
HOUSE BILL 2875

State of Washington

65th Legislature

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By Representatives McBride, Jinkins, Muri, Fey, Ryu, Kilduff, Sawyer, McDonald, Tharinger, Barkis, Stambaugh, Wilcox, Wylie, Kirby, Ortiz-Self, Clibborn, and Chapman

Read first time 01/19/18. Referred to Committee on Finance.

1 AN ACT Relating to sales, use, and excise tax exemptions for
2 self-help housing development; amending RCW 82.45.010; adding a new
3 section to chapter 82.08 RCW; adding a new section to chapter 82.12
4 RCW; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08
7 RCW to read as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to charges
9 made for labor and services rendered by any affordable homeownership
10 facilitator in respect to the constructing, repairing, decorating, or
11 improving of new or existing self-help housing, or to sales of
12 tangible personal property that becomes an ingredient or component of
13 the buildings or other structures during the course of the
14 constructing, repairing, decorating, or improving the self-help
15 housing. The exemption under this section is available only if the
16 buyer provides the seller with an exemption certificate in a form and
17 manner prescribed by the department by rule.

18 (2) The exemption provided in this section for self-help housing
19 only applies if the housing is built to the current building code for
20 single-family dwellings according to the state building code, chapter
21 19.27 RCW.

1 (3) Any self-help housing built under this section must be used
2 according to this section for at least five consecutive years from
3 the date the housing is approved for occupancy, or the full amount of
4 tax otherwise due is immediately due and payable together with
5 interest, but not penalties, from the date the housing is approved
6 for occupancy until the date of payment. If at any time self-help
7 housing ceases to be the primary dwelling of the initial low-income
8 purchaser, the full amount of tax otherwise due is immediately due
9 and payable with interest, but not penalties, from the date the
10 housing ceases to be used as self-help housing until the date of
11 payment.

12 (4) The exemption provided in this section does not apply to
13 housing built for the occupancy of an employee, family member of an
14 employee, or person on the board of trustees or directors, of an
15 affordable homeownership facilitator.

16 (5) The definitions in this subsection apply throughout this
17 section unless the context clearly requires otherwise.

18 (a) "Affordable homeownership facilitator" means a nonprofit
19 community or neighborhood-based organization that is exempt from
20 federal income tax under Title 26 U.S.C. Sec. 501(c) of the internal
21 revenue code of 1986, as amended, as of the effective date of this
22 section that acts as a developer of self-help housing;

23 (b) "Low-income household" means a single person, family, or
24 unrelated persons living together whose adjusted income is at or
25 below eighty percent of the median family income adjusted for family
26 size, for the county in which the property is located, as reported by
27 the United States department of housing and urban development; and

28 (c) "Self-help housing" means dwelling residences provided for
29 ownership by low-income individuals and families whose equity in the
30 housing is substantially derived from their labor. "Self-help
31 housing" does not include residential rental housing provided on a
32 commercial basis to the general public.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12
34 RCW to read as follows:

35 (1) The provisions of this chapter do not apply in respect of the
36 use of tangible personal property that becomes an ingredient or
37 component of buildings or structures used as self-help housing by any
38 affordable homeownership facilitator during the course of

1 constructing, repairing, decorating, or improving the buildings or
2 other structures by any person.

3 (2) The exemption provided in this section for self-help housing
4 only applies if the housing is built to the current building code for
5 single-family dwellings according to the state building code in
6 chapter 19.27 RCW.

7 (3) Any self-help housing built under this section must be used
8 as the primary dwelling of the initial low-income purchaser for at
9 least five consecutive years from the date the housing is approved
10 for occupancy.

11 (4) The exemption provided in this section does not apply to
12 housing built for the occupancy of an employee, family member of an
13 employee, or person on the board of trustees or directors, of an
14 affordable homeownership facilitator.

15 (5) The definitions in section 1 of this act apply to this
16 section.

17 **Sec. 3.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to
18 read as follows:

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

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

36 (b) For the sole purpose of determining whether, pursuant to the
37 exercise of an option, a controlling interest was transferred or
38 acquired within a twelve-month period, the date that the option
39 agreement was executed is the date on which the transfer or

1 acquisition of the controlling interest is deemed to occur. For all
2 other purposes under this chapter, the date upon which the option is
3 exercised is the date of the transfer or acquisition of the
4 controlling interest.

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

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

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

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

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

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

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

29 (d) A cancellation or forfeiture of a vendee's interest in a
30 contract for the sale of real property, whether or not such contract
31 contains a forfeiture clause, or deed in lieu of foreclosure of a
32 mortgage.

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

35 (f) The assignment of property or interest in property from one
36 spouse or one domestic partner to the other spouse or other domestic
37 partner in accordance with the terms of a decree of dissolution of
38 marriage or state registered domestic partnership or in fulfillment
39 of a property settlement agreement.

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

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

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

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

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

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

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

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

24 (o) A sale to a regional transit authority or public corporation
25 under RCW 81.112.320 under a sale/leaseback agreement under RCW
26 81.112.300.

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

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

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

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

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

1 (s) The sale by an affordable homeownership facilitator of self-
2 help housing to a low-income household. The definitions in section 1
3 of this act apply to this subsection (3)(s).

4 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of
6 the state government and its existing public institutions, and takes
7 effect immediately.

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