

**ESHB 1643** - S COMM AMD  
By Committee on Ways & Means

**ADOPTED 03/04/2022**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington  
4 state has one of the strongest economies in the country. However,  
5 despite the strong economy, our state has entered an affordable  
6 housing crisis where low-income and middle-income households have the  
7 fewest number of housing options. Furthermore, it is estimated that  
8 Washington state's housing gap is among the most severe in the  
9 nation, with only 29 affordable and available rental homes for every  
10 100 extremely low-income households.

11 (2) The legislature concludes that in the spirit of one  
12 Washington, the health of all Washingtonians will benefit from a  
13 larger stock in affordable housing. Therefore, it is the intent of  
14 the legislature to incentivize real property transfers to nonprofit  
15 housing providers, public housing authorities, or local governments  
16 to increase the availability of affordable housing for low-income  
17 Washingtonians.

18 NEW SECTION. **Sec. 2.** (1) This section is the tax preference  
19 performance statement for the tax preferences in sections 3 and 4,  
20 chapter . . ., Laws of 2022 (sections 3 and 4 of this act). This  
21 performance statement is only intended to be used for subsequent  
22 evaluation of the tax preferences. It is not intended to create a  
23 private right of action by any party or be used to determine  
24 eligibility for preferential tax treatment.

25 (2) The legislature categorizes this tax preference as one  
26 intended to induce certain designated behavior by taxpayers, as  
27 indicated in RCW 82.32.808(2) (a).

28 (3) It is the legislature's specific public policy objective to  
29 encourage sales or transfers of real property to nonprofit entities,  
30 housing authorities, or public corporations that intend to use the  
31 transferred property for housing for low-income persons.

1 (4) If a review finds that the number of sales or transfers of  
2 real property to qualified entities has not increased, then the  
3 legislature intends to repeal the expiration date of the tax  
4 preference.

5 (5) In order to obtain the data necessary to perform the review  
6 in subsection (4) of this section, the joint legislative audit and  
7 review committee may refer to any available data source, including  
8 the transfer or sale of properties reported by county records.

9 **Sec. 3.** RCW 82.45.010 and 2019 c 424 s 3, 2019 c 390 s 10, and  
10 2019 c 385 s 2 are each reenacted and amended to read as follows:

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

24 (2)(a) The term "sale" also includes the transfer or acquisition  
25 within any thirty-six month period of a controlling interest in any  
26 entity with an interest in real property located in this state for a  
27 valuable consideration.

28 (b) For the sole purpose of determining whether, pursuant to the  
29 exercise of an option, a controlling interest was transferred or  
30 acquired within a thirty-six month period, the date that the option  
31 agreement was executed is the date on which the transfer or  
32 acquisition of the controlling interest is deemed to occur. For all  
33 other purposes under this chapter, the date upon which the option is  
34 exercised is the date of the transfer or acquisition of the  
35 controlling interest.

36 (c) For purposes of this subsection, all acquisitions of persons  
37 acting in concert must be aggregated for purposes of determining  
38 whether a transfer or acquisition of a controlling interest has taken  
39 place. The department must adopt standards by rule to determine when

1 persons are acting in concert. In adopting a rule for this purpose,  
2 the department must consider the following:

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

6 (ii) When persons are not commonly owned or controlled, they must  
7 be treated as acting in concert only when the unity with which the  
8 purchasers have negotiated and will consummate the transfer of  
9 ownership interests supports a finding that they are acting as a  
10 single entity. If the acquisitions are completely independent, with  
11 each purchaser buying without regard to the identity of the other  
12 purchasers, then the acquisitions are considered separate  
13 acquisitions.

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

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

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

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

21 (d) A cancellation or forfeiture of a vendee's interest in a  
22 contract for the sale of real property, whether or not such contract  
23 contains a forfeiture clause, or deed in lieu of foreclosure of a  
24 mortgage.

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

27 (f) The assignment of property or interest in property from one  
28 spouse or one domestic partner to the other spouse or other domestic  
29 partner in accordance with the terms of a decree of dissolution of  
30 marriage or state registered domestic partnership or in fulfillment  
31 of a property settlement agreement.

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

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

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

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

5 (k) A conveyance to the federal housing administration or  
6 veterans administration by an authorized mortgagee made pursuant to a  
7 contract of insurance or guaranty with the federal housing  
8 administration or veterans administration.

