
SENATE BILL 6808

State of Washington 57th Legislature

2002 Regular Session

By Senators Gardner, Finkbeiner, Hewitt, Kline, Carlson, McDonald, Thibaudeau, Winsley, Jacobsen and Fraser

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1 AN ACT Relating to the property taxation of organizations operated
2 exclusively for art, scientific, or historical purposes or engaged in
3 the production and performance of musical, dance, artistic, dramatic,
4 or literary works; amending RCW 84.36.060, 84.36.805, 84.36.840, and
5 82.29A.130; creating new sections; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that artistic,
8 scientific, and historical organizations and associations engaged in
9 the production and performance of musical, dance, artistic, dramatic,
10 or literary works provide many public benefits to the people of the
11 state of Washington. Therefore, the legislature finds that it is in
12 the best interest of the state of Washington to provide a limited
13 property tax and leasehold excise tax exemption for the incidental use
14 of these facilities by certain organizations to better raise additional
15 revenues from the public in order to be self-sustaining for their
16 exempt purposes.

17 **Sec. 2.** RCW 84.36.060 and 1995 c 306 s 1 are each amended to read
18 as follows:

1 The following property shall be exempt from taxation:

2 (1) All art, scientific, or historical collections of associations
3 maintaining and exhibiting such collections for the benefit of the
4 general public and not for profit, together with all real and personal
5 property of such associations used exclusively for the safekeeping,
6 maintaining and exhibiting of such collections; and all the real and
7 personal property owned by or leased to associations engaged in the
8 production and performance of musical, dance, artistic, dramatic, or
9 literary works for the benefit of the general public and not for
10 profit, which real and personal property is used exclusively for this
11 production or performance.

12 (a) To receive this exemption an organization must be organized and
13 operated exclusively for artistic, scientific, historical, literary,
14 musical, dance, dramatic, or educational purposes and receive a
15 substantial part of its support (exclusive of income received in the
16 exercise or performance by such organization of its purpose or
17 function) from the United States or any state or any political
18 subdivision thereof or from direct or indirect contributions from the
19 general public.

20 (b) If the property is not currently being used for an exempt
21 purpose but will be used for an exempt purpose within a reasonable
22 period of time, the nonprofit organization, association, or corporation
23 claiming the exemption must submit proof that a reasonably specific and
24 active program is being carried out to construct, remodel, or otherwise
25 enable the property to be used for an exempt purpose. Except as
26 provided in subsection (1)(c) of this section, the property does not
27 qualify for an exemption during this interim period if the property is
28 used by, loaned to, or rented to a for-profit organization or business
29 enterprise. Proof of a specific and active program to build or remodel
30 the property so it may be used for an exempt purpose may include, but
31 is not limited to:

32 (i) Affirmative action by the board of directors, trustees, or
33 governing body of the nonprofit organization, association, or
34 corporation toward an active program of construction or remodeling;

35 (ii) Itemized reasons for the proposed construction or remodeling;

36 (iii) Clearly established plans for financing the construction or
37 remodeling; or

38 (iv) Building permits.

1 (c) (~~Notwithstanding (b) of this subsection, a for-profit limited~~
2 ~~partnership created to provide facilities for the use of nonprofit art,~~
3 ~~scientific, or historical organizations qualifies for the exemption~~
4 ~~under (b) of this subsection through 1997 if the for-profit limited~~
5 ~~partnership otherwise qualifies under (b) of this subsection)) The loan
6 or rental of the property to any person, for-profit organization, or
7 business enterprise does not subject the property to taxation if:~~

8 (i) The money received for the loan or rental of the property does
9 not exceed the maintenance and operation expenses of the property; and

10 (ii) The total income received from all loans or rentals of the
11 property to any person, for-profit organization, or business enterprise
12 does not exceed ten percent of the gross income received from all
13 sources in any calendar year. As used in this subsection (1)(c), "all
14 sources" means all revenue received from any source including entrance
15 or admittance fees, user fees, fund-raising events, sales of tickets to
16 performing arts events, and rents or donations received as a result of
17 the loan or rental of the exempt property. In calculating this
18 percentage, the revenue received as a result of the loans or rentals
19 provided for in this subsection shall be divided by the revenue
20 received from all sources.

