
ENGROSSED HOUSE BILL 2009

State of Washington 53rd Legislature 1993 Regular Session

By Representatives J. Kohl, Wineberry, G. Cole and Holm

Read first time 02/19/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to parking and business improvement areas; and
2 amending RCW 35.87A.010, 35.87A.020, 35.87A.030, 35.87A.050,
3 35.87A.060, 35.87A.080, 35.87A.090, 35.87A.100, 35.87A.140, 35.87A.170,
4 64.34.304, and 64.34.010.

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

6 **Sec. 1.** RCW 35.87A.010 and 1985 c 128 s 1 are each amended to read
7 as follows:

8 To aid general economic development and neighborhood
9 revitalization, and to facilitate ((merchant and business)) the
10 cooperation of merchants, businesses, and residential property owners
11 which assists trade, economic viability, and liveability, the
12 legislature hereby authorizes all counties and all incorporated cities
13 and towns, including unclassified cities and towns operating under
14 special charters:

15 (1) To establish, after a petition submitted by the operators
16 responsible for 60 percent of the assessments by businesses and
17 multifamily residential or mixed-use projects within the area, parking
18 and business improvement areas, hereafter referred to as area or areas,
19 for the following purposes:

1 (a) The acquisition, construction or maintenance of parking
2 facilities for the benefit of the area;

3 (b) Decoration of any public place in the area;

4 (c) Promotion of public events which are to take place on or in
5 public places in the area;

6 (d) Furnishing of music in any public place in the area;

7 (e) Providing professional management, planning, and promotion for
8 the area, including the management and promotion of retail trade
9 activities in the area; or

10 (f) Providing maintenance and security for common, public areas.

11 (2) To levy special assessments on all businesses and multifamily
12 residential or mixed-use projects within the area and specially
13 benefited by a parking and business improvement area to pay in whole or
14 in part the damages or costs incurred therein as provided in this
15 chapter.

16 **Sec. 2.** RCW 35.87A.020 and 1971 ex.s. c 45 s 2 are each amended to
17 read as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

20 (1) "Business" (~~as used in this chapter~~) means all types of
21 business, including professions.

22 (2) "Legislative authority" (~~as used in this chapter~~) means the
23 legislative authority of any city or town including unclassified cities
24 or towns operating under special charters or the legislative authority
25 of any county.

26 (3) "Multifamily residential or mixed-use project" means any
27 building or buildings containing four or more residential units or a
28 combination of residential and commercial units, whether title to the
29 entire property is held in single or undivided ownership or title to
30 individual units is held by owners who also, directly or indirectly
31 through an association, own real property in common with the other unit
32 owners.

33 (4) "Residential operator" means the owner or operator of a
34 multifamily residential or mixed-use project if title is held in single
35 or undivided ownership, or, if title is held in a form of common
36 interest ownership, the association of unit owners, condominium
37 association, homeowners association, property owners association, or
38 residential cooperative corporation.

1 **Sec. 3.** RCW 35.87A.030 and 1971 ex.s. c 45 s 3 are each amended to
2 read as follows:

3 For the purpose of establishing a parking and business improvement
4 area, an initiation petition may be presented to the legislative
5 authority having jurisdiction of the area in which the proposed parking
6 and business improvement area is to be located or the legislative
7 authority may by resolution initiate a parking and business improvement
8 area. The initiation petition or resolution shall contain the
9 following:

- 10 (1) A description of the boundaries of the proposed area;
- 11 (2) The proposed uses and projects to which the proposed special
12 assessment revenues shall be put and the total estimated cost thereof;
- 13 (3) The estimated rate of levy of special assessment with a
14 proposed breakdown by class of business and multifamily residential or
15 mixed-use project if such classification is to be used.

16 The initiating petition shall also contain the signatures of the
17 persons who operate businesses and residential operators in the
18 proposed area which would pay fifty percent of the proposed special
19 assessments.

20 **Sec. 4.** RCW 35.87A.050 and 1971 ex.s. c 45 s 5 are each amended to
21 read as follows:

22 Notice of a hearing held under the provisions of this chapter shall
23 be given by:

- 24 (1) One publication of the resolution of intention in a newspaper
25 of general circulation in the city; and
- 26 (2) Mailing a complete copy of the resolution of intention to each
27 business and multifamily residential or mixed-use project in the
28 proposed, or established, area. Publication and mailing shall be
29 completed at least ten days prior to the time of the hearing.

30 **Sec. 5.** RCW 35.87A.060 and 1971 ex.s. c 45 s 6 are each amended to
31 read as follows:

32 Whenever a hearing is held under this chapter, the legislative
33 authority shall hear all protests and receive evidence for or against
34 the proposed action. The legislative authority may continue the
35 hearing from time to time. Proceedings shall terminate if protest is
36 made by businesses and residential operators in the proposed area which
37 would pay a majority of the proposed special assessments.

