
SUBSTITUTE HOUSE BILL 2750

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Finance (originally sponsored by Representatives Gombosky, Nixon, Wood, Ballasiotes, Conway, Veloria, Ogden, Chase, Berkey, Skinner and Edwards)

Read first time 02/11/2002. Referred to Committee on .

1 AN ACT Relating to the property taxation of organizations operated
2 exclusively for art, scientific, or historical purposes or engaged in
3 the production and performance of musical, dance, artistic, dramatic,
4 or literary works; amending RCW 84.36.060, 84.36.805, 84.36.840, and
5 82.29A.130; creating new sections; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that artistic,
8 scientific, and historical organizations and associations engaged in
9 the production and performance of musical, dance, artistic, dramatic,
10 or literary works provide many public benefits to the people of the
11 state of Washington. Therefore, the legislature finds that it is in
12 the best interest of the state of Washington to provide a limited
13 property tax and leasehold excise tax exemption for the incidental use
14 of these facilities by certain organizations to better raise additional
15 revenues from the public in order to be self-sustaining for their
16 exempt purposes.

17 **Sec. 2.** RCW 84.36.060 and 1995 c 306 s 1 are each amended to read
18 as follows:

1 The following property shall be exempt from taxation:

2 (1) All art, scientific, or historical collections of associations
3 maintaining and exhibiting such collections for the benefit of the
4 general public and not for profit, together with all real and personal
5 property of such associations used exclusively for the safekeeping,
6 maintaining and exhibiting of such collections; and all the real and
7 personal property owned by or leased to associations engaged in the
8 production and performance of musical, dance, artistic, dramatic, or
9 literary works for the benefit of the general public and not for
10 profit, which real and personal property is used exclusively for this
11 production or performance.

12 (a) To receive this exemption an organization must be organized and
13 operated exclusively for artistic, scientific, historical, literary,
14 musical, dance, dramatic, or educational purposes and receive a
15 substantial part of its support (exclusive of income received in the
16 exercise or performance by such organization of its purpose or
17 function) from the United States or any state or any political
18 subdivision thereof or from direct or indirect contributions from the
19 general public.

20 (b) If the property is not currently being used for an exempt
21 purpose but will be used for an exempt purpose within a reasonable
22 period of time, the nonprofit organization, association, or corporation
23 claiming the exemption must submit proof that a reasonably specific and
24 active program is being carried out to construct, remodel, or otherwise
25 enable the property to be used for an exempt purpose. Except as
26 provided in subsection (1)(c) of this section, the property does not
27 qualify for an exemption during this interim period if the property is
28 used by, loaned to, or rented to a for-profit organization or business
29 enterprise. Proof of a specific and active program to build or remodel
30 the property so it may be used for an exempt purpose may include, but
31 is not limited to:

32 (i) Affirmative action by the board of directors, trustees, or
33 governing body of the nonprofit organization, association, or
34 corporation toward an active program of construction or remodeling;

35 (ii) Itemized reasons for the proposed construction or remodeling;

36 (iii) Clearly established plans for financing the construction or
37 remodeling; or

38 (iv) Building permits.

1 (c) (~~Notwithstanding (b) of this subsection, a for-profit limited~~
2 ~~partnership created to provide facilities for the use of nonprofit art,~~
3 ~~scientific, or historical organizations qualifies for the exemption~~
4 ~~under (b) of this subsection through 1997 if the for-profit limited~~
5 ~~partnership otherwise qualifies under (b) of this subsection)) The
6 loan or rental of the property to any person, for-profit organization,
7 or business enterprise subjects the property to taxation in an amount
8 equal to the assessed value multiplied by the proportion of income from
9 such loan or rental to the gross income for all sources in any calendar
10 year. In calculating this proportion, the revenue received from loans
11 or rentals provided for in this subsection shall be divided by the
12 revenue from all sources. As used in this subsection (1)(c), "all
13 sources" means all revenue received from any source including entrance
14 or admittance fees, user fees, fund-raising events, sales or tickets to
15 performing arts events, and rents or donation received as a result of
16 the loan or rental of the property. The taxpayer may elect to have the
17 portion of the property used for the nonexempt purpose segregated and
18 taxed at one hundred percent of assessed value.~~

19 (2) All fire engines and other implements used for the
20 extinguishment of fire, with the buildings used exclusively for the
21 safekeeping thereof, and for meetings of fire companies, provided such
22 properties belong to any city or town or to a fire company therein.

