CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1219**

Chapter 73, Laws of 2019

(partial veto)

66th Legislature

2019 Regular Session

REAL ESTATE EXCISE TAXES--AFFORDABLE HOUSING AND HOMELESSNESS PROJECTS

EFFECTIVE DATE: July 28, 2019

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| Passed by the House March 5, 2019  Yeas 74 Nays 24  FRANK CHOPP  **Speaker of the House of Representatives**  Passed by the Senate April 10, 2019  Yeas 34 Nays 13  KAREN KEISER  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1219** as passed by House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved April 19, 2019 11:10 AM with the exception of section 1, which is vetoed. | April 22, 2019 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**ENGROSSED HOUSE BILL 1219**

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Passed Legislature - 2019 Regular Session

**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Walen, Springer, Kloba, Goodman, Slatter, Stanford, Fey, Jinkins, Fitzgibbon, Ortiz-Self, Valdez, Lekanoff, Doglio, Frame, Wylie, Tharinger, Gregerson, and Macri

AN ACT Relating to providing cities and counties authority to use real estate excise taxes to support affordable housing and homelessness projects; amending RCW 82.46.035 and 82.46.037; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that homelessness has reached a crisis level across Washington state. Every community has felt the impact as affordable housing continues to be out of reach for many residents of the state. Therefore, the legislature intends to help provide cities and counties with the flexibility and tools to take on this crisis by investing in facilities and projects that keep people in homes, provide the services that can help prevent people from entering homelessness, and ensure affordable housing in every community.

**Sec.**  RCW 82.46.035 and 2011 c 354 s 3 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) and any city within such a county may only adopt an ordinance imposing the excise tax authorized by this section if the ordinance is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters.

(3) Revenues generated from the tax imposed under subsection (2) of this section must be used by such counties and cities solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan. However, revenues (a) pledged by such counties and cities to debt retirement prior to March 1, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to March 1, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(4) Revenues generated by the tax imposed by this section must be deposited in a separate account.

(5) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for:

(a) Planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems((~~, and~~));

(b) Planning, construction, reconstruction, repair, rehabilitation, or improvement of parks; and

(c) Until January 1, 2026, planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of facilities for those experiencing homelessness and affordable housing projects.

(6) A county or city may use the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars, for capital projects as defined in subsection (5)(c) of this section. The limits in this subsection do not apply to any county or city that used revenue under this section for the acquisition, construction, improvement, or rehabilitation of facilities to provide housing for the homeless prior to June 30, 2019.

(7) A county or city using funds for uses in subsection (5)(c) of this section must document in its plan under RCW 36.70A.070(3) that it has funds during the next two years for capital projects in subsection (5)(a) of this section.

(8) When the governor files a notice of noncompliance under RCW 36.70A.340 with the secretary of state and the appropriate county or city, the county or city's authority to impose the additional excise tax under this section is temporarily rescinded until the governor files a subsequent notice rescinding the notice of noncompliance.

((~~(7) From June 30, 2012, until December 31, 2016, a city or county may use the greater of one hundred thousand dollars or thirty~~‑~~five percent of available funds under this section, but not to exceed one million dollars per year, for operations and maintenance of existing capital projects as defined in subsection (5) of this section, and counties may use available funds under this section for the payment of existing debt service incurred for capital projects as defined in RCW 82.46.010. If a county uses available funds for payment of existing debt service under RCW 82.46.010, the total amount used for payment of debt service and any amounts used for operations and maintenance is subject to the limits in this subsection.~~))

**Sec.**  RCW 82.46.037 and 2017 3rd sp.s. c 16 s 6 are each amended to read as follows:

(1) A city or county that meets the requirements of subsection (2) of this section may use the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars per year, from revenues collected under RCW 82.46.035 for:

(a) The maintenance of capital projects, as defined in RCW 82.46.035(5); and

(b) ((~~From July 1, 2017, until June 30, 2019, the acquisition, construction, improvement, or rehabilitation of facilities to provide housing for the homeless; or~~

~~(c)~~)) The planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, or maintenance of capital projects as defined in RCW 82.46.010(6)(b) that are not also included within the definition of capital projects in RCW 82.46.035(5).

(2) A city or county may use revenues pursuant to subsection (1) of this section if:

(a) The city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects, as defined in RCW 82.46.035(5), identified in its capital facilities plan for the succeeding two-year period; and

(b)(i) The city or county has not enacted, after June 9, 2016, any requirement on the listing or sale of real property; or any requirement on landlords, at the time of executing a lease, to perform or provide physical improvements or modifications to real property or fixtures, except if necessary to address an immediate threat to health or safety;

(ii) Any local requirement adopted by the city or county under (b)(i) of this subsection is: Specifically authorized by RCW 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW; specifically authorized by other state or federal law; or a seller or landlord disclosure requirement pursuant to RCW 64.06.080; or

(iii) For a city or county using funds under subsection (1)(b) of this section, the requirements of this subsection apply, except that the date for such enactment under (b)(i) of this subsection is ninety days after October 19, 2017.

(3) The report prepared under subsection (2)(a) of this section must: (a) Include information necessary to determine compliance with the requirements of subsection (2)(a) of this section; (b) identify how revenues collected under RCW 82.46.035 were used by the city or county during the prior two-year period; (c) identify how funds authorized under subsection (1) of this section will be used during the succeeding two-year period; and (d) identify what percentage of funding for capital projects within the city or county is attributable to revenues under RCW 82.46.035 compared to all other sources of capital project funding. The city or county must prepare and adopt the report as part of its regular, public budget process.

(4) For purposes of this section, "maintenance" means the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

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Passed by the House March 5, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 19, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 22, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 1, Engrossed House Bill No. 1219 entitled:

"AN ACT Relating to providing cities and counties authority to use real estate excise taxes to support affordable housing and homelessness projects."

We are indeed facing a severe housing shortage in this state and across our nation, and I strongly support this bill. Some towns have already used this increased flexibility in the use of Real Estate Excises Taxes to provide critical shelters and services for families. Extending the timeline for the use of these funds provides cities and counties one of the tools necessary to plan for, acquire, and construct additional shelters and affordable housing in their communities.

However, I am concerned that the language in Section 1, the intent section, could be construed to imply that the use of the Real Estate Excise Tax is sufficient for every community to develop affordable housing and prevent people from entering homelessness. Much more work needs to be done in the areas of zoning and permitting; infrastructure development fees; tax incentives for affordable housing development; and innovative approaches to increase density, improve efficiency and reduce costs. I will work with interested members of the legislature on developing a comprehensive package of tools to help cities and counties adequately address these housing shortages.

For these reasons I have vetoed Section 1 of Engrossed House Bill No. 1219.

With the exception of Section 1, Engrossed House Bill No. 1219 is approved."