

# HOUSE BILL REPORT

## ESHB 2368

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**As Passed House:**  
February 13, 2014

**Title:** An act relating to a surcharge for local homeless housing and assistance.

**Brief Description:** Concerning a surcharge for local homeless housing and assistance.

**Sponsors:** House Committee on Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Sawyer, Walsh, Gregerson, Jinkins, Orwall, Robinson, Bergquist, Reykdal, Hansen, Van De Wege, Goodman, Sullivan, S. Hunt, Pettigrew, Ryu, Kagi, Lytton, Tarleton, Freeman, Ormsby, Walkinshaw, Morrell, Pollet, Appleton and Riccelli; by request of Washington State Department of Commerce).

**Brief History:**

**Committee Activity:**

Community Development, Housing & Tribal Affairs: 1/21/14, 1/28/14 [DPS];  
Appropriations: 2/10/14 [DPS(CDHT)].

**Floor Activity:**

Passed House: 2/13/14, 62-36.

**Brief Summary of Engrossed Substitute Bill**

- Makes the \$40 local homeless housing and assistance document recording surcharge permanent.

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### HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Appleton, Chair; Sawyer, Vice Chair; Johnson, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Gregerson, Hope, Robinson, Santos and Young.

**Staff:** Sean Flynn (786-7124).

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### HOUSE COMMITTEE ON APPROPRIATIONS

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill by Committee on Community Development, Housing & Tribal Affairs be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle, Cody, Dunshee, Green, Haigh, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, Morrell, Pettigrew, Seaquist, Springer, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 12 members: Representatives Chandler, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Christian, Fagan, Haler, Harris, G. Hunt, Parker, Schmick and Taylor.

**Staff:** Andy Toulon (786-7178).

**Background:**

The State Homeless Housing Program.

The Legislature enacted the Homeless Housing and Assistance Act in 2005, which directs the Department of Commerce (COM) to develop a statewide homeless housing program. The COM must implement the program through a 10-year strategic plan with the goal of reducing homelessness by 50 percent in the state and within each county by 2015. Local governments must develop their own 10-year homeless housing plans in coordination with the statewide plan.

The Local Homeless Housing and Assistance Surcharge.

Both the state and county homeless housing programs receive funding through a local homeless housing and assistance surcharge collected by each county auditor when a document is recorded. The surcharge is applied in addition to any other authorized surcharges as well as any administrative fees collected by the county auditor.

The local homeless housing and assistance surcharge applies to certain documents relating to real property specified in statute including deeds, mortgages, community property agreements, leases, and other documents related to property ownership, as well as other documents pertaining to real property, as determined by the COM. The surcharge specifically does not apply to assignments or substitutions of previously recorded deeds or trusts, or any documents exempted from a recording fee by state law.

The local homeless housing and assistance document surcharge is currently \$40 per recorded document, but is scheduled to drop to \$30 in 2015, and to \$10 in 2017. A separate additional homeless housing and assistance surcharge of \$8 is also collected by each county auditor.

Both the state and the county receive a percentage of the money collected from each surcharge. The funds collected for the local homeless housing and assistance surcharge are distributed as follows:

- 2 percent to the county for collection of the fee;
- 60 percent of the remainder to the county for its homeless housing program, up to 6 percent of which may be used for administering its homeless housing plan; and
- 40 percent of the remainder to the COM for the state homeless housing program, up to 12.5 percent of which may be used for managing the state homeless housing plan.

A city electing to administer its own homeless housing program may receive a specified share of the county's percentage.

Data-Sharing and Reporting on the Recording Surcharge.

Local governments that issue housing vouchers using funds from housing and homeless assistance surcharges must collect data and report to the COM each year on the number of vouchers used in the public, private, and non-profit housing markets. The COM may use a sampling methodology if the county's data is not readily available.

The COM also must report to the Legislature each year on the uses of the surcharge money, including the amount expended, the number of vouchers issued in each market, the number of households that received vouchers, the amount spent on eviction prevention, and the amount spent on tenant rent assistance services.

The COM must work with local governments, interested landlord groups, and housing service agencies to identify successes, barriers, and improvements in how housing vouchers are used with money from surcharges.

Any local government receiving more than \$3.5 million a year from all surcharges for housing and homeless assistance must apply to the Washington State Quality Award Program, or similar assessment organization, for assessment of its management practices.

The data collecting and reporting requirements expire in 2017.

**Summary of Engrossed Substitute Bill:**

The local homeless housing and assistance document recording surcharge is \$40. The sunset provisions reducing the surcharge to \$30 in 2015, and to \$10 in 2017 are removed.

The documents excluded from the local homeless housing and assistance surcharge include:

- assignments or substitutions of previously recorded deeds or trusts;
- documents recording a birth, marriage, divorce, or death;
- any documents otherwise exempted from a recording fee by state law;
- marriage licenses; and
- documents recording a state, county, or city lien, or satisfaction of a lien.

At least 45 percent of the state's share of the surcharge revenue must be used for private rental housing payments. If the COM fails to comply with the reporting requirements on the use of the surcharge revenue, then the Office of Financial Management must withhold the allotment of such funds until it determines that the COM is meeting the reporting requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on July 1, 2015.