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

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

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

16 (o) A sale to a regional transit authority or public corporation  
17 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
18 81.112.300.

19 (p) A transfer of real property, however effected, if it consists  
20 of a mere change in identity or form of ownership of an entity where  
21 there is no change in the beneficial ownership. These include  
22 transfers to a corporation or partnership which is wholly owned by  
23 the transferor and/or the transferor's spouse or domestic partner or  
24 children of the transferor or the transferor's spouse or domestic  
25 partner. However, if thereafter such transferee corporation or  
26 partnership voluntarily transfers such real property, or such  
27 transferor, spouse or domestic partner, or children of the transferor  
28 or the transferor's spouse or domestic partner voluntarily transfer  
29 stock in the transferee corporation or interest in the transferee  
30 partnership capital, as the case may be, to other than (i) the  
31 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, (ii) a trust having the transferor and/or the transferor's  
34 spouse or domestic partner or children of the transferor or the  
35 transferor's spouse or domestic partner as the only beneficiaries at  
36 the time of the transfer to the trust, or (iii) a corporation or  
37 partnership wholly owned by the original transferor and/or the  
38 transferor's spouse or domestic partner or children of the transferor  
39 or the transferor's spouse or domestic partner, within three years of  
40 the original transfer to which this exemption applies, and the tax on

1 the subsequent transfer has not been paid within sixty days of  
2 becoming due, excise taxes become due and payable on the original  
3 transfer as otherwise provided by law.

4 (q)(i) A transfer that for federal income tax purposes does not  
5 involve the recognition of gain or loss for entity formation,  
6 liquidation or dissolution, and reorganization, including but not  
7 limited to nonrecognition of gain or loss because of application of  
8 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal  
9 revenue code of 1986, as amended.

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

28 (r) A qualified sale of a manufactured/mobile home community, as  
29 defined in RCW 59.20.030.

30 (s)(i) A transfer of a qualified low-income housing development  
31 or controlling interest in a qualified low-income housing  
32 development, unless, due to noncompliance with federal statutory  
33 requirements, the seller is subject to recapture, in whole or in  
34 part, of its allocated federal low-income housing tax credits within  
35 the four years prior to the date of transfer.

36 (ii) For purposes of this subsection (3)(s), "qualified low-  
37 income housing development" means real property and improvements in  
38 respect to which the seller or, in the case of a transfer of a  
39 controlling interest, the owner or beneficial owner, was allocated  
40 federal low-income housing tax credits authorized under 26 U.S.C.

1 Sec. 42 or successor statute, by the Washington state housing finance  
2 commission or successor state-authorized tax credit allocating  
3 agency.

4 (iii) This subsection (3)(s) does not apply to transfers of a  
5 qualified low-income housing development or controlling interest in a  
6 qualified low-income housing development occurring on or after July  
7 1, 2035.

8 (iv) The Washington state housing finance commission, in  
9 consultation with the department, must gather data on: (A) The fiscal  
10 savings, if any, accruing to transferees as a result of the exemption  
11 provided in this subsection (3)(s); (B) the extent to which  
12 transferors of qualified low-income housing developments receive  
13 consideration, including any assumption of debt, as part of a  
14 transfer subject to the exemption provided in this subsection (3)(s);  
15 and (C) the continued use of the property for low-income housing. The  
16 Washington state housing finance commission must provide this  
17 information to the joint legislative audit and review committee. The  
18 committee must conduct a review of the tax preference created under  
19 this subsection (3)(s) in calendar year 2033, as required under  
20 chapter 43.136 RCW.

