

SHB 2448 - S COMM AMD  
By Committee on Ways & Means

ADOPTED 03/07/2018

1 Strike everything after the enacting clause and insert the  
2 following:

3 NEW SECTION. **Sec. 1.** The legislature finds that there is need  
4 to expand housing opportunities for persons with developmental  
5 disabilities. The legislature finds it is often preferable for  
6 persons with developmental disabilities to remain residing in their  
7 home, when it is safe and appropriate, to foster ongoing stability.  
8 The legislature recognizes that securing a child's future housing and  
9 services provides the parents of persons with developmental  
10 disabilities peace of mind. The legislature further finds that  
11 providing a new mechanism for the transfer of residential property  
12 into housing for persons with developmental disabilities expands the  
13 state's housing capacity and helps meet demand. The legislature  
14 further finds that utilizing existing residential property will  
15 reduce the demands on the housing trust fund. The legislature finds  
16 that there is an opportunity and need, for advocates and the  
17 supporters of the developmental disabilities community to work  
18 together, to develop model transfer agreements that will provide  
19 peace of mind and assist parents of children with developmental  
20 disabilities more readily access this program.

21 NEW SECTION. **Sec. 2.** (1) This section is the tax preference  
22 performance statement for the tax preference contained in section 3,  
23 chapter . . . , Laws of 2018 (section 3 of this act). This performance  
24 statement is only intended to be used for subsequent evaluation of  
25 the tax preference. It is not intended to create a private right of  
26 action by any party or to be used to determine eligibility for  
27 preferential tax treatment.

28 (2) The legislature categorizes this tax preference as one  
29 intended to induce certain designated behavior by taxpayers, as  
30 indicated in RCW 82.32.808(2)(a).

1 (3) It is the legislature's specific public policy objective to  
2 reduce the tax burden on individuals and businesses imposed by the  
3 existing real estate excise tax rates.

4 (4) If a review finds that there is an increase of residential  
5 property transfers by parents of a person with developmental  
6 disabilities to a qualified entity as a result of the relief from  
7 this tax preference, then the legislature intends to extend the  
8 expiration date of this tax preference.

9 (5) In order to obtain the data necessary to perform the review  
10 in subsection (4) of this section, the joint legislative audit and  
11 review committee may refer to any data collected by the state.

12 **Sec. 3.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to  
13 read as follows:

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

27 (2)(a) The term "sale" also includes the transfer or acquisition  
28 within any twelve-month period of a controlling interest in any  
29 entity with an interest in real property located in this state for a  
30 valuable consideration.

31 (b) For the sole purpose of determining whether, pursuant to the  
32 exercise of an option, a controlling interest was transferred or  
33 acquired within a twelve-month period, the date that the option  
34 agreement was executed is the date on which the transfer or  
35 acquisition of the controlling interest is deemed to occur. For all  
36 other purposes under this chapter, the date upon which the option is  
37 exercised is the date of the transfer or acquisition of the  
38 controlling interest.

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

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

10 (ii) When persons are not commonly owned or controlled, they must  
11 be treated as acting in concert only when the unity with which the  
12 purchasers have negotiated and will consummate the transfer of  
13 ownership interests supports a finding that they are acting as a  
14 single entity. If the acquisitions are completely independent, with  
15 each purchaser buying without regard to the identity of the other  
16 purchasers, then the acquisitions are considered separate  
17 acquisitions.

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

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

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

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

25 (d) A cancellation or forfeiture of a vendee's interest in a  
26 contract for the sale of real property, whether or not such contract  
27 contains a forfeiture clause, or deed in lieu of foreclosure of a  
28 mortgage.

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

31 (f) The assignment of property or interest in property from one  
32 spouse or one domestic partner to the other spouse or other domestic  
33 partner in accordance with the terms of a decree of dissolution of  
34 marriage or state registered domestic partnership or in fulfillment  
35 of a property settlement agreement.

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

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

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

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

10 (k) A conveyance to the federal housing administration or  
11 veterans administration by an authorized mortgagee made pursuant to a  
12 contract of insurance or guaranty with the federal housing  
13 administration or veterans administration.

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

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

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

21 (o) A sale to a regional transit authority or public corporation  
22 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
23 81.112.300.

24 (p) A transfer of real property, however effected, if it consists  
25 of a mere change in identity or form of ownership of an entity where  
26 there is no change in the beneficial ownership. These include  
27 transfers to a corporation or partnership which is wholly owned by  
28 the transferor and/or the transferor's spouse or domestic partner or  
29 children of the transferor or the transferor's spouse or domestic  
30 partner. However, if thereafter such transferee corporation or  
31 partnership voluntarily transfers such real property, or such  
32 transferor, spouse or domestic partner, or children of the transferor  
33 or the transferor's spouse or domestic partner voluntarily transfer  
34 stock in the transferee corporation or interest in the transferee  
35 partnership capital, as the case may be, to other than (i) the  
36 transferor and/or the transferor's spouse or domestic partner or  
37 children of the transferor or the transferor's spouse or domestic  
38 partner, (ii) a trust having the transferor and/or the transferor's  
39 spouse or domestic partner or children of the transferor or the  
40 transferor's spouse or domestic partner as the only beneficiaries at

1 the time of the transfer to the trust, or (iii) a corporation or  
2 partnership wholly owned by the original transferor and/or the  
3 transferor's spouse or domestic partner or children of the transferor  
4 or the transferor's spouse or domestic partner, within three years of  
5 the original transfer to which this exemption applies, and the tax on  
6 the subsequent transfer has not been paid within sixty days of  
7 becoming due, excise taxes become due and payable on the original  
8 transfer as otherwise provided by law.

