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**SUBSTITUTE HOUSE BILL 2634**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House Finance (originally sponsored by Representatives Walen, Barkis, Stokesbary, Macri, Chapman, Gildon, Chopp, Robinson, Senn, Leavitt, and Tharinger)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to exempting a sale or transfer of real property  
2 for affordable housing to a nonprofit entity, housing authority, or  
3 public corporation from the real estate excise tax; amending RCW  
4 82.45.010; reenacting and amending RCW 82.45.010; creating new  
5 sections; providing effective dates; and providing an expiration  
6 date.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington  
9 state has one of the strongest economies in the country. However,  
10 despite the strong economy, our state has entered an affordable  
11 housing crisis where low-income and middle-income households have the  
12 fewest number of housing options. Furthermore, it is estimated that  
13 Washington state's housing gap is among the most severe in the  
14 nation, with only twenty-nine affordable and available rental homes  
15 for every one hundred extremely low-income households.

16 (2) The legislature concludes that in the spirit of one  
17 Washington, the health of all Washingtonians will benefit from a  
18 larger stock in affordable housing. Therefore, it is the intent of  
19 the legislature to incentivize real property transfers to nonprofit  
20 housing providers or public housing authorities to increase the  
21 availability of affordable housing for low-income Washingtonians.

1        NEW SECTION.    **Sec. 2.**    (1) This section is the tax preference  
2 performance statement for the tax preferences in sections 3 and 4,  
3 chapter . . . , Laws of 2020 (sections 3 and 4 of this act). This  
4 performance statement is only intended to be used for subsequent  
5 evaluation of the tax preferences. It is not intended to create a  
6 private right of action by any party or be used to determine  
7 eligibility for preferential tax treatment.

8        (2) The legislature categorizes this tax preference as one  
9 intended to induce certain designated behavior by taxpayers, as  
10 indicated in RCW 82.32.808(2) (a).

11        (3) It is the legislature's specific public policy objective to  
12 encourage sales or transfers of real property to nonprofit entities,  
13 housing authorities, or public corporations that intend to use the  
14 transferred property for rental housing for low-income persons.

15        (4) If a review finds that the number of sales or transfers of  
16 real property to qualified entities has not increased, then the  
17 legislature intends to repeal the expiration date of the tax  
18 preference.

19        (5) In order to obtain the data necessary to perform the review  
20 in subsection (4) of this section, the joint legislative audit and  
21 review committee may refer to any available data source, including  
22 the transfer or sale of properties reported by county records.

23        **Sec. 3.**    RCW 82.45.010 and 2019 c 424 s 3, 2019 c 390 s 10, and  
24 2019 c 385 s 2 are each reenacted and amended to read as follows:

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

38        (2) (a) The term "sale" also includes the transfer or acquisition  
39 within any thirty-six 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 thirty-six 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 thirty-six 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.

3 (s)(i) A transfer of a qualified low-income housing development  
4 or controlling interest in a qualified low-income housing  
5 development, unless, due to noncompliance with federal statutory  
6 requirements, the seller is subject to recapture, in whole or in  
7 part, of its allocated federal low-income housing tax credits within  
8 the four years prior to the date of transfer.

9 (ii) For purposes of this subsection (3)(s), "qualified low-  
10 income housing development" means real property and improvements in  
11 respect to which the seller or, in the case of a transfer of a  
12 controlling interest, the owner or beneficial owner, was allocated  
13 federal low-income housing tax credits authorized under 26 U.S.C.  
14 Sec. 42 or successor statute, by the Washington state housing finance  
15 commission or successor state-authorized tax credit allocating  
16 agency.

17 (iii) This subsection (3)(s) does not apply to transfers of a  
18 qualified low-income housing development or controlling interest in a  
19 qualified low-income housing development occurring on or after July  
20 1, 2035.

