
HOUSE BILL 1798

State of Washington

65th Legislature

2017 Regular Session

By Representatives McBride, Gregerson, Robinson, Appleton, Ormsby, Macri, McDonald, Orwall, Reeves, Kagi, Sells, Bergquist, and Pollet

Read first time 01/30/17. Referred to Committee on Judiciary.

1 AN ACT Relating to the sale of manufactured/mobile home
2 communities; amending RCW 59.20.030, 82.45.010, and 82.45.060; adding
3 new sections to chapter 59.20 RCW; creating a new section; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) It is the policy of this state to encourage affordable
8 housing ownership, including manufactured/mobile home community
9 living.

10 (b) Manufactured/mobile home communities provide a significant
11 source of homeownership opportunities for Washington residents.
12 However, the increasing closure and conversion of manufactured/mobile
13 home communities to other uses, combined with increasing
14 manufactured/mobile home lot rents, low vacancy rates in existing
15 manufactured/mobile home communities, and the extremely high cost of
16 moving homes when manufactured/mobile home communities close,
17 increasingly make manufactured/mobile home community living insecure
18 for manufactured/mobile home tenants.

19 (c) Many tenants who reside in manufactured/mobile home
20 communities are part of low-income households and senior citizens and
21 are, therefore, those residents most in need of reasonable security

1 in the siting of their manufactured/mobile homes because such tenants
2 experience adverse impacts on their health, safety, and welfare when
3 forced to move due to closure, change of use, or discontinuance of
4 manufactured/mobile home communities.

5 (2) It is the intent of the legislature to encourage and
6 facilitate the preservation of existing manufactured/mobile home
7 communities in the event of voluntary sales of manufactured/mobile
8 home communities and, to the extent necessary and possible, to
9 involve manufactured/mobile home community tenants or an eligible
10 organization, such as a nonprofit organization, housing authority,
11 community land trust, or local government, in the preservation of
12 manufactured/mobile home communities.

13 (3) This subsection is the tax preference performance statement
14 for the tax preference in section 7 of this act. The performance
15 statement is only intended to be used for subsequent evaluation of
16 the tax preference. It is not intended to create a private right of
17 action by any party or be used to determine eligibility for
18 preferential tax treatment.

19 (4) The legislature categorizes this tax preference as one
20 intended to provide individual tax relief, as indicated in RCW
21 82.32.808(2)(e).

22 (5) It is the legislature's specific public policy objective to
23 extend the real estate excise tax exemption for qualified sales of a
24 manufactured/mobile home community.

25 (6) The joint legislative audit and review committee is not
26 required to assess the effectiveness of the tax preference in section
27 7 of this act, in achieving the intent and specific public policy
28 objective stated in this section.

29 **Sec. 2.** RCW 59.20.030 and 2008 c 116 s 2 are each amended to
30 read as follows:

31 For purposes of this chapter:

32 (1) "Abandoned" as it relates to a mobile home, manufactured
33 home, or park model owned by a tenant in a mobile home park, mobile
34 home park cooperative, or mobile home park subdivision or tenancy in
35 a mobile home lot means the tenant has defaulted in rent and by
36 absence and by words or actions reasonably indicates the intention
37 not to continue tenancy;

38 (2) "Eligible organization" includes local governments, local
39 housing authorities, nonprofit community or neighborhood-based

1 organizations, federally recognized Indian tribes in the state of
2 Washington, and regional or statewide nonprofit housing assistance
3 organizations;

4 (3) "Housing authority" or "authority" means any of the public
5 body corporate and politic created in RCW 35.82.030;

6 (4) "Landlord" means the owner of a mobile home park and includes
7 the agents of a landlord;

8 (5) "Local government" means a town government, city government,
9 code city government, or county government in the state of
10 Washington;

11 (6) "Manufactured home" means a single-family dwelling built
12 according to the United States department of housing and urban
13 development manufactured home construction and safety standards act,
14 which is a national preemptive building code. A manufactured home
15 also: (a) Includes plumbing, heating, air conditioning, and
16 electrical systems; (b) is built on a permanent chassis; and (c) can
17 be transported in one or more sections with each section at least
18 eight feet wide and forty feet long when transported, or when
19 installed on the site is three hundred twenty square feet or greater;

20 (7) "Manufactured/mobile home" means either a manufactured home
21 or a mobile home;

22 (8) "Mobile home" means a factory-built dwelling built prior to
23 June 15, 1976, to standards other than the United States department
24 of housing and urban development code, and acceptable under
25 applicable state codes in effect at the time of construction or
26 introduction of the home into the state. Mobile homes have not been
27 built since the introduction of the United States department of
28 housing and urban development manufactured home construction and
29 safety act;

