

SSB 6211 - H COMM AMD
By Committee on Finance

ADOPTED AS AMENDED 03/03/2016

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

3 "NEW SECTION. **Sec. 1.** (1) This section is the tax preference
4 performance statement for the tax preference contained in this act.
5 This performance statement is only intended to be used for subsequent
6 evaluation of the tax preference. It is not intended to create a
7 private right of action by any party or be used to determine
8 eligibility for preferential tax treatment.

9 (2) The legislature categorizes this tax preference as one
10 intended to provide tax relief for certain businesses or individuals,
11 as indicated in RCW 82.32.808(2)(e).

12 (3) It is the legislature's specific public policy objective to
13 encourage and expand the ability of nonprofit low-income housing
14 developers to provide homeownership opportunities for low-income
15 households. It is the legislature's intent to exempt from taxation
16 real property owned by a nonprofit entity for the purpose of building
17 residences to be sold to low-income households in order to enhance
18 the ability of nonprofit low-income housing developers to purchase
19 and hold land for future affordable housing development.

20 (4)(a) To measure the effectiveness of the tax preference
21 provided in section 2 of this act in achieving the specific public
22 policy objectives described in subsection (3) of this section, the
23 joint legislative audit and review committee must evaluate, two years
24 prior to the expiration of the tax preference: (i) The annual growth
25 in the percentage of revenues dedicated to the development of
26 affordable housing, for each nonprofit claiming the preference, for
27 the period that the preference has been claimed; and (ii) the annual
28 changes in both the total number of parcels qualifying for the
29 exemption and the total number of parcels for which owner occupancy
30 notifications have been submitted to the department of revenue, from

1 the effective date of this section through the most recent year of
2 available data prior to the committee's review.

3 (b) If the review by the joint legislative audit and review
4 committee finds that for most of the nonprofits claiming the
5 exemption, program spending, program expenses, or another ratio
6 representing the percentage of the nonprofit entity's revenues
7 dedicated to the development of affordable housing has increased for
8 the period during which the exemption was claimed, then the
9 legislature intends to extend the expiration date of the tax
10 preference.

11 (5) In order to obtain the data necessary to perform the review
12 in subsection (4) of this section, the joint legislative audit and
13 review committee may refer to:

14 (a) Initial applications and annual renewal declarations for the
15 preference as approved by the department of revenue under RCW
16 84.36.815;

17 (b) Owner occupancy notices reported to the department of revenue
18 under section 2 of this act;

19 (c) Annual financial statements for a nonprofit entity claiming
20 this tax preference, as defined in section 2 of this act, and
21 provided by nonprofit entities claiming this preference; and

22 (d) Any other data necessary for the evaluation under subsection
23 (4) of this section.

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

26 (1) All real property owned by a nonprofit entity for the purpose
27 of developing or redeveloping on the real property one or more
28 residences to be sold to low-income households is exempt from state
29 and local property taxes.

30 (2) The exemption provided in this section expires on or at the
31 earlier of:

32 (a) The date on which the nonprofit entity transfers title to the
33 real property;

34 (b) The end of the seventh consecutive property tax year for
35 which the property is granted an exemption under this section or, if
36 the nonprofit entity has claimed an extension under subsection (3) of
37 this section, the end of the tenth consecutive property tax year for
38 which the property is granted an exemption under this section; or

1 (c) The property is no longer held for the purpose for which the
2 exemption was granted.

3 (3) If the nonprofit entity believes that title to the real
4 property will not be transferred by the end of the sixth consecutive
5 property tax year, the nonprofit entity may claim a three-year
6 extension of the exemption period by:

7 (a) Filing a notice of extension with the department on or before
8 March 31st of the sixth consecutive property tax year; and

9 (b) Providing a filing fee equal to the greater of two hundred
10 dollars or one-tenth of one percent of the real market value of the
11 property as of the most recent assessment date with the notice of
12 extension. The filing fee must be deposited into the state general
13 fund.

14 (4)(a) If the nonprofit entity has not transferred title to the
15 real property to a low-income household within the applicable period
16 described in subsection (2) of this section, or if the nonprofit
17 entity has converted the property to a purpose other than the purpose
18 for which the exemption was granted, the property is disqualified
19 from the exemption.

20 (b) Upon disqualification, the county treasurer must collect an
21 additional tax equal to all taxes that would have been paid on the
22 property but for the existence of the exemption, plus interest at the
23 same rate and computed in the same way as that upon delinquent
24 property taxes.