21 (iv) The Washington state housing finance commission, in  
22 consultation with the department, must gather data on: (A) The fiscal  
23 savings, if any, accruing to transferees as a result of the exemption  
24 provided in this subsection (3)(s); (B) the extent to which  
25 transferors of qualified low-income housing developments receive  
26 consideration, including any assumption of debt, as part of a  
27 transfer subject to the exemption provided in this subsection (3)(s);  
28 and (C) the continued use of the property for low-income housing. The  
29 Washington state housing finance commission must provide this  
30 information to the joint legislative audit and review committee. The  
31 committee must conduct a review of the tax preference created under  
32 this subsection (3)(s) in calendar year 2033, as required under  
33 chapter 43.136 RCW.

34 (t)(i) A qualified transfer of residential property by a legal  
35 representative of a person with developmental disabilities to a  
36 qualified entity subject to the following conditions:

37 (A) The adult child with developmental disabilities of the  
38 transferor of the residential property must be allowed to reside in  
39 the residence or successor property so long as the placement is safe

1 and appropriate as determined by the department of social and health  
2 services;

3 (B) The title to the residential property is conveyed without the  
4 receipt of consideration by the legal representative of a person with  
5 developmental disabilities to a qualified entity;

6 (C) The residential property must have no more than four living  
7 units located on it; and

8 (D) The residential property transferred must remain in continued  
9 use for fifty years by the qualified entity as supported living for  
10 persons with developmental disabilities by the qualified entity or  
11 successor entity. If the qualified entity sells or otherwise conveys  
12 ownership of the residential property the proceeds of the sale or  
13 conveyance must be used to acquire similar residential property and  
14 such similar residential property must be considered the successor  
15 for continued use. The property will not be considered in continued  
16 use if the department of social and health services finds that the  
17 property has failed, after a reasonable time to remedy, to meet any  
18 health and safety statutory or regulatory requirements. If the  
19 department of social and health services determines that the property  
20 fails to meet the requirements for continued use, the department of  
21 social and health services must notify the department and the real  
22 estate excise tax based on the value of the property at the time of  
23 the transfer into use as residential property for persons with  
24 developmental disabilities becomes immediately due and payable by the  
25 qualified entity. The tax due is not subject to penalties, fees, or  
26 interest under this title.

27 (ii) For the purposes of this subsection (3)(t) the definitions  
28 in RCW 71A.10.020 apply.

29 (iii) A "qualified entity" is:

30 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)  
31 of the federal internal revenue code of 1986, as amended, as of June  
32 7, 2018, or a subsidiary under the same taxpayer identification  
33 number that provides residential supported living for persons with  
34 developmental disabilities; or

35 (B) A nonprofit adult family home, as defined in RCW 70.128.010,  
36 that exclusively serves persons with developmental disabilities.

37 (iv) In order to receive an exemption under this subsection  
38 (3)(t) an affidavit must be submitted by the transferor of the  
39 residential property and must include a copy of the transfer  
40 agreement and any other documentation as required by the department.

1 (u) (i) The sale by an affordable homeownership facilitator of  
2 self-help housing to a low-income household. (~~The definitions in~~  
3 ~~section 2 of this act apply to this subsection.~~)

4 (ii) The definitions in this subsection (3)(u) apply to this  
5 subsection (3)(u) unless the context clearly requires otherwise.

6 (A) "Affordable homeownership facilitator" means a nonprofit  
7 community or neighborhood-based organization that is exempt from  
8 income tax under Title 26 U.S.C. Sec. 501(c) of the internal revenue  
9 code of 1986, as amended, as of October 1, 2019, and that is the  
10 developer of self-help housing.

11 (B) "Low-income" means household income as defined by the  
12 department, provided that the definition may not exceed eighty  
13 percent of median household income, adjusted for household size, for  
14 the county in which the dwelling is located.

15 (C) "Self-help housing" means dwelling residences provided for  
16 ownership by low-income individuals and families whose ownership  
17 requirement includes labor participation. "Self-help housing" does  
18 not include residential rental housing provided on a commercial basis  
19 to the general public.

