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HOUSE BILL 2397

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State of Washington                      64th Legislature                      2016 Regular Session

By Representatives McBride, Robinson, Kuderer, Stanford, Clibborn, Goodman, Walkinshaw, Tarleton, Farrell, Moscoso, and Ormsby

Read first time 01/13/16. Referred to Committee on Community Development, Housing & Tribal Affairs.

1            AN ACT Relating to supporting affordable housing by permitting a  
2 local government fee on demolitions that reduce potential housing  
3 stock; amending RCW 82.02.020; adding a new chapter to Title 35 RCW;  
4 and providing an effective date.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds that the demolition  
7 of existing residential dwellings in Washington's cities has  
8 exacerbated the conversion of existing affordable housing units into  
9 more expensive units. The legislature further finds that the limited  
10 availability of affordable housing has increased the costs to cities  
11 and towns of providing needed services to vulnerable citizens. It is  
12 the intent of the legislature to give cities and towns authorization  
13 to impose a fee on demolitions that will serve to offset in part the  
14 costs to cities and towns arising from the reduction of affordable  
15 housing.

16            NEW SECTION.    **Sec. 2.** The definitions in this section apply  
17 throughout this chapter unless the context clearly requires  
18 otherwise.

1 (1) "Affordable housing development" means the acquisition,  
2 construction, or rehabilitation of residential housing for purposes  
3 of providing affordable housing, as defined in RCW 43.63A.510.

4 (2) "City" means any city or town.

5 (3) "Demolition" has the same meaning as in a city's building or  
6 zoning code or other administrative code, unless a city does not  
7 define "demolition" in code, in which case it means an act or process  
8 within a person's control that results in the removal or destruction  
9 of not less than ninety percent of the structure or building,  
10 including a combination of interior and exterior elements of a  
11 structure or building.

12 (4) "Multifamily residential dwelling" means a structure housing  
13 two or more residential units.

14 (5) "Permit" means the building, construction, demolition, or  
15 other authorization that is required for the demolition of a  
16 principal structure as provided in the city's building or zoning code  
17 or other administrative or municipal code.

18 (6) "Residential dwelling" means a single-family residential  
19 dwelling or a multifamily residential dwelling.

20 NEW SECTION. **Sec. 3.** (1) The governing body of a city may, by  
21 resolution or ordinance, fix and impose a demolition fee for a city  
22 permit issued for the demolition of residential dwellings within the  
23 city, in accordance with the terms of this chapter.

24 (2) The demolition fee may be applied at a rate of:

25 (a) Not more than five thousand dollars per single-family  
26 residential dwelling; or

27 (b) For any multifamily residential dwelling, up to two thousand  
28 five hundred dollars multiplied by the number of units in the  
29 structure, but not more than a total of twenty-five thousand dollars.

30 (3) The moneys collected under this section must be deposited in  
31 an affordable housing fund established by the city and used for  
32 affordable housing development.

33 (4) In addition to the fee imposed in subsection (1) of this  
34 section, any city that imposes a demolition fee authorized under this  
35 section must apply the fee to the demolition of any residential  
36 dwelling owned by the city, unless the city has adopted an affordable  
37 housing development plan on the same property, or at a suitable  
38 alternative location, to replace the demolished residential dwelling.

1 (5) No demolition fee may apply to permits issued under the  
2 following circumstances:

3 (a) For the demolition of a residential dwelling that will be  
4 replaced by one or more residential dwellings that are affordable to  
5 households with an adjusted gross income of up to one hundred twenty  
6 percent of the area median income, adjusted for household size, for  
7 the county where the dwelling is located;

8 (b) For the demolition of a residential dwelling whose owner has  
9 owned and occupied the residential dwelling for a minimum of five  
10 years preceding the date of issuance of the permit and will be  
11 replaced by a residential dwelling that will be owned and occupied by  
12 the same owner for a minimum of five years after the date of issuance  
13 of the permit;

14 (c) For demolition of a residential dwelling whose owner meets  
15 the following criteria:

16 (i) Provides documentation that the demolition is necessary due  
17 to medical reasons;

18 (ii) Has an adjusted gross income of up to one hundred twenty  
19 percent of the area median income, adjusted for household size, for  
20 the county where the dwelling is located; and

21 (iii) Will occupy the replacement residential dwelling;

22 (d) For demolition of a residential dwelling that is deemed  
23 necessary due to an act of God or other factors beyond the owner's  
24 control and reasonable ability to remedy; and

25 (e) Permits issued to a local housing authority, nonprofit  
26 community or neighborhood-based organization, or regional or  
27 statewide nonprofit housing assistance organization, engaged in  
28 affordable housing development.

29 (6) Moneys collected under this section may not be used to  
30 supplant existing federal, state, or local funds.

