

---

HOUSE BILL 1798

---

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Wineberry, Jones and J. Kohl

Read first time 02/10/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to the replacement of low-income housing; amending  
2 RCW 35.21.685, 36.32.415, 35A.37.010, 82.02.010, and 82.02.020; and  
3 adding a new section to chapter 82.20 RCW.

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

5 **Sec. 1.** RCW 35.21.685 and 1986 c 248 s 1 are each amended to read  
6 as follows:

7 A city or town may assist in the development or preservation of  
8 publicly or privately owned housing for persons of low income or very  
9 low income by providing loans or grants of general municipal funds to  
10 the owners or developers of the housing. The loans or grants shall be  
11 authorized by the legislative authority of the city or town. They may  
12 be made to finance all or a portion of the cost of construction,  
13 reconstruction, acquisition, or rehabilitation of housing that will be  
14 occupied by a person or family of low income or very low income. In  
15 addition, each city or town shall establish and maintain a housing  
16 replacement fund for financing all or a portion of the cost of  
17 construction, reconstruction, acquisition, or rehabilitation of housing  
18 that will be occupied by a person or family of low income or very low  
19 income, in accordance with section 6 of this act. As used in this

1 section, "low income" means income that exceeds fifty percent but does  
2 not exceed eighty percent of the median income for the standard  
3 metropolitan statistical area in which the city or town is located and  
4 "very low income" means income that does not exceed fifty percent of  
5 the median income for the standard metropolitan statistical area in  
6 which the city or town is located. Housing constructed with loans or  
7 grants made under this section shall not be considered public works or  
8 improvements subject to competitive bidding or a purchase of services  
9 subject to the prohibition against advance payment for services:  
10 PROVIDED, That whenever feasible the borrower or grantee shall make  
11 every reasonable and practicable effort to utilize a competitive public  
12 bidding process.

13 **Sec. 2.** RCW 36.32.415 and 1986 c 248 s 2 are each amended to read  
14 as follows:

15 A county may assist in the development or preservation of publicly  
16 or privately owned housing for persons of low income or very low income  
17 by providing loans or grants of general county funds to the owners or  
18 developers of the housing. The loans or grants shall be authorized by  
19 the legislative authority of a county. They may be made to finance all  
20 or a portion of the cost of construction, reconstruction, acquisition,  
21 or rehabilitation of housing that will be occupied by a person or  
22 family of low income or very low income. In addition, each county  
23 shall establish and maintain a housing replacement fund for financing  
24 all or a portion of the cost of construction, reconstruction,  
25 acquisition, or rehabilitation of housing that will be occupied by a  
26 person or family of low income or very low income, in accordance with  
27 section 6 of this act. As used in this section, "low income" means  
28 income that exceeds fifty percent but does not exceed eighty percent of  
29 the median income for the standard metropolitan statistical area in  
30 which the county is located and "very low income" means income that  
31 does not exceed fifty percent of the median income for the standard  
32 metropolitan statistical area in which the county is located. Housing  
33 constructed with loans or grants made under this section shall not be  
34 considered public works or improvements subject to competitive bidding  
35 or a purchase of services subject to the prohibition against advance  
36 payment for services: PROVIDED, That whenever feasible the borrower or  
37 grantee shall make every reasonable and practicable effort to utilize  
38 a competitive public bidding process.

1       **Sec. 3.** RCW 35A.37.010 and 1983 c 3 s 62 are each amended to read  
2 as follows:

3       Code cities shall establish such funds for the segregation,  
4 budgeting, expenditure and accounting for moneys received for special  
5 purposes as are required by general law applicable to such cities'  
6 activities and the officers thereof shall pay into, expend from, and  
7 account for such moneys in the manner provided therefor including but  
8 not limited to the requirements of the following:

9       (1) Accounting funds as required by RCW 35.37.010;

10       (2) Annexation and consolidation fund as required by chapters 35.10  
11 and 35.13 RCW;

12       (3) Assessment fund as required by RCW 8.12.480;

13       (4) Equipment rental fund as authorized by RCW 35.21.088;

14       (5) Current expense fund as required by RCW 35.37.010, usually  
15 referred to as the general fund;

16       (6) Local improvement guaranty fund as required by RCW 35.54.010;

17       (7) An indebtedness and sinking fund, together with separate funds  
18 for utilities and institutions as required by RCW 35.37.020;

19       (8) Local improvement district fund and revolving fund as required  
20 by RCW 35.45.130 and 35.48.010;

21       (9) City street fund as required by chapter 35.76 RCW and RCW  
22 47.24.040;

23       (10) Firemen's relief and pension fund as required by chapters  
24 41.16 and 41.18 RCW;

25       (11) Policemen's relief and pension fund as required by RCW  
26 41.20.130 and 63.32.030;

27       (12) First class cities' employees retirement and pension system as  
28 authorized by chapter 41.28 RCW;

29       (13) Applicable rules of the division of municipal corporations  
30 office of state auditor. RCW 43.09.190 through 43.09.282;

31       (14) Housing replacement fund as required by section 6 of this act.