20 (v) (i) A sale or transfer of real property to a qualifying  
21 grantee including a nonprofit entity as defined in RCW 84.36.560, a  
22 housing authority created under RCW 35.82.030 or 35.82.300, or a  
23 public corporation established under RCW 35.21.660 or 35.21.730, that  
24 intends to use the property for rental housing for low-income persons  
25 and receive, or otherwise qualify the property for, an exemption from  
26 real and personal property taxes under RCW 84.36.560, 35.82.210, or  
27 35.21.755. A qualifying grantee must comply with the following  
28 certification requirements:

29 (A) If the qualifying grantee intends to operate existing housing  
30 on the property, the qualifying grantee must certify, by affidavit at  
31 the time of transfer, the qualifying grantee's intent to receive or  
32 qualify the property for such a tax exemption within one year.

33 (B) If the qualifying grantee intends to develop new housing on  
34 the site, the qualifying grantee must certify, by affidavit at the  
35 time of transfer, the qualifying grantee's intent to receive or  
36 qualify the property for such a tax exemption within five years.

37 (C) If the qualifying grantee intends to substantially  
38 rehabilitate the premises as defined in RCW 59.18.200, the qualifying  
39 grantee must certify, by affidavit at the time of transfer, the



1 qualifying grantee's intent to receive or qualify the property for  
2 such a tax exemption within three years.

3 (ii) If the qualifying grantee fails to receive, or otherwise  
4 qualify the property for, an exemption from real and personal  
5 property taxes under RCW 84.36.560, 35.82.210, or 35.21.755 within  
6 the timelines described in (v)(i)(A), (B), or (C) of this subsection,  
7 the qualifying grantee must pay the tax that would have otherwise  
8 been due at the time of initial transfer, plus interest calculated  
9 from the date of initial transfer pursuant to RCW 82.32.050.

10 (iii) If a qualifying grantee transfers the property to a  
11 different qualifying grantee within the original timelines described  
12 in (v)(i)(A), (B), or (C) of this subsection, neither the original  
13 qualifying grantee nor the new qualifying grantee is required to pay  
14 the tax, so long as the new qualifying grantee operates,  
15 substantially rehabilitates, or develops the property for the  
16 intended purpose within the exemption period of the initial transfer.  
17 If the new qualifying grantee fails to qualify the property for the  
18 exemptions listed in (v)(ii) of this subsection, only the new  
19 qualifying grantee is liable for the payment of taxes required by  
20 (v)(ii) of this subsection. There is no limit on the number of  
21 transfers between qualifying grantees.

22 (iv) Each affidavit must be filed with the department upon  
23 completion of the sale or transfer of property. The qualifying  
24 grantee must provide proof to the department as required by the  
25 department once the property has been qualified for the property tax  
26 exemption as described in (v)(i)(A), (B), or (C) of this subsection.

27 **Sec. 4.** RCW 82.45.010 and 2019 c 424 s 3 are each amended to  
28 read as follows:

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

1 also includes the grant, assignment, quitclaim, sale, or transfer of  
2 improvements constructed upon leased land.

3 (2) (a) The term "sale" also includes the transfer or acquisition  
4 within any thirty-six month period of a controlling interest in any  
5 entity with an interest in real property located in this state for a  
6 valuable consideration.

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

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

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

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

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

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

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

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

39 (d) A cancellation or forfeiture of a vendee's interest in a  
40 contract for the sale of real property, whether or not such contract

1 contains a forfeiture clause, or deed in lieu of foreclosure of a  
2 mortgage.

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

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

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

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

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

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

22 (k) A conveyance to the federal housing administration or  
23 veterans administration by an authorized mortgagee made pursuant to a  
24 contract of insurance or guaranty with the federal housing  
25 administration or veterans administration.

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

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

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

33 (o) A sale to a regional transit authority or public corporation  
34 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
35 81.112.300.

