

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1265

68th Legislature
2023 Regular Session

Passed by the House March 6, 2023
Yeas 95 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate March 31, 2023
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1265** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1265

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Representatives Ramos, Goehner, Chapman, Robertson, Kloba, Chambers, Slatter, Callan, Donaghy, Ryu, Reeves, Chopp, Senn, Reed, Couture, Simmons, Fey, Jacobsen, Macri, Peterson, Ramel, and Pollet

Read first time 01/12/23. Referred to Committee on Finance.

1 AN ACT Relating to establishing a property tax exemption for
2 adult family homes that serve people with intellectual or
3 developmental disabilities and are owned by a nonprofit; amending RCW
4 84.36.042 and 84.36.805; reenacting and amending RCW 84.36.805;
5 creating new sections; providing an effective date; and providing an
6 expiration date.

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

8 **Sec. 1.** RCW 84.36.042 and 1998 c 202 s 1 are each amended to
9 read as follows:

10 (1) All real and personal property owned or leased by a nonprofit
11 organization, corporation, or association to provide housing for
12 eligible persons with developmental disabilities is exempt from
13 property taxation, whether such housing is provided directly by the
14 nonprofit organization, corporation, or association, or indirectly as
15 allowed under (c) of this subsection.

16 (a) To qualify for this exemption, the nonprofit organization,
17 corporation, or association must be qualified for exemption under
18 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C.
19 Sec. 501(c)(3)). It must also have been organized for charitable
20 purposes to create and preserve long-term affordable housing for low-

1 income ((developmentally—disabled)) persons with developmental
2 disabilities.

3 (b) The housing must be occupied by eligible persons who have a
4 low income.

5 (c) Property that is owned or leased by a nonprofit organization,
6 corporation, or association may be leased, sublet, or subject to a
7 service agreement with a provider operating an adult family home
8 under chapter 70.128 RCW that specifically provides services for
9 persons with developmental disabilities, without regard to the
10 nonprofit status of the operator of the adult family home.

11 (2) As used in this section:

12 (a) "Developmental disability" means the same as defined in RCW
13 71A.10.020;

14 (b) "Eligible person" means the same as defined in RCW
15 71A.10.020; and

16 (c) "Low income" means the adjusted gross income of the resident
17 is at eighty percent or less of the median income adjusted for family
18 size, as most recently determined by the federal department of
19 housing and urban development for the county in which the housing is
20 located and in effect as of January 1st of the assessment year for
21 which the exemption is sought. "Adjusted gross income" is as defined
22 in the federal internal revenue code of 1986, as it exists on June
23 11, 1998, or such subsequent date as the director may provide by rule
24 consistent with the purpose of this section.

25 (3) To be exempt under this section, the property must be used
26 exclusively for the purposes for which the exemption is granted,
27 except as provided in RCW 84.36.805.

28 (4) If the real or personal property for which exemption is
29 sought is leased, the benefit of the exemption must inure to the
30 nonprofit organization, corporation, or association leasing the
31 property to provide the housing for ((developmentally—disabled))
32 persons with developmental disabilities.

33 **Sec. 2.** RCW 84.36.805 and 2022 c 93 s 4 and 2022 c 84 s 2 are
34 each reenacted and amended to read as follows:

35 (1) In order to qualify for an exemption under this chapter, the
36 nonprofit organizations, associations, or corporations must satisfy
37 the conditions in this section.

38 (2) The property must be used exclusively for the actual
39 operation of the activity for which exemption is granted, unless

1 otherwise provided, and does not exceed an amount reasonably
2 necessary for that purpose. Notwithstanding anything to the contrary
3 in this section:

4 (a) The loan or rental of the property does not subject the
5 property to tax if:

6 (i) The rents and donations received for the use of the portion
7 of the property are reasonable and do not exceed the maintenance and
8 operation expenses attributable to the portion of the property loaned
9 or rented; (~~and~~)

10 (ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037,
11 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt
12 from tax if owned by the organization to which it is loaned or
13 rented; and

