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**HOUSE BILL 1298**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Hutchins, Walen, Barkis, Klicker, Cheney, Bateman, Doglio, Gregerson, and Leavitt

Read first time 01/13/23. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to increasing the supply and affordability of  
2 condominium units and townhouses as an option for homeownership;  
3 amending RCW 64.35.105, 64.50.010, 64.50.020, 64.50.040, 64.50.050,  
4 64.90.250, 64.90.605, 64.90.645, 64.90.665, 64.90.670, 64.90.675,  
5 82.45.010, 82.45.010, 82.02.060, and 58.17.060; reenacting and  
6 amending RCW 64.38.010; adding a new section to chapter 19.27 RCW;  
7 creating a new section; providing an effective date; and providing an  
8 expiration date.

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

10 **Sec. 1.** RCW 64.35.105 and 2004 c 201 s 101 are each amended to  
11 read as follows:

12 The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

14 (1) "Affiliate" has the meaning in RCW 64.34.020 and 64.90.010.

15 (2) "Association" has the meaning in RCW 64.34.020 and 64.90.010.

16 (3) "Building envelope" means the assemblies, components, and  
17 materials of a building that are intended to separate and protect the  
18 interior space of the building from the adverse effects of exterior  
19 climatic conditions.

20 (4) "Common element" has the meaning in RCW 64.34.020 and  
21 64.90.010.

- 1 (5) "Condominium" has the meaning in RCW 64.34.020 and 64.90.010.
- 2 (6) "Construction professional" has the meaning in RCW 64.50.010.
- 3 (7) "Conversion condominium" has the meaning in RCW 64.34.020 and  
4 64.90.010.
- 5 (8) "Declarant" has the meaning in RCW 64.34.020 and 64.90.010.
- 6 (9) "Declarant control" has the meaning in RCW 64.34.020 and  
7 64.90.010.
- 8 (10) "Defect" means any aspect of a condominium unit or common  
9 element which constitutes a breach of the implied warranties set  
10 forth in RCW 64.34.445 or 64.90.670.
- 11 (11) "Limited common element" has the meaning in RCW 64.34.020  
12 and 64.90.010.
- 13 (12) "Material" means substantive, not simply formal; significant  
14 to a reasonable person; not trivial or insignificant. When used with  
15 respect to a particular construction defect, "material" does not  
16 require that the construction defect render the unit or common  
17 element unfit for its intended purpose or uninhabitable.
- 18 (13) "Mediation" means a collaborative process in which two or  
19 more parties meet and attempt, with the assistance of a mediator, to  
20 resolve issues in dispute between them.
- 21 (14) "Mediation session" means a meeting between two or more  
22 parties to a dispute during which they are engaged in mediation.
- 23 (15) "Mediator" means a neutral and impartial facilitator with no  
24 decision-making power who assists parties in negotiating a mutually  
25 acceptable settlement of issues in dispute between them.
- 26 (16) "Person" has the meaning in RCW 64.34.020 and 64.90.010.
- 27 (17) "Public offering statement" has the meaning in RCW 64.34.410  
28 and in chapter 64.90 RCW.
- 29 (18) "Qualified insurer" means an entity that holds a certificate  
30 of authority under RCW 48.05.030, or an eligible insurer under  
31 chapter 48.15 RCW.
- 32 (19) "Qualified warranty" means an insurance policy issued by a  
33 qualified insurer that complies with the requirements of this  
34 chapter. A qualified warranty includes coverage for repair of  
35 physical damage caused by the defects covered by the qualified  
36 warranty, except to the extent of any exclusions and limitations  
37 under this chapter.
- 38 (20) "Resale certificate" means the statement to be delivered by  
39 the association under RCW 64.34.425 or chapter 64.90 RCW.

1 (21) "Transition date" means the date on which the declarant is  
2 required to deliver to the association the property of the  
3 association under RCW 64.34.312 or 64.90.420.

4 (22) "Unit" has the meaning in RCW 64.34.020 and 64.90.010.

5 (23) "Unit owner" has the meaning in RCW 64.34.020 and 64.90.010.

6 **Sec. 2.** RCW 64.38.010 and 2021 c 227 s 9 are each reenacted and  
7 amended to read as follows:

8 For purposes of this chapter:

9 (1) "Assessment" means all sums chargeable to an owner by an  
10 association in accordance with RCW 64.38.020.

11 (2) "Baseline funding plan" means establishing a reserve funding  
12 goal of maintaining a reserve account balance above (~~zero dollars~~)  
13 \$0 throughout the (~~thirty-year~~) 30-year study period described  
14 under RCW 64.38.065.

15 (3) "Board of directors" or "board" means the body, regardless of  
16 name, with primary authority to manage the affairs of the  
17 association.

18 (4) "Common areas" means property owned, or otherwise maintained,  
19 repaired or administered by the association.

20 (5) "Common expense" means the costs incurred by the association  
21 to exercise any of the powers provided for in this chapter.

22 (6) "Contribution rate" means, in a reserve study as described in  
23 RCW 64.38.065, the amount contributed to the reserve account so that  
24 the association will have cash reserves to pay major maintenance,  
25 repair, or replacement costs without the need of a special  
26 assessment.

27 (7) "Effective age" means the difference between the estimated  
28 useful life and remaining useful life.

29 (8) "Electronic transmission" or "electronically transmitted"  
30 means any electronic communication not directly involving the  
31 physical transfer of a writing in a tangible medium, but that may be  
32 retained, retrieved, and reviewed by the sender and the recipient of  
33 the communication, and that may be directly reproduced in a tangible  
34 medium by a sender and recipient.

35 (9) "Full funding plan" means setting a reserve funding goal of  
36 achieving one hundred percent fully funded reserves by the end of the  
37 (~~thirty-year~~) 30-year study period described under RCW 64.38.065,  
38 in which the reserve account balance equals the sum of the  
39 deteriorated portion of all reserve components.

1 (10) "Fully funded balance" means the current value of the  
2 deteriorated portion, not the total replacement value, of all the  
3 reserve components. The fully funded balance for each reserve  
4 component is calculated by multiplying the current replacement cost  
5 of the reserve component by its effective age, then dividing the  
6 result by the reserve component's useful life. The sum total of all  
7 reserve components' fully funded balances is the association's fully  
8 funded balance.

9 (11) "Governing documents" means the articles of incorporation,  
10 bylaws, plat, declaration of covenants, conditions, and restrictions,  
11 rules and regulations of the association, or other written instrument  
12 by which the association has the authority to exercise any of the  
13 powers provided for in this chapter or to manage, maintain, or  
14 otherwise affect the property under its jurisdiction.

15 (12) "Homeowners' association" or "association" means a  
16 corporation, unincorporated association, or other legal entity, each  
17 member of which is an owner of residential real property located  
18 within the association's jurisdiction, as described in the governing  
19 documents, and by virtue of membership or ownership of property is  
20 obligated to pay real property taxes, insurance premiums, maintenance  
21 costs, or for improvement of real property other than that which is  
22 owned by the member. "Homeowners' association" does not mean an  
23 association created under chapter 64.32 (~~(06)~~), 64.34, or 64.90 RCW.

24 (13) "Lot" means a physical portion of the real property located  
25 within an association's jurisdiction designated for separate  
26 ownership.

27 (14) "Owner" means the owner of a lot, but does not include a  
28 person who has an interest in a lot solely as security for an  
29 obligation. "Owner" also means the vendee, not the vendor, of a lot  
30 under a real estate contract.

31 (15) "Remaining useful life" means the estimated time, in years,  
32 before a reserve component will require major maintenance, repair, or  
33 replacement to perform its intended function.

34 (16) "Replacement cost" means the current cost of replacing,  
35 repairing, or restoring a reserve component to its original  
36 functional condition.

37 (17) "Reserve component" means a common element whose cost of  
38 maintenance, repair, or replacement is infrequent, significant, and  
39 impractical to include in an annual budget.

1 (18) "Reserve study professional" means an independent person who  
2 is suitably qualified by knowledge, skill, experience, training, or  
3 education to prepare a reserve study in accordance with RCW 64.38.065  
4 and 64.38.070.

5 (19) "Residential real property" means any real property, the use  
6 of which is limited by law, covenant or otherwise to primarily  
7 residential or recreational purposes.

8 (20) "Significant assets" means that the current replacement  
9 value of the major reserve components is (~~(seventy-five)~~) 75 percent  
10 or more of the gross budget of the association, excluding the  
11 association's reserve account funds.

12 (21) "Tangible medium" means a writing, copy of a writing,  
13 facsimile, or a physical reproduction, each on paper or on other  
14 tangible material.

15 (22) "Useful life" means the estimated time, between years, that  
16 major maintenance, repair, or replacement is estimated to occur.

17 **Sec. 3.** RCW 64.50.010 and 2020 c 18 s 23 are each amended to  
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout this chapter.

21 (1) "Action" means any civil lawsuit or action in contract or  
22 tort for damages or indemnity brought against a construction  
23 professional to assert a claim, whether by complaint, counterclaim,  
24 or cross-claim, for damage or the loss of use of real or personal  
25 property caused by a defect in the construction of a residence or in  
26 the substantial remodel of a residence. "Action" does not include any  
27 civil action in tort alleging personal injury or wrongful death to a  
28 person or persons resulting from a construction defect.

29 (2) "Association" means an association, master association, or  
30 subassociation as defined and provided for in RCW 64.34.020(4),  
31 64.34.276, 64.34.278, and 64.38.010(~~((11))~~) (12).

32 (3) "Claimant" means a homeowner or association who asserts a  
33 claim against a construction professional concerning a defect in the  
34 construction of a residence or in the substantial remodel of a  
35 residence.

36 (4) "Construction defect professional" means a qualified expert  
37 witness governed by rule 702 of the Washington state court rules:  
38 Rules of evidence. An expert whose compensation is, for services

1 rendered under this chapter, in any way dependent on the outcome of  
2 an action is not a qualified construction defect professional.