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

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

21 (q) (i) A transfer that for federal income tax purposes does not  
22 involve the recognition of gain or loss for entity formation,  
23 liquidation or dissolution, and reorganization, including but not  
24 limited to nonrecognition of gain or loss because of application of  
25 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal  
26 revenue code of 1986, as amended.

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

1 for that person or persons' interest in the entity. The real estate  
2 excise tax under this subsection (3)(q)(ii) is imposed upon the  
3 person or persons who previously held a controlling interest in the  
4 entity.

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

8 (s)(i) A transfer of a qualified low-income housing development  
9 or controlling interest in a qualified low-income housing  
10 development, unless, due to noncompliance with federal statutory  
11 requirements, the seller is subject to recapture, in whole or in  
12 part, of its allocated federal low-income housing tax credits within  
13 the four years prior to the date of transfer.

14 (ii) For purposes of this subsection (3)(s), "qualified low-  
15 income housing development" means real property and improvements in  
16 respect to which the seller or, in the case of a transfer of a  
17 controlling interest, the owner or beneficial owner, was allocated  
18 federal low-income housing tax credits authorized under 26 U.S.C.  
19 Sec. 42 or successor statute, by the Washington state housing finance  
20 commission or successor state-authorized tax credit allocating  
21 agency.

22 (iii) This subsection (3)(s) does not apply to transfers of a  
23 qualified low-income housing development or controlling interest in a  
24 qualified low-income housing development occurring on or after July  
25 1, 2035.

26 (iv) The Washington state housing finance commission, in  
27 consultation with the department, must gather data on: (A) The fiscal  
28 savings, if any, accruing to transferees as a result of the exemption  
29 provided in this subsection (3)(s); (B) the extent to which  
30 transferors of qualified low-income housing developments receive  
31 consideration, including any assumption of debt, as part of a  
32 transfer subject to the exemption provided in this subsection (3)(s);  
33 and (C) the continued use of the property for low-income housing. The  
34 Washington state housing finance commission must provide this  
35 information to the joint legislative audit and review committee. The  
36 committee must conduct a review of the tax preference created under  
37 this subsection (3)(s) in calendar year 2033, as required under  
38 chapter 43.136 RCW.

1 (t)(i) A qualified transfer of residential property by a legal  
2 representative of a person with developmental disabilities to a  
3 qualified entity subject to the following conditions:

4 (A) The adult child with developmental disabilities of the  
5 transferor of the residential property must be allowed to reside in  
6 the residence or successor property so long as the placement is safe  
7 and appropriate as determined by the department of social and health  
8 services;

9 (B) The title to the residential property is conveyed without the  
10 receipt of consideration by the legal representative of a person with  
11 developmental disabilities to a qualified entity;

12 (C) The residential property must have no more than four living  
13 units located on it; and

14 (D) The residential property transferred must remain in continued  
15 use for fifty years by the qualified entity as supported living for  
16 persons with developmental disabilities by the qualified entity or  
17 successor entity. If the qualified entity sells or otherwise conveys  
18 ownership of the residential property the proceeds of the sale or  
19 conveyance must be used to acquire similar residential property and  
20 such similar residential property must be considered the successor  
21 for continued use. The property will not be considered in continued  
22 use if the department of social and health services finds that the  
23 property has failed, after a reasonable time to remedy, to meet any  
24 health and safety statutory or regulatory requirements. If the  
25 department of social and health services determines that the property  
26 fails to meet the requirements for continued use, the department of  
27 social and health services must notify the department and the real  
28 estate excise tax based on the value of the property at the time of  
29 the transfer into use as residential property for persons with  
30 developmental disabilities becomes immediately due and payable by the  
31 qualified entity. The tax due is not subject to penalties, fees, or  
32 interest under this title.

33 (ii) For the purposes of this subsection (3)(t) the definitions  
34 in RCW 71A.10.020 apply.