30 (9) "Mobile home lot" means a portion of a mobile home park or
31 manufactured housing community designated as the location of one
32 mobile home, manufactured home, or park model and its accessory
33 buildings, and intended for the exclusive use as a primary residence
34 by the occupants of that mobile home, manufactured home, or park
35 model;

36 (10) "Mobile home park," "manufactured housing community," or
37 "manufactured/mobile home community" means any real property which is
38 rented or held out for rent to others for the placement of two or
39 more mobile homes, manufactured homes, or park models for the primary
40 purpose of production of income, except where such real property is

1 rented or held out for rent for seasonal recreational purpose only
2 and is not intended for year-round occupancy;

3 (11) "Mobile home park cooperative" or "manufactured housing
4 cooperative" means real property consisting of common areas and two
5 or more lots held out for placement of mobile homes, manufactured
6 homes, or park models in which both the individual lots and the
7 common areas are owned by an association of shareholders which leases
8 or otherwise extends the right to occupy individual lots to its own
9 members;

10 (12) "Mobile home park subdivision" or "manufactured housing
11 subdivision" means real property, whether it is called a subdivision,
12 condominium, or planned unit development, consisting of common areas
13 and two or more lots held for placement of mobile homes, manufactured
14 homes, or park models in which there is private ownership of the
15 individual lots and common, undivided ownership of the common areas
16 by owners of the individual lots;

17 (13) "Notice of sale" means a notice required under RCW 59.20.300
18 to be delivered to all tenants of a manufactured/mobile home
19 community and other specified parties within fourteen days after the
20 date on which any advertisement, multiple listing, or public notice
21 advertises that a manufactured/mobile home community is for sale;

22 (14) "Park model" means a recreational vehicle intended for
23 permanent or semi-permanent installation and is used as a primary
24 residence;

25 (15) "Qualified sale of manufactured/mobile home community" means
26 the sale, as defined in RCW 82.45.010, of land and improvements
27 comprising a manufactured/mobile home community that is transferred
28 in a single purchase to a qualified tenant organization or to an
29 eligible organization for the purpose of preserving the property as a
30 manufactured/mobile home community;

31 (16) "Qualified tenant organization" means a formal organization
32 of tenants within a manufactured/mobile home community, with the only
33 requirement for membership consisting of being a tenant;

34 (17) "Recreational vehicle" means a travel trailer, motor home,
35 truck camper, or camping trailer that is primarily designed and used
36 as temporary living quarters, is either self-propelled or mounted on
37 or drawn by another vehicle, is transient, is not occupied as a
38 primary residence, and is not immobilized or permanently affixed to a
39 mobile home lot;

1 (18) "Tenant" means any person, except a transient, who rents a
2 mobile home lot;

3 (19) "Transient" means a person who rents a mobile home lot for a
4 period of less than one month for purposes other than as a primary
5 residence;

6 (20) "Occupant" means any person, including a live-in care
7 provider, other than a tenant, who occupies a mobile home,
8 manufactured home, or park model and mobile home lot;

9 (21) "Notice of opportunity to purchase" means a notice required
10 under section 3 of this act to the department of commerce.

11 NEW SECTION. Sec. 3. A new section is added to chapter 59.20
12 RCW to read as follows:

13 (1) A landlord must provide a written notice of opportunity to
14 purchase a manufactured/mobile home community by certified mail or
15 personal delivery to the department of commerce within three business
16 days after the date on which a landlord receives a bona fide offer to
17 purchase his or her manufactured/mobile home community or the
18 property on which the manufactured/mobile home community is located.
19 Notice by certified mail postmarked within three days of receipt of a
20 bona fide offer to purchase is deemed to comply with the requirements
21 of this section.

22 (2) A notice of opportunity to purchase must include:

23 (a) A statement that the landlord is, or is not, considering the
24 sale of the manufactured/mobile home community; and

25 (b) The contact information for the landlord or landlord's agent
26 who is responsible for communicating with the qualified tenant
27 organization or eligible organization regarding an opportunity to
28 make an offer for the sale of the property.

29 NEW SECTION. Sec. 4. A new section is added to chapter 59.20
30 RCW to read as follows:

31 A landlord may not close on the sale of his or her manufactured/
32 mobile home community until ninety days after the date on which the
33 notice of opportunity to purchase was delivered.

34 NEW SECTION. Sec. 5. A new section is added to chapter 59.20
35 RCW to read as follows:

36 (1) The department of commerce must maintain a list of all
37 eligible organizations and qualified tenant organizations that submit

1 to the department of commerce a written request to receive notices of
2 opportunity to purchase manufactured/mobile home communities, as
3 provided in section 3 of this act, containing the following
4 information:

5 (a) The name and mailing address of the eligible organization;
6 and

7 (b) A statement that the eligible organization wishes to purchase
8 a manufactured/mobile home community.

