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SENATE BILL 5532

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State of Washington

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By Senators McAuliffe, Costa, B. Sheldon, Winsley, Thibaudeau, Finkbeiner, Brown, Long, Haugen, Fairley, Gardner and Kohl-Welles

Read first time 01/26/1999. Referred to Committee on Commerce, Trade, Housing & Financial Institutions.

1 AN ACT Relating to exemption of property taxes for assisted  
2 housing; reenacting and amending RCW 84.36.805 and 84.36.810; adding  
3 new sections to chapter 84.36 RCW; and creating a new section.

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

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

7 (1) The real and personal property owned or used by a nonprofit  
8 organization, association, or corporation, including real and personal  
9 property where the nonprofit is the general partner with a for-profit  
10 organization, association, or corporation, in providing rental housing  
11 for very low-income households is exempt from taxation if:

12 (a) The benefit of the exemption inures to the nonprofit  
13 organization, association, or corporation;

14 (b) At least seventy-five percent of the occupied dwelling units in  
15 the rental housing are occupied by very low-income households;

16 (c) The rental housing was insured, financed, or assisted in all or  
17 in part through:

18 (i) The housing assistance program created under chapter 43.185  
19 RCW;

1 (ii) The Washington housing finance commission's multifamily  
2 housing finance programs under chapter 43.180 RCW; or  
3 (iii) An affordable housing levy authorized under RCW 84.52.105;  
4 (iv) A federally assisted housing program where the nonprofit  
5 organization, association, or corporation agrees to maintain the use  
6 restrictions for the period of the exemption under this section; or  
7 (v) The department of community, trade, and economic development or  
8 the Washington housing finance commission certifies to the department  
9 of revenue that the property meets the very low-income occupancy  
10 requirements under this section; and  
11 (d) The monthly rent for the individual dwelling units occupied by  
12 very low-income households within the rental housing does not exceed  
13 the actual cost of operating and maintaining the housing. For the  
14 purposes of this section, "actual cost of operating and maintaining"  
15 includes, but is not limited to, any debt service and cash reserves  
16 required by the financing agent or other organization related to the  
17 housing project.  
18 (2) If less than seventy-five percent of the dwelling units are  
19 occupied by very low-income households, the rental housing used to  
20 provide housing for very low-income households is eligible for a  
21 partial exemption on the real property and a total exemption of the  
22 housing's personal property as follows:  
23 (a) The partial exemption shall be allowed for each dwelling unit  
24 in the rental housing occupied by very low-income households.  
25 (b) The amount of exemption shall be calculated by multiplying the  
26 assessed value of the property reasonably necessary to provide the  
27 rental housing by a fraction. The numerator of the fraction is the  
28 number of dwelling units occupied by very low-income households as of  
29 January 1st of the year for which the exemption is claimed. The  
30 denominator of the fraction is the total number of occupied dwelling  
31 units as of January 1st of the year for which exemption is claimed.  
32 (3) Rental housing for very low-income households is exempt from  
33 property taxation only if the organization, association, or corporation  
34 operating the housing is exempt from income tax under section 501(c) of  
35 the federal internal revenue code.  
36 (4) To be exempt under this section, the property must be used  
37 exclusively for the purposes for which exemption is granted, except as  
38 provided in RCW 84.36.805.

1 (5) The nonprofit organization, association, or corporation  
2 qualifying for the exemption under this section by providing rental  
3 housing for very low-income households may agree to make payments to  
4 the city, county, or other political subdivision for improvements,  
5 services, and facilities furnished by the city, county, or political  
6 subdivision for the benefit of the rental housing. However, these  
7 payments shall not exceed the amount last levied as the annual tax of  
8 the city, county, or political subdivision upon the property prior to  
9 exemption.

10 (6) As used in this section:

11 (a) "Federally assisted housing" has the same meaning as in RCW  
12 59.28.020;

13 (b) "Occupied dwelling unit" means a living unit that is occupied  
14 on January 1st of the year in which the claim for exemption is  
15 submitted;

16 (c) "Rental housing" means residential housing that is occupied but  
17 not owned by very low-income households; and

18 (d) "Very low-income households" means a single person, family, or  
19 unrelated persons living together whose income is at or below fifty  
20 percent of the median income adjusted for family size as most recently  
21 determined by the federal department of housing and urban development  
22 for the county in which the rental housing is located and in effect as  
23 of January 1st of the year the application for exemption is submitted.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 84.36 RCW  
25 to read as follows:

26 (1) The real and personal property owned by a for-profit  
27 organization, association, or corporation in providing rental housing  
28 for very low-income households is exempt from taxation if:

29 (a) The rental housing is considered federally assisted housing  
30 under RCW 59.28.020; and

31 (b) The for-profit organization, association, or corporation agrees  
32 to maintain the federal use restrictions on the property for the period  
33 of the exemption.

34 (2) To be exempt under this section, the property must be used  
35 exclusively for the purposes for which exemption is granted, except as  
36 provided in RCW 84.36.805.

