

ORDINANCE NO. 1076

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, ADDING A NEW CHAPTER 3.30, EXCISE TAX ON REAL PROPERTY, TO THE REDMOND MUNICIPAL CODE; IMPOSING A ONE QUARTER PERCENT EXCISE TAX ON REAL ESTATE SALES AS AUTHORIZED BY SECTION 11(1), CHAPTER 49, FIRST EX. SESS., LAWS OF 1982; PROVIDING FOR THE USE OF SUCH REVENUE; ESTABLISHING A LOCAL CAPITAL IMPROVEMENTS FUND; SPECIFYING A DATE OF IMPOSITION AND AN EFFECTIVE DATE; CREATING A LIEN ON SUBJECT PROPERTY; PRESCRIBING PROCEDURES FOR COLLECTION, FORFEITURE AND REFUND; AND ADOPTING CHAPTER 82.45 RCW BY REFERENCE.

WHEREAS, the state legislature passed and the Governor signed Engrossed Senate Bill 4972, Chapter 49, 1st Ex. Sess., Laws of 1982, providing for the imposition of an excise tax on real estate sales at a rate of one quarter of one percent of the selling price of such real estate, and

WHEREAS, Section 13(2) of the same 1982 act limits the use of all revenue generated by such tax to municipal capital improvement, and

WHEREAS, the City Council finds that it would be in the best interests of the City of Redmond to impose the tax authorized by the state legislature, now, therefore,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON,
DO ORDAIN AS FOLLOWS:

Section 1. There is hereby added to the Redmond Municipal Code a new Chapter 3.30 to be entitled "Excise Tax on Real Estate Sales" to read as follows:

3.30.010 One Quarter Percent Excise Tax on Real Estate Sales

A. Imposition

There is imposed an excise tax on each sale of real property constituting a taxable event as defined in Chapter 82.45 RCW and occurring within the corporate limits of the City of Redmond. The tax imposed under this section shall be collected from persons who are taxable by the State under Chapter 82.45 RCW and such tax shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the State under Chapter 82.45 RCW.

B. Rate of Tax

The rate of tax imposed by Section 3.30.010A shall be one quarter of one percent of the selling price of all real property upon which this tax is imposed by subsection A.

C. Use of Proceeds

All proceeds from the tax imposed by this section shall be placed by the City Treasurer/Comptroller in a capital improvement fund and shall be used for capital improvements, including those listed in RCW 35.43.040. This section shall not limit the existing authority of this city to impose special assessments on property benefited thereby in the manner prescribed by law.

3.30.020 County To Collect - Payment

The county treasurer shall place one percent of the proceeds of the taxes imposed herein in the county current expense fund to defray costs of collection. The remaining proceeds from city taxes imposed herein shall be distributed to the city monthly.

3.30.030 Tax Is Obligation of Seller.

The taxes imposed herein are the obligation of the seller and may be enforced through the action of debt against the seller or in the manner prescribed for the foreclosure of mortgages.

3.30.040 Tax Lien On Real Property

The taxes imposed herein and any interest or penalties thereon are the specific lien upon each piece of real property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other.

3.30.050 Duties of County Treasurer

The taxes imposed herein shall be paid to and collected by the treasurer of the county within which is located the real property which was sold. The county treasurer shall act as agent for the city within the county imposing the tax. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed herein shall be evidence of the satisfaction of the lien imposed in Section 3.30.040 of this chapter and may be recorded in the manner prescribed for recording satisfactions or mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the county auditor for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this fact is made on the instrument by the county treasurer.

3.30.060 Payment Due

The tax imposed hereunder shall become due and payable immediately at the time of sale and, if not so paid within thirty days thereafter, shall bear interest at the rate of one percent per month from the time of sale until the date of payment.

3.30.070 Refunds

If, upon written application by a taxpayer to the county treasurer for a refund, it appears a tax has been paid in excess of the amount actually due or upon a sale or other transfer declared to be exempt, such excess amount or improper payment shall be refunded by the county treasurer to the taxpayer: provided, that no refund shall be made unless the state has first authorized the refund of an excessive amount or an improper amount paid, unless such improper amount was paid as a result of a miscalculation. Any refund made shall be withheld from the next monthly distribution to the city.

