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SENATE BILL 5021

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State of Washington                      56th Legislature                      1999 Regular Session

By Senators Snyder, Swecker, Winsley and Benton

Read first time 01/11/1999. Referred to Committee on Ways & Means.

1            AN ACT Relating to the property taxation of nonprofit organizations  
2 providing demonstration farms with research and extension facilities,  
3 public agricultural museums, and educational tour sites; amending RCW  
4 84.34.108; reenacting and amending RCW 84.36.805 and 84.36.810; and  
5 adding a new section to chapter 84.36 RCW.

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

7            NEW SECTION.    **Sec. 1.** A new section is added to chapter 84.36 RCW  
8 to read as follows:

9            (1) All real and personal property owned by a nonprofit  
10 organization, corporation, or association to provide a demonstration  
11 farm with research and extension facilities, a public agricultural  
12 museum, and an educational tour site, which is used by a state  
13 university for agricultural research and education programs, is exempt  
14 from property taxation. This exemption includes all real and personal  
15 property that may be used in the production and sale of agricultural  
16 products, not to exceed fifty acres, if the income is used to further  
17 the purposes of the organization, corporation, or association.

18            (2) To qualify for this exemption:

1 (a) The nonprofit organization, corporation, or association must be  
2 qualified for exemption under section 501(c)(3) of the internal revenue  
3 code of 1986 (26 U.S.C. Sec. 501(c)(3)); and

4 (b) The property must be used exclusively for the purposes for  
5 which the exemption is granted, except as provided in RCW 84.36.805.

6 **Sec. 2.** RCW 84.34.108 and 1992 c 69 s 12 are each amended to read  
7 as follows:

8 (1) When land has once been classified under this chapter, a  
9 notation of such classification shall be made each year upon the  
10 assessment and tax rolls and such land shall be valued pursuant to RCW  
11 84.34.060 or 84.34.065 until removal of all or a portion of such  
12 classification by the assessor upon occurrence of any of the following:

13 (a) Receipt of notice from the owner to remove all or a portion of  
14 such classification;

15 (b) Sale or transfer to an ownership, except a transfer that  
16 resulted from a default in loan payments made to or secured by a  
17 governmental agency that intends to or is required by law or regulation  
18 to resell the property for the same use as before, making all or a  
19 portion of such land exempt from ad valorem taxation;

20 (c) Sale or transfer of all or a portion of such land to a new  
21 owner, unless the new owner has signed a notice of classification  
22 continuance, except transfer to an owner who is an heir or devisee of  
23 a deceased owner shall not, by itself, result in removal of  
24 classification. The signed notice of continuance shall be attached to  
25 the real estate excise tax affidavit provided for in RCW (~~82.45.120,~~  
26 ~~as now or hereafter amended~~) 82.45.150. The notice of continuance  
27 shall be on a form prepared by the department of revenue. If the notice  
28 of continuance is not signed by the new owner and attached to the real  
29 estate excise tax affidavit, all additional taxes calculated pursuant  
30 to subsection (3) of this section shall become due and payable by the  
31 seller or transferor at time of sale. The county auditor shall not  
32 accept an instrument of conveyance of classified land for filing or  
33 recording unless the new owner has signed the notice of continuance or  
34 the additional tax has been paid. The seller, transferor, or new owner  
35 may appeal the new assessed valuation calculated under subsection (3)  
36 of this section to the county board of equalization. Jurisdiction is  
37 hereby conferred on the county board of equalization to hear these  
38 appeals;

1 (d) Determination by the assessor, after giving the owner written  
2 notice and an opportunity to be heard, that all or a portion of such  
3 land no longer meets the criteria for classification under this  
4 chapter. The criteria for classification pursuant to this chapter  
5 continue to apply after classification has been granted.

6 The granting authority, upon request of an assessor, shall provide  
7 reasonable assistance to the assessor in making a determination whether  
8 such land continues to meet the qualifications of RCW 84.34.020 (1) or  
9 (3). The assistance shall be provided within thirty days of receipt of  
10 the request.

11 (2) Within thirty days after such removal of all or a portion of  
12 such land from current use classification, the assessor shall notify  
13 the owner in writing, setting forth the reasons for such removal. The  
14 seller, transferor, or owner may appeal such removal to the county  
15 board of equalization.

