

SHB 2014 - H AMD 951

By Representative Chase

WITHDRAWN 01/18/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 64.34.440 and 1992 c 220 s 25 are each amended to
4 read as follows:

5 (1)(a) A declarant of a conversion condominium, and any dealer who
6 intends to offer units in such a condominium, shall give each of the
7 residential tenants and any residential subtenant in possession of a
8 portion of a conversion condominium notice of the conversion and
9 provide those persons with the public offering statement no later than
10 ((ninety)) one hundred eighty days before the tenants and any subtenant
11 in possession are required to vacate. The notice must:

12 (i) Set forth generally the rights of tenants and subtenants under
13 this section ((and shall));

14 (ii) Be delivered pursuant to notice requirements set forth in RCW
15 59.12.040; and

16 (iii) Expressly state whether there is a county or city relocation
17 assistance program for tenants or subtenants of conversion condominiums
18 in the jurisdiction in which the property is located. If the county or
19 city does have a relocation assistance program, the following must also
20 be included in the notice:

21 (A) A summary of the terms and conditions under which relocation
22 assistance is paid; and

23 (B) Contact information for the city or county relocation
24 assistance program, which must include, at a minimum, a telephone
25 number of the city or county department that administers the relocation
26 assistance program for conversion condominiums.

27 (b) No tenant or subtenant may be required to vacate upon less than
28 ((ninety)) one hundred eighty days' notice, except by reason of
29 nonpayment of rent, waste, conduct that disturbs other tenants'
30 peaceful enjoyment of the premises, or act of unlawful detainer as

1 defined in RCW 59.12.030, and the terms of the tenancy may not be
2 altered during that period except as provided in (c) of this
3 subsection.

4 (c) At the declarant's option, the declarant may provide all
5 tenants in a single building with an option to terminate their lease or
6 rental agreements without cause or consequence after providing the
7 declarant with thirty days' notice. In such case, tenants continue to
8 have access to relocation assistance under subsection (6)(e) of this
9 section.

10 (d) Nothing in this subsection shall be deemed to waive or repeal
11 RCW 59.18.200(2). Failure to give notice as required by this section
12 is a defense to an action for possession.

13 (2) For sixty days after delivery or mailing of the notice
14 described in subsection (1) of this section, the person required to
15 give the notice shall offer to convey each unit or proposed unit
16 occupied for residential use to the tenant who leases that unit. If a
17 tenant fails to purchase the unit during that sixty-day period, the
18 offeror may offer to dispose of an interest in that unit during the
19 following one hundred eighty days at a price or on terms more favorable
20 to the offeree than the price or terms offered to the tenant only if:

21 (a) Such offeror, by written notice mailed to the tenant's last known
22 address, offers to sell an interest in that unit at the more favorable
23 price and terms, and (b) such tenant fails to accept such offer in
24 writing within ten days following the mailing of the offer to the
25 tenant. This subsection does not apply to any unit in a conversion
26 condominium if that unit will be restricted exclusively to
27 nonresidential use or the boundaries of the converted unit do not
28 substantially conform to the dimensions of the residential unit before
29 conversion.

30 (3) If a seller, in violation of subsection (2) of this section,
31 conveys a unit to a purchaser for value who has no knowledge of the
32 violation, recording of the deed conveying the unit extinguishes any
33 right a tenant may have to purchase that unit but does not affect the
34 right of a tenant to recover damages from the seller for a violation of
35 subsection (2) of this section.

36 (4) If a notice of conversion specifies a date by which a unit or
37 proposed unit must be vacated and otherwise complies with the

1 provisions of this chapter and chapter 59.18 RCW, the notice also
2 constitutes a notice to vacate specified by that statute.

3 (5) Nothing in this section permits termination of a lease by a
4 declarant in violation of its terms.

5 (6) Notwithstanding RCW 64.34.050(1), a city or county may by
6 appropriate ordinance require with respect to any conversion
7 condominium within the jurisdiction of such city or county that:

8 (a) In addition to the statement required by RCW 64.34.415(1)(a),
9 the public offering statement shall contain a copy of the written
10 inspection report prepared by the appropriate department of such city
11 or county, which report shall list any violations of the housing code
12 or other governmental regulation, which code or regulation is
13 applicable regardless of whether the real property is owned as a
14 condominium or in some other form of ownership; said inspection shall
15 be made within forty-five days of the declarant's written request
16 therefor and said report shall be issued within fourteen days of said
17 inspection being made. Such inspection may not be required with
18 respect to any building for which a final certificate of occupancy has
19 been issued by the city or county within the preceding twenty-four
20 months; and any fee imposed for the making of such inspection may not
21 exceed the fee that would be imposed for the making of such an
22 inspection for a purpose other than complying with this subsection
23 (6)(a);

