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**HOUSE BILL 1628**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Chopp, Macri, Peterson, Alvarado, Taylor, Reed, Pollet, Lekanoff, Fitzgibbon, Berg, Riccelli, Davis, Street, Ramel, Duerr, Senn, Doglio, Cortes, Stonier, Gregerson, Mena, Berry, Fosse, Goodman, Bergquist, Slatter, Ormsby, Thai, Farivar, Simmons, and Wylie

AN ACT Relating to increasing the supply of affordable housing by modifying the state and local real estate excise tax; amending RCW 82.45.060, 82.45.230, 82.46.035, 82.45.010, and 82.45.010; adding a new section to chapter 82.45 RCW; adding a new section to chapter 82.46 RCW; creating new sections; providing effective dates; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that the lack of housing affordability and related instances of homelessness are issues that affect every community in Washington. The legislature also finds that increased homelessness is overwhelmingly caused by growing rents, which push people living at the margins into homelessness, erode public confidence, and undermine the shared values that have driven our state's prosperity. The legislature further finds that problems caused by rent increases are exacerbated by the associated issue of very low vacancy rates, which make it difficult for people to find a unit even when they have sufficient income or rental assistance to pay market rates. The legislature finds that low housing vacancy rates and the growth in population have produced a tight housing market in which existing inventory is priced at a premium. The legislature also finds that although household incomes have grown along with the economy, income increase for those with moderate and lower incomes have not kept pace with rent and purchase price increases. This problem is especially impacting lower and fixed income households, including seniors, veterans, and people with disabilities. Indeed, these trends, in combination with other market factors, have created a deficit of affordable and available housing, particularly for Washingtonians within the low to middle income range who are increasingly more vulnerable to homelessness. Moreover, the legislature finds that these households have the fewest options available in the private housing market. In strong housing markets, builders seek the highest achievable price to offset higher development costs, which means new production does not result in more affordable units.

The legislature further finds that having a home is fundamental for Washington residents and that all Washingtonians should be able to afford safe and dependable housing with access to opportunities such as education, employment, transit, and amenities. The legislature finds that affordable housing is an essential part of every community's infrastructure, serving as a platform for individuals and families to stabilize and build their economic futures. It serves as a platform for better health and creates jobs and attracts investment, making it a prerequisite to economic growth and stronger communities. In addition, the legislature finds that a variety of affordable housing types is needed to provide options for families of all sizes and stages of life. Furthermore, the legislature finds that increasing the supply of permanently affordable housing and reducing homelessness is a priority of the people of Washington state and that reducing homelessness lessens fiscal impact to the state and improves the economic vitality of our businesses.

Moreover, the legislature finds that the private real estate market does not provide adequate affordable housing options for all economic segments, and therefore government assistance is needed to offer the full range of affordable housing options.

Therefore, it is the intent of the legislature to increase the supply of affordable housing through a permanent, dedicated investment in the Washington housing trust fund and ongoing local option investment in affordable housing for Washington residents in the low to middle income range.

**Sec.**  RCW 82.45.060 and 2019 c 424 s 1 are each amended to read as follows:

(1) There is imposed an excise tax upon each sale of real property.

(a) Through December 31, 2019, the rate of the tax imposed under this section is 1.28 percent of the selling price.

(b) Beginning January 1, 2020, except as provided in (c) of this subsection, the rate of the tax imposed under this section is as follows:

(i) 1.1 percent of the portion of the selling price that is less than or equal to ((~~five hundred thousand dollars~~)) $500,000;

(ii) 1.28 percent of the portion of the selling price that is greater than ((~~five hundred thousand dollars~~)) $500,000 and equal to or less than ((~~one million five hundred thousand dollars~~)) $1,500,000;

(iii) 2.75 percent of the portion of the selling price that is greater than ((~~one million five hundred thousand dollars~~)) $1,500,000 and equal to or less than ((~~three million dollars~~)) $3,000,000;

(iv) Three percent of the portion of the selling price that is greater than ((~~three million dollars~~)) $3,000,000 and equal to or less than $5,000,000; and

(v) Beginning January 1, 2025, four percent of the portion of the selling price that is greater than $5,000,000.