35 (iii) A "qualified entity" is:

36 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)  
37 of the federal internal revenue code of 1986, as amended, as of June  
38 7, 2018, or a subsidiary under the same taxpayer identification  
39 number that provides residential supported living for persons with  
40 developmental disabilities; or

1 (B) A nonprofit adult family home, as defined in RCW 70.128.010,  
2 that exclusively serves persons with developmental disabilities.

3 (iv) In order to receive an exemption under this subsection  
4 (3)(t) an affidavit must be submitted by the transferor of the  
5 residential property and must include a copy of the transfer  
6 agreement and any other documentation as required by the department.

7 (u)(i) A sale or transfer of real property to a qualifying  
8 grantee including a nonprofit entity as defined in RCW 84.36.560, a  
9 housing authority created under RCW 35.82.030 or 35.82.300, or a  
10 public corporation established under RCW 35.21.660 or 35.21.730, that  
11 intends to use the property for rental housing for low-income persons  
12 and receive, or otherwise qualify the property for, an exemption from  
13 real and personal property taxes under RCW 84.36.560, 35.82.210, or  
14 35.21.755. A qualifying grantee must comply with the following  
15 certification requirements:

16 (A) If the qualifying grantee intends to operate existing housing  
17 on the property, the qualifying grantee must certify, by affidavit at  
18 the time of transfer, the qualifying grantee's intent to receive or  
19 qualify the property for such a tax exemption within one year.

20 (B) If the qualifying grantee intends to develop new housing on  
21 the site, the qualifying grantee must certify, by affidavit at the  
22 time of transfer, the qualifying grantee's intent to receive or  
23 qualify the property for such a tax exemption within five years.

24 (C) If the qualifying grantee intends to substantially  
25 rehabilitate the premises as defined in RCW 59.18.200, the qualifying  
26 grantee must certify, by affidavit at the time of transfer, the  
27 qualifying grantee's intent to receive or qualify the property for  
28 such a tax exemption within three years.

29 (ii) If the qualifying grantee fails to receive, or otherwise  
30 qualify the property for, an exemption from real and personal  
31 property taxes under RCW 84.36.560, 35.82.210, or 35.21.755 within  
32 the timelines described in (u)(i)(A), (B), or (C) of this subsection,  
33 the qualifying grantee must pay the tax that would have otherwise  
34 been due at the time of initial transfer, plus interest calculated  
35 from the date of initial transfer pursuant to RCW 82.32.050.

36 (iii) If a qualifying grantee transfers the property to a  
37 different qualifying grantee within the original timelines described  
38 in (u)(i)(A), (B), or (C) of this subsection, neither the original  
39 qualifying grantee nor the new qualifying grantee is required to pay  
40 the tax, so long as the new qualifying grantee operates,

1 substantially rehabilitates, or develops the property for the  
2 intended purpose within the exemption period of the initial transfer.  
3 If the new qualifying grantee fails to qualify the property for the  
4 exemptions listed in (u)(ii) of this subsection, only the new  
5 qualifying grantee is liable for the payment of taxes required by  
6 (u)(ii) of this subsection. There is no limit on the number of  
7 transfers between qualifying grantees.

8 (iv) Each affidavit must be filed with the department upon  
9 completion of the sale or transfer of property. The qualifying  
10 grantee must provide proof to the department as required by the  
11 department once the property has been qualified for the property tax  
12 exemption as described in (u)(i)(A), (B), or (C) of this subsection.

13 NEW SECTION. Sec. 5. The expiration date provisions of RCW  
14 82.32.805(1)(a) do not apply to the tax preferences in sections 3 and  
15 4, chapter . . ., Laws of 2020 (sections 3 and 4 of this act).

16 NEW SECTION. Sec. 6. Section 3 of this act takes effect July 1,  
17 2020.

18 NEW SECTION. Sec. 7. Section 3 of this act expires January 1,  
19 2030.

20 NEW SECTION. Sec. 8. Section 4 of this act takes effect January  
21 1, 2030.

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