37 (3) The for-profit organization, association, or corporation  
38 qualifying for the exemption under this section by providing rental

1 housing for very low-income households may agree to make payments to  
2 the city, county, or other political subdivision for improvements,  
3 services, and facilities furnished by the city, county, or political  
4 subdivision for the benefit of the rental housing. However, these  
5 payments shall not exceed the amount last levied as the annual tax of  
6 the city, county, or political subdivision upon the property prior to  
7 exemption.

8 (4) As used in this section:

9 (a) "Federally assisted housing" has the same meaning as in RCW  
10 59.28.020;

11 (b) "Rental housing" means residential housing that is occupied but  
12 not owned by very low-income households; and

13 (c) "Very low-income households" means a single person, family, or  
14 unrelated persons living together whose income is at or below fifty  
15 percent of the median income adjusted for family size as most recently  
16 determined by the federal department of housing and urban development  
17 for the county in which the rental housing is located and in effect as  
18 of January 1st of the year the application for exemption is submitted.

19 **Sec. 3.** RCW 84.36.805 and 1998 c 311 s 25, 1998 c 202 s 3, and  
20 1998 c 184 s 2 are each reenacted and amended to read as follows:

21 In order to be exempt pursuant to RCW 84.36.030, 84.36.035,  
22 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.046,  
23 84.36.047, 84.36.050, 84.36.060, 84.36.350, 84.36.480, 84.36.550,  
24 (~~and~~) 84.36.042, and section 1 of this act, the nonprofit  
25 organizations, associations, or corporations shall satisfy the  
26 following conditions:

27 (1) The property is used exclusively for the actual operation of  
28 the activity for which exemption is granted, unless otherwise provided,  
29 and does not exceed an amount reasonably necessary for that purpose,  
30 except:

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

33 (i) The rents and donations received for the use of the portion of  
34 the property are reasonable and do not exceed the maintenance and  
35 operation expenses attributable to the portion of the property loaned  
36 or rented; and

1 (ii) Except for the exemptions under RCW 84.36.030(4) and  
2 84.36.037, the property would be exempt from tax if owned by the  
3 organization to which it is loaned or rented;

4 (b) The use of the property for fund-raising activities does not  
5 subject the property to tax if the fund-raising activities are  
6 consistent with the purposes for which the exemption is granted;

7 (2) The property is irrevocably dedicated to the purpose for which  
8 exemption has been granted, and on the liquidation, dissolution, or  
9 abandonment by said organization, association, or corporation, said  
10 property will not inure directly or indirectly to the benefit of any  
11 shareholder or individual, except a nonprofit organization,  
12 association, or corporation which too would be entitled to property tax  
13 exemption. This property need not be irrevocably dedicated if it is  
14 leased or rented to those qualified for exemption pursuant to RCW  
15 84.36.035, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.046,  
16 (~~or~~) 84.36.042, or section 1 of this act, or those qualified for  
17 exemption as an association engaged in the production or performance of  
18 musical, dance, artistic, dramatic, or literary works pursuant to RCW  
19 84.36.060, but only if under the terms of the lease or rental agreement  
20 the nonprofit organization, association, or corporation receives the  
21 benefit of the exemption;

22 (3) The facilities and services are available to all regardless of  
23 race, color, national origin or ancestry;

24 (4) The organization, association, or corporation is duly licensed  
25 or certified where such licensing or certification is required by law  
26 or regulation;

27 (5) Property sold to organizations, associations, or corporations  
28 with an option to be repurchased by the seller shall not qualify for  
29 exempt status;

30 (6) The director of the department of revenue shall have access to  
31 its books in order to determine whether such organization, association,  
32 or corporation is exempt from taxes within the intent of RCW 84.36.030,  
33 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045,  
34 84.36.046, 84.36.047, 84.36.050, 84.36.060, 84.36.350, 84.36.480,  
35 (~~and~~) 84.36.042, and section 1 of this act.

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

1 (1) Upon cessation of a use under which an exemption has been  
2 granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.041,  
3 84.36.043, 84.36.046, 84.36.050, 84.36.060, 84.36.550, ((and))  
4 84.36.042, and section 1 of this act, the county treasurer shall  
5 collect all taxes which would have been paid had the property not been  
6 exempt during the three years preceding, or the life of such exemption,  
7 if such be less, together with the interest at the same rate and  
8 computed in the same way as that upon delinquent property taxes. Where  
9 the property has been granted an exemption for more than ten years,  
10 taxes and interest shall not be assessed under this section.

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

16 (a) Transfer to a nonprofit organization, association, or  
17 corporation for a use which also qualifies and is granted exemption  
18 under the provisions of chapter 84.36 RCW;

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

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

25 (d) A natural disaster such as a flood, windstorm, earthquake, or  
26 other such calamity rather than by virtue of the act of the  
27 organization, association, or corporation changing the use of such  
28 property;

29 (e) Relocation of the activity and use of another location or site  
30 except for undeveloped properties of camp facilities exempted under RCW  
31 84.36.030;

32 (f) Cancellation of a lease on property that had been exempt under  
33 RCW 84.36.040, 84.36.041, 84.36.043, 84.36.046, 84.36.060, ((or))  
34 84.36.042, or section 1 of this act;

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

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

1        NEW SECTION.   **Sec. 5.**   This act applies to taxes levied in 1999 for  
2   collection in 2000 and thereafter.

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