1 **Sec. 6.** RCW 35.87A.080 and 1985 c 128 s 2 are each amended to read
2 as follows:

3 For purposes of the special assessments to be imposed pursuant to
4 this chapter, the legislative authority may make a reasonable
5 classification of businesses and multifamily residential or mixed-use
6 projects, giving consideration to various factors such as business and
7 occupation taxes imposed, square footage of the business, number of
8 employees, gross sales, or any other reasonable factor relating to the
9 benefit received, including the degree of benefit received from
10 parking. Whenever it is proposed that a parking and business
11 improvement area provide more than one of the purposes listed in RCW
12 35.87A.010, special assessments may be imposed in a manner that
13 measures benefit from each of the separate purposes, or any combination
14 of the separate purposes. Special assessments shall be imposed and
15 collected annually, or on another basis specified in the ordinance
16 establishing the parking and business improvement area.

17 **Sec. 7.** RCW 35.87A.090 and 1971 ex.s. c 45 s 9 are each amended to
18 read as follows:

19 The special assessments need not be imposed on different classes of
20 business and multifamily residential or mixed-use projects, as
21 determined pursuant to RCW 35.87A.080, on the same basis or the same
22 rate(~~(:—PROVIDED, HOWEVER, That)~~). The special assessments imposed
23 for the purpose of the acquisition, construction or maintenance of
24 parking facilities for the benefit of the area shall be imposed on the
25 basis of benefit determined by the legislative authority after giving
26 consideration to the total cost to be recovered from the businesses and
27 multifamily residential or mixed-use projects upon which the special
28 assessment is to be imposed, the total area within the boundaries of
29 the parking and business improvement area, the assessed value of the
30 land and improvements within the area, the total business volume
31 generated within the area and within each business, and such other
32 factors as the legislative authority may find and determine to be a
33 reasonable measure of such benefit.

34 **Sec. 8.** RCW 35.87A.100 and 1971 ex.s. c 45 s 10 are each amended
35 to read as follows:

1 If the legislative authority, following the hearing, decides to
2 establish the proposed area, it shall adopt an ordinance to that
3 effect. This ordinance shall contain the following information:

4 (1) The number, date and title of the resolution of intention
5 pursuant to which it was adopted;

6 (2) The time and place the hearing was held concerning the
7 formation of such area;

8 (3) The description of the boundaries of such area;

9 (4) A statement that the businesses and multifamily residential or
10 mixed-use projects in the area established by the ordinance shall be
11 subject to the provisions of the special assessments authorized by RCW
12 35.87A.010;

13 (5) The initial or additional rate or levy of special assessment to
14 be imposed with a breakdown by classification of business and
15 multifamily residential or mixed-use project, if such classification is
16 used; and

17 (6) A statement that a parking and business improvement area has
18 been established.

19 (7) The uses to which the special assessment revenue shall be
20 put(~~(: PROVIDED, HOWEVER, That such)~~). Uses shall conform to the uses
21 as declared in the initiation petition presented pursuant to RCW
22 35.87A.030.

23 **Sec. 9.** RCW 35.87A.140 and 1971 ex.s. c 45 s 14 are each amended
24 to read as follows:

25 Changes may be made in the rate or additional rate of special
26 assessment as specified in the ordinance establishing the area, by
27 ordinance adopted after a hearing before the legislative authority.

28 The legislative authority shall adopt a resolution of intention to
29 change the rate or additional rate of special assessment at least
30 fifteen days prior to the hearing required by this section. This
31 resolution shall specify the proposed change and shall give the time
32 and place of the hearing(~~(: PROVIDED, That)~~). Proceedings to change
33 the rate or impose an additional rate of special assessments shall
34 terminate if protest is made by businesses or multifamily residential
35 or mixed-use projects in the proposed area which would pay a majority
36 of the proposed increase or additional special assessments.

1 **Sec. 10.** RCW 35.87A.170 and 1971 ex.s. c 45 s 17 are each amended
2 to read as follows:

3 Businesses or multifamily residential or mixed-use projects
4 established after the creation of an area within the area may be
5 exempted from the special assessments imposed pursuant to this chapter
6 for a period not exceeding one year from the date they commenced
7 business in the area.

8 **Sec. 11.** RCW 64.34.304 and 1990 c 166 s 3 are each amended to read
9 as follows:

10 (1) Except as provided in subsection (2) of this section, and
11 subject to the provisions of the declaration, the association may:

12 (a) Adopt and amend bylaws, rules, and regulations;

13 (b) Adopt and amend budgets for revenues, expenditures, and
14 reserves, and impose and collect assessments for common expenses from
15 unit owners;

16 (c) Hire and discharge or contract with managing agents and other
17 employees, agents, and independent contractors;

18 (d) Institute, defend, or intervene in litigation or administrative
19 proceedings in its own name on behalf of itself or two or more unit
20 owners on matters affecting the condominium;

21 (e) Make contracts and incur liabilities;

22 (f) Regulate the use, maintenance, repair, replacement, and
23 modification of common elements;

24 (g) Cause additional improvements to be made as a part of the
25 common elements;

26 (h) Acquire, hold, encumber, and convey in its own name any right,
27 title, or interest to real or personal property, but common elements
28 may be conveyed or subjected to a security interest only pursuant to
29 RCW 64.34.348;

30 (i) Grant easements, leases, licenses, and concessions through or
31 over the common elements and petition for or consent to the vacation of
32 streets and alleys;

