

Proposed Second Substitute House Bill 1628 (H-1928.3/23)

House Finance Committee

By Chair Berg

SHB 1628 creates the affordable homes act. The bill:

- Adds a new state real estate excise tax (REET) threshold of \$5,000,000 on January 1, 2025, with the portion of the selling price that is above the threshold taxed at a rate of 4 percent.
- Provides for the distribution of the increase in revenue from the new threshold over what would have been collected had the new threshold not been imposed, including to a newly created Developmental Disabilities Trust Account that can be used for housing support for individuals with developmental disabilities.
- Allows a county or city to impose an additional 0.25 percent real estate excise tax for the construction and support of affordable housing beginning January 1, 2024.
- Removes the expiration date on the ability to use certain local government real estate excise tax funds for facilities for those experiencing homelessness or for affordable housing, and removes a \$1,000,000 limit on the annual use of such funds in larger jurisdictions.
- Removes certain restrictions on the permitted uses of revenue from specified local government real estate excise taxes, and allows for the councilmanic imposition of a 0.25 percent real estate excise tax by counties, and cities within those counties, that choose to plan under the Growth Management Act instead of requiring voter approval.
- Creates a real estate excise tax exemption for certain sales or transfers of properties that qualify for a property tax exemption that will be used for a community purpose.
- a statutory reference to the sales tax credit for annexed areas; and
- a specific date for the last day to impose the tax.

P2SHB 1628 (H-1928.3/23) makes the following changes

- Beginning January 1, 2025, increases the “ceiling” for the Tier 1 1.1% state REET tax from \$525K to \$750K. As a result, Tier 2 (1.28%) will be \$750K to \$1.525M.
- Beginning January 1, 2025, increases the state REET rate for Tier 4 (selling price over \$3.025M) from 3% to 3.5% except for commercial property. Commercial property will pay 3% on selling price over \$3.025M through December 31, 2026. The new 3.5% will take effect for commercial property beginning January 1, 2027.
- Removes the creation of Tier 5 for selling prices above \$5M.
- Provides a definition for “Commercial property”

- Replaces increment calculation for distributions of revenues with a new percentage calculation to all accounts.
- Requires at least \$5M per fiscal year of the state REET revenues deposited into the Washington House Trust Fund be used for farmworker housing.
- Additional directions for the use of moneys in the Developmental Disabilities Housing and Services Account are added.
- Additional boilerplate language is added to local REET bonding authority.
- Additional directions for the use of the local REET revenues are added.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1928.3/23 3rd draft

ATTY/TYPIST: CL:akl

BRIEF DESCRIPTION: Increasing the supply of affordable housing by
modifying the state and local real estate excise
tax.

1 AN ACT Relating to increasing the supply of affordable housing by
2 modifying the state and local real estate excise tax; amending RCW
3 82.45.060, 82.45.230, 82.46.035, 82.46.010, 82.46.015, 82.46.037,
4 82.45.010, 82.45.010, and 43.185.030; adding a new section to chapter
5 82.45 RCW; adding a new section to chapter 82.46 RCW; creating new
6 sections; providing effective dates; and providing an expiration
7 date.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the lack of
10 housing affordability and related instances of homelessness are
11 issues that affect every community in Washington. The legislature
12 also finds that increased homelessness is overwhelmingly caused by
13 growing rents, which push people living at the margins into
14 homelessness, erode public confidence, and undermine the shared
15 values that have driven our state's prosperity. The legislature
16 further finds that problems caused by rent increases are exacerbated
17 by the associated issue of very low vacancy rates, which make it
18 difficult for people to find a unit even when they have sufficient
19 income or rental assistance to pay market rates. The legislature
20 finds that low housing vacancy rates and the growth in population
21 have produced a tight housing market in which existing inventory is

1 priced at a premium. The legislature also finds that although
2 household incomes have grown along with the economy, income increase
3 for those with moderate and lower incomes have not kept pace with
4 rent and purchase price increases. This problem is especially
5 impacting lower and fixed income households, including seniors,
6 veterans, and people with disabilities. Indeed, these trends, in
7 combination with other market factors, have created a deficit of
8 affordable and available housing, particularly for Washingtonians
9 within the low to middle income range who are increasingly more
10 vulnerable to homelessness. Moreover, the legislature finds that
11 these households have the fewest options available in the private
12 housing market. In strong housing markets, builders seek the highest
13 achievable price to offset higher development costs, which means new
14 production does not result in more affordable units.

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

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

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

1 **Sec. 2.** RCW 82.45.060 and 2019 c 424 s 1 are each amended to
2 read as follows:

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

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

7 (b) Beginning January 1, 2020, through December 31, 2024, and
8 except as provided in (c) of this subsection, the rate of the tax
9 imposed under this section is as follows:

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

12 (ii) 1.28 percent of the portion of the selling price that is
13 greater than (~~five hundred thousand dollars~~) \$500,000 and equal to
14 or less than (~~one million five hundred thousand dollars~~)
15 \$1,500,000;

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

19 (iv) Three percent of the portion of the selling price that is
20 greater than (~~three million dollars~~) \$3,000,000.

