, the
19 amount of tax credits awarded under the program, and recommendations
20 for improving the program.

21 NEW SECTION. **Sec. 211.** A new section is added to chapter 84.36
22 RCW to read as follows:

23 (1) Any physical improvements to affordable housing developments
24 upon real property shall be exempt from taxation for the three
25 assessment years subsequent to the completion of the improvements. As
26 used in this section, affordable housing development has the same
27 meaning as in section 103(2)(a) of this act. In order to qualify for

1 the property tax exemption, the property must meet the following
2 requirements:

3 (a) The affordable housing development must be either owned or
4 leased by an organization eligible to receive assistance through the
5 Washington housing trust fund under chapter 43.185 RCW or owned by a
6 tenant-based organization as defined in section 103 of this act;

7 (b) The affordable housing development must contain two or more
8 residential dwelling units;

9 (c) The value of the improvements to the affordable housing
10 development must exceed twenty percent of the current assessed value of
11 the original structure; and

12 (d) The rent paid by very low-income and low-income households in
13 dwelling units identified in this subsection shall be considered
14 affordable rent as defined in section 103 of this act.

15 (2) Application for the exemption granted by this section must be
16 made prior to the improvements being made. The application shall be
17 made on forms prescribed by the department of revenue and furnished to
18 the taxpayer by the county assessor. This exemption may not be claimed
19 more than once in a five-year period.

20 (3) The department of revenue, in consultation with the department
21 of community development, shall adopt such rules as are necessary and
22 convenient to properly administer the provisions of this section.

23 (4) The department of revenue shall grant a property tax exemption
24 under this section for affordable housing developments that are
25 approved by the department of community development. The department of
26 revenue shall keep a running total of exemptions granted under this
27 section during each fiscal biennium.

28 (5) Applications and any other information received by the county
29 assessor under this section shall be confidential. However, the
30 department of community development and the department of revenue may

1 conduct such audits of the administration of this section, and the
2 claims for exemptions filed under this section, as they consider
3 necessary.

4 (6) Any applicant knowingly signing a false application for an
5 exemption under this section shall have the exemption revoked under the
6 provisions of RCW 84.36.845.

7 (7) This section shall expire January 1, 2002.

8 **Sec. 212.** RCW 82.45.010 and 1981 c 93 s 1 are each amended to read
9 as follows:

10 (1) As used in this chapter, the term (~~("sale" shall have its~~
11 ~~ordinary meaning and shall include any~~) "conveyance"(~~(~~) shall mean
12 the grant, assignment, quitclaim, sale, or other transfer of the
13 ownership of or title to real property(~~(, including standing timber, or~~
14 ~~any estate or interest therein for a valuable consideration, and)~~).
15 The term includes the grant, assignment, quitclaim, sale, or transfer
16 of improvements constructed upon leased land.

17 (2) The term conveyance also includes any contract for (~~(such~~
18 ~~conveyance,~~) the grant, assignment, quitclaim, sale, or transfer(~~(~~
19 ~~and any lease with an option to purchase real property, including~~
20 ~~standing timber, or any estate or interest therein or other contract)~~)
21 of real property where, under (~~(which)~~) the terms of the contract
22 possession of the property is given to the (~~(purchaser)~~) contract
23 vendee, or any other person (~~(by his)~~) at the vendee's direction,
24 (~~(which)~~) and title to the property is retained by the vendor as
25 security for the (~~(payment of the purchase price)~~) vendee's performance
26 of the contract terms.

27 (~~The term shall not include a transfer by gift, devise, or~~
28 ~~inheritance, a transfer of any leasehold interest other than of the~~
29 ~~type mentioned above, a cancellation or forfeiture of a vendee's~~

1 interest in a contract for the sale of real property, whether or not
2 such contract contains a forfeiture clause, or deed in lieu of
3 foreclosure of a mortgage or the assumption by a grantee of the balance
4 owing on an obligation which is secured by a mortgage or deed in lieu
5 of forfeiture of the vendee's interest in a contract of sale where no
6 consideration passes otherwise or the partition of property by tenants
7 in common by agreement or as the result of a court decree, any
8 transfer, conveyance, or assignment of property or interest in property
9 from one spouse to the other in accordance with the terms of a decree
10 of divorce or in fulfillment of a property settlement agreement
11 incident thereto, the assignment or other transfer of a vendor's
12 interest in a contract for the sale of real property, even though
13 accompanied by a conveyance of the vendor's interest in the real
14 property involved, transfers by appropriation or decree in condemnation
15 proceedings brought by the United States, the state or any political
16 subdivision thereof, or a municipal corporation, a mortgage or other
17 transfer of an interest in real property merely to secure a debt, or
18 the assignment thereof, any transfer or conveyance made pursuant to an
19 order of sale by the court in any mortgage or lien foreclosure
20 proceeding or upon execution of a judgment, or deed in lieu of
21 foreclosure to satisfy a mortgage, a conveyance to the federal housing
22 administration or veterans administration by an authorized mortgagee
23 made pursuant to a contract of insurance or guaranty with the federal
24 housing administration or veterans administration, nor a transfer in
25 compliance with the terms of any lease or contract upon which the tax
26 as imposed by this chapter has been paid or where the lease or contract
27 was entered into prior to the date this tax was first imposed, nor the
28 sale of any grave or lot in an established cemetery, nor a sale by or
29 to the United States, this state or any political subdivision thereof,
30 or a municipal corporation of this state.

1 ~~The term sale shall further not include a transfer to a corporation~~
2 ~~or partnership which is wholly owned by the transferor and/or the~~
3 ~~transferor's spouse or children: PROVIDED, That if thereafter such~~
4 ~~transferee corporation or partnership voluntarily transfers such real~~
5 ~~property, or such transferor, spouse, or children voluntarily transfer~~
6 ~~stock in the transferee corporation or interest in the transferee~~
7 ~~partnership capital, as the case may be, to other than (1) the~~
8 ~~transferor and/or the transferor's spouse or children, (2) a trust~~
9 ~~having the transferor and/or the transferor's spouse or children as the~~
10 ~~only beneficiaries at the time of the transfer to the trust, or (3) a~~
11 ~~corporation or partnership wholly owned by the original transferor~~
12 ~~and/or the transferor's spouse or children, within five years of the~~
13 ~~original transfer to which this exemption applies, excise taxes shall~~
14 ~~become due and payable on the original transfer as otherwise provided~~
15 ~~by law.))~~

16 (3) The term conveyance does not include the grant or transfer of
17 an easement, leasehold, license, equitable servitude, or option to
18 purchase.

19 **Sec. 213.** RCW 82.45.020 and 1980 c 154 s 1 are each amended to
20 read as follows:

21 As used in this chapter the term (~~"seller,"~~) "transferor," unless
22 otherwise indicated by the context, shall mean any individual,
23 receiver, assignee, trustee in bankruptcy, trust, estate, firm,
24 copartnership, joint venture, club, company, joint stock company,
25 business trust, municipal corporation, quasi municipal corporation,
26 corporation, association, society, or any group of individuals acting
27 as a unit, whether mutual, cooperative, fraternal, nonprofit or
28 otherwise; but it shall not include the United States or the state of
29 Washington.

1 **Sec. 214.** RCW 82.45.030 and 1969 ex.s. c 223 s 28A.45.030 are each
2 amended to read as follows:

3 As used in this chapter, the term (~~("selling price")~~) "taxable
4 value" means the (~~(consideration, including)~~) true and fair value of
5 the property conveyed. Where property has been conveyed in an arm's
6 length transaction between unrelated persons for a valuable
7 consideration, the taxable value shall be equal to the total
8 consideration paid or contracted to be paid to the transferor or
9 another for the transferor's benefit. The total consideration paid, or
10 contracted to be paid, includes money or anything of value, paid or
11 delivered or contracted to be paid or delivered in return for the
12 transfer of the real property or estate or interest in real property,
13 and shall include the amount of any lien, mortgage, contract
14 indebtedness, or other incumbrance, either given to secure the purchase
15 price, or any part thereof, or remaining unpaid on such property at the
16 time of (~~(sale)~~) conveyance.

17 (~~The term~~) Total consideration shall not include the amount of
18 any outstanding lien or incumbrance in favor of the United States, the
19 state, or a municipal corporation for (~~(the)~~) taxes, special benefits,
20 or improvements.

21 Under circumstances where the total consideration for the
22 conveyance cannot be ascertained or the total consideration does not
23 represent the true and fair value of the property transferred, the
24 market value assessment maintained on the rolls of the county assessor
25 at the time of the conveyance shall be used as the taxable value.

26 **Sec. 215.** RCW 82.45.032 and 1986 c 211 s 1 are each amended to
27 read as follows:

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

1 (1) "Real estate" or "real property" means (~~real property but~~
2 ~~includes~~) any interest or estate in land or anything affixed to land,
3 including standing timber, used mobile homes, and used floating homes.
4 The term includes improvements constructed by a lessee upon leased land
5 when the ownership of the improvements passes to the lessor, if at all,
6 only upon the expiration or termination of the leasehold. The term
7 does not include easements, equitable servitudes, licenses, options to
8 purchase, leaseholds, water rights, or other similar rights transferred
9 separate from the ownership of land.

10 (2) "Used mobile home" means a mobile home which has been
11 previously sold at retail and has been subjected to tax under chapter
12 82.08 RCW, or which has been previously used and has been subjected to
13 tax under chapter 82.12 RCW, and which has substantially lost its
14 identity as a mobile unit at the time of (~~sale~~) conveyance by virtue
15 of its being fixed in location upon land owned or leased by the owner
16 of the mobile home and placed on a foundation (posts or blocks) with
17 fixed pipe connections with sewer, water, and other utilities.

18 (3) "Mobile home" means a mobile home as defined by RCW 46.04.302,
19 as now or hereafter amended.

20 (4) "Used floating home" means a floating home in respect to which
21 tax has been paid under chapter 82.08 or 82.12 RCW.

22 (5) "Floating home" means a building on a float used in whole or in
23 part for human habitation as a single-family dwelling, which is not
24 designed for self propulsion by mechanical means or for propulsion by
25 means of wind, and which is on the property tax rolls of the county in
26 which it is located.

27 (6) "Affordable housing development" has the same meaning as in
28 section 103(2)(a) of this act.

1 **Sec. 216.** RCW 82.45.060 and 1987 c 472 s 14 are each amended to
2 read as follows:

3 (1) There is imposed an excise tax upon each (~~(sale)~~) conveyance of
4 real property at the rate of one and twenty-eight one-hundredths
5 percent of the (~~(selling price)~~) taxable value of the property conveyed
6 as determined under RCW 82.45.030. An amount equal to seven and seven-
7 tenths percent of the proceeds of this tax remitted to the state
8 treasurer shall be deposited in the public works assistance account
9 created in RCW 43.155.050.

10 (2) (~~(There is imposed an additional excise tax through June 30,~~
11 ~~1989, upon each sale of real property at the rate of six one hundredths~~
12 ~~of one percent of the selling price. The tax imposed under this~~
13 ~~subsection shall be deposited in the conservation area account under~~
14 ~~RCW 79.71.110)) An amount equal to two percent of the proceeds of this
15 tax remitted to the state treasurer shall be used to offset the
16 potential loss of revenue to the state general fund as a result of
17 housing-related tax exemptions to encourage the development of
18 affordable housing created under sections 201 through 210 of this act.~~

19 NEW SECTION. **Sec. 217.** A new section is added to chapter 82.45
20 RCW to read as follows:

21 The following conveyances are exempt from the tax imposed by this
22 chapter:

23 (1) A transfer by gift to a family member or to an entity exempt
24 from federal income tax under section 501(c) of the internal revenue
25 code. For purposes of this section, "family member" means the
26 transferor, the transferor's spouse, grandparents, parents, children,
27 grandchildren, sisters, or brothers.

28 (2) A transfer of property by devise or inheritance.

1 (3) An assignment or transfer of property from one spouse to
2 another to establish or separate community property in accordance with
3 the terms of a community property agreement, or to separate community
4 property in accordance with the terms of a decree of divorce or in
5 fulfillment of a property settlement agreement incident to a decree of
6 divorce.

7 (4) A physical partition of property by tenants in common by
8 agreement or as a result of a court decree.

9 (5) A family transfer.

10 (a) For the purposes of this subsection, "family transfer" means
11 any transfer:

12 (i) To a trust having family members of the transferor as the only
13 beneficiaries at the time of the transfer to the trust; or

14 (ii) To a corporation or partnership wholly owned by one or more
15 family members of the transferor.

16 (b) A family transfer also includes any subsequent transfer of
17 property by a trust, corporation, or partnership described in (a) of
18 this subsection to a transferee described in (a) of this subsection.

19 (c) The exemption provided in this subsection may not apply to any
20 transfer, and tax will be due on such transfer, if, within five years
21 of the date of the transfer, the transferee corporation, partnership,
22 or trust voluntarily conveys the property, or a family member
23 voluntarily transfers stock in the transferee corporation or an
24 interest in the transferee partnership or trust, as the case may be, to
25 other than a person described in (a) of this subsection.

26 (6) The creation of a lien by means of a mortgage or deed of trust
27 or the assignment of such a mortgage or deed of trust.

28 (7) The assignment or other transfer of a vendor's interest in a
29 contract for the sale of real property, even though accompanied by a
30 conveyance of the vendor's interest in the real property involved.

1 (8) A release or satisfaction of mortgage or full reconveyance of
2 the beneficiary's interest under a deed of trust.

3 (9) A deed given to the vendee under a real estate contract upon
4 fulfillment of the contract terms.

5 (10) A transfer or conveyance made under an order of sale by a
6 court in any mortgage or lien foreclosure proceeding or upon execution
7 of a judgment.

8 (11) A transfer by a trustee under a power of sale contained in a
9 deed of trust.

10 (12) A deed in lieu of foreclosure of a mortgage or deed of trust
11 given to the mortgagee or trust deed beneficiary.

12 (13) A declaration of contract forfeiture or deed given by the
13 vendee to the vendor upon forfeiture of a real estate contract.

14 (14) A transfer of a grave or cemetery lot in an established
15 cemetery.

16 (15) A transfer by a trustee in bankruptcy or under a court-
17 approved plan of reorganization under chapters 11 or 12 of the
18 bankruptcy code, Title 11 U.S.C.

19 (16) A transfer by appropriation or decree in condemnation
20 proceedings brought by the United States, the state of Washington or
21 any of its political subdivisions, or a municipal corporation of this
22 state.

23 (17) A transfer to the federal housing administration or the
24 veterans' administration by an authorized mortgagee under a contract of
25 insurance or guaranty with the federal housing administration or the
26 veterans' administration.

27 (18) A transfer by a nominee to a third-party principal, if:

28 (a) The proper tax was paid on the transfer to the nominee;

29 (b) The third-party principal was in legal existence at the time of
30 initial transfer;

1 (c) The funds used by the nominee to initially acquire the property
2 were provided by the third-party principal; and

3 (d) The subsequent transfer from the nominee to the third-party
4 principal is not for a greater consideration than that of the initial
5 acquisition.

6 (19) A transfer by the United States, the state of Washington or
7 any of its political subdivisions, or a municipal corporation of this
8 state.

9 (20) The conveyance of an affordable housing development by or to
10 an organization eligible to receive assistance through the Washington
11 housing trust fund created in chapter 43.185 RCW.

12 **Sec. 218.** RCW 82.45.070 and 1969 ex.s. c 223 s 28A.45.070 are each
13 amended to read as follows:

14 The tax ~~((herein provided for and any))~~ imposed by this chapter,
15 along with interest ((or penalties thereon)) accruing as provided for
16 in RCW 82.45.100 shall be a specific lien upon each ~~((piece))~~ parcel of
17 real property ~~((sold))~~ conveyed from the time of ~~((sale))~~ conveyance
18 until the tax ~~((shall have))~~ has been paid, which lien may be enforced
19 in the manner prescribed for the foreclosure of mortgages. The lien
20 provided under this section is perfected without further act and has
21 priority over any lien arising after the conveyance.

22 **Sec. 219.** RCW 82.45.080 and 1980 c 154 s 3 are each amended to
23 read as follows:

24 The tax levied under this chapter shall be the obligation of the
25 ~~((seller))~~ transferor and the department of revenue may, at the
26 department's option, enforce the obligation through an action of debt
27 against the ~~((seller))~~ transferor or the department may proceed in the
28 manner prescribed for the foreclosure of mortgages ~~((and)).~~ Resort to

1 one course of enforcement shall not ~~((be an election not to pursue))~~
2 preclude the department from pursuing the other.

3 **Sec. 220.** RCW 82.45.090 and 1991 c 327 s 6 are each amended to
4 read as follows:

5 The tax imposed by this chapter shall be paid to and collected by
6 the treasurer of the county ~~((within))~~ in which the property conveyed
7 is located ~~((the real property which was sold, said))~~. In collecting
8 the tax the treasurer ~~((acting))~~ shall act as agent for the state. The
9 county treasurer shall cause a stamp evidencing satisfaction of the
10 lien to be affixed to the instrument of ~~((sale or))~~ conveyance prior to
11 its recording or to the real estate excise tax affidavit in the case of
12 sales of used mobile homes ~~((sales))~~ and used floating homes ~~((sales))~~.
13 A receipt issued by the county treasurer for the payment of the tax
14 imposed under this chapter shall be evidence of the satisfaction of the
15 lien imposed hereunder and may be recorded in the manner prescribed for
16 recording satisfactions of mortgages. No instrument ~~((of sale or~~
17 ~~conveyance))~~ evidencing a ~~((sale))~~ conveyance subject to the tax shall
18 be accepted by the county auditor for filing or recording until the tax
19 ~~((shall have))~~ has been paid and the ~~((stamp affixed thereto))~~
20 instrument has been stamped; in case the tax is not due on the
21 ~~((transfer))~~ conveyance, the instrument shall not be so accepted until
22 suitable notation of such fact has been made on the instrument by the
23 treasurer.

24 **Sec. 221.** RCW 82.45.100 and 1988 c 286 s 5 are each amended to
25 read as follows:

26 (1) The tax imposed under this chapter is due and payable
27 immediately at the time of ~~((sale))~~ conveyance, and if not paid within
28 thirty days thereafter shall bear interest at the rate of one percent

1 per month from the time of ((~~sale~~)) conveyance until the date of
2 payment.

3 (2) In addition to the interest described in subsection (1) of this
4 section, if the payment of any tax is not received by the county
5 treasurer within thirty days of the date due, there shall be assessed
6 a penalty of five percent of the amount of the tax; if the tax is not
7 received within sixty days of the date due, there shall be assessed a
8 total penalty of ten percent of the amount of the tax; and if the tax
9 is not received within ninety days of the date due, there shall be
10 assessed a total penalty of twenty percent of the amount of the tax.
11 The payment of the penalty described in this subsection shall be
12 collectible from the ((~~seller~~)) transferor only, and RCW 82.45.070 does
13 not apply to the penalties described in this subsection.

14 (3) If upon examination of any affidavits or from other information
15 obtained by the department or its agents it appears that all or a
16 portion of the tax is unpaid, the department shall assess against the
17 ((~~taxpayer~~)) transferor the additional amount found to be due plus
18 interest and penalties as provided in subsections (1) and (2) of this
19 section. If the department finds that all or any part of the
20 deficiency resulted from an intent to evade the tax payable under this
21 chapter, an additional penalty of fifty percent of the additional tax
22 found to be due shall be added.

23 (4) No assessment or refund may be made by the department more than
24 four years after the date of ((~~sale~~)) conveyance except upon a showing
25 of fraud or of misrepresentation of a material fact by the ((~~taxpayer~~))
26 transferor or a failure by the taxpayer to record documentation of a
27 ((~~sale~~)) conveyance or otherwise report the ((~~sale~~)) conveyance to the
28 county treasurer.

1 (5) Penalties collected pursuant to subsection (2) of this section
2 shall be deposited in the housing trust fund as described in chapter
3 43.185 RCW.

4 **Sec. 222.** RCW 82.45.150 and 1981 c 167 s 1 are each amended to
5 read as follows:

6 All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.040,
7 82.32.050, 82.32.140, and 82.32.270 and except for the penalties and
8 the limitations thereon imposed by RCW 82.32.090, applies to the tax
9 imposed by this chapter, in addition to any other provisions of law for
10 the payment and enforcement of the tax imposed by this chapter. The
11 department of revenue shall by rule provide for the effective
12 administration of this chapter. The rules shall ~~((also include a~~
13 ~~manual which defines transactions which are taxable under))~~ prescribe
14 and furnish a real estate excise tax affidavit form to be used by each
15 county in the collection and reporting of the tax imposed by this
16 chapter. The department of revenue shall annually conduct audits of
17 transactions and affidavits filed under this chapter.

18 **Sec. 223.** RCW 82.46.010 and 1990 1st ex.s. c 17 s 36 are each
19 amended to read as follows:

20 (1) The governing body of any county or any city may impose an
21 excise tax on each ~~((sale))~~ conveyance of real property in the
22 unincorporated areas of the county for the county tax and in the
23 corporate limits of the city for the city tax at a rate not exceeding
24 one-quarter of one percent of the ~~((selling price))~~ taxable value as
25 defined in RCW 82.45.030. The revenues from this tax shall be used by
26 the respective jurisdictions for local capital improvements, including
27 those listed in RCW 35.43.040.

1 After July 1, 1990, revenues generated from the tax imposed under
2 this subsection in counties and cities that are required or choose to
3 plan under RCW 36.70A.040 shall be used primarily for financing capital
4 projects specified in a capital facilities plan element of a
5 comprehensive plan and housing relocation assistance under RCW
6 59.18.440 and 59.18.450. However, revenues (a) pledged by such
7 counties and cities to debt retirement prior to July 1, 1990, may
8 continue to be used for that purpose until all outstanding debt is
9 retired, or (b) committed prior to July 1, 1990, by such counties or
10 cities to a capital project may continue to be used for that purpose
11 until the project is completed.