(c) The sale of real property that is classified as timberland or agricultural land is subject to the tax imposed under this section at a rate of 1.28 percent of the selling price.

(2) Beginning July 1, 2022, and every fourth year thereafter:

(a) The department must adjust the selling price threshold in subsection (1)(b)(i) of this section to reflect the lesser of the growth of the consumer price index for shelter or five percent. If the growth is equal to or less than zero percent, the current selling price threshold continues to apply.

(b) The department must adjust the selling price thresholds in subsection (1)(b)(ii) through ((~~(iv)~~)) (v) of this section by the dollar amount of any increase in the selling price threshold in subsection (1)(b)(i) of this section.

(c) The department must publish updated selling price thresholds by September 1, 2022, and September 1st of every fourth year thereafter. Updated selling price thresholds ((~~will~~)) apply beginning January 1, 2023, and January 1st every fourth year thereafter. Adjusted selling price thresholds must be rounded to the nearest ((~~one thousand dollars~~)) $1,000. No changes may be made to adjusted selling price thresholds once such adjustments take effect.

(d) The most recent selling price threshold becomes the base for subsequent adjustments.

(e) The department must report adjustments to the selling price thresholds to the fiscal committees of the legislature, beginning December 1, 2022, and December 1st every fourth year thereafter.

(3)(a) The department must publish guidance to assist sellers in properly classifying real property on the real estate excise tax affidavit for purposes of determining the proper amount of tax due under this section. Real property with multiple uses must be classified according to the property's predominant use. The department's guidance must include factors for use in determining the predominant use of real property.

(b) County treasurers are not responsible for verifying that the seller has properly classified real property reported on a real estate excise tax affidavit. The department is solely responsible for such verification as part of its audit responsibilities under RCW 82.45.150.

(4)(a) Beginning July 1, 2013, and ending December 31, 2019, an amount equal to two percent of the proceeds of this tax must be deposited in the public works assistance account created in RCW 43.155.050, an amount equal to ((~~four and one-tenth~~)) 4.1 percent must be deposited in the education legacy trust account created in RCW 83.100.230, an amount equal to ((~~one and six-tenths~~)) 1.6 percent must be deposited in the city-county assistance account created in RCW 43.08.290, and the remainder must be deposited in the general fund.

(b) Beginning January 1, 2020, amounts collected from the tax imposed under this section must be deposited as provided in RCW 82.45.230.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Agricultural land" means farm and agricultural land and farm and agricultural conservation land, as those terms are defined in RCW 84.34.020, including any structures on such land.

(b) "Consumer price index for shelter" means the most current seasonally adjusted index for the shelter expenditure category of the consumer price index for all urban consumers (CPI-U) as published by July 31st by the bureau of labor statistics of the United States department of labor.

(c) "Growth of the consumer price index for shelter" means the percentage increase in the consumer price index for shelter as measured from data published by the bureau of labor statistics of the United States department of labor by July 31st for the most recent three-year period for the selling price threshold adjustment in 2022, and the most recent four-year period for subsequent selling price threshold adjustments.

(d) "Timberland" means land classified under chapter 84.34 RCW or designated under chapter 84.33 RCW, including any structures and standing timber on such land, and standing timber sold apart from the land upon which it sits.

**Sec.**  RCW 82.45.230 and 2019 c 424 s 2 are each amended to read as follows:

(1) Beginning January 1, 2020, and ending June 30, 2023, the amounts received for the tax imposed on each sale of real property under RCW 82.45.060 must be deposited as follows:

(a) 1.7 percent must be deposited into the public works assistance account created in RCW 43.155.050;

(b) 1.4 percent must be deposited into the city-county assistance account created in RCW 43.08.290;

(c) 79.4 percent must be deposited into the general fund; and

(d) The remainder must be deposited into the educational legacy trust account created in RCW 83.100.230.

(2) ((~~Beginning~~)) Except as provided in subsection (3) of this section, beginning July 1, 2023, and thereafter, the amounts received for the tax imposed on each sale of real property under RCW 82.45.060 must be deposited as follows:

(a) 5.2 percent must be deposited into the public works assistance account created in RCW 43.155.050;

(b) 1.4 percent must be deposited into the city-county assistance account created in RCW 43.08.290;

(c) 79.4 percent must be deposited into the general fund; and

(d) The remainder must be deposited into the education legacy trust account created in RCW 83.100.230.

