
SUBSTITUTE HOUSE BILL 1798

State of Washington

65th Legislature

2018 Regular Session

By House Judiciary (originally sponsored by Representatives McBride, Gregerson, Robinson, Appleton, Ormsby, Macri, McDonald, Orwall, Reeves, Kagi, Sells, Bergquist, and Pollet)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to the sale of manufactured/mobile home
2 communities; amending RCW 59.20.030, 82.45.010, and 82.45.060; adding
3 new sections to chapter 59.20 RCW; creating a new section; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) It is the policy of this state to encourage affordable
8 housing ownership, including manufactured/mobile home community
9 living.

10 (b) Manufactured/mobile home communities provide a significant
11 source of homeownership opportunities for Washington residents.
12 However, the increasing closure and conversion of manufactured/mobile
13 home communities to other uses, combined with increasing
14 manufactured/mobile home lot rents, low vacancy rates in existing
15 manufactured/mobile home communities, and the extremely high cost of
16 moving homes when manufactured/mobile home communities close,
17 increasingly justifies incentives to make manufactured/mobile home
18 community living more secure for manufactured/mobile home tenants.

19 (c) Many tenants who reside in manufactured/mobile home
20 communities are part of low-income households and senior citizens and
21 are, therefore, those residents most in need of reasonable security

1 in the siting of their manufactured/mobile homes because such tenants
2 experience adverse impacts on their health, safety, and welfare when
3 forced to move due to closure, change of use, or discontinuance of
4 manufactured/mobile home communities.

5 (2) It is the intent of the legislature to encourage and
6 facilitate the preservation of existing manufactured/mobile home
7 communities in the event of voluntary sales of manufactured/mobile
8 home communities and, to the extent necessary and possible, to
9 involve manufactured/mobile home community tenants or an eligible
10 organization, such as a nonprofit organization, housing authority,
11 community land trust, or local government, in the preservation of
12 manufactured/mobile home communities.

13 (3) This subsection is the tax preference performance statement
14 for the tax preference in sections 6 and 7 of this act. The
15 performance statement is only intended to be used for subsequent
16 evaluation of the tax preference. It is not intended to create a
17 private right of action by any party or be used to determine
18 eligibility for preferential tax treatment.

19 (4) The legislature categorizes this tax preference as one
20 intended to provide individual tax relief, as indicated in RCW
21 82.32.808(2)(e).

22 (5) It is the legislature's specific public policy objective to
23 extend the real estate excise tax exemption for qualified sales of a
24 manufactured/mobile home community and to provide a lower rate for
25 sellers that provide the notice of opportunity to purchase and wait
26 to close any sale until seventy-five days after providing such
27 notice.

28 (6) The joint legislative audit and review committee is not
29 required to assess the effectiveness of the tax preference in
30 sections 6 and 7 of this act, in achieving the intent and specific
31 public policy objective stated in this section.

32 **Sec. 2.** RCW 59.20.030 and 2008 c 116 s 2 are each amended to
33 read as follows:

34 For purposes of this chapter:

35 (1) "Abandoned" as it relates to a mobile home, manufactured
36 home, or park model owned by a tenant in a mobile home park, mobile
37 home park cooperative, or mobile home park subdivision or tenancy in
38 a mobile home lot means the tenant has defaulted in rent and by

1 absence and by words or actions reasonably indicates the intention
2 not to continue tenancy;

3 (2) "Eligible organization" includes local governments, local
4 housing authorities, nonprofit community or neighborhood-based
5 organizations, federally recognized Indian tribes in the state of
6 Washington, and regional or statewide nonprofit housing assistance
7 organizations;

8 (3) "Housing authority" or "authority" means any of the public
9 body corporate and politic created in RCW 35.82.030;

10 (4) "Landlord" means the owner of a mobile home park and includes
11 the agents of a landlord;

12 (5) "Local government" means a town government, city government,
13 code city government, or county government in the state of
14 Washington;

15 (6) "Manufactured home" means a single-family dwelling built
16 according to the United States department of housing and urban
17 development manufactured home construction and safety standards act,
18 which is a national preemptive building code. A manufactured home
19 also: (a) Includes plumbing, heating, air conditioning, and
20 electrical systems; (b) is built on a permanent chassis; and (c) can
21 be transported in one or more sections with each section at least
22 eight feet wide and forty feet long when transported, or when
23 installed on the site is three hundred twenty square feet or greater;

24 (7) "Manufactured/mobile home" means either a manufactured home
25 or a mobile home;

26 (8) "Mobile home" means a factory-built dwelling built prior to
27 June 15, 1976, to standards other than the United States department
28 of housing and urban development code, and acceptable under
29 applicable state codes in effect at the time of construction or
30 introduction of the home into the state. Mobile homes have not been
31 built since the introduction of the United States department of
32 housing and urban development manufactured home construction and
33 safety act;

