

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1643

Chapter 199, Laws of 2022

67th Legislature
2022 Regular Session

REAL ESTATE EXCISE TAX—TRANSFERS FOR AFFORDABLE HOUSING

EFFECTIVE DATE: June 9, 2022—Except for section 3, which takes effect January 1, 2023; and section 4, which takes effect January 1, 2030.

Passed by the House March 8, 2022
Yeas 97 Nays 1

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2022
Yeas 47 Nays 1

DENNY HECK

President of the Senate

Approved March 30, 2022 2:17 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1643** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 31, 2022

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1643

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

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

READ FIRST TIME 02/03/22.

1 AN ACT Relating to exempting a sale or transfer of real property
2 for affordable housing to a nonprofit entity, housing authority,
3 public corporation, county, or municipal corporation from the real
4 estate excise tax; amending RCW 82.45.010; reenacting and amending
5 RCW 82.45.010; creating new sections; providing effective dates; and
6 providing an expiration 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 29 affordable and available rental homes for every
15 100 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, public housing authorities, or local governments

1 to increase the availability of affordable housing for low-income
2 Washingtonians.

3 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
4 performance statement for the tax preferences in sections 3 and 4,
5 chapter . . ., Laws of 2022 (sections 3 and 4 of this act). This
6 performance statement is only intended to be used for subsequent
7 evaluation of the tax preferences. It is not intended to create a
8 private right of action by any party or be used to determine
9 eligibility for preferential tax treatment.

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

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

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

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

25 **Sec. 3.** RCW 82.45.010 and 2019 c 424 s 3, 2019 c 390 s 10, and
26 2019 c 385 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

32 (iii) A "qualified entity" is:

33 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
34 of the federal internal revenue code of 1986, as amended, as of June
35 7, 2018, or a subsidiary under the same taxpayer identification
36 number that provides residential supported living for persons with
37 developmental disabilities; or

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

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

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

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

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

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

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

24 (v)(i) A sale or transfer of real property to a qualifying
25 grantee that uses the property for housing for low-income persons and
26 receives or otherwise qualifies the property for an exemption from
27 real and personal property taxes under RCW 84.36.560, 84.36.049,
28 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection
29 (3)(v), "qualifying grantee" means a nonprofit entity as defined in
30 RCW 84.36.560, a nonprofit entity or qualified cooperative
31 association as defined in RCW 84.36.049, a housing authority created
32 under RCW 35.82.030 or 35.82.300, a public corporation established
33 under RCW 35.21.660 or 35.21.730, or a county or municipal
34 corporation. A qualifying grantee that is a county or municipal
35 corporation must record a covenant at the time of transfer that
36 prohibits using the property for any purpose other than for low-
37 income housing for a period of at least 10 years. At a minimum, the
38 covenant must address price restrictions and household income limits
39 for the low-income housing. A qualifying grantee must comply with the
40 requirements described in (v)(i)(A), (B), or (C) of this subsection

1 and must also certify, by affidavit at the time of sale or transfer,
2 that it intends to comply with those requirements.

3 (A) If the qualifying grantee intends to operate existing housing
4 on the property, within one year of the sale or transfer:

5 (I) The qualifying grantee must receive or qualify the property
6 for a tax exemption under RCW 84.36.560, 84.36.049,
7 35.82.210, 35.21.755, or 84.36.010; and

8 (II) The property must be used as housing for low-income persons.

9 (B) If the qualifying grantee intends to develop new housing on
10 the site, within five years of the sale or transfer:

11 (I) The qualifying grantee must receive or qualify the property
12 for a tax exemption under RCW 84.36.560, 84.36.049,
13 35.82.210, 35.21.755, or 84.36.010; and

14 (II) The property must be used as housing for low-income persons.

15 (C) If the qualifying grantee intends to substantially
16 rehabilitate the premises as defined in RCW 59.18.200, within three
17 years:

18 (I) The qualifying grantee must receive or qualify the property
19 for a tax exemption under RCW 84.36.560, 84.36.049,
20 35.82.210, 35.21.755, or 84.36.010; and

21 (II) The property must be used as housing for low-income persons.

22 (ii) If the qualifying grantee fails to satisfy the requirements
23 described in (v) (i) (A), (B), or (C) of this subsection, within the
24 timelines described in (v) (i) (A), (B), or (C) of this subsection, the
25 qualifying grantee must pay the tax that would have otherwise been
26 due at the time of initial transfer, plus interest calculated from
27 the date of initial transfer pursuant to RCW 82.32.050.

