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**SUBSTITUTE SENATE BILL 6211**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Dammeier, Rolfes, Fraser, Conway, McCoy, O'Ban, Litzow, Fain, Rivers, Becker, Darneille, McAuliffe, Habib, Chase, and Benton)

READ FIRST TIME 02/04/16.

1 AN ACT Relating to the exemption of property taxes for nonprofit  
2 homeownership development; amending RCW 84.36.805, 84.36.815,  
3 84.36.820, 84.36.840, 84.36.845, and 84.36.855; adding a new section  
4 to chapter 84.36 RCW; and creating new sections.

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

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

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

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

1 and hold land for future affordable housing development, thereby  
2 expanding the number of low-income households available.

3 (4)(a) To measure the effectiveness of the tax preference  
4 provided in section 2 of this act in achieving the specific public  
5 policy objectives described in subsection (3) of this section, the  
6 joint legislative audit and review committee must compare the number  
7 of housing units sold to low-income households by the nonprofit  
8 entities each year for the five years before the effective date of  
9 this section to the number of low-income housing units sold to low-  
10 income households two years prior to the expiration of the tax  
11 preference.

12 (b) If the review by the joint legislative audit and review  
13 committee finds that nonprofit low-income housing developers who  
14 receive the exemption increased the number of housing units sold to  
15 low-income households above the average of the five years prior to  
16 the effective date of this section, then the legislature intends to  
17 extend the expiration date of the tax 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) The Washington state housing needs assessment available from  
22 the Washington state department of commerce;

23 (b) Low-income family homeownership data provided in the annual  
24 report and the impact report of the Washington state housing finance  
25 commission; and

26 (c) Any other data necessary to evaluate subsection (4) of this  
27 section.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 84.36  
29 RCW to read as follows:

30 (1) All real property owned by a nonprofit entity for the purpose  
31 of developing or redeveloping on the real property one or more  
32 residences to be sold to low-income households is exempt from state  
33 and local property taxes.

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

36 (a) The date on which the nonprofit entity transfers title to the  
37 real property;

38 (b) The end of the seventh consecutive property tax year for  
39 which the property is granted an exemption under this section or, if

1 the nonprofit entity has claimed an extension under subsection (3) of  
2 this section, the end of the tenth consecutive property tax year for  
3 which the property is granted an exemption under this section; or

4 (c) The property is no longer held for the purpose for which the  
5 exemption was granted.

6 (3) If the nonprofit entity believes that title to the real  
7 property will not be transferred by the end of the sixth consecutive  
8 property tax year, the nonprofit entity may claim a three-year  
9 extension of the exemption period by:

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

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

17 (4)(a) If the nonprofit entity has not transferred title to the  
18 real property to a low-income household within the applicable period  
19 described in subsection (2) of this section, or if the nonprofit  
20 entity has converted the property to a purpose other than the purpose  
21 for which the exemption was granted, the property is disqualified  
22 from the exemption.

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

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

33 (d) The additional tax and interest is a lien on the property.  
34 The lien for additional tax and interest has priority to and must be  
35 fully paid and satisfied before any recognizance, mortgage, judgment,  
36 debt, obligation, or responsibility to or with which the property may  
37 become charged or liable. If a nonprofit entity sells or transfers  
38 real property subject to a lien for additional taxes under this  
39 subsection, such unpaid additional taxes must be paid by the  
40 nonprofit entity at the time of sale or transfer. The county auditor

1 may not accept an instrument of conveyance unless the additional tax  
2 has been paid. The nonprofit entity or the new owner may appeal the  
3 assessed values upon which the additional tax is based to the county  
4 board of equalization in accordance with the provisions of RCW  
5 84.40.038.

6 (5) Nonprofit entities receiving an exemption under this section  
7 must immediately notify the department when the exempt real property  
8 becomes occupied. The notice of occupancy made to the department must  
9 include a certification by the nonprofit entity that the occupants  
10 are a low-income household and a date when the title to the real  
11 property was or is anticipated to be transferred.

