
HOUSE BILL 1643

State of Washington

67th Legislature

2022 Regular Session

By Representatives Hackney, Stokesbary, Bateman, Ryu, Simmons, Leavitt, Robertson, Walen, Valdez, Paul, Callan, Gilday, Macri, Peterson, Ramos, Chopp, Bergquist, and Kloba

Prefiled 12/14/21. Read first time 01/10/22. Referred to Committee on Finance.

1 AN ACT Relating to exempting a sale or transfer of real property
2 for affordable housing to a nonprofit entity, housing authority,
3 public corporation, county, or municipal corporation from the real
4 estate excise tax; amending RCW 82.45.010; reenacting and amending
5 RCW 82.45.010; creating new sections; providing effective dates; and
6 providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington
9 state has one of the strongest economies in the country. However,
10 despite the strong economy, our state has entered an affordable
11 housing crisis where low-income and middle-income households have the
12 fewest number of housing options. Furthermore, it is estimated that
13 Washington state's housing gap is among the most severe in the
14 nation, with only 29 affordable and available rental homes for every
15 100 extremely low-income households.

16 (2) The legislature concludes that in the spirit of one
17 Washington, the health of all Washingtonians will benefit from a
18 larger stock in affordable housing. Therefore, it is the intent of
19 the legislature to incentivize real property transfers to nonprofit
20 housing providers, public housing authorities, or local governments

1 to increase the availability of affordable housing for low-income
2 Washingtonians.

3 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
4 performance statement for the tax preferences in sections 3 and 4,
5 chapter . . ., Laws of 2022 (sections 3 and 4 of this act). This
6 performance statement is only intended to be used for subsequent
7 evaluation of the tax preferences. It is not intended to create a
8 private right of action by any party or be used to determine
9 eligibility for preferential tax treatment.

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

13 (3) It is the legislature's specific public policy objective to
14 encourage sales or transfers of real property to nonprofit entities,
15 housing authorities, or public corporations that intend to use the
16 transferred property for rental housing for low-income persons.

17 (4) If a review finds that the number of sales or transfers of
18 real property to qualified entities has not increased, then the
19 legislature intends to repeal the expiration date of the tax
20 preference.

21 (5) In order to obtain the data necessary to perform the review
22 in subsection (4) of this section, the joint legislative audit and
23 review committee may refer to any available data source, including
24 the transfer or sale of properties reported by county records.

25 **Sec. 3.** RCW 82.45.010 and 2019 c 424 s 3, 2019 c 390 s 10, and
26 2019 c 385 s 2 are each reenacted and amended to read as follows:

27 (1) As used in this chapter, the term "sale" has its ordinary
28 meaning and includes any conveyance, grant, assignment, quitclaim, or
29 transfer of the ownership of or title to real property, including
30 standing timber, or any estate or interest therein for a valuable
31 consideration, and any contract for such conveyance, grant,
32 assignment, quitclaim, or transfer, and any lease with an option to
33 purchase real property, including standing timber, or any estate or
34 interest therein or other contract under which possession of the
35 property is given to the purchaser, or any other person at the
36 purchaser's direction, and title to the property is retained by the
37 vendor as security for the payment of the purchase price. The term

1 also includes the grant, assignment, quitclaim, sale, or transfer of
2 improvements constructed upon leased land.

3 (2) (a) The term "sale" also includes the transfer or acquisition
4 within any thirty-six month period of a controlling interest in any
5 entity with an interest in real property located in this state for a
6 valuable consideration.

7 (b) For the sole purpose of determining whether, pursuant to the
8 exercise of an option, a controlling interest was transferred or
9 acquired within a thirty-six month period, the date that the option
10 agreement was executed is the date on which the transfer or
11 acquisition of the controlling interest is deemed to occur. For all
12 other purposes under this chapter, the date upon which the option is
13 exercised is the date of the transfer or acquisition of the
14 controlling interest.

