

2 **2SHB 2080** - S COMM AMD
3 By Committee on Ways & Means

4 ADOPTED 4/17/97

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 84.34 RCW
8 to read as follows:

9 (1) An additional type of current use valuation is established in
10 this section for agricultural lands that is called agricultural lands
11 with long-term commercial significance.

12 (2) Lands shall be classified as agricultural lands with long-term
13 commercial significance if: (a) The lands are designated as
14 agricultural lands under RCW 36.70A.170(1) by a county, city, or town
15 planning under RCW 36.70A.040; (b) the lands are devoted primarily to
16 agricultural uses specified under RCW 36.70A.030(2) and not used for
17 residential purposes, industrial purposes, or other commercial
18 purposes; (c) the county, city, or town has adopted its comprehensive
19 plan and development regulations under RCW 36.70A.070 and 36.70A.040;
20 and (d) the owner files an application for this status with the county
21 assessor.

22 The assessed valuation of agricultural lands with long-term
23 commercial significance shall be one-half of the value of such lands
24 established under RCW 84.40.030 or the value established under RCW
25 84.34.065, whichever is lower.

26 (3) The classification of any lands as agricultural lands with
27 long-term commercial significance shall be removed if either: (a) The
28 county, city, or town removes the designation of these lands under RCW
29 36.70A.170(1); or (b) the use of such lands changes to a use not
30 permitted for designation as agricultural lands with long-term
31 commercial significance under subsection (2) of this section. After
32 the removal of the classification of agricultural lands with long-term
33 commercial significance, the lands shall be valued at their full market
34 value unless the lands are reclassified under another current use
35 classification under this chapter. Lands removed from classification
36 as agricultural lands with long-term commercial significance shall not

1 be subject to an additional tax, penalties, or interest under RCW
2 84.34.070 through 84.34.108.

3 **Sec. 2.** RCW 84.34.020 and 1992 c 69 s 4 are each amended to read
4 as follows:

5 As used in this chapter, unless a different meaning is required by
6 the context:

7 (1) "Open space land" means (a) any land area so designated by an
8 official comprehensive land use plan adopted by any city or county and
9 zoned accordingly(~~(+,+)~~), or (b) any land area, the preservation of
10 which in its present use would (i) conserve and enhance natural or
11 scenic resources, or (ii) protect streams or water supply, or (iii)
12 promote conservation of soils, wetlands, beaches or tidal marshes, or
13 (iv) enhance the value to the public of abutting or neighboring parks,
14 forests, wildlife preserves, nature reservations or sanctuaries or
15 other open space, or (v) enhance recreation opportunities, or (vi)
16 preserve historic sites, or (vii) preserve visual quality along
17 highway, road, and street corridors or scenic vistas, or (viii) retain
18 in its natural state tracts of land not less than one acre situated in
19 an urban area and open to public use on such conditions as may be
20 reasonably required by the legislative body granting the open space
21 classification, or (c) any land meeting the definition of farm and
22 agricultural conservation land under subsection (8) of this section.
23 As a condition of granting open space classification, the legislative
24 body may not require public access on land classified under (b)(iii) of
25 this subsection for the purpose of promoting conservation of wetlands.

26 (2) "Farm and agricultural land" means either (a) any parcel of
27 land that is twenty or more acres or multiple parcels of land that are
28 contiguous and total twenty or more acres (i) devoted primarily to the
29 production of livestock or agricultural commodities for commercial
30 purposes, (ii) enrolled in the federal conservation reserve program or
31 its successor administered by the United States department of
32 agriculture, or (iii) other similar commercial activities as may be
33 established by rule (~~following consultation with the advisory~~
34 ~~committee established in section 19 of this act~~); (b) any parcel of
35 land that is five acres or more but less than twenty acres devoted
36 primarily to agricultural uses, which has produced a gross income from
37 agricultural uses equivalent to, as of January 1, 1993, (i) one hundred
38 dollars or more per acre per year for three of the five calendar years

