H-0761.4

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1536**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives McBride, Springer, Macri, Robinson, Frame, Kloba, Doglio, Chapman, Gregerson, and Stanford

AN ACT Relating to local option tools to promote, preserve, and incentivize affordable housing; amending RCW 82.02.020, 82.46.010, 82.46.035, and 82.14.530; adding a new section to chapter 82.46 RCW; adding a new chapter to Title 84 RCW; adding a new chapter to Title 82 RCW; adding a new chapter to Title 35 RCW; providing an effective date; and declaring an emergency.

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

**PART I**

**Providing Local Governments with Options to Preserve Affordable Housing in their Communities**

NEW SECTION. **Sec.**  The legislature finds that:

(1) Families, senior citizens, and workers with fewer financial resources are more likely to experience unhealthy and unsafe housing conditions;

(2) Healthy homes promote good physical and mental health. When adequate housing protects individuals and families from harmful exposures and provides them with a sense of privacy, security, stability, and control, it can make important contributions to health and well-being;

(3) Affordable housing is a necessary component of strong, thriving neighborhoods with healthy physical and social environments;

(4) Very low-income household renters should have the opportunity to live in homes in neighborhoods close to major infrastructure investments like transit, quality schools for children, and vital services such as health care, grocery shopping, and employment;

(5) Community members with critical occupations, senior citizens, and families are struggling to afford rent around the state;

(6) Rising rents are causing the displacement of very low-income household renters and long-time community members, risking the loss of cultural communities;

(7) Property owners require additional resources to make health, safety, and quality improvements to buildings without raising rents to pay for repairs; and

(8) Communities need a wide range of local tools to create healthy, affordable homes and address affordable housing needs.

NEW SECTION. **Sec.**  It is the purpose of this chapter to give communities a local option to preserve and increase healthy, high-quality affordable rental housing opportunities for very low-income households for which the governing authority has found that there are insufficient healthy affordable housing opportunities. It is also the purpose of this chapter to ensure that housing opportunities are affordable to renters at below market rent levels, as determined by the governing authority, with consideration of community needs, market rental costs, and income levels of renters.

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

(1) "Accessory dwelling unit" means one or more rooms that are located within a single-family dwelling unit or within an accessory structure on the same lot as a single-family dwelling unit.

(2) "Energy and water efficiency standards" means standards substantially equivalent to evergreen sustainable development standards, as established by the Washington state department of commerce.

(3) "Governing authority" means the local legislative authority of a city or county having jurisdiction over the property for which an exemption is sought under this chapter.

(4) "Health and quality standards" means standards substantially equivalent to uniform physical condition standards, as established by the United States department of housing and urban development, or the national healthy housing standard, as established by the national center for healthy housing and the American public health association. The governing authority may use a residential housing inspection program within the jurisdiction that has established the tax exemption, as long as the standards are substantially equivalent to the uniform physical condition standards or the national healthy housing standard.

(5) "High cost area" means a county where the third quarter median house price for the previous year, as reported by the Runstad center for real estate studies at the University of Washington, is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

(6) "Household" means a single person, a family, or unrelated persons living together.

(7) "Multifamily dwelling" means a building consisting of more than one dwelling unit. The governing authority may adopt additional criteria for a building to be considered a multifamily dwelling under this definition.

(8) "Owner" means the property owner of record.

(9) "Permanent residential occupancy" means housing that provides rental occupancy on a nontransient basis. "Permanent residential occupancy" includes a rental accommodation that is leased for a period of at least one month. "Permanent residential occupancy" excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(10) "Property" means a multifamily dwelling not designed as transient accommodations, and the land upon which the dwelling is located. "Property" excludes hotels or motels. "Property" may also include a single-family dwelling and the land upon which the dwelling is located if the governing authority adopts a program for such property as provided in section 109 of this act.

(11) "Rehabilitation improvements" means modifications to existing property made to achieve substantial compliance with energy and water efficiency standards.

(12) "Single-family dwelling unit" means an individual detached dwelling. The governing authority may adopt additional criteria for an individual detached dwelling to be considered a "single-family dwelling unit" under this definition.