33 (j) Impose and collect any payments, fees, or charges for the use,
34 rental, or operation of the common elements, other than limited common
35 elements described in RCW 64.34.204 (2) and (4), and for services
36 provided to unit owners;

37 (k) Impose and collect charges for late payment of assessments
38 pursuant to RCW 64.34.364(~~(10)~~)(13) and, after notice and an

1 opportunity to be heard by the board of directors or by such
2 representative designated by the board of directors and in accordance
3 with such procedures as provided in the declaration or bylaws or rules
4 and regulations adopted by the board of directors, levy reasonable
5 fines in accordance with a previously established schedule thereof
6 adopted by the board of directors and furnished to the owners for
7 violations of the declaration, bylaws, and rules and regulations of the
8 association;

9 (l) Impose and collect reasonable charges for the preparation and
10 recording of amendments to the declaration, resale certificates
11 required by RCW 64.34.425, and statements of unpaid assessments;

12 (m) Provide for the indemnification of its officers and board of
13 directors and maintain directors' and officers' liability insurance;

14 (n) Assign its right to future income, including the right to
15 receive common expense assessments, but only to the extent the
16 declaration provides;

17 (o) Join in a petition for the establishment of a parking and
18 business improvement area, participate in the rate payers' board or
19 other advisory body set up by the legislative authority for operation
20 of a parking and business improvement area, and pay special assessments
21 levied by the legislative authority on a parking and business
22 improvement area encompassing the condominium property for activities
23 and projects which benefit the condominium directly or indirectly;

24 (p) Exercise any other powers conferred by the declaration or
25 bylaws;

26 (~~(p)~~) (q) Exercise all other powers that may be exercised in this
27 state by the same type of corporation as the association; and

28 (~~(q)~~) (r) Exercise any other powers necessary and proper for the
29 governance and operation of the association.

30 (2) The declaration may not impose limitations on the power of the
31 association to deal with the declarant which are more restrictive than
32 the limitations imposed on the power of the association to deal with
33 other persons.

34 **Sec. 12.** RCW 64.34.010 and 1992 c 220 s 1 are each amended to read
35 as follows:

36 (1) This chapter applies to all condominiums created within this
37 state after July 1, 1990. RCW 64.34.040 (separate titles and
38 taxation), RCW 64.34.050 (applicability of local ordinances,

1 regulations, and building codes), RCW 64.34.060 (condemnation), RCW
2 64.34.208 (construction and validity of declaration and bylaws), RCW
3 64.34.212 (description of units), RCW 64.34.304(1)(a) through (f) and
4 (k) through ~~((q))~~ (r) (powers of unit owners' association), RCW
5 64.34.308(1) (board of directors and officers), RCW 64.34.340 (voting
6 proxies), RCW 64.34.344 (tort and contract liability), RCW 64.34.354
7 (notification on sale of unit), RCW 64.34.360(3) (common expenses
8 assessments), RCW 64.34.364 (lien for assessments), RCW 64.34.372
9 (association records), RCW 64.34.425 (resales of units), RCW 64.34.455
10 (effect of violation on rights of action; attorney's fees), and RCW
11 64.34.020 (definitions) to the extent necessary in construing any of
12 those sections, apply to all condominiums created in this state before
13 July 1, 1990; but those sections apply only with respect to events and
14 circumstances occurring after July 1, 1990, and do not invalidate or
15 supersede existing, inconsistent provisions of the declaration, bylaws,
16 or survey maps or plans of those condominiums.

17 (2) The provisions of chapter 64.32 RCW do not apply to
18 condominiums created after July 1, 1990, and do not invalidate any
19 amendment to the declaration, bylaws, and survey maps and plans of any
20 condominium created before July 1, 1990, if the amendment would be
21 permitted by this chapter. The amendment must be adopted in conformity
22 with the procedures and requirements specified by those instruments and
23 by chapter 64.32 RCW. If the amendment grants to any person any
24 rights, powers, or privileges permitted by this chapter which are not
25 otherwise provided for in the declaration or chapter 64.32 RCW, all
26 correlative obligations, liabilities, and restrictions in this chapter
27 also apply to that person.

28 (3) This chapter does not apply to condominiums or units located
29 outside this state.

30 (4) RCW 64.34.400 (applicability~~waiver~~), RCW 64.34.405 (liability
31 for public offering statement requirements), RCW 64.34.410 (public
32 offering statement~~general provisions~~), RCW 64.34.415 (public offering
33 statement~~conversion condominiums~~), RCW 64.34.420 (purchaser's right to
34 cancel), RCW 64.34.430 (escrow of deposits), RCW 64.34.440 (conversion
35 condominiums~~notice~~~~tenants~~), and RCW 64.34.455 (effect of violations
36 on rights of action~~attorney's fees~~) apply with respect to all sales of
37 units pursuant to purchase agreements entered into after July 1, 1990,
38 in condominiums created before July 1, 1990, in which as of July 1,
39 1990, the declarant or an affiliate of the declarant owns or had the

- 1 right to create at least ten units constituting at least twenty percent
- 2 of the units in the condominium.

--- END ---