
HOUSE BILL 1114

State of Washington

65th Legislature

2017 Regular Session

By Representatives Fey and Tarleton

Read first time 01/11/17. Referred to Committee on Finance.

1 AN ACT Relating to exempting certain leasehold interests in
2 performing arts facilities or arenas from the leasehold excise tax;
3 and reenacting and amending RCW 82.29A.130.

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

5 **Sec. 1.** RCW 82.29A.130 and 2008 c 194 s 1 and 2008 c 84 s 2 are
6 each reenacted and amended to read as follows:

7 The following leasehold interests (~~shall be~~) are exempt from
8 taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

9 (1) All leasehold interests constituting a part of the operating
10 properties of any public utility (~~which~~) that is assessed and taxed
11 as a public utility pursuant to chapter 84.12 RCW.

12 (2) All leasehold interests in facilities owned or used by a
13 school, college or university which leasehold provides housing for
14 students and which is otherwise exempt from taxation under provisions
15 of RCW 84.36.010 and 84.36.050.

16 (3) All leasehold interests of subsidized housing where the fee
17 ownership of such property is vested in the government of the United
18 States, or the state of Washington or any political subdivision
19 thereof but only if income qualification exists for such housing.

20 (4) All leasehold interests used for fair purposes of a nonprofit
21 fair association that sponsors or conducts a fair or fairs which

1 receive support from revenues collected pursuant to RCW 67.16.100 and
2 allocated by the director of the department of agriculture where the
3 fee ownership of such property is vested in the government of the
4 United States, the state of Washington or any of its political
5 subdivisions(~~(: PROVIDED, That)~~). However, this exemption (~~(shall)~~)
6 does not apply to the leasehold interest of any sublessee of such
7 nonprofit fair association if such leasehold interest would be
8 taxable if it were the primary lease.

9 (5) All leasehold interests in any property of any public entity
10 used as a residence by an employee of that public entity who is
11 required as a condition of employment to live in the publicly owned
12 property.

13 (6) All leasehold interests held by enrolled Indians of lands
14 owned or held by any Indian or Indian tribe where the fee ownership
15 of such property is vested in or held in trust by the United States
16 and which are not subleased to other than to a lessee which would
17 qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

18 (7) All leasehold interests in any real property of any Indian or
19 Indian tribe, band, or community that is held in trust by the United
20 States or is subject to a restriction against alienation imposed by
21 the United States(~~(: PROVIDED, That)~~). However, this exemption
22 (~~(shall apply)~~) applies only where it is determined that contract
23 rent paid is greater than or equal to ninety percent of fair market
24 rental, to be determined by the department of revenue using the same
25 criteria used to establish taxable rent in RCW 82.29A.020(2)(~~(b)~~)
26 (g).

27 (8) All leasehold interests for which annual taxable rent is less
28 than two hundred fifty dollars per year. For purposes of this
29 subsection leasehold interests held by the same lessee in contiguous
30 properties owned by the same lessor (~~(shall be)~~) are deemed a single
31 leasehold interest.

32 (9) All leasehold interests which give use or possession of the
33 leased property for a continuous period of less than thirty days:
34 PROVIDED, That for purposes of this subsection, successive leases or
35 lease renewals giving substantially continuous use of possession of
36 the same property to the same lessee (~~(shall be)~~) are deemed a single
37 leasehold interest: PROVIDED FURTHER, That no leasehold interest
38 (~~(shall be)~~) is deemed to give use or possession for a period of less
39 than thirty days solely by virtue of the reservation by the public

1 lessor of the right to use the property or to allow third parties to
2 use the property on an occasional, temporary basis.

3 (10) All leasehold interests under month-to-month leases in
4 residential units rented for residential purposes of the lessee
5 pending destruction or removal for the purpose of constructing a
6 public highway or building.

7 (11) All leasehold interests in any publicly owned real or
8 personal property to the extent such leasehold interests arises
9 solely by virtue of a contract for public improvements or work
10 executed under the public works statutes of this state or of the
11 United States between the public owner of the property and a
12 contractor.

13 (12) All leasehold interests that give use or possession of state
14 adult correctional facilities for the purposes of operating
15 correctional industries under RCW 72.09.100.