(13) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median family income adjusted for family size, for the county in which the project is located, as reported by the United States department of housing and urban development. For cities located in high cost areas, "very low-income household" means a household that has an income at or below sixty percent of the median family income adjusted for family size, for the county in which the project is located.

NEW SECTION. **Sec.**  Pursuant to the provisions of this chapter:

(1) A city governing authority may adopt a property tax exemption program to preserve affordable housing that meets health and quality standards for very low-income households at risk of displacement or that cannot afford market rate housing; and

(2) A county governing authority may adopt a property tax exemption program for unincorporated areas of the county to preserve affordable housing that meets health and quality standards for very low-income households at risk of displacement or that cannot afford market rate housing.

NEW SECTION. **Sec.**  (1) Upon adoption of a property tax exemption program under this chapter, the governing authority must establish standards for rental housing for very low-income households as provided in this chapter, including rent limits and income guidelines consistent with local housing needs, to assist very low-income households that cannot afford market rate housing. Affordable housing units must be:

(a) Below market rent levels as determined by the governing authority; and

(b) Affordable to households with an income of fifty percent or less of the county median family income, adjusted for family size.

(2)(a) The governing authority, after holding a public hearing, may also establish lower income levels or lower rent levels adjusted to serve very low-income household renters in the community.

(b) The governing authority of a high cost area, after holding a public hearing, may also establish higher income levels. The higher income level may not exceed sixty percent of the county area median family income, adjusted for family size.

(3) Rent levels for affordable housing units may not exceed thirty percent of the income limit for the low-income housing unit, as established by the governing authority, and must include tenant paid utilities other than telephone and any mandatory fees required as a condition of tenancy.

NEW SECTION. **Sec. .** (1) The value of residential real property qualifying under this chapter is exempt from ad valorem property taxation, except taxes levied by the state, for a period of fifteen successive years beginning January 1st of the calendar year immediately following the calendar year in which a certificate of tax exemption is filed with the county assessor in accordance with section 112 of this act.

(2) The governing authority may extend the duration of the exemption period under this section by three years for properties meeting energy and water efficiency standards.

(3) The exemption provided in this section is in addition to any tax credits, grants, or other incentives provided by law.

(4) This chapter neither applies to increases in assessed valuation made by the assessor on nonqualifying portions of building or land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

(5) The exemption in this section does not apply to any county property tax unless the governing authority of the county adopts a resolution and notifies the governing authority of the jurisdiction within the county that has established a tax exempt program of its intent to allow the property to be exempt.

(6) The governing authority shall notify local taxing districts in the designated exemption area when a tax exemption program is established under this chapter.

NEW SECTION. **Sec.**  To be eligible for the exemption from property taxation under this chapter, in addition to other requirements set forth in this chapter, the property must be in compliance with the following applicable requirements for the entire exemption period:

(1) Except as provided otherwise in this subsection, a minimum of twenty-five percent of the units in a multiple unit property for which a tax exemption has been applied for under this chapter, must be affordable. To address local market conditions, a governing authority may require that more than twenty-five percent of the units in a multiple unit property are affordable. Affordable units must be comparable in terms of quality and living conditions to market rate units in the building. For the purposes of this subsection, "affordable" has the meaning described in section 105 of this act for "affordable housing units";

(2) At least ninety percent of the units of multiple unit property must be occupied by tenants at the time of application;

(3) The property must be part of a residential or mixed-use project. For purposes of this section, "mixed-use" means residential and commercial;

(4) The property must provide for a minimum of fifty percent of the space in each building for permanent residential occupancy;

(5) The property must meet guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents, health and quality standards, and other adopted requirements indicated as necessary by the governing authority. The required amenities must be relative to the size of the project and tax benefit to be obtained; and

(6) The property owner must enter into a contract with the city or county approved by the governing authority, or an administrative official or commission authorized by the governing authority, under which the property owner has agreed to terms and conditions satisfactory to the governing authority.

NEW SECTION. **Sec.**  (1) To be eligible for the tax exemption under this chapter, the property must also comply with all applicable land use regulations, zoning requirements, and building and housing code requirements, including space and occupancy, structural, mechanical, fire, safety, and security standards, and health and quality standards. The governing authority may establish additional standards to meet local needs.