34 (9) "Mobile home lot" means a portion of a mobile home park or
35 manufactured housing community designated as the location of one
36 mobile home, manufactured home, or park model and its accessory
37 buildings, and intended for the exclusive use as a primary residence
38 by the occupants of that mobile home, manufactured home, or park
39 model;

1 (10) "Mobile home park," "manufactured housing community," or
2 "manufactured/mobile home community" means any real property which is
3 rented or held out for rent to others for the placement of two or
4 more mobile homes, manufactured homes, or park models for the primary
5 purpose of production of income, except where such real property is
6 rented or held out for rent for seasonal recreational purpose only
7 and is not intended for year-round occupancy;

8 (11) "Mobile home park cooperative" or "manufactured housing
9 cooperative" means real property consisting of common areas and two
10 or more lots held out for placement of mobile homes, manufactured
11 homes, or park models in which both the individual lots and the
12 common areas are owned by an association of shareholders which leases
13 or otherwise extends the right to occupy individual lots to its own
14 members;

15 (12) "Mobile home park subdivision" or "manufactured housing
16 subdivision" means real property, whether it is called a subdivision,
17 condominium, or planned unit development, consisting of common areas
18 and two or more lots held for placement of mobile homes, manufactured
19 homes, or park models in which there is private ownership of the
20 individual lots and common, undivided ownership of the common areas
21 by owners of the individual lots;

22 (13) "Notice of sale" means a notice required under RCW 59.20.300
23 to be delivered to all tenants of a manufactured/mobile home
24 community and other specified parties within fourteen days after the
25 date on which any advertisement, multiple listing, or public notice
26 advertises that a manufactured/mobile home community is for sale;

27 (14) "Park model" means a recreational vehicle intended for
28 permanent or semi-permanent installation and is used as a primary
29 residence;

30 (15) "Qualified sale of manufactured/mobile home community" means
31 the sale, as defined in RCW 82.45.010, of land and improvements
32 comprising a manufactured/mobile home community that is transferred
33 in a single purchase to a qualified tenant organization or to an
34 eligible organization for the purpose of preserving the property as a
35 manufactured/mobile home community;

36 (16) "Qualified tenant organization" means a formal organization
37 of tenants within a manufactured/mobile home community, with the only
38 requirement for membership consisting of being a tenant;

39 (17) "Recreational vehicle" means a travel trailer, motor home,
40 truck camper, or camping trailer that is primarily designed and used

1 as temporary living quarters, is either self-propelled or mounted on
2 or drawn by another vehicle, is transient, is not occupied as a
3 primary residence, and is not immobilized or permanently affixed to a
4 mobile home lot;

5 (18) "Tenant" means any person, except a transient, who rents a
6 mobile home lot;

7 (19) "Transient" means a person who rents a mobile home lot for a
8 period of less than one month for purposes other than as a primary
9 residence;

10 (20) "Occupant" means any person, including a live-in care
11 provider, other than a tenant, who occupies a mobile home,
12 manufactured home, or park model and mobile home lot;

13 (21) "Notice of opportunity to purchase" means a notice required
14 under section 3 of this act to the department of commerce.

15 NEW SECTION. Sec. 3. A new section is added to chapter 59.20
16 RCW to read as follows:

17 (1) A landlord must provide a written notice of opportunity to
18 purchase a manufactured/mobile home community by certified mail or
19 personal delivery to the department of commerce within ten business
20 days after the date on which a landlord receives a bona fide offer to
21 purchase his or her manufactured/mobile home community or the
22 property on which the manufactured/mobile home community is located.
23 Notice by certified mail postmarked within ten days of receipt of a
24 bona fide offer to purchase is deemed to comply with the requirements
25 of this section.

26 (2) A notice of opportunity to purchase must include:

27 (a) A statement that the landlord is, or is not, considering the
28 sale of the manufactured/mobile home community;

29 (b) A statement indicating whether the landlord intends to wait
30 to close any sale until at least seventy-five days after the date of
31 delivery of the notice of opportunity to purchase; and

32 (c) The contact information for the landlord or landlord's agent
33 who is responsible for communicating with the qualified tenant
34 organization or eligible organization regarding an opportunity to
35 make an offer for the sale of the property.

