
SUBSTITUTE HOUSE BILL 1789

State of Washington

67th Legislature

2022 Regular Session

By House Finance (originally sponsored by Representatives Ramos, Goehner, Callan, J. Johnson, Senn, Ryu, Chambers, Springer, Eslick, Fey, Goodman, Robertson, Jacobsen, Peterson, Ramel, Rule, Santos, Shewmake, Wylie, Simmons, Slatter, Tharinger, Valdez, Pollet, Graham, Young, and Kloba)

READ FIRST TIME 01/27/22.

1 AN ACT Relating to establishing a property tax exemption for
2 adult family homes that serve people with intellectual or
3 developmental disabilities and are owned by a nonprofit; amending RCW
4 84.36.042 and 84.36.805; and creating new sections.

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

6 **Sec. 1.** RCW 84.36.042 and 1998 c 202 s 1 are each amended to
7 read as follows:

8 (1) All real and personal property owned or leased by a nonprofit
9 organization, corporation, or association to provide housing for
10 eligible persons with developmental disabilities is exempt from
11 property taxation, whether such housing is provided directly by the
12 nonprofit organization, corporation, or association, or indirectly as
13 allowed under (c) of this subsection.

14 (a) To qualify for this exemption, the nonprofit organization,
15 corporation, or association must be qualified for exemption under
16 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C.
17 Sec. 501(c)(3)). It must also have been organized for charitable
18 purposes to create and preserve long-term affordable housing for low-
19 income ~~((developmentally—disabled))~~ persons with developmental
20 disabilities.

1 (b) The housing must be occupied by eligible persons who have a
2 low income.

3 (c) Property that is owned or leased by a nonprofit organization,
4 corporation, or association may be leased, sublet, or subject to a
5 service agreement with a provider operating an adult family home
6 under chapter 70.128 RCW that specifically provides services for
7 persons with developmental disabilities, without regard to the
8 nonprofit status of the operator of the adult family home.

9 (2) As used in this section:

10 (a) "Developmental disability" means the same as defined in RCW
11 71A.10.020;

12 (b) "Eligible person" means the same as defined in RCW
13 71A.10.020; and

14 (c) "Low income" means the adjusted gross income of the resident
15 is at eighty percent or less of the median income adjusted for family
16 size, as most recently determined by the federal department of
17 housing and urban development for the county in which the housing is
18 located and in effect as of January 1st of the assessment year for
19 which the exemption is sought. "Adjusted gross income" is as defined
20 in the federal internal revenue code of 1986, as it exists on June
21 11, 1998, or such subsequent date as the director may provide by rule
22 consistent with the purpose of this section.

23 (3) To be exempt under this section, the property must be used
24 exclusively for the purposes for which the exemption is granted,
25 except as provided in RCW 84.36.805.

26 (4) If the real or personal property for which exemption is
27 sought is leased, the benefit of the exemption must inure to the
28 nonprofit organization, corporation, or association leasing the
29 property to provide the housing for ((developmentally disabled))
30 persons with developmental disabilities.

31 **Sec. 2.** RCW 84.36.805 and 2016 c 217 s 3 are each amended to
32 read as follows:

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

36 (2) The property must be used exclusively for the actual
37 operation of the activity for which exemption is granted, unless
38 otherwise provided, and does not exceed an amount reasonably

1 necessary for that purpose. Notwithstanding anything to the contrary
 2 in this section:

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

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

9 (ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037,
 10 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt
 11 from tax if owned by the organization to which it is loaned or
 12 rented; and

13 (iii) This subsection (2)(a) does not apply to exemptions granted
 14 under RCW 84.36.042;

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

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

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

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

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

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

39 (b) A governmental entity established under RCW 35.21.660,
 40 35.21.670, or 35.21.730;

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

2 (d) A housing authority meeting the definition in RCW
3 35.82.210(2)(a); or

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

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

8 (7) This section does not apply to exemptions granted under RCW
9 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

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

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

27 NEW SECTION. **Sec. 3.** This act applies to taxes levied for
28 collection in 2021 and thereafter, including retroactively for any
29 taxpayer who has been assessed taxes prior to the effective date of
30 this section. Nothing in this act is intended to be construed to
31 require or otherwise authorize a refund of taxes lawfully paid prior
32 to the effective date of this section.

33 NEW SECTION. **Sec. 4.** RCW 82.32.805 and 82.32.808 do not apply
34 to this act.

--- END ---