(2) The property must be inspected for compliance with subsection (1) of this section at the time of application for a tax exemption under this chapter and, thereafter, at least once every three years as established by the governing authority.

(3) The governing authority or its duly authorized representative may deny an application for a tax exemption under this chapter or revoke an existing tax exemption under this chapter for failure to comply with health and quality standards.

NEW SECTION. **Sec.**  (1) A governing authority may establish additional requirements for tax exemption eligibility or program rules under this chapter including, but not limited to:

(a) A limit on the total number of affordable housing units eligible for a tax exemption under this chapter;

(b) The designation of targeted residential areas for property to align with community needs, including to prevent displacement, preserve cultural communities, and provide affordable housing options near community infrastructure such as transportation or public schools;

(c) Standards for property size, unit size, unit type, mix of unit types, or mix of unit sizes;

(d) An extension for a tax exemption under this chapter for property meeting minimum energy and water efficiency standards substantially equivalent to evergreen sustainable development building performance standards;

(e) A program for single-family dwelling rental units or accessory dwelling units occupied by tenants complying with affordability requirements under this chapter as adopted by the governing authority;

(f) Any additional requirements to reduce displacement of very low-income household tenants.

(2) The governing authority must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under this chapter. The standards and guidelines must establish basic requirements to include:

(a) An application process and procedures;

(b) Guidelines that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents, health and quality standards, and other adopted requirements indicated as necessary by the governing authority. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(c) An inspection policy and procedures to ensure the property complies with health and quality standards;

(d) Income and rent limits as required under section 105 of this act; and

(e) Documentation necessary to establish income eligibility of households in affordable housing units.

(3) Standards may apply to part or all of a jurisdiction and different standards may be applied to different areas within a jurisdiction or to different types of development. Programs authorized under this section may be modified to meet local needs and may include provisions not expressly provided in this section.

NEW SECTION. **Sec.**  An owner of property making an application under this chapter must apply by August 1st of the year prior to the first calendar year in which the taxes for collection are to be considered for a tax exemption and must meet the following requirements:

(1) The applicant must apply to the city or county on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested exemption, including information indicated on the application form or in the guidelines;

(b) A description of the project and site plan, including the floor plan of units and other information requested;

(c) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter;

(d) When the governing authority finds that rehabilitation is required to meet evergreen sustainable development building performance standards, a rehabilitation plan outlining rehabilitation improvements, budget, and proposed schedule for repairs; and

(e) A certification of family size and annual income in a form acceptable to the governing authority for designated affordable housing units;

(2) The applicant must verify the application by oath or affirmation; and

(3) The applicant must submit a fee, if any, with the application as required under this chapter. The governing authority may permit the applicant to revise an application before final action by the governing authority.

NEW SECTION. **Sec.**  (1) Upon receipt of an application meeting the requirements of section 110 of this act, the governing authority must inspect the property to certify compliance with health and quality standards.

(2) The duly authorized administrative official or committee of the governing authority may approve the application if it finds that:

(a) The property meets the affordable housing requirements as described in section 105 of this act;

(b) The property meets health and quality standards; and

(c) The owner has complied with all standards and guidelines adopted by the governing authority under this chapter.

NEW SECTION. **Sec.**  (1) The governing authority, or an administrative official or commission authorized by the governing authority, must approve or deny an application filed under this chapter within one hundred twenty days. The governing authority may adopt standards to extend the period to approve or deny an application filed under this chapter for a property that does not meet health and quality standards.

(2) If the application is approved, the governing authority must issue the owner of the property a certificate of tax exemption and file the certificate of tax exemption with the county assessor no later than December 1st of the year prior to the first calendar year in which the taxes for collection are to be exempt. If the certificate of tax exemption is filed after December 1st and before January 1st, the certificate of tax exemption is deemed filed in the next calendar year. The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required findings indicated in this chapter.

(3)(a) If the application is denied by the authorized administrative official or commission authorized by the governing authority, the deciding administrative official or commission must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(b) Upon denial by the authorized administrative official or commission, an applicant may appeal the denial to the governing authority within thirty days after receipt of the denial. The appeal before the governing authority must be based upon the record made before the administrative official or commission with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official or commission's decision. The decision of the governing body in denying or approving the application is final.