16 (3) Unless the removal is reversed on appeal, the assessor shall  
17 revalue the affected land with reference to full market value on the  
18 date of removal from classification. Both the assessed valuation  
19 before and after the removal of classification shall be listed and  
20 taxes shall be allocated according to that part of the year to which  
21 each assessed valuation applies. Except as provided in subsection (5)  
22 of this section, an additional tax, applicable interest, and penalty  
23 shall be imposed which shall be due and payable to the county treasurer  
24 thirty days after the owner is notified of the amount of the additional  
25 tax. As soon as possible, the assessor shall compute the amount of  
26 such an additional tax, applicable interest, and penalty and the  
27 treasurer shall mail notice to the owner of the amount thereof and the  
28 date on which payment is due. The amount of such additional tax,  
29 applicable interest, and penalty shall be determined as follows:

30 (a) The amount of additional tax shall be equal to the difference  
31 between the property tax paid as "open space land", "farm and  
32 agricultural land", or "timber land" and the amount of property tax  
33 otherwise due and payable for the seven years last past had the land  
34 not been so classified;

35 (b) The amount of applicable interest shall be equal to the  
36 interest upon the amounts of such additional tax paid at the same  
37 statutory rate charged on delinquent property taxes from the dates on  
38 which such additional tax could have been paid without penalty if the  
39 land had been assessed at a value without regard to this chapter;

1 (c) The amount of the penalty shall be as provided in RCW  
2 84.34.080. The penalty shall not be imposed if the removal satisfies  
3 the conditions of RCW 84.34.070.

4 (4) Additional tax, applicable interest, and penalty, shall become  
5 a lien on such land which shall attach at the time such land is removed  
6 from classification under this chapter and shall have priority to and  
7 shall be fully paid and satisfied before any recognizance, mortgage,  
8 judgment, debt, obligation or responsibility to or with which such land  
9 may become charged or liable. Such lien may be foreclosed upon  
10 expiration of the same period after delinquency and in the same manner  
11 provided by law for foreclosure of liens for delinquent real property  
12 taxes as provided in RCW 84.64.050 now or as hereafter amended. Any  
13 additional tax unpaid on its due date shall thereupon become  
14 delinquent. From the date of delinquency until paid, interest shall be  
15 charged at the same rate applied by law to delinquent ad valorem  
16 property taxes.

17 (5) The additional tax, applicable interest, and penalty specified  
18 in subsection (3) of this section shall not be imposed if the removal  
19 of classification pursuant to subsection (1) of this section resulted  
20 solely from:

21 (a) Transfer to a government entity in exchange for other land  
22 located within the state of Washington;

23 (b)(i) A taking through the exercise of the power of eminent  
24 domain, or (ii) sale or transfer to an entity having the power of  
25 eminent domain in anticipation of the exercise of such power, said  
26 entity having manifested its intent in writing or by other official  
27 action;

28 (c) A natural disaster such as a flood, windstorm, earthquake, or  
29 other such calamity rather than by virtue of the act of the landowner  
30 changing the use of such property;

31 (d) Official action by an agency of the state of Washington or by  
32 the county or city within which the land is located which disallows the  
33 present use of such land;

34 (e) Transfer of land to a church when such land would qualify for  
35 exemption pursuant to RCW 84.36.020;

36 (f) Acquisition of property interests by state agencies or agencies  
37 or organizations qualified under RCW 84.34.210 and 64.04.130 for the  
38 purposes enumerated in those sections: PROVIDED, That at such time as  
39 these property interests are not used for the purposes enumerated in

1 RCW 84.34.210 and 64.04.130 the additional tax specified in subsection  
2 (3) of this section shall be imposed; ~~((or))~~

3 (g) Removal of land classified as farm and agricultural land under  
4 RCW 84.34.020(2)(d); or

5 (h) Removal of land from classification after enactment of a  
6 statutory exemption that qualifies the land for exemption and receipt  
7 of notice from the owner to remove the land from classification.

8 **Sec. 3.** RCW 84.36.805 and 1998 c 311 s 25, 1998 c 202 s 3, and  
9 1998 c 184 s 2 are each reenacted and amended to read as follows:

10 (1) In order to ~~((be exempt pursuant to RCW 84.36.030, 84.36.035,~~  
11 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.046,  
12 84.36.047, 84.36.050, 84.36.060, 84.36.350, 84.36.480, 84.36.550, and  
13 84.36.042)) qualify for an exemption under this chapter, the nonprofit  
14 organizations, associations, or corporations ~~((shall))~~ must satisfy the  
15 ~~((following))~~ conditions~~((+))~~ in this section.

16 ~~((+1))~~ (2) The property ~~((is))~~ must be used exclusively for the  
17 actual operation of the activity for which exemption is granted, unless  
18 otherwise provided, and does not exceed an amount reasonably necessary  
19 for that purpose, except:

20 (a) The loan or rental of the property does not subject the  
21 property to tax if:

22 (i) The rents and donations received for the use of the portion of  
23 the property are reasonable and do not exceed the maintenance and  
24 operation expenses attributable to the portion of the property loaned  
25 or rented; and

26 (ii) Except for the exemptions under RCW 84.36.030(4) and  
27 84.36.037, the property would be exempt from tax if owned by the  
28 organization to which it is loaned or rented;

29 (b) The use of the property for fund-raising activities does not  
30 subject the property to tax if the fund-raising activities are  
31 consistent with the purposes for which the exemption is granted~~((+))~~.