32       **Sec. 4.** RCW 82.02.010 and 1979 c 107 s 9 are each amended to read  
33 as follows:

34       For the purpose of this title, unless otherwise required by the  
35 context:

36       (1) "Affordable rent for low-income households" means that the rent  
37 paid by the household does not exceed thirty percent of eighty percent

1 of the median income, adjusted for household size, for the standard  
2 metropolitan statistical area in which the household is located;

3 (2) "Affordable rent for very low-income households" means that the  
4 rent paid by the household does not exceed thirty percent of fifty  
5 percent of the median income, adjusted for household size, for the  
6 standard metropolitan statistical area in which the household is  
7 located;

8 (3) "Change of use" means the conversion of any dwelling unit or  
9 mobile home lot from a residential use to a nonresidential use or  
10 conversion from one residential use to another residential use that  
11 results in the dwelling unit no longer being offered at affordable rent  
12 for low-income or very low-income households. "Change of use" includes  
13 any discontinuance of residential use regardless of whether the  
14 discontinuance of residential use constitutes an abandonment;

15 (4) "Demolition" means the destruction of any dwelling unit or the  
16 relocation of an existing dwelling unit or units to another site;

17 (5) "Department" means the department of revenue of the state of  
18 Washington;

19 ~~((+2))~~ (6) The word "director" means the director of the  
20 department of revenue of the state of Washington;

21 ~~((+3) The word)~~ (7) "Dwelling unit" means a structure or that part  
22 of a structure that is used as a home, residence, or sleeping place by  
23 one person or by two or more persons maintaining a common household,  
24 including but not limited to single-family residences and units of  
25 multiplexes, apartment buildings, and mobile homes. Where two or more  
26 persons occupy a dwelling unit, but have separate rental agreements for  
27 use of part of the structure as a sleeping place, those sleeping places  
28 and any shared common areas shall be considered separate dwelling units  
29 as to each occupant;

30 (8) "Local jurisdiction" means a city, town, or county;

31 (9) "Low-income dwelling unit" and "low-income household" mean the  
32 total combined income of the dwelling unit is more than fifty percent  
33 but is at or below eighty percent of the median income, adjusted for  
34 family size, for the standard metropolitan statistical area in which  
35 the dwelling unit is located;

36 (10) "Low-income housing development" means four or more attached  
37 dwelling units or detached dwelling units on adjacent lots of which at  
38 least twenty percent are offered at an affordable rent for low-income  
39 households or of which at least twenty percent had been offered at an

1 affordable rent for low-income households at any time within the two  
2 years preceding the date on which the dwelling units are subject to  
3 demolition or change of use;

4 (11) "Mobile home lot" means a portion of a mobile home park  
5 designated as the location of one mobile home and its accessory  
6 buildings, and intended for the exclusive use as a primary residence by  
7 the occupants of that mobile home;

8 (12) "Mobile home park" means any real property that is rented or  
9 held out for rent to others for the placement of two or more mobile  
10 homes for the primary purpose of production of income, except where  
11 such real property is rented or held out for rent for seasonal  
12 recreational purpose only and is not intended for year-round occupancy;

13 (13) "Owner" means one or more persons, jointly or severally, in  
14 whom is vested:

15 (a) All or any part of the legal title to property; or

16 (b) All or part of the beneficial ownership, and a right to present  
17 occupancy and enjoyment of the property;

18 (14) "Rental agreement" means all oral or written agreements that  
19 establish or modify the terms, conditions, rules, regulations, or any  
20 other provisions concerning the use and occupancy of a dwelling unit or  
21 mobile home lot. For purposes of this chapter, "rental agreement" does  
22 not include any agreement relating to the purchase, sale, or transfer  
23 of ownership of a dwelling unit;

