

HOUSE BILL REPORT

E2SHB 1277

As Passed Legislature

Title: An act relating to an additional revenue source for eviction prevention and housing stability services.

Brief Description: Providing for an additional revenue source for eviction prevention and housing stability services.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Ormsby, Macri, Ramel, Bateman, Fitzgibbon, Ryu, Senn, Chopp, Berry, Peterson, Davis, Santos, Valdez, Hackney, Thai, Kloba, Sells, Frame, Gregerson, Johnson, J., Pollet, Harris-Talley, Stonier, Taylor and Wicks).

Brief History:

Committee Activity:

Housing, Human Services & Veterans: 1/22/21, 1/29/21 [DPS];
Appropriations: 3/15/21, 3/18/21 [DP2S(w/o sub HHSV)].

Floor Activity:

Passed House: 3/28/21, 57-40.
Senate Amended.
Passed Senate: 4/24/21, 26-23.
House Concurred.
Passed House: 4/24/21, 57-39.
Passed Legislature.

Brief Summary of Engrossed Second Substitute Bill

- Establishes a \$100 surcharge on certain recorded documents to fund various housing services.
- Creates the Eviction Prevention Rental Assistance Program in the Department of Commerce (COM).
- Requires the COM to develop performance metrics for each county receiving funding from the surcharge and dedicate a portion of funding

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

to performance-based allocations.

HOUSE COMMITTEE ON HOUSING, HUMAN SERVICES & VETERANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Peterson, Chair; Taylor, Vice Chair; Bateman, Chopp, Leavitt and Thai.

Minority Report: Do not pass. Signed by 3 members: Representatives Caldier, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Barkis.

Staff: Dawn Eychaner (786-7135).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Housing, Human Services & Veterans. Signed by 21 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Caldier, Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Harris, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 11 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Chandler, Dye, Jacobsen, Rude, Schmick and Steele.

Staff: Jessica Van Horne (786-7288).

Background:

Homeless Housing and Assistance Surcharges.

The state and local homeless housing programs receive funding from the homeless housing and assistance surcharges collected by each county auditor when certain documents are recorded. The following surcharges related to affordable housing and homeless services are collected by the county, with shares of the funds distributed to the county and to the state:

- \$13 Affordable Housing for All surcharge;
- \$62 Local Homeless Housing and Assistance surcharge; and
- \$8 additional Local Homeless Housing and Assistance surcharge.

Affordable Housing for All Surcharge.

Of the \$13 surcharge, approximately 60 percent is retained by the county for local

affordable housing and assistance and approximately 40 percent is distributed to the state. The state's share of \$10 of the fee is deposited into the Affordable Housing for All Account, to be used by the Department of Commerce (COM) for housing and shelter for extremely low-income households. The state's share of \$3 of the fee is deposited into the Landlord Mitigation Program Account to provide financial support to landlords of tenants who receive rental assistance.

Local Homeless Housing and Assistance Surcharge.

Of the \$62 surcharge, approximately 66 percent is retained by the county for local homeless housing and assistance. The remainder is distributed to the state for deposit in the Home Security Fund and is used by the COM to manage the State Homeless Housing Program, issue private rental housing payments, and provide housing and shelter support.

Additional Local Homeless Housing and Assistance Surcharge.

Of the \$8 surcharge, approximately 90 percent is retained by the county for local homeless housing and assistance and 10 percent is distributed to the state for deposit in the Home Security Fund. The funds distributed to the state may be used by the COM for managing the state's homeless housing programs.

Other.

Until June 30, 2024, an additional surcharge of \$2.50 is deposited into the Growth Management Planning and Environmental Review Fund (GMPERF) to be used for costs incurred by cities related to planning for residential building capacity and to support reports required by the Washington Center for Real Estate Research at the University of Washington. Beginning July 1, 2024, sufficient funds for these activities must be deposited into the GMPERF and the remainder deposited into the Home Security Fund for permanent supportive housing and affordable housing.

State Rental Assistance.

The COM administers various rental assistance programs, including the Eviction Rental Assistance Program (ERAP). The ERAP was established by the COM in 2020, using federal funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Landlord Mitigation Program.

The Landlord Mitigation Program (LMP) is administered by the COM. The LMP can provide landlords of tenants who receive a housing subsidy with up to \$1,000 in reimbursement for move-in upgrades, up to 14 days of lost rent, and up to \$5,000 for damage caused by a tenant. The maximum a landlord can receive from all combined claims under the LMP is \$5,000.

Permanent Supportive Housing.