3 (5) "Construction professional" means an architect, builder,  
4 builder vendor, contractor, subcontractor, engineer, or inspector,  
5 including, but not limited to, a dealer as defined in RCW 64.34.020  
6 and a declarant as defined in RCW 64.34.020, performing or furnishing  
7 the design, supervision, inspection, construction, or observation of  
8 the construction of any improvement to real property, whether  
9 operating as a sole proprietor, partnership, corporation, or other  
10 business entity.

11 ~~((+5))~~ (6) "Homeowner" means: (a) Any person, company, firm,  
12 partnership, corporation, or association who contracts with a  
13 construction professional for the construction, sale, or construction  
14 and sale of a residence; and (b) an "association" as defined in this  
15 section. "Homeowner" includes, but is not limited to, a subsequent  
16 purchaser of a residence from any homeowner.

17 ~~((+6))~~ (7) "Residence" means a single-family house, duplex,  
18 triplex, quadraplex, or a unit in a multiunit residential structure  
19 in which title to each individual unit is transferred to the owner  
20 under a condominium or cooperative system, and shall include common  
21 elements as defined in RCW 64.34.020 and common areas as defined in  
22 RCW 64.38.010(4).

23 ~~((+7))~~ (8) "Serve" or "service" means personal service or  
24 delivery by certified mail to the last known address of the  
25 addressee.

26 ~~((+8))~~ (9) "Substantial remodel" means a remodel of a residence,  
27 for which the total cost exceeds one-half of the assessed value of  
28 the residence for property tax purposes at the time the contract for  
29 the remodel work was made.

30 **Sec. 4.** RCW 64.50.020 and 2002 c 323 s 3 are each amended to  
31 read as follows:

32 (1) In every construction defect action brought against a  
33 construction professional, the claimant shall, no later than ~~((forty-~~  
34 ~~five))~~ 45 days before filing an action, serve (a) written notice of  
35 claim and (b) written defect assessment report on the construction  
36 professional.

37 (i) The notice of claim shall state that the claimant asserts a  
38 construction defect claim against the construction professional and

1 shall describe the claim in reasonable detail sufficient to determine  
2 the general nature of the defect.

3 (ii) The report required in this subsection (1)(b) shall be  
4 executed under oath by a construction defect professional, or an  
5 equivalent reliable source, and shall state with particularity:

6 (A) The construction defect professional's qualifications,  
7 training, and experience with construction defect issues;

8 (B) The manner and type of inspection forming the basis for the  
9 report;

10 (C) A reasonably detailed description sufficient to identify the  
11 location and nature of the defect based on the scope of the  
12 inspection, and the extent of the defect;

13 (D) The recommended repair proposed to correct the observed  
14 defect; and

15 (E) The construction defect professional's opinion as to the  
16 applicable code or building standard implicated by the defect.

17 (2) Within (~~twenty-one~~) 21 days after service of the notice of  
18 claim, the construction professional shall serve a written response  
19 on the claimant by registered mail or personal service. The written  
20 response shall:

21 (a) Propose to inspect the residence that is the subject of the  
22 claim and to complete the inspection within a specified time frame.  
23 The proposal shall include the statement that the construction  
24 professional shall, based on the inspection, offer to remedy the  
25 defect, compromise by payment, or dispute the claim;

26 (b) Offer to compromise and settle the claim by monetary payment  
27 without inspection. A construction professional's offer under this  
28 subsection (2)(b) to compromise and settle a homeowner's claim may  
29 include, but is not limited to, an express offer to purchase the  
30 claimant's residence that is the subject of the claim, and to pay the  
31 claimant's reasonable relocation costs; or

32 (c) State that the construction professional disputes the claim  
33 and will neither remedy the construction defect nor compromise and  
34 settle the claim.

35 (3)(a) If the construction professional disputes the claim or  
36 does not respond to the claimant's notice of claim within the time  
37 stated in subsection (2) of this section, the claimant may bring an  
38 action against the construction professional for the claim described  
39 in the notice of claim without further notice.

1 (b) If the claimant rejects the inspection proposal or the  
2 settlement offer made by the construction professional pursuant to  
3 subsection (2) of this section, the claimant shall serve written  
4 notice of the claimant's rejection on the construction professional.  
5 After service of the rejection, the claimant may bring an action  
6 against the construction professional for the construction defect  
7 claim described in the notice of claim. If the construction  
8 professional has not received from the claimant, within (~~thirty~~) 30  
9 days after the claimant's receipt of the construction professional's  
10 response, either an acceptance or rejection of the inspection  
11 proposal or settlement offer, then at anytime thereafter the  
12 construction professional may terminate the proposal or offer by  
13 serving written notice to the claimant, and the claimant may  
14 thereafter bring an action against the construction professional for  
15 the construction defect claim described in the notice of claim.

16 (4)(a) If the claimant elects to allow the construction  
17 professional to inspect in accordance with the construction  
18 professional's proposal pursuant to subsection (2)(a) of this  
19 section, the claimant shall provide the construction professional and  
20 its contractors or other agents reasonable access to the claimant's  
21 residence during normal working hours to inspect the premises and the  
22 claimed defect.

23 (b) Within (~~fourteen~~) 14 days following completion of the  
24 inspection, the construction professional shall serve on the  
25 claimant:

26 (i) A written offer to remedy the construction defect at no cost  
27 to the claimant, including a report of the scope of the inspection,  
28 the findings and results of the inspection, a description of the  
29 additional construction necessary to remedy the defect described in  
30 the claim, and a timetable for the completion of such construction;

31 (ii) A written offer to compromise and settle the claim by  
32 monetary payment pursuant to subsection (2)(b) of this section; or

33 (iii) A written statement that the construction professional will  
34 not proceed further to remedy the defect.

35 (c) If the construction professional does not proceed further to  
36 remedy the construction defect within the agreed timetable, or if the  
37 construction professional fails to comply with the provisions of (b)  
38 of this subsection, the claimant may bring an action against the  
39 construction professional for the claim described in the notice of



1 claim and written defect assessment report under subsection (1)(b) of  
2 this section without further notice.

3 (d) If the claimant rejects the offer made by the construction  
4 professional pursuant to (b)(i) or (ii) of this subsection to either  
5 remedy the construction defect or to compromise and settle the claim  
6 by monetary payment, the claimant shall serve written notice of the  
7 claimant's rejection on the construction professional. After service  
8 of the rejection notice, the claimant may bring an action against the  
9 construction professional for the construction defect claim described  
10 in the notice of claim and written defect assessment report under  
11 subsection (1)(b) of this section. If the construction professional  
12 has not received from the claimant, within (~~(thirty)~~) 30 days after  
13 the claimant's receipt of the construction professional's response,  
14 either an acceptance or rejection of the offer made pursuant to  
15 (b)(i) or (ii) of this subsection, then at anytime thereafter the  
16 construction professional may terminate the offer by serving written  
17 notice to the claimant.

18 (5)(a) Any claimant accepting the offer of a construction  
19 professional to remedy the construction defect pursuant to subsection  
20 (4)(b)(i) of this section shall do so by serving the construction  
21 professional with a written notice of acceptance within a reasonable  
22 time period after receipt of the offer, and no later than (~~(thirty)~~)  
23 30 days after receipt of the offer. The claimant shall provide the  
24 construction professional and its contractors or other agents  
25 reasonable access to the claimant's residence during normal working  
26 hours to perform and complete the construction by the timetable  
27 stated in the offer.

28 (b) The claimant and construction professional may, by written  
29 mutual agreement, alter the extent of construction or the timetable  
30 for completion of construction stated in the offer, including, but  
31 not limited to, repair of additional defects.

32 (6) Any action commenced by a claimant prior to compliance with  
33 the requirements of this section shall be subject to dismissal  
34 without prejudice, and may not be recommenced until the claimant has  
35 complied with the requirements of this section.

36 (7) Nothing in this section may be construed to prevent a  
37 claimant from commencing an action on the construction defect claim  
38 described in the notice of claim and written defect assessment report  
39 under subsection (1)(b) of this section if the construction  
40 professional fails to perform the construction agreed upon, fails to

1 remedy the defect, or fails to perform by the timetable agreed upon  
2 pursuant to subsection (2)(a) or (5) of this section.

3 (8) Prior to commencing any action alleging a construction  
4 defect, or after the dismissal of any action without prejudice  
5 pursuant to subsection (6) of this section, the claimant may amend  
6 the notice of claim to include construction defects discovered after  
7 the service of the original notice of claim, and must otherwise  
8 comply with the requirements of this section for the additional  
9 claims including amending the written defect assessment report under  
10 subsection (1)(b) of this section. The service of an amended notice  
11 of claim shall relate back to the original notice of claim for  
12 purposes of tolling statutes of limitations and repose. Claims for  
13 defects discovered after the commencement or recommencement of an  
14 action may be added to such action only after providing notice to the  
15 construction professional of the defect, the amended written defect  
16 assessment report, and allowing for response under subsection (2) of  
17 this section.

18 **Sec. 5.** RCW 64.50.040 and 2002 c 323 s 5 are each amended to  
19 read as follows:

20 (1)(a) In the event the board of directors, pursuant to RCW  
21 64.34.304(1)(d) or 64.38.020(4), institutes an action asserting  
22 defects in the construction of two or more residences, common  
23 elements, or common areas, this section shall apply. For purposes of  
24 this section, "action" has the same meaning as set forth in RCW  
25 64.50.010.

26 (b) The board of directors shall substantially comply with the  
27 provisions of this section.

28 (2)(a) Prior to the service of the summons and complaint on any  
29 defendant with respect to an action governed by this section, the  
30 board of directors shall mail or deliver (i) written notice of the  
31 commencement or anticipated commencement of such action and (ii)  
32 written defect assessment report to each homeowner at the last known  
33 address described in the association's records.

34 (b) The notice required by (a) of this subsection shall state a  
35 general description of the following:

36 (i) The nature of the action and the relief sought; and

37 (ii) The expenses and fees that the board of directors  
38 anticipates will be incurred in prosecuting the action.

1 (c) The report required by (a) of this subsection shall comply  
2 with RCW 64.50.020.