12 (6) Upon cessation of the exemption, the value of new  
13 construction and improvements to the property, not previously  
14 considered as new construction, must be considered as new  
15 construction for purposes of calculating levies under chapter 84.55  
16 RCW.

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

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

24 (b) "Nonprofit entity" means a nonprofit as defined in RCW  
25 84.36.800 that is exempt from federal income taxation under 26 U.S.C.  
26 Sec. 501(c)(3) of the federal internal revenue code of 1986, as  
27 amended.

28 (c) "Residence" means a single-family dwelling unit whether such  
29 unit be separate or part of a multiunit dwelling, including the land  
30 on which such dwelling stands.

31 **Sec. 3.** RCW 84.36.805 and 2014 c 99 s 13 are each amended to  
32 read as follows:

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

36 (2) The property must be used exclusively for the actual  
37 operation of the activity for which exemption is granted, unless  
38 otherwise provided, and does not exceed an amount reasonably

1 necessary for that purpose. Notwithstanding anything to the contrary  
2 in this section:

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

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

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

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

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

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

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

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

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

37 (b) A governmental entity established under RCW 35.21.660,  
38 35.21.670, or 35.21.730;

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

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

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

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

7 (7) This section does not apply to exemptions granted under RCW  
8 84.36.020, 84.36.032, 84.36.250, section 2 of this act, and  
9 84.36.480(2).

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

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

27 **Sec. 4.** RCW 84.36.815 and 2007 c 111 s 301 are each amended to  
28 read as follows:

29 (1) In order to qualify for exempt status for any real or  
30 personal property under this chapter except personal property under  
31 RCW 84.36.600, all foreign national governments; cemeteries;  
32 nongovernmental nonprofit corporations, organizations, and  
33 associations; hospitals owned and operated by a public hospital  
34 district for purposes of exemption under RCW 84.36.040(2); and soil  
35 and water conservation districts (~~shall~~) must file an initial  
36 application on or before March 31st with the state department of  
37 revenue. However, the initial application deadline for the exemption  
38 provided in section 2 of this act is July 1st for 2016 and March 31st  
39 for 2017 and thereafter. All applications (~~shall~~) must be filed on

1 forms prescribed by the department and (~~shall~~) must be signed by an  
2 authorized agent of the applicant.

3 (2) In order to requalify for exempt status, all applicants  
4 except nonprofit cemeteries (~~shall~~) and nonprofits receiving the  
5 exemption under section 2 of this act must file an annual renewal  
6 declaration on or before March 31st each year. The renewal  
7 declaration (~~shall~~) must be on forms prescribed by the department  
8 of revenue and (~~shall~~) must contain a statement certifying the  
9 exempt status of the real or personal property owned by the exempt  
10 organization. This renewal declaration may be submitted  
11 electronically in a format provided or approved by the department.  
12 Information may also be required with the renewal declaration to  
13 assist the department in determining whether the property tax  
14 exemption should continue.

15 (3) When an organization acquires real property qualified for  
16 exemption or converts real property to exempt status, the  
17 organization (~~shall~~) must file an initial application for the  
18 property within sixty days following the acquisition or conversion in  
19 accordance with all applicable provisions of subsection (1) of this  
20 section. If the application is filed after the expiration of the  
21 sixty-day period, a late filing penalty (~~shall be~~) is imposed under  
22 RCW 84.36.825.

23 (4) When organizations acquire real property qualified for  
24 exemption or convert real property to an exempt use, the property,  
25 upon approval of the application for exemption, is entitled to a  
26 property tax exemption for property taxes due and payable the  
27 following year. If the owner has paid taxes for the year following  
28 the year the property qualified for exemption, the owner is entitled  
29 to a refund of the amount paid on the property so acquired or  
30 converted.