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

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

24 (ii) When persons are not commonly owned or controlled, they must
25 be treated as acting in concert only when the unity with which the
26 purchasers have negotiated and will consummate the transfer of
27 ownership interests supports a finding that they are acting as a
28 single entity. If the acquisitions are completely independent, with
29 each purchaser buying without regard to the identity of the other
30 purchasers, then the acquisitions are considered separate
31 acquisitions.

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

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

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

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

39 (d) A cancellation or forfeiture of a vendee's interest in a
40 contract for the sale of real property, whether or not such contract

1 contains a forfeiture clause, or deed in lieu of foreclosure of a
2 mortgage.

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

5 (f) The assignment of property or interest in property from one
6 spouse or one domestic partner to the other spouse or other domestic
7 partner in accordance with the terms of a decree of dissolution of
8 marriage or state registered domestic partnership or in fulfillment
9 of a property settlement agreement.

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

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

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

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

22 (k) A conveyance to the federal housing administration or
23 veterans administration by an authorized mortgagee made pursuant to a
24 contract of insurance or guaranty with the federal housing
25 administration or veterans administration.

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

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

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

33 (o) A sale to a regional transit authority or public corporation
34 under RCW 81.112.320 under a sale/leaseback agreement under RCW
35 81.112.300.

36 (p) A transfer of real property, however effected, if it consists
37 of a mere change in identity or form of ownership of an entity where
38 there is no change in the beneficial ownership. These include
39 transfers to a corporation or partnership which is wholly owned by
40 the transferor and/or the transferor's spouse or domestic partner or

1 children of the transferor or the transferor's spouse or domestic
2 partner. However, if thereafter such transferee corporation or
3 partnership voluntarily transfers such real property, or such
4 transferor, spouse or domestic partner, or children of the transferor
5 or the transferor's spouse or domestic partner voluntarily transfer
6 stock in the transferee corporation or interest in the transferee
7 partnership capital, as the case may be, to other than (i) the
8 transferor and/or the transferor's spouse or domestic partner or
9 children of the transferor or the transferor's spouse or domestic
10 partner, (ii) a trust having the transferor and/or the transferor's
11 spouse or domestic partner or children of the transferor or the
12 transferor's spouse or domestic partner as the only beneficiaries at
13 the time of the transfer to the trust, or (iii) a corporation or
14 partnership wholly owned by the original transferor and/or the
15 transferor's spouse or domestic partner or children of the transferor
16 or the transferor's spouse or domestic partner, within three years of
17 the original transfer to which this exemption applies, and the tax on
18 the subsequent transfer has not been paid within sixty days of
19 becoming due, excise taxes become due and payable on the original
20 transfer as otherwise provided by law.

21 (q) (i) A transfer that for federal income tax purposes does not
22 involve the recognition of gain or loss for entity formation,
23 liquidation or dissolution, and reorganization, including but not
24 limited to nonrecognition of gain or loss because of application of
25 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
26 revenue code of 1986, as amended.

27 (ii) However, the transfer described in (q) (i) of this subsection
28 cannot be preceded or followed within a thirty-six month period by
29 another transfer or series of transfers, that, when combined with the
30 otherwise exempt transfer or transfers described in (q) (i) of this
31 subsection, results in the transfer of a controlling interest in the
32 entity for valuable consideration, and in which one or more persons
33 previously holding a controlling interest in the entity receive cash
34 or property in exchange for any interest the person or persons acting
35 in concert hold in the entity. This subsection (3) (q) (ii) does not
36 apply to that part of the transfer involving property received that
37 is the real property interest that the person or persons originally
38 contributed to the entity or when one or more persons who did not
39 contribute real property or belong to the entity at a time when real
40 property was purchased receive cash or personal property in exchange

1 for that person or persons' interest in the entity. The real estate
2 excise tax under this subsection (3)(q)(ii) is imposed upon the
3 person or persons who previously held a controlling interest in the
4 entity.

