SENATE BILL REPORT
SB 6191

As of January 24, 2024

Title: An act relating to increasing the supply of affordable and workforce housing by reducing taxes on real property sales under $3,025,000, modifying the state and local real estate excise tax, and imposing a surcharge on the transfer of multimillion dollar properties.

Brief Description: Increasing the supply of affordable and workforce housing.

Sponsors: Senators Frame, Nguyen, Saldaña, Dhingra, Keiser, Wellman, Hunt, Hasegawa, Trudeau, Lovelett, Wilson, C., Stanford, Kuderer, Conway, Cleveland, Pedersen, Valdez and Nobles.

Brief History:

Committee Activity: Ways & Means: 1/25/24.

Brief Summary of Bill

- Increases the portion of the selling price subject to the state real estate excise tax (REET) rate of 1.1 percent from $525,000 to $750,000.
- Imposes a new real estate transfer tax (RETT) of 1 percent on the portion of the real estate selling price above $3.025 million.
- Requires all revenue from the REET and RETT to be divided among several accounts, including two newly created accounts, the Developmental Disabilities Housing and Services Account and the Housing Stability Account.
- Creates a REET and RETT exemption for certain sales or transfers of properties that will be used for a community purpose.

SENATE COMMITTEE ON WAYS & MEANS

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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 part of the legislation nor does it constitute a statement of legislative intent.

Background: Real Estate Excise Taxes. Real estate excise tax (REET) is a tax on the sale of real property. All sales of real property in the state are subject to REET unless a specific exemption is claimed. REET also applies to certain transfers of controlling interest in entities that own real property in the state. The seller of the property typically pays the tax, although the buyer is liable for the tax if it is not paid. Unpaid tax can become a lien on the transferred property.

State Real Estate Excise Tax. The state imposes a graduated REET on the sale of property that is not timberland or agricultural land. The portion of the selling price up to $525,000 is taxed at 1.1 percent; the portion that is more than $525,000 but less than or equal to $1.525 million is taxed at 1.28 percent; the portion that is more than $1.525 million but less than $3.025 million is taxed at 2.75 percent; and any portion of the selling price over $3.025 million is taxed at 3 percent. Timberland and agricultural land is taxed at a flat rate of 1.28 percent.

The Department of Revenue (DOR) is required to adjust the first price threshold every four years by the lesser of the growth in the consumer price index (CPI) for shelter or 5 percent, rounded to the nearest $1,000. CPI is a measure of the change over time in prices for certain goods and is often used as a measure of inflation. If the change in CPI for shelter is zero or negative, then the price threshold must remain the same. If the first threshold does increase, then the remaining thresholds must increase by the same amount. The first update to the price thresholds occurred on January 1, 2023.

All revenue from the REET is deposited as follows:

- 5.2 percent into the Public Works Assistance Account, which is used to make loans and grants to local governments for public works projects;
- 1.4 percent into the City-County Assistance Account, which provides funding to local governments based on their size and how their sales and property tax revenue compare to the statewide average;
- 79.4 percent to the State General Fund; and
- 14 percent into the Education Legacy Trust Account, which is used to support education.

Real Estate Excise Tax Exemptions. Certain transfers of real estate are not subject to the REET. The exemptions include, among other things, property transfers made by gift or through inheritance, transfers made pursuant to a dissolution of marriage, or the transfer of a mortgage interest in property.

Certain property sales or transfers related to low-income housing are also exempt from the REET. These exemptions cover low-income housing developments that qualify for federal low-income housing tax credits or for tax credits from the Washington State Housing Finance Commission. The exemptions also include sales of self-help housing to households that have an income of less than 80 percent of the median income, adjusted for house size, of the county in which the dwelling is located.

Also exempted are sales or transfers to certain entities that use the property for low-income housing, as long as certain conditions are satisfied. First, the property must qualify for a property tax exemption related to certain properties owned by a qualified entity. A qualified entity is a nonprofit organization that provides low-income rental housing or develops properties for sale to low-income households; a housing authority; a public corporation; or the United States, Washington, a county, or a municipal corporation. Second, the property must actually be used as housing within one to five years by a household that has an income of less than 80 percent of the median income, adjusted for house size, of the county in which the dwelling is located, with the time frame dependent on whether the organization is operating existing housing, renovating housing, or constructing new housing on the site. If this deadline is missed, then the organization must pay the tax that would have been due at the time of the transfer, plus interest.

