HOUSE BILL REPORT
HB 2276

As Reported by House Committee On:
Finance

Title: An act relating to increasing the supply of affordable and workforce housing by reducing taxes on real property sales under $3,025,000, modifying the state and local real estate excise tax, and imposing a surcharge on the transfer of multimillion dollar properties.

Brief Description: Increasing the supply of affordable and workforce housing.

Sponsors: Representatives Berg, Macri, Chopp, Street, Slatter, Reed, Ramel, Farivar, Alvarado, Kloba, Mena, Ormsby, Riccelli, Senn, Davis, Tharinger, Cortes, Stonier, Ortiz-Self, Fitzgibbon, Thai, Peterson, Fosse, Gregerson, Simmons, Taylor, Doglio, Pollet, Bateman, Lekanoff, Goodman, Berry, Santos, Wylie, Bergquist, Fey, Duerr, Ryu, Morgan and Nance.

Brief History:

Committee Activity:

Finance: 1/18/24, 2/23/24 [DPS].

Brief Summary of Substitute Bill

- Increases the "ceiling" for the Tier 1 1.1 percent state real estate excise tax (REET) from $525,000 to $750,000 beginning January 1, 2026.
- Imposes a new real estate transfer tax (RETT) of 1 percent on the value of the selling price over $3.025 million.
- Directs the revenue from REET and RETT to be distributed to ensure the accounts currently receiving REET moneys are kept whole and to provide specific funding to the Washington Housing Trust Fund, Apple Health and Homes Account, the Affordable Housing for All Account, the new Developmental Disabilities Housing and Services Account, and the new Housing Stability Account.
- Creates a REET exemption for certain sales or transfers of properties that qualify for a property tax exemption that will be used for a community purpose.

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

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Berg, Chair; Street, Vice Chair; Chopp, Ramel, Santos, Thai and Wylie.

Minority Report: Do not pass. Signed by 6 members: Representatives Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard, Springer, Walen and Wilcox.

Staff: Tracey Taylor (786-7152).

Background:

State Real Estate Excise Tax.
The state imposes a graduated real estate excise tax (REET) on the sale of property that is not timberland or agricultural land. The portion of the selling price up to $525,000 is taxed at 1.1 percent; the portion that is more than $525,000 but less than or equal to $1,525,000 is taxed at 1.28 percent; the portion that is more than $1,525,000 but less than $3,025,000 is taxed at 2.75 percent; and any portion of the selling price over $3,025,000 is taxed at 3 percent.

The Department of Revenue (DOR) is required to adjust the first price threshold every four years by the lesser of the growth in the Consumer Price Index (CPI) for shelter or 5 percent, rounded to the nearest $1,000. The CPI is a measure of the change over time in prices for certain goods and is often used as a measure of inflation. If the change in the CPI for shelter is zero or negative, then the price threshold must remain the same. If the first threshold does increase, then the remaining thresholds must increase by the same amount. The first update to the price thresholds occurred on January 1, 2023. Timberland and agricultural land is taxed at a flat rate of 1.28 percent.

The tax imposed is due at the time of sale and is subject to monthly interest if paid more than a month after the sale. The tax is a lien on the property, and its payment is the responsibility of the seller. The DOR may foreclose on the property if the tax remains unpaid.

The revenue from the state REET is deposited as follows: 5.2 percent into the Public Works Assistance Account, which is used to make loans and grants to local governments for public works projects; 1.4 percent into the City-County Assistance Account, which provides funding to local governments based on their size and how their sales and property tax revenue compare to the statewide average; 79.4 percent to the State General Fund; and 14 percent into the Education Legacy Trust Account, which is used to support education.

Real Estate Excise Tax Exemptions.

Some transfers of property are exempted from consideration as a sale. Because these transfers are not considered sales, they are not subject to the REET. These exemptions include, among other things, property transfers made by gift or through inheritance, transfers made pursuant to a dissolution of marriage, or the transfer of a mortgage interest in property.

Certain property sales or transfers related to low-income housing are also exempt from being considered, and are thus taxed as sales. These exemptions cover low-income housing developments that qualify for federal low-income housing tax credits or for tax credits from the Washington State Housing Finance Commission. The exemptions also include sales of self-help housing to households that have an income of less than 80 percent of the median income, adjusted for house size, of the county in which the dwelling is located.

Also exempted are sales or transfers to certain entities that use the property for low-income housing, as long as certain conditions are satisfied. First, the property must qualify for a property tax exemption related to certain properties owned by a qualified entity. A qualified entity is a nonprofit organization that provides low-income rental housing or develops properties for sale to low-income households, a housing authority, a public corporation, or the United States, Washington, a county, or a municipal corporation. Second, the property must actually be used as housing within one to five years by a household that has an income of less than 80 percent of the median income, adjusted for house size, of the county in which the dwelling is located, with the time frame dependent on whether the organization is operating existing housing, renovating housing, or constructing new housing on the site. If this deadline is missed, then the organization must pay the tax that would have been due at the time of the transfer, plus interest.