5 (r) A qualified sale of a manufactured/mobile home community, as
6 defined in RCW 59.20.030.

7 (s)(i) A transfer of a qualified low-income housing development
8 or controlling interest in a qualified low-income housing
9 development, unless, due to noncompliance with federal statutory
10 requirements, the seller is subject to recapture, in whole or in
11 part, of its allocated federal low-income housing tax credits within
12 the four years prior to the date of transfer.

13 (ii) For purposes of this subsection (3)(s), "qualified low-
14 income housing development" means real property and improvements in
15 respect to which the seller or, in the case of a transfer of a
16 controlling interest, the owner or beneficial owner, was allocated
17 federal low-income housing tax credits authorized under 26 U.S.C.
18 Sec. 42 or successor statute, by the Washington state housing finance
19 commission or successor state-authorized tax credit allocating
20 agency.

21 (iii) This subsection (3)(s) does not apply to transfers of a
22 qualified low-income housing development or controlling interest in a
23 qualified low-income housing development occurring on or after July
24 1, 2035.

25 (iv) The Washington state housing finance commission, in
26 consultation with the department, must gather data on: (A) The fiscal
27 savings, if any, accruing to transferees as a result of the exemption
28 provided in this subsection (3)(s); (B) the extent to which
29 transferors of qualified low-income housing developments receive
30 consideration, including any assumption of debt, as part of a
31 transfer subject to the exemption provided in this subsection (3)(s);
32 and (C) the continued use of the property for low-income housing. The
33 Washington state housing finance commission must provide this
34 information to the joint legislative audit and review committee. The
35 committee must conduct a review of the tax preference created under
36 this subsection (3)(s) in calendar year 2033, as required under
37 chapter 43.136 RCW.

38 (t)(i) A qualified transfer of residential property by a legal
39 representative of a person with developmental disabilities to a
40 qualified entity subject to the following conditions:

1 (A) The adult child with developmental disabilities of the
2 transferor of the residential property must be allowed to reside in
3 the residence or successor property so long as the placement is safe
4 and appropriate as determined by the department of social and health
5 services;

6 (B) The title to the residential property is conveyed without the
7 receipt of consideration by the legal representative of a person with
8 developmental disabilities to a qualified entity;

9 (C) The residential property must have no more than four living
10 units located on it; and

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

30 (ii) For the purposes of this subsection (3)(t) the definitions
31 in RCW 71A.10.020 apply.

32 (iii) A "qualified entity" is:

33 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
34 of the federal internal revenue code of 1986, as amended, as of June
35 7, 2018, or a subsidiary under the same taxpayer identification
36 number that provides residential supported living for persons with
37 developmental disabilities; or

38 (B) A nonprofit adult family home, as defined in RCW 70.128.010,
39 that exclusively serves persons with developmental disabilities.

1 (iv) In order to receive an exemption under this subsection
2 (3)(t) an affidavit must be submitted by the transferor of the
3 residential property and must include a copy of the transfer
4 agreement and any other documentation as required by the department.

5 (u)(i) The sale by an affordable homeownership facilitator of
6 self-help housing to a low-income household. (~~The definitions in~~
7 ~~section 2 of this act apply to this subsection.~~)

8 (ii) The definitions in this subsection (3)(u) apply to this
9 subsection (3)(u) unless the context clearly requires otherwise.

10 (A) "Affordable homeownership facilitator" means a nonprofit
11 community or neighborhood-based organization that is exempt from
12 income tax under Title 26 U.S.C. Sec. 501(c) of the internal revenue
13 code of 1986, as amended, as of October 1, 2019, and that is the
14 developer of self-help housing.

15 (B) "Low-income" means household income as defined by the
16 department, provided that the definition may not exceed eighty
17 percent of median household income, adjusted for household size, for
18 the county in which the dwelling is located.

19 (C) "Self-help housing" means dwelling residences provided for
20 ownership by low-income individuals and families whose ownership
21 requirement includes labor participation. "Self-help housing" does
22 not include residential rental housing provided on a commercial basis
23 to the general public.

