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**SUBSTITUTE SENATE BILL 5143**

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**State of Washington                      65th Legislature                      2017 Regular Session**

**By Senate Ways & Means** (originally sponsored by Senators Zeiger, Rolfes, and Darneille)

READ FIRST TIME 02/24/17.

1            AN ACT Relating to the exemption of property taxes for nonprofit  
2 homeownership development; amending RCW 84.36.049; amending 2016 c  
3 217 s 1 (uncodified); creating a new section; and providing an  
4 expiration date.

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

6            **Sec. 1.**    2016 c 217 s 1 (uncodified) is amended to read as  
7 follows:

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

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

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

1 residences to be sold and, in the case of the land upon which the  
2 residences are located, to either be sold or leased for life or  
3 ninety-nine years, to low-income households in order to enhance the  
4 ability of nonprofit low-income housing developers to purchase and  
5 hold land for future affordable housing development.

6 (4)(a) To measure the effectiveness of the tax preference  
7 provided in section 2 of this act in achieving the specific public  
8 policy objectives described in subsection (3) of this section, the  
9 joint legislative audit and review committee must evaluate, two years  
10 prior to the expiration of the tax preference: (i) The annual growth  
11 in the percentage of revenues dedicated to the development of  
12 affordable housing, for each nonprofit claiming the preference, for  
13 the period that the preference has been claimed; and (ii) the annual  
14 changes in both the total number of parcels qualifying for the  
15 exemption and the total number of parcels for which owner occupancy  
16 notifications have been submitted to the department of revenue, from  
17 June 9, 2016, through the most recent year of available data prior to  
18 the committee's review.

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

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

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

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

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

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

1       **Sec. 2.** RCW 84.36.049 and 2016 c 217 s 2 are each amended to  
2 read as follows:

3       (1) All real property owned by a nonprofit entity for the purpose  
4 of developing or redeveloping on the real property one or more  
5 residences to be sold to low-income households including land to be  
6 leased as provided in subsection (8)(d)(ii) of this section, is  
7 exempt from state and local property taxes.

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

10       (a) The date on which the nonprofit entity transfers title to the  
11 (~~real property~~) single-family dwelling unit;

12       (b) The date on which the nonprofit entity executes a lease of  
13 land described in subsection (8)(d)(ii) of this section;

14       (c) The end of the seventh consecutive property tax year for  
15 which the property is granted an exemption under this section or, if  
16 the nonprofit entity has claimed an extension under subsection (3) of  
17 this section, the end of the tenth consecutive property tax year for  
18 which the property is granted an exemption under this section; or

19       (~~(e)~~) (d) The property is no longer held for the purpose for  
20 which the exemption was granted.

21       (3) If the nonprofit entity believes that title to the (~~real~~  
22 ~~property~~) single-family dwelling unit will not be transferred by the  
23 end of the sixth consecutive property tax year, the nonprofit entity  
24 may claim a three-year extension of the exemption period by:

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

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

32       (4)(a) If the nonprofit entity has not transferred title to the  
33 (~~real property~~) single-family dwelling unit to a low-income  
34 household within the applicable period described in subsection (2)(c)  
35 of this section, or if the nonprofit entity has converted the  
36 property to a purpose other than the purpose for which the exemption  
37 was granted, the property is disqualified from the exemption.

38       (b) Upon disqualification, the county treasurer must collect an  
39 additional tax equal to all taxes that would have been paid on the  
40 property but for the existence of the exemption, plus interest at the

1 same rate and computed in the same way as that upon delinquent  
2 property taxes.

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

8 (d) The additional tax and interest is a lien on the property.  
9 The lien for additional tax and interest has priority to and must be  
10 fully paid and satisfied before any recognizance, mortgage, judgment,  
11 debt, obligation, or responsibility to or with which the property may  
12 become charged or liable. If a nonprofit entity sells or transfers  
13 real property subject to a lien for additional taxes under this  
14 subsection, such unpaid additional taxes must be paid by the  
15 nonprofit entity at the time of sale or transfer. The county auditor  
16 may not accept an instrument of conveyance unless the additional tax  
17 has been paid. The nonprofit entity or the new owner may appeal the  
18 assessed values upon which the additional tax is based to the county  
19 board of equalization in accordance with the provisions of RCW  
20 84.40.038.

21 (5) Nonprofit entities receiving an exemption under this section  
22 must immediately notify the department when the exempt real property  
23 becomes occupied. The notice of occupancy made to the department must  
24 include a certification by the nonprofit entity that the occupants  
25 are a low-income household and a date when the title to the ((~~real~~  
26 ~~property~~)) single-family dwelling unit was or is anticipated to be  
27 transferred. The department of revenue must make the notices of  
28 occupancy available to the joint legislative audit and review  
29 committee, upon request by the committee, in order for the committee  
30 to complete its review of the tax preference in this section.

31 (6) Upon cessation of the exemption, the value of new  
32 construction and improvements to the property, not previously  
33 considered as new construction, must be considered as new  
34 construction for purposes of calculating levies under chapter 84.55  
35 RCW. The assessed value of the property as it was valued prior to the  
36 beginning of the exemption may not be considered as new construction  
37 upon cessation of the exemption.

38 (7) Nonprofit entities receiving an exemption under this section  
39 must provide annual financial statements to the joint legislative  
40 audit and review committee, upon request by the committee, for the

1 years that the exemption has been claimed. The nonprofit entity must  
2 identify the line or lines on the financial statements that comprise  
3 the percentage of revenues dedicated to the development of affordable  
4 housing.

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

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

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

15 (c) "Nonprofit entity" means a nonprofit as defined in RCW  
16 84.36.800 that is exempt from federal income taxation under 26 U.S.C.  
17 Sec. 501(c)(3) of the federal internal revenue code of 1986, as  
18 amended.

19 (d) "Residence" means:

20 (i) A single-family dwelling unit whether such unit be separate  
21 or part of a multiunit dwelling(, ~~including the land on which such~~  
22 ~~dwelling stands)); and~~

23 (ii) The land on which a dwelling unit described in (d)(i) of  
24 this subsection (8) stands, whether to be sold, or to be leased for  
25 life or ninety-nine years, to the low-income household owning such  
26 dwelling unit.

27 (9) The department may not accept applications for the initial  
28 exemption in this section after December 31, 2026. The exemption in  
29 this section may not be approved for and does not apply to taxes due  
30 in 2037 and thereafter.

31 (10) This section expires January 1, 2037.

32 NEW SECTION. Sec. 3. This act applies to taxes levied for  
33 collection in 2018 and thereafter.

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