
SECOND SUBSTITUTE HOUSE BILL 1157

State of Washington

67th Legislature

2021 Regular Session

By House Finance (originally sponsored by Representatives Bateman, Gilday, Taylor, Eslick, Robertson, Simmons, Ormsby, Lekanoff, Hackney, Ryu, Walen, Vick, Wicks, Berg, Fitzgibbon, Barkis, Harris-Talley, and Dolan)

READ FIRST TIME 03/23/21.

1 AN ACT Relating to increasing housing supply through the growth
2 management act and housing density tax incentives for local
3 governments; amending RCW 82.45.060 and 82.45.230; and adding a new
4 section to chapter 36.70A RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A
7 RCW to read as follows:

8 (1) Cities within counties planning under RCW 36.70A.215 and
9 those counties may establish one or more real estate excise tax
10 density incentive zones. A real estate excise tax density incentive
11 zone is an area within an urban growth area where the city or county
12 adopts zoning and development regulations to increase housing supply
13 by allowing construction of additional housing types as outright
14 permitted uses. Creation of a real estate excise tax density
15 incentive zone enables the local government to receive a portion of
16 the tax imposed under chapter 82.45 RCW for sales of qualified
17 residential dwelling units within the zone.

18 (2) A real estate excise tax density incentive zone may only be
19 located within a designated urban growth area, and must allow the
20 following housing types: Single-family detached dwellings at a net
21 density of at least six dwelling units per acre, duplexes, triplexes,

1 fourplexes, townhomes, accessory dwelling units, and courtyard
2 apartments.

3 (3) A real estate excise tax density incentive zone may also
4 allow as outright permitted uses housing types and densities that
5 exceed the minimum requirements in subsection (2) of this section.

6 (4)(a) Additional dwelling units must be in addition to the
7 baseline density under existing zoning to implement the housing
8 element in RCW 36.70A.070.

9 (b) For the purposes of this section, a "qualified residential
10 dwelling" is either an individual residential dwelling unit or a
11 residential building of two or more dwelling units constructed within
12 a real estate excise tax density incentive zone that achieves a net
13 increase in the total number of residential dwelling units compared
14 to the maximum number of residential dwelling units that could have
15 been built prior to the adoption of zoning and development
16 regulations creating the real estate excise tax density incentive
17 zone. To be included as qualified residential dwelling units, the
18 units must be restricted from being offered as short-term rentals for
19 more than 30 days a year for the first 15 years after construction.
20 The county or city shall determine within their respective
21 jurisdictions how the residential dwelling units shall be restricted
22 from being short-term rentals.

23 (c) If the qualified residential dwelling has two or more
24 dwelling units, the amount distributed to the local government under
25 RCW 82.45.060(4)(c) shall be reduced by the percent attributable to
26 the number of new dwelling units within the building that could have
27 been built under the zoning and development regulations that existed
28 prior to the creation of the local real estate excise tax density
29 incentive zone.

30 (5) A sale that does not involve a net increase above the maximum
31 number of residential dwelling units that could have been constructed
32 as an outright permitted use, prior to the creation of the real
33 estate excise tax density incentive zone, is not a sale of a
34 qualified residential dwelling unit.

35 (6) A real estate excise tax density incentive zone may be
36 established for areas where a city or county previously enacted
37 zoning and development regulations meeting the minimum requirements
38 in this section, but not prior to January 1, 2017. A real estate
39 excise tax density incentive zone may not be established later than
40 one year after the date by which a city or county is required to

1 update its growth management comprehensive plan under RCW 36.70A.130.
2 Once a real estate excise tax density incentive zone is established
3 in compliance with this section, a qualified residential dwelling
4 unit may be constructed at any time.

5 (7) (a) Prior to establishing a real estate excise tax density
6 incentive zone, the city or county must:

7 (i) Consider the race and income of existing residents within the
8 area and the adjacent neighborhoods to be designated;

9 (ii) Consider displacement impacts of low, very low, and
10 extremely low-income residents within the area and the adjacent
11 neighborhoods to be designated; and

12 (iii) Assess the need for antidisplacement policies for high-risk
13 communities within designated areas and the adjacent neighborhoods,
14 and make the assessment publicly available.

15 (b) A local jurisdiction may use the requirements of RCW
16 36.70A.070(2) (e) through (h) (section 2(2) (e) through (h),
17 chapter . . . (Engrossed Second Substitute House Bill No. 1220), Laws
18 of 2021) to satisfy the requirements of this subsection.

19 **Sec. 2.** RCW 82.45.060 and 2019 c 424 s 1 are each amended to
20 read as follows:

21 (1) There is imposed an excise tax upon each sale of real
22 property.