21 (2) All fire engines and other implements used for the
22 extinguishment of fire, with the buildings used exclusively for the
23 safekeeping thereof, and for meetings of fire companies, provided such
24 properties belong to any city or town or to a fire company therein.

25 (3) Property owned by humane societies in this state in actual use
26 by such societies.

27 **Sec. 3.** RCW 84.36.805 and 2001 1st sp.s. c 7 s 2 are each amended
28 to read as follows:

29 (1) In order to qualify for an exemption under this chapter and RCW
30 84.36.560, the nonprofit organizations, associations, or corporations
31 must satisfy the conditions in this section.

32 (2) The property must be used exclusively for the actual operation
33 of the activity for which exemption is granted, unless otherwise
34 provided, and does not exceed an amount reasonably necessary for that
35 purpose, except:

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

1 (i) The rents and donations received for the use of the portion of
2 the property are reasonable and do not exceed the maintenance and
3 operation expenses attributable to the portion of the property loaned
4 or rented; and

5 (ii) Except for the exemptions under RCW 84.36.030(4) ((and)),
6 84.36.037, and 84.36.060(1)(c), the property would be exempt from tax
7 if owned by the organization to which it is loaned or rented;

8 (b) The use of the property for fund-raising activities does not
9 subject the property to tax if the fund-raising activities are
10 consistent with the purposes for which the exemption is granted.

11 (3) The property must be irrevocably dedicated to the purpose for
12 which exemption has been granted, and on the liquidation, dissolution,
13 or abandonment by said organization, association, or corporation, said
14 property will not inure directly or indirectly to the benefit of any
15 shareholder or individual, except a nonprofit organization,
16 association, or corporation which too would be entitled to property tax
17 exemption. This property need not be irrevocably dedicated if it is
18 leased or rented to those qualified for exemption under this chapter or
19 RCW 84.36.560 for leased property, but only if under the terms of the
20 lease or rental agreement the nonprofit organization, association, or
21 corporation receives the benefit of the exemption.

22 (4) The facilities and services must be available to all regardless
23 of race, color, national origin or ancestry.

24 (5) The organization, association, or corporation must be duly
25 licensed or certified where such licensing or certification is required
26 by law or regulation.

27 (6) Property sold to organizations, associations, or corporations
28 with an option to be repurchased by the seller shall not qualify for
29 exempt status. This subsection does not apply to property sold to a
30 nonprofit entity, as defined in RCW 84.36.560(7), by:

31 (a) A nonprofit as defined in RCW 84.36.800 that is exempt from
32 income tax under section 501(c) of the federal internal revenue code;

33 (b) A governmental entity established under RCW 35.21.660,
34 35.21.670, or 35.21.730;

35 (c) A housing authority created under RCW 35.82.030;

36 (d) A housing authority meeting the definition in RCW
37 35.82.210(2)(a); or

38 (e) A housing authority established under RCW 35.82.300.

1 (7) The department shall have access to its books in order to
2 determine whether the nonprofit organization, association, or
3 corporation is exempt from taxes under this chapter and RCW 84.36.560.

4 (8) This section does not apply to exemptions granted under RCW
5 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

6 **Sec. 4.** RCW 84.36.840 and 1973 2nd ex.s. c 40 s 14 are each
7 amended to read as follows:

8 (1) In order to determine whether organizations, associations,
9 corporations or institutions except those exempted under RCW 84.36.020
10 and 84.36.030 are exempt from taxes within the intent of this chapter,
11 and before the exemption shall be allowed for any year, the
12 superintendent or manager or other proper officer of the organization,
13 association, corporation or institution claiming exemption from
14 taxation shall file, with the department of revenue on forms furnished
15 by the director, a signed statement made under oath that the income and
16 the receipts thereof, including donations to it, have been applied to
17 the actual expenses of operating and maintaining it, or for its capital
18 expenditures, and to no other purpose. Such forms shall also include
19 a statement of the receipts and disbursements of said organization(~~(+~~
20 ~~PROVIDED, That)~~)).

