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SENATE BILL 6411

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State of Washington                      60th Legislature                      2008 Regular Session

By Senators Kohl-Welles, Jacobsen, Kline, Pridemore, Murray,  
McDermott, Fairley, and Keiser

Read first time 01/16/08.                      Referred to Committee on Consumer  
Protection & Housing.

1            AN ACT Relating to the regulation of conversion condominiums;  
2 amending RCW 64.34.440, 82.02.020, and 64.34.050; creating a new  
3 section; and providing an effective date.

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

5            **Sec. 1.** RCW 64.34.440 and 1992 c 220 s 25 are each amended to read  
6 as follows:

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

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

16            (ii) Be delivered pursuant to notice requirements set forth in RCW  
17 59.12.040; and

18            (iii) Expressly state whether there is a county or city relocation  
19 assistance program for tenants or subtenants of conversion condominiums

1 in the jurisdiction in which the property is located. If the county or  
2 city does have a relocation assistance program, the following must also  
3 be included in the notice:

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

6 (B) Contact information for the city or county relocation  
7 assistance program, which must include, at a minimum, a telephone  
8 number of the city or county department that administers the relocation  
9 assistance program for conversion condominiums.

10 (b) No tenant or subtenant may be required to vacate upon less than  
11 ((ninety)) one hundred eighty days' notice, except by reason of  
12 nonpayment of rent, waste, conduct that disturbs other tenants'  
13 peaceful enjoyment of the premises, or act of unlawful detainer as  
14 defined in RCW 59.12.030, and the terms of the tenancy may not be  
15 altered during that period except as provided in (c) of this  
16 subsection.

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

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

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

34 (a) Such offeror, by written notice mailed to the tenant's last known  
35 address, offers to sell an interest in that unit at the more favorable  
36 price and terms, and (b) such tenant fails to accept such offer in  
37 writing within ten days following the mailing of the offer to the  
38 tenant. This subsection does not apply to any unit in a conversion

1 condominium if that unit will be restricted exclusively to  
2 nonresidential use or the boundaries of the converted unit do not  
3 substantially conform to the dimensions of the residential unit before  
4 conversion.

5 (3) If a seller, in violation of subsection (2) of this section,  
6 conveys a unit to a purchaser for value who has no knowledge of the  
7 violation, recording of the deed conveying the unit extinguishes any  
8 right a tenant may have to purchase that unit but does not affect the  
9 right of a tenant to recover damages from the seller for a violation of  
10 subsection (2) of this section.

11 (4) If a notice of conversion specifies a date by which a unit or  
12 proposed unit must be vacated and otherwise complies with the  
13 provisions of this chapter and chapter 59.18 RCW, the notice also  
14 constitutes a notice to vacate specified by that statute.

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

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

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

36 (b) Prior to the conveyance of any residential unit within a  
37 conversion condominium, other than a conveyance to a declarant or  
38 affiliate of a declarant: (i) All violations disclosed in the

1 inspection report provided for in (a) of this subsection, and not  
2 otherwise waived by such city or county, shall be repaired, and (ii) a  
3 certification shall be obtained from such city or county that such  
4 repairs have been made, which certification shall be based on a  
5 reinspection to be made within seven days of the declarant's written  
6 request therefor and which certification shall be issued within seven  
7 days of said reinspection being made;

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

12 (d) Prior to the conveyance of any residential unit within a  
13 conversion condominium, other than a conveyance to a declarant or  
14 affiliate of a declarant: (i) The declarant shall establish and  
15 maintain, during the one-year warranty period provided under (c) of  
16 this subsection, an account containing a sum equal to ten percent of  
17 the actual cost of making the repairs required under (b) of this  
18 subsection; (ii) during the one-year warranty period, the funds in such  
19 account shall be used exclusively for paying the actual cost of making  
20 repairs required, or for otherwise satisfying claims made, under such  
21 warranty; (iii) following the expiration of the one-year warranty  
22 period, any funds remaining in such account shall be immediately  
23 disbursed to the declarant; and (iv) the declarant shall notify in  
24 writing the association and such city or county as to the location of  
25 such account and any disbursements therefrom; ~~((and))~~

26 (e) A declarant or dealer shall pay relocation assistance ~~((not to~~  
27 ~~exceed five hundred dollars per unit shall be paid))~~, in an amount to  
28 be determined pursuant to the city or county ordinance, but does not  
29 exceed either three times the average monthly rent in the city or  
30 county, or three times the highest monthly rent in effect for the  
31 tenant's unit under the applicable lease or rental agreement, at any  
32 time after the date that is one hundred eighty days before the date of  
33 the notice described in subsection (1) of this section, to tenants and  
34 subtenants:

