

SB 5713 - H COMM AMD
By Committee on Finance

ADOPTED 03/02/2022

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 section 2,
5 chapter . . ., Laws of 2022 (section 2 of this act). This performance
6 statement is only intended to be used for subsequent evaluation of
7 the tax preference. It is not intended to create a private right of
8 action by any party or be used to determine eligibility for
9 preferential tax treatment.

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

13 (3) It is the legislature's specific public policy objective to
14 financially incentivize the formation and utilization of limited
15 equity cooperatives, and to increase the availability of housing
16 available to low-income households. It is the legislature's intent to
17 exempt from taxation any real property owned by a limited equity
18 cooperative when a majority of the property is used and occupied by
19 low-income households.

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) Growth in the
25 formation and utilization of limited equity cooperatives; (ii) growth
26 in available units of affordable housing within limited equity
27 cooperatives; and (iii) any other metric the joint legislative audit
28 and review committee determines is relevant to measuring success of
29 this exemption.

30 (b) If the review by the joint legislative audit and review
31 committee finds that growth in the formation and utilization of

1 limited equity cooperatives or growth in available units of
2 affordable housing within limited equity cooperatives has occurred,
3 then the legislature intends to extend the expiration date of the tax
4 preference.

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

8 (a) Initial applications for the preference as approved by the
9 department of revenue under RCW 84.36.815;

10 (b) Annual financial statements for a limited equity cooperative
11 claiming this tax preference; and

12 (c) Any other data necessary for the evaluation under subsection
13 (4) of this section.

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

16 (1) The real property owned by a limited equity cooperative that
17 provides owned housing for low-income households is exempt from
18 property taxation if:

19 (a) The benefit of the exemption inures to the limited equity
20 cooperative and its members;

21 (b) At least 85 percent of the occupied dwelling units in the
22 limited equity cooperative is occupied by members of the limited
23 equity cooperative determined as of January 1st of each assessment
24 year for which the exemption is claimed;

25 (c) At least 95 percent of the property for which the exemption
26 is sought is used for dwelling units or other noncommercial uses
27 available for use by the members of the limited equity cooperative;
28 and

29 (d) The housing was insured, financed, or assisted, in whole or
30 in part, through one or more of the following sources:

31 (i) A federal or state housing program administered by the
32 department of commerce;

33 (ii) A federal or state housing program administered by the
34 federal department of housing and urban development;

35 (iii) A federal housing program administered by a city or county
36 government;

37 (iv) An affordable housing levy authorized under RCW 84.52.105;

38 (v) The surcharges authorized by RCW 36.22.178 and 36.22.179 and
39 any of the surcharges authorized in chapter 43.185C RCW; or

1 (vi) The Washington state housing finance commission.

2 (2) If less than 100 percent of the dwelling units within the
3 limited equity cooperative is occupied by low-income households, the
4 limited equity cooperative is eligible for a partial exemption on the
5 real property. The amount of exemption must be calculated by
6 multiplying the assessed value of the property owned by the limited
7 equity cooperative by a fraction. The numerator of the fraction is
8 the number of dwelling units occupied by low-income households as of
9 January 1st of each assessment year for which the exemption is
10 claimed, and the denominator of the fraction is the total number of
11 dwelling units as of such date.

12 (3) The definitions in this subsection apply throughout this
13 section unless the context clearly requires otherwise.

14 (a) "Cooperative" has the meaning provided in RCW 64.90.010.

15 (b)(i) "Limited equity cooperative" means a cooperative subject
16 to the Washington uniform common interest ownership act under chapter
17 64.90 RCW that owns the real property for which an exemption is
18 sought under this section and for which, following the completion of
19 the development or redevelopment of such real property:

20 (A) Members are prevented from selling their ownership interests
21 other than to a median-income household; and

22 (B) Members are prevented from selling their ownership interests
23 for a sales price that exceeds the sum of:

24 (I) The sales price they paid for their ownership interest;

25 (II) The cost of permanent improvements they made to the dwelling
26 unit during their ownership;

27 (III) Any special assessments they paid to the limited equity
28 cooperative during their ownership to the extent utilized to make
29 permanent improvements to the building or buildings in which the
30 dwelling units are located; and

31 (IV) A three percent annual noncompounded return on the above
32 amounts.

33 (ii) For the purposes of this subsection (3)(b), "sales price" is
34 the total consideration paid or contracted to be paid to the seller
35 or to another for the seller's benefit.

36 (c) "Low-income household" means a single person, family, or
37 unrelated persons living together whose income is at or below 80
38 percent of the median income adjusted for family size as most
39 recently determined by the federal department of housing and urban
40 development for the county in which the housing is located and in

1 effect as of January 1st of the year in which the determination is to
2 be made as to whether the single person, family, or unrelated persons
3 living together qualify as a low-income household.

