
SUBSTITUTE HOUSE BILL 1628

State of Washington

68th Legislature

2023 Regular Session

By House Local Government (originally sponsored by Representatives Chopp, Macri, Peterson, Alvarado, Taylor, Reed, Pollet, Lekanoff, Fitzgibbon, Berg, Riccelli, Davis, Street, Ramel, Duerr, Senn, Doglio, Cortes, Stonier, Gregerson, Mena, Berry, Fosse, Goodman, Bergquist, Slatter, Ormsby, Thai, Farivar, Simmons, and Wylie)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to increasing the supply of affordable housing by
2 modifying the state and local real estate excise tax; amending RCW
3 82.45.060, 82.45.230, 82.46.035, 82.46.010, 82.46.015, 82.46.037,
4 82.45.010, and 82.45.010; adding a new section to chapter 82.45 RCW;
5 adding a new section to chapter 82.46 RCW; creating new sections;
6 providing effective dates; and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the lack of
9 housing affordability and related instances of homelessness are
10 issues that affect every community in Washington. The legislature
11 also finds that increased homelessness is overwhelmingly caused by
12 growing rents, which push people living at the margins into
13 homelessness, erode public confidence, and undermine the shared
14 values that have driven our state's prosperity. The legislature
15 further finds that problems caused by rent increases are exacerbated
16 by the associated issue of very low vacancy rates, which make it
17 difficult for people to find a unit even when they have sufficient
18 income or rental assistance to pay market rates. The legislature
19 finds that low housing vacancy rates and the growth in population
20 have produced a tight housing market in which existing inventory is
21 priced at a premium. The legislature also finds that although

1 household incomes have grown along with the economy, income increase
2 for those with moderate and lower incomes have not kept pace with
3 rent and purchase price increases. This problem is especially
4 impacting lower and fixed income households, including seniors,
5 veterans, and people with disabilities. Indeed, these trends, in
6 combination with other market factors, have created a deficit of
7 affordable and available housing, particularly for Washingtonians
8 within the low to middle income range who are increasingly more
9 vulnerable to homelessness. Moreover, the legislature finds that
10 these households have the fewest options available in the private
11 housing market. In strong housing markets, builders seek the highest
12 achievable price to offset higher development costs, which means new
13 production does not result in more affordable units.

14 The legislature further finds that having a home is fundamental
15 for Washington residents and that all Washingtonians should be able
16 to afford safe and dependable housing with access to opportunities
17 such as education, employment, transit, and amenities. The
18 legislature finds that affordable housing is an essential part of
19 every community's infrastructure, serving as a platform for
20 individuals and families to stabilize and build their economic
21 futures. It serves as a platform for better health and creates jobs
22 and attracts investment, making it a prerequisite to economic growth
23 and stronger communities. In addition, the legislature finds that a
24 variety of affordable housing types is needed to provide options for
25 families of all sizes and stages of life. Furthermore, the
26 legislature finds that increasing the supply of permanently
27 affordable housing and reducing homelessness is a priority of the
28 people of Washington state and that reducing homelessness lessens
29 fiscal impact to the state and improves the economic vitality of our
30 businesses.

31 Moreover, the legislature finds that the private real estate
32 market does not provide adequate affordable housing options for all
33 economic segments, and therefore government assistance is needed to
34 offer the full range of affordable housing options.

35 Therefore, it is the intent of the legislature to increase the
36 supply of affordable housing through a permanent, dedicated
37 investment in the Washington housing trust fund and ongoing local
38 option investment in affordable housing for Washington residents in
39 the low to middle income range.

1 **Sec. 2.** RCW 82.45.060 and 2019 c 424 s 1 are each amended to
2 read as follows:

3 (1) There is imposed an excise tax upon each sale of real
4 property.

5 (a) Through December 31, 2019, the rate of the tax imposed under
6 this section is 1.28 percent of the selling price.

7 (b) Beginning January 1, 2020, except as provided in (c) of this
8 subsection, the rate of the tax imposed under this section is as
9 follows:

10 (i) 1.1 percent of the portion of the selling price that is less
11 than or equal to (~~five hundred thousand dollars~~) \$500,000;

12 (ii) 1.28 percent of the portion of the selling price that is
13 greater than (~~five hundred thousand dollars~~) \$500,000 and equal to
14 or less than (~~one million five hundred thousand dollars~~)
15 \$1,500,000;

16 (iii) 2.75 percent of the portion of the selling price that is
17 greater than (~~one million five hundred thousand dollars~~) \$1,500,000
18 and equal to or less than (~~three million dollars~~) \$3,000,000;

19 (iv) Three percent of the portion of the selling price that is
20 greater than (~~three million dollars~~) \$3,000,000 and equal to or
21 less than \$5,000,000; and

22 (v) Beginning January 1, 2025, four percent of the portion of the
23 selling price that is greater than \$5,000,000.

24 (c) The sale of real property that is classified as timberland or
25 agricultural land is subject to the tax imposed under this section at
26 a rate of 1.28 percent of the selling price.

27 (2) Beginning July 1, 2022, and every fourth year thereafter:

28 (a) The department must adjust the selling price threshold in
29 subsection (1)(b)(i) of this section to reflect the lesser of the
30 growth of the consumer price index for shelter or five percent. If
31 the growth is equal to or less than zero percent, the current selling
32 price threshold continues to apply.

33 (b) The department must adjust the selling price thresholds in
34 subsection (1)(b)(ii) through (~~(iv)~~) (v) of this section by the
35 dollar amount of any increase in the selling price threshold in
36 subsection (1)(b)(i) of this section.

37 (c) The department must publish updated selling price thresholds
38 by September 1, 2022, and September 1st of every fourth year
39 thereafter. Updated selling price thresholds (~~will~~) apply beginning
40 January 1, 2023, and January 1st every fourth year thereafter.