14 (iii) This subsection (2) (a) does not apply to exemptions granted
15 under RCW 84.36.042;

16 (b) The use of the property for fund-raising events does not
17 subject the property to tax if the fund-raising events are consistent
18 with the purposes for which the exemption is granted or are conducted
19 by a nonprofit organization. If the property is loaned or rented to
20 conduct a fund-raising event, the requirements of (a) of this
21 subsection (2) apply;

22 (c) An inadvertent use of the property in a manner inconsistent
23 with the purpose for which exemption is granted does not subject the
24 property to tax, if the inadvertent use is not part of a pattern of
25 use. A pattern of use is presumed when an inadvertent use is repeated
26 in the same assessment year or in two or more successive assessment
27 years.

28 (3) The facilities and services must be available to all
29 regardless of race, color, national origin or ancestry.

30 (4) The organization, association, or corporation must be duly
31 licensed or certified where such licensing or certification is
32 required by law or regulation.

33 (5) Property sold to organizations, associations, or corporations
34 with an option to be repurchased by the seller does not qualify for
35 exempt status. This subsection does not apply to:

36 (a) Limited equity cooperatives as defined in RCW 84.36.675; or

37 (b) Property sold to a nonprofit entity, as defined in RCW
38 84.36.560, by:

1 (i) A nonprofit as defined in RCW 84.36.800 that is exempt from
2 income tax under 26 U.S.C. Sec. 501(c) of the federal internal
3 revenue code;

4 (ii) A governmental entity established under RCW 35.21.660,
5 35.21.670, or 35.21.730;

6 (iii) A housing authority created under RCW 35.82.030;

7 (iv) A housing authority meeting the definition in RCW
8 35.82.210(2)(a); or

9 (v) A housing authority established under RCW 35.82.300.

10 (6) The department must have access to its books in order to
11 determine whether the nonprofit organization, association, or
12 corporation is exempt from taxes under this chapter.

13 (7) This section does not apply to exemptions granted under RCW
14 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

15 (8)(a) The use of property exempt under this chapter, other than
16 as specifically authorized by this chapter, nullifies the exemption
17 otherwise available for the property for the assessment year.
18 However, the exemption is not nullified by the use of the property by
19 any individual, group, or entity, where such use is not otherwise
20 authorized by this chapter, for not more than 50 days in each
21 calendar year, and the property is not used for pecuniary gain or to
22 promote business activities for more than 15 of the 50 days in each
23 calendar year. The 50 and 15-day limitations provided in this
24 subsection (8)(a) do not include days during which setup and takedown
25 activities take place immediately preceding or following a meeting or
26 other event by an individual, group, or entity using the property as
27 provided in this subsection (8)(a).

28 (b) If uses of the exempt property exceed the 50 and 15-day
29 limitations provided in (a) of this subsection (8) during an
30 assessment year, the exemption is removed for the affected portion of
31 the property for that assessment year.

32 (c) The 15-day and 50-day limitations provided in (a) of this
33 subsection (8) do not apply to property exempt under RCW 84.36.037 if
34 the property is used for activities related to a qualifying farmers
35 market, as defined in RCW 66.24.170, and all income received from
36 rental or use of the exempt property is used for capital improvements
37 to the exempt property, maintenance and operation of the exempt
38 property, or exempt purposes. Exempt property under RCW 84.36.037 may
39 be used for up to 53 days for the purposes of a qualifying farmers
40 market.

1 **Sec. 3.** RCW 84.36.805 and 2022 c 84 s 2 are each amended to read
2 as follows:

3 (1) In order to qualify for an exemption under this chapter, the
4 nonprofit organizations, associations, or corporations must satisfy
5 the conditions in this section.

