
SENATE BILL 5396

State of Washington

67th Legislature

2021 Regular Session

By Senators Lovelett, Saldaña, Conway, Das, Kuderer, Nguyen, and Wilson, C.

Read first time 02/01/21. Referred to Committee on Housing & Local Government.

1 AN ACT Relating to expanding the sales and use tax exemption for
2 farmworker housing; amending RCW 82.08.02745 and 82.12.02685;
3 creating a new section; and providing expiration dates.

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

5 **Sec. 1.** RCW 82.08.02745 and 2014 c 140 s 18 are each amended to
6 read as follows:

7 (1) The tax levied by RCW 82.08.020 does not apply to charges
8 made for labor and services rendered by any person in respect to the
9 constructing, repairing, decorating, or improving of new or existing
10 buildings or other structures, in which at least 50 percent of
11 housing units in the development are used as (~~agricultural~~
12 ~~employee~~) farmworker housing, or to sales of tangible personal
13 property that becomes an ingredient or component of the buildings or
14 other structures during the course of the constructing, repairing,
15 decorating, or improving the buildings or other structures. The
16 exemption is available only if the buyer provides the seller with an
17 exemption certificate in a form and manner prescribed by the
18 department by rule.

19 (2) The exemption provided in this section for (~~agricultural~~
20 ~~employee~~) farmworker housing provided (~~to~~) on a year-round
21 (~~employees of the agricultural employer,~~) basis only applies if

1 that housing is built to the current building code for single-family
2 or multifamily dwellings according to the state building code,
3 chapter 19.27 RCW.

4 (3) Any (~~(agricultural employee)~~) farmworker housing built under
5 this section must be used according to this section for at least five
6 consecutive years from the date the housing is approved for
7 occupancy, or the full amount of tax otherwise due is immediately due
8 and payable together with interest, but not penalties, from the date
9 the housing is approved for occupancy until the date of payment. If
10 at any time (~~(agricultural employee)~~) farmworker housing (~~(that is~~
11 ~~not located on agricultural land)~~) ceases to be used in the manner
12 specified in subsection (2) of this section, the full amount of tax
13 otherwise due is immediately due and payable with interest, but not
14 penalties, from the date the housing ceases to be used as
15 (~~(agricultural employee)~~) farmworker housing until the date of
16 payment.

17 (4) The exemption provided in this section does not apply to
18 housing built for the occupancy of an employer, family members of an
19 employer, (~~(or)~~) persons owning stock or shares in a farm partnership
20 or corporation business, or workers in the United States on an H-2A
21 visa under the United States citizenship and immigration services.

22 (5) For purposes of this section and RCW 82.12.02685, the
23 following definitions apply unless the context clearly requires
24 otherwise.

25 (a) (~~("Agricultural employee" or "employee" has the same meaning~~
26 ~~as given in RCW 19.30.010;~~

27 ~~(b))~~ "Agricultural employer" or "employer" has the same meaning
28 as given in RCW 19.30.010 (~~(;~~ and

29 ~~(c)~~ "Agricultural employee"), and includes any employer engaged
30 in aquaculture as defined in RCW 15.85.020.

31 (b) "Farm work" means services relating to:

32 (i) Cultivating the soil, raising or harvesting, or catching,
33 netting, handling, planting, drying, packing, grading, storing, or
34 preserving in its unmanufactured state any agricultural or
35 aquacultural commodity;

36 (ii) Delivering to storage, market, or a carrier for
37 transportation to market or to processing any agricultural or
38 aquacultural commodity; or

39 (iii) Working in a processing plant and directly handling
40 agricultural or aquacultural product.

1 (c) "Farmworker" means a single person, family, or unrelated
2 persons living together with incomes derived from farm work of at
3 least \$3,000 per year.