(3)(a) By November 1st and May 1st of each year, the department must calculate the increased state real estate excise tax collections due to the imposition of the four percent real estate excise tax pursuant to RCW 82.45.060(1)(b)(v) as compared with the real estate excise tax collections amount that would have been collected had the four percent tier in RCW 82.45.060(1)(b)(v) not been enacted.

(b) The department must notify the state treasurer of the incremental amount by December 1st and by June 1st each year. The state treasurer must deposit the incremental amount as follows by December 30th and June 30th each year:

(i) Thirty percent to the Washington housing trust fund created in RCW 43.185.030;

(ii) Thirty percent to the apple health and homes account created in RCW 43.330.184;

(iii) Fifteen percent to the developmental disabilities trust account created in section 4 of this act; and

(iv) Twenty-five percent to the affordable housing for all account created in RCW 43.185C.190 for operations, maintenance, and service cost for permanent supportive housing as defined in RCW 36.70A.030.

NEW SECTION. **Sec.**  A new section is added to chapter 82.45 RCW to read as follows:

(1) The developmental disabilities trust account is created in the state treasury. Receipts from the real estate excise tax incremental increase as calculated in RCW 82.45.230(3) and directed to this account pursuant to RCW 82.45.230(3)(b)(iii) must be deposited into the account. Moneys in the account may only be spent after appropriation.

(2) Expenditures from the account may be used only for:

(a) Housing programs to support people with developmental disabilities, including acquisition or development of permanent housing, housing developments, or units;

(b) Operations and maintenance costs of housing for people with developmental disabilities;

(c) Housing related services for individuals with developmental disabilities;

(d) Rental subsidies; and

(e) Technical assistance to nonprofit organizations serving or housing populations with intellectual and developmental disabilities.

(3) Expenditures from the account must be grants or forgivable loans.

NEW SECTION. **Sec.**  A new section is added to chapter 82.46 RCW to read as follows:

(1)(a) The legislative authority of any county or city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not to exceed 0.25 percent of the selling price by the adoption of a resolution by the legislative authority.

(b) If a city legislative authority does not impose the full tax rate authorized under (a) of this subsection by June 30, 2024, a county legislative authority may impose in that city the whole or remainder of the taxing authority in accordance with the terms of this section.

(2) The proceeds of the tax imposed pursuant to this section must be used as follows:

(a) At least 50 percent of the revenue collected must be dedicated to the capital construction or acquisition of affordable housing costs of new units of affordable housing and facilities where housing-related programs are provided.

(b) Up to 50 percent of the revenue collected may be used for operations, maintenance, and services directly tied to the affordable housing uses allowed in (a) of this subsection that are permanent housing. These funds may not be used for temporary, transitional, or shelter housing.

(3) A city or county imposing a tax pursuant to this section may enter into interlocal agreements with other entities to accomplish the requirements in subsection (2) of this section.

(4) For the purposes of this section, "affordable housing" means:

(a) Residential housing whose monthly costs, including utilities other than telephone, do not exceed 30 percent of the monthly income of a household whose income is, for rental housing, 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) Residential housing whose monthly costs, including utilities other than telephone, do not exceed 35 percent of the monthly income of a household whose income is, for owner-occupied housing, 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

**Sec.**  RCW 82.46.035 and 2021 c 296 s 12 are each amended to read as follows:

(1) Except for revenues used after May 13, 2021, through December 31, 2023, as provided in subsection (3) of this section, the legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) and any city within such a county may only adopt an ordinance imposing the excise tax authorized by this section if the ordinance is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters.

(3) Revenues generated from the tax imposed under subsection (2) of this section must be used by such counties and cities solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan, except that the greater of $100,000 or 35 percent of revenues may additionally be used for the operation of, maintenance of, and service support for, existing capital projects after May 13, 2021, through December 31, 2023. However, revenues (a) pledged by such counties and cities to debt retirement prior to March 1, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to March 1, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(4) Revenues generated by the tax imposed by this section must be deposited in a separate account after December 31, 2023.

