
HOUSE BILL 2064

State of Washington

68th Legislature

2024 Regular Session

By Representatives Wylie, Fosse, Paul, Shavers, and Pollet

Prefiled 12/29/23. Read first time 01/08/24. Referred to Committee on Finance.

1 AN ACT Relating to providing for an exemption from the real
2 estate excise tax for transfers of property to qualifying low-income
3 first-time homebuyers; amending RCW 82.45.010; creating a new
4 section; providing an effective date; and providing an expiration
5 date.

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

7 **Sec. 1.** RCW 82.45.010 and 2022 c 199 s 3 are each amended to
8 read as follows:

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

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

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

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

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

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

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

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

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

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

37 (d) A cancellation or forfeiture of a vendee's interest in a
38 contract for the sale of real property, whether or not such contract
39 contains a forfeiture clause, or deed in lieu of foreclosure of a
40 mortgage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (3)(q)(ii) is imposed upon the person or persons who previously held
2 a controlling interest in the entity.

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

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

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

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

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

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

39 (A) The adult child with developmental disabilities of the
40 transferor of the residential property must be allowed to reside in

1 the residence or successor property so long as the placement is safe
2 and appropriate as determined by the department of social and health
3 services;

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

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

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

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

30 (iii) A "qualified entity" is:

31 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
32 of the federal internal revenue code of 1986, as amended, as of June
33 7, 2018, or a subsidiary under the same taxpayer identification
34 number that provides residential supported living for persons with
35 developmental disabilities; or

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

38 (iv) In order to receive an exemption under this subsection
39 (3)(t) an affidavit must be submitted by the transferor of the

1 residential property and must include a copy of the transfer
2 agreement and any other documentation as required by the department.

3 (u) (i) The sale by an affordable homeownership facilitator of
4 ~~((self-help))~~ ownership housing to a low-income household who is a
5 first-time homebuyer, meets the eligibility requirements for the
6 first-time homebuyer program offered by the Washington state housing
7 finance commission, and is receiving publicly funded down payment
8 assistance.

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)) Ownership housing"~~ means dwelling residences
21 provided for ownership by low-income individuals and families ~~((whose~~
22 ~~ownership requirement includes labor participation. "Self-help~~
23 ~~housing" does not include residential rental housing provided on a~~
24 ~~commercial basis 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 NEW SECTION. **Sec. 2.** RCW 82.32.808 does not apply to this act.

10 NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1,
11 2024.

12 NEW SECTION. **Sec. 4.** Section 1 of this act expires January 1,
13 2030.

--- END ---