

## CHAPTER 187

[Substitute House Bill No. 52]

LEASEHOLDS--TAXATION--IN LIEU

## EXCISE TAX

AN ACT Relating to revenue and taxation; exempting certain leasehold estates from property taxation; imposing a leasehold in lieu excise tax; amending section 84.40.030, chapter 15, Laws of 1961 as last amended by section 2, chapter 125, Laws of 1972 1st ex. sess. and RCW 84.40.030; adding new sections to Title 82 RCW; adding new sections to chapter 84.36 RCW; and creating a new section.

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

Section 1. Section 84.40.030, chapter 15, Laws of 1961 as last amended by section 2, chapter 125, Laws of 1972 1st ex. sess. and RCW 84.40.030 are each amended to read as follows:

All property shall be assessed fifty percent of its true and fair value in money.

Taxable leasehold estates shall be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be paid. Notwithstanding any other provisions of this section or of any other statute, when the value of any taxable leasehold estate created prior to January 1, 1971 is being determined for assessment years prior to the assessment year 1973, there shall be deducted from what would otherwise be the value thereof the present worth of the rentals and other consideration which may be required of the lessee by the lessor for the unexpired term thereof: PROVIDED, That the foregoing provisions of this sentence shall not apply to any extension or renewal, made after December 31, 1970 of the term of any such estate, or to any such estate after the date, if any, provided for in the agreement for rental renegotiation.

The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) shall be based upon the following criteria:

(1) (a) Any sales of the property being appraised or similar property with respect to sales made within the past five years ((~~less a percentage equal to the average, ordinary and usual direct costs of sale of that type of property; including but not limited to costs of title insurance, legal services, recording fees and taxes levied against such sales that are borne by the seller, and an amount equal to the customary fees payable to a licensed real estate broker for handling such a sale; such percentage to be determined by studies~~

conducted by the department of revenue)). The appraisal shall take into consideration political restrictions such as zoning as well as physical and environmental influences. The appraisal shall also take into account, (i) in the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment, interest rate, or other financing terms; and (ii) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller-developer financing arrangements shall not be used as sales of similar property.

(b) In addition to sales as defined in subsection (1) (a), consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection (1) (b) shall be the dominant factors in valuation. When provisions of this subsection (1) (b) are relied upon for establishing values the property owner shall be advised upon request of the factors used in arriving at such value.

(c) In valuing any tract or parcel of real property, the value of the land, exclusive of structures thereon shall be determined; also the value of structures thereon, but the valuation shall not exceed the value of the total property as it exists. In valuing agricultural land, growing crops shall be excluded.

PROVIDED, That the provisions of this subsection (1) shall be applicable to all values for use in computing property taxes for the assessment year 1972 for taxes payable in 1973 and subsequent years.

NEW SECTION. Sec. 2. The legislature hereby recognizes that properties of the state of Washington, counties, school districts, and other municipal corporations are exempted by Article 7, section 1 of the state Constitution from property tax obligations, but that such public properties when under lease to private lessees receive substantial benefits from governmental services provided by the units of local government.

The legislature further recognizes that leases of such property entered into prior to July 1, 1970, are often at a full and fair market rental predicated upon a tax obligation which was considerably less than established by the state supreme court in May of 1970 when the lessee is a nonexempt person or entity.

The legislature therefore recognizes that equity requires that

provision be made to alleviate the impact of added tax obligations upon the lessee of public properties and does hereby provide certain property tax exemptions for leasehold estates contracted prior to July 1, 1970, where the lessee is paying a contract rent equal to or at least ninety percent of economic rent as defined in section 3 of this 1973 amendatory act and the legislature does hereby provide for a leasehold in lieu tax to fairly compensate local governmental units for services rendered to such properties and does hereby provide authorization for payment thereof. The legislature finds that public properties subject to leasehold estate taxation or to in lieu taxation are entitled to those same governmental services provided comparable property in private ownership.

NEW SECTION. Sec. 3. As used in this 1973 amendatory act, the following terms shall be defined as follows, unless the context otherwise requires:

(1) "Economic rent" means the rental warranted to be paid in the open real estate market based on rentals being paid for comparable leases. In the determination of "economic rent" the private rate of return and normal costs to be private sector shall be considered.

(2) "Contract rent" means the amount of consideration conveyed according to the leasehold instrument: PROVIDED, That any prepaid rent shall be considered to have been paid in the year due and not the year when paid.

(3) "Renegotiation" or "renegotiated" means the process occasioned by any situation or circumstance which results in a change in the consideration to be paid by the lessee to the lessor for any extension or renewal of a lease.

