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**SENATE BILL 6320**

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**State of Washington**                      **65th Legislature**                      **2018 Regular Session**

**By** Senators Conway, O'Ban, and Darneille

Read first time 01/12/18. Referred to Committee on Ways & Means.

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

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

5            NEW SECTION.    **Sec. 1.**    (1) This section is the tax preference  
6 performance statement for the tax preference in section 2,  
7 chapter . . . , Laws of 2018 (section 2 of this act). This performance  
8 statement is only intended to be used for subsequent evaluation of  
9 the tax preference. It is not intended to create a private right of  
10 action by any party or be used to determine eligibility for  
11 preferential tax treatment.

12            (2) The legislature categorizes this tax preference as one  
13 intended to improve industry competitiveness, as indicated in RCW  
14 82.32.808(2)(b).

15            (3) It is the legislature's specific public policy objective to  
16 exempt certain leasehold interests in performing arts facilities or  
17 arenas from the leasehold excise tax as provided in section 2,  
18 chapter . . . , Laws of 2018 (section 2 of this act) in order to  
19 create an even playing field amongst event venues to improve industry  
20 competitiveness.

1 (4) It is intended that the tax preference in section 2,  
2 chapter . . ., Laws of 2018 (section 2 of this act) be permanent.

3 **Sec. 2.** RCW 82.29A.130 and 2017 3rd sp.s. c 37 s 1303 are each  
4 amended to read as follows:

5 The following leasehold interests are exempt from taxes imposed  
6 pursuant to RCW 82.29A.030 and 82.29A.040:

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

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

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

18 (4) All leasehold interests used for fair purposes of a nonprofit  
19 fair association that sponsors or conducts a fair or fairs which  
20 receive support from revenues collected pursuant to RCW 67.16.100 and  
21 allocated by the director of the department of agriculture where the  
22 fee ownership of such property is vested in the government of the  
23 United States, the state of Washington or any of its political  
24 subdivisions. However, this exemption does not apply to the leasehold  
25 interest of any sublessee of such nonprofit fair association if such  
26 leasehold interest would be taxable if it were the primary lease.

27 (5) All leasehold interests in any property of any public entity  
28 used as a residence by an employee of that public entity who is  
29 required as a condition of employment to live in the publicly owned  
30 property.

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

36 (7) All leasehold interests in any real property of any Indian or  
37 Indian tribe, band, or community that is held in trust by the United  
38 States or is subject to a restriction against alienation imposed by  
39 the United States. However, this exemption applies only where it is

1 determined that contract rent paid is greater than or equal to ninety  
2 percent of fair market rental, to be determined by the department of  
3 revenue using the same criteria used to establish taxable rent in RCW  
4 82.29A.020(2)(g).

5 (8) All leasehold interests for which annual taxable rent is less  
6 than two hundred fifty dollars per year. For purposes of this  
7 subsection leasehold interests held by the same lessee in contiguous  
8 properties owned by the same lessor are deemed a single leasehold  
9 interest.

10 (9) All leasehold interests which give use or possession of the  
11 leased property for a continuous period of less than thirty days:  
12 PROVIDED, That for purposes of this subsection, successive leases or  
13 lease renewals giving substantially continuous use of possession of  
14 the same property to the same lessee are deemed a single leasehold  
15 interest: PROVIDED FURTHER, That no leasehold interest is deemed to  
16 give use or possession for a period of less than thirty days solely  
17 by virtue of the reservation by the public lessor of the right to use  
18 the property or to allow third parties to use the property on an  
19 occasional, temporary basis.

20 (10) All leasehold interests under month-to-month leases in  
21 residential units rented for residential purposes of the lessee  
22 pending destruction or removal for the purpose of constructing a  
23 public highway or building.

24 (11) All leasehold interests in any publicly owned real or  
25 personal property to the extent such leasehold interests arises  
26 solely by virtue of a contract for public improvements or work  
27 executed under the public works statutes of this state or of the  
28 United States between the public owner of the property and a  
29 contractor.