21 (t)(i) A qualified transfer of residential property by a legal  
22 representative of a person with developmental disabilities to a  
23 qualified entity subject to the following conditions:

24 (A) The adult child with developmental disabilities of the  
25 transferor of the residential property must be allowed to reside in  
26 the residence or successor property so long as the placement is safe  
27 and appropriate as determined by the department of social and health  
28 services;

29 (B) The title to the residential property is conveyed without the  
30 receipt of consideration by the legal representative of a person with  
31 developmental disabilities to a qualified entity;

32 (C) The residential property must have no more than four living  
33 units located on it; and

34 (D) The residential property transferred must remain in continued  
35 use for fifty years by the qualified entity as supported living for  
36 persons with developmental disabilities by the qualified entity or  
37 successor entity. If the qualified entity sells or otherwise conveys  
38 ownership of the residential property the proceeds of the sale or  
39 conveyance must be used to acquire similar residential property and  
40 such similar residential property must be considered the successor

1 for continued use. The property will not be considered in continued  
2 use if the department of social and health services finds that the  
3 property has failed, after a reasonable time to remedy, to meet any  
4 health and safety statutory or regulatory requirements. If the  
5 department of social and health services determines that the property  
6 fails to meet the requirements for continued use, the department of  
7 social and health services must notify the department and the real  
8 estate excise tax based on the value of the property at the time of  
9 the transfer into use as residential property for persons with  
10 developmental disabilities becomes immediately due and payable by the  
11 qualified entity. The tax due is not subject to penalties, fees, or  
12 interest under this title.

13 (ii) For the purposes of this subsection (3)(t) the definitions  
14 in RCW 71A.10.020 apply.

15 (iii) A "qualified entity" is:

16 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)  
17 of the federal internal revenue code of 1986, as amended, as of June  
18 7, 2018, or a subsidiary under the same taxpayer identification  
19 number that provides residential supported living for persons with  
20 developmental disabilities; or

21 (B) A nonprofit adult family home, as defined in RCW 70.128.010,  
22 that exclusively serves persons with developmental disabilities.

23 (iv) In order to receive an exemption under this subsection  
24 (3)(t) an affidavit must be submitted by the transferor of the  
25 residential property and must include a copy of the transfer  
26 agreement and any other documentation as required by the department.

27 (u)(i) The sale by an affordable homeownership facilitator of  
28 self-help housing to a low-income household. (~~The definitions in~~  
29 ~~section 2 of this act apply to this subsection.~~)

30 (ii) The definitions in this subsection (3)(u) apply to this  
31 subsection (3)(u) unless the context clearly requires otherwise.

32 (A) "Affordable homeownership facilitator" means a nonprofit  
33 community or neighborhood-based organization that is exempt from  
34 income tax under Title 26 U.S.C. Sec. 501(c) of the internal revenue  
35 code of 1986, as amended, as of October 1, 2019, and that is the  
36 developer of self-help housing.

37 (B) "Low-income" means household income as defined by the  
38 department, provided that the definition may not exceed eighty  
39 percent of median household income, adjusted for household size, for  
40 the county in which the dwelling is located.

1 (C) "Self-help housing" means dwelling residences provided for  
2 ownership by low-income individuals and families whose ownership  
3 requirement includes labor participation. "Self-help housing" does  
4 not include residential rental housing provided on a commercial basis  
5 to the general public.

6 (v)(i) A sale or transfer of real property to a qualifying  
7 grantee that uses the property for housing for low-income persons and  
8 receives or otherwise qualifies the property for an exemption from  
9 real and personal property taxes under RCW 84.36.560, 84.36.049,  
10 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection  
11 (3)(v), "qualifying grantee" means a nonprofit entity as defined in  
12 RCW 84.36.560, a nonprofit entity or qualified cooperative  
13 association as defined in RCW 84.36.049, a housing authority created  
14 under RCW 35.82.030 or 35.82.300, a public corporation established  
15 under RCW 35.21.660 or 35.21.730, or a county or municipal  
16 corporation. A qualifying grantee that is a county or municipal  
17 corporation must record a covenant at the time of transfer that  
18 prohibits using the property for any purpose other than for low-  
19 income housing for a period of at least 10 years. At a minimum, the  
20 covenant must address price restrictions and household income limits  
21 for the low-income housing. A qualifying grantee must comply with the  
22 requirements described in (v)(i)(A), (B), or (C) of this subsection  
23 and must also certify, by affidavit at the time of sale or transfer,  
24 that it intends to comply with those requirements.

25 (A) If the qualifying grantee intends to operate existing housing  
26 on the property, within one year of the sale or transfer:

27 (I) The qualifying grantee must receive or qualify the property  
28 for a tax exemption under RCW 84.36.560, 84.36.049,  
29 35.82.210, 35.21.755, or 84.36.010; and

30 (II) The property must be used as housing for low-income persons.

