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SENATE BILL 5677

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State of Washington

65th Legislature

2017 Regular Session

By Senators Zeiger and Frockt; by request of State Board for  
Community and Technical Colleges

1 AN ACT Relating to creating a leasehold excise tax exemption for  
2 certain leasehold interests in facilities owned or used by schools,  
3 colleges, or universities; reenacting and amending RCW 82.29A.130;  
4 and creating a new section.

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

6 **Sec. 1.** RCW 82.29A.130 and 2008 c 194 s 1 and 2008 c 84 s 2 are  
7 each reenacted and amended to read as follows:

8 The following leasehold interests (~~shall be~~) are exempt from  
9 taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

10 (1) All leasehold interests constituting a part of the operating  
11 properties of any public utility which is assessed and taxed as a  
12 public utility pursuant to chapter 84.12 RCW.

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

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

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

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

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

20 (7) All leasehold interests in any real property of any Indian or  
21 Indian tribe, band, or community that is held in trust by the United  
22 States or is subject to a restriction against alienation imposed by  
23 the United States(~~(:—PROVIDED,—That)~~). However, this exemption  
24 (~~(shall apply)~~) applies only where it is determined that contract  
25 rent paid is greater than or equal to ninety percent of fair market  
26 rental, to be determined by the department of revenue using the same  
27 criteria used to establish taxable rent in RCW 82.29A.020(2)(~~(b)~~)  
28 (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 (~~(shall be)~~) are deemed a single  
33 leasehold 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 (~~(shall be)~~) are deemed a single  
39 leasehold interest: PROVIDED FURTHER, That no leasehold interest  
40 (~~(shall be)~~) is deemed to give use or possession for a period of less

1 than thirty days solely by virtue of the reservation by the public  
2 lessor of the right to use the property or to allow third parties to  
3 use the property on an 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 (~~shall~~) must be imposed and (~~shall~~) must be  
25 apportioned accordingly.

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

1 public usage, and any other personal property used for these  
2 purposes. "Public or entertainment areas" does not include locker  
3 rooms or private offices exclusively used by the lessee.

4 (15) All leasehold interests in the public or entertainment areas  
5 of a stadium and exhibition center, as defined in RCW 36.102.010,  
6 that is constructed on or after January 1, 1998. For the purposes of  
7 this subsection, "public or entertainment areas" has the same meaning  
8 as in subsection (14) of this section, and 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) All leasehold interests in the public or entertainment areas  
17 of an amphitheater if a private entity is responsible for one hundred  
18 percent of the cost of constructing the amphitheater which is not  
19 reimbursed by the public owner, both the public owner and the private  
20 lessee sponsor events at the facility on a regular basis, the lessee  
21 is responsible under the lease or agreement to operate and maintain  
22 the facility, and the amphitheater has a seating capacity of over  
23 seventeen thousand reserved and general admission seats and is in a  
24 county that had a population of over three hundred fifty thousand,  
25 but less than four hundred twenty-five thousand when the amphitheater  
26 first opened to the public.

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

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

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

8 (c) Maintenance, operational, or administrative services to the  
9 school, college, or university.

10 NEW SECTION. **Sec. 2.** The provisions of RCW 82.32.805 and  
11 82.35.808 do not apply to this act.

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