

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5143

Chapter 103, Laws of 2018

65th Legislature
2018 Regular Session

NONPROFIT HOMEOWNERSHIP DEVELOPMENT--PROPERTY TAXES

EFFECTIVE DATE: June 7, 2018

Passed by the Senate March 5, 2018
Yeas 43 Nays 5

CYRUS HABIB

President of the Senate

Passed by the House March 1, 2018
Yeas 80 Nays 18

FRANK CHOPP

Speaker of the House of Representatives

Approved March 15, 2018 2:17 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5143** as passed by Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

March 16, 2018

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5143

AS AMENDED BY THE HOUSE

Passed Legislature - 2018 Regular Session

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, or, in the case of land, to be leased for life
2 or ninety-nine years, to low-income households in order to enhance
3 the ability of nonprofit low-income housing developers to purchase
4 and hold land for future affordable housing development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (7) Nonprofit entities receiving an exemption under this section
37 must provide annual financial statements to the joint legislative
38 audit and review committee, upon request by the committee, for the
39 years that the exemption has been claimed. The nonprofit entity must
40 identify the line or lines on the financial statements that comprise

1 the percentage of revenues dedicated to the development of affordable
2 housing.

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

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

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

13 (c) "Nonprofit entity" means a nonprofit as defined in RCW
14 84.36.800 that is exempt from federal income taxation under 26 U.S.C.
15 Sec. 501(c)(3) of the federal internal revenue code of 1986, as
16 amended.

17 (d) "Residence" means:

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

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

25 (9) The department may not accept applications for the initial
26 exemption in this section after December 31, 2027. The exemption in
27 this section may not be approved for and does not apply to taxes due
28 in 2038 and thereafter.

29 (10) This section expires January 1, 2038.

30 NEW SECTION. Sec. 3. This act applies to taxes levied for
31 collection in 2019 and thereafter.

Passed by the Senate March 5, 2018.
Passed by the House March 1, 2018.
Approved by the Governor March 15, 2018.
Filed in Office of Secretary of State March 16, 2018.

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