3.30.080 Clerk To Notify Counties

The City Clerk is hereby directed to transmit a certified copy of this ordinance to the King County Department of Records immediately upon passage and further notifying that department of the effective date of this ordinance.

3.30.090 State Law Adopted By Reference

Chapter 82.45 RCW and any and all subsequent amendments to said statute are hereby adopted by this reference as if set forth in full herein. The City Clerk is hereby directed to maintain one copy of Chapter 82.45 as currently enacted or as subsequently amended on file for public use and examination during regular City business hours. Copies of said statute shall be attached to this ordinance and authenticated by the City Clerk.

3.30.100 Local Capital Improvements Fund

There is hereby created a special fund No. 124, known as "Local Capital Improvements Fund," into which shall be deposited all proceeds of the tax imposed by this chapter and distributed to the City of Redmond.

Section 3. If any section, sentence, clause, phrase or any provisions adopted by reference of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, phrase or any provisions adopted by reference of this ordinance.

Section 4. This ordinance shall be in full force and effect five (5) days after its passage and publication by posting as provided by law, provided, however, that the tax

herein established shall be imposed on sales of real property from and after the first day of August, 1982.

APPROVED:


MAYOR, CHRISTINE T. HIMES

ATTEST/AUTHENTICATED:


CITY CLERK, PAUL F. KUSAKABE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY



FILED WITH THE CITY CLERK:	July 14, 1982
PASSED BY THE CITY COUNCIL:	July 20, 1982
SIGNED BY THE MAYOR:	July 20, 1982
POSTED:	July 22, 1982
EFFECTIVE DATE:	July 27, 1982
TAX EFFECTIVE	August 1, 1982

Excise Tax on Real Estate Sales

82.45.010

- 82.45.120 Standards for reporting, application and collection of tax—Real estate excise tax affidavit form, contents, use.
- 82.45.150 Applicability of general administrative provisions—Departmental rules, scope—Departmental audit.
- 82.45.180 Disposition of proceeds—Support of common schools.

Purpose—1980 c 154: "It is the intent of this 1980 act to simplify the bookkeeping procedures for the state treasurer's office and for the school districts but not to impact the amount of revenues covered by this 1980 act to the various counties and other taxing districts." [1980 c 154 § 16.]

Effective dates—1980 c 154: "Sections 17, 18, and 19 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remainder of this act shall take effect on September 1, 1981." [1980 c 154 § 20.] Sections 17, 18 and 19, respectively, of 1980 c 154 are amendments of RCW 28A.47.073 and 28A.47.801 and an appropriation section, which being of a temporary nature, is not codified; for RCW disposition of remaining sections see footnotes below.

Savings—Disposition of certain funds—1980 c 154: "This 1980 act shall not be construed as invalidating, abating, or otherwise affecting any existing right acquired or any liability or obligation incurred under the provisions of the statutes amended or repealed, nor any process, proceeding, or judgment involving the assessment of any property or the levy or collection of any tax thereunder, nor the validity of any certificate of delinquency, tax deed or other instrument of sale or other proceeding thereunder, nor any criminal or civil proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder. Funds received by the county treasurer as payment of a tax liability incurred under a statute repealed by this 1980 act shall be paid and accounted for as provided in section 6 of this 1980 act." [1980 c 154 § 15.] Section 6 of this 1980 act is codified as RCW 82.45.180; sections amended by 1980 c 154 are RCW 28A.41.130, 28A.45.020 (recodified as 82.45.020), 28A.45.060 (recodified as 82.45.060), 28A.45.080 (recodified as 82.45.080), 28A.45.090 (recodified as 82.45.090), 28A.47.073, 28A.47.801, 36.33.110, 54.28.050, 54.28.090 and 76.12.120; and sections repealed by 1980 c 154 are RCW 28A.45.050 and 28A.45.100. Note in effective date section footnoted above that these amendments and repeals are not effective until September, 1981.

Severability—1980 c 154: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 154 § 21.]

