

SENATE BILL REPORT

SHB 2539

As Reported by Senate Committee On:
Ways & Means, February 29, 2016

Title: An act relating to the inheritance exemption for the real estate excise tax.

Brief Description: Concerning the inheritance exemption for the real estate excise tax.

Sponsors: House Committee on Finance (originally sponsored by Representatives Nealey, Manweller, Hansen, Tharinger, Harris, Walsh, Magendanz, Wilson, Haler, Springer, Johnson, Muri, Hayes and Dent).

Brief History: Passed House: 2/16/16, 98-0.

Committee Activity: Ways & Means: 2/23/16, 2/29/16 [DP].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Billig, Brown, Conway, Darneille, Hasegawa, Hewitt, Nelson, O'Ban, Padden, Parlette, Pedersen, Rolfes, Schoesler and Warnick.

Staff: Dean Carlson (786-7305)

Background: The real estate excise tax (REET) is imposed on each sale of real property, which includes both the transfer of ownership and the transfer of controlling interests. Real property includes any interest in land or anything affixed to land. The state tax rate is 1.28 percent. Additional local rates are allowed. The combined state and local rate in most areas is 1.78 percent or less.

There are several exemptions allowable from the REET. One exemption is for individuals who inherit real property. This exemption from the REET is allowed for inherited property when one of the following documents is provided - or already filed with the county - along with a certified copy of the death certificate:

- a community property agreement;
- a trust agreement;
- a certified copy of the letters testamentary or letter of administration;

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- a deed;
- a copy of a court order requiring the transfer; or
- a lack of probate affidavit for a community property interest.

In some instances, an individual will inherit property by operation of law, but there is no accompanying documentation. In these cases, the heir will often file a lack of probate affidavit with the county affirming that the person is the rightful heir to the property. There has been some confusion as to whether these individuals qualify for the REET inheritance exemption for this type of transfer because of the absence of documentation.

The county treasurer is usually responsible for collecting and administering the REET. For the REET inheritance exemption, the county treasurer is typically the recipient of the documentation substantiating the transfer by inheritance.

Summary of Bill: The conditions to qualify for the inheritance exemption are modified to include circumstances where a person inherits property by operation of law but absent a will, trust, community property agreement, or other document or court order.

To qualify for the exemption, the heir, or heirs, must submit a certified copy of the death certificate along with a lack of probate affidavit affirming that he or she is the rightful heir to the property.

The documentation provided to the county treasurer must also be recorded with the county auditor.

The bill is exempted from a Joint Legislative Audit and Review Committee (JLARC) review and the automatic 10-year expiration.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There have been misinterpretations of the REET tax. Some counties are interpreting the law differently than others. This allows for some documentation for the exemption in certain cases. This effects very few people who inherit property. The REET has never taxed people who inherit property. We have an agreement to a way of recording documents on inherited property for people who didn't have documents. The bill addresses transfers by operations of law that can't be documented. It allows for it to now be documented.

Persons Testifying: PRO: Representative Nealy, Prime Sponsor; Dwight Bickel, Washington Land Title Association; Bill Clarke, Washington REALTORS.

Persons Signed In To Testify But Not Testifying: No one.