

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6389

60th Legislature
2008 Regular Session

Passed by the Senate March 10, 2008
YEAS 48 NAYS 0

President of the Senate

Passed by the House March 5, 2008
YEAS 95 NAYS 1

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6389** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6389

AS AMENDED BY THE HOUSE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senate Ways & Means (originally sponsored by Senators Brown, Schoesler, Hobbs, Rasmussen, Marr, Franklin, and Kilmer)

READ FIRST TIME 02/01/08.

1 AN ACT Relating to exempting certain military housing from property
2 and leasehold excise taxes; amending RCW 82.29A.130; and adding a new
3 section to chapter 84.36 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 84.36 RCW
6 to read as follows:

7 (1) Military housing is exempt from taxation if the housing meets
8 the following requirements:

9 (a) The military housing must be situated on land owned in fee by
10 the United States;

11 (b) The military housing must be used for the housing of military
12 personnel and their families; and

13 (c) The military housing must be a development project awarded
14 under the military housing privatization initiative.

15 (2) To qualify property for the exemption under this section, the
16 project owner must submit an application to the department in a form
17 and manner prescribed by the department. Any change in the use of the
18 property that affects the qualification of the property must be
19 reported to the department.

1 (3) The definitions in this subsection apply to this section.

2 (a) "Ancillary supporting facilities" means facilities related to
3 military housing units, including facilities to provide or support
4 elementary or secondary education, child care centers, day care
5 centers, child development centers, tot lots, community centers,
6 housing offices, dining facilities, unit offices, and other similar
7 facilities for the support of military housing.

8 (b) "Military housing" means military housing units and ancillary
9 supporting facilities.

10 (c) "Military housing privatization initiative" means the military
11 housing privatization initiative of 1996, 10 U.S.C. Secs. 2871 through
12 2885, as existing on the effective date of this act, or some later date
13 as the department may provide.

14 **Sec. 2.** RCW 82.29A.130 and 2007 c 90 s 1 are each amended to read
15 as follows:

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

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

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

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

29 (4) All leasehold interests used for fair purposes of a nonprofit
30 fair association that sponsors or conducts a fair or fairs which
31 receive support from revenues collected pursuant to RCW 67.16.100 and
32 allocated by the director of the department of agriculture where the
33 fee ownership of such property is vested in the government of the
34 United States, the state of Washington or any of its political
35 subdivisions: PROVIDED, That this exemption shall not apply to the
36 leasehold interest of any sublessee of such nonprofit fair association

1 if such leasehold interest would be taxable if it were the primary
2 lease.

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

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

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

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

25 (9) All leasehold interests which give use or possession of the
26 leased property for a continuous period of less than thirty days:
27 PROVIDED, That for purposes of this subsection, successive leases or
28 lease renewals giving substantially continuous use of possession of the
29 same property to the same lessee shall be deemed a single leasehold
30 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed
31 to give use or possession for a period of less than thirty days solely
32 by virtue of the reservation by the public lessor of the right to use
33 the property or to allow third parties to use the property on an
34 occasional, temporary basis.

35 (10) All leasehold interests under month-to-month leases in
36 residential units rented for residential purposes of the lessee pending
37 destruction or removal for the purpose of constructing a public highway
38 or building.

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

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

9 (13) All leasehold interests used to provide organized and
10 supervised recreational activities for persons with disabilities of all
11 ages in a camp facility and for public recreational purposes by a
12 nonprofit organization, association, or corporation that would be
13 exempt from property tax under RCW 84.36.030(1) if it owned the
14 property. If the publicly owned property is used for any taxable
15 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and
16 82.29A.040 shall be imposed and shall be apportioned accordingly.

17 (14) All leasehold interests in the public or entertainment areas
18 of a baseball stadium with natural turf and a retractable roof or
19 canopy that is in a county with a population of over one million, that
20 has a seating capacity of over forty thousand, and that is constructed
21 on or after January 1, 1995. "Public or entertainment areas" include
22 ticket sales areas, ramps and stairs, lobbies and concourses, parking
23 areas, concession areas, restaurants, hospitality and stadium club
24 areas, kitchens or other work areas primarily servicing other public or
25 entertainment areas, public rest room areas, press and media areas,
26 control booths, broadcast and production areas, retail sales areas,
27 museum and exhibit areas, scoreboards or other public displays, storage
28 areas, loading, staging, and servicing areas, seating areas and suites,
29 the playing field, and any other areas to which the public has access
30 or which are used for the production of the entertainment event or
31 other public usage, and any other personal property used for these
32 purposes. "Public or entertainment areas" does not include locker
33 rooms or private offices exclusively used by the lessee.

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

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

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

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

30 (19) All leasehold interests in real property used for the
31 placement of military housing meeting the requirements of section 1 of
32 this act.

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