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HOUSE BILL 1605

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives McCune, Klippert, and Harris

Read first time 01/26/11. Referred to Committee on Community Development & Housing.

1 AN ACT Relating to requiring recipients of public funds for housing  
2 to provide an application preference for qualified disabled veterans;  
3 amending RCW 36.70A.540, 36.22.178, 43.185.060, and 43.185A.040; and  
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that disabled veterans  
7 are individuals who were willing to risk their lives serving in the  
8 armed forces of the United States, and who had the misfortune to suffer  
9 injury during their service. Every citizen of the United States  
10 benefits from the presence of our military personnel and their  
11 willingness to put their country and the lives of others before their  
12 own.

13 Despite the boundless debt of gratitude owed to them by their  
14 fellow countrymen, veterans are over represented amongst the homeless  
15 population. More than ninety-nine thousand disabled veterans reside in  
16 Washington. The legislature finds that, if a disabled veteran is in  
17 need of housing and the taxpayers are providing government subsidized  
18 housing, disabled veterans should benefit from the opportunity to  
19 reside in such housing.

1       **Sec. 2.** RCW 36.70A.540 and 2009 c 80 s 1 are each amended to read  
2 as follows:

3       (1)(a) Except as provided in subsection (5) of this section, any  
4 city or county planning under RCW 36.70A.040 may enact or expand  
5 affordable housing incentive programs providing for the development of  
6 low-income housing units through development regulations or conditions  
7 on rezoning or permit decisions, or both, on one or more of the  
8 following types of development: Residential; commercial; industrial;  
9 or mixed-use. An affordable housing incentive program may include, but  
10 is not limited to, one or more of the following:

- 11       (i) Density bonuses within the urban growth area;
- 12       (ii) Height and bulk bonuses;
- 13       (iii) Fee waivers or exemptions;
- 14       (iv) Parking reductions; or
- 15       (v) Expedited permitting.

16       (b) The city or county may enact or expand such programs whether or  
17 not the programs may impose a tax, fee, or charge on the development or  
18 construction of property.

19       (c) If a developer chooses not to participate in an optional  
20 affordable housing incentive program adopted and authorized under this  
21 section, a city, county, or town may not condition, deny, or delay the  
22 issuance of a permit or development approval that is consistent with  
23 zoning and development standards on the subject property absent  
24 incentive provisions of this program.

25       (2) Affordable housing incentive programs enacted or expanded under  
26 this section shall comply with the following:

27       (a) The incentives or bonuses shall provide for the development of  
28 low-income housing units;

29       (b) Jurisdictions shall establish standards for low-income renter  
30 or owner occupancy housing, including income guidelines consistent with  
31 local housing needs, to assist low-income households that cannot afford  
32 market-rate housing. Low-income households are defined for renter and  
33 owner occupancy program purposes as follows:

34       (i) Rental housing units to be developed shall be affordable to and  
35 occupied by households with an income of fifty percent or less of the  
36 county median family income, adjusted for family size;

37       (ii) Owner occupancy housing units shall be affordable to and  
38 occupied by households with an income of eighty percent or less of the

1 county median family income, adjusted for family size. The legislative  
2 authority of a jurisdiction, after holding a public hearing, may  
3 establish lower income levels; and

4 (iii) The legislative authority of a jurisdiction, after holding a  
5 public hearing, may also establish higher income levels for rental  
6 housing or for owner occupancy housing upon finding that higher income  
7 levels are needed to address local housing market conditions. The  
8 higher income level for rental housing may not exceed eighty percent of  
9 the county area median family income. The higher income level for  
10 owner occupancy housing may not exceed one hundred percent of the  
11 county area median family income. These established higher income  
12 levels are considered "low-income" for the purposes of this section;

13 (c) The jurisdiction shall establish a maximum rent level or sales  
14 price for each low-income housing unit developed under the terms of a  
15 program and may adjust these levels or prices based on the average size  
16 of the household expected to occupy the unit. For renter-occupied  
17 housing units, the total housing costs, including basic utilities as  
18 determined by the jurisdiction, may not exceed thirty percent of the  
19 income limit for the low-income housing unit;

