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**SUBSTITUTE HOUSE BILL 1801**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Grant, Kretz, Linville, Orcutt, Morrell, Buri, Quall, Kristiansen, Holmquist, Cox, Hasegawa, McCune, Eickmeyer, Condotta, Dunn, Walsh, Haigh and Newhouse)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to a state real estate excise tax exemption for  
2 certain farm and agricultural land; amending RCW 82.45.100, 82.46.010,  
3 82.46.070, and 82.46.075; adding new sections to chapter 82.45 RCW;  
4 adding a new section to chapter 82.46 RCW; creating a new section;  
5 providing an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that agriculture is an  
8 integral part of Washington state history and agriculture has provided  
9 and continues to provide employment for many of Washington state  
10 citizens. The legislature also finds that providing targeted  
11 incentives to sellers of agricultural lands will allow new and existing  
12 small agricultural producers to purchase productive farm land. The  
13 legislature intends to provide such incentives through excise tax  
14 relief on sales of agricultural lands to new or existing small  
15 producers.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.45 RCW  
17 to read as follows:

1 (1) The tax imposed under this chapter does not apply to sales of  
2 farm and agricultural land, if the following conditions are met:

3 (a) The sale is to a qualified purchaser; and

4 (b) The farm and agricultural land is not converted to a different  
5 purpose or use within ten years of the sale.

6 (2) If a person no longer meets the definition of qualified  
7 purchaser or sells the property to an unqualified purchaser at any time  
8 during the ten years following the date of sale, the person shall pay  
9 the entire amount of taxes that would have been due at the time of sale  
10 if the exemption had not been claimed under this section. Interest  
11 shall be imposed from the date of sale to the time of payment in  
12 accordance with RCW 82.45.100(1)(b). Penalties shall be assessed on  
13 the person disqualified from the exemption according to the penalty  
14 rates in RCW 82.45.100(2). The due date for the purposes of  
15 calculating the penalty is thirty days following the date of  
16 disqualification. A person that no longer meets the definition of  
17 qualified purchaser because of acts or circumstances not attributable  
18 to the person, shall not pay additional taxes, interest, or penalties.

19 (3)(a) For the purposes of verifying eligibility, the purchaser  
20 must submit the following documents:

21 (i) The schedule F or the successor schedule required for the  
22 filing of farm income for federal income tax purposes, for federal tax  
23 returns of the previous five years; and

24 (ii) An affidavit that certifies that the person has satisfied the  
25 requirements described in subsection (4)(b)(i) and (iii) of this  
26 section over the course of the preceding calendar year.

27 (b)(i) The documents required in (a)(i) and (ii) of this subsection  
28 must be submitted to the county treasurer at the same time the  
29 affidavit is submitted under RCW 82.45.150.

30 (ii) The documents required in (a)(i) and (ii) of this subsection  
31 must be submitted annually to the department on the date that state and  
32 local property taxes are initially due, until the condition in  
33 subsection (1)(b) of this section is met.

34 (c) The documents required under this subsection are taxpayer  
35 information under RCW 82.32.330 and are not subject to disclosure.

36 (4) For the purposes of this section, the following definitions  
37 apply:

1 (a) "Farm and agricultural land" has the same meaning as in RCW  
2 84.34.020(2)(a).

3 (b) "Qualified purchaser" means a person who:

4 (i) Is a farmer as defined in RCW 82.04.213;

5 (ii) Has had average annual gross receipts from the sales of  
6 agricultural products of two hundred fifty thousand dollars or less for  
7 the five calendar years preceding the sale; and

8 (iii) In conjunction with his or her family, provides a majority of  
9 the day-to-day labor for or management of the farm for at least ten  
10 years after the sale.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.45 RCW  
12 to read as follows:

13 The county treasurer shall act as an agent of the state for the  
14 purposes of approving the exemption provided by section 2 of this act.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.45 RCW  
16 to read as follows:

17 The amount of tax claimed as exempt under section 2 of this act  
18 that would otherwise be due upon the sale of farm and agricultural land  
19 shall be a specific lien upon such real property from the time of sale  
20 until such time as all conditions for exemption under section 2 of this  
21 act have been met. The lien provided by this section also applies to  
22 any penalties and interest imposed under section 2(2) of this act. The  
23 lien may be enforced in the manner prescribed for the foreclosure of  
24 mortgages but only if the person claiming exemption under section 2 of  
25 this act does not meet the definition of qualified purchaser under  
26 section 2 of this act at any time during the ten years following the  
27 date of sale, or the farm and agricultural land is converted to a  
28 different purpose or use within ten years of the date of sale. The  
29 county treasurer shall record the lien with the county auditor and  
30 transmit the lien and the supporting federal tax documents and  
31 affidavits to the department of revenue.