NEW SECTION. **Sec.**  The governing authority may establish an application fee or other fees to not exceed an amount determined to be required to cover the cost to be incurred by the governing authority and the assessor in administering this chapter. The application fee, if established, must be paid at the time the application is submitted. If the application is approved, the governing authority must pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the governing authority may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

NEW SECTION. **Sec.**  The authorized representative of the governing authority must notify the applicant that a certificate of tax exemption will be denied or canceled if the authorized representative determines that:

(1) The affordable housing requirements as described in section 105 of this act were not met;

(2) The property did not meet health and quality standards; or

(3) The owner's property is otherwise not qualified for limited exemption under this chapter.

NEW SECTION. **Sec.**  (1) The owner of property receiving a tax exemption under this chapter must obtain from each tenant living in designated affordable housing units, no less than annually, a certification of family size and annual income in a form acceptable to the governing authority.

(2) The property owner must file a report at least annually by a date established by the governing authority indicating the following:

(a) Family size and annual income for each tenant living in designated affordable housing rental units and a statement that the property is in compliance with affordable housing requirements described in section 105 of this act;

(b) A statement of occupancy and vacancy;

(c) A schedule of rents charged in market rate units;

(d) A certification that the property has not changed use;

(e) A description of changes or improvements;

(f) When rehabilitation is required to meet evergreen sustainable development building performance standards, a progress report on compliance with the rehabilitation plan, budget, and proposed schedule for repairs; and

(g) Any other information required to determine compliance with program requirements or to measure program performance.

(3) A governing authority that issues certificates of tax exemption for property that conform to the requirements of this chapter must report annually by July 1st to the department of commerce the following information:

(a) The number of tax exemption certificates granted;

(b) The number and type of units in building properties receiving a tax exemption;

(c) The number and type of units meeting affordable housing requirements;

(d) The total monthly rent amount for each affordable and market rate unit; and

(e) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

NEW SECTION. **Sec.**  (1) After a certificate of exemption has been filed with the county assessor, a tax exemption, for which a certificate of tax exemption has been filed with the county assessor, must be canceled by the authorized representative of the governing authority if any of the following circumstances occur:

(a) The owner intends to convert the property to another use that is not residential or the owner intends to discontinue compliance with affordable housing requirements;

(b) The owner fails to file annual reports;

(c) The owner fails to maintain the property in substantial compliance with all applicable local building, safety, and health code requirements;

(d) The owner fails to meet affordable housing requirements.

(2)(a) Notification of a canceled certificate of tax exemption must be made by the governing authority or authorized representative of the governing authority to the county assessor within thirty days of the cancellation. Upon notice of a canceled certificate of tax exemption, additional real property tax must be imposed upon the value of the improvements and land that no longer qualify for exemption under this chapter in the amount that would have been imposed had the property not been exempt under this act, plus a penalty of twenty percent of the additional tax. This additional tax is calculated from January 1st of the year the certificate of tax exemption first became effective.

(b) Interest must be included upon the amounts of the additional tax at the same rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the property had been assessed at a value without regard to this chapter.

(c) The additional tax, penalty, and interest must be collected by the county treasurer. The additional tax must be distributed by the county treasurer in the same manner in which current property taxes applicable to the subject property are distributed. The additional taxes, penalty, and interest must be payable in full thirty days following the date on which the treasurer's statement of additional tax due is issued.

(d) The additional tax owed together with the interest and penalty becomes a lien on the land and attaches at the time the property or portion of the property is removed from use as affordable housing or the amenities no longer meet applicable requirements, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon the expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent.

(e) The county auditor may not accept an instrument of conveyance unless the additional tax, interest, and penalty has been paid or the governing authority or authorized representative has determined that the property is not subject to the additional tax, interest, or penalty.

(f) A certificate of tax exemption may be continued for the remainder of the tax exemption period upon sale or transfer of all or a portion of the exempt property to a new owner, if the new owner has signed a notice of exemption continuance. The notice of exemption continuance must be in a form approved by the governing authority or its authorized representative. If the notice of exemption continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional tax, penalty, and interest calculated in accordance with this section become due and payable by the owner, including the seller or transferor, at time of sale.

