

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2015

Chapter 245, Laws of 2018

65th Legislature
2018 Regular Session

LODGING EXCISE TAX--APPLICABILITY

EFFECTIVE DATE: October 1, 2018

Passed by the House March 5, 2018
Yeas 53 Nays 45

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 2, 2018
Yeas 33 Nays 15

CYRUS HABIB

President of the Senate

Approved March 23, 2018 9:17 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2015** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 26, 2018

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2015

AS AMENDED BY THE SENATE

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By House Finance (originally sponsored by Representatives Pettigrew, Stokesbary, Nealey, Springer, Macri, and Pollet)

1 AN ACT Relating to modifying the lodging excise tax to remove the
2 exemption for premises with fewer than sixty lodging units and to tax
3 certain vacation rentals, short-term home-sharing arrangements, and
4 other compensated use or occupancy of dwellings; amending RCW
5 36.100.040; creating a new section; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is in
8 the public interest that taxation of lodging not distort the market
9 for different types of lodging and that all types of lodging
10 participate in the funding of the public benefits supported with
11 lodging tax revenue.

12 (2) The legislature further finds that, with respect to the
13 lodging taxes levied under RCW 36.100.040 (4) and (5), the current
14 significant disparity in the taxation of sales of lodging on premises
15 having fewer than sixty lodging units compared to premises having
16 sixty or more units is contrary to the public interest in both
17 equitable taxation and adequately supporting the public benefits
18 funded by lodging tax revenue.

19 (3) It is the intent of this act to equalize the taxation levied
20 under RCW 36.100.040 (4) and (5) by applying it to all lodging,

1 regardless of the number of lodging units in premises subject to such
2 taxation.

3 **Sec. 2.** RCW 36.100.040 and 2015 3rd sp.s. c 24 s 702 are each
4 amended to read as follows:

5 (1) A public facilities district may impose an excise tax on the
6 sale of or charge made for the furnishing of lodging that is subject
7 to tax under chapter 82.08 RCW, except that no such tax may be levied
8 on any premises having fewer than forty lodging units. Except for any
9 tax imposed under subsection (4) or (5) of this section, if a public
10 facilities district has not imposed such an excise tax prior to
11 December 31, 1995, the public facilities district may only impose the
12 excise tax if a ballot proposition authorizing the imposition of the
13 tax has been approved by a simple majority vote of voters of the
14 public facilities district voting on the proposition.

15 (2) The rate of the tax may not exceed two percent and the
16 proceeds of the tax may only be used for the acquisition, design,
17 construction, remodeling, maintenance, equipping, reequipping,
18 repairing, and operation of its public facilities. This excise tax
19 may not be imposed until the district has approved the proposal to
20 acquire, design, and construct the public facilities.

21 (3) Except for a public facilities district created within a
22 county with a population of one million five hundred thousand or more
23 for the purpose of acquiring, owning, and operating a convention and
24 trade center, a public facilities district may not impose the tax
25 authorized in this section if, after the tax authorized in this
26 section was imposed, the effective combined rate of state and local
27 excise taxes, including sales and use taxes and excise taxes on
28 lodging, imposed on the sale of or charge made for furnishing of
29 lodging in any jurisdiction in the public facilities district exceeds
30 eleven and one-half percent.

31 (4)(a) To replace the tax authorized by RCW 67.40.090, a public
32 facilities district created within a county with a population of one
33 million five hundred thousand or more for the purpose of acquiring,
34 owning, ~~((and))~~ operating, renovating, and expanding a convention and
35 trade center may impose an excise tax on the sale of or charge made
36 for the furnishing of lodging (including but not limited to any
37 short-term rental) that is subject to tax under chapter 82.08 RCW,
38 except that no such tax may be levied on:

39 (i) Any premises: ((+a))

1 (A) Having fewer than sixty lodging units if the premises is
2 located in a town with a population less than three hundred; or
3 ((b))

4 (B) Classified as a hostel;

5 (ii) Any lodging that is concurrently subject to a tax on
6 engaging in the business of being a short-term rental operator
7 imposed by a city in which a convention and trade center is located;
8 or

9 (iii) Any lodging that is operated by a university health care
10 system exclusively for family members of patients.

11 (b) The rate of the tax may not exceed seven percent within the
12 portion of the district that corresponds to the boundaries of the
13 largest city within the public facilities district and may not exceed
14 2.8 percent in the remainder of the district. The tax imposed under
15 this subsection (4) may not be collected prior to the transfer date
16 defined in RCW 36.100.230.

