

WSR 24-04-016

PERMANENT RULES

DEPARTMENT OF COMMERCE

[Filed January 26, 2024, 2:40 p.m.]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 365-240 WAC, Affordable and supportive housing—Local sales and use tax. In response to SB [SSB] 5604 (Laws of 2023), the department of commerce is amending WAC 365-240-020 and 365-240-030 to align with changes made to RCW 82.14.540.

Citation of Rules Affected by this Order: Amending WAC 365-240-020 and 365-240-030.

Statutory Authority for Adoption: RCW 82.14.540.

Adopted under notice filed as WSR 23-23-174 on November 22, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 24, 2024.

Amanda Hathaway  
Rules Coordinator

**OTS-5049.1**

AMENDATORY SECTION (Amending WSR 20-09-064, filed 4/13/20, effective 5/14/20)

**WAC 365-240-020 Authorized uses of tax revenue.** ~~Counties ((with populations over four hundred thousand and cities with populations over one hundred thousand)) and cities~~ may use tax revenue for:

(1) Acquiring, rehabilitating, or constructing affordable housing, which may include new units within an existing structure or facilities providing supportive housing services under RCW 71.24.385 (behavioral health organizations); ~~((~~☞~~))~~

(2) Operations and maintenance costs of new units of affordable or supportive housing ~~((~~☞~~))~~

~~Counties with populations under four hundred thousand and cities with populations under one hundred thousand population may use tax revenue for the activities outlined above, as well as to provide rental assistance to tenants that are at or below sixty percent of the median income of the county or city that is imposing the tax);~~

(3) Providing rental assistance to tenants that are at or below 60 percent of the area median income of the county or city that is imposing the tax; or

(4) Administrative costs of the county or city associated with administering this section, which may not exceed 10 percent of the annual tax distributed to the jurisdiction under this section.

AMENDATORY SECTION (Amending WSR 20-09-064, filed 4/13/20, effective 5/14/20)

**WAC 365-240-030 Annual report to the department of commerce.**

Jurisdictions must submit a report to the department by October 1st annually with the following information pertaining to the most recent fiscal year. Reports submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must be accompanied by contract language designating the responsible entity for submitting annual reports and ensuring their accuracy.

The first report will be due October 1, 2020, and annually thereafter.

(1) General:

(a) All references made in this section to funds, funds pooled, or funds utilized or bonded against are in regard to those derived from a jurisdiction's affordable and supportive housing sales and use tax distribution from the department of revenue for the corresponding fiscal year.

(b) An annual report submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must be accompanied by agreed language designating it as the responsible party for report timeliness and accuracy.

(c) Information submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must include the total combined revenue collection and program activities for all jurisdictions subject to the agreement. A separate report on revenue collection and program activities must be submitted for each jurisdiction choosing to additionally expend funds outside the agreement, if applicable.

(d) All reports submitted pursuant to this section must include contact information for the preparer.

(2) Revenue collection:

(a) Total affordable and supportive housing sales and use tax distribution for the reporting jurisdiction(s);

(b) Applicable affordable housing and supportive housing sales and use tax rate(s) for the reporting jurisdiction(s);

(c) If an interlocal agreement is in place, the total revenue utilized jointly pursuant to the agreement;

(d) If an interlocal agreement is in place, the total revenue utilized by jurisdiction(s) separately, not according to the terms of the agreement.

(3) Program activities:

(a) Total funds committed;

(b) Number, types, and status of projects supported with funds;

(c) Degree of leverage with other public and private funds;

(d) Total funds utilized for rent assistance; and

(e) Duration of affordability for projects supported with funds.

(4) Program outputs:

(a) Total funds committed for loans and grants;

(b) Total funds obligated to support bonding activities;

(c) Total funds committed for operations and maintenance of new units of affordable or supportive housing;

(d) Total funds spent on administrative costs associated with administering this section, not to exceed 10 percent of the annual tax distributed to the jurisdiction;

(e) Total number of households served with funds used for rent assistance; and

~~((e))~~ (f) Target populations served with funds.