H-4827.5

SUBSTITUTE HOUSE BILL 2967

State of Washington 65th Legislature 2018 Regular Session

By House Finance (originally sponsored by Representatives Lytton, Dolan, Wylie, Frame, Valdez, Pollet, Doglio, Santos, and Macri)

READ FIRST TIME 02/22/18.

AN ACT Relating to assisting Washington families by improving the fairness of the state's tax system by enacting a capital gains tax and providing property tax relief; amending RCW 84.55.010, 84.36.381, 84.36.383, 84.36.385, and 84.38.020; reenacting and amending RCW 84.38.030; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.32 RCW; adding a new section to chapter 84.55 RCW; adding a new chapter to Title 82 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

Part I
Capital Gains Tax

NEW SECTION. **Sec. 101.** (1) The legislature finds that Washington is a great place to live, work, and raise a family. The legislature further finds that our tax system is the most upside down and regressive in the nation, allowing those who earn the most to pay the least in taxes. The legislature finds that as a percentage of personal income middle-income families pay two to four times in taxes as compared to top earners. Moreover, low-income Washingtonians pay seven times more in taxes than our wealthiest residents.

(2) The legislature does not believe in becoming a high tax state; however, it finds that building a tax system that works for everyone is imperative. The legislature finds that a tax system that strengthens the middle-class economy, helps families and low-income residents, reduces the tax burden on small businesses, and asks the wealthiest among us and those benefiting from record Wall Street profits to contribute their fair share is essential to help all Washingtonians have the freedom to grow and thrive.

(3) The legislature finds that relying on higher property taxes to fund education is burdensome on working families; therefore, the legislature intends to ask the citizens of Washington to reduce the state property tax levy and impose a commensurate new tax. The legislature finds that this will mitigate some of the imbalance in the state's tax structure and ensure everyone is paying their fair share.

<u>NEW SECTION.</u> **Sec. 102.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accessory dwelling unit" means a separate habitable living area that is subordinate to the principal single-family dwelling unit, which is either internal to, attached to, or located on the same property tax parcel as, the principal single-family dwelling unit.

(2) "Adjusted capital gain" means federal net long-term capital gain:

(a) Plus any loss from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such loss was included in calculating federal net long-term capital gain; and

(b) Less any gain from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such gain was included in calculating federal net long-term capital gain.

(3) "Capital asset" has the same meaning as provided by Title 26 U.S.C. Sec. 1221 of the internal revenue code and also includes any other property if the sale or exchange of the property results in a gain that is treated as a long-term capital gain under Title 26 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

(4) "Federal net long-term capital gain" means the net long-term capital gain reportable for federal income tax purposes.

(5) "Individual" means a natural person.

(6) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of the effective date of this section, or such subsequent date as the department may provide by rule consistent with the purpose of this chapter.

(7) "Long-term capital asset" means a capital asset that is held for more than one year.

(8)(a) "Resident" means an individual:

(i) Who is domiciled in this state during the taxable year, unless the individual (A) maintained no permanent place of abode in this state during the entire taxable year, (B) maintained a permanent place of abode outside of this state during the entire taxable year, and (C) spent in the aggregate not more than thirty days of the taxable year in this state; or

(ii) Who is not domiciled in this state during the taxable year but maintained a place of abode and was physically present in this state for more than one hundred eighty-three days during the taxable year.

(b) For purposes of this subsection, "day" includes any portion of a day, except that a continuous period of twenty-four hours or less may not constitute more than one day.

(c) An individual who is a resident under (a) of this subsection is a resident for that portion of a taxable year in which the individual was domiciled in this state or maintained a place of abode in this state.

(9) "Taxable year" means the taxpayer's taxable year as determined under the internal revenue code.

(10) "Taxpayer" means an individual subject to tax under this chapter.

(11) "Washington capital gains" means an individual's adjusted capital gains allocated to this state as provided in section 108 of this act, less:

(a) Twenty-five thousand dollars; or

(b) Fifty thousand dollars for individuals filing joint returns under this chapter.

NEW SECTION. **Sec. 103.** (1) Beginning January 1, 2019, a tax is imposed on all individuals for the privilege of selling or exchanging long-term capital assets, or receiving Washington capital gains. The tax equals seven percent multiplied by the individual's Washington capital gains.

