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**HOUSE BILL 1906**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Steele, Eslick, and Young

AN ACT Relating to expanding eligibility for property tax exemptions for nonprofit organizations; amending RCW 84.36.020, 84.36.037, 84.36.805, and 84.36.810; adding a new section to chapter 84.36 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  Washington state's property tax exemption framework for nonprofit organizations is unfair and unclear. Our state tax code provides an exemption to a limited scope of nonprofit organizations who are engaged in certain activities, and the scope of those activities are defined by convoluted regulations that are burdensome and costly for the public to understand. For example, the tax obligation of a charitable organization dedicated to raising funds and increasing opportunities for youth is made to depend not on its compliance with federal tax law for charities, but on whether it operates a "public meeting hall" that is used by the public more than it is used by the organization. Other nonprofit organizations that provide space for the community to enjoy farmers markets have seen uncertainty in our tax code from provisions that limit the number of days the farmers markets can operate. The legislature finds that charitable nonprofit organizations provide enormous benefit to Washington's communities and that Washington would be better suited by broader and clearer eligibility standards for property tax exempt status. The legislature recognizes that the less a nonprofit charitable organization pays in taxes and in compliance costs for determining state and local property tax obligations, the more our communities will benefit from their mission-driven efforts.

**Sec.**  RCW 84.36.020 and 2014 c 99 s 3 are each amended to read as follows:

The following real and personal property shall be exempt from taxation:

(1) All lands, buildings, and personal property required for necessary administration and maintenance, used, or to the extent used, exclusively for public burying grounds or cemeteries without discrimination as to race, color, national origin or ancestry;

(2)(a) All churches, personal property, and the ground, not exceeding five acres in area, upon which a church of any nonprofit recognized religious denomination is or must be built, together with a parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property. The area exempted must in any case include all ground covered by the church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation, but the area of unoccupied ground exempted in such cases, in connection with church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property, shall not exceed the equivalent of one hundred twenty by one hundred twenty feet except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements. The parsonage and convent need not be on land contiguous to the church property. Except as otherwise provided in this subsection, to be exempt the property must be wholly used for church purposes.

(b) If the rental income or donations, if applicable, are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented, the exemption provided by this subsection (2) is not nullified by:

(i) The loan or rental of property otherwise exempt under this subsection (2) to a nonprofit organization, association, or corporation, or school to conduct an eleemosynary activity or to conduct activities related to a farmers market. However, activities related to a farmers market may not occur on the property more than 53 days each assessment year. For the purposes of this section, "farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170;

(ii) The rental or use of the property by any individual, group, or entity, where such rental or use is not otherwise authorized by this subsection (2), for not more than fifty days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations provided in this subsection (2)(b)(ii) do not include days during which setup and takedown activities take place immediately preceding or following a meeting or other event by an individual, group, or entity using the property as provided in this subsection (2)(b)(ii); or

(iii) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

**Sec.**  RCW 84.36.037 and 2014 c 99 s 8 are each amended to read as follows:

(1) Real or personal property owned by a nonprofit organization, association, or corporation in connection with the operation of a public assembly hall or meeting place is exempt from taxation. The area exempt under this section includes the building or buildings, the land under the buildings, and an additional area necessary for parking, not exceeding a total of one acre. When property for which exemption is sought is essentially unimproved except for restroom facilities and structures and this property has been used primarily for annual community celebration events for at least ten years, the exempt property shall not exceed twenty-nine acres.

(2) To qualify for this exemption the property must be used exclusively for public gatherings and must be available to all organizations or persons desiring to use the property, but the owner may impose conditions and restrictions which are necessary for the safekeeping of the property and promote the purposes of this exemption. Membership shall not be a prerequisite for the use of the property.

(3) The use of the property for pecuniary gain or for business activities, except as provided in this section and RCW 84.36.805, nullifies the exemption otherwise available for the property for the assessment year. If all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes, the exemption is not nullified as provided by RCW 84.36.805 or by ((~~the~~)):

(a) The use of the property to conduct a qualifying farmers market, as defined in RCW 66.24.170, for not more than 53 days each assessment year, if the rental income or donations, if any, are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or

(b) The use of the property, in a county with a population of less than twenty thousand, to promote the following business activities, if the rental income or donations, if any, are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented: Dance lessons, art classes, or music lessons.

(4) The department of revenue must narrowly construe this exemption.

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

(1) In order to qualify for an exemption under this chapter, the nonprofit organizations, associations, or corporations must satisfy the conditions in this section or section 5 of this act.

(2) ((~~The~~)) Except for exemptions qualified for under section 5 of this act, property must be used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose. Notwithstanding anything to the contrary in this section:

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

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

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

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

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

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

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

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

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

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

(c) A housing authority created under RCW 35.82.030;

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

(e) A housing authority established under RCW 35.82.300.

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

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

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

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

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

Any real and personal property owned by an organization that is exempt from federal taxes under 26 U.S.C. Sec. 501(c)(3) shall be exempt from taxation.

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  This act applies to taxes levied for collection in 2023 and thereafter.

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

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