25 (c) The additional tax must be distributed by the county
26 treasurer in the same manner in which current property taxes
27 applicable to the subject property are distributed. The additional
28 taxes and interest are due in full thirty days following the date on
29 which the treasurer's statement of additional tax due is issued.

30 (d) The additional tax and interest is a lien on the property.
31 The lien for additional tax and interest has priority to and must be
32 fully paid and satisfied before any recognizance, mortgage, judgment,
33 debt, obligation, or responsibility to or with which the property may
34 become charged or liable. If a nonprofit entity sells or transfers
35 real property subject to a lien for additional taxes under this
36 subsection, such unpaid additional taxes must be paid by the
37 nonprofit entity at the time of sale or transfer. The county auditor
38 may not accept an instrument of conveyance unless the additional tax
39 has been paid. The nonprofit entity or the new owner may appeal the
40 assessed values upon which the additional tax is based to the county

1 board of equalization in accordance with the provisions of RCW
2 84.40.038.

3 (5) Nonprofit entities receiving an exemption under this section
4 must immediately notify the department when the exempt real property
5 becomes occupied. The notice of occupancy made to the department must
6 include a certification by the nonprofit entity that the occupants
7 are a low-income household and a date when the title to the real
8 property was or is anticipated to be transferred. The department of
9 revenue must make the notices of occupancy available to the joint
10 legislative audit and review committee, upon request by the
11 committee, in order for the committee to complete its review of the
12 tax preference in this section.

13 (6) Upon cessation of the exemption, the value of new
14 construction and improvements to the property, not previously
15 considered as new construction, must be considered as new
16 construction for purposes of calculating levies under chapter 84.55
17 RCW.

18 (7) Nonprofit entities receiving an exemption under this section
19 must provide annual financial statements to the joint legislative
20 audit and review committee, upon request by the committee, for the
21 years that the exemption has been claimed. The nonprofit entity must
22 identify the line or lines on the financial statements that comprise
23 the percentage of revenues dedicated to the development of affordable
24 housing.

25 (8) The definitions in this subsection apply throughout this
26 section unless the context clearly requires otherwise.

27 (a) "Financial statements" means an audited annual financial
28 statement and a completed United States treasury internal revenue
29 service return form 990 for organizations exempt from income tax.

30 (b) "Low-income household" means a single person, family, or
31 unrelated persons living together whose adjusted income is less than
32 eighty percent of the median family income, adjusted for family size
33 as most recently determined by the federal department of housing and
34 urban development for the county in which the property is located.

35 (c) "Nonprofit entity" means a nonprofit as defined in RCW
36 84.36.800 that is exempt from federal income taxation under 26 U.S.C.
37 Sec. 501(c)(3) of the federal internal revenue code of 1986, as
38 amended.

1 (d) "Residence" means a single-family dwelling unit whether such
2 unit be separate or part of a multiunit dwelling, including the land
3 on which such dwelling stands.

4 **Sec. 3.** RCW 84.36.805 and 2014 c 99 s 13 are each amended to
5 read as follows:

6 (1) In order to qualify for an exemption under this chapter, the
7 nonprofit organizations, associations, or corporations must satisfy
8 the conditions in this section.

9 (2) The property must be used exclusively for the actual
10 operation of the activity for which exemption is granted, unless
11 otherwise provided, and does not exceed an amount reasonably
12 necessary for that purpose. Notwithstanding anything to the contrary
13 in this section:

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

16 (i) The rents and donations received for the use of the portion
17 of the property are reasonable and do not exceed the maintenance and
18 operation expenses attributable to the portion of the property loaned
19 or rented; and

20 (ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037,
21 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt
22 from tax if owned by the organization to which it is loaned or
23 rented;

24 (b) The use of the property for fund-raising events does not
25 subject the property to tax if the fund-raising events are consistent
26 with the purposes for which the exemption is granted or are conducted
27 by a nonprofit organization. If the property is loaned or rented to
28 conduct a fund-raising event, the requirements of (a) of this
29 subsection (2) apply;

30 (c) An inadvertent use of the property in a manner inconsistent
31 with the purpose for which exemption is granted does not subject the
32 property to tax, if the inadvertent use is not part of a pattern of
33 use. A pattern of use is presumed when an inadvertent use is repeated
34 in the same assessment year or in two or more successive assessment
35 years.

36 (3) The facilities and services must be available to all
37 regardless of race, color, national origin or ancestry.

