

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1398

62nd Legislature
2012 Regular Session

Passed by the House March 8, 2012
Yeas 56 Nays 42

Speaker of the House of Representatives

Passed by the Senate March 8, 2012
Yeas 32 Nays 17

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1398** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1398

AS AMENDED BY THE SENATE

Passed Legislature - 2012 Regular Session

State of Washington **62nd Legislature** **2012 Regular Session**

By Representatives Fitzgibbon, Seaquist, Orwall, Springer,
Upthegrove, and Kenney

Read first time 01/20/11. Referred to Committee on Community
Development & Housing.

1 AN ACT Relating to exempting low-income housing from impact fees;
2 and amending RCW 82.02.060.

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

4 **Sec. 1.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each
5 amended to read as follows:

6 The local ordinance by which impact fees are imposed:

7 (1) Shall include a schedule of impact fees which shall be adopted
8 for each type of development activity that is subject to impact fees,
9 specifying the amount of the impact fee to be imposed for each type of
10 system improvement. The schedule shall be based upon a formula or
11 other method of calculating such impact fees. In determining
12 proportionate share, the formula or other method of calculating impact
13 fees shall incorporate, among other things, the following:

14 (a) The cost of public facilities necessitated by new development;

15 (b) An adjustment to the cost of the public facilities for past or
16 future payments made or reasonably anticipated to be made by new
17 development to pay for particular system improvements in the form of
18 user fees, debt service payments, taxes, or other payments earmarked
19 for or proratable to the particular system improvement;

1 (c) The availability of other means of funding public facility
2 improvements;

3 (d) The cost of existing public facilities improvements; and

4 (e) The methods by which public facilities improvements were
5 financed;

6 (2) May provide an exemption for low-income housing, and other
7 development activities with broad public purposes, from these impact
8 fees, provided that the impact fees for such development activity shall
9 be paid from public funds other than impact fee accounts;

10 (3) May provide an exemption from impact fees for low-income
11 housing. Local governments that grant exemptions for low-income
12 housing under this subsection (3) may either: Grant a partial
13 exemption of not more than eighty percent of impact fees, in which case
14 there is no explicit requirement to pay the exempted portion of the fee
15 from public funds other than impact fee accounts; or provide a full
16 waiver, in which case the remaining percentage of the exempted fee must
17 be paid from public funds other than impact fee accounts. An exemption
18 for low-income housing granted under subsection (2) of this section or
19 this subsection (3) must be conditioned upon requiring the developer to
20 record a covenant that, except as provided otherwise by this
21 subsection, prohibits using the property for any purpose other than for
22 low-income housing. At a minimum, the covenant must address price
23 restrictions and household income limits for the low-income housing,
24 and that if the property is converted to a use other than for low-
25 income housing, the property owner must pay the applicable impact fees
26 in effect at the time of conversion. Covenants required by this
27 subsection must be recorded with the applicable county auditor or
28 recording officer. A local government granting an exemption under
29 subsection (2) of this section or this subsection (3) for low-income
30 housing may not collect revenue lost through granting an exemption by
31 increasing impact fees unrelated to the exemption. A school district
32 who receives school impact fees must approve any exemption under
33 subsection (2) of this section or this subsection (3);

34 (4) Shall provide a credit for the value of any dedication of land
35 for, improvement to, or new construction of any system improvements
36 provided by the developer, to facilities that are identified in the
37 capital facilities plan and that are required by the county, city, or
38 town as a condition of approving the development activity;

1 (~~(4)~~) (5) Shall allow the county, city, or town imposing the
2 impact fees to adjust the standard impact fee at the time the fee is
3 imposed to consider unusual circumstances in specific cases to ensure
4 that impact fees are imposed fairly;

5 (~~(5)~~) (6) Shall include a provision for calculating the amount of
6 the fee to be imposed on a particular development that permits
7 consideration of studies and data submitted by the developer to adjust
8 the amount of the fee;

9 (~~(6)~~) (7) Shall establish one or more reasonable service areas
10 within which it shall calculate and impose impact fees for various land
11 use categories per unit of development; and

12 (~~(7)~~) (8) May provide for the imposition of an impact fee for
13 system improvement costs previously incurred by a county, city, or town
14 to the extent that new growth and development will be served by the
15 previously constructed improvements provided such fee shall not be
16 imposed to make up for any system improvement deficiencies.

17 For purposes of this section, "low-income housing" means housing
18 with a monthly housing expense, that is no greater than thirty percent
19 of eighty percent of the median family income adjusted for family size,
20 for the county where the project is located, as reported by the United
21 States department of housing and urban development.

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