24 (b) Prior to the conveyance of any residential unit within a
25 conversion condominium, other than a conveyance to a declarant or
26 affiliate of a declarant: (i) All violations disclosed in the
27 inspection report provided for in (a) of this subsection, and not
28 otherwise waived by such city or county, shall be repaired, and (ii) a
29 certification shall be obtained from such city or county that such
30 repairs have been made, which certification shall be based on a
31 reinspection to be made within seven days of the declarant's written
32 request therefor and which certification shall be issued within seven
33 days of said reinspection being made;

34 (c) The repairs required to be made under (b) of this subsection
35 shall be warranted by the declarant against defects due to workmanship
36 or materials for a period of one year following the completion of such
37 repairs;

1 (d) Prior to the conveyance of any residential unit within a
2 conversion condominium, other than a conveyance to a declarant or
3 affiliate of a declarant: (i) The declarant shall establish and
4 maintain, during the one-year warranty period provided under (c) of
5 this subsection, an account containing a sum equal to ten percent of
6 the actual cost of making the repairs required under (b) of this
7 subsection; (ii) during the one-year warranty period, the funds in such
8 account shall be used exclusively for paying the actual cost of making
9 repairs required, or for otherwise satisfying claims made, under such
10 warranty; (iii) following the expiration of the one-year warranty
11 period, any funds remaining in such account shall be immediately
12 disbursed to the declarant; and (iv) the declarant shall notify in
13 writing the association and such city or county as to the location of
14 such account and any disbursements therefrom; (~~and~~)

15 (e) A declarant shall pay relocation assistance (~~(not to exceed~~
16 ~~five hundred dollars per unit shall be paid)~~), in an amount to be
17 determined by the city or county, which may not exceed a sum equal to
18 three months of the tenant's or subtenant's rent at the time the
19 conversion notice required under subsection (1) of this section is
20 received, to tenants and subtenants:

21 (i) Who elect not to purchase a unit (~~and~~);

22 (ii) Who are in lawful occupancy for residential purposes of a
23 unit; and

24 (iii) Whose monthly household income from all sources, on the date
25 of the notice described in subsection (1) of this section, was less
26 than an amount equal to eighty percent of (~~(+i)~~);

27 (A) The monthly median income for comparably sized households in
28 the standard metropolitan statistical area, as defined and established
29 by the United States department of housing and urban development, in
30 which the condominium is located(~~(τ)~~); or (~~(+ii)~~)

31 (B) If the condominium is not within a standard metropolitan
32 statistical area, the monthly median income for comparably sized
33 households in the state of Washington, as defined and determined by
34 said department.

35 The household size of a unit shall be based on the number of
36 persons actually in lawful occupancy of the unit. The tenant or
37 subtenant actually in lawful occupancy of the unit shall be entitled to
38 the relocation assistance. Relocation assistance shall be paid on or

1 before the date the tenant or subtenant vacates and shall be in
2 addition to any damage deposit or other compensation or refund to which
3 the tenant is otherwise entitled. Unpaid rent or other amounts owed by
4 the tenant or subtenant to the landlord may be offset against the
5 relocation assistance;

6 (f) Except as authorized under (g) of this subsection, a declarant
7 and any dealer shall not begin any construction, remodeling, or repairs
8 to any interior or exterior portion of an occupied building that is to
9 be converted to a condominium during the one hundred eighty-day notice
10 period provided for in subsection (1) of this section unless all
11 residential tenants and residential subtenants who have elected not to
12 purchase a unit and who are in lawful occupancy in the building have
13 vacated the premises. For the purposes of this subsection:

14 (i) "Construction, remodeling, or repairs" means the work that is
15 done for the purpose of converting the condominium, not work that is
16 done to maintain minimum health and safety requirements for the
17 existing tenants or subtenants;

18 (ii) "Occupied building" means a stand-alone structure occupied by
19 tenants and does not include other stand-alone buildings located on the
20 property or detached common area facilities;

21 (g)(i) A declarant and any dealer may begin specific limited
22 construction, remodeling, or repair activities as described under
23 (g)(i)(A) and (B) of this subsection to interior or exterior portions
24 of an occupied building during the one hundred eighty-day notice period
25 only if: The declarant or dealer has offered all tenants the option to
26 terminate an existing lease or rental agreement without cause or
27 consequence as described in (h) of this subsection; and all tenants
28 have either vacated the premises or have provided to the declarant or
29 dealer signed waivers documenting their consent to the specific limited
30 construction, remodeling, or repair activities that consist of:

31 (A) The repair or remodel of vacant units to be used as model
32 units, if the repair or remodel is limited to one model for each unit
33 type in the building; and

34 (B) The repair or remodel of a vacant unit or common area for use
35 as a sales office.