32 ~~((+2))~~ (3) The property ~~((is))~~ must be irrevocably dedicated to  
33 the purpose for which exemption has been granted, and on the  
34 liquidation, dissolution, or abandonment by said organization,  
35 association, or corporation, said property will not inure directly or  
36 indirectly to the benefit of any shareholder or individual, except a  
37 nonprofit organization, association, or corporation which too would be  
38 entitled to property tax exemption. This property need not be

1 irrevocably dedicated if it is leased or rented to those qualified for  
2 exemption (~~((pursuant to RCW 84.36.035, 84.36.040, 84.36.041, 84.36.043,~~  
3 ~~84.36.045, 84.36.046, or 84.36.042 or those qualified for exemption as~~  
4 ~~an association engaged in the production or performance of musical,~~  
5 ~~dance, artistic, dramatic, or literary works pursuant to RCW~~  
6 ~~84.36.060)) under this chapter for leased property, but only if under  
7 the terms of the lease or rental agreement the nonprofit organization,  
8 association, or corporation receives the benefit of the exemption((~~+~~)).~~

9 ((~~+3~~)) (4) The facilities and services ((~~are~~)) must be available  
10 to all regardless of race, color, national origin or ancestry((~~+~~)).

11 ((~~+4~~)) (5) The organization, association, or corporation ((~~is~~))  
12 must be duly licensed or certified where such licensing or  
13 certification is required by law or regulation((~~+~~)).

14 ((~~+5~~)) (6) Property sold to organizations, associations, or  
15 corporations with an option to be repurchased by the seller shall not  
16 qualify for exempt status((~~+~~)).

17 ((~~+6~~)) (7) The ((~~director of the~~)) department ((~~of revenue~~)) shall  
18 have access to its books in order to determine whether ((~~such~~)) the  
19 nonprofit organization, association, or corporation is exempt from  
20 taxes ((~~within the intent of RCW 84.36.030, 84.36.035, 84.36.037,~~  
21 ~~84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.046, 84.36.047,~~  
22 ~~84.36.050, 84.36.060, 84.36.350, 84.36.480, and 84.36.042)) under this  
23 chapter.~~

24 (8) This section does not apply to exemptions granted under RCW  
25 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

26 **Sec. 4.** RCW 84.36.810 and 1998 c 311 s 26 and 1998 c 202 s 4 are  
27 each reenacted and amended to read as follows:

28 (1) Upon cessation of a use under which an exemption has been  
29 granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.041,  
30 84.36.042, 84.36.043, 84.36.046, 84.36.050, 84.36.060, 84.36.550, and  
31 ((~~84.36.042~~)) section 1 of this act, the county treasurer shall collect  
32 all taxes which would have been paid had the property not been exempt  
33 during the three years preceding, or the life of such exemption, if  
34 such be less, together with the interest at the same rate and computed  
35 in the same way as that upon delinquent property taxes. ((~~Where~~)) If  
36 the property has been granted an exemption for more than ten  
37 consecutive years, taxes and interest shall not be assessed under this  
38 section.

1 (2) Subsection (1) of this section applies only when ownership of  
2 the property is transferred or when fifty-one percent or more of the  
3 area of the property (~~has lost~~) loses its exempt status. The  
4 additional tax under subsection (1) of this section shall not be  
5 imposed if the cessation of use resulted solely from:

6 (a) Transfer to a nonprofit organization, association, or  
7 corporation for a use which also qualifies and is granted exemption  
8 under (~~the provisions of~~) this chapter (~~84.36-RCW~~);

9 (b) A taking through the exercise of the power of eminent domain,  
10 or sale or transfer to an entity having the power of eminent domain in  
11 anticipation of the exercise of such power;

12 (c) Official action by an agency of the state of Washington or by  
13 the county or city within which the property is located which disallows  
14 the present use of such property;

15 (d) A natural disaster such as a flood, windstorm, earthquake, or  
16 other such calamity rather than by virtue of the act of the  
17 organization, association, or corporation changing the use of such  
18 property;

19 (e) Relocation of the activity and use of another location or site  
20 except for undeveloped properties of camp facilities exempted under RCW  
21 84.36.030;

22 (f) Cancellation of a lease on leased property that had been exempt  
23 under (~~RCW 84.36.040, 84.36.041, 84.36.043, 84.36.046, 84.36.060, or~~  
24 ~~84.36.042~~) this chapter; or

25 (g) A change in the exempt portion of a home for the aging under  
26 RCW 84.36.041(3), as long as some portion of the home remains exempt(~~+~~

27 ~~(h) The conversion of a full exemption of a home for the aging to~~  
28 ~~a partial exemption or taxable status or the conversion of a partial~~  
29 ~~exemption to taxable status under RCW 84.36.041(8)).~~

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