31 (B) If the qualifying grantee intends to develop new housing on  
32 the site, within five years of the sale or transfer:

33 (I) The qualifying grantee must receive or qualify the property  
34 for a tax exemption under RCW 84.36.560, 84.36.049,  
35 35.82.210, 35.21.755, or 84.36.010; and

36 (II) The property must be used as housing for low-income persons.

37 (C) If the qualifying grantee intends to substantially  
38 rehabilitate the premises as defined in RCW 59.18.200, within three  
39 years:



1 (I) The qualifying grantee must receive or qualify the property  
2 for a tax exemption under RCW 84.36.560, 84.36.049,  
3 35.82.210, 35.21.755, or 84.36.010; and

4 (II) The property must be used as housing for low-income persons.

5 (ii) If the qualifying grantee fails to satisfy the requirements  
6 described in (v) (i) (A), (B), or (C) of this subsection, within the  
7 timelines described in (v) (i) (A), (B), or (C) of this subsection, the  
8 qualifying grantee must pay the tax that would have otherwise been  
9 due at the time of initial transfer, plus interest calculated from  
10 the date of initial transfer pursuant to RCW 82.32.050.

11 (iii) If a qualifying grantee transfers the property to a  
12 different qualifying grantee within the original timelines described  
13 in (v) (i) (A), (B), or (C) of this subsection, neither the original  
14 qualifying grantee nor the new qualifying grantee is required to pay  
15 the tax, so long as the new qualifying grantee satisfies the  
16 requirements as described in (v) (i) (A), (B), or (C) of this  
17 subsection within the exemption period of the initial transfer. If  
18 the new qualifying grantee fails to satisfy the requirements  
19 described in (v) (i) (A), (B), or (C) of this subsection, only the new  
20 qualifying grantee is liable for the payment of taxes required by  
21 (v) (ii) of this subsection. There is no limit on the number of  
22 transfers between qualifying grantees within the original timelines.

23 (iv) Each affidavit must be filed with the department upon  
24 completion of the sale or transfer of property, including transfers  
25 from a qualifying grantee to a different qualifying grantee. The  
26 qualifying grantee must provide proof to the department as required  
27 by the department once the requirements as described in (v) (i) (A),  
28 (B), or (C) of this subsection have been satisfied.

29 (v) For the purposes of this subsection (3) (v), "low-income" has  
30 the same meaning as in (u) of this subsection.

31 **Sec. 4.** RCW 82.45.010 and 2019 c 424 s 3 are each amended to  
32 read as follows:

33 (1) As used in this chapter, the term "sale" has its ordinary  
34 meaning and includes any conveyance, grant, assignment, quitclaim, or  
35 transfer of the ownership of or title to real property, including  
36 standing timber, or any estate or interest therein for a valuable  
37 consideration, and any contract for such conveyance, grant,  
38 assignment, quitclaim, or transfer, and any lease with an option to  
39 purchase real property, including standing timber, or any estate or

1 interest therein or other contract under which possession of the  
2 property is given to the purchaser, or any other person at the  
3 purchaser's direction, and title to the property is retained by the  
4 vendor as security for the payment of the purchase price. The term  
5 also includes the grant, assignment, quitclaim, sale, or transfer of  
6 improvements constructed upon leased land.

7 (2) (a) The term "sale" also includes the transfer or acquisition  
8 within any thirty-six month period of a controlling interest in any  
9 entity with an interest in real property located in this state for a  
10 valuable consideration.

11 (b) For the sole purpose of determining whether, pursuant to the  
12 exercise of an option, a controlling interest was transferred or  
13 acquired within a thirty-six month period, the date that the option  
14 agreement was executed is the date on which the transfer or  
15 acquisition of the controlling interest is deemed to occur. For all  
16 other purposes under this chapter, the date upon which the option is  
17 exercised is the date of the transfer or acquisition of the  
18 controlling interest.

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

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

28 (ii) When persons are not commonly owned or controlled, they must  
29 be treated as acting in concert only when the unity with which the  
30 purchasers have negotiated and will consummate the transfer of  
31 ownership interests supports a finding that they are acting as a  
32 single entity. If the acquisitions are completely independent, with  
33 each purchaser buying without regard to the identity of the other  
34 purchasers, then the acquisitions are considered separate  
35 acquisitions.

