

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2080

55th Legislature
1997 Regular Session

Passed by the House April 21, 1997
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 17, 1997
Yeas 45 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2080** 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**

SECOND SUBSTITUTE HOUSE BILL 2080

Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

State of Washington 55th Legislature 1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Parlette, Reams, Mulliken, Chandler and Boldt)

Read first time 03/10/97.

1 AN ACT Relating to agricultural lands with long-term commercial
2 significance for the production of food or other agricultural products;
3 amending RCW 84.34.020, 84.34.070, and 84.34.108; and adding a new
4 section to chapter 84.34 RCW.

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

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

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

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

1 and (d) the owner files an application for this status with the county
2 assessor.

3 The assessed valuation of agricultural lands with long-term
4 commercial significance shall be one-half of the value of such lands
5 established under RCW 84.40.030 or the value established under RCW
6 84.34.065, whichever is lower.

7 (3) The classification of any lands as agricultural lands with
8 long-term commercial significance shall be removed if either: (a) The
9 county, city, or town removes the designation of these lands under RCW
10 36.70A.170(1); or (b) the use of such lands changes to a use not
11 permitted for designation as agricultural lands with long-term
12 commercial significance under subsection (2) of this section. After
13 the removal of the classification of agricultural lands with long-term
14 commercial significance, the lands shall be valued at their full market
15 value unless the lands are reclassified under another current use
16 classification under this chapter. Lands removed from classification
17 as agricultural lands with long-term commercial significance shall not
18 be subject to an additional tax, penalties, or interest under RCW
19 84.34.070 through 84.34.108.

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

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

24 (1) "Open space land" means (a) any land area so designated by an
25 official comprehensive land use plan adopted by any city or county and
26 zoned accordingly((+,+))l or (b) any land area, the preservation of
27 which in its present use would (i) conserve and enhance natural or
28 scenic resources, or (ii) protect streams or water supply, or (iii)
29 promote conservation of soils, wetlands, beaches or tidal marshes, or
30 (iv) enhance the value to the public of abutting or neighboring parks,
31 forests, wildlife preserves, nature reservations or sanctuaries or
32 other open space, or (v) enhance recreation opportunities, or (vi)
33 preserve historic sites, or (vii) preserve visual quality along
34 highway, road, and street corridors or scenic vistas, or (viii) retain
35 in its natural state tracts of land not less than one acre situated in
36 an urban area and open to public use on such conditions as may be
37 reasonably required by the legislative body granting the open space
38 classification, or (c) any land meeting the definition of farm and

1 agricultural conservation land under subsection (8) of this section.
2 As a condition of granting open space classification, the legislative
3 body may not require public access on land classified under (b)(iii) of
4 this subsection for the purpose of promoting conservation of wetlands.

5 (2) "Farm and agricultural land" means either (a) any parcel of
6 land that is twenty or more acres or multiple parcels of land that are
7 contiguous and total twenty or more acres (i) devoted primarily to the
8 production of livestock or agricultural commodities for commercial
9 purposes, (ii) enrolled in the federal conservation reserve program or
10 its successor administered by the United States department of
11 agriculture, or (iii) other similar commercial activities as may be
12 established by rule (~~following consultation with the advisory~~
13 ~~committee established in section 19 of this act~~); (b) any parcel of
14 land that is five acres or more but less than twenty acres devoted
15 primarily to agricultural uses, which has produced a gross income from
16 agricultural uses equivalent to, as of January 1, 1993, (i) one hundred
17 dollars or more per acre per year for three of the five calendar years
18 preceding the date of application for classification under this chapter
19 for all parcels of land that are classified under this subsection or
20 all parcels of land for which an application for classification under
21 this subsection is made with the granting authority prior to January 1,
22 1993, and (ii) on or after January 1, 1993, two hundred dollars or more
23 per acre per year for three of the five calendar years preceding the
24 date of application for classification under this chapter; (c) any
25 parcel of land of less than five acres devoted primarily to
26 agricultural uses which has produced a gross income as of January 1,
27 1993, of (i) one thousand dollars or more per year for three of the
28 five calendar years preceding the date of application for
29 classification under this chapter for all parcels of land that are
30 classified under this subsection or all parcels of land for which an
31 application for classification under this subsection is made with the
32 granting authority prior to January 1, 1993, and (ii) on or after
33 January 1, 1993, fifteen hundred dollars or more per year for three of
34 the five calendar years preceding the date of application for
35 classification under this chapter. Parcels of land described in (b)(i)
36 and (c)(i) of this subsection shall, upon any transfer of the property
37 excluding a transfer to a surviving spouse, be subject to the limits of
38 (b)(ii) and (c)(ii) of this subsection. Agricultural lands shall also
39 include such incidental uses as are compatible with agricultural

1 purposes, including wetlands preservation, provided such incidental use
2 does not exceed twenty percent of the classified land and the land on
3 which appurtenances necessary to the production, preparation, or sale
4 of the agricultural products exist in conjunction with the lands
5 producing such products. Agricultural lands shall also include any
6 parcel of land of one to five acres, which is not contiguous, but which
7 otherwise constitutes an integral part of farming operations being
8 conducted on land qualifying under this section as "farm and
9 agricultural lands"; or (d) the land on which housing for employees and
10 the principal place of residence of the farm operator or owner of land
11 classified pursuant to (a) of this subsection is sited if: The housing
12 or residence is on or contiguous to the classified parcel; and the use
13 of the housing or the residence is integral to the use of the
14 classified land for agricultural purposes.

15 (3) "Timber land" means any parcel of land that is five or more
16 acres or multiple parcels of land that are contiguous and total five or
17 more acres which is or are devoted primarily to the growth and harvest
18 of forest crops for commercial purposes. A timber management plan
19 shall be filed with the county legislative authority at the time (a) an
20 application is made for classification as timber land pursuant to this
21 chapter or (b) when a sale or transfer of timber land occurs and a
22 notice of classification continuance is signed. Timber land means the
23 land only.

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

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

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

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

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

37 (a) Land that was previously classified under subsection (2) of
38 this section, that no longer meets the criteria of subsection (2) of

1 this section, and that is reclassified under subsection (1) of this
2 section; or

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

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

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

13 (1) When land has once been classified under this chapter as open
14 space land, farm and agricultural land, or timber land, it shall remain
15 under such classification and shall not be applied to other use except
16 as provided by subsection (2) of this section