Local Real Estate Excise Tax. Local governments may impose a local REET that is in addition to the state REET. There are five different. The local REET is assessed at a fixed rate and, unlike the state REET, does not vary depending on the selling price of the real estate. Tax rates do vary by taxing district though, with most local jurisdictions imposing the REET at a rate of 0.25-0.50 percent of the selling price. Any exemption from the state REET also applies to the local REET.

Washington Housing Trust Fund, Apple Health and Homes Account, and Affordable Housing for All Account. The Washington Housing Trust Fund is used to provide grants and loans for local government, housing authority, behavioral health service organization, nonprofit community, tribal, and regional or statewide housing assistance projects that will provide housing to those with special housing needs and with incomes at or below 50 percent of the median family income for the county or standard metropolitan area where the project is located. It is administered by the Department of Commerce (Commerce).

The Apple Health and Homes Account is also administered by Commerce. It is used to support permanent supportive housing programs.

The Affordable Housing for All account is used to fund affordable housing programs.

Tax Preferences. All new tax preference legislation is required to include a tax preference performance statement. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference. In addition, an automatic ten-year expiration date is applied to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Modifying the Real Estate Excise Tax. Beginning January 1, 2026, the portion of the selling price subject to the state REET rate of 1.1 percent is increased from $525,000 to $750,000.

Real Estate Transfer Tax. Beginning January 1, 2026, a real estate transfer tax (RETT) of 1 percent is imposed on the portion of the selling price of real estate over $3.025 million and is in addition to any REET paid on the sale. The RETT is imposed and collected in the same manner as REET. The selling price threshold of $3.025 million for RETT must be adjusted in the same manner and timing as the REET thresholds.

Revenue from the Taxes on Real Estate. All revenue from the REET and RETT must be distributed as follows:

- 93.2 percent must be deposited in the accounts currently receiving REET revenues and at the same percentage as currently provided in statute;
- the remaining 6.8 percent must be deposited as follows:
    1. 25 percent to the Washington State Housing Trust Fund, 5 percent of which must be solely for housing facilities in rural communities that prioritize serving low-income farmworker housing;
    2. 25 percent to the Apple Health and Homes Account;
    3. 25 percent to the Affordable Housing for All account for operations, maintenance, and service for permanent supportive housing;
    4. 15 percent to a new Developmental Disabilities Housing and Services Account; and
    5. 10 percent to the new Housing Stability Account.

Developmental Disabilities Housing and Services Account. The Developmental Disabilities Housing and Services Account is created. The account may be used for providing grants and forgivable loans to housing programs to support people with developmental disabilities. Grants and loans can be used for preservation, operations and maintenance costs, housing-related services, technical assistance to nonprofit organizations serving or housing populations with intellectual or developmental disabilities, and rental subsidies.

Housing Stability Account. The Housing Stability Account is created. Expenditures from the account may only be used for grants to cover building operations, maintenance, and supportive service costs for low-income households or extremely low-income households where a supplement to rent income is required to cover ongoing operating expenses. Eligible housing projects must have received or will receive funding from the state housing trust fund, or other public capital funding programs. Grants provided must fund overall developments and may be used to fund new or existing housing projects.

Tax Exemption. Beginning January 1, 2026, the sale of any portion of an affordable housing development by a qualified entity to an organization that meets the requirements for a property tax exemption as a nonprofit organization, housing authority, or public corporation for a community purpose is exempt from REET and RETT. A community purpose includes, but is not limited to, the provision of services to affordable housing development tenants, health clinics, senior day cares, food banks, community centers, and early learning facilities.

<u>Local Option Graduated Real Estate Excise Tax.</u> The Department of Revenue (DOR) must study the requirements needed to implement and administer a local option graduated REET and submit a report to the Legislature by January 13, 2025. The study must include administrative recommendations and an estimate of expenditures required for DOR to successfully implement and administer a local option graduated REET.

<u>Tax Preference Performance Requirements.</u> The act is exempt from tax preference performance review and automatic expiration.

Appropriation: None.

Fiscal Note: Requested on January 10, 2024.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.