24 (15) "Taxpayer" includes any individual, group of individuals,  
25 corporation, or association liable for any tax or the collection of any  
26 tax hereunder, or who engages in any business or performs any act for  
27 which a tax is imposed by this title;

28 ((+4)) (16) "Tenant" means a tenant, subtenant, lessee, sublessee,  
29 or other person occupying a dwelling unit or mobile home lot under a  
30 rental agreement;

31 (17) "Very low-income dwelling unit" and "very low-income  
32 household" mean the total combined income of the dwelling unit is at or  
33 below fifty percent of the median income, adjusted for family size, for  
34 the standard metropolitan statistical area in which the dwelling unit  
35 is located;

36 (18) "Very low-income housing development" means four or more  
37 attached dwelling units or detached dwelling units on adjacent lots of  
38 which at least twenty percent are offered at an affordable rent for  
39 very low-income households or of which at least twenty percent had been

1 offered at an affordable rent for very low-income households at any  
2 time within the two years preceding the date on which the dwelling  
3 units are subject to demolition or change of use;

4 (19) Words in the singular number shall include the plural and the  
5 plural shall include the singular. Words in one gender shall include  
6 all other genders.

7 **Sec. 5.** RCW 82.02.020 and 1990 1st ex.s. c 17 s 42 are each  
8 amended to read as follows:

9 Except only as expressly provided in RCW 67.28.180 and 67.28.190  
10 and the provisions of chapter 82.14 RCW, the state preempts the field  
11 of imposing taxes upon retail sales of tangible personal property, the  
12 use of tangible personal property, parimutuel wagering authorized  
13 pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county,  
14 town, or other municipal subdivision shall have the right to impose  
15 taxes of that nature. Except as provided in RCW 82.02.050 through  
16 82.02.090, no county, city, town, or other municipal corporation shall  
17 impose any tax, fee, or charge, either direct or indirect, on the  
18 construction or reconstruction of residential buildings, commercial  
19 buildings, industrial buildings, or on any other building or building  
20 space or appurtenance thereto, or on the development, subdivision,  
21 classification, or reclassification of land. However, this section  
22 does not preclude dedications of land or easements within the proposed  
23 development or plat which the county, city, town, or other municipal  
24 corporation can demonstrate are reasonably necessary as a direct result  
25 of the proposed development or plat to which the dedication of land or  
26 easement is to apply.

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

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

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

3 (3) Any payment not so expended shall be refunded with interest at  
4 the rate applied to judgments to the property owners of record at the  
5 time of the refund; however, if the payment is not expended within five  
6 years due to delay attributable to the developer, the payment shall be  
7 refunded without interest.

8 No county, city, town, or other municipal corporation shall require  
9 any payment as part of such a voluntary agreement which the county,  
10 city, town, or other municipal corporation cannot establish is  
11 reasonably necessary as a direct result of the proposed development or  
12 plat.

13 Nothing in this section prohibits cities, towns, counties, or other  
14 municipal corporations from collecting reasonable fees from an  
15 applicant for a permit or other governmental approval to cover the cost  
16 to the city, town, county, or other municipal corporation of processing  
17 applications, inspecting and reviewing plans, or preparing detailed  
18 statements required by chapter 43.21C RCW.

19 This section does not limit the existing authority of any county,  
20 city, town, or other municipal corporation to impose special  
21 assessments on property specifically benefitted thereby in the manner  
22 prescribed by law.

23 Nothing in this section prohibits counties, cities, or towns from  
24 imposing or permits counties, cities, or towns to impose water, sewer,  
25 natural gas, drainage utility, and drainage system charges: PROVIDED,  
26 That no such charge shall exceed the proportionate share of such  
27 utility or system's capital costs which the county, city, or town can  
28 demonstrate are attributable to the property being charged: PROVIDED  
29 FURTHER, That these provisions shall not be interpreted to expand or  
30 contract any existing authority of counties, cities, or towns to impose  
31 such charges.

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

36 Nothing in this section prohibits counties, cities, or towns from  
37 imposing transportation impact fees authorized pursuant to chapter  
38 39.92 RCW.

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

4 Nothing in this section prohibits local jurisdictions from imposing  
5 housing replacement fees authorized pursuant to section 6 of this act.

6 This section does not apply to special purpose districts formed and  
7 acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the authority  
8 conferred by these titles affected.

