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HOUSE BILL 1421

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State of Washington

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By Representatives Ogden, Nelson, Mitchell, Franklin, Ferguson, Haugen, Cooper, Rayburn, Roland, Wood, Edmondson, Wynne, Nealey, Zellinsky, Ballard, Winsley, Paris, R. King, R. Meyers, Dellwo, Scott, Tate, Van Luven, Forner, Betrozoff, Wineberry, Leonard and Anderson.

Read first time January 29, 1991. Referred to Committee on Housing.

1 AN ACT Relating to sales of affordable housing; and amending RCW  
2 82.45.010, 82.45.032, and 82.45.120.

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

4 **Sec. 1.** RCW 82.45.010 and 1981 c 93 s 1 are each amended to read  
5 as follows:

6 (1) As used in this chapter, the term "sale" shall have its  
7 ordinary meaning and shall include any conveyance, grant, assignment,  
8 quitclaim, or transfer of the ownership of or title to real property,  
9 including standing timber, or any estate or interest therein for a  
10 valuable consideration, and any contract for such conveyance, grant,  
11 assignment, quitclaim, or transfer, and any lease with an option to  
12 purchase real property, including standing timber, or any estate or  
13 interest therein or other contract under which possession of the  
14 property is given to the purchaser, or any other person by his

1 direction, which title is retained by the vendor as security for the  
2 payment of the purchase price.

3       (2) The term sale shall not include: (a) A transfer by gift,  
4 devise, or inheritance, a transfer of any leasehold interest other than  
5 of the type mentioned above((~~7~~)); (b) a cancellation or forfeiture of  
6 a vendee's interest in a contract for the sale of real property,  
7 whether or not such contract contains a forfeiture clause, or deed in  
8 lieu of foreclosure of a mortgage or the assumption by a grantee of the  
9 balance owing on an obligation which is secured by a mortgage or deed  
10 in lieu of forfeiture of the vendee's interest in a contract of sale  
11 where no consideration passes otherwise or the partition of property by  
12 tenants in common by agreement or as the result of a court decree, any  
13 transfer, conveyance, or assignment of property or interest in property  
14 from one spouse to the other in accordance with the terms of a decree  
15 of divorce or in fulfillment of a property settlement agreement  
16 incident thereto((~~7~~)); (c) the assignment or other transfer of a  
17 vendor's interest in a contract for the sale of real property, even  
18 though accompanied by a conveyance of the vendor's interest in the real  
19 property involved((~~7~~)); (d) transfers by appropriation or decree in  
20 condemnation proceedings brought by the United States, the state or any  
21 political subdivision thereof, or a municipal corporation((~~7~~)); (e)(i)  
22 a mortgage or other transfer of an interest in real property merely to  
23 secure a debt, or (ii) the assignment thereof((~~7~~)); (f)(i) any transfer  
24 or conveyance made pursuant to an order of sale by the court in any  
25 mortgage or lien foreclosure proceeding or upon execution of a  
26 judgment, or (ii) deed in lieu of foreclosure to satisfy a  
27 mortgage((~~7~~)); (g) a conveyance to the federal housing administration  
28 or veterans administration by an authorized mortgagee made pursuant to  
29 a contract of insurance or guaranty with the federal housing  
30 administration or veterans administration((~~7~~ ~~nor~~)); (h) a transfer in

1 compliance with the terms of any lease or contract upon which the tax  
2 as imposed by this chapter has been paid or where the lease or contract  
3 was entered into prior to the date this tax was first imposed(~~((7-ner))~~);  
4 (i) the sale of any grave or lot in an established cemetery(~~((7-ner))~~);  
5 (j) a sale by or to the United States, this state or any political  
6 subdivision thereof, or a municipal corporation of this state; or (k)  
7 a sale of affordable housing project by or to a nonprofit community or  
8 neighborhood-based organization eligible for assistance through the  
9 Washington housing trust fund created in chapter 43.185 RCW.