(2) If an individual's Washington capital gains are less than zero for a taxable year, no tax is due under this section. No such losses may be carried back or carried forward to another taxable year.

(3)(a) The tax imposed in this section applies to (i) the sale or exchange of long-term capital assets owned by the taxpayer, whether the taxpayer was the legal or a beneficial owner of such assets at the time of the sale or exchange, or (ii) Washington capital gains otherwise realized by the taxpayer.

(b) For purposes of this chapter, an individual is a beneficial owner of long-term capital assets held by an entity that is a pass-through or disregarded entity for federal tax purposes, such as a partnership, limited liability company, S corporation, or trust, to the extent of the individual's ownership interest in the entity as reported for federal income tax purposes.

NEW SECTION. **Sec. 104.** This chapter does not apply to the sale or exchange of:

(1) Any residential dwelling along with the land upon which the dwelling is located. For the purposes of this subsection (1), "residential dwelling" means property consisting solely of (a) a single-family residence, a residential condominium unit, or a residential cooperative unit, including any accessory dwelling unit associated with such residence or residential unit, (b) a multifamily residential building consisting of one or more common walls and fewer than four units, or (c) a floating home as defined in RCW 82.45.032;

(2) Assets held under a retirement savings account under Title 26 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered annuity or custodial account described in Title 26 U.S.C. Sec. 403(b) of the internal revenue code, a deferred compensation plan under Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an individual retirement account or individual retirement annuity described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a Roth individual retirement account described in Title 26 U.S.C. Sec. 408A of the internal revenue code, an employee defined contribution program, an employee defined benefit plan, or a similar retirement savings vehicle;

(3) Assets pursuant to or under imminent threat of condemnation proceedings by the United States, the state or any of its political subdivisions, or a municipal corporation;

(4) Cattle, horses, or breeding livestock held for more than twelve months if for the taxable year of the sale or exchange, more than fifty percent of the taxpayer's gross income for the taxable year, including from the sale or exchange of capital assets, is from farming or ranching;

(5) Agricultural land by an individual who has regular, continuous, and substantial involvement in the operation of the agriculture that meets the criteria for material participation in an activity under Title 26 U.S.C. Sec. 469(h) of the internal revenue code for the ten years prior to the date of the sale or exchange of the agricultural land;

(6) Property used in a trade or business if the property qualifies for an income tax deduction under Title 26 U.S.C. Sec. 167 or 179 of the internal revenue code; and

(7) Timber, timberland, or the receipt of Washington capital gains as dividends and distributions from real estate investment trusts derived from gains from the sale or exchange of timber. "Timber" means forest trees, standing or down, on privately or publicly owned land, and includes Christmas trees and short-rotation hardwoods. The sale or exchange of timber includes the cutting or disposal of timber qualifying for capital gains treatment under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue code.

NEW SECTION. **Sec. 105.** The tax imposed under this chapter is in addition to any other taxes imposed by the state or any of its political subdivisions, or a municipal corporation, with respect to the same sale or exchange, including the taxes imposed in or under the authority of chapter 82.04, 82.08, 82.12, 82.14, 82.45, or 82.46 RCW.

NEW SECTION. **Sec. 106.** In computing tax, there may be deducted from the measure of tax amounts that the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States.

NEW SECTION. **Sec. 107.** (1) In computing tax under this chapter for a taxable year, a taxpayer may deduct from the measure of tax the amount of adjusted capital gain derived in the taxable year from the sale of substantially all of the fair market value of the assets of, or the transfer of substantially all of the taxpayer's interest in, a qualified family-owned small business.

(2) For purposes of this section, the following definitions apply:

(a) "Assets" means real property and personal property, including tangible personal property and intangible property.

(b) "Family" means the same as "member of the family" in RCW 83.100.046.

(c)(i) "Materially participated" means an individual was involved in the operation of a business on a basis that is regular, continuous, and substantial.

(ii) The term "materially participated" must be interpreted consistently with the applicable treasury regulations for section 469 of the internal revenue code, to the extent that such interpretation does not conflict with any provision of this section.