3 (3) Nothing in this section may be construed to:

4 (a) Require the disclosure in the notice or the disclosure to a  
5 unit owner of attorney-client communications or other privileged  
6 communications;

7 (b) Permit the notice to serve as a basis for any person to  
8 assert the waiver of any applicable privilege or right of  
9 confidentiality resulting from, or to claim immunity in connection  
10 with, the disclosure of information in the notice; or

11 (c) Limit or impair the authority of the board of directors to  
12 contract for legal services, or limit or impair the ability to  
13 enforce such a contract for legal services.

14 **Sec. 6.** RCW 64.50.050 and 2002 c 323 s 6 are each amended to  
15 read as follows:

16 (1) The construction professional shall provide notice to each  
17 homeowner upon entering into a contract for sale, construction, or  
18 substantial remodel of a residence, of the construction  
19 professional's right to offer to cure construction defects before a  
20 homeowner may commence litigation against the construction  
21 professional. Such notice shall be conspicuous and may be included as  
22 part of the underlying contract signed by the homeowner. In the sale  
23 of a condominium unit, the requirement for delivery of such notice  
24 shall be deemed satisfied if contained in a public offering statement  
25 delivered in accordance with chapter 64.34 RCW.

26 (2) The notice required by this subsection shall be in  
27 substantially the following form:

28 CHAPTER 64.50 RCW CONTAINS IMPORTANT REQUIREMENTS YOU MUST  
29 FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE  
30 CONSTRUCTION AGAINST THE SELLER OR BUILDER OF YOUR HOME.  
31 FORTY-FIVE DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST  
32 DELIVER TO THE SELLER OR BUILDER A WRITTEN NOTICE OF ANY  
33 CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE, A WRITTEN  
34 DEFECT NOTICE REPORT PURSUANT TO RCW 64.50.020(1)(b), AND  
35 PROVIDE YOUR SELLER OR BUILDER THE OPPORTUNITY TO MAKE AN  
36 OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED  
37 TO ACCEPT ANY OFFER MADE BY THE BUILDER OR SELLER. IF YOU  
38 REJECT A REASONABLE OFFER OR DO NOT PERMIT THE CONTRACTOR OR

1 INDEPENDENT CONTRACTOR A REASONABLE OPPORTUNITY TO INSPECT OR  
2 REPAIR THE DEFECT PURSUANT TO AN ACCEPTED OFFER TO REPAIR OR  
3 PAY FOR THE DEFECTS, YOU:

4 (1) MAY NOT RECOVER AN AMOUNT IN EXCESS OF THE FAIR MARKET  
5 VALUE OF THE CONTRACTOR'S OFFER; AND

6 (2) MAY RECOVER ONLY THE AMOUNT OF REASONABLE AND NECESSARY  
7 COSTS AND ATTORNEYS' FEES INCURRED BEFORE THE OFFER WAS  
8 REJECTED OR CONSIDERED REJECTED. THERE ARE STRICT DEADLINES  
9 AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM  
10 MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT.

11 (3) This chapter shall not preclude or bar any action if notice  
12 is not given to the homeowner as required by this section.

13 **Sec. 7.** RCW 64.90.250 and 2018 c 277 s 211 are each amended to  
14 read as follows:

15 (1) To exercise any development right reserved under RCW  
16 64.90.225(1)(~~(h)~~) (g), the declarant must prepare, execute, and  
17 record any amendments to the declaration and map in accordance with  
18 the requirements of RCW 64.90.245 and 64.90.285(3). The declarant is  
19 the unit owner of any units created. The amendment to the declaration  
20 must assign an identifying number to each new unit created and,  
21 except in the case of subdivision, combination, or conversion of  
22 units described in subsection (3) of this section, reallocate the  
23 allocated interests among all units. The amendment must describe any  
24 common elements and any limited common elements created and, in the  
25 case of limited common elements, designate the unit to which each is  
26 allocated to the extent required under RCW 64.90.240. The amendments  
27 are effective upon recording.

28 (2) Development rights may be reserved within any real estate  
29 added to the common interest community if the amendment to the  
30 declaration adding that real estate includes all matters required  
31 under RCW 64.90.225 and 64.90.230 and the amendment to the map  
32 includes all matters required under RCW 64.90.245. This subsection  
33 does not extend the time limit on the exercise of development rights  
34 imposed by the declaration pursuant to RCW 64.90.225(1)(h).

35 (3) When a declarant exercises a development right to subdivide,  
36 combine, or convert a unit previously created into additional units  
37 or common elements, or both:

1 (a) If the declarant converts the unit entirely into common  
2 elements, the amendment to the declaration must reallocate all the  
3 allocated interests of that unit among the other units as if that  
4 unit had been taken by condemnation under RCW 64.90.030; or

5 (b) If the declarant subdivides the unit into two or more units,  
6 whether or not any part of the unit is converted into common  
7 elements, the amendment to the declaration must reallocate all the  
8 allocated interests of the unit among the units created by the  
9 subdivision in any reasonable manner prescribed by the declarant.

10 (4) If the declaration provides, pursuant to RCW 64.90.225(1)(h),  
11 that all or a portion of the real estate is subject to a right of  
12 withdrawal:

13 (a) If all the real estate is subject to withdrawal, and the  
14 declaration or map or amendment to the declaration or map does not  
15 describe separate portions of real estate subject to that right, none  
16 of the real estate may be withdrawn if a unit in that real estate has  
17 been conveyed to a purchaser; or

18 (b) If any portion of the real estate is subject to withdrawal as  
19 described in the declaration or map or amendment to the declaration  
20 or map, none of that portion of the real estate may be withdrawn if a  
21 unit in that portion has been conveyed to a purchaser.

22 (5) If the declarant combines two or more units into a lesser  
23 number of units, whether or not any part of a unit is converted into  
24 common elements or common elements are converted units, the amendment  
25 to the declaration must reallocate all of the allocated interests of  
26 the units being combined into the unit or units created by the  
27 combination in any reasonable manner prescribed by the declarant.

28 (6) A unit conveyed to a purchaser may not be withdrawn pursuant  
29 to subsection (4)(a) or (b) of this section without the consent of  
30 the unit owner of that unit and the holder of a security interest in  
31 the unit.

32 **Sec. 8.** RCW 64.90.605 and 2018 c 277 s 402 are each amended to  
33 read as follows:

34 (1) Except as provided otherwise in subsection (2) of this  
35 section, a declarant required to deliver a public offering statement  
36 pursuant to subsection (3) of this section must prepare a public  
37 offering statement conforming to the requirements of RCW 64.90.610,  
38 64.90.615, and 64.90.620.

1 (2) A declarant may transfer responsibility for preparation of  
2 all or a part of the public offering statement to a successor  
3 declarant or to a dealer who intends to offer units in the  
4 (~~condominium~~) common interest community.

5 (3) (a) Any declarant or dealer who offers to convey a unit for  
6 the person's own account to a purchaser must provide the purchaser of  
7 the unit with a copy of a public offering statement and all material  
8 amendments to the public offering statement before conveyance of that  
9 unit.

10 (b) Any agent, attorney, or other person assisting the declarant  
11 or dealer in preparing the public offering statement may rely upon  
12 information provided by the declarant or dealer without independent  
13 investigation. The agent, attorney, or other person is not liable for  
14 any material misrepresentation in or omissions of material facts from  
15 the public offering statement unless the person had actual knowledge  
16 of the misrepresentation or omission at the time the public offering  
17 statement was prepared.

18 (c) The declarant or dealer is liable for any misrepresentation  
19 contained in the public offering statement or for any omission of  
20 material fact from the public offering statement if the declarant or  
21 dealer had actual knowledge of the misrepresentation or omission or,  
22 in the exercise of reasonable care, should have known of the  
23 misrepresentation or omission.

24 (4) If a unit is part of a common interest community and is part  
25 of any other real estate regime in connection with the sale of which  
26 the delivery of a public offering statement is required under the  
27 laws of this state, a single public offering statement conforming to  
28 the requirements of RCW 64.90.610, 64.90.615, and 64.90.620 as those  
29 requirements relate to each regime in which the unit is located, and  
30 to any other requirements imposed under the laws of this state, may  
31 be prepared and delivered in lieu of providing two or more public  
32 offering statements.

33 (5) A declarant is not required to prepare and deliver a public  
34 offering statement in connection with the sale of any unit owned by  
35 the declarant, or to obtain for or provide to the purchaser a report  
36 or statement required under RCW 64.90.610(1)(oo), 64.90.620(1), or  
37 64.90.655, upon the later of:

38 (a) The termination or expiration of all special declarant  
39 rights;

1 (b) The expiration of all periods within which claims or actions  
2 for a breach of warranty arising from defects involving the common  
3 elements under RCW 64.90.680 must be filed or commenced,  
4 respectively, by the association against the declarant; or

5 (c) The time when the declarant ceases to meet the definition of  
6 a dealer under RCW 64.90.010.

7 (6) After the last to occur of any of the events described in  
8 subsection (5) of this section, a declarant must deliver to the  
9 purchaser of a unit owned by the declarant a resale certificate under  
10 RCW 64.90.640(2) together with:

11 (a) The identification of any real property not in the common  
12 interest community that unit owners have a right to use and a  
13 description of the terms of such use;

14 (b) A brief description or a copy of any express construction  
15 warranties to be provided to the purchaser;

16 (c) A statement of any litigation brought by an owners'  
17 association, unit owner, or governmental entity in which the  
18 declarant or any affiliate of the declarant has been a defendant  
19 arising out of the construction, sale, or administration of any  
20 common interest community within the state of Washington within the  
21 previous five years, together with the results of the litigation, if  
22 known;

23 (d) Whether timesharing is permitted or prohibited, and, if  
24 permitted, a statement that the purchaser of a time share unit is  
25 entitled to receive the disclosure document required under chapter  
26 64.36 RCW; and

27 (e) Any other information and cross-references that the declarant  
28 believes will be helpful in describing the common interest community  
29 to the purchaser, all of which may be included or not included at the  
30 option of the declarant.

31 (7) A declarant is not liable to a purchaser for the failure or  
32 delay of the association to provide the resale certificate in a  
33 timely manner, but the purchase contract is voidable by the purchaser  
34 of a unit sold by the declarant until the resale certificate required  
35 under RCW 64.90.640(2) and the information required under subsection  
36 (6) of this section have been provided and for five days thereafter  
37 or until conveyance, whichever occurs first.