(5) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for:

(a) Planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems;

(b) Planning, construction, reconstruction, repair, rehabilitation, or improvement of parks; and

(c) ((~~Until January 1, 2026, planning~~)) Planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of facilities for those experiencing homelessness and affordable housing projects.

(6) A county or city may use the greater of $100,000 or 25 percent of available funds((~~, but not to exceed $1,000,000,~~)) for capital projects as defined in subsection (5)(c) of this section. The limits in this subsection do not apply to any county or city that used revenue under this section for the acquisition, construction, improvement, or rehabilitation of facilities to provide housing for the homeless prior to June 30, 2019.

(7) A county or city using funds for uses in subsection (5)(c) of this section must document in its plan under RCW 36.70A.070(3) that it has funds during the next two years for capital projects in subsection (5)(a) of this section.

(8) When the governor files a notice of noncompliance under RCW 36.70A.340 with the secretary of state and the appropriate county or city, the county or city's authority to impose the additional excise tax under this section is temporarily rescinded until the governor files a subsequent notice rescinding the notice of noncompliance.

**Sec.**  RCW 82.45.010 and 2022 c 199 s 3 are each amended to read as follows:

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

(2)(a) The term "sale" also includes the transfer or acquisition within any ((~~thirty-six~~)) 36 month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration.

(b) For the sole purpose of determining whether, pursuant to the exercise of an option, a controlling interest was transferred or acquired within a ((~~thirty-six~~)) 36 month period, the date that the option agreement was executed is the date on which the transfer or acquisition of the controlling interest is deemed to occur. For all other purposes under this chapter, the date upon which the option is exercised is the date of the transfer or acquisition of the controlling interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) A transfer of real property, however effected, if it consists of a mere change in identity or form of ownership of an entity where there is no change in the beneficial ownership. These include transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner. However, if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse or domestic partner, or children of the transferor or the transferor's spouse or domestic partner voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than (i) the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, (ii) a trust having the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner as the only beneficiaries at the time of the transfer to the trust, or (iii) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within ((~~sixty~~)) 60 days of becoming due, excise taxes become due and payable on the original transfer as otherwise provided by law.

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

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

(r) A qualified sale of a manufactured/mobile home community, as defined in RCW 59.20.030.

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

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

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

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

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

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

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

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

(D) The residential property transferred must remain in continued use for ((~~fifty~~)) 50 years by the qualified entity as supported living for persons with developmental disabilities by the qualified entity or successor entity. If the qualified entity sells or otherwise conveys ownership of the residential property the proceeds of the sale or conveyance must be used to acquire similar residential property and such similar residential property must be considered the successor for continued use. The property will not be considered in continued use if the department of social and health services finds that the property has failed, after a reasonable time to remedy, to meet any health and safety statutory or regulatory requirements. If the department of social and health services determines that the property fails to meet the requirements for continued use, the department of social and health services must notify the department and the real estate excise tax based on the value of the property at the time of the transfer into use as residential property for persons with developmental disabilities becomes immediately due and payable by the qualified entity. The tax due is not subject to penalties, fees, or interest under this title.

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

(iii) A "qualified entity" is:

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

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

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

(u)(i) The sale by an affordable homeownership facilitator of self-help housing to a low-income household.

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

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

(B) "Low-income" means household income as defined by the department, provided that the definition may not exceed ((~~eighty~~)) 80 percent of median household income, adjusted for household size, for the county in which the dwelling is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(w)(i) The sale of qualified space in a development that qualifies for a property tax exemption under RCW 84.36.560, 84.36.049, 35.82.210, 35.21.755, or 84.36.010 to a nonprofit organization, a housing authority, or public corporation for use for an exempt community purpose.

(ii) For the purposes of this subsection (3)(w), the following definitions apply:

(A) "Affordable housing development" means housing provided to low-income households.

(B) "Exempt community purpose" means any use to provide a service that benefits affordable housing development tenants or the public including, but not limited to, health clinics, senior day care, food banks, community centers, and early learning facilities.

(C) "Low-income" means household income that does not exceed 80 percent of median household income at initial occupancy, adjusted for household size, for the county in which the dwelling is located.

(D) "Qualified space" means any portion of an affordable housing development that is accessible to tenants or the public.