(d) "Qualified family-owned small business" means a business:

(i) In which the taxpayer held a qualifying interest for at least eight years immediately preceding the sale or transfer described in subsection (1) of this section;

(ii) In which the taxpayer or his or her family member materially participated in operating the business for at least five of the eight years immediately preceding the sale or transfer described in subsection (1) of this section, unless such sale or transfer was to a qualified heir;

(iii)(A) That had no more than fifty full-time employees at any time during the twelve-month period immediately preceding the sale or transfer described in subsection (1) of this section.

(B) For purposes of this subsection (2)(d)(iii), "full-time employee" means an employee who is, or any combination of employees who are, paid by the business for at least one thousand eight hundred twenty hours of employment, including paid leave, for the twelve-month period described in (d)(iii)(A) of this subsection (2); and

(iv) That had worldwide gross revenue of seven million dollars or less in the twelve-month period immediately preceding the sale or transfer described in subsection (1) of this section.

(e) "Qualified heir" means a member of the taxpayer's family.

(f) "Qualifying interest" means:

(i) An interest as a proprietor in a business carried on as a sole proprietorship; or

(ii) An interest in a business if at least:

(A) Fifty percent of the business is owned, directly or indirectly, by the taxpayer and members of the taxpayer's family;

(B) Thirty percent of the business is owned, directly or indirectly, by the taxpayer and members of the taxpayer's family, and at least:

(I) Seventy percent of the business is owned, directly or indirectly, by members of two families; or

(II) Ninety percent of the business is owned, directly or indirectly, by members of three families.

(g) "Substantially all" means at least ninety percent.

NEW SECTION. **Sec. 108.** (1) For purposes of the tax imposed under this chapter, adjusted capital gains are allocated as follows:

(a) Adjusted capital gains from the sale or exchange of real property are allocated to this state if the real property is located in this state or a majority of the fair market value of the real property is located in this state.

(b) Adjusted capital gains from the sale or exchange of tangible personal property are allocated to this state if the property was located in this state at the time of the sale or exchange. Adjusted capital gains from the sale or exchange of tangible personal property are also allocated to this state even though the property was not located in this state at the time of the sale or exchange if:

(i) The property was located in the state at any time during the taxable year in which the sale or exchange occurred or the immediately preceding taxable year;

(ii) The taxpayer was a resident at the time the sale or exchange occurred; and

(iii) The taxpayer is not subject to the payment of an income or excise tax legally imposed on the adjusted capital gain by another taxing jurisdiction.

(c) Adjusted capital gains derived from intangible personal property are allocated to this state if the taxpayer was domiciled in this state at the time the sale or exchange occurred.

(2)(a) A credit is allowed against the tax imposed in section 103 of this act equal to the amount of any legally imposed income or excise tax paid by the taxpayer to another taxing jurisdiction on capital gains derived from capital assets within the other taxing jurisdiction to the extent such capital gains are included in the taxpayer's Washington capital gains. The amount of credit under this subsection may not exceed the total amount of tax due under this chapter, and there is no carryback or carryforward of any unused credits.

(b) As used in this section, "taxing jurisdiction" means a state of the United States other than the state of Washington, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country.

NEW SECTION. **Sec. 109.** (1) Except as otherwise provided in this section or RCW 82.32.080, taxpayers owing tax under this chapter must file, on forms prescribed by the department, a return with the department on or before the date the taxpayer's federal income tax return for the taxable year is required to be filed.

(2) In addition to the Washington return required to be filed under subsection (1) of this section, taxpayers owing tax under this chapter must file with the department on or before the date the federal return is required to be filed a copy of the federal income tax return along with all schedules and supporting documentation.

(3) Each taxpayer required to file a return under this section must, without assessment, notice, or demand, pay any tax due thereon to the department on or before the date fixed for the filing of the return, regardless of any filing extension. If any tax due under this chapter is not paid by the due date, interest and penalties as provided in chapter 82.32 RCW apply to the deficiency.

(4) The department may by rule require that certain individuals and other persons file, at times and on forms prescribed by the department, informational returns for any period.

(5) If a taxpayer has obtained an extension of time for filing the federal income tax return for the taxable year, the taxpayer is entitled to the same extension of time for filing the return required under this section if the taxpayer provides the department, before the due date provided in subsection (1) of this section, the extension confirmation number or other evidence satisfactory to the department confirming the federal extension. An extension under this subsection for the filing of a return under this chapter is not an extension of time to pay the tax due under this chapter.