4 (d) "Farmworker housing" means all facilities provided by an
5 agricultural employer, housing authority, local government, state or
6 federal agency, nonprofit community or neighborhood-based
7 organization that is exempt from income tax under section 501(c) of
8 the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), or for-
9 profit provider of housing for housing ((agricultural-employees))
10 farmworkers on a year-round or seasonal basis, including bathing,
11 food handling, hand washing, laundry, and toilet facilities, single-
12 family and multifamily dwelling units and dormitories, and includes
13 labor camps under RCW 70.114A.110. (("Agricultural employee"))

14 (i) "Farmworker housing" includes:

15 (A) Housing occupied by a household with at least one member who
16 is a farmworker; and

17 (B) Housing occupied by a farmworker on a seasonal basis, where
18 the housing is not used as farmworker housing for a portion of the
19 year.

20 (ii) "Farmworker housing" does not include:

21 ((+i)) (A) Housing regularly provided on a commercial basis to
22 the general public;

23 ((+ii)) (B) Housing provided by a housing authority unless at
24 least eighty percent of the occupants are ((agricultural-employees))
25 farmworkers whose adjusted income is less than fifty percent of
26 median family income, adjusted for household size, for the county
27 where the housing is provided; and

28 ((+iii)) (C) Housing provided to ((agricultural-employees))
29 farmworkers providing services related to the growing, raising, or
30 producing of marijuana.

31 (6) This section expires January 1, 2032.

32 **Sec. 2.** RCW 82.12.02685 and 1997 c 438 s 2 are each amended to
33 read as follows:

34 (1) The provisions of this chapter shall not apply in respect to
35 the use of tangible personal property that becomes an ingredient or
36 component of buildings or other structures, in which at least 50
37 percent of housing units are used as ((agricultural-employee))
38 farmworker housing, during the course of constructing, repairing,

1 decorating, or improving the buildings or other structures by any
2 person.

3 (2) The exemption provided in this section for (~~agricultural~~
4 ~~employee~~) farmworker housing provided (~~to~~) on a year-round
5 (~~employees of the agricultural employer,~~) basis only applies if
6 that housing is built to the current building code for single-family
7 or multifamily dwellings according to the state building code,
8 chapter 19.27 RCW.

9 (3) Any (~~agricultural employee~~) farmworker housing built under
10 this section shall be used according to this section for at least
11 five consecutive years from the date the housing is approved for
12 occupancy, or the full amount of a tax otherwise due shall be
13 immediately due and payable together with interest, but not
14 penalties, from the date the housing is approved for occupancy until
15 the date of payment. If at any time (~~agricultural employee~~)
16 farmworker housing (~~that is not located on agricultural land~~)
17 ceases to be used in the manner specified in subsection (2) of this
18 section, the full amount of tax otherwise due shall be immediately
19 due and payable with interest, but not penalties, from the date the
20 housing ceases to be used as (~~agricultural employee~~) farmworker
21 housing until the date of payment.

22 (4) The exemption provided in this section shall not apply to
23 housing built for the occupancy of an employer, family members of an
24 employer, or persons owning stock or shares in a farm partnership or
25 corporation business.

26 (5) The definitions in RCW 82.08.02745(5) apply to this section.

27 (6) This section expires January 1, 2032.

28 NEW SECTION. **Sec. 3.** (1) This section is the tax preference
29 performance statement for the tax preferences contained in sections 1
30 and 2, chapter . . ., Laws of 2021 (sections 1 and 2 of this act).
31 This performance statement is only intended to be used for subsequent
32 evaluation of the tax preferences. It is not intended to create a
33 private right of action by any party or to be used to determine
34 eligibility for preferential tax treatment.

35 (2) The legislature categorizes these tax preferences as ones
36 intended to induce certain designated behavior by taxpayers as
37 indicated in RCW 82.32.808(2) (a).

38 (3) It is the legislature's specific public policy objective to
39 increase the supply of farmworker housing.

1 (4) If a review finds that new farmworker housing is developed
2 utilizing these preferences, then the legislature intends to extend
3 the expiration date of these tax preferences.

4 (5) In order to obtain the data necessary to perform the review
5 in subsection (4) of this section, the joint legislative audit and
6 review committee may refer to any data collected by the state.

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