
SECOND SUBSTITUTE HOUSE BILL 2799

State of Washington

64th Legislature

2016 Regular Session

By House Finance (originally sponsored by Representatives McBride, Robinson, Zeiger, Ormsby, Gregerson, Orwall, Goodman, Tharinger, Tarleton, and Appleton)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to the sale of manufactured/mobile home
2 communities; amending RCW 59.20.030 and 82.45.010; adding new
3 sections to chapter 59.20 RCW; creating a new section; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) It is the policy of this state to encourage affordable
8 housing ownership, including manufactured/mobile home community
9 living.

10 (b) Manufactured/mobile home communities provide a significant
11 source of homeownership opportunities for Washington residents.
12 However, the increasing closure and conversion of manufactured/mobile
13 home communities to other uses, combined with increasing
14 manufactured/mobile home lot rents, low vacancy rates in existing
15 manufactured/mobile home communities, and the extremely high cost of
16 moving homes when manufactured/mobile home communities close,
17 increasingly make manufactured/mobile home community living insecure
18 for manufactured/mobile home tenants.

19 (c) Many tenants who reside in manufactured/mobile home
20 communities are part of low-income households and senior citizens and
21 are, therefore, those residents most in need of reasonable security

1 in the siting of their manufactured/mobile homes because such tenants
2 experience adverse impacts on their health, safety, and welfare when
3 forced to move due to closure, change of use, or discontinuance of
4 manufactured/mobile home communities.

5 (2) It is the intent of the legislature to encourage and
6 facilitate the preservation of existing manufactured/mobile home
7 communities in the event of voluntary sales of manufactured/mobile
8 home communities and, to the extent necessary and possible, to
9 involve manufactured/mobile home community tenants or an eligible
10 organization, such as a nonprofit organization, housing authority,
11 community land trust, or local government, in the preservation of
12 manufactured/mobile home communities.

13 (3) This subsection is the tax preference performance statement
14 for the tax preference in section 7 of this act. The performance
15 statement is only intended to be used for subsequent evaluation of
16 the tax preference. It is not intended to create a private right of
17 action by any party or be used to determine eligibility for
18 preferential tax treatment.

19 (4) The legislature categorizes this tax preference as one
20 intended to provide individual tax relief, as indicated in RCW
21 82.32.808(2)(e).

22 (5) It is the legislature's specific public policy objective to
23 extend the real estate excise tax exemption for qualified sales of a
24 manufactured/mobile home community.

25 (6) The joint legislative audit and review committee is not
26 required to assess the effectiveness of the tax preference in section
27 7, in achieving the intent and specific public policy objective
28 stated in this section.

29 **Sec. 2.** RCW 59.20.030 and 2008 c 116 s 2 are each amended to
30 read as follows:

31 For purposes of this chapter:

32 (1) "Abandoned" as it relates to a mobile home, manufactured
33 home, or park model owned by a tenant in a mobile home park, mobile
34 home park cooperative, or mobile home park subdivision or tenancy in
35 a mobile home lot means the tenant has defaulted in rent and by
36 absence and by words or actions reasonably indicates the intention
37 not to continue tenancy;

38 (2) "Eligible organization" includes local governments, local
39 housing authorities, nonprofit community or neighborhood-based

1 organizations, federally recognized Indian tribes in the state of
2 Washington, and regional or statewide nonprofit housing assistance
3 organizations;

4 (3) "Housing authority" or "authority" means any of the public
5 body corporate and politic created in RCW 35.82.030;

6 (4) "Landlord" means the owner of a mobile home park and includes
7 the agents of a landlord;

8 (5) "Local government" means a town government, city government,
9 code city government, or county government in the state of
10 Washington;