(6)(a) If any return due under subsection (1) of this section, along with a copy of the federal income tax return, is not filed with the department by the due date or any extension granted by the department, the department must assess a penalty in the amount of five percent of the tax due for the taxable year covered by the return for each month or portion of a month that the return remains unfiled. The total penalty assessed under this subsection may not exceed twenty-five percent of the tax due for the taxable year covered by the delinquent return. The penalty under this subsection is in addition to any penalties assessed for the late payment of any tax due on the return.

(b) The department must waive or cancel the penalty imposed under this subsection if:

(i) The department is persuaded that the taxpayer's failure to file the return by the due date was due to circumstances beyond the taxpayer's control; or

(ii) The taxpayer has not been delinquent in filing any return due under this section during the preceding five calendar years.

NEW SECTION. **Sec. 110.** (1) If the federal income tax liabilities of both spouses are determined on a joint federal return for the taxable year, they must file a joint return under this chapter.

(2) Except as otherwise provided in this subsection, if the federal income tax liability of either spouse is determined on a separate federal return for the taxable year, they must file separate returns under this chapter. State registered domestic partners may file a joint return under this chapter even if they filed separate federal returns for the taxable year.

(3) In any case in which a joint return is filed under this section, the liability of each spouse or state registered domestic partner is joint and several, unless:

(a) The spouse is relieved of liability for federal tax purposes as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue code; or

(b) The department determines that the domestic partner qualifies for relief as provided by rule of the department. Such rule, to the extent possible without being inconsistent with this chapter, must follow Title 26 U.S.C. Sec. 6015.

NEW SECTION. **Sec. 111.** To the extent not inconsistent with the provisions of this chapter, the following statutes apply to the administration of taxes imposed under this chapter: RCW 82.32.050, 82.32.055, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130, 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.32.210, 82.32.212, 82.32.220, 82.32.230, 82.32.235, 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.300, 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410, 82.32.805, 82.32.808, and section 114 of this act.

NEW SECTION. **Sec. 112.** (1) Any taxpayer who knowingly attempts to evade payment of the tax imposed under this chapter is guilty of a class C felony as provided in chapter 9A.20 RCW.

(2) Any taxpayer who knowingly fails to pay tax, make returns, keep records, or supply information, as required under this title, is guilty of a gross misdemeanor as provided in chapter 9A.20 RCW.

NEW SECTION. **Sec. 113.** Notwithstanding any common law rule of strict construction of statutes imposing taxes, this chapter, being necessary for the welfare of the state and its inhabitants, must be liberally construed in support of application of the tax.

NEW SECTION. **Sec. 114.** A new section is added to chapter 82.04 RCW to read as follows:

A deduction is allowed against a person's gross income of the business to the extent necessary to avoid taxing the same amounts under this chapter and section 103 of this act.

NEW SECTION. **Sec. 115.** A new section is added to chapter 82.32 RCW to read as follows:

(1) The department may enter into reciprocal tax collection agreements with the taxing officials of any other state imposing a specified tax. Agreements authorized under this section must require each state to offset delinquent specified taxes owed by a taxpayer to one party to the agreement, including any associated penalties, interest, or other additions, against refunds of overpaid specified taxes owed to the taxpayer by the other party to the agreement. Such agreements may also include provisions governing the sharing of information relevant to the administration of specified taxes. However, the department may not share return or tax information with other states except as allowed under RCW 82.32.330. Likewise, the

department may not share federal tax information with other states without the express written consent of the internal revenue service.

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

(a) "Specified taxes" means generally applicable state and local sales taxes and use taxes, broad-based state gross receipts taxes, state income taxes, and stand-alone state taxes on capital gains or interest and dividends. "Specified taxes" include, but are not limited to, the taxes imposed in or under the authority of chapters 82.04, 82.08, 82.12, 82.14, 82.16, and 82.--- RCW (the new chapter created in section 403 of this act), and similar taxes imposed by another state. For purposes of this subsection (2)(a), "gross receipts tax," "income tax," "sales tax," and "use tax" have the same meanings as provided in RCW 82.56.010.