38 **Sec. 9.** RCW 64.90.645 and 2021 c 260 s 2 are each amended to  
39 read as follows:

1 (1) Except as provided in subsection (2) of this section, any  
2 earnest money deposit, as defined in RCW 64.04.005, made in  
3 connection with the right to purchase a unit from a person required  
4 to deliver a public offering statement pursuant to RCW 64.90.605(3)  
5 must be placed in escrow and held in this state in an escrow or trust  
6 account designated solely for that purpose by a licensed title  
7 insurance company or agent, a licensed attorney, a real estate broker  
8 or independent bonded escrow company, or an institution whose  
9 accounts are insured by a governmental agency or instrumentality  
10 until: (a) Delivered to the declarant at closing, (b) delivered to  
11 the declarant because of the purchaser's default under a contract to  
12 purchase the unit, (c) refunded to the purchaser, or (d) delivered to  
13 a court in connection with the filing of an interpleader action.

14 (2)(a) If a purchase agreement for the sale of a unit provides  
15 that deposit funds may be used for construction costs and the  
16 declarant obtains and maintains a surety bond as required by this  
17 section, the declarant may withdraw escrow funds when construction of  
18 improvements has begun. The funds may be used only for actual  
19 building and construction costs of the project in which the unit is  
20 located.

21 (b) The bond must be issued by a surety insurer licensed in this  
22 state in favor of the purchaser in an amount adequate to cover the  
23 amount of the deposit to be withdrawn. The declarant may not withdraw  
24 more than the face amount of the bond. The bond must be payable to  
25 the purchaser if the purchaser obtains a final judgment against the  
26 declarant requiring the declarant to return the deposit pursuant to  
27 the purchase agreement. The bond may be either in the form of an  
28 individual bond for each deposit accepted by the declarant or in the  
29 form of a blanket bond assuring the return of all deposits received  
30 by the declarant.

31 (c) The party holding escrow funds who releases all or any  
32 portion of the funds to the declarant has no obligation to monitor  
33 the progress of construction or the expenditure of the funds by the  
34 declarant and is not liable to any purchaser for the release of funds  
35 pursuant to this section.

36 (3) ((A)) The amount of deposit ((under)) funds that may be used  
37 pursuant to subsection (2) of this section may not exceed five  
38 percent of the purchase price.



1       **Sec. 10.** RCW 64.90.665 and 2018 c 277 s 414 are each amended to  
2 read as follows:

3       (1) Subject to subsections (2) and (3) of this section, express  
4 warranties made by any declarant or dealer to a purchaser of a unit  
5 in a condominium, if relied upon by the purchaser in purchasing the  
6 unit, are created as follows:

7       (a) Any written affirmation of fact or written promise that  
8 relates to the unit, its use, or rights appurtenant to the unit or  
9 its use, improvements to the condominium that would directly benefit  
10 the unit, or the right to use or have the benefit of facilities not  
11 located in the condominium creates an express warranty that the unit  
12 and related rights and uses will not materially deviate from the  
13 affirmation or promise.

14       (b) Any written description of the physical characteristics of  
15 the condominium at the time the purchase agreement is executed,  
16 including plans and specifications of or for improvements, creates an  
17 express warranty that the condominium will conform to the written  
18 description in all material respects.

19       (c) Any written description of the quantity or extent of the real  
20 estate comprising the condominium, including plats or surveys,  
21 creates an express warranty that the condominium will conform to the  
22 description, subject to customary tolerances.

23       (d) A written statement that a purchaser may put a unit only to a  
24 specified use is an express warranty that the specified use is  
25 lawful.

26       (2) Subject to subsection (3) of this section, neither formal  
27 words, such as "warranty" or "guarantee," nor a specific intention to  
28 make a warranty are necessary to create an express warranty, but a  
29 statement of opinion or a commendation of the real estate, its  
30 quality, or its value does not create a warranty, and a statement,  
31 promise, model, depiction, or description does not create a warranty  
32 if it discloses that it is only proposed, is not representative, or  
33 is subject to change.

34       (3) A purchaser may not rely on any (~~statement,~~) affirmation,  
35 promise, (~~model, depiction, or~~) description, plans, specifications,  
36 plat, survey, statement, or other item unless it is contained in the  
37 public offering statement delivered to the purchaser or made in a  
38 record signed by the declarant or dealer, or the declarant's or  
39 dealer's agent identified in the public offering statement.

1 (4) Any conveyance of a unit transfers to the purchaser all  
2 express warranties of quality made by the declarant or dealer.

3 **Sec. 11.** RCW 64.90.670 and 2019 c 238 s 102 are each amended to  
4 read as follows:

5 (1) A declarant and any dealer warrants to a purchaser of a  
6 condominium unit that the unit will be in at least as good condition  
7 at the earlier of the time of the conveyance or delivery of  
8 possession as it was at the time of contracting, except for  
9 reasonable wear and tear and damage by casualty or condemnation.

10 (2) A declarant and any dealer impliedly warrants to a purchaser  
11 of a condominium unit that the unit and the common elements in the  
12 condominium are suitable for the ordinary uses of real estate of its  
13 type and that any improvements made or contracted for by such  
14 declarant or dealer will be:

15 (a) Free from defective materials;

16 (b) Constructed in accordance with engineering and construction  
17 standards, including applicable building codes, generally accepted in  
18 the state of Washington at the time of construction; and

19 (c) Constructed in a workmanlike manner.

20 (3) A declarant and any dealer warrants to a purchaser of a  
21 condominium unit that may be used for residential use that an  
22 existing use, continuation of which is contemplated by the parties,  
23 does not violate applicable law at the earlier of the time of  
24 conveyance or delivery of possession.

25 (4) Warranties imposed under this section may be excluded or  
26 modified as specified in RCW 64.90.675.

27 (5) For purposes of this section, improvements made or contracted  
28 for by an affiliate of a declarant are made or contracted for by the  
29 declarant.

30 (6) Any conveyance of a condominium unit transfers to the  
31 purchaser all of a declarant's or dealer's implied warranties of  
32 quality.

33 (7) (a) In a proceeding for breach of any of the obligations  
34 arising under this section, the purchaser must show that the alleged  
35 breach has adversely affected or will adversely affect the  
36 performance of that portion of the unit or common elements alleged to  
37 be in breach. Nothing in this section limits the ability of a board  
38 to bring claims on behalf of two or more unit owners pursuant to RCW  
39 64.90.405(2)(d).

1 (b) To establish an adverse effect on performance, the purchaser  
2 is required to prove that the alleged breach:

3 (i) Is more than technical;

4 (ii) Is significant to a reasonable person; and

5 (iii) Has caused or will cause physical damage to the unit or  
6 common elements; has materially impaired the performance of  
7 mechanical, electrical, plumbing, elevator, or similar building  
8 equipment; or presents an actual, unreasonable safety risk to the  
9 occupants of the condominium.

10 (8) Proof of breach of any obligation arising under this section  
11 is not proof of damages. Damages awarded for a breach of a warranty  
12 arising under subsection (2) of this section are the reasonable cost  
13 of repairs. However, if it is established that the cost of such  
14 repairs is clearly disproportionate to the loss in market value  
15 caused by the breach, damages are limited to the loss in market  
16 value.

17 (9) The warranties described in subsections (1) through (3) of  
18 this section are not implied in the purchase and sale of a  
19 condominium unit in a building containing 12 or fewer units or three  
20 or fewer stories.

21 **Sec. 12.** RCW 64.90.675 and 2018 c 277 s 416 are each amended to  
22 read as follows:

23 (1) Except as limited under subsection (2) of this section with  
24 respect to a purchaser of a condominium unit that may be used for  
25 residential use, implied warranties of quality under RCW 64.90.670:

26 (a) May be excluded or modified by written agreement of the  
27 parties; and

28 (b) Are excluded by written expression of disclaimer, such as "as  
29 is," "with all faults," or other language that in common  
30 understanding calls the buyer's attention to the exclusion of  
31 warranties.

32 (2) With respect to a purchaser of a condominium unit that may be  
33 ~~((used))~~ occupied for residential use, no general disclaimer of  
34 implied warranties of quality under RCW 64.90.670 is effective,  
35 ~~((except that))~~ but a declarant and any dealer may disclaim liability  
36 in an instrument for one or more specified defects or failures to  
37 comply with applicable law, if:

38 (a) ~~((The declarant or dealer knows or has reason to believe that~~  
39 ~~the specific defects or failures exist at the time of disclosure;~~

1       ~~(b))~~) The ~~((disclaimer))~~ instrument specifically describes the  
2 defects or failures;

3       ~~((e))~~ (b) The ~~((disclaimer))~~ instrument includes a statement as  
4 to the effect of the defects or failures;

5       ~~((d))~~ (c) The ~~((disclaimer))~~ instrument is bold faced,  
6 capitalized, underlined, or otherwise set out from surrounding  
7 material so as to be conspicuous; and

8       ~~((e))~~ (d) The ~~((disclaimer))~~ instrument is signed by the  
9 purchaser.

10       (3) A declarant or dealer may not make an express written  
11 warranty of quality that limits the implied warranties of quality  
12 made to the purchaser set forth in RCW 64.90.670.

13       NEW SECTION.   **Sec. 13.** A new section is added to chapter 19.27  
14 RCW to read as follows:

15       The building code council shall adopt specific building and  
16 energy code provisions for multiunit residential buildings between  
17 two and 12 units and three or fewer stories, including approval of a  
18 variety of complete building designs and styles that are compatible  
19 in size and form with single-family neighborhoods and capable of  
20 being constructed on common residential lot sizes. The purpose of  
21 this section is to direct the council to support homeownership by  
22 adopting code provisions and complete building designs that minimize  
23 the costs of design, permitting, and construction. The code  
24 provisions and building designs approved by the council will apply  
25 statewide, and a local government may modify code provisions or  
26 building designs only to decrease design, permitting, or construction  
27 costs.