1 preceding the date of application for classification under this chapter
2 for all parcels of land that are classified under this subsection or
3 all parcels of land for which an application for classification under
4 this subsection is made with the granting authority prior to January 1,
5 1993, and (ii) on or after January 1, 1993, two hundred dollars or more
6 per acre per year for three of the five calendar years preceding the
7 date of application for classification under this chapter; (c) any
8 parcel of land of less than five acres devoted primarily to
9 agricultural uses which has produced a gross income as of January 1,
10 1993, of (i) one thousand dollars or more per year for three of the
11 five calendar years preceding the date of application for
12 classification under this chapter for all parcels of land that are
13 classified under this subsection or all parcels of land for which an
14 application for classification under this subsection is made with the
15 granting authority prior to January 1, 1993, and (ii) on or after
16 January 1, 1993, fifteen hundred dollars or more per year for three of
17 the five calendar years preceding the date of application for
18 classification under this chapter. Parcels of land described in (b)(i)
19 and (c)(i) of this subsection shall, upon any transfer of the property
20 excluding a transfer to a surviving spouse, be subject to the limits of
21 (b)(ii) and (c)(ii) of this subsection. Agricultural lands shall also
22 include such incidental uses as are compatible with agricultural
23 purposes, including wetlands preservation, provided such incidental use
24 does not exceed twenty percent of the classified land and the land on
25 which appurtenances necessary to the production, preparation, or sale
26 of the agricultural products exist in conjunction with the lands
27 producing such products. Agricultural lands shall also include any
28 parcel of land of one to five acres, which is not contiguous, but which
29 otherwise constitutes an integral part of farming operations being
30 conducted on land qualifying under this section as "farm and
31 agricultural lands"; or (d) the land on which housing for employees and
32 the principal place of residence of the farm operator or owner of land
33 classified pursuant to (a) of this subsection is sited if: The housing
34 or residence is on or contiguous to the classified parcel; and the use
35 of the housing or the residence is integral to the use of the
36 classified land for agricultural purposes.

37 (3) "Timber land" means any parcel of land that is five or more
38 acres or multiple parcels of land that are contiguous and total five or
39 more acres which is or are devoted primarily to the growth and harvest

1 of forest crops for commercial purposes. A timber management plan
2 shall be filed with the county legislative authority at the time (a) an
3 application is made for classification as timber land pursuant to this
4 chapter or (b) when a sale or transfer of timber land occurs and a
5 notice of classification continuance is signed. Timber land means the
6 land only.

7 (4) "Current" or "currently" means as of the date on which property
8 is to be listed and valued by the assessor.

9 (5) "Owner" means the party or parties having the fee interest in
10 land, except that where land is subject to real estate contract "owner"
11 shall mean the contract vendee.

12 (6) "Contiguous" means land adjoining and touching other property
13 held by the same ownership. Land divided by a public road, but
14 otherwise an integral part of a farming operation, shall be considered
15 contiguous.

16 (7) "Granting authority" means the appropriate agency or official
17 who acts on an application for classification of land pursuant to this
18 chapter.

19 (8) "Farm and agricultural conservation land" means either:

20 (a) Land that was previously classified under subsection (2) of
21 this section, that no longer meets the criteria of subsection (2) of
22 this section, and that is reclassified under subsection (1) of this
23 section; or

24 (b) Land that is traditional farmland that is not classified under
25 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a
26 use inconsistent with agricultural uses, and that has a high potential
27 for returning to commercial agriculture.

28 (9) "Agricultural lands of long-term commercial significance" means
29 lands designated by a county, city, or town under RCW 36.70A.170(1)
30 that have been classified as agricultural lands with long-term
31 commercial significance under section 1 of this act.

32 **Sec. 3.** RCW 84.34.070 and 1992 c 69 s 10 are each amended to read
33 as follows:

34 (1) When land has once been classified under this chapter as open
35 space land, farm and agricultural land, or timber land, it shall remain
36 under such classification and shall not be applied to other use except
37 as provided by subsection (2) of this section for at least ten years
38 from the date of classification and shall continue under such

1 classification until and unless withdrawn from classification after
2 notice of request for withdrawal shall be made by the owner. During
3 any year after eight years of the initial ten-year classification
4 period have elapsed, notice of request for withdrawal of all or a
5 portion of the land may be given by the owner to the assessor or
6 assessors of the county or counties in which such land is situated. In
7 the event that a portion of a parcel is removed from classification,
8 the remaining portion must meet the same requirements as did the entire
9 parcel when such land was originally granted classification pursuant to
10 this chapter unless the remaining parcel has different income criteria.
11 Within seven days the assessor shall transmit one copy of such notice
12 to the legislative body which originally approved the application. The
13 assessor or assessors, as the case may be, shall, when two assessment
14 years have elapsed following the date of receipt of such notice,
15 withdraw such land from such classification and the land shall be
16 subject to the additional tax and applicable interest due under RCW
17 84.34.108. Agreement to tax according to use shall not be considered
18 to be a contract and can be abrogated at any time by the legislature in
19 which event no additional tax or penalty shall be imposed.