(3) Upon a determination that a property tax exemption is to be canceled for any reason stated in this section, the governing authority or authorized representative of the governing authority must notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority or authorized representative within thirty days by filing a notice of appeal with the clerk of the governing authority, which must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598.

(4) Upon the expiration of the tax exemption period or upon cancellation of the exemption, the value of rehabilitation improvements to the property, not previously considered as new construction during the exemption period, must be considered as new construction for purposes of calculating levies under chapter 84.55 RCW.

NEW SECTION. **Sec.**  Tenant identifying information and income data obtained by the governing authority and the assessor may be used only to administer this affordable housing exemption. Notwithstanding any provision of law to the contrary, absent written consent by the person about whom the information or facts have been obtained, the tenant identifying information and income data may not be disclosed by the jurisdiction or assessor or their agents or employees to anyone other than their agents or employees except in an administrative or judicial proceeding pertaining to the taxpayer's entitlement to the tax exemption.

NEW SECTION. **Sec.**  The exemption in this chapter is effective for taxes levied for collection in 2018 and thereafter.

**PART II**

**New Local Incentives to Generate Multifamily Development and Support Public Infrastructure**

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

(1) "Affordable housing" means residential housing units for rental occupancy that are rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty-percent of the person's or household's monthly income.

(2) "City" means any first-class city as defined in RCW 35.01.010 or any second-class city as defined in RCW 35.01.020.

(3) "Department" means the department of commerce.

(4) "Local infrastructure" has the same meaning as provided for "public improvements" under RCW 39.104.020(18).

(5) "Local sales and use tax" means the local revenue derived from the imposition of taxes authorized in RCW 82.14.030.

(6) "Low-income housing" means residential housing units that are available to persons with annual incomes at or below sixty percent of the county's median income as determined by the office of financial management.

NEW SECTION. **Sec.**  (1) Subject to the requirements of this chapter, a city that acquires or builds affordable housing may receive a one-time remittance from the department of revenue that is the equivalent of 4.37 percent of the sales or use tax on the construction or purchase of such affordable housing. The remittance received by a city under this section must be credited against the sales or use tax due to the state under chapter 82.08 RCW on the same sales. The remittance under this section is subject to the city's application and approval under section 204 of this act. The residential units for which the city's remittance application was approved must remain affordable housing for at least twenty-five years after the date of the application approval.

(2) A city that builds approved local infrastructure to facilitate the development of affordable housing may receive a one-time remittance that is the equivalent of a 4.37 percent sales or use tax on the construction of such local infrastructure. The remittance received by the city under this section must be credited against the sales tax due to the state under chapter 82.08 RCW on the same sales. The remittance under this section is subject to application and approval under section 204 of this act.

NEW SECTION. **Sec.**  If a city's application for a remittance is approved under section 204 of this act:

(1) The city must create an affordable housing and local infrastructure account to be used solely for the city's acquisition or construction of affordable housing or local infrastructure; and

(2) The city must deposit into the affordable housing and local infrastructure account created in subsection (1) of this section 0.85 percent of any local sales and use taxes collected by the city on sales or uses related to the acquisition or construction of affordable housing or local infrastructure by taxpayers within the city's taxing jurisdiction.

NEW SECTION. **Sec.**  (1) Prior to applying to receive a remittance under this chapter, a city must apply and be approved for the city's project to acquire or construct affordable housing or local infrastructure. The project may include affordable housing only, local infrastructure only, or a combination of the two. The application must be in the manner and form prescribed by the department and must include, but not be limited to:

(a) In the case of the affordable housing program:

(i) Information establishing the need for affordable housing in that city;

(ii) The anticipated cost of acquiring or building the affordable housing;

(iii) The estimated annual operating costs for the affordable housing for twenty-five years;

(iv) The amount of the remittance it is requesting; and

(v) The date of expected remittance; and

(b) In the case of the local infrastructure program:

(i) Information establishing that the local infrastructure is needed for an approved private project that will provide affordable residential development;

(ii) The anticipated cost of the project;

(iii) The amount of remittance it is requesting; and

(iv) The date of the expected remittance.