28       **Sec. 14.** RCW 82.45.010 and 2022 c 199 s 3 are each amended to  
29 read as follows:

30       (1) As used in this chapter, the term "sale" has its ordinary  
31 meaning and includes any conveyance, grant, assignment, quitclaim, or  
32 transfer of the ownership of or title to real property, including  
33 standing timber, or any estate or interest therein for a valuable  
34 consideration, and any contract for such conveyance, grant,  
35 assignment, quitclaim, or transfer, and any lease with an option to  
36 purchase real property, including standing timber, or any estate or  
37 interest therein or other contract under which possession of the  
38 property is given to the purchaser, or any other person at the

1 purchaser's direction, and title to the property is retained by the  
2 vendor as security for the payment of the purchase price. The term  
3 also includes the grant, assignment, quitclaim, sale, or transfer of  
4 improvements constructed upon leased land.

5 (2) (a) The term "sale" also includes the transfer or acquisition  
6 within any (~~(thirty-six)~~) 36 month period of a controlling interest  
7 in any entity with an interest in real property located in this state  
8 for a valuable consideration.

9 (b) For the sole purpose of determining whether, pursuant to the  
10 exercise of an option, a controlling interest was transferred or  
11 acquired within a (~~(thirty-six)~~) 36 month period, the date that the  
12 option agreement was executed is the date on which the transfer or  
13 acquisition of the controlling interest is deemed to occur. For all  
14 other purposes under this chapter, the date upon which the option is  
15 exercised is the date of the transfer or acquisition of the  
16 controlling interest.

17 (c) For purposes of this subsection, all acquisitions of persons  
18 acting in concert must be aggregated for purposes of determining  
19 whether a transfer or acquisition of a controlling interest has taken  
20 place. The department must adopt standards by rule to determine when  
21 persons are acting in concert. In adopting a rule for this purpose,  
22 the department must consider the following:

23 (i) Persons must be treated as acting in concert when they have a  
24 relationship with each other such that one person influences or  
25 controls the actions of another through common ownership; and

26 (ii) When persons are not commonly owned or controlled, they must  
27 be treated as acting in concert only when the unity with which the  
28 purchasers have negotiated and will consummate the transfer of  
29 ownership interests supports a finding that they are acting as a  
30 single entity. If the acquisitions are completely independent, with  
31 each purchaser buying without regard to the identity of the other  
32 purchasers, then the acquisitions are considered separate  
33 acquisitions.

34 (3) The term "sale" does not include:

35 (a) A transfer by gift, devise, or inheritance.

36 (b) A transfer by transfer on death deed, to the extent that it  
37 is not in satisfaction of a contractual obligation of the decedent  
38 owed to the recipient of the property.

39 (c) A transfer of any leasehold interest other than of the type  
40 mentioned above.

1 (d) A cancellation or forfeiture of a vendee's interest in a  
2 contract for the sale of real property, whether or not such contract  
3 contains a forfeiture clause, or deed in lieu of foreclosure of a  
4 mortgage.

5 (e) The partition of property by tenants in common by agreement  
6 or as the result of a court decree.

7 (f) The assignment of property or interest in property from one  
8 spouse or one domestic partner to the other spouse or other domestic  
9 partner in accordance with the terms of a decree of dissolution of  
10 marriage or state registered domestic partnership or in fulfillment  
11 of a property settlement agreement.

12 (g) The assignment or other transfer of a vendor's interest in a  
13 contract for the sale of real property, even though accompanied by a  
14 conveyance of the vendor's interest in the real property involved.

15 (h) Transfers by appropriation or decree in condemnation  
16 proceedings brought by the United States, the state or any political  
17 subdivision thereof, or a municipal corporation.

18 (i) A mortgage or other transfer of an interest in real property  
19 merely to secure a debt, or the assignment thereof.

20 (j) Any transfer or conveyance made pursuant to a deed of trust  
21 or an order of sale by the court in any mortgage, deed of trust, or  
22 lien foreclosure proceeding or upon execution of a judgment, or deed  
23 in lieu of foreclosure to satisfy a mortgage or deed of trust.

24 (k) A conveyance to the federal housing administration or  
25 veterans administration by an authorized mortgagee made pursuant to a  
26 contract of insurance or guaranty with the federal housing  
27 administration or veterans administration.

28 (l) A transfer in compliance with the terms of any lease or  
29 contract upon which the tax as imposed by this chapter has been paid  
30 or where the lease or contract was entered into prior to the date  
31 this tax was first imposed.

32 (m) The sale of any grave or lot in an established cemetery.

33 (n) A sale by the United States, this state or any political  
34 subdivision thereof, or a municipal corporation of this state.

35 (o) A sale to a regional transit authority or public corporation  
36 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
37 81.112.300.

38 (p) A transfer of real property, however effected, if it consists  
39 of a mere change in identity or form of ownership of an entity where  
40 there is no change in the beneficial ownership. These include

1 transfers to a corporation or partnership which is wholly owned by  
2 the transferor and/or the transferor's spouse or domestic partner or  
3 children of the transferor or the transferor's spouse or domestic  
4 partner. However, if thereafter such transferee corporation or  
5 partnership voluntarily transfers such real property, or such  
6 transferor, spouse or domestic partner, or children of the transferor  
7 or the transferor's spouse or domestic partner voluntarily transfer  
8 stock in the transferee corporation or interest in the transferee  
9 partnership capital, as the case may be, to other than (i) the  
10 transferor and/or the transferor's spouse or domestic partner or  
11 children of the transferor or the transferor's spouse or domestic  
12 partner, (ii) a trust having the transferor and/or the transferor's  
13 spouse or domestic partner or children of the transferor or the  
14 transferor's spouse or domestic partner as the only beneficiaries at  
15 the time of the transfer to the trust, or (iii) a corporation or  
16 partnership wholly owned by the original transferor and/or the  
17 transferor's spouse or domestic partner or children of the transferor  
18 or the transferor's spouse or domestic partner, within three years of  
19 the original transfer to which this exemption applies, and the tax on  
20 the subsequent transfer has not been paid within (~~sixty~~) 60 days of  
21 becoming due, excise taxes become due and payable on the original  
22 transfer as otherwise provided by law.

23 (q) (i) A transfer that for federal income tax purposes does not  
24 involve the recognition of gain or loss for entity formation,  
25 liquidation or dissolution, and reorganization, including but not  
26 limited to nonrecognition of gain or loss because of application of  
27 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal  
28 revenue code of 1986, as amended.

29 (ii) However, the transfer described in (q) (i) of this subsection  
30 cannot be preceded or followed within a (~~thirty-six~~) 36 month  
31 period by another transfer or series of transfers, that, when  
32 combined with the otherwise exempt transfer or transfers described in  
33 (q) (i) of this subsection, results in the transfer of a controlling  
34 interest in the entity for valuable consideration, and in which one  
35 or more persons previously holding a controlling interest in the  
36 entity receive cash or property in exchange for any interest the  
37 person or persons acting in concert hold in the entity. This  
38 subsection (3) (q) (ii) does not apply to that part of the transfer  
39 involving property received that is the real property interest that  
40 the person or persons originally contributed to the entity or when

1 one or more persons who did not contribute real property or belong to  
2 the entity at a time when real property was purchased receive cash or  
3 personal property in exchange for that person or persons' interest in  
4 the entity. The real estate excise tax under this subsection  
5 (3)(q)(ii) is imposed upon the person or persons who previously held  
6 a controlling interest in the entity.

7 (r) A qualified sale of a manufactured/mobile home community, as  
8 defined in RCW 59.20.030.

9 (s)(i) A transfer of a qualified low-income housing development  
10 or controlling interest in a qualified low-income housing  
11 development, unless, due to noncompliance with federal statutory  
12 requirements, the seller is subject to recapture, in whole or in  
13 part, of its allocated federal low-income housing tax credits within  
14 the four years prior to the date of transfer.

15 (ii) For purposes of this subsection (3)(s), "qualified low-  
16 income housing development" means real property and improvements in  
17 respect to which the seller or, in the case of a transfer of a  
18 controlling interest, the owner or beneficial owner, was allocated  
19 federal low-income housing tax credits authorized under 26 U.S.C.  
20 Sec. 42 or successor statute, by the Washington state housing finance  
21 commission or successor state-authorized tax credit allocating  
22 agency.

23 (iii) This subsection (3)(s) does not apply to transfers of a  
24 qualified low-income housing development or controlling interest in a  
25 qualified low-income housing development occurring on or after July  
26 1, 2035.

27 (iv) The Washington state housing finance commission, in  
28 consultation with the department, must gather data on: (A) The fiscal  
29 savings, if any, accruing to transferees as a result of the exemption  
30 provided in this subsection (3)(s); (B) the extent to which  
31 transferors of qualified low-income housing developments receive  
32 consideration, including any assumption of debt, as part of a  
33 transfer subject to the exemption provided in this subsection (3)(s);  
34 and (C) the continued use of the property for low-income housing. The  
35 Washington state housing finance commission must provide this  
36 information to the joint legislative audit and review committee. The  
37 committee must conduct a review of the tax preference created under  
38 this subsection (3)(s) in calendar year 2033, as required under  
39 chapter 43.136 RCW.



1 (t)(i) A qualified transfer of residential property by a legal  
2 representative of a person with developmental disabilities to a  
3 qualified entity subject to the following conditions:

4 (A) The adult child with developmental disabilities of the  
5 transferor of the residential property must be allowed to reside in  
6 the residence or successor property so long as the placement is safe  
7 and appropriate as determined by the department of social and health  
8 services;

9 (B) The title to the residential property is conveyed without the  
10 receipt of consideration by the legal representative of a person with  
11 developmental disabilities to a qualified entity;

12 (C) The residential property must have no more than four living  
13 units located on it; and

14 (D) The residential property transferred must remain in continued  
15 use for (~~(fifty)~~) 50 years by the qualified entity as supported  
16 living for persons with developmental disabilities by the qualified  
17 entity or successor entity. If the qualified entity sells or  
18 otherwise conveys ownership of the residential property the proceeds  
19 of the sale or conveyance must be used to acquire similar residential  
20 property and such similar residential property must be considered the  
21 successor for continued use. The property will not be considered in  
22 continued use if the department of social and health services finds  
23 that the property has failed, after a reasonable time to remedy, to  
24 meet any health and safety statutory or regulatory requirements. If  
25 the department of social and health services determines that the  
26 property fails to meet the requirements for continued use, the  
27 department of social and health services must notify the department  
28 and the real estate excise tax based on the value of the property at  
29 the time of the transfer into use as residential property for persons  
30 with developmental disabilities becomes immediately due and payable  
31 by the qualified entity. The tax due is not subject to penalties,  
32 fees, or interest under this title.

