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HOUSE BILL 1509

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By Representatives Green, Conway, Orcutt, Appleton, Morrell, O'Brien, Lovick, McCoy, Kilmer, Kessler, McDermott, Campbell, Simpson, Hunt, Chase, P. Sullivan, Sells, Kirby, Kenney, Linville and Kagi; by request of Governor Gregoire

Read first time 01/26/2005. Referred to Committee on Finance.

1 AN ACT Relating to a property tax exemption for widows or widowers  
2 of honorably discharged veterans; amending RCW 84.36.379, 84.36.383,  
3 84.36.385, 84.36.387, and 84.36.389; adding a new section to chapter  
4 84.36 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 84.36.379 and 2000 c 103 s 25 are each amended to read  
7 as follows:

8 The legislature finds that the property tax exemption authorized by  
9 Article VII, section 10 of the state Constitution should be made  
10 available on the basis of a veteran's widow or widower or retired  
11 person's ability to pay property taxes. The legislature further finds  
12 that the best measure of a (~~retired~~) person's ability to pay taxes is  
13 that person's disposable income as defined in RCW 84.36.383.

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

16 A person shall be exempt from any legal obligation to pay all or a  
17 portion of the amount of excess and regular real property taxes due and

1 payable in the year following the year in which a claim is filed, and  
2 thereafter, in accordance with the following:

3 (1) The property taxes must have been imposed upon a residence  
4 which was occupied by a veteran's widow or widower claiming the  
5 exemption as a principal place of residence as of the time of filing.  
6 Any person who sells, transfers, or is displaced from his or her  
7 residence may transfer his or her exemption status to a replacement  
8 residence, but no claimant shall receive an exemption on more than one  
9 residence in any year. Confinement of the person to a hospital or  
10 nursing home shall not disqualify the claim of exemption if:

11 (a) The residence is temporarily unoccupied;

12 (b) The residence is occupied by a person financially dependent on  
13 the claimant for support; or

14 (c) The residence is rented for the purpose of paying nursing home  
15 or hospital costs;

16 (2) The person claiming the exemption must have owned, at the time  
17 of filing, in fee, as a life estate, or by contract purchase, the  
18 residence on which the property taxes have been imposed or if the  
19 person claiming the exemption lives in a cooperative housing  
20 association, corporation, or partnership, the person must own a share  
21 therein representing the unit or portion of the structure in which he  
22 or she resides. For purposes of this subsection, a residence owned by  
23 cotenants shall be deemed to be owned by each cotenant, and any lease  
24 for life shall be deemed a life estate;

25 (3)(a) The person claiming the exemption must be:

26 (i) Sixty-one years of age or older on December 31st of the year in  
27 which the exemption claim is filed, or must have been, at the time of  
28 filing, retired from regular gainful employment by reason of physical  
29 disability; and

30 (ii) A widow or widower of a veteran who:

31 (A) Died as a result of a service-connected disability;

32 (B) Was rated as one hundred percent disabled by the United States  
33 veterans' administration for the ten years prior to his or her death;

34 (C) Was a former prisoner of war as substantiated by the United  
35 States veterans' administration and was rated as one hundred percent  
36 disabled by the United States veterans' administration for one or more  
37 years prior to his or her death; or

1 (D) Died in active training status as a member of the United States  
2 reserves or national guard;

3 (b) The person claiming the exemption must not have remarried;

4 (4) The amount of property taxes from which the person is exempt  
5 shall be calculated on the basis of disposable income, as defined in  
6 RCW 84.36.383. If the income of the person claiming exemption is  
7 reduced for two or more months of the assessment year due to  
8 substantial changes that are likely to continue for an indefinite  
9 period of time, the disposable income of the person shall be calculated  
10 by multiplying the average monthly disposable income of the person  
11 after such occurrences by twelve. If it is necessary to estimate  
12 income to comply with this subsection, the assessor may require  
13 confirming documentation of such income prior to May 31st of the year  
14 following application;

15 (5)(a) A person who otherwise qualifies under this section and has  
16 a disposable income of thirty-two thousand dollars or less is exempt  
17 from all regular and excess property taxes on the first two hundred  
18 thousand dollars of assessed value;