36 (ii) The work performed under this subsection (6)(g) must not
37 violate the tenant's or subtenant's rights of quiet enjoyment during
38 the one hundred eighty-day notice period; and

1 (h) All tenants must be provided with the option to terminate their
2 lease or rental agreement without cause or consequence after providing
3 the declarant with thirty days' notice under any of the following
4 circumstances:

5 (i) The tenant receives a one hundred eighty-day notice as provided
6 for in subsection (1) of this section;

7 (ii) The declarant or dealer has publicly recorded, filed
8 documents, or applied for permits with the local jurisdiction
9 pertaining to and specifically referencing a conversion of the
10 development to condominiums; or

11 (iii) The declarant has announced in writing the conversion of the
12 development to condominiums.

13 If a tenant exercises his or her right to terminate a lease under
14 this subsection (6)(h), the tenant must: Be discharged from the
15 payment of rent for any period of time following the date the lease
16 terminates; be entitled to a pro rata refund of any prepaid rent for
17 any period of time following the date the lease terminates; and
18 continue to have access to relocation assistance under (e) of this
19 subsection. Reprisal or retaliatory action as defined under RCW
20 59.18.240 is prohibited against any tenant exercising his or her right
21 to terminate a lease or rental agreement under this subsection (6)(h).

22 (7) Violations of any city or county ordinance adopted as
23 authorized by subsection (6) of this section shall give rise to such
24 remedies, penalties, and causes of action which may be lawfully imposed
25 by such city or county. Such violations shall not invalidate the
26 creation of the condominium or the conveyance of any interest therein.

27 **Sec. 2.** RCW 82.02.020 and 2006 c 149 s 3 are each amended to read
28 as follows:

29 Except only as expressly provided in chapters 67.28 and 82.14 RCW,
30 the state preempts the field of imposing taxes upon retail sales of
31 tangible personal property, the use of tangible personal property,
32 parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances,
33 and cigarettes, and no county, town, or other municipal subdivision
34 shall have the right to impose taxes of that nature. Except as
35 provided in RCW 64.34.440 and 82.02.050 through 82.02.090, no county,
36 city, town, or other municipal corporation shall impose any tax, fee,
37 or charge, either direct or indirect, on the construction or

1 reconstruction of residential buildings, commercial buildings,
2 industrial buildings, or on any other building or building space or
3 appurtenance thereto, or on the development, subdivision,
4 classification, or reclassification of land. However, this section
5 does not preclude dedications of land or easements within the proposed
6 development or plat which the county, city, town, or other municipal
7 corporation can demonstrate are reasonably necessary as a direct result
8 of the proposed development or plat to which the dedication of land or
9 easement is to apply.

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

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

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

24 (3) Any payment not so expended shall be refunded with interest to
25 be calculated from the original date the deposit was received by the
26 county and at the same rate applied to tax refunds pursuant to RCW
27 84.69.100; however, if the payment is not expended within five years
28 due to delay attributable to the developer, the payment shall be
29 refunded without interest.

30 No county, city, town, or other municipal corporation shall require
31 any payment as part of such a voluntary agreement which the county,
32 city, town, or other municipal corporation cannot establish is
33 reasonably necessary as a direct result of the proposed development or
34 plat.

35 Nothing in this section prohibits cities, towns, counties, or other
36 municipal corporations from collecting reasonable fees from an
37 applicant for a permit or other governmental approval to cover the cost

1 to the city, town, county, or other municipal corporation of processing
2 applications, inspecting and reviewing plans, or preparing detailed
3 statements required by chapter 43.21C RCW.

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

8 Nothing in this section prohibits counties, cities, or towns from
9 imposing or permits counties, cities, or towns to impose water, sewer,
10 natural gas, drainage utility, and drainage system charges: PROVIDED,
11 That no such charge shall exceed the proportionate share of such
12 utility or system's capital costs which the county, city, or town can
13 demonstrate are attributable to the property being charged: PROVIDED
14 FURTHER, That these provisions shall not be interpreted to expand or
15 contract any existing authority of counties, cities, or towns to impose
16 such charges.

17 Nothing in this section prohibits a transportation benefit district
18 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
19 the legislative authority of a county, city, or town from approving the
20 imposition of such fees within a transportation benefit district.

21 Nothing in this section prohibits counties, cities, or towns from
22 imposing transportation impact fees authorized pursuant to chapter
23 39.92 RCW.

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

27 Nothing in this section limits the authority of counties, cities,
28 or towns to implement programs consistent with RCW 36.70A.540, nor to
29 enforce agreements made pursuant to such programs.