31 **Sec. 5.** RCW 84.36.820 and 2007 c 111 s 302 are each amended to  
32 read as follows:

33 On or before January 1st of each year, the department of revenue  
34 (~~shall~~) must notify the owners of record of property exempted from  
35 property taxation at their last known address about the obligation to  
36 file an annual renewal declaration for continued exemption. When a  
37 continued exemption is not approved, the department (~~shall~~) must  
38 notify the assessor of the county in which the property is located  
39 who, in turn, (~~shall~~) must remove the tax exemption from the

1 property. The failure to file an annual renewal declaration for  
2 continued exemption and subsequent removal of the exemption (~~shall~~)  
3 is not (~~be~~) subject to review as provided in RCW 84.36.850. The  
4 department of revenue (~~shall~~) must review applications received  
5 after the (~~March 31st~~) due date required under RCW 84.36.815, but  
6 these applications (~~shall be~~) are subject to late filing penalties  
7 provided in RCW 84.36.825.

8 **Sec. 6.** RCW 84.36.840 and 2007 c 111 s 305 are each amended to  
9 read as follows:

10 (1) In order to determine whether organizations, associations,  
11 corporations, or institutions, except those exempted under RCW  
12 84.36.020, section 2 of this act, and 84.36.030, are exempt from  
13 property taxes, and before the exemption (~~shall be~~) is allowed for  
14 any year, the superintendent or manager or other proper officer of  
15 the organization, association, corporation, or institution claiming  
16 exemption from taxation (~~shall~~) must file with the department of  
17 revenue a statement certifying that the income and the receipts  
18 thereof, including donations to it, have been applied to the actual  
19 expenses of operating and maintaining it, or for its capital  
20 expenditures, and to no other purpose. This report (~~shall~~) must  
21 also include a statement of the receipts and disbursements of the  
22 exempt organization, association, corporation, or institution.

23 (2) Educational institutions claiming exemption under RCW  
24 84.36.050 (~~shall~~) must also file a list of all property claimed to  
25 be exempt, the purpose for which it is used, the revenue derived from  
26 it for the preceding year, the use to which the revenue was applied,  
27 the number of students who attended the school or college, the total  
28 revenues of the institution with the source from which they were  
29 derived, and the purposes to which the revenues were applied, listing  
30 the items of such revenues and expenditures in detail.

31 (3) The reports required under subsections (1) and (2) of this  
32 section may be submitted electronically, in a format provided or  
33 approved by the department, or mailed to the department. The reports  
34 (~~shall~~) must be submitted on or before March 31st of each year. The  
35 department (~~shall~~) must remove the tax exemption from the property  
36 of any organization, association, corporation, or institution that  
37 does not file the required report with the department on or before  
38 the due date. However, the department (~~shall~~) must allow a  
39 reasonable extension of time for filing upon receipt of a written



1 request on or before the required filing date and for good cause  
2 shown therein.

3 **Sec. 7.** RCW 84.36.845 and 1973 2nd ex.s. c 40 s 15 are each  
4 amended to read as follows:

5 If subsequent to the time that the exemption of any property is  
6 initially approved or renewed, it (~~shall be~~) is determined that  
7 such exemption was approved or renewed as the result of inaccurate  
8 information provided by the authorized agent of the applicant, the  
9 exemption (~~shall~~) must be revoked and taxes (~~shall~~) must be  
10 levied against such property pursuant to the provisions of RCW  
11 84.36.810 or section 2(4) of this act for exemptions granted under  
12 section 2 of this act.

13 **Sec. 8.** RCW 84.36.855 and 1973 2nd ex.s. c 40 s 17 are each  
14 amended to read as follows:

15 Except as otherwise provided by law, property (~~which~~) that  
16 changes from exempt to taxable status (~~shall be~~) is subject to the  
17 provisions of RCW 84.36.810 and 84.40.350 through 84.40.390, and the  
18 assessor (~~shall~~) must also place the property on the assessment  
19 roll for taxes due and payable in the following year.

20 NEW SECTION. **Sec. 9.** This act applies to taxes levied in 2016  
21 for collection in 2017 and thereafter.

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