<u>The Washington Housing Trust Fund, The Apple Health and Homes Account, and The Affordable Housing for All Account</u>.
The Washington Housing Trust Fund is used to provide grants and loans for local government, housing authority, behavioral health service organization, nonprofit community, tribal, and regional or statewide housing assistance projects that will provide housing to those with special housing needs and with incomes at or below 50 percent of the median family income for the county or standard metropolitan area where the project is located. It is administered by the Department of Commerce.

The Apple Health and Homes Account is also administered by the Department of Commerce. It is used to support permanent supportive housing programs.

The Affordable Housing for All Account is used to fund affordable housing programs.

<u>Tax Preferences</u>.
State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over

650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Substitute Bill:

Beginning January 1, 2026, the ceiling for the first tier of the real estate excise tax (REET) is increased from $525,000 to $750,000.

Beginning January 1, 2026, a new real estate transfer tax (RETT) of 1 percent is imposed on the value of the selling price of real estate over $3.025 million and is in addition to any REET paid on the sale. The RETT is imposed and collected in the same manner as REET. The selling price threshold of $3.025 million for RETT must be adjusted in the same manner and timing as the REET thresholds.

The new RETT revenues must be deposited as follows:

- 93.2 percent of the combined REET and RETT revenues to the accounts currently receiving REET funds including:
  - 5.2 percent into the Public Works Assistance Account;
  - 1.4 percent into the City-County Assistance Account;
  - 79.4 percent into the State General Fund; and
  - the remainder into the Education Legacy Trust Account; and
- 6.8 percent of the combined REET and RETT revenues to be distributed to housing accounts as follows:
  - Washington Housing Trust Fund (25 percent);
  - Apple Health and Homes Account (25 percent);
  - Affordable Housing for All Account (25 percent);
  - Developmental Disabilities Housing and Services Account (15 percent); and
  - Housing Stability Account (10 percent).

The Developmental Disabilities Housing and Services Account is created. This account may be used for providing grants and forgivable loans to housing programs to support people with developmental disabilities. These grants and loans can be used for: preservation; operations and maintenance costs; housing-related services; technical assistance to nonprofit organizations serving or housing populations with intellectual or developmental disabilities; and rental subsidies.

The Housing Stability Account is created. Expenditures from the account may only be used for grants to cover building operations, maintenance, and supportive service costs for low-income households or extremely low-income households where a supplement to rent income is required to cover ongoing operating expenses. Eligible housing projects must have received or will receive funding from the State Housing Trust Fund, or other public capital funding programs. Grants provided must fund overall developments and may be used to fund new or existing housing projects.

Beginning January 1, 2025, the sale of any portion of an affordable housing development by a qualified entity to an organization that meets the requirements for a property tax exemption as a nonprofit organization, housing authority, or public corporation for a community purpose is exempt from REET. A community purpose includes, but is not limited to, the provision of services to affordable housing development tenants, health clinics, senior day cares, food banks, community centers, and early learning facilities.

The DOR is directed to study the requirements needed for the implementation and administration of a local option graduated REET. The report is due to the Legislature by January 13, 2025.

This act is exempt from the requirement of a Tax Preference Performance Statement (TPPS), a Joint Legislative Audit and Review Committee (JLARC) review, and the automatic 10 year expiration for tax preferences.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes, it:

- changes the effective date for the change to Tier 1 of REET to January 1, 2026;
- changes the effective date for the imposition of the new RETT to January 1, 2026;
- corrects the distribution of money as follows:
    - 93.2 percent of the combined REET and RETT revenues to the accounts currently receiving REET funds which are:
        - 5.2 percent into the Public Works Assistance Account;
        - 1.4 percent into the City-County Assistance Account;
        - 79.4 percent into the State General Fund; and
        - the remainder into the Education Legacy Trust Account; and
    - 6.8 percent of the combined REET and RETT revenues are to be distributed to housing accounts as follows:
        - 25 percent into the Washington Housing Trust Fund;
        - 25 percent into the Apple Health & Homes Account;
        - 25 percent into the Affordable Housing for All Account;
        - 15 percent into the Developmental Disabilities Housing and Services Account; and
        - 10 percent into the Housing Stability Account; and
- directs the DOR to study the requirements needed to implement and administer a local option graduated REET. The report is due to the Legislature by January 13, 2025.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 24, 2024.