1 Adjusted selling price thresholds must be rounded to the nearest
2 (~~one thousand dollars~~) \$1,000. No changes may be made to adjusted
3 selling price thresholds once such adjustments take effect.

4 (d) The most recent selling price threshold becomes the base for
5 subsequent adjustments.

6 (e) The department must report adjustments to the selling price
7 thresholds to the fiscal committees of the legislature, beginning
8 December 1, 2022, and December 1st every fourth year thereafter.

9 (3) (a) The department must publish guidance to assist sellers in
10 properly classifying real property on the real estate excise tax
11 affidavit for purposes of determining the proper amount of tax due
12 under this section. Real property with multiple uses must be
13 classified according to the property's predominant use. The
14 department's guidance must include factors for use in determining the
15 predominant use of real property.

16 (b) County treasurers are not responsible for verifying that the
17 seller has properly classified real property reported on a real
18 estate excise tax affidavit. The department is solely responsible for
19 such verification as part of its audit responsibilities under RCW
20 82.45.150.

21 (4) (a) Beginning July 1, 2013, and ending December 31, 2019, an
22 amount equal to two percent of the proceeds of this tax must be
23 deposited in the public works assistance account created in RCW
24 43.155.050, an amount equal to (~~four and one-tenth~~) 4.1 percent
25 must be deposited in the education legacy trust account created in
26 RCW 83.100.230, an amount equal to (~~one and six-tenths~~) 1.6 percent
27 must be deposited in the city-county assistance account created in
28 RCW 43.08.290, and the remainder must be deposited in the general
29 fund.

30 (b) Beginning January 1, 2020, amounts collected from the tax
31 imposed under this section must be deposited as provided in RCW
32 82.45.230.

33 (5) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Agricultural land" means farm and agricultural land and farm
36 and agricultural conservation land, as those terms are defined in RCW
37 84.34.020, including any structures on such land.

38 (b) "Consumer price index for shelter" means the most current
39 seasonally adjusted index for the shelter expenditure category of the
40 consumer price index for all urban consumers (CPI-U) as published by

1 July 31st by the bureau of labor statistics of the United States
2 department of labor.

3 (c) "Growth of the consumer price index for shelter" means the
4 percentage increase in the consumer price index for shelter as
5 measured from data published by the bureau of labor statistics of the
6 United States department of labor by July 31st for the most recent
7 three-year period for the selling price threshold adjustment in 2022,
8 and the most recent four-year period for subsequent selling price
9 threshold adjustments.

10 (d) "Timberland" means land classified under chapter 84.34 RCW or
11 designated under chapter 84.33 RCW, including any structures and
12 standing timber on such land, and standing timber sold apart from the
13 land upon which it sits.

14 **Sec. 3.** RCW 82.45.230 and 2019 c 424 s 2 are each amended to
15 read as follows:

16 (1) Beginning January 1, 2020, and ending June 30, 2023, the
17 amounts received for the tax imposed on each sale of real property
18 under RCW 82.45.060 must be deposited as follows:

19 (a) 1.7 percent must be deposited into the public works
20 assistance account created in RCW 43.155.050;

21 (b) 1.4 percent must be deposited into the city-county assistance
22 account created in RCW 43.08.290;

23 (c) 79.4 percent must be deposited into the general fund; and

24 (d) The remainder must be deposited into the educational legacy
25 trust account created in RCW 83.100.230.

26 (2) ~~((Beginning))~~ Except as provided in subsection (3) of this
27 section, beginning July 1, 2023, and thereafter, the amounts received
28 for the tax imposed on each sale of real property under RCW 82.45.060
29 must be deposited as follows:

30 (a) 5.2 percent must be deposited into the public works
31 assistance account created in RCW 43.155.050;

32 (b) 1.4 percent must be deposited into the city-county assistance
33 account created in RCW 43.08.290;

34 (c) 79.4 percent must be deposited into the general fund; and

35 (d) The remainder must be deposited into the education legacy
36 trust account created in RCW 83.100.230.

37 (3) (a) By November 1st and May 1st of each year, the department
38 must calculate the increased state real estate excise tax collections
39 due to the imposition of the four percent real estate excise tax

1 pursuant to RCW 82.45.060(1)(b)(v) as compared with the real estate
2 excise tax collections amount that would have been collected had the
3 four percent tier in RCW 82.45.060(1)(b)(v) not been enacted.

4 (b) The department must notify the state treasurer of the
5 incremental amount by December 1st and by June 1st each year. The
6 state treasurer must deposit the incremental amount as follows by
7 December 30th and June 30th each year:

8 (i) Thirty percent to the Washington housing trust fund created
9 in RCW 43.185.030;

10 (ii) Thirty percent to the apple health and homes account created
11 in RCW 43.330.184;

12 (iii) Fifteen percent to the developmental disabilities housing
13 and services account created in section 4 of this act; and

14 (iv) Twenty-five percent to the affordable housing for all
15 account created in RCW 43.185C.190 for operations, maintenance, and
16 service cost for permanent supportive housing as defined in RCW
17 36.70A.030.

18 NEW SECTION. Sec. 4. A new section is added to chapter 82.45
19 RCW to read as follows:

20 (1) The developmental disabilities housing and services account
21 is created in the state treasury. Receipts from the real estate
22 excise tax incremental increase as calculated in RCW 82.45.230(3) and
23 directed to this account pursuant to RCW 82.45.230(3)(b)(iii) must be
24 deposited into the account. Moneys in the account may only be spent
25 after appropriation.

26 (2) Expenditures from the account may be used only for:

27 (a) Housing programs to support people with developmental
28 disabilities, including acquisition or development of permanent
29 housing, housing developments, or units;

30 (b) Operations and maintenance costs of housing for people with
31 developmental disabilities;

32 (c) Housing related services for individuals with developmental
33 disabilities;

34 (d) Rental subsidies; and

35 (e) Technical assistance to nonprofit organizations serving or
36 housing populations with intellectual and developmental disabilities.