33 (ii) For the purposes of this subsection (3)(t) the definitions  
34 in RCW 71A.10.020 apply.

35 (iii) A "qualified entity" is:

36 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)  
37 of the federal internal revenue code of 1986, as amended, as of June  
38 7, 2018, or a subsidiary under the same taxpayer identification  
39 number that provides residential supported living for persons with  
40 developmental disabilities; or

1 (B) A nonprofit adult family home, as defined in RCW 70.128.010,  
2 that exclusively serves persons with developmental disabilities.

3 (iv) In order to receive an exemption under this subsection  
4 (3)(t) an affidavit must be submitted by the transferor of the  
5 residential property and must include a copy of the transfer  
6 agreement and any other documentation as required by the department.

7 (u)(i) The sale by an affordable homeownership facilitator of  
8 self-help housing to a low-income household.

9 (ii) The definitions in this subsection (3)(u) apply to this  
10 subsection (3)(u) unless the context clearly requires otherwise.

11 (A) "Affordable homeownership facilitator" means a nonprofit  
12 community or neighborhood-based organization that is exempt from  
13 income tax under Title 26 U.S.C. Sec. 501(c) of the internal revenue  
14 code of 1986, as amended, as of October 1, 2019, and that is the  
15 developer of self-help housing.

16 (B) "Low-income" means household income as defined by the  
17 department, provided that the definition may not exceed eighty  
18 percent of median household income, adjusted for household size, for  
19 the county in which the dwelling is located.

20 (C) "Self-help housing" means dwelling residences provided for  
21 ownership by low-income individuals and families whose ownership  
22 requirement includes labor participation. "Self-help housing" does  
23 not include residential rental housing provided on a commercial basis  
24 to the general public.

25 (v)(i) A sale or transfer of real property to a qualifying  
26 grantee that uses the property for housing for low-income persons and  
27 receives or otherwise qualifies the property for an exemption from  
28 real and personal property taxes under RCW 84.36.560, 84.36.049,  
29 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection  
30 (3)(v), "qualifying grantee" means a nonprofit entity as defined in  
31 RCW 84.36.560, a nonprofit entity or qualified cooperative  
32 association as defined in RCW 84.36.049, a housing authority created  
33 under RCW 35.82.030 or 35.82.300, a public corporation established  
34 under RCW 35.21.660 or 35.21.730, or a county or municipal  
35 corporation. A qualifying grantee that is a county or municipal  
36 corporation must record a covenant at the time of transfer that  
37 prohibits using the property for any purpose other than for low-  
38 income housing for a period of at least 10 years. At a minimum, the  
39 covenant must address price restrictions and household income limits  
40 for the low-income housing. A qualifying grantee must comply with the

1 requirements described in (v)(i)(A), (B), or (C) of this subsection  
2 and must also certify, by affidavit at the time of sale or transfer,  
3 that it intends to comply with those requirements.

4 (A) If the qualifying grantee intends to operate existing housing  
5 on the property, within one year of the sale or transfer:

6 (I) The qualifying grantee must receive or qualify the property  
7 for a tax exemption under RCW 84.36.560, 84.36.049,  
8 35.82.210, 35.21.755, or 84.36.010; and

9 (II) The property must be used as housing for low-income persons.

10 (B) If the qualifying grantee intends to develop new housing on  
11 the site, within five years of the sale or transfer:

12 (I) The qualifying grantee must receive or qualify the property  
13 for a tax exemption under RCW 84.36.560, 84.36.049,  
14 35.82.210, 35.21.755, or 84.36.010; and

15 (II) The property must be used as housing for low-income persons.

16 (C) If the qualifying grantee intends to substantially  
17 rehabilitate the premises as defined in RCW 59.18.200, within three  
18 years:

19 (I) The qualifying grantee must receive or qualify the property  
20 for a tax exemption under RCW 84.36.560, 84.36.049,  
21 35.82.210, 35.21.755, or 84.36.010; and

22 (II) The property must be used as housing for low-income persons.

23 (ii) If the qualifying grantee fails to satisfy the requirements  
24 described in (v)(i)(A), (B), or (C) of this subsection, within the  
25 timelines described in (v)(i)(A), (B), or (C) of this subsection, the  
26 qualifying grantee must pay the tax that would have otherwise been  
27 due at the time of initial transfer, plus interest calculated from  
28 the date of initial transfer pursuant to RCW 82.32.050.

29 (iii) If a qualifying grantee transfers the property to a  
30 different qualifying grantee within the original timelines described  
31 in (v)(i)(A), (B), or (C) of this subsection, neither the original  
32 qualifying grantee nor the new qualifying grantee is required to pay  
33 the tax, so long as the new qualifying grantee satisfies the  
34 requirements as described in (v)(i)(A), (B), or (C) of this  
35 subsection within the exemption period of the initial transfer. If  
36 the new qualifying grantee fails to satisfy the requirements  
37 described in (v)(i)(A), (B), or (C) of this subsection, only the new  
38 qualifying grantee is liable for the payment of taxes required by  
39 (v)(ii) of this subsection. There is no limit on the number of  
40 transfers between qualifying grantees within the original timelines.

1 (iv) Each affidavit must be filed with the department upon  
2 completion of the sale or transfer of property, including transfers  
3 from a qualifying grantee to a different qualifying grantee. The  
4 qualifying grantee must provide proof to the department as required  
5 by the department once the requirements as described in (v)(i)(A),  
6 (B), or (C) of this subsection have been satisfied.

7 (v) For the purposes of this subsection (3)(v), "low-income" has  
8 the same meaning as in (u) of this subsection.

9 (w) A sale of a condominium unit to a person who is a first-time  
10 homebuyer who either uses or meets the eligibility requirements for  
11 the first-time homebuyer program offered by the Washington state  
12 housing finance commission.

13 **Sec. 15.** RCW 82.45.010 and 2022 c 199 s 4 are each amended to  
14 read as follows:

15 (1) As used in this chapter, the term "sale" has its ordinary  
16 meaning and includes any conveyance, grant, assignment, quitclaim, or  
17 transfer of the ownership of or title to real property, including  
18 standing timber, or any estate or interest therein for a valuable  
19 consideration, and any contract for such conveyance, grant,  
20 assignment, quitclaim, or transfer, and any lease with an option to  
21 purchase real property, including standing timber, or any estate or  
22 interest therein or other contract under which possession of the  
23 property is given to the purchaser, or any other person at the  
24 purchaser's direction, and title to the property is retained by the  
25 vendor as security for the payment of the purchase price. The term  
26 also includes the grant, assignment, quitclaim, sale, or transfer of  
27 improvements constructed upon leased land.

28 (2)(a) The term "sale" also includes the transfer or acquisition  
29 within any (~~thirty-six~~) 36 month period of a controlling interest  
30 in any entity with an interest in real property located in this state  
31 for a valuable consideration.

32 (b) For the sole purpose of determining whether, pursuant to the  
33 exercise of an option, a controlling interest was transferred or  
34 acquired within a (~~thirty-six~~) 36 month period, the date that the  
35 option agreement was executed is the date on which the transfer or  
36 acquisition of the controlling interest is deemed to occur. For all  
37 other purposes under this chapter, the date upon which the option is  
38 exercised is the date of the transfer or acquisition of the  
39 controlling interest.

1 (c) For purposes of this subsection, all acquisitions of persons  
2 acting in concert must be aggregated for purposes of determining  
3 whether a transfer or acquisition of a controlling interest has taken  
4 place. The department must adopt standards by rule to determine when  
5 persons are acting in concert. In adopting a rule for this purpose,  
6 the department must consider the following:

7 (i) Persons must be treated as acting in concert when they have a  
8 relationship with each other such that one person influences or  
9 controls the actions of another through common ownership; and

10 (ii) When persons are not commonly owned or controlled, they must  
11 be treated as acting in concert only when the unity with which the  
12 purchasers have negotiated and will consummate the transfer of  
13 ownership interests supports a finding that they are acting as a  
14 single entity. If the acquisitions are completely independent, with  
15 each purchaser buying without regard to the identity of the other  
16 purchasers, then the acquisitions are considered separate  
17 acquisitions.

18 (3) The term "sale" does not include:

19 (a) A transfer by gift, devise, or inheritance.

20 (b) A transfer by transfer on death deed, to the extent that it  
21 is not in satisfaction of a contractual obligation of the decedent  
22 owed to the recipient of the property.

23 (c) A transfer of any leasehold interest other than of the type  
24 mentioned above.

25 (d) A cancellation or forfeiture of a vendee's interest in a  
26 contract for the sale of real property, whether or not such contract  
27 contains a forfeiture clause, or deed in lieu of foreclosure of a  
28 mortgage.

29 (e) The partition of property by tenants in common by agreement  
30 or as the result of a court decree.

31 (f) The assignment of property or interest in property from one  
32 spouse or one domestic partner to the other spouse or other domestic  
33 partner in accordance with the terms of a decree of dissolution of  
34 marriage or state registered domestic partnership or in fulfillment  
35 of a property settlement agreement.

36 (g) The assignment or other transfer of a vendor's interest in a  
37 contract for the sale of real property, even though accompanied by a  
38 conveyance of the vendor's interest in the real property involved.

1 (h) Transfers by appropriation or decree in condemnation  
2 proceedings brought by the United States, the state or any political  
3 subdivision thereof, or a municipal corporation.

4 (i) A mortgage or other transfer of an interest in real property  
5 merely to secure a debt, or the assignment thereof.

6 (j) Any transfer or conveyance made pursuant to a deed of trust  
7 or an order of sale by the court in any mortgage, deed of trust, or  
8 lien foreclosure proceeding or upon execution of a judgment, or deed  
9 in lieu of foreclosure to satisfy a mortgage or deed of trust.

10 (k) A conveyance to the federal housing administration or  
11 veterans administration by an authorized mortgagee made pursuant to a  
12 contract of insurance or guaranty with the federal housing  
13 administration or veterans administration.