16 (13) All leasehold interests used to provide organized and
17 supervised recreational activities for persons with disabilities of
18 all ages in a camp facility and for public recreational purposes by a
19 nonprofit organization, association, or corporation that would be
20 exempt from property tax under RCW 84.36.030(1) if it owned the
21 property. If the publicly owned property is used for any taxable
22 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and
23 82.29A.040 (~~((shall))~~) must be imposed and (~~((shall))~~) must be
24 apportioned accordingly.

25 (14) All leasehold interests in the public or entertainment areas
26 of a baseball stadium with natural turf and a retractable roof or
27 canopy that is in a county with a population of over one million,
28 that has a seating capacity of over forty thousand, and that is
29 constructed on or after January 1, 1995. "Public or entertainment
30 areas" include ticket sales areas, ramps and stairs, lobbies and
31 concourses, parking areas, concession areas, restaurants, hospitality
32 and stadium club areas, kitchens or other work areas primarily
33 servicing other public or entertainment areas, public restroom areas,
34 press and media areas, control booths, broadcast and production
35 areas, retail sales areas, museum and exhibit areas, scoreboards or
36 other public displays, storage areas, loading, staging, and servicing
37 areas, seating areas and suites, the playing field, and any other
38 areas to which the public has access or which are used for the
39 production of the entertainment event or other public usage, and any
40 other personal property used for these purposes. "Public or

1 entertainment areas" does not include locker rooms or private offices
2 exclusively used by the lessee.

3 (15) All leasehold interests in the public or entertainment areas
4 of a stadium and exhibition center, as defined in RCW 36.102.010,
5 that is constructed on or after January 1, 1998. For the purposes of
6 this subsection, "public or entertainment areas" has the same meaning
7 as in subsection (14) of this section, and includes exhibition areas.

8 (16) All leasehold interests in public facilities districts, as
9 provided in chapter 36.100 or 35.57 RCW.

10 (17) All leasehold interests in property that is: (a) Owned by
11 the United States government or a municipal corporation; (b) listed
12 on any federal or state register of historical sites; and (c) wholly
13 contained within a designated national historic reserve under 16
14 U.S.C. Sec. 461.

15 (18)(a) All leasehold interests in the public or entertainment
16 areas of an amphitheater if a private entity is responsible for one
17 hundred percent of the cost of constructing the amphitheater which is
18 not reimbursed by the public owner, both the public owner and the
19 private lessee sponsor events at the facility on a regular basis, the
20 lessee is responsible under the lease or agreement to operate and
21 maintain the facility, and the amphitheater has a seating capacity of
22 over seventeen thousand reserved and general admission seats and is
23 in a county that had a population of over three hundred fifty
24 thousand, but less than four hundred twenty-five thousand when the
25 amphitheater first opened to the public.

26 (b) For the purposes of this subsection (18), "public or
27 entertainment areas" include box offices or other ticket sales areas,
28 entrance gates, ramps and stairs, lobbies and concourses, parking
29 areas, concession areas, restaurants, hospitality areas, kitchens or
30 other work areas primarily servicing other public or entertainment
31 areas, public restroom areas, press and media areas, control booths,
32 broadcast and production areas, retail sales areas, museum and
33 exhibit areas, scoreboards or other public displays, storage areas,
34 loading, staging, and servicing areas, seating areas including lawn
35 seating areas and suites, stages, and any other areas to which the
36 public has access or which are used for the production of the
37 entertainment event or other public usage, and any other personal
38 property used for these purposes. "Public or entertainment areas"
39 does not include office areas used predominately by the lessee.

1 (19) All leasehold interests in real property used for the
2 placement of military housing meeting the requirements of RCW
3 84.36.665.

4 (20)(a) All leasehold interests in the public or entertainment
5 areas of a performing arts facility or arena if the facility or arena
6 has a seating capacity of more than two thousand and is located on
7 property that is owned by a city and:

8 (i) Was formerly the site of a World's Fair; or

9 (ii) Has been in continuous operation since 1983.

10 (b) For the purposes of this subsection (20), "public or
11 entertainment areas" has the same meaning as provided in subsection
12 (18) of this section.

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