37 (3) Expenditures from the account must be grants or forgivable
38 loans.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.46

2 RCW to read as follows:

3 (1) (a) The legislative authority of any county or city may impose
4 an additional excise tax on each sale of real property in the
5 unincorporated areas of the county for the county tax and in the
6 corporate limits of the city for the city tax at a rate not to exceed
7 0.25 percent of the selling price by the adoption of a resolution by
8 the legislative authority.

9 (b) If a city legislative authority does not impose the full tax
10 rate authorized under (a) of this subsection by June 30, 2024, a
11 county legislative authority may impose in that city the whole or
12 remainder of the taxing authority in accordance with the terms of
13 this section.

14 (2) The proceeds of the tax imposed pursuant to this section must
15 be used as follows:

16 (a) At least 50 percent of the revenue collected must be
17 dedicated to the capital construction or acquisition of affordable
18 housing costs of new units of affordable housing and facilities where
19 housing-related programs are provided, or to infrastructure costs
20 associated with such housing and facilities.

21 (b) Up to 50 percent of the revenue collected may be used for
22 operations, maintenance, and services directly tied to the affordable
23 housing uses allowed in (a) of this subsection that are permanent
24 housing. These funds may not be used for temporary, transitional, or
25 shelter housing.

26 (3) A city or county imposing a tax pursuant to this section may
27 enter into interlocal agreements with other entities to accomplish
28 the requirements in subsection (2) of this section.

29 (4) For the purposes of this section, "affordable housing" means:

30 (a) Residential housing whose monthly costs, including utilities
31 other than telephone, do not exceed 30 percent of the monthly income
32 of a household whose income is, for rental housing, 60 percent of the
33 median household income adjusted for household size, for the county
34 where the household is located, as reported by the United States
35 department of housing and urban development; or

36 (b) Residential housing whose monthly costs, including utilities
37 other than telephone, do not exceed 35 percent of the monthly income
38 of a household whose income is, for owner-occupied housing, 80
39 percent of the median household income adjusted for household size,

1 for the county where the household is located, as reported by the
2 United States department of housing and urban development.

3 **Sec. 6.** RCW 82.46.035 and 2021 c 296 s 12 are each amended to
4 read as follows:

5 (1) ~~((Except for revenues used after May 13, 2021, through~~
6 ~~December 31, 2023, as provided in subsection (3) of this section,~~
7 ~~the)) The legislative authority of any county or city must identify~~
8 in the adopted budget the capital projects funded in whole or in part
9 from the proceeds of the tax authorized in this section, and must
10 indicate that such tax is intended to be in addition to other funds
11 that may be reasonably available for such capital projects.

12 (2) The legislative authority of any county or any city that
13 plans under RCW 36.70A.040(1) may impose an additional excise tax on
14 each sale of real property in the unincorporated areas of the county
15 for the county tax and in the corporate limits of the city for the
16 city tax at a rate not exceeding one-quarter of one percent of the
17 selling price. ~~((Any county choosing to plan under RCW 36.70A.040(2)~~
18 ~~and any city within such a county may only adopt an ordinance~~
19 ~~imposing the excise tax authorized by this section if the ordinance~~
20 ~~is first authorized by a proposition approved by a majority of the~~
21 ~~voters of the taxing district voting on the proposition at a general~~
22 ~~election held within the district or at a special election within the~~
23 ~~taxing district called by the district for the purpose of submitting~~
24 ~~such proposition to the voters.))~~

25 (3) Revenues generated from the tax imposed under subsection (2)
26 of this section must be used by such counties and cities solely for
27 ~~((finaneing))~~ capital projects specified in a capital facilities plan
28 element of a comprehensive plan~~((, except that the greater of~~
29 ~~\$100,000 or 35 percent of revenues may additionally be used for the~~
30 ~~operation of, maintenance of, and service support for, existing~~
31 ~~capital projects after May 13, 2021, through December 31, 2023))~~.
32 However, revenues (a) pledged by such counties and cities to debt
33 retirement prior to March 1, 1992, may continue to be used for that
34 purpose until the original debt for which the revenues were pledged
35 is retired, or (b) committed prior to March 1, 1992, by such counties
36 or cities to a project may continue to be used for that purpose until
37 the project is completed.

38 (4) ~~((Revenues generated by the tax imposed by this section must~~
39 ~~be deposited in a separate account after December 31, 2023.~~

1 ~~(5)~~) As used in this section, "city" means any city or town and
2 "capital project" means those public works projects of a local
3 government for:

4 (a) Planning, acquisition, construction, reconstruction, repair,
5 replacement, rehabilitation, or improvement of streets, roads,
6 highways, sidewalks, street and road lighting systems, traffic
7 signals, bridges, domestic water systems, storm and sanitary sewer
8 systems;

9 (b) Planning, construction, reconstruction, repair,
10 rehabilitation, or improvement of parks; ~~((and))~~

11 (c) ~~((Until January 1, 2026, planning))~~ Planning, acquisition,
12 construction, reconstruction, repair, replacement, rehabilitation, or
13 improvement of facilities for those experiencing homelessness and
14 affordable housing projects; and

15 (d) Any use allowed under RCW 82.46.010.

16 ~~((6))~~ (5) A county or city may use the greater of \$100,000 or
17 25 percent of available funds ~~((, but not to exceed \$1,000,000,))~~ for
18 capital projects as defined in subsection ~~((5))~~ (4)(c) of this
19 section. The limits in this subsection do not apply to any county or
20 city that used revenue under this section for the acquisition,
21 construction, improvement, or rehabilitation of facilities to provide
22 housing for the homeless prior to June 30, 2019.

23 ~~((7))~~ (6) A county or city using funds for uses in subsection
24 ~~((5))~~ (4)(c) of this section must document in its plan under RCW
25 36.70A.070(3) that it has funds during the next two years for capital
26 projects in subsection ~~((5))~~ (4)(a) of this section.