**Sec.**  RCW 82.45.010 and 2022 c 199 s 4 are each amended to read as follows:

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

(2)(a) The term "sale" also includes the transfer or acquisition within any ((~~thirty-six~~)) 36 month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration.

(b) For the sole purpose of determining whether, pursuant to the exercise of an option, a controlling interest was transferred or acquired within a ((~~thirty-six~~)) 36 month period, the date that the option agreement was executed is the date on which the transfer or acquisition of the controlling interest is deemed to occur. For all other purposes under this chapter, the date upon which the option is exercised is the date of the transfer or acquisition of the controlling interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) A transfer of real property, however effected, if it consists of a mere change in identity or form of ownership of an entity where there is no change in the beneficial ownership. These include transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner. However, if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse or domestic partner, or children of the transferor or the transferor's spouse or domestic partner voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than (i) the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, (ii) a trust having the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner as the only beneficiaries at the time of the transfer to the trust, or (iii) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within ((~~sixty~~)) 60 days of becoming due, excise taxes become due and payable on the original transfer as otherwise provided by law.

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

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

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

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

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

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

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

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

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

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

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

(D) The residential property transferred must remain in continued use for ((~~fifty~~)) 50 years by the qualified entity as supported living for persons with developmental disabilities by the qualified entity or successor entity. If the qualified entity sells or otherwise conveys ownership of the residential property the proceeds of the sale or conveyance must be used to acquire similar residential property and such similar residential property must be considered the successor for continued use. The property will not be considered in continued use if the department of social and health services finds that the property has failed, after a reasonable time to remedy, to meet any health and safety statutory or regulatory requirements. If the department of social and health services determines that the property fails to meet the requirements for continued use, the department of social and health services must notify the department and the real estate excise tax based on the value of the property at the time of the transfer into use as residential property for persons with developmental disabilities becomes immediately due and payable by the qualified entity. The tax due is not subject to penalties, fees, or interest under this title.

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

(iii) A "qualified entity" is:

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

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

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

(u)(i) A sale or transfer of real property to a qualifying grantee that uses the property for housing for low-income persons and receives or otherwise qualifies the property for an exemption from real and personal property taxes under RCW 84.36.560, 84.36.049, 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection (3)(u), "qualifying grantee" means a nonprofit entity as defined in RCW 84.36.560, a nonprofit entity or qualified cooperative association as defined in RCW 84.36.049, a housing authority created under RCW 35.82.030 or 35.82.300, a public corporation established under RCW 35.21.660 or 35.21.730, or a county or municipal corporation. A qualifying grantee that is a county or municipal corporation must record a covenant at the time of transfer that prohibits using the property for any purpose other than for low-income housing for a period of at least 10 years. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing. A qualifying grantee must comply with the requirements described in (u)(i)(A), (B), or (C) of this subsection and must also certify, by affidavit at the time of sale or transfer, that it intends to comply with those requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

(v)(i) The sale of qualified space in a development that qualifies for a property tax exemption under RCW 84.36.560, 84.36.049, 35.82.210, 35.21.755, or 84.36.010 to a nonprofit organization, a housing authority, or public corporation for use for an exempt community purpose.

(ii) For the purposes of this subsection (3)(v), the following definitions apply:

(A) "Affordable housing development" means housing provided to low-income households.

(B) "Exempt community purpose" means any use to provide a service that benefits affordable housing development tenants or the public including, but not limited to, health clinics, senior day care, food banks, community centers, and early learning facilities.

(C) "Low-income" means household income that does not exceed 80 percent of median household income at initial occupancy, adjusted for household size, for the county in which the dwelling is located.

(D) "Qualified space" means any portion of an affordable housing development that is accessible to tenants or the public.

NEW SECTION. **Sec.**  This act may be known and cited as the affordable homes act.

NEW SECTION. **Sec.**  RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec.**  Sections 2 through 4 of this act take effect January 1, 2025.

NEW SECTION. **Sec.**  Sections 5 through 7 of this act take effect January 1, 2024.

NEW SECTION. **Sec.**  Section 7 of this act expires January 1, 2030.

NEW SECTION. **Sec.**  Section 8 of this act takes effect January 1, 2030.

**--- END ---**