19 (b) A person who otherwise qualifies under this section and has a  
20 disposable income of forty thousand dollars or less but greater than  
21 thirty two thousand dollars is exempt from all regular and excess  
22 property taxes on the first one hundred fifty thousand dollars of  
23 assessed value;

24 (c) A person who otherwise qualifies under this section and has a  
25 disposable income of fifty thousand dollars or less but greater than  
26 forty thousand dollars is exempt from all regular and excess property  
27 taxes on the first one hundred thousand dollars of assessed value; and

28 (6) For a person who otherwise qualifies under this section and has  
29 a disposable income of fifty thousand dollars or less, the valuation of  
30 the residence shall be the assessed value of the residence on the later  
31 of January 1, 2001, or January 1st of the assessment year in which the  
32 person first qualifies under this section. If the person subsequently  
33 fails to qualify under this section only for one year because of high  
34 income, this same valuation shall be used upon requalification. If the  
35 person fails to qualify for more than one year in succession because of  
36 high income or fails to qualify for any other reason, the valuation  
37 upon requalification shall be the assessed value on January 1st of the  
38 assessment year in which the person requalifies. If the person

1 transfers the exemption under this section to a different residence,  
2 the valuation of the different residence shall be the assessed value of  
3 the different residence on January 1st of the assessment year in which  
4 the person transfers the exemption.

5 In no event may the valuation under this subsection be greater than  
6 the true and fair value of the residence on January 1st of the  
7 assessment year.

8 This subsection does not apply to subsequent improvements to the  
9 property in the year in which the improvements are made. Subsequent  
10 improvements to the property shall be added to the value otherwise  
11 determined under this subsection at their true and fair value in the  
12 year in which they are made.

13 **Sec. 3.** RCW 84.36.383 and 2004 c 270 s 2 are each amended to read  
14 as follows:

15 As used in RCW 84.36.381 through 84.36.389 and section 2 of this  
16 act, except where the context clearly indicates a different meaning:

17 (1) The term "residence" means a single family dwelling unit  
18 whether such unit be separate or part of a multiunit dwelling,  
19 including the land on which such dwelling stands not to exceed one  
20 acre. The term shall also include a share ownership in a cooperative  
21 housing association, corporation, or partnership if the person claiming  
22 exemption can establish that his or her share represents the specific  
23 unit or portion of such structure in which he or she resides. The term  
24 shall also include a single family dwelling situated upon lands the fee  
25 of which is vested in the United States or any instrumentality thereof  
26 including an Indian tribe or in the state of Washington, and  
27 notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a  
28 residence shall be deemed real property.

29 (2) The term "real property" shall also include a mobile home which  
30 has substantially lost its identity as a mobile unit by virtue of its  
31 being fixed in location upon land owned or leased by the owner of the  
32 mobile home and placed on a foundation (posts or blocks) with fixed  
33 pipe, connections with sewer, water, or other utilities. A mobile home  
34 located on land leased by the owner of the mobile home is subject, for  
35 tax billing, payment, and collection purposes, only to the personal  
36 property provisions of chapter 84.56 RCW and RCW 84.60.040.

37 (3) "Department" means the state department of revenue.

1 (4) "Combined disposable income" means the disposable income of the  
2 person claiming the exemption, plus the disposable income of his or her  
3 spouse, and the disposable income of each cotenant occupying the  
4 residence for the assessment year, less amounts paid by the person  
5 claiming the exemption or his or her spouse during the assessment year  
6 for:

7 (a) Drugs supplied by prescription of a medical practitioner  
8 authorized by the laws of this state or another jurisdiction to issue  
9 prescriptions;

10 (b) The treatment or care of either person received in the home or  
11 in a nursing home, boarding home, or adult family home; and

12 (c) Health care insurance premiums for medicare under Title XVIII  
13 of the social security act.