24 (v)(i) A sale or transfer of real property to a qualifying
25 grantee including a nonprofit entity as defined in RCW 84.36.560, a
26 housing authority created under RCW 35.82.030 or 35.82.300, a public
27 corporation established under RCW 35.21.660 or 35.21.730, or a county
28 or municipal corporation that intends to use the property for rental
29 housing for low-income persons and receive, or otherwise qualify the
30 property for, an exemption from real and personal property taxes
31 under RCW 84.36.560, 35.82.210, 35.21.755, or 84.36.010. A qualifying
32 grantee must comply with the following certification requirements:

33 (A) If the qualifying grantee intends to operate existing housing
34 on the property, the qualifying grantee must certify, by affidavit at
35 the time of transfer, the qualifying grantee's intent to receive or
36 qualify the property for such a tax exemption within one year.

37 (B) If the qualifying grantee intends to develop new housing on
38 the site, the qualifying grantee must certify, by affidavit at the
39 time of transfer, the qualifying grantee's intent to receive or
40 qualify the property for such a tax exemption within five years.

1 (C) If the qualifying grantee intends to substantially
2 rehabilitate the premises as defined in RCW 59.18.200, the qualifying
3 grantee must certify, by affidavit at the time of transfer, the
4 qualifying grantee's intent to receive or qualify the property for
5 such a tax exemption within three years.

6 (ii) If the qualifying grantee fails to receive, or otherwise
7 qualify the property for, an exemption from real and personal
8 property taxes under RCW 84.36.560, 35.82.210, 35.21.755, or
9 84.36.010 within the timelines described in (v) (i) (A), (B), or (C) of
10 this subsection, the qualifying grantee must pay the tax that would
11 have otherwise been due at the time of initial transfer, plus
12 interest calculated from the date of initial transfer pursuant to RCW
13 82.32.050.

14 (iii) If a qualifying grantee transfers the property to a
15 different qualifying grantee within the original timelines described
16 in (v) (i) (A), (B), or (C) of this subsection, neither the original
17 qualifying grantee nor the new qualifying grantee is required to pay
18 the tax, so long as the new qualifying grantee operates,
19 substantially rehabilitates, or develops the property for the
20 intended purpose within the exemption period of the initial transfer.
21 If the new qualifying grantee fails to qualify the property for the
22 exemptions listed in (v) (ii) of this subsection, only the new
23 qualifying grantee is liable for the payment of taxes required by
24 (v) (ii) of this subsection. There is no limit on the number of
25 transfers between qualifying grantees.

26 (iv) Each affidavit must be filed with the department upon
27 completion of the sale or transfer of property. The qualifying
28 grantee must provide proof to the department as required by the
29 department once the property has been qualified for the property tax
30 exemption as described in (v) (i) (A), (B), or (C) of this subsection.

31 **Sec. 4.** RCW 82.45.010 and 2019 c 424 s 3 are each amended to
32 read as follows:

33 (1) As used in this chapter, the term "sale" has its ordinary
34 meaning and includes any conveyance, grant, assignment, quitclaim, or
35 transfer of the ownership of or title to real property, including
36 standing timber, or any estate or interest therein for a valuable
37 consideration, and any contract for such conveyance, grant,
38 assignment, quitclaim, or transfer, and any lease with an option to
39 purchase real property, including standing timber, or any estate or

1 interest therein or other contract under which possession of the
2 property is given to the purchaser, or any other person at the
3 purchaser's direction, and title to the property is retained by the
4 vendor as security for the payment of the purchase price. The term
5 also includes the grant, assignment, quitclaim, sale, or transfer of
6 improvements constructed upon leased land.

7 (2) (a) The term "sale" also includes the transfer or acquisition
8 within any thirty-six month period of a controlling interest in any
9 entity with an interest in real property located in this state for a
10 valuable consideration.