9 (q)(i) A transfer that for federal income tax purposes does not  
10 involve the recognition of gain or loss for entity formation,  
11 liquidation or dissolution, and reorganization, including but not  
12 limited to nonrecognition of gain or loss because of application of  
13 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal  
14 revenue code of 1986, as amended.

15 (ii) However, the transfer described in (q)(i) of this subsection  
16 cannot be preceded or followed within a twelve-month period by  
17 another transfer or series of transfers, that, when combined with the  
18 otherwise exempt transfer or transfers described in (q)(i) of this  
19 subsection, results in the transfer of a controlling interest in the  
20 entity for valuable consideration, and in which one or more persons  
21 previously holding a controlling interest in the entity receive cash  
22 or property in exchange for any interest the person or persons acting  
23 in concert hold in the entity. This subsection (3)(q)(ii) does not  
24 apply to that part of the transfer involving property received that  
25 is the real property interest that the person or persons originally  
26 contributed to the entity or when one or more persons who did not  
27 contribute real property or belong to the entity at a time when real  
28 property was purchased receive cash or personal property in exchange  
29 for that person or persons' interest in the entity. The real estate  
30 excise tax under this subsection (3)(q)(ii) is imposed upon the  
31 person or persons who previously held a controlling interest in the  
32 entity.

33 (r) A qualified sale of a manufactured/mobile home community, as  
34 defined in RCW 59.20.030, that takes place on or after June 12, 2008,  
35 but before December 31, 2018.

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

28 (ii) For the purposes of this subsection (3)(s) 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 the  
33 effective date of this section, or a subsidiary under the same  
34 taxpayer identification number that provides residential supported  
35 living for persons with 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)(s) 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 **Sec. 4.** RCW 43.185.050 and 2017 3rd sp.s. c 12 s 13 are each  
4 amended to read as follows:

5 (1) The department must use moneys from the housing trust fund  
6 and other legislative appropriations to finance in whole or in part  
7 any loans or grant projects that will provide housing for persons and  
8 families with special housing needs and with incomes at or below  
9 fifty percent of the median family income for the county or standard  
10 metropolitan statistical area where the project is located. At least  
11 thirty percent of these moneys used in any given funding cycle  
12 (~~shall~~) must be for the benefit of projects located in rural areas  
13 of the state as defined by the department. If the department  
14 determines that it has not received an adequate number of suitable  
15 applications for rural projects during any given funding cycle, the  
16 department may allocate unused moneys for projects in nonrural areas  
17 of the state.

18 (2) Activities eligible for assistance from the housing trust  
19 fund and other legislative appropriations include, but are not  
20 limited to:

21 (a) New construction, rehabilitation, or acquisition of low and  
22 very low-income housing units;

23 (b) Rent subsidies;

24 (c) Matching funds for social services directly related to  
25 providing housing for special-need tenants in assisted projects;

26 (d) Technical assistance, design and finance services and  
27 consultation, and administrative costs for eligible nonprofit  
28 community or neighborhood-based organizations;

29 (e) Administrative costs for housing assistance groups or  
30 organizations when such grant or loan will substantially increase the  
31 recipient's access to housing funds other than those available under  
32 this chapter;

33 (f) Shelters and related services for the homeless, including  
34 emergency shelters and overnight youth shelters;

35 (g) Mortgage subsidies, including temporary rental and mortgage  
36 payment subsidies to prevent homelessness;

37 (h) Mortgage insurance guarantee or payments for eligible  
38 projects;

1 (i) Down payment or closing cost assistance for eligible first-  
2 time home buyers;

3 (j) Acquisition of housing units for the purpose of preservation  
4 as low-income or very low-income housing; (~~and~~)

5 (k) Projects making housing more accessible to families with  
6 members who have disabilities; and

7 (l) Remodeling and improvements as required to meet building  
8 code, licensing requirements, or legal operations to residential  
9 properties owned and operated by an entity eligible under RCW  
10 43.185A.040, which were transferred as described in RCW  
11 82.45.010(3)(s) by the parent of a child with developmental  
12 disabilities.

13 (3) Preference (~~shall~~) must be given for projects that include  
14 an early learning facility.

15 (4) Legislative appropriations from capital bond proceeds may be  
16 used only for the costs of projects authorized under subsection  
17 (2)(a), (i), and (j) of this section, and not for the administrative  
18 costs of the department.

19 (5) Moneys from repayment of loans from appropriations from  
20 capital bond proceeds may be used for all activities necessary for  
21 the proper functioning of the housing assistance program except for  
22 activities authorized under subsection (2)(b) and (c) of this  
23 section.

24 (6) Administrative costs associated with application,  
25 distribution, and project development activities of the department  
26 may not exceed three percent of the annual funds available for the  
27 housing assistance program. Reappropriations must not be included in  
28 the calculation of the annual funds available for determining the  
29 administrative costs.

30 (7) Administrative costs associated with compliance and  
31 monitoring activities of the department may not exceed one-quarter of  
32 one percent annually of the contracted amount of state investment in  
33 the housing assistance program."

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**ADOPTED 03/07/2018**

1        On page 1, line 2 of the title, after "persons;" strike the  
2 remainder of the title and insert "amending RCW 82.45.010 and  
3 43.185.050; and creating new sections."

EFFECT: Removes the requirement that the adult child must retain  
a life estate in the residence to qualify for the REET exemption.

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