

FINAL BILL REPORT

ESHB 1643

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Synopsis as Enacted

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

Sponsors: House Committee on Finance (originally sponsored by Representatives Hackney, Stokesbary, Bateman, Ryu, Simmons, Leavitt, Robertson, Walen, Valdez, Paul, Callan, Gilday, Macri, Peterson, Ramos, Chopp, Bergquist and Kloba).

House Committee on Finance
House Committee on Appropriations
Senate Committee on Housing & Local Government
Senate Committee on Ways & Means

Background:

Real Estate Excise Tax.

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 REET 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.

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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Beginning 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 selling price thresholds are not adjusted for that four-year period.

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 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:

The sale or transfer of real property to a nonprofit, cooperative association, housing authority, public corporation, county, or municipal corporation is exempt from REET if the grantee intends to use the property for housing for low-income persons.

"Low-income" means household income as defined by the DOR, which may not exceed 80 percent of the median household income, adjusted for household size, for the county in which the dwelling is located.

A qualifying grantee must receive, or qualify 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;
- the property tax exemption and payments in lieu of taxes provided to housing authorities;
- the property tax exemption for nonprofit home-ownership development for low-income households;
- the immunity or exemption from taxation provided to public corporations; or
- the exemption from property taxation provided to certain governmental entities, including any county or municipal corporation, for property belonging exclusively to the government.

A qualifying grantee that is a county or municipal corporation must record a covenant at the time of transfer prohibiting them from using the property for a purpose other than for low-

income housing for a period of at least 10 years. The covenant must address price restrictions and household income limits.

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 this timeline, all unpaid REET becomes due plus interest. Interest is calculated from the date of transfer. In cases where the property is transferred to a new qualifying grantee, only that new grantee is liable for unpaid REET and interest, should it become due.

Qualifying grantees must provide proof to the DOR once the requirements of the grantee's certified intent have been satisfied. An affidavit must be filed with the DOR upon completion of the sale or transfer of property, including transfers from a qualifying grantee to a different qualifying grantee.

The tax preference is exempt from the 10-year expiration requirement for all new tax preferences.

Votes on Final Passage:

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| House | 93 | 4 | |
| Senate | 47 | 1 | (Senate amended) |
| House | 97 | 1 | (House concurred) |

Effective: June 9, 2022

January 1, 2023 (Section 3)

January 1, 2030 (Section 4)