20 (d) Where a developer is utilizing a housing incentive program  
21 authorized under this section to develop market rate housing, and is  
22 developing low-income housing to satisfy the requirements of the  
23 housing incentive program, the low-income housing units shall be  
24 provided in a range of sizes comparable to those units that are  
25 available to other residents. To the extent practicable, the number of  
26 bedrooms in low-income units must be in the same proportion as the  
27 number of bedrooms in units within the entire development. The  
28 low-income units shall generally be distributed throughout the  
29 development and have substantially the same functionality as the other  
30 units in the development;

31 (e) Low-income housing units developed under an affordable housing  
32 incentive program shall be committed to continuing affordability for at  
33 least fifty years. A local government, however, may accept payments in  
34 lieu of continuing affordability. The program shall include measures  
35 to enforce continuing affordability and income standards applicable to  
36 low-income units constructed under this section that may include, but  
37 are not limited to, covenants, options, or other agreements to be  
38 executed and recorded by owners and developers;

1       (f) Any government entity providing incentives under subsection  
2 (1)(a) of this section must adopt policies and enforcement mechanisms  
3 to ensure that at least ten percent of all housing units developed  
4 using such incentives are offered to qualified disabled veterans who  
5 meet the qualifications of the housing incentive programs. Housing  
6 units need not be required to remain empty if there are not sufficient  
7 qualified disabled veteran applicants at the time a unit becomes  
8 available.

9       (g) Programs authorized under subsection (1) of this section may  
10 apply to part or all of a jurisdiction and different standards may be  
11 applied to different areas within a jurisdiction or to different types  
12 of development. Programs authorized under this section may be modified  
13 to meet local needs and may include provisions not expressly provided  
14 in this section or RCW 82.02.020;

15       ~~((g))~~ (h) Low-income housing units developed under an affordable  
16 housing incentive program are encouraged to be provided within  
17 developments for which a bonus or incentive is provided. However,  
18 programs may allow units to be provided in a building located in the  
19 general area of the development for which a bonus or incentive is  
20 provided; and

21       ~~((h))~~ (i) Affordable housing incentive programs may allow a  
22 payment of money or property in lieu of low-income housing units if the  
23 jurisdiction determines that the payment achieves a result equal to or  
24 better than providing the affordable housing on-site, as long as the  
25 payment does not exceed the approximate cost of developing the same  
26 number and quality of housing units that would otherwise be developed.  
27 Any city or county shall use these funds or property to support the  
28 development of low-income housing, including support provided through  
29 loans or grants to public or private owners or developers of housing.

30       (3) Affordable housing incentive programs enacted or expanded under  
31 this section may be applied within the jurisdiction to address the need  
32 for increased residential development, consistent with local growth  
33 management and housing policies, as follows:

34       (a) The jurisdiction shall identify certain land use designations  
35 within a geographic area where increased residential development will  
36 assist in achieving local growth management and housing policies;

37       (b) The jurisdiction shall provide increased residential

1 development capacity through zoning changes, bonus densities, height  
2 and bulk increases, parking reductions, or other regulatory changes or  
3 other incentives;

4 (c) The jurisdiction shall determine that increased residential  
5 development capacity or other incentives can be achieved within the  
6 identified area, subject to consideration of other regulatory controls  
7 on development; and

8 (d) The jurisdiction may establish a minimum amount of affordable  
9 housing that must be provided by all residential developments being  
10 built under the revised regulations, consistent with the requirements  
11 of this section.

12 (4) For purposes of this section, "qualified disabled veteran"  
13 means a person who:

14 (a) Meets the definition of "veteran" in RCW 41.04.007;

15 (b) Is rated as disabled by the United States department of  
16 veterans affairs; and

17 (c) Meets the income limitations of this section.

18 (5)(a) After January 1, 2012, a jurisdiction may not enact, expand,  
19 or apply an affordable housing incentive program unless the  
20 jurisdiction has adopted a policy concerning affordable housing for  
21 qualified disabled veterans. At a minimum, such policy must provide  
22 for a tracking mechanism to monitor compliance with the requirement  
23 that an application preference apply for qualified disabled veterans.