11 (b) For the sole purpose of determining whether, pursuant to the
12 exercise of an option, a controlling interest was transferred or
13 acquired within a thirty-six month period, the date that the option
14 agreement was executed is the date on which the transfer or
15 acquisition of the controlling interest is deemed to occur. For all
16 other purposes under this chapter, the date upon which the option is
17 exercised is the date of the transfer or acquisition of the
18 controlling interest.

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

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

28 (ii) When persons are not commonly owned or controlled, they must
29 be treated as acting in concert only when the unity with which the
30 purchasers have negotiated and will consummate the transfer of
31 ownership interests supports a finding that they are acting as a
32 single entity. If the acquisitions are completely independent, with
33 each purchaser buying without regard to the identity of the other
34 purchasers, then the acquisitions are considered separate
35 acquisitions.

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

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

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

- 1 (c) A transfer of any leasehold interest other than of the type
2 mentioned above.
- 3 (d) A cancellation or forfeiture of a vendee's interest in a
4 contract for the sale of real property, whether or not such contract
5 contains a forfeiture clause, or deed in lieu of foreclosure of a
6 mortgage.
- 7 (e) The partition of property by tenants in common by agreement
8 or as the result of a court decree.
- 9 (f) The assignment of property or interest in property from one
10 spouse or one domestic partner to the other spouse or other domestic
11 partner in accordance with the terms of a decree of dissolution of
12 marriage or state registered domestic partnership or in fulfillment
13 of a property settlement agreement.
- 14 (g) The assignment or other transfer of a vendor's interest in a
15 contract for the sale of real property, even though accompanied by a
16 conveyance of the vendor's interest in the real property involved.
- 17 (h) Transfers by appropriation or decree in condemnation
18 proceedings brought by the United States, the state or any political
19 subdivision thereof, or a municipal corporation.
- 20 (i) A mortgage or other transfer of an interest in real property
21 merely to secure a debt, or the assignment thereof.
- 22 (j) Any transfer or conveyance made pursuant to a deed of trust
23 or an order of sale by the court in any mortgage, deed of trust, or
24 lien foreclosure proceeding or upon execution of a judgment, or deed
25 in lieu of foreclosure to satisfy a mortgage or deed of trust.
- 26 (k) A conveyance to the federal housing administration or
27 veterans administration by an authorized mortgagee made pursuant to a
28 contract of insurance or guaranty with the federal housing
29 administration or veterans administration.
- 30 (l) A transfer in compliance with the terms of any lease or
31 contract upon which the tax as imposed by this chapter has been paid
32 or where the lease or contract was entered into prior to the date
33 this tax was first imposed.
- 34 (m) The sale of any grave or lot in an established cemetery.
- 35 (n) A sale by the United States, this state or any political
36 subdivision thereof, or a municipal corporation of this state.
- 37 (o) A sale to a regional transit authority or public corporation
38 under RCW 81.112.320 under a sale/leaseback agreement under RCW
39 81.112.300.

1 (p) A transfer of real property, however effected, if it consists
2 of a mere change in identity or form of ownership of an entity where
3 there is no change in the beneficial ownership. These include
4 transfers to a corporation or partnership which is wholly owned by
5 the transferor and/or the transferor's spouse or domestic partner or
6 children of the transferor or the transferor's spouse or domestic
7 partner. However, if thereafter such transferee corporation or
8 partnership voluntarily transfers such real property, or such
9 transferor, spouse or domestic partner, or children of the transferor
10 or the transferor's spouse or domestic partner voluntarily transfer
11 stock in the transferee corporation or interest in the transferee
12 partnership capital, as the case may be, to other than (i) the
13 transferor and/or the transferor's spouse or domestic partner or
14 children of the transferor or the transferor's spouse or domestic
15 partner, (ii) a trust having the transferor and/or the transferor's
16 spouse or domestic partner or children of the transferor or the
17 transferor's spouse or domestic partner as the only beneficiaries at
18 the time of the transfer to the trust, or (iii) a corporation or
19 partnership wholly owned by the original transferor and/or the
20 transferor's spouse or domestic partner or children of the transferor
21 or the transferor's spouse or domestic partner, within three years of
22 the original transfer to which this exemption applies, and the tax on
23 the subsequent transfer has not been paid within sixty days of
24 becoming due, excise taxes become due and payable on the original
25 transfer as otherwise provided by law.