The above annotations apply to RCW 28A.41.130, 28A.41.143, 28A.47.073, 28A.47.801, 36.33.110, 54.28.050, 54.28.090, 76.12.120, 82.45.020, 82.45.060, 82.45.080, 82.45.090, 82.45.150, 82.45.180, and the repeal of RCW 28A.45.050 and 28A.45.100; section 19 of 1980 c 154 was an appropriation section, temporary in nature, hence uncodified.

Chapter 82.45

EXCISE TAX ON REAL ESTATE SALES

Sections	
82.45.010	"Sale" defined.
82.45.020	"Seller" defined.
82.45.030	"Selling price" defined.
82.45.032	"Real estate", "used mobile home" and "mobile home" defined.
82.45.035	Determining selling price of leases with option to purchase—Mining property—Payment, security when selling price not separately stated.
82.45.060	Tax imposed on sale of property—Rate.
82.45.070	Tax is lien on property—Enforcement.
82.45.080	Tax is seller's obligation—Choice of remedies.
82.45.090	Payment of tax—Evidence of payment—Recording.
82.45.100	Tax payable at time of sale—Interest, penalty, on unpaid or delinquent taxes.
82.45.105	Single family residential property, tax credit when subsequent transfer of within nine months for like property.

82.45.010 "Sale" defined. As used in this chapter, the term "sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his direction, which title is retained by the vendor as security for the payment of the purchase price.

The term shall not include a transfer by gift, devise, or inheritance, a transfer of any leasehold interest other than of the type mentioned above, a cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a

forfeiture clause, or deed in lieu of foreclosure of a mortgage or the assumption by a grantee of the balance owing on an obligation which is secured by a mortgage or deed in lieu of forfeiture of the vendee's interest in a contract of sale where no consideration passes otherwise or the partition of property by tenants in common by agreement or as the result of a court decree, any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in accordance with the terms of a decree of divorce or in fulfillment of a property settlement agreement incident thereto, the assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved, transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation, a mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof, any transfer or conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage, a conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration, nor a transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed, nor the sale of any grave or lot in an established cemetery, nor a sale by or to the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

The term sale shall further not include a transfer to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or children: *Provided*, That if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse, or children voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than (1) the transferor and/or the transferor's spouse or children, (2) a trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of the transfer to the trust, or (3) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within five years of the original transfer to which this exemption applies, excise taxes shall become due and payable on the original transfer as otherwise provided by law. [1981 c 93 § 1; 1970 ex.s. c 65 § 1; 1969 ex.s. c 223 § 28A.45.010. Prior: 1955 c 132 § 1; 1953 c 94 § 1; 1951 2nd ex.s. c 19 § 1; 1951 1st ex.s. c 11 § 7. Formerly RCW 28A.45.010, 28.45.010.]

Recodification directed—1981 c 148; 1981 c 93: "Chapter 28A.45 RCW, as amended, repealed, and added to by chapter 134, Laws of 1980 and chapter 154, Laws of 1980 and as amended, repealed, and added to by any other enactment during a regular or extraordinary session of this forty-seventh legislature, is hereby added to and shall be recodified as chapter 82.45 RCW.

References to chapter 28A.45 RCW and its sections shall be considered references to chapter 82.45 RCW and its sections, and the code reviser shall change references to chapter 28A.45 RCW and its sections to refer to chapter 82.45 RCW and its sections." [1981 c 148 § 13; 1981 c 93 § 2; 1980 c 154 § 14.] RCW 82.45.010, appeared in 1981 c 93 § 1 as an amendment to RCW 28A.45.010 which is recodified in accordance with this session law section.

Effective date—1981 c 93 § 2: "Section 2 of this act shall take effect September 1, 1981." [1981 c 93 § 3.] This applies to the recodification directive [1981 c 93 § 2] footnoted above.

Effective date—Severability—1970 ex.s. c 65: See notes following RCW 82.03.050.

82.45.020 "Seller" defined. As used in this chapter the term "seller," unless otherwise indicated by the context, shall mean any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, quasi municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; but it shall not include the United States or the state of Washington. [1980 c 154 § 1; 1969 ex.s. c 223 § 28A.45.020. Prior: 1951 1st ex.s. c 11 § 6. Formerly RCW 28A.45.020, 28.45.020.]