32 **Sec. 5.** RCW 82.45.100 and 1997 c 157 s 4 are each amended to read  
33 as follows:

34 (1) Payment of the tax imposed under this chapter is due and

1 payable immediately at the time of sale, and if not paid within one  
2 month thereafter shall bear interest from the time of sale until the  
3 date of payment.

4 (a) Interest imposed before January 1, 1999, shall be computed at  
5 the rate of one percent per month.

6 (b) Interest imposed after December 31, 1998, shall be computed on  
7 a monthly basis at the rate as computed under RCW 82.32.050(2). The  
8 rate so computed shall be adjusted on the first day of January of each  
9 year for use in computing interest for that calendar year. The  
10 department of revenue shall provide written notification to the county  
11 treasurers of the variable rate on or before December 1 of the year  
12 preceding the calendar year in which the rate applies.

13 (2) In addition to the interest described in subsection (1) of this  
14 section, if the payment of any tax is not received by the county  
15 treasurer or the department of revenue, as the case may be, within one  
16 month of the date due, there shall be assessed a penalty of five  
17 percent of the amount of the tax; if the tax is not received within two  
18 months of the date due, there shall be assessed a total penalty of ten  
19 percent of the amount of the tax; and if the tax is not received within  
20 three months of the date due, there shall be assessed a total penalty  
21 of twenty percent of the amount of the tax. The payment of the penalty  
22 described in this subsection shall be collectible from the seller only,  
23 and RCW 82.45.070 does not apply to the penalties described in this  
24 subsection.

25 (3) If the tax imposed under this chapter is not received by the  
26 due date, the transferee shall be personally liable for the tax, along  
27 with any interest as provided in subsection (1) of this section,  
28 unless:

29 (a) An instrument evidencing the sale is recorded in the official  
30 real property records of the county in which the property conveyed is  
31 located; or

32 (b) Either the transferor or transferee notifies the department of  
33 revenue in writing of the occurrence of the sale within thirty days  
34 following the date of the sale.

35 (4) If upon examination of any affidavits or from other information  
36 obtained by the department or its agents it appears that all or a  
37 portion of the tax is unpaid, the department shall assess against the  
38 taxpayer the additional amount found to be due plus interest and

1 penalties as provided in subsections (1) and (2) of this section. The  
2 department shall notify the taxpayer by mail of the additional amount  
3 and the same shall become due and shall be paid within thirty days from  
4 the date of the notice, or within such further time as the department  
5 may provide.

6 (5) No assessment or refund may be made by the department more than  
7 four years after the date of sale except upon a showing of:

8 (a) Fraud or misrepresentation of a material fact by the taxpayer;

9 (b) A failure by the taxpayer to record documentation of a sale or  
10 otherwise report the sale to the county treasurer; (~~(c)~~)

11 (c) A failure of the transferor or transferee to report the sale  
12 under RCW 82.45.090(2); or

13 (d) Disqualification from the exemption in section 2 of this act.

14 (6) Penalties collected on taxes due under this chapter under  
15 subsection (2) of this section and RCW 82.32.090 (2) through (~~(6)~~)  
16 (7) shall be deposited in the housing trust fund as described in  
17 chapter 43.185 RCW.

18 **Sec. 6.** RCW 82.46.010 and 1994 c 272 s 1 are each amended to read  
19 as follows:

20 (1) The legislative authority of any county or city shall identify  
21 in the adopted budget the capital projects funded in whole or in part  
22 from the proceeds of the tax authorized in this section, and shall  
23 indicate that such tax is intended to be in addition to other funds  
24 that may be reasonably available for such capital projects.

