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**HOUSE BILL 2538**

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

**By** Representatives McBride, Barkis, Appleton, Peterson, Springer, Slatter, Gregerson, Kagi, Wylie, Chapman, Senn, Stanford, Kloba, and Santos

AN ACT Relating to exempting impact fees for low-income housing development; amending RCW 82.02.060; providing an effective date; and declaring an emergency.

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

**Sec.**  RCW 82.02.060 and 2012 c 200 s 1 are each amended to read as follows:

(1) The local ordinance by which impact fees are imposed:

((~~(1) Shall~~)) (a) Must include a schedule of impact fees ((~~which shall be~~)) that are adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule ((~~shall~~)) must be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees ((~~shall~~)) must incorporate, among other things, the following:

((~~(a)~~)) (i) The cost of public facilities necessitated by new development;

((~~(b)~~)) (ii) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

((~~(c)~~)) (iii) The availability of other means of funding public facility improvements;

((~~(d)~~)) (iv) The cost of existing public facilities improvements; and

((~~(e)~~)) (v) The methods by which public facilities improvements were financed;

((~~(2)~~)) (b) May provide an exemption for ((~~low-income housing, and other~~)) development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity ((~~shall be~~)) are paid from public funds other than impact fee accounts;

((~~(3)~~)) (c) May provide an exemption from impact fees for low-income housing((~~. Local governments that grant exemptions for low-income housing under this subsection (3) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts. An exemption for low-income housing granted under subsection (2) of this section or~~)) up to one hundred percent of impact fees, with no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts. An exemption for low-income housing granted under this subsection ((~~(3)~~)) (1)(c) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. Covenants required by this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under ((~~subsection (2) of this section or~~)) this subsection ((~~(3)~~)) (1)(c) for low-income housing may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under ((~~subsection (2) of this section or~~)) this subsection ((~~(3)~~)) (1)(c);

((~~(4) Shall~~)) (d) Must provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

((~~(5) Shall~~)) (e) Must allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

((~~(6) Shall~~)) (f) Must include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

((~~(7) Shall~~)) (g) Must establish one or more reasonable service areas within which it ((~~shall~~)) calculates and imposes impact fees for various land use categories per unit of development; and

((~~(8)~~)) (h) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee ((~~shall~~)) may not be imposed to make up for any system improvement deficiencies.

(2) For purposes of this section, "low-income housing" means:

(a) Housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development; or

(b) Shelters that provide emergency housing for people experiencing homelessness.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2018.

**--- END ---**