24 (b) The jurisdiction shall file with the Washington state  
25 department of veterans affairs a report of compliance with its policy  
26 concerning affordable housing for qualified disabled veterans. The  
27 report must be prepared in the form and within the time frame  
28 prescribed by the director of the department of veterans affairs. The  
29 information in the report must be provided as of the date of the  
30 report, and must set forth:

31 (i) The jurisdiction's current policy concerning affordable housing  
32 for qualified disabled veterans;

33 (ii) The number of housing units in the jurisdiction that were  
34 developed utilizing the housing incentive program;

35 (iii) The number of qualified disabled veterans who applied for  
36 housing in the jurisdiction in housing units developed utilizing the  
37 housing incentive program; and

1        (iv) The number of qualified disabled veterans provided housing in  
2 the jurisdiction in housing units developed utilizing the housing  
3 incentive program.

4        **Sec. 3.** RCW 36.22.178 and 2007 c 427 s 1 are each amended to read  
5 as follows:

6        The surcharge provided for in this section shall be named the  
7 affordable housing for all surcharge.

8        (1) Except as provided in subsections ~~((+3))~~ (4) and (5) of this  
9 section, a surcharge of ten dollars per instrument shall be charged by  
10 the county auditor for each document recorded, which will be in  
11 addition to any other charge authorized by law. The county may retain  
12 up to five percent of these funds collected solely for the collection,  
13 administration, and local distribution of these funds. Of the  
14 remaining funds, forty percent of the revenue generated through this  
15 surcharge will be transmitted monthly to the state treasurer who will  
16 deposit the funds into the affordable housing for all account created  
17 in RCW 43.185C.190. The department of ~~((community, trade, and economic~~  
18 ~~development))~~ commerce must use these funds to provide housing and  
19 shelter for extremely low-income households, including but not limited  
20 to grants for building operation and maintenance costs of housing  
21 projects or units within housing projects that are affordable to  
22 extremely low-income households with incomes at or below thirty percent  
23 of the area median income, and that require a supplement to rent income  
24 to cover ongoing operating expenses.

25        (2) All of the remaining funds generated by this surcharge will be  
26 retained by the county and be deposited into a fund that must be used  
27 by the county and its cities and towns for eligible housing activities  
28 as described in this subsection that serve very low-income households  
29 with incomes at or below fifty percent of the area median income. The  
30 portion of the surcharge retained by a county shall be allocated to  
31 eligible housing activities that serve extremely low and very low-  
32 income households in the county and the cities within a county  
33 according to an interlocal agreement between the county and the cities  
34 within the county consistent with countywide and local housing needs  
35 and policies. A priority must be given to eligible housing activities  
36 that serve extremely low-income households with incomes at or below

1 thirty percent of the area median income. Eligible housing activities  
2 to be funded by these county funds are limited to:

3 (a) Acquisition, construction, or rehabilitation of housing  
4 projects or units within housing projects that are affordable to very  
5 low-income households with incomes at or below fifty percent of the  
6 area median income and that provide an application preference for  
7 qualified disabled veterans for a minimum of ten percent of the units  
8 funded in full or part by revenue generated by the surcharge, including  
9 units for homeownership, rental units, seasonal and permanent farm  
10 worker housing units, and single room occupancy units;

11 (b) Supporting building operation and maintenance costs of housing  
12 projects or units within housing projects eligible to receive housing  
13 trust funds, that are affordable to very low-income households with  
14 incomes at or below fifty percent of the area median income and that  
15 provide an application preference for qualified disabled veterans for  
16 a minimum of ten percent of the units funded in full or part by revenue  
17 generated by the surcharge, and that require a supplement to rent  
18 income to cover ongoing operating expenses;

19 (c) Rental assistance vouchers for housing units that are  
20 affordable to very low-income households with incomes at or below fifty  
21 percent of the area median income, to be administered by a local public  
22 housing authority or other local organization that has an existing  
23 rental assistance voucher program, consistent with or similar to the  
24 United States department of housing and urban development's section 8  
25 rental assistance voucher program standards; and

26 (d) Operating costs for emergency shelters and licensed overnight  
27 youth shelters.

28 (3) For purposes of this section, "qualified disabled veteran"  
29 means a person who:

30 (a) Meets the definition of "veteran" in RCW 41.04.007;

31 (b) Is rated as disabled by the United States department of  
32 veterans affairs; and

33 (c) Meets the income limitations of this section.