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

82.45.030 "Selling price" defined. As used in this chapter, the term "selling price" means the consideration, including money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or estate or interest in real property, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale.

The term shall not include the amount of any outstanding lien or incumbrance in favor of the United States, the state, or a municipal corporation for the taxes, special benefits, or improvements. [1969 ex.s. c 223 § 28A.45.030. Prior: 1951 2nd ex.s. c 19 § 2; 1951 1st ex.s. c 11 § 8. Formerly RCW 28A.45.030, 28.45.030.]

82.45.032 "Real estate", "used mobile home" and "mobile home" defined. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Real estate" means real property but includes used mobile homes.

(2) "Used mobile home" means a mobile home which has been previously sold at retail and the immediately preceding sale has already been subjected to tax under chapter 82.08 RCW, or which has been previously used and the immediately preceding use has already been subjected to tax under chapter 82.12 RCW, and which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a

foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.

(3) "Mobile home" means a mobile home as defined by RCW 46.04.302, as now or hereafter amended. [1979 ex.s. c 266 § 1. Formerly RCW 28A.45.032.]

82.45.035 Determining selling price of leases with option to purchase—Mining property—Payment, security when selling price not separately stated. The state department of revenue shall provide by rule for the determination of the selling price in the case of leases with option to purchase, and shall further provide that the tax shall not be payable, where inequity will otherwise result, until and unless the option is exercised and accepted. A conditional sale of mining property in which the buyer has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-buyer has the right to terminate the lease and option at any time, shall be taxable at the time of execution only on the consideration received by the seller or lessor for execution of such contract, but the rule shall further provide that the tax due on any additional consideration paid by the buyer and received by the seller shall be paid to the county treasurer (1) at the time of termination, or (2) at the time that all of the consideration due to the seller has been paid and the transaction is completed except for the delivery of the deed to the buyer, or (3) at the time when the buyer unequivocally exercises an option to purchase the property, whichever of the three events occurs first.

The term "mining property" means property containing or believed to contain metallic minerals and sold or leased under terms which require the purchaser or lessor to conduct exploration or mining work thereon and for no other use. The term "metallic minerals" does not include clays, coal, sand and gravel, peat, gypsite, or stone, including limestone.

The state department of revenue shall further provide by rule for cases where the selling price is not separately stated or is not ascertainable at the time of sale, for the payment of the tax at a time when the selling price is ascertained, in which case suitable security may be required for payment of the tax, and may further provide for the determination of the selling price by an appraisal by the county assessor, based on the full and true market value, which appraisal shall be prima facie evidence of the selling price of the real property. [1969 ex.s. c 223 § 28A.45.035. Prior: 1967 ex.s. c 149 § 1; 1959 c 208 § 1; 1951 2nd ex.s. c 19 § 3. Formerly RCW 28A.45.035, 28.45.035.]

82.45.060 Tax imposed on sale of property—Rate. There is imposed an excise tax upon each sale of real property at the rate of one percent of the selling price. [1980 c 154 § 2; 1969 ex.s. c 223 § 28A.45.060. Prior: 1951 1st ex.s. c 11 § 5. Formerly RCW 28A.45.060, 28.45.060.]

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

(1981 Ed.)

82.45.070 Tax is lien on property—Enforcement. The tax herein provided for and any interest or penalties thereon shall be a specific lien upon each piece of real property sold from the time of sale until the tax shall have been paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. [1969 ex.s. c 223 § 28A.45.070. Prior: 1951 1st ex.s. c 11 § 9. Formerly RCW 28A.45.070, 28.45.070.]

82.45.080 Tax is seller's obligation—Choice of remedies. The tax levied under this chapter shall be the obligation of the seller and the department of revenue may, at the department's option, enforce the obligation through an action of debt against the seller or the department may proceed in the manner prescribed for the foreclosure of mortgages and resort to one course of enforcement shall not be an election not to pursue the other. [1980 c 154 § 3; 1969 ex.s. c 223 § 28A.45.080. Prior: 1951 1st ex.s. c 11 § 10. Formerly RCW 28A.45.080, 28.45.080.]