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

33 **Sec. 3.** RCW 64.34.050 and 1989 c 43 s 1-106 are each amended to
34 read as follows:

35 (1) Except as provided in RCW 64.34.440 and subsection (2) of this
36 section, a zoning, subdivision, building code, or other real property
37 law, ordinance, or regulation may not prohibit the condominium form of

1 ownership or impose any requirement upon a condominium which it would
2 not impose upon a physically identical development under a different
3 form of ownership. Otherwise, no provision of this chapter invalidates
4 or modifies any provision of any zoning, subdivision, building code, or
5 other real property use law, ordinance, or regulation.

6 (2)(a) The legislative authorities of counties subject to RCW
7 36.70A.215 and the cities within those counties may adopt laws or
8 ordinances, subject to the limitations of this subsection, that
9 restrict the number of conversion condominiums that are approved
10 annually or within any other time period chosen by the legislative
11 authority if that jurisdiction has documented that:

12 (i) The rental vacancy rate within the jurisdiction is below five
13 percent; or

14 (ii) There has been a net loss in rental housing stock during the
15 previous twelve-month period.

16 (b) In placing limits on condominium conversions, counties and
17 cities are subject to the following restrictions:

18 (i) Counties and cities may only restrict condominium conversions
19 that affect rental unit developments where at least fifty percent of
20 the rental units at any time over the previous two-year period
21 qualified as affordable housing as defined in RCW 43.185B.010 for low-
22 income households as defined in RCW 43.185A.010.

23 (ii) Counties and cities placing restrictions on the number of
24 conversion condominiums must allow the number of condominium
25 conversions every year to be at least three hundred units or be equal
26 to the average annual number of condominium conversions over the
27 jurisdiction's previous ten-year period, whichever is lesser.

28 (iii) For county or city restrictions on condominium conversions
29 without an expiration date or for those intended to last more than
30 twelve months, within one month of the annual anniversary date of the
31 implementation of such a restriction, a county or city must hold a
32 public hearing and document that the conditions required in this
33 subsection related to vacancy rates or the net loss of rental housing
34 stock continue to exist. If these conditions no longer exist, any
35 restrictions on the number of condominium conversions must be removed.

36 (3) This section shall not prohibit a county legislative authority
37 from requiring the review and approval of declarations and amendments
38 thereto and termination agreements executed pursuant to RCW

1 64.34.268(2) by the county assessor solely for the purpose of
2 allocating the assessed value and property taxes. The review by the
3 assessor shall be done in a reasonable and timely manner.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 64.34 RCW
5 to read as follows:

6 All cities and counties planning under RCW 36.70A.040, which have
7 allowed any conversion condominiums within the jurisdiction within the
8 previous twelve-month period, must include the following performance
9 measure-related data in an annual report to the department of
10 community, trade, and economic development:

11 (1) The total number of apartment units converted into
12 condominiums;

13 (2) The total number of conversion condominium projects;

14 (3)(a) The difference in the monthly rental housing cost of each
15 former rental unit that is converted and (b) the monthly mortgage cost
16 of the owner occupancy condominium to which it is converted or the
17 expected monthly mortgage cost of the condominium to which it is in the
18 process of being converted;

19 (4) The total number of apartment tenants affected by the
20 conversion who elect to purchase a condominium within the development
21 and income information for each of those tenants;

22 (5) The total number of apartment tenants who receive relocation
23 assistance, the total amount of that assistance per tenant, and income
24 information for all tenants who received relocation assistance;

25 (6) Income information for all tenants in units that were converted
26 into condominiums; and

27 (7) The net change in the total number of rental housing units
28 within the jurisdiction and the net change in the number of rental
29 housing units affordable to low and very low-income households.

30 NEW SECTION. **Sec. 5.** This act takes effect August 1, 2008.

31 NEW SECTION. **Sec. 6.** This act does not apply to any conversion
32 condominiums for which a notice required under RCW 64.34.440(1) has
33 been delivered before the effective date of this act."

34 Correct the title.

EFFECT: (1) Increases the notification period of condominium conversions to tenants from 120 to 180 days.

(2) Adds that construction may not begin on exterior (as well as interior) portions of buildings unless all tenants have vacated the property or unless all tenants are offered the option to terminate existing leases and the tenants either do so and vacate or sign waivers consenting to specific limited construction activities.

(3) Allows legislative authorities of "buildable lands" counties, and the cities within those counties, to restrict the number of condominium conversions if the vacancy rate for their jurisdiction falls below five percent or if there has been a net loss in rental housing stock during the previous twelve-month period. However, restrictions may only be placed on properties that for the previous 2-year period consisted of at least 50 percent rental units affordable to low-income households. Furthermore, a county or city placing restrictions on the number of conversions must allow either for the conversion of at least 300 units or for the number of condominium conversions to equal the average annual number of conversions for the jurisdiction's previous ten-year period, whichever is the lesser number.

(4) Allows jurisdictions to require declarants to allow tenants to terminate leases after 30 days notice after receiving a notice of conversion or after the declarant publicly records or announces a conversion.

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