9 (2) The department of commerce must provide a copy of the list
10 required under this section to any person upon request.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 59.20
12 RCW to read as follows:

13 (1) A landlord who sells or transfers a manufactured/mobile home
14 community and willfully fails to comply with section 3 or 4 of this
15 act is liable to the state of Washington for a civil penalty in the
16 amount of the greater of five thousand dollars or five percent of the
17 total sales price. This penalty is the exclusive remedy for a
18 violation of section 3 or 4 of this act.

19 (2) The attorney general may bring a civil action in superior
20 court in the name of the state against a landlord under this section.

21 **Sec. 7.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to
22 read as follows:

23 (1) As used in this chapter, the term "sale" has its ordinary
24 meaning and includes any conveyance, grant, assignment, quitclaim, or
25 transfer of the ownership of or title to real property, including
26 standing timber, or any estate or interest therein for a valuable
27 consideration, and any contract for such conveyance, grant,
28 assignment, quitclaim, or transfer, and any lease with an option to
29 purchase real property, including standing timber, or any estate or
30 interest therein or other contract under which possession of the
31 property is given to the purchaser, or any other person at the
32 purchaser's direction, and title to the property is retained by the
33 vendor as security for the payment of the purchase price. The term
34 also includes the grant, assignment, quitclaim, sale, or transfer of
35 improvements constructed upon leased land.

36 (2)(a) The term "sale" also includes the transfer or acquisition
37 within any twelve-month period of a controlling interest in any

1 entity with an interest in real property located in this state for a
2 valuable consideration.

3 (b) For the sole purpose of determining whether, pursuant to the
4 exercise of an option, a controlling interest was transferred or
5 acquired within a twelve-month period, the date that the option
6 agreement was executed is the date on which the transfer or
7 acquisition of the controlling interest is deemed to occur. For all
8 other purposes under this chapter, the date upon which the option is
9 exercised is the date of the transfer or acquisition of the
10 controlling interest.

11 (c) For purposes of this subsection, all acquisitions of persons
12 acting in concert must be aggregated for purposes of determining
13 whether a transfer or acquisition of a controlling interest has taken
14 place. The department must adopt standards by rule to determine when
15 persons are acting in concert. In adopting a rule for this purpose,
16 the department must consider the following:

17 (i) Persons must be treated as acting in concert when they have a
18 relationship with each other such that one person influences or
19 controls the actions of another through common ownership; and

20 (ii) When persons are not commonly owned or controlled, they must
21 be treated as acting in concert only when the unity with which the
22 purchasers have negotiated and will consummate the transfer of
23 ownership interests supports a finding that they are acting as a
24 single entity. If the acquisitions are completely independent, with
25 each purchaser buying without regard to the identity of the other
26 purchasers, then the acquisitions are considered separate
27 acquisitions.

28 (3) The term "sale" does not include:

29 (a) A transfer by gift, devise, or inheritance.

30 (b) A transfer by transfer on death deed, to the extent that it
31 is not in satisfaction of a contractual obligation of the decedent
32 owed to the recipient of the property.

33 (c) A transfer of any leasehold interest other than of the type
34 mentioned above.

35 (d) A cancellation or forfeiture of a vendee's interest in a
36 contract for the sale of real property, whether or not such contract
37 contains a forfeiture clause, or deed in lieu of foreclosure of a
38 mortgage.

39 (e) The partition of property by tenants in common by agreement
40 or as the result of a court decree.

1 (f) The assignment of property or interest in property from one
2 spouse or one domestic partner to the other spouse or other domestic
3 partner in accordance with the terms of a decree of dissolution of
4 marriage or state registered domestic partnership or in fulfillment
5 of a property settlement agreement.

6 (g) The assignment or other transfer of a vendor's interest in a
7 contract for the sale of real property, even though accompanied by a
8 conveyance of the vendor's interest in the real property involved.

9 (h) Transfers by appropriation or decree in condemnation
10 proceedings brought by the United States, the state or any political
11 subdivision thereof, or a municipal corporation.

12 (i) A mortgage or other transfer of an interest in real property
13 merely to secure a debt, or the assignment thereof.

14 (j) Any transfer or conveyance made pursuant to a deed of trust
15 or an order of sale by the court in any mortgage, deed of trust, or
16 lien foreclosure proceeding or upon execution of a judgment, or deed
17 in lieu of foreclosure to satisfy a mortgage or deed of trust.

18 (k) A conveyance to the federal housing administration or
19 veterans administration by an authorized mortgagee made pursuant to a
20 contract of insurance or guaranty with the federal housing
21 administration or veterans administration.

