

SENATE BILL 5368

State of Washington

52nd Legislature

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By Senators Gaspard, Niemi, Owen, Conner, Wojahn, Bauer, Murray, Madsen, Stratton, Rasmussen, Williams, Moore, Snyder, L. Kreidler and Sutherland; by request of Governor Gardner.

Read first time January 29, 1991. Referred to Committee on Ways & Means.

1 AN ACT Relating to valuation for property tax purposes; amending
2 RCW 84.36.381 and 84.36.383; adding new sections to chapter 84.36 RCW;
3 creating a new section; providing an effective date; providing a
4 contingent effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** It is the intent of this act to provide
7 property tax relief for homeowners whose home values are increasing at
8 a rapid rate. This rapid increase in home values often has the effect
9 of increasing property taxes without an accompanying increase in a
10 homeowner's ability to pay. This act provides for a limitation on the
11 rate of increase of the assessed values of owner-occupied real property
12 so that the effect of rapidly rising property taxes is spread over a
13 period of years.

14 The legislature finds that inflation has significant detrimental
15 effects on the senior citizen property tax relief program. Inflation

1 increases income without increasing real buying power. Inflation also
2 raises the values of homes, and thus the taxes on those homes. This
3 act increases the assessed value exemption tied to home value and the
4 income levels are adjusted to reflect the increase in inflation.
5 Because the income of most senior citizens does not keep pace with
6 inflation, it is the legislature's intent that inflationary increases
7 in income will not result in program disqualification. Additionally,
8 the legislature finds that in addition to nursing home expenses, in-
9 home care and treatment expenses of senior citizens should not be
10 included in income for purposes of the senior citizen property tax
11 relief program.

12 NEW SECTION. **Sec. 2.** For purposes of sections 3 through 9 of
13 this act, unless the context requires otherwise:

14 (1) "Change of ownership" means a transfer of a present interest in
15 real property, including a transfer of the beneficial use of real
16 property.

17 (a) Except as provided in (c) of this subsection, a change of
18 ownership of a present interest in real property shall also include,
19 but not be limited to:

20 (i) Contracting to convey the title to or ownership of real
21 property upon the fulfillment of one or more stated conditions where
22 the right to possession of the property is transferred currently.

23 (ii) The creation, transfer, or termination of a joint tenancy
24 interest.

25 (iii) The creation, transfer, or termination of a tenancy-in-common
26 interest.

27 (iv) The vesting of a right of possession or enjoyment of a
28 remainder or reversionary interest that occurs upon the termination of
29 a life estate or other similar precedent property interest.

1 (v) An interest that vests in persons other than the trustor where
2 a revocable trust becomes irrevocable.

3 (vi) The transfer of stock of a cooperative housing corporation,
4 vested with legal title to real property, that conveys to the
5 transferee the exclusive right to occupancy and possession of such
6 property, or a portion of the property. The term "cooperative housing
7 corporation" has the meaning as set forth in subsection (3) of this
8 section.

9 (b) The term "change of ownership" does not include:

10 (i) A transfer between coowners that results in a change in the
11 method of holding title to the real property transferred without
12 changing the proportional interests of the coowners in the real
13 property, such as a partition of a tenancy-in-common.

14 (ii) A transfer for the purpose of merely perfecting title to the
15 real property.

16 (iii) The creation, assignment, termination, or reconveyance of a
17 security interest in real property; or the substitution of a trustee
18 under a security instrument.

19 (iv) A transfer of real property by the trustor, or by the
20 trustor's spouse, or by both, into a trust for so long as the
21 transferor is the sole present beneficiary of the trust, or the trust
22 is revocable; or any transfer of real property by a trustee of such
23 trust back to the trustor.

24 (v) A transfer of real property by an instrument whose terms
25 reserve to the transferor an estate for years or an estate for life.
26 However, the termination of such an estate for years or life estate
27 shall constitute a change of ownership.

28 (vi) A transfer of real property between or among the same parties
29 for the purpose of correcting or reforming a deed to express the true

1 intention of the parties, if the original relationship between the
2 grantor and grantee is not changed.