Permanent Supportive Housing (PSH) is defined as subsidized, leased housing with no limit on the length of stay that prioritizes people who need comprehensive support services to retain tenancy. Permanent Supportive Housing uses admissions practices designed to lower

barriers to entry that would be typical for other rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent Supportive Housing is paired with voluntary on or off-site supportive services.

Summary of Engrossed Second Substitute Bill:

Housing Surcharge.

An additional surcharge of \$100 must be collected by a county auditor for each document recorded, with some exceptions. Exceptions to the surcharge include documents recording a birth, marriage, divorce, death, liens by certain local governments, and wage liens, among others. The funds collected must be fully remitted to the state to be distributed as follows:

- 20 percent of funds must be deposited into the Affordable Housing for All Account for the operations, maintenance, and service costs for PSH;
- from July 1, 2021, through June 30, 2023, 4 percent of funds must be deposited into the Landlord Mitigation Program Account (LMPA) for the LMP. After June 30, 2023, 2 percent of funds must be deposited into the LMPA; and
- the remainder of funds must be distributed to the Home Security Fund Account, with 60 percent of the funds to be used for project-based voucher for nonprofit housing providers or public housing authorities, housing services, rapid rehousing, emergency housing, or acquisition. Priority for use must be given to project-based vouchers and related services, housing acquisition, or emergency housing for individuals who are chronically homeless, including families with children, and at least 50 percent of clients served must be living unsheltered at the time of initial engagement. In addition, funds may be used for the Eviction Prevention Rental Assistance Program (EPRAP), foreclosure prevention services, rental assistance for people experiencing homelessness, and tenant education and legal assistance.

The COM must consult with stakeholders to create a set of performance metrics by December 15, 2021, for each county receiving funding from the surcharge. The metrics must target actions within the county's control that will prevent and reduce homelessness. Starting July 1, 2023, the COM must award funds for project-based vouchers for nonprofit housing providers and related services, rapid rehousing, and housing acquisition to eligible grantees in a manner that distributes 15 percent of the funding as a performance-based allocation in accordance with the county's metrics. A county that meets or exceeds the majority of target actions in the previous two years must receive the 15 percent performance-based allocation. A county that fails to meet or exceed the majority of target actions must enter into a corrective action plan with the COM. A county that fails to meet or exceed the majority of targets after two years on a corrective action plan may have performance-based funding reduced, at the discretion of the COM. Performance-based allocations unspent due to lack of compliance with a corrective action plan may be distributed to other counties.

The COM must contract with the William D. Ruckelshaus Center (Center) to examine trends affecting, and policies guiding, the housing and services provided to individuals and

families who are, or who are at risk of becoming, homeless. The Center must facilitate meetings and discussions with legislators, members of the executive branch, tribes, local governments, and other stakeholders to conduct fact-finding to identify root causes of housing instability and homelessness, and to develop and implement a long-term strategy to improve services and outcomes for individuals at risk of experiencing homelessness, including developing pathways to permanent housing solutions. The Center must issue reports on their work to the Governor and the Legislature annually beginning on December 1, 2021, until December 1, 2023.

Eviction Prevention Rental Assistance Program.

The EPRAP is created and is to be administered by the COM to prevent evictions by providing resources to households most likely to become homeless or to suffer severe health consequences, or both, after an eviction while prioritizing households disproportionately impacted by public health emergencies, homelessness, and housing instability.

The COM must provide grants to eligible organizations to provide assistance to program participants. Eligible organizations are defined as local governments, local housing authorities, behavioral health administrative services organizations, nonprofit community or neighborhood-based organizations, federally recognized tribes, and regional or statewide nonprofit housing assistance organizations. The COM must award grant funds in a manner that is proportional to the amount of revenue collected from the \$100 surcharge in the county that is being served by the grantee and must give counties the right of first refusal to receive grant funds. If a county refuses the funds or doesn't respond within a timeframe established by the COM, the COM must identify an alternative grantee.

Eligible organization grantees must work with organizations rooted in communities of color to assist and serve marginalized populations within their communities. At least 10 percent of the grant total must be subgranted to organizations that serve and are substantially governed by marginalized populations. A grantee may request an exemption from the subgrant requirement if they are unable to subgrant with an organization that serves and is substantially governed by marginalized populations or if the grantee provides the COM with a plan to spend 10 percent of the grant total in a manner that the COM determines will improve racial equity for historically underserved communities more effectively than a subgrant.