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

82.45.090 Payment of tax—Evidence of payment—Recording. The tax imposed by this chapter shall be paid to and collected by the treasurer of the county within which is located the real property which was sold, said treasurer acting as agent for the state. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed under this chapter shall be evidence of the satisfaction of the lien imposed hereunder and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax shall be accepted by the county auditor for filing or recording until the tax shall have been paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be so accepted until suitable notation of such fact has been made on the instrument by the treasurer. [1980 c 154 § 4; 1979 ex.s. c 266 § 2; 1969 ex.s. c 223 § 28A.45.090. Prior: 1951 2nd ex.s. c 19 § 4; 1951 1st ex.s. c 11 § 11. Formerly RCW 28A.45.090, 28.45.090.]

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

Applicability of general administrative provisions—Departmental rules, scope—Departmental audit: RCW 82.45.150.

82.45.100 Tax payable at time of sale—Interest, penalty, on unpaid or delinquent taxes. (1) The tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within thirty days thereafter shall bear interest at the rate of one percent per month from the time of sale until the date of payment.

(2) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department shall assess against the taxpayer the additional amount found to be due plus interest as provided in subsection (1) of this section. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable under this chapter, a penalty of fifty percent of the additional tax found to be due shall be added. [1981 c 167 § 2.]

Effective date—1981 c 167: See note following RCW 82.45.150.

82.45.105 Single family residential property, tax credit when subsequent transfer of within nine months for like property. Where single family residential property is being transferred as the entire or part consideration for the purchase of other single family residential property and a licensed real estate broker or one of the parties to the transaction accepts transfer of said property, a credit for the amount of the tax paid at the time of the transfer to the broker or party shall be allowed toward the amount of the tax due upon a subsequent transfer of the property by the broker or party if said transfer is made within nine months of the transfer to the broker or party: *Provided*, That if the tax which would be due on the subsequent transfer from the broker or party is greater than the tax paid for the prior transfer to said broker or party the difference shall be paid, but if the tax initially paid is greater than the amount of the tax which would be due on the subsequent transfer no refund shall be allowed. [1969 ex.s. c 223 § 28A.45.105. Prior: 1967 ex.s. c 149 § 61. Formerly RCW 28A.45.105, 28.45.105.]

82.45.120 Standards for reporting, application and collection of tax—Real estate excise tax affidavit form, contents, use. The department of revenue is authorized and shall prescribe minimum standards for uniformity in reporting, application, and collection of the real estate excise tax imposed by this chapter.

The department of revenue shall also prescribe a real estate excise tax affidavit form which shall require the following:

- (1) Identification of the seller and purchaser;
- (2) Description of the property involved including the tax parcel or account number(s);
- (3) Date of sale, type of instrument of sale, nature of transfer;
- (4) Gross sales price;
- (5) Whether or not the land is classified or designated as forest land under chapter 84.33 RCW; or classified as open space land, farm and agricultural land, or timberland under chapter 84.34 RCW; or at the time of sale exempt from property tax under chapter 84.36 RCW;
- (6) Whether or not the property is land only, land with new building (new construction), or land with a previously used building; and
- (7) The following questions, the responses to which are not required:
 - (a) Is this property at the time of sale subject to an elderly, disability, or physical improvement exemption?

(b) Does any building have a heat pump or solar heating or cooling system?

(c) Does this transaction divide a current parcel of land?

(d) Does this transaction include current crops or merchantable timber?

(e) Does this transaction involve a trade, a partial interest, corporate affiliates, related parties, a trust, a receivership, or an estate?

(f) Is the grantee acting as a nominee for a third party?

(g) Is the principal use of the land agricultural, apartments (four or more units), commercial, condominium, industrial, mobile home site, recreational, residential, or growing timber?

The affidavit form shall contain a statement of the potential compensating and additional tax liability under chapters 84.33 and 84.34 RCW, a statement of the collection of taxes under RCW 84.36.262 and 84.36.810, and a statement of the applicable penalties for perjury under chapter 9A.72 RCW.

Each county shall use the affidavit form prescribed and furnished by the department of revenue.

