HOUSE BILL REPORT
HB 2971

As Reported by House Committee On:
Finance

Title: An act relating to real estate as it concerns the local government authority in the use of real estate excise tax revenues and regulating real estate transactions.

Brief Description: Addressing real estate as it concerns the local government authority in the use of real estate excise tax revenues and regulating real estate transactions.

Sponsors: Representatives McBride and Nealey.

Brief History:
Committee Activity:
Finance: 2/5/16, 2/8/16 [DP].

Brief Summary of Bill

- Modifies what needs to be posted electronically by a city or county when adopting an ordinance, resolution, or policy imposing specific requirements on landlords or sellers of real property.
- Modifies provisions disqualifying a city or county from using real estate excise tax revenues for maintenance and operation of capital projects.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 15 members: Representatives Lytton, Chair; Robinson, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Frame, Manweller, Pollet, Reykdal, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

Staff: Dominique Meyers (786-7150).

Background:

Real Estate Excise Tax - General Authorization for Counties and Cities.
County legislative authorities may impose an excise tax on each sale of real property in the unincorporated areas of the county. Similarly, city and town (city) legislative authorities may

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

impose an excise tax on each sale of real property within their corporate limits. County and city real estate excise taxes (REET I) may not exceed a rate of 0.25 percent of the selling price of property. However, in lieu of imposing a local sales and use tax, a county or city may impose an additional excise tax on each sale of real property within its jurisdiction at a rate not to exceed 0.50 percent of the selling price.

Proceeds from the REET I may be used for capital purposes, improvements, and projects. In counties and cities with fewer than 5,000 residents, and in counties and cities that do not fully plan under the Growth Management Act (GMA), the proceeds may be used for any capital purpose identified in a capital improvements plan and local capital improvements. In counties with more than 5,000 residents, and cities with more than 5,000 residents that fully plan under the GMA, the proceeds may be used: (a) to finance capital projects specified in a capital facilities plan; (b) for housing relocation assistance for low-income tenants; (c) for qualifying debt retirement; and (d) for projects to which revenue was committed prior to April 30, 1992.

For purposes of using REET I proceeds, "capital project" (REET I capital projects) means public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of certain types of facilities and infrastructure, including:

- streets, roads, highways, and sidewalks;
- street and road lighting systems;
- storm and sanitary sewer systems;
- recreational facilities;
- parks;
- law enforcement and fire protection facilities;
- administrative and judicial facilities; and
- river and waterway flood control projects.

Until December 31, 2016, counties and cities may use the greater of either $100,000 or 35 percent of available funds collected under REET I, not to exceed $1 million per year for the operation and maintenance of existing REET I capital projects.

After December 31, 2016, counties and cities that impose the REET I may use the greater of $100,000 or 25 percent of available funds, not to exceed $1 million per year, from revenues collected for maintenance of REET I capital projects.

Real Estate Excise Tax - Additional Authorization for Fully Planning Counties and Cities. Counties and cities that are required to plan under the GMA may impose an additional real estate excise tax (REET II) on each sale of real property within their jurisdictions. However, the issue of whether to impose the REET II must first be approved by voters at a general or special election. The REET II may not exceed a rate of 0.25 percent of the selling price of property. Counties and cities may use revenue collected from the REET II for: (a) financing capital projects specified in the capital facilities element of a comprehensive plan; (b) qualifying debt retirement; or (c) for projects to which revenue was committed prior to March 1, 1992. For purposes of using REET II proceeds, "capital project" (REET II capital projects) means public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of certain types of facilities and infrastructure, including:

- streets, roads, highways, and sidewalks;
- street and road lighting systems; and
- storm and sanitary sewer systems.

Until December 31, 2016, counties and cities may use the greater of either $100,000 or 35 percent of available funds collected under REET II, not to exceed $1 million per year for the operation and maintenance of existing REET II capital projects. In addition, until December 31, 2016, counties may use available REET II proceeds for the payment of existing debt service incurred for REET I capital projects.

After December 31, 2016, counties and cities that impose the REET II may use the greater of $100,000 or 25 percent of available funds, not to exceed $1 million per year, from revenues collected:

- for maintenance of REET II capital projects; and
- for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, and maintenance of some REET I capital projects (*i.e.*, only projects included within the definition of REET I capital projects that are not also included within the definition of REET II capital projects).

"Maintenance" is defined to mean the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

For purposes of using REET revenue for operation and maintenance, the county or city must prepare a written report demonstrating that it has or will have adequate funding to pay for all of its capital projects identified in a capital facilities plan or other document for the succeeding two-year period. The report must be prepared and adopted as part of the county or city's regular, public budget process and must provide specific information, including how revenues collected under the REET I or REET II were used in the preceding two years and how the funds will be used during the succeeding two-years. A county or city that enacted, after, September 26, 2015, any new requirement on the listing, leasing, or sale of real property, unless the requirement is authorized by state or federal law, is not authorized to use REET revenues for operation and maintenance of capital projects.

<u>Municipal Research and Services Center</u>.
The Department of Commerce is required by statute to contract for the provision of municipal research and services to cities, towns, counties, and special purpose districts. This directive is fulfilled through a contract with the Municipal Research and Services Center (MRSC), a nonprofit organization that provides policy, financial, and legal research and support services in accordance with the terms of the contract. The MRSC maintains a website where publications, reports, and materials associated with municipal research and services are posted.

Counties and cities must post on the MRSC website any ordinance, resolution, or policy adopted by the county or city that imposes a requirement on landlords or sellers of real property to provide information to a buyer or tenant pertaining to subject property or the surrounding area. The ordinance, resolution, or policy is not effective until posted in accordance with this requirement. If a local ordinance, resolution, or policy was adopted prior to September 26, 2015, the ordinance, resolution, or policy must be posted within 90 days or it will cease to be in effect.

The MRSC must provide a list of all requirements imposed by counties, cities, and towns on landlords or sellers of real property to provide information to a buyer or tenant pertaining to subject property or the surrounding area. The list must be posted on the MRSC website, and it must list by jurisdiction all such local requirements.

Summary of Bill:

The requirement for cities and counties to electronically post any ordinance, resolution, or policy adopted by a city or county imposing specific requirements on landlords or sellers of real property, is modified to ensure the posting provides both a summary, and a link to the city or county ordinance or a copy of the actual language pertaining to the adopted ordinance, resolution or policy.

Provisions disqualifying a city or county from using REET revenues for maintenance and operation of capital projects are modified. Instead of disqualifying a city or county that enacts a requirement on the leasing of real property, a city or county is disqualified if it enacts any requirement on landlords to perform or provide physical improvements or modifications to real property or fixtures, unless the requirement is: (a) necessary to address an immediate threat to public health or safety; (b) specifically authorized by state or federal law; or (c) a seller or landlord disclosure requirement.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Last year there was a bill that passed that provided flexibility for use of REET tax revenues. The bill had support from cities, counties, and the realtors. This bill just fixes two little problems found when trying to implement the new law. The bill still has some work, but everyone is working hard to get this done to make sure the cities can use the REET revenues as intended. This bill is making clarifications to help the implementation of last year's bill.

(Opposed) None.

(Other) Generally, this bill is a work in progress and that is the reason for concern. However, as long as the legislation does not interfere with local flexibility around landlord tenant law, the continued work being done collaboratively should resolve these concerns.

Persons Testifying: (In support) Carl Schroeder, Association of Washington Cities; Bill Clarke, Washington Realtors.

(Other) Nick Federici, Washington Low Income Housing Alliance.

Persons Signed In To Testify But Not Testifying: None.