9 NEW SECTION. Sec. 6. A new section is added to chapter 82.02 RCW  
10 to read as follows:

11 (1) Each local jurisdiction shall provide for the payment of a  
12 housing replacement fee into the local jurisdiction's housing  
13 replacement fund each time a dwelling unit in a low-income or very low-  
14 income housing development within that jurisdiction is subject to  
15 demolition or change of use. The payment of the housing replacement  
16 fee shall be in accordance with subsection (2) of this section.

17 (2) The payment of the housing replacement fee shall be made in one  
18 of the following ways:

19 (a) The local jurisdiction shall pay moneys into its housing  
20 replacement fund in an amount equal to fifty percent of the current  
21 cost of constructing an equal number of replacement dwelling units for  
22 low-income or very low-income households in the same area. The moneys  
23 paid by the local jurisdiction into its housing replacement fund shall  
24 be in addition to any federal, state, or local funds available on the  
25 effective date of this section to the local jurisdiction for the  
26 acquisition, construction, reconstruction, or rehabilitation of housing  
27 for low-income or very low-income households;

28 (b) The local jurisdiction shall require that the owner of the low-  
29 income or very low-income housing development that is subject to  
30 demolition or change of use pay moneys into the local jurisdiction's  
31 housing replacement fund in an amount equal to fifty percent of the  
32 current cost of constructing an equal number of replacement dwelling  
33 units for low-income or very low-income households in the same area; or

34 (c) The local jurisdiction shall pay moneys into its housing  
35 replacement fund and also require that the owner of the low-income or  
36 very low-income housing development that is subject to demolition or  
37 change of use pay moneys into the same housing replacement fund. The  
38 total amount paid into the local jurisdiction housing replacement fund



1 shall equal fifty percent of the current cost of constructing an equal  
2 number of replacement dwelling units for low-income or very low-income  
3 households in the same area. The moneys paid by the local jurisdiction  
4 into its housing replacement fund shall be in addition to any federal,  
5 state, or local funds currently available to the local jurisdiction for  
6 the acquisition, construction, reconstruction, or rehabilitation of  
7 housing for low-income or very low-income households.

8 (3) The moneys paid into the local jurisdiction's housing  
9 replacement fund shall be expended by the local jurisdiction within  
10 five years from the date of deposit and shall be expended for the  
11 acquisition, construction, reconstruction, or rehabilitation of  
12 replacement dwelling units for very low-income or low-income households  
13 within one square mile of the low-income or very low-income dwelling  
14 units that were subject to demolition or change of use, or as close  
15 thereto as possible. The replacement dwelling units shall be offered  
16 for rent at rent levels that do not exceed one hundred twenty percent  
17 of the lowest rent level that had been offered in the low-income or  
18 very low-income housing development subject to demolition or change of  
19 use during the two-year period preceding the demolition or change of  
20 use. Beginning one year after the acquisition, construction,  
21 reconstruction, or rehabilitation of the replacement dwelling units is  
22 complete, annual adjustments may be made to the rent levels of the  
23 replacement dwelling units in order to reflect any changes in the  
24 housing component of the consumer price index as published by the  
25 United States department of labor, bureau of labor statistics. The  
26 local jurisdiction shall require that the dwelling units acquired,  
27 constructed, reconstructed, or rehabilitated for low-income households  
28 with funds expended from the local jurisdiction's housing replacement  
29 fund be maintained as low-income dwelling units offered at affordable  
30 rent for low-income households for a period of not less than thirty  
31 years and that the dwelling units acquired, constructed, reconstructed,  
32 or rehabilitated for very low-income households with funds expended  
33 from the local jurisdiction's housing replacement fund be maintained as  
34 very low-income dwelling units offered at affordable rent for very low-  
35 income households for a period of not less than thirty years.

36 (4) Each local jurisdiction shall publish an annual report setting  
37 forth, at a minimum, the amount and source of each payment made into  
38 the local jurisdiction's housing replacement fund during the preceding  
39 year, the amount, source, and nature of any expenditures made from the

1 local jurisdiction's housing replacement fund during the preceding  
2 year, and a plan for expenditures to be made during the coming year.

3 (5) The housing replacement fee shall be calculated by each local  
4 jurisdiction in accordance with standards adopted by ordinance or  
5 regulation.

6 (6) This section shall not apply to the demolition of dwelling  
7 units ordered by the local jurisdiction because of damage beyond the  
8 owner's control, including that caused by civil commotion, malicious  
9 mischief, vandalism, tenant waste, natural disaster, or other  
10 destruction beyond the owner's control.

11 NEW SECTION. **Sec. 7.** If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

--- END ---