

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6211

64th Legislature
2016 Regular Session

Passed by the Senate March 8, 2016
Yeas 47 Nays 1

President of the Senate

Passed by the House March 3, 2016
Yeas 83 Nays 14

Speaker of the House of Representatives

Approved

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 **SUBSTITUTE SENATE BILL 6211** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6211

AS AMENDED BY THE HOUSE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2016 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dammeier, Rolfes, Fraser, Conway, McCoy, O'Ban, Litzow, Fain, Rivers, Becker, Darneille, McAuliffe, Habib, Chase, and Benton)

READ FIRST TIME 02/04/16.

1 AN ACT Relating to the exemption of property taxes for nonprofit
2 homeownership development; amending RCW 84.36.805, 84.36.815,
3 84.36.820, 84.36.840, 84.36.845, and 84.36.855; adding a new section
4 to chapter 84.36 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
7 performance statement for the tax preference contained in this act.
8 This performance statement is only intended to be used for subsequent
9 evaluation of the tax preference. It is not intended to create a
10 private right of action by any party or be used to determine
11 eligibility for preferential tax treatment.

12 (2) The legislature categorizes this tax preference as one
13 intended to provide tax relief for certain businesses or individuals,
14 as indicated in RCW 82.32.808(2)(e).

15 (3) It is the legislature's specific public policy objective to
16 encourage and expand the ability of nonprofit low-income housing
17 developers to provide homeownership opportunities for low-income
18 households. It is the legislature's intent to exempt from taxation
19 real property owned by a nonprofit entity for the purpose of building
20 residences to be sold to low-income households in order to enhance

1 the ability of nonprofit low-income housing developers to purchase
2 and hold land for future affordable housing development.

3 (4)(a) To measure the effectiveness of the tax preference
4 provided in section 2 of this act in achieving the specific public
5 policy objectives described in subsection (3) of this section, the
6 joint legislative audit and review committee must evaluate, two years
7 prior to the expiration of the tax preference: (i) The annual growth
8 in the percentage of revenues dedicated to the development of
9 affordable housing, for each nonprofit claiming the preference, for
10 the period that the preference has been claimed; and (ii) the annual
11 changes in both the total number of parcels qualifying for the
12 exemption and the total number of parcels for which owner occupancy
13 notifications have been submitted to the department of revenue, from
14 the effective date of this section through the most recent year of
15 available data prior to the committee's review.

16 (b) If the review by the joint legislative audit and review
17 committee finds that for most of the nonprofits claiming the
18 exemption, program spending, program expenses, or another ratio
19 representing the percentage of the nonprofit entity's revenues
20 dedicated to the development of affordable housing has increased for
21 the period during which the exemption was claimed, then the
22 legislature intends to extend the expiration date of the tax
23 preference.

24 (5) In order to obtain the data necessary to perform the review
25 in subsection (4) of this section, the joint legislative audit and
26 review committee may refer to:

27 (a) Initial applications for the preference as approved by the
28 department of revenue under RCW 84.36.815;

29 (b) Owner occupancy notices reported to the department of revenue
30 under section 2 of this act;

31 (c) Annual financial statements for a nonprofit entity claiming
32 this tax preference, as defined in section 2 of this act, and
33 provided by nonprofit entities claiming this preference; and

34 (d) Any other data necessary for the evaluation under subsection
35 (4) of this section.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 84.36
37 RCW to read as follows:

38 (1) All real property owned by a nonprofit entity for the purpose
39 of developing or redeveloping on the real property one or more

1 residences to be sold to low-income households is exempt from state
2 and local property taxes.

3 (2) The exemption provided in this section expires on or at the
4 earlier of:

5 (a) The date on which the nonprofit entity transfers title to the
6 real property;

7 (b) The end of the seventh consecutive property tax year for
8 which the property is granted an exemption under this section or, if
9 the nonprofit entity has claimed an extension under subsection (3) of
10 this section, the end of the tenth consecutive property tax year for
11 which the property is granted an exemption under this section; or

12 (c) The property is no longer held for the purpose for which the
13 exemption was granted.

14 (3) If the nonprofit entity believes that title to the real
15 property will not be transferred by the end of the sixth consecutive
16 property tax year, the nonprofit entity may claim a three-year
17 extension of the exemption period by:

18 (a) Filing a notice of extension with the department on or before
19 March 31st of the sixth consecutive property tax year; and

20 (b) Providing a filing fee equal to the greater of two hundred
21 dollars or one-tenth of one percent of the real market value of the
22 property as of the most recent assessment date with the notice of
23 extension. The filing fee must be deposited into the state general
24 fund.