(2) Remittance awards must be determined based on:

(a) For affordable housing:

(i) The immediate need for affordable housing in the requesting city;

(ii) The number of affordable housing units that will be created;

(iii) The city's rental vacancy rate for residential units; and

(iv) The speed with which the project can begin; and

(b) For local infrastructure projects:

(i) The speed with which the project can begin;

(ii) The type of residential development being attracted by the infrastructure investment, prioritized as follows:

(A) Low-income rental residential units;

(B) Affordable rental residential units;

(C) Low-income homeownership projects; and

(D) Affordable homeownership projects; and

(iii) The extent the project will leverage the public funds with private investment.

(3)(a) The department must notify the city of approval or denial within sixty days of receipt of application. Determination by the department is final.

(b) Upon approval by the department, the city may apply to the department of revenue for a remittance under this chapter.

(4) The department must accept applications and begin approving project awards as of January 1, 2018.

(5) No applications may be submitted under this chapter after January 1, 2023.

**PART III**

**New Local Revenue Options to Address Community Needs**

**SUBPART A**

**Supporting Affordable Housing by Permitting a Local Government Fee on Demolitions that Reduce Potential Housing Stock**

NEW SECTION. **Sec.**  The legislature finds that the demolition of existing residential dwellings in Washington's cities has exacerbated the conversion of existing affordable housing units into more expensive units. The legislature further finds that the limited availability of affordable housing has increased the 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 demolitions 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) "Demolition" has the same meaning as in a city's building or zoning code or other administrative code, unless a city does not define "demolition" in code, in which case it means an act or process within a person's control that results in the removal or destruction of not less than ninety percent of the structure or building, including a combination of interior and exterior elements of a structure or building.

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

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

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

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

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

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

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

(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) In addition to the fee imposed in subsection (1) of this section, any city that imposes a demolition fee authorized under this section must apply the fee to the demolition 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 demolished residential dwelling.

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

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

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

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

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

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

(iii) Will occupy the replacement residential dwelling;

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

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

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

**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, section 303 of this act, and 82.02.050 through 82.02.090, 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 counties, cities, or towns to implement programs consistent with RCW 36.70A.540, nor to enforce agreements made pursuant to such programs.

(11) 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.

(12) Nothing in this section limits the authority of cities to implement the demolition fee described in section 303 of this act.

**SUBPART B**

**Concerning Local Real Estate Excise Tax**

NEW SECTION. **Sec.**  A new section is added to chapter 82.46 RCW to read as follows:

(1) The legislative authority of a city or county, as permitted under subsection (2) of this section, may impose an additional excise tax on the sale of real property in the city at the rate of up to one-quarter of one percent of the selling price. The proceeds of the tax must be used exclusively for the development of affordable housing, including the acquisition, building, rehabilitation, and maintenance of the housing, except up to three percent of the proceeds may be used for the administration of affordable housing programs by the affordable housing entity receiving the proceeds of the tax. Any tax imposed by a city under this subsection must be credited against the same tax imposed by a county.

(2) Any city or county with a population of less than one million residents may impose the excise tax upon the enactment of this chapter. Any county with a population greater than one million residents may impose the excise tax after October 1, 2020.

(3)(a) Within three months after the tax has been authorized, the affordable housing entity designated by the city or county must establish a mechanism for receiving grant and loan applications, and criteria by which the applications will be approved and funded.

(b) The city or county enacting the tax imposed under this section must hold at least one public hearing in respect to the mechanism and criteria to be established under (a) of this subsection.

(4) Revenues generated from the tax imposed under this section must be placed in an affordable housing account administered by the affordable housing entity. Disbursements from the account must be in accordance with criteria adopted under subsection (3) of this section.

(5) The tax authorized under this section is imposed in the same manner and on the same occurrences, and is subject to the same conditions, as the tax under chapter 82.45 RCW for taxable events occurring within the city or county imposing the tax. The imposition of the tax is effective no sooner than sixty days after the ordinance establishing the tax is authorized by the city or county legislative body and the effective date must be on the first day of a calendar quarter.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Affordable housing" means housing units in which rent levels may not exceed thirty percent of the income limit for the low-income housing unit.

(i) Rental housing units must be affordable to and occupied by households with an income of sixty percent or less of the county median family income, adjusted for family size.