17 (5) To replace the tax authorized by RCW 67.40.130, a public
18 facilities district created within a county with a population of one
19 million five hundred thousand or more for the purpose of acquiring,
20 owning, ~~((and))~~ operating, renovating, and expanding a convention and
21 trade center may impose an additional excise tax on the sale of or
22 charge made for the furnishing of lodging (including but not limited
23 to any short-term rental) that is subject to tax under chapter 82.08
24 RCW, except that no such tax may be levied on any premises: (a)
25 Having fewer than sixty lodging units if the premises is located in a
26 town with a population less than three hundred; or (b) classified as
27 a hostel. The rate of the additional excise tax may not exceed two
28 percent and may be imposed only within the portion of the district
29 that corresponds to the boundaries of the largest city within the
30 public facilities district and may not be imposed in the remainder of
31 the district. The tax imposed under this subsection (5) may not be
32 collected prior to the transfer date specified in RCW 36.100.230. The
33 tax imposed under this subsection (5) must be credited against the
34 amount of the tax otherwise due to the state from those same
35 taxpayers under chapter 82.08 RCW. The tax under this subsection (5)
36 may be imposed only for the purpose of paying or securing the payment
37 of the principal of and interest on obligations issued or incurred by
38 the public facilities district and paying annual payment amounts to
39 the state under subsection (6)(a) of this section. The authority to
40 impose the additional excise tax under this subsection (5) expires on

1 the date that is the earlier of (~~(a)~~~~[(ii)]~~) (i) July 1, 2029, or
2 (~~(b)~~~~[(ii)]~~) (ii) the date on which all obligations issued or
3 incurred by the public facilities district to implement any
4 redemption, prepayment, or legal defeasance of outstanding
5 obligations under RCW 36.100.230(3)(a) are no longer outstanding.

6 (6)(a) Commencing with the first full fiscal year of the state
7 after the transfer date defined in RCW 36.100.230 and for so long as
8 a public facilities district imposes a tax under subsection (5) of
9 this section, the public facilities district must transfer to the
10 state of Washington on June 30th of each state fiscal year an annual
11 payment amount.

12 (b) For the purposes of this subsection (6), "annual payment
13 amount" means an amount equal to revenues received by the public
14 facilities district in the fiscal year from the additional excise tax
15 imposed under subsection (5) of this section plus an interest charge
16 calculated on one-half the annual payment amount times an interest
17 rate equal to the average annual rate of return for the prior
18 calendar year in the Washington state local government investment
19 pool created in chapter 43.250 RCW.

20 (c)(i) If the public facilities district in any fiscal year is
21 required to apply additional lodging excise tax revenues to the
22 payment of principal and interest on obligations it issues or incurs,
23 and the public facilities district is unable to pay all or any
24 portion of the annual payment amount to the state, the deficiency is
25 deemed to be a loan from the state to the public facilities district
26 for the purpose of assisting the district in paying such principal
27 and interest and must be repaid by the public facilities district to
28 the state after providing for the payment of the principal of and
29 interest on obligations issued or incurred by the public facilities
30 district, all on terms established by an agreement between the state
31 treasurer and the public facilities district executed prior to the
32 transfer date. Any agreement between the state treasurer and the
33 public facilities district must specify the term for the repayment of
34 the deficiency in the annual payment amount with an interest rate
35 equal to the twenty bond general obligation bond buyer index plus one
36 percentage point.

37 (ii) Outstanding obligations to repay any loans deemed to have
38 been made to the public facilities district as provided in any such
39 agreements between the state treasurer and the public facilities

1 district survive the expiration of the additional excise tax under
2 subsection (5) of this section.

3 (iii) For the purposes of this subsection (6)(c), "additional
4 lodging excise tax revenues" mean the tax revenues received by the
5 public facilities district under subsection (5) of this section.

6 (7) A public facilities district is authorized to pledge any of
7 its revenues, including without limitation revenues from the taxes
8 authorized in this section, to pay or secure the payment of
9 obligations issued or incurred by the public facilities district,
10 subject to the terms established by the board of directors of the
11 public facilities district. So long as a pledge of the taxes
12 authorized under this section is in effect, the legislature may not
13 withdraw or modify the authority to levy and collect the taxes at the
14 rates permitted under this section and may not increase the annual
15 payment amount to be transferred to the state under subsection (6) of
16 this section.

17 (8) The department of revenue must perform the collection of such
18 taxes on behalf of the public facilities district at no cost to the
19 district, and the state treasurer must distribute those taxes as
20 available on a monthly basis to the district or, upon the direction
21 of the district, to a fiscal agent, paying agent, or trustee for
22 obligations issued or incurred by the district.

23 (9) Except as expressly provided in this chapter, all of the
24 provisions contained in RCW 82.08.050 and 82.08.060 and chapter 82.32
25 RCW have full force and application with respect to taxes imposed
26 under the provisions of this section.