36 NEW SECTION. Sec. 4. A new section is added to chapter 59.20
37 RCW to read as follows:

1 Landlords are encouraged not to close on the sale of a
2 manufactured/mobile home community until at least seventy-five days
3 after the date on which the notice of opportunity to purchase was
4 delivered.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.20
6 RCW to read as follows:

7 (1) The department of commerce must maintain a list of all
8 eligible organizations and qualified tenant organizations that submit
9 to the department of commerce a written request to receive notices of
10 opportunity to purchase manufactured/mobile home communities, as
11 provided in section 3 of this act, containing the following
12 information:

13 (a) The name and mailing address of the eligible organization;
14 and

15 (b) A statement that the eligible organization wishes to purchase
16 a manufactured/mobile home community.

17 (2) The department of commerce must provide a copy of the list
18 required under this section to any person upon request.

19 **Sec. 6.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to
20 read as follows:

21 (1) As used in this chapter, the term "sale" has its ordinary
22 meaning and includes any conveyance, grant, assignment, quitclaim, or
23 transfer of the ownership of or title to real property, including
24 standing timber, or any estate or interest therein for a valuable
25 consideration, and any contract for such conveyance, grant,
26 assignment, quitclaim, or transfer, and any lease with an option to
27 purchase real property, including standing timber, or any estate or
28 interest therein or other contract under which possession of the
29 property is given to the purchaser, or any other person at the
30 purchaser's direction, and title to the property is retained by the
31 vendor as security for the payment of the purchase price. The term
32 also includes the grant, assignment, quitclaim, sale, or transfer of
33 improvements constructed upon leased land.

34 (2)(a) The term "sale" also includes the transfer or acquisition
35 within any twelve-month period of a controlling interest in any
36 entity with an interest in real property located in this state for a
37 valuable consideration.

1 (b) For the sole purpose of determining whether, pursuant to the
2 exercise of an option, a controlling interest was transferred or
3 acquired within a twelve-month period, the date that the option
4 agreement was executed is the date on which the transfer or
5 acquisition of the controlling interest is deemed to occur. For all
6 other purposes under this chapter, the date upon which the option is
7 exercised is the date of the transfer or acquisition of the
8 controlling interest.

9 (c) For purposes of this subsection, all acquisitions of persons
10 acting in concert must be aggregated for purposes of determining
11 whether a transfer or acquisition of a controlling interest has taken
12 place. The department must adopt standards by rule to determine when
13 persons are acting in concert. In adopting a rule for this purpose,
14 the department must consider the following:

15 (i) Persons must be treated as acting in concert when they have a
16 relationship with each other such that one person influences or
17 controls the actions of another through common ownership; and

18 (ii) When persons are not commonly owned or controlled, they must
19 be treated as acting in concert only when the unity with which the
20 purchasers have negotiated and will consummate the transfer of
21 ownership interests supports a finding that they are acting as a
22 single entity. If the acquisitions are completely independent, with
23 each purchaser buying without regard to the identity of the other
24 purchasers, then the acquisitions are considered separate
25 acquisitions.

26 (3) The term "sale" does not include:

27 (a) A transfer by gift, devise, or inheritance.

28 (b) A transfer by transfer on death deed, to the extent that it
29 is not in satisfaction of a contractual obligation of the decedent
30 owed to the recipient of the property.

31 (c) A transfer of any leasehold interest other than of the type
32 mentioned above.

33 (d) A cancellation or forfeiture of a vendee's interest in a
34 contract for the sale of real property, whether or not such contract
35 contains a forfeiture clause, or deed in lieu of foreclosure of a
36 mortgage.

37 (e) The partition of property by tenants in common by agreement
38 or as the result of a court decree.

39 (f) The assignment of property or interest in property from one
40 spouse or one domestic partner to the other spouse or other domestic

1 partner in accordance with the terms of a decree of dissolution of
2 marriage or state registered domestic partnership or in fulfillment
3 of a property settlement agreement.

4 (g) The assignment or other transfer of a vendor's interest in a
5 contract for the sale of real property, even though accompanied by a
6 conveyance of the vendor's interest in the real property involved.

7 (h) Transfers by appropriation or decree in condemnation
8 proceedings brought by the United States, the state or any political
9 subdivision thereof, or a municipal corporation.

10 (i) A mortgage or other transfer of an interest in real property
11 merely to secure a debt, or the assignment thereof.

12 (j) Any transfer or conveyance made pursuant to a deed of trust
13 or an order of sale by the court in any mortgage, deed of trust, or
14 lien foreclosure proceeding or upon execution of a judgment, or deed
15 in lieu of foreclosure to satisfy a mortgage or deed of trust.

16 (k) A conveyance to the federal housing administration or
17 veterans administration by an authorized mortgagee made pursuant to a
18 contract of insurance or guaranty with the federal housing
19 administration or veterans administration.

20 (l) A transfer in compliance with the terms of any lease or
21 contract upon which the tax as imposed by this chapter has been paid
22 or where the lease or contract was entered into prior to the date
23 this tax was first imposed.

24 (m) The sale of any grave or lot in an established cemetery.

