
SUBSTITUTE HOUSE BILL 1391

State of Washington

65th Legislature

2017 Regular Session

By House Finance (originally sponsored by Representatives DeBolt and Orcutt)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to a property tax exemption for land owned by a
2 nonprofit organization and designated as a master planned location
3 for major industrial activity; amending RCW 84.36.805; adding a new
4 section to chapter 84.36 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that a four
7 thousand four hundred acre industrial site in Lewis county was
8 formerly a surface coal mining operation. The legislature further
9 finds that coal removal operations ended in 2006. The legislature
10 further finds that it designated areas of this reclaimed mine site as
11 a new industrial park in state law (RCW 36.70A.368). The legislature
12 further finds that this site has good access to both air and water
13 ports as well as major north-south and east-west truck and rail
14 corridors. The legislature further finds that this site is an ideal
15 location for major industrial investment while also located in an
16 area which enjoys open space, with wild and scenic beauty. The
17 legislature further finds that the industrial park at Transalta
18 (IPAT), a 501(c)(3) nonprofit organization, currently owns one
19 thousand of the four thousand four hundred acre industrial site and
20 works with the state department of commerce to market and develop the
21 entire four thousand four hundred acre site for industrial activity.

1 The legislature further finds that IPAT, unlike many nonprofits, is
2 paying property taxes on the property that it is seeking to sell to
3 third parties for industrial development pursuant to its nonprofit
4 mission. The legislature further finds that these property taxes
5 amount to approximately eight percent of operating expenses.

6 (2)(a) This section is the tax preference performance statement
7 for the property tax exemption contained in section 2, chapter . . . ,
8 Laws of 2017 (section 2 of this act). This performance statement is
9 only intended to be used for subsequent evaluation of the tax
10 preferences. It is not intended to create a private right of action
11 by any party or be used to determine eligibility for preferential tax
12 treatment.

13 (b) The legislature categorizes these tax preferences as intended
14 to improve industry competitiveness and create or retain jobs, as
15 indicated in RCW 82.32.808(2) (b) and (c).

16 (c) It is the legislature's specific public policy objective to
17 provide a property tax exemption for land owned by a nonprofit
18 organization that seeks to market and sell its land holdings for
19 industrial development to fulfill a mission recognized in state law
20 to redevelop land formerly used for coal mining activity.

21 (d) The joint legislative audit and review committee will review
22 the number of parcels that received the tax preferences provided in
23 this act that have been leased, sold, or gifted within seven years
24 after the enactment of the tax preference. In order to obtain the
25 data necessary to perform the review, the joint legislative audit and
26 review committee may refer to data sources including county assessor
27 property records.

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

30 (1) All real property owned by a nonprofit organization and
31 within an area designated as a master planned location for major
32 industrial activity outside urban growth areas on lands formerly used
33 or designated for surface coal mining and supporting uses, as
34 provided in RCW 36.70A.368, is exempt from property taxation.
35 Property otherwise eligible for an exemption from property taxation
36 under this section ceases to be exempt as of the date that the
37 nonprofit organization leases, gifts, sells, or transfers ownership
38 of the property to any other person.

1 (2) A claim for an exemption under this section must be filed
2 with the county assessor on forms prescribed by the department and
3 furnished by the assessor.

4 **Sec. 3.** RCW 84.36.805 and 2016 c 217 s 3 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, 84.36.049, ~~((and))~~ 84.36.480(2), and
22 section 2 of this act.

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 NEW SECTION. **Sec. 4.** This act applies to taxes levied for
2 collection in 2018 and thereafter.

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