

HB 1905 - S COMM AMD
By Committee on Ways & Means

NOT ADOPTED 04/16/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 84.36.060 and 1995 c 306 s 1 are each amended to read
4 as follows:

5 (1) The following property shall be exempt from taxation:

6 ~~((1))~~ (a) All art, scientific, or historical collections of
7 associations maintaining and exhibiting such collections for the
8 benefit of the general public and not for profit, together with all
9 real and personal property of such associations used exclusively for
10 the safekeeping, maintaining and exhibiting of such collections;
11 ~~((and))~~

12 (b) All the real and personal property owned by or leased to
13 associations engaged in the production and performance of musical,
14 dance, artistic, dramatic, or literary works for the benefit of the
15 general public and not for profit, which real and personal property is
16 used exclusively for this production or performance;

17 (c) All fire engines and other implements used for the
18 extinguishment of fire, and the buildings used exclusively for their
19 safekeeping, and for meetings of fire companies, as long as the
20 property belongs to any city or town or to a fire company; and

21 (d) All property owned by humane societies in this state in actual
22 use by the societies.

23 ~~((a))~~ (2) To receive ~~((this))~~ an exemption under subsection
24 (1)(a) or (b) of this section:

25 (a) An organization must be organized and operated exclusively for
26 artistic, scientific, historical, literary, musical, dance, dramatic,
27 or educational purposes and receive a substantial part of its support
28 (exclusive of income received in the exercise or performance by such
29 organization of its purpose or function) from the United States or any

1 state or any political subdivision thereof or from direct or indirect
2 contributions from the general public.

3 (b) If the property is not currently being used for an exempt
4 purpose but will be used for an exempt purpose within a reasonable
5 period of time, the nonprofit organization, association, or corporation
6 claiming the exemption must submit proof that a reasonably specific and
7 active program is being carried out to construct, remodel, or otherwise
8 enable the property to be used for an exempt purpose. The property
9 does not qualify for an exemption during this interim period if the
10 property is used by, loaned to, or rented to a for-profit organization
11 or business enterprise. Proof of a specific and active program to
12 build or remodel the property so it may be used for an exempt purpose
13 may include, but is not limited to:

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

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

18 (iii) Clearly established plans for financing the construction or
19 remodeling; or

20 (iv) Building permits.

21 ~~((c) Notwithstanding (b) of this subsection, a for profit limited
22 partnership created to provide facilities for the use of nonprofit art,
23 scientific, or historical organizations qualifies for the exemption
24 under (b) of this subsection through 1997 if the for profit limited
25 partnership otherwise qualifies under (b) of this subsection.~~

26 ~~(2) All fire engines and other implements used for the
27 extinguishment of fire, with the buildings used exclusively for the
28 safekeeping thereof, and for meetings of fire companies, provided such
29 properties belong to any city or town or to a fire company therein.))~~

30 (3) ~~((Property owned by humane societies in this state in actual
31 use by such societies))~~ The use of property exempt under subsection
32 (1)(b) of this section by entities not eligible for a property tax
33 exemption under this chapter, except as provided in this section,
34 nullifies the exemption otherwise available for the property for the
35 assessment year. The exemption is not nullified if:

36 (a) The property is used by entities not eligible for a property

1 tax exemption under this chapter for periods of not more than fifteen
2 days in the calendar year;

3 (b) The property is not used for pecuniary gain or to promote
4 business activities for more than seven of the fifteen days in the
5 calendar year;

6 (c) The property is used for the production and performance of
7 musical, dance, artistic, dramatic, or literary works or for community
8 gatherings or assembly, or meetings; and

9 (d) The amount of any rent or donations is reasonable and does not
10 exceed maintenance and operation expenses created by the user.

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

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

16 (2) The property must be used exclusively for the actual operation
17 of the activity for which exemption is granted, unless otherwise
18 provided, and does not exceed an amount reasonably necessary for that
19 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, and 84.36.060(1)(b), the property would be exempt from tax
28 if owned by the 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 (3) The property must be irrevocably dedicated to the purpose for
33 which exemption has been granted, and on the liquidation, dissolution,
34 or abandonment by said organization, association, or corporation, said
35 property will not inure directly or indirectly to the benefit of any
36 shareholder or individual, except a nonprofit organization,

1 association, or corporation which too would be entitled to property tax
2 exemption. This property need not be irrevocably dedicated if it is
3 leased or rented to those qualified for exemption under this chapter or
4 RCW 84.36.560 for leased property, but only if under the terms of the
5 lease or rental agreement the nonprofit organization, association, or
6 corporation receives the benefit of the exemption.

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

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

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

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

18 (b) A governmental entity established under RCW 35.21.660,
19 35.21.670, or 35.21.730;

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

21 (d) A housing authority meeting the definition in RCW
22 35.82.210(2)(a); or

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

24 (7) The department shall have access to its books in order to
25 determine whether the nonprofit organization, association, or
26 corporation is exempt from taxes under this chapter (~~and RCW~~
27 ~~84.36.560~~)).

28 (8) This section does not apply to exemptions granted under RCW
29 84.36.020, 84.36.032, 84.36.250, and 84.36.260."

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30 On page 1, line 4 of the title, after "works;" strike the remainder

1 of the title and insert "and amending RCW 84.36.060 and 84.36.805."

EFFECT: Allows performing arts facilities to be rented to profit-making businesses up to 15 days a year and for profit-making purposes for 7 of those days.

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