

CERTIFICATION OF ENROLLMENT  
**SUBSTITUTE SENATE BILL 6211**

Chapter 217, Laws of 2016

64th Legislature  
2016 Regular Session

NONPROFIT HOMEOWNERSHIP DEVELOPMENT--PROPERTY TAX EXEMPTION

EFFECTIVE DATE: 6/9/2016

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

BRAD OWEN

**President of the Senate**

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

FRANK CHOPP

**Speaker of the House of Representatives**

Approved April 1, 2016 4:47 PM

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

HUNTER G. GOODMAN

**Secretary**

FILED

April 4, 2016

**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.

Passed by the Senate March 8, 2016.

Passed by the House March 3, 2016.

Approved by the Governor April 1, 2016.

Filed in Office of Secretary of State April 4, 2016.