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HOUSE BILL 1701

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Fromhold, Dunn and Moeller

Read first time 01/25/2007. Referred to Committee on Finance.

1            AN ACT Relating to exempting historical property owned by the  
2 United States government from leasehold excise taxation; and reenacting  
3 and amending RCW 82.29A.130.

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

5            **Sec. 1.** RCW 82.29A.130 and 2005 c 514 s 601 and 2005 c 170 s 1 are  
6 each reenacted and amended to read as follows:

7            The following leasehold interests shall be exempt from taxes  
8 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

9            (1) All leasehold interests constituting a part of the operating  
10 properties of any public utility which is assessed and taxed as a  
11 public utility pursuant to chapter 84.12 RCW.

12            (2) All leasehold interests in facilities owned or used by a  
13 school, college or university which leasehold provides housing for  
14 students and which is otherwise exempt from taxation under provisions  
15 of RCW 84.36.010 and 84.36.050.

16            (3) All leasehold interests of subsidized housing where the fee  
17 ownership of such property is vested in the government of the United  
18 States, or the state of Washington or any political subdivision thereof  
19 but only if income qualification exists for such housing.

1 (4) All leasehold interests used for fair purposes of a nonprofit  
2 fair association that sponsors or conducts a fair or fairs which  
3 receive support from revenues collected pursuant to RCW 67.16.100 and  
4 allocated by the director of the department of agriculture where the  
5 fee ownership of such property is vested in the government of the  
6 United States, the state of Washington or any of its political  
7 subdivisions: PROVIDED, That this exemption shall not apply to the  
8 leasehold interest of any sublessee of such nonprofit fair association  
9 if such leasehold interest would be taxable if it were the primary  
10 lease.

11 (5) All leasehold interests in any property of any public entity  
12 used as a residence by an employee of that public entity who is  
13 required as a condition of employment to live in the publicly owned  
14 property.

15 (6) All leasehold interests held by enrolled Indians of lands owned  
16 or held by any Indian or Indian tribe where the fee ownership of such  
17 property is vested in or held in trust by the United States and which  
18 are not subleased to other than to a lessee which would qualify  
19 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

20 (7) All leasehold interests in any real property of any Indian or  
21 Indian tribe, band, or community that is held in trust by the United  
22 States or is subject to a restriction against alienation imposed by the  
23 United States: PROVIDED, That this exemption shall apply only where it  
24 is determined that contract rent paid is greater than or equal to  
25 ninety percent of fair market rental, to be determined by the  
26 department of revenue using the same criteria used to establish taxable  
27 rent in RCW 82.29A.020(2)(b).

28 (8) All leasehold interests for which annual taxable rent is less  
29 than two hundred fifty dollars per year. For purposes of this  
30 subsection leasehold interests held by the same lessee in contiguous  
31 properties owned by the same lessor shall be deemed a single leasehold  
32 interest.

33 (9) All leasehold interests which give use or possession of the  
34 leased property for a continuous period of less than thirty days:  
35 PROVIDED, That for purposes of this subsection, successive leases or  
36 lease renewals giving substantially continuous use of possession of the  
37 same property to the same lessee shall be deemed a single leasehold  
38 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed

1 to give use or possession for a period of less than thirty days solely  
2 by virtue of the reservation by the public lessor of the right to use  
3 the property or to allow third parties to use the property on an  
4 occasional, temporary basis.

5 (10) All leasehold interests under month-to-month leases in  
6 residential units rented for residential purposes of the lessee pending  
7 destruction or removal for the purpose of constructing a public highway  
8 or building.

9 (11) All leasehold interests in any publicly owned real or personal  
10 property to the extent such leasehold interests arises solely by virtue  
11 of a contract for public improvements or work executed under the public  
12 works statutes of this state or of the United States between the public  
13 owner of the property and a contractor.

14 (12) All leasehold interests that give use or possession of state  
15 adult correctional facilities for the purposes of operating  
16 correctional industries under RCW 72.09.100.

17 (13) All leasehold interests used to provide organized and  
18 supervised recreational activities for (~~disabled~~) persons with  
19 disabilities of all ages in a camp facility and for public recreational  
20 purposes by a nonprofit organization, association, or corporation that  
21 would be exempt from property tax under RCW 84.36.030(1) if it owned  
22 the property. If the publicly owned property is used for any taxable  
23 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and  
24 82.29A.040 shall be imposed and shall be apportioned accordingly.

25 (14) All leasehold interests in the public or entertainment areas  
26 of a baseball stadium with natural turf and a retractable roof or  
27 canopy that is in a county with a population of over one million, that  
28 has a seating capacity of over forty thousand, and that is constructed  
29 on or after January 1, 1995. "Public or entertainment areas" include  
30 ticket sales areas, ramps and stairs, lobbies and concourses, parking  
31 areas, concession areas, restaurants, hospitality and stadium club  
32 areas, kitchens or other work areas primarily servicing other public or  
33 entertainment areas, public rest room areas, press and media areas,  
34 control booths, broadcast and production areas, retail sales areas,  
35 museum and exhibit areas, scoreboards or other public displays, storage  
36 areas, loading, staging, and servicing areas, seating areas and suites,  
37 the playing field, and any other areas to which the public has access  
38 or which are used for the production of the entertainment event or

1 other public usage, and any other personal property used for these  
2 purposes. "Public or entertainment areas" does not include locker  
3 rooms or private offices exclusively used by the lessee.

4 (15) All leasehold interests in the public or entertainment areas  
5 of a stadium and exhibition center, as defined in RCW 36.102.010, that  
6 is constructed on or after January 1, 1998. For the purposes of this  
7 subsection, "public or entertainment areas" has the same meaning as in  
8 subsection (14) of this section, and includes exhibition areas.

9 (16) All leasehold interests in public facilities districts, as  
10 provided in chapter 36.100 or 35.57 RCW.

11 (17) All leasehold interests in property that is: (a) Owned by the  
12 United States government or a municipal corporation; (b) listed on any  
13 federal or state register of historical sites; and (c) wholly contained  
14 within a designated national historic reserve under 16 U.S.C. Sec. 461.

15 (18) All leasehold interests in the public or entertainment areas  
16 of an amphitheater if a private entity is responsible for one hundred  
17 percent of the cost of constructing the amphitheater which is not  
18 reimbursed by the public owner, both the public owner and the private  
19 lessee sponsor events at the facility on a regular basis, the lessee is  
20 responsible under the lease or agreement to operate and maintain the  
21 facility, and the amphitheater has a seating capacity of over seventeen  
22 thousand reserved and general admission seats and is in a county with  
23 a population of over three hundred fifty thousand, but less than four  
24 hundred twenty-five thousand. For the purposes of this subsection,  
25 "public or entertainment areas" include box offices or other ticket  
26 sales areas, entrance gates, ramps and stairs, lobbies and concourses,  
27 parking areas, concession areas, restaurants, hospitality areas,  
28 kitchens or other work areas primarily servicing other public or  
29 entertainment areas, public rest room areas, press and media areas,  
30 control booths, broadcast and production areas, retail sales areas,  
31 museum and exhibit areas, scoreboards or other public displays, storage  
32 areas, loading, staging, and servicing areas, seating areas including  
33 lawn seating areas and suites, stages, and any other areas to which the  
34 public has access or which are used for the production of the  
35 entertainment event or other public usage, and any other personal  
36 property used for these purposes. "Public or entertainment areas" does

1 not include office areas used predominately by the lessee.

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