20 (2) The following reclassifications are not considered withdrawals
21 or removals and are not subject to additional tax under RCW 84.34.108:

22 (a) Reclassification between lands under RCW 84.34.020 (2) and (3);

23 (b) Reclassification of land classified under RCW 84.34.020 (2) or
24 (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);

25 (c) Reclassification of land classified under RCW 84.34.020 (2) or
26 (3) to forest land classified under chapter 84.33 RCW; and

27 (d) Reclassification of land classified as open space land under
28 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land
29 under RCW 84.34.020(2) if the land had been previously classified as
30 farm and agricultural land under RCW 84.34.020(2).

31 (3) Applications for reclassification shall be subject to
32 applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and
33 chapter 84.33 RCW.

34 (4) The income criteria for land classified under RCW 84.34.020(2)
35 (b) and (c) may be deferred for land being reclassified from land
36 classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into
37 RCW 84.34.020(2) (b) or (c) for a period of up to five years from the
38 date of reclassification.

1 **Sec. 4.** RCW 84.34.108 and 1992 c 69 s 12 are each amended to read
2 as follows:

3 (1) When land has once been classified under this chapter as open
4 space land, farm and agricultural land, or timber land, a notation of
5 such classification shall be made each year upon the assessment and tax
6 rolls and such land shall be valued pursuant to RCW 84.34.060 or
7 84.34.065 until removal of all or a portion of such classification by
8 the assessor upon occurrence of any of the following:

9 (a) Receipt of notice from the owner to remove all or a portion of
10 such classification;

11 (b) Sale or transfer to an ownership, except a transfer that
12 resulted from a default in loan payments made to or secured by a
13 governmental agency that intends to or is required by law or regulation
14 to resell the property for the same use as before, making all or a
15 portion of such land exempt from ad valorem taxation;

16 (c) Sale or transfer of all or a portion of such land to a new
17 owner, unless the new owner has signed a notice of classification
18 continuance, except transfer to an owner who is an heir or devisee of
19 a deceased owner shall not, by itself, result in removal of
20 classification. ~~((The signed notice of continuance shall be attached
21 to the real estate excise tax affidavit provided for in RCW 82.45.120,
22 as now or hereafter amended.))~~ The signed notice of classification
23 continuance shall be part of the real estate excise tax affidavit
24 provided for in RCW 82.45.120 or attached as a separate document to the
25 real estate excise tax affidavit. The notice of continuance shall be
26 on a form prepared by the department of revenue. If the notice of
27 continuance is not signed by the new owner and attached to the real
28 estate excise tax affidavit, all additional taxes calculated pursuant
29 to subsection (3) of this section shall become due and payable by the
30 seller or transferor at time of sale. The county auditor shall not
31 accept an instrument of conveyance of classified land for filing or
32 recording unless the new owner has signed the notice of continuance or
33 the additional tax has been paid. The seller, transferor, or new owner
34 may appeal the new assessed valuation calculated under subsection (3)
35 of this section to the county board of equalization. Jurisdiction is
36 hereby conferred on the county board of equalization to hear these
37 appeals;

38 (d) Determination by the assessor, after giving the owner written
39 notice and an opportunity to be heard, that all or a portion of such

1 land no longer meets the criteria for classification under this
2 chapter. The criteria for classification pursuant to this chapter
3 continue to apply after classification has been granted.

4 The granting authority, upon request of an assessor, shall provide
5 reasonable assistance to the assessor in making a determination whether
6 such land continues to meet the qualifications of RCW 84.34.020 (1) or
7 (3). The assistance shall be provided within thirty days of receipt of
8 the request.