3 (c) The term "change of ownership" also does not include an
4 interspousal transfer of real property, including, but not limited to:

5 (i) Transfers to a trustee for the beneficial use of a spouse, or
6 the surviving spouse of a deceased transferor, or by a trustee of such
7 trust to the spouse of the trustor;

8 (ii) Transfers that take effect upon the death of a spouse;

9 (iii) Transfers to a spouse or former spouse in connection with a
10 property settlement agreement or decree of dissolution of marriage or
11 legal separation; and

12 (iv) The creation, transfer, or termination, solely between
13 spouses, of any coowner's interest.

14 (2) "Owner-occupied" means residential property occupied as a
15 principal residence in this state by a natural person or persons having
16 a present possessory ownership interest in the property. For this
17 purpose, a principal residence is that residential property located in
18 this state that is occupied by such person or persons the greatest
19 amount of time during the calendar year. Owner-occupied includes
20 residential property that is held in trust, provided that at least one
21 of the current beneficiaries of the trust occupies the property as a
22 principal residence, and residential real property occupied as a
23 principal residence, the title to which is held by a housing
24 cooperative as that term is defined in subsection (3) of this section.
25 The confinement of a person to a hospital or nursing home will not
26 cause the person to fail to satisfy the occupancy requirement imposed
27 herein so long as the property is not rented during such period of
28 confinement.

29 (3) "Residential property" means a single family dwelling unit,
30 regardless of whether such unit shares a common wall with one or more

1 other units, including the land upon which such dwelling stands, and
2 that is owned in its entirety either by a natural person or persons, a
3 housing cooperative, or a trust. For purposes of sections 3 through 9
4 of this act, the term "housing cooperative" means an association,
5 corporation, or partnership that holds the title to residential
6 property if the person claiming the benefits of sections 3 through 9 of
7 this act can establish that his or her share represents the specific
8 unit or portion of such structure in which he or she resides. The term
9 also includes a single family dwelling situated upon lands the fee of
10 which is vested in the United States or an instrumentality of the
11 United States including an Indian tribe or in the state of Washington,
12 and notwithstanding the provisions of RCW 84.04.080, 84.04.090 or
13 84.40.250, such a residence shall be deemed real property.

14 The term residential property also includes a mobile home that has
15 substantially lost its identity as a mobile unit by virtue of its being
16 fixed in location upon land owned or leased by the owner of the mobile
17 home and placed upon a foundation (posts or blocks) with fixed pipe,
18 connections with sewer, water, or other utilities; provided that a
19 mobile home located on land leased by the owner of the mobile home
20 shall be subject, for tax billing, payment, and collection purposes,
21 only to the personal property provisions of chapter 84.56 RCW and RCW
22 84.60.040.

23 The term residential property does not include a dwelling unit
24 primarily used in the conduct of a commercial enterprise or a dwelling
25 unit located upon real property that is primarily used in the conduct
26 of a commercial enterprise. Property will be considered primarily used
27 in the conduct of a commercial enterprise if more than one-half of the
28 total square footage of the property is devoted to commercial use.

29 (4) "Remodel" or "remodeling" means an improvement to owner-
30 occupied residential property for which a building permit was issued,

1 or should have been issued, under chapter 19.27, 19.27A, or 19.28 RCW
2 or other law providing for building permits.

3 NEW SECTION. **Sec. 3.** (1) Subject to the provisions of
4 sections 4, 5, 6, and 7 of this act, the value of owner-occupied
5 residential property for purposes of property tax assessment shall be
6 the lesser of the following values at the time of revaluation:

7 (a) True and fair market value as established by the county
8 assessor in accordance with applicable law; or

9 (b) The most recent assessed value of the property increased on
10 January 1 each year thereafter by six percent, compounded annually.

11 (2) The limitation contained in subsection (1)(b) of this section
12 shall only apply for the purpose of the valuation for individual
13 property tax assessments upon which individual tax payments are made.

14 (3) All owner-occupied residential property that meets all the
15 qualifications of sections 2 and 4 through 9 this act shall be listed
16 on the county assessment rolls by the assessor at each of the values
17 described in subsection (1) (a) and (b) of this section.