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

24 (d) Beginning January 1, 2025, and except as provided in (c) and
25 (e) of this subsection, the rate of the tax imposed under this
26 section is as follows:

27 (i) 1.1 percent of the portion of the selling price that is less
28 than or equal to \$750,000;

29 (ii) 1.28 percent of the portion of the selling price that is
30 greater than \$750,000 and equal to or less than \$1,525,000;

31 (iii) 2.75 percent of the portion of the selling price that is
32 greater than \$1,525,000 and equal to or less than \$3,025,000; and

33 (iv) 3.5 percent of the portion of the selling price that is
34 greater than \$3,025,000.

35 (e) Beginning January 1, 2025, through December 31, 2026, the
36 sale of real property that is classified as commercial property is
37 subject to the rates as provided in (d) (i), (ii), and (iii) of this
38 subsection. For the portion of the selling price that is greater than
39 \$3,025,000, the sale of real property that is classified as
40 commercial property is subject to the rate of three percent.

1 Beginning January 1, 2027, and thereafter, the sale of real property
2 classified as commercial property is subject to the rates and selling
3 price thresholds in (d)(i) through (iv) of this subsection.

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

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

10 (b) The department must adjust the applicable selling price
11 thresholds in subsection (1)(b)(ii) through (iv) or (d)(ii) through
12 (iv) of this section by the dollar amount of any increase in the
13 applicable selling price threshold in subsection (1)(b)(i) or (d)(i)
14 of this section.

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

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

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

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

34 (b) County treasurers are not responsible for verifying that the
35 seller has properly classified real property reported on a real
36 estate excise tax affidavit. The department is solely responsible for
37 such verification as part of its audit responsibilities under RCW
38 82.45.150.

39 (4)(a) Beginning July 1, 2013, and ending December 31, 2019, an
40 amount equal to two percent of the proceeds of this tax must be

1 deposited in the public works assistance account created in RCW
2 43.155.050, an amount equal to (~~four and one-tenth~~) 4.1 percent
3 must be deposited in the education legacy trust account created in
4 RCW 83.100.230, an amount equal to (~~one and six-tenths~~) 1.6 percent
5 must be deposited in the city-county assistance account created in
6 RCW 43.08.290, and the remainder must be deposited in the general
7 fund.

8 (b) Beginning January 1, 2020, amounts collected from the tax
9 imposed under this section must be deposited as provided in RCW
10 82.45.230.

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

13 (a) "Agricultural land" means farm and agricultural land and farm
14 and agricultural conservation land, as those terms are defined in RCW
15 84.34.020, including any structures on such land.

16 (b) "Commercial property" means real property that is used
17 primarily for business activities including, but not limited to,
18 manufacturing, transportation, communication, utilities, trade,
19 services, entertainment, and recreation. However, commercial property
20 does not include agricultural land, timberland, or real property
21 consisting solely of residential structures.

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

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

34 (~~(d)~~) (e) "Timberland" means land classified under chapter
35 84.34 RCW or designated under chapter 84.33 RCW, including any
36 structures and standing timber on such land, and standing timber sold
37 apart from the land upon which it sits.

38 **Sec. 3.** RCW 82.45.230 and 2019 c 424 s 2 are each amended to
39 read as follows:

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

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

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

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

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

11 (2) Beginning July 1, 2023, (~~and thereafter~~) through December
12 31, 2024, the amounts received for the tax imposed on each sale of
13 real property under RCW 82.45.060 must be deposited as follows:

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

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

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

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

21 (3) Beginning January 1, 2025, through December 31, 2026, the
22 amounts received for the tax imposed on each sale of real property
23 under RCW 82.45.060 must be deposited as follows:

24 (a) 5.07 percent must be deposited into the public works
25 assistance account created in RCW 43.155.050;

26 (b) 1.36 percent must be deposited into the city-county
27 assistance account created in RCW 43.08.290;

28 (c) 77.36 percent must be deposited into the general fund;

29 (d) 13.64 percent must be deposited into the education legacy
30 trust account created in RCW 83.100.230;

31 (e) 0.77 percent must be deposited into the Washington housing
32 trust fund created in RCW 43.185.030;

33 (f) 0.77 percent must be deposited into the apple health and
34 homes account created in RCW 43.330.184;

35 (g) 0.39 percent must be deposited into the developmental
36 disabilities housing and services account created in section 4 of
37 this act; and

38 (h) 0.64 percent must be deposited into the affordable housing
39 for all account created in RCW 43.185C.190 for operations,

1 maintenance, and service costs for permanent supportive housing as
2 defined in RCW 36.70A.030.

3 (4) Beginning January 1, 2027, and thereafter, the amounts
4 received for the tax imposed on each sale of real property under RCW
5 82.45.060 must be deposited as follows:

6 (a) 4.94 percent must be deposited into the public works
7 assistance account created in RCW 43.155.050;

8 (b) 1.33 percent must be deposited into the city-county
9 assistance account created in RCW 43.08.290;

10 (c) 75.40 percent must be deposited into the general fund;

11 (d) 13.29 percent must be deposited into the education legacy
12 trust account created in RCW 83.100.230;

13 (e) 1.51 percent must be deposited into the Washington housing
14 trust fund created in RCW 43.185.030;

15 (f) 1.51 percent must be deposited into the apple health and
16 homes account created in RCW 43.330.184;

17 (g) 0.76 percent must be deposited into the developmental
18 disabilities housing and services account created in section 4 of
19 this act; and

20 (h) 1.26 percent must be deposited into the affordable housing
21 for all account created in RCW 43.185C.190 for operations,
22 maintenance, and service costs for permanent supportive housing as
23 defined in RCW 36.70A.030.

