

# HOUSE BILL REPORT

## EHB 2444

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### As Passed Legislature

**Title:** An act relating to providing a real estate excise tax exemption for certain transfers of low-income housing.

**Brief Description:** Providing a real estate excise tax exemption for certain transfers of low-income housing.

**Sponsors:** Representatives Slatter, Robinson, McBride, Clibborn, Appleton, Tharinger, Kloba, Doglio and Tarleton.

#### **Brief History:**

##### **Committee Activity:**

Finance: 1/16/18, 2/2/18 [DP].

##### **Floor Activity:**

Passed House: 2/13/18, 98-0.

Senate Amended.

Passed Senate: 3/8/18, 48-1.

House Concurred.

Passed House: 3/8/18, 98-0.

Passed Legislature.

#### **Brief Summary of Engrossed Bill**

- Provides a real estate excise tax exemption for the transfer of a qualified low-income housing development or controlling interest in a qualified low-income housing development, until July 1, 2035.
- Defines qualified low-income housing development.
- Directs the Joint Legislative Audit and Review Committee to review the tax preference in 2033

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 11 members: Representatives Lytton, Chair; Frame, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Dolan, Pollet, Springer, Stokesbary, Wilcox and Wylie.

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*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.*

**Staff:** Richelle Geiger (786-7139).

**Background:**

Real Estate Excise Tax.

Real estate excise tax (REET) is assessed on the sale of real estate. The REET is assessed on the selling price, including the amount of any liens, mortgages, or other debts. The REET is typically paid by the seller of the property, although the buyer is liable if the REET is not paid. The REET also applies to transfers of controlling interest in entities that own property in the state. The state REET rate is 0.0128. City and county rates vary by location, ranging from 0.0025 to 0.015. Certain types of real estate transactions are statutorily exempt from REET.

Federal Low-Income Housing Tax Credits.

The Low-Income Housing Tax Credit (LIHTC) is a federal income tax incentive program used to encourage private investment in affordable housing development for low-income households. In Washington, the housing credits are allocated by the Housing Finance Commission (Commission). The Commission awards tax credits to project developers, who sell the credits to investors to raise capital for their projects. The properties developed must serve individuals at or below 60 percent of area median income. The Commission also monitors all tax-credit properties for compliance. Serious violations of federal statutory requirements may result in the recapture of all or some of the allocated credits.

**Summary of Engrossed Bill:**

A REET exemption is provided for the transfer of a qualified low-income housing development or controlling interest in a qualified low-income housing development, until July 1, 2035.

"Qualified low-income housing development" is defined as real property and improvements for which the seller was allocated federal low-income housing tax credits.

The exemption does not apply if the seller has been subject to recapture of all or some of the allocated credits within the four years prior to the date of transfer due to noncompliance with federal statutory requirements.

The Washington State Housing Finance Commission, working with the Department of Revenue, is directed to collect data to measure the effectiveness of the tax preference in lowering costs for beneficiaries and maintaining the use of the property for low-income housing; and requires the Joint Legislative Audit and Review Committee to conduct a review of the exemption in 2033.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on July 1, 2018.

**Staff Summary of Public Testimony:**

(In support) The state and nation are in the midst of an affordable housing crisis. It is evident in many communities across the state. Many Washingtonians have benefited from the stability that affordable housing projects provide families in need.

Historically, the REET has not been assessed on the transfer of low-income housing. Based on a recent Department of Revenue interpretation, it is necessary to clearly codify the exemption in order to ensure individuals in our communities can continue to benefit from affordable housing projects. The REET was never envisioned to be assessed on these types of transfers. The transfer of affordable housing to a low-income family is not a traditional real estate sale to a second party.

The primary source of revenue for low-income housing projects is the federal Low-Income Housing Tax Credit program. Those resources should not be used to pay the REET when they could go towards supporting the development of more affordable housing projects. If the REET were required to be paid on these transactions, it could bankrupt some nonprofit organizations.

To ensure the longevity and success of affordable housing projects in our state, this bill must pass.

(Opposed) None.

**Persons Testifying:** Representative Slatter, prime sponsor; Mark Kantor, Kantor Taylor PC; Rob Van Tassell, Catholic Community Services of Western Washington; John Poulson, Bellwether Housing; Marty Kooistra, Housing Development Consortium of Seattle-King County; Kim Herman, Washington State Housing Finance Commission; Andrew Calkins, Association of Washington Housing Authorities; and Yolanda Beebe, Low Income Housing Institute.

**Persons Signed In To Testify But Not Testifying:** None.