23 (3) Property owned by humane societies in this state in actual use
24 by such societies.

25 **Sec. 3.** RCW 84.36.805 and 2001 1st sp.s. c 7 s 2 are each amended
26 to read as follows:

27 (1) In order to qualify for an exemption under this chapter and RCW
28 84.36.560, the nonprofit organizations, associations, or corporations
29 must satisfy the conditions in this section.

30 (2) The property must be used exclusively for the actual operation
31 of the activity for which exemption is granted, unless otherwise
32 provided, and does not exceed an amount reasonably necessary for that
33 purpose, except:

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

36 (i) The rents and donations received for the use of the portion of
37 the property are reasonable and do not exceed the maintenance and

1 operation expenses attributable to the portion of the property loaned
2 or rented; and

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

6 (b) The use of the property for fund-raising activities does not
7 subject the property to tax if the fund-raising activities are
8 consistent with the purposes for which the exemption is granted.

9 (3) The property must be irrevocably dedicated to the purpose for
10 which exemption has been granted, and on the liquidation, dissolution,
11 or abandonment by said organization, association, or corporation, said
12 property will not inure directly or indirectly to the benefit of any
13 shareholder or individual, except a nonprofit organization,
14 association, or corporation which too would be entitled to property tax
15 exemption. This property need not be irrevocably dedicated if it is
16 leased or rented to those qualified for exemption under this chapter or
17 RCW 84.36.560 for leased property, but only if under the terms of the
18 lease or rental agreement the nonprofit organization, association, or
19 corporation receives the benefit of the exemption.

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

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

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

29 (a) A nonprofit as defined in RCW 84.36.800 that is exempt from
30 income tax under section 501(c) of the federal internal revenue code;

31 (b) A governmental entity established under RCW 35.21.660,
32 35.21.670, or 35.21.730;

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

34 (d) A housing authority meeting the definition in RCW
35 35.82.210(2)(a); or

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

37 (7) The department shall have access to its books in order to
38 determine whether the nonprofit organization, association, or
39 corporation is exempt from taxes under this chapter and RCW 84.36.560.

1 (8) This section does not apply to exemptions granted under RCW
2 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

3 **Sec. 4.** RCW 84.36.840 and 1973 2nd ex.s. c 40 s 14 are each
4 amended to read as follows:

5 (1) In order to determine whether organizations, associations,
6 corporations or institutions except those exempted under RCW 84.36.020
7 and 84.36.030 are exempt from taxes within the intent of this chapter,
8 and before the exemption shall be allowed for any year, the
9 superintendent or manager or other proper officer of the organization,
10 association, corporation or institution claiming exemption from
11 taxation shall file, with the department of revenue on forms furnished
12 by the director, a signed statement made under oath that the income and
13 the receipts thereof, including donations to it, have been applied to
14 the actual expenses of operating and maintaining it, or for its capital
15 expenditures, and to no other purpose. Such forms shall also include
16 a statement of the receipts and disbursements of said organization(~~+~~
17 ~~PROVIDED, That~~)).

18 (a) Institutions claiming exemption under RCW 84.36.050 shall also
19 file (~~in addition~~) a list of all property claimed to be exempt, the
20 purpose for which it is used, the revenue derived from it for the
21 preceding year, the use to which (~~such~~) the revenue was applied, the
22 number of students in attendance at the school or college, the total
23 revenues of the institution with the source from which they were
24 derived, and the purposes to which (~~such~~) the revenues were applied,
25 giving the items of such revenues and expenditures in detail.