24 NEW SECTION. Sec. 4. A new section is added to chapter 82.45
25 RCW to read as follows:

26 (1) The developmental disabilities housing and services account
27 is created in the state treasury. Receipts from the real estate
28 excise tax directed to this account pursuant to RCW 82.45.230 (3)(g)
29 and (4)(g) must be deposited into the account. Moneys in the account
30 may only be spent after appropriation.

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

32 (a)(i) Housing to support people with developmental disabilities,
33 including acquisition, development, or construction of permanent
34 housing, housing developments, or units, including new units in
35 existing structures;

36 (ii) Up to 15 percent of the total cost of a housing project that
37 qualifies under (a) of this subsection may include acquisition,
38 development, or construction of nonresident spaces that are integral
39 to the overall design and support successful community living;

1 (b) Preservation, operations, and maintenance costs of housing
2 for people with developmental disabilities;

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

5 (d) Rental subsidies; and

6 (e) Technical assistance to support nonprofit organizations in
7 applying for this funding through the account in order to expand the
8 pool of eligible developers for construction and long-term
9 sustainable maintenance for housing that meets the needs of people
10 with developmental disabilities.

11 (3) Expenditures from the account must be grants or forgivable
12 loans. For applications under this section, the department of
13 commerce must use an application form and evaluation criteria
14 separate from the application form and criteria for the Washington
15 housing trust fund created in RCW 43.185.030. The department of
16 commerce must coordinate with the department of social and health
17 services regarding any needed supportive services and make efforts to
18 enact the recommendations of the housing needs study for individuals
19 with intellectual and developmental disabilities, as provided in
20 section 1068(6), chapter 332, Laws of 2021.

21 (4) For the purposes of this section, the following definitions
22 apply unless the context clearly requires otherwise.

23 (a) "Forgivable loans" means a noninterest-bearing financial
24 award that is forgiven in its entirety provided the borrower project
25 continues to serve the original target group as described in
26 subsection (2)(a) of this section for a period of at least 25 years.

27 (b) "Grants" means a financial award that does not require
28 payback, provided the grantee project continues to serve the original
29 target group as described in subsection (2)(a) of this section for a
30 period of at least 25 years.

31 (c) "Housing-related services" means services that are provided
32 to eligible households as described in subsection (2)(c) of this
33 section, which have the purpose of helping the household gain,
34 maintain, or increase housing stability. Housing-related services may
35 include, but are not limited to: Case management; tenant education
36 and supports; financial assistance for essential costs of housing;
37 services to identify, locate, and secure housing; landlord
38 mitigation; landlord or tenant dispute mediation; services to prevent
39 eviction or loss of housing; assistance securing financial housing

1 assistance, such as a voucher or subsidy; or assistance with tenant
2 applications.

3 (d) "Nonresidential spaces" means any space used to provide a
4 service that benefits affordable housing development tenants as
5 described in subsection (2)(a)(i) of this section, or the public
6 including, but not limited to, health clinics, food banks, community
7 centers, and early learning facilities.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.46
9 RCW to read as follows:

10 (1)(a) The legislative authority of any county or city may impose
11 an additional excise tax on each sale of real property in the
12 unincorporated areas of the county for the county tax and in the
13 corporate limits of the city for the city tax at a rate not to exceed
14 0.25 percent of the selling price by the adoption of a resolution by
15 the legislative authority.

16 (b) If a city legislative authority does not impose the full tax
17 rate authorized under (a) of this subsection by June 30, 2025, a
18 county legislative authority may impose in that city the whole or
19 remainder of the taxing authority in accordance with the terms of
20 this section.

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

23 (a) At least 50 percent of the revenue collected must be
24 dedicated to the capital construction or acquisition of affordable
25 housing and facilities where housing-related programs are provided,
26 or to infrastructure costs associated with such housing and
27 facilities.

28 (i) Of this amount, a county government with a total population
29 of greater than 1,500,000 may dedicate up to 25 percent of these
30 funds for the capital construction or acquisition of nonresidential
31 facilities that are:

32 (A) Community-driven with an emphasis on communities and
33 populations most at risk of displacement;

34 (B) Designed to serve low-income households; and

35 (C) Located on-site with affordable housing.

36 (ii) For the purposes of (a)(i) of this subsection (2),
37 nonresidential facilities include, but are not limited to, facilities
38 used for exempt community purposes, as defined in section 10 of this
39 act.

1 (iii) At least 75 percent of the building square footage of a
2 project awarded funds under this subsection (2)(a) must be for
3 affordable housing. This subsection (2)(a)(iii) does not restrict
4 funding for facility space exclusively dedicated to serving residents
5 of affordable housing property.

6 (b) Up to 50 percent of the revenue collected may be used for
7 operations, maintenance, and services directly tied to the affordable
8 housing uses allowed in (a) of this subsection that are permanent
9 housing. Up to 25 percent of the total funds may be used for
10 temporary, transitional, or shelter housing.