14 (5) "Disposable income" means adjusted gross income as defined in  
15 the federal internal revenue code, as amended prior to January 1, 1989,  
16 or such subsequent date as the director may provide by rule consistent  
17 with the purpose of this section, plus all of the following items to  
18 the extent they are not included in or have been deducted from adjusted  
19 gross income:

20 (a) Capital gains, other than gain excluded from income under  
21 section 121 of the federal internal revenue code to the extent it is  
22 reinvested in a new principal residence;

23 (b) Amounts deducted for loss;

24 (c) Amounts deducted for depreciation;

25 (d) Pension and annuity receipts;

26 (e) Military pay and benefits other than attendant-care and  
27 medical-aid payments;

28 (f) Veterans benefits other than attendant-care and medical-aid  
29 payments;

30 (g) Federal social security act and railroad retirement benefits;

31 (h) Dividend receipts; and

32 (i) Interest received on state and municipal bonds.

33 (6) "Cotenant" means a person who resides with the person claiming  
34 the exemption and who has an ownership interest in the residence.

35 (7) "Disability" has the same meaning as provided in 42 U.S.C. Sec.  
36 423(d)(1)(A) as amended prior to January 1, 2004, or such subsequent  
37 date as the director may provide by rule consistent with the purpose of  
38 this section.

1       (8) "Veteran" has the same meaning as provided under RCW 41.04.005.

2       **Sec. 4.** RCW 84.36.385 and 2001 c 185 s 8 are each amended to read  
3 as follows:

4       (1) A claim for exemption under RCW 84.36.381 or section 2 of this  
5 act as now or hereafter amended, shall be made and filed at any time  
6 during the year for exemption from taxes payable the following year and  
7 thereafter and solely upon forms as prescribed and furnished by the  
8 department of revenue. However, an exemption from tax under RCW  
9 84.36.381 or section 2 of this act shall continue for no more than four  
10 years unless a renewal application is filed as provided in subsection  
11 (3) of this section. The county assessor may also require, by written  
12 notice, a renewal application following an amendment of the income  
13 requirements set forth in RCW 84.36.381 or section 2 of this act.  
14 Renewal applications shall be on forms prescribed and furnished by the  
15 department of revenue.

16       (2) A person granted an exemption under RCW 84.36.381 or section 2  
17 of this act shall inform the county assessor of any change in status  
18 affecting the person's entitlement to the exemption on forms prescribed  
19 and furnished by the department of revenue.

20       (3) Each person exempt from taxes under RCW 84.36.381 (~~in 1993 and~~  
21 ~~thereafter,~~) or section 2 of this act shall file with the county  
22 assessor a renewal application not later than December 31 of the year  
23 the assessor notifies such person of the requirement to file the  
24 renewal application.

25       (4)(a) An application for exemption under section 2 of this act  
26 must be accompanied by the following documentation to substantiate the  
27 request for the exemption and any other documentation required by the  
28 county in which the exemption is sought:

29       (i) The deceased veteran's DD 214 report of separation, or its  
30 equivalent, that must be under honorable conditions;

31       (ii) A copy of the applicant's certificate of marriage to the  
32 deceased;

33       (iii) A copy of the deceased veteran's death certificate; and

34       (iv) A letter from the United States veterans' administration  
35 certifying that the death of the veteran meets the requirements of  
36 section 2(3) of this act.

1        (b) The Washington state department of veterans affairs shall  
2 assist an eligible widow or widower in the preparation and submission  
3 of an application and the procurement of necessary substantiating  
4 documentation to satisfy the pertinent county assessor's or other  
5 designated official's requirements for obtaining the property tax  
6 exemption under section 2 of this act.

7        (5) Beginning in 1992 and in each of the three succeeding years,  
8 the county assessor shall notify approximately one-fourth of those  
9 persons exempt from taxes under RCW 84.36.381 or section 2 of this act  
10 in the current year who have not filed a renewal application within the  
11 previous four years, of the requirement to file a renewal application.

12        ~~((+5))~~ (6) If the assessor finds that the applicant does not meet  
13 the qualifications as set forth in RCW 84.36.381 or section 2 of this  
14 act, as now or hereafter amended, the claim or exemption shall be  
15 denied but such denial shall be subject to appeal under the provisions  
16 of RCW 84.48.010(5) and in accordance with the provisions of RCW  
17 84.40.038. If the applicant had received exemption in prior years  
18 based on erroneous information, the taxes shall be collected subject to  
19 penalties as provided in RCW 84.40.130 for a period of not to exceed  
20 three years.