12 (2) In lieu of imposing the tax authorized in RCW 82.14.030(2), the
13 governing body of any county or any city may impose an additional
14 excise tax on each (~~sale~~) conveyance of real property in the
15 unincorporated areas of the county for the county tax and in the
16 corporate limits of the city for the city tax at a rate not exceeding
17 one-half of one percent of the (~~selling price~~) taxable value as
18 defined in RCW 82.45.030.

19 (3) Taxes imposed under this section shall be collected from
20 persons who are taxable by the state under chapter 82.45 RCW upon the
21 occurrence of any taxable event within the unincorporated areas of the
22 county or within the corporate limits of the city, as the case may be.

23 (4) Taxes imposed under this section shall comply with all
24 applicable rules, regulations, laws, and court decisions regarding real
25 estate excise taxes as imposed by the state under chapter 82.45 RCW.

26 (5) As used in this section, "city" means any city or town.

27 **Sec. 224.** RCW 82.46.035 and 1991 sp.s. c 32 s 33 are each amended
28 to read as follows:

1 (1) The governing body of any county or any city that plans under
2 RCW 36.70A.040(1) may impose an additional excise tax on each ((sale))
3 conveyance of real property in the unincorporated areas of the county
4 for the county tax and in the corporate limits of the city for the city
5 tax at a rate not exceeding one-quarter of one percent of the ((selling
6 price)) taxable value as defined in RCW 82.45.030. Any county choosing
7 to plan under RCW 36.70A.040(2) and any city within such a county may
8 only adopt an ordinance imposing the excise tax authorized by this
9 section if the ordinance is first authorized by a proposition approved
10 by a majority of the voters of the taxing district voting on the
11 proposition at a general election held within the district or at a
12 special election within the taxing district called by the district for
13 the purpose of submitting such proposition to the voters.

14 (2) Revenues generated from the tax imposed under subsection (1) of
15 this section shall be used by such counties and cities solely for
16 financing capital projects specified in a capital facilities plan
17 element of a comprehensive plan.

18 (3) Revenues generated by the tax imposed by this section shall be
19 deposited in a separate account.

20 (4) As used in this section, "city" means any city or town.

21 (5) When the governor files a notice of noncompliance under RCW
22 36.70A.340 with the secretary of state and the appropriate county or
23 city, the county or city's authority to impose the additional excise
24 tax under this section shall be temporarily rescinded until the
25 governor files a subsequent notice rescinding the notice of
26 noncompliance.

27 **Sec. 225.** RCW 82.46.040 and 1990 1st ex.s. c 17 s 39 and 1990 1st
28 ex.s. c 5 s 4 are each reenacted and amended to read as follows:

1 Any tax imposed under this chapter (~~or RCW 82.46.070~~) and any
2 interest or penalties thereon is a specific lien upon each piece of
3 real property (~~sold~~) conveyed from the time of (~~sale~~) conveyance
4 until the tax is paid, which lien may be enforced in the manner
5 prescribed for the foreclosure of mortgages.

6 **Sec. 226.** RCW 82.46.050 and 1990 1st ex.s. c 17 s 40 are each
7 amended to read as follows:

8 The taxes levied under this chapter are the obligation of the
9 (~~seller~~) transferor and may be enforced through an action of debt
10 against the (~~seller~~) transferor or in the manner prescribed for the
11 foreclosure of mortgages. Resort to one course of enforcement is not
12 an election not to pursue the other.

13 **Sec. 227.** RCW 82.46.060 and 1990 1st ex.s. c 17 s 41 and 1990 1st
14 ex.s. c 5 s 5 are each reenacted and amended to read as follows:

15 Any taxes imposed under this chapter (~~or RCW 82.46.070~~) shall be
16 paid to and collected by the treasurer of the county within which is
17 located the real property which was (~~sold~~) conveyed. The treasurer
18 shall act as agent for any city within the county imposing the tax.
19 The county treasurer shall cause a stamp evidencing satisfaction of the
20 lien to be affixed to the instrument of sale or conveyance prior to its
21 recording or to the real estate excise tax affidavit in the case of
22 used mobile home (~~sales~~) conveyances. A receipt issued by the county
23 treasurer for the payment of the tax imposed under this chapter (~~or~~
24 ~~RCW 82.46.070~~) shall be evidence of the satisfaction of the lien
25 imposed in RCW 82.46.040 and may be recorded in the manner prescribed
26 for recording satisfactions of mortgages. No instrument of sale or
27 conveyance evidencing a (~~sale~~) conveyance subject to the tax may be
28 accepted by the county auditor for filing or recording until the tax is

1 paid and the stamp affixed thereto; in case the tax is not due on the
2 transfer, the instrument shall not be accepted until suitable notation
3 of this fact is made on the instrument by the treasurer.

4 **Sec. 228.** RCW 82.46.070 and 1990 1st ex.s. c 5 s 3 are each
5 amended to read as follows:

6 (1) Subject to subsection (2) of this section, the legislative
7 authority of any county may impose an additional excise tax on each
8 ~~((sale))~~ conveyance of real property in the county at a rate not to
9 exceed one percent of the ~~((selling price))~~ taxable value as defined in
10 RCW 82.45.030. The proceeds of the tax shall be used exclusively for
11 the acquisition and maintenance of conservation areas.

12 The taxes imposed under this subsection shall be imposed in the
13 same manner and on the same occurrences, and are subject to the same
14 conditions, as the taxes under chapter 82.45 RCW, except:

15 (a) The tax shall be the obligation of the ~~((purchaser))~~
16 transferee; and

17 (b) The tax does not apply to the acquisition of conservation areas
18 by the county.

19 The county may enforce the obligation through an action of debt
20 against the ~~((purchaser))~~ transferee or may foreclose the lien on the
21 property in the same manner prescribed for the foreclosure of
22 mortgages.

23 The tax shall take effect thirty days after the election at which
24 the taxes are authorized.

25 (2) No tax may be imposed under subsection (1) of this section
26 unless approved by a majority of the voters of the county voting
27 thereon for a specified period and maximum rate after:

28 (a) The adoption of a resolution by the county legislative
29 authority of the county proposing this action; or

1 (b) The filing of a petition proposing this action with the county
2 auditor, which petition is signed by county voters at least equal in
3 number to ten percent of the total number of voters in the county who
4 voted at the last preceding general election.

5 The ballot proposition shall be submitted to the voters of the
6 county at the next general election occurring at least sixty days after
7 a petition is filed, or at any special election prior to this general
8 election that has been called for such purpose by the county
9 legislative authority.

10 (3) A plan for the expenditure of the excise tax proceeds shall be
11 prepared by the county legislative authority at least sixty days before
12 the election if the proposal is initiated by resolution of the county
13 legislative authority, or within six months after the tax has been
14 authorized by the voters if the proposal is initiated by petition.
15 Prior to the adoption of this plan, the elected officials of cities
16 located within the county shall be consulted and a public hearing shall
17 be held to obtain public input. The proceeds of this excise tax must
18 be expended in conformance with this plan.

19 (4) As used in this section, "conservation area" has the meaning
20 given under RCW 36.32.570.

21 NEW SECTION. **Sec. 229.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 82.45.035 and 1969 ex.s. c 223 s 28A.45.035;

24 (2) RCW 82.45.105 and 1969 ex.s. c 223 s 28A.45.105; and

25 (3) RCW 82.45.120 and 1981 c 167 s 5, 1980 c 134 s 1, & 1969 ex.s.
26 c 223 s 28A.45.120.

27 NEW SECTION. **Sec. 230.** The legislature finds that the property
28 tax exemption authorized in Article VII, section ... of the state

1 Constitution (HJR ...) shall be made available on the basis of a low-
2 income person's ability to pay property taxes. The legislature further
3 finds that the best measure of a low-income person's ability to pay
4 taxes is that person's income. The definition of "income" shall be the
5 same as for low-income households as defined in section 103 of this
6 act.

7 NEW SECTION. **Sec. 231.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout this
9 chapter.

10 (1) "Residence" has the same meaning as in RCW 84.36.383.

11 (2) "Real property" has the same meaning as in RCW 84.36.383.

12 (3) "Low-income household" has the same meaning as in section 103
13 of this act.

14 (4) "Department" means the state department of revenue.

15 (5) "Preceding calendar year" has the same meaning as in RCW
16 84.36.383.

17 (6) "Cotenant" has the same meaning as in RCW 84.36.383.

18 NEW SECTION. **Sec. 232.** A person is exempt from any legal
19 obligation to pay all or a portion of the amount of excess and regular
20 real property taxes due and payable in the year following the year in
21 which a claim is filed, and for an additional one-year period
22 thereafter, in accordance with the following:

23 (1) The property taxes must have been imposed upon a residence
24 which was occupied by the person claiming the exemption as a principal
25 place of residence as of January 1st of the year for which the
26 exemption is claimed;

27 (2) The person claiming the exemption must have owned, at the time
28 of filing, in fee, as a life estate, or by contract purchase, the

1 residence on which the property taxes have been imposed. For purposes
2 of this subsection, a residence owned by a marital community or owned
3 by cotenants is deemed to be owned by each spouse or cotenant, and any
4 lease for life is deemed a life estate;

5 (3) The person claiming the exemption must be considered a low-
6 income household; and

7 (4) The person claiming the exemption must be sixty years of age or
8 younger on January 1st of the year in which the exemption claim is
9 filed and not eligible for property tax relief under RCW 84.36.379
10 through 84.36.389.

11 NEW SECTION. **Sec. 233.** (1) A claim for exemption under section
12 232 of this act shall be made every two years and filed at any time
13 during the year for exemption from taxes payable the following two-year
14 period. The claim must be made upon forms as prescribed and furnished
15 by the department.

16 (2) A person granted an exemption under section 232 of this act
17 shall inform the county assessor of any change in status affecting the
18 person's entitlement to the exemption on forms prescribed and furnished
19 by the department.

20 (3) If the assessor finds that the applicant does not meet the
21 qualifications as set forth in section 232 of this act, the claim or
22 exemption shall be denied but such denial shall be subject to review
23 under the fifth rule in RCW 84.48.010. If the applicant has received
24 exemption in prior years based on erroneous information, the taxes
25 shall be collected subject to penalties as provided in RCW 84.40.130
26 for a period not to exceed three years.

27 (4) The department and each local assessor shall publicize the
28 qualifications and manner of making claims under this chapter, through
29 communications media, including such paid advertisements or notices as

1 it deems appropriate. Notice of the qualifications, method of making
2 applications, the penalties for not reporting a change in status, and
3 availability of further information shall be included on or with
4 property tax statements and revaluation notices for all residential
5 property including mobile homes, except rental properties.

6 NEW SECTION. **Sec. 234.** (1) All claims for exemption shall be
7 made and signed by the person entitled to the exemption, by his or her
8 attorney in fact or in the event the residence of such person is under
9 mortgage or purchase contract requiring accumulation of reserves out of
10 which the holder of the mortgage or contract is required to pay real
11 estate taxes, by such holder or by the owner, either before two
12 witnesses or the county assessor or his or her deputy in the county
13 where the real property is located.

14 (2) If a claim for an exemption is made by a person living in a
15 cooperative housing association, corporation, or partnership, such
16 claim shall be made and signed by the person entitled to the exemption
17 and by the authorized agent of such cooperative.

18 (3) Any person signing a false claim with the intent to defraud or
19 evade the payment of any tax is guilty of the offense of perjury.

20 (4) The tax liability of a cooperative housing association,
21 corporation, or partnership shall be reduced by the amount of tax
22 exemption to which a claimant residing therein is entitled and such
23 cooperative shall reduce any amount owed by the claimant to the
24 cooperative by such exact amount of the tax exemption or, if no amount
25 be owed, the cooperative shall make payment to the claimant of such
26 exact amount of exemption.

27 NEW SECTION. **Sec. 235.** (1) The department shall adopt rules to
28 implement this chapter.

1 (2) The department may conduct such audits of the administration of
2 this chapter and the claims for exemption filed under this chapter as
3 it considers necessary. The powers of the department under chapter
4 84.08 RCW apply to these audits.

5 (3) Any information or facts concerning confidential income data
6 obtained by the assessor or the department, or their agents or
7 employees, under subsection (2) of this section shall be used only to
8 administer this chapter.

9 NEW SECTION. **Sec. 236.** Sections 230 through 235 of this act
10 shall take effect upon the effective date of the proposed amendment to
11 Article VII of the Washington state Constitution to authorize a
12 property tax exemption for low-income households if the amendment is
13 validly submitted to and is approved and ratified by the voters at the
14 November 1992 general election. If the proposed amendment is not so
15 approved and ratified, sections 230 through 235 of this act shall be
16 null and void in its entirety.

17 NEW SECTION. **Sec. 237.** The legislature hereby declares that:

18 (1) There is a shortage in the supply of decent, safe, and sanitary
19 housing for very low-income households in this state. Far too many
20 people live in overcrowded dwellings, in buildings that are not safe,
21 sanitary, and protected from the elements, in temporary shelters, or
22 even without a form of decent shelter.

23 (2) The shortage of safe, sanitary, decent housing for very low-
24 income households harms the general health and safety. It deprives
25 many very low-income households of proper shelter and protections from
26 unreasonable risks of fire, crime, personal injury, and from
27 overcrowded and deteriorated living conditions. It harms the general
28 public by contributing to the use of storefronts, public parks, and

1 sidewalks as shelter by the homeless and by contributing to slums and
2 blight in urban areas.

3 (3) Public agencies acting alone do not have sufficient resources
4 to supply housing for very low-income households. Federal cutbacks
5 have made it even more difficult for public agencies to respond to the
6 dwindling supply of very low-income housing. The assistance of private
7 capital and free enterprise is essential to reduce the shortage of
8 housing for very low-income households, and organizations and
9 individuals should be encouraged to preserve and develop very low-
10 income housing.

11 (4) Mobile home parks are an important source of affordable
12 housing, especially for very low-income and elderly persons. Mobile
13 home parks also provide a unique form of community living that allows
14 elderly persons to live independently for as long as possible.

15 (5) Economic pressures have resulted in a dramatic increase in the
16 number of mobile home parks being closed due to changes in land use by
17 the landowner. Not only does this result in lost affordable housing,
18 but mobile homes are difficult and expensive to move. Mobile
19 homeowners find it difficult to locate spaces for mobile homes that
20 must be relocated, especially for older mobile homes.

21 (6) Valuing and taxing property primarily devoted to mobile home
22 parks or very low-income housing at its current use will provide an
23 economic incentive for preservation and development of mobile home
24 parks and very low-income housing and a disincentive to elimination of
25 such housing for purely economic reasons. Such an incentive may delay
26 the deterioration and demolition of existing affordable housing, or in
27 the closure of mobile home parks, in higher density areas where
28 competition from higher uses threatens this less competitive use, and
29 it may encourage the development of additional affordable housing and
30 mobile home parks.

1 (7) This chapter will implement an amendment to Article VII,
2 section 11, of the Washington state Constitution submitted to the
3 electorate of the state of Washington at the November 1992 general
4 election.

5 NEW SECTION. **Sec. 238.** The definitions set forth in this
6 section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "Assessor" means the county assessor or such agency or person
9 who is authorized to act on behalf of the assessor.

10 (2) "County financial authority" and "financial authority" means
11 the county treasurer or an agency or person charged with the
12 responsibility for billing and collecting property taxes.

13 (3) "County recording authority" means the county auditor or an
14 agency or person charged with the recording of documents.

15 (4) "Dwelling unit" means a structure other than a single-family
16 home, or that part of a structure that is used as a home, residence, or
17 sleeping place by one person or by two or more persons maintaining a
18 common household, including but not limited to multiplexes and
19 apartment buildings.

20 (5) "Devoted to very low-income housing" means that the property is
21 dedicated to housing for very low-income households at rents set below
22 market rates.

23 (6) "Mobile home" means a mobile or manufactured home as defined in
24 RCW 46.04.302.

25 (7) "Mobile home park" means real property that is rented or held
26 out for rent to others for the placement of two or more mobile homes
27 for the primary purpose of production of income, except where such real
28 property is rented or held out for rent for seasonal recreational
29 purposes only and is not intended for year-round occupancy.

1 (8) "Owner" means the party or parties with the fee ownership in
2 the land, and the contract vendee where land is subject to a real
3 estate contract.

4 (9) "Very low-income households" shall have the same meaning as in
5 section 103 of this act.

6 (10) "Rents set below market rates" means rents that are equal to
7 or less than the greater of either:

8 (a) Set in accordance with an agreement with the United States
9 department of housing and urban development or other federal agency, or
10 a local housing authority, to carry out a government program to provide
11 housing for very low-income households, and that do not exceed the fair
12 rental rate promulgated for such very low-income housing by the United
13 States or the housing authority; or

14 (b) Do not exceed fifteen percent of the median income, scaled by
15 using the occupancy for the unit authorized by the local building code
16 for family size, for the area in which the building is located.

17 (11) "Reviewing official" means the chief executive officer of a
18 county, city, or town or a subordinate municipal officer designated by
19 the chief executive officer for review of applications for
20 classification pursuant to this chapter.

21 NEW SECTION. **Sec. 239.** Current use valuation as authorized by
22 this chapter shall be available within each county only if the county
23 legislative authority adopts an implementing ordinance or resolution.

24 NEW SECTION. **Sec. 240.** (1) Property occupied by a building that
25 meets the following criteria may be classified in whole or in part as
26 "devoted to very low-income housing," and valued and taxed at its
27 current use value unless disqualified under subsection (7) of this
28 section:

1 (a) At least fifty percent of the rentable floor area of the
2 building shall be dedicated to housing for very low-income households.
3 The remainder of the building may be: (i) Committed to other uses, or
4 (ii) vacant for up to six months, as long as the remainder does not
5 impair the habitability of the units rented for housing to very low-
6 income households;

7 (b) At least three dwelling units in the building must be dedicated
8 to housing for very low-income households;

9 (c) The rents charged to very low-income households shall be set
10 below market rates; and

11 (d) The building and the dwelling units dedicated to housing for
12 very low-income households must comply with local health and safety
13 standards.

14 (2) A classification of the real property occupied by a building
15 devoted to very low-income housing applies to the portion of the parcel
16 dedicated to housing for very low-income households, including
17 ancillary areas used for parking, lawn, garden, or landscaping, as
18 required by local zoning and building ordinances.

19 (3) Property used for a mobile home park that meets the following
20 criteria may be classified in whole or in part as "devoted to very low-
21 income housing" and valued and taxed at its current use value unless
22 disqualified under subsection (7) of this section:

23 (a) At least fifty percent of the mobile home park spaces shall be
24 dedicated to very low-income households at all times for residential
25 purposes by very low-income households. The remainder of the mobile
26 home park may be: (i) Committed to other uses, or (ii) vacant for up
27 to six months, as long as the remainder does not impair the
28 habitability of the mobile home park spaces rented to very low-income
29 households;

1 (b) At least three mobile home spaces in the mobile home park must
2 be dedicated to housing for very low-income households;

3 (c) The rents charged to very low-income households shall be set
4 below market rates for mobile home park spaces; and

5 (d) The mobile home park must comply with local health and safety
6 standards.

7 (4) A classification of real property used for a mobile home park
8 applies to the portion of the property dedicated to housing for very
9 low-income households, including ancillary areas used for parking,
10 lawn, garden, or landscaping, as required by local zoning and building
11 ordinances.

12 (5) In the event that the property for which a classification under
13 this section is applied for is used in part as other than either
14 residential rental property or a mobile home park, only the portion of
15 the property dedicated to housing for very low-income households or a
16 mobile home park shall be eligible for classification under this
17 chapter.

18 (6) An assessor may, for property tax purposes, segregate those
19 portions of a property dedicated to housing for very low-income
20 households.

21 (7) The following properties are not eligible for classification as
22 property "devoted to very low-income housing":

23 (a) Slums: (i) Property under a municipal or judicial order for
24 abatement; (ii) property with a building that the local jurisdiction
25 has found to violate applicable building, health, and safety standards
26 and on which compliance has not been completed or satisfactory progress
27 shown within sixty days after notice; or (iii) property that is
28 repeatedly cited for a substantial violation of such local standards.

29 (b) Institutional housing: (i) Residential units that serve an
30 institution, where payments for health care, education, or other

1 institutional services are made by or for the occupants to the owner in
2 addition to rent for the dwelling; (ii) privately owned student
3 housing, including fraternities and sororities; or (iii) resorts for
4 recreational purposes. This subsection (7)(b) does not exclude from
5 eligibility housing that is under contract to a governmental
6 organization or private nonprofit health care organization and is
7 devoted to persons of very low-income.

8 (c) Employee housing: Property used primarily for industrial,
9 commercial, institutional, farm, or agricultural purposes, or as timber
10 land in which the dwelling units identified as devoted to use by
11 persons of very low-income are occupied by employees of the owner,
12 contract workers for the owner, or relatives of the owner.

13 (d) A portion of the property that exceeds five acres; except that
14 this requirement does not apply to mobile home parks.

15 NEW SECTION. **Sec. 241.** (1) Applications made on or before the
16 last day of December shall be processed for classification in the year
17 following application.

18 (2) Where practical, applications shall be made upon forms prepared
19 by the state department of revenue and supplied by the assessor. A
20 document that contains the essential information requested by the state
21 form shall be processed as an application if the approved forms are not
22 available. The application shall contain a verification or statement
23 under penalty of perjury that the information supplied is true and
24 correct. The application shall require the applicant to inform the
25 assessor if there is a change in circumstances that would affect the
26 continuing eligibility of the property for classification under this
27 chapter. The assessor shall provide reasonable assistance to
28 applicants in completing the form.

1 (3) If the property lies in an incorporated area, the assessor
2 shall send a copy of the application to the chief executive officer of
3 the city or town or to a subordinate municipal officer designated by
4 the chief executive officer for review. If the property lies in an
5 unincorporated area, the assessor shall transmit a copy of the
6 application for review to the official who administers the county
7 building codes unless the county legislative authority designates
8 another official. If a municipal boundary bisects property that is the
9 subject of an application, officials of each affected municipality
10 shall receive a copy of the application. Before a reviewing official
11 recommends denial of an application, the reviewer shall inform the
12 owner of the proposed denial and allow the owner an opportunity to
13 submit additional information.