26 (q)(i) A transfer that for federal income tax purposes does not
27 involve the recognition of gain or loss for entity formation,
28 liquidation or dissolution, and reorganization, including but not
29 limited to nonrecognition of gain or loss because of application of
30 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
31 revenue code of 1986, as amended.

32 (ii) However, the transfer described in (q)(i) of this subsection
33 cannot be preceded or followed within a thirty-six month period by
34 another transfer or series of transfers, that, when combined with the
35 otherwise exempt transfer or transfers described in (q)(i) of this
36 subsection, results in the transfer of a controlling interest in the
37 entity for valuable consideration, and in which one or more persons
38 previously holding a controlling interest in the entity receive cash
39 or property in exchange for any interest the person or persons acting
40 in concert hold in the entity. This subsection (3)(q)(ii) does not

1 apply to that part of the transfer involving property received that
2 is the real property interest that the person or persons originally
3 contributed to the entity or when one or more persons who did not
4 contribute real property or belong to the entity at a time when real
5 property was purchased receive cash or personal property in exchange
6 for that person or persons' interest in the entity. The real estate
7 excise tax under this subsection (3)(q)(ii) is imposed upon the
8 person or persons who previously held a controlling interest in the
9 entity.

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

13 (s)(i) A transfer of a qualified low-income housing development
14 or controlling interest in a qualified low-income housing
15 development, unless, due to noncompliance with federal statutory
16 requirements, the seller is subject to recapture, in whole or in
17 part, of its allocated federal low-income housing tax credits within
18 the four years prior to the date of transfer.

19 (ii) For purposes of this subsection (3)(s), "qualified low-
20 income housing development" means real property and improvements in
21 respect to which the seller or, in the case of a transfer of a
22 controlling interest, the owner or beneficial owner, was allocated
23 federal low-income housing tax credits authorized under 26 U.S.C.
24 Sec. 42 or successor statute, by the Washington state housing finance
25 commission or successor state-authorized tax credit allocating
26 agency.

27 (iii) This subsection (3)(s) does not apply to transfers of a
28 qualified low-income housing development or controlling interest in a
29 qualified low-income housing development occurring on or after July
30 1, 2035.

31 (iv) The Washington state housing finance commission, in
32 consultation with the department, must gather data on: (A) The fiscal
33 savings, if any, accruing to transferees as a result of the exemption
34 provided in this subsection (3)(s); (B) the extent to which
35 transferors of qualified low-income housing developments receive
36 consideration, including any assumption of debt, as part of a
37 transfer subject to the exemption provided in this subsection (3)(s);
38 and (C) the continued use of the property for low-income housing. The
39 Washington state housing finance commission must provide this
40 information to the joint legislative audit and review committee. The

1 committee must conduct a review of the tax preference created under
2 this subsection (3)(s) in calendar year 2033, as required under
3 chapter 43.136 RCW.

4 (t)(i) A qualified transfer of residential property by a legal
5 representative of a person with developmental disabilities to a
6 qualified entity subject to the following conditions:

7 (A) The adult child with developmental disabilities of the
8 transferor of the residential property must be allowed to reside in
9 the residence or successor property so long as the placement is safe
10 and appropriate as determined by the department of social and health
11 services;

12 (B) The title to the residential property is conveyed without the
13 receipt of consideration by the legal representative of a person with
14 developmental disabilities to a qualified entity;

15 (C) The residential property must have no more than four living
16 units located on it; and

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

36 (ii) For the purposes of this subsection (3)(t) the definitions
37 in RCW 71A.10.020 apply.