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

33 (13) All leasehold interests used to provide organized and  
34 supervised recreational activities for persons with disabilities of  
35 all ages in a camp facility and for public recreational purposes by a  
36 nonprofit organization, association, or corporation that would be  
37 exempt from property tax under RCW 84.36.030(1) if it owned the  
38 property. If the publicly owned property is used for any taxable  
39 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and  
40 82.29A.040 must be imposed and must be apportioned accordingly.

1 (14) All leasehold interests in the public or entertainment areas  
2 of a baseball stadium with natural turf and a retractable roof or  
3 canopy that is in a county with a population of over one million,  
4 that has a seating capacity of over forty thousand, and that is  
5 constructed on or after January 1, 1995. "Public or entertainment  
6 areas" include ticket sales areas, ramps and stairs, lobbies and  
7 concourses, parking areas, concession areas, restaurants, hospitality  
8 and stadium club areas, kitchens or other work areas primarily  
9 servicing other public or entertainment areas, public rest room  
10 areas, press and media areas, control booths, broadcast and  
11 production areas, retail sales areas, museum and exhibit areas,  
12 scoreboards or other public displays, storage areas, loading,  
13 staging, and servicing areas, seating areas and suites, the playing  
14 field, and any other areas to which the public has access or which  
15 are used for the production of the entertainment event or other  
16 public usage, and any other personal property used for these  
17 purposes. "Public or entertainment areas" does not include locker  
18 rooms or private offices exclusively used by the lessee.

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

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

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

31 (18) All leasehold interests in the public or entertainment areas  
32 of an amphitheater if a private entity is responsible for one hundred  
33 percent of the cost of constructing the amphitheater which is not  
34 reimbursed by the public owner, both the public owner and the private  
35 lessee sponsor events at the facility on a regular basis, the lessee  
36 is responsible under the lease or agreement to operate and maintain  
37 the facility, and the amphitheater has a seating capacity of over  
38 seventeen thousand reserved and general admission seats and is in a  
39 county that had a population of over three hundred fifty thousand,

1 but less than four hundred twenty-five thousand when the amphitheater  
2 first opened to the public.

3 For the purposes of this subsection, "public or entertainment  
4 areas" include box offices or other ticket sales areas, entrance  
5 gates, ramps and stairs, lobbies and concourses, parking areas,  
6 concession areas, restaurants, hospitality areas, kitchens or other  
7 work areas primarily servicing other public or entertainment areas,  
8 public rest room areas, press and media areas, control booths,  
9 broadcast and production areas, retail sales areas, museum and  
10 exhibit areas, scoreboards or other public displays, storage areas,  
11 loading, staging, and servicing areas, seating areas including lawn  
12 seating areas and suites, stages, and any other areas to which the  
13 public has access or which are used for the production of the  
14 entertainment event or other public usage, and any other personal  
15 property used for these purposes. "Public or entertainment areas"  
16 does not include office areas used predominately by the lessee.

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

20 (20) All leasehold interests in facilities owned or used by a  
21 community college or technical college, which leasehold interest  
22 provides:

- 23 (a) Food services for students, faculty, and staff;
- 24 (b) The operation of a bookstore on campus; or
- 25 (c) Maintenance, operational, or administrative services to the  
26 community college or technical college.

27 (21)(a) All leasehold interests in the public or entertainment  
28 areas of a performing arts facility or arena if the facility or arena  
29 has a seating capacity of more than two thousand and is located on  
30 property that is owned by a city and:

- 31 (i) Was formerly the site of a World's Fair; or
- 32 (ii) Has been in continuous operation since 1983.

33 (b) For the purposes of this subsection (21), "public or  
34 entertainment areas" has the same meaning as provided in subsection  
35 (18) of this section.

36 NEW SECTION. Sec. 3. The provisions of RCW 82.38.805(1)(a) do  
37 not apply to this act.

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