34 (4)(a) After January 1, 2012, the county auditor may not impose the  
35 surcharge under this section unless the county has adopted a policy  
36 concerning affordable housing for qualified disabled veterans. At a  
37 minimum, such policy must provide for a tracking mechanism to monitor  
38 compliance with the requirement that an application preference apply

1 for qualified disabled veterans for a minimum of ten percent of the  
2 housing units funded in full or part by funds generated by the  
3 surcharge.

4 (b) The county auditor shall file with the Washington state  
5 department of veterans affairs a report of compliance with its policy  
6 concerning affordable housing for qualified disabled veterans. The  
7 report must be prepared in the form and within the time frame  
8 prescribed by the director of the department of veterans affairs. The  
9 information in the report must be provided as of the date of the  
10 report, and must set forth:

11 (i) The county's current policy concerning affordable housing for  
12 qualified disabled veterans;

13 (ii) The number of housing units in the county funded in full or  
14 part by funds generated by the surcharge;

15 (iii) The number of qualified disabled veterans who applied for  
16 housing in the county in housing units funded in full or part by funds  
17 generated by the surcharge; and

18 (iv) The number of qualified disabled veterans provided housing in  
19 the county in housing units funded in full or part by funds generated  
20 by the surcharge.

21 (5) The surcharge imposed in this section does not apply to  
22 assignments or substitutions of previously recorded deeds of trust.

23 **Sec. 4.** RCW 43.185.060 and 1994 c 160 s 2 are each amended to read  
24 as follows:

25 (1) Except as provided in subsection (2) of this section,  
26 organizations that may receive assistance from the department under  
27 this chapter are local governments, local housing authorities, regional  
28 support networks established under chapter 71.24 RCW, nonprofit  
29 community or neighborhood-based organizations, federally recognized  
30 Indian tribes in the state of Washington, and regional or statewide  
31 nonprofit housing assistance organizations.

32 (2) For organizations that are included in subsection (1) of this  
33 section and that provide housing units directly to low and very low-  
34 income citizens, only those organizations that provide an application  
35 preference favoring qualified disabled veterans are eligible to receive  
36 assistance from the department under this chapter. The application

1 preference must apply to a minimum of ten percent of all housing units  
2 developed under the program by these organizations. For purposes of  
3 this subsection, "qualified disabled veteran" means a person who:

4 (a) Meets the definition of "veteran" in RCW 41.04.007;

5 (b) Is rated as disabled by the United States department of  
6 veterans affairs; and

7 (c) Has an adjusted income of less than fifty percent of the median  
8 family income, adjusted for household size, for the county where the  
9 housing unit is located.

10 (3) Eligibility for assistance from the department under this  
11 chapter also requires compliance with the revenue and taxation laws, as  
12 applicable to the recipient, at the time the grant is made.

13 **Sec. 5.** RCW 43.185A.040 and 1994 c 160 s 4 are each amended to  
14 read as follows:

15 (1) Except as provided in subsection (2) of this section,  
16 organizations that may receive assistance from the department under  
17 this chapter are local governments, local housing authorities,  
18 nonprofit community or neighborhood-based organizations, federally  
19 recognized Indian tribes in the state of Washington, and regional or  
20 statewide nonprofit housing assistance organizations.

21 (2) For organizations that are included in subsection (1) of this  
22 section and that provide housing units directly to low and very low-  
23 income citizens, only those organizations that provide an application  
24 preference favoring qualified disabled veterans are eligible to receive  
25 assistance from the department under this chapter. The application  
26 preference must apply to a minimum of ten percent of all housing units  
27 developed under the program by these organizations. For purposes of  
28 this subsection, "qualified disabled veteran" means a person who:

29 (a) Meets the definition of "veteran" in RCW 41.04.007;

30 (b) Is rated as disabled by the United States department of  
31 veterans affairs; and

32 (c) Meets the definition of "low-income household" in RCW  
33 43.185A.010.

34 (3) Eligibility for assistance from the department under this  
35 chapter also requires compliance with the revenue and taxation laws, as

1 applicable to the recipient, at the time the grant is made.

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