25 (n) A sale by the United States, this state or any political
26 subdivision thereof, or a municipal corporation of this state.

27 (o) A sale to a regional transit authority or public corporation
28 under RCW 81.112.320 under a sale/leaseback agreement under RCW
29 81.112.300.

30 (p) A transfer of real property, however effected, if it consists
31 of a mere change in identity or form of ownership of an entity where
32 there is no change in the beneficial ownership. These include
33 transfers to a corporation or partnership which is wholly owned by
34 the transferor and/or the transferor's spouse or domestic partner or
35 children of the transferor or the transferor's spouse or domestic
36 partner. However, if thereafter such transferee corporation or
37 partnership voluntarily transfers such real property, or such
38 transferor, spouse or domestic partner, or children of the transferor
39 or the transferor's spouse or domestic partner voluntarily transfer
40 stock in the transferee corporation or interest in the transferee

1 partnership capital, as the case may be, to other than (i) the
2 transferor and/or the transferor's spouse or domestic partner or
3 children of the transferor or the transferor's spouse or domestic
4 partner, (ii) a trust having the transferor and/or the transferor's
5 spouse or domestic partner or children of the transferor or the
6 transferor's spouse or domestic partner as the only beneficiaries at
7 the time of the transfer to the trust, or (iii) a corporation or
8 partnership wholly owned by the original transferor and/or the
9 transferor's spouse or domestic partner or children of the transferor
10 or the transferor's spouse or domestic partner, within three years of
11 the original transfer to which this exemption applies, and the tax on
12 the subsequent transfer has not been paid within sixty days of
13 becoming due, excise taxes become due and payable on the original
14 transfer as otherwise provided by law.

15 (q)(i) A transfer that for federal income tax purposes does not
16 involve the recognition of gain or loss for entity formation,
17 liquidation or dissolution, and reorganization, including but not
18 limited to nonrecognition of gain or loss because of application of
19 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
20 revenue code of 1986, as amended.

21 (ii) However, the transfer described in (q)(i) of this subsection
22 cannot be preceded or followed within a twelve-month period by
23 another transfer or series of transfers, that, when combined with the
24 otherwise exempt transfer or transfers described in (q)(i) of this
25 subsection, results in the transfer of a controlling interest in the
26 entity for valuable consideration, and in which one or more persons
27 previously holding a controlling interest in the entity receive cash
28 or property in exchange for any interest the person or persons acting
29 in concert hold in the entity. This subsection (3)(q)(ii) does not
30 apply to that part of the transfer involving property received that
31 is the real property interest that the person or persons originally
32 contributed to the entity or when one or more persons who did not
33 contribute real property or belong to the entity at a time when real
34 property was purchased receive cash or personal property in exchange
35 for that person or persons' interest in the entity. The real estate
36 excise tax under this subsection (3)(q)(ii) is imposed upon the
37 person or persons who previously held a controlling interest in the
38 entity.

1 (r) A qualified sale of a manufactured/mobile home community, as
2 defined in RCW 59.20.030, that takes place on or after June 12, 2008,
3 but before December 31, (~~2018~~) 2026.

4 **Sec. 7.** RCW 82.45.060 and 2017 3rd sp.s. c 10 s 13 are each
5 amended to read as follows:

6 There is imposed an excise tax upon each sale of real property at
7 the rate of one and twenty-eight one-hundredths percent of the
8 selling price, except that the excise tax upon each sale of a
9 manufactured/mobile home community, as defined in RCW 59.20.030, to
10 any person other than an eligible organization or qualified tenant
11 organization, as defined in RCW 59.20.030, must be at the rate of
12 sixty-four one-hundredths of the selling price if the seller provides
13 satisfactory evidence that he or she complied with the notice of
14 opportunity to purchase requirement found in section 3 of this act,
15 included a statement on that notice of an intention to wait at least
16 seventy-five days to close and did, in fact, wait at least seventy-
17 five days to close as is encouraged in section 4 of this act.

18 Beginning July 1, 2013, and ending June 30, 2023, an amount equal to
19 two percent of the proceeds of this tax must be deposited in the
20 public works assistance account created in RCW 43.155.050, and an
21 amount equal to four and one-tenth percent must be deposited in the
22 education legacy trust account created in RCW 83.100.230. Thereafter,
23 an amount equal to six and one-tenth percent of the proceeds of this
24 tax to the state treasurer must be deposited in the public works
25 assistance account created in RCW 43.155.050. Except as otherwise
26 provided in this section, an amount equal to one and six-tenths
27 percent of the proceeds of this tax to the state treasurer must be
28 deposited in the city-county assistance account created in RCW
29 43.08.290.

30 NEW SECTION. **Sec. 8.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

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