14 (4) The classification established under this chapter shall be in
15 effect for taxes payable for the year following the year in which a
16 classification is made by and for each subsequent year until (a)
17 withdrawn by the owner or (b) found ineligible by the assessor.

18 (5) The city, town, or county may require a reasonable application
19 fee, including the costs necessary to record the document. Except for
20 recording costs, the application fee shall be nonrefundable. The fee
21 shall accompany the application.

22 (6) An assessor may delegate the performance of any or all of the
23 activities specified by this chapter to a reviewing official of the
24 jurisdiction in which the property is located.

25 NEW SECTION. **Sec. 242.** (1) Upon receipt of an application from
26 the assessor, a reviewing official may contact the applicant, examine
27 documents and records, interview occupants, and enter and inspect the
28 real property during reasonable business hours to determine compliance
29 with the requirements of this chapter. However, nothing in this

1 section shall be construed to authorize an entry by a reviewing
2 official into a mobile home site in a mobile home park classified under
3 this chapter unless the owner of such home grants permission. The
4 reviewing official shall, within forty-five days of receipt of the
5 application from the assessor, file with the assessor a report that
6 states whether the property qualifies for classification under this
7 chapter. Upon notice to the assessor, the reviewing official may take
8 such additional time as may be needed on account of delays in securing
9 information from an applicant. An application that is returned to the
10 assessor by the reviewing official later than December 31 of the year
11 in which it is submitted, and that is subsequently approved, shall be
12 treated as approved in the calendar year in which it is returned,
13 except that an application submitted to the assessor fewer than forty-
14 five days prior to December 31, and that is subsequently approved
15 within the forty-five day period, shall be treated as approved in the
16 calendar year in which it is submitted for classification the year
17 following approval.

18 (2) The assessor shall grant the classification if the report of
19 the reviewing official recommends approval of the application and shall
20 deny the application if the report recommends denial.

21 (3) If no timely report is submitted by a reviewing official, the
22 reviewing official shall inform the applicant. An applicant may then
23 apply to the county board of equalization for relief. The board may
24 order: The classification granted; the classification granted unless
25 the reviewing official shows cause for a denial by a date contained in
26 the order; or denial of the application on the record already made.

27 (4) Property classified as a mobile home park or classified as
28 "devoted to very low-income housing" shall be so designated on the
29 assessment roll and notice of that classification shall be given on the
30 notice of assessed value change sent to the taxpayer. The assessor

1 shall also maintain on the assessment rolls the true and fair value of
2 the property.

3 NEW SECTION. **Sec. 243.** For the purposes of property tax the
4 value of the real property classified as a mobile home park or
5 classified as "devoted to very low-income housing" shall be the lesser
6 of its value based on its current use and its true and fair value. In
7 computing its value based on its current use, the assessor shall
8 disregard potential uses that might return a higher income, rents that
9 might be charged were the owner to maximize returns, and values of the
10 property that suppose either the land or the improvements were
11 unencumbered by classification under this chapter.

12 NEW SECTION. **Sec. 244.** To be sure the property continues to be
13 eligible for classification, an assessor may require the owner to
14 certify information about the building's occupancy by very low-income
15 households, and the rents paid, the continued use of a mobile home park
16 as a mobile home park, or other information pertinent to the
17 continuation of this classification.

18 NEW SECTION. **Sec. 245.** Once real property has been classified
19 under this chapter, it shall remain under such classification and shall
20 not be applied to other use for at least ten years from the date of
21 classification and shall continue under such classification until and
22 unless withdrawn from classification after notice of request for
23 withdrawal is made by the owner. During any year after eight years of
24 the initial ten-year classification period have elapsed, notice of
25 request for withdrawal of all or a portion of the land, which request
26 shall be irrevocable, may be given by the owner to the assessor. If a
27 portion of a parcel is removed from classification, the remaining

1 portion must meet the same requirements as did the entire parcel when
2 the real property was originally granted classification pursuant to
3 this chapter. Within seven days the assessor shall transmit one copy
4 of such notice to the reviewing official who originally approved the
5 application. The assessor or assessors, as the case may be, shall,
6 when two assessment years have elapsed following the date of receipt of
7 the notice, withdraw the real property from such classification and the
8 real property shall be subject to the additional tax due under section
9 249 of this act. Classification according to this chapter shall not be
10 considered to be a contract and can be abrogated at any time by the
11 legislature, in which event no additional tax or penalty may be
12 imposed.

13 NEW SECTION. **Sec. 246.** If real property has been classified
14 under this chapter, except through compliance with section 245 of this
15 act, or except as a result solely from any one of the conditions listed
16 in section 249(5) of this act, the owner shall within sixty days notify
17 the assessor of a change in use, and additional property tax shall be
18 imposed upon the property in an amount equal to the sum of the
19 following:

20 (1) The total amount of the additional tax due under section 249 of
21 this act; plus

22 (2) A penalty amounting to twenty percent of the amount determined
23 under subsection (1) of this section.

24 A person who has information that the property no longer qualifies
25 for the classification may supply the information to the assessor.
26 Upon receipt of the information, the assessor shall promptly refer the
27 matter to the reviewing official for a report and recommendation on
28 whether the property should be removed from classification.

1 NEW SECTION. **Sec. 247.** The additional tax and penalties, if
2 any, provided by section 246 of this act shall be extended on the tax
3 roll and shall be, together with the interest thereon, a lien on the
4 property to which the tax applies as of January 1st of the year for
5 which the additional tax is imposed. The lien has priority as provided
6 in chapter 84.60 RCW. For purposes of all periods of limitation of
7 actions specified in this title, the year in which the tax became
8 payable shall be as specified in section 248 of this act.

9 NEW SECTION. **Sec. 248.** The additional tax, penalties, and
10 interest provided by section 247 of this act shall be paid in full
11 thirty days after the date that the county financial authority's
12 statement therefor is rendered. The county financial authority shall
13 distribute the additional taxes, interest, and penalties in the same
14 manner in which current taxes applicable to the subject land are
15 distributed.

16 NEW SECTION. **Sec. 249.** (1) If real property has once been
17 classified under this chapter, a notation of the classification shall
18 be made each year upon the assessment and tax rolls, and the real
19 property shall be valued under this chapter until removal of all or a
20 portion of the classification by the assessor upon occurrence of any of
21 the following:

22 (a) Receipt of notice from the owner to remove all or a portion of
23 the designation;

24 (b) Conveyance or transfer to an ownership making all or a portion
25 of the real property exempt from ad valorem taxation;

26 (c) Conveyance or transfer of all or a portion of the real property
27 to a new owner, unless the new owner has signed a notice of
28 classification continuance. If the notice of continuance is not signed

1 by the new owner, all additional taxes calculated under subsection (3)
2 of this section shall become due and payable by the conveyer or
3 transferor at time of sale. The county recording authority shall not
4 accept an instrument of conveyance of classified real property for
5 filing or recording unless the new owner has signed the notice of
6 continuance or the additional tax has been paid;

7 (d) Determination by the reviewing official, after giving the owner
8 written notice and an opportunity to be heard, that all or a portion of
9 the real property is no longer primarily devoted to and used for the
10 purposes under which it was granted classification.

11 (2) Within thirty days after the removal of all or a portion of the
12 real property from classification, the assessor shall notify the owner
13 in writing, setting forth the reasons for the removal. Within thirty
14 days of mailing the notice of removal, the seller, transferor, or owner
15 may appeal the removal to the county board of equalization.

16 (3) Both the assessed valuation before and after the removal of
17 classification shall be listed and taxes shall be allocated according
18 to that part of the year to which each assessed valuation applies.
19 Except as provided in subsection (5) of this section, an additional tax
20 shall be imposed that is due and payable to the county financial
21 authority thirty days after the owner is notified of the amount of the
22 additional tax. As soon as possible, the assessor shall compute the
23 amount of such an additional tax and the county financial authority
24 shall mail notice to the owner of the amount thereof and the date on
25 which payment is due. The amount of the additional tax shall be equal
26 to:

27 (a) The difference between the property tax paid as property
28 classified under this chapter and the amount of property tax otherwise
29 due and payable for the seven years last past had the real property not
30 been so classified; plus

1 (b) Interest upon the amounts of the additional tax paid at the
2 same statutory rate charged on delinquent property taxes from the dates
3 on which the additional tax could have been paid without penalty if the
4 real property had been assessed at a value without regard to this
5 chapter.

6 (4) Additional tax, together with applicable interest thereon,
7 becomes a lien on the real property, which lien attaches at the time
8 the real property is removed from current use classification under this
9 chapter. The lien has priority to and shall be fully paid and
10 satisfied before any recognizance, mortgage, judgment, debt,
11 obligation, or responsibility to or with which the land may become
12 charged or liable. The lien may be foreclosed upon expiration of the
13 same period after delinquency and in the same manner provided by law
14 for foreclosure of liens for delinquent real property taxes as provided
15 in RCW 84.64.050. Any additional tax unpaid on its due date is
16 delinquent. From the date of delinquency until paid, interest shall be
17 charged at the same rate applied by law to delinquent ad valorem
18 property taxes.

19 (5) The additional tax specified in subsection (3) of this section
20 shall not be imposed if the removal of designation pursuant to
21 subsection (1) of this section resulted solely from:

22 (a) A taking under exercise of the power of eminent domain or a
23 transfer to a condemning authority under threat of an exercise of the
24 power of eminent domain;

25 (b) A transfer to a use that is exempt from property taxes;

26 (c) A change in the law or land use regulations that precludes use
27 of the property for very low-income housing or as a mobile home park;

28 (d) Destruction of the property, or such severe damage as to render
29 the premises untenable, through a natural disaster, such as flood,

1 landslide, or earthquake, or a calamity beyond the owner's control,
2 such as fire.

3 NEW SECTION. **Sec. 250.** An aggrieved owner, the local government
4 agency approving the application, the assessor, and the department of
5 revenue may appeal an action granting or denying a classification
6 pursuant to this chapter to the county board of equalization. The
7 appeal shall be filed within thirty days of the granting or denial of
8 the classification by serving a copy upon the reviewing officer and the
9 county board of equalization. The appeal shall be processed in the
10 same manner as appeals from property valuations.

11 NEW SECTION. **Sec. 251.** The department of revenue shall adopt
12 rules to implement this chapter.

13 NEW SECTION. **Sec. 252.** The department of community development
14 shall prepare and publish, within sixty days of the date the department
15 of housing and urban development publishes or no later than December
16 31st of each year, the data on median incomes necessary to implement
17 this chapter. The department may make its estimates for areas outside
18 federal standard metropolitan statistical areas on the basis of the
19 nearest area with such data.

20 NEW SECTION. **Sec. 253.** This chapter shall be liberally
21 construed to accomplish its purposes. This chapter shall also be
22 interpreted as granting reviewing officials designated by a city or
23 county the authority to carry out the functions contemplated by this
24 chapter.

1 NEW SECTION. **Sec. 254.** Sections 237 through 253 of this act
2 shall take effect upon the effective date of the proposed amendment to
3 Article VII, section 11 of the Washington state Constitution to
4 authorize current use valuation of property used for qualified very
5 low-income housing containing three or more units, if the amendment is
6 validly submitted to and is approved and ratified by the voters at the
7 November 1992 general election. If the proposed amendment is not so
8 approved and ratified, sections 237 through 253 of this act shall be
9 null and void in its entirety.

10 **Sec. 255.** RCW 42.17.310 and 1991 c 301 s 13, 1991 c 87 s 13, and
11 1991 c 23 s 10 are each reenacted and amended to read as follows:

12 (1) The following are exempt from public inspection and copying:

13 (a) Personal information in any files maintained for students in
14 public schools, patients or clients of public institutions or public
15 health agencies, or welfare recipients.

16 (b) Personal information in files maintained for employees,
17 appointees, or elected officials of any public agency to the extent
18 that disclosure would violate their right to privacy.

19 (c) Information required of any taxpayer in connection with the
20 assessment or collection of any tax if the disclosure of the
21 information to other persons would (i) be prohibited to such persons by
22 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
23 in unfair competitive disadvantage to the taxpayer.

24 (d) Specific intelligence information and specific investigative
25 records compiled by investigative, law enforcement, and penology
26 agencies, and state agencies vested with the responsibility to
27 discipline members of any profession, the nondisclosure of which is
28 essential to effective law enforcement or for the protection of any
29 person's right to privacy.

1 (e) Information revealing the identity of persons who file
2 complaints with investigative, law enforcement, or penology agencies,
3 other than the public disclosure commission, if disclosure would
4 endanger any person's life, physical safety, or property. If at the
5 time the complaint is filed the complainant indicates a desire for
6 disclosure or nondisclosure, such desire shall govern. However, all
7 complaints filed with the public disclosure commission about any
8 elected official or candidate for public office must be made in writing
9 and signed by the complainant under oath.

10 (f) Test questions, scoring keys, and other examination data used
11 to administer a license, employment, or academic examination.

12 (g) Except as provided by chapter 8.26 RCW, the contents of real
13 estate appraisals, made for or by any agency relative to the
14 acquisition or sale of property, until the project or prospective sale
15 is abandoned or until such time as all of the property has been
16 acquired or the property to which the sale appraisal relates is sold,
17 but in no event shall disclosure be denied for more than three years
18 after the appraisal.

19 (h) Valuable formulae, designs, drawings, and research data
20 obtained by any agency within five years of the request for disclosure
21 when disclosure would produce private gain and public loss.

22 (i) Preliminary drafts, notes, recommendations, and intra-agency
23 memorandums in which opinions are expressed or policies formulated or
24 recommended except that a specific record shall not be exempt when
25 publicly cited by an agency in connection with any agency action.

26 (j) Records which are relevant to a controversy to which an agency
27 is a party but which records would not be available to another party
28 under the rules of pretrial discovery for causes pending in the
29 superior courts.

1 (k) Records, maps, or other information identifying the location of
2 archaeological sites in order to avoid the looting or depredation of
3 such sites.

4 (l) Any library record, the primary purpose of which is to maintain
5 control of library materials, or to gain access to information, which
6 discloses or could be used to disclose the identity of a library user.

7 (m) Financial information supplied by or on behalf of a person,
8 firm, or corporation for the purpose of qualifying to submit a bid or
9 proposal for ~~((+a))~~ (i) a ferry system construction or repair contract
10 as required by RCW 47.60.680 through 47.60.750 or ~~((+b))~~ (ii) highway
11 construction or improvement as required by RCW 47.28.070.

12 (n) Railroad company contracts filed with the utilities and
13 transportation commission under RCW 81.34.070, except that the
14 summaries of the contracts are open to public inspection and copying as
15 otherwise provided by this chapter.

16 (o) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided pursuant to
18 chapters 43.163 ~~((RCW))~~ and ~~((chapter))~~ 53.31 RCW.

19 (p) Financial disclosures filed by private vocational schools under
20 chapter 28C.10 RCW.

21 (q) Records filed with the utilities and transportation commission
22 or attorney general under RCW 80.04.095 that a court has determined are
23 confidential under RCW 80.04.095.

24 (r) Financial and commercial information and records supplied by
25 businesses during application for loans or program services provided by
26 chapters 43.163 ~~((RCW and chapters))~~, 43.31, 43.63A, and 43.168 RCW.

27 (s) Membership lists or lists of members or owners of interests of
28 units in timeshare projects, subdivisions, camping resorts,
29 condominiums, land developments, or common-interest communities

1 affiliated with such projects, regulated by the department of
2 licensing, in the files or possession of the department.

3 (t) All applications for public employment, including the names of
4 applicants, resumes, and other related materials submitted with respect
5 to an applicant.

6 (u) The residential addresses and residential telephone numbers of
7 employees or volunteers of a public agency which are held by the agency
8 in personnel records, employment or volunteer rosters, or mailing lists
9 of employees or volunteers.

10 (v) The residential addresses and residential telephone numbers of
11 the customers of a public utility contained in the records or lists
12 held by the public utility of which they are customers.

13 (w) Information obtained by the board of pharmacy as provided in
14 RCW 69.45.090.

15 (x) Information obtained by the board of pharmacy or the department
16 of health and its representatives as provided in RCW 69.41.044,
17 69.41.280, and 18.64.420.

18 (y) Financial information, business plans, examination reports, and
19 any information produced or obtained in evaluating or examining a
20 business and industrial development corporation organized or seeking
21 certification under chapter 31.24 RCW.

22 (z) Financial and commercial information supplied to the state
23 investment board by any person when the information relates to the
24 investment of public trust or retirement funds and when disclosure
25 would result in loss to such funds or in private loss to the providers
26 of this information.

27 (aa) Financial and valuable trade information under RCW 51.36.120.

28 (bb) Client records maintained by an agency that is a domestic
29 violence program as defined in RCW 70.123.020 or a rape crisis center
30 as defined in RCW 70.125.030.

1 and communities of Washington state, consistent with safe and sound
2 business practices and the free exercise of management discretion.

3 This act is intended to provide the supervisor of banking and the
4 supervisor of savings and loan associations with the information
5 necessary to enable the supervisors to better determine whether
6 commercial banks, savings banks, and savings and loan associations are
7 meeting the convenience and needs of the public.

8 This act is further intended to condition the approval of any
9 application by a commercial bank, savings bank, or savings and loan
10 association for a new branch or satellite facility, for an acquisition,
11 merger, conversion, or purchase of assets of another institution not
12 required for solvency reasons, or for the exercise of any new power
13 upon proof that the applicant is satisfactorily meeting the convenience
14 and needs of its community or communities.

15 **Sec. 302.** RCW 30.60.010 and 1985 c 329 s 2 are each amended to
16 read as follows:

17 (1) In conducting an examination of a bank chartered under Title 30
18 RCW, the supervisor of banking, deputy supervisor, or examiner shall
19 investigate and assess the record of performance of the bank in meeting
20 the credit needs of the bank's entire community, including low and
21 moderate-income neighborhoods. The supervisor shall accept, in lieu of
22 an investigation or part of an investigation required by this section,
23 any report or document that the bank is required to prepare or file
24 with one or more federal agencies by the act of Congress (~~((entitled))~~)
25 under the (([#]))Community Reinvestment Act ((~~of 1977[#])~~) (12 U.S.C. Sec.
26 2901 et seq.) as amended and ((the)) any regulations promulgated in
27 accordance with that act, to the extent such reports or documents
28 assist the supervisor in making an assessment based upon the factors
29 outlined in subsection (2) of this section.

1 (2) In making an investigation required under subsection (1) of
2 this section, the supervisor shall consider, independent of any federal
3 determination, the following factors in assessing the bank's record of
4 performance:

5 (a) Activities conducted by the institution to ascertain credit
6 needs of its community, including the extent of the institution's
7 efforts to communicate with members of its community regarding the
8 credit services being provided by the institution;

9 (b) The extent of the institution's marketing and special credit
10 related programs to make members of the community aware of the credit
11 services offered by the institution;

12 (c) The extent of participation by the institution's board of
13 directors in formulating the institution's policies and reviewing its
14 performance with respect to the purposes of the Community Reinvestment
15 Act (~~of 1977~~);

16 (d) Any practices intended to discourage applications for types of
17 credit set forth in the institution's community reinvestment act
18 statement(s);

19 (e) The geographic distribution of the institution's credit
20 extensions, credit applications, and credit denials;

21 (f) Evidence of prohibited discriminatory or other illegal credit
22 practices;

23 (g) The institution's record of opening and closing offices and
24 providing services at offices;

25 (h) The institution's participation, including investments, in
26 local community development projects;

27 (i) The institution's origination of residential mortgage loans,
28 housing rehabilitation loans, home improvement loans, and small
29 business or small farm loans within its community, or the purchase of
30 such loans originated in its community;

1 (j) The institution's participation in governmentally insured,
2 guaranteed, or subsidized loan programs for housing, small businesses,
3 or small farms;

4 (k) The institution's ability to meet various community credit
5 needs based on its financial condition, size, legal impediments, local
6 economic condition, and other factors;

7 (l) Other factors that, in the judgment of the supervisor,
8 reasonably bear upon the extent to which an institution is helping to
9 meet the credit needs of its entire community.

10 (3) The supervisor shall include as part of the examination report,
11 a summary of the results of the assessment required under subsection
12 (1) of this section and shall assign annually to each bank a numerical
13 community reinvestment rating based on a one through five scoring
14 system. Such numerical scores shall represent performance assessments
15 as follows:

16 (a) (~~Excellent performance~~) Outstanding
17 record of meeting community credit needs: 1

18 (b) (~~Good performance~~) Good record of
19 meeting community credit needs: 2

20 (c) (~~Satisfactory performance~~)
21 Satisfactory record of meeting community
22 credit needs: 3

23 (d) (~~Inadequate performance~~) Needs to
24 improve record of meeting community credit needs: 4

25 (e) (~~Poor performance~~) Substantial
26 noncompliance in meeting community credit needs: 5

27 NEW SECTION. Sec. 303. (1) The supervisor of banking shall
28 annually prepare and submit to the state treasurer a list of banks that

1 have satisfied their continuing and affirmative obligations to help
2 meet the credit needs of the applicant's entire community, including
3 low and moderate-income neighborhoods. Only banks in such list shall
4 be eligible to receive deposits of state funds under the provisions of
5 chapter 43.86A RCW.

6 (2) The supervisor of banking shall also prepare and submit
7 annually to the state treasurer a list, based on information received
8 from the appropriate federal agency, that indicates those federal
9 savings and loan associations and national banking associations that
10 have been determined by the office of thrift supervision, the federal
11 deposit insurance corporation, the federal reserve bank, or the office
12 of the comptroller of the currency to have complied with the
13 requirements of the federal community reinvestment act (12 U.S.C. Sec.
14 2901 et seq.), and any regulations promulgated in accordance with that
15 act. Only those banks so listed shall be eligible to receive deposits
16 of state funds under the provisions of chapter 43.86A RCW.

17 NEW SECTION. Sec. 304. The supervisor of banking shall compile
18 community reinvestment evaluations required under RCW 30.60.010 and the
19 federal community reinvestment act (12 U.S.C. Sec. 2901 et seq.). The
20 supervisor shall summarize the results of the evaluations and make this
21 information available to the public.