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

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

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

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

3 (d) A cancellation or forfeiture of a vendee's interest in a  
4 contract for the sale of real property, whether or not such contract  
5 contains a forfeiture clause, or deed in lieu of foreclosure of a  
6 mortgage.

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

9 (f) The assignment of property or interest in property from one  
10 spouse or one domestic partner to the other spouse or other domestic  
11 partner in accordance with the terms of a decree of dissolution of  
12 marriage or state registered domestic partnership or in fulfillment  
13 of a property settlement agreement.

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

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

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

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

26 (k) A conveyance to the federal housing administration or  
27 veterans administration by an authorized mortgagee made pursuant to a  
28 contract of insurance or guaranty with the federal housing  
29 administration or veterans administration.

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

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

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

37 (o) A sale to a regional transit authority or public corporation  
38 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
39 81.112.300.

1 (p) A transfer of real property, however effected, if it consists  
2 of a mere change in identity or form of ownership of an entity where  
3 there is no change in the beneficial ownership. These include  
4 transfers to a corporation or partnership which is wholly owned by  
5 the transferor and/or the transferor's spouse or domestic partner or  
6 children of the transferor or the transferor's spouse or domestic  
7 partner. However, if thereafter such transferee corporation or  
8 partnership voluntarily transfers such real property, or such  
9 transferor, spouse or domestic partner, or children of the transferor  
10 or the transferor's spouse or domestic partner voluntarily transfer  
11 stock in the transferee corporation or interest in the transferee  
12 partnership capital, as the case may be, to other than (i) the  
13 transferor and/or the transferor's spouse or domestic partner or  
14 children of the transferor or the transferor's spouse or domestic  
15 partner, (ii) a trust having the transferor and/or the transferor's  
16 spouse or domestic partner or children of the transferor or the  
17 transferor's spouse or domestic partner as the only beneficiaries at  
18 the time of the transfer to the trust, or (iii) a corporation or  
19 partnership wholly owned by the original transferor and/or the  
20 transferor's spouse or domestic partner or children of the transferor  
21 or the transferor's spouse or domestic partner, within three years of  
22 the original transfer to which this exemption applies, and the tax on  
23 the subsequent transfer has not been paid within sixty days of  
24 becoming due, excise taxes become due and payable on the original  
25 transfer as otherwise provided by law.

26 (q) (i) A transfer that for federal income tax purposes does not  
27 involve the recognition of gain or loss for entity formation,  
28 liquidation or dissolution, and reorganization, including but not  
29 limited to nonrecognition of gain or loss because of application of  
30 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal  
31 revenue code of 1986, as amended.

32 (ii) However, the transfer described in (q) (i) of this subsection  
33 cannot be preceded or followed within a thirty-six month period by  
34 another transfer or series of transfers, that, when combined with the  
35 otherwise exempt transfer or transfers described in (q) (i) of this  
36 subsection, results in the transfer of a controlling interest in the  
37 entity for valuable consideration, and in which one or more persons  
38 previously holding a controlling interest in the entity receive cash  
39 or property in exchange for any interest the person or persons acting  
40 in concert hold in the entity. This subsection (3) (q) (ii) does not

1 apply to that part of the transfer involving property received that  
2 is the real property interest that the person or persons originally  
3 contributed to the entity or when one or more persons who did not  
4 contribute real property or belong to the entity at a time when real  
5 property was purchased receive cash or personal property in exchange  
6 for that person or persons' interest in the entity. The real estate  
7 excise tax under this subsection (3)(q)(ii) is imposed upon the  
8 person or persons who previously held a controlling interest in the  
9 entity.

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

13 (s)(i) A transfer of a qualified low-income housing development  
14 or controlling interest in a qualified low-income housing  
15 development, unless, due to noncompliance with federal statutory  
16 requirements, the seller is subject to recapture, in whole or in  
17 part, of its allocated federal low-income housing tax credits within  
18 the four years prior to the date of transfer.

19 (ii) For purposes of this subsection (3)(s), "qualified low-  
20 income housing development" means real property and improvements in  
21 respect to which the seller or, in the case of a transfer of a  
22 controlling interest, the owner or beneficial owner, was allocated  
23 federal low-income housing tax credits authorized under 26 U.S.C.  
24 Sec. 42 or successor statute, by the Washington state housing finance  
25 commission or successor state-authorized tax credit allocating  
26 agency.