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

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

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

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

28 (5)(a) To carry out the purposes of subsection (2)(a) of this
29 section, the legislative authority of the county imposing the tax may
30 issue general obligation or revenue bonds within the limitations now
31 or hereafter prescribed by the laws of this state, may use, and may
32 pledge moneys collected under this section for repayment of such
33 bonds, in order to finance the provision, acquisition, or
34 construction of new units of affordable housing and facilities where
35 housing-related programs are provided as described in subsection
36 (2)(a) of this section.

37 (b) The bonds must be issued and sold in accordance with chapter
38 39.46 RCW. Any bonds issued by the county are not obligations of any
39 city, county, or the state of Washington or any political subdivision
40 thereof other than the county that issued the bonds, and the bonds

1 must so state, unless the legislative authority of any city
2 or county or the legislature expressly authorizes particular bonds to
3 be either guaranteed by or obligations of its respective city
4 or county or of the state.

5 **Sec. 6.** RCW 82.46.035 and 2021 c 296 s 12 are each amended to
6 read as follows:

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

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

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

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

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

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

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

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

17 (d) Any use allowed under RCW 82.46.010.

18 (~~(6))~~) (5) A county or city may use the greater of \$100,000 or
19 25 percent of available funds (~~(, but not to exceed \$1,000,000,)~~) for
20 capital projects as defined in subsection (~~(5))~~) (4)(c) of this
21 section. The limits in this subsection do not apply to any county or
22 city that used revenue under this section for the acquisition,
23 construction, improvement, or rehabilitation of facilities to provide
24 housing for the homeless prior to June 30, 2019.

25 (~~(7))~~) (6) A county or city using funds for uses in subsection
26 (~~(5))~~) (4)(c) of this section must document in its plan under RCW
27 36.70A.070(3) that it has funds during the next two years for capital
28 projects in subsection (~~(5))~~) (4)(a) of this section.

29 (~~(8))~~) (7) When the governor files a notice of noncompliance
30 under RCW 36.70A.340 with the secretary of state and the appropriate
31 county or city, the county or city's authority to impose the
32 additional excise tax under this section is temporarily rescinded
33 until the governor files a subsequent notice rescinding the notice of
34 noncompliance.

35 **Sec. 7.** RCW 82.46.010 and 2021 c 296 s 10 are each amended to
36 read as follows:

37 (1) The legislative authority of any county or city must identify
38 in the adopted budget the capital projects funded in whole or in part
39 from the proceeds of the tax authorized in this section, and must

1 indicate that such tax is intended to be in addition to other funds
2 that may be reasonably available for such capital projects.

3 (2) ~~((a))~~ The legislative authority of any county or any city
4 may impose an excise tax on each sale of real property in the
5 unincorporated areas of the county for the county tax and in the
6 corporate limits of the city for the city tax at a rate not exceeding
7 one-quarter of one percent of the selling price. ~~((Except as provided~~
8 ~~in subsection (8) of this section, the))~~ The revenues from this tax
9 must be used by any city or county ~~((with a population of 5,000 or~~
10 ~~less and any city or county that does not plan under RCW 36.70A.040))~~
11 for any capital purpose identified in a capital improvements plan and
12 local capital improvements, including those listed in RCW
13 35.43.040 ~~((-~~

14 ~~(b) Except as provided in subsection (8) of this section, after~~
15 ~~April 30, 1992, revenues generated from the tax imposed under this~~
16 ~~subsection (2) in counties over 5,000 population and cities over~~
17 ~~5,000 population that are required or choose to plan under RCW~~
18 ~~36.70A.040 must be used solely)~~ and for ~~((financing))~~ capital
19 projects specified in a capital facilities plan element of a
20 comprehensive plan and housing relocation assistance under RCW
21 59.18.440 and 59.18.450. However, revenues (i) pledged by such
22 counties and cities to debt retirement prior to April 30, 1992, may
23 continue to be used for that purpose until the original debt for
24 which the revenues were pledged is retired, or (ii) committed prior
25 to April 30, 1992, by such counties or cities to a project may
26 continue to be used for that purpose until the project is completed.

27 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2),
28 the legislative authority of any county or any city may impose an
29 additional excise tax on each sale of real property in the
30 unincorporated areas of the county for the county tax and in the
31 corporate limits of the city for the city tax at a rate not exceeding
32 one-half of one percent of the selling price.

33 (4) Taxes imposed under this section must be collected from
34 persons who are taxable by the state under chapter 82.45 RCW upon the
35 occurrence of any taxable event within the unincorporated areas of
36 the county or within the corporate limits of the city, as the case
37 may be.

38 (5) Taxes imposed under this section must comply with all
39 applicable rules, regulations, laws, and court decisions regarding

1 real estate excise taxes as imposed by the state under chapter 82.45
2 RCW.

3 (6) The definitions in this subsection (6) apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "City" means any city or town.

6 (b) "Capital project" means those public works projects of a
7 local government for planning, acquisition, construction,
8 reconstruction, repair, replacement, rehabilitation, or improvement
9 of streets; roads; highways; sidewalks; street and road lighting
10 systems; traffic signals; bridges; domestic water systems; storm and
11 sanitary sewer systems; parks; recreational facilities; law
12 enforcement facilities; fire protection facilities; trails;
13 libraries; administrative facilities; judicial facilities; river
14 flood control projects; waterway flood control projects by those
15 jurisdictions that, prior to June 11, 1992, have expended funds
16 derived from the tax authorized by this section for such purposes;
17 until December 31, 1995, housing projects for those jurisdictions
18 that, prior to June 11, 1992, have expended or committed to expend
19 funds derived from the tax authorized by this section or the tax
20 authorized by RCW 82.46.035 for such purposes; and technology
21 infrastructure that is integral to the capital project.