14 (l) A transfer in compliance with the terms of any lease or  
15 contract upon which the tax as imposed by this chapter has been paid  
16 or where the lease or contract was entered into prior to the date  
17 this tax was first imposed.

18 (m) The sale of any grave or lot in an established cemetery.

19 (n) A sale by the United States, this state or any political  
20 subdivision thereof, or a municipal corporation of this state.

21 (o) A sale to a regional transit authority or public corporation  
22 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
23 81.112.300.

24 (p) A transfer of real property, however effected, if it consists  
25 of a mere change in identity or form of ownership of an entity where  
26 there is no change in the beneficial ownership. These include  
27 transfers to a corporation or partnership which is wholly owned by  
28 the transferor and/or the transferor's spouse or domestic partner or  
29 children of the transferor or the transferor's spouse or domestic  
30 partner. However, if thereafter such transferee corporation or  
31 partnership voluntarily transfers such real property, or such  
32 transferor, spouse or domestic partner, or children of the transferor  
33 or the transferor's spouse or domestic partner voluntarily transfer  
34 stock in the transferee corporation or interest in the transferee  
35 partnership capital, as the case may be, to other than (i) the  
36 transferor and/or the transferor's spouse or domestic partner or  
37 children of the transferor or the transferor's spouse or domestic  
38 partner, (ii) a trust having the transferor and/or the transferor's  
39 spouse or domestic partner or children of the transferor or the  
40 transferor's spouse or domestic partner as the only beneficiaries at

1 the time of the transfer to the trust, or (iii) a corporation or  
2 partnership wholly owned by the original transferor and/or the  
3 transferor's spouse or domestic partner or children of the transferor  
4 or the transferor's spouse or domestic partner, within three years of  
5 the original transfer to which this exemption applies, and the tax on  
6 the subsequent transfer has not been paid within (~~sixty~~) 60 days of  
7 becoming due, excise taxes become due and payable on the original  
8 transfer as otherwise provided by law.

9 (q) (i) A transfer that for federal income tax purposes does not  
10 involve the recognition of gain or loss for entity formation,  
11 liquidation or dissolution, and reorganization, including but not  
12 limited to nonrecognition of gain or loss because of application of  
13 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal  
14 revenue code of 1986, as amended.

15 (ii) However, the transfer described in (q) (i) of this subsection  
16 cannot be preceded or followed within a (~~thirty-six~~) 36 month  
17 period by another transfer or series of transfers, that, when  
18 combined with the otherwise exempt transfer or transfers described in  
19 (q) (i) of this subsection, results in the transfer of a controlling  
20 interest in the entity for valuable consideration, and in which one  
21 or more persons previously holding a controlling interest in the  
22 entity receive cash or property in exchange for any interest the  
23 person or persons acting in concert hold in the entity. This  
24 subsection (3) (q) (ii) does not apply to that part of the transfer  
25 involving property received that is the real property interest that  
26 the person or persons originally contributed to the entity or when  
27 one or more persons who did not contribute real property or belong to  
28 the entity at a time when real property was purchased receive cash or  
29 personal property in exchange for that person or persons' interest in  
30 the entity. The real estate excise tax under this subsection  
31 (3) (q) (ii) is imposed upon the person or persons who previously held  
32 a controlling interest in the entity.

33 (r) A qualified sale of a manufactured/mobile home community, as  
34 defined in RCW 59.20.030, that takes place on or after June 12, 2008,  
35 but before December 31, 2018.

36 (s) (i) A transfer of a qualified low-income housing development  
37 or controlling interest in a qualified low-income housing  
38 development, unless, due to noncompliance with federal statutory  
39 requirements, the seller is subject to recapture, in whole or in

1 part, of its allocated federal low-income housing tax credits within  
2 the four years prior to the date of transfer.

3 (ii) For purposes of this subsection (3)(s), "qualified low-  
4 income housing development" means real property and improvements in  
5 respect to which the seller or, in the case of a transfer of a  
6 controlling interest, the owner or beneficial owner, was allocated  
7 federal low-income housing tax credits authorized under 26 U.S.C.  
8 Sec. 42 or successor statute, by the Washington state housing finance  
9 commission or successor state-authorized tax credit allocating  
10 agency.

11 (iii) This subsection (3)(s) does not apply to transfers of a  
12 qualified low-income housing development or controlling interest in a  
13 qualified low-income housing development occurring on or after July  
14 1, 2035.

15 (iv) The Washington state housing finance commission, in  
16 consultation with the department, must gather data on: (A) The fiscal  
17 savings, if any, accruing to transferees as a result of the exemption  
18 provided in this subsection (3)(s); (B) the extent to which  
19 transferors of qualified low-income housing developments receive  
20 consideration, including any assumption of debt, as part of a  
21 transfer subject to the exemption provided in this subsection (3)(s);  
22 and (C) the continued use of the property for low-income housing. The  
23 Washington state housing finance commission must provide this  
24 information to the joint legislative audit and review committee. The  
25 committee must conduct a review of the tax preference created under  
26 this subsection (3)(s) in calendar year 2033, as required under  
27 chapter 43.136 RCW.

28 (t)(i) A qualified transfer of residential property by a legal  
29 representative of a person with developmental disabilities to a  
30 qualified entity subject to the following conditions:

31 (A) The adult child with developmental disabilities of the  
32 transferor of the residential property must be allowed to reside in  
33 the residence or successor property so long as the placement is safe  
34 and appropriate as determined by the department of social and health  
35 services;

36 (B) The title to the residential property is conveyed without the  
37 receipt of consideration by the legal representative of a person with  
38 developmental disabilities to a qualified entity;

39 (C) The residential property must have no more than four living  
40 units located on it; and



1 (D) The residential property transferred must remain in continued  
2 use for (~~fifty~~) 50 years by the qualified entity as supported  
3 living for persons with developmental disabilities by the qualified  
4 entity or successor entity. If the qualified entity sells or  
5 otherwise conveys ownership of the residential property the proceeds  
6 of the sale or conveyance must be used to acquire similar residential  
7 property and such similar residential property must be considered the  
8 successor for continued use. The property will not be considered in  
9 continued use if the department of social and health services finds  
10 that the property has failed, after a reasonable time to remedy, to  
11 meet any health and safety statutory or regulatory requirements. If  
12 the department of social and health services determines that the  
13 property fails to meet the requirements for continued use, the  
14 department of social and health services must notify the department  
15 and the real estate excise tax based on the value of the property at  
16 the time of the transfer into use as residential property for persons  
17 with developmental disabilities becomes immediately due and payable  
18 by the qualified entity. The tax due is not subject to penalties,  
19 fees, or interest under this title.

20 (ii) For the purposes of this subsection (3)(t) the definitions  
21 in RCW 71A.10.020 apply.

22 (iii) A "qualified entity" is:

23 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)  
24 of the federal internal revenue code of 1986, as amended, as of June  
25 7, 2018, or a subsidiary under the same taxpayer identification  
26 number that provides residential supported living for persons with  
27 developmental disabilities; or

28 (B) A nonprofit adult family home, as defined in RCW 70.128.010,  
29 that exclusively serves persons with developmental disabilities.

30 (iv) In order to receive an exemption under this subsection  
31 (3)(t) an affidavit must be submitted by the transferor of the  
32 residential property and must include a copy of the transfer  
33 agreement and any other documentation as required by the department.

34 (u)(i) A sale or transfer of real property to a qualifying  
35 grantee that uses the property for housing for low-income persons and  
36 receives or otherwise qualifies the property for an exemption from  
37 real and personal property taxes under RCW 84.36.560, 84.36.049,  
38 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection  
39 (3)(u), "qualifying grantee" means a nonprofit entity as defined in  
40 RCW 84.36.560, a nonprofit entity or qualified cooperative

1 association as defined in RCW 84.36.049, a housing authority created  
2 under RCW 35.82.030 or 35.82.300, a public corporation established  
3 under RCW 35.21.660 or 35.21.730, or a county or municipal  
4 corporation. A qualifying grantee that is a county or municipal  
5 corporation must record a covenant at the time of transfer that  
6 prohibits using the property for any purpose other than for low-  
7 income housing for a period of at least 10 years. At a minimum, the  
8 covenant must address price restrictions and household income limits  
9 for the low-income housing. A qualifying grantee must comply with the  
10 requirements described in (u)(i)(A), (B), or (C) of this subsection  
11 and must also certify, by affidavit at the time of sale or transfer,  
12 that it intends to comply with those requirements.

13 (A) If the qualifying grantee intends to operate existing housing  
14 on the property, within one year of the sale or transfer:

15 (I) The qualifying grantee must receive or qualify the property  
16 for a tax exemption under RCW 84.36.560, 84.36.049,  
17 35.82.210, 35.21.755, or 84.36.010; and

18 (II) The property must be used as housing for low-income persons.

19 (B) If the qualifying grantee intends to develop new housing on  
20 the site, within five years of the sale or transfer:

21 (I) The qualifying grantee must receive or qualify the property  
22 for a tax exemption under RCW 84.36.560, 84.36.049,  
23 35.82.210, 35.21.755, or 84.36.010; and

24 (II) The property must be used as housing for low-income persons.

25 (C) If the qualifying grantee intends to substantially  
26 rehabilitate the premises as defined in RCW 59.18.200, within three  
27 years:

28 (I) The qualifying grantee must receive or qualify the property  
29 for a tax exemption under RCW 84.36.560, 84.36.049,  
30 35.82.210, 35.21.755, or 84.36.010; and

31 (II) The property must be used as housing for low-income persons.

32 (ii) If the qualifying grantee fails to satisfy the requirements  
33 described in (u)(i)(A), (B), or (C) of this subsection, within the  
34 timelines described in (u)(i)(A), (B), or (C) of this subsection, the  
35 qualifying grantee must pay the tax that would have otherwise been  
36 due at the time of initial transfer, plus interest calculated from  
37 the date of initial transfer pursuant to RCW 82.32.050.