22 (l) A transfer in compliance with the terms of any lease or
23 contract upon which the tax as imposed by this chapter has been paid
24 or where the lease or contract was entered into prior to the date
25 this tax was first imposed.

26 (m) The sale of any grave or lot in an established cemetery.

27 (n) A sale by the United States, this state or any political
28 subdivision thereof, or a municipal corporation of this state.

29 (o) A sale to a regional transit authority or public corporation
30 under RCW 81.112.320 under a sale/leaseback agreement under RCW
31 81.112.300.

32 (p) A transfer of real property, however effected, if it consists
33 of a mere change in identity or form of ownership of an entity where
34 there is no change in the beneficial ownership. These include
35 transfers to a corporation or partnership which is wholly owned by
36 the transferor and/or the transferor's spouse or domestic partner or
37 children of the transferor or the transferor's spouse or domestic
38 partner. However, if thereafter such transferee corporation or
39 partnership voluntarily transfers such real property, or such
40 transferor, spouse or domestic partner, or children of the transferor

1 or the transferor's spouse or domestic partner voluntarily transfer
2 stock in the transferee corporation or interest in the transferee
3 partnership capital, as the case may be, to other than (i) the
4 transferor and/or the transferor's spouse or domestic partner or
5 children of the transferor or the transferor's spouse or domestic
6 partner, (ii) a trust having the transferor and/or the transferor's
7 spouse or domestic partner or children of the transferor or the
8 transferor's spouse or domestic partner as the only beneficiaries at
9 the time of the transfer to the trust, or (iii) a corporation or
10 partnership wholly owned by the original transferor and/or the
11 transferor's spouse or domestic partner or children of the transferor
12 or the transferor's spouse or domestic partner, within three years of
13 the original transfer to which this exemption applies, and the tax on
14 the subsequent transfer has not been paid within sixty days of
15 becoming due, excise taxes become due and payable on the original
16 transfer as otherwise provided by law.

17 (q)(i) A transfer that for federal income tax purposes does not
18 involve the recognition of gain or loss for entity formation,
19 liquidation or dissolution, and reorganization, including but not
20 limited to nonrecognition of gain or loss because of application of
21 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
22 revenue code of 1986, as amended.

23 (ii) However, the transfer described in (q)(i) of this subsection
24 cannot be preceded or followed within a twelve-month period by
25 another transfer or series of transfers, that, when combined with the
26 otherwise exempt transfer or transfers described in (q)(i) of this
27 subsection, results in the transfer of a controlling interest in the
28 entity for valuable consideration, and in which one or more persons
29 previously holding a controlling interest in the entity receive cash
30 or property in exchange for any interest the person or persons acting
31 in concert hold in the entity. This subsection (3)(q)(ii) does not
32 apply to that part of the transfer involving property received that
33 is the real property interest that the person or persons originally
34 contributed to the entity or when one or more persons who did not
35 contribute real property or belong to the entity at a time when real
36 property was purchased receive cash or personal property in exchange
37 for that person or persons' interest in the entity. The real estate
38 excise tax under this subsection (3)(q)(ii) is imposed upon the
39 person or persons who previously held a controlling interest in the
40 entity.

1 (r) A qualified sale of a manufactured/mobile home community, as
2 defined in RCW 59.20.030, that takes place on or after June 12, 2008,
3 but before December 31, (~~2018~~) 2026.

4 **Sec. 8.** RCW 82.45.060 and 2013 2nd sp.s. c 9 s 6 are each
5 amended to read as follows:

6 There is imposed an excise tax upon each sale of real property at
7 the rate of one and twenty-eight one-hundredths percent of the
8 selling price, except that the excise tax upon each sale of a
9 manufactured/mobile home community, as defined in RCW 59.20.030, to
10 any person other than an eligible organization or qualified tenant
11 organization, as defined in RCW 59.20.030, must be at the rate of
12 five and twelve one-hundredths percent of the selling price.

13 Beginning July 1, 2013, and ending June 30, 2019, an amount equal to
14 two percent of the proceeds of this tax must be deposited in the
15 public works assistance account created in RCW 43.155.050, and an
16 amount equal to four and one-tenth percent must be deposited in the
17 education legacy trust account created in RCW 83.100.230. Thereafter,
18 an amount equal to six and one-tenth percent of the proceeds of this
19 tax to the state treasurer must be deposited in the public works
20 assistance account created in RCW 43.155.050. Except as otherwise
21 provided in this section, an amount equal to one and six-tenths
22 percent of the proceeds of this tax to the state treasurer must be
23 deposited in the city-county assistance account created in RCW
24 43.08.290.

25 NEW SECTION. **Sec. 9.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

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