27 (iii) This subsection (3)(s) does not apply to transfers of a  
28 qualified low-income housing development or controlling interest in a  
29 qualified low-income housing development occurring on or after July  
30 1, 2035.

31 (iv) The Washington state housing finance commission, in  
32 consultation with the department, must gather data on: (A) The fiscal  
33 savings, if any, accruing to transferees as a result of the exemption  
34 provided in this subsection (3)(s); (B) the extent to which  
35 transferors of qualified low-income housing developments receive  
36 consideration, including any assumption of debt, as part of a  
37 transfer subject to the exemption provided in this subsection (3)(s);  
38 and (C) the continued use of the property for low-income housing. The  
39 Washington state housing finance commission must provide this  
40 information to the joint legislative audit and review committee. The

1 committee must conduct a review of the tax preference created under  
2 this subsection (3)(s) in calendar year 2033, as required under  
3 chapter 43.136 RCW.

4 (t)(i) A qualified transfer of residential property by a legal  
5 representative of a person with developmental disabilities to a  
6 qualified entity subject to the following conditions:

7 (A) The adult child with developmental disabilities of the  
8 transferor of the residential property must be allowed to reside in  
9 the residence or successor property so long as the placement is safe  
10 and appropriate as determined by the department of social and health  
11 services;

12 (B) The title to the residential property is conveyed without the  
13 receipt of consideration by the legal representative of a person with  
14 developmental disabilities to a qualified entity;

15 (C) The residential property must have no more than four living  
16 units located on it; and

17 (D) The residential property transferred must remain in continued  
18 use for fifty years by the qualified entity as supported living for  
19 persons with developmental disabilities by the qualified entity or  
20 successor entity. If the qualified entity sells or otherwise conveys  
21 ownership of the residential property the proceeds of the sale or  
22 conveyance must be used to acquire similar residential property and  
23 such similar residential property must be considered the successor  
24 for continued use. The property will not be considered in continued  
25 use if the department of social and health services finds that the  
26 property has failed, after a reasonable time to remedy, to meet any  
27 health and safety statutory or regulatory requirements. If the  
28 department of social and health services determines that the property  
29 fails to meet the requirements for continued use, the department of  
30 social and health services must notify the department and the real  
31 estate excise tax based on the value of the property at the time of  
32 the transfer into use as residential property for persons with  
33 developmental disabilities becomes immediately due and payable by the  
34 qualified entity. The tax due is not subject to penalties, fees, or  
35 interest under this title.

36 (ii) For the purposes of this subsection (3)(t) the definitions  
37 in RCW 71A.10.020 apply.

38 (iii) A "qualified entity" is:

39 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)  
40 of the federal internal revenue code of 1986, as amended, as of June

1 7, 2018, or a subsidiary under the same taxpayer identification  
2 number that provides residential supported living for persons with  
3 developmental disabilities; or

4 (B) A nonprofit adult family home, as defined in RCW 70.128.010,  
5 that exclusively serves persons with developmental disabilities.

6 (iv) In order to receive an exemption under this subsection  
7 (3)(t) an affidavit must be submitted by the transferor of the  
8 residential property and must include a copy of the transfer  
9 agreement and any other documentation as required by the department.

10 (u)(i) A sale or transfer of real property to a qualifying  
11 grantee that uses the property for housing for low-income persons and  
12 receives or otherwise qualifies the property for an exemption from  
13 real and personal property taxes under RCW 84.36.560, 84.36.049,  
14 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection  
15 (3)(u), "qualifying grantee" means a nonprofit entity as defined in  
16 RCW 84.36.560, a nonprofit entity or qualified cooperative  
17 association as defined in RCW 84.36.049, a housing authority created  
18 under RCW 35.82.030 or 35.82.300, a public corporation established  
19 under RCW 35.21.660 or 35.21.730, or a county or municipal  
20 corporation. A qualifying grantee that is a county or municipal  
21 corporation must record a covenant at the time of transfer that  
22 prohibits using the property for any purpose other than for low-  
23 income housing for a period of at least 10 years. At a minimum, the  
24 covenant must address price restrictions and household income limits  
25 for the low-income housing. A qualifying grantee must comply with the  
26 requirements described in (u)(i)(A), (B), or (C) of this subsection  
27 and must also certify, by affidavit at the time of sale or transfer,  
28 that it intends to comply with those requirements.