25 (4)(a) If the nonprofit entity has not transferred title to the
26 real property to a low-income household within the applicable period
27 described in subsection (2) of this section, or if the nonprofit
28 entity has converted the property to a purpose other than the purpose
29 for which the exemption was granted, the property is disqualified
30 from the exemption.

31 (b) Upon disqualification, the county treasurer must collect an
32 additional tax equal to all taxes that would have been paid on the
33 property but for the existence of the exemption, plus interest at the
34 same rate and computed in the same way as that upon delinquent
35 property taxes.

36 (c) The additional tax must be distributed by the county
37 treasurer in the same manner in which current property taxes
38 applicable to the subject property are distributed. The additional
39 taxes and interest are due in full thirty days following the date on
40 which the treasurer's statement of additional tax due is issued.

1 (d) The additional tax and interest is a lien on the property.
2 The lien for additional tax and interest has priority to and must be
3 fully paid and satisfied before any recognizance, mortgage, judgment,
4 debt, obligation, or responsibility to or with which the property may
5 become charged or liable. If a nonprofit entity sells or transfers
6 real property subject to a lien for additional taxes under this
7 subsection, such unpaid additional taxes must be paid by the
8 nonprofit entity at the time of sale or transfer. The county auditor
9 may not accept an instrument of conveyance unless the additional tax
10 has been paid. The nonprofit entity or the new owner may appeal the
11 assessed values upon which the additional tax is based to the county
12 board of equalization in accordance with the provisions of RCW
13 84.40.038.

14 (5) Nonprofit entities receiving an exemption under this section
15 must immediately notify the department when the exempt real property
16 becomes occupied. The notice of occupancy made to the department must
17 include a certification by the nonprofit entity that the occupants
18 are a low-income household and a date when the title to the real
19 property was or is anticipated to be transferred. The department of
20 revenue must make the notices of occupancy available to the joint
21 legislative audit and review committee, upon request by the
22 committee, in order for the committee to complete its review of the
23 tax preference in this section.

24 (6) Upon cessation of the exemption, the value of new
25 construction and improvements to the property, not previously
26 considered as new construction, must be considered as new
27 construction for purposes of calculating levies under chapter 84.55
28 RCW. The assessed value of the property as it was valued prior to the
29 beginning of the exemption may not be considered as new construction
30 upon cessation of the exemption.

31 (7) Nonprofit entities receiving an exemption under this section
32 must provide annual financial statements to the joint legislative
33 audit and review committee, upon request by the committee, for the
34 years that the exemption has been claimed. The nonprofit entity must
35 identify the line or lines on the financial statements that comprise
36 the percentage of revenues dedicated to the development of affordable
37 housing.

38 (8) The definitions in this subsection apply throughout this
39 section unless the context clearly requires otherwise.

1 (a) "Financial statements" means an audited annual financial
2 statement and a completed United States treasury internal revenue
3 service return form 990 for organizations exempt from income tax.

4 (b) "Low-income household" means a single person, family, or
5 unrelated persons living together whose adjusted income is less than
6 eighty percent of the median family income, adjusted for family size
7 as most recently determined by the federal department of housing and
8 urban development for the county in which the property is located.

9 (c) "Nonprofit entity" means a nonprofit as defined in RCW
10 84.36.800 that is exempt from federal income taxation under 26 U.S.C.
11 Sec. 501(c)(3) of the federal internal revenue code of 1986, as
12 amended.

13 (d) "Residence" means a single-family dwelling unit whether such
14 unit be separate or part of a multiunit dwelling, including the land
15 on which such dwelling stands.

