

SENATE BILL REPORT

ESHB 1643

As Passed Senate - Amended, March 4, 2022

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: House Committee on Finance (originally sponsored by Representatives Hackney, Stokesbary, Bateman, Ryu, Simmons, Leavitt, Robertson, Walen, Valdez, Paul, Callan, Gilday, Macri, Peterson, Ramos, Chopp, Bergquist and Kloba).

Brief History: Passed House: 2/12/22, 93-4.

Committee Activity: Housing & Local Government: 2/16/22, 2/23/22 [DP-WM].

Ways & Means: 2/26/22, 2/28/22 [DPA, DNP].

Floor Activity: Passed Senate - Amended: 3/4/22, 47-1.

Brief Summary of Bill (As Amended by Senate)

- 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 property is used for housing for low-income persons.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Cleveland, Lovelett, Salomon, Sefzik, Trudeau,

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.

Warnick and Wilson, J.

Staff: Jeff Olsen (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Ranking Minority Member, Capital; Billig, Braun, Carlyle, Conway, Dhingra, Gildon, Hunt, Keiser, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Minority Report: Do not pass.

Signed by Senators Schoesler, Assistant Ranking Member, Capital; Hasegawa.

Staff: Alia Kennedy (786-7405)

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 1st 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 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. An automatic ten 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 Amended 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.

"Low-income" means 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.

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 other than for low-income housing for a period of at least ten years. 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:

- one year if the grantee intends to operate existing housing as affordable housing;
- three years if the grantee intends to substantially rehabilitate the premises; or
- five 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 DOR once the requirements of the grantee's certified intent have been satisfied. An affidavit must be filed with 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 ten year expiration requirement for all new tax preferences.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Housing & Local Government): PRO: This bill provides an exemption from REET for selling or transferring property to a nonprofit or housing authority if used for affordable housing. This is a new tool to help affordable housing by lowering transaction costs and level the playing field. With the graduated REET, this exemption provides an incentive for the seller of property to sell to a nonprofit housing provider. The bill was improved with changes to allow it to be used for permanently affordable housing. This same exemption passed in 2020, but was vetoed, along with other bills, due to the COVID public health emergency. The incentive will help to acquire existing multifamily units to create affordable rents or to acquire land to support development of additional affordable housing.

Persons Testifying (Housing & Local Government): PRO: Representative David Hackney, Prime Sponsor; Andrew Calkins, Association of Washington Housing Authorities & KCHA.

Persons Signed In To Testify But Not Testifying (Housing & Local Government): No one.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: The ability to acquire land for home development is becoming increasingly difficult because of increased cost, both in land and in construction. The tax exemption is another tool to incentivize the creation of affordable housing options. Programs like the tax exemption in this bill are vital for the ability of organizations, like Habitat for Humanity, to acquire land.

Persons Testifying (Ways & Means): PRO: Adán Espino Jr, Habitat for Humanity of

Washington State.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.