H-3256.2

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**HOUSE BILL 2395**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives McBride, Robinson, Kuderer, Clibborn, Senn, Orwall, Stanford, Gregerson, Walkinshaw, Tarleton, Farrell, Peterson, Moscoso, Pollet, and Goodman

AN ACT Relating to supporting affordable housing with a local government fee on condominium conversions; amending RCW 64.34.050 and 82.02.020; adding a new chapter to Title 35 RCW; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that the conversion of existing apartment units into condominiums in Washington's cities has led to a decrease in the availability of affordable housing. The legislature further finds that the limited availability of affordable housing has increased costs to cities and towns of providing needed services to vulnerable citizens. It is the intent of the legislature to give cities and towns authorization to impose a fee on condominium conversions that will serve to offset in part the costs to cities and towns arising from the reduction of affordable housing.

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

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

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

(3) "Conversion condominium," "declarant," and "declaration" have the same meaning as in RCW 64.34.020.

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

NEW SECTION. **Sec.**  (1) The governing body of a city may, by resolution or ordinance, fix and impose a conversion fee for the recording of a declaration of a conversion condominium, as defined in RCW 64.34.020 and 64.34.200, in accordance with the terms of this chapter.

(2) The conversion fee may be applied as follows:

(a) For a multifamily residential dwelling containing two dwelling units, a rate of not more than ninety-five cents per square foot multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure;

(b) For a multifamily residential dwelling containing three dwelling units, a rate of not more than one dollar and forty-two cents per square foot multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure;

(c) For a multifamily residential dwelling containing four dwelling units, a rate of not more than one dollar and ninety cents per square foot multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure;

(d) For a multifamily residential dwelling containing five dwelling units, a rate of not more than two dollars and thirty-eight cents multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure;

(e) For a multifamily residential dwelling containing six dwelling units, a rate of not more than two dollars and eighty-five cents multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure;

(f) For a multifamily residential dwelling containing seven dwelling units, a rate of not more than three dollars and thirty-three cents multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure;

(g) For a multifamily residential dwelling containing eight dwelling units, a rate of not more than three dollars and eighty cents multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure;

(h) For a multifamily residential dwelling containing nine dwelling units, a rate of not more than four dollars and twenty-eight cents multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure; and

(i) For a multifamily residential dwelling containing ten or more dwelling units, a rate of not more than four dollars and seventy-five cents multiplied by the aggregate gross floor area, as defined by the city, of all the residential units in the structure.

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

(4) Any city that imposes a condominium conversion fee authorized under this section must apply the fee to the conversion of any residential dwelling owned by the city, unless the city has adopted an affordable housing development plan on the same property, or at a suitable alternative location, to replace the converted residential dwelling. No conversion fee may apply to a local housing authority, nonprofit community or neighborhood-based organization, or regional or statewide nonprofit housing assistance organization, engaged in affordable housing development.

(5) The declarant must remit the fee at the same time the declarant forwards a copy of the conversion notice to the city as provided in RCW 64.34.440(1)(e).

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

NEW SECTION. **Sec.**  This chapter is not subject to the limitations of RCW 82.02.020.

**Sec.**  RCW 64.34.050 and 1989 c 43 s 1-106 are each amended to read as follows:

(1) Except as provided in section 3 of this act, a zoning, subdivision, building code, or other real property law, ordinance, or regulation may not prohibit the condominium form of ownership or impose any requirement upon a condominium which it would not impose upon a physically identical development under a different form of ownership. Otherwise, no provision of this chapter invalidates or modifies any provision of any zoning, subdivision, building code, or other real property use law, ordinance, or regulation.

(2) This section ((~~shall~~)) does not prohibit a county legislative authority from requiring the review and approval of declarations and amendments thereto and termination agreements executed pursuant to RCW 64.34.268(2) by the county assessor solely for the purpose of allocating the assessed value and property taxes. The review by the assessor ((~~shall~~)) must be done in a reasonable and timely manner.

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

(1) Except only as expressly provided in chapters 67.28, 81.104, and 82.14 RCW, the state preempts the field of imposing retail sales and use taxes and taxes upon parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision ((~~shall have~~)) has the right to impose taxes of that nature. Except as provided in RCW 64.34.440 and 82.02.050 through 82.02.090 and section 3 of this act, no county, city, town, or other municipal corporation ((~~shall~~)) may impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

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

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

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

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

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

(4) Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW, including reasonable fees that are consistent with RCW 43.21C.420(6), 43.21C.428, and beginning July 1, 2014, RCW 35.91.020.

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

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

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

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

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

(10) Nothing in this section limits the authority of cities to implement the conversion fee described in section 3 of this act.

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

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

NEW SECTION. **Sec.**  Sections 1 through 4 and 8 of this act constitute a new chapter in Title 35 RCW.

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

**--- END ---**