28 (iii) If a qualifying grantee transfers the property to a
29 different qualifying grantee within the original timelines described
30 in (v) (i) (A), (B), or (C) of this subsection, neither the original
31 qualifying grantee nor the new qualifying grantee is required to pay
32 the tax, so long as the new qualifying grantee satisfies the
33 requirements as described in (v) (i) (A), (B), or (C) of this
34 subsection within the exemption period of the initial transfer. If
35 the new qualifying grantee fails to satisfy the requirements
36 described in (v) (i) (A), (B), or (C) of this subsection, only the new
37 qualifying grantee is liable for the payment of taxes required by
38 (v) (ii) of this subsection. There is no limit on the number of
39 transfers between qualifying grantees within the original timelines.

1 (iv) Each affidavit must be filed with the department upon
2 completion of the sale or transfer of property, including transfers
3 from a qualifying grantee to a different qualifying grantee. The
4 qualifying grantee must provide proof to the department as required
5 by the department once the requirements as described in (v)(i)(A),
6 (B), or (C) of this subsection have been satisfied.

7 (v) For the purposes of this subsection (3)(v), "low-income" has
8 the same meaning as in (u) of this subsection.

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

11 (1) As used in this chapter, the term "sale" has its ordinary
12 meaning and includes any conveyance, grant, assignment, quitclaim, or
13 transfer of the ownership of or title to real property, including
14 standing timber, or any estate or interest therein for a valuable
15 consideration, and any contract for such conveyance, grant,
16 assignment, quitclaim, or transfer, and any lease with an option to
17 purchase real property, including standing timber, or any estate or
18 interest therein or other contract under which possession of the
19 property is given to the purchaser, or any other person at the
20 purchaser's direction, and title to the property is retained by the
21 vendor as security for the payment of the purchase price. The term
22 also includes the grant, assignment, quitclaim, sale, or transfer of
23 improvements constructed upon leased land.

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

28 (b) For the sole purpose of determining whether, pursuant to the
29 exercise of an option, a controlling interest was transferred or
30 acquired within a thirty-six month period, the date that the option
31 agreement was executed is the date on which the transfer or
32 acquisition of the controlling interest is deemed to occur. For all
33 other purposes under this chapter, the date upon which the option is
34 exercised is the date of the transfer or acquisition of the
35 controlling interest.

36 (c) For purposes of this subsection, all acquisitions of persons
37 acting in concert must be aggregated for purposes of determining
38 whether a transfer or acquisition of a controlling interest has taken
39 place. The department must adopt standards by rule to determine when

1 persons are acting in concert. In adopting a rule for this purpose,
2 the department must consider the following:

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

6 (ii) When persons are not commonly owned or controlled, they must
7 be treated as acting in concert only when the unity with which the
8 purchasers have negotiated and will consummate the transfer of
9 ownership interests supports a finding that they are acting as a
10 single entity. If the acquisitions are completely independent, with
11 each purchaser buying without regard to the identity of the other
12 purchasers, then the acquisitions are considered separate
13 acquisitions.

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

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

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

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

21 (d) A cancellation or forfeiture of a vendee's interest in a
22 contract for the sale of real property, whether or not such contract
23 contains a forfeiture clause, or deed in lieu of foreclosure of a
24 mortgage.

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

27 (f) The assignment of property or interest in property from one
28 spouse or one domestic partner to the other spouse or other domestic
29 partner in accordance with the terms of a decree of dissolution of
30 marriage or state registered domestic partnership or in fulfillment
31 of a property settlement agreement.

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

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

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

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

5 (k) A conveyance to the federal housing administration or
6 veterans administration by an authorized mortgagee made pursuant to a
7 contract of insurance or guaranty with the federal housing
8 administration or veterans administration.

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

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

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

16 (o) A sale to a regional transit authority or public corporation
17 under RCW 81.112.320 under a sale/leaseback agreement under RCW
18 81.112.300.

19 (p) A transfer of real property, however effected, if it consists
20 of a mere change in identity or form of ownership of an entity where
21 there is no change in the beneficial ownership. These include
22 transfers to a corporation or partnership which is wholly owned by
23 the transferor and/or the transferor's spouse or domestic partner or
24 children of the transferor or the transferor's spouse or domestic
25 partner. However, if thereafter such transferee corporation or
26 partnership voluntarily transfers such real property, or such
27 transferor, spouse or domestic partner, or children of the transferor
28 or the transferor's spouse or domestic partner voluntarily transfer
29 stock in the transferee corporation or interest in the transferee
30 partnership capital, as the case may be, to other than (i) the
31 transferor and/or the transferor's spouse or domestic partner or
32 children of the transferor or the transferor's spouse or domestic
33 partner, (ii) a trust having the transferor and/or the transferor's
34 spouse or domestic partner or children of the transferor or the
35 transferor's spouse or domestic partner as the only beneficiaries at
36 the time of the transfer to the trust, or (iii) a corporation or
37 partnership wholly owned by the original transferor and/or the
38 transferor's spouse or domestic partner or children of the transferor
39 or the transferor's spouse or domestic partner, within three years of
40 the original transfer to which this exemption applies, and the tax on

1 the subsequent transfer has not been paid within sixty days of
2 becoming due, excise taxes become due and payable on the original
3 transfer as otherwise provided by law.