4 (d) "Median-income household" means a single person, family, or
5 unrelated persons living together whose income is at or below 100
6 percent of the median income adjusted for family size as most
7 recently determined by the federal department of housing and urban
8 development for the county in which the housing is located and in
9 effect as of January 1st of the year in which the determination is to
10 be made as to whether the single person, family, or unrelated persons
11 living together qualify as a median-income household.

12 (e) "Members" of a limited equity cooperative means individuals
13 or entities that have an ownership interest in the limited equity
14 cooperative that entitles them to occupy and sell a dwelling unit in
15 the limited equity cooperative.

16 **Sec. 3.** RCW 84.36.800 and 1998 c 311 s 24 are each amended to
17 read as follows:

18 As used in this chapter:

19 (1) "Church purposes" means the use of real and personal property
20 owned by a nonprofit religious organization for religious worship or
21 related administrative, educational, eleemosynary, and social
22 activities. This definition is to be broadly construed;

23 (2) "Convent" means a house or set of buildings occupied by a
24 community of clergy or nuns devoted to religious life under a
25 superior;

26 (3) "Hospital" means any portion of a hospital building, or other
27 buildings in connection therewith, used as a residence for persons
28 engaged or employed in the operation of a hospital, or operated as a
29 portion of the hospital unit;

30 (4) (a) "Nonprofit" means an organization, association or
31 corporation no part of the income of which is paid directly or
32 indirectly to its members, stockholders, officers, directors or
33 trustees except in the form of services rendered by the organization,
34 association, or corporation in accordance with its purposes and
35 bylaws and the salary or compensation paid to officers of such
36 organization, association or corporation is for actual services
37 rendered and compares to the salary or compensation of like positions
38 within the public services of the state;

1 (b) "Nonprofit" also means a limited equity cooperative as
2 defined in section 2 of this act;

3 (5) "Parsonage" means a residence occupied by a member of the
4 clergy who has been designated for a particular congregation and who
5 holds regular services therefor.

6 **Sec. 4.** RCW 84.36.805 and 2016 c 217 s 3 are each amended to
7 read as follows:

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

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

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

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

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

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

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

38 (3) The facilities and services must be available to all
39 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))~~ :

7 (a) Limited equity cooperatives as defined in section 2 of this
8 act; or

9 (b) Property sold to a nonprofit entity, as defined in RCW
10 84.36.560~~((7))~~, by:

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

14 ~~((b))~~ (ii) A governmental entity established under RCW
15 35.21.660, 35.21.670, or 35.21.730;

16 ~~((c))~~ (iii) A housing authority created under RCW 35.82.030;

17 ~~((d))~~ (iv) A housing authority meeting the definition in RCW
18 35.82.210(2)(a); or

19 ~~((e))~~ (v) A housing authority established under RCW 35.82.300.

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

23 (7) This section does not apply to exemptions granted under RCW
24 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

25 (8)(a) The use of property exempt under this chapter, other than
26 as specifically authorized by this chapter, nullifies the exemption
27 otherwise available for the property for the assessment year.
28 However, the exemption is not nullified by the use of the property by
29 any individual, group, or entity, where such use is not otherwise
30 authorized by this chapter, for not more than ~~((fifty))~~ 50 days in
31 each calendar year, and the property is not used for pecuniary gain
32 or to promote business activities for more than ~~((fifteen))~~ 15 of the
33 ~~((fifty))~~ 50 days in each calendar year. The ~~((fifty))~~ 50 and
34 ~~((fifteen))~~ 15-day limitations provided in this subsection (8)(a) do
35 not include days during which setup and takedown activities take
36 place immediately preceding or following a meeting or other event by
37 an individual, group, or entity using the property as provided in
38 this subsection (8)(a).

39 (b) If uses of the exempt property exceed the ~~((fifty))~~ 50 and
40 ~~((fifteen))~~ 15-day limitations provided in (a) of this subsection (8)

1 during an assessment year, the exemption is removed for the affected
2 portion of the property for that assessment year.

3 **Sec. 5.** RCW 84.36.810 and 2006 c 305 s 4 are each amended to
4 read as follows:

5 (1) (a) Upon cessation of a use under which an exemption has been
6 granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.041,
7 84.36.042, 84.36.043, 84.36.046, 84.36.050, 84.36.060, 84.36.550,
8 84.36.560, 84.36.570, section 2 of this act, and 84.36.650, except as
9 provided in (b) of this subsection, the county treasurer shall
10 collect all taxes which would have been paid had the property not
11 been exempt during the three years preceding, or the life of such
12 exemption, if such be less, together with the interest at the same
13 rate and computed in the same way as that upon delinquent property
14 taxes. If the property has been granted an exemption for more than
15 (~~ten~~) 10 consecutive years, taxes and interest shall not be
16 assessed under this section.

17 (b) Upon cessation of use by an institution of higher education
18 of property exempt under RCW 84.36.050(2) the county treasurer shall
19 collect all taxes which would have been paid had the property not
20 been exempt during the seven years preceding, or the life of the
21 exemption, whichever is less.