Grant funds must be used for rent assistance, utility assistance, and administrative costs of the eligible organization. Households eligible to receive assistance are those:

- with incomes at or below 80 percent of the county area median income;
- who are families with children, living in doubled up situations, young adults, senior citizens, and others at risk of homelessness or significant physical or behavioral health complications from homelessness; and
- that meet any other eligibility requirements established by the COM in consultation with stakeholder groups.

A landlord may assist an eligible household with applying for assistance or may apply on the eligible household's behalf.

The COM must ensure equity in the program by developing performance measures and benchmarks that promote equitable program access and equitable program outcomes. Performance measures and benchmarks must be developed by the COM in consultation with stakeholder groups. The measures and benchmarks must ensure the race and ethnicity of households served under the program are proportional to the numbers of people at risk of homelessness in each county for various racial groups.

The COM report must include a report on the expenditures, performance, and outcomes of the EPRAP in its annual update on the state's homeless housing strategic plan. The report must include county-level data for the number of households served in the following categories: adults without children; households with children; unaccompanied youth; young adults; and a county-level report on expenditures, performance, and outcomes of the rapid rehousing, project-based vouchers, and housing acquisition programs funded by the surcharge.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Housing, Human Services & Veterans):

(In support) Rental relief programs are effective. It can help people pay off other debts and become financially stable. The COVID-19 pandemic has increased the need for rent assistance and there is not enough funding available to meet that need. Providing rent assistance is a racial justice issue. Renters of color are more likely to experience housing instability. Some tenants have to choose between paying for a car, rent, or groceries. The eviction moratorium has saved some families, but more help is needed. Preventing evictions will keep tenants housed and will prevent homelessness. Once a buyer of a home becomes educated about what the fee is for, they are glad to assist their most vulnerable neighbors. A healthy neighborhood creates a healthy community. The COVID-19 pandemic has required people to shelter in place but when someone is homeless it is impossible to do so. A survey of some homebuyers who purchased a home in the last year showed strong support for this type of fee. The COVID-19 pandemic has made things so much harder for many Washingtonians. Cities believe our state is on the precipice of a crisis. One in four renters in December indicated little to no confidence in being able to make their next month's rent and a major wave of evictions is imminent. The homelessness response system was strained before COVID-19 and without additional resources the system is at risk of failure. It is hard to imagine how the eviction moratorium can be wound

down without major rent assistance. Because of the timing of the collection of these fees, an immediate investment is needed in the state operating budget before these fees are available. Housing stability is a determinate of well being. Lawmakers should focus on preventing eviction to support mental health and prevent homelessness. Federal funds for rent assistance from the CARES Act have long been exhausted. Real estate transaction fees should be increased to create a permanent rental assistance fund. People of color are more likely to be renters and white people are more likely to be homeowners. Without adequate rental assistance and meaningful tenant protections, thousands of renters will be displaced from their homes. Thousands of Washington renters who were able to meet their rent in December relied on unsustainable sources to pay it, such as using credit cards or their savings. This policy will create a new and permanent source of funding to target people who may be on the brink of homelessness. The additional \$500 million in federal assistance our state is expecting for rental assistance will not be adequate. The additional \$100 million per year that this fee will generate for rent assistance is needed.

(Opposed) None.

(Other) This bill prioritizes the need for homeless services rather than rental assistance. Rental assistance should be prioritized over all other needs. Rental assistance is the best way to stabilize housing. A more narrow definition of "eligible grantee" would improve the bill, as would a maximum cap on administrative costs. A sunset review in two years would provide an opportunity to reallocate funds amongst the allowed uses under the bill. These policies will help prevent evictions at a scale that will make a real difference, expanding permanent supportive housing, and funding the landlord mitigation program in a sustainable manner. The COM appreciates the flexible eligible activities under the bill, which will allow reprioritization of the funds based on future needs.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill will be an incredible asset for addressing the current rental crisis. Providers have seen the number of requests for assistance with back rent double over the last several months. Individuals and families requesting assistance can owe thousands of dollars in back rent, with an average amount owed of more than \$6,000. The pandemic has disproportionately impacted low-income Washington residents, many of whom have lost jobs, are dealing with virtual schooling, and have underlying health conditions, making them vulnerable to the coronavirus. If the state experiences a K-shaped recession, low-income residents will have a longer recovery than high-income residents. In addition, there is a significant racial disparity in the families that have been unable to make rent. Families are also using unsustainable methods to keep current on rent, such as relying on credit cards. Surveys have shown that household confidence in the ability to make the next rent payment has decreased.