16 **Sec. 3.** RCW 84.36.805 and 2014 c 99 s 13 are each amended to
17 read as follows:

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

21 (2) The property must be used exclusively for the actual
22 operation of the activity for which exemption is granted, unless
23 otherwise provided, and does not exceed an amount reasonably
24 necessary for that purpose. Notwithstanding anything to the contrary
25 in this section:

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

28 (i) The rents and donations received for the use of the portion
29 of the property are reasonable and do not exceed the maintenance and
30 operation expenses attributable to the portion of the property loaned
31 or rented; and

32 (ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037,
33 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt
34 from tax if owned by the organization to which it is loaned or
35 rented;

36 (b) The use of the property for fund-raising events does not
37 subject the property to tax if the fund-raising events are consistent
38 with the purposes for which the exemption is granted or are conducted
39 by a nonprofit organization. If the property is loaned or rented to

1 conduct a fund-raising event, the requirements of (a) of this
2 subsection (2) apply;

3 (c) An inadvertent use of the property in a manner inconsistent
4 with the purpose for which exemption is granted does not subject the
5 property to tax, if the inadvertent use is not part of a pattern of
6 use. A pattern of use is presumed when an inadvertent use is repeated
7 in the same assessment year or in two or more successive assessment
8 years.

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

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

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

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

21 (b) A governmental entity established under RCW 35.21.660,
22 35.21.670, or 35.21.730;

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

24 (d) A housing authority meeting the definition in RCW
25 35.82.210(2)(a); or

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

27 (6) The department must have access to its books in order to
28 determine whether the nonprofit organization, association, or
29 corporation is exempt from taxes under this chapter.

30 (7) This section does not apply to exemptions granted under RCW
31 84.36.020, 84.36.032, 84.36.250, section 2 of this act, and
32 84.36.480(2).

33 (8)(a) The use of property exempt under this chapter, other than
34 as specifically authorized by this chapter, nullifies the exemption
35 otherwise available for the property for the assessment year.
36 However, the exemption is not nullified by the use of the property by
37 any individual, group, or entity, where such use is not otherwise
38 authorized by this chapter, for not more than fifty days in each
39 calendar year, and the property is not used for pecuniary gain or to
40 promote business activities for more than fifteen of the fifty days

1 in each calendar year. The fifty and fifteen-day limitations provided
2 in this subsection (8)(a) do not include days during which setup and
3 takedown activities take place immediately preceding or following a
4 meeting or other event by an individual, group, or entity using the
5 property as provided in this subsection (8)(a).

6 (b) If uses of the exempt property exceed the fifty and fifteen-
7 day limitations provided in (a) of this subsection (8) during an
8 assessment year, the exemption is removed for the affected portion of
9 the property for that assessment year.

10 **Sec. 4.** RCW 84.36.815 and 2007 c 111 s 301 are each amended to
11 read as follows:

12 (1) In order to qualify for exempt status for any real or
13 personal property under this chapter except personal property under
14 RCW 84.36.600, all foreign national governments; cemeteries;
15 nongovernmental nonprofit corporations, organizations, and
16 associations; hospitals owned and operated by a public hospital
17 district for purposes of exemption under RCW 84.36.040(2); and soil
18 and water conservation districts (~~shall~~) must file an initial
19 application on or before March 31st with the state department of
20 revenue. However, the initial application deadline for the exemption
21 provided in section 2 of this act is July 1st for 2016 and March 31st
22 for 2017 and thereafter. All applications (~~shall~~) must be filed on
23 forms prescribed by the department and (~~shall~~) must be signed by an
24 authorized agent of the applicant.

25 (2) In order to requalify for exempt status, all applicants
26 except nonprofit cemeteries (~~shall~~) and nonprofits receiving the
27 exemption under section 2 of this act must file an annual renewal
28 declaration on or before March 31st each year. The renewal
29 declaration (~~shall~~) must be on forms prescribed by the department
30 of revenue and (~~shall~~) must contain a statement certifying the
31 exempt status of the real or personal property owned by the exempt
32 organization. This renewal declaration may be submitted
33 electronically in a format provided or approved by the department.
34 Information may also be required with the renewal declaration to
35 assist the department in determining whether the property tax
36 exemption should continue.

37 (3) When an organization acquires real property qualified for
38 exemption or converts real property to exempt status, the
39 organization (~~shall~~) must file an initial application for the

1 property within sixty days following the acquisition or conversion in
2 accordance with all applicable provisions of subsection (1) of this
3 section. If the application is filed after the expiration of the
4 sixty-day period, a late filing penalty (~~shall be~~) is imposed under
5 RCW 84.36.825.

6 (4) When organizations acquire real property qualified for
7 exemption or convert real property to an exempt use, the property,
8 upon approval of the application for exemption, is entitled to a
9 property tax exemption for property taxes due and payable the
10 following year. If the owner has paid taxes for the year following
11 the year the property qualified for exemption, the owner is entitled
12 to a refund of the amount paid on the property so acquired or
13 converted.