4 (q)(i) A transfer that for federal income tax purposes does not
5 involve the recognition of gain or loss for entity formation,
6 liquidation or dissolution, and reorganization, including but not
7 limited to nonrecognition of gain or loss because of application of
8 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
9 revenue code of 1986, as amended.

10 (ii) However, the transfer described in (q)(i) of this subsection
11 cannot be preceded or followed within a thirty-six month period by
12 another transfer or series of transfers, that, when combined with the
13 otherwise exempt transfer or transfers described in (q)(i) of this
14 subsection, results in the transfer of a controlling interest in the
15 entity for valuable consideration, and in which one or more persons
16 previously holding a controlling interest in the entity receive cash
17 or property in exchange for any interest the person or persons acting
18 in concert hold in the entity. This subsection (3)(q)(ii) does not
19 apply to that part of the transfer involving property received that
20 is the real property interest that the person or persons originally
21 contributed to the entity or when one or more persons who did not
22 contribute real property or belong to the entity at a time when real
23 property was purchased receive cash or personal property in exchange
24 for that person or persons' interest in the entity. The real estate
25 excise tax under this subsection (3)(q)(ii) is imposed upon the
26 person or persons who previously held a controlling interest in the
27 entity.

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

31 (s)(i) A transfer of a qualified low-income housing development
32 or controlling interest in a qualified low-income housing
33 development, unless, due to noncompliance with federal statutory
34 requirements, the seller is subject to recapture, in whole or in
35 part, of its allocated federal low-income housing tax credits within
36 the four years prior to the date of transfer.

37 (ii) For purposes of this subsection (3)(s), "qualified low-
38 income housing development" means real property and improvements in
39 respect to which the seller or, in the case of a transfer of a
40 controlling interest, the owner or beneficial owner, was allocated

1 federal low-income housing tax credits authorized under 26 U.S.C.
2 Sec. 42 or successor statute, by the Washington state housing finance
3 commission or successor state-authorized tax credit allocating
4 agency.

5 (iii) This subsection (3)(s) does not apply to transfers of a
6 qualified low-income housing development or controlling interest in a
7 qualified low-income housing development occurring on or after July
8 1, 2035.

9 (iv) The Washington state housing finance commission, in
10 consultation with the department, must gather data on: (A) The fiscal
11 savings, if any, accruing to transferees as a result of the exemption
12 provided in this subsection (3)(s); (B) the extent to which
13 transferors of qualified low-income housing developments receive
14 consideration, including any assumption of debt, as part of a
15 transfer subject to the exemption provided in this subsection (3)(s);
16 and (C) the continued use of the property for low-income housing. The
17 Washington state housing finance commission must provide this
18 information to the joint legislative audit and review committee. The
19 committee must conduct a review of the tax preference created under
20 this subsection (3)(s) in calendar year 2033, as required under
21 chapter 43.136 RCW.

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

25 (A) The adult child with developmental disabilities of the
26 transferor of the residential property must be allowed to reside in
27 the residence or successor property so long as the placement is safe
28 and appropriate as determined by the department of social and health
29 services;

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

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

35 (D) The residential property transferred must remain in continued
36 use for fifty years by the qualified entity as supported living for
37 persons with developmental disabilities by the qualified entity or
38 successor entity. If the qualified entity sells or otherwise conveys
39 ownership of the residential property the proceeds of the sale or
40 conveyance must be used to acquire similar residential property and

1 such similar residential property must be considered the successor
2 for continued use. The property will not be considered in continued
3 use if the department of social and health services finds that the
4 property has failed, after a reasonable time to remedy, to meet any
5 health and safety statutory or regulatory requirements. If the
6 department of social and health services determines that the property
7 fails to meet the requirements for continued use, the department of
8 social and health services must notify the department and the real
9 estate excise tax based on the value of the property at the time of
10 the transfer into use as residential property for persons with
11 developmental disabilities becomes immediately due and payable by the
12 qualified entity. The tax due is not subject to penalties, fees, or
13 interest under this title.