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

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

1        (iii) Whose ((monthly)) annual household income from all sources,  
2        on the date of the notice described in subsection (1) of this section,  
3        was less than an amount equal to eighty percent of ((+i)):

4        (A) The ((monthly)) annual median family income ((for comparably  
5        sized households)) in the standard metropolitan statistical area, or if  
6        so provided by ordinance in a subarea, as ((defined and established))  
7        estimated by the United States department of housing and urban  
8        development, and as adjusted for family size according to the method  
9        used for income limits by the United States department of housing and  
10       urban development, in which the condominium is located((7)); or  
11       ((+i))

12       (B) If the condominium is not within a ((standard)) metropolitan  
13       statistical area, the ((monthly)) annual median family income ((for  
14       comparably sized households)) in the state of Washington, as ((defined  
15       and determined by said department)) estimated by the United States  
16       department of housing and urban development, and as adjusted for family  
17       size according to the method used for income limits by the United  
18       States department of housing and urban development.

19       The household size of a unit shall be based on the number of  
20 persons actually in lawful occupancy of the unit. The tenant or  
21 subtenant actually in lawful occupancy of the unit shall be entitled to  
22 the relocation assistance. The requirement for relocation assistance  
23 under this subsection is authorized whether or not the relocation  
24 assistance may be considered a tax. The declarant shall provide to the  
25 city or county a copy of the notice required under subsection (1)(a) of  
26 this section at the same time the notice is provided to the tenants or  
27 subtenants. The declarant shall also provide other notices and  
28 documentation that the city or county may require by ordinance or rule  
29 to administer the relocation assistance requirement and verify  
30 compliance under this section. Relocation assistance shall be paid on  
31 or before the date the tenant or subtenant vacates and shall be in  
32 addition to any damage deposit or other compensation or refund to which  
33 the tenant is otherwise entitled. Unpaid rent or other amounts owed by  
34 the tenant or subtenant to the landlord may be offset against the  
35 relocation assistance;

36       (f) The amount of relocation assistance may be adjusted annually by  
37       the percentage amount of change in the housing component of the

1 consumer price index for all United States cities, as published by the  
2 bureau of labor statistics, United States department of labor;

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

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

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

19 (h)(i) A declarant and any dealer may begin specific limited  
20 construction, remodeling, or repair activities as described under  
21 (h)(i)(A), (B), and (C) of this subsection to interior or exterior  
22 portions of an occupied building during the one hundred eighty-day  
23 notice period only if all tenants and subtenants have either vacated  
24 the premises or have provided to the declarant or dealer signed waivers  
25 documenting their consent to the specific limited construction,  
26 remodeling, or repair activities that consist of:

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

30 (B) The repair or remodel of a vacant unit or common area for use  
31 as a sales office; and

32 (C) Other repairs as the local ordinance may permit.

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

36 (i) All tenants must be provided with the option to terminate their  
37 lease or rental agreement without cause or consequence after providing

1 the declarant with thirty days' notice under any of the following  
2 circumstances:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 Nothing in this section prohibits counties, cities, or towns from  
19 imposing transportation impact fees authorized pursuant to chapter  
20 39.92 RCW.

21 Nothing in this section prohibits counties, cities, or towns from  
22 requiring property owners to provide relocation assistance to tenants  
23 under RCW 59.18.440 and 59.18.450, or 64.34.440.

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

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

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

32 (1) A zoning, subdivision, building code, or other real property  
33 law, ordinance, or regulation may not prohibit the condominium form of  
34 ownership or impose any requirement upon a condominium which it would  
35 not impose upon a physically identical development under a different  
36 form of ownership. Otherwise, no provision of this chapter invalidates

1 or modifies any provision of any zoning, subdivision, building code, or  
2 other real property use law, ordinance, or regulation.

3 (2) This section shall not prohibit a county legislative authority  
4 from requiring the review and approval of declarations and amendments  
5 thereto and termination agreements executed pursuant to RCW  
6 64.34.268(2) by the county assessor solely for the purpose of  
7 allocating the assessed value and property taxes. The review by the  
8 assessor shall be done in a reasonable and timely manner.

9 (3) Notwithstanding this section, local ordinances adopted pursuant  
10 to RCW 64.34.440 are permitted.

11 NEW SECTION. **Sec. 4.** This act does not apply to any conversion  
12 condominiums for which a notice required under RCW 64.34.440(1) has  
13 been delivered before the effective date of this act.

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

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