
SENATE BILL 5386

State of Washington

68th Legislature

2023 Regular Session

By Senators Robinson, Kuderer, Saldaña, and C. Wilson; by request of Department of Commerce

Read first time 01/16/23. Referred to Committee on Housing.

1 AN ACT Relating to reducing administrative complexity by
2 increasing transparency of revenue flows for activities funded by
3 document recording fees; reenacting and amending RCW 43.185C.060;
4 adding a new section to chapter 36.22 RCW; and repealing RCW
5 36.22.176, 36.22.178, 36.22.179, 36.22.1791, and 43.185C.215.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.22
8 RCW to read as follows:

9 (1) A surcharge of \$183 per instrument shall be charged by the
10 county auditor for each document recorded, which will be in addition
11 to any other charge authorized by law. The following are exempt from
12 this surcharge:

13 (a) Assignments or substitutions of previously recorded deeds of
14 trust;

15 (b) Documents recording a birth, marriage, divorce, or death;

16 (c) Any recorded documents otherwise exempted from a recording
17 fee or additional surcharges under state law;

18 (d) Marriage licenses issued by the county auditor; and

19 (e) Documents recording a federal, state, county, city, or water-
20 sewer district, or wage lien or satisfaction of lien.

1 (2) Funds collected pursuant to this section must be distributed
2 and used as follows:

3 (a) One percent of the total funds collected shall be retained by
4 the county auditor for its fee collection activities;

5 (b) 30 percent of the total funds collected shall be retained by
6 the county and used by the county as provided in subsection (3) of
7 this section;

8 (c) 54 percent of the total funds collected shall be transmitted
9 to the state treasurer to be deposited in the home security fund
10 account created in RCW 43.185C.060 and shall be used by the
11 department of commerce as provided in subsection (4) of this section;

12 (d) 13 percent of the total funds collected shall be transmitted
13 to the state treasurer to be deposited in the affordable housing for
14 all account created in RCW 43.185C.190 and shall be used by the
15 department of commerce as provided in subsection (5) of this section;

16 (e) Two percent of the total funds collected shall be transmitted
17 to the state treasurer to be deposited in the landlord mitigation
18 program account created in RCW 43.31.615 and shall be used by the
19 department of commerce as provided in subsection (6) of this section.

20 (3) The county shall use their portion of the collected funds as
21 follows:

22 (a) Up to 10 percent for the county's administration and local
23 distribution of the funds collected from the surcharge in this
24 section, and administrative costs related to the county's homeless
25 housing plan;

26 (b) At least 75 percent will be retained and used by the county
27 to accomplish the purposes of its local homeless housing plan
28 pursuant to chapter 484, Laws of 2005. For each city in the county
29 that elects as authorized in RCW 43.185C.080 to operate its own local
30 homeless housing program, a percentage of the surcharge assessed
31 under this subsection equal to the percentage of the city's local
32 portion of the real estate excise tax collected by the county shall
33 be transmitted at least quarterly to the city treasurer, without any
34 deduction for county administrative costs, for use by the city for
35 program costs which directly contribute to the goals of the city's
36 local homeless housing plan; of the funds received by the city, it
37 may use up to 10 percent for administrative costs for its homeless
38 housing program;

39 (c) At least 15 percent will be retained and used by the county
40 for eligible housing activities, as described in this subsection,

1 that serve extremely low and very low-income households in the county
2 and the cities within a county according to an interlocal agreement
3 between the county and the cities within the county consistent with
4 countywide and local housing needs and policies. A priority must be
5 given to eligible housing activities that serve extremely low-income
6 households with incomes at or below 30 percent of the area median
7 income. Eligible housing activities to be funded are limited to:

8 (i) Acquisition, construction, or rehabilitation of housing
9 projects or units within housing projects that are affordable to very
10 low-income households with incomes at or below 50 percent of the area
11 median income, including units for homeownership, rental units,
12 seasonal and permanent farmworker housing units, units reserved for
13 victims of human trafficking and their families, and single room
14 occupancy units;

15 (ii) Supporting building operation and maintenance costs of
16 housing projects or units within housing projects eligible to receive
17 housing trust funds, that are affordable to very low-income
18 households with incomes at or below 50 percent of the area median
19 income, and that require a supplement to rent income to cover ongoing
20 operating expenses;

21 (iii) Rental assistance vouchers for housing units that are
22 affordable to very low-income households with incomes at or below 50
23 percent of the area median income, including rental housing vouchers
24 for victims of human trafficking and their families, to be
25 administered by a local public housing authority or other local
26 organization that has an existing rental assistance voucher program,
27 consistent with or similar to the United States department of housing
28 and urban development's section 8 rental assistance voucher program
29 standards; and

30 (iv) Operating costs for emergency shelters and licensed
31 overnight youth shelters.