21 (a) Institutions claiming exemption under RCW 84.36.050 shall also
22 file (~~(in addition)~~) a list of all property claimed to be exempt, the
23 purpose for which it is used, the revenue derived from it for the
24 preceding year, the use to which (~~(such)~~) the revenue was applied, the
25 number of students in attendance at the school or college, the total
26 revenues of the institution with the source from which they were
27 derived, and the purposes to which (~~(such)~~) the revenues were applied,
28 giving the items of such revenues and expenditures in detail.

29 (~~(Such)~~) (b) Any organization or association claiming exemption
30 under RCW 84.36.060(1)(c) shall also file a report listing the source
31 of its gross income received by the organization or association in the
32 preceding calendar year. This report will include all income received
33 through entrance or admittance fees, user fees, fund-raising events,
34 sales of tickets to performing arts events, and rents or donations
35 received as a result of the loan or rental of the exempt property. The
36 organization shall also provide the amount of income received from the
37 rental to any person, for-profit organization, or business enterprise.

1 (2) The report shall be submitted on or before April 1st following
2 the close of the accounting period for the fiscal year ended during the
3 previous calendar year. The department of revenue shall remove the tax
4 exemption from the property and assets of any organization,
5 association, corporation, or institution which does not file such
6 report with the department of revenue on or before the due date(~~(÷~~
7 ~~PROVIDED, That~~)). The department of revenue shall allow a reasonable
8 extension of time for filing upon written request filed on or before
9 the required filing date and for good cause shown therein.

10 **Sec. 5.** RCW 82.29A.130 and 1999 c 165 s 21 are each amended to
11 read as follows:

12 The following leasehold interests shall be exempt from taxes
13 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

14 (1) All leasehold interests constituting a part of the operating
15 properties of any public utility which is assessed and taxed as a
16 public utility pursuant to chapter 84.12 RCW.

17 (2) All leasehold interests in facilities owned or used by a
18 school, college or university which leasehold provides housing for
19 students and which is otherwise exempt from taxation under provisions
20 of RCW 84.36.010 and 84.36.050.

21 (3) All leasehold interests of subsidized housing where the fee
22 ownership of such property is vested in the government of the United
23 States, or the state of Washington or any political subdivision thereof
24 but only if income qualification exists for such housing.

25 (4) All leasehold interests used for fair purposes of a nonprofit
26 fair association that sponsors or conducts a fair or fairs which
27 receive support from revenues collected pursuant to RCW 67.16.100 and
28 allocated by the director of the department of agriculture where the
29 fee ownership of such property is vested in the government of the
30 United States, the state of Washington or any of its political
31 subdivisions: PROVIDED, That this exemption shall not apply to the
32 leasehold interest of any sublessee of such nonprofit fair association
33 if such leasehold interest would be taxable if it were the primary
34 lease.

35 (5) All leasehold interests in any property of any public entity
36 used as a residence by an employee of that public entity who is
37 required as a condition of employment to live in the publicly owned
38 property.

1 (6) All leasehold interests held by enrolled Indians of lands owned
2 or held by any Indian or Indian tribe where the fee ownership of such
3 property is vested in or held in trust by the United States and which
4 are not subleased to other than to a lessee which would qualify
5 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

6 (7) All leasehold interests in any real property of any Indian or
7 Indian tribe, band, or community that is held in trust by the United
8 States or is subject to a restriction against alienation imposed by the
9 United States: PROVIDED, That this exemption shall apply only where it
10 is determined that contract rent paid is greater than or equal to
11 ninety percent of fair market rental, to be determined by the
12 department of revenue using the same criteria used to establish taxable
13 rent in RCW 82.29A.020(2)(b).

14 (8) All leasehold interests for which annual taxable rent is less
15 than two hundred fifty dollars per year. For purposes of this
16 subsection leasehold interests held by the same lessee in contiguous
17 properties owned by the same lessor shall be deemed a single leasehold
18 interest.

