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**SUBSTITUTE SENATE BILL 5289**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Housing Stability & Affordability (originally sponsored by Senators Palumbo, Zeiger, Das, Liias, and Salomon)

READ FIRST TIME 02/07/19.

1 AN ACT Relating to nonprofit homeownership development; amending  
2 RCW 84.36.049; amending 2018 c 103 s 1 (uncodified); and creating new  
3 sections.

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

5 **Sec. 1.** RCW 84.36.049 and 2018 c 103 s 2 are each amended to  
6 read as follows:

7 (1) All real property owned by a nonprofit entity or by a  
8 qualified cooperative association for the purpose of developing or  
9 redeveloping on the real property one or more residences to be sold  
10 to low-income households including land to be leased as provided in  
11 subsection (8) ~~((d))~~ (e)(ii) of this section, is exempt from state  
12 and local property taxes.

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

15 (a) The date on which the nonprofit entity transfers title to the  
16 single-family dwelling unit or the date on which the qualified  
17 cooperative association first conveys, directly or indirectly through  
18 the transfer of an ownership interest in the association, any single-  
19 family dwelling unit on the property or any part of the property. The  
20 exemption will not expire as a consequence of the real property being  
21 transferred by one nonprofit entity to another nonprofit entity or to

1 a qualified cooperative association so long as the transferee timely  
2 applies to the department for a continuation of the exemption;

3 (b) The date on which the nonprofit entity or qualified  
4 cooperative association executes a lease of land described in  
5 subsection (8) (~~(d)~~) (e)(ii) of this section;

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

12 (d) 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 single-  
15 family dwelling unit will not be transferred by the end of the sixth  
16 consecutive property tax year or if a qualified cooperative  
17 association believes that neither a single-family dwelling unit nor  
18 any other part of the property will be transferred by the end of the  
19 sixth consecutive property tax year, the nonprofit entity or  
20 qualified cooperative association may claim a three-year extension of  
21 the exemption period by:

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

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

29 (4)(a) If the nonprofit entity has not transferred title to the  
30 single-family dwelling unit to a low-income household, or if a  
31 qualified cooperative association has not transferred either a  
32 single-family dwelling unit or any other property, within the  
33 applicable period described in subsection (2)(c) of this section, or  
34 if the nonprofit entity or qualified cooperative association has  
35 converted the property to a purpose other than the purpose for which  
36 the exemption was granted, the property is disqualified from the  
37 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 or qualified  
13 cooperative association sells or transfers real property subject to a  
14 lien for additional taxes under this subsection, such unpaid  
15 additional taxes must be paid by the nonprofit entity or qualified  
16 cooperative association at the time of sale or transfer. The county  
17 auditor may not accept an instrument of conveyance unless the  
18 additional tax has been paid. The nonprofit entity, qualified  
19 cooperative association, or the new owner may appeal the assessed  
20 values upon which the additional tax is based to the county board of  
21 equalization in accordance with the provisions of RCW 84.40.038.

22 (5) (a) Nonprofit entities receiving an exemption under this  
23 section must immediately notify the department when the exempt real  
24 property becomes occupied. The notice of occupancy made to the  
25 department must include a certification by the nonprofit entity that  
26 the occupants are a low-income household and a date when the title to  
27 the single-family dwelling unit was or is anticipated to be  
28 transferred.

29 (b) Qualified cooperative associations receiving an exemption  
30 under this section must immediately notify the department when any  
31 portion of the exempt real property becomes occupied as well as when  
32 all of the exempt real property becomes occupied. The notice provided  
33 when all the exempt real property becomes occupied must be filed  
34 within one year of all exempt real property becoming occupied and  
35 demonstrate that the qualified cooperative association does, in fact,  
36 meet the requirements for being a qualified cooperative association.

37 (c) The department of revenue must make the notices of occupancy  
38 available to the joint legislative audit and review committee, upon  
39 request by the committee, in order for the committee to complete its  
40 review of the tax preference in this section.

1 (6) Upon cessation of the exemption, the value of new  
2 construction and improvements to the property, not previously  
3 considered as new construction, must be considered as new  
4 construction for purposes of calculating levies under chapter 84.55  
5 RCW. The assessed value of the property as it was valued prior to the  
6 beginning of the exemption may not be considered as new construction  
7 upon cessation of the exemption.

