

SENATE BILL REPORT

SB 6061

As Reported By Senate Committee On:
Judiciary, March 2, 2005
Ways & Means, March 7, 2005

Title: An act relating to the disclosure of controlling interest transfers in business organizations for real estate excise tax purposes.

Brief Description: Requiring the disclosure of controlling interest transfers in business organizations for real estate excise tax purposes.

Sponsors: Senators Rockefeller and Prentice.

Brief History:

Committee Activity: Judiciary: 3/2/05 [w/oRec-WM, DNP].
Ways & Means: 3/7/05 [DP, DNP, w/oRec].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That it be referred to Committee on Ways & Means without recommendation.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Esser, Rasmussen and Thibaudeau.

Minority Report: Do not pass.

Signed by Senators Carrell and McCaslin.

Staff: Lilah Amos (786-7429)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Fairley, Kohl-Welles, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

Minority Report: Do not pass.

Signed by Senators Zarelli, Ranking Minority Member; and Hewitt.

Minority Report: That it be referred without recommendation.

Signed by Senators Brandland, Parlette, Pflug, Roach and Schoesler.

Staff: Dean Carlson (786-7305)

Background: Real property sold in Washington is subject to a state real estate excise tax of 1.28 percent of the selling price. Local governmental authorities can also impose real estate excise taxes. Payment is due from the seller at the time of transfer of ownership. Interest and

varying monetary penalties for late payment are authorized. If the Department of Revenue finds that the taxpayer intended to evade payment of the required tax, an additional penalty of 50 percent of the additional tax due can be imposed. The public works assistance account receives 7.7 percent of the proceeds and the remainder is deposited into the general fund for the support of common schools.

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.

The transfer of a controlling interest in legal entities for valuable consideration, such as corporations, can also constitute a sale or transfer of real property owned by those entities upon which excise tax accrues. A controlling interest is defined as 50 percent or more of the total voting power of all stock of the corporation, or 50 percent of the capital, profits, or beneficial interest in the voting stock of the corporation.

Summary of Bill: 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.

Appropriation: None.

Fiscal Note: Requested on March 1, 2005.

Committee/Commission/Task Force Created: No.

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

Testimony For (Judiciary): This bill does not impose any additional tax or modify any tax due to the state. It is solely a mechanism for insuring that tax due on transfers of controlling interests in corporations which involves a transfer of real property is paid. The Department of Revenue currently relies on voluntary compliance with real estate excise laws in corporate transfers of real estate. It is impossible to tell how much evasion, if any, is occurring as a result of controlling interest transfers. By requiring this information to be provided to the secretary of state, and shared with the department of revenue, transactions which have been taxable since 1993 can be monitored and real estate excise tax laws enforced.

Testimony Against (Judiciary): None.

Who Testified (Judiciary): PRO: Senator Phil Rockefeller, prime sponsor. OTHER: Stuart Thronson, Department of Revenue; Mike Ricchio, Office of the Secretary of State.

Testimony For (Ways & Means): None.

Testimony Against (Ways & Means): None.

Who Testified (Ways & Means): No one.