(ii) Owner occupancy housing units must be affordable to and occupied by households with an income of eighty percent or less of the county median family income, adjusted for family size.

(b) "Affordable housing entity" means local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide housing assistance nonprofit organizations or cooperatives.

(7) Affordable housing units funded by the tax authorized under this section must constitute affordable housing for a minimum of fifty years.

**SUBPART C**

**Providing Authority to Utilize Existing Real Estate Excise Tax**

**Sec.**  RCW 82.46.010 and 2015 2nd sp.s. c 10 s 1 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2)(a) The legislative authority of any county or any city may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. The revenues from this tax must be used by any city or county with a population of five thousand or less and any city or county that does not plan under RCW 36.70A.040 for:

(i) Any capital purpose identified in a capital improvements plan and local capital improvements, including those listed in RCW 35.43.040; or

(ii) The development of affordable housing including acquisition, building, rehabilitation, and maintenance and operation of housing for very low, low, and moderate-income persons and those with special needs.

(b) After April 30, 1992, revenues generated from the tax imposed under this subsection (2) in counties over five thousand population and cities over five thousand population that are required or choose to plan under RCW 36.70A.040 must be used solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450. However, revenues (i) pledged by such counties and cities to debt retirement prior to April 30, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (ii) committed prior to April 30, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the legislative authority of any county or any city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

(4) Taxes imposed under this section must be collected from persons who are taxable by the state under chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

(5) Taxes imposed under this section must comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under chapter 82.45 RCW.

(6) The definitions in this subsection (6) apply throughout this section unless the context clearly requires otherwise.

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

(b) "Capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets; roads; highways; sidewalks; street and road lighting systems; traffic signals; bridges; domestic water systems; storm and sanitary sewer systems; parks; recreational facilities; law enforcement facilities; fire protection facilities; trails; libraries; administrative facilities; judicial facilities; river flood control projects; waterway flood control projects by those jurisdictions that, prior to June 11, 1992, have expended funds derived from the tax authorized by this section for such purposes; until December 31, 1995, housing projects for those jurisdictions that, prior to June 11, 1992, have expended or committed to expend funds derived from the tax authorized by this section or the tax authorized by RCW 82.46.035 for such purposes; and technology infrastructure that is integral to the capital project.

(7) From July 22, 2011, until December 31, 2016, a city or county may use the greater of one hundred thousand dollars or thirty-five percent of available funds under this section, but not to exceed one million dollars per year, for the operations and maintenance of existing capital projects as defined in subsection (6) of this section.

**Sec.**  RCW 82.46.035 and 2011 c 354 s 3 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) and any city within such a county may only adopt an ordinance imposing the excise tax authorized by this section if the ordinance is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters.

(3) Revenues generated from the tax imposed under subsection (2) of this section must be used by such counties and cities ((~~solely~~)) for financing capital projects specified in a capital facilities plan element of a comprehensive plan or for the development of affordable housing including acquisition, building, rehabilitation, and maintenance and operation of housing for very low, low, and moderate-income persons and those with special needs. However, revenues (a) pledged by such counties and cities to debt retirement prior to March 1, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to March 1, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(4) Revenues generated by the tax imposed by this section must be deposited in a separate account.

(5) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems, and planning, construction, reconstruction, repair, rehabilitation, or improvement of parks.

(6) When the governor files a notice of noncompliance under RCW 36.70A.340 with the secretary of state and the appropriate county or city, the county or city's authority to impose the additional excise tax under this section is temporarily rescinded until the governor files a subsequent notice rescinding the notice of noncompliance.

(7) From June 30, 2012, until December 31, 2016, a city or county may use the greater of one hundred thousand dollars or thirty‑five percent of available funds under this section, but not to exceed one million dollars per year, for operations and maintenance of existing capital projects as defined in subsection (5) of this section, and counties may use available funds under this section for the payment of existing debt service incurred for capital projects as defined in RCW 82.46.010. If a county uses available funds for payment of existing debt service under RCW 82.46.010, the total amount used for payment of debt service and any amounts used for operations and maintenance is subject to the limits in this subsection.

