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SENATE BILL 6074

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State of Washington

65th Legislature

2018 Regular Session

By Senator Takko

Prefiled 01/04/18.

1 AN ACT Relating to recording documents related to the inheritance  
2 exemption for the real estate excise tax; and amending RCW 82.45.197.

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

4 **Sec. 1.** RCW 82.45.197 and 2016 c 174 s 2 are each amended to  
5 read as follows:

6 (1) In order to receive an exemption under RCW 82.45.010(3)(a)  
7 from the tax in this chapter on real property transferred as a result  
8 of a devise by will or inheritance, the following documentation must  
9 be provided to the county treasurer:

10 (a) If the property is being transferred under the terms of a  
11 community property agreement, a copy of the recorded agreement and a  
12 certified copy of the death certificate;

13 (b) If the property is being transferred under the terms of a  
14 trust instrument, a certified copy of the death certificate and a  
15 copy of that portion of the trust instrument showing the authority of  
16 the grantor;

17 (c) If the property is being transferred under the terms of a  
18 probated will, a certified copy of the letters testamentary or in the  
19 case of intestate administration, a certified copy of the letters of  
20 administration showing that the grantor is the court-appointed  
21 executor, executrix, or administrator;

1 (d) In the case of joint tenants with right of survivorship and  
2 remainder interests, a certified copy of the death certificate;

3 (e) If the property is being transferred pursuant to a court  
4 order, a certified copy of the court order requiring the transfer,  
5 and confirming that the grantor is required to do so under the terms  
6 of the order;

7 (f) If the community property interest of the decedent is being  
8 transferred to a surviving spouse or surviving domestic partner  
9 absent the documentation set forth in (a) through (e) of this  
10 subsection, a certified copy of the death certificate and a signed  
11 lack of probate affidavit from the surviving spouse or surviving  
12 domestic partner affirming that he or she is the sole and rightful  
13 heir to the property;

14 (g) If the real property is transferred to one or more heirs by  
15 operation of law, or transferred under a will that has not been  
16 probated, but absent the documentation set forth in (a) through (e)  
17 of this subsection, a certified copy of the death certificate and a  
18 signed lack of probate affidavit affirming that the affiant or  
19 affiants are the sole and rightful heirs to the property;

20 (h) When real property is transferred as described in (g) of this  
21 subsection (1) and the decedent-transferor had also inherited the  
22 property from his or her spouse or domestic partner but never  
23 transferred title to the property into the decedent-transferor's  
24 name, the transferee or transferees must provide: (i) A certified  
25 copy of the death certificates for the decedent-transferor and the  
26 spouse or domestic partner from whom the decedent-transferor  
27 inherited the real property; and (ii) a lack of probate affidavit  
28 affirming that the affiant or affiants are the rightful heirs to the  
29 property; or

30 (i) If the property is being transferred pursuant to a transfer  
31 on death deed, a certified copy of the death certificate.

32 ~~(2) ((The documentation provided to the county treasurer under  
33 this section must also be recorded with the county auditor.~~

34 ~~(3))~~) The definitions in this subsection apply throughout this  
35 section unless the context clearly requires otherwise.

36 (a) "Heir" has the same meaning as provided in RCW 11.02.005;

37 (b) "Lack of probate affidavit" means a signed and notarized  
38 document declaring that the affiant or affiants are the rightful heir  
39 or heirs to the property and containing the following information:

40 (i) The names of the affiant or affiants;

- 1           (ii) The relationship of the affiant or affiants to the decedent;  
2           (iii) The names of all other heirs of the decedent living at the  
3 time of the decedent's death;  
4           (iv) A description of the real property;  
5           (v) Whether the decedent left a will that includes a devise of  
6 real property; and  
7           (vi) Any other information the department may require.

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