1 (4) The organization, association, or corporation must be duly
2 licensed or certified where such licensing or certification is
3 required by law or regulation.

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

8 (a) A nonprofit as defined in RCW 84.36.800 that is exempt from
9 income tax under 26 U.S.C. Sec. 501(c) of the federal internal
10 revenue code;

11 (b) A governmental entity established under RCW 35.21.660,
12 35.21.670, or 35.21.730;

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

14 (d) A housing authority meeting the definition in RCW
15 35.82.210(2)(a); or

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

17 (6) The department must have access to its books in order to
18 determine whether the nonprofit organization, association, or
19 corporation is exempt from taxes under this chapter.

20 (7) This section does not apply to exemptions granted under RCW
21 84.36.020, 84.36.032, 84.36.250, section 2 of this act, and
22 84.36.480(2).

23 (8)(a) The use of property exempt under this chapter, other than
24 as specifically authorized by this chapter, nullifies the exemption
25 otherwise available for the property for the assessment year.
26 However, the exemption is not nullified by the use of the property by
27 any individual, group, or entity, where such use is not otherwise
28 authorized by this chapter, for not more than fifty days in each
29 calendar year, and the property is not used for pecuniary gain or to
30 promote business activities for more than fifteen of the fifty days
31 in each calendar year. The fifty and fifteen-day limitations provided
32 in this subsection (8)(a) do not include days during which setup and
33 takedown activities take place immediately preceding or following a
34 meeting or other event by an individual, group, or entity using the
35 property as provided in this subsection (8)(a).

36 (b) If uses of the exempt property exceed the fifty and fifteen-
37 day limitations provided in (a) of this subsection (8) during an
38 assessment year, the exemption is removed for the affected portion of
39 the property for that assessment year.

1 **Sec. 4.** RCW 84.36.815 and 2007 c 111 s 301 are each amended to
2 read as follows:

3 (1) In order to qualify for exempt status for any real or
4 personal property under this chapter except personal property under
5 RCW 84.36.600, all foreign national governments; cemeteries;
6 nongovernmental nonprofit corporations, organizations, and
7 associations; hospitals owned and operated by a public hospital
8 district for purposes of exemption under RCW 84.36.040(2); and soil
9 and water conservation districts (~~shall~~) must file an initial
10 application on or before March 31st with the state department of
11 revenue. However, the initial application deadline for the exemption
12 provided in section 2 of this act is July 1st for 2016 and March 31st
13 for 2017 and thereafter. All applications (~~shall~~) must be filed on
14 forms prescribed by the department and (~~shall~~) must be signed by an
15 authorized agent of the applicant.

16 (2) In order to requalify for exempt status, all applicants
17 except nonprofit cemeteries (~~shall~~) and nonprofits receiving the
18 exemption under section 2 of this act must file an annual renewal
19 declaration on or before March 31st each year. The renewal
20 declaration (~~shall~~) must be on forms prescribed by the department
21 of revenue and (~~shall~~) must contain a statement certifying the
22 exempt status of the real or personal property owned by the exempt
23 organization. This renewal declaration may be submitted
24 electronically in a format provided or approved by the department.
25 Information may also be required with the renewal declaration to
26 assist the department in determining whether the property tax
27 exemption should continue.

28 (3) When an organization acquires real property qualified for
29 exemption or converts real property to exempt status, the
30 organization (~~shall~~) must file an initial application for the
31 property within sixty days following the acquisition or conversion in
32 accordance with all applicable provisions of subsection (1) of this
33 section. If the application is filed after the expiration of the
34 sixty-day period, a late filing penalty (~~shall be~~) is imposed under
35 RCW 84.36.825.

36 (4) When organizations acquire real property qualified for
37 exemption or convert real property to an exempt use, the property,
38 upon approval of the application for exemption, is entitled to a
39 property tax exemption for property taxes due and payable the
40 following year. If the owner has paid taxes for the year following

1 the year the property qualified for exemption, the owner is entitled
2 to a refund of the amount paid on the property so acquired or
3 converted.

4 (5) The department must share approved initial applications and
5 annual renewal declarations for the tax preference provided in
6 section 2 of this act with the joint legislative audit and review
7 committee, upon request by the committee, in order for the committee
8 to complete its review of the tax preference provided in section 2 of
9 this act.

