

SENATE BILL 5247

State of Washington 52nd Legislature 1991 Regular Session

By Senators Sutherland, A. Smith and Madsen.

Read first time January 24, 1991. Referred to Committee on Ways & Means.

1 AN ACT Relating to property tax reimbursements; adding a new
2 chapter to Title 84 RCW; and providing a contingent effective date.

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

4 NEW SECTION. **Sec. 1.** A person shall be entitled to a
5 reimbursement of the amount of excessive property taxes paid in the
6 calendar year preceding the calendar year in which a claim is filed, in
7 accordance with the following:

8 (1) The property taxes must have been imposed upon a residence that
9 was occupied by the person claiming the reimbursement as a principal
10 place of residence as of January 1st of the year for which the
11 reimbursement is claimed: PROVIDED, That any person who sells,
12 transfers, moves, or is displaced from his or her residence may
13 transfer his or her reimbursement status to a replacement residence,
14 but no claimant shall receive a reimbursement on more than one
15 residence in any year: PROVIDED FURTHER, That confinement of the

1 person to a hospital or nursing home shall not disqualify the claim of
2 reimbursement if the residence is temporarily unoccupied or if the
3 residence is occupied by a spouse and/or a person financially dependent
4 on the claimant for support;

5 (2) The person claiming the reimbursement must have (a) owned, at
6 the time of filing, in fee, as a life estate, or by contract purchase,
7 the residence on which the property taxes have been imposed or if the
8 person claiming the reimbursement lives in a cooperative housing
9 association, corporation, or partnership, such person must own a share
10 therein representing the unit or portion of the structure in which he
11 or she resides; or (b) been a tenant residing in a residence not
12 occupied by the owner. For purposes of this subsection, a residence
13 owned by a marital community or owned by cotenants shall be deemed to
14 be owned by each spouse or cotenant, and any lease for life shall be
15 deemed a life estate;

16 (3) The amount of the reimbursement shall be calculated on the
17 basis of combined income, as defined in section 2 of this act. If the
18 person claiming the reimbursement was retired for two months or more of
19 the preceding year, the combined income of such person shall be
20 calculated by multiplying the average monthly combined income of such
21 person during the months such person was retired by twelve;

22 (5) The person applying for the reimbursement must occupy the
23 residence and must either be: (a) The owner of the residence and the
24 person who paid the property taxes; or (b) a tenant of the owner who
25 paid the property taxes;

26 (6) To be eligible, the person applying for the reimbursement, the
27 person's spouse, and any cotenants must have combined net assets of
28 less than two hundred fifty thousand dollars;

29 (7) The reimbursement shall be reduced by the amount of any
30 exemption allowed under RCW 84.36.381 through 84.36.389; and

1 (8) The maximum reimbursement per year with regard to any one
2 residence is one thousand five hundred dollars.

3 NEW SECTION. **Sec. 2.** As used in sections 1 through 5 of this
4 act, except where the context clearly indicates a different meaning:

5 (1) "Excessive property taxes" means regular and special levies on
6 a residence in excess of five percent of the household's income, if the
7 owner resides in the residence. For a person who is a tenant,
8 excessive property taxes is the amount that eleven percent of the
9 annual rent paid by the tenant exceeds five percent of the household's
10 annual income.

11 (2) The term "residence" shall mean a single-family dwelling unit
12 whether such unit be separate or part of a multiunit dwelling,
13 including the land on which such dwelling stands not to exceed one
14 acre. The term shall also include a share ownership in a cooperative
15 housing association, corporation, or partnership if the person claiming
16 reimbursement can establish that his or her share represents the
17 specific unit or portion of such structure in which he or she resides.
18 The term shall also include a single-family dwelling situated upon
19 lands the fee of which is vested in the United States or any
20 instrumentality thereof including an Indian tribe or in the state of
21 Washington, and notwithstanding the provisions of RCW 84.04.080,
22 84.04.090, or 84.40.250, such a residence shall be deemed real
23 property.

24 (3) The term "real property" shall also include a mobile home which
25 has substantially lost its identity as a mobile unit by virtue of its
26 being fixed in location upon land owned or leased by the owner of the
27 mobile home and placed on a foundation (posts or blocks) with fixed
28 pipe, connections with sewer, water, or other utilities: PROVIDED,
29 That a mobile home located on land leased by the owner of the mobile

1 home shall be subject, for tax billing, payment, and collection
2 purposes, only to the personal property provisions of chapter 84.56 RCW
3 and RCW 84.60.040.

4 (4) "Department" shall mean the state department of revenue.