23 (a) Through December 31, 2019, the rate of the tax imposed under
24 this section is 1.28 percent of the selling price.

25 (b) Beginning January 1, 2020, except as provided in (c) of this
26 subsection, the rate of the tax imposed under this section is as
27 follows:

28 (i) 1.1 percent of the portion of the selling price that is less
29 than or equal to five hundred thousand dollars;

30 (ii) 1.28 percent of the portion of the selling price that is
31 greater than five hundred thousand dollars and equal to or less than
32 one million five hundred thousand dollars;

33 (iii) 2.75 percent of the portion of the selling price that is
34 greater than one million five hundred thousand dollars and equal to
35 or less than three million dollars;

36 (iv) Three percent of the portion of the selling price that is
37 greater than three million dollars.

1 (c) The sale of real property that is classified as timberland or
2 agricultural land is subject to the tax imposed under this section at
3 a rate of 1.28 percent of the selling price.

4 (2) Beginning July 1, 2022, and every fourth year thereafter:

5 (a) The department must adjust the selling price threshold in
6 subsection (1)(b)(i) of this section to reflect the lesser of the
7 growth of the consumer price index for shelter or five percent. If
8 the growth is equal to or less than zero percent, the current selling
9 price threshold continues to apply.

10 (b) The department must adjust the selling price thresholds in
11 subsection (1)(b)(ii) through (iv) of this section by the dollar
12 amount of any increase in the selling price threshold in subsection
13 (1)(b)(i) of this section.

14 (c) The department must publish updated selling price thresholds
15 by September 1, 2022, and September 1st of every fourth year
16 thereafter. Updated selling price thresholds will apply beginning
17 January 1, 2023, and January 1st every fourth year thereafter.
18 Adjusted selling price thresholds must be rounded to the nearest one
19 thousand dollars. No changes may be made to adjusted selling price
20 thresholds once such adjustments take effect.

21 (d) The most recent selling price threshold becomes the base for
22 subsequent adjustments.

23 (e) The department must report adjustments to the selling price
24 thresholds to the fiscal committees of the legislature, beginning
25 December 1, 2022, and December 1st every fourth year thereafter.

26 (3)(a) The department must publish guidance to assist sellers in
27 properly classifying real property on the real estate excise tax
28 affidavit for purposes of determining the proper amount of tax due
29 under this section. Real property with multiple uses must be
30 classified according to the property's predominant use. The
31 department's guidance must include factors for use in determining the
32 predominant use of real property.

33 (b) County treasurers are not responsible for verifying that the
34 seller has properly classified real property reported on a real
35 estate excise tax affidavit. The department is solely responsible for
36 such verification as part of its audit responsibilities under RCW
37 82.45.150.

38 (4)(a) Beginning July 1, 2013, and ending December 31, 2019, an
39 amount equal to two percent of the proceeds of this tax must be
40 deposited in the public works assistance account created in RCW

1 43.155.050, an amount equal to four and one-tenth percent must be
2 deposited in the education legacy trust account created in RCW
3 83.100.230, an amount equal to one and six-tenths percent must be
4 deposited in the city-county assistance account created in RCW
5 43.08.290, and the remainder must be deposited in the general fund.

6 (b) Beginning January 1, 2020, except as provided under (c) of
7 this subsection (4), amounts collected from the tax imposed under
8 this section must be deposited as provided in RCW 82.45.230.

9 (c) Beginning July 1, 2023, the amounts collected on the sale of
10 a qualified residential dwelling constructed within a real estate
11 excise tax density incentive zone created under section 1 of this act
12 shall be distributed to a city or county as follows:

13 (i) For a qualified residential dwelling unit located less than
14 or equal to .25 miles, as measured by direct distance, from a mass
15 transit stop as defined in RCW 43.21C.420(3), 50 percent of the
16 amounts collected to the city or county where the dwelling is
17 located;

18 (ii) For a qualified residential dwelling unit located more
19 than .25 miles, as measured by direct distance, from a mass transit
20 stop as defined in RCW 43.21C.420(3), 25 percent of the amounts
21 collected to the city or county where the dwelling is located;

22 (iii) If any portion of the qualified residential dwelling unit
23 is located less than or equal to .25 miles, as measured by direct
24 distance, from a mass transit stop as defined in RCW 43.21C.420(3),
25 the entire building qualifies for distribution pursuant to (c)(i) of
26 this subsection (4).