18 NEW SECTION. **Sec. 4.** (1) Owner-occupied residential property
19 having an assessed value of two hundred thousand dollars or more on the
20 effective date of this act, shall be valued and assessed at true and
21 fair market value, provided, that the two hundred thousand dollar
22 amount shall increase on January 1 each year thereafter at the rate of
23 six percent compounded annually. In the event the property shall
24 subsequently have an assessed value less than the limit established in
25 this subsection, and provided the property otherwise meets all the
26 qualifications of sections 2, 3, and 5 through 9 of this act, the
27 property shall be valued and assessed as provided in section 3 of this
28 act.

1 (2) All owner-occupied residential property that has an assessed
2 value less than the limit established in subsection (1) of this
3 section, and that otherwise meets all the qualifications of sections 2,
4 3, and 5 through 9 of this act, shall be valued and assessed as
5 provided in section 3 of this act, unless and until the property is no
6 longer owner-occupied residential property, or a change of ownership
7 has occurred, or the property is remodeled so that the market value of
8 the remodeling when added to the most recent assessed value exceeds the
9 limit established in subsection (1) of this section.

10 NEW SECTION. **Sec. 5.** (1) Upon a change of ownership involving
11 owner-occupied residential property, the property shall be revalued by
12 the assessor with reference to its true and fair market value as of
13 January 1 of the year following the date the change of ownership
14 occurs.

15 (2) When an interest of fifty percent or more in owner-occupied
16 residential property changes ownership, the entire property shall be
17 revalued. Changes of ownership during an assessment year shall be
18 cumulated for the purposes of determining the percentage interests
19 transferred.

20 NEW SECTION. **Sec. 6.** (1) The value of all new construction or
21 remodeling of owner-occupied residential property shall be added to the
22 assessment rolls in accordance with RCW 36.21.080 and all new
23 construction or the remodeled portion of the property shall be valued
24 and assessed at true and fair market value. Except that the:

25 (a) Combined value of the market value of the remodeled portion of
26 owner-occupied residential property added to the most recent assessed
27 value for the property prior to the remodel shall be the new valuation
28 base for applying the limit under section 3 of this act; and

1 (b) Property otherwise qualifies for the application of the limit
2 under section 3 of this act and is less than the limit established in
3 section 4 of this act.

4 (2) Notwithstanding subsection (1) of this section, the property
5 tax exemption granted by RCW 84.36.400 shall continue to be effective.
6 However, if, upon the expiration of the exemption period provided in
7 that section, the combined value of the remodeled portion of the
8 property and the assessed value for the property exceed the limit
9 established in section 4 of this act, the property shall be valued and
10 assessed at true and fair market value at that time. If the combined
11 value at the time of expiration of the exemption period provided in RCW
12 84.36.400 does not exceed the limit established in section 4 of this
13 act, the property shall be valued and assessed in accordance with
14 subsection (1) of this section.

15 NEW SECTION. **Sec. 7.** (1) An owner-occupant of residential
16 property may apply to the county assessor in the county where the
17 property is located to have his or her real property assessed according
18 to the provisions of sections 2 through 6, 8, and 9 of this act.
19 Application shall be made on forms prepared by the department of
20 revenue and available at the office of the county assessor. The
21 application shall be submitted to the county assessor for determination
22 of qualification under sections 2 through 6, 8, and 9 of this act. A
23 taxpayer who submits an application shall certify that he or she is the
24 owner and occupant of a qualifying residence. After the taxpayer
25 submits the initial application, and the assessor determines that the
26 taxpayer qualifies for the assessed value limitations of sections 2
27 through 6, 8, and 9 of this act, the assessor shall, at the time a
28 notice of change of value is mailed to a taxpayer pursuant to RCW
29 84.40.045, require the taxpayer to recertify that he or she is an owner

1 and occupant of a qualifying residence in order to continue to qualify
2 for the assessed value limitation provisions of sections 2 through 6,
3 8, and 9 of this act.