11 (6) "Manufactured home" means a single-family dwelling built
12 according to the United States department of housing and urban
13 development manufactured home construction and safety standards act,
14 which is a national preemptive building code. A manufactured home
15 also: (a) Includes plumbing, heating, air conditioning, and
16 electrical systems; (b) is built on a permanent chassis; and (c) can
17 be transported in one or more sections with each section at least
18 eight feet wide and forty feet long when transported, or when
19 installed on the site is three hundred twenty square feet or greater;

20 (7) "Manufactured/mobile home" means either a manufactured home
21 or a mobile home;

22 (8) "Mobile home" means a factory-built dwelling built prior to
23 June 15, 1976, to standards other than the United States department
24 of housing and urban development code, and acceptable under
25 applicable state codes in effect at the time of construction or
26 introduction of the home into the state. Mobile homes have not been
27 built since the introduction of the United States department of
28 housing and urban development manufactured home construction and
29 safety act;

30 (9) "Mobile home lot" means a portion of a mobile home park or
31 manufactured housing community designated as the location of one
32 mobile home, manufactured home, or park model and its accessory
33 buildings, and intended for the exclusive use as a primary residence
34 by the occupants of that mobile home, manufactured home, or park
35 model;

36 (10) "Mobile home park," "manufactured housing community," or
37 "manufactured/mobile home community" means any real property which is
38 rented or held out for rent to others for the placement of two or
39 more mobile homes, manufactured homes, or park models for the primary
40 purpose of production of income, except where such real property is

1 rented or held out for rent for seasonal recreational purpose only
2 and is not intended for year-round occupancy;

3 (11) "Mobile home park cooperative" or "manufactured housing
4 cooperative" means real property consisting of common areas and two
5 or more lots held out for placement of mobile homes, manufactured
6 homes, or park models in which both the individual lots and the
7 common areas are owned by an association of shareholders which leases
8 or otherwise extends the right to occupy individual lots to its own
9 members;

10 (12) "Mobile home park subdivision" or "manufactured housing
11 subdivision" means real property, whether it is called a subdivision,
12 condominium, or planned unit development, consisting of common areas
13 and two or more lots held for placement of mobile homes, manufactured
14 homes, or park models in which there is private ownership of the
15 individual lots and common, undivided ownership of the common areas
16 by owners of the individual lots;

17 (13) "Notice of sale" means a notice required under RCW 59.20.300
18 to be delivered to all tenants of a manufactured/mobile home
19 community and other specified parties within fourteen days after the
20 date on which any advertisement, multiple listing, or public notice
21 advertises that a manufactured/mobile home community is for sale;

22 (14) "Park model" means a recreational vehicle intended for
23 permanent or semi-permanent installation and is used as a primary
24 residence;

25 (15) "Qualified sale of manufactured/mobile home community" means
26 the sale, as defined in RCW 82.45.010, of land and improvements
27 comprising a manufactured/mobile home community that is transferred
28 in a single purchase to a qualified tenant organization or to an
29 eligible organization for the purpose of preserving the property as a
30 manufactured/mobile home community;

31 (16) "Qualified tenant organization" means a formal organization
32 of tenants within a manufactured/mobile home community, with the only
33 requirement for membership consisting of being a tenant;

34 (17) "Recreational vehicle" means a travel trailer, motor home,
35 truck camper, or camping trailer that is primarily designed and used
36 as temporary living quarters, is either self-propelled or mounted on
37 or drawn by another vehicle, is transient, is not occupied as a
38 primary residence, and is not immobilized or permanently affixed to a
39 mobile home lot;

1 (18) "Tenant" means any person, except a transient, who rents a
2 mobile home lot;

3 (19) "Transient" means a person who rents a mobile home lot for a
4 period of less than one month for purposes other than as a primary
5 residence;

6 (20) "Occupant" means any person, including a live-in care
7 provider, other than a tenant, who occupies a mobile home,
8 manufactured home, or park model and mobile home lot;

9 (21) "Notice of opportunity to purchase" means a notice required
10 under section 3 of this act to be delivered to all specified parties
11 within two days after the date on which a landlord receives any offer
12 to purchase his or her manufactured/mobile home community.