### **Staff Summary of Public Testimony (Community Development, Housing & Tribal Affairs):**

(In support) Most of the money from the surcharge goes to local governments who distribute a majority of their share to the private sector. Homelessness funding should not be held hostage year after year for political purposes. The surcharge provides 62 percent of the funds in the state to fund homeless support. Homeless service systems are the providers of last resort for persons in great need. All counties in the state use the surcharge for homelessness services. The Legislature has moved away from general funding and relied more heavily on recording fee funding, so that any reduction in this kind of funding would have a tremendous impact on services. Programs will close without continued funding from the surcharge and rehabilitated people will be forced back into homelessness. Many people who are served have chronic mental and health issues that prevent self-sufficiency and require the services funded by this surcharge. The money is used to support many different organizations that help people get out of emergency shelters and into permanent housing and stay there. This is the largest single source of funding for homeless housing, rent assistance, emergency shelters, and other programs that support the homeless, much of which flows through local agencies. Using performance-based contracts and a data driven system has resulted in a 29 percent reduction in homelessness.

About \$50 million of the recording fees in fiscal years 2013-2015 will go to help place people in private sector housing units. The COM has improved its landlord engagement project and uses a website to connect landlords with tenants. The COM has also increased its documentation of the use of the recording fee money.

Domestic violence is one of the leading causes of homelessness for women and children and many service providers for domestic violence survivors benefit from this funding, especially in providing emergency and community housing resources to help survivors regain stability. Many homeless youth services are funded through the recording fee.

(Opposed) This is not an appropriate method for providing funding for the homeless. Originally, this was supposed to be a temporary funding source to develop local housing programs to address homelessness with permanent funding streams taking over once programs were established. This bill broadens the type of documents, such as divorce documents, that are charged the fee, even though such documents lack a nexus to homelessness. Certain transactions that require filing multiple documents are subject to hundreds of dollars in fees. While there is a great need for homeless services, this mechanism lacks the nexus to those services. The original purpose was to provide homeless services through the private sector. More communication and interaction is required if this is going to become permanent to make sure the private sector is included.

### **Staff Summary of Public Testimony (Appropriations):**

(In support) The document recording surcharge is the largest source of funding for city and county housing programs around the state. The document recording fee is applied to real estate documents such as mortgages and translates to a \$1 a year cost on an annual mortgage. It is a nominal fee when compared to the positive benefit it provides to ending homelessness. Sixty percent of these funds go directly to counties and are used to provide programs that are flexible and tailored to local needs. Approximately \$50 million of the biennial funds

generated go to private sector landlords in the form of vouchers. This is almost half of the funds going to the private rental market.

Since 2006 there has been a 29 percent decrease in overall homelessness and a 74 percent decrease in unsheltered homelessness. If not for the great recession, there would have been more progress. However there is still more that needs to be done. Last week the Office of the Superintendent of Public Instruction came out with an estimate that over 30,000 kids in the K-12 system are homeless at some point during the year. This is an increase of 12 percent over the prior year. The one night count conducted last week found over 3,000 people living on the streets in King County. If these fees are not reauthorized, state funds to ameliorate homelessness will be cut in half and almost all local funds statewide eliminated.

This bill passed the policy committee on a bi-partisan and unanimous basis. The substitute bill extends an exemption for cities in counties on some of the documents subject to the surcharge.

(Opposed) There needs to be provisions to ensure that more of the funds go to traditional private landlords who offer housing to low-income individuals through vouchers and that the funds are not tied to individuals with special needs. Senate Bill 6313 provides a better alternative with a requirement that a minimum of 45 percent of the funding will go to private landlord housing vouchers. The latest information provided by the Department of Commerce indicates that only 29 percent of current funds are going to private rental markets.

House Bill 2368 would make the surcharge permanent. Alternatively, Senate Bill 6313 extends reporting requirements until 2020 and maintains a sunset in 2020 which is important to make sure the Legislature can review how the program is being implemented.

**Persons Testifying** (Community Development, Housing & Tribal Affairs): (In support) Representative Sawyer, prime sponsor; Theresa Slusher, Washington Low Income Housing Finance Commission; Flo Beaumon, Catholic Community Services; Dan Wise, Catholic Community Services of King County; Tedd Kelleher, Department of Commerce; Linda Olsen, Washington State Coalition Against Domestic Violence; Carl Schroeder, Association of Washington Cities; Levi Dineson, Downtown Emergency Service Center; Seth Dawson, Washington Community Action Partnership and Youth Care; and Nick Federici, Washington Low Income Housing Alliance.

(Opposed) Bill Clarke, Washington Realtors; Terry Kohl, Washington Apartment Association; and John Woodring, Manufactured Housing Communities of Washington.

**Persons Testifying** (Appropriations): (In support) Cary Retlin, Department of Commerce; and Carl Schroeder, Association of Washington Cities, and Washington Low-Income Housing Alliance.

(Opposed) John Woodring, Rental Housing Association; and Terry Kohl, Washington Apartment Association.

**Persons Signed In To Testify But Not Testifying** (Community Development, Housing & Tribal Affairs): None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.