27 ~~((8))~~ (7) When the governor files a notice of noncompliance
28 under RCW 36.70A.340 with the secretary of state and the appropriate
29 county or city, the county or city's authority to impose the
30 additional excise tax under this section is temporarily rescinded
31 until the governor files a subsequent notice rescinding the notice of
32 noncompliance.

33 **Sec. 7.** RCW 82.46.010 and 2021 c 296 s 10 are each amended to
34 read as follows:

35 (1) The legislative authority of any county or city must identify
36 in the adopted budget the capital projects funded in whole or in part
37 from the proceeds of the tax authorized in this section, and must
38 indicate that such tax is intended to be in addition to other funds
39 that may be reasonably available for such capital projects.

1 (2) ~~((a))~~ The legislative authority of any county or any city
2 may impose an excise tax on each sale of real property in the
3 unincorporated areas of the county for the county tax and in the
4 corporate limits of the city for the city tax at a rate not exceeding
5 one-quarter of one percent of the selling price. ~~((Except as provided~~
6 ~~in subsection (8) of this section, the))~~ The revenues from this tax
7 must be used by any city or county ~~((with a population of 5,000 or~~
8 ~~less and any city or county that does not plan under RCW 36.70A.040))~~
9 for any capital purpose identified in a capital improvements plan and
10 local capital improvements, including those listed in RCW
11 35.43.040 ~~(-~~

12 ~~(b) Except as provided in subsection (8) of this section, after~~
13 ~~April 30, 1992, revenues generated from the tax imposed under this~~
14 ~~subsection (2) in counties over 5,000 population and cities over~~
15 ~~5,000 population that are required or choose to plan under RCW~~
16 ~~36.70A.040 must be used solely)~~ and for ~~((financing))~~ capital
17 projects specified in a capital facilities plan element of a
18 comprehensive plan and housing relocation assistance under RCW
19 59.18.440 and 59.18.450. However, revenues (i) pledged by such
20 counties and cities to debt retirement prior to April 30, 1992, may
21 continue to be used for that purpose until the original debt for
22 which the revenues were pledged is retired, or (ii) committed prior
23 to April 30, 1992, by such counties or cities to a project may
24 continue to be used for that purpose until the project is completed.

25 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2),
26 the legislative authority of any county or any city may impose an
27 additional excise tax on each sale of real property in the
28 unincorporated areas of the county for the county tax and in the
29 corporate limits of the city for the city tax at a rate not exceeding
30 one-half of one percent of the selling price.

31 (4) Taxes imposed under this section must be collected from
32 persons who are taxable by the state under chapter 82.45 RCW upon the
33 occurrence of any taxable event within the unincorporated areas of
34 the county or within the corporate limits of the city, as the case
35 may be.

36 (5) Taxes imposed under this section must comply with all
37 applicable rules, regulations, laws, and court decisions regarding
38 real estate excise taxes as imposed by the state under chapter 82.45
39 RCW.

1 (6) The definitions in this subsection (6) apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "City" means any city or town.

4 (b) "Capital project" means those public works projects of a
5 local government for planning, acquisition, construction,
6 reconstruction, repair, replacement, rehabilitation, or improvement
7 of streets; roads; highways; sidewalks; street and road lighting
8 systems; traffic signals; bridges; domestic water systems; storm and
9 sanitary sewer systems; parks; recreational facilities; law
10 enforcement facilities; fire protection facilities; trails;
11 libraries; administrative facilities; judicial facilities; river
12 flood control projects; waterway flood control projects by those
13 jurisdictions that, prior to June 11, 1992, have expended funds
14 derived from the tax authorized by this section for such purposes;
15 until December 31, 1995, housing projects for those jurisdictions
16 that, prior to June 11, 1992, have expended or committed to expend
17 funds derived from the tax authorized by this section or the tax
18 authorized by RCW 82.46.035 for such purposes; and technology
19 infrastructure that is integral to the capital project.

20 ~~(7) ((From July 22, 2011, until December 31, 2016, a city or~~
21 ~~county may use the greater of \$100,000 or 35 percent of available~~
22 ~~funds under this section, but not to exceed \$1,000,000 per year, for~~
23 ~~the operations and maintenance of existing capital projects as~~
24 ~~defined in subsection (6) of this section.~~

25 ~~(8) After May 13, 2021, through December 31, 2023, a city or~~
26 ~~county may use the greater of \$100,000 or 35 percent of available~~
27 ~~funds under this section for the operation of, maintenance of, and~~
28 ~~service support for, existing capital projects, including the~~
29 ~~provision of services to residents of affordable housing or shelter~~
30 ~~units.)) A county or city may use available funds under this section~~
31 ~~for any eligible use in RCW 82.46.035.~~

32 **Sec. 8.** RCW 82.46.015 and 2021 c 296 s 11 are each amended to
33 read as follows:

34 (1) ~~((After May 13, 2021, through December 31, 2023, a))~~ A city
35 or county may use the greater of \$100,000 or 35 percent of available
36 funds from revenues collected under RCW 82.46.010 for the maintenance
37 of, operation of, and service support for, existing capital projects,
38 as defined in RCW 82.46.010, and including the provision of services
39 to residents of affordable housing or shelter units.

1 (2) (~~After December 31, 2023, a city or county that meets the~~
2 ~~requirements of subsection (3) of this section may use the greater of~~
3 ~~\$100,000 or 25 percent of available funds, but not to exceed~~
4 ~~\$1,000,000 per year, from revenues collected under RCW 82.46.010 for~~
5 ~~the maintenance of capital projects, as defined in RCW 82.46.010.~~

6 ~~(3))~~) A city or county may use revenues pursuant to subsection
7 (~~(2))~~) (1) of this section if:

8 (a) The city or county prepares a written report demonstrating
9 that it has or will have adequate funding from all sources of public
10 funding to pay for all capital projects, as defined in RCW 82.46.010,
11 identified in its capital facilities plan for the succeeding two-year
12 period. Cities or counties not required to prepare a capital
13 facilities plan may satisfy this provision by using a document that,
14 at a minimum, identifies capital project needs and available public
15 funding sources for the succeeding two-year period; and

16 (b) (i) The city or county has not enacted, after June 9, 2016:
17 Any requirement on the listing or sale of real property; or any
18 requirement on landlords, at the time of executing a lease, to
19 perform or provide physical improvements or modifications to real
20 property or fixtures, except if necessary to address an immediate
21 threat to health or safety; or

22 (ii) Any local requirement adopted by the city or county under
23 (b) (i) of this subsection is: Specifically authorized by RCW
24 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
25 specifically authorized by other state or federal law; or a seller or
26 landlord disclosure requirement pursuant to RCW 64.06.080.

