

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1107

Chapter 361, Laws of 2019

66th Legislature
2019 Regular Session

LOW-INCOME HOUSING DEVELOPMENT PROPERTY TAX EXEMPTION--QUALIFIED
COOPERATIVE ASSOCIATIONS

EFFECTIVE DATE: July 28, 2019

Passed by the House April 4, 2019
Yeas 85 Nays 9

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 27, 2019
Yeas 44 Nays 4

CYRUS HABIB

President of the Senate

Approved May 9, 2019 3:46 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1107** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 13, 2019

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1107

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By House Finance (originally sponsored by Representatives Slatter, Ryu, Macri, Wylie, Bergquist, and Santos)

READ FIRST TIME 02/19/19.

1 AN ACT Relating to nonprofit homeownership development; amending
2 RCW 84.36.049; amending 2018 c 103 s 1 (uncodified); and creating a
3 new section.

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

5 **Sec. 1.** RCW 84.36.049 and 2018 c 103 s 2 are each amended to
6 read as follows:

7 (1) All real property owned by a nonprofit entity or by a
8 qualified cooperative association for the purpose of developing or
9 redeveloping on the real property one or more residences to be sold
10 to low-income households including land to be leased as provided in
11 subsection (8) ~~((d))~~ (e)(ii) of this section, is exempt from state
12 and local property taxes.

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

15 (a) The date on which the nonprofit entity transfers title to the
16 single-family dwelling unit or the date on which the qualified
17 cooperative association first conveys, directly or indirectly through
18 the transfer of an ownership interest in the association, any single-
19 family dwelling unit on the property or any part of the property. The
20 exemption will not expire as a consequence of the real property being
21 transferred by one nonprofit entity to another nonprofit entity or to

1 a qualified cooperative association so long as the transferee timely
2 applies to the department for a continuation of the exemption;

3 (b) The date on which the nonprofit entity or qualified
4 cooperative association executes a lease of land described in
5 subsection (8) (~~(d)~~) (e)(ii) of this section;

6 (c) The end of the seventh consecutive property tax year for
7 which the property is granted an exemption under this section or, if
8 the nonprofit entity or qualified cooperative association has claimed
9 an extension under subsection (3) of this section, the end of the
10 tenth consecutive property tax year for which the property is granted
11 an exemption under this section; or

12 (d) The property is no longer held for the purpose for which the
13 exemption was granted.

14 (3) If the nonprofit entity believes that title to the single-
15 family dwelling unit will not be transferred by the end of the sixth
16 consecutive property tax year or if a qualified cooperative
17 association believes that neither a single-family dwelling unit nor
18 any other part of the property will be transferred by the end of the
19 sixth consecutive property tax year, the nonprofit entity or
20 qualified cooperative association may claim a three-year extension of
21 the exemption period by:

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

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

29 (4)(a) If the nonprofit entity has not transferred title to the
30 single-family dwelling unit to a low-income household, or if a
31 qualified cooperative association has not transferred either a
32 single-family dwelling unit or any other property, within the
33 applicable period described in subsection (2)(c) of this section, or
34 if the nonprofit entity or qualified cooperative association has
35 converted the property to a purpose other than the purpose for which
36 the exemption was granted, the property is disqualified from the
37 exemption.

38 (b) Upon disqualification, the county treasurer must collect an
39 additional tax equal to all taxes that would have been paid on the
40 property but for the existence of the exemption, plus interest at the

1 same rate and computed in the same way as that upon delinquent
2 property taxes.

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

8 (d) The additional tax and interest is a lien on the property.
9 The lien for additional tax and interest has priority to and must be
10 fully paid and satisfied before any recognizance, mortgage, judgment,
11 debt, obligation, or responsibility to or with which the property may
12 become charged or liable. If a nonprofit entity or qualified
13 cooperative association sells or transfers real property subject to a
14 lien for additional taxes under this subsection, such unpaid
15 additional taxes must be paid by the nonprofit entity or qualified
16 cooperative association at the time of sale or transfer. The county
17 auditor may not accept an instrument of conveyance unless the
18 additional tax has been paid. The nonprofit entity, qualified
19 cooperative association, or the new owner may appeal the assessed
20 values upon which the additional tax is based to the county board of
21 equalization in accordance with the provisions of RCW 84.40.038.

22 (5)(a) Nonprofit entities receiving an exemption under this
23 section must immediately notify the department when the exempt real
24 property becomes occupied. The notice of occupancy made to the
25 department must include a certification by the nonprofit entity that
26 the occupants are a low-income household and a date when the title to
27 the single-family dwelling unit was or is anticipated to be
28 transferred.

29 (b) Qualified cooperative associations receiving an exemption
30 under this section must immediately notify the department when any
31 portion of the exempt real property becomes occupied as well as when
32 all of the exempt real property becomes occupied. The notice provided
33 when all the exempt real property becomes occupied must be filed
34 within one year of all exempt real property becoming occupied and
35 demonstrate that the qualified cooperative association does, in fact,
36 meet the requirements for being a qualified cooperative association.