14 (5) The department must share approved initial applications for
15 the tax preference provided in section 2 of this act with the joint
16 legislative audit and review committee, upon request by the
17 committee, in order for the committee to complete its review of the
18 tax preference provided in section 2 of this act.

19 **Sec. 5.** RCW 84.36.820 and 2007 c 111 s 302 are each amended to
20 read as follows:

21 On or before January 1st of each year, the department of revenue
22 (~~shall~~) must notify the owners of record of property exempted from
23 property taxation at their last known address about the obligation to
24 file an annual renewal declaration for continued exemption. When a
25 continued exemption is not approved, the department (~~shall~~) must
26 notify the assessor of the county in which the property is located
27 who, in turn, (~~shall~~) must remove the tax exemption from the
28 property. The failure to file an annual renewal declaration for
29 continued exemption and subsequent removal of the exemption (~~shall~~)
30 is not (~~be~~) subject to review as provided in RCW 84.36.850. The
31 department of revenue (~~shall~~) must review applications received
32 after the (~~March 31st~~) due date required under RCW 84.36.815, but
33 these applications (~~shall be~~) are subject to late filing penalties
34 provided in RCW 84.36.825.

35 **Sec. 6.** RCW 84.36.840 and 2007 c 111 s 305 are each amended to
36 read as follows:

37 (1) In order to determine whether organizations, associations,
38 corporations, or institutions, except those exempted under RCW

1 84.36.020, section 2 of this act, and 84.36.030, are exempt from
2 property taxes, and before the exemption (~~shall be~~) is allowed for
3 any year, the superintendent or manager or other proper officer of
4 the organization, association, corporation, or institution claiming
5 exemption from taxation (~~shall~~) must file with the department of
6 revenue a statement certifying that the income and the receipts
7 thereof, including donations to it, have been applied to the actual
8 expenses of operating and maintaining it, or for its capital
9 expenditures, and to no other purpose. This report (~~shall~~) must
10 also include a statement of the receipts and disbursements of the
11 exempt organization, association, corporation, or institution.

12 (2) Educational institutions claiming exemption under RCW
13 84.36.050 (~~shall~~) must also file a list of all property claimed to
14 be exempt, the purpose for which it is used, the revenue derived from
15 it for the preceding year, the use to which the revenue was applied,
16 the number of students who attended the school or college, the total
17 revenues of the institution with the source from which they were
18 derived, and the purposes to which the revenues were applied, listing
19 the items of such revenues and expenditures in detail.

20 (3) The reports required under subsections (1) and (2) of this
21 section may be submitted electronically, in a format provided or
22 approved by the department, or mailed to the department. The reports
23 (~~shall~~) must be submitted on or before March 31st of each year. The
24 department (~~shall~~) must remove the tax exemption from the property
25 of any organization, association, corporation, or institution that
26 does not file the required report with the department on or before
27 the due date. However, the department (~~shall~~) must allow a
28 reasonable extension of time for filing upon receipt of a written
29 request on or before the required filing date and for good cause
30 shown therein.

31 **Sec. 7.** RCW 84.36.845 and 1973 2nd ex.s. c 40 s 15 are each
32 amended to read as follows:

33 If subsequent to the time that the exemption of any property is
34 initially approved or renewed, it (~~shall be~~) is determined that
35 such exemption was approved or renewed as the result of inaccurate
36 information provided by the authorized agent of the applicant, the
37 exemption (~~shall~~) must be revoked and taxes (~~shall~~) must be
38 levied against such property pursuant to the provisions of RCW

1 84.36.810 or section 2(4) of this act for exemptions granted under
2 section 2 of this act.

3 **Sec. 8.** RCW 84.36.855 and 1973 2nd ex.s. c 40 s 17 are each
4 amended to read as follows:

5 Except as otherwise provided by law, property ((which)) that
6 changes from exempt to taxable status ((shall-be)) is subject to the
7 provisions of RCW 84.36.810 and 84.40.350 through 84.40.390, and the
8 assessor ((shall)) must also place the property on the assessment
9 roll for taxes due and payable in the following year.

10 NEW SECTION. **Sec. 9.** This act applies to taxes levied in 2016
11 for collection in 2017 and thereafter.

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