22 **Sec. 305.** RCW 30.60.030 and 1985 c 329 s 7 are each amended to
23 read as follows:

24 (1) The supervisor of banking shall adopt all rules necessary to
25 implement sections 2 through 6 of (~~this act~~) chapter 329, Laws of
26 1985 by January 1, 1986.

27 (2) The supervisor of banking shall adopt all rules necessary to
28 implement sections 303 and 304 of this act by January 1, 1993.

1 **Sec. 306.** RCW 30.04.212 and 1985 c 329 s 5 are each amended to
2 read as follows:

3 (1) In addition to the powers granted under RCW 30.04.210 and
4 subject to the limitations and restrictions contained in this section
5 and in RCW 30.60.010 and 30.60.020, a bank:

6 (a) May acquire any interest in unimproved or improved real
7 property;

8 (b) May construct, alter, and manage improvements of any
9 description on real estate in which it holds a substantial equity
10 interest.

11 (2) The powers granted under subsection (1) of this section do not
12 include, and a bank may not:

13 (a) Manage any real property in which the bank does not own a
14 substantial equity interest;

15 (b) Engage in activities of selling, leasing, or otherwise dealing
16 in real property as an agent or broker; or

17 (c) Acquire any equity interest in any one to four-family dwelling
18 that is used as a principal residence by the owner of the dwelling;
19 however, this shall not prohibit a bank from making loans secured by
20 such dwelling where all or part of the bank's anticipated compensation
21 results from the appreciation and sale of such dwelling.

22 (3) The aggregate amount of funds invested under this section shall
23 not exceed two percent of a bank's capital, surplus, and undivided
24 profits. Such percentage amount shall be increased based upon the most
25 recent community reinvestment rating assigned to a bank by the
26 supervisor in accordance with RCW 30.60.010, as follows:

27 (a) (~~Excellent performance~~)

28 Outstanding record of meeting community
29 credit needs:

Increase to 10%

30 (b) (~~Good performance~~) Good

1 record of meeting community credit needs: Increase to 8%

2 (c) (~~Satisfactory performance~~)

3 Satisfactory record of meeting community

4 credit needs: Increase to 6%

5 (d) (~~Inadequate performance~~) Needs

6 to improve record of meeting community

7 credit needs: Increase to 3%

8 (e) (~~Poor performance~~) Substantial

9 noncompliance in meeting community

10 credit needs: No increase

11 (4) For purposes of this section only, each bank will be deemed to
12 have been assigned a community reinvestment rating of "1" for the
13 period beginning with January 1, 1986, and ending December 31, 1986.
14 Thereafter, each bank will be assigned an annual rating in accordance
15 with RCW 30.60.010, which rating shall remain in effect for the next
16 succeeding year and until the supervisor has conducted a new
17 investigation and assigned a new rating for the next succeeding year,
18 the process repeating on an annual basis.

19 (5) No bank may at any time be required to dispose of any
20 investment made in accordance with this section due to the fact that
21 the bank is not then authorized to acquire such investment, if such
22 investment was lawfully acquired by the bank at the time of
23 acquisition.

24 (6) The supervisor shall limit the amount that may be invested in
25 a single project or investment and may adopt any rule necessary to the
26 safe and sound exercise of powers granted by this section.

27 **Sec. 307.** RCW 32.40.010 and 1985 c 329 s 8 are each amended to
28 read as follows:

1 (1) In conducting an examination of a savings bank chartered under
2 Title 32 RCW, the supervisor of banking, deputy supervisor, or examiner
3 shall investigate and assess the record of performance of the savings
4 bank in meeting the credit needs of the savings bank's entire
5 community, including low and moderate-income neighborhoods. The
6 supervisor shall accept, in lieu of an investigation or part of an
7 investigation required by this section, any report or document that the
8 savings bank is required to prepare or file with one or more federal
9 agencies by the act of Congress (~~((entitled))~~) under the (~~((#))~~)Community
10 Reinvestment Act (~~((of 1977#))~~) (12 U.S.C. Sec. 2901 et seq.), and
11 (~~((the))~~) any regulations promulgated in accordance with that act, to the
12 extent such reports or documents assist the supervisor in making an
13 assessment based upon the factors outlined in subsection (2) of this
14 section.

15 (2) In making an investigation required under subsection (1) of
16 this section, the supervisor shall consider, independent of any federal
17 determination, the following factors in assessing the savings bank's
18 record of performance:

19 (a) Activities conducted by the institution to ascertain credit
20 needs of its community, including the extent of the institution's
21 efforts to communicate with members of its community regarding the
22 credit services being provided by the institution;

23 (b) The extent of the institution's marketing and special credit
24 related programs to make members of the community aware of the credit
25 services offered by the institution;

26 (c) The extent of participation by the institution's board of
27 directors or board of trustees in formulating the institution's
28 policies and reviewing its performance with respect to the purposes of
29 the Community Reinvestment Act (~~((of 1977))~~);

1 (d) Any practices intended to discourage applications for types of
2 credit set forth in the institution's community reinvestment act
3 statement(s);

4 (e) The geographic distribution of the institution's credit
5 extensions, credit applications, and credit denials;

6 (f) Evidence of prohibited discriminatory or other illegal credit
7 practices;

8 (g) The institution's record of opening and closing offices and
9 providing services at offices;

10 (h) The institution's participation, including investments, in
11 local community development projects;

12 (i) The institution's origination of residential mortgage loans,
13 housing rehabilitation loans, home improvement loans and small business
14 or small farm loans within its community, or the purchase of such loans
15 originated in its community;

16 (j) The institution's participation in governmentally insured,
17 guaranteed, or subsidized loan programs for housing, small businesses,
18 or small farms;

19 (k) The institution's ability to meet various community credit
20 needs based on its financial condition, size, legal impediments, local
21 economic condition, and other factors;

22 (l) Other factors that, in the judgment of the supervisor,
23 reasonably bear upon the extent to which an institution is helping to
24 meet the credit needs of its entire community.

25 (3) The supervisor shall include as part of the examination report,
26 a summary of the results of the assessment required under subsection
27 (1) of this section and shall assign annually to each savings bank a
28 numerical community reinvestment rating based on a one through five
29 scoring system. Such numerical scores shall represent performance
30 assessments as follows:

1	(a) (Excellent performance) <u>Outstanding</u>	
2	<u>record of meeting community credit needs:</u>	1
3	(b) (Good performance) <u>Good record of</u>	
4	<u>meeting community credit needs:</u>	2
5	(c) (Satisfactory performance) <u>Satisfactory</u>	
6	<u>record of meeting community credit needs:</u>	3
7	(d) (Inadequate performance) <u>Needs to</u>	
8	<u>improve record of meeting community credit needs:</u>	4
9	(e) (Poor performance) <u>Substantial</u>	
10	<u>noncompliance in meeting community credit needs:</u>	5

11 NEW SECTION. Sec. 308. (1) The supervisor of banking shall
12 annually prepare and submit to the state treasurer a list of savings
13 banks that have satisfied their continuing and affirmative obligations
14 to help meet the credit needs of the applicant's entire community,
15 including low and moderate-income neighborhoods. Only savings banks in
16 such list shall be eligible to receive deposits of state funds under
17 the provisions of chapter 43.86A RCW.

18 (2) The supervisor of banking shall also prepare and submit
19 annually to the state treasurer a list, based on information received
20 from the appropriate federal agency, that indicates those federal
21 savings and loan associations and national banking associations that
22 have been determined by the office of thrift supervision, the federal
23 deposit insurance corporation, the federal reserve bank, or the office
24 of the comptroller of the currency to have complied with the
25 requirements of the federal community reinvestment act (12 U.S.C. Sec.
26 2901 et seq.), and any regulations promulgated in accordance with that
27 act. Only those savings banks so listed shall be eligible to receive
28 deposits of state funds under the provisions of chapter 43.86A RCW.

1 NEW SECTION. **Sec. 309.** The supervisor of banking shall compile
2 community reinvestment evaluations required under RCW 32.40.010 and the
3 federal community reinvestment act (12 U.S.C. Sec. 2901 et seq.). The
4 supervisor shall summarize the results of the evaluations and make this
5 information available to the public.

6 **Sec. 310.** RCW 32.40.030 and 1985 c 329 s 10 are each amended to
7 read as follows:

8 (1) The supervisor of banking shall adopt all rules necessary to
9 implement RCW 32.40.010 and 32.40.020 by January 1, 1986.

10 (2) The supervisor of banking shall adopt all rules necessary to
11 implement sections 308 and 309 of this act by January 1, 1993.

12 NEW SECTION. **Sec. 311.** (1) In conducting an examination of a
13 savings and loan association chartered under Title 33 RCW, the
14 supervisor of savings and loans, deputy supervisor, or examiner shall
15 investigate and assess the record of performance of the savings and
16 loan association in meeting the credit needs of the savings and loan
17 associations' entire community, including low and moderate-income
18 neighborhoods. The supervisor shall accept, in lieu of an
19 investigation or part of an investigation required by this section, any
20 report or document that the savings and loan association is required to
21 prepare or file with one or more federal agencies by the act of
22 Congress under the community reinvestment act (12 U.S.C. Sec. 2901 et
23 seq.) and any regulations promulgated in accordance with that act, to
24 the extent such reports or documents assist the supervisor in making an
25 assessment based upon the factors outlined in subsection (2) of this
26 section.

27 (2) In making an investigation required under subsection (1) of
28 this section, the supervisor shall consider, independent of any federal

1 determination, the following factors in assessing the savings and loan
2 association's record of performance:

3 (a) Activities conducted by the institution to ascertain credit
4 needs of its community, including the extent of the institution's
5 efforts to communicate with members of its community regarding the
6 credit services being provided by the institution;

7 (b) The extent of the institution's marketing and special credit
8 related programs to make members of the community aware of the credit
9 services offered by the institution;

10 (c) The extent of participation by the institution's board of
11 directors or board of trustees in formulating the institution's
12 policies and reviewing its performance with respect to the purposes of
13 the federal community reinvestment act;

14 (d) Any practices intended to discourage applications for types of
15 credit set forth in the institution's community reinvestment act
16 statement(s);

17 (e) The geographic distribution of the institution's credit
18 extensions, credit applications, and credit denials;

19 (f) Evidence of prohibited discriminatory or other illegal credit
20 practices;

21 (g) The institution's record of opening and closing offices and
22 providing services at offices;

23 (h) The institution's participation, including investments, in
24 local community development projects;

25 (i) The institution's origination of residential mortgage loans,
26 housing rehabilitation loans, home improvement loans and small business
27 or small farm loans within its community, or the purchase of such loans
28 originated in its community;

1 (j) The institution's participation in governmentally insured,
2 guaranteed, or subsidized loan programs for housing, small businesses,
3 or small farms;

4 (k) The institution's ability to meet various community credit
5 needs based on its financial condition, size, legal impediments, local
6 economic condition, and other factors;

7 (l) Other factors that, in the judgment of the supervisor,
8 reasonably bear upon the extent to which an institution is helping to
9 meet the credit needs of its entire community.

10 (3) The supervisor shall include as part of the examination report,
11 a summary of the results of the assessment required under subsection
12 (1) of this section and shall assign annually to each savings and loan
13 association a numerical community reinvestment rating based on a one
14 through five scoring system. Such numerical scores shall represent
15 performance assessments as follows:

- | | | |
|----|--|---|
| 16 | (a) Outstanding record of meeting community credit needs: | 1 |
| 17 | (b) Good record of meeting community credit needs: | 2 |
| 18 | (c) Satisfactory record of meeting community credit needs: | 3 |
| 19 | (d) Needs to improve record of meeting community credit needs: | 4 |
| 20 | (e) Substantial noncompliance in meeting community credit | |
| 21 | needs: | 5 |

22 NEW SECTION. **Sec. 312.** Whenever the supervisor of savings and
23 loans must approve or disapprove of an application for a new branch or
24 satellite facility; for a purchase of assets, a merger, an acquisition
25 or a conversion not required for solvency reasons; or for authority
26 to engage in a business activity, the supervisor shall consider, among
27 other factors, the record of performance of the applicant in helping to
28 meet the credit needs of the applicant's entire community, including

1 low and moderate-income neighborhoods. Assessment of an applicant's
2 record of performance may be the basis for denying an application.

3 NEW SECTION. **Sec. 313.** (1) The supervisor of savings and loans
4 shall annually prepare and submit to the state treasurer a list of
5 savings and loans associations that have satisfied their continuing and
6 affirmative obligations to help meet the credit needs of the
7 applicant's entire community, including low and moderate-income
8 neighborhoods. Only savings and loans associations in such list shall
9 be eligible to receive deposits of state funds under the provisions of
10 chapter 43.86A RCW.

11 (2) The supervisor of savings and loans shall also prepare and
12 submit annually to the state treasurer a list, based on information
13 received from the appropriate federal agency, that indicates those
14 federal savings and loan associations and national banking associations
15 that have been determined by the office of thrift supervision, the
16 federal deposit insurance corporation, the federal reserve bank, or the
17 office of the comptroller of the currency to have complied with the
18 requirements of the federal community reinvestment act (12 U.S.C. Sec.
19 2901 et seq.), and any regulations promulgated in accordance with that
20 act. Only those savings and loan associations so listed shall be
21 eligible to receive deposits of state funds under the provisions of
22 chapter 43.86A RCW.

23 NEW SECTION. **Sec. 314.** The supervisor of banking shall compile
24 community reinvestment evaluations required under section 311 of this
25 act and the federal community reinvestment act (12 U.S.C. Sec. 2901 et
26 seq.). The supervisor shall summarize the results of the evaluations
27 and make this information available to the public.

1 NEW SECTION. **Sec. 315.** The supervisor of savings and loans
2 shall adopt all rules necessary to implement sections 311 through 314
3 of this act by January 1, 1993.

4 NEW SECTION. **Sec. 316.** The legislature finds that financial
5 institutions earn significant interest from funds of mortgage customers
6 held in escrow accounts for the purpose of paying property taxes,
7 hazard insurance, and other obligations of the residential real estate
8 loan customer in relation to residential real estate loans. It is the
9 intent of the legislature by enacting sections 317 through 320 of this
10 act to require financial institutions to pay interest on mortgage
11 escrow accounts and the interest to be used to assist in the provision
12 of affordable housing.

13 NEW SECTION. **Sec. 317.** A new section is added to chapter 30.04
14 RCW to read as follows:

15 (1) A bank and trust company shall place all funds received from
16 the residential real estate loan customer and designated for the
17 payment of property taxes and hazard insurance of the residential real
18 estate loan, into an interest-bearing real estate escrow account.

19 (2) The interest accruing on this account, minus reasonable and
20 appropriate service charges or fees, shall be paid to the state
21 treasurer for deposit in the Washington housing trust fund created in
22 RCW 43.185.030. For the purposes of this section, appropriate service
23 charges or fees are those charged to holders of passbook savings
24 accounts.

25 (3) The bank and trust company may notify the residential real
26 estate loan customer of the intended use of such funds.

27 (4) For purposes of this section, a residential real estate loan is
28 a loan secured by a first mortgage, deed of trust, real estate

1 contract, or other first lien on the borrower's interest in a one-to-
2 four family dwelling, including an individual cooperative unit, or a
3 loan for the construction of the dwelling.

4 (5) "Mortgage escrow account" means an account created in
5 conjunction with a residential real estate loan that is intended for
6 the placement of funds, on an incremental basis, for the purpose of
7 paying property taxes, hazard insurance, and other obligations of the
8 residential real estate loan customer in relation to residential real
9 estate loan.

10 NEW SECTION. **Sec. 318.** A new section is added to chapter 31.12
11 RCW to read as follows:

12 (1) A credit union shall place all funds received from the
13 residential real estate loan customer and designated for the payment of
14 property taxes and hazard insurance of the residential real estate
15 loan, into an interest-bearing mortgage escrow account.

16 (2) The interest accruing on this account, minus any reasonable and
17 appropriate service charges or fees, shall be paid to the state
18 treasurer for deposit in the Washington housing trust fund created in
19 RCW 43.185.030. As used in this subsection, appropriate service
20 charges or fees are those charged to holders of passbook savings
21 accounts.

22 (3) The credit union may, but is not required to, notify the
23 residential real estate loan customer of the intended use of such
24 funds.

25 (4) "Residential real estate loan" has the same meaning as in RCW
26 31.12.415.

27 (5) "Mortgage escrow account" means an account created in
28 conjunction with a residential real estate loan that is intended for
29 the placement of funds, on an incremental basis, for the purpose of

1 paying property taxes, hazard insurance, and other obligations of the
2 residential real estate loan customer in relation to residential real
3 estate loan.

4 NEW SECTION. **Sec. 319.** A new section is added to chapter 32.04
5 RCW to read as follows:

6 (1) A savings bank shall place all funds received from the
7 residential real estate loan customer, and designated for the payment
8 of property taxes and hazard insurance of the residential real estate
9 loan, into an interest-bearing mortgage escrow account.

10 (2) The interest accruing on this account, minus reasonable and
11 appropriate service charges or fees, shall be paid to the state
12 treasurer for deposit in the Washington housing trust fund created in
13 RCW 43.185.030. For the purposes of this section, appropriate service
14 charges or fees are those charged to holders of passbook savings
15 accounts.

16 (3) The savings bank may notify the residential real estate loan
17 customer of the intended use of such funds.

18 (4) For purposes of this section, residential real estate loan is
19 a loan secured by a first mortgage, deed of trust, real estate
20 contract, or other first lien on the borrower's interest in a one-to-
21 four family dwelling, including an individual cooperative unit, or a
22 loan for the construction of the dwelling.

23 (5) "Mortgage escrow account" means an account created in
24 conjunction with a residential real estate loan that is intended for
25 the placement of funds, on an incremental basis, for the purpose of
26 paying property taxes, hazard insurance, and other obligations of the
27 residential real estate loan customer in relation to residential real
28 estate loan.

1 **Sec. 401.** RCW 19.27.015 and 1985 c 360 s 1 are each amended to
2 read as follows:

3 As used in this chapter:

4 (1) "City" means a city or town; ~~((and))~~

5 (2) "Council" means the state building code council;

6 (3) "Dwelling unit" means any building or portion thereof which
7 contains living facilities, including provisions for sleeping, eating,
8 cooking, and sanitation, as required by the state building code, for
9 not more than one household;

10 (4) "Multifamily residential building" means common wall
11 residential buildings that consist of ~~((four or fewer units, that do~~
12 not exceed two stories in height, that are less than five thousand
13 square feet in area,)) three or more dwelling units and that have a
14 one-hour fire-resistive occupancy separation between units;

15 (5) "Single-family residential building" means any residential
16 building that contains not more than two dwelling units; and

17 (6) "Stand-alone ordinance" means an ordinance, resolution, or
18 regulation adopted by a city or county, under any of the powers
19 generally granted by the state Constitution, that effectively amends
20 the codes enumerated in RCW 19.27.031 as adopted and amended by the
21 council as they apply to single-family and multifamily residential
22 buildings.

23 **Sec. 402.** RCW 19.27.031 and 1989 c 348 s 9 and 1989 c 266 s 1 are
24 each reenacted and amended to read as follows:

25 Except as otherwise provided in this chapter, there shall be in
26 effect in all counties and cities the state building code which shall
27 consist of the following codes which are hereby adopted by reference:

28 (1) Uniform Building Code and Uniform Building Code Standards,
29 published by the International Conference of Building Officials;

1 (2) Uniform Mechanical Code, including Chapter 22, Fuel Gas Piping,
2 Appendix B, published by the International Conference of Building
3 Officials;

4 (3) The Uniform Fire Code and Uniform Fire Code Standards,
5 published by the International Conference of Building Officials and the
6 Western Fire Chiefs Association: PROVIDED, That, notwithstanding any
7 wording in this code, participants in religious ceremonies shall not be
8 precluded from carrying hand-held candles;

9 (4) Except as provided in RCW 19.27.150, the Uniform Plumbing Code
10 and Uniform Plumbing Code Standards, published by the International
11 Association of Plumbing and Mechanical Officials: PROVIDED, That
12 chapters 11 and 12 of such code are not adopted; (~~and~~)

13 (5) The rules (~~and regulations~~) adopted by the council
14 establishing standards for making buildings and facilities accessible
15 to and usable by the physically handicapped or elderly persons as
16 provided in RCW 70.92.100 through 70.92.160;

17 (6) The rules adopted by the council establishing minimum standards
18 for repairs, alterations, and additions necessary for the preservation,
19 restoration, rehabilitation, or strengthening of historic or
20 architecturally significant buildings as provided in RCW 19.27.120; and

21 (7) The rules adopted by the council establishing minimum standards
22 for change of occupancy, alteration, or repair of existing buildings
23 and structures as provided in section 412 of this act.

24 In case of conflict among the codes enumerated in subsections (1),
25 (2), (3), and (4) of this section, the first named code shall govern
26 over those following.

27 The codes enumerated in this section shall be adopted by the
28 council as provided in RCW 19.27.074.

29 The council may issue opinions relating to the codes at the request
30 of a local building official.

1 **Sec. 403.** RCW 19.27.035 and 1989 c 266 s 6 are each amended to
2 read as follows:

3 (1) The ((building code)) council shall, within one year of July
4 23, 1989, adopt a process for the review of proposed state-wide
5 amendments to the codes enumerated in RCW 19.27.031, and proposed or
6 enacted local amendments to the codes enumerated in RCW 19.27.031 as
7 amended and adopted by the ((state building code)) council.

8 (2) The council shall, by January 1, 1993, adopt a process for the
9 review of existing, proposed, or revised stand-alone ordinances and
10 proposed state agency rules.

11 (3) The council's criteria for the review of state-wide and local
12 amendments and stand-alone ordinances shall include but not be limited
13 to, the standards and objectives enumerated in RCW 19.27.020 and
14 standards to achieve state-wide uniformity of residential codes,
15 standards that do not unnecessarily increase the cost of construction
16 on a state-wide or regional basis, the cumulative effect of the stand-
17 alone ordinance on the cost of housing, and special consideration of
18 amendments or stand-alone ordinances to address problems unique to the
19 jurisdiction or region.