21        ~~((+6))~~ (7) The department and each local assessor is hereby  
22 directed to publicize the qualifications and manner of making claims  
23 under RCW 84.36.381 through 84.36.389 and section 2 of this act,  
24 through communications media, including such paid advertisements or  
25 notices as it deems appropriate. Notice of the qualifications, method  
26 of making applications, the penalties for not reporting a change in  
27 status, and availability of further information shall be included on or  
28 with property tax statements and revaluation notices for all  
29 residential property including mobile homes, except rental properties.

30        **Sec. 5.** RCW 84.36.387 and 2003 c 53 s 408 are each amended to read  
31 as follows:

32        (1) All claims for exemption shall be made and signed by the person  
33 entitled to the exemption, by his or her attorney in fact or in the  
34 event the residence of such person is under mortgage or purchase  
35 contract requiring accumulation of reserves out of which the holder of  
36 the mortgage or contract is required to pay real estate taxes, by such  
37 holder or by the owner, either before two witnesses or the county

1 assessor or his or her deputy in the county where the real property is  
2 located: PROVIDED, That if a claim for exemption is made by a person  
3 living in a cooperative housing association, corporation, or  
4 partnership, such claim shall be made and signed by the person entitled  
5 to the exemption and by the authorized agent of such cooperative.

6 (2) If the taxpayer is unable to submit his or her own claim, the  
7 claim shall be submitted by a duly authorized agent or by a guardian or  
8 other person charged with the care of the person or property of such  
9 taxpayer.

10 (3) All claims for exemption and renewal applications shall be  
11 accompanied by such documented verification of income as shall be  
12 prescribed by rule adopted by the department of revenue.

13 (4) Any person signing a false claim with the intent to defraud or  
14 evade the payment of any tax is guilty of perjury under chapter 9A.72  
15 RCW.

16 (5) The tax liability of a cooperative housing association,  
17 corporation, or partnership shall be reduced by the amount of tax  
18 exemption to which a claimant residing therein is entitled and such  
19 cooperative shall reduce any amount owed by the claimant to the  
20 cooperative by such exact amount of tax exemption or, if no amount be  
21 owed, the cooperative shall make payment to the claimant of such exact  
22 amount of exemption.

23 (6) A remainderman or other person who would have otherwise paid  
24 the tax on real property that is the subject of an exemption granted  
25 under RCW 84.36.381 or section 2 of this act for an estate for life  
26 shall reduce the amount which would have been payable by the life  
27 tenant to the remainderman or other person to the extent of the  
28 exemption. If no amount is owed or separately stated as an obligation  
29 between these persons, the remainderman or other person shall make  
30 payment to the life tenant in the exact amount of the exemption.

31 **Sec. 6.** RCW 84.36.389 and 1979 ex.s. c 214 s 4 are each amended to  
32 read as follows:

33 (1) The director of the department of revenue shall adopt such  
34 rules and regulations and prescribe such forms as may be necessary and  
35 appropriate for implementation and administration of this chapter  
36 subject to chapter 34.05 RCW, the administrative procedure act.

1 (2) The department may conduct such audits of the administration of  
2 RCW 84.36.381 through 84.36.389 and section 2 of this act and the  
3 claims for exemption filed thereunder as it considers necessary. The  
4 powers of the department under chapter 84.08 RCW apply to these audits.

5 (3) Any information or facts concerning confidential income data  
6 obtained by the assessor or the department, or their agents or  
7 employees, under subsection (2) of this section shall be used only to  
8 administer RCW 84.36.381 through 84.36.389 and section 2 of this act.  
9 Notwithstanding any provision of law to the contrary, absent written  
10 consent by the person about whom the information or facts have been  
11 obtained, the confidential income data shall not be disclosed by the  
12 assessor or the assessor's agents or employees to anyone other than the  
13 department or the department's agents or employees nor by the  
14 department or the department's agents or employees to anyone other than  
15 the assessor or the assessor's agents or employees except in a judicial  
16 proceeding pertaining to the taxpayer's entitlement to the tax  
17 exemption under RCW 84.36.381 through 84.36.389 and section 2 of this  
18 act. Any violation of this subsection is a misdemeanor.

19 NEW SECTION. **Sec. 7.** This act applies to taxes levied for  
20 collection in 2006 and thereafter.

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