4 (2) If, on the basis of the application submitted by the taxpayer,
5 the assessor determines that the taxpayer does not qualify for the
6 assessed value limitation provisions of sections 2 through 6, 8, and 9
7 of this act, the assessor shall so notify the taxpayer in writing. The
8 notice shall inform the taxpayer of the reasons for the failure to
9 qualify and of his or her right to appeal the assessor's determination
10 to the county board of equalization within thirty days of the mailing
11 of the notice to the taxpayer.

12 NEW SECTION. **Sec. 8.** (1) A loss of revenue to a local taxing
13 district that results from the implementation of sections 2 through 7
14 and 9 of this act shall be reimbursed to the taxing district out of the
15 state general fund.

16 (2) The method used to calculate the amount to be reimbursed to
17 taxing districts shall be as follows, for each county:

18 (a) Determine the assessed value for all taxable property,
19 including newly constructed and remodeled real property, without
20 applying the six percent compounded value limit provided for in section
21 3 of this act.

22 (b) Determine the assessed value for all taxable property,
23 including newly constructed and remodeled real property, applying the
24 six percent compounded value limit provided for in section 3 of this
25 act.

26 (c) Calculate the property tax levy rates and levies, in accordance
27 with all regular property tax levy limitations provided by law, using
28 the assessed value determined in accordance with (a) of this
29 subsection.

1 (d) Recalculate the property tax levy rates and levies, in
2 accordance with all regular property tax levy limitations provided by
3 law, using the assessed value determined in accordance with (b) of this
4 subsection.

5 (e) The difference between the levy amounts determined in
6 accordance with (d) and (c) of this subsection is the amount to be
7 reimbursed to taxing districts, provided that the reimbursement amount
8 for each taxing district shall not, in any event, exceed the amount
9 which could have been levied if the six percent compounded value limit
10 provided for in section 3 of this act had not been applied.

11 (3) The county assessor of each county shall provide the department
12 of revenue with all information necessary to make the calculations in
13 subsection (2) of this section and the department shall determine the
14 amount to be reimbursed to taxing districts.

15 (4) The reimbursement amount shall be distributed to taxing
16 districts in two payments to be made on or before May 31 and November
17 30 of each year. Fifty-five percent of the reimbursement amount shall
18 be distributed in the first payment, and forty-five percent of the
19 reimbursement amount shall be distributed in the second payment.

20 NEW SECTION. **Sec. 9.** (1) In determining the amount of
21 property taxes to be collected by each county for the purposes of the
22 state levy, the department of revenue shall calculate the dollar amount
23 owed by each county based upon the equalized true and fair value, as
24 determined in accordance with RCW 84.48.075 and 84.48.080. The dollar
25 amount owed shall be certified to each county assessor by the
26 department.

27 (2) Each county assessor shall calculate the levy rate necessary to
28 collect the dollar amount certified in accordance with subsection (1)
29 of this section. The calculation shall be based upon the assessed

1 value of all property in the county as such assessed value may be
2 limited in accordance with section 3 of this act. After the proper
3 levy rate is calculated, the collection process shall proceed as is
4 otherwise required by law.

5 **Sec. 10.** RCW 84.36.381 and 1987 c 301 s 1 are each amended to read
6 as follows:

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

11 (1) The property taxes must have been imposed upon a residence
12 which was occupied by the person claiming the exemption as a principal
13 place of residence as of January 1st of the year for which the
14 exemption is claimed: PROVIDED, That any person who sells, transfers,
15 or is displaced from his or her residence may transfer his or her
16 exemption status to a replacement residence, but no claimant shall
17 receive an exemption on more than one residence in any year: PROVIDED
18 FURTHER, That confinement of the person to a hospital or nursing home
19 shall not disqualify the claim of exemption if the residence is
20 temporarily unoccupied or if the residence is occupied by a spouse
21 and/or a person financially dependent on the claimant for support;

