

# HOUSE BILL REPORT

## HB 2448

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**As Reported by House Committee On:**  
Finance

**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:** Representatives Senn, Tharinger, Chapman, Kilduff, Macri, Robinson, Appleton, Kloba, Pollet, Santos and Tarleton.

**Brief History:**

**Committee Activity:**

Finance: 1/12/18, 1/19/18 [DPS].

**Brief Summary of Substitute Bill**

- Exempts the qualified transfers of residential property by the legal representative of a person with developmental disabilities from the real estate excise tax.
- Makes remodeling and improvements required for legal operations or to meet building code, meet licensing requirements, or provide functionality to the transferred residential properties eligible for Housing Trust Fund monies.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Frame, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Dolan, Pollet, Springer, Stokesbary and Wylie.

**Staff:** Tracey O'Brien (786-7152).

**Background:**

Real Estate Excise Tax.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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 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.

The Housing Trust Fund makes funds available 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.

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#### **Summary of Substitute 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. The adult child of the transferor retains a life estate in the property and may live at the residence so long as it is safe and appropriate. A qualified entity includes a nonprofit and nonprofit subsidiary or a nonprofit family home. The transferor must submit an affidavit, as well as any other documentation required by the Department of Revenue, in order to claim the exemption.

The property or a successor property must remain in continuous use as a residence for residential supported living for persons with developmental disabilities for 50 years. If the Department of Social and Health Services determines the property is no longer being used for this purpose, or if the property no longer meets health and safety requirements, the REET 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.

A tax preference performance statement is included and the exemption is subject to the 10-year expiration.

The remodeling and improvements required for legal operations or to meet building code, meet licensing requirements, provide functionality, or legal operations to the transferred

residential properties are eligible for Housing Trust Fund monies so long as the organization owning the transferred residential property is eligible under the Housing Trust Fund criteria.

**Substitute Bill Compared to Original Bill:**

The requirement that the Washington State Developmental Disabilities Council must develop and make available model transfer agreements is removed. Intent language is added and includes legislative intent that advocates and supporters of the Washington State Developmental Disabilities Council work together to develop model transfer agreements. The substitute bill clarifies that the nonprofit subsidiary of a qualified entity under the same taxpayer identification number may accept the transfer of residential property from the legal representative of a person with developmental disabilities and the transfer will not be subject to the REET. Nonprofit adult family homes are a qualified entity to receive a transfer under the act. The use of and eligibility for Housing Trust Fund monies is clarified. Prioritization of Housing Trust Fund projects related to the transferred residential property is removed.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested January 19, 2018.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) There is demand and need for housing in the community for persons with developmentally disabilities. This is a creative way to address this need in a public-private partnership. In addition, so many parents of persons with developmental disabilities are aging and are concerned about what will happen to their adult children in the future. This solution provides peace of mind for the parents of persons with developmental disabilities, provides stability for the person with developmental disabilities, increases capacity for supportive living for persons with developmental disabilities, and gives relief to the Housing Trust Fund by focusing on rehabilitating existing properties as opposed to building new housing. This REET exemption is similar to other existing REET exemptions. It would be helpful to include adult family homes as a qualified entity to help meet housing demand. Many adult family homes already collaborate with nonprofits to provide services and there is a long waiting list for housing.

(Opposed) The Housing Trust Fund has a competitive application process that currently considers housing (rehabilitation and new construction) for people with developmental disabilities as an eligible use of monies. The competitive process reviews projects comprehensively for readiness, cost, community need, equitable distribution across the state, and service model to appropriately house the individuals in need. The Housing Trust Fund enabling statute identifies this criteria. It has been our experience that projects awarded solely based on meeting a particular set-aside are typically less successful and ready to move compared to competitive projects in any given year. The specific concerns raised by the

Housing Trust Fund are related to proposed changes to program eligibility and priorities already set in statute.

**Persons Testifying:** (In support) Representative Senn, prime sponsor; Nancy Sapiro, Jewish Family Services; Melissa Johnson, Community Residential Services Association; Donna Patrick, Developmental Disabilities Council; and Maria Chiechi, Adult Family Home Council.

(Opposed) Jason Davidson, Department of Commerce.

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