NEW SECTION. Sec. 4. There is hereby levied and shall be collected an in lieu excise tax in 1974 and in each year thereafter from each lessor of a leasehold estate which is exempted from ad valorem property taxation pursuant to section 11 (1) of this 1973 amendatory act. The tax shall be levied and collected in an amount equal to the value of the annual leasehold rent collected the previous year multiplied by the rate of fourteen percent: PROVIDED, That the tax hereby levied shall not apply to leases of lands owned in fee or held in trust by the government of the United States: PROVIDED FURTHER, That the tax hereby levied shall not apply to (1) the lessor of a leasehold estate where the lessee is a body which were it to own the property in fee, said property would be exempt, (2) lessors on those leasehold estates exempted from property taxation pursuant to subsection (2) through subsection (9) of section 11 of this act, and (3) all leasehold estates of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in the United States; and (5) all leasehold

estates held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States.

NEW SECTION. Sec. 5. Each state department, agency, and political subdivision shall on or before the fifteenth day of January of each year supply an accounting of outstanding leasehold estates upon its property to the county assessor of the county in which such property is located. Such accounting shall include information describing the location, legal description, and address, if any, of the property, the name of the lessee, the amount of the leasehold rent, the date when the lease was entered, the expiration date of the lease, restrictions, if any, which detract from the value of the leasehold interest, renegotiation dates, if any, options to renew, and information about reversion of improvements.

NEW SECTION. Sec. 6. The county assessor shall determine and identify those properties which are subject to the leasehold in lieu tax imposed by section 4 of this 1973 amendatory act and shall furnish and deliver to the county treasurer by the fifteenth day of February a listing of such properties with information describing the location, legal description, and address, if any, of the property, the name of the lessee, the amount of the leasehold rent, the amount of the true and fair economic rent, the expiration date of the lease, renegotiations dates, if any, and options to renew. In addition, the assessor shall provide information indicating that the situs of such property is within the unincorporated area of the county or within a particular city or town and/or within a particular school district.

NEW SECTION. Sec. 7. On or before the last day of February of each calendar year, each county treasurer shall cause to be mailed to the director of the department of revenue and to the lessors of leasehold estates subject to the in lieu tax in that county, notice of the amount of tax payable for that year which shall be due and payable to the director of the department of revenue on or before the thirtieth day of April.

NEW SECTION. Sec. 8. (1) Leasehold in lieu tax revenues received by the director of the department of revenue pursuant to section 7 of this 1973 amendatory act shall be transmitted to the state treasurer, together with such information required to make the proper disbursements to counties pursuant to subsection (2) of this section, and placed in the leasehold in lieu tax fund which is hereby created.

(2) Moneys in the leasehold in lieu tax fund shall be disbursed by the state treasurer to the counties on or before the first of June of each year. Each county shall receive an amount equal to the total moneys appropriated to the leasehold in lieu tax fund for that year multiplied by a fraction, the numerator of which

is the total amount of in lieu excise tax collected within that county pursuant to section 4 of this 1973 amendatory act during that year, and the denominator of which is the total amount of leasehold in lieu tax collected throughout the state pursuant to section 4 of this 1973 amendatory act during that year.

(3) From the amount received by each county pursuant to subsection (2) of this section there shall be paid sums as follows:

(a) Sixty percent to the school districts within the county ratably, on the basis of the amount of in lieu excise tax collected pursuant to section 4 of this 1973 amendatory act from leased property situated in each school district: PROVIDED, That only one-half of such amount shall be considered as local revenues where local revenues are a factor in any formula for the determination of state aid to schools under chapter 28A.41 RCW.

(b) Twenty-five percent to each city and town within the county ratably, on the basis of the amount of in lieu excise tax collected pursuant to section 4 of this 1973 amendatory act from leased property situated in each city or town.

(c) Forty percent to the county current expense fund less any amount paid to a city or town pursuant to subsection (3) (b) of this section which shall be considered a credit against the amount due the county pursuant to this subsection: PROVIDED, That the county legislative authority may allocate and deposit funds received pursuant to this subsection to the credit of the taxing districts in the county in the manner it deems most equitable.

NEW SECTION. Sec. 9. All leasehold estates in operating properties vested in any company assessed and taxed as a public utility pursuant to chapter 84.12 RCW shall be valued by the department of revenue according to the valuation procedures set forth by the provisions of chapter 84.12 RCW.

NEW SECTION. Sec. 10. The department of revenue shall adopt and amend reasonable rules and regulations necessary for the administration, collection, and enforcement of the leasehold in lieu tax imposed by section 4 of this 1973 amendatory act and such reasonable rules and regulations necessary to assure the uniform valuation of leasehold estates and the subsequent tax levy thereon according to the provisions of chapter 34.04 RCW (the administrative procedure act). To ensure such uniformity, the department of revenue shall prescribe the forms and methods for the determination of the assessed value of the leasehold assets which shall be the sole process of such determination: PROVIDED, That lessors subject to the tax imposed pursuant to section 4 of this act shall be entitled to those remedies provided in Title 84.