The affidavit shall be signed by either the seller or the buyer, or the agent of either, under oath attesting to all required information. [1981 c 167 § 5; 1980 c 134 § 1; 1969 ex.s. c 223 § 28A.45.120. Prior: 1967 ex.s. c 149 § 3. Formerly RCW 28A.45.120, 28.45.120.]

Reviser's note: RCW 82.45.120 above, appeared in 1981 c 93 as an amendment to RCW 28A.45.120; see notes following RCW 82.45.010.

Effective date—1981 c 167: See note following RCW 82.45.150.

82.45.150 Applicability of general administrative provisions—Departmental rules, scope—Departmental audit. All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.040, 82.32.050, 82.32.140, and 82.32.270 and except for the penalties and the limitations thereon imposed by RCW 82.32.090, applies to the tax imposed by this chapter, in addition to any other provisions of law for the payment and enforcement of the tax imposed by this chapter. The department of revenue shall by rule provide for the effective administration of this chapter. The rules shall also include a manual which defines transactions which are taxable under this chapter. The department of revenue shall annually conduct audits of transactions and affidavits filed under this chapter. [1981 c 167 § 1; 1980 c 154 § 5.]

Effective date—1981 c 167: "This act shall take effect September 1, 1981." [1981 c 167 § 4.] This applies to RCW 82.45.100, 82.45.120, 82.45.150 and 82.45.180.

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

82.45.180 Disposition of proceeds—Support of common schools. The county treasurer shall place one percent of the proceeds of the tax imposed by this chapter in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department of revenue for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. The

state treasurer shall deposit the proceeds in the general fund for the support of the common schools. [1981 c 167 § 3; 1980 c 154 § 6.]

Effective date—1981 c 167: See note following RCW 82.45.150.

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

Does any building have a heat pump or other device?

Ch. 35 **FIRST EXTRAORDINARY SESSION**

**REVENUE AND TAXATION—TEMPORARY
ADDITIONAL TAX—PREFERENCES**

CHAPTER 35

SENATE BILL NO. 4250

[Material in ~~strikeout~~ vetoed]

An Act relating to revenue and taxation; amending section 5, chapter 91, Laws of 1947 as last amended by section 1, chapter 42, Laws of 1967 and RCW 41.16.050; amending section 3, chapter 261, Laws of 1945 as last amended by section 26, chapter 3, Laws of 1981 and RCW 41.24.030; amending section 14.02, chapter 79, Laws of 1947 as last amended by section 2, chapter 233, Laws of 1979 ex.sess. and RCW 48.14.020; amending section 2, chapter 278, Laws of 1957 as last amended by section 2, chapter 366, Laws of 1977 ex. sess. and RCW 54.28.020; amending section 6, chapter 366, Laws of 1977 ex. sess. and RCW 54.28.025; amending section 4, chapter 278, Laws of 1957 as amended by section 31, chapter 278, Laws of 1975 1st ex. sess. and RCW 54.28.040; amending section 5, chapter 278, Laws of 1957 as last amended by section 8, chapter 154, Laws of 1980 and RCW 54.28.050; amending section 7, chapter 366, Laws of 1977 ex. sess. as amended by section 165, chapter 151, Laws of 1979 and RCW 54.28.055; amending section 73, chapter 62, Laws of 1933 ex. sess. as amended by section 1, chapter 6, Laws of 1961 ex. sess. and RCW 66.08.170; amending section 24-A added to chapter 62, Laws of 1933 ex. sess. by section 3, chapter 158, Laws of 1935 as last amended by section 12, chapter 5, Laws of 1981 1st ex.sess. and RCW 66.24.210; amending section 24, chapter 62, Laws of 1933 ex. sess. as last amended by section 16, chapter 5, Laws of 1981 1st ex. sess. and RCW 66.24.290; amending section 3, chapter 130, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 324, Laws of 1977 ex. sess. and RCW 82.04.2901; amending section 82.08.020, chapter 15, Laws of 1961 as last amended by section 1, chapter 8, Laws of 1981 2nd ex. sess. and RCW 82.08.020; amending section 82.08.100, chapter 15, Laws of 1961 as amended by section 50, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.08.100; amending section 82.08.150, chapter 15, Laws of 1961 as last amended by section 25, chapter 5, Laws of 1981 1st ex. sess. and RCW 82.08.150; amending section 82.08.160, chapter 15, Laws of 1961 as last amended by section 26, chapter 5, Laws of 1981 1st ex. sess. and RCW 82.08.160; amending section 82.12.070, chapter 15, Laws of 1961 as amended by section 55, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.12.070; amending section 82.16.020, chapter 15, Laws of 1961 as last amended by section 12, chapter 299, Laws of 1971 ex. sess. and RCW 82.16.020; amending section 82.16.030, chapter 15, Laws of 1961 and RCW 82.16.030; amending section 82.20.010, chapter 15, Laws of 1961 and RCW 82.20.010; amending section 82.24.020, chapter 15, Laws of 1961 as last amended by section 6, chapter 172, Laws of 1981 and RCW 82.24.020; amending section 82.26.020, chapter 15, Laws of 1961 as last amended by section 71, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.26.020; amending section 2, chapter 98, Laws of 1980 and RCW 82.27.020; amending section 3, chapter 61, Laws of 1975-'76 2nd ex. sess. and RCW 82.29A.030; amending section 1, chapter 7, Laws of 1981 as amended by section 7, chapter 172, Laws of 1981 and RCW 82.32.045; amending section 82.44.020, chapter 15, Laws of 1961 as last amended by section 10, chapter 222, Laws of 1981 and RCW 82.44.020; amending section 82.44.110, chapter 15, Laws of 1961 as last amended by section 235, chapter 158, Laws of 1979 and RCW 82.44.110; amending section 1, chapter 87,