Local governments and housing providers are concerned that the end of the state eviction moratorium will lead to a tsunami of evictions and exacerbate the current homelessness

crisis. By providing ongoing, dedicated funding for rental assistance, this bill will provide a critical off-ramp for the eviction moratorium. The ongoing nature of the funding complements the one-time federal dollars provided under the federal relief bills. Providers and local governments have successfully scaled state rental assistance programs. This bill will continue to fund a successful program and provide long-term supports and services. It will help prevent homelessness for those who are most at risk. By acting proactively, this bill will help prevent inequity from worsening.

The additional investment in permanent supportive housing is also supported. Grants for permanent supportive housing serve as a kind of rent assistance for individuals who are experiencing chronic homelessness and have behavioral health conditions that make acquiring housing difficult. Permanent supportive housing is not just a housing intervention, but also a public health intervention.

Homebuyers and realtors support this bill and paying the new document recording fee because it will be tied directly to services for fellow members of the community. The provision requiring the funds to be used by the county in which they are collected is supported. Funding these programs is both cost effective and the right thing to do. Individuals able to purchase homes in the current housing market support leveraging some of their personal wealth to support those who are housing insecure in their community, especially as the pandemic has made housing insecurity worse.

Multi-family home operators support this bill. One requested change is to increase the allocation to the Landlord Mitigation Program in the 2021-23 biennium due to an expected increase in the number of claims under the program. The program has been very successful at preventing rental debt from accruing and is a critical part of the pandemic recovery.

(Opposed) None.

(Other) Habitat for Humanity is generally supportive of the bill, but has concerns that transactions involving affordable housing providers are not exempt from the surcharge. For providers like Habitat for Humanity, the same home can be subject to many transactions especially if multiple families move into the home. This can significantly increase the number of transactions subject to the fee, especially in comparison to a standard home sale.

Persons Testifying (Housing, Human Services & Veterans): (In support) Representative Ormsby, prime sponsor; Carl Schroeder, Association of Washington Cities; Terri Anderson, Tenants Union of Washington State; James Dean, Interfaith Family Shelter; Arianna Laureano; Latrice Williams, Housing Alliance/Peer Homes; Aaron Johnson, Congolese Integration Network; Amy Kangas; Peter Wolf, Windermere Real Estate Company; Pam Hurst, John L. Scott; Annika Turner, Kitsap Immigrant Assistance Center; Mindy Woods, Resident Action Project; Sol Villarreal; Shukura Wilford; Cara Mohammadian; Michele Thomas, Washington Low Income Housing Alliance; and Gloria Caldwell, Benton and Franklin Counties Department of Human Services.

(Other) Brett Waller, Washington Multi-Family Housing Association; Jim Henderson, Rental Housing Association of Washington; and Tedd Kelleher, Department of Commerce.

Persons Testifying (Appropriations): (In support) Kristin Winkel, Jewish Family Service; Andrew Calkins, Association of Washington Housing Authorities; Michele Thomas, Washington Low Income Housing Alliance; Tara Villalba, Bellingham Tenants Union; Carl Schroeder, Association of Washington Cities; Patience Malaba, Housing Development Consortium of Seattle-King County; Tonya Hennen; Sol Villarreal; Brett Waller, Washington Multi-Family Housing Association; Kelly Rider, King County; and Laura Ellsworth, Council for the Homeless.

(Other) Adan Espino, Habitat for Humanity of Washington; and Erik Mann, Habitat for Humanity of Island County.

Persons Signed In To Testify But Not Testifying (Housing, Human Services & Veterans): Tye Gundel, Just Housing Olympia; Marty Hartman, Mary's Place; Ana Bonilla, Enterprise Community Partners; Laura Ellsworth, Council for the Homeless; Ishbel Dickens; Dr. Jesse Paulsen, Washington Physicians for Social Responsibility; Laura Van Tosh; Mark Smith, Housing Consortium of Everett and Snohomish County; Elizabeth Jennings, Community Action of Skagit County; Matthew Garrett, Kitsap Community Resources; Jeff DeLuca, Washington State Community Action Partnership; Nick Federici, Pioneer Human Services; Leslie Hamada, Kent United Methodist Church Emergency Assistance Program; Andrew Calkins, Association of Washington Housing Authorities; Daniel Malone, Downtown Emergency Service Center; Claire Lane, Anti-Hunger and Nutrition Coalition; Adán Espino Jr, Habitat for Humanity Washington State; Megan Veith, Building Changes; Samuel Martin, Washington Coalition of Homeless Youth Advocacy; and Whitney Whittemore, Y Social Impact Center.

Persons Signed In To Testify But Not Testifying (Appropriations): None.