27 (d) The distribution to a city or county under (c) of this
28 subsection (4) applies to both the initial and all subsequent sales
29 of a qualified residential dwelling unit if the residential dwelling
30 unit continues to meet the original requirements of a qualified
31 residential dwelling unit. Counties are required to revalidate that
32 the residential dwelling unit continues to meet the original
33 applicable requirements on each subsequent sale of the residential
34 dwelling unit. The amounts distributed to a city and county may be
35 used solely for:

36 (i) Implementation of the housing element in RCW 36.70A.070 as
37 required by chapter . . . (Engrossed Second Substitute House Bill No.
38 1220), Laws of 2021;

39 (ii) Costs for infrastructure, construction, and service support
40 for moderate, low, very low, and extremely low-income housing;

1 (iii) Construction of capital facilities that promote livable and
2 walkable neighborhoods, such as neighborhood-scale parks, trails, or
3 other recreational amenities; or

4 (iv) Creation of permanently affordable homeownership, which
5 means housing that is:

6 (A) Sponsored by a nonprofit organization or governmental entity;
7 and

8 (B) Subject to a ground lease or deed restriction that includes:

9 (I) A resale restriction designed to provide affordability for
10 future low and moderate-income home buyers;

11 (II) A right of first refusal for the sponsor organization to
12 purchase the home at resale; and

13 (III) A requirement that the sponsor must approve any
14 refinancing, including home equity lines of credit; or

15 (C) Sponsored by a nonprofit organization or governmental entity
16 and the sponsor organization:

17 (I) Executes a new ground lease or deed restriction with a
18 duration of at least 99 years at the initial sale and with each
19 successive sale; and

20 (II) Supports homeowners and enforces the ground lease or deed
21 restriction.

22 (5)(a) Counties are required to validate and identify sales of
23 qualified residential dwelling units within real estate excise tax
24 density incentive zones, including any reduction in real estate
25 excise tax distribution based on:

26 (i) The number of new dwelling units within the building that
27 could have been built under prior zoning regulations compared to the
28 number of new dwelling units built under the real estate excise tax
29 density incentive zone pursuant to section 1(4)(c) of this act; and

30 (ii) The distance from a mass transit stop pursuant to subsection
31 (4)(c) of this section.

32 (b) A county must provide the information required in (a) of this
33 subsection to the department when the real estate excise tax
34 affidavit is submitted to the department by the county.

35 ((+5)) (6) The definitions in this subsection apply throughout
36 this section unless the context clearly requires otherwise.

37 (a) "Agricultural land" means farm and agricultural land and farm
38 and agricultural conservation land, as those terms are defined in RCW
39 84.34.020, including any structures on such land.

1 (b) "Consumer price index for shelter" means the most current
2 seasonally adjusted index for the shelter expenditure category of the
3 consumer price index for all urban consumers (CPI-U) as published by
4 July 31st by the bureau of labor statistics of the United States
5 department of labor.

6 (c) "Growth of the consumer price index for shelter" means the
7 percentage increase in the consumer price index for shelter as
8 measured from data published by the bureau of labor statistics of the
9 United States department of labor by July 31st for the most recent
10 three-year period for the selling price threshold adjustment in 2022,
11 and the most recent four-year period for subsequent selling price
12 threshold adjustments.

13 (d) "Timberland" means land classified under chapter 84.34 RCW or
14 designated under chapter 84.33 RCW, including any structures and
15 standing timber on such land, and standing timber sold apart from the
16 land upon which it sits.

17 **Sec. 3.** RCW 82.45.230 and 2019 c 424 s 2 are each amended to
18 read as follows:

19 (1) Beginning January 1, 2020, and ending June 30, 2023, the
20 amounts received for the tax imposed on each sale of real property
21 under RCW 82.45.060 must be deposited as follows:

22 (a) 1.7 percent must be deposited into the public works
23 assistance account created in RCW 43.155.050;

24 (b) 1.4 percent must be deposited into the city-county assistance
25 account created in RCW 43.08.290;

26 (c) 79.4 percent must be deposited into the general fund; and

27 (d) The remainder must be deposited into the educational legacy
28 trust account created in RCW 83.100.230.

29 (2) Beginning July 1, 2023, and thereafter, the amounts received
30 for the tax imposed on each sale of real property under RCW 82.45.060
31 must be deposited as follows:

32 (a) 5.2 percent must be deposited into the public works
33 assistance account created in RCW 43.155.050;

34 (b) 1.4 percent must be deposited into the city-county assistance
35 account created in RCW 43.08.290;

36 (c) 79.4 percent less the percentage of any amounts distributed
37 to a city or county under RCW 82.45.060 must be deposited into the
38 general fund; and

1 (d) The remainder must be deposited into the education legacy
2 trust account created in RCW 83.100.230.

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