38 (iii) A "qualified entity" is:

39 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
40 of the federal internal revenue code of 1986, as amended, as of June

1 7, 2018, or a subsidiary under the same taxpayer identification
2 number that provides residential supported living for persons with
3 developmental disabilities; or

4 (B) A nonprofit adult family home, as defined in RCW 70.128.010,
5 that exclusively serves persons with developmental disabilities.

6 (iv) In order to receive an exemption under this subsection
7 (3)(t) an affidavit must be submitted by the transferor of the
8 residential property and must include a copy of the transfer
9 agreement and any other documentation as required by the department.

10 (u)(i) A sale or transfer of real property to a qualifying
11 grantee including a nonprofit entity as defined in RCW 84.36.560, a
12 housing authority created under RCW 35.82.030 or 35.82.300, a public
13 corporation established under RCW 35.21.660 or 35.21.730, or a county
14 or municipal corporation that intends to use the property for rental
15 housing for low-income persons and receive, or otherwise qualify the
16 property for, an exemption from real and personal property taxes
17 under RCW 84.36.560, 35.82.210, 35.21.755, or 84.36.010. A qualifying
18 grantee must comply with the following certification requirements:

19 (A) If the qualifying grantee intends to operate existing housing
20 on the property, the qualifying grantee must certify, by affidavit at
21 the time of transfer, the qualifying grantee's intent to receive or
22 qualify the property for such a tax exemption within one year.

23 (B) If the qualifying grantee intends to develop new housing on
24 the site, the qualifying grantee must certify, by affidavit at the
25 time of transfer, the qualifying grantee's intent to receive or
26 qualify the property for such a tax exemption within five years.

27 (C) If the qualifying grantee intends to substantially
28 rehabilitate the premises as defined in RCW 59.18.200, the qualifying
29 grantee must certify, by affidavit at the time of transfer, the
30 qualifying grantee's intent to receive or qualify the property for
31 such a tax exemption within three years.

32 (ii) If the qualifying grantee fails to receive, or otherwise
33 qualify the property for, an exemption from real and personal
34 property taxes under RCW 84.36.560, 35.82.210, 35.21.755, or
35 84.36.010 within the timelines described in (u)(i)(A), (B), or (C) of
36 this subsection, the qualifying grantee must pay the tax that would
37 have otherwise been due at the time of initial transfer, plus
38 interest calculated from the date of initial transfer pursuant to RCW
39 82.32.050.

1 (iii) If a qualifying grantee transfers the property to a
2 different qualifying grantee within the original timelines described
3 in (u)(i)(A), (B), or (C) of this subsection, neither the original
4 qualifying grantee nor the new qualifying grantee is required to pay
5 the tax, so long as the new qualifying grantee operates,
6 substantially rehabilitates, or develops the property for the
7 intended purpose within the exemption period of the initial transfer.
8 If the new qualifying grantee fails to qualify the property for the
9 exemptions listed in (u)(ii) of this subsection, only the new
10 qualifying grantee is liable for the payment of taxes required by
11 (u)(ii) of this subsection. There is no limit on the number of
12 transfers between qualifying grantees.

13 (iv) Each affidavit must be filed with the department upon
14 completion of the sale or transfer of property. The qualifying
15 grantee must provide proof to the department as required by the
16 department once the property has been qualified for the property tax
17 exemption as described in (u)(i)(A), (B), or (C) of this subsection.

18 NEW SECTION. Sec. 5. The expiration date provisions of RCW
19 82.32.805(1)(a) do not apply to the tax preferences in sections 3 and
20 4, chapter . . ., Laws of 2022 (sections 3 and 4 of this act).

21 NEW SECTION. Sec. 6. Section 3 of this act takes effect July 1,
22 2022.

23 NEW SECTION. Sec. 7. Section 3 of this act expires January 1,
24 2032.

25 NEW SECTION. Sec. 8. Section 4 of this act takes effect January
26 1, 2032.

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