22 ~~(7) ((From July 22, 2011, until December 31, 2016, a city or~~
23 ~~county may use the greater of \$100,000 or 35 percent of available~~
24 ~~funds under this section, but not to exceed \$1,000,000 per year, for~~
25 ~~the operations and maintenance of existing capital projects as~~
26 ~~defined in subsection (6) of this section.~~

27 ~~(8) After May 13, 2021, through December 31, 2023, a city or~~
28 ~~county may use the greater of \$100,000 or 35 percent of available~~
29 ~~funds under this section for the operation of, maintenance of, and~~
30 ~~service support for, existing capital projects, including the~~
31 ~~provision of services to residents of affordable housing or shelter~~
32 ~~units.)) A county or city may use available funds under this section~~
33 ~~for any eligible use in RCW 82.46.035.~~

34 **Sec. 8.** RCW 82.46.015 and 2021 c 296 s 11 are each amended to
35 read as follows:

36 (1) ~~((After May 13, 2021, through December 31, 2023, a))~~ A city
37 or county may use the greater of \$100,000 or 35 percent of available
38 funds from revenues collected under RCW 82.46.010 for the maintenance
39 of, operation of, and service support for, existing capital projects,

1 as defined in RCW 82.46.010, and including the provision of services
2 to residents of affordable housing or shelter units.

3 ~~(2) ((After December 31, 2023, a city or county that meets the~~
4 ~~requirements of subsection (3) of this section may use the greater of~~
5 ~~\$100,000 or 25 percent of available funds, but not to exceed~~
6 ~~\$1,000,000 per year, from revenues collected under RCW 82.46.010 for~~
7 ~~the maintenance of capital projects, as defined in RCW 82.46.010.~~

8 ~~(3))~~) A city or county may use revenues pursuant to subsection
9 ~~((2))~~) (1) of this section if:

10 (a) The city or county prepares a written report demonstrating
11 that it has or will have adequate funding from all sources of public
12 funding to pay for all capital projects, as defined in RCW 82.46.010,
13 identified in its capital facilities plan for the succeeding two-year
14 period. Cities or counties not required to prepare a capital
15 facilities plan may satisfy this provision by using a document that,
16 at a minimum, identifies capital project needs and available public
17 funding sources for the succeeding two-year period; and

18 (b) (i) The city or county has not enacted, after June 9, 2016:
19 Any requirement on the listing or sale of real property; or any
20 requirement on landlords, at the time of executing a lease, to
21 perform or provide physical improvements or modifications to real
22 property or fixtures, except if necessary to address an immediate
23 threat to health or safety; or

24 (ii) Any local requirement adopted by the city or county under
25 (b) (i) of this subsection is: Specifically authorized by RCW
26 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
27 specifically authorized by other state or federal law; or a seller or
28 landlord disclosure requirement pursuant to RCW 64.06.080.

29 ~~((4))~~) (3) The report prepared under subsection ~~((3))~~) (2) (a)
30 of this section must: (a) Include information necessary to determine
31 compliance with the requirements of subsection ~~((3))~~) (2) (a) of this
32 section; (b) identify how revenues collected under RCW 82.46.010 were
33 used by the city or county during the prior two-year period; (c)
34 identify how funds ~~((authorized under subsection (2) of this~~
35 ~~section))~~) will be used during the succeeding two-year period; and (d)
36 identify what percentage of funding for capital projects within the
37 city or county is attributable to revenues under RCW 82.46.010
38 compared to all other sources of capital project funding. The city or
39 county must prepare and adopt the report as part of its regular,
40 public budget process.

1 ~~((5) The authority to use funds as authorized in this section is~~
2 ~~in addition to the authority to use funds pursuant to RCW~~
3 ~~82.46.010(7), which remains in effect through December 31, 2016.~~

4 ~~(6))~~ (4) For purposes of this section, "maintenance" means the
5 use of funds for labor and materials that will preserve, prevent the
6 decline of, or extend the useful life of a capital project.
7 "Maintenance" does not include labor or material costs for routine
8 operations of a capital project.

9 **Sec. 9.** RCW 82.46.037 and 2021 c 296 s 13 are each amended to
10 read as follows:

11 (1) A city or county that meets the requirements of subsection
12 (2) of this section may use the greater of \$100,000 or ~~((25))~~ 35
13 percent of available funds ~~((, but not to exceed \$1,000,000 per year,~~
14 ~~except for the period from May 13, 2021, through December 31, 2023,~~
15 ~~when the greater of \$100,000 or 35 percent may be used))~~ from
16 revenues collected under RCW 82.46.035 for:

17 (a) The maintenance of capital projects, as defined in RCW
18 82.46.035 ~~((5))~~ (4);

19 (b) The planning, acquisition, construction, reconstruction,
20 repair, replacement, rehabilitation, improvement, or maintenance of
21 capital projects as defined in RCW 82.46.010(6)(b) that are not also
22 included within the definition of capital projects in RCW
23 82.46.035 ~~((5))~~ (4); and

24 (c) The operation of, and service support for, existing capital
25 projects as included in the definition of capital project in RCW
26 82.46.035 ~~((5))~~ (4) and 82.46.010(6)(b) ~~((, from May 13, 2021,~~
27 ~~through December 31, 2023))~~.