22 (2) The person claiming the exemption must have owned, at the time
23 of filing, in fee, as a life estate, or by contract purchase, the
24 residence on which the property taxes have been imposed or if the
25 person claiming the exemption lives in a cooperative housing
26 association, corporation, or partnership, such person must own a share
27 therein representing the unit or portion of the structure in which he
28 or she resides. For purposes of this subsection, a residence owned by
29 a marital community or owned by cotenants shall be deemed to be owned

1 by each spouse or cotenant, and any lease for life shall be deemed a
2 life estate;

3 (3) The person claiming the exemption must have been sixty-one
4 years of age or older on January 1st of the year in which the exemption
5 claim is filed, or must have been, at the time of filing, retired from
6 regular gainful employment by reason of physical disability: PROVIDED,
7 That any surviving spouse of a person who was receiving an exemption at
8 the time of the person's death shall qualify if the surviving spouse is
9 fifty-seven years of age or older and otherwise meets the requirements
10 of this section;

11 (4) The amount that the person shall be exempt from an obligation
12 to pay shall be calculated on the basis of combined disposable income,
13 as defined in RCW 84.36.383. If the person claiming the exemption was
14 retired for two months or more of the preceding year, the combined
15 disposable income of such person shall be calculated by multiplying the
16 average monthly combined disposable income of such person during the
17 months such person was retired by twelve.

18 (5) (a) A person who otherwise qualifies under this section and has
19 a combined disposable income of (~~eighteen~~) twenty-two thousand
20 dollars or less shall be exempt from all excess property taxes; and

21 (b) (i) A person who otherwise qualifies under this section and has
22 a combined disposable income of (~~fourteen~~) eighteen thousand dollars
23 or less but greater than (~~twelve~~) fifteen thousand dollars shall be
24 exempt from all regular property taxes on the greater of
25 (~~twenty-four~~) thirty thousand dollars or thirty percent of the
26 valuation of his or her residence, but not to exceed (~~forty~~) fifty
27 thousand dollars of the valuation of his or her residence; or

28 (ii) A person who otherwise qualifies under this section and has a
29 combined disposable income of (~~twelve~~) fifteen thousand dollars or
30 less shall be exempt from all regular property taxes on the greater of

1 ((~~twenty-eight~~)) thirty-four thousand dollars or fifty percent of the
2 valuation of his or her residence.

3 **Sec. 11.** RCW 84.36.383 and 1989 c 379 s 6 are each amended to read
4 as follows:

5 As used in RCW 84.36.381 through 84.36.389, except where the
6 context clearly indicates a different meaning:

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

19 (2) The term "real property" shall also include a mobile home which
20 has substantially lost its identity as a mobile unit by virtue of its
21 being fixed in location upon land owned or leased by the owner of the
22 mobile home and placed on a foundation (posts or blocks) with fixed
23 pipe, connections with sewer, water, or other utilities: PROVIDED,
24 That a mobile home located on land leased by the owner of the mobile
25 home shall be subject, for tax billing, payment, and collection
26 purposes, only to the personal property provisions of chapter 84.56 RCW
27 and RCW 84.60.040.

28 (3) The term "preceding calendar year" shall mean the calendar year
29 preceding the year in which the claim for exemption is to be made.

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

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

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

15 (a) Capital gains;

16 (b) Amounts deducted for loss;

17 (c) Amounts deducted for depreciation;

18 (d) Pension and annuity receipts;

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

21 (f) Veterans benefits other than attendant-care and medical-aid
22 payments;

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

24 (h) Dividend receipts; and

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

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

28 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act shall
29 take effect for taxes payable in 1992 and thereafter, if the proposed

1 amendment to the state Constitution authorizing the limitations on
2 taxation provided for in this act is approved and ratified by the
3 voters at a general election held in November 1991. If the proposed
4 amendment is not so approved and ratified, those sections of this act
5 are void in their entirety.

6 NEW SECTION. **Sec. 13.** Sections 2 through 9 of this act are
7 each added to chapter 84.36 RCW.

8 NEW SECTION. **Sec. 14.** Sections 10 and 11 of this act are
9 necessary for the immediate preservation of the public peace, health,
10 or safety, or support of the state government and its existing public
11 institutions, and shall take effect July 1, 1991.