

SENATE BILL REPORT

SB 5111

As of January 28, 2025

Title: An act relating to clarifying the excise tax treatment of amounts received by title and escrow businesses from clients for remittance to a county filing office for the purpose of recording documents.

Brief Description: Concerning the excise tax treatment of amounts received by title and escrow businesses from clients for remittance to a county filing office for the purpose of recording documents.

Sponsors: Senators Chapman, Dozier, Christian, Krishnadasan and Schoesler.

Brief History:

Committee Activity: Ways & Means: 1/28/25.

Brief Summary of Bill

- Excludes document recording fees received by an escrow business for remittance to a county filing office from retail sales tax and business and occupation tax, if separately identified.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: Escrow Agents. An escrow agent is a person or entity that holds property in trust for third parties while a transaction is finalized or a disagreement is resolved. The escrow agent has a fiduciary responsibility to both parties of the escrow agreement.

Business and Occupation Tax. The state business and occupation (B&O) tax is Washington's primary business tax. It is a gross receipts tax measured on the value of products, gross proceeds of sale, or gross income of the business. There are no deductions from the B&O tax for labor, materials, taxes, or other costs of doing business. The B&O

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tax rate varies by classification— business activities. The major rates are: 0.471 percent retailing activities, 0.484 percent manufacturing and wholesaling activities, and for service and other activities, either 1.5 percent or 1.75 percent, depending upon the amount of annual gross income of the business.

Retail Sales and Use Taxes. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products and some services. A retail sale is a sale to the final consumer or end user of the property, digital product or service. If retail sales taxes were not collected when the user acquired the property, digital products or services, then use taxes applies to the value of property, digital product or service when used in this state. The state, most cities and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.1 percent, depending on the location. Abstract, title, and escrow services are subject to sales tax and retailing B&O tax.

Tax Preference Review Requirements. State law provides 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. Legislation that establishes or expands a tax preference must include a tax preference performance statement that identifies the public policy objective of the preference, as well as specific metrics the Joint Legislative Audit and Review Committee (JLARC) can use to review the effectiveness of the preference in achieving its stated public policy objectives. Tax preferences must be reviewed by JLARC at least once every ten years, unless state statute requires otherwise. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided or the tax preference is exempt from expiration. To assist the Legislature in its evaluation of economic development-related tax preferences, taxpayer beneficiaries are required to file annual tax preference performance reports detailing wages and employment of the taxpayer as well as tax savings from the tax preference.

Summary of Bill: Document recording fees received by an escrow agent for remittance to a county filing office are excluded from sales tax and B&O tax, if separately identified on a settlement statement, HUD-1, or closing disclosure .

The exclusion of recording fees from sales tax and B&O tax is exempted from JLARC review and the automatic ten-year expiration date.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2026.