
HOUSE BILL 2164

State of Washington

66th Legislature

2019 Regular Session

By Representatives Frame, Tarleton, Walen, and Springer

1 AN ACT Relating to establishing tax preference performance
2 metrics and expiration dates for leasehold excise tax exemptions for
3 certain public and entertainment areas; amending RCW 82.29A.130 and
4 82.29A.130; creating new sections; providing an effective date;
5 providing a contingent effective date; and providing a contingent
6 expiration date.

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

8 NEW SECTION. **Sec. 1.** (1) It is the legislature's specific
9 public policy objective to encourage construction and operation of
10 certain public and entertainment areas. Therefore, it is the
11 legislature's intent to exempt certain public and entertainment areas
12 from leasehold excise tax.

13 (2) The joint legislative audit and review committee is directed
14 to review:

15 (a) The total amount of leasehold excise tax that was exempt with
16 the tax preferences provided in RCW 82.29A.130 (14), (15), (18), and
17 (21); and

18 (b) The estimated monetary value of the economic benefit provided
19 to the local and state economy from the construction and operation of
20 certain public and entertainment areas that were exempt from

1 leasehold excise tax with the tax preferences provided in RCW
2 82.29A.130 (14), (15), (18), and (21).

3 (3) In order to obtain the data necessary to perform the review
4 in subsection (2) of this section, the joint legislative audit and
5 review committee may refer to department of revenue data, as well as
6 any other available data source.

7 NEW SECTION. **Sec. 2.** (1) It is the legislature's specific
8 public policy objective to encourage construction and operation of
9 certain public and entertainment areas. Therefore, it is the
10 legislature's intent to exempt certain public and entertainment areas
11 from leasehold excise tax.

12 (2) The joint legislative audit and review committee is directed
13 to review:

14 (a) The total amount of leasehold excise tax that was exempt with
15 the tax preferences provided in RCW 82.29A.130 (14), (15), and (18);
16 and

17 (b) The estimated monetary value of the economic benefit provided
18 to the local and state economy from the construction and operation of
19 certain public and entertainment areas that were exempt from
20 leasehold excise tax with the tax preferences provided in RCW
21 82.29A.130 (14), (15), and (18).

22 (3) In order to obtain the data necessary to perform the review
23 in subsection (2) of this section, the joint legislative audit and
24 review committee may refer to department of revenue data, as well as
25 any other available data source.

26 **Sec. 3.** RCW 82.29A.130 and 2019 c . . . (HB 1301) s 1 are each
27 amended to read as follows:

28 The following leasehold interests are exempt from taxes imposed
29 pursuant to RCW 82.29A.030 and 82.29A.040:

30 (1) All leasehold interests constituting a part of the operating
31 properties of any public utility that is assessed and taxed as a
32 public utility pursuant to chapter 84.12 RCW.

33 (2) All leasehold interests in facilities owned or used by a
34 school, college or university which leasehold provides housing for
35 students and which is otherwise exempt from taxation under provisions
36 of RCW 84.36.010 and 84.36.050.

37 (3) All leasehold interests of subsidized housing where the fee
38 ownership of such property is vested in the government of the United

1 States, or the state of Washington or any political subdivision
2 thereof but only if income qualification exists for such housing.

3 (4) All leasehold interests used for fair purposes of a nonprofit
4 fair association that sponsors or conducts a fair or fairs which
5 receive support from revenues collected pursuant to RCW 67.16.100 and
6 allocated by the director of the department of agriculture where the
7 fee ownership of such property is vested in the government of the
8 United States, the state of Washington or any of its political
9 subdivisions. However, this exemption does not apply to the leasehold
10 interest of any sublessee of such nonprofit fair association if such
11 leasehold interest would be taxable if it were the primary lease.

12 (5) All leasehold interests in any property of any public entity
13 used as a residence by an employee of that public entity who is
14 required as a condition of employment to live in the publicly owned
15 property.

16 (6) All leasehold interests held by enrolled Indians of lands
17 owned or held by any Indian or Indian tribe where the fee ownership
18 of such property is vested in or held in trust by the United States
19 and which are not subleased to other than to a lessee which would
20 qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

21 (7) All leasehold interests in any real property of any Indian or
22 Indian tribe, band, or community that is held in trust by the United
23 States or is subject to a restriction against alienation imposed by
24 the United States. However, this exemption applies only where it is
25 determined that contract rent paid is greater than or equal to ninety
26 percent of fair market rental, to be determined by the department of
27 revenue using the same criteria used to establish taxable rent in RCW
28 82.29A.020(2)(g).