20 (4) The council's criteria for the review of rules proposed by a
21 state agency shall be based on the criteria contained in section 406 of
22 this act.

23 **Sec. 404.** RCW 19.27.040 and 1990 c 2 s 11 are each amended to read
24 as follows:

25 The governing body of each county or city is authorized to amend
26 the state building code as it applies within the jurisdiction of the
27 county or city. The minimum performance standards of the codes and the
28 objectives enumerated in RCW 19.27.020 shall not be diminished by any
29 county or city amendments or stand-alone ordinances.

1 Nothing in this chapter shall authorize any modifications of the
2 requirements of chapter 70.92 RCW.

3 **Sec. 405.** RCW 19.27.060 and 1989 c 266 s 2 and 1989 c 246 s 1 are
4 each reenacted and amended to read as follows:

5 (1) The governing bodies of counties and cities may amend the codes
6 enumerated in RCW 19.27.031 as amended and adopted by the ((state
7 building code)) council as they apply within their respective
8 jurisdictions, but the amendments shall not result in a code that is
9 less than the minimum performance standards and objectives contained in
10 the state building code.

11 (a) ((No)) (i) Any amendment to a code enumerated in RCW 19.27.031
12 as amended and adopted by the ((state building code)) council that
13 affects single family or multifamily residential buildings and any
14 stand-alone ordinance shall not be effective unless the amendment or
15 stand-alone ordinance is approved by the ((building code)) council
16 under RCW 19.27.074(1)(b).

17 (ii) Effective one year after the effective date of this section,
18 any existing stand-alone ordinance of a county or city shall be
19 submitted to the council for approval. If the stand-alone ordinance is
20 not approved by the council within two years after the effective date
21 of this section, the stand-alone ordinance shall no longer be
22 effective. New or revised stand-alone ordinances may be submitted at
23 any time and shall be effective upon approval by the council.

24 (b) Any county or city amendment to a code enumerated in RCW
25 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue to
26 be effective after any action is taken under RCW 19.27.074(1)(a)
27 without necessity of reapproval under RCW 19.27.074(1)(b) unless the
28 amendment is declared null and void by the council at the time any

1 action is taken under RCW 19.27.074(1)(a) because such action in any
2 way altered the impact of the amendment.

3 (2) Except as permitted or provided otherwise under this section,
4 the state building code shall be applicable to all buildings and
5 structures including those owned by the state or by any governmental
6 subdivision or unit of local government.

7 (3) The governing body of each county or city may limit the
8 application of any portion of the state building code to exclude
9 specified classes or types of buildings or structures according to use
10 other than single family or multifamily residential buildings:
11 PROVIDED, That in no event shall fruits or vegetables of the tree or
12 vine stored in buildings or warehouses constitute combustible stock for
13 the purposes of application of the uniform fire code.

14 (4) The provisions of this chapter shall not apply to any building
15 four or more stories high with a B occupancy as defined by the uniform
16 building code, 1982 edition, and with a city fire insurance rating of
17 1, 2, or 3 as defined by a recognized fire rating bureau or
18 organization.

19 (5) No provision of the uniform fire code concerning roadways shall
20 be part of the state building code: PROVIDED, That this subsection
21 shall not limit the authority of a county or city to adopt street,
22 road, or access standards.

23 (6) The provisions of the state building code may be preempted by
24 any city or county to the extent that the code provisions relating to
25 the installation or use of sprinklers in jail cells conflict with the
26 secure and humane operation of jails.

27 (7)(a) Effective one year after July 23, 1989, the governing bodies
28 of counties and cities may adopt an ordinance or resolution to exempt
29 from permit requirements certain construction or alteration of either
30 group R, division 3, or group M, division 1 occupancies, or both, as

1 defined in the uniform building code, 1988 edition, for which the total
2 cost of fair market value of the construction or alteration does not
3 exceed fifteen hundred dollars. The permit exemption shall not
4 otherwise exempt the construction or alteration from the substantive
5 standards of the codes enumerated in RCW 19.27.031, as amended and
6 maintained by the ((state building code)) council under RCW 19.27.070.

7 (b) Prior to July 23, 1989, the ((state building code)) council
8 shall adopt by rule, guidelines exempting from permit requirements
9 certain construction and alteration activities under (a) of this
10 subsection.

11 NEW SECTION. **Sec. 406.** A new section is added to chapter 19.27
12 RCW to read as follows:

13 (1) Any rule proposed by a state agency that affects construction
14 requirements of Group A, B, E, H, I, M, or R occupancies, as defined in
15 the state building code, shall be submitted to the council for review
16 and comment prior to adoption. Proposed state agency rules that are
17 submitted to the council for review and comment must contain a written
18 analysis that justifies the need for the rule in terms of the following
19 criteria:

20 (a) The proposed rule does not conflict with, overlap, or duplicate
21 existing state building code requirements;

22 (b) The public interest requires the adoption of the proposed rule;

23 (c) The proposed rule is consistent with the purposes, objectives,
24 and standards of this chapter; and

25 (d) The proposed rule does not diminish the minimum performance
26 standards and requirements of the codes enumerated in RCW 19.27.031,
27 19.27A.020, and 19.27A.025.

28 (2) The council shall review the determination and analysis of the
29 state agency on each of the criteria outlined in subsection (1) of this

1 section and provide written comment within sixty days of receipt of the
2 proposed rule. Factual determinations by the state agency shall be
3 considered conclusive by the council unless the council specifically
4 finds, and sets forth its reasoning in writing, that such factual
5 determination is substantially unsupported by the evidence considered
6 by the state agency.

7 (3) The council shall transmit a copy of its comments on the
8 proposed rule to the state agency, which shall respond to any concerns
9 and recommendations made by the council before final adoption of the
10 proposed rule.

11 (4) For purposes of this section, state agency means administrative
12 department and agencies created under RCW 43.17.010, 43.30.030, or
13 43.43.010.

14 **Sec. 407.** RCW 19.27.074 and 1989 c 266 s 3 are each amended to
15 read as follows:

16 (1) The state building code council shall:

17 (a) Adopt and maintain the codes to which reference is made in RCW
18 19.27.031 in a status which is consistent with the state's interest as
19 set forth in RCW 19.27.020. In maintaining these codes, the council
20 shall regularly review updated versions of the codes referred to in RCW
21 19.27.031 and other pertinent information and shall amend the codes as
22 deemed appropriate by the council;

23 (b) Approve or deny all county or city amendments (~~to any code~~
24 ~~referred to in RCW 19.27.031 to the degree the amendments~~) or stand-
25 alone ordinances that apply to single family or multifamily residential
26 buildings as provided in RCW 19.27.060;

27 (c) Review and comment on rules proposed by state agencies under
28 section 406 of this act;

1 (d) As required by the legislature, develop and adopt any codes
2 relating to buildings; and

3 ~~((d))~~ (e) Propose a budget for the operation of the state
4 building code council to be submitted to the office of financial
5 management pursuant to RCW 43.88.090.

6 (2) The state building code council may:

7 (a) Appoint technical advisory committees which may include members
8 of the council;

9 (b) Employ permanent and temporary staff and contract for services;
10 ~~((and))~~

11 (c) Conduct research into matters relating to any code or codes
12 referred to in RCW 19.27.031 or any related matter; and

13 (d) Conduct or sponsor in-service education and training programs
14 for design professionals, construction industry representatives, and
15 local code enforcement officials for carrying out the purposes of this
16 chapter.

17 All meetings of the ~~((state building code))~~ council shall be open
18 to the public under the open public meetings act, chapter 42.30 RCW.
19 All actions of the ~~((state building code))~~ council which adopt or amend
20 any code of state-wide applicability shall be pursuant to the
21 administrative procedure act, chapter 34.05 RCW.

22 All council decisions relating to the codes enumerated in RCW
23 19.27.031 shall require approval by at least a majority of the members
24 of the council.

25 All decisions to adopt or amend codes of state-wide application
26 shall be made prior to December 1 of any year and shall not take effect
27 before the end of the regular legislative session in the next year.

28 **Sec. 408.** RCW 19.27.078 and 1989 c 266 s 4 are each amended to
29 read as follows:

1 ~~(1) ((The state building code council shall contract with a private~~
2 ~~entity to conduct a study and analysis of the codes referred to in RCW~~
3 ~~19.27.031 and related regulations of state and local agencies to~~
4 ~~ascertain the amount and nature of any conflict and inconsistencies.~~
5 ~~The findings and proposed solutions resulting from this study and~~
6 ~~analysis shall be submitted to the state building code council no later~~
7 ~~than September 1, 1987. The state building code council shall consider~~
8 ~~these findings and proposed solutions when carrying out its~~
9 ~~responsibilities under RCW 19.27.074.~~

10 ~~(2) The state building code council shall conduct a study of county~~
11 ~~and city enforcement of the requirements of the codes to which~~
12 ~~reference is made in RCW 19.27.031. In conducting the study, the~~
13 ~~council shall conduct public hearings at designated council meetings to~~
14 ~~seek input from interested individuals and organizations. The findings~~
15 ~~of the study shall be submitted in a report to the governor and the~~
16 ~~legislature no later than September 1, 1987.~~

17 ~~(3) The study required under subsection (2) of this section shall~~
18 ~~include, but not be limited to, a review of the impact of discretionary~~
19 ~~building permit requirements imposed by local code enforcement~~
20 ~~personnel. This review shall be designed to determine the extent, if~~
21 ~~any, to which such discretionary requirements are based upon (a) the~~
22 ~~requirements of the state building code or (b) city or county~~
23 ~~amendments to the state building code.~~

24 ~~(4)) The ((state building code)) council shall conduct a study to~~
25 ~~identify and define stand-alone ordinances adopted by counties and~~
26 ~~cities that add or alter construction requirements to buildings and~~
27 ~~structures built under the codes enumerated in RCW 19.27.031, as~~
28 ~~adopted and amended by the ((state building code)) council. In~~
29 ~~conducting the study, the council shall consult with representatives~~
30 ~~from counties, cities, home builders, architects, building officials,~~

1 and fire officials. To aid in data collection, local governments shall
2 submit fire suppression ordinances, as defined by the (~~state building~~
3 ~~code~~) council, in effect on March 31, 1989, to the (~~state building~~
4 ~~code~~) council. The findings of the study shall be submitted in a
5 written report to the house of representatives committee on housing and
6 the senate governmental operations committee no later than November 1,
7 1989.

8 (~~(5)~~) (2) The study required under subsection (~~(4)~~) (1) of this
9 section shall include, but not be limited to, a review of ordinances or
10 regulations adopted by counties and cities that add or alter
11 construction requirements to buildings and structures built under the
12 codes enumerated in RCW 19.27.031.

13 **Sec. 409.** RCW 19.27.085 and 1989 c 256 s 1 are each amended to
14 read as follows:

15 (1) There is hereby created the building code council account in
16 the state treasury. Moneys deposited into the account shall be used by
17 the (~~building code~~) council, after appropriation, to perform the
18 purposes of the council.

19 (2) All moneys collected under (~~subsection (3) of this section~~)
20 section 413 of this act shall be deposited into the building code
21 council account. Every four years the state treasurer shall report to
22 the legislature on the balances in the account so that the legislature
23 may adjust the charges imposed under (~~subsection (3) of this section~~).

24 (~~(3) There is imposed a fee of four dollars and fifty cents on each~~
25 ~~building permit issued by a county or a city, plus an additional~~
26 ~~surcharge of two dollars for each residential unit, but not including~~
27 ~~the first unit, on each building containing more than one residential~~
28 ~~unit. Quarterly each county and city shall remit moneys collected~~
29 ~~under this section to the state treasury; however, no remittance is~~

1 ~~required until a minimum of fifty dollars has accumulated pursuant to~~
2 ~~this subsection))~~ section 413 of this act.

3 NEW SECTION. Sec. 410. A new section is added to chapter 19.27
4 RCW to read as follows:

5 (1) The council may conduct or sponsor in-service education and
6 training programs on the technical, legal, and administrative aspects
7 of building code administration and enforcement. For this purpose it
8 may cooperate and contract with educational institutions, local,
9 regional, state, or national code enforcement officials' organizations,
10 and any other appropriate organizations.

11 (2) The council may reimburse code enforcement agency personnel and
12 other employees of the state and its subdivisions for related expenses
13 incurred by them for attendance at in-service education and training
14 programs approved by the council.

15 (3) In the establishment and administration of the in-service
16 education and training programs, the council shall consult and
17 cooperate with state and national code enforcement officials'
18 organizations in order to facilitate the acceptance of these programs
19 as meeting the requirements for certification as code enforcement
20 agency personnel.

21 NEW SECTION. Sec. 411. A new section is added to chapter 19.27
22 RCW to read as follows:

23 (1) The governing bodies of counties and cities, in order to hear
24 and decide appeals of orders, decisions, or determinations made by the
25 building official relative to the application and interpretation of the
26 codes enumerated in RCW 19.27.031 as amended and adopted by the
27 council, shall establish a board of appeals.

1 (2) The board of appeals shall consist of members who are qualified
2 by experience and training to pass on matters pertaining to building
3 construction and who are not employees of the governing body. Members
4 of the board of appeals shall be appointed by the legislative body of
5 the governing body and shall hold office at the pleasure of the
6 governing body.

7 (3) The building official shall be an ex officio member of the
8 board of appeals and shall act as secretary to the board but shall not
9 have a vote on any matter before the board of appeals.

10 (4) The board of appeals shall adopt rules of procedure for
11 conducting its business and shall render all decisions and findings in
12 writing to the appellant with a copy to the building official and the
13 council.

14 (5) The local board of appeals shall have no authority to waive
15 requirements of the codes enumerated in RCW 19.27.031 as amended and
16 adopted by the council.

17 NEW SECTION. **Sec. 412.** A new section is added to chapter 19.27
18 RCW to read as follows:

19 (1) Alterations or repairs to existing buildings or structures may
20 be made without conformance to all of the requirements of the codes
21 adopted under RCW 19.27.031 and 19.27A.020, when authorized by the
22 appropriate building officials under the rules adopted under subsection
23 (2) of this section, if:

24 (a) The building or structure was legally constructed under the
25 laws of the state of Washington; and

26 (b) The restored building or structure will be less hazardous,
27 based on fire and life safety risk, than the existing building or
28 structure.

1 (2) By July 1, 1993, the council shall adopt rules, as appropriate,
2 to provide alternative methods to those otherwise required under this
3 chapter for alterations and repairs necessary for life-safety
4 requirements to existing buildings.

5 NEW SECTION. **Sec. 413.** (1) An additional tax is imposed on each
6 sale at wholesale equal to the gross proceeds of sales of lumber and
7 building materials of the business, multiplied by the rate of five one-
8 hundredths of one percent.

9 (2) An additional tax is imposed on each sale at retail on lumber
10 and building materials in this state. The rate of the tax shall be
11 equal to the rate imposed under subsection (1) of this section.

12 (3) Remittances received by the treasurer pursuant to subsections
13 (1) and (2) of this section shall be divided between the building code
14 council account created by RCW 19.27.085, which shall receive fifty
15 percent, and the Washington housing trust fund created by RCW
16 43.185.030, which shall receive fifty percent.

17 (4) Chapter 82.32 RCW applies to the tax imposed in this chapter.
18 The tax due dates, reporting periods, and return requirements
19 applicable to chapter 82.04 RCW apply equally to the tax imposed in
20 this chapter.

21 (5) As used in this section, lumber and building materials include
22 lumber, plywood, windows, doors and frames, kitchen cabinets, millwork,
23 wallboards, asphalt and asbestos products, paint, glass and wallpaper,
24 floor coverings, central air and heating units, heating stoves, roofing
25 and siding, masonry supplies, plumbing and electrical supplies,
26 insulation, prefabricated buildings and components, hardware that
27 becomes a component of the structure, and all other building materials.

1 NEW SECTION. **Sec. 414.** The following are exempt from the taxes
2 imposed in this chapter:

3 (1) Any successive sale of previously taxed lumber and building
4 materials. As used in this section, previously taxed lumber and
5 building materials means lumber and building materials in respect to
6 which the tax has been paid under section 413 of this act.

7 (2) Any lumber and building materials that are transferred to a
8 point outside the state for use outside the state. The department
9 shall provide by rule appropriate procedures and exemption certificates
10 for the administration of this exemption.

11 NEW SECTION. **Sec. 415.** (1) The tax imposed in section 413(1) of
12 this act shall be paid by the buyer to the wholesaler and each
13 wholesaler shall collect from the buyer the full amount of the tax
14 payable in respect to each taxable sale, unless the wholesaler is
15 prohibited from collecting the tax from the buyer under the
16 Constitution of this state or the Constitution or laws of the United
17 States. Regardless of the obligation to collect the tax from the
18 buyer, the wholesaler is liable to the state for the amount of the tax.
19 The tax imposed in section 413(2) of this act shall be paid by the
20 retailer.

21 (2) The additional tax required to be collected by the wholesaler
22 under section 413(1) of this act shall be stated separately from the
23 selling price in any sales invoice or other instrument of sale.

24 (3) Any wholesaler who fails or refuses to collect tax under this
25 section, with intent to violate the provisions of this chapter or to
26 gain some advantage or benefit, either direct or indirect, is guilty of
27 a misdemeanor.

1 (4) The amount of additional tax required to be collected under
2 this section shall constitute a debt from the buyer to the wholesaler
3 until paid by the buyer to the wholesaler.

4 PART V
5 GROWTH MANAGEMENT ACT PROVISIONS

6 **Sec. 501.** RCW 36.70A.030 and 1990 1st ex.s. c 17 s 3 are each
7 amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Adopt a comprehensive land use plan" means to enact a new
11 comprehensive land use plan or to update an existing comprehensive land
12 use plan.

13 (2) "Affordable housing" has the same meaning as in section 103 of
14 this act.

15 (3) "Agricultural land" means land primarily devoted to the
16 commercial production of horticultural, viticultural, floricultural,
17 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
18 straw, turf, seed, Christmas trees not subject to the excise tax
19 imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has
20 long-term commercial significance for agricultural production.

21 ~~((3))~~ (4) "City" means any city or town, including a code city.

22 ~~((4))~~ (5) "Comprehensive land use plan," "comprehensive plan," or
23 "plan" means a generalized coordinated land use policy statement of the
24 governing body of a county or city that is adopted pursuant to this
25 chapter.

26 ~~((5))~~ (6) "Critical areas" include the following areas and
27 ecosystems: (a) Wetlands; (b) areas with a critical recharging effect
28 on aquifers used for potable water; (c) fish and wildlife habitat

1 conservation areas; (d) frequently flooded areas; and (e) geologically
2 hazardous areas.

3 ~~((6))~~ (7) "Department" means the department of community
4 development.

5 ~~((7))~~ (8) "Development regulations" means any controls placed on
6 development or land use activities by a county or city, including, but
7 not limited to, zoning ordinances, official controls, planned unit
8 development ordinances, subdivision ordinances, and binding site plan
9 ordinances.

10 ~~((8))~~ (9) "Fair share housing" means housing of various types and
11 densities located within a city or county that is affordable and
12 available to very low-income and low-income households, as defined in
13 section 103 of this act, and persons with special needs, to address the
14 county or regional need.

15 (10) "Forest land" means land primarily useful for growing trees,
16 including Christmas trees subject to the excise tax imposed under RCW
17 84.33.100 through 84.33.140, for commercial purposes, and that has
18 long-term commercial significance for growing trees commercially.

19 ~~((9))~~ (11) "Geologically hazardous areas" means areas that
20 because of their susceptibility to erosion, sliding, earthquake, or
21 other geological events, are not suited to the siting of commercial,
22 residential, or industrial development consistent with public health or
23 safety concerns.

24 ~~((10))~~ (12) "Long-term commercial significance" includes the
25 growing capacity, productivity, and soil composition of the land for
26 long-term commercial production, in consideration with the land's
27 proximity to population areas, and the possibility of more intense uses
28 of the land.

29 ~~((11))~~ (13) "Minerals" include gravel, sand, and valuable
30 metallic substances.

1 (~~(12)~~) (14) "New fully contained community" means a comprehensive
2 development providing for a mixture of land uses which includes the
3 following: (a) A mix of jobs, housing, and public facilities needed
4 for a self-contained community including a fair share of affordable
5 housing, as defined in section 103 of this act; (b) preservation of
6 open spaces within and around the community; (c) an internal and
7 external transportation system supportive of pedestrian access and
8 public transit; (d) the new infrastructure needed to serve the proposed
9 community; and (e) the mitigation of off-site impacts.

10 (15) "Public facilities" include streets, roads, highways,
11 sidewalks, street and road lighting systems, traffic signals, domestic
12 water systems, storm and sanitary sewer systems, parks and recreational
13 facilities, and schools.

14 (~~(13)~~) (16) "Public services" include fire protection and
15 suppression, law enforcement, public health, education, recreation,
16 environmental protection, and other governmental services.

17 (~~(14)~~) (17) "Urban growth" refers to growth that makes intensive
18 use of land for the location of buildings, structures, and impermeable
19 surfaces to such a degree as to be incompatible with the primary use of
20 such land for the production of food, other agricultural products, or
21 fiber, or the extraction of mineral resources. When allowed to spread
22 over wide areas, urban growth typically requires urban governmental
23 services. "Characterized by urban growth" refers to land having urban
24 growth located on it, or to land located in relationship to an area
25 with urban growth on it as to be appropriate for urban growth.

26 (~~(15)~~) (18) "Urban growth areas" means those areas designated by
27 a county pursuant to RCW 36.70A.110.

28 (~~(16)~~) (19) "Urban governmental services" include those
29 governmental services historically and typically delivered by cities,
30 and include storm and sanitary sewer systems, domestic water systems,

1 street cleaning services, fire and police protection services, public
2 transit services, and other public utilities associated with urban
3 areas and normally not associated with nonurban areas.