(b) "State" has the same meaning as provided in RCW 82.56.010.

NEW SECTION. **Sec. 116.** All revenue from taxes collected under this chapter, including penalties and interest on such taxes, must be deposited into the general fund of the state.

Part II
Calculation of Overall Property Tax Relief

NEW SECTION. **Sec. 201.** A new section is added to chapter 84.55 RCW to read as follows:

(1) By December 10th of each year, the department must calculate the revenue collected during the previous twelve months through November 30th of the current year from the tax imposed by section 103 of this act.

(2) By December 31st of each year, the department must estimate the amount needed to fund the senior citizen property tax exemption authorized in part III of this act for the upcoming calendar year. By December 1st of each year, each county assessor must submit any necessary data to the department in order to complete this estimate.

(3) By December 31st of each year, the department must calculate the amount of revenue remaining from the tax imposed by section 103 of this act as calculated in subsection (1) of this section after deducting the amount determined in subsection (2) of this section.

(4) By December 31st of each year, the department must reduce in the property tax rate imposed by RCW 84.52.065(2)(a) to the extent

necessary to reduce state property tax collections for the next succeeding calendar year by the amount calculated in subsection (3) of this section.

Sec. 202. RCW 84.55.010 and 2017 3rd sp.s. c 13 s 302 are each amended to read as follows:

(1) Except as provided in this chapter, the levy for a taxing district in any year must be set so that the regular property taxes payable in the following year do not exceed the limit factor multiplied by the amount of regular property taxes lawfully levied for such district in the highest of the three most recent years in which such taxes were levied for such district plus an additional dollar amount calculated by multiplying the regular property tax levy rate of that district for the preceding year by the increase in assessed value in that district resulting from:

(a) New construction;

(b) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(c) Improvements to property; and

(d) Any increase in the assessed value of state-assessed property.

(2) The requirements of this section do not apply to:

(a) State property taxes levied under RCW 84.52.065(1) for collection in calendar years 2019 through 2021; and

(b) State property taxes levied under RCW 84.52.065(2) for collection in calendar years 2018 through 2021.

<u>(3) For the purposes of determining the levy limit under this section for a state property tax levy, the highest amount of regular property taxes levied in the three most recent years must be determined as if no reduction is made pursuant to section 201 of this act.</u>

Part III

Property Tax Relief

NEW SECTION. **Sec. 301.** The legislature intends to provide tax relief to senior citizens, disabled persons, and veterans in this part. The legislature recognizes that property taxes impose a substantial financial burden on those with fixed incomes and that property tax relief programs have considerable value in addressing this burden. It is the legislature's intent to establish a mechanism for adjusting income thresholds into the future.

Sec. 302. RCW 84.36.381 and 2017 3rd sp.s. c 13 s 311 are each amended to read as follows:

A person is exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing. However, any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant may receive an exemption on more than one residence in any year. Moreover, confinement of the person to a hospital, nursing home, assisted living facility, or adult family home does not disqualify the claim of exemption if:

(a) The residence is temporarily unoccupied;

(b) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support; or

(c) The residence is rented for the purpose of paying nursing home, hospital, assisted living facility, or adult family home costs;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or state registered domestic partnership or owned by cotenants is deemed to be owned by each spouse or each domestic partner or each cotenant, and any lease for life is deemed a life estate;

(3)(a) The person claiming the exemption must be:

(i) Sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability; or

(ii) A veteran of the armed forces of the United States entitled to and receiving compensation from the United States department of veterans affairs at a total disability rating for a service-connected disability.

(b) However, any surviving spouse or surviving domestic partner of a person who was receiving an exemption at the time of the person's death will qualify if the surviving spouse or surviving domestic partner is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person is exempt from an obligation to pay is calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two months or more of the assessment year, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the assessment year by reason of the death of the person's spouse or the person's domestic partner, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person after such occurrences by twelve. If it is necessary to estimate income to comply with this subsection, the assessor may require confirming documentation of such income prior to May 31 of the year following application;