32 (4) The department of commerce shall use the funds from the
33 document recording fee or other fund sources deposited in the home
34 security fund account as follows, except that the department of
35 commerce shall provide counties with the right of first refusal to
36 receive grant funds distributed under (b) and (c) of this subsection
37 (4). If a county refuses the funds or does not respond within a time
38 frame established by the department, the department shall make good
39 faith efforts to identify one or more suitable alternative grantees
40 operating within that county. The alternative grantee shall

1 distribute the funds in a manner that is in compliance with this
2 chapter. Funding provided through the office of homeless youth
3 prevention and protection programs created in RCW 43.330.705 is
4 exempt from the county first refusal requirement.

5 (a) Up to 10 percent for administration of the programs
6 established in chapter 43.185C RCW and in conformance with this
7 subsection (4), including the costs of creating and implementing
8 strategic plans, collecting and evaluating data, measuring and
9 reporting performance, providing technical assistance to local
10 governments, providing training to entities delivering services, and
11 developing and maintaining stakeholder relationships;

12 (b) At least 60 percent for homelessness assistance grant
13 programs administered by the department, including but not limited
14 to: Temporary rental assistance; eviction prevention rental
15 assistance per RCW 43.185C.185; emergency shelter and transitional
16 housing operations and maintenance; outreach; diversion; HOPE and
17 crisis residential centers; young adult housing; and homeless
18 services and case management for adult, family, youth, and young
19 adult homeless populations and those at risk of homelessness;

20 (c) At least 30 percent for permanent supportive housing programs
21 administered by the office of apple health and homes created in RCW
22 43.330.181 and as provided in RCW 43.330.181 and 43.330.184,
23 including but not limited to: Project-based vouchers for nonprofit
24 housing providers or public housing authorities; tenant-based rent
25 assistance; and other housing assistance for permanent supportive
26 housing as defined in RCW 36.70A.030 for individuals with
27 disabilities. Priority for use must be given to purposes intended to
28 house persons who are chronically homeless or to maintain housing for
29 individuals with disabilities and prior experiences of homelessness,
30 including families with children.

31 (5) The department of commerce shall use the funds from the
32 document recording fee or other fund sources deposited in the
33 affordable housing for all account as follows:

34 (a) Up to 10 percent for program administration and technical
35 assistance necessary for the delivery programs and activities under
36 this subsection (5);

37 (b) At least 90 percent for the following:

38 (i) Grants for building operation and maintenance costs of
39 housing projects, or units within housing projects, that are in the
40 state's housing trust fund portfolio, are affordable to extremely

1 low-income households with incomes at or below 30 percent of the area
2 median income, and require a supplement to rent income to cover
3 ongoing operating expenses;

4 (ii) Grants to support the building operations, maintenance, and
5 supportive service costs for permanent supportive housing projects,
6 or units within housing projects, that have received or will receive
7 funding from the housing trust fund or other public capital funding
8 programs. The supported projects or units must be dedicated as
9 permanent supportive housing as defined in RCW 36.70A.030, be
10 occupied by extremely low-income households with incomes at or below
11 30 percent of the area median income, and require a supplement to
12 rent income to cover ongoing property operations, maintenance, and
13 supportive services expenses.

14 (6) The department of commerce shall use the funds from the
15 document recording fee or other fund sources deposited in the
16 landlord mitigation program account to administer the landlord
17 mitigation program as established in RCW 43.31.605. The department of
18 commerce may use up to 10 percent of these funds for program
19 administration and the development and maintenance of a database
20 necessary to administer the program.

21 **Sec. 2.** RCW 43.185C.060 and 2021 c 334 s 980 and 2021 c 214 s 4
22 are each reenacted and amended to read as follows:

23 (1) The home security fund account is created in the state
24 treasury, subject to appropriation. (~~The state's portion of the~~
25 ~~surcharge established in RCW 36.22.179 and 36.22.1791 and 36.22.176~~
26 ~~must be deposited in the account.~~) Expenditures from the account may
27 be used only for (~~homeless housing~~) programs as described in this
28 chapter(~~, including the eviction prevention rental assistance~~
29 ~~program established in RCW 43.185C.185~~)).