**SUBPART D**

**Making Certain Affordable Housing Sales Tax Authority Councilmanic**

**Sec.**  RCW 82.14.530 and 2015 3rd sp.s. c 24 s 701 are each amended to read as follows:

(1)(a) A county legislative authority may ((~~submit an authorizing proposition to the county voters at a special or general election and, if the proposition is approved by a majority of persons voting,~~)) impose a sales and use tax in accordance with the terms of this chapter. ((~~The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used.~~)) The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(b)(i) If a county with a population of one million five hundred thousand or less has not imposed the full tax rate authorized under (a) of this subsection within two years of October 9, 2015, any city legislative authority located in that county may ((~~submit an authorizing proposition to the city voters at a special or general election and, if the proposition is approved by a majority of persons voting,~~)) impose the whole or remainder of the sales and use tax rate in accordance with the terms of this chapter. ((~~The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used.~~)) The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(ii) If a county with a population of greater than one million five hundred thousand has not imposed the full tax authorized under (a) of this subsection within three years of October 9, 2015, any city legislative authority located in that county may ((~~submit an authorizing proposition to the city voters at a special or general election and, if the proposition is approved by a majority of persons voting,~~)) impose the whole or remainder of the sales and use tax rate in accordance with the terms of this chapter. ((~~The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used.~~)) The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(c) If a county imposes a tax authorized under (a) of this subsection after a city located in that county has imposed the tax authorized under (b) of this subsection, the county must provide a credit against its tax for the full amount of tax imposed by a city.

(d) The taxes authorized in this subsection are in addition to any other taxes authorized by law and must be collected from persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's tax**.**

(2)(a) Notwithstanding subsection (4) of this section, a minimum of sixty percent of the moneys collected under this section must be used for the following purposes:

(i) Constructing affordable housing, which may include new units of affordable housing within an existing structure, and facilities providing housing-related services; or

(ii) Constructing mental and behavioral health-related facilities; or

(iii) Funding the operations and maintenance costs of new units of affordable housing and facilities where housing-related programs are provided, or newly constructed evaluation and treatment centers.

(b) The affordable housing and facilities providing housing-related programs in (a)(i) of this subsection may only be provided to persons within any of the following population groups whose income is at or below sixty percent of the median income of the county imposing the tax:

(i) Persons with mental illness;

(ii) Veterans;

(iii) Senior citizens;

(iv) Homeless, or at-risk of being homeless, families with children;

(v) Unaccompanied homeless youth or young adults;

(vi) Persons with disabilities; or

(vii) Domestic violence survivors.

(c) The remainder of the moneys collected under this section must be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs and services or housing-related services.

(3) A county that imposes the tax under this section must consult with a city before the county may construct any of the facilities authorized under subsection (2)(a) of this section within the city limits.

(4) A county that has not imposed the tax authorized under RCW 82.14.460 prior to October 9, 2015, but imposes the tax authorized under this section after a city in that county has imposed the tax authorized under RCW 82.14.460 prior to October 9, 2015, must enter into an interlocal agreement with that city to determine how the services and provisions described in subsection (2) of this section will be allocated and funded in the city.

(5) To carry out the purposes of subsection (2)(a) and (b) of this section, the legislative authority of the county or city imposing the tax has the authority to issue general obligation or revenue bonds within the limitations now or hereafter prescribed by the laws of this state, and may use, and is authorized to pledge, up to fifty percent of the moneys collected under this section for repayment of such bonds, in order to finance the provision or construction of affordable housing, facilities where housing-related programs are provided, or evaluation and treatment centers described in subsection (2)(a)(iii) of this section.

(6)(a) Moneys collected under this section may be used to offset reductions in state or federal funds for the purposes described in subsection (2) of this section.

(b) No more than ten percent of the moneys collected under this section may be used to supplant existing local funds.

**PART IV**

**Miscellaneous Provisions**

NEW SECTION. **Sec.**  Sections 301 through 304 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2017.

NEW SECTION. **Sec.**  Sections 101 through 118 of this act constitute a new chapter in Title 84 RCW.

NEW SECTION. **Sec.**  Sections 201 through 204 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  Sections 301 through 303 and 401 of this act constitute a new chapter in Title 35 RCW.

**--- END ---**