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HOUSE BILL 1831

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Wang and Appelwick.

Read first time February 12, 1991. Referred to Committee on Revenue.

1            AN ACT Relating to subjecting certain ownership changes to real  
2 estate excise taxation; amending RCW 82.45.010 and 82.45.035; and  
3 declaring an emergency.

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

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

7            (1) As used in this chapter, the term "sale" shall have its  
8 ordinary meaning and shall include any conveyance, grant, assignment,  
9 quitclaim, or transfer of the ownership of or title to real property,  
10 including standing timber, or any estate or interest therein for a  
11 valuable consideration, and any contract for such conveyance, grant,  
12 assignment, quitclaim, or transfer, and any lease with an option to  
13 purchase real property, including standing timber, or any estate or  
14 interest therein or other contract under which possession of the  
15 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) When a corporation, partnership, other legal entity, or any  
4 other person obtains control, as defined by the department, in any  
5 corporation, or obtains a majority ownership interest in any  
6 partnership or other legal entity through the purchase or transfer of  
7 corporate stock, partnership interest, or ownership interests in other  
8 legal entities, such purchase or transfer of such stock or other  
9 interest is a transfer of the ownership of the real property owned by  
10 the corporation, partnership, or other legal entity in which the  
11 controlling interest is obtained.

12 (3) The term shall not include a transfer by gift, devise, or  
13 inheritance, a transfer of any leasehold interest other than of the  
14 type mentioned above, a cancellation or forfeiture of a vendee's  
15 interest in a contract for the sale of real property, whether or not  
16 such contract contains a forfeiture clause, or deed in lieu of  
17 foreclosure of a mortgage or the assumption by a grantee of the balance  
18 owing on an obligation which is secured by a mortgage or deed in lieu  
19 of forfeiture of the vendee's interest in a contract of sale where no  
20 consideration passes otherwise or the partition of property by tenants  
21 in common by agreement or as the result of a court decree, any  
22 transfer, conveyance, or assignment of property or interest in property  
23 from one spouse to the other in accordance with the terms of a decree  
24 of divorce or in fulfillment of a property settlement agreement  
25 incident thereto, the assignment or other transfer of a vendor's  
26 interest in a contract for the sale of real property, even though  
27 accompanied by a conveyance of the vendor's interest in the real  
28 property involved, transfers by appropriation or decree in condemnation  
29 proceedings brought by the United States, the state or any political  
30 subdivision thereof, or a municipal corporation, a mortgage or other

1 transfer of an interest in real property merely to secure a debt, or  
2 the assignment thereof, any transfer or conveyance made pursuant to an  
3 order of sale by the court in any mortgage or lien foreclosure  
4 proceeding or upon execution of a judgment, or deed in lieu of  
5 foreclosure to satisfy a mortgage, a conveyance to the federal housing  
6 administration or veterans administration by an authorized mortgagee  
7 made pursuant to a contract of insurance or guaranty with the federal  
8 housing administration or veterans administration, nor a transfer in  
9 compliance with the terms of any lease or contract upon which the tax  
10 as imposed by this chapter has been paid or where the lease or contract  
11 was entered into prior to the date this tax was first imposed, nor the  
12 sale of any grave or lot in an established cemetery, nor a sale by or  
13 to the United States, this state or any political subdivision thereof,  
14 or a municipal corporation of this state.

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

1       **Sec. 2.** RCW 82.45.035 and 1969 ex.s. c 223 s 28A.45.035 are each  
2 amended to read as follows:

3       (1) The state department of revenue shall provide by rule for the  
4 determination of the selling price in the case of leases with option to  
5 purchase, and shall further provide that the tax shall not be payable,  
6 where inequity will otherwise result, until and unless the option is  
7 exercised and accepted. A conditional sale of mining property in which  
8 the buyer has the right to terminate the contract at any time, and a  
9 lease and option to buy mining property in which the lessee-buyer has  
10 the right to terminate the lease and option at any time, shall be  
11 taxable at the time of execution only on the consideration received by  
12 the seller or lessor for execution of such contract, but the rule shall  
13 further provide that the tax due on any additional consideration paid  
14 by the buyer and received by the seller shall be paid to the county  
15 treasurer (~~((+1))~~) (a) at the time of termination, or (~~((+2))~~) (b) at the  
16 time that all of the consideration due to the seller has been paid and  
17 the transaction is completed except for the delivery of the deed to the  
18 buyer, or (~~((+3))~~) (c) at the time when the buyer unequivocally  
19 exercises an option to purchase the property, whichever of the three  
20 events occurs first.

21       (2) The term "mining property" means property containing or  
22 believed to contain metallic minerals and sold or leased under terms  
23 which require the purchaser or lessor to conduct exploration or mining  
24 work thereon and for no other use. The term "metallic minerals" does  
25 not include clays, coal, sand and gravel, peat, gypsite, or stone,  
26 including limestone.

27       (3) The state department of revenue shall further provide by rule  
28 for cases where the selling price is not separately stated or is not  
29 ascertainable at the time of sale, for the payment of the tax at a time  
30 when the selling price is ascertained, in which case suitable security

1 may be required for payment of the tax(~~(, and)~~). The department shall  
2 provide by rule for the determination of the selling price of real  
3 property when the ownership is transferred under RCW 82.45.010(2). The  
4 department may further provide for the determination of the selling  
5 price by an appraisal by the county assessor, based on the full and  
6 true market value, which appraisal shall be prima facie evidence of the  
7 selling price of the real property.

8 NEW SECTION. Sec. 3. This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and shall take  
11 effect immediately.