10 (3) The term sale shall further not include a transfer to a  
11 corporation or partnership which is wholly owned by the transferor  
12 and/or the transferor's spouse or children: PROVIDED, That if  
13 thereafter such transferee corporation or partnership voluntarily  
14 transfers such real property, or such transferor, spouse, or children  
15 voluntarily transfer stock in the transferee corporation or interest in  
16 the transferee partnership capital, as the case may be, to other than  
17 ~~((+1))~~ (a) the transferor and/or the transferor's spouse or children,  
18 ~~((+2))~~ (b) a trust having the transferor and/or the transferor's  
19 spouse or children as the only beneficiaries at the time of the  
20 transfer to the trust, or ~~((+3))~~ (c) a corporation or partnership  
21 wholly owned by the original transferor and/or the transferor's spouse  
22 or children, within five years of the original transfer to which this  
23 exemption applies, excise taxes shall become due and payable on the  
24 original transfer as otherwise provided by law.

25 **Sec. 2.** RCW 82.45.032 and 1986 c 211 s 1 are each amended to read  
26 as follows:

27 Unless the context clearly requires otherwise, the definitions in  
28 this section apply throughout this chapter.

1 (1) "Real estate" or "real property" means real property but  
2 includes used mobile homes and used floating homes.

3 (2) "Used mobile home" means a mobile home which has been  
4 previously sold at retail and has been subjected to tax under chapter  
5 82.08 RCW, or which has been previously used and has been subjected to  
6 tax under chapter 82.12 RCW, and which has substantially lost its  
7 identity as a mobile unit at the time of sale by virtue of its being  
8 fixed in location upon land owned or leased by the owner of the mobile  
9 home and placed on a foundation (posts or blocks) with fixed pipe  
10 connections with sewer, water, and other utilities.

11 (3) "Mobile home" means a mobile home as defined by RCW 46.04.302,  
12 as now or hereafter amended.

13 (4) "Used floating home" means a floating home in respect to which  
14 tax has been paid under chapter 82.08 or 82.12 RCW.

15 (5) "Floating home" means a building on a float used in whole or in  
16 part for human habitation as a single-family dwelling, which is not  
17 designed for self propulsion by mechanical means or for propulsion by  
18 means of wind, and which is on the property tax rolls of the county in  
19 which it is located.

20 (6) "Affordable housing project" means residential housing for  
21 rental or private ownership in which fifty-one percent or more of the  
22 dwelling units in the structure are occupied or owned by persons of low  
23 income as defined in RCW 35.21.685 and 36.32.415.

24 **Sec. 3.** RCW 82.45.120 and 1981 c 167 s 5 are each amended to read  
25 as follows:

26 The department of revenue is authorized and shall prescribe minimum  
27 standards for uniformity in reporting, application, and collection of  
28 the real estate excise tax imposed by this chapter.

1 The department of revenue shall also prescribe a real estate excise  
2 tax affidavit form which shall require the following:

3 (1) Identification of the seller and purchaser;

4 (2) Description of the property involved including the tax parcel  
5 or account number(s);

6 (3) Date of sale, type of instrument of sale, nature of transfer;

7 (4) Gross sales price;

8 (5) Whether or not the land is classified or designated as forest  
9 land under chapter 84.33 RCW; or classified as open space land, farm  
10 and agricultural land, or timberland under chapter 84.34 RCW; or  
11 classified as an affordable housing project under RCW 82.45.032; or at  
12 the time of sale exempt from property tax under chapter 84.36 RCW;

13 (6) Whether or not the property is land only, land with new  
14 building (new construction), or land with a previously used building;  
15 and

16 (7) The following questions, the responses to which are not  
17 required:

18 (a) Is this property at the time of sale subject to an elderly,  
19 disability, or physical improvement exemption?

20 (b) Does any building have a heat pump or solar heating or cooling  
21 system?

22 (c) Does this transaction divide a current parcel of land?

23 (d) Does this transaction include current crops or merchantable  
24 timber?

25 (e) Does this transaction involve a trade, a partial interest,  
26 corporate affiliates, related parties, a trust, a receivership, or an  
27 estate?

28 (f) Is the grantee acting as a nominee for a third party?

1 (g) Is the principal use of the land agricultural, apartments (four  
2 or more units), commercial, condominium, industrial, mobile home site,  
3 recreational, residential, or growing timber?

4 The affidavit form shall contain a statement of the potential  
5 compensating and additional tax liability under chapters 84.33 and  
6 84.34 RCW, a statement of the collection of taxes under RCW 84.36.262  
7 and 84.36.810, and a statement of the applicable penalties for perjury  
8 under chapter 9A.72 RCW.

9 Each county shall use the affidavit form prescribed and furnished  
10 by the department of revenue.

11 The affidavit shall be signed by either the seller or the buyer, or  
12 the agent of either, under oath attesting to all required information.