27 ~~((4))~~) (3) The report prepared under subsection ~~((3))~~) (2) (a)
28 of this section must: (a) Include information necessary to determine
29 compliance with the requirements of subsection ~~((3))~~) (2) (a) of this
30 section; (b) identify how revenues collected under RCW 82.46.010 were
31 used by the city or county during the prior two-year period; (c)
32 identify how funds (~~authorized under subsection (2) of this~~
33 ~~section~~) will be used during the succeeding two-year period; and (d)
34 identify what percentage of funding for capital projects within the
35 city or county is attributable to revenues under RCW 82.46.010
36 compared to all other sources of capital project funding. The city or
37 county must prepare and adopt the report as part of its regular,
38 public budget process.

1 ~~((5) The authority to use funds as authorized in this section is~~
2 ~~in addition to the authority to use funds pursuant to RCW~~
3 ~~82.46.010(7), which remains in effect through December 31, 2016.~~

4 ~~(6))~~ (4) For purposes of this section, "maintenance" means the
5 use of funds for labor and materials that will preserve, prevent the
6 decline of, or extend the useful life of a capital project.
7 "Maintenance" does not include labor or material costs for routine
8 operations of a capital project.

9 **Sec. 9.** RCW 82.46.037 and 2021 c 296 s 13 are each amended to
10 read as follows:

11 (1) A city or county that meets the requirements of subsection
12 (2) of this section may use the greater of \$100,000 or ~~((25))~~ 35
13 percent of available funds ~~((, but not to exceed \$1,000,000 per year,~~
14 ~~except for the period from May 13, 2021, through December 31, 2023,~~
15 ~~when the greater of \$100,000 or 35 percent may be used))~~ from
16 revenues collected under RCW 82.46.035 for:

17 (a) The maintenance of capital projects, as defined in RCW
18 82.46.035 ~~((5))~~ (4);

19 (b) The planning, acquisition, construction, reconstruction,
20 repair, replacement, rehabilitation, improvement, or maintenance of
21 capital projects as defined in RCW 82.46.010(6)(b) that are not also
22 included within the definition of capital projects in RCW
23 82.46.035 ~~((5))~~ (4); and

24 (c) The operation of, and service support for, existing capital
25 projects as included in the definition of capital project in RCW
26 82.46.035 ~~((5))~~ (4) and 82.46.010(6)(b) ~~((, from May 13, 2021,~~
27 ~~through December 31, 2023))~~.

28 (2) A ~~((city or county may use revenues pursuant to subsection~~
29 ~~(1) of this section after May 13, 2021, through December 31, 2023.~~
30 ~~Thereafter,~~ a) city or county may use revenues pursuant to
31 subsection (1) of this section if:

32 (a) The city or county prepares a written report demonstrating
33 that it has or will have adequate funding from all sources of public
34 funding to pay for all capital projects, as defined in RCW
35 82.46.035 ~~((5))~~ (4), identified in its capital facilities plan for
36 the succeeding two-year period; and

37 (b)(i) The city or county has not enacted, after June 9, 2016,
38 any requirement on the listing or sale of real property; or any
39 requirement on landlords, at the time of executing a lease, to

1 perform or provide physical improvements or modifications to real
2 property or fixtures, except if necessary to address an immediate
3 threat to health or safety;

4 (ii) Any local requirement adopted by the city or county under
5 (b)(i) of this subsection is: Specifically authorized by RCW
6 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
7 specifically authorized by other state or federal law; or a seller or
8 landlord disclosure requirement pursuant to RCW 64.06.080; or

9 (iii) For a city or county using funds under subsection (1)(b) of
10 this section, the requirements of this subsection apply, except that
11 the date for such enactment under (b)(i) of this subsection is ninety
12 days after October 19, 2017.

13 (3) The report prepared under subsection (2)(a) of this section
14 must: (a) Include information necessary to determine compliance with
15 the requirements of subsection (2)(a) of this section; (b) identify
16 how revenues collected under RCW 82.46.035 were used by the city or
17 county during the prior two-year period; (c) identify how funds
18 authorized under subsection (1) of this section will be used during
19 the succeeding two-year period; and (d) identify what percentage of
20 funding for capital projects within the city or county is
21 attributable to revenues under RCW 82.46.035 compared to all other
22 sources of capital project funding. The city or county must prepare
23 and adopt the report as part of its regular, public budget process.

24 (4) For purposes of this section, "maintenance" means the use of
25 funds for labor and materials that will preserve, prevent the decline
26 of, or extend the useful life of a capital project. "Maintenance"
27 does not include labor or material costs for routine operations of a
28 capital project.

29 **Sec. 10.** RCW 82.45.010 and 2022 c 199 s 3 are each amended to
30 read as follows:

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

1 purchaser's direction, and title to the property is retained by the
2 vendor as security for the payment of the purchase price. The term
3 also includes the grant, assignment, quitclaim, sale, or transfer of
4 improvements constructed upon leased land.

5 (2) (a) The term "sale" also includes the transfer or acquisition
6 within any (~~(thirty-six)~~) 36 month period of a controlling interest
7 in any entity with an interest in real property located in this state
8 for a valuable consideration.

