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**SENATE BILL 6074**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senator Takko

AN ACT Relating to recording documents related to the inheritance exemption for the real estate excise tax; and amending RCW 82.45.197.

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

**Sec.**  RCW 82.45.197 and 2016 c 174 s 2 are each amended to read as follows:

(1) In order to receive an exemption under RCW 82.45.010(3)(a) from the tax in this chapter on real property transferred as a result of a devise by will or inheritance, the following documentation must be provided to the county treasurer:

(a) If the property is being transferred under the terms of a community property agreement, a copy of the recorded agreement and a certified copy of the death certificate;

(b) If the property is being transferred under the terms of a trust instrument, a certified copy of the death certificate and a copy of that portion of the trust instrument showing the authority of the grantor;

(c) If the property is being transferred under the terms of a probated will, a certified copy of the letters testamentary or in the case of intestate administration, a certified copy of the letters of administration showing that the grantor is the court-appointed executor, executrix, or administrator;

(d) In the case of joint tenants with right of survivorship and remainder interests, a certified copy of the death certificate;

(e) If the property is being transferred pursuant to a court order, a certified copy of the court order requiring the transfer, and confirming that the grantor is required to do so under the terms of the order;

(f) If the community property interest of the decedent is being transferred to a surviving spouse or surviving domestic partner absent the documentation set forth in (a) through (e) of this subsection, a certified copy of the death certificate and a signed lack of probate affidavit from the surviving spouse or surviving domestic partner affirming that he or she is the sole and rightful heir to the property;

(g) If the real property is transferred to one or more heirs by operation of law, or transferred under a will that has not been probated, but absent the documentation set forth in (a) through (e) of this subsection, a certified copy of the death certificate and a signed lack of probate affidavit affirming that the affiant or affiants are the sole and rightful heirs to the property;

(h) When real property is transferred as described in (g) of this subsection (1) and the decedent-transferor had also inherited the property from his or her spouse or domestic partner but never transferred title to the property into the decedent-transferor's name, the transferee or transferees must provide: (i) A certified copy of the death certificates for the decedent-transferor and the spouse or domestic partner from whom the decedent-transferor inherited the real property; and (ii) a lack of probate affidavit affirming that the affiant or affiants are the rightful heirs to the property; or

(i) If the property is being transferred pursuant to a transfer on death deed, a certified copy of the death certificate.

(2) ((~~The documentation provided to the county treasurer under this section must also be recorded with the county auditor.~~

~~(3)~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Heir" has the same meaning as provided in RCW 11.02.005;

(b) "Lack of probate affidavit" means a signed and notarized document declaring that the affiant or affiants are the rightful heir or heirs to the property and containing the following information:

(i) The names of the affiant or affiants;

(ii) The relationship of the affiant or affiants to the decedent;

(iii) The names of all other heirs of the decedent living at the time of the decedent's death;

(iv) A description of the real property;

(v) Whether the decedent left a will that includes a devise of real property; and

(vi) Any other information the department may require.

**--- END ---**