HOUSE BILL REPORT
HB 1643

As Reported by House Committee On:
Finance

Title: An act relating to exempting a sale or transfer of real property for affordable housing to a nonprofit entity, housing authority, public corporation, county, or municipal corporation from the real estate excise tax.

Brief Description: Exempting a sale or transfer of real property for affordable housing to a nonprofit entity, housing authority, public corporation, county, or municipal corporation from the real estate excise tax.

Sponsors: Representatives Hackney, Stokesbary, Bateman, Ryu, Simmons, Leavitt, Robertson, Walen, Valdez, Paul, Callan, Gilday, Macri, Peterson, Ramos, Chopp, Bergquist and Kloba.

Brief History:
Committee Activity:
Finance: 1/13/22, 2/1/22 [DPS].

Brief Summary of Substitute Bill

- Exempts from real estate excise tax the sale or transfer of real property to a nonprofit, cooperative association, housing authority, public corporation, county, or municipal corporation if the grantee intends to use the property for housing for low-income persons.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative

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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 part of the legislation nor does it constitute a statement of legislative intent.

Dufault, Assistant Ranking Minority Member.

Staff: Kyle Raymond (786-7190).

Background:

Real Estate Excise Tax.
Real estate excise tax (REET) is due on the sale of real estate and transfer of controlling interest in an entity that owns real property in the state.

The REET tax base is the selling price of real estate, including the amount of any liens, mortgages, and other debts. In the case of the transfer of controlling interest, the tax base is the true and fair value, or selling price, of the real property transferred. The tax is typically paid by the seller of the property, although the buyer is liable for the tax if it is not paid.

Beginning with sales dated January 1, 2020, the REET rate is:
- 1.1 percent if the selling price is equal to or less than $500,000;
- 1.28 percent on the portion of the selling price that is greater than $500,000, but equal to or less than $1.5 million;
- 2.75 percent on the portion of the selling price that is greater than $1.5 million, but equal to or less than $3 million; and
- 3 percent on the portion of the selling price that is greater than $3 million.

Beginning July 1, 2022, and every fourth year thereafter, the selling price thresholds are adjusted to reflect the lesser of the growth in the Consumer Price Index for Shelter over the past four years, or 5 percent. The Department of Revenue (DOR) must publish updated selling price thresholds by September 1, 2022, and September 1 of every fourth year thereafter. If the growth in Consumer Price Index for Shelter is less than 0 percent, the selling price thresholds are not adjusted for that four-year period.

A rate of 1.28 percent is imposed on the sale of real property that is classified as timberland or agricultural land, regardless of the selling price.

Tax Preferences.
All new tax preference legislation is required to include a tax preference performance statement. The performance statement must clearly specify the public policy objectives of the tax preference and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee to evaluate the efficacy of the tax preference. In addition, an automatic 10-year expiration date is applied to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

Summary of Substitute Bill:

The sale or transfer of real property to a nonprofit, cooperative association, housing authority, public corporation, county, or municipal corporation is exempt from REET if the grantee intends to use the property for housing for low-income persons.

A qualifying grantee must receive, or qualify for, at least one of the following real and personal property tax exemptions:
- the property tax exemption provided to nonprofit organizations that provide rental housing or used space to very low-income households;
- the property tax exemption and payments in lieu of taxes provided to housing authorities;
- the property tax exemption for nonprofit home-ownership development for low-income households;
- the immunity or exemption from taxation provided to public corporations; or
- the exemption from property taxation provided to certain governmental entities, including any county or municipal corporation, for property belonging exclusively the government.

A qualifying grantee that is a county or municipal corporation must record a covenant at the time of transfer prohibiting them from using the property for a purpose other than for low-income housing. The covenant must address price restrictions and household income limits.

Qualifying grantees must certify their intent, by affidavit at the time of transfer, to receive or qualify for the eligible tax exemption within:
- 1 year if the grantee intends to operate existing housing as affordable housing;
- 3 years if the grantee intends to substantially rehabilitate the premises; or
- 5 years if the grantee intends to develop new affordable housing on the property.

If a qualifying grantee fails to receive, or qualify for, a property tax exemption within this timeline, all unpaid REET becomes due plus interest. Interest is calculated from the date of transfer. In cases where the property is transferred to a new qualifying grantee, only that new grantee is liable for unpaid REET and interest, should it become due.

Qualifying grantees must provide proof to the DOR once the requirements of the grantee's certified intent have been satisfied. An affidavit must be filed with the DOR upon completion of the sale or transfer of property, including transfers from a qualifying grantee to a different qualifying grantee.

The preference is exempt from the 10-year expiration requirement for all new tax preferences.

Substitute Bill Compared to Original Bill:

The substitute bill expands the REET exemption to apply to property for housing for low-income persons, rather than applying to rental housing for low-income persons. Counties and municipal corporations are required to record a covenant at the time of transfer that prohibits them from using the property for a purpose other than for low-income housing, and the covenant must address price restrictions and household income limits. Qualified cooperative associations are added to the qualifying grantees eligible to receive the exemption. An existing property tax exemption for nonprofit home ownership development for low-income households is added to the list of eligible property tax exemptions a grantee must receive or qualify for in order to be eligible for the REET exemption. A transfer that occurs between qualifying grantees must be within the original timelines. Affidavits must be filed with the DOR upon a completion of a transfer from one qualifying grantee to a different qualifying grantee. The effective date is changed to October 1, 2022.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 31, 2022.

Effective Date of Substitute Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3, relating to authorizing the exemption, which takes effect October 1, 2022, and section 4, relating to continuing the exemption, which takes effect January 1, 2030.

Staff Summary of Public Testimony:

(In support) This bill was passed during the 2020 legislative session with broad bipartisan support, and the bill was vetoed solely due to budgetary concerns resulting from the COVID-19 pandemic. The only change in this bill is the addition of local governments as a qualifying entity.

This bill creates a new tool for nonprofits and housing authorities to use in preserving and developing affordable housing in their communities. The supply of affordable housing has rapidly diminished in recent years, and the effects are felt more significantly among low-income households. Rents have increased at a much faster rate than wages and overall inflation, making it harder for families for afford rent. Acquiring existing properties is one strategy to stabilize rents and prevent displacement. With this, the bill will help create more long-term affordable housing across the state.

This bill would help affordable housing nonprofits, housing authorities, and local governments acquire land or existing housing stock through lowering transaction costs in acquiring property. Competition is fierce when a parcel of land is put up for sale, and finding land is a significant obstacle in building more affordable housing. This bill would significantly aid efforts to expand affordable housing by giving sellers an incentive to sell the property to a nonprofit or public entity that plans to use the land or structure for affordable housing purposes. This bill will help to level the playing field with private developers for affordable housing providers.

The bill includes mechanisms to ensure affordability and compliance by tying the exemption to existing property tax exemptions for affordable housing.

(Opposed) None.

Persons Testifying: Representative David Hackney, prime sponsor; Patience Malaba, Housing Development Consortium of Seattle-King County; Andrew Calkins, King County Housing Authority and Association of Washington Housing Authorities; Saeed Hajarizadeh, Vancouver Housing Authority; Marty Miller, Office of Rural and Farmworker Housing; Michele Thomas, Washington Low Income Housing Alliance; Lisa Vatske, Washington State Housing Finance Commission; Mark Smith, Housing Consortium of Everett and Snohomish County; and Colin Morgan-Cross, Mercy Housing Northwest.

Persons Signed In To Testify But Not Testifying: None.