

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5078

Chapter 212, Laws of 2013

63rd Legislature
2013 Regular Session

PROPERTY TAX--EXEMPTIONS--NONPROFIT FAIRS

EFFECTIVE DATE: 07/28/13

Passed by the Senate April 19, 2013
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 17, 2013
YEAS 86 NAYS 10

FRANK CHOPP

Speaker of the House of Representatives

Approved May 10, 2013, 11:24 a.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5078** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 10, 2013

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5078

AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Ericksen, Smith, Hatfield, Baumgartner, Chase, and Shin)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to modifying the property tax exemption for
2 nonprofit fairs; amending RCW 84.36.480; reenacting and amending RCW
3 84.36.805; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that nonprofit
6 fairs provide educational opportunities for youth and promote
7 agriculture and the welfare of rural Washington. The legislature
8 further finds that publicly owned fairgrounds can be rented or loaned
9 out on a temporary basis without jeopardizing the property's exempt
10 status for property tax purposes. The legislature further finds that
11 many cities and counties have transferred ownership in fairground
12 properties to nonprofit fair associations to achieve operational
13 efficiencies. The legislature further finds that properties previously
14 owned by cities or counties, and now owned and operated by nonprofit
15 fair associations, may be subject to property tax even though the use
16 of the property has not changed.

17 (2) It is the intent of the legislature to mitigate an unintended
18 consequence of the property tax code that would otherwise interfere
19 with a city's or county's ability to achieve operational efficiencies

1 and follows best practices by transferring fairgrounds to nonprofit
2 fair associations for an identical use of the property. It is the
3 further intent of the legislature to expire the property tax exemption
4 in five years to evaluate if the exemption has created any unintended
5 consequences, including any unfair competitive advantage that may be
6 conferred by the property tax exemption over private businesses, and
7 identify other similar tax situations where ownership of property may
8 be transferred from a public entity to a nonprofit association.

9 **Sec. 2.** RCW 84.36.480 and 1984 c 220 s 6 are each amended to read
10 as follows:

11 ~~((The following property shall be exempt from taxation:))~~ (1)
12 Except as provided otherwise in subsections (2) and (3) of this
13 section, the real and personal property of a nonprofit fair association
14 that sponsors or conducts a fair or fairs ((which)) that is eligible to
15 receive support from ((revenues collected pursuant to RCW 67.16.100))
16 the fair fund, as created in RCW 15.76.115 and allocated by the
17 director of the department of agriculture, is exempt from taxation. To
18 be exempt under this ~~((section))~~ subsection (1), the property must be
19 used exclusively for fair purposes, except as provided in RCW
20 84.36.805. However, the loan or rental of property otherwise exempt
21 under this section to a private concessionaire or to any person for use
22 as a concession in conjunction with activities permitted under this
23 section shall not nullify the exemption if the concession charges are
24 subject to agreement and the rental income, if any, is reasonable and
25 is devoted solely to the operation and maintenance of the property.

26 (2)(a) Except as provided otherwise in subsection (3) of this
27 section, the real and personal property owned by a nonprofit fair
28 association organized under chapter 24.06 RCW and used for fair
29 purposes is exempt from taxation if the majority of such property, as
30 determined by assessed value, was purchased or acquired by the same
31 nonprofit fair association from a county or a city between 1995 and
32 1998.

33 (b) The exemption under this subsection (2) may not be claimed for
34 taxes levied for collection in 2019 and thereafter.

35 (3) A nonprofit fair association with real and personal property
36 having an assessed value of more than fifteen million dollars is not
37 eligible for the exemptions under this section.

1 **Sec. 3.** RCW 84.36.805 and 2006 c 319 s 1 and 2006 c 226 s 3 are
2 each reenacted and amended to read as follows:

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

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

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

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

16 (ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037,
17 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt
18 from tax if owned by the organization to which it is loaned or rented;

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

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

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

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

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

34 (b) A governmental entity established under RCW 35.21.660,
35 35.21.670, or 35.21.730;

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

37 (d) A housing authority meeting the definition in RCW
38 35.82.210(2)(a); or

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

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

5 (7) This section does not apply to exemptions granted under RCW
6 84.36.020, 84.36.032, 84.36.250, (~~and~~) 84.36.260, and 84.36.480(2).

Passed by the Senate April 19, 2013.

Passed by the House April 17, 2013.

Approved by the Governor May 10, 2013.

Filed in Office of Secretary of State May 10, 2013.