29 (8) All leasehold interests for which annual taxable rent is less
30 than two hundred fifty dollars per year. For purposes of this
31 subsection leasehold interests held by the same lessee in contiguous
32 properties owned by the same lessor are deemed a single leasehold
33 interest.

34 (9) All leasehold interests which give use or possession of the
35 leased property for a continuous period of less than thirty days:
36 PROVIDED, That for purposes of this subsection, successive leases or
37 lease renewals giving substantially continuous use of possession of
38 the same property to the same lessee are deemed a single leasehold
39 interest: PROVIDED FURTHER, That no leasehold interest is deemed to
40 give use or possession for a period of less than thirty days solely

1 by virtue of the reservation by the public lessor of the right to use
2 the property or to allow third parties to use the property on an
3 occasional, temporary basis.

4 (10) All leasehold interests under month-to-month leases in
5 residential units rented for residential purposes of the lessee
6 pending destruction or removal for the purpose of constructing a
7 public highway or building.

8 (11) All leasehold interests in any publicly owned real or
9 personal property to the extent such leasehold interests arises
10 solely by virtue of a contract for public improvements or work
11 executed under the public works statutes of this state or of the
12 United States between the public owner of the property and a
13 contractor.

14 (12) All leasehold interests that give use or possession of state
15 adult correctional facilities for the purposes of operating
16 correctional industries under RCW 72.09.100.

17 (13) All leasehold interests used to provide organized and
18 supervised recreational activities for persons with disabilities of
19 all ages in a camp facility and for public recreational purposes by a
20 nonprofit organization, association, or corporation that would be
21 exempt from property tax under RCW 84.36.030(1) if it owned the
22 property. If the publicly owned property is used for any taxable
23 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and
24 82.29A.040 must be imposed and must be apportioned accordingly.

25 (14) Until January 1, 2030, all leasehold interests in the public
26 or entertainment areas of a baseball stadium with natural turf and a
27 retractable roof or canopy that is in a county with a population of
28 over one million, that has a seating capacity of over forty thousand,
29 and that is constructed on or after January 1, 1995. "Public or
30 entertainment areas" include ticket sales areas, ramps and stairs,
31 lobbies and concourses, parking areas, concession areas, restaurants,
32 hospitality and stadium club areas, kitchens or other work areas
33 primarily servicing other public or entertainment areas, public rest
34 room areas, press and media areas, control booths, broadcast and
35 production areas, retail sales areas, museum and exhibit areas,
36 scoreboards or other public displays, storage areas, loading,
37 staging, and servicing areas, seating areas and suites, the playing
38 field, and any other areas to which the public has access or which
39 are used for the production of the entertainment event or other
40 public usage, and any other personal property used for these

1 purposes. "Public or entertainment areas" does not include locker
2 rooms or private offices exclusively used by the lessee.

3 (15) Until January 1, 2030, all leasehold interests in the public
4 or entertainment areas of a stadium and exhibition center, as defined
5 in RCW 36.102.010, that is constructed on or after January 1, 1998.
6 For the purposes of this subsection, "public or entertainment areas"
7 has the same meaning as in subsection (14) of this section, and
8 includes exhibition areas.

9 (16) All leasehold interests in public facilities districts, as
10 provided in chapter 36.100 or 35.57 RCW.

11 (17) All leasehold interests in property that is: (a) Owned by
12 the United States government or a municipal corporation; (b) listed
13 on any federal or state register of historical sites; and (c) wholly
14 contained within a designated national historic reserve under 16
15 U.S.C. Sec. 461.

16 (18) (a) Until January 1, 2030, all leasehold interests in the
17 public or entertainment areas of an amphitheater if a private entity
18 is responsible for one hundred percent of the cost of constructing
19 the amphitheater which is not reimbursed by the public owner, both
20 the public owner and the private lessee sponsor events at the
21 facility on a regular basis, the lessee is responsible under the
22 lease or agreement to operate and maintain the facility, and the
23 amphitheater has a seating capacity of over seventeen thousand
24 reserved and general admission seats and is in a county that had a
25 population of over three hundred fifty thousand, but less than four
26 hundred twenty-five thousand when the amphitheater first opened to
27 the public.

28 (b) For the purposes of this subsection, "public or entertainment
29 areas" include box offices or other ticket sales areas, entrance
30 gates, ramps and stairs, lobbies and concourses, parking areas,
31 concession areas, restaurants, hospitality areas, kitchens or other
32 work areas primarily servicing other public or entertainment areas,
33 public rest room areas, press and media areas, control booths,
34 broadcast and production areas, retail sales areas, museum and
35 exhibit areas, scoreboards or other public displays, storage areas,
36 loading, staging, and servicing areas, seating areas including lawn
37 seating areas and suites, stages, and any other areas to which the
38 public has access or which are used for the production of the
39 entertainment event or other public usage, and any other personal

1 property used for these purposes. "Public or entertainment areas"
2 does not include office areas used predominately by the lessee.

