
SUBSTITUTE SENATE BILL 6074

State of Washington

65th Legislature

2018 Regular Session

By Senate Local Government (originally sponsored by Senator Takko)

1 AN ACT Relating to recording documents related to the inheritance
2 exemption for the real estate excise tax; and amending RCW 82.45.197.

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

4 **Sec. 1.** RCW 82.45.197 and 2016 c 174 s 2 are each amended to
5 read as follows:

6 (1) In order to receive an exemption under RCW 82.45.010(3)(a)
7 from the tax in this chapter on real property transferred as a result
8 of a devise by will or inheritance, the following documentation must
9 be provided to the county treasurer:

10 (a) If the property is being transferred under the terms of a
11 community property agreement, a copy of the recorded agreement and a
12 certified copy of the death certificate;

13 (b) If the property is being transferred under the terms of a
14 trust instrument, a certified copy of the death certificate and a
15 copy of that portion of the trust instrument showing the authority of
16 the grantor;

17 (c) If the property is being transferred under the terms of a
18 probated will, a certified copy of the letters testamentary or in the
19 case of intestate administration, a certified copy of the letters of
20 administration showing that the grantor is the court-appointed
21 executor, executrix, or administrator;

1 (d) In the case of joint tenants with right of survivorship and
2 remainder interests, a certified copy of the death certificate;

3 (e) If the property is being transferred pursuant to a court
4 order, a certified copy of the court order requiring the transfer,
5 and confirming that the grantor is required to do so under the terms
6 of the order;

7 (f) If the community property interest of the decedent is being
8 transferred to a surviving spouse or surviving domestic partner
9 absent the documentation set forth in (a) through (e) of this
10 subsection, a certified copy of the death certificate and a signed
11 lack of probate affidavit from the surviving spouse or surviving
12 domestic partner affirming that he or she is the sole and rightful
13 heir to the property;

14 (g) If the real property is transferred to one or more heirs by
15 operation of law, or transferred under a will that has not been
16 probated, but absent the documentation set forth in (a) through (e)
17 of this subsection, a certified copy of the death certificate and a
18 signed lack of probate affidavit affirming that the affiant or
19 affiants are the sole and rightful heirs to the property;

20 (h) When real property is transferred as described in (g) of this
21 subsection (1) and the decedent-transferor had also inherited the
22 property from his or her spouse or domestic partner but never
23 transferred title to the property into the decedent-transferor's
24 name, the transferee or transferees must provide: (i) A certified
25 copy of the death certificates for the decedent-transferor and the
26 spouse or domestic partner from whom the decedent-transferor
27 inherited the real property; and (ii) a lack of probate affidavit
28 affirming that the affiant or affiants are the rightful heirs to the
29 property; or

30 (i) If the property is being transferred pursuant to a transfer
31 on death deed, a certified copy of the death certificate.

32 (2) The documentation provided to the county treasurer under this
33 section must also be recorded with the county auditor, except that
34 documents listed in subsection (1)(c) of this section and copies of
35 other documents previously recorded and provided to the county
36 treasurer under this section are not subject to this requirement.

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

39 (a) "Heir" has the same meaning as provided in RCW 11.02.005;

1 (b) "Lack of probate affidavit" means a signed and notarized
2 document declaring that the affiant or affiants are the rightful heir
3 or heirs to the property and containing the following information:
4 (i) The names of the affiant or affiants;
5 (ii) The relationship of the affiant or affiants to the decedent;
6 (iii) The names of all other heirs of the decedent living at the
7 time of the decedent's death;
8 (iv) A description of the real property;
9 (v) Whether the decedent left a will that includes a devise of
10 real property; and
11 (vi) Any other information the department may require.

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