NEW SECTION. Sec. 11. There is added to chapter 84.36 RCW a new section to read as follows:

The following property shall be exempt from taxation:

(1) All leasehold estates in property owned in fee or held in trust by the government of the United States, or of the state of Washington or any political subdivision thereof, negotiated prior to July 1, 1970, which have not been renegotiated, extended, or renewed since July 1, 1970, and which have a contract rent equal to at least ninety percent of economic rent: PROVIDED, That this exemption shall not apply to leasehold estates in operating properties vested in any company which is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold estates which have a total economic rent of less than one hundred dollars per year.

(3) All leasehold estates in facilities owned or used by a school, college, or university which leaseholds provide housing for students and which are otherwise exempt from taxation under the provisions of RCW 84.36.010 and 84.36.050.

(4) All leasehold estates of subsidized housing where the fee ownership of such property is vested in the government of the United States or the state of Washington or any political subdivision thereof and where an income qualification exists for such housing.

(5) All leasehold estates used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States or the state of Washington or any political subdivision thereof: PROVIDED, That this exemption shall not apply to the leasehold estate of any sublessee of such nonprofit fair association.

(6) All leasehold estates of state forest lands as defined in chapter 76.12 RCW.

(7) All leasehold estates in state property used as a residence by state employees who are required as a condition of employment to live at a state facility or station.

(8) All leasehold estates on any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

(9) All leasehold estates held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this 1973 amendatory act.

NEW SECTION. Sec. 12. Sections 2 through 10 and section 16 of this 1973 amendatory act are hereby added to Title 82 RCW.

NEW SECTION. Sec. 13. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1973 amendatory act, or the application of the provision to other persons or circumstances is not affected: PROVIDED, That if the leasehold in lieu excise tax imposed by section 4 of this 1973 amendatory act is held invalid, the entirety of the act, except for section 3 and section 15, shall be null and void.

NEW SECTION. Sec. 14. If the provisions of this 1973 amendatory act relative to leasehold in lieu excise taxes are held invalid, the following property shall be exempt from ad valorem taxation:

(1) All leasehold estates in property of the state of Washington or any political subdivision thereof, negotiated prior to July 1, 1970, which have not been renegotiated, extended or renewed since July 1, 1970, and which have a contract rent equal to at least ninety percent of economic rent, and where the lessor has been authorized to make in lieu payments to political subdivisions other than that of the lessor.

(2) All leasehold estates which have a total economic rent of less than one hundred dollars per year.

(3) All facilities owned or used by a school, college, or university which facilities provide housing for students and which are otherwise exempt from taxation under the provisions of RCW 84.36.010 and 84.36.050.

(4) All leasehold estates of subsidized housing where the fee ownership of such property is vested in the government of the United States or the state of Washington or any political subdivision thereof and where an income qualification exists for such housing.

(5) All leasehold estates of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States or the state of Washington or any political subdivision thereof: PROVIDED, That this exemption shall not apply to the leasehold estate of any sublessee of such nonprofit fair association.

(6) All leasehold estates of state forest lands as defined in chapter 76.12 RCW.

(7) All leasehold estates in state property used as a residence by state employees who are required as a condition of employment to live at a state facility or station.

(8) All leasehold estates on any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation

imposed by the United States.

(9) All leasehold estates held by enrolled Indians of lands owned as held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this 1973 amendatory act.

NEW SECTION. Sec. 15. Notwithstanding any other provision of this 1973 amendatory act, improvements owned or being acquired by contract purchase or otherwise by any sublessee shall be taxable to such sublessee.

Passed the House April 13, 1973.

Passed the Senate April 10, 1973.

Approved by the Governor April 25, 1973.

Filed in Office of Secretary of State April 26, 1973.

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CHAPTER 188  
[ House Bill No. 76 ]  
DISABILITY INSURANCE

AN ACT Relating to insurance; adding new sections to chapter 48.18 RCW; adding a new section to chapter 48.20 RCW, and adding a new section to chapter 48.21 RCW.

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

NEW SECTION. Section 1. There is added to chapter 48.18 RCW a new section to read as follows:

No insurer shall refuse to renew any policy of individual disability insurance issued after July 1, 1973 because of a change in the physical or mental condition or health of any person covered thereunder: PROVIDED, That after approval of the insurance commissioner, an insurer may discharge its obligation to renew the contract by obtaining for the insured coverage with another insurer which is comparable in terms of premiums and benefits.

NEW SECTION. Sec. 2. There is added to chapter 48.18 RCW a new section to read as follows:

No contract of insurance enumerated in section 1 of this 1973 act shall be terminated by cancellation by the insurer during the period of contract except for nonpayment of premium. This section shall not be deemed to affect the right of the insurer to rescind the policy as limited and defined in RCW 48.18.090.

NEW SECTION. Sec. 3. There is added to chapter 48.20 RCW a new section to read as follows:

Notwithstanding any provision of any disability insurance contract as provided for in this chapter, benefits shall not be