26 (~~Such~~) (b) Any organization or association claiming exemption
27 under RCW 84.36.060(1)(c) shall also file a report listing the source
28 of its gross income received by the organization or association in the
29 preceding calendar year. This report will include all income received
30 through entrance or admittance fees, user fees, fund-raising events,
31 sales of tickets to performing arts events, and rents or donations
32 received as a result of the loan or rental of the exempt property. The
33 organization shall also provide the amount of income received from the
34 rental to any person, for-profit organization, or business enterprise.

35 (2) The report shall be submitted on or before April 1st following
36 the close of the accounting period for the fiscal year ended during the
37 previous calendar year. The department of revenue shall remove the tax
38 exemption from the property and assets of any organization,

1 association, corporation, or institution which does not file such
2 report with the department of revenue on or before the due date(~~(÷~~
3 ~~PROVIDED, That~~)). The department of revenue shall allow a reasonable
4 extension of time for filing upon written request filed on or before
5 the required filing date and for good cause shown therein.

6 **Sec. 5.** RCW 82.29A.130 and 1999 c 165 s 21 are each amended to
7 read as follows:

8 The following leasehold interests shall be exempt from taxes
9 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

10 (1) All leasehold interests constituting a part of the operating
11 properties of any public utility which is assessed and taxed as a
12 public utility pursuant to chapter 84.12 RCW.

13 (2) All leasehold interests in facilities owned or used by a
14 school, college or university which leasehold provides housing for
15 students and which is otherwise exempt from taxation under provisions
16 of RCW 84.36.010 and 84.36.050.

17 (3) All leasehold interests of subsidized housing where the fee
18 ownership of such property is vested in the government of the United
19 States, or the state of Washington or any political subdivision thereof
20 but only if income qualification exists for such housing.

21 (4) All leasehold interests used for fair purposes of a nonprofit
22 fair association that sponsors or conducts a fair or fairs which
23 receive support from revenues collected pursuant to RCW 67.16.100 and
24 allocated by the director of the department of agriculture where the
25 fee ownership of such property is vested in the government of the
26 United States, the state of Washington or any of its political
27 subdivisions: PROVIDED, That this exemption shall not apply to the
28 leasehold interest of any sublessee of such nonprofit fair association
29 if such leasehold interest would be taxable if it were the primary
30 lease.

31 (5) All leasehold interests in any property of any public entity
32 used as a residence by an employee of that public entity who is
33 required as a condition of employment to live in the publicly owned
34 property.

35 (6) All leasehold interests held by enrolled Indians of lands owned
36 or held by any Indian or Indian tribe where the fee ownership of such
37 property is vested in or held in trust by the United States and which

1 are not subleased to other than to a lessee which would qualify
2 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

3 (7) All leasehold interests in any real property of any Indian or
4 Indian tribe, band, or community that is held in trust by the United
5 States or is subject to a restriction against alienation imposed by the
6 United States: PROVIDED, That this exemption shall apply only where it
7 is determined that contract rent paid is greater than or equal to
8 ninety percent of fair market rental, to be determined by the
9 department of revenue using the same criteria used to establish taxable
10 rent in RCW 82.29A.020(2)(b).

11 (8) All leasehold interests for which annual taxable rent is less
12 than two hundred fifty dollars per year. For purposes of this
13 subsection leasehold interests held by the same lessee in contiguous
14 properties owned by the same lessor shall be deemed a single leasehold
15 interest.

16 (9) All leasehold interests which give use or possession of the
17 leased property for a continuous period of less than thirty days:
18 PROVIDED, That for purposes of this subsection, successive leases or
19 lease renewals giving substantially continuous use of possession of the
20 same property to the same lessee shall be deemed a single leasehold
21 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed
22 to give use or possession for a period of less than thirty days solely
23 by virtue of the reservation by the public lessor of the right to use
24 the property or to allow third parties to use the property on an
25 occasional, temporary basis.