9 (b) For the sole purpose of determining whether, pursuant to the
10 exercise of an option, a controlling interest was transferred or
11 acquired within a (~~(thirty-six)~~) 36 month period, the date that the
12 option agreement was executed is the date on which the transfer or
13 acquisition of the controlling interest is deemed to occur. For all
14 other purposes under this chapter, the date upon which the option is
15 exercised is the date of the transfer or acquisition of the
16 controlling interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (p) A transfer of real property, however effected, if it consists
39 of a mere change in identity or form of ownership of an entity where
40 there is no change in the beneficial ownership. These include

1 transfers to a corporation or partnership which is wholly owned by
2 the transferor and/or the transferor's spouse or domestic partner or
3 children of the transferor or the transferor's spouse or domestic
4 partner. However, if thereafter such transferee corporation or
5 partnership voluntarily transfers such real property, or such
6 transferor, spouse or domestic partner, or children of the transferor
7 or the transferor's spouse or domestic partner voluntarily transfer
8 stock in the transferee corporation or interest in the transferee
9 partnership capital, as the case may be, to other than (i) the
10 transferor and/or the transferor's spouse or domestic partner or
11 children of the transferor or the transferor's spouse or domestic
12 partner, (ii) a trust having the transferor and/or the transferor's
13 spouse or domestic partner or children of the transferor or the
14 transferor's spouse or domestic partner as the only beneficiaries at
15 the time of the transfer to the trust, or (iii) a corporation or
16 partnership wholly owned by the original transferor and/or the
17 transferor's spouse or domestic partner or children of the transferor
18 or the transferor's spouse or domestic partner, within three years of
19 the original transfer to which this exemption applies, and the tax on
20 the subsequent transfer has not been paid within (~~sixty~~) 60 days of
21 becoming due, excise taxes become due and payable on the original
22 transfer as otherwise provided by law.

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

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

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

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

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

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

23 (iii) This subsection (3)(s) does not apply to transfers of a
24 qualified low-income housing development or controlling interest in a
25 qualified low-income housing development occurring on or after July
26 1, 2035.

27 (iv) The Washington state housing finance commission, in
28 consultation with the department, must gather data on: (A) The fiscal
29 savings, if any, accruing to transferees as a result of the exemption
30 provided in this subsection (3)(s); (B) the extent to which
31 transferors of qualified low-income housing developments receive
32 consideration, including any assumption of debt, as part of a
33 transfer subject to the exemption provided in this subsection (3)(s);
34 and (C) the continued use of the property for low-income housing. The
35 Washington state housing finance commission must provide this
36 information to the joint legislative audit and review committee. The
37 committee must conduct a review of the tax preference created under
38 this subsection (3)(s) in calendar year 2033, as required under
39 chapter 43.136 RCW.

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

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

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

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

14 (D) The residential property transferred must remain in continued
15 use for (~~(fifty)~~) 50 years by the qualified entity as supported
16 living for persons with developmental disabilities by the qualified
17 entity or successor entity. If the qualified entity sells or
18 otherwise conveys ownership of the residential property the proceeds
19 of the sale or conveyance must be used to acquire similar residential
20 property and such similar residential property must be considered the
21 successor for continued use. The property will not be considered in
22 continued use if the department of social and health services finds
23 that the property has failed, after a reasonable time to remedy, to
24 meet any health and safety statutory or regulatory requirements. If
25 the department of social and health services determines that the
26 property fails to meet the requirements for continued use, the
27 department of social and health services must notify the department
28 and the real estate excise tax based on the value of the property at
29 the time of the transfer into use as residential property for persons
30 with developmental disabilities becomes immediately due and payable
31 by the qualified entity. The tax due is not subject to penalties,
32 fees, or interest under this title.

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

35 (iii) A "qualified entity" is:

36 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
37 of the federal internal revenue code of 1986, as amended, as of June
38 7, 2018, or a subsidiary under the same taxpayer identification
39 number that provides residential supported living for persons with
40 developmental disabilities; or

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

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

7 (u)(i) The sale by an affordable homeownership facilitator of
8 self-help housing to a low-income household.

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

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

16 (B) "Low-income" means household income as defined by the
17 department, provided that the definition may not exceed (~~eighty~~) 80
18 percent of median household income, adjusted for household size, for
19 the county in which the dwelling is located.

20 (C) "Self-help housing" means dwelling residences provided for
21 ownership by low-income individuals and families whose ownership
22 requirement includes labor participation. "Self-help housing" does
23 not include residential rental housing provided on a commercial basis
24 to the general public.

25 (v)(i) A sale or transfer of real property to a qualifying
26 grantee that uses the property for housing for low-income persons and
27 receives or otherwise qualifies the property for an exemption from
28 real and personal property taxes under RCW 84.36.560, 84.36.049,
29 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection
30 (3)(v), "qualifying grantee" means a nonprofit entity as defined in
31 RCW 84.36.560, a nonprofit entity or qualified cooperative
32 association as defined in RCW 84.36.049, a housing authority created
33 under RCW 35.82.030 or 35.82.300, a public corporation established
34 under RCW 35.21.660 or 35.21.730, or a county or municipal
35 corporation. A qualifying grantee that is a county or municipal
36 corporation must record a covenant at the time of transfer that
37 prohibits using the property for any purpose other than for low-
38 income housing for a period of at least 10 years. At a minimum, the
39 covenant must address price restrictions and household income limits
40 for the low-income housing. A qualifying grantee must comply with the

1 requirements described in (v)(i)(A), (B), or (C) of this subsection
2 and must also certify, by affidavit at the time of sale or transfer,
3 that it intends to comply with those requirements.