8 (7) Nonprofit entities and qualified cooperative associations  
9 receiving an exemption under this section must provide annual  
10 financial statements to the joint legislative audit and review  
11 committee, upon request by the committee, for the years that the  
12 exemption has been claimed. The nonprofit entity or qualified  
13 cooperative associations must identify the line or lines on the  
14 financial statements that comprise the percentage of revenues  
15 dedicated to the development of affordable housing.

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

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

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

26 (c) "Nonprofit entity" means a nonprofit as defined in RCW  
27 84.36.800 that is exempt from federal income taxation under 26 U.S.C.  
28 Sec. 501(c)(3) of the federal internal revenue code of 1986, as  
29 amended.

30 (d) "Qualified cooperative association" means a cooperative  
31 association formed under chapter 23.86 RCW that owns the real  
32 property for which an exemption is sought under this section and  
33 following the completion of the development or redevelopment of such  
34 real property:

35 (i) Sixty percent or more of the residences are owned by low-  
36 income households; and

37 (ii) Eighty percent or more of the square footage of any  
38 improvements to the real property are exclusively used or available  
39 for use by the owners of the residences.

40 (e) "Residence" means:

1 (i) A single-family dwelling unit whether such unit be separate  
2 or part of a multiunit dwelling; and

3 (ii) The land on which a dwelling unit described in ~~((d))~~ (e)  
4 (i) of this subsection (8) stands, whether to be sold, or to be  
5 leased for life or ninety-nine years, to the low-income household  
6 owning such dwelling unit.

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

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

12 **Sec. 2.** 2018 c 103 s 1 (uncodified) is amended to read as  
13 follows:

14 (1) This section is the tax preference performance statement for  
15 the tax preference contained in ~~((this act [chapter 103, Laws of 2018  
16 and chapter 217, Laws of 2016]))~~ chapter . . . , Laws of 2019 (this  
17 act), chapter 103, Laws of 2018, and chapter 217, Laws of 2016. This  
18 performance statement is only intended to be used for subsequent  
19 evaluation of the tax preference. It is not intended to create a  
20 private right of action by any party or be used to determine  
21 eligibility for preferential tax treatment.

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

25 (3) It is the legislature's specific public policy objective to  
26 encourage and expand the ability of nonprofit low-income housing  
27 developers to provide homeownership opportunities for low-income  
28 households. It is the legislature's intent to exempt from taxation  
29 real property owned by a nonprofit entity for the purpose of building  
30 residences to be sold, or, in the case of land, to be leased for life  
31 or ninety-nine years, to low-income households in order to enhance  
32 the ability of nonprofit low-income housing developers to purchase  
33 and hold land for future affordable housing development.

34 (4)(a) To measure the effectiveness of the tax preference  
35 provided in section 2 of this act in achieving the specific public  
36 policy objectives described in subsection (3) of this section, the  
37 joint legislative audit and review committee must evaluate, two years  
38 prior to the expiration of the tax preference: (i) The annual growth  
39 in the percentage of revenues dedicated to the development of

1 affordable housing, for each nonprofit and qualified cooperative  
2 association claiming the preference, for the period that the  
3 preference has been claimed; and (ii) the annual changes in both the  
4 total number of parcels qualifying for the exemption and the total  
5 number of parcels for which owner occupancy notifications have been  
6 submitted to the department of revenue, from June 9, 2016, through  
7 the most recent year of available data prior to the committee's  
8 review.

9 (b) If the review by the joint legislative audit and review  
10 committee finds that for most of the nonprofits and qualified  
11 cooperative associations claiming the exemption, program spending,  
12 program expenses, or another ratio representing the percentage of the  
13 nonprofit entity's and qualified cooperative association's revenues  
14 dedicated to the development of affordable housing has increased for  
15 the period during which the exemption was claimed, then the  
16 legislature intends to extend the expiration date of the tax  
17 preference.

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

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

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

25 (c) Annual financial statements for a nonprofit entity or  
26 qualified cooperative association claiming this tax preference, as  
27 defined in section 2 of this act, and provided by nonprofit entities  
28 or qualified cooperative associations claiming this preference; and

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

31 NEW SECTION. **Sec. 3.** This act applies to taxes levied for  
32 collection in 2020 and thereafter.

33 NEW SECTION. **Sec. 4.** The provisions of RCW 82.32.805(1)(a) do  
34 not apply to this act.

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