13 NEW SECTION. Sec. 3. A new section is added to chapter 59.20
14 RCW to read as follows:

15 (1) A landlord must provide a written notice of opportunity to
16 purchase a manufactured/mobile home community by certified mail or
17 personal delivery to all eligible organizations on the list
18 maintained by the department of commerce pursuant to section 5 of
19 this act.

20 (2) A notice of opportunity to purchase must include:

21 (a) A statement that the landlord intends to sell the
22 manufactured/mobile home community;

23 (b) The contact information for the landlord or landlord's agent
24 who is responsible for communicating with the qualified tenant
25 organization or eligible organization regarding the sale of the
26 property; and

27 (c) The terms of any offer or agreement for the purchase and sale
28 of the manufactured/mobile home community, including the terms of any
29 seller financing.

30 NEW SECTION. Sec. 4. A new section is added to chapter 59.20
31 RCW to read as follows:

32 (1) Except as provided in subsection (2) of this section, a
33 landlord may not close on the sale of his or her manufactured/mobile
34 home community until ninety days after the date on which the notice
35 of opportunity to purchase was delivered.

36 (2) During the period of ninety days after delivery of a notice
37 of opportunity to purchase, a landlord may sell his or her

1 manufactured/mobile home community to either a qualified tenant
2 organization or an eligible organization.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.20
4 RCW to read as follows:

5 (1) The department of commerce must maintain a list of all
6 eligible organizations that submit to the department of commerce a
7 written request to receive notices of opportunity to purchase
8 manufactured/mobile home communities, as provided in section 3 of
9 this act, containing the following information:

10 (a) The name and mailing address of the eligible organization;
11 and

12 (b) A statement that the eligible organization wishes to purchase
13 a manufactured/mobile home community.

14 (2) The department of commerce must provide a copy of the list
15 required under this section to any person upon request.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 59.20
17 RCW to read as follows:

18 (1) A landlord who sells or transfers a manufactured/mobile home
19 community and willfully fails to comply with section 3 or 4 of this
20 act is liable to the state of Washington in the amount of five
21 thousand dollars or five percent of the total sales price, whichever
22 is greater. This penalty is the exclusive remedy for a violation of
23 section 3 or 4 of this act.

24 (2) The attorney general may bring a civil action in superior
25 court in the name of the state against a landlord under this section.

26 **Sec. 7.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to
27 read as follows:

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

1 vendor as security for the payment of the purchase price. The term
2 also includes the grant, assignment, quitclaim, sale, or transfer of
3 improvements constructed upon leased land.

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

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

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

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

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

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

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

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

38 (c) A transfer of any leasehold interest other than of the type
39 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 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 twelve-month period by
31 another transfer or series of transfers, that, when combined with the
32 otherwise exempt transfer or transfers described in (q)(i) of this
33 subsection, results in the transfer of a controlling interest in the
34 entity for valuable consideration, and in which one or more persons
35 previously holding a controlling interest in the entity receive cash
36 or property in exchange for any interest the person or persons acting
37 in concert hold in the entity. This subsection (3)(q)(ii) does not
38 apply to that part of the transfer involving property received that
39 is the real property interest that the person or persons originally
40 contributed to the entity or when one or more persons who did not

1 contribute real property or belong to the entity at a time when real
2 property was purchased receive cash or personal property in exchange
3 for that person or persons' interest in the entity. The real estate
4 excise tax under this subsection (3)(q)(ii) is imposed upon the
5 person or persons who previously held a controlling interest in the
6 entity.

7 (r) A qualified sale of a manufactured/mobile home community, as
8 defined in RCW 59.20.030, that takes place on or after June 12, 2008,
9 but before December 31, (~~2018~~) 2026.

10 NEW SECTION. **Sec. 8.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

--- END ---