Effective Date of Substitute Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) The housing crisis in Washington is a daunting problem that needs a multiprong solution. An estimated 80 percent of low-income households are paying an unsustainable amount in rent and are at the risk of homelessness. This is especially a challenge in rural areas where the household income is lower than the state median income. There is a shortage of housing, a lack of capital funding to fund solutions, and increasing demand.

Housing is a top priority for the citizens of Washington. There is a significant need for low-income and affordable housing in this state. In addition, community housing should be provided for individuals with developmental disabilities who are transitioning from institutional settings as well as supportive housing for citizens with mental health conditions and other issues. The lack of a supportive workforce for these persons as well as the decline of affordable housing has made the availability of this housing scarce. Parents of persons with developmental disabilities are concerned about the housing challenge their children will face in the future, especially since unemployment is high among this population.

In addition, many communities lack affordable housing for their workforce. This makes it more difficult for these communities to attract and retain workers. This is especially an issue for farmworker housing in rural communities.

Communities cannot address these needs on their own and this bill would be an important tool that the state could provide by increasing the state's investment in housing as well as providing local governments the ability to raise additional revenues to address their specific needs.

Washington is woefully behind in expanding the supply of affordable housing. The private market cannot address the need without public investment. This bill is a good start.

This bill creates a more just and equitable tax system. The bill will ensure that Washingtonians can meet the basic housing needs as well as putting many families on the path toward homeownership. Rent prices are really set by the market, not by the tax structure, and the price of real estate is based on what a buyer will pay, not a seller's asking price. The argument that this bill will increase housing costs is not well taken.

This bill provides stable funding for the Washington Housing Trust Fund as well as triples the funds available for housing persons with developmental disabilities. There are recoverable grants for supportive housing, and the funds may be used for maintenance and operations in order to keep affordable housing in perpetuity.

(Opposed) Affordability faces a two-headed monster in Washington: supply and cost. This bill would exacerbate housing scarcity by increasing the cost of housing across the state. If enacted, this bill would ensure that Washington would have the highest combined real estate tax rate in the nation. In addition, it would impact multi-family housing properties as the increased tax rate would be passed onto renters.

The REET collection forecast is decreasing and high interest rates make it more expensive for multi-family developments. The impact could be an additional $18,000 per unit in a typical 100 unit apartment development. This makes Washington less attractive to housing developers and increases incentives to convert apartments to condominiums.

This bill will hurt a distressed portion of our economy. Currently there is low housing supply, high interest rates, high commercial property vacancy rates, and low residential property vacancy rates. The number of transactions involving large commercial property sales have decreased. The cost of acquiring undeveloped land has soared and the cost for building supplies and labor has increased. This is not a good way to address the issue.

This bill is contrary to efforts to address the affordable housing shortage by increasing the cost of multi-family housing. It decreases the incentive for businesses, consumers, and developers who normally engage in real estate transactions. The Legislature should spend less on other things if funding housing is important, not raise taxes on people. The creation of a new separate account for the tax revenues can easily be misused.

Although housing is a laudable goal, the real challenge to affordable housing is government regulations that make it difficult for private investments to pencil out.

The exemption for nonprofits should apply to everyone.

Persons Testifying: (In support) Representative April Berg, prime sponsor; Carl Schroeder, Association of Washington Cities; Cathy Murahashi, The Arc of Washington; Scott Livengood, Alpha Supported Living; Marc Cote, Parkview Services; Patience Malaba, Sound Communities and Housing Development Consortium of Seattle-King County; Shawn Latham, Self Advocates In Leadership; Michele Thomas, Washington Low Income Housing Alliance; Marty Miller, Office of Rural and Farmworker Housing; Peter Wolf; Andy Silver, Vancouver Housing Authority; Emma Scalzo, Balance Our Tax Code; Treasure Mackley, Invest in Washington Now; Joseph Wilson; Kristin Ang, Faith Action Network; Preston Parish; and Robert Wardell.

(Opposed) Brent Ludeman, Building Industry Association of Washington; Scott

Hazlegrove, Master Builders Association of King and Snohomish Counties; Tim Eyman; William Shadbolt, Washington Business Properties Association; Sheri Druckman, Legacy Partners; Emily Shay, Association of Washington Business; Patricia Hoendermis, Yakima Valley Landlords Association; Reza Marashi, National Association for Industrial and Office Parks - Washington; Sean Flynn, Rental Housing Association Coalition; Mary Hull-Drury, Washington Realtors; and Monica Wallace, Washington State Commercial Association of Realtors.

Persons Signed In To Testify But Not Testifying: Oliver Miska; Georgia Spiropoulos, Equiscript; Marty Miller, Office of Rural and Farmworker Housing; and Sarah Dickmeyer, Plymouth Housing.