5 (5) "Combined income" means the income of the person claiming the
6 reimbursement, plus the income of his or her spouse, and the income of
7 each cotenant occupying the residence for the preceding calendar year,
8 less amounts paid by the person claiming the reimbursement or his or
9 her spouse during the previous year for the treatment or care of either
10 person in a nursing home.

11 (6) "Income" means adjusted gross income as defined in the federal
12 internal revenue code, as amended prior to January 1, 1989, or such
13 subsequent date as the director may provide by rule consistent with the
14 purpose of this section, plus all of the following items to the extent
15 they are not included in or have been deducted from adjusted gross
16 income:

17 (a) Capital gains;

18 (b) Amounts deducted for loss;

19 (c) Amounts deducted for depreciation;

20 (d) Pension and annuity receipts;

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

23 (f) Veterans benefits other than attendant-care and medical-aid
24 payments;

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

26 (h) Dividend receipts; and

27 (i) Interest received on state and municipal bonds.

28 (7) "Cotenant" means a person who resides with the person claiming
29 the reimbursement and who has an ownership interest in the residence.

1 NEW SECTION. **Sec. 3.** A claim for reimbursement under section
2 1 of this act shall be made and filed at any time during the year
3 following the year taxes were paid and solely upon forms as prescribed
4 and furnished by the department.

5 If the department finds that the applicant does not meet the
6 qualifications as set forth in section 1 of this act, the reimbursement
7 shall be denied but such denial shall be subject to appeal under the
8 provisions of RCW 84.48.010(5). If the applicant had received a
9 reimbursement in prior years based on erroneous information, the
10 reimbursed amount shall be collected subject to penalties as provided
11 in RCW 84.40.130 for a period of not to exceed three years.

12 The department and each local assessor is hereby directed to
13 publicize the qualifications and manner of making claims under sections
14 1 through 5 of this act, through communications media, including such
15 paid advertisements or notices as it deems appropriate. Notice of the
16 qualifications, method of making applications, and availability of
17 further information shall be included on or with property tax
18 statements and revaluation notices for all residential property
19 including mobile homes.

20 NEW SECTION. **Sec. 4.** (1) All claims for reimbursement shall
21 be made and signed by the person entitled to the reimbursement, by his
22 or her attorney in fact or in the event the residence of such person is
23 under mortgage or purchase contract requiring accumulation of reserves
24 out of which the holder of the mortgage or contract is required to pay
25 real estate taxes, by such holder or by the owner, either before two
26 witnesses or the county assessor or his or her deputy in the county
27 where the real property is located: PROVIDED, That if a claim for
28 reimbursement is made by a person living in a cooperative housing
29 association, corporation, or partnership, such claim shall be made and

1 signed by the person entitled to the reimbursement and by the
2 authorized agent of such cooperative.

3 (2) If the taxpayer is unable to submit his or her own claim, the
4 claim shall be submitted by a duly authorized agent or by a guardian or
5 other person charged with the care of the person or property of such
6 taxpayer.

7 (3) Any person signing a false claim with the intent to defraud
8 shall be guilty of the offense of perjury.

9 NEW SECTION. **Sec. 5.** (1) The director of the department of
10 revenue shall adopt such rules and prescribe such forms as may be
11 necessary and appropriate for implementation and administration of this
12 chapter subject to chapter 34.05 RCW, the administrative procedure act.

13 (2) The department may conduct such audits of the administration of
14 sections 1 through 5 of this act and the claims for reimbursement filed
15 thereunder as it considers necessary. The powers of the department
16 under chapter 84.08 RCW apply to these audits.

17 (3) Any information or facts concerning confidential income data
18 obtained by the assessor or the department, or their agents or
19 employees, under subsection (2) of this section shall be used only to
20 administer sections 1 through 5 of this act. Notwithstanding any
21 provision of law to the contrary, absent written consent by the person
22 about whom the information or facts have been obtained, the
23 confidential income data shall not be disclosed by the assessor or the
24 assessor's agents or employees to anyone other than the department or
25 the department's agents or employees nor by the department or the
26 department's agents or employees to anyone other than the assessor or
27 the assessor's agents or employees except in a judicial proceeding
28 pertaining to the claimant's entitlement to the reimbursement under

1 sections 1 through 5 of this act. Any violation of this subsection is
2 a misdemeanor.

3 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act shall
4 constitute a new chapter in Title 84 RCW.

5 NEW SECTION. **Sec. 7.** This act shall take effect upon the
6 effective date of an amendment to Article VII of the Washington state
7 Constitution to authorize a property tax reimbursement of excessive
8 property taxes for homeowners and tenants. If such an amendment is not
9 validly submitted to and approved by the voters at the November 1991
10 general election, this act shall be null and void in its entirety.