

June 7, 2018

2018 Legislative Update: Providing home ownership opportunities for low-income households

This special notice adds information to the previous special notice published on November 21, 2016.

The 2016 Legislature passed [Substitute Senate Bill \(SSB\) 6211](#), which took effect June 9, 2016, as [RCW 84.36.049](#). This act provided a property tax exemption to real property owned by qualifying nonprofit housing developers who create ownership opportunities for low-income households. Specifically, this act exempts real property intended for development and sale of single family residences to low-income households.

The 2018 Legislature passed [Engrossed Substitute Senate Bill \(ESSB\) 5143](#), which takes effect on June 7, 2018, and expands RCW 84.36.049 to include land owned by a qualifying nonprofit housing developer intended for lease to the low-income household of a single-family dwelling unit located on the land. To qualify, the intended land lease must be for life or 99 years. The leasing provision pertains to land only, the title to the associated single family dwelling must be in the name of the low-income household. This act also extended the exemption provided by RCW 84.36.049 through December 31, 2037.

Definitions:

The following definitions apply:

- "Residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling *and* the land on which a dwelling unit stands. **NOTE:** The land on which the dwelling unit stands includes land owned by the nonprofit which is intended for sale or lease for life or ninety nine years to the owner of the associated dwelling unit.
- "Financial statements" means an audited annual financial statement and a completed United States Treasury Internal Revenue Service return form 990 for organizations exempt from income tax.
- "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the property is located.
- "Nonprofit entity" means a nonprofit as defined in [RCW 84.36.800](#) that is exempt from federal income taxation under 26 U.S.C. Sec. 501(c)(3) of the federal Internal Revenue Code of 1986, as amended.

What the exemption does

The law provides an exemption from real property tax for a period up to seven years. This exemption ceases on or at the earlier of:

- The date on which the nonprofit entity transfers title to the real property and/or executes a lease of the land associated with the real property;
- The end of the seventh consecutive year; or
- The date the property is no longer held as required.

Three year extension available

The nonprofit may file for an extension of up to three years if the nonprofit believes it will not transfer the title to the single family dwelling to a qualified low-income household (buyer) by the end of the sixth year.

- The nonprofit must file an extension application with the Department of Revenue (Department) on or before March 31 of the sixth consecutive tax year; **and**
- Provide a filing fee equal to the greater of two hundred dollars or one-tenth of one percent of the real market value of the property as of the most recent assessment date.

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Exemption Timeline				
If the initial application is filed on or before:	The property is eligible for exemption of taxes due and payable in tax year(s):	If the extension application is filed on or before:	The property is eligible for exemption of taxes due and payable in tax year(s):	Potential maximum # of years of exemption (including extension if applicable)
July 1, 2016	2017 - 2023	March 31, 2022	2024 - 2026	10
March 31, 2017	2018 - 2024	March 31, 2023	2025 - 2027	10
March 31, 2018*	2019 - 2025	March 31, 2024	2026 - 2028	10
March 31, 2019	2020 - 2026	March 31, 2025	2027 - 2029	10
March 31, 2020	2021 - 2027	March 31, 2026	2028 - 2030	10
March 31, 2021	2022 - 2028	March 31, 2027	2029 - 2031	10
March 31, 2022	2023 - 2029	March 31, 2028	2030 - 2032	10
March 31, 2023	2024 - 2030	March 31, 2029	2031 - 2033	10
March 31, 2024	2025 - 2031	March 31, 2030	2032 - 2034	10
March 31, 2025	2026 - 2032	March 31, 2031	2033 - 2035	10
March 31, 2026	2027 - 2033	March 31, 2032	2034 - 2036	10
March 31, 2027	2028 - 2034	March 31, 2033	2035 - 2037	10

Important:

If an application (initial or extension) is filed after March 31, late filing fees will apply.

- Applications seeking a retroactive exemption for the initial 7 year period (initial application) will be accepted up to a maximum of three years from the date taxes were due on the property. However, the Department will NOT accept applications for the initial 7 year exemption period after December 31, 2027.
- Applications seeking a 3 year extension will NOT be accepted after December 31 of the seventh exempt tax year and no later than December 31, 2034.

*August 6, 2018 is the “no late fee” filing deadline *for applications concerning land intended for lease*.

Property eligible for exemption

- A nonprofit entity as described in [RCW 84.36.800](#) that is exempt from federal income tax under IRS code 501(c)(3) must own the property; **and**
- The owner must exclusively use the property to build or remodel one or more residences for sale to low-income households.

Application to the Department of Revenue is required

To receive this exemption, the nonprofit owner must complete and file an application with the Department. Nonprofit owners can find the application at the Department’s website, [dor.wa.gov](#). To find the form, simply enter the form number *REV 63 0001* in the search box. The application contains additional information and complete filing instructions.