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

6 (I) The qualifying grantee must receive or qualify the property
7 for a tax exemption under RCW 84.36.560, 84.36.049,
8 35.82.210, 35.21.755, or 84.36.010; and

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

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

12 (I) The qualifying grantee must receive or qualify the property
13 for a tax exemption under RCW 84.36.560, 84.36.049,
14 35.82.210, 35.21.755, or 84.36.010; and

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

16 (C) If the qualifying grantee intends to substantially
17 rehabilitate the premises as defined in RCW 59.18.200, within three
18 years:

19 (I) The qualifying grantee must receive or qualify the property
20 for a tax exemption under RCW 84.36.560, 84.36.049,
21 35.82.210, 35.21.755, or 84.36.010; and

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

23 (ii) If the qualifying grantee fails to satisfy the requirements
24 described in (v)(i)(A), (B), or (C) of this subsection, within the
25 timelines described in (v)(i)(A), (B), or (C) of this subsection, the
26 qualifying grantee must pay the tax that would have otherwise been
27 due at the time of initial transfer, plus interest calculated from
28 the date of initial transfer pursuant to RCW 82.32.050.

29 (iii) If a qualifying grantee transfers the property to a
30 different qualifying grantee within the original timelines described
31 in (v)(i)(A), (B), or (C) of this subsection, neither the original
32 qualifying grantee nor the new qualifying grantee is required to pay
33 the tax, so long as the new qualifying grantee satisfies the
34 requirements as described in (v)(i)(A), (B), or (C) of this
35 subsection within the exemption period of the initial transfer. If
36 the new qualifying grantee fails to satisfy the requirements
37 described in (v)(i)(A), (B), or (C) of this subsection, only the new
38 qualifying grantee is liable for the payment of taxes required by
39 (v)(ii) of this subsection. There is no limit on the number of
40 transfers between qualifying grantees within the original timelines.

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

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

9 (w) (i) The sale of qualified space in a development that
10 qualifies for a property tax exemption under RCW
11 84.36.560, 84.36.049, 35.82.210, 35.21.755, or 84.36.010 to a
12 nonprofit organization, a housing authority, or public corporation
13 for use for an exempt community purpose.

14 (ii) For the purposes of this subsection (3) (w), the following
15 definitions apply:

16 (A) "Affordable housing development" means housing provided to
17 low-income households.

18 (B) "Exempt community purpose" means any use to provide a service
19 that benefits affordable housing development tenants or the public
20 including, but not limited to, health clinics, senior day care, food
21 banks, community centers, and early learning facilities.

22 (C) "Low-income" means household income that does not exceed 80
23 percent of median household income at initial occupancy, adjusted for
24 household size, for the county in which the dwelling is located.

25 (D) "Qualified space" means any portion of an affordable housing
26 development that is accessible to tenants or the public.

27 **Sec. 11.** RCW 82.45.010 and 2022 c 199 s 4 are each amended to
28 read as follows:

29 (1) As used in this chapter, the term "sale" has its ordinary
30 meaning and includes any conveyance, grant, assignment, quitclaim, or
31 transfer of the ownership of or title to real property, including
32 standing timber, or any estate or interest therein for a valuable
33 consideration, and any contract for such conveyance, grant,
34 assignment, quitclaim, or transfer, and any lease with an option to
35 purchase real property, including standing timber, or any estate or
36 interest therein or other contract under which possession of the
37 property is given to the purchaser, or any other person at the
38 purchaser's direction, and title to the property is retained by the
39 vendor as security for the payment of the purchase price. The term

1 also includes the grant, assignment, quitclaim, sale, or transfer of
2 improvements constructed upon leased land.

3 (2) (a) The term "sale" also includes the transfer or acquisition
4 within any (~~(thirty-six)~~) 36 month period of a controlling interest
5 in any entity with an interest in real property located in this state
6 for a valuable consideration.

7 (b) For the sole purpose of determining whether, pursuant to the
8 exercise of an option, a controlling interest was transferred or
9 acquired within a (~~(thirty-six)~~) 36 month period, the date that the
10 option agreement was executed is the date on which the transfer or
11 acquisition of the controlling interest is deemed to occur. For all
12 other purposes under this chapter, the date upon which the option is
13 exercised is the date of the transfer or acquisition of the
14 controlling interest.

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

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

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

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

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

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

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

39 (d) A cancellation or forfeiture of a vendee's interest in a
40 contract for the sale of real property, whether or not such contract

1 contains a forfeiture clause, or deed in lieu of foreclosure of a
2 mortgage.

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

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

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

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

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

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

22 (k) A conveyance to the federal housing administration or
23 veterans administration by an authorized mortgagee made pursuant to a
24 contract of insurance or guaranty with the federal housing
25 administration or veterans administration.

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

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

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

33 (o) A sale to a regional transit authority or public corporation
34 under RCW 81.112.320 under a sale/leaseback agreement under RCW
35 81.112.300.

36 (p) A transfer of real property, however effected, if it consists
37 of a mere change in identity or form of ownership of an entity where
38 there is no change in the beneficial ownership. These include
39 transfers to a corporation or partnership which is wholly owned by
40 the transferor and/or the transferor's spouse or domestic partner or

1 children of the transferor or the transferor's spouse or domestic
2 partner. However, if thereafter such transferee corporation or
3 partnership voluntarily transfers such real property, or such
4 transferor, spouse or domestic partner, or children of the transferor
5 or the transferor's spouse or domestic partner voluntarily transfer
6 stock in the transferee corporation or interest in the transferee
7 partnership capital, as the case may be, to other than (i) the
8 transferor and/or the transferor's spouse or domestic partner or
9 children of the transferor or the transferor's spouse or domestic
10 partner, (ii) a trust having the transferor and/or the transferor's
11 spouse or domestic partner or children of the transferor or the
12 transferor's spouse or domestic partner as the only beneficiaries at
13 the time of the transfer to the trust, or (iii) a corporation or
14 partnership wholly owned by the original transferor and/or the
15 transferor's spouse or domestic partner or children of the transferor
16 or the transferor's spouse or domestic partner, within three years of
17 the original transfer to which this exemption applies, and the tax on
18 the subsequent transfer has not been paid within (~~sixty~~) 60 days of
19 becoming due, excise taxes become due and payable on the original
20 transfer as otherwise provided by law.