37 (c) The department of revenue must make the notices of occupancy
38 available to the joint legislative audit and review committee, upon
39 request by the committee, in order for the committee to complete its
40 review of the tax preference in this section.

1 (6) Upon cessation of the exemption, the value of new
2 construction and improvements to the property, not previously
3 considered as new construction, must be considered as new
4 construction for purposes of calculating levies under chapter 84.55
5 RCW. The assessed value of the property as it was valued prior to the
6 beginning of the exemption may not be considered as new construction
7 upon cessation of the exemption.

8 (7) Nonprofit entities and qualified cooperative associations
9 receiving an exemption under this section must provide annual
10 financial statements to the joint legislative audit and review
11 committee, upon request by the committee, for the years that the
12 exemption has been claimed. The nonprofit entity or qualified
13 cooperative associations must identify the line or lines on the
14 financial statements that comprise the percentage of revenues
15 dedicated to the development of affordable housing.

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

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

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

26 (c) "Nonprofit entity" means a nonprofit as defined in RCW
27 84.36.800 that is exempt from federal income taxation under 26 U.S.C.
28 Sec. 501(c)(3) of the federal internal revenue code of 1986, as
29 amended.

30 (d) "Qualified cooperative association" means a cooperative
31 association formed under chapter 23.86 or 24.06 RCW that owns the
32 real property for which an exemption is sought under this section and
33 following the completion of the development or redevelopment of such
34 real property:

35 (i) Sixty percent or more of the residences are owned by low-
36 income households; and

37 (ii) Eighty percent or more of the square footage of any
38 improvements to the real property are exclusively used or available
39 for use by the owners of the residences.

40 (e) "Residence" means:

1 (i) A single-family dwelling unit whether such unit be separate
2 or part of a multiunit dwelling; and

3 (ii) The land on which a dwelling unit described in ~~((d))~~ (e)
4 (i) of this subsection (8) stands, whether to be sold, or to be
5 leased for life or ninety-nine years, to the low-income household
6 owning such dwelling unit.

7 (9) The department may not accept applications for the initial
8 exemption in this section after December 31, 2027. The exemption in
9 this section may not be approved for and does not apply to taxes due
10 in 2038 and thereafter.

11 (10) This section expires January 1, 2038.

12 **Sec. 2.** 2018 c 103 s 1 (uncodified) is amended to read as
13 follows:

14 (1) This section is the tax preference performance statement for
15 the tax preference contained in ~~((this act [chapter 103, Laws of 2018
16 and chapter 217, Laws of 2016]))~~ chapter . . . , Laws of 2019 (this
17 act), chapter 103, Laws of 2018, and chapter 217, Laws of 2016. This
18 performance statement is only intended to be used for subsequent
19 evaluation of the tax preference. It is not intended to create a
20 private right of action by any party or be used to determine
21 eligibility for preferential tax treatment.

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

25 (3) It is the legislature's specific public policy objective to
26 encourage and expand the ability of nonprofit low-income housing
27 developers to provide homeownership opportunities for low-income
28 households. It is the legislature's intent to exempt from taxation
29 real property owned by a nonprofit entity for the purpose of building
30 residences to be sold, or, in the case of land, to be leased for life
31 or ninety-nine years, to low-income households in order to enhance
32 the ability of nonprofit low-income housing developers to purchase
33 and hold land for future affordable housing development.

34 (4)(a) To measure the effectiveness of the tax preference
35 provided in section 2 of this act in achieving the specific public
36 policy objectives described in subsection (3) of this section, the
37 joint legislative audit and review committee must evaluate, two years
38 prior to the expiration of the tax preference: (i) The annual growth
39 in the percentage of revenues dedicated to the development of

1 affordable housing, for each nonprofit and qualified cooperative
2 association claiming the preference, for the period that the
3 preference has been claimed; and (ii) the annual changes in both the
4 total number of parcels qualifying for the exemption and the total
5 number of parcels for which owner occupancy notifications have been
6 submitted to the department of revenue, from June 9, 2016, through
7 the most recent year of available data prior to the committee's
8 review.

9 (b) If the review by the joint legislative audit and review
10 committee finds that for most of the nonprofits and qualified
11 cooperative associations claiming the exemption, program spending,
12 program expenses, or another ratio representing the percentage of the
13 nonprofit entity's and qualified cooperative association's revenues
14 dedicated to the development of affordable housing has increased for
15 the period during which the exemption was claimed, then the
16 legislature intends to extend the expiration date of the tax
17 preference.

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

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

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

25 (c) Annual financial statements for a nonprofit entity or
26 qualified cooperative association claiming this tax preference, as
27 defined in section 2 of this act, and provided by nonprofit entities
28 or qualified cooperative associations claiming this preference; and

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

31 NEW SECTION. **Sec. 3.** This act applies to taxes levied for
32 collection in 2020 and thereafter.

Passed by the House April 4, 2019.
Passed by the Senate April 27, 2019.
Approved by the Governor May 9, 2019.
Filed in Office of Secretary of State May 13, 2019.

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