

SENATE BILL REPORT

HB 1315

As Reported By Senate Committee On:
Ways & Means, March 23, 2005

Title: An act relating to disclosure of information related to real estate excise taxes.

Brief Description: Authorizing the disclosure of information related to real estate excise taxes.

Sponsors: Representatives Tom, Clibborn, Jarrett, Hunter, Priest, Lantz, Conway, Rodne, Orcutt and Linville.

Brief History: Passed House: 3/08/05, 97-0.

Committee Activity: Ways & Means: 3/22/05, 3/23/05 [DPA]

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Fairley, Hewitt, Parlette, Pflug, Pridemore, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

Staff: Dean Carlson (786-7305)

Background: The real estate excise tax is imposed on each sale of real property. 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. The highest rate is 2.78 percent in the City of Friday Harbor.

The real estate excise tax applies when a sale occurs. A sale is defined as any transfer of the ownership of or title to real property, or any transfer of a controlling interest in a corporation or other entity that owns real property. A controlling interest is 50 percent or more of the voting power of the stock of a corporation, or 50 percent or more of capital, profits, or beneficial interest in a partnership, association, trust, or other entity.

Several exemptions are allowed from the real estate excise tax, including gifts, inheritances, and transfers to a corporation or partnership that is wholly owned by the transferor, the transferor's spouse, or the transferor's children.

When real property is transferred by deed, the tax is paid at the time the deed is recorded in the county records and the tax is collected by the county treasurer. The county treasurer distributes the tax revenue to the state and local jurisdictions imposing the tax. When the control of real property is transferred via a change in the controlling interest in a corporation or other entity, real estate excise tax is paid to the Department of Revenue, which distributes the local share of tax revenue to the appropriate jurisdictions.

When real estate excise tax is paid to the county treasurer, the amount of tax paid and information relating to the transaction are part of the public record. In contrast, excise tax

information received from taxpayers by the Department of Revenue is generally protected by confidentiality requirements. The information cannot be disclosed to the public, except as part of statistical reports that do not reveal the identity of a particular taxpayer or transaction. Most corporations organized under Washington law and operating in Washington are required to file annual reports with the Secretary of State. Annual reports must include information regarding the registered office and registered agent of the corporation; the principal office of any foreign corporation; a statement of the character of the affairs in which the corporation is engaged; names and addresses of the directors and officers; and the unified business identifier number. Certain partnerships are also required to apprise the Secretary of State of changes in names and addresses of partners and offices.

Summary of Amended Bill: Information in the possession of the Department of Revenue regarding real estate excise tax is not confidential.

The Secretary of State must adopt rules requiring entities which are required to file annual reports to disclose any transfer of the controlling interest of the entity and also disclose any interest in real property. The Secretary of State must furnish this information to the Department of Revenue for the purpose of tracking the transfer of interests in real property and determining when real estate excise tax is due. If an entity does not disclose a transfer of a controlling interest which results in real estate excise tax becoming due, the entity is subject to interest and penalties for late payment as well as a penalty for evasion of the tax.

Amended Bill Compared to Original Bill: The amendment adds the provisions of SB 6061 which requires the disclosure of any transfer of the controlling interest of an entity and any interest in real property on an annual report that is currently required to be filed with the Secretary of State.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: The real estate excise tax on a normal residential real estate sale is public information. When the controlling interest in a LLC is sold or transferred the real estate excise tax is reported to the Department of Revenue and is not disclosable. People are getting advice if the sell property by creating an LLC, they won't get caught not paying the real estate excise tax. This is a matter of fairness. These transactions should not be shielded.

Testimony Against: None.

Who Testified: Pro: Representative Tom, prime sponsor; Bob Mitchell, Washington Association of Realtors.