S-3133.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5505**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Rolfes, Warnick, Hasegawa, Lovelett, Lovick, Mullet, Pedersen, Van De Wege, Wagoner, and C. Wilson

AN ACT Relating to reinstating a property tax exemption for property owned by certain nonprofit organizations where a portion of the property is used for the purpose of a farmers market; amending RCW 84.36.020 and 84.36.805; and creating new sections.

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

**Sec.**  RCW 84.36.020 and 2014 c 99 s 3 are each amended to read as follows:

The following real and personal property shall be exempt from taxation:

(1) All lands, buildings, and personal property required for necessary administration and maintenance, used, or to the extent used, exclusively for public burying grounds or cemeteries without discrimination as to race, color, national origin or ancestry;

(2)(a) All churches, personal property, and the ground, not exceeding five acres in area, upon which a church of any nonprofit recognized religious denomination is or must be built, together with a parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property. The area exempted must in any case include all ground covered by the church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation, but the area of unoccupied ground exempted in such cases, in connection with church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property, shall not exceed the equivalent of one hundred twenty by one hundred twenty feet except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements. The parsonage and convent need not be on land contiguous to the church property. Except as otherwise provided in this subsection, to be exempt the property must be wholly used for church purposes.

(b) If the rental income or donations, if applicable, are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented, the exemption provided by this subsection (2) is not nullified by:

(i) The loan or rental of property otherwise exempt under this subsection (2) to a nonprofit organization, association, or corporation, or school to conduct an eleemosynary activity;

(ii) The rental or use of the property by any individual, group, or entity, where such rental or use is not otherwise authorized by this subsection (2), for not more than fifty days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations provided in this subsection (2)(b)(ii) do not include days during which setup and takedown activities take place immediately preceding or following a meeting or other event by an individual, group, or entity using the property as provided in this subsection (2)(b)(ii). The 15-day and 50-day limitations provided in this subsection (2)(b)(ii) do not apply to the use of the property for pecuniary gain or for business activities if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. The exempt property may be used for up to 53 days for the purposes of a qualifying farmers market; or

(iii) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

**Sec.**  RCW 84.36.805 and 2016 c 217 s 3 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(c) A housing authority created under RCW 35.82.030;

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

(e) A housing authority established under RCW 35.82.300.

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

(7) This section does not apply to exemptions granted under RCW 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

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

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

(c) The 15-day and 50-day limitations provided in (a) of this subsection (8) do not apply to property exempt under RCW 84.36.037 if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. Exempt property under RCW 84.36.037 may be used for up to 53 days for the purposes of a qualifying farmers market.

NEW SECTION. **Sec.**  This act applies both retroactively and prospectively to taxes levied for collection in 2021 and thereafter.

NEW SECTION. **Sec.**  RCW 82.32.805 and 82.32.808 do not apply to this act.

**--- END ---**