4 ~~((17))~~ (20) "Wetland" or "wetlands" means areas that are
5 inundated or saturated by surface water or ground water at a frequency
6 and duration sufficient to support, and that under normal circumstances
7 do support, a prevalence of vegetation typically adapted for life in
8 saturated soil conditions. Wetlands generally include swamps, marshes,
9 bogs, and similar areas. Wetlands do not include those artificial
10 wetlands intentionally created from nonwetland sites, including, but
11 not limited to, irrigation and drainage ditches, grass-lined swales,
12 canals, detention facilities, wastewater treatment facilities, farm
13 ponds, and landscape amenities. However, wetlands may include those
14 artificial wetlands intentionally created from nonwetland areas created
15 to mitigate conversion of wetlands, if permitted by the county or city.

16 **Sec. 502.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each
17 amended to read as follows:

18 The following goals are adopted to guide the development and
19 adoption of comprehensive plans and development regulations of those
20 counties and cities that are required or choose to plan under RCW
21 36.70A.040. The following goals are not listed in order of priority
22 and shall be used ~~((exclusively))~~ for the purpose of guiding the
23 development of comprehensive plans and development regulations:

24 (1) Urban growth. Encourage development in urban areas where
25 adequate public facilities and services exist or can be provided in an
26 efficient manner.

27 (2) Reduce sprawl. Reduce the inappropriate conversion of
28 undeveloped land into sprawling, low-density development.

1 (3) Transportation. Encourage efficient multimodal transportation
2 systems that are based on regional priorities and coordinated with
3 county and city comprehensive plans.

4 (4) Housing. Encourage ~~((the availability of affordable))~~ housing
5 ~~((to))~~ for all economic segments of the population of this state,
6 participate in making available a fair share of affordable housing,
7 including affordable housing for people with special needs, promote a
8 variety of residential densities and housing types, ~~((and))~~ encourage
9 preservation of existing housing stock, and assure that housing
10 complies with applicable federal, state, and local health and safety
11 laws.

12 (5) Economic development. Encourage economic development
13 throughout the state that is consistent with adopted comprehensive
14 plans, promote economic opportunity for all citizens of this state,
15 especially for unemployed and for disadvantaged persons, and encourage
16 growth in areas experiencing insufficient economic growth, all within
17 the capacities of the state's natural resources, public services, and
18 public facilities.

19 (6) Property rights. Private property shall not be taken for
20 public use without just compensation having been made. The property
21 rights of landowners shall be protected from arbitrary and
22 discriminatory actions.

23 (7) Permits. Applications for both state and local government
24 permits should be processed in a timely and fair manner to ensure
25 predictability.

26 (8) Natural resource industries. Maintain and enhance natural
27 resource-based industries, including productive timber, agricultural,
28 and fisheries industries. Encourage the conservation of productive
29 forest lands and productive agricultural lands, and discourage
30 incompatible uses.

1 (9) Open space and recreation. Encourage the retention of open
2 space and development of recreational opportunities, conserve fish and
3 wildlife habitat, increase access to natural resource lands and water,
4 and develop parks.

5 (10) Environment. Protect the environment and enhance the state's
6 high quality of life, including air and water quality, and the
7 availability of water.

8 (11) Citizen participation and coordination. Encourage the
9 involvement of citizens in the planning process and ensure coordination
10 between communities and jurisdictions to reconcile conflicts.

11 (12) Public facilities and services. Ensure that those public
12 facilities and services necessary to support development shall be
13 adequate to serve the development at the time the development is
14 available for occupancy and use without decreasing current service
15 levels below locally established minimum standards.

16 (13) Historic preservation. Identify and encourage the
17 preservation of lands, sites, and structures, that have historical or
18 archaeological significance.

19 **Sec. 503.** RCW 36.70A.070 and 1990 1st ex.s. c 17 s 7 are each
20 amended to read as follows:

21 The comprehensive plan of a county or city that is required or
22 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
23 and descriptive text covering objectives, principles, and standards
24 used to develop the comprehensive plan. The plan shall be an
25 internally consistent document and all elements shall be consistent
26 with the future land use map. A comprehensive plan shall be adopted
27 and amended with public participation as provided in RCW 36.70A.140.

28 Each comprehensive plan shall include a plan, scheme, or design for
29 each of the following:

1 (1) A land use element designating the proposed general
2 distribution and general location and extent of the uses of land, where
3 appropriate, for agriculture, timber production, housing, commerce,
4 industry, recreation, open spaces, public utilities, public facilities,
5 and other land uses. The land use element shall provide for sufficient
6 developable land and densities for a range of housing types. The land
7 use element shall include population densities, building intensities,
8 and estimates of future population growth. Each county shall include
9 urban growth areas as established in RCW 36.70A.110 in its
10 comprehensive land use plan. The land use element shall provide for
11 protection of the quality and quantity of ground water used for public
12 water supplies. Where applicable, the land use element shall review
13 drainage, flooding, and storm water run-off in the area and nearby
14 jurisdictions and provide guidance for corrective actions to mitigate
15 or cleanse those discharges that pollute waters of the state, including
16 Puget Sound or waters entering Puget Sound.

17 (2) A housing element recognizing the vitality and character of
18 established residential neighborhoods that: (a) Includes an inventory
19 and analysis of existing and projected housing needs including a jobs-
20 housing balance consisting of at least a comparison between the supply
21 of housing and the number of jobs projected in the next ten years in
22 the county or sub-county area, as well as an assessment of whether the
23 housing is affordable to the workers; (b) includes a statement of
24 goals, policies, ~~((and))~~ objectives, and a five-year financing plan for
25 the preservation, improvement, and development of housing and for
26 ensuring that a community's fair share housing responsibility is met
27 within either the county or the jurisdictions; (c) identifies
28 sufficient land for housing, including, but not limited to, government-
29 assisted housing, housing for very low-income and low-income
30 ~~((families))~~ households, manufactured housing, multifamily housing, and

1 group homes and foster care facilities; ~~((and))~~ (d) makes adequate
2 provisions for existing and projected needs of all economic segments of
3 the community; and (e) identifies regulatory barriers to the
4 development and placement of affordable housing.

5 (3) A capital facilities plan element consisting of: (a) An
6 inventory of existing capital facilities owned by public entities,
7 showing the locations and capacities of the capital facilities; (b) a
8 forecast of the future needs for such capital facilities; (c) the
9 proposed locations and capacities of expanded or new capital
10 facilities; (d) at least a six-year plan that will finance such capital
11 facilities within projected funding capacities and clearly identifies
12 sources of public money for such purposes; and (e) a requirement to
13 reassess the land use element if probable funding falls short of
14 meeting existing needs and to ensure that the land use element, capital
15 facilities plan element, and financing plan within the capital
16 facilities plan element are coordinated and consistent.

17 (4) A utilities element consisting of the general location,
18 proposed location, and capacity of all existing and proposed utilities,
19 including, but not limited to, electrical lines, telecommunication
20 lines, and natural gas lines.

21 (5) Counties shall include a rural element including lands that are
22 not designated for urban growth, agriculture, forest, or mineral
23 resources. The rural element shall permit land uses that are
24 compatible with the rural character of such lands and provide for a
25 variety of rural densities.

26 (6) A transportation element that implements, and is consistent
27 with, the land use element. The transportation element shall include
28 the following subelements:

29 (a) Land use assumptions used in estimating travel;

30 (b) Facilities and services needs, including:

1 (i) An inventory of air, water, and land transportation facilities
2 and services, including transit alignments, to define existing capital
3 facilities and travel levels as a basis for future planning;

4 (ii) Level of service standards for all arterials and transit
5 routes to serve as a gauge to judge performance of the system. These
6 standards should be regionally coordinated;

7 (iii) Specific actions and requirements for bringing into
8 compliance any facilities or services that are below an established
9 level of service standard;

10 (iv) Forecasts of traffic for at least ten years based on the
11 adopted land use plan to provide information on the location, timing,
12 and capacity needs of future growth;

13 (v) Identification of system expansion needs and transportation
14 system management needs to meet current and future demands;

15 (c) Finance, including:

16 (i) An analysis of funding capability to judge needs against
17 probable funding resources;

18 (ii) A multiyear financing plan based on the needs identified in
19 the comprehensive plan, the appropriate parts of which shall serve as
20 the basis for the six-year street, road, or transit program required by
21 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
22 35.58.2795 for public transportation systems;

23 (iii) If probable funding falls short of meeting identified needs,
24 a discussion of how additional funding will be raised, or how land use
25 assumptions will be reassessed to ensure that level of service
26 standards will be met;

27 (d) Intergovernmental coordination efforts, including an assessment
28 of the impacts of the transportation plan and land use assumptions on
29 the transportation systems of adjacent jurisdictions;

30 (e) Demand-management strategies.

1 After adoption of the comprehensive plan by jurisdictions required
2 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
3 must adopt and enforce ordinances which prohibit development approval
4 if the development causes the level of service on a transportation
5 facility to decline below the standards adopted in the transportation
6 element of the comprehensive plan, unless transportation improvements
7 or strategies to accommodate the impacts of development are made
8 concurrent with the development. These strategies may include
9 increased public transportation service, ride sharing programs, demand
10 management, and other transportation systems management strategies.
11 For the purposes of this subsection (6) "concurrent with the
12 development" shall mean that improvements or strategies are in place at
13 the time of development, or that a financial commitment is in place to
14 complete the improvements or strategies within six years.

15 The transportation element described in this subsection, and the
16 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
17 counties, and RCW 35.58.2795 for public transportation systems, must be
18 consistent.

19 NEW SECTION. **Sec. 504.** A new section is added to chapter 36.70A
20 RCW to read as follows:

21 (1) The department shall establish by rule in consultation with
22 local governments the process for determining a fair share housing
23 responsibility for each city and unincorporated area within a county.
24 The process shall use county-wide data provided by the office of
25 financial management and the department, except that the department may
26 aggregate data from more than one county where it deems appropriate.
27 The process shall include, but is not limited to, an assessment of the
28 existing housing stock, the projected needs for affordable housing in
29 the local community and county wide, the population density, the amount

1 of developable land in the urban growth area, and the projected number
2 of jobs to be created in the community in the next ten years. Each
3 community's fair share affordable housing responsibility shall include
4 housing that is affordable to very low-income and low-income
5 households, and persons with special housing needs.

6 (2) The department shall require each city and county to submit an
7 annual report that describes the progress being made to meet its fair
8 share affordable housing responsibility. Cities and counties that
9 exceed their fair share affordable housing responsibility shall receive
10 preference points in applications for loan or grant assistance through
11 the public works trust fund under chapter 43.155 RCW, the housing
12 assistance program under chapter 43.185 RCW, and the affordable housing
13 program under chapter 43.185A RCW. In determining whether a city or
14 county is making a good faith effort to meet its fair share affordable
15 housing responsibility, the department may consider a city's or
16 county's effort in reducing minimum lot and frontage sizes, the amount
17 of local effort compared to tax capacity, the submission of any bond
18 and levy measures to the voters for affordable housing, the
19 identification and elimination of regulatory barriers that restrict the
20 development and placement of affordable housing, the enactment of laws
21 controlling demolition, abandonment, and conversion of existing very
22 low-income and low-income housing, the enactment of density bonuses and
23 land use techniques such as cluster housing and planned unit
24 developments, the adoption of a current use classification for
25 assessing low-income housing, and efforts to preserve federally
26 assisted housing developments.

27 NEW SECTION. **Sec. 505.** A new section is added to chapter 8.26 RCW
28 to read as follows:

1 Whenever the state or local public agency demolishes or otherwise
2 eliminates affordable housing as defined in section 103 of this act for
3 a public works project, it shall deposit moneys in a local jurisdiction
4 housing replacement fund in an amount equal to the cost of providing an
5 equal number of new affordable housing units for very low-income and
6 low-income households in the same area. The moneys shall be used for
7 acquiring, constructing, or rehabilitating housing units for very low-
8 income and low-income households. Nothing in this section shall
9 require a state or local public agency to pay an impact fee for
10 demolishing housing that constitutes a nuisance or a health or safety
11 hazard to the community.

12 **Sec. 506.** RCW 35.21.685 and 1986 c 248 s 1 are each amended to
13 read as follows:

14 A city or town may assist in the development or preservation of
15 publicly or privately owned housing for persons of low income by
16 providing loans or grants (~~((of general municipal funds))~~) to the owners
17 or developers of the housing. The loans or grants shall be made
18 pursuant to a plan or program authorized by the legislative authority
19 of the city or town(~~((. They may be made))~~) to finance all or a portion
20 of the cost of construction, reconstruction, acquisition, or
21 rehabilitation of housing that will be occupied by ~~((a))~~ one or more
22 persons or ~~((family))~~ families of low income or relocation assistance
23 for such persons or families. As used in this section, "low income"
24 ~~((means income that does not exceed eighty percent of the median income~~
25 ~~for the standard metropolitan statistical area in which the city or~~
26 ~~town is located))~~ has the same meaning as in section 103 of this act.
27 For the purposes of this section, "owner" includes a lessee under a
28 ground lease or master lease. Housing constructed, acquired, or
29 rehabilitated with loans or grants made under this section shall not be

1 considered public works or improvements subject to competitive bidding
2 or a purchase of services subject to the prohibition against advance
3 payment for services: PROVIDED, That whenever feasible the borrower or
4 grantee shall make every reasonable and practicable effort to utilize
5 a competitive public bidding process.

6 **Sec. 507.** RCW 36.32.415 and 1986 c 248 s 2 are each amended to
7 read as follows:

8 A county may assist in the development or preservation of publicly
9 or privately owned housing for persons of low income by providing loans
10 or grants (~~(of general county funds)~~) to the owners or developers of
11 the housing. The loans or grants shall be made pursuant to a plan or
12 program authorized by the legislative authority of a county(~~(. — They~~
13 ~~may be made)~~) to finance all or a portion of the cost of construction,
14 reconstruction, acquisition, or rehabilitation of housing that will be
15 occupied by (~~(a)~~) one or more persons or (~~(family)~~) families of low
16 income or relocation assistance for such persons or families. As used
17 in this section, "low income" (~~(means income that does not exceed~~
18 ~~eighty percent of the median income for the standard metropolitan~~
19 ~~statistical area in which the county is located)~~) has the same meaning
20 as in section 103 of this act. For the purposes of this section,
21 "owner" includes a lessee under a ground lease or master lease.
22 Housing constructed, acquired, or rehabilitated with loans or grants
23 made under this section shall not be considered public works or
24 improvements subject to competitive bidding or a purchase of services
25 subject to the prohibition against advance payment for services:
26 PROVIDED, That whenever feasible the borrower or grantee shall make
27 every reasonable and practicable effort to utilize a competitive public
28 bidding process.

1 **Sec. 508.** RCW 82.02.050 and 1990 1st ex.s. c 17 s 43 are each
2 amended to read as follows:

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

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

6 (b) To promote orderly growth and development by establishing
7 standards by which counties, cities, and towns may require, by
8 ordinance, that new growth and development pay a proportionate share of
9 the cost of new facilities needed to serve new growth and development
10 and that new development that reduces the supply of housing for very
11 low-income and low-income households contribute to the cost to the
12 community of developing replacement housing for low-income households;
13 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 plan
18 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
21 development must provide for a balance between impact fees and other
22 sources of public funds and cannot rely solely on impact fees.

23 (3) The impact fees:

24 (a) Shall only be imposed for system improvements that are
25 reasonably related to the new development;

26 (b) Shall not exceed a proportionate share of the costs of system
27 improvements that are reasonably related to the new development; and

28 (c) Shall be used for system improvements that will reasonably
29 benefit the new development.

1 (4) Impact fees may be collected and spent only for the public
2 facilities defined in RCW 82.02.090 which are addressed by a capital
3 facilities plan element of a comprehensive land use plan adopted
4 pursuant to the provisions of RCW 36.70A.070 or the provisions for
5 comprehensive plan adoption contained in chapter 36.70, 35.63, or
6 35A.63 RCW or for replacement housing. After July 1, 1993, continued
7 authorization to collect and expend impact fees shall be contingent on
8 the county, city, or town adopting or revising a comprehensive plan in
9 compliance with RCW 36.70A.070, and on the capital facilities plan
10 identifying:

11 (a) Deficiencies in public facilities serving existing development
12 and the means by which existing deficiencies will be eliminated within
13 a reasonable period of time;

14 (b) Additional demands placed on existing public facilities by new
15 development; and

16 (c) Additional public facility improvements required to serve new
17 development.

18 If the capital facilities plan of the county, city, or town is
19 complete other than for the inclusion of those elements which are the
20 responsibility of a special district, the county, city, or town may
21 impose impact fees to address those public facility needs for which the
22 county, city, or town is responsible.

23 (5) Any jurisdiction authorized to impose impact fees under this
24 section may also impose, on any development activity that involves the
25 demolition of a structure previously used as low-income housing, or the
26 conversion of any such structure to use other than low-income housing,
27 a housing replacement fee. The housing replacement fee may not exceed
28 the estimated cost to the jurisdiction of offsetting the impact of the
29 development activity on the supply of low-income housing in the area in
30 which the development is located. Any housing replacement fee shall be

1 calculated by the jurisdiction in accordance with standards adopted by
2 ordinance or regulation. All replacement housing fees shall be used to
3 provide or finance low-income housing in the manner authorized by RCW
4 35.21.685 or 36.32.415.

5 After July 1, 1993, continued authorization to collect housing
6 replacement fees shall be contingent on the jurisdiction adopting or
7 revising a comprehensive plan in compliance with RCW 36.70A.070, and in
8 compliance with the local jurisdiction's fair share affordable housing
9 goal pursuant to chapter 36.70A RCW.

10 PART VI

11 EQUAL OPPORTUNITY AND FAIR HOUSING PROVISIONS

12 **Sec. 601.** RCW 49.60.030 and 1984 c 32 s 2 are each amended to read
13 as follows:

14 (1) The right to be free from discrimination because of race,
15 creed, color, national origin, sex, or the presence of any sensory,
16 mental, or physical handicap is recognized as and declared to be a
17 civil right. This right shall include, but not be limited to:

18 (a) The right to obtain and hold employment without discrimination;

19 (b) The right to the full enjoyment of any of the accommodations,
20 advantages, facilities, or privileges of any place of public resort,
21 accommodation, assemblage, or amusement;

22 (c) The right to engage in real estate transactions without
23 discrimination, including discrimination against families with
24 children;

25 (d) The right to engage in credit transactions without
26 discrimination;

27 (e) The right to engage in insurance transactions or transactions
28 with health maintenance organizations without discrimination:

1 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
2 48.44.220, or 48.46.370 does not constitute an unfair practice for the
3 purposes of this subparagraph; and

4 (f) The right to engage in commerce free from any discriminatory
5 boycotts or blacklists. Discriminatory boycotts or blacklists for
6 purposes of this section shall be defined as the formation or execution
7 of any express or implied agreement, understanding, policy or
8 contractual arrangement for economic benefit between any persons which
9 is not specifically authorized by the laws of the United States and
10 which is required or imposed, either directly or indirectly, overtly or
11 covertly, by a foreign government or foreign person in order to
12 restrict, condition, prohibit, or interfere with or in order to exclude
13 any person or persons from any business relationship on the basis of
14 race, color, creed, religion, sex, national origin or lawful business
15 relationship: PROVIDED HOWEVER, That nothing herein contained shall
16 prohibit the use of boycotts as authorized by law pertaining to labor
17 disputes and unfair labor practices.

18 (2) Any person deeming himself or herself injured by any act in
19 violation of this chapter shall have a civil action in a court of
20 competent jurisdiction to enjoin further violations, to seek
21 appropriate temporary or preliminary relief, to recover the actual
22 damages sustained by ~~((him, or both))~~ the person, and ordering such
23 affirmative actions as may be necessary, together with the cost of suit
24 including a reasonable attorney's fee ~~((s))~~ or any other appropriate
25 remedy authorized by this chapter or the United States Civil Rights Act
26 of 1964 as amended, or the federal fair housing amendments act of 1988
27 (42 U.S.C. Sec. 3601 et seq.); and

28 (3) Notwithstanding any other provisions of this chapter, any act
29 prohibited by this chapter related to sex discrimination or
30 discriminatory boycotts or blacklists which is committed in the course

1 of trade or commerce in the state of Washington as defined in the
2 Consumer Protection Act, chapter 19.86 RCW, shall be deemed an unfair
3 practice within the meaning of RCW 19.86.020 and 19.86.030 and subject
4 to all the provisions of chapter 19.86 RCW as now or hereafter amended.

5 NEW SECTION. **Sec. 602.** A new section is added to chapter 49.60
6 RCW to read as follows:

7 (1) The superior courts of the state of Washington shall have
8 jurisdiction upon petition of the commission, through the attorney
9 general, to seek appropriate temporary or preliminary relief to enjoin
10 any unfair practice in violation of RCW 49.60.222 through 49.60.225,
11 from which prompt judicial action is necessary to carry out the
12 purposes of this chapter.

13 (2) The commencement of a civil action under this section does not
14 preclude the initiation or continuation of administrative proceedings
15 under this chapter.

