

# HOUSE BILL REPORT

## HB 1168

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### As Reported by House Committee On: Finance

**Title:** An act relating to sales and use and excise tax exemptions for self-help housing development.

**Brief Description:** Creating sales and use and excise tax exemptions for self-help housing development.

**Sponsors:** Representatives Leavitt, Barkis, Kilduff, Jinkins, MacEwen, Goodman, Macri, Pollet, Callan, Wylie, Chapman, Valdez, Fey, Doglio and Kloba.

#### **Brief History:**

##### **Committee Activity:**

Finance: 1/31/19, 2/25/19 [DPS].

#### **Brief Summary of Substitute Bill**

- Provides a sales and use tax exemption for qualifying purchases of labor, services, and tangible personal property related to self-help housing.
- Defines "self-help housing," "affordable homeownership facilitator," and "low-income."

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Frame, Macri, Morris, Orwall, Springer, Stokesbary, Vick and Wylie.

**Staff:** Richelle Geiger (786-7139).

#### **Background:**

##### Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of

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the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Sales and use taxes are due on the following construction services: constructing and improving new or existing buildings and structures; and installing, repairing, cleaning, improving, constructing, and decorating real and personal property for others.

#### Tax Preferences.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

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#### **Summary of Substitute Bill:**

A retail sales tax exemption is provided to affordable homeownership facilitators for the purchase of labor and services for the construction, repair, decoration, or improvement of new or existing self-help housing. A retail sales and use tax exemption is provided to affordable homeownership facilitators for the purchase of tangible personal property that becomes a component of the self-help housing building or other structures during the course of constructing, repairing, decorating, or improving self-help housing. The self-help housing must be in compliance with current state building codes for single-family dwellings. The exemption can only be claimed if the buyer provides the seller with an exemption certificate. The exemption cannot be claimed if the housing is built to be occupied by an employee, family member of an employee, or person on the board of trustees or directors of an affordable homeownership facilitator.

Property that benefits from the sales and use tax exemption must qualify as self-help housing and be the primary dwelling of a low-income purchaser for at least five consecutive years from the date the housing is approved for occupancy. If these requirements are not met, the full amount of the exempt sales and use tax is due immediately with interest, but not penalties, from the date the housing was approved for occupancy until the date of payment.

"Self-help housing" is defined as dwelling residences provided for ownership by low-income individuals and families whose ownership requirement includes labor participation. "Self-help housing" does not include residential rental housing provided on a commercial basis to the general public.

"Affordable homeownership facilitator" is defined as a nonprofit community-based or neighborhood-based organization that acts as a developer of self-help housing and is exempt from federal income tax under Title 26 U.S.C. Sec. 501(c) as of October 1, 2019.

"Low-income" is defined as household income as defined by the Department of Revenue (DOR), provided that the definition may not exceed 80 percent of median household income, adjusted for household size, for the county in which the dwelling unit is located.

Affordable homeownership facilitators that claim the preference must annually report the following information to the DOR, in a form and manner required by the DOR:

1. total number of self-help units:
  - a. added by the affordable housing facilitator after the effective date of this bill;
  - b. for which any purchase qualified for the tax preference provided in this bill;and
2. total amount of retail sales and use tax that was exempt with the tax preference provided in this bill.

The bill contains a TPPS in which the public policy objective is to provide an excise tax relief to encourage continued development of self-help housing.

The JLARC is directed to review the total:

- (1) number of taxpayers that claim the tax preference provided in this act;
- (2) amount of tax revenue exempt under this act, annually;
- (3) number of self-help housing units:
  - added to the stock of self-help units after the effective date of this section;
  - for which any transactions qualified for the tax preference provided in this act; and
- (4) tax revenue described in (2) divided by the number of self-help housing units described in (3).

The JLARC may refer to data from the DOR as well as any other available data source.

The bill expires on January 1, 2030.

### **Substitute Bill Compared to Original Bill:**

The real estate excise tax exemption on the sale of self-help housing to a low-income household by an affordable homeownership facilitator is removed from the bill.

Affordable homeownership facilitators are required to provide the following data, annually:

1. total number of self-help units:
  - a. added by the affordable housing facilitator after the effective date of this act;
  - b. for which any purchase qualified for the tax preferences provided in this act;and
2. the total amount of retail sales and use tax that was exempt with the tax preferences provided in this act.

The JLARC is directed to analyze the data provided by the affordable homeownership facilitators as part of their tax preference review.

The requirements to avoid repayment of the tax exempt under the tax preference plus interest are modified. The self-help housing unit must be the primary dwelling of a low-income purchaser, and the housing must qualify as self-help housing for five consecutive years.

Internal references are corrected.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on October 1, 2019.

**Staff Summary of Public Testimony:**

(In support) It is critical for organizations across the state that facilitate self-help housing to have the tools they need to help those in need of a home. The self-help housing model enables people to be homeowners, which empowers individuals to become leaders in their communities and support their families. Homeowners are required to put in at least 250 hours of sweat-equity to earn homeownership.

Affordable homeownership increases the tax base and stabilizes families. Additionally, stable housing helps support positive health, employment, and education outcomes.

Self-help housing programs work. This bill will enable Habitat for Humanity (Habitat) to build 15 percent more homes, annually, and 500 more homes over the next five years. More people should have the opportunity to participate in the program and achieve the dream of homeownership.

Affordable housing is one of the top priorities of the state and supporting organizations like Habitat is a smart investment. Currently, Habitat is not able to access many other tax preferences.

(Opposed) None.

**Persons Testifying:** Representative Leavitt, prime sponsor; Josh Townsley, Habitat for Humanity of Washington; Becca Scanlan; and Mary Ellis-Meraz.

**Persons Signed In To Testify But Not Testifying:** None.