21 (q) (i) A transfer that for federal income tax purposes does not
22 involve the recognition of gain or loss for entity formation,
23 liquidation or dissolution, and reorganization, including but not
24 limited to nonrecognition of gain or loss because of application of
25 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
26 revenue code of 1986, as amended.

27 (ii) However, the transfer described in (q) (i) of this subsection
28 cannot be preceded or followed within a (~~thirty-six~~) 36 month
29 period by another transfer or series of transfers, that, when
30 combined with the otherwise exempt transfer or transfers described in
31 (q) (i) of this subsection, results in the transfer of a controlling
32 interest in the entity for valuable consideration, and in which one
33 or more persons previously holding a controlling interest in the
34 entity receive cash or property in exchange for any interest the
35 person or persons acting in concert hold in the entity. This
36 subsection (3) (q) (ii) does not apply to that part of the transfer
37 involving property received that is the real property interest that
38 the person or persons originally contributed to the entity or when
39 one or more persons who did not contribute real property or belong to
40 the entity at a time when real property was purchased receive cash or

1 personal property in exchange for that person or persons' interest in
2 the entity. The real estate excise tax under this subsection
3 (3)(q)(ii) is imposed upon the person or persons who previously held
4 a controlling interest in the entity.

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

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

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

22 (iii) This subsection (3)(s) does not apply to transfers of a
23 qualified low-income housing development or controlling interest in a
24 qualified low-income housing development occurring on or after July
25 1, 2035.

26 (iv) The Washington state housing finance commission, in
27 consultation with the department, must gather data on: (A) The fiscal
28 savings, if any, accruing to transferees as a result of the exemption
29 provided in this subsection (3)(s); (B) the extent to which
30 transferors of qualified low-income housing developments receive
31 consideration, including any assumption of debt, as part of a
32 transfer subject to the exemption provided in this subsection (3)(s);
33 and (C) the continued use of the property for low-income housing. The
34 Washington state housing finance commission must provide this
35 information to the joint legislative audit and review committee. The
36 committee must conduct a review of the tax preference created under
37 this subsection (3)(s) in calendar year 2033, as required under
38 chapter 43.136 RCW.

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

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

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

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

14 (D) The residential property transferred must remain in continued
15 use for (~~fifty~~) 50 years by the qualified entity as supported
16 living for persons with developmental disabilities by the qualified
17 entity or successor entity. If the qualified entity sells or
18 otherwise conveys ownership of the residential property the proceeds
19 of the sale or conveyance must be used to acquire similar residential
20 property and such similar residential property must be considered the
21 successor for continued use. The property will not be considered in
22 continued use if the department of social and health services finds
23 that the property has failed, after a reasonable time to remedy, to
24 meet any health and safety statutory or regulatory requirements. If
25 the department of social and health services determines that the
26 property fails to meet the requirements for continued use, the
27 department of social and health services must notify the department
28 and the real estate excise tax based on the value of the property at
29 the time of the transfer into use as residential property for persons
30 with developmental disabilities becomes immediately due and payable
31 by the qualified entity. The tax due is not subject to penalties,
32 fees, or interest under this title.

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

35 (iii) A "qualified entity" is:

36 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
37 of the federal internal revenue code of 1986, as amended, as of June
38 7, 2018, or a subsidiary under the same taxpayer identification
39 number that provides residential supported living for persons with
40 developmental disabilities; or

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

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

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

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

28 (I) The qualifying grantee must receive or qualify the property
29 for a tax exemption under RCW 84.36.560, 84.36.049,
30 35.82.210, 35.21.755, or 84.36.010; and

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

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

34 (I) The qualifying grantee must receive or qualify the property
35 for a tax exemption under RCW 84.36.560, 84.36.049,
36 35.82.210, 35.21.755, or 84.36.010; and

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

38 (C) If the qualifying grantee intends to substantially
39 rehabilitate the premises as defined in RCW 59.18.200, within three
40 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 (u)(i)(A), (B), or (C) of this subsection, within the
7 timelines described in (u)(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 (u)(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 (u)(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 (u)(i)(A), (B), or (C) of this subsection, only the new
20 qualifying grantee is liable for the payment of taxes required by
21 (u)(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 (u)(i)(A),
28 (B), or (C) of this subsection have been satisfied.

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

34 (v)(i) The sale of qualified space in a development that
35 qualifies for a property tax exemption under RCW
36 84.36.560, 84.36.049, 35.82.210, 35.21.755, or 84.36.010 to a
37 nonprofit organization, a housing authority, or public corporation
38 for use for an exempt community purpose.

39 (ii) For the purposes of this subsection (3)(v), the following
40 definitions apply:

1 (A) "Affordable housing development" means housing provided to
2 low-income households.

3 (B) "Exempt community purpose" means any use to provide a service
4 that benefits affordable housing development tenants or the public
5 including, but not limited to, health clinics, senior day care, food
6 banks, community centers, and early learning facilities.

7 (C) "Low-income" means household income that does not exceed 80
8 percent of median household income at initial occupancy, adjusted for
9 household size, for the county in which the dwelling is located.

10 (D) "Qualified space" means any portion of an affordable housing
11 development that is accessible to tenants or the public.

12 NEW SECTION. Sec. 12. This act may be known and cited as the
13 affordable homes act.

14 NEW SECTION. Sec. 13. RCW 82.32.805 and 82.32.808 do not apply
15 to this act.

16 NEW SECTION. Sec. 14. Sections 2 through 4 of this act take
17 effect January 1, 2025.

18 NEW SECTION. Sec. 15. Sections 5 through 10 of this act take
19 effect January 1, 2024.

20 NEW SECTION. Sec. 16. Section 10 of this act expires January 1,
21 2030.

22 NEW SECTION. Sec. 17. Section 11 of this act takes effect
23 January 1, 2030.

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