9 (2) Within thirty days after such removal of all or a portion of
10 such land from current use classification as open space land, farm and
11 agricultural land, or timber land, the assessor shall notify the owner
12 in writing, setting forth the reasons for such removal. The seller,
13 transferor, or owner may appeal such removal to the county board of
14 equalization.

15 (3) Unless the removal is reversed on appeal, the assessor shall
16 revalue the affected land with reference to full market value on the
17 date of removal from classification. Both the assessed valuation
18 before and after the removal of classification shall be listed and
19 taxes shall be allocated according to that part of the year to which
20 each assessed valuation applies. Except as provided in subsection (5)
21 of this section, an additional tax, applicable interest, and penalty
22 shall be imposed which shall be due and payable to the county treasurer
23 thirty days after the owner is notified of the amount of the additional
24 tax. As soon as possible, the assessor shall compute the amount of
25 such an additional tax, applicable interest, and penalty and the
26 treasurer shall mail notice to the owner of the amount thereof and the
27 date on which payment is due. The amount of such additional tax,
28 applicable interest, and penalty shall be determined as follows:

29 (a) The amount of additional tax shall be equal to the difference
30 between the property tax paid as "open space land", "farm and
31 agricultural land", or "timber land" and the amount of property tax
32 otherwise due and payable for the seven years last past had the land
33 not been so classified;

34 (b) The amount of applicable interest shall be equal to the
35 interest upon the amounts of such additional tax paid at the same
36 statutory rate charged on delinquent property taxes from the dates on
37 which such additional tax could have been paid without penalty if the
38 land had been assessed at a value without regard to this chapter;

1 (c) The amount of the penalty shall be as provided in RCW
2 84.34.080. The penalty shall not be imposed if the removal satisfies
3 the conditions of RCW 84.34.070.

4 (4) Additional tax, applicable interest, and penalty, shall become
5 a lien on such land which shall attach at the time such land is removed
6 from classification under this chapter and shall have priority to and
7 shall be fully paid and satisfied before any recognizance, mortgage,
8 judgment, debt, obligation or responsibility to or with which such land
9 may become charged or liable. Such lien may be foreclosed upon
10 expiration of the same period after delinquency and in the same manner
11 provided by law for foreclosure of liens for delinquent real property
12 taxes as provided in RCW 84.64.050 now or as hereafter amended. Any
13 additional tax unpaid on its due date shall thereupon become
14 delinquent. From the date of delinquency until paid, interest shall be
15 charged at the same rate applied by law to delinquent ad valorem
16 property taxes.

17 (5) The additional tax, applicable interest, and penalty specified
18 in subsection (3) of this section shall not be imposed if the removal
19 of classification pursuant to subsection (1) of this section resulted
20 solely from:

21 (a) Transfer to a government entity in exchange for other land
22 located within the state of Washington;

23 (b)(i) A taking through the exercise of the power of eminent
24 domain, or (ii) sale or transfer to an entity having the power of
25 eminent domain in anticipation of the exercise of such power, said
26 entity having manifested its intent in writing or by other official
27 action;

28 (c) A natural disaster such as a flood, windstorm, earthquake, or
29 other such calamity rather than by virtue of the act of the landowner
30 changing the use of such property;

31 (d) Official action by an agency of the state of Washington or by
32 the county or city within which the land is located which disallows the
33 present use of such land;

34 (e) Transfer of land to a church when such land would qualify for
35 exemption pursuant to RCW 84.36.020;

36 (f) Acquisition of property interests by state agencies or agencies
37 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
38 purposes enumerated in those sections: PROVIDED, That at such time as
39 these property interests are not used for the purposes enumerated in

1 RCW 84.34.210 and 64.04.130 the additional tax specified in subsection
2 (3) of this section shall be imposed; or
3 (g) Removal of land classified as farm and agricultural land under
4 RCW 84.34.020(2)(d)."

5 **2SHB 2080** - S COMM AMD
6 By Committee on Ways & Means

7 ADOPTED 4/17/97

8 On page 1, line 2 of the title, after "products;" strike the
9 remainder of the title and insert "amending RCW 84.34.020, 84.34.070,
10 and 84.34.108; and adding a new section to chapter 84.34 RCW."

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