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**SENATE BILL 5049**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators O'Ban, Conway, Fortunato, Palumbo, and Wagoner

AN ACT Relating to the creation of a property tax exemption for spouses of military members or first responders killed in the line of duty; amending RCW 84.36.385 and 84.36.387; adding a new section to chapter 84.36 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference in section 2, chapter . . ., Laws of 2019 (section 2 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

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

(3) The legislature finds that military or first responders killed in the line of duty have made the ultimate sacrifice for their community and country; therefore, it is the legislature's specific public policy objective to ensure that these individuals' families can continue to reside in their homes. To that end, the legislature proposes to provide a property tax exemption for spousal survivors of military or first responders killed in the line of duty.

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

(1) A spousal survivor's residence is exempt from excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the provisions of this section.

(2) The property taxes must have been imposed upon a residence that was occupied by the person claiming the exemption as a principal place of residence as of the time of filing. However, any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant may receive an exemption on more than one residence in any year. Moreover, confinement of the person to a hospital, nursing home, assisted living facility, or adult family home does not disqualify the claim of exemption if:

(a) The residence is temporarily unoccupied;

(b) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support; or

(c) The residence is rented for the purpose of paying nursing home, hospital, assisted living facility, or adult family home costs.

(3) The person claiming the exemption under this section must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, the person must own a share therein representing the unit or portion of the structure in which the person resides. For purposes of this subsection, a residence owned by a marital community or state registered domestic partnership or owned by cotenants is deemed to be owned by each spouse or each domestic partner or each cotenant, and any lease for life is deemed a life estate.

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

(a) "Cotenant" has the same meaning as provided in RCW 84.36.383.

(b) "Dependency and indemnity compensation" has the same meaning as provided in Title 38, Part 3, Sec. 3.5, of the code of federal regulations, as existing on January 1, 2008.

(c) "Real property" has the same meaning as provided in RCW 84.36.383.

(d) "Residence" has the same meaning as provided in RCW 84.36.383.

(e) "Spousal survivor" means:

(i)(A) A spouse or domestic partner currently receiving dependency and indemnity compensation; or

(B) A spouse or domestic partner who had received dependency and indemnity compensation, but for whom such compensation was discontinued as a result of remarriage;

(ii) A spousal or domestic partner recipient of a duty-related death benefit from the Washington state law enforcement officers' and firefighters' retirement system, as defined in RCW 41.26.048;

(iii) A spousal or domestic partner recipient of a death benefit from the volunteer firefighters' and reserve officers' relief and pensions system, as defined in RCW 41.24.160; or

(iv) A spousal or domestic partner recipient of a death benefit from the Washington state patrol, as defined in RCW 43.43.285.

**Sec.**  RCW 84.36.385 and 2011 c 174 s 106 are each amended to read as follows:

(1) A claim for exemption under RCW 84.36.381 or section 2 of this act as now or hereafter amended, may be made and filed at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as prescribed and furnished by the department of revenue. However, an exemption from tax under RCW 84.36.381 or section 2 of this act continues for no more than six years unless a renewal application is filed as provided in subsection (3) of this section.

(2) A person granted an exemption under RCW 84.36.381 or section 2 of this act must inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW 84.36.381 or section 2 of this act in 1993 and thereafter((~~,~~)) must file with the county assessor a renewal application not later than December 31 of the year the assessor notifies such person of the requirement to file the renewal application. Renewal applications must be on forms prescribed and furnished by the department of revenue.

(4) At least once every six years, the county assessor must notify those persons receiving an exemption from taxes under RCW 84.36.381 of the requirement to file a renewal application. The county assessor may also require a renewal application following an amendment of the income requirements set forth in RCW 84.36.381 or section 2 of this act.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381 or section 2 of this act, as now or hereafter amended, the claim or exemption must be denied but such denial is subject to appeal under the provisions of RCW 84.48.010 and in accordance with the provisions of RCW 84.40.038. If the applicant had received exemption in prior years based on erroneous information, the taxes must be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed five years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389 and section 2 of this act, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information must be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

**Sec.**  RCW 84.36.387 and 2003 c 53 s 408 are each amended to read as follows:

(1) All claims for exemption ((~~shall~~)) must be made and signed by the person entitled to the exemption, by his or her attorney-in-fact or in the event the residence of such person is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, by such holder or by the owner, either before two witnesses or the county assessor or his or her deputy in the county where the real property is located((~~: PROVIDED, That~~)). However, if a claim for exemption is made by a person living in a cooperative housing association, corporation, or partnership, such claim ((~~shall~~)) must be made and signed by the person entitled to the exemption and by the authorized agent of such cooperative.

(2) If the taxpayer is unable to submit his or her own claim, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(3) All claims for exemption and renewal applications ((~~shall~~)) must be accompanied by such documented verification of income as ((~~shall be~~)) is prescribed by rule adopted by the department of revenue.

(4) Any person signing a false claim with the intent to defraud or evade the payment of any tax is guilty of perjury under chapter 9A.72 RCW.

(5) The tax liability of a cooperative housing association, corporation, or partnership ((~~shall~~)) must be reduced by the amount of tax exemption to which a claimant residing therein is entitled and such cooperative ((~~shall~~)) must reduce any amount owed by the claimant to the cooperative by such exact amount of tax exemption or, if no amount be owed, the cooperative ((~~shall~~)) must make payment to the claimant of such exact amount of exemption.

(6) A remainderman or other person who would have otherwise paid the tax on real property that is the subject of an exemption granted under RCW 84.36.381 or section 2 of this act for an estate for life ((~~shall~~)) must reduce the amount ((~~which~~)) that would have been payable by the life tenant to the remainderman or other person to the extent of the exemption. If no amount is owed or separately stated as an obligation between these persons, the remainderman or other person ((~~shall~~)) must make payment to the life tenant in the exact amount of the exemption.

NEW SECTION. **Sec.**  This act applies to taxes levied for collection in 2020 and thereafter.

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805(1)(a) do not apply to section 2 of this act.

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