28 (2) A ~~((city or county may use revenues pursuant to subsection~~
29 ~~(1) of this section after May 13, 2021, through December 31, 2023.~~
30 ~~Thereafter,~~ a) city or county may use revenues pursuant to
31 subsection (1) of this section if:

32 (a) The city or county prepares a written report demonstrating
33 that it has or will have adequate funding from all sources of public
34 funding to pay for all capital projects, as defined in RCW
35 82.46.035 ~~((5))~~ (4), identified in its capital facilities plan for
36 the succeeding two-year period; and

37 (b)(i) The city or county has not enacted, after June 9, 2016,
38 any requirement on the listing or sale of real property; or any
39 requirement on landlords, at the time of executing a lease, to

1 perform or provide physical improvements or modifications to real
2 property or fixtures, except if necessary to address an immediate
3 threat to health or safety;

4 (ii) Any local requirement adopted by the city or county under
5 (b)(i) of this subsection is: Specifically authorized by RCW
6 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
7 specifically authorized by other state or federal law; or a seller or
8 landlord disclosure requirement pursuant to RCW 64.06.080; or

9 (iii) For a city or county using funds under subsection (1)(b) of
10 this section, the requirements of this subsection apply, except that
11 the date for such enactment under (b)(i) of this subsection is ninety
12 days after October 19, 2017.

13 (3) The report prepared under subsection (2)(a) of this section
14 must: (a) Include information necessary to determine compliance with
15 the requirements of subsection (2)(a) of this section; (b) identify
16 how revenues collected under RCW 82.46.035 were used by the city or
17 county during the prior two-year period; (c) identify how funds
18 authorized under subsection (1) of this section will be used during
19 the succeeding two-year period; and (d) identify what percentage of
20 funding for capital projects within the city or county is
21 attributable to revenues under RCW 82.46.035 compared to all other
22 sources of capital project funding. The city or county must prepare
23 and adopt the report as part of its regular, public budget process.

24 (4) For purposes of this section, "maintenance" means the use of
25 funds for labor and materials that will preserve, prevent the decline
26 of, or extend the useful life of a capital project. "Maintenance"
27 does not include labor or material costs for routine operations of a
28 capital project.

29 **Sec. 10.** RCW 82.45.010 and 2022 c 199 s 3 are each amended to
30 read as follows:

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

1 purchaser's direction, and title to the property is retained by the
2 vendor as security for the payment of the purchase price. The term
3 also includes the grant, assignment, quitclaim, sale, or transfer of
4 improvements constructed upon leased land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (o) A sale to a regional transit authority or public corporation
36 under RCW 81.112.320 under a sale/leaseback agreement under RCW
37 81.112.300.

38 (p) A transfer of real property, however effected, if it consists
39 of a mere change in identity or form of ownership of an entity where
40 there is no change in the beneficial ownership. These include

1 transfers to a corporation or partnership which is wholly owned by
2 the transferor and/or the transferor's spouse or domestic partner or
3 children of the transferor or the transferor's spouse or domestic
4 partner. However, if thereafter such transferee corporation or
5 partnership voluntarily transfers such real property, or such
6 transferor, spouse or domestic partner, or children of the transferor
7 or the transferor's spouse or domestic partner voluntarily transfer
8 stock in the transferee corporation or interest in the transferee
9 partnership capital, as the case may be, to other than (i) the
10 transferor and/or the transferor's spouse or domestic partner or
11 children of the transferor or the transferor's spouse or domestic
12 partner, (ii) a trust having the transferor and/or the transferor's
13 spouse or domestic partner or children of the transferor or the
14 transferor's spouse or domestic partner as the only beneficiaries at
15 the time of the transfer to the trust, or (iii) a corporation or
16 partnership wholly owned by the original transferor and/or the
17 transferor's spouse or domestic partner or children of the transferor
18 or the transferor's spouse or domestic partner, within three years of
19 the original transfer to which this exemption applies, and the tax on
20 the subsequent transfer has not been paid within (~~sixty~~) 60 days of
21 becoming due, excise taxes become due and payable on the original
22 transfer as otherwise provided by law.

23 (q) (i) A transfer that for federal income tax purposes does not
24 involve the recognition of gain or loss for entity formation,
25 liquidation or dissolution, and reorganization, including but not
26 limited to nonrecognition of gain or loss because of application of
27 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
28 revenue code of 1986, as amended.