26 (10) All leasehold interests under month-to-month leases in
27 residential units rented for residential purposes of the lessee pending
28 destruction or removal for the purpose of constructing a public highway
29 or building.

30 (11) All leasehold interests in any publicly owned real or personal
31 property to the extent such leasehold interests arises solely by virtue
32 of a contract for public improvements or work executed under the public
33 works statutes of this state or of the United States between the public
34 owner of the property and a contractor.

35 (12) All leasehold interests that give use or possession of state
36 adult correctional facilities for the purposes of operating
37 correctional industries under RCW 72.09.100.

38 (13) All leasehold interests used to provide organized and
39 supervised recreational activities for disabled persons of all ages in

1 a camp facility and for public recreational purposes by a nonprofit
2 organization, association, or corporation that would be exempt from
3 property tax under RCW 84.36.030(1) if it owned the property. If the
4 publicly owned property is used for any taxable purpose, the leasehold
5 excise taxes set forth in RCW 82.29A.030 and 82.29A.040 shall be
6 imposed and shall be apportioned accordingly.

7 (14) All leasehold interests in the public or entertainment areas
8 of a baseball stadium with natural turf and a retractable roof or
9 canopy that is in a county with a population of over one million, that
10 has a seating capacity of over forty thousand, and that is constructed
11 on or after January 1, 1995. "Public or entertainment areas" include
12 ticket sales areas, ramps and stairs, lobbies and concourses, parking
13 areas, concession areas, restaurants, hospitality and stadium club
14 areas, kitchens or other work areas primarily servicing other public or
15 entertainment areas, public rest room areas, press and media areas,
16 control booths, broadcast and production areas, retail sales areas,
17 museum and exhibit areas, scoreboards or other public displays, storage
18 areas, loading, staging, and servicing areas, seating areas and suites,
19 the playing field, and any other areas to which the public has access
20 or which are used for the production of the entertainment event or
21 other public usage, and any other personal property used for these
22 purposes. "Public or entertainment areas" does not include locker
23 rooms or private offices exclusively used by the lessee.

24 (15) All leasehold interests in the public or entertainment areas
25 of a stadium and exhibition center, as defined in RCW 36.102.010, that
26 is constructed on or after January 1, 1998. For the purposes of this
27 subsection, "public or entertainment areas" has the same meaning as in
28 subsection (14) of this section, and includes exhibition areas.

29 (16) All leasehold interests in public facilities districts, as
30 provided in chapter 36.100 or 35.57 RCW.

31 (17) All leasehold interests created by the loan or rental of
32 publicly owned real property used for artistic, scientific, and
33 historical organizations and associations engaged in the production and
34 performance of musical, dance, artistic, dramatic, or literary works to
35 any person as defined by RCW 82.04.030 except that the loan or rental
36 of the property to any person, for-profit organization, or business
37 enterprise subjects the leasehold interest to taxation in an amount
38 equal to the taxable rent multiplied by the proportion of income from
39 such loan or rental to the gross income for all sources in any calendar

1 year. In calculating this proportion, the revenue received from loans
2 or rentals provided for in this subsection shall be divided by the
3 revenue from all sources. As used in this subsection (17), "all
4 sources" means all revenue received from any source including entrance
5 or admittance fees, user fees, fund-raising events, sales or tickets to
6 performing arts events, and rents or donation received as a result of
7 the loan or rental of the property. The taxpayer may elect to have the
8 portion of the property used for the nonexempt purpose segregated and
9 taxed at one hundred percent of taxable rent.

10 NEW SECTION. Sec. 6. Any person as defined by RCW 82.04.030 that
11 qualifies for the exemption set forth in RCW 82.29A.130(17) is entitled
12 to a waiver of any tax liability accrued, but unpaid, under chapter
13 82.29A RCW during the four years immediately preceding the effective
14 date of this act.

15 NEW SECTION. Sec. 7. This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and takes effect
18 immediately.

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