

HOUSE BILL REPORT

ESHB 1831

*As Passed House
March 19, 1991*

Title: An act relating to subjecting certain ownership changes to real estate excise taxation.

Brief Description: Designating certain transfers or purchases of ownership interest as a transfer of the ownership of real property and subject to the real estate excise tax.

Sponsor(s): By House Committee on Revenue (originally sponsored by Representatives Wang and Appelwick).

Brief History:

Reported by House Committee on:
Revenue, March 10, 1991, DPS;
Passed House, March 19, 1991, 97-1.

**HOUSE COMMITTEE ON
REVENUE**

Majority Report: *That Substitute House Bill No. 1831 be substituted therefor, and the substitute bill do pass.* Signed by 13 members: Representatives Wang, Chair; Fraser, Vice Chair; Holland, Ranking Minority Member; Wynne, Assistant Ranking Minority Member; Appelwick; Belcher; Brumsickle; Day; Leonard; Morris; Morton; Phillips; and Rust.

Minority Report: *Do not pass.* Signed by 2 members: Representatives Silver; and Van Luven.

Staff: Bob Longman (786-7139).

Background: The real estate excise tax is imposed on each sale of real property. The state tax rate is 1.28 percent. Additional local rates are allowed. Most cities and counties have imposed an additional 0.25 percent rate for capital improvements. This makes the total rate 1.53 percent in most areas.

An additional 0.25 percent rate is available for cities and counties not imposing the second 0.5 percent of the local sales tax. Also, a 0.25 percent rate is available for capital projects specified in a comprehensive plan. An

additional 1 percent rate for acquisition and maintenance of conservation areas is available when approved by the voters.

The tax is applied to the selling price and the tax is paid by the seller except for the 1.0 percent rate for conservation areas. This portion is paid by the buyer.

The tax is applied when a sale occurs. A sale is defined as any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property. The acquisition of ownership of real property through stock purchases in the owning corporation is not a transaction subject to the real estate excise tax.

Summary of Bill: An excise tax is applied to transfers of corporate ownership that are comparable to a sale of real property. The rate of tax is equal to the state real estate excise tax.

The tax only applies when there is a transfer or series of transfers in any consecutive 12 month period of ownership of more than 50 percent of the stock of the corporation. Also, the tax only applies when the value of the real property assets of the corporation is more than 50 percent of the value of all assets held by the corporation. The tax does not apply to corporations with stock that is traded on public exchanges. The tax does not apply to partnerships. The tax does not apply if the taxpayer can show there is no intent to avoid the real estate excise tax.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: A loophole in the real estate excise tax exists that allows the seller to avoid tax by selling ownership of a corporation that owns land, rather than selling the land.

Testimony Against: The bill does not adequately define transfers of ownership that are subject to tax. The sale of corporate ownership as an avoidance of tax is very rare, and is not a major problem. The tax will be difficult and costly to administer.

Witnesses: Rick Wickman, Washington State Association of Counties (pro); and Scott B. Osborne, Director, Real Property Division, Real Property, Probate & Trust Section, Washington State Bar Association (con) (by letter).