27 (10) In determining the effective combined rate of tax for
28 purposes of the limit in subsection (3) of this section, the tax rate
29 under RCW 82.14.530 is not included.

30 (11) The taxes imposed in this section do not apply to sales of
31 temporary medical housing exempt under RCW 82.08.997.

32 (12) (~~((a) For the purposes of this section,~~) The definitions in
33 this subsection apply throughout this section unless the context
34 clearly requires otherwise.

35 (a)(i) "Hostel" means a structure or facility where a majority of
36 the rooms for sleeping accommodations are hostel dormitories
37 containing a minimum of four standard beds designed for single-person
38 occupancy within the facility. Hostel accommodations are supervised
39 and must include at least one common area and at least one common
40 kitchen for guest use.

1 ~~((b))~~ (ii) For the purpose of this subsection (12)(a), "hostel
2 dormitory" means a single room, containing four or more standard beds
3 designed for single-person occupancy, used exclusively as nonprivate
4 communal sleeping quarters, generally for unrelated persons, where
5 such persons independently acquire the right to occupy individual
6 beds, with the operator supervising and determining which bed each
7 person will occupy.

8 (b) "Short-term rental" means a lodging use, that is not a hotel
9 or motel, in which a dwelling unit, or portion thereof, that is
10 offered or provided to a guest or guests by a short-term rental
11 operator for a fee for fewer than thirty consecutive nights. The term
12 "short-term rental" does not include:

13 (i) A dwelling unit, or portion thereof, that is used by the same
14 person for thirty or more consecutive nights; and

15 (ii) A dwelling unit, or portion thereof, that is operated by an
16 organization or government entity that is registered as a charitable
17 organization with the secretary of state, state of Washington, and/or
18 is classified by the federal internal revenue service as a public
19 charity or a private foundation, and provides temporary housing to
20 individuals who are being treated for trauma, injury, or disease
21 and/or their family members.

22 (13) Taxes authorized under subsections (4) and (5) of this
23 section are deemed to have been imposed on December 1, 2000, for the
24 purposes of RCW 82.14.410.

25 (14)(a) Beginning on the date that the condition in (b) of this
26 subsection is satisfied, a public facilities district created within
27 a county with a population of one million five hundred thousand or
28 more for the purpose of acquiring, owning, operating, renovating, and
29 expanding a convention and trade center must make quarterly payments
30 from tax revenue collected by a public facilities district as a
31 result of the tax imposed in chapter . . ., Laws of 2018 (this act)
32 to a city in which the convention and trade center is located that
33 has authorized on or before December 31, 2017, a tax on engaging in
34 the business of being a short-term rental operator. Such payments
35 must be made no more than thirty days after the last day of each
36 fiscal quarter and must equal the portion of the revenues received by
37 the public facilities district during such fiscal quarter from the
38 lodging taxes authorized under subsection (4) of this section that
39 are determined by the department of revenue to be derived from the
40 short-term rental activity within such city.

1 (b) The public facilities district is not required to make any
2 payments under this subsection (14) unless the city has repealed any
3 ordinance authorizing a tax on engaging in the business of being a
4 short-term rental operator.

5 (c) The public facilities district is not required to make any
6 payments to a city under this subsection (14), if the city, after
7 satisfying the condition in (b) of this subsection imposes any tax
8 specifically on the act of engaging in the business of being a short-
9 term rental operator.

10 (d) The proceeds of any payments made by a public facilities
11 district to a city under this subsection (14) must be used by the
12 city to support community-initiated equitable development and
13 affordable housing programs, as determined by the city in its sole
14 discretion.

15 (15) Fifty percent of any tax revenue collected by a public
16 facilities district as a result of the tax imposed in chapter . . . ,
17 Laws of 2018 (this act) must be distributed by the public facilities
18 district to the county in which the convention and trade center is
19 located. However, if a city has satisfied the condition in subsection
20 (14)(b) of this section, payments made under this subsection to the
21 county in which the convention and trade center is located must be
22 calculated after deducting any payments made to a city under
23 subsection (14) of this section from the total tax revenue received
24 by the public facilities district as a result of the enactment of
25 chapter . . . , Laws of 2018 (this act). The proceeds of such payments
26 to a county under this subsection (15) must be used by the county to
27 support affordable housing programs, as determined by the county, in
28 its sole discretion.

29 NEW SECTION. Sec. 3. This act takes effect October 1, 2018.

Passed by the House March 5, 2018.

Passed by the Senate March 2, 2018.

Approved by the Governor March 23, 2018.

Filed in Office of Secretary of State March 26, 2018.

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