31 **Sec. 4.** RCW 82.02.020 and 2013 c 243 s 4 are each amended to  
32 read as follows:

33 (1) Except only as expressly provided in chapters 67.28, 81.104,  
34 and 82.14 RCW, the state preempts the field of imposing retail sales  
35 and use taxes and taxes upon parimutuel wagering authorized pursuant  
36 to RCW 67.16.060, conveyances, and cigarettes, and no county, town,  
37 or other municipal subdivision (~~(shall have))~~ has the right to impose  
38 taxes of that nature. Except as provided in RCW 64.34.440, section 3  
39 of this act, and 82.02.050 through 82.02.090, no county, city, town,

1 or other municipal corporation (~~shall~~) may impose any tax, fee, or  
2 charge, either direct or indirect, on the construction or  
3 reconstruction of residential buildings, commercial buildings,  
4 industrial buildings, or on any other building or building space or  
5 appurtenance thereto, or on the development, subdivision,  
6 classification, or reclassification of land. However, this section  
7 does not preclude dedications of land or easements within the  
8 proposed development or plat which the county, city, town, or other  
9 municipal corporation can demonstrate are reasonably necessary as a  
10 direct result of the proposed development or plat to which the  
11 dedication of land or easement is to apply.

12 (2) This section does not prohibit voluntary agreements with  
13 counties, cities, towns, or other municipal corporations that allow a  
14 payment in lieu of a dedication of land or to mitigate a direct  
15 impact that has been identified as a consequence of a proposed  
16 development, subdivision, or plat. A local government (~~shall~~) may  
17 not use such voluntary agreements for local off-site transportation  
18 improvements within the geographic boundaries of the area or areas  
19 covered by an adopted transportation program authorized by chapter  
20 39.92 RCW. Any such voluntary agreement is subject to the following  
21 provisions:

22 ((+1)) (a) The payment (~~shall~~) must be held in a reserve  
23 account and may only be expended to fund a capital improvement agreed  
24 upon by the parties to mitigate the identified, direct impact;

25 ((+2)) (b) The payment (~~shall~~) must be expended in all cases  
26 within five years of collection; and

27 ((+3)) (c) Any payment not so expended (~~shall~~) must be  
28 refunded with interest to be calculated from the original date the  
29 deposit was received by the county and at the same rate applied to  
30 tax refunds pursuant to RCW 84.69.100; however, if the payment is not  
31 expended within five years due to delay attributable to the  
32 developer, the payment (~~shall~~) must be refunded without interest.

33 (3) No county, city, town, or other municipal corporation  
34 (~~shall~~) may require any payment as part of such a voluntary  
35 agreement which the county, city, town, or other municipal  
36 corporation cannot establish is reasonably necessary as a direct  
37 result of the proposed development or plat.

38 (4) Nothing in this section prohibits cities, towns, counties, or  
39 other municipal corporations from collecting reasonable fees from an  
40 applicant for a permit or other governmental approval to cover the

1 cost to the city, town, county, or other municipal corporation of  
2 processing applications, inspecting and reviewing plans, or preparing  
3 detailed statements required by chapter 43.21C RCW, including  
4 reasonable fees that are consistent with RCW 43.21C.420(6),  
5 43.21C.428, and beginning July 1, 2014, RCW 35.91.020.

6 (5) This section does not limit the existing authority of any  
7 county, city, town, or other municipal corporation to impose special  
8 assessments on property specifically benefited thereby in the manner  
9 prescribed by law.

10 (6) Nothing in this section prohibits counties, cities, or towns  
11 from imposing or permits counties, cities, or towns to impose water,  
12 sewer, natural gas, drainage utility, and drainage system charges.  
13 However, no such charge (~~shall~~) may exceed the proportionate share  
14 of such utility or system's capital costs which the county, city, or  
15 town can demonstrate are attributable to the property being charged.  
16 Furthermore, these provisions may not be interpreted to expand or  
17 contract any existing authority of counties, cities, or towns to  
18 impose such charges.

19 (7) Nothing in this section prohibits a transportation benefit  
20 district from imposing fees or charges authorized in RCW 36.73.120  
21 nor prohibits the legislative authority of a county, city, or town  
22 from approving the imposition of such fees within a transportation  
23 benefit district.

24 (8) Nothing in this section prohibits counties, cities, or towns  
25 from imposing transportation impact fees authorized pursuant to  
26 chapter 39.92 RCW.

27 (9) Nothing in this section prohibits counties, cities, or towns  
28 from requiring property owners to provide relocation assistance to  
29 tenants under RCW 59.18.440 and 59.18.450.

30 (10) Nothing in this section limits the authority of counties,  
31 cities, or towns to implement programs consistent with RCW  
32 36.70A.540, nor to enforce agreements made pursuant to such programs.

33 (11) This section does not apply to special purpose districts  
34 formed and acting pursuant to Title 54, 57, or 87 RCW, nor is the  
35 authority conferred by these titles affected.

36 (12) Nothing in this section limits the authority of cities to  
37 implement the demolition fee described in section 3 of this act.

38 NEW SECTION. Sec. 5. Sections 1 through 3 and 6 of this act  
39 constitute a new chapter in Title 35 RCW.

1        NEW SECTION.    **Sec. 6.**    This act takes effect July 1, 2016.

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