25 (2) The legislative authority of any county or any city may impose  
26 an excise tax on each sale of real property in the unincorporated areas  
27 of the county for the county tax and in the corporate limits of the  
28 city for the city tax at a rate not exceeding one-quarter of one  
29 percent of the selling price. The revenues from this tax shall be used  
30 by any city or county with a population of five thousand or less and  
31 any city or county that does not plan under RCW 36.70A.040 for any  
32 capital purpose identified in a capital improvements plan and local  
33 capital improvements, including those listed in RCW 35.43.040.

34 After April 30, 1992, revenues generated from the tax imposed under  
35 this subsection in counties over five thousand population and cities  
36 over five thousand population that are required or choose to plan under  
37 RCW 36.70A.040 shall be used solely for financing capital projects

1 specified in a capital facilities plan element of a comprehensive plan  
2 and housing relocation assistance under RCW 59.18.440 and 59.18.450.  
3 However, revenues (a) pledged by such counties and cities to debt  
4 retirement prior to April 30, 1992, may continue to be used for that  
5 purpose until the original debt for which the revenues were pledged is  
6 retired, or (b) committed prior to April 30, 1992, by such counties or  
7 cities to a project may continue to be used for that purpose until the  
8 project is completed.

9 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the  
10 legislative authority of any county or any city may impose an  
11 additional excise tax on each sale of real property in the  
12 unincorporated areas of the county for the county tax and in the  
13 corporate limits of the city for the city tax at a rate not exceeding  
14 one-half of one percent of the selling price.

15 (4) Unless otherwise provided in this chapter, taxes imposed under  
16 this section shall be collected from persons who are taxable by the  
17 state under chapter 82.45 RCW upon the occurrence of any taxable event  
18 within the unincorporated areas of the county or within the corporate  
19 limits of the city, as the case may be.

20 (5) Taxes imposed under this section shall comply with all  
21 applicable rules, regulations, laws, and court decisions regarding real  
22 estate excise taxes as imposed by the state under chapter 82.45 RCW.

23 (6) As used in this section, "city" means any city or town and  
24 "capital project" means those public works projects of a local  
25 government for planning, acquisition, construction, reconstruction,  
26 repair, replacement, rehabilitation, or improvement of streets; roads;  
27 highways; sidewalks; street and road lighting systems; traffic signals;  
28 bridges; domestic water systems; storm and sanitary sewer systems;  
29 parks; recreational facilities; law enforcement facilities; fire  
30 protection facilities; trails; libraries; administrative and/or  
31 judicial facilities; river and/or waterway flood control projects by  
32 those jurisdictions that, prior to June 11, 1992, have expended funds  
33 derived from the tax authorized by this section for such purposes; and,  
34 until December 31, 1995, housing projects for those jurisdictions that,  
35 prior to June 11, 1992, have expended or committed to expend funds  
36 derived from the tax authorized by this section or the tax authorized  
37 by RCW 82.46.035 for such purposes.

1       **Sec. 7.** RCW 82.46.070 and 1990 1st ex.s. c 5 s 3 are each amended  
2 to read as follows:

3       (1) Subject to subsection (2) of this section, the legislative  
4 authority of any county may impose an additional excise tax on each  
5 sale of real property in the county at a rate not to exceed one percent  
6 of the selling price. The proceeds of the tax shall be used  
7 exclusively for the acquisition and maintenance of conservation areas.

8       Unless otherwise provided in this chapter, the taxes imposed under  
9 this subsection shall be imposed in the same manner and on the same  
10 occurrences, and are subject to the same conditions, as the taxes under  
11 chapter 82.45 RCW, except:

12       (a) The tax shall be the obligation of the purchaser; and

13       (b) The tax does not apply to the acquisition of conservation areas  
14 by the county.

15       The county may enforce the obligation through an action of debt  
16 against the purchaser or may foreclose the lien on the property in the  
17 same manner prescribed for the foreclosure of mortgages.

18       The tax shall take effect thirty days after the election at which  
19 the taxes are authorized.

20       (2) No tax may be imposed under subsection (1) of this section  
21 unless approved by a majority of the voters of the county voting  
22 thereon for a specified period and maximum rate after:

23       (a) The adoption of a resolution by the county legislative  
24 authority of the county proposing this action; or

25       (b) The filing of a petition proposing this action with the county  
26 auditor, which petition is signed by county voters at least equal in  
27 number to ten percent of the total number of voters in the county who  
28 voted at the last preceding general election.