Ch. 35 FIRST EXTRAORDINARY SESSION

during the calendar quarter next preceding the immediately preceding quarter.

(6) At the close of each calendar year accounting period, but not later than April 1, each municipality that has received motor vehicle excise taxes under subsection (5) of this section shall transmit to the director of licensing and the state auditor a written report showing by source the previous year's budgeted tax revenues for public transportation purposes as compared to actual collections. Any municipality that has not submitted the report by April 1 shall cease to be eligible to receive motor vehicle excise taxes under subsection (5) of this section until the report is received by the director of licensing. If a municipality has received more or less money under subsection (5) of this section for the period covered by the report than it is entitled to receive by reason of its locally-generated collected tax revenues, the director of licensing shall, during the next ensuing quarter that the municipality is eligible to receive motor vehicle excise tax funds, increase or decrease the amount to be remitted in an amount equal to the difference between the locally-generated budgeted tax revenues and the locally-generated collected tax revenues. In no event may the amount remitted for a calendar year exceed the amount collected on behalf of the municipality under RCW 35.58.273 during that same calendar year. At the time of the next fiscal audit of each municipality, the state auditor shall verify the accuracy of the report submitted and notify the director of licensing of any discrepancies.

(7) The motor vehicle excise taxes imposed under RCW 35.58.273 and required to be remitted under this section shall be remitted without legislative appropriation.

(8) Any municipality levying and collecting a tax under RCW 35.58.273 which does not have an operating, public transit system or a contract for public transportation services in effect within one year from the initial effective date of the tax shall return to the state treasurer all motor vehicle excise taxes received under subsection (5) of this section.

Sec. 14. Section 28A.45.060, chapter 223, Laws of 1969 ex. sess. as amended by section 2, chapter 154, Laws of 1980 and RCW 82.45.060 are each amended to read as follows:

(1) There is imposed an excise tax upon each sale of real property at the rate of one percent of the selling price.

(2) From and after the first day of May, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in section 31 of this 1982 act multiplied by the tax payable under subsection (1) of this section.

Sec. 15. Section 14.02, chapter 79, Laws of 1947 as last amended by section 2, chapter 233, Laws of 1979 ex. sess. and RCW 48.14.020 are each amended to read as follows:

(1) Subject to other provisions of this chapter, each authorized insurer except title insurers shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection (2) of this section, such tax shall be in the amount of two percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer during the preceding calendar year in the case of foreign and alien insurers, and in the amount of one percent of all such premiums in the case of domestic insurers, for direct insurances, other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For the purposes of this section the consideration received by an insurer for the granting of an annuity shall not be deemed to be a premium.

