
SENATE BILL 5116

State of Washington

63rd Legislature

2013 Regular Session

By Senators Benton, Harper, and King

Read first time 01/18/13. Referred to Committee on Governmental Operations .

1 AN ACT Relating to exempting transfers of real property by
2 operation of law or court order from the requirement to file a real
3 estate excise tax affidavit; and amending RCW 82.45.090 and 82.45.197.

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

5 **Sec. 1.** RCW 82.45.090 and 2009 c 350 s 8 are each amended to read
6 as follows:

7 (1) Except for a sale of a beneficial interest in real property or
8 the transfer by court order or by operation of law where no instrument
9 evidencing the sale or transfer is recorded in the official real
10 property records of the county in which the property is located, the
11 tax imposed by this chapter (~~shall~~) must be paid to and collected by
12 the treasurer of the county within which is located the real property
13 (~~which~~) that was sold or transferred. In collecting the tax the
14 treasurer (~~shall~~) must act as agent for the state. The county
15 treasurer (~~shall~~) must cause a verification of payment evidencing
16 satisfaction of the lien to be affixed to the instrument of sale or
17 conveyance prior to its recording or to the real estate excise tax
18 affidavit in the case of used mobile home sales and used floating home
19 sales. A receipt issued by the county treasurer for the payment of the

1 tax imposed under this chapter (~~shall be~~) is evidence of the
2 satisfaction of the lien imposed hereunder and may be recorded in the
3 manner prescribed for recording satisfactions of mortgages. No
4 instrument of sale or conveyance evidencing a sale subject to the tax
5 (~~shall~~) may be accepted by the county auditor for filing or recording
6 until the tax (~~shall have been~~) is paid and the verification of
7 payment affixed thereto; in case the tax is not due on the transfer,
8 the instrument (~~shall~~) may not be (~~so~~) accepted until suitable
9 notation of such fact has been made on the instrument by the treasurer.
10 Any time there is a sale of a used mobile home, used manufactured home,
11 used park model, or used floating home that has not been title
12 eliminated, property taxes must be current in order to complete the
13 processing of the real estate excise tax affidavit or other documents
14 transferring title. Verification that the property taxes are current
15 must be noted on the mobile home real estate excise tax affidavit or on
16 a form approved by the county treasurer. For the purposes of this
17 subsection, "mobile home," "manufactured home," and "park model" have
18 the same meaning as provided in RCW 59.20.030.

19 (2) For a sale of a beneficial interest in real property where a
20 tax is due under this chapter and where no instrument is recorded in
21 the official real property records of the county in which the property
22 is located, the sale (~~shall~~) must be reported to the department of
23 revenue within five days from the date of the sale on such returns or
24 forms and according to such procedures as the department may prescribe.
25 Such forms or returns (~~shall~~) must be signed by both the transferor
26 and the transferee and (~~shall~~) must be accompanied by payment of the
27 tax due.

28 (3) No real estate excise tax affidavit is required to evidence any
29 transfer of real property by operation of law or by order of the court
30 where no instrument of conveyance is recorded in the official records
31 of the county in which the real property is located.

32 (4) Any person who intentionally makes a false statement on any
33 return or form required to be filed with the department under this
34 chapter is guilty of perjury under chapter 9A.72 RCW.

35 **Sec. 2.** RCW 82.45.197 and 2008 c 269 s 1 are each amended to read
36 as follows:

37 In order to receive an exemption from the tax in this chapter on

1 real property (~~transferred~~) for an instrument of conveyance recorded
2 in the official records of the county in which the real property is
3 located that evidences a transfer by operation of law or order of the
4 court, as a result of inheritance as set forth under RCW
5 82.45.010(3)(a), the following documentation must be provided:

6 (1) If the property is being transferred under the terms of a
7 community property agreement, a copy of the recorded agreement and a
8 certified copy of the death certificate;

9 (2) If the property is being transferred under the terms of a trust
10 instrument, a certified copy of the death certificate and a copy of the
11 trust instrument showing the authority of the grantor;

12 (3) If the property is being transferred under the terms of a
13 probated will, a certified copy of the letters testamentary or in the
14 case of intestate administration, a certified copy of the letters of
15 administration showing that the grantor is the court-appointed
16 executor, executrix, or administrator, and a certified copy of the
17 death certificate;

18 (4) In the case of joint tenants with right of survivorship and
19 remainder interests, a certified copy of the death certificate is
20 recorded to perfect title;

21 (5) If the property is being transferred pursuant to a court order,
22 a certified copy of the court order requiring the transfer, and
23 confirming that the grantor is required to do so under the terms of the
24 order; or

25 (6) If the community property interest of the decedent is being
26 transferred to a surviving spouse or surviving domestic partner absent
27 the documentation set forth in subsections (1) through (5) of this
28 section, a certified copy of the death certificate and a signed
29 affidavit from the surviving spouse or surviving domestic partner
30 affirming that he or she is the sole and rightful heir to the property.

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