SENATE BILL REPORT
EHB 2444

As Passed Senate - Amended, March 8, 2018

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: Passed House: 2/13/18, 98-0.
Committee Activity: Ways & Means: 3/06/18 [DPA(WM), w/oRec].
Floor Activity:
Passed Senate - Amended: 3/08/18, 48-1.

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.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Ways & Means.
Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Braun, Ranking Member; Billig, Carlyle, Conway, Darneille, Fain, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Rivers and Van De Wege.

Minority Report: That it be referred without recommendation.
Signed by Senators Honeyford, Assistant Ranking Member; Bailey, Becker, Brown, Hasegawa, Schoesler, Wagoner and Warnick.

Staff: Jeffrey Mitchell (786-7438)

Background: REET. 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

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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 1.28 percent. Cities and counties are also authorized to impose local option real estate excise taxes. Combined state and local tax rates are typically either 1.53 percent or 1.78 percent. Certain types of real estate transactions, such as gifts or inheritances, 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.

Tax Preference Performance Statement and Expiration Date. All new tax preference legislation must include a tax preference performance statement. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objectives of the tax preference and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference. New tax preferences expire ten years after the effective date of the tax preference, unless otherwise provided.

Summary of Engrossed Bill: Until July 1, 2035, 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.

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 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 Department of Revenue, is required to collect data to measure the effectiveness of the tax exemption in maintaining the use of the property for low-income individuals and reducing costs for the transferees of the property. The JLARC is required to review the tax preference in 2033 using the data collected by the Housing Finance Commission.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The state never intended to levy this tax with its detrimental impacts. This bill presents a clarification and not a change in practice. Without this bill, there is risk that a simple transfer of ownership that does not involve cash will be taxed. This will cause organizations to divert funds that could otherwise go to services such as shelter and food. Smaller agencies will be forced into even more dire circumstances. This bill ensures that the primary mission of organizations to address homelessness is not impacted with a new, unexpected cost. This would be an additional cost of almost $100,000. This bill addresses a technical issue that has come up in the last 18 months.

Persons Testifying: PRO: Mark Kantor, Kantor Taylor; Robert Van Tassell, Catholic Housing Services of Western Washington; Kelli Larson, Plymouth Housing Group.

Persons Signed In To Testify But Not Testifying: No one.