16 **Sec. 603.** RCW 49.60.040 and 1985 c 203 s 2 and 1985 c 185 s 2 are
17 each reenacted and amended to read as follows:

18 As used in this chapter:

19 (1) "Person" includes one or more individuals, partnerships,
20 associations, organizations, corporations, cooperatives, legal
21 representatives, trustees and receivers, or any group of persons; it
22 includes any owner, lessee, proprietor, manager, agent, or employee,
23 whether one or more natural persons; and further includes any political
24 or civil subdivisions of the state and any agency or instrumentality of
25 the state or of any political or civil subdivision thereof;

26 (2) "Commission" means the Washington state human rights
27 commission;

1 (3) "Employer" includes any person acting in the interest of an
2 employer, directly or indirectly, who employs eight or more persons,
3 and does not include any religious or sectarian organization not
4 organized for private profit;

5 (4) "Employee" does not include any individual employed by his or
6 her parents, spouse, or child, or in the domestic service of any
7 person;

8 (5) "Labor organization" includes any organization which exists for
9 the purpose, in whole or in part, of dealing with employers concerning
10 grievances or terms or conditions of employment, or for other mutual
11 aid or protection in connection with employment;

12 (6) "Employment agency" includes any person undertaking with or
13 without compensation to recruit, procure, refer, or place employees
14 for an employer;

15 (7) "National origin" includes "ancestry";

16 (8) "Full enjoyment of" includes the right to purchase any service,
17 commodity, or article of personal property offered or sold on, or by,
18 any establishment to the public, and the admission of any person to
19 accommodations, advantages, facilities, or privileges of any place of
20 public resort, accommodation, assemblage, or amusement, without acts
21 directly or indirectly causing persons of any particular race, creed,
22 color, sex, or with any sensory, mental, or physical handicap, or a
23 blind or deaf person using a trained dog guide, to be treated as not
24 welcome, accepted, desired, or solicited;

25 (9) "Any place of public resort, accommodation, assemblage, or
26 amusement" includes, but is not limited to, any place, licensed or
27 unlicensed, kept for gain, hire, or reward, or where charges are made
28 for admission, service, occupancy, or use of any property or
29 facilities, whether conducted for the entertainment, housing, or
30 lodging of transient guests, or for the benefit, use, or accommodation

1 of those seeking health, recreation, or rest, or for the burial or
2 other disposition of human remains, or for the sale of goods,
3 merchandise, services, or personal property, or for the rendering of
4 personal services, or for public conveyance or transportation on land,
5 water, or in the air, including the stations and terminals thereof and
6 the garaging of vehicles, or where food or beverages of any kind are
7 sold for consumption on the premises, or where public amusement,
8 entertainment, sports, or recreation of any kind is offered with or
9 without charge, or where medical service or care is made available, or
10 where the public gathers, congregates, or assembles for amusement,
11 recreation, or public purposes, or public halls, public elevators, and
12 public washrooms of buildings and structures occupied by two or more
13 tenants, or by the owner and one or more tenants, or any public library
14 or educational institution, or schools of special instruction, or
15 nursery schools, or day care centers or children's camps: PROVIDED,
16 That nothing contained in this definition shall be construed to include
17 or apply to any institute, bona fide club, or place of accommodation,
18 which is by its nature distinctly private, including fraternal
19 organizations, though where public use is permitted that use shall be
20 covered by this chapter; nor shall anything contained in this
21 definition apply to any educational facility, columbarium, crematory,
22 mausoleum, or cemetery operated or maintained by a bona fide religious
23 or sectarian institution;

24 (10) "Real property" includes buildings, structures, dwellings,
25 real estate, lands, tenements, leaseholds, interests in real estate
26 cooperatives, condominiums, and hereditaments, corporeal and
27 incorporeal, or any interest therein;

28 (11) "Real estate transaction" includes the sale, exchange,
29 purchase, transacting or applying for a loan, rental, or lease of real
30 property;

1 (12) "Dwelling" means any building, structure, or portion thereof
2 that is occupied as, or designed or intended for occupancy as, a
3 residence by one or more families, and any vacant land that is offered
4 for sale or lease for the construction or location thereon of any
5 building, structure, or portion thereof;

6 (13) "Sex" means gender((-));

7 (14) "Aggrieved person" means any person who: (a) Claims to have
8 been injured by a discriminatory housing practice; or (b) believes that
9 he or she will be injured by a discriminatory housing practice that is
10 about to occur;

11 (15) "Credit transaction" includes any open or closed end credit
12 transaction, whether in the nature of a loan, retail installment
13 transaction, credit card issue or charge, or otherwise, and whether for
14 personal or for business purposes, in which a service, finance, or
15 interest charge is imposed, or which provides for repayment in
16 scheduled payments, when such credit is extended in the regular course
17 of any trade or commerce, including but not limited to transactions by
18 banks, savings and loan associations or other financial lending
19 institutions of whatever nature, stock brokers, or by a merchant or
20 mercantile establishment which as part of its ordinary business permits
21 or provides that payment for purchases of property or service therefrom
22 may be deferred;

23 (16) "Families with children" status ensues when one or more
24 individuals who have not attained the age of eighteen years is
25 domiciled with a parent or another person having custody or
26 guardianship of such individual or individuals. Families with children
27 status also applies to any person who is pregnant or is in the process
28 of securing legal custody or guardianship of any individual who has not
29 attained the age of eighteen years.

1 **Sec. 604.** RCW 49.60.222 and 1989 c 61 s 1 are each amended to read
2 as follows:

3 (1) It is an unfair practice for any person, whether acting for
4 himself, herself, or another, because of sex, marital status, race,
5 creed, color, national origin, families with children status, the
6 presence of any sensory, mental, or physical handicap, or the use of a
7 trained guide dog or service dog by a blind, deaf, or physically
8 disabled person:

9 ((+1)) (a) To refuse to engage in a real estate transaction with
10 a person;

11 ((+2)) (b) To discriminate against a person in the terms,
12 conditions, or privileges of a real estate transaction or in the
13 furnishing of facilities or services in connection therewith;

14 ((+3)) (c) To refuse to receive or to fail to transmit a bona fide
15 offer to engage in a real estate transaction from a person;

16 ((+4)) (d) To refuse to negotiate for a real estate transaction
17 with a person;

18 ((+5)) (e) To represent to a person that real property is not
19 available for inspection, sale, rental, or lease when in fact it is so
20 available, or to fail to bring a property listing to his or her
21 attention, or to refuse to permit ((him)) the person to inspect real
22 property;

23 ((+6)) (f) To print, circulate, post, or mail, or cause to be so
24 published a statement, advertisement, or sign, or to use a form of
25 application for a real estate transaction, or to make a record or
26 inquiry in connection with a prospective real estate transaction, which
27 indicates, directly or indirectly, an intent to make a limitation,
28 specification, or discrimination with respect thereto;

29 ((+7)) (g) To offer, solicit, accept, use, or retain a listing of
30 real property with the understanding that a person may be discriminated

1 against in a real estate transaction or in the furnishing of facilities
2 or services in connection therewith;

3 ~~((+8))~~ (h) To expel a person from occupancy of real property;

4 ~~((+9))~~ (i) To discriminate in the course of negotiating,
5 executing, or financing a real estate transaction whether by mortgage,
6 deed of trust, contract, or other instrument imposing a lien or other
7 security in real property, or in negotiating or executing any item or
8 service related thereto including issuance of title insurance, mortgage
9 insurance, loan guarantee, or other aspect of the transaction. Nothing
10 in this section shall limit the effect of RCW 49.60.176 relating to
11 unfair practices in credit transactions; or

12 ~~((+10))~~ (j) To attempt to do any of the unfair practices defined
13 in this section.

14 (2) For the purposes of this chapter discrimination based on the
15 presence of any sensory, mental, or physical handicap or the use of a
16 trained guide dog or service dog by a blind, deaf, or physically
17 disabled person includes:

18 (a) To refuse to make reasonable accommodation in rules, policies,
19 practices, or services when such accommodations may be necessary to
20 afford a person with the presence of any sensory, mental, or physical
21 handicap and/or the use of a trained guide dog or service dog by a
22 blind, deaf, or physically disabled person equal opportunity to use and
23 enjoy a dwelling; or

24 (b) To fail to design and construct dwellings in conformance with
25 the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et
26 seq.) and all other applicable laws or regulations pertaining to access
27 by persons with any sensory, mental, or physical handicap or use of a
28 trained guide dog or service dog. Whenever the requirements of
29 applicable laws or regulations differ, the requirements which require

1 greater accessibility for persons with any sensory, mental, or physical
2 handicap shall govern.

3 (3) Notwithstanding any other provision of ((law)) this chapter, it
4 shall not be an unfair practice or a denial of civil rights for any
5 public or private educational institution to separate the sexes or give
6 preference to or limit use of dormitories, residence halls, or other
7 student housing to persons of one sex or to make distinctions on the
8 basis of marital or ((family)) families with children status.

9 (4) This section shall not be construed to require structural
10 changes, modifications, or additions to make facilities accessible to
11 a handicapped person except as otherwise required by law. Nothing in
12 this section affects the rights and responsibilities of landlords and
13 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to
14 post and enforce reasonable rules of conduct and safety for all tenants
15 and their guests. Nor does anything in this section limit the
16 applicability of any reasonable federal, state, or local restrictions
17 regarding the maximum number of occupants permitted to occupy a
18 dwelling.

19 (5) Notwithstanding any other provision of this chapter, it shall
20 not be an unfair practice for any public establishment providing for
21 accommodations offered for the full enjoyment of transient guests as
22 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of
23 families with children status. Nothing in this section shall limit the
24 effect of RCW 49.60.215 relating to unfair practices in places of
25 public accommodation.

26 (6) Nothing in this chapter prohibiting discrimination based on
27 families with children status applies to housing for older persons as
28 defined by the federal fair housing amendments act of 1988, as amended,
29 42 U.S.C. Sec. 3607(b)(1) through (3) as of the effective date of this
30 section.

1 **Sec. 605.** RCW 49.60.223 and 1979 c 127 s 9 are each amended to
2 read as follows:

3 It is an unfair practice for any person, for profit, to induce or
4 attempt to induce any person to sell or rent any real property by
5 representations regarding the entry or prospective entry into the
6 neighborhood of a person or persons of a particular race, creed, color,
7 sex, national origin, families with children status, or with any
8 sensory, mental, or physical handicap or the use of a trained guide dog
9 or service dog by a blind, deaf, or physically disabled person.

10 NEW SECTION. **Sec. 606.** A new section is added to chapter 49.60
11 RCW to read as follows:

12 It is an unlawful practice to coerce, intimidate, threaten, or
13 interfere with any person in the exercise or enjoyment of, or on
14 account of his or her having exercised or enjoyed, or on account of his
15 or her having aided or encouraged any other person in the exercise or
16 enjoyment of, rights secured by RCW 49.60.030, 49.60.040, and 49.60.222
17 through 49.60.224.

18 **Sec. 607.** RCW 49.60.224 and 1979 c 127 s 10 are each amended to
19 read as follows:

20 (1) Every provision in a written instrument relating to real
21 property which purports to forbid or restrict the conveyance,
22 encumbrance, occupancy, or lease thereof to individuals of a specified
23 race, creed, color, sex, national origin, families with children
24 status, or with any sensory, mental, or physical handicap, and every
25 condition, restriction, or prohibition, including a right of entry or
26 possibility of reverter, which directly or indirectly limits the use or
27 occupancy of real property on the basis of race, creed, color, sex,
28 national origin, families with children status, or the presence of any

1 sensory, mental, or physical handicap or the use of a trained guide dog
2 or service dog by a blind, deaf, or physically disabled person is void.

3 (2) It is an unfair practice to insert in a written instrument
4 relating to real property a provision that is void under this section
5 or to honor or attempt to honor such a provision in the chain of title.

6 **Sec. 608.** RCW 49.60.225 and 1985 c 185 s 19 are each amended to
7 read as follows:

8 (1) When a determination has been made under RCW 49.60.250 that an
9 unfair practice involving real property has been committed, the
10 ((commission may, in addition to other relief authorized by RCW
11 49.60.250, award the complainant up to one thousand dollars))
12 administrative law judge shall promptly issue an order for such relief
13 suffered by the aggrieved party as may be appropriate, which may
14 include actual damages as provided by Title VIII (42 U.S.C. Sec. 3601
15 et seq.) as amended, and injunctive or other equitable relief. Such
16 order may, to further the public interest, assess a civil penalty
17 against the respondent:

18 (a) In an amount up to ten thousand dollars if the respondent has
19 not been adjudged to have committed any prior discriminatory housing
20 practice;

21 (b) In an amount up to twenty-five thousand dollars if the
22 respondent has been adjudged to have committed one other discriminatory
23 housing practice during the five-year period ending on the date of the
24 filing of this charge; or

25 (c) In an amount up to fifty thousand dollars if the respondent has
26 been adjudged to have committed two or more discriminatory housing
27 practices during the seven-year period ending on the date of the filing
28 of this charge, for loss of the right secured by RCW 49.60.010,
29 49.60.030, 49.60.040, and 49.60.222 through ((49.60.226)) 49.60.224, as

1 now or hereafter amended, to be free from discrimination in real
2 property transactions because of sex, marital status, race, creed,
3 color, national origin, families with children status, or the presence
4 of any sensory, mental, or physical handicap or the use of a trained
5 guide dog or service dog by a blind, deaf, or physically disabled
6 person. Enforcement of the order and appeal therefrom by the
7 complainant or respondent (~~shall~~) may be made as provided in RCW
8 49.60.260 and 49.60.270. If acts constituting the discriminatory
9 housing practice that is the object of the charge are committed by the
10 same natural person who has been previously adjudged to have committed
11 acts constituting a discriminatory housing practice, then the civil
12 penalty may be imposed without regard to the period of time within
13 which any subsequent discriminatory housing practice occurred.

14 (2) Such order shall not affect any contract, sale, conveyance,
15 encumbrance, or lease consummated before the issuance of an order that
16 involves a bona fide purchaser, encumbrancer, or tenant without actual
17 notice of the charge filed under this chapter.

18 (3) Notwithstanding any other provision of this chapter, persons
19 awarded a remedy under this section may not receive additional damages
20 pursuant to RCW 49.60.250.

21 **Sec. 609.** RCW 49.60.227 and 1987 c 56 s 2 are each amended to read
22 as follows:

23 If a written instrument contains a provision that is void by reason
24 of RCW 49.60.224, either the owner, occupant, or tenant of the property
25 which is subject to the provision may cause the provision to be
26 stricken from the public records by bringing an action in the superior
27 court in the county in which the property is located. The action shall
28 be an in rem, declaratory judgment action whose title shall be the
29 description of the property. The necessary party to the action shall

1 be either the owner, occupant, or tenant of the property or any portion
2 thereof.

3 If the court finds that any provisions of the written instrument
4 are void under RCW 49.60.224, it shall enter an order striking the void
5 provisions from the public records and eliminating the void provisions
6 from the title or lease of the property described in the complaint.

7 **Sec. 610.** RCW 49.60.230 and 1985 c 185 s 21 are each amended to
8 read as follows:

9 (1) Who may file a complaint:

10 ~~((1))~~ (a) Any person claiming to be aggrieved by an alleged
11 unfair practice may, personally or by his or her attorney, make, sign,
12 and file with the commission a complaint in writing under oath. The
13 complaint shall state the name and address of the person alleged to
14 have committed the unfair practice and the particulars thereof, and
15 contain such other information as may be required by the commission.

16 ~~((2))~~ (b) Whenever it has reason to believe that any person has
17 been engaged or is engaging in an unfair practice, the commission may
18 issue a complaint.

19 ~~((3))~~ (c) Any employer or principal whose employees, or agents,
20 or any of them, refuse or threaten to refuse to comply with the
21 provisions of this chapter may file with the commission a written
22 complaint under oath asking for assistance by conciliation or other
23 remedial action.

24 (2) Any complaint filed pursuant to this section must be so filed
25 within six months after the alleged act of discrimination except that
26 complaints alleging discrimination with respect to real estate
27 transactions pursuant to RCW 49.60.222, 49.60.223, and 49.60.224 must
28 be so filed within one year after the alleged discriminatory housing
29 practice has occurred or terminated.

1 NEW SECTION. **Sec. 611.** A new section is added to chapter 49.60

2 RCW to read as follows:

3 (1) Any complainant or respondent on whose behalf the reasonable
4 cause finding was made, may elect to have the claims on which
5 reasonable cause was found decided in a civil action under RCW
6 49.60.030(2) in lieu of a hearing under RCW 49.60.250. This election
7 must be made not later than twenty days after the receipt by the
8 electing person of service of the reasonable cause finding. The person
9 making such election shall give notice of doing so to the commission
10 and to all other parties and respondents to whom the charge relates.
11 Any reasonable cause finding issued by the commission pursuant to the
12 procedures contained in this chapter shall become final twenty days
13 after service of the reasonable cause finding unless a written notice
14 of election is received by the commission within the twenty-day period.

15 (2) If an election is made under subsection (1) of this section,
16 the commission shall authorize not later than thirty days after the
17 election is made, and the attorney general shall commence, a civil
18 action on behalf of the aggrieved person in a court of the state of
19 Washington seeking relief under this section.

20 (3) Any aggrieved person with respect to the issues to be
21 determined in a civil action under this section may intervene as of
22 right in that civil action.

23 (4) In a civil action under this section, if the court finds that
24 a discriminatory housing practice has occurred or is about to occur,
25 the court may grant any relief that a court could grant with respect to
26 such discriminatory housing practice in a civil action under RCW
27 49.60.030(2). If monetary relief is sought for the benefit of an
28 aggrieved person who does not intervene in the civil action, the court
29 shall not award such relief if that aggrieved person has not complied
30 with discovery orders entered by the court.

1 (5) In any administrative proceeding brought under this section or
2 any court proceeding arising under this section, the court in its
3 discretion may allow the prevailing party reasonable attorneys' fees
4 and costs.

5 **Sec. 612.** RCW 49.60.250 and 1989 c 175 s 115 are each amended to
6 read as follows:

7 (1) In case of failure to reach an agreement for the elimination of
8 such unfair practice, and upon the entry of findings to that effect,
9 the entire file, including the complaint and any and all findings made,
10 shall be certified to the chairperson of the commission. The
11 chairperson of the commission shall thereupon request the appointment
12 of an administrative law judge under Title 34 RCW to hear the complaint
13 and shall cause to be issued and served in the name of the commission
14 a written notice, together with a copy of the complaint, as the same
15 may have been amended, requiring the respondent to answer the charges
16 of the complaint at a hearing before the administrative law judge, at
17 a time and place to be specified in such notice.

18 (2) The place of any such hearing may be the office of the
19 commission or another place designated by it. The case in support of
20 the complaint shall be presented at the hearing by counsel for the
21 commission: PROVIDED, That the complainant may retain independent
22 counsel and submit testimony and be fully heard. No member or employee
23 of the commission who previously made the investigation or caused the
24 notice to be issued shall participate in the hearing except as a
25 witness, nor shall the member or employee participate in the
26 deliberations of the administrative law judge in such case. Any
27 endeavors or negotiations for conciliation shall not be received in
28 evidence.

1 (3) The respondent shall file a written answer to the complaint and
2 appear at the hearing in person or otherwise, with or without counsel,
3 and submit testimony and be fully heard. The respondent has the right
4 to cross-examine the complainant.

5 (4) The administrative law judge conducting any hearing may permit
6 reasonable amendment to any complaint or answer. Testimony taken at
7 the hearing shall be under oath and recorded.

8 (5) If, upon all the evidence, the administrative law judge finds
9 that the respondent has engaged in any unfair practice, the
10 administrative law judge shall state findings of fact and shall issue
11 and file with the commission and cause to be served on such respondent
12 an order requiring such respondent to cease and desist from such unfair
13 practice and to take such affirmative action, including, (but not
14 limited to) hiring, reinstatement or upgrading of employees, with or
15 without back pay, an admission or restoration to full membership rights
16 in any respondent organization, or to take such other action as, in the
17 judgment of the administrative law judge, will effectuate the purposes
18 of this chapter, including action that could be ordered by a court,
19 except that damages for humiliation and mental suffering shall not
20 exceed ((one)) ten thousand dollars, and including a requirement for
21 report of the matter on compliance. Relief available for violations of
22 RCW 49.60.222 through 49.60.224 shall be limited to the relief
23 specified in RCW 49.60.225.

24 (6) The final order of the administrative law judge shall include
25 a notice to the parties of the right to obtain judicial review of the
26 order by appeal in accordance with the provisions of RCW 34.05.510
27 through 34.05.598, and that such appeal must be served and filed within
28 thirty days after the service of the order on the parties.

29 (7) If, upon all the evidence, the administrative law judge finds
30 that the respondent has not engaged in any alleged unfair practice, the

1 administrative law judge shall state findings of fact and shall
2 similarly issue and file an order dismissing the complaint.

3 (8) An order dismissing a complaint may include an award of
4 reasonable attorneys' fees in favor of the respondent if the
5 administrative law judge concludes that the complaint was frivolous,
6 unreasonable, or groundless.

7 (9) The commission shall establish rules of practice to govern,
8 expedite, and effectuate the foregoing procedure.

9 **Sec. 613.** RCW 49.60.260 and 1989 c 175 s 116 are each amended to
10 read as follows:

11 (1) The commission (~~(shall)~~) or any person entitled to relief under
12 any final order may petition the court within the county wherein any
13 unfair practice occurred or wherein any person charged with an unfair
14 practice resides or transacts business for the enforcement of any final
15 order which is not complied with and is issued by the commission or an
16 administrative law judge under the provisions of this chapter and for
17 appropriate temporary relief or a restraining order, and shall certify
18 and file in court the final order sought to be enforced. Within five
19 days after filing such petition in court, the commission or any person
20 entitled to relief under any final order shall cause a notice of the
21 petition to be sent by certified mail to all parties or their
22 representatives.

23 (2) If before the expiration of sixty days after the date the
24 administrative law judge's order is entered, no petition has been filed
25 under subsection (1) of this section and the commission has not sought
26 enforcement of the final order under this section, any person entitled
27 to relief under any final order may petition for a decree enforcing the
28 order in the superior courts of the state of Washington for the county

1 in which the discriminatory housing practice under RCW 49.60.222
2 through 49.60.224 is alleged to have occurred.

3 (3) From the time the petition is filed, the court shall have
4 jurisdiction of the proceedings and of the questions determined
5 thereon, and shall have the power to grant such temporary relief or
6 restraining order as it deems just and suitable.

7 ~~((3))~~ (4) If the petition shows that there is a final order
8 issued by the commission or administrative law judge under RCW
9 49.60.240 or 49.60.250 and that the order has not been complied with in
10 whole or in part, the court shall issue an order directing the person
11 who is alleged to have not complied with the administrative order to
12 appear in court at a time designated in the order, not less than ten
13 days from the date thereof, and show cause why the administrative order
14 should not be enforced according to the terms. The commission or any
15 person entitled to relief of any final order shall immediately serve
16 the ~~((person))~~ noncomplying party with a copy of the court order and
17 the petition.

18 ~~((4))~~ (5) The administrative order shall be enforced by the court
19 if the person does not appear, or if the person appears and the court
20 finds that:

21 (a) The order is regular on its face;

22 (b) The order has not been complied with; and

23 (c) The person's answer discloses no valid reason why the order
24 should not be enforced, or that the reason given in the person's answer
25 could have been raised by review under RCW 34.05.510 through 34.05.598,
26 and the person has given no valid excuse for failing to use that
27 remedy.

