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**HOUSE BILL 1265**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Ramos, Goehner, Chapman, Robertson, Kloba, Chambers, Slatter, Callan, Donaghy, Ryu, Reeves, Chopp, Senn, Reed, Couture, Simmons, Fey, Jacobsen, Macri, Peterson, Ramel, and Pollet

AN ACT Relating to establishing a property tax exemption for adult family homes that serve people with intellectual or developmental disabilities and are owned by a nonprofit; amending RCW 84.36.042 and 84.36.805; reenacting and amending RCW 84.36.805; creating new sections; providing an effective date; and providing an expiration date.

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

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

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

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

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

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

(2) As used in this section:

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

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

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

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

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

**Sec.**  RCW 84.36.805 and 2022 c 93 s 4 and 2022 c 84 s 2 are each reenacted and 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.

(2) The 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; and

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

(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:

(a) Limited equity cooperatives as defined in RCW 84.36.675; or

(b) Property sold to a nonprofit entity, as defined in RCW 84.36.560, by:

(i) 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;

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

(iii) A housing authority created under RCW 35.82.030;

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

(v) 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 50 days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than 15 of the 50 days in each calendar year. The 50 and 15-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 50 and 15-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.

(c) The 15-day and 50-day limitations provided in (a) of this subsection (8) do not apply to property exempt under RCW 84.36.037 if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and 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. Exempt property under RCW 84.36.037 may be used for up to 53 days for the purposes of a qualifying farmers market.

**Sec.**  RCW 84.36.805 and 2022 c 84 s 2 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.

(2) The 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; and

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

(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.

(c) The 15-day and 50-day limitations provided in (a) of this subsection (8) do not apply to property exempt under RCW 84.36.037 if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and 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. Exempt property under RCW 84.36.037 may be used for up to 53 days for the purposes of a qualifying farmers market.

NEW SECTION. **Sec.**  This act applies to taxes levied for collection beginning January 1, 2024.

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

NEW SECTION. **Sec.**  Section 2 of this act expires January 1, 2033.

NEW SECTION. **Sec.**  Section 3 of this act takes effect January 1, 2033.

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