(2) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the

ly be scheduled for termination and arrange for automatic termination of tax preferences, with a reasonable number of tax preferences to be terminated on June 30, 1984, including appropriate tax exemptions identified as eligible for termination by the department of revenue in the study conducted pursuant to section 26(3), chapter 340, Laws of 1981 (uncodified), a reasonable number of tax preferences to be terminated on June 30, 1985, a reasonable number of tax preferences to be terminated on June 30, 1986, and a reasonable number of tax preferences to be terminated on June 30, 1987.

Proposed legislation, recommendations, and findings shall be submitted to the legislature as soon as is practicable, but no later than the first day the legislature is in session after January 1, 1983.

New Section. Sec. 45.

On or before September 30, 1982, the department of revenue shall provide the select joint committee with a report on existing tax preferences. The report shall include a list of tax preferences and a description of each one. Upon request of the select joint committee, the department of revenue shall provide additional information needed by the select joint committee to meet its responsibilities under this chapter.

New Section. Sec. 46.

Sections 39 through 45 of this act shall constitute a new chapter in Title 43 RCW.

New Section. Sec. 47.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

New Section. Sec. 48.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except that sections 28, 29, and 30 of this act shall take effect on May 1, 1982, sections 33 and 34 of this act shall take effect on July 1, 1983, and sections 35 through 38 of this act shall take effect on January 1, 1983.

Sections 28 and 29 of this act shall expire on July 1, 1983. The additional taxes imposed under this act shall take effect on the dates designated in this act notwithstanding the date this act becomes law under Article III, section 12 of the state Constitution.

Approved April 19, 1982.

Generally effective April 19, 1982; sections 28, 29 and 30 effective May 1, 1982; sections 33 and 34 effective July 1, 1983; sections 35 to 38 effective January 1, 1983.

Section 25 of Chapter 35, shown by ~~strikeout~~, was vetoed by the Governor.

REAL ESTATE EXCISE TAXES—ASSESSMENTS
OR REFUNDS—LIMITATIONS

CHAPTER 176

HOUSE BILL NO. 964

An Act relating to real estate excise taxation; amending section 2, chapter 167, Laws of 1981 and RCW 82.45.100; amending section 6, chapter 154, Laws of 1980 as amended by section 3, chapter 167, Laws of 1981 and RCW 82.45.180; and amending section 15, chapter 154, Laws of 1980 (uncodified).

Be it enacted by the Legislature of the State of Washington:

Section 1: Section 2, chapter 167, Laws of 1981 and RCW 82.45.100 are each amended to read as follows:

(1) The tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within thirty days thereafter shall bear interest at the rate of one percent per month from the time of sale until the date of payment.

(2) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department shall assess against the taxpayer the additional amount found to be due plus interest as provided in subsection (1) of this section. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable under this chapter, a penalty of fifty percent of the additional tax found to be due shall be added.

(3) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of fraud or of misrepresentation of a material fact by the taxpayer or a failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer.

Sec. 2. Section 6, chapter 154, Laws of 1980 as amended by section 3, chapter 167, Laws of 1981 and RCW 82.45.180 are each amended to read as follows:

The county treasurer shall place one percent of the proceeds of the tax imposed by this chapter in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department of revenue for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. The proceeds of the tax on any sale occurring prior to September 1, 1981, when the proceeds have not been certified by an educational service district superintendent for school districts prior to September 1, 1981, shall be included in the amount remitted to the state treasurer. The state treasurer shall deposit the proceeds in the general fund for the support of the common schools.

Sec. 3. Section 15, chapter 154, Laws of 1980 (uncodified) is amended to read as follows:

Chapter 154, Laws of 1980 shall not be construed as invalidating, abating, or otherwise affecting any existing right acquired or any liability or obligation incurred under the provisions of the statutes amended or repealed, nor any process, proceeding, or judgment involving the assessment of any property or the levy or collection of any tax thereunder, nor the validity of any certificate of delinquency, tax deed or other instrument of sale or other proceeding thereunder, nor any criminal or civil proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder: *Provided*, That the department of revenue may con-