HOUSE BILL REPORT
HB 2634

As Reported by House Committee On:
Finance

Title: An act relating to exempting a sale or transfer of real property for affordable housing to a nonprofit entity, housing authority, or public corporation from the real estate excise tax.

Brief Description: Exempting a sale or transfer of real property for affordable housing to a nonprofit entity, housing authority, or public corporation from the real estate excise tax.

Sponsors: Representatives Walen, Barkis, Stokesbary, Macri, Chapman, Gildon, Chopp, Robinson, Senn, Leavitt and Tharinger.

Brief History:
Committee Activity:
Finance: 2/7/20, 2/10/20 [DPS].

Brief Summary of Substitute Bill

- Exempts from real estate excise tax, the sale or transfer of real property to a nonprofit, housing authority, or public corporation if the grantee intends to use the property for rental housing for low-income persons.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Macri, Orwall, Springer, Stokesbary, Vick and Wylie.

Minority Report: Without recommendation. Signed by 1 member: Representative Frame.

Staff: Nick Tucker (786-7383).

Background:

Real Estate Excise Tax.

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.

Real estate excise tax (REET) is due on the sale of real estate and transfer of controlling interest in an entity that owns real property in the state. The tax base is the selling price of real estate, including the amount of any liens, mortgages, and other debts. In the case of the transfer of controlling interest, the tax base is the true and fair value, or selling price, of the real property transferred. The tax is typically paid by the seller of the property, although the buyer is liable for the tax if it is not paid.

Beginning on January 1, 2020, and through June 30, 2022, the REET rate is:
- 1.1 percent if the selling price is equal to or less than $500,000;
- 1.28 percent on the portion of the selling price that is greater than $500,000, but equal to or less than $1.5 million;
- 2.75 percent on the portion of the selling price that is greater than $1.5 million, but equal to or less than $3 million; and
- 3 percent on the portion of the selling price that is greater than $3 million.

Beginning on July 1, 2022, and every fourth year thereafter, the selling price thresholds are adjusted to reflect the lesser of the growth in the Consumer Price Index for Shelter over the past four years, or 5 percent. The Department of Revenue (DOR) must publish updated selling price thresholds by September 1, 2022, and September 1 of every fourth year thereafter. If the growth in Consumer Price Index for Shelter is less than 0 percent, the current selling price thresholds will continue to apply. The DOR must report the updated selling price thresholds to the Legislature within six months of publication.

A rate of 1.28 percent is imposed on the sale of real property that is classified as timberland or agricultural land, regardless of the selling price.

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 10-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 Substitute Bill:

The sale or transfer of real property to a nonprofit, housing authority, or public corporation is exempt from REET if the grantee intends to use the property for rental housing for low-income persons and receives, or qualifies for, certain eligible real and personal property tax exemptions. Eligible property tax exemptions are:
- the property tax exemption provided to nonprofit organizations that provide rental housing or used space to very low-income households (RCW 84.36.560);
- the property tax exemption and payments in lieu of taxes provided to housing authorities (RCW 35.82.210); and
- the immunity or exemption from taxation provided to public corporations (RCW 35.21.755).

"Nonprofit entity" is defined as in RCW 84.36.560. "Housing authority" means a housing authority created under RCW 35.82.030 or RCW 35.82.300. "Public corporation" means a public corporation established under RCW 35.21.660 or 35.21.730.

Qualifying grantees must certify their intent, by affidavit at the time of transfer, to receive or qualify for the eligible tax exemption within:

- 1 year, if the grantee intends to operate existing housing as affordable housing;
- 3 years, if the grantee intends to substantially rehabilitate the premises; or
- 5 years, if the grantee intends to develop new affordable housing on the property.

If a qualifying grantee fails to receive, or qualify for, a property tax exemption within the above timeline, all unpaid REET becomes due plus interest. Interest is calculated from the date of transfer.

The bill contains provisions addressing subsequent transfers of ownership and administrative issues. The bill is exempt from the 10-year expiration requirement for all new tax preferences.

Substitute Bill Compared to Original Bill:

The substitute bill:

- requires a qualifying grantee to provide proof to the DOR upon exemption qualification, rather than requiring them to file a second affidavit;
- clarifies that if unpaid REET and interest become due, that the date of interest will be calculated from the date of the initial transfer;
- provides that if the property is transferred to a new qualifying grantee who fails to qualify the property for the exemptions, only the new qualifying grantee is liable for the payment of taxes;
- removes reference to an undefined term of "affordable housing"; and
- removes an irrelevant chapter reference.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 10, 2020.

Effective Date of Substitute Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3, relating to authorizing the exemption, which takes effect July 1, 2020 and section 4, relating to continuing the exemption, which takes effect January 1, 2030.

Staff Summary of Public Testimony:

(In support) Washington housing gap is amongst the most severe in the country. The supply of affordable housing for extremely low-income households is very limited. The bill will encourage nonprofit housing providers to purchase more property, which in turn will increase the availability of affordable homes in our communities. Everyone in the state will benefit from a larger stock in affordable housing.

Affordable housing providers are struggling to compete for scarce parcels of land that have been zoned for multifamily construction. The bill gives an incentive to sellers to choose the nonprofit or public housing authority who wants to use the property for affordable housing purposes.

The entities who would receive this exemption are the same entities who receive funding from this tax source to support their affordable housing projects, so it does not make sense for these entities to pay this tax as well.

(Opposed) None.

Persons Testifying: Representative Walen, prime sponsor; Michele Thomas, Washington Low Income Housing Alliance; Susan Boyd, Belwether Housing Seattle; and Duane Leonard, Housing Authority of Snohomish County and Association of Washington Housing Authority.

Persons Signed In To Testify But Not Testifying: None.