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income ((~~of forty thousand dollars or less~~)) equal or less than income threshold 3 is exempt from all excess property taxes and the additional state property tax imposed under RCW 84.52.065(2); and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income ((~~of thirty-five thousand dollars or less but greater than thirty thousand dollars~~)) equal to or less than income threshold 2 but greater than income threshold 1 is exempt from all regular property taxes on the greater of fifty thousand dollars or thirty-five percent of the valuation of his or her residence, but not to exceed seventy thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income ((~~of thirty thousand dollars or less~~)) equal to or less than income threshold 1 is exempt from all regular property taxes on the greater of sixty thousand dollars or sixty percent of the valuation of his or her residence;

(6)(a) For a person who otherwise qualifies under this section and has a combined disposable income ((~~of forty thousand dollars or less~~)) equal or less than income threshold 3, the valuation of the residence is the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation must be used upon requalification. If the person fails to qualify for more than one year in succession because of high income or fails to qualify for any other reason, the valuation upon requalification is the assessed value on January 1st of the assessment year in which the person requalifies. If the person transfers the exemption under this section to a different residence, the valuation of the different residence is the assessed value of the different residence on January 1st of the assessment year in which the person transfers the exemption.

(b) In no event may the valuation under this subsection be greater than the true and fair value of the residence on January 1st of the assessment year.

(c) This subsection does not apply to subsequent improvements to the property in the year in which the improvements are made. Subsequent improvements to the property must be added to the value otherwise determined under this subsection at their true and fair value in the year in which they are made.

Sec. 303. RCW 84.36.383 and 2012 c 10 s 74 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, ((~~except where the context clearly indicates a different meaning~~)) unless the context clearly requires otherwise:

(1) The term "residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling,

including the land on which such dwelling stands not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term also includes a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term also includes a single-family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a residence is deemed real property.

(2) The term "real property" also includes a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities. A mobile home located on land leased by the owner of the mobile home is subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) "Department" means the state department of revenue.

(4) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions;

(b) The treatment or care of either person received in the home or in a nursing home, assisted living facility, or adult family home; and

(c) Health care insurance premiums for medicare under Title XVIII of the social security act.

(5) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule

consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments;

(f) Veterans benefits, other than:

(i) Attendant-care payments;

(ii) Medical-aid payments;

(iii) Disability compensation, as defined in Title 38, part 3, section 3.4 of the code of federal regulations, as of January 1, 2008; and

(iv) Dependency and indemnity compensation, as defined in Title 38, part 3, section 3.5 of the code of federal regulations, as of January 1, 2008;

(g) Federal social security act and railroad retirement benefits;

(h) Dividend receipts; and

(i) Interest received on state and municipal bonds.

(6) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

(7) "Disability" has the same meaning as provided in 42 U.S.C. Sec. 423(d)(1)(A) as amended prior to January 1, 2005, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

<u>(8) "Income threshold 1" means:</u>

<u>(a) For taxes levied for collection in calendar years prior to 2021, a combined disposable income equal to thirty thousand dollars; and</u>

<u>(b) For taxes levied for collection in calendar year 2021 and thereafter, a combined disposable income equal to the greater of "income threshold 1" for the previous year or forty-five percent of the county median household income, adjusted every five years beginning January 1, 2020, as provided in RCW 84.36.385(7).</u>

<u>(9) "Income threshold 2" means:</u>

(a) For taxes levied for collection in calendar years prior to 2021, a combined disposable income equal to thirty-five thousand dollars; and

(b) For taxes levied for collection in calendar year 2021 and thereafter, a combined disposable income equal to the greater of "income threshold 2" for the previous year or fifty-five percent of the county median household income, adjusted every five years beginning January 1, 2020, as provided in RCW 84.36.385(7).

(10) "Income threshold 3" means:

(a) For taxes levied for collection in calendar years prior to 2021, a combined disposable income equal to forty thousand dollars; and

(b) For taxes levied for collection in calendar year 2021 and thereafter, a combined disposable income equal to the greater of "income threshold 3" for the previous year or sixty-five percent of the county median household income, adjusted every five years beginning January 1, 2020, as provided in RCW 84.36.385(7).

(11) "County median household income" means the median household income estimates for the state of Washington by county of the legal address of the principal place of residence, as published by the office of financial management.