29       The ballot proposition shall be submitted to the voters of the  
30 county at the next general election occurring at least sixty days after  
31 a petition is filed, or at any special election prior to this general  
32 election that has been called for such purpose by the county  
33 legislative authority.

34       (3) A plan for the expenditure of the excise tax proceeds shall be  
35 prepared by the county legislative authority at least sixty days before  
36 the election if the proposal is initiated by resolution of the county  
37 legislative authority, or within six months after the tax has been  
38 authorized by the voters if the proposal is initiated by petition.

1 Prior to the adoption of this plan, the elected officials of cities  
2 located within the county shall be consulted and a public hearing shall  
3 be held to obtain public input. The proceeds of this excise tax must  
4 be expended in conformance with this plan.

5 (4) As used in this section, "conservation area" has the meaning  
6 given under RCW 36.32.570.

7 **Sec. 8.** RCW 82.46.075 and 2002 c 343 s 1 are each amended to read  
8 as follows:

9 (1) Subject to subsections (4) and (5) of this section, the  
10 legislative authority of any county may impose an additional excise tax  
11 on the purchase and sale of real property in the county at the rate of  
12 one-half of one percent of the selling price. The proceeds of the tax  
13 shall be used exclusively for the development of affordable housing  
14 including acquisition, building, rehabilitation, and maintenance and  
15 operation of housing for very low, low, and moderate-income persons and  
16 those with special needs.

17 (2) Revenues generated from the tax imposed under this section  
18 shall be placed in an affordable housing account administered by the  
19 county. Disbursements from the account shall be made following a  
20 competitive grant and loan process. The county legislative authority  
21 shall determine a mechanism for receiving grant and loan applications,  
22 and criteria by which the applications shall be approved and funded.  
23 Eligible recipients of grants and loans from the account shall be  
24 private nonprofit, affordable housing providers, the housing authority  
25 for the county, or other housing programs conducted or funded by a  
26 public agency, or by a public agency in partnership with a private  
27 nonprofit entity.

28 (3) Unless otherwise provided in this chapter, the taxes imposed  
29 under this section shall be imposed in the same manner and on the same  
30 occurrences, and are subject to the same conditions, as the taxes under  
31 chapter 82.45 RCW, except that the tax shall be the obligation of both  
32 the purchaser and the seller, as determined by the county legislative  
33 authority, with at least one-half of the obligation being that of the  
34 purchaser. The county may enforce the obligation through an action of  
35 debt against the purchaser or seller or may foreclose the lien on the  
36 property in the same manner prescribed for the foreclosure of

1 mortgages. The imposition of the tax is effective thirty days after  
2 the election at which the tax is authorized.

3 (4)(a) No tax may be imposed under this section unless approved by  
4 a majority of the voters of the county voting, for a specified period  
5 and for a specified maximum rate. This vote must follow either:

6 (i) The adoption of a resolution by the county legislative  
7 authority proposing this action; or

8 (ii) The filing of a petition proposing this action with the county  
9 auditor, signed by county voters at least equal in number to ten  
10 percent of the total number of voters in the county who voted in the  
11 preceding general election.

12 (b) The ballot proposition shall be submitted to the voters of the  
13 county at the next general election occurring at least sixty days after  
14 a petition is filed, or at any special election prior to this general  
15 election called for this purpose by the county legislative authority.

16 (5) No tax may be imposed under this section unless the county  
17 imposes a tax under RCW 82.46.070 at the maximum rate and the tax was  
18 imposed by January 1, 2003.

19 (6) A plan for the expenditure of the proceeds of the tax imposed  
20 by this section shall be prepared by the county legislative authority  
21 at least sixty days before the election if the proposal is initiated by  
22 resolution of the county legislative authority, or within six months  
23 after the tax has been authorized by the voters if the proposal is  
24 initiated by petition. Prior to the adoption of this plan, the elected  
25 officials of cities located within the county shall be consulted and at  
26 least one public hearing shall be held to obtain public comment. The  
27 proceeds of the tax shall be expended in conformance with this plan.

28 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.46 RCW  
29 to read as follows:

30 The exemption in section 2 of this act is for the state real estate  
31 excise tax in chapter 82.45 RCW and does not extend to taxes imposed  
32 under this chapter.

33 NEW SECTION. **Sec. 10.** This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 July 1, 2005.

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