19 (9) All leasehold interests which give use or possession of the
20 leased property for a continuous period of less than thirty days:
21 PROVIDED, That for purposes of this subsection, successive leases or
22 lease renewals giving substantially continuous use of possession of the
23 same property to the same lessee shall be deemed a single leasehold
24 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed
25 to give use or possession for a period of less than thirty days solely
26 by virtue of the reservation by the public lessor of the right to use
27 the property or to allow third parties to use the property on an
28 occasional, temporary basis.

29 (10) All leasehold interests under month-to-month leases in
30 residential units rented for residential purposes of the lessee pending
31 destruction or removal for the purpose of constructing a public highway
32 or building.

33 (11) All leasehold interests in any publicly owned real or personal
34 property to the extent such leasehold interests arises solely by virtue
35 of a contract for public improvements or work executed under the public
36 works statutes of this state or of the United States between the public
37 owner of the property and a contractor.

1 (12) All leasehold interests that give use or possession of state
2 adult correctional facilities for the purposes of operating
3 correctional industries under RCW 72.09.100.

4 (13) All leasehold interests used to provide organized and
5 supervised recreational activities for disabled persons of all ages in
6 a camp facility and for public recreational purposes by a nonprofit
7 organization, association, or corporation that would be exempt from
8 property tax under RCW 84.36.030(1) if it owned the property. If the
9 publicly owned property is used for any taxable purpose, the leasehold
10 excise taxes set forth in RCW 82.29A.030 and 82.29A.040 shall be
11 imposed and shall be apportioned accordingly.

12 (14) All leasehold interests in the public or entertainment areas
13 of a baseball stadium with natural turf and a retractable roof or
14 canopy that is in a county with a population of over one million, that
15 has a seating capacity of over forty thousand, and that is constructed
16 on or after January 1, 1995. "Public or entertainment areas" include
17 ticket sales areas, ramps and stairs, lobbies and concourses, parking
18 areas, concession areas, restaurants, hospitality and stadium club
19 areas, kitchens or other work areas primarily servicing other public or
20 entertainment areas, public rest room areas, press and media areas,
21 control booths, broadcast and production areas, retail sales areas,
22 museum and exhibit areas, scoreboards or other public displays, storage
23 areas, loading, staging, and servicing areas, seating areas and suites,
24 the playing field, and any other areas to which the public has access
25 or which are used for the production of the entertainment event or
26 other public usage, and any other personal property used for these
27 purposes. "Public or entertainment areas" does not include locker
28 rooms or private offices exclusively used by the lessee.

29 (15) All leasehold interests in the public or entertainment areas
30 of a stadium and exhibition center, as defined in RCW 36.102.010, that
31 is constructed on or after January 1, 1998. For the purposes of this
32 subsection, "public or entertainment areas" has the same meaning as in
33 subsection (14) of this section, and includes exhibition areas.

34 (16) All leasehold interests in public facilities districts, as
35 provided in chapter 36.100 or 35.57 RCW.

36 (17) All leasehold interests created by the loan or rental of
37 publicly owned real property used for artistic, scientific, and
38 historical organizations and associations engaged in the production and

1 performance of musical, dance, artistic, dramatic, or literary works to
2 any person as defined by RCW 82.04.030 if:

3 (a) The money received for the loan or rental of the property does
4 not exceed the maintenance and operation expenses of the property; and

5 (b) The total income received from all loans or rentals of the
6 publicly owned real property to any person does not exceed ten percent
7 of the gross income received from all sources in any calendar year. As
8 used in this subsection, "all sources" means all revenue received from
9 any source including entrance or admittance fees, user fees, fund-
10 raising events, sales of tickets to performing arts events, and rents
11 or donations received as a result of the loan or rental of the exempt
12 property. In calculating this percentage, the revenue received as a
13 result of the loans or rentals provided for in this subsection shall be
14 divided by the revenue received from all sources.

15 NEW SECTION. Sec. 6. Any person as defined by RCW 82.04.030 that
16 qualifies for the exemption set forth in RCW 82.29A.130(17) is entitled
17 to a waiver of any tax liability accrued, but unpaid, under chapter
18 82.29A RCW during the four years immediately preceding the effective
19 date of this act.

20 NEW SECTION. Sec. 7. This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and takes effect
23 immediately.

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