

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1905

Chapter 121, Laws of 2003

58th Legislature
2003 Regular Session

TAXATION--PROPERTY--EXEMPTIONS

EFFECTIVE DATE: 7/27/03

Passed by the House April 22, 2003
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 16, 2003
Yeas 48 Nays 1

BRAD OWEN

President of the Senate

Approved May 7, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1905** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 7, 2003 - 2:35 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1905

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Representatives Gombosky, Buck, Lantz, Tom, Pettigrew,
Rockefeller, Skinner, Fromhold, Benson, Kagi, Kessler, Clibborn,
Nixon, Kenney, Moeller, Conway, Hudgins, Santos and McDermott

Read first time 02/14/2003. Referred to Committee on Finance.

1 AN ACT Relating to the property taxation of organizations operated
2 exclusively for art, scientific, or historical purposes or engaged in
3 the production and performance of musical, dance, artistic, dramatic,
4 or literary works; and amending RCW 84.36.060 and 84.36.805.

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

6 **Sec. 1.** RCW 84.36.060 and 1995 c 306 s 1 are each amended to read
7 as follows:

8 (1) The following property shall be exempt from taxation:

9 ~~((1))~~ (a) All art, scientific, or historical collections of
10 associations maintaining and exhibiting such collections for the
11 benefit of the general public and not for profit, together with all
12 real and personal property of such associations used exclusively for
13 the safekeeping, maintaining and exhibiting of such collections;
14 ~~((and))~~

15 (b) All the real and personal property owned by or leased to
16 associations engaged in the production and performance of musical,
17 dance, artistic, dramatic, or literary works for the benefit of the
18 general public and not for profit, which real and personal property is
19 used exclusively for this production or performance;

1 (c) All fire engines and other implements used for the
2 extinguishment of fire, and the buildings used exclusively for their
3 safekeeping, and for meetings of fire companies, as long as the
4 property belongs to any city or town or to a fire company; and

5 (d) All property owned by humane societies in this state in actual
6 use by the societies.

7 ~~((a))~~ (2) To receive ~~((this))~~ an exemption under subsection
8 (1)(a) or (b) of this section:

9 (a) An organization must be organized and operated exclusively for
10 artistic, scientific, historical, literary, musical, dance, dramatic,
11 or educational purposes and receive a substantial part of its support
12 (exclusive of income received in the exercise or performance by such
13 organization of its purpose or function) from the United States or any
14 state or any political subdivision thereof or from direct or indirect
15 contributions from the general public.

16 (b) If the property is not currently being used for an exempt
17 purpose but will be used for an exempt purpose within a reasonable
18 period of time, the nonprofit organization, association, or corporation
19 claiming the exemption must submit proof that a reasonably specific and
20 active program is being carried out to construct, remodel, or otherwise
21 enable the property to be used for an exempt purpose. The property
22 does not qualify for an exemption during this interim period if the
23 property is used by, loaned to, or rented to a for-profit organization
24 or business enterprise. Proof of a specific and active program to
25 build or remodel the property so it may be used for an exempt purpose
26 may include, but is not limited to:

27 (i) Affirmative action by the board of directors, trustees, or
28 governing body of the nonprofit organization, association, or
29 corporation toward an active program of construction or remodeling;

30 (ii) Itemized reasons for the proposed construction or remodeling;

31 (iii) Clearly established plans for financing the construction or
32 remodeling; or

33 (iv) Building permits.

34 ~~((c) Notwithstanding (b) of this subsection, a for-profit limited~~
35 ~~partnership created to provide facilities for the use of nonprofit art,~~
36 ~~scientific, or historical organizations qualifies for the exemption~~
37 ~~under (b) of this subsection through 1997 if the for-profit limited~~
38 ~~partnership otherwise qualifies under (b) of this subsection.~~

1 ~~(2) All fire engines and other implements used for the~~
2 ~~extinguishment of fire, with the buildings used exclusively for the~~
3 ~~safekeeping thereof, and for meetings of fire companies, provided such~~
4 ~~properties belong to any city or town or to a fire company therein.))~~

5 (3) ~~((Property owned by humane societies in this state in actual~~
6 ~~use by such societies))~~ The use of property exempt under subsection
7 (1)(a) or (b) of this section by entities not eligible for a property
8 tax exemption under this chapter, except as provided in this section,
9 nullifies the exemption otherwise available for the property for the
10 assessment year. The exemption is not nullified if:

11 (a) The property is used by entities not eligible for a property
12 tax exemption under this chapter for periods of not more than twenty-
13 five days in the calendar year;

14 (b) The property is not used for pecuniary gain or to promote
15 business activities for more than seven of the twenty-five days in the
16 calendar year;

17 (c) The property is used for artistic, scientific, or historic
18 purposes, for the production and performance of musical, dance,
19 artistic, dramatic, or literary works, or for community gatherings or
20 assembly, or meetings; and

21 (d) The amount of any rent or donations is reasonable and does not
22 exceed maintenance and operation expenses created by the user.

23 **Sec. 2.** RCW 84.36.805 and 2001 1st sp.s. c 7 s 2 are each amended
24 to read as follows:

25 (1) In order to qualify for an exemption under this chapter (~~and~~
26 ~~RCW 84.36.560~~), the nonprofit organizations, associations, or
27 corporations must satisfy the conditions in this section.

28 (2) The property must be used exclusively for the actual operation
29 of the activity for which exemption is granted, unless otherwise
30 provided, and does not exceed an amount reasonably necessary for that
31 purpose, except:

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

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

1 (ii) Except for the exemptions under RCW 84.36.030(4) (~~and~~),
2 84.36.037, and 84.36.060(1) (a) and (b), the property would be exempt
3 from tax if owned by the organization to which it is loaned or rented;

4 (b) The use of the property for fund-raising activities does not
5 subject the property to tax if the fund-raising activities are
6 consistent with the purposes for which the exemption is granted.

7 (3) The property must be irrevocably dedicated to the purpose for
8 which exemption has been granted, and on the liquidation, dissolution,
9 or abandonment by said organization, association, or corporation, said
10 property will not inure directly or indirectly to the benefit of any
11 shareholder or individual, except a nonprofit organization,
12 association, or corporation which too would be entitled to property tax
13 exemption. This property need not be irrevocably dedicated if it is
14 leased or rented to those qualified for exemption under this chapter or
15 RCW 84.36.560 for leased property, but only if under the terms of the
16 lease or rental agreement the nonprofit organization, association, or
17 corporation receives the benefit of the exemption.

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

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

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

27 (a) A nonprofit as defined in RCW 84.36.800 that is exempt from
28 income tax under section 501(c) of the federal internal revenue code;

29 (b) A governmental entity established under RCW 35.21.660,
30 35.21.670, or 35.21.730;

31 (c) A housing authority created under RCW 35.82.030;

32 (d) A housing authority meeting the definition in RCW
33 35.82.210(2)(a); or

34 (e) A housing authority established under RCW 35.82.300.

35 (7) The department shall have access to its books in order to
36 determine whether the nonprofit organization, association, or
37 corporation is exempt from taxes under this chapter (~~and RCW~~
38 ~~84.36.560~~)).

1 (8) This section does not apply to exemptions granted under RCW
2 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

Passed by the House April 22, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 7, 2003.

Filed in Office of Secretary of State May 7, 2003.