Sec. 304. RCW 84.36.385 and 2011 c 174 s 106 are each amended to read as follows:

(1) A claim for exemption under RCW 84.36.381 as now or hereafter amended, may be made and filed at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as prescribed and furnished by the department of revenue. However, an exemption from tax under RCW 84.36.381 continues for no more than six years unless a renewal application is filed as provided in subsection (3) of this section.

(2) A person granted an exemption under RCW 84.36.381 must inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW 84.36.381 in 1993 and thereafter((~~,~~)) must file with the county assessor a renewal application not later than December 31 of the year the assessor notifies such person of the requirement to file the renewal

application. Renewal applications must be on forms prescribed and furnished by the department of revenue.

(4) At least once every six years, the county assessor must notify those persons receiving an exemption from taxes under RCW 84.36.381 of the requirement to file a renewal application. The county assessor may also require a renewal application following an amendment of the income requirements set forth in RCW 84.36.381.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim or exemption must be denied but such denial is subject to appeal under the provisions of RCW 84.48.010 and in accordance with the provisions of RCW 84.40.038. If the applicant had received exemption in prior years based on erroneous information, the taxes must be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed five years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information must be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

<u>(7) Beginning on January 1, 2020, and every fifth year thereafter, the department must publish updated income thresholds. The adjusted thresholds must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply. The department must adjust income thresholds for each county to reflect the most recent year available of estimated county median household incomes, including preliminary estimates or projections, as published by the office of financial management. For the purposes of this subsection, "county median household income" has the same meaning as in RCW 84.36.383.</u>

Sec. 305. RCW 84.38.020 and 2006 c 62 s 2 are each amended to read as follows:

((~~Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:~~)) <u>The definitions in this section</u>

<u>apply throughout this chapter unless the context clearly requires otherwise.</u>

(1)<u>(a)</u> "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

<u>(b)</u> When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant ((~~shall be~~)) <u>is</u>.

(2) ((~~"Department" means the state department of revenue.~~

~~(3)~~)) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

<u>(3) "Income threshold" means:</u>

<u>(a) For taxes levied for collection in calendar years prior to 2021, a combined disposable income equal to forty-five thousand dollars; and</u>

<u>(b) For taxes levied for collection in calendar year 2021 or thereafter, a combined disposable income equal to the greater of the "income threshold" for the previous year, or seventy-five percent of the county median household income, adjusted every five years beginning January 1, 2020, as provided in RCW 84.36.385(7).</u>

(4) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special assessments.

(5) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

(6) "Residence" has the meaning given in RCW 84.36.383.

(7) "Special assessment" means the charge or obligation imposed by a local government upon property specially benefited.

Sec. 306. RCW 84.38.030 and 2015 3rd sp.s. c 30 s 3 and 2015 c 86 s 313 are each reenacted and amended to read as follows:

A claimant may defer payment of special assessments and/or real property taxes on up to eighty percent of the amount of the claimant's equity value in the claimant's residence if the following conditions are met:

(1) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the age and income limits under RCW 84.36.381.

(2) The claimant must be sixty years of age or older on December 31st of the year in which the deferral claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability as defined in RCW 84.36.383. However, any surviving spouse or surviving domestic partner of a person who was receiving a deferral at the time of the person's death qualifies if the surviving spouse or surviving domestic partner is fifty-seven years of age or older and otherwise meets the requirements of this section.

(3) The claimant must have a combined disposable income, as defined in RCW 84.36.383, ((~~of forty-five thousand dollars or less~~)) equal to or less than the income threshold.

(4) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community, owned by domestic partners, or owned by cotenants is deemed to be owned by each spouse, each domestic partner, or each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value. However, if the claimant fails to keep fire and casualty insurance in force to the extent of the state's interest in the claimant's equity value, the amount deferred may not exceed one hundred percent of the claimant's equity value in the land or lot only.

(6) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

Part IV
Miscellaneous Provisions

NEW SECTION. **Sec. 401.** This act is not subject to the requirements provided in RCW 82.32.805 and 82.32.808.

NEW SECTION. **Sec. 402.** Parts II and III of this act apply for taxes levied for collection in 2021 and thereafter.

NEW SECTION. **Sec. 403.** Sections 101 through 113 and 116 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec. 404.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 405.** This act takes effect January 1, 2019.

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