10 **Sec. 5.** RCW 84.36.820 and 2007 c 111 s 302 are each amended to
11 read as follows:

12 On or before January 1st of each year, the department of revenue
13 (~~shall~~) must notify the owners of record of property exempted from
14 property taxation at their last known address about the obligation to
15 file an annual renewal declaration for continued exemption. When a
16 continued exemption is not approved, the department (~~shall~~) must
17 notify the assessor of the county in which the property is located
18 who, in turn, (~~shall~~) must remove the tax exemption from the
19 property. The failure to file an annual renewal declaration for
20 continued exemption and subsequent removal of the exemption (~~shall~~)
21 is not (~~be~~) subject to review as provided in RCW 84.36.850. The
22 department of revenue (~~shall~~) must review applications received
23 after the (~~March 31st~~) due date required under RCW 84.36.815, but
24 these applications (~~shall be~~) are subject to late filing penalties
25 provided in RCW 84.36.825.

26 **Sec. 6.** RCW 84.36.840 and 2007 c 111 s 305 are each amended to
27 read as follows:

28 (1) In order to determine whether organizations, associations,
29 corporations, or institutions, except those exempted under RCW
30 84.36.020, section 2 of this act, and 84.36.030, are exempt from
31 property taxes, and before the exemption (~~shall be~~) is allowed for
32 any year, the superintendent or manager or other proper officer of
33 the organization, association, corporation, or institution claiming
34 exemption from taxation (~~shall~~) must file with the department of
35 revenue a statement certifying that the income and the receipts
36 thereof, including donations to it, have been applied to the actual
37 expenses of operating and maintaining it, or for its capital
38 expenditures, and to no other purpose. This report (~~shall~~) must

1 also include a statement of the receipts and disbursements of the
2 exempt organization, association, corporation, or institution.

3 (2) Educational institutions claiming exemption under RCW
4 84.36.050 (~~shall~~) must also file a list of all property claimed to
5 be exempt, the purpose for which it is used, the revenue derived from
6 it for the preceding year, the use to which the revenue was applied,
7 the number of students who attended the school or college, the total
8 revenues of the institution with the source from which they were
9 derived, and the purposes to which the revenues were applied, listing
10 the items of such revenues and expenditures in detail.

11 (3) The reports required under subsections (1) and (2) of this
12 section may be submitted electronically, in a format provided or
13 approved by the department, or mailed to the department. The reports
14 (~~shall~~) must be submitted on or before March 31st of each year. The
15 department (~~shall~~) must remove the tax exemption from the property
16 of any organization, association, corporation, or institution that
17 does not file the required report with the department on or before
18 the due date. However, the department (~~shall~~) must allow a
19 reasonable extension of time for filing upon receipt of a written
20 request on or before the required filing date and for good cause
21 shown therein.

22 **Sec. 7.** RCW 84.36.845 and 1973 2nd ex.s. c 40 s 15 are each
23 amended to read as follows:

24 If subsequent to the time that the exemption of any property is
25 initially approved or renewed, it (~~shall be~~) is determined that
26 such exemption was approved or renewed as the result of inaccurate
27 information provided by the authorized agent of the applicant, the
28 exemption (~~shall~~) must be revoked and taxes (~~shall~~) must be
29 levied against such property pursuant to the provisions of RCW
30 84.36.810 or section 2(4) of this act for exemptions granted under
31 section 2 of this act.

32 **Sec. 8.** RCW 84.36.855 and 1973 2nd ex.s. c 40 s 17 are each
33 amended to read as follows:

34 Except as otherwise provided by law, property (~~which~~) that
35 changes from exempt to taxable status (~~shall be~~) is subject to the
36 provisions of RCW 84.36.810 and 84.40.350 through 84.40.390, and the
37 assessor (~~shall~~) must also place the property on the assessment
38 roll for taxes due and payable in the following year.

1 NEW SECTION. **Sec. 9.** This act applies to taxes levied in 2016
2 for collection in 2017 and thereafter."

3 Correct the title.

EFFECT: (1) For the legislature's consideration of extending the preference, requires JLARC to evaluate whether or not the financial resources dedicated by a nonprofit to affordable housing development have increased during the period that the property tax exemption is claimed, instead of evaluating the number of affordable housing units developed.

(2) Adds more specific metrics to JLARC's review of the number of units exempted.

(3) Requires the department of revenue to share exemption applications and owner occupancy notifications with JLARC.

(4) Requires a nonprofit claiming the exemption to retain and provide financial information to JLARC.

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