

# HOUSE BILL REPORT

## SSB 5025

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### As Passed House - Amended:

April 17, 2019

**Title:** An act relating to sales and use and excise tax exemptions for self-help housing development.

**Brief Description:** Concerning tax relief to encourage self-help housing development.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Das, Warnick, Wilson, C., Zeiger, Fortunato, Palumbo, Saldaña, Kuderer and O'Ban).

### Brief History:

#### Committee Activity:

Finance: 3/26/19, 4/2/19 [DPA].

#### Floor Activity:

Passed House - Amended: 4/17/19, 98-0.

### Brief Summary of Substitute Bill (As Amended by House)

- Provides a sales and use tax exemption for qualifying purchases of labor, services, and tangible personal property related to self-help housing.
- Defines "self-help housing," "affordable homeownership facilitator," and "low-income."

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Frame, Macri, Orwall, Springer, Stokesbary, Vick and Wylie.

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

### Background:

Sales and Use Tax.

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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.*

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Sales and use taxes are due on the following construction services: constructing and improving new or existing buildings and structures; and installing, repairing, cleaning, improving, constructing, and decorating real and personal property for others.

#### Tax Preferences.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

#### **Summary of Amended Bill:**

A retail sales tax exemption is provided to affordable homeownership facilitators for the purchase of labor and services for the construction, repair, decoration, or improvement of new or existing self-help housing. A retail sales and use tax exemption is provided to affordable homeownership facilitators for the purchase of tangible personal property that becomes a component of the self-help housing building or other structures during the course of constructing, repairing, decorating, or improving self-help housing. The self-help housing must be in compliance with current state building codes for single-family dwellings. The exemption can only be claimed if the buyer provides the seller with an exemption certificate. The exemption cannot be claimed if the housing is built to be occupied by an employee, family member of an employee, or person on the board of trustees or directors of an affordable homeownership facilitator.

Property that benefits from the sales and use tax exemption must qualify as self-help housing and be the primary dwelling of a low-income purchaser for at least five consecutive years from the date the housing is approved for occupancy. If these requirements are not met, the full amount of the exempt sales and use tax is due immediately with interest, but not penalties, from the date the housing was approved for occupancy until the date of payment.

"Self-help housing" is defined as dwelling residences provided for ownership by low-income individuals and families whose ownership requirement includes labor participation. "Self-help housing" does not include residential rental housing provided on a commercial basis to the general public.

"Affordable homeownership facilitator" is defined as a nonprofit community-based or neighborhood-based organization that acts as a developer of self-help housing and is exempt from federal income tax under Title 26 U.S.C. Sec. 501(c) as of October 1, 2019.

"Low-income" is defined as household income as defined by the Department of Revenue (DOR), provided that the definition may not exceed 80 percent of median household income, adjusted for household size, for the county in which the dwelling unit is located.

Affordable homeownership facilitators that claim the preference must annually report the following information to the DOR, in a form and manner required by the DOR:

1. total number of self-help units:
  - a. added by the affordable housing facilitator after the effective date of this bill;
  - b. for which any purchase qualified for the tax preference provided in this bill;and
2. total amount of retail sales and use tax that was exempt with the tax preference provided in this bill.

The bill contains a TPPS in which the public policy objective is to provide an excise tax relief to encourage continued development of self-help housing.

The JLARC is directed to review the total:

1. number of taxpayers that claim the tax preference provided in this act;
2. amount of tax revenue exempt under this act, annually;
3. number of self-help housing units:
  - a. added to the stock of self-help units after the effective date of this section;
  - b. for which any transactions qualified for the tax preference provided in this act;and
4. tax revenue described in (2) divided by the number of self-help housing units described in (3).

The JLARC may refer to data from the DOR as well as any other available data source.

The bill expires on January 1, 2030.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect on October 1, 2019.

**Staff Summary of Public Testimony:**

(In support) This bill is a critical piece of the puzzle to solve the affordable housing crisis. The fiscal impact of this bill is minimal for both the state and local governments. This bill would enable more affordable units to be developed more quickly. The increased housing inventory, results in increased property value, which increases the property tax base. This exemption makes federal and private grant applications more competitive because of lower building costs. Stable housing provides safety and lifts families up.

(Opposed) None.

**Persons Testifying:** Senator Das, prime sponsor; and Shawna Dutton, South Puget Sound Habitat for Humanity.

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