3 (19) All leasehold interests in real property used for the
4 placement of military housing meeting the requirements of RCW
5 84.36.665.

6 (20) All leasehold interests in facilities owned or used by a
7 community college or technical college, which leasehold interest
8 provides:

9 (a) Food services for students, faculty, and staff;

10 (b) The operation of a bookstore on campus; or

11 (c) Maintenance, operational, or administrative services to the
12 community college or technical college.

13 (21)(a) Until January 1, 2030, all leasehold interests in the
14 public or entertainment areas of an arena if it:

15 (i) Has a seating capacity of more than two thousand;

16 (ii) Is located on city-owned land; and

17 (iii) Is owned by a city with a population over two hundred
18 thousand within a county with a population of less than one million
19 five hundred thousand.

20 (b) For the purposes of this subsection (21), "public or
21 entertainment areas" has the same meaning as provided in subsection
22 (18) of this section.

23 **Sec. 4.** RCW 82.29A.130 and 2017 3rd sp.s. c 37 s 1303 are each
24 amended to read as follows:

25 The following leasehold interests are exempt from taxes imposed
26 pursuant to RCW 82.29A.030 and 82.29A.040:

27 (1) All leasehold interests constituting a part of the operating
28 properties of any public utility (~~which~~) that is assessed and taxed
29 as a public utility pursuant to chapter 84.12 RCW.

30 (2) All leasehold interests in facilities owned or used by a
31 school, college or university which leasehold provides housing for
32 students and which is otherwise exempt from taxation under provisions
33 of RCW 84.36.010 and 84.36.050.

34 (3) All leasehold interests of subsidized housing where the fee
35 ownership of such property is vested in the government of the United
36 States, or the state of Washington or any political subdivision
37 thereof but only if income qualification exists for such housing.

38 (4) All leasehold interests used for fair purposes of a nonprofit
39 fair association that sponsors or conducts a fair or fairs which

1 receive support from revenues collected pursuant to RCW 67.16.100 and
2 allocated by the director of the department of agriculture where the
3 fee ownership of such property is vested in the government of the
4 United States, the state of Washington or any of its political
5 subdivisions. However, this exemption does not apply to the leasehold
6 interest of any sublessee of such nonprofit fair association if such
7 leasehold interest would be taxable if it were the primary lease.

8 (5) All leasehold interests in any property of any public entity
9 used as a residence by an employee of that public entity who is
10 required as a condition of employment to live in the publicly owned
11 property.

12 (6) All leasehold interests held by enrolled Indians of lands
13 owned or held by any Indian or Indian tribe where the fee ownership
14 of such property is vested in or held in trust by the United States
15 and which are not subleased to other than to a lessee which would
16 qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

17 (7) All leasehold interests in any real property of any Indian or
18 Indian tribe, band, or community that is held in trust by the United
19 States or is subject to a restriction against alienation imposed by
20 the United States. However, this exemption applies only where it is
21 determined that contract rent paid is greater than or equal to ninety
22 percent of fair market rental, to be determined by the department of
23 revenue using the same criteria used to establish taxable rent in RCW
24 82.29A.020(2)(g).

25 (8) All leasehold interests for which annual taxable rent is less
26 than two hundred fifty dollars per year. For purposes of this
27 subsection leasehold interests held by the same lessee in contiguous
28 properties owned by the same lessor are deemed a single leasehold
29 interest.

30 (9) All leasehold interests which give use or possession of the
31 leased property for a continuous period of less than thirty days:
32 PROVIDED, That for purposes of this subsection, successive leases or
33 lease renewals giving substantially continuous use of possession of
34 the same property to the same lessee are deemed a single leasehold
35 interest: PROVIDED FURTHER, That no leasehold interest is deemed to
36 give use or possession for a period of less than thirty days solely
37 by virtue of the reservation by the public lessor of the right to use
38 the property or to allow third parties to use the property on an
39 occasional, temporary basis.

1 (10) All leasehold interests under month-to-month leases in
2 residential units rented for residential purposes of the lessee
3 pending destruction or removal for the purpose of constructing a
4 public highway or building.

5 (11) All leasehold interests in any publicly owned real or
6 personal property to the extent such leasehold interests arises
7 solely by virtue of a contract for public improvements or work
8 executed under the public works statutes of this state or of the
9 United States between the public owner of the property and a
10 contractor.