38 (iii) If a qualifying grantee transfers the property to a  
39 different qualifying grantee within the original timelines described  
40 in (u)(i)(A), (B), or (C) of this subsection, neither the original

1 qualifying grantee nor the new qualifying grantee is required to pay  
2 the tax, so long as the new qualifying grantee satisfies the  
3 requirements as described in (u)(i)(A), (B), or (C) of this  
4 subsection within the exemption period of the initial transfer. If  
5 the new qualifying grantee fails to satisfy the requirements  
6 described in (u)(i)(A), (B), or (C) of this subsection, only the new  
7 qualifying grantee is liable for the payment of taxes required by  
8 (u)(ii) of this subsection. There is no limit on the number of  
9 transfers between qualifying grantees within the original timelines.

10 (iv) Each affidavit must be filed with the department upon  
11 completion of the sale or transfer of property, including transfers  
12 from a qualifying grantee to a different qualifying grantee. The  
13 qualifying grantee must provide proof to the department as required  
14 by the department once the requirements as described in (u)(i)(A),  
15 (B), or (C) of this subsection have been satisfied.

16 (v) For the purposes of this subsection (3)(u), "low-income"  
17 means household income as defined by the department, provided that  
18 the definition may not exceed 80 percent of median household income,  
19 adjusted for household size, for the county in which the dwelling is  
20 located.

21 (v) A sale of a condominium unit to a person who is a first-time  
22 homebuyer who either uses or meets the eligibility requirements for  
23 the first-time homebuyer program offered by the Washington state  
24 housing finance commission.

25 **Sec. 16.** RCW 82.02.060 and 2021 c 72 s 1 are each amended to  
26 read as follows:

27 The local ordinance by which impact fees are imposed:

28 (1) Shall include a schedule of impact fees which shall be  
29 adopted for each type of development activity that is subject to  
30 impact fees, specifying the amount of the impact fee to be imposed  
31 for each type of system improvement. The schedule shall be based upon  
32 a formula or other method of calculating such impact fees. The  
33 schedule shall reflect the proportionate impact of new housing units,  
34 including multifamily and condominium units, based on the square  
35 footage and number of bedrooms in the housing unit in order to  
36 produce a proportionally lower impact fee for smaller housing units.

37 In determining proportionate share, the formula or other method of  
38 calculating impact fees shall incorporate, among other things, the  
39 following:

1 (a) The cost of public facilities necessitated by new  
2 development;

3 (b) An adjustment to the cost of the public facilities for past  
4 or future payments made or reasonably anticipated to be made by new  
5 development to pay for particular system improvements in the form of  
6 user fees, debt service payments, taxes, or other payments earmarked  
7 for or proratable to the particular system improvement;

8 (c) The availability of other means of funding public facility  
9 improvements;

10 (d) The cost of existing public facilities improvements; and

11 (e) The methods by which public facilities improvements were  
12 financed;

13 (2) May provide an exemption for low-income housing, and other  
14 development activities with broad public purposes, including  
15 development of an early learning facility, from these impact fees,  
16 provided that the impact fees for such development activity shall be  
17 paid from public funds other than impact fee accounts;

18 (3) (a) May not impose an impact fee on development activities of  
19 an early learning facility greater than that imposed on commercial  
20 retail or commercial office development activities that generate a  
21 similar number, volume, type, and duration of vehicle trips;

22 (b) When a facility or development has more than one use, the  
23 limitations in this subsection (3) or the exemption applicable to an  
24 early learning facility in subsections (2) and (4) of this section  
25 only apply to that portion that is developed as an early learning  
26 facility. The impact fee assessed on an early learning facility in  
27 such a development or facility may not exceed the least of the impact  
28 fees assessed on comparable businesses in the facility or  
29 development;

30 (4) May provide an exemption from impact fees for low-income  
31 housing or for early learning facilities. Local governments that  
32 grant exemptions for low-income housing or for early learning  
33 facilities under this subsection (4) may either: Grant a partial  
34 exemption of not more than eighty percent of impact fees, in which  
35 case there is no explicit requirement to pay the exempted portion of  
36 the fee from public funds other than impact fee accounts; or provide  
37 a full waiver, in which case the remaining percentage of the exempted  
38 fee must be paid from public funds other than impact fee accounts,  
39 except as provided in (b) of this subsection. These exemptions are  
40 subject to the following requirements:

1 (a) An exemption for low-income housing granted under subsection  
2 (2) of this section or this subsection (4) must be conditioned upon  
3 requiring the developer to record a covenant that, except as provided  
4 otherwise by this subsection, prohibits using the property for any  
5 purpose other than for low-income housing. At a minimum, the covenant  
6 must address price restrictions and household income limits for the  
7 low-income housing, and that if the property is converted to a use  
8 other than for low-income housing, the property owner must pay the  
9 applicable impact fees in effect at the time of conversion;

10 (b) An exemption for early learning facilities granted under  
11 subsection (2) of this section or this subsection (4) may be a full  
12 waiver without an explicit requirement to pay the exempted portion of  
13 the fee from public funds other than impact fee accounts if the local  
14 government requires the developer to record a covenant that requires  
15 that at least 25 percent of the children and families using the early  
16 learning facility qualify for state subsidized child care, including  
17 early childhood education and assistance under chapter 43.216 RCW,  
18 and that provides that if the property is converted to a use other  
19 than for an early learning facility, the property owner must pay the  
20 applicable impact fees in effect at the time of conversion, and that  
21 also provides that if at no point during a calendar year does the  
22 early learning facility achieve the required percentage of children  
23 and families qualified for state subsidized child care using the  
24 early learning facility, the property owner must pay 20 percent of  
25 the impact fee that would have been imposed on the development had  
26 there not been an exemption within 90 days of the local government  
27 notifying the property owner of the breach, and any balance remaining  
28 thereafter shall be a lien on the property; and

29 (c) Covenants required by (a) and (b) of this subsection must be  
30 recorded with the applicable county auditor or recording officer. A  
31 local government granting an exemption under subsection (2) of this  
32 section or this subsection (4) for low-income housing or an early  
33 learning facility may not collect revenue lost through granting an  
34 exemption by increasing impact fees unrelated to the exemption. A  
35 school district who receives school impact fees must approve any  
36 exemption under subsection (2) of this section or this subsection  
37 (4);

38 (5) Shall provide a credit for the value of any dedication of  
39 land for, improvement to, or new construction of any system  
40 improvements provided by the developer, to facilities that are

1 identified in the capital facilities plan and that are required by  
2 the county, city, or town as a condition of approving the development  
3 activity;

4 (6) Shall allow the county, city, or town imposing the impact  
5 fees to adjust the standard impact fee at the time the fee is imposed  
6 to consider unusual circumstances in specific cases to ensure that  
7 impact fees are imposed fairly;

8 (7) Shall include a provision for calculating the amount of the  
9 fee to be imposed on a particular development that permits  
10 consideration of studies and data submitted by the developer to  
11 adjust the amount of the fee;

12 (8) Shall establish one or more reasonable service areas within  
13 which it shall calculate and impose impact fees for various land use  
14 categories per unit of development; and

15 (9) May provide for the imposition of an impact fee for system  
16 improvement costs previously incurred by a county, city, or town to  
17 the extent that new growth and development will be served by the  
18 previously constructed improvements provided such fee shall not be  
19 imposed to make up for any system improvement deficiencies.

20 For purposes of this section, "low-income housing" means housing  
21 with a monthly housing expense, that is no greater than thirty  
22 percent of eighty percent of the median family income adjusted for  
23 family size, for the county where the project is located, as reported  
24 by the United States department of housing and urban development.

25 For the purposes of this section, "early learning facility" has  
26 the same meaning as in RCW 43.31.565.

27 **Sec. 17.** RCW 58.17.060 and 1990 1st ex.s. c 17 s 51 are each  
28 amended to read as follows:

29 (1) The legislative body of a city, town, or county shall adopt  
30 regulations and procedures, and appoint administrative personnel for  
31 the summary approval of short plats and short subdivisions or  
32 alteration or vacation thereof. When an alteration or vacation  
33 involves a public dedication, the alteration or vacation shall be  
34 processed as provided in RCW 58.17.212 or 58.17.215. Such regulations  
35 shall be adopted by ordinance and shall provide that a short plat and  
36 short subdivision may be approved only if written findings that are  
37 appropriate, as provided in RCW 58.17.110, are made by the  
38 administrative personnel, and may contain wholly different  
39 requirements than those governing the approval of preliminary and

1 final plats of subdivisions and may require surveys and  
2 monumentations and shall require filing of a short plat, or  
3 alteration or vacation thereof, for record in the office of the  
4 county auditor: PROVIDED, That such regulations must contain a  
5 requirement that land in short subdivisions may not be further  
6 divided in any manner within a period of five years without the  
7 filing of a final plat, except that when the short plat contains  
8 fewer than four parcels, nothing in this section shall prevent the  
9 owner who filed the short plat from filing an alteration within the  
10 five-year period to create up to a total of four lots within the  
11 original short plat boundaries: PROVIDED FURTHER, That such  
12 regulations are not required to contain a penalty clause as provided  
13 in RCW 36.32.120 and may provide for wholly injunctive relief.

14 An ordinance requiring a survey shall require that the survey be  
15 completed and filed with the application for approval of the short  
16 subdivision.

17 (2) Cities, towns, and counties shall include in their short plat  
18 regulations and procedures pursuant to subsection (1) of this section  
19 provisions for considering sidewalks and other planning features that  
20 assure safe walking conditions for students who walk to and from  
21 school.

22 (3) All cities, towns, and counties shall include in their short  
23 plat regulations procedures for unit lot subdivisions allowing  
24 division of a parent lot into separately owned unit lots. Portions of  
25 the parent lot not subdivided for individual unit lots shall be owned  
26 in common by the owners of the individual unit lots, or by a  
27 homeowners' association comprised of the owners of the individual  
28 unit lots.

29 NEW SECTION. **Sec. 18.** Sections 3 through 6, 10, and 11 of this  
30 act apply only to condominium units for which a public offering  
31 statement is made after the effective date of this section.

32 NEW SECTION. **Sec. 19.** Section 14 of this act expires January 1,  
33 2030.

34 NEW SECTION. **Sec. 20.** Section 15 of this act takes effect  
35 January 1, 2030.

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