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

16 (iii) A "qualified entity" is:

17 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
18 of the federal internal revenue code of 1986, as amended, as of June
19 7, 2018, or a subsidiary under the same taxpayer identification
20 number that provides residential supported living for persons with
21 developmental disabilities; or

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

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

28 (u)(i) A sale or transfer of real property to a qualifying
29 grantee that uses the property for housing for low-income persons and
30 receives or otherwise qualifies the property for an exemption from
31 real and personal property taxes under RCW 84.36.560, 84.36.049,
32 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection
33 (3)(u), "qualifying grantee" means a nonprofit entity as defined in
34 RCW 84.36.560, a nonprofit entity or qualified cooperative
35 association as defined in RCW 84.36.049, a housing authority created
36 under RCW 35.82.030 or 35.82.300, a public corporation established
37 under RCW 35.21.660 or 35.21.730, or a county or municipal
38 corporation. A qualifying grantee that is a county or municipal
39 corporation must record a covenant at the time of transfer that
40 prohibits using the property for any purpose other than for low-

1 income housing for a period of at least 10 years. At a minimum, the
2 covenant must address price restrictions and household income limits
3 for the low-income housing. A qualifying grantee must comply with the
4 requirements described in (u) (i) (A), (B), or (C) of this subsection
5 and must also certify, by affidavit at the time of sale or transfer,
6 that it intends to comply with those requirements.

7 (A) If the qualifying grantee intends to operate existing housing
8 on the property, within one year of the sale or transfer:

9 (I) The qualifying grantee must receive or qualify the property
10 for a tax exemption under RCW 84.36.560, 84.36.049,
11 35.82.210, 35.21.755, or 84.36.010; and

12 (II) The property must be used as housing for low-income persons.

13 (B) If the qualifying grantee intends to develop new housing on
14 the site, within five years of the sale or transfer:

15 (I) The qualifying grantee must receive or qualify the property
16 for a tax exemption under RCW 84.36.560, 84.36.049,
17 35.82.210, 35.21.755, or 84.36.010; and

18 (II) The property must be used as housing for low-income persons.

19 (C) If the qualifying grantee intends to substantially
20 rehabilitate the premises as defined in RCW 59.18.200, within three
21 years:

22 (I) The qualifying grantee must receive or qualify the property
23 for a tax exemption under RCW 84.36.560, 84.36.049,
24 35.82.210, 35.21.755, or 84.36.010; and

25 (II) The property must be used as housing for low-income persons.

26 (ii) If the qualifying grantee fails to satisfy the requirements
27 described in (u) (i) (A), (B), or (C) of this subsection, within the
28 timelines described in (u) (i) (A), (B), or (C) of this subsection, the
29 qualifying grantee must pay the tax that would have otherwise been
30 due at the time of initial transfer, plus interest calculated from
31 the date of initial transfer pursuant to RCW 82.32.050.

32 (iii) If a qualifying grantee transfers the property to a
33 different qualifying grantee within the original timelines described
34 in (u) (i) (A), (B), or (C) of this subsection, neither the original
35 qualifying grantee nor the new qualifying grantee is required to pay
36 the tax, so long as the new qualifying grantee satisfies the
37 requirements as described in (u) (i) (A), (B), or (C) of this
38 subsection within the exemption period of the initial transfer. If
39 the new qualifying grantee fails to satisfy the requirements
40 described in (u) (i) (A), (B), or (C) of this subsection, only the new

1 qualifying grantee is liable for the payment of taxes required by
2 (u)(ii) of this subsection. There is no limit on the number of
3 transfers between qualifying grantees within the original timelines.

4 (iv) Each affidavit must be filed with the department upon
5 completion of the sale or transfer of property, including transfers
6 from a qualifying grantee to a different qualifying grantee. The
7 qualifying grantee must provide proof to the department as required
8 by the department once the requirements as described in (u)(i)(A),
9 (B), or (C) of this subsection have been satisfied.

10 (v) For the purposes of this subsection (3)(u), "low-income"
11 means household income as defined by the department, provided that
12 the definition may not exceed 80 percent of median household income,
13 adjusted for household size, for the county in which the dwelling is
14 located.

15 NEW SECTION. Sec. 5. The expiration date provisions of RCW
16 82.32.805(1)(a) do not apply to the tax preferences in sections 3 and
17 4, chapter . . ., Laws of 2022 (sections 3 and 4 of this act).

18 NEW SECTION. Sec. 6. Section 3 of this act takes effect January
19 1, 2023.

20 NEW SECTION. Sec. 7. Section 3 of this act expires January 1,
21 2030.

22 NEW SECTION. Sec. 8. Section 4 of this act takes effect January
23 1, 2030.

Passed by the House March 8, 2022.
Passed by the Senate March 4, 2022.
Approved by the Governor March 30, 2022.
Filed in Office of Secretary of State March 31, 2022.

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