22 (2) Subsection (1) of this section applies only when ownership of
23 the property is transferred or when (~~fifty-one~~) 51 percent or more
24 of the area of the property loses its exempt status. The additional
25 tax under subsection (1) of this section shall not be imposed if the
26 cessation of use resulted solely from:

27 (a) Transfer to a nonprofit organization, association, or
28 corporation for a use which also qualifies and is granted exemption
29 under this chapter;

30 (b) A taking through the exercise of the power of eminent domain,
31 or sale or transfer to an entity having the power of eminent domain
32 in anticipation of the exercise of such power;

33 (c) Official action by an agency of the state of Washington or by
34 the county or city within which the property is located which
35 disallows the present use of such property;

36 (d) A natural disaster such as a flood, windstorm, earthquake, or
37 other such calamity rather than by virtue of the act of the
38 organization, association, or corporation changing the use of such
39 property;

1 (e) Relocation of the activity and use of another location or
2 site except for undeveloped properties of camp facilities exempted
3 under RCW 84.36.030;

4 (f) Cancellation of a lease on leased property that had been
5 exempt under this chapter;

6 (g) A change in the exempt portion of a home for the aging under
7 RCW 84.36.041(3), as long as some portion of the home remains exempt;
8 or

9 (h) Transfer to an agency of the state of Washington or the city
10 or county within which the property is located.

11 (3) Subsection (2)(e) and (f) of this section (~~((do—[does]))~~) does
12 not apply to property leased to a state institution of higher
13 education and exempt under RCW 84.36.050(2).

14 **Sec. 6.** RCW 84.36.815 and 2020 c 273 s 2 are each amended to
15 read as follows:

16 (1) In order to qualify for exempt status for any real or
17 personal property under this chapter except personal property under
18 RCW 84.36.600, all foreign national governments; cemeteries;
19 nongovernmental nonprofit corporations, organizations, and
20 associations; hospitals owned and operated by a public hospital
21 district for purposes of exemption under RCW 84.36.040(2); and soil
22 and water conservation districts must file an initial application on
23 or before March 31st with the state department of revenue. However,
24 the initial application deadline for the exemption provided in RCW
25 84.36.049 is July 1st for 2016 and March 31st for 2017 and
26 thereafter. All applications must be filed on forms prescribed by the
27 department and must be signed by an authorized agent of the
28 applicant.

29 (2)(a) In order to requalify for exempt status, all applicants
30 except nonprofit cemeteries and nonprofits receiving the exemption
31 under RCW 84.36.049 and nonprofits receiving the exemptions under RCW
32 84.36.560 or section 2 of this act must file an annual renewal
33 declaration on or before March 31st each year. The renewal
34 declaration must be on forms prescribed by the department of revenue
35 and must contain a statement certifying the exempt status of the real
36 or personal property owned by the exempt organization. This renewal
37 declaration may be submitted electronically in a format provided or
38 approved by the department. Information may also be required with the

1 renewal declaration to assist the department in determining whether
2 the property tax exemption should continue.

3 (b) In order to requalify for exempt status, nonprofits receiving
4 the exemptions under RCW 84.36.560 or section 2 of this act must file
5 a renewal declaration on or before March 31st of every third year
6 following initial qualification for the exemption. Except for the
7 annual renewal requirement, all other requirements of (a) of this
8 subsection apply.

9 (3) When an organization acquires real property qualified for
10 exemption or converts real property to exempt status, the
11 organization must file an initial application for the property within
12 sixty days following the acquisition or conversion in accordance with
13 all applicable provisions of subsection (1) of this section. If the
14 application is filed after the expiration of the (~~sixty~~) 60-day
15 period, a late filing penalty is imposed under RCW 84.36.825.

16 (4) When organizations acquire real property qualified for
17 exemption or convert real property to an exempt use, the property,
18 upon approval of the application for exemption, is entitled to a
19 property tax exemption for property taxes due and payable the
20 following year. If the owner has paid taxes for the year following
21 the year the property qualified for exemption, the owner is entitled
22 to a refund of the amount paid on the property so acquired or
23 converted.

24 (5) The department must share approved initial applications for
25 the tax preferences provided in RCW 84.36.049 and section 2 of this
26 act with the joint legislative audit and review committee, upon
27 request by the committee, in order for the committee to complete its
28 review of the tax preferences provided in RCW 84.36.049 and section 2
29 of this act.

30 NEW SECTION. **Sec. 7.** This act applies to taxes levied for
31 collection in 2023 through 2032.

32 NEW SECTION. **Sec. 8.** Sections 2 through 6 of this act expire
33 January 1, 2033."

34 Correct the title.

EFFECT: Adds the Washington State Housing Finance Commission as
an eligible housing funding source for exemption-eligible properties.
Adds the limited equity cooperative exemption to the administrative

statutes for nonprofit property tax exemptions, requiring initial application for the exemption and renewal declaration every 3 years. Requires DOR to share information about applications for the exemption with JLARC to assist with review. Clarifies that the exemption applies to taxes levied for collection in 2023-2032.

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