30 (2) (a) By December 15, 2021, the department, in consultation with
31 stakeholder groups specified in RCW 43.185C.185(2)(c), must create a
32 set of performance metrics for each county receiving funding under
33 (~~RCW 36.22.176~~) section 1(3)(c) of this act. The metrics must
34 target actions within a county's control that will prevent and reduce
35 homelessness, such as increasing the number of permanent supportive
36 housing units and increasing or maintaining an adequate number of
37 noncongregate shelter beds.

38 (b) (i) Beginning July 1, 2023, and by July 1st every two years
39 thereafter, the department must award funds (~~for project-based~~

1 ~~vouchers for nonprofit housing providers and related services, rapid~~
2 ~~rehousing, and housing acquisition under RCW 36.22.176))~~ under
3 section 1(4)(c) of this act to eligible grantees in a manner that 15
4 percent of funding is distributed as a performance-based allocation
5 based on performance metrics created under (a) of this subsection, in
6 addition to any base allocation of funding for the county.

7 (ii) Any county that demonstrates that it has met or exceeded the
8 majority of the target actions to prevent and reduce homelessness
9 over the previous two years must receive the remaining 15 percent
10 performance-based allocation. Any county that fails to meet or exceed
11 the majority of target actions to prevent and reduce homelessness
12 must enter into a corrective action plan with the department. To
13 receive its performance-based allocation, a county must agree to
14 undertake the corrective actions outlined in the corrective action
15 plan and any reporting and monitoring deemed necessary by the
16 department. Any county that fails to meet or exceed the majority of
17 targets for two consecutive years after entering into a corrective
18 action plan may be subject to a reduction in the performance-based
19 portion of the funds received in (b)(i) of this subsection, at the
20 discretion of the department in consultation with stakeholder groups
21 specified in RCW 43.185C.185(2)(c). Performance-based allocations
22 unspent due to lack of compliance with a corrective action plan
23 created under this subsection (2)(b) may be distributed to other
24 counties that have met or exceeded their target actions.

25 (3) The department must distinguish allotments from the account
26 made to carry out the activities in RCW 43.330.167, 43.330.700
27 through 43.330.715, 43.330.911, 43.185C.010, and 43.185C.250 through
28 43.185C.320 (~~, and 36.22.179(1)(b)~~).

29 (4) (~~The office of financial management must secure an~~
30 ~~independent expenditure review of state funds received under RCW~~
31 ~~36.22.179(1)(b) on a biennial basis. The purpose of the review is to~~
32 ~~assess the consistency in achieving policy priorities within the~~
33 ~~private market rental housing segment for housing persons~~
34 ~~experiencing homelessness. The independent reviewer must notify the~~
35 ~~department and the office of financial management of its findings.~~
36 ~~The first biennial expenditure review, for the 2017-2019 fiscal~~
37 ~~biennium, is due February 1, 2020. Independent reviews conducted~~
38 ~~thereafter are due February 1st of each even-numbered year.~~

1 ~~(5))~~) During the 2019-2021 and 2021-2023 fiscal biennia,
2 expenditures from the account may also be used for shelter capacity
3 grants.

4 NEW SECTION. **Sec. 3.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 36.22.176 (Recorded document surcharge—Use) and 2022 c
7 216 s 7 & 2021 c 214 s 1;

8 (2) RCW 36.22.178 (Affordable housing for all surcharge—
9 Permissible uses) and 2021 c 214 s 7, 2019 c 136 s 1, 2018 c 66 s 5,
10 2011 c 110 s 1, 2007 c 427 s 1, 2005 c 484 s 18, & 2002 c 294 s 2;

11 (3) RCW 36.22.179 (Surcharge for local homeless housing and
12 assistance—Use) and 2021 c 214 s 8, 2019 c 136 s 2, 2018 c 85 s 2,
13 2017 3rd sp.s. c 16 s 5, 2014 c 200 s 1, 2012 c 90 s 1, 2011 c 110 s
14 2, 2009 c 462 s 1, 2007 c 427 s 4, & 2005 c 484 s 9;

15 (4) RCW 36.22.1791 (Additional surcharge for local homeless
16 housing and assistance—Use) and 2021 c 214 s 9, 2019 c 136 s 3, 2011
17 c 110 s 3, & 2007 c 427 s 5; and

18 (5) RCW 43.185C.215 (Transitional housing operating and rent
19 account) and 2008 c 256 s 2.

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