

# SENATE BILL REPORT

## SB 5967

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As of February 1, 2024

**Title:** An act relating to an exemption to the leasehold excise tax for leases on public lands.

**Brief Description:** Concerning an exemption to the leasehold excise tax for leases on public lands.

**Sponsors:** Senators Frame, Wilson, J., Keiser, Kuderer, Lovelett, Nobles and Saldaña; by request of Department of Natural Resources.

**Brief History:**

**Committee Activity:** Housing: 1/19/24, 1/24/24 [DP-WM, w/oRec].  
Ways & Means: 2/01/24.

**Brief Summary of Bill**

- Creates a leasehold excise tax exemption when public lands administered by the Department of Natural Resources are used for the placement of affordable housing.

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### SENATE COMMITTEE ON HOUSING

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Frame, Vice Chair; Fortunato, Ranking Member; Cleveland, Gildon, Saldaña, Shewmake, Trudeau and Wilson, J..

**Minority Report:** That it be referred without recommendation.

Signed by Senators Braun and Rivers.

**Staff:** Melissa Van Gorkom (786-7491)

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### SENATE COMMITTEE ON WAYS & MEANS

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*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.*

**Staff:** Tianyi Lan (786-7432)

**Background:** Leasehold Excise Tax. State leasehold excise taxes are levied and collected on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest. A leasehold interest is an interest in publicly owned real or personal property that exists by virtue of any lease, permit, license, or other written or verbal agreement between a public owner and a person who would not be exempt from property taxes if that person owned the property. The leasehold excise tax is levied at a rate of 12.84 percent of taxable rent. There are several leasehold excise tax exemptions, including certain military housing and facilities owned or used by a school, college or university which provide housing for students.

Public Lands. The Department of Natural Resources manages more than 5 million acres of land, including but not limited to state lands, state forestlands, lands included in a state forestland pool, and aquatic lands.

Tax Preference Performance Statement. State law provides a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a tax preference performance statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided or the tax preference is exempted from expiration.

**Summary of Bill:** All leasehold interests for placement of affordable housing on public lands are exempt from leasehold excise tax for:

- 12 successive years if the lessee commits to renting or selling at least 20 percent of housing units as affordable to low- and moderate-income households.
- 20 successive years if the lessee commits to renting or selling at least 25 percent of housing units as affordable to low- and moderate-income households.

The following definitions apply:

- affordable housing means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income;
- low-income household means a single person, family, or unrelated persons living together whose adjusted income is at or below 80 percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the United States Department of Housing and Urban Development (US HUD); and
- moderate-income household means a single person, family, or unrelated persons living together whose adjusted income is more than 80 percent but is at or below 115

percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the US HUD.

A TPPS is included stating the public policy objective is to incentivize the placement of affordable housing on public lands and the Legislature intends to continue the preference if a JLARC review finds that the number of affordable housing units placed on public lands increased following the enactment of this tax preference. The bill is not subject to automatic expiration for tax preferences.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Housing):** PRO: DNR has a lot of land in urban areas that can be a part of the solution to build more housing. This bill helps DNR leverage their public land to build more affordable housing. The Public Commissioner has been working hard to find ways to put the land to good use. DNR has about 3000 acres across the state with 37 properties which are currently vacant and not developed but near existing residential or commercial development that could be developed to bring housing online quickly. Rather than selling DNR urban lands, leasing will help preserve these lands for public ownership and continue to get funds for all of the beneficiaries. The duration and terms in the bill were modeled after multi-family property tax exemption but does not shift tax because a leasehold excise tax acts very differently than a property tax, DNR can lease residential lands for up to 99 years and the lease terms and rates will be established in coordination with future lessees trying to balance the need for affordability and uphold our fiduciary responsibilities to the trust. Would like to amend to the bill to ensure that the land put up is prioritized for affordable housing for people under 80 percent of the area median income but will still need to allow for moderate-income families and private developers in this to ensure that we can create the most units possible on leased lands. Finding land is one of the hardest parts of providing affordable housing and this will open up more land to site affordable housing in the state. Our organizations cannot compete in the open market for land because it is usually too expensive to purchase and build the infrastructure necessary. This would be very helpful because it would greatly reduce the cost to partner with DNR on these lands for this purpose. It would also reduce risk because there isn't worry about the owner selling the land to the highest bidder.

**Persons Testifying (Housing):** PRO: Senator Noel Frame, Prime Sponsor; Jet Richardson, Tri-County Partners Habitat for Humanity; Jonathan Thomas, South Puget Sound Habitat for Humanity; Michele Thomas, Washington Low Income Housing Alliance; Michael Kearney, Department of Natural Resources; Krosbie Carter, Department of Natural

Resources.

**Persons Signed In To Testify But Not Testifying (Housing):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: The Department of Natural Resources is only looking at residential sites within a city or urban growth area. This equates to about 3000 acres over 37 sites, for example, half an acre in Tacoma or 200 acres in Spokane. These sites are vacant and not producing revenue for the state or local tax jurisdictions. The exemption has very little fiscal impact except for positive impacts to our community and local jurisdictions including revenue generated during the creation of housing. It is important to note that this exemption does not create a tax shift like other property tax exemptions. The bill is intended to help increase production for affordable housing on public lands.

**Persons Testifying (Ways & Means):** PRO: Krosbie Carter, Department of Natural Resources.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.