6 (2) The property must be used exclusively for the actual
7 operation of the activity for which exemption is granted, unless
8 otherwise provided, and does not exceed an amount reasonably
9 necessary for that purpose. Notwithstanding anything to the contrary
10 in this section:

11 (a) The loan or rental of the property does not subject the
12 property to tax if:

13 (i) The rents and donations received for the use of the portion
14 of the property are reasonable and do not exceed the maintenance and
15 operation expenses attributable to the portion of the property loaned
16 or rented; ~~((and))~~

17 (ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037,
18 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt
19 from tax if owned by the organization to which it is loaned or
20 rented; and

21 (iii) This subsection (2)(a) does not apply to exemptions granted
22 under RCW 84.36.042;

23 (b) The use of the property for fund-raising events does not
24 subject the property to tax if the fund-raising events are consistent
25 with the purposes for which the exemption is granted or are conducted
26 by a nonprofit organization. If the property is loaned or rented to
27 conduct a fund-raising event, the requirements of (a) of this
28 subsection (2) apply;

29 (c) An inadvertent use of the property in a manner inconsistent
30 with the purpose for which exemption is granted does not subject the
31 property to tax, if the inadvertent use is not part of a pattern of
32 use. A pattern of use is presumed when an inadvertent use is repeated
33 in the same assessment year or in two or more successive assessment
34 years.

35 (3) The facilities and services must be available to all
36 regardless of race, color, national origin or ancestry.

37 (4) The organization, association, or corporation must be duly
38 licensed or certified where such licensing or certification is
39 required by law or regulation.

1 (5) Property sold to organizations, associations, or corporations
2 with an option to be repurchased by the seller does not qualify for
3 exempt status. This subsection does not apply to property sold to a
4 nonprofit entity, as defined in RCW 84.36.560(7), by:

5 (a) A nonprofit as defined in RCW 84.36.800 that is exempt from
6 income tax under 26 U.S.C. Sec. 501(c) of the federal internal
7 revenue code;

8 (b) A governmental entity established under RCW 35.21.660,
9 35.21.670, or 35.21.730;

10 (c) A housing authority created under RCW 35.82.030;

11 (d) A housing authority meeting the definition in RCW
12 35.82.210(2)(a); or

13 (e) A housing authority established under RCW 35.82.300.

14 (6) The department must have access to its books in order to
15 determine whether the nonprofit organization, association, or
16 corporation is exempt from taxes under this chapter.

17 (7) This section does not apply to exemptions granted under RCW
18 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

19 (8)(a) The use of property exempt under this chapter, other than
20 as specifically authorized by this chapter, nullifies the exemption
21 otherwise available for the property for the assessment year.
22 However, the exemption is not nullified by the use of the property by
23 any individual, group, or entity, where such use is not otherwise
24 authorized by this chapter, for not more than fifty days in each
25 calendar year, and the property is not used for pecuniary gain or to
26 promote business activities for more than fifteen of the fifty days
27 in each calendar year. The fifty and fifteen-day limitations provided
28 in this subsection (8)(a) do not include days during which setup and
29 takedown activities take place immediately preceding or following a
30 meeting or other event by an individual, group, or entity using the
31 property as provided in this subsection (8)(a).

32 (b) If uses of the exempt property exceed the fifty and fifteen-
33 day limitations provided in (a) of this subsection (8) during an
34 assessment year, the exemption is removed for the affected portion of
35 the property for that assessment year.

36 (c) The 15-day and 50-day limitations provided in (a) of this
37 subsection (8) do not apply to property exempt under RCW 84.36.037 if
38 the property is used for activities related to a qualifying farmers
39 market, as defined in RCW 66.24.170, and all income received from
40 rental or use of the exempt property is used for capital improvements

1 to the exempt property, maintenance and operation of the exempt
2 property, or exempt purposes. Exempt property under RCW 84.36.037 may
3 be used for up to 53 days for the purposes of a qualifying farmers
4 market.

5 NEW SECTION. **Sec. 4.** This act applies to taxes levied for
6 collection beginning January 1, 2024.

7 NEW SECTION. **Sec. 5.** RCW 82.32.805 and 82.32.808 do not apply
8 to this act.

9 NEW SECTION. **Sec. 6.** Section 2 of this act expires January 1,
10 2033.

11 NEW SECTION. **Sec. 7.** Section 3 of this act takes effect January
12 1, 2033.

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