

Limit REET foreclosure exemption

Description This proposal would require that real estate excise tax (REET) be paid if one of the following is met:

- A lender or creditor receives property through a foreclosure proceeding or by enforcing a judgment.
- Property is sold at a foreclosure or sheriff’s auction.
- Property is transferred by order of the court in a foreclosure or a judgment enforcement proceeding.

The following would remain exempt:

- Transfers to a lender or creditor to avoid the foreclosure process (“deed in lieu of foreclosure”).
 - If the selling price is greater than the lien or security interest on the property, transfers by sale at a foreclosure or sheriff’s auction.
 - Transfers to the United States, or to this state or its instrumentalities, as the lender or creditor, in a foreclosure proceeding or by enforcing a judgment.
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Current Law The REET is imposed on each sale of real property, including transfers of ownership and transfers of controlling interests in entities that own property in the state. Real property includes any interest in land or anything affixed to land. The state tax rate is 1.28%. Additional local rates are allowed. The combined state and local rate in most areas is 1.78%.

The REET does not apply to transfers made in foreclosure proceedings or through enforcement of a judgment, including foreclosures that occur through auction without court oversight. (RCW 82.45.010(3j)). REET also does not apply to a deed given in lieu of foreclosure to satisfy a mortgage or deed of trust.

Original Purpose and Current Analysis To exclude the transfer of real property through foreclosure from the definition of a taxable “sale” for REET purposes.

Citizen Commission Recommendation The Joint Legislative Audit & Review Committee reviewed RCW 82.45.010(3) in 2011 and recommended the preference be continued. The Citizen Commission endorsed the recommendation without comment.

**Revenue
Impact**

State Impacts (\$ millions)

# of Impacted Taxpayers	FY 2016	FY 2017	2015-17 Biennium	FY 2018	FY 2019	2017-19 Biennium
4,700	\$0	\$34.4	\$34.4	\$35.7	\$36.6	\$72.3

- *Estimates assume a July 1, 2016, effective date with 12 months of collections for FY 2017.*
 - *Estimates reflect the November 2015 Economic and Revenue Forecast Council revenue forecast.*
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