29 (A) If the qualifying grantee intends to operate existing housing  
30 on the property, within one year of the sale or transfer:

31 (I) The qualifying grantee must receive or qualify the property  
32 for a tax exemption under RCW 84.36.560, 84.36.049,  
33 35.82.210, 35.21.755, or 84.36.010; and

34 (II) The property must be used as housing for low-income persons.

35 (B) If the qualifying grantee intends to develop new housing on  
36 the site, within five years of the sale or transfer:

37 (I) The qualifying grantee must receive or qualify the property  
38 for a tax exemption under RCW 84.36.560, 84.36.049,  
39 35.82.210, 35.21.755, or 84.36.010; and

40 (II) The property must be used as housing for low-income persons.

1 (C) If the qualifying grantee intends to substantially  
2 rehabilitate the premises as defined in RCW 59.18.200, within three  
3 years:

4 (I) The qualifying grantee must receive or qualify the property  
5 for a tax exemption under RCW 84.36.560, 84.36.049,  
6 35.82.210, 35.21.755, or 84.36.010; and

7 (II) The property must be used as housing for low-income persons.

8 (ii) If the qualifying grantee fails to satisfy the requirements  
9 described in (u)(i)(A), (B), or (C) of this subsection, within the  
10 timelines described in (u)(i)(A), (B), or (C) of this subsection, the  
11 qualifying grantee must pay the tax that would have otherwise been  
12 due at the time of initial transfer, plus interest calculated from  
13 the date of initial transfer pursuant to RCW 82.32.050.

14 (iii) If a qualifying grantee transfers the property to a  
15 different qualifying grantee within the original timelines described  
16 in (u)(i)(A), (B), or (C) of this subsection, neither the original  
17 qualifying grantee nor the new qualifying grantee is required to pay  
18 the tax, so long as the new qualifying grantee satisfies the  
19 requirements as described in (u)(i)(A), (B), or (C) of this  
20 subsection within the exemption period of the initial transfer. If  
21 the new qualifying grantee fails to satisfy the requirements  
22 described in (u)(i)(A), (B), or (C) of this subsection, only the new  
23 qualifying grantee is liable for the payment of taxes required by  
24 (u)(ii) of this subsection. There is no limit on the number of  
25 transfers between qualifying grantees within the original timelines.

26 (iv) Each affidavit must be filed with the department upon  
27 completion of the sale or transfer of property, including transfers  
28 from a qualifying grantee to a different qualifying grantee. The  
29 qualifying grantee must provide proof to the department as required  
30 by the department once the requirements as described in (u)(i)(A),  
31 (B), or (C) of this subsection have been satisfied.

32 (v) For the purposes of this subsection (3)(u), "low-income"  
33 means household income as defined by the department, provided that  
34 the definition may not exceed 80 percent of median household income,  
35 adjusted for household size, for the county in which the dwelling is  
36 located.

37 NEW SECTION. Sec. 5. The expiration date provisions of RCW  
38 82.32.805(1)(a) do not apply to the tax preferences in sections 3 and  
39 4, chapter . . ., Laws of 2022 (sections 3 and 4 of this act).



1        NEW SECTION.    **Sec. 6.**    Section 3 of this act takes effect January  
2 1, 2023.

3        NEW SECTION.    **Sec. 7.**    Section 3 of this act expires January 1,  
4 2030.

5        NEW SECTION.    **Sec. 8.**    Section 4 of this act takes effect January  
6 1, 2030."

**ESHB 1643** - S COMM AMD  
By Committee on Ways & Means

**ADOPTED 03/04/2022**

7        On page 1, line 4 of the title, after "tax;" strike the remainder  
8 of the title and insert "amending RCW 82.45.010; reenacting and  
9 amending RCW 82.45.010; creating new sections; providing effective  
10 dates; and providing an expiration date."

EFFECT: Adds a definition of "low-income" to mean a household income not to exceed 80 percent of median household income, adjusted for household size, for the county in which the dwelling is located. Makes a technical change.

--- END ---