29 (ii) However, the transfer described in (q) (i) of this subsection
30 cannot be preceded or followed within a (~~thirty-six~~) 36 month
31 period by another transfer or series of transfers, that, when
32 combined with the otherwise exempt transfer or transfers described in
33 (q) (i) of this subsection, results in the transfer of a controlling
34 interest in the entity for valuable consideration, and in which one
35 or more persons previously holding a controlling interest in the
36 entity receive cash or property in exchange for any interest the
37 person or persons acting in concert hold in the entity. This
38 subsection (3) (q) (ii) does not apply to that part of the transfer
39 involving property received that is the real property interest that
40 the person or persons originally contributed to the entity or when

1 one or more persons who did not contribute real property or belong to
2 the entity at a time when real property was purchased receive cash or
3 personal property in exchange for that person or persons' interest in
4 the entity. The real estate excise tax under this subsection
5 (3)(q)(ii) is imposed upon the person or persons who previously held
6 a controlling interest in the entity.

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

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

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

23 (iii) This subsection (3)(s) does not apply to transfers of a
24 qualified low-income housing development or controlling interest in a
25 qualified low-income housing development occurring on or after July
26 1, 2035.

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

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

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

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

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

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

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

35 (iii) A "qualified entity" is:

36 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
37 of the federal internal revenue code of 1986, as amended, as of June
38 7, 2018, or a subsidiary under the same taxpayer identification
39 number that provides residential supported living for persons with
40 developmental disabilities; or

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

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

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

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

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

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

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

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

1 requirements described in (v)(i)(A), (B), or (C) of this subsection
2 and must also certify, by affidavit at the time of sale or transfer,
3 that it intends to comply with those requirements.

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

6 (I) The qualifying grantee must receive or qualify the property
7 for a tax exemption under RCW 84.36.560, 84.36.049,
8 35.82.210, 35.21.755, or 84.36.010; and

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

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

12 (I) The qualifying grantee must receive or qualify the property
13 for a tax exemption under RCW 84.36.560, 84.36.049,
14 35.82.210, 35.21.755, or 84.36.010; and

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

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

19 (I) The qualifying grantee must receive or qualify the property
20 for a tax exemption under RCW 84.36.560, 84.36.049,
21 35.82.210, 35.21.755, or 84.36.010; and

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

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

29 (iii) If a qualifying grantee transfers the property to a
30 different qualifying grantee within the original timelines described
31 in (v)(i)(A), (B), or (C) of this subsection, neither the original
32 qualifying grantee nor the new qualifying grantee is required to pay
33 the tax, so long as the new qualifying grantee satisfies the
34 requirements as described in (v)(i)(A), (B), or (C) of this
35 subsection within the exemption period of the initial transfer. If
36 the new qualifying grantee fails to satisfy the requirements
37 described in (v)(i)(A), (B), or (C) of this subsection, only the new
38 qualifying grantee is liable for the payment of taxes required by
39 (v)(ii) of this subsection. There is no limit on the number of
40 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 (w)(i) The sale of qualified space in a development that
10 qualifies for a property tax exemption under RCW
11 84.36.560, 84.36.049, 35.82.210, 35.21.755, or 84.36.010 to a
12 nonprofit organization, a housing authority, or public corporation
13 for use for an exempt community purpose.

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

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

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

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

25 (D) "Qualified space" means any portion of an affordable housing
26 development that is accessible to tenants or the public that
27 constitutes a separate legal parcel of property under chapter 64.32,
28 64.34, or 64.90 RCW.

29 (E) "Nonprofit organization" means an organization exempt from
30 taxation under section 501(c)(3) of the internal revenue code of 1986
31 (26 U.S.C. Sec. 501(c)(3)), as amended.

32 **Sec. 11.** RCW 82.45.010 and 2022 c 199 s 4 are each amended to
33 read as follows:

34 (1) As used in this chapter, the term "sale" has its ordinary
35 meaning and includes any conveyance, grant, assignment, quitclaim, or
36 transfer of the ownership of or title to real property, including
37 standing timber, or any estate or interest therein for a valuable
38 consideration, and any contract for such conveyance, grant,
39 assignment, quitclaim, or transfer, and any lease with an option to

1 purchase real property, including standing timber, or any estate or
2 interest therein or other contract under which possession of the
3 property is given to the purchaser, or any other person at the
4 purchaser's direction, and title to the property is retained by the
5 vendor as security for the payment of the purchase price. The term
6 also includes the grant, assignment, quitclaim, sale, or transfer of
7 improvements constructed upon leased land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (o) A sale to a regional transit authority or public corporation
2 under RCW 81.112.320 under a sale/leaseback agreement under RCW
3 81.112.300.

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

29 (q) (i) A transfer that for federal income tax purposes does not
30 involve the recognition of gain or loss for entity formation,
31 liquidation or dissolution, and reorganization, including but not
32 limited to nonrecognition of gain or loss because of application of
33 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
34 revenue code of 1986, as amended.

35 (ii) However, the transfer described in (q) (i) of this subsection
36 cannot be preceded or followed within a (~~thirty-six~~) 36 month
37 period by another transfer or series of transfers, that, when
38 combined with the otherwise exempt transfer or transfers described in
39 (q) (i) of this subsection, results in the transfer of a controlling
40 interest in the entity for valuable consideration, and in which one

1 or more persons previously holding a controlling interest in the
2 entity receive cash or property in exchange for any interest the
3 person or persons acting in concert hold in the entity. This
4 subsection (3)(q)(ii) does not apply to that part of the transfer
5 involving property received that is the real property interest that
6 the person or persons originally contributed to the entity or when
7 one or more persons who did not contribute real property or belong to
8 the entity at a time when real property was purchased receive cash or
9 personal property in exchange for that person or persons' interest in
10 the entity. The real estate excise tax under this subsection
11 (3)(q)(ii) is imposed upon the person or persons who previously held
12 a controlling interest in the entity.

