

SENATE BILL REPORT

SHB 2448

As Reported by Senate Committee On:
Ways & Means, February 26, 2018

Title: An act relating to increasing the availability of housing for developmentally disabled persons.

Brief Description: Increasing the availability of housing for developmentally disabled persons.

Sponsors: House Committee on Finance (originally sponsored by Representatives Senn, Tharinger, Chapman, Kilduff, Macri, Robinson, Appleton, Kloba, Pollet, Santos and Tarleton).

Brief History: Passed House: 2/01/18, 94-0.

Committee Activity: Ways & Means: 2/24/18, 2/26/18 [DPA(WM)].

Brief Summary of Amended Bill

- Exempts certain transfers of residential property by the legal representative of a person with developmental disabilities from the real estate excise tax.
- Authorizes additional eligible uses of Housing Trust Fund monies.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Ways & Means.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Braun, Ranking Member; Honeyford, Assistant Ranking Member; Bailey, Becker, Billig, Brown, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Schoesler, Van De Wege, Wagoner and Warnick.

Staff: Jeffrey Mitchell (786-7438)

Background: Real Estate Excise Tax. The sale of real property is subject to the real estate excise tax (REET). The tax base is the selling price of the real property, without any deduction for mortgages, liens, or other debts. The tax is typically paid by the seller. A transfer of controlling interests in entities that own property in Washington is also subject to the REET. Certain types of real estate conveyances are exempt from REET. These include

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transfers through the execution of a will, transfers that are part of the dissolution of a marriage or domestic partnership, and mortgages to secure a debt.

The state REET rate is a flat 1.28 percent. Local governments may also impose a REET. Cities and counties are authorized to impose a 0.25 percent REET to finance capital improvements or capital projects specified in a comprehensive plan. A city or county may also impose a 0.5 percent REET for general purposes, so long as the city or county does not impose the optional 0.5 percent retail sales tax. In addition, a county may impose a 1 percent REET to finance the acquisition and maintenance of conservation areas, and a 0.5 percent REET to finance the acquisition, construction, and operation of affordable housing for low to moderate-income persons or persons with special needs.

Housing Trust Fund. Within the Department of Commerce (Commerce), there is a housing assistance program. Under the program, Commerce uses funds from a Housing Trust Fund to provide grants and loans for affordable housing projects through a competitive application process. Since 1986 the Housing Trust Fund has awarded almost \$1 billion in funding and helped build or preserve nearly 47,000 units of affordable housing statewide. Examples of some activities eligible for assistance from the housing trust fund include: new construction, rehabilitation, or acquisition of low and very low-income housing units; rent subsidies; matching funds for social services for special-need tenants; and shelters and related services for the homeless.

Summary of Amended Bill: An exemption to the REET is authorized for the transfer of a residential property by a legal representative of a person with developmental disabilities to a qualified entity that provides residential supported living for persons with developmental disabilities. To receive the exemption, the following conditions must be met:

- the adult child of the transferor must be able to live at the residence so long as it is safe and appropriate;
- the title to the residential property is conveyed without the receipt of funds by the legal representative;
- the residential property must have no more than four living units located on it; and
- the residential property that is transferred must remain in continued use for 50 years by the qualified entity as supported living for persons with developmental disabilities.

A qualified entity is a nonprofit organization that provides residential supported living for persons with developmental disabilities or a nonprofit adult family home that exclusively serves persons with developmental disabilities.

In order to receive a REET exemption, the transferor must submit an affidavit, as well as any other documentation required by the Department of Revenue.

If the Department of Social and Health Services determines the property is no longer being used for a qualifying purpose, or if the property no longer meets health and safety requirements, the REET exemption based on the value of the property at the time of the original transfer becomes immediately due and must be paid by the nonprofit. The taxes due are not subject to interest, penalties, or fees.

Funds from the Housing Trust Fund may be used for remodeling and improvements required to meet building codes, licensing, and other legal requirements related to transfers of residential property that qualify for the REET exemption.

A tax preference performance statement is included and the REET exemption is subject to the default ten-year expiration.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

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

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There is a crisis in residential supported living. There is both a lack of funding and a housing shortage. This bill allows parents and others to leave a legacy gift to their children and nonprofits. We would like to suggest one change related to the reference to the life estate. There is a concern that the life estate will cause the residence to be included as an asset of the individual and therefore make the person ineligible for social security and disability payments as well as services. It also makes it difficult to sell the property.

Persons Testifying: PRO: Melissa Johnson, Community Residential Services Association.

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