

**HB 1702 - H AMD 347**

By Representative Liias

ADOPTED 03/04/2011

1 On page 1, beginning on line 5, strike all of section 1 and insert  
2 the following:

3 "Sec. 1. RCW 82.02.050 and 1994 c 257 s 24 are each amended to  
4 read as follows:

5 (1) It is the intent of the legislature:

6 (a) To ensure that adequate facilities are available to serve new  
7 growth and development;

8 (b) To promote orderly growth and development by establishing  
9 standards by which counties, cities, and towns may require, by  
10 ordinance, that new growth and development pay a proportionate share of  
11 the cost of new facilities needed to serve new growth and development;  
12 and

13 (c) To ensure that impact fees are imposed through established  
14 procedures and criteria so that specific developments do not pay  
15 arbitrary fees or duplicative fees for the same impact.

16 (2) Counties, cities, and towns that are required or choose to plan  
17 under RCW 36.70A.040 are authorized to impose impact fees on  
18 development activity as part of the financing for public facilities,  
19 provided that the financing for system improvements to serve new  
20 development must provide for a balance between impact fees and other  
21 sources of public funds and cannot rely solely on impact fees.

22 (3)(a) Counties, cities, and towns collecting impact fees must  
23 adopt a permanent system for the collection of impact fees from  
24 applicants for residential building permits issued for a lot or unit  
25 created by a subdivision, short subdivision, site development permit,  
26 binding site plan, or condominium that includes one or more of the  
27 following:

28 (i)(A) A process by which an applicant for any development permit  
29 that requires payment of an impact fee may record a covenant against  
30 title to the lot or unit subject to the impact fee obligation. A

1 covenant under this subsection (3)(a)(i) must also serve as a lien.  
2 The covenant must require payment equal to one hundred percent of the  
3 impact fee applicable to the lot or unit at the rates in effect at the  
4 time the building permit was issued, less a credit for any deposits  
5 paid.

6 (B) Covenants recorded in accordance with this subsection (3)(a)(i)  
7 must provide for payment of the impact fee through escrow at the  
8 earlier of the following: The time of closing of sale of the  
9 applicable lot or unit; or in accordance with the applicable county,  
10 city, or town ordinance, eighteen or more months after the building  
11 permit is issued. Payment of impact fees due at closing of a sale  
12 must, unless an agreement to the contrary is reached between buyer and  
13 seller, be made from the seller's proceeds. In the absence of an  
14 agreement to the contrary, the seller bears strict liability for the  
15 payment of the impact fees.

16 (C) Either a seller or a seller's agent, or both, of property  
17 subject to a deferral covenant authorized under this subsection  
18 (3)(a)(i) must provide written disclosure of the covenant to a  
19 purchaser or prospective purchaser. Disclosure of the covenant must  
20 include the amount of impact fees payable and the entities to which  
21 fees are to be paid at closing.

22 (D) Upon receiving payment of impact fees due, the applicable  
23 county, city, or town must remove the covenant recorded in accordance  
24 with this subsection (3)(a)(i); or

25 (ii) A process by which an applicant may apply for a deferral of  
26 the impact fee payment until final inspection or certificate of  
27 occupancy, or equivalent certification.

28 (b) Counties, cities, and towns may adopt local systems for the  
29 collection of impact fees that differ from the requirements of this  
30 subsection (3) if the payment timing provisions are consistent with  
31 those of this subsection.

32 (4) The impact fees:

33 (a) Shall only be imposed for system improvements that are  
34 reasonably related to the new development;

35 (b) Shall not exceed a proportionate share of the costs of system  
36 improvements that are reasonably related to the new development; and

37 (c) Shall be used for system improvements that will reasonably  
38 benefit the new development.

1 ((+4)) (5)(a) Impact fees may be collected and spent only for the  
2 public facilities defined in RCW 82.02.090 which are addressed by a  
3 capital facilities plan element of a comprehensive land use plan  
4 adopted pursuant to the provisions of RCW 36.70A.070 or the provisions  
5 for comprehensive plan adoption contained in chapter 36.70, 35.63, or  
6 35A.63 RCW. After the date a county, city, or town is required to  
7 adopt its development regulations under chapter 36.70A RCW, continued  
8 authorization to collect and expend impact fees (~~shall be~~) is  
9 contingent on the county, city, or town adopting or revising a  
10 comprehensive plan in compliance with RCW 36.70A.070, and on the  
11 capital facilities plan identifying:

12 ((+a)) (i) Deficiencies in public facilities serving existing  
13 development and the means by which existing deficiencies will be  
14 eliminated within a reasonable period of time;

15 ((+b)) (ii) Additional demands placed on existing public  
16 facilities by new development; and

17 ((+c)) (iii) Additional public facility improvements required to  
18 serve new development.

19 (b) If the capital facilities plan of the county, city, or town is  
20 complete other than for the inclusion of those elements which are the  
21 responsibility of a special district, the county, city, or town may  
22 impose impact fees to address those public facility needs for which the  
23 county, city, or town is responsible."

24 On page 11, after line 17, insert the following:

25 "NEW SECTION. **Sec. 3.** This act expires July 1, 2016."

26 Correct the title.

EFFECT: Modifies proposed impact fee deferral requirements  
applying to jurisdictions that impose impact fees by: (1) Limiting the  
deferral requirements to applicants for residential building permits;  
(2) extending the deferral provisions to binding site plans; (3)  
allowing the applicable county, city, or town to extend the deferral  
beyond 18 months; (4) deleting a provision pertaining to dwellings  
built on land that is owned or otherwise controlled by a party who  
contracts for the construction of a dwelling; (5) removing a reference

to specific seller disclosure requirements; (6) specifying that upon receiving payment of impact fees due, the applicable county, city, or town must remove the recorded impact fee covenant; (7) allowing counties, cities, and towns to adopt local impact fee deferral systems that differ from prescribed requirements if the payment timing provisions are consistent with specified requirements; and (8) adding a July 1, 2016, expiration date.

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