28 ~~((5))~~ (6) The jurisdiction of the court shall be exclusive and
29 its judgment and decree shall be final, except that the same shall be
30 subject to appellate review by the supreme court or the court of

1 appeals, on appeal, by either party, irrespective of the nature of the
2 decree or judgment. The review shall be taken and prosecuted in the
3 same manner and form and with the same effect as is provided in other
4 cases.

5 NEW SECTION. **Sec. 614.** A new section is added to chapter 49.60
6 RCW to read as follows:

7 Sections 601 through 612 of this act apply prospectively only and
8 not retroactively. Sections 601 through 612 of this act apply only to
9 causes of action that arise or that are decided on or after the
10 effective date of this section.

11 PART VII

12 MISCELLANEOUS PROVISIONS

13 NEW SECTION. **Sec. 701.** (1) The legislature finds that:

14 (a) The lack of available land and the rising cost of land are
15 major barriers to the development of housing that is affordable to very
16 low-income, low-income, and moderate-income households;

17 (b) There are publicly owned lands and buildings that may be
18 suitable to be marketed, sold, leased, or exchanged for the development
19 of affordable housing; and

20 (c) Nonprofit organizations can play an important role in the
21 provision of affordable housing to very low-income, low-income, and
22 moderate-income households.

23 (2) The legislature declares that the purposes of this act are:

24 (a) To provide a central location of inventories of publicly owned
25 land and buildings that may be suitable to be marketed, sold, leased,
26 or exchanged for the development of affordable housing;

1 (b) To consider the return to the state by having the housing
2 developed by nonprofit organizations when determining fair market value
3 of publicly owned land and buildings; and

4 (c) To pursue an effective use of publicly owned surplus and
5 underutilized buildings and land for affordable housing.

6 **Sec. 702.** RCW 43.63A.510 and 1990 c 253 s 6 are each amended to
7 read as follows:

8 The department shall work with the departments of natural
9 resources, transportation, and general administration to identify and
10 catalog under((-))utilized, state-owned land and property for possible
11 lease or sale for affordable housing. The department shall provide an
12 inventory of real property that is owned or administered by each agency
13 and is available for lease. The inventories shall be provided to the
14 department by November 1, ((1990)) 1992, with inventory revisions
15 provided each November 1 thereafter. The department shall assist local
16 governments, public housing authorities, public nonprofit
17 organizations, and private nonprofit organizations in obtaining ((~~long-~~
18 ~~term leases of~~)) suitable and available sites. The leases or sales
19 shall be for the purpose of providing sites to be used for affordable
20 housing ((~~for farmworkers~~)) developments. As used in this section,
21 "affordable housing development" has the same meaning as in section 103
22 of this act.

23 NEW SECTION. **Sec. 703.** A new section is added to chapter 28A.335
24 RCW to read as follows:

25 Every school district shall identify and catalog real property of
26 the district that is no longer required for school purposes that is
27 available for possible lease or sale for an affordable housing
28 development as defined in RCW 43.63A.510. The inventory shall include

1 the location and approximate size of the property. A copy of the
2 inventory shall be provided to the state department of community
3 development by November 1, 1992, with inventory revisions provided each
4 November 1 thereafter.

5 NEW SECTION. **Sec. 704.** A new section is added to chapter 35.21
6 RCW to read as follows:

7 Every city and town, including every code city as defined in Title
8 35A RCW, shall identify and catalog the underutilized real property
9 that it owns that is available for possible lease or sale for an
10 affordable housing development as defined in RCW 43.63A.510. The
11 inventory shall include the location and approximate size of the
12 property. A copy of the inventory shall be provided to the state
13 department of community development by November 1, 1992, with inventory
14 revisions provided each November 1 thereafter.

15 NEW SECTION. **Sec. 705.** A new section is added to chapter 36.34
16 RCW to read as follows:

17 Every county shall identify and catalog the underutilized real
18 property that it owns that is available for possible lease or sale for
19 an affordable housing development as defined in RCW 43.63A.510. The
20 inventory shall include the location and approximate size of the
21 property. A copy of the inventory shall be provided to the state
22 department of community development by November 1, 1992, with inventory
23 revisions provided each November 1 thereafter.

24 **Sec. 706.** RCW 36.34.135 and 1990 c 253 s 7 are each amended to
25 read as follows:

26 If a county owns property that is located anywhere within the
27 county, including within the limits of a city or town, and that is

1 suitable for (~~seasonal or migrant farmworker housing~~) an affordable
2 housing development, the legislative authority of the county may, by
3 negotiation, lease the property for (~~seasonal or migrant farmworker~~
4 ~~housing~~) an affordable housing development for a term not to exceed
5 seventy-five years to any public housing authority or nonprofit
6 organization that has demonstrated its ability to construct or operate
7 (~~housing for seasonal or migrant farmworkers~~) an affordable housing
8 development. Leases for (~~housing for migrant and seasonal~~
9 ~~farmworkers~~) an affordable housing development shall not be subject to
10 any requirement of periodic rental adjustments, as provided in RCW
11 36.34.180, but shall provide for such fixed annual rents as appear
12 reasonable considering the public, social, and health benefits to be
13 derived by providing an adequate supply of affordable, safe, and
14 sanitary housing (~~for migrant and seasonal farmworkers~~). As used in
15 this section, "affordable housing development" has the same meaning as
16 in section 103 of this act.

17 **Sec. 707.** RCW 47.12.063 and 1988 c 135 s 1 are each amended to
18 read as follows:

19 (1) It is the intent of the legislature to continue the
20 department's policy giving priority consideration to abutting property
21 owners in agricultural areas when disposing of property through its
22 surplus property program under this section. It is also the intent of
23 the legislature to support the development of affordable housing for
24 low-income households by giving nonprofit organizations priority when
25 disposing of surplus property that is suitable for residential
26 development under this section.

27 (2) Whenever the department determines that any real property owned
28 by the state of Washington and under the jurisdiction of the department
29 is no longer required for transportation purposes and that it is in the

1 public interest to do so, the department may sell the property or
2 exchange it in full or part consideration for land or improvements or
3 for construction of improvements at fair market value to any of the
4 following governmental entities or persons:

5 (a) Any other state agency;

6 (b) The city or county in which the property is situated;

7 (c) Any other municipal corporation;

8 (d) The former owner of the property from whom the state acquired
9 title;

10 (e) In the case of residentially improved property, a tenant of the
11 department who has resided thereon for not less than six months and who
12 is not delinquent in paying rent to the state;

13 (f) Any abutting private owner but only after each other abutting
14 private owner (if any), as shown in the records of the county assessor,
15 is notified in writing of the proposed sale. If more than one abutting
16 private owner requests in writing the right to purchase the property
17 within fifteen days after receiving notice of the proposed sale, the
18 property shall be sold at public auction in the manner provided in RCW
19 47.12.283;

20 (g) To any person through the solicitation of written bids through
21 public advertising in the manner prescribed by RCW 47.28.050; ((or))

22 (h) To any other owner of real property required for transportation
23 purposes; or

24 (i) In the case of property suitable for residential use, any
25 nonprofit organization dedicated to providing housing to low-income
26 households as defined in section 103 of this act and eligible to
27 receive assistance through the Washington housing trust fund created in
28 chapter 43.185 RCW.

29 (3) Sales to purchasers may at the department's option be for cash,
30 by real estate contract, or exchange of land or improvements.

1 Transactions involving the construction of improvements must be
2 conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable,
3 and must comply with all other applicable laws and rules.

4 (4) Conveyances made pursuant to this section shall be by deed
5 executed by the secretary of transportation and shall be duly
6 acknowledged.

7 (5) All moneys received pursuant to the provisions of this section
8 less any real estate broker commissions paid pursuant to RCW 47.12.320
9 shall be deposited in the motor vehicle fund.

10 NEW SECTION. **Sec. 708.** A new section is added to chapter 43.19
11 RCW to read as follows:

12 All state agencies, including educational institutions, shall
13 maintain a perpetual record of state-owned, underutilized real property
14 that it owns or is under its control that is available for possible
15 lease or sale for an affordable housing development as defined in RCW
16 43.63A.510. The record shall include the location and approximate size
17 of the property. A copy of the record shall be provided to the state
18 department of community development by November 1, 1992, with inventory
19 revisions provided each November 1 thereafter. As used in this
20 section, "real property" means buildings, land, or buildings and land.

21 NEW SECTION. **Sec. 709.** (1) The legislature finds that:

22 (a) The construction of housing is governed by a broad range of
23 federal, state, and local regulations and administrative actions;

24 (b) There is growing concern over the rising costs of housing;

25 (c) Governmental actions have been cited as a significant
26 contributor to the rising cost of housing;

1 (d) The issue of housing regulations is technically complicated,
2 and cuts across many disciplines, jurisdictions, constituencies, and
3 values;

4 (e) Uniform responses to the growing pressures to address
5 regulatory issues of housing may result in the sacrifice of other
6 public goals without necessarily achieving compensating benefits in
7 housing affordability; and

8 (f) There exists a lack of information on the impact of
9 governmental regulation and administrative actions on the cost of
10 housing.

11 (2) The legislature declares that the purposes of this chapter are
12 to:

13 (a) Provide a focus within state government to address the
14 affordability implications of governmental actions;

15 (b) Identify and, where possible, reform governmental regulations
16 which impede or add unnecessary costs to the development of housing;
17 and

18 (c) Provide technical assistance to state agencies and local
19 governments in their efforts to reform governmental regulations that
20 impede or add unnecessary costs to the development of housing.

21 NEW SECTION. **Sec. 710.** Unless the context clearly requires
22 otherwise, the definitions in this section apply throughout this
23 chapter.

24 (1) "Affordable housing" has the same meaning as in section 103 of
25 this act.

26 (2) "Department" means the department of community development.

27 (3) "Director" means the director of community development.

28 (4) "Office" means the office of housing affordability and
29 regulation.

1 (5) "Very low-income household" has the same meaning as in section
2 103 of this act.

3 (6) "Low-income household" has the same meaning as in section 103
4 of this act.

5 (7) "Moderate-income household" has the same meaning as in section
6 103 of this act.

7 NEW SECTION. **Sec. 711.** There is created the office of housing
8 affordability and regulation in the department which will serve as the
9 coordinating office within state government for matters relating to the
10 need for, development, placement, and preservation of affordable
11 housing.

12 NEW SECTION. **Sec. 712.** The duties of the office shall include:

13 (1) An analysis of the costs and benefits of state legislation,
14 rules, and administrative actions and their impact on housing
15 affordability;

16 (2) Assisting state agencies and local governments in determining
17 the impact of anticipated actions, legislation, and rules on housing
18 affordability;

19 (3) An investigation of techniques and opportunities for reducing
20 the life cycle housing costs through regulatory reform;

21 (4) Monitoring and addressing major federal regulations and actions
22 that impact housing affordability;

23 (5) An analysis of the impact of state and local regulations on the
24 development and placement of affordable housing;

25 (6) Conducting studies on selected topics that impact the cost of
26 housing;

27 (7) Preparation of and annual status reports on the five-year
28 housing advisory plan required under section 713 of this act; and

1 (8) Other activities as the director deems necessary to aid the
2 state, local governments, and the housing industry in meeting the
3 affordable housing needs of the state.

4 NEW SECTION. **Sec. 713.** (1) The department shall prepare and
5 from time to time amend a five-year housing advisory plan. The purpose
6 of the plan is to document the need for affordable housing in the state
7 and the extent to which that need is being met through public and
8 private sector programs, to facilitate planning to meet the affordable
9 housing needs of the state, and to enable the development of sound
10 strategies and programs for affordable housing. The information in the
11 five-year housing advisory plan must include:

12 (a) An assessment of the state's housing market trends;

13 (b) An assessment of the housing needs of very low-income, low-
14 income, and moderate-income households as defined in section 103 of
15 this act, and special needs populations;

16 (c) An inventory of the supply and geographic distribution of
17 affordable housing units made available through public and private
18 sector programs;

19 (d) A status report on the degree of progress made by the public
20 and private sector toward meeting the housing needs of the state; and

21 (e) Specific policies or proposals for meeting the affordable
22 housing needs of the state.

23 (2)(a) The five-year housing advisory plan required under
24 subsection (1) of this section must be submitted to the legislature on
25 or before January 1, 1993, and subsequent plans must be submitted every
26 five years thereafter.

27 (b) Each January 1st, beginning January 1, 1994, the department
28 shall submit an annual supplementary report detailing the extent to

1 which the state's affordable housing needs were met during the
2 preceding year and recommendations for meeting those needs.

3 (3) There is hereby created a fund in the office of the treasurer
4 known as the Washington housing advisory plan trust fund, to be
5 administered by the department, for the purposes of this chapter. The
6 housing advisory plan trust fund shall include revenue from the sources
7 established by this chapter, appropriations by the legislature, private
8 contributions, and all other sources.

9 NEW SECTION. **Sec. 714.** The following acts or parts of acts, as
10 now existing or hereafter amended, are each repealed effective July 1,
11 1997:

12 (1) RCW 43.---.--- and 1992 c -- s 709 (section 709 of this act);

13 (2) RCW 43.---.--- and 1992 c -- s 710 (section 710 of this act);

14 (3) RCW 43.---.--- and 1992 c -- s 711 (section 711 of this act);

15 (4) RCW 43.---.--- and 1992 c -- s 712 (section 712 of this act);

16 and

17 (5) RCW 43.---.--- and 1992 c -- s 713 (section 713 of this act).

18 **Sec. 715.** RCW 18.85.310 and 1988 c 286 s 2 are each amended to
19 read as follows:

20 (1) Every licensed real estate broker shall keep adequate records
21 of all real estate transactions handled by or through him. The records
22 shall include, but are not limited to, a copy of the earnest money
23 receipt, and an itemization of the broker's receipts and disbursements
24 with each transaction. These records and all other records hereinafter
25 specified shall be open to inspection by the director or his authorized
26 representatives.

27 (2) Every real estate broker shall also deliver or cause to be
28 delivered to all parties signing the same, at the time of signing,

1 conformed copies of all earnest money receipts, listing agreements and
2 all other like or similar instruments signed by the parties, including
3 the closing statement.

4 (3) Every real estate broker shall also keep separate real estate
5 fund accounts in a recognized Washington state depository authorized to
6 receive funds in which shall be kept separate and apart and physically
7 segregated from licensee broker's own funds, all funds or moneys of
8 clients which are being held by such licensee broker pending the
9 closing of a real estate sale or transaction, or which have been
10 collected for said client and are being held for disbursement for or to
11 said client and such funds shall be deposited not later than the first
12 banking day following receipt thereof.

13 (4) Separate accounts comprised of clients' funds required to be
14 maintained under this section, with the exception of property
15 management trust accounts, shall be interest-bearing accounts from
16 which withdrawals or transfers can be made without delay, subject only
17 to the notice period which the depository institution is required to
18 reserve by law or regulation.

19 (5) Every real estate broker shall maintain a pooled interest-
20 bearing escrow account for deposit of client funds, with the exception
21 of property management trust accounts, which are nominal. As used in
22 this section, a "nominal" deposit is a deposit of not more than five
23 thousand dollars.

24 The interest accruing on this account, net of any reasonable and
25 appropriate financial institution service charges or fees, shall be
26 paid to the state treasurer for deposit in the Washington housing trust
27 fund created in RCW 43.185.030. Appropriate service charges or fees
28 are those charges made by financial institutions on other demand
29 deposit or "now" accounts. An agent may, but shall not be required to,
30 notify the client of the intended use of such funds.

1 (6) All client funds not required to be deposited in the account
2 specified in subsection (5) of this section shall be deposited in:

3 (a) A separate interest-bearing trust account for the particular
4 client or client's matter on which the interest will be paid to the
5 client; or

6 (b) The pooled interest-bearing trust account specified in
7 subsection (5) of this section if the parties to the transaction agree.

8 The department of licensing shall promulgate regulations which will
9 serve as guidelines in the choice of an account specified in subsection
10 (5) of this section or an account specified in this subsection.

11 (7) For an account created under subsection (5) of this section, an
12 agent shall direct the depository institution to:

13 (a) Remit interest or dividends, net of any reasonable and
14 appropriate service charges or fees, on the average monthly balance in
15 the account, or as otherwise computed in accordance with an
16 institution's standard accounting practice, at least quarterly, to the
17 state treasurer for deposit in the housing trust fund created by RCW
18 43.185.030, the Washington housing advisory plan trust fund created by
19 section 713(3) of this act, and the real estate commission account
20 created by RCW 18.85.220 as directed by RCW 18.85.315; and

21 (b) Transmit to the director of community development a statement
22 showing the name of the person or entity for whom the remittance is
23 spent, the rate of interest applied, and the amount of service charges
24 deducted, if any, and the account balance(s) of the period in which the
25 report is made, with a copy of such statement to be transmitted to the
26 depositing person or firm.

27 (8) The director shall forward a copy of the reports required by
28 subsection (7) of this section to the department of licensing to aid in
29 the enforcement of the requirements of this section consistent with the

1 normal enforcement and auditing practices of the department of
2 licensing.

3 (9) This section does not relieve any real estate broker from any
4 obligation with respect to the safekeeping of clients' funds.

5 (10) Any violation by a real estate broker of any of the provisions
6 of this section, or RCW 18.85.230, shall be grounds for revocation of
7 the licenses issued to the broker.

8 **Sec. 716.** RCW 18.85.315 and 1987 c 513 s 9 are each amended to
9 read as follows:

10 Remittances received by the treasurer pursuant to RCW 18.85.310
11 shall be divided between the housing trust fund created by RCW
12 43.185.030, which shall receive seventy-five percent, the Washington
13 housing advisory plan trust fund created by section 713(3) of this act,
14 which shall receive ten percent, and the real estate commission account
15 created by RCW 18.85.220, which shall receive ((~~twenty-five~~)) fifteen
16 percent.

17 NEW SECTION. **Sec. 717.** A new section is added to chapter 35.21
18 RCW to read as follows:

19 (1) A city or town may assist moderate-income, first-time
20 homebuyers in the purchase of their principal place of residence by
21 providing either loans, loan guarantees, down payment assistance, or
22 closing costs assistance.

23 The financial assistance authorized under this section shall be
24 authorized by the legislative authority of the city or town. The funds
25 may be used to finance all or a portion of the cost of the residence or
26 to guarantee loans made to first-time homebuyers.

27 (2) To receive assistance under this section the purchaser must
28 meet all of the following requirements:

- 1 (a) The purchaser must be a first-time homebuyer;
- 2 (b) The purchaser must be a moderate-income household; and
- 3 (c) The purchase price of the residence must not exceed ninety
- 4 percent of the average purchase price of single-family residences, as
- 5 determined by the Washington state department of community development,
- 6 in the statistical area in which the residence is located for the most
- 7 recent twelve-month period for which statistical information is
- 8 available.

9 (3) As used in this section:

10 (a) "First-time homebuyer" has the same meaning as in section 103

11 of this act.

12 (b) "Moderate-income household" has the same meaning as in section

13 103 of this act.

14 (c) "Residence" has the same meaning as in section 103 of this act.

15 NEW SECTION. **Sec. 718.** A new section is added to chapter 36.32

16 RCW to read as follows:

17 (1) A county may assist moderate-income, first-time homebuyers in

18 the purchase of their principal place of residence by providing either

19 loans, loan guarantees, down payment assistance, or closing costs

20 assistance.

21 The financial assistance authorized under this section shall be

22 authorized by the legislative authority of the county. The funds may

23 be used to finance all or a portion of the cost of the residence or to

24 guarantee loans made to first-time homebuyers.

25 (2) To receive assistance under this section the purchaser must

26 meet all of the following requirements:

27 (a) The purchaser must be a first-time homebuyer;

28 (b) The purchaser must be a moderate-income household; and

1 (c) The purchase price of the residence must not exceed ninety
2 percent of the average purchase price of single-family residences, as
3 determined by the Washington state department of community development,
4 in the statistical area in which the residence is located for the most
5 recent twelve-month period for which statistical information is
6 available.

7 (3) As used in this section:

8 (a) "First-time homebuyer" has the same meaning as in section 103
9 of this act.

10 (b) "Moderate-income household" has the same meaning as in section
11 103 of this act.

12 (c) "Residence" has the same meaning as in section 103 of this act.

13 NEW SECTION. **Sec. 719.** Sections 717 and 718 of this act shall
14 take effect upon the effective date of the proposed amendment to
15 Article VIII of the state Constitution authorizing financial assistance
16 to first-time homebuyers, if the amendment is validly submitted to and
17 is approved and ratified by the voters at the November 1992 general
18 election. If the proposed amendment is not so approved and ratified,
19 sections 717 and 718 of this act shall be null and void in its
20 entirety.

21 PART VIII

22 TECHNICAL PROVISIONS

23 NEW SECTION. **Sec. 801.** (1) Sections 1 and 101 through 103 of
24 this act shall constitute a new chapter in Title 43 RCW.

25 (2) Sections 203 through 210 of this act shall constitute a new
26 chapter in Title 82 RCW.

1 (3) Sections 230 through 235 of this act shall constitute a new
2 chapter in Title 84 RCW.

3 (4) Sections 237 through 253 of this act shall constitute a new
4 chapter in Title 84 RCW.

5 (5) Sections 303 and 304 of this act are each added to chapter
6 30.60 RCW.

7 (6) Sections 308 and 309 of this act are each added to chapter
8 32.40 RCW.

9 (7) Sections 311 through 315 of this act shall constitute a new
10 chapter in Title 33 RCW.

11 (8) Sections 413 through 415 of this act shall constitute a new
12 chapter in Title 82 RCW.

13 (9) Sections 709 through 714 of this act shall constitute a new
14 chapter in Title 43 RCW.

15 NEW SECTION. **Sec. 802.** Sections 212 through 229 of this act
16 shall take effect July 1, 1992.

17 NEW SECTION. **Sec. 803.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 804.** Part headings as used in this act
22 constitute no part of the law.

23 NEW SECTION. **Sec. 805.** This act may be known and cited as the
24 "Washington housing policy act."