11 (12) All leasehold interests that give use or possession of state
12 adult correctional facilities for the purposes of operating
13 correctional industries under RCW 72.09.100.

14 (13) All leasehold interests used to provide organized and
15 supervised recreational activities for persons with disabilities of
16 all ages in a camp facility and for public recreational purposes by a
17 nonprofit organization, association, or corporation that would be
18 exempt from property tax under RCW 84.36.030(1) if it owned the
19 property. If the publicly owned property is used for any taxable
20 purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and
21 82.29A.040 must be imposed and must be apportioned accordingly.

22 (14) Until January 1, 2030, all leasehold interests in the public
23 or entertainment areas of a baseball stadium with natural turf and a
24 retractable roof or canopy that is in a county with a population of
25 over one million, that has a seating capacity of over forty thousand,
26 and that is constructed on or after January 1, 1995. "Public or
27 entertainment areas" include ticket sales areas, ramps and stairs,
28 lobbies and concourses, parking areas, concession areas, restaurants,
29 hospitality and stadium club areas, kitchens or other work areas
30 primarily servicing other public or entertainment areas, public rest
31 room areas, press and media areas, control booths, broadcast and
32 production areas, retail sales areas, museum and exhibit areas,
33 scoreboards or other public displays, storage areas, loading,
34 staging, and servicing areas, seating areas and suites, the playing
35 field, and any other areas to which the public has access or which
36 are used for the production of the entertainment event or other
37 public usage, and any other personal property used for these
38 purposes. "Public or entertainment areas" does not include locker
39 rooms or private offices exclusively used by the lessee.

1 (15) Until January 1, 2030, all leasehold interests in the public
2 or entertainment areas of a stadium and exhibition center, as defined
3 in RCW 36.102.010, that is constructed on or after January 1, 1998.
4 For the purposes of this subsection, "public or entertainment areas"
5 has the same meaning as in subsection (14) of this section, and
6 includes exhibition areas.

7 (16) All leasehold interests in public facilities districts, as
8 provided in chapter 36.100 or 35.57 RCW.

9 (17) All leasehold interests in property that is: (a) Owned by
10 the United States government or a municipal corporation; (b) listed
11 on any federal or state register of historical sites; and (c) wholly
12 contained within a designated national historic reserve under 16
13 U.S.C. Sec. 461.

14 (18)(a) Until January 1, 2030, all leasehold interests in the
15 public or entertainment areas of an amphitheater if a private entity
16 is responsible for one hundred percent of the cost of constructing
17 the amphitheater which is not reimbursed by the public owner, both
18 the public owner and the private lessee sponsor events at the
19 facility on a regular basis, the lessee is responsible under the
20 lease or agreement to operate and maintain the facility, and the
21 amphitheater has a seating capacity of over seventeen thousand
22 reserved and general admission seats and is in a county that had a
23 population of over three hundred fifty thousand, but less than four
24 hundred twenty-five thousand when the amphitheater first opened to
25 the public.

26 **(b)** For the purposes of this subsection, "public or entertainment
27 areas" include box offices or other ticket sales areas, entrance
28 gates, ramps and stairs, lobbies and concourses, parking areas,
29 concession areas, restaurants, hospitality areas, kitchens or other
30 work areas primarily servicing other public or entertainment areas,
31 public rest room areas, press and media areas, control booths,
32 broadcast and production areas, retail sales areas, museum and
33 exhibit areas, scoreboards or other public displays, storage areas,
34 loading, staging, and servicing areas, seating areas including lawn
35 seating areas and suites, stages, and any other areas to which the
36 public has access or which are used for the production of the
37 entertainment event or other public usage, and any other personal
38 property used for these purposes. "Public or entertainment areas"
39 does not include office areas used predominately by the lessee.

1 (19) All leasehold interests in real property used for the
2 placement of military housing meeting the requirements of RCW
3 84.36.665.

4 (20) All leasehold interests in facilities owned or used by a
5 community college or technical college, which leasehold interest
6 provides:

7 (a) Food services for students, faculty, and staff;

8 (b) The operation of a bookstore on campus; or

9 (c) Maintenance, operational, or administrative services to the
10 community college or technical college.

11 NEW SECTION. **Sec. 5.** Sections 1 and 3 of this act take effect
12 January 1, 2020, if House Bill No. 1301 takes effect.

13 NEW SECTION. **Sec. 6.** Sections 2 and 4 of this act expire on the
14 date that sections 1 and 3 take effect.

15 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2020.

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