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

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

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

30 (iii) This subsection (3)(s) does not apply to transfers of a
31 qualified low-income housing development or controlling interest in a
32 qualified low-income housing development occurring on or after July
33 1, 2035.

34 (iv) The Washington state housing finance commission, in
35 consultation with the department, must gather data on: (A) The fiscal
36 savings, if any, accruing to transferees as a result of the exemption
37 provided in this subsection (3)(s); (B) the extent to which
38 transferors of qualified low-income housing developments receive
39 consideration, including any assumption of debt, as part of a
40 transfer subject to the exemption provided in this subsection (3)(s);

1 and (C) the continued use of the property for low-income housing. The
2 Washington state housing finance commission must provide this
3 information to the joint legislative audit and review committee. The
4 committee must conduct a review of the tax preference created under
5 this subsection (3)(s) in calendar year 2033, as required under
6 chapter 43.136 RCW.

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

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

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

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

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

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

1 (iii) A "qualified entity" is:

2 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
3 of the federal internal revenue code of 1986, as amended, as of June
4 7, 2018, or a subsidiary under the same taxpayer identification
5 number that provides residential supported living for persons with
6 developmental disabilities; or

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

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

13 (u)(i) A sale or transfer of real property to a qualifying
14 grantee that uses the property for housing for low-income persons and
15 receives or otherwise qualifies the property for an exemption from
16 real and personal property taxes under RCW 84.36.560, 84.36.049,
17 35.82.210, 35.21.755, or 84.36.010. For purposes of this subsection
18 (3)(u), "qualifying grantee" means a nonprofit entity as defined in
19 RCW 84.36.560, a nonprofit entity or qualified cooperative
20 association as defined in RCW 84.36.049, a housing authority created
21 under RCW 35.82.030 or 35.82.300, a public corporation established
22 under RCW 35.21.660 or 35.21.730, or a county or municipal
23 corporation. A qualifying grantee that is a county or municipal
24 corporation must record a covenant at the time of transfer that
25 prohibits using the property for any purpose other than for low-
26 income housing for a period of at least 10 years. At a minimum, the
27 covenant must address price restrictions and household income limits
28 for the low-income housing. A qualifying grantee must comply with the
29 requirements described in (u)(i)(A), (B), or (C) of this subsection
30 and must also certify, by affidavit at the time of sale or transfer,
31 that it intends to comply with those requirements.

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

34 (I) The qualifying grantee must receive or qualify the property
35 for a tax exemption under RCW 84.36.560, 84.36.049,
36 35.82.210, 35.21.755, or 84.36.010; and

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

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

1 (I) The qualifying grantee must receive or qualify the property
2 for a tax exemption under RCW 84.36.560, 84.36.049,
3 35.82.210, 35.21.755, or 84.36.010; and

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

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

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

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

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

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

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

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

1 (v) (i) The sale of qualified space in a development that
2 qualifies for a property tax exemption under RCW
3 84.36.560, 84.36.049, 35.82.210, 35.21.755, or 84.36.010 to a
4 nonprofit organization, a housing authority, or public corporation
5 for use for an exempt community purpose.

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

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

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

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

17 (D) "Qualified space" means any portion of an affordable housing
18 development that is accessible to tenants or the public that
19 constitutes a separate legal parcel of property under chapter 64.32,
20 64.34, or 64.90 RCW.

21 (E) "Nonprofit organization" means an organization exempt from
22 taxation under section 501(c)(3) of the internal revenue code of 1986
23 (26 U.S.C. Sec. 501(c)(3)), as amended.

24 **Sec. 12.** RCW 43.185.030 and 2016 sp.s. c 36 s 936 are each
25 amended to read as follows:

26 (1) There is hereby created in the state treasury an account to
27 be known as the Washington housing trust fund. The housing trust fund
28 shall include revenue from the sources established by this chapter,
29 appropriations by the legislature, private contributions, repayment
30 of loans, and all other sources. During the 2015-2017 fiscal
31 biennium, the legislature may transfer from the Washington housing
32 trust fund to the home security fund account and to the state general
33 fund such amounts as reflect the excess balance in the fund.

34 (2) Beginning with fiscal year 2026, at least \$5,000,000 per
35 fiscal year of the real estate excise tax revenues deposited into the
36 Washington housing trust fund pursuant to RCW 82.45.230 must be used
37 solely for facilities housing low-income migrant, seasonal, or
38 temporary farmworkers.

1 NEW SECTION. **Sec. 13.** This act may be known and cited as the
2 affordable homes act.

3 NEW SECTION. **Sec. 14.** RCW 82.32.805 and 82.32.808 do not apply
4 to this act.

5 NEW SECTION. **Sec. 15.** Sections 2 through 4 of this act take
6 effect January 1, 2025.

7 NEW SECTION. **Sec. 16.** Sections 5 through 10 of this act take
8 effect January 1, 2024.

9 NEW SECTION. **Sec. 17.** Section 10 of this act expires January 1,
10 2030.

11 NEW SECTION. **Sec. 18.** Section 11 of this act takes effect
12 January 1, 2030.

--- END ---