Application Filing Deadline

The deadline for submitting an application seeking exemption under Chapter 84.36 is March 31 annually. Applications filed after March 31 are subject to a late filing fee. However, because of the timing of the legislation the first year filing deadline will be different:

- SSB 6211: Land owned - the initial application must be postmarked on or before July 1 2016.
- ESSB 5143: Land leased - the initial application must be postmarked on or before August 6, 2018.

Financial Statements Required for JLARC

In addition to the application you must submit financial statements to the Joint Legislative Audit and Review Committee (JLARC). The Legislature intended this exemption to encourage and expand the ability of nonprofit housing developers to provide homeownership opportunities to low-income households. To measure the effectiveness of the exemption, the participating nonprofit must provide both current and historical financial statements from which the Department of Revenue will collect data.

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- **Annual Financial Statement:** The nonprofit owner must provide an annual financial statement to JLARC for each year the owner claims exemption. This statement must include itemized information detailing all revenues and clearly delineate between those revenues dedicated to the development of affordable housing and all other activities.

The annual financial statement for the calendar year is due April 30, following the year in which the owner was eligible to claim exemption. (If your exemption begins with taxes due and payable in 2017 then financial statements for calendar year 2017 are due by April 30, 2018.)

- **Historical Financial Statements:** Nonprofit owners must provide equivalent data to JLARC for the two years immediately prior to the first year in which the owner claims exemption. For example, if you are applying for exemption beginning with taxes due and payable in 2017, provide financial statements for calendar year 2015 and 2016 by April 30, 2018.

Applicants can send financial statements and related information directly to JLARC at PO Box 40910, Olympia WA 98509 or by email at JLARC@leg.wa.gov. If you have questions or need additional information about the financial statement requirement, please call JLARC at (360) 786-5171.

Ongoing reporting requirements

- **Occupied Property:** The nonprofit entity must immediately notify the Department when it sells or transfers the exempt real property, or when it executes the land lease. Owners can find the [form](#) (REV 63 0001) on the Department's website.
- Unlike other property tax exemptions under [chapter 84.36 RCW](#), the statute does not require an annual renewal to maintain this exemption.

Disqualification from Exemption

A property loses its exemption when:

- The nonprofit has not transferred title of the property to a low-income household:
 - Within seven years of the exemption effective date; or
 - Within ten years of the effective date if a three year extension was claimed.
- The nonprofit entity transfers the property to anyone other than a low-income household.
- The nonprofit has converted the use of the property to a purpose other than building residences to be sold to low-income households.

Penalty

If the Department finds the property disqualified from exemption, the Department will notify the county assessor to return the property to the tax roll. The assessor will remove the exemption as of the date it was granted. All taxes previously exempted will become due and payable plus interest, calculated in the same way as that upon delinquent property taxes.

The additional tax and interest becomes a lien on the property. The lien has priority over any other liens or obligations. The county auditor will not accept an instrument of conveyance unless the lien is paid.

Question & Answers

Q: I missed the July 1, 2016, filing deadline. Can I still receive the exemption beginning with taxes due and payable in 2017?

A: Yes, but only for property owned by a nonprofit entity for the purpose of developing or redeveloping one or more residences to low-income households and the land is intended to be sold. Exemptions for such property with land intended for lease begins with taxes due and payable in 2019. The Department will accept retroactive applications for previous years' exemptions for up to a maximum of three years from the date taxes were due on the property, if the applicant provides the Department with acceptable proof that the property qualified for an exemption during the pertinent assessment years (2016 and forward for this example) and pays the late filing fee. A late filing fee of \$10 per month or portion of a month will accrue from the application deadline through the application's actual postmark/email date.

Q: Our nonprofit housing development company owns land for the purpose of building a residence which will be sold to a low-income owner. However, the company will lease the land for life to a low-income owner of a residence. When is this land eligible for exemption?

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A: The exemption provided under ESSB 5143 for property with land intended to be held for lease for life or 99 years becomes effective for taxes due and payable in 2019.

Q: Can I loan or rent the property before it's sold to a low-income household?

A: No. The statute does not allow for the loan or rental of the property while the property is in exempt status. Loan or rental activity is disqualifying and the exempt status will be removed.

Q: My nonprofit organization owns land intended to be developed into condominiums for sale to qualifying low-income families. Is this land eligible for this exemption?

A: Maybe. If the future qualifying low-income owner receives a proportionate undivided fee simple interest in the building *and* land, then the property is eligible for exemption. If the future low-income owner receives a proportional undivided interest in the building and a lease for life or 99 years in the associated land, then the property is eligible for exemption. Any portion of a condominium building not held for transfer or any portion of the land under the building not held for transfer or for lease for life/99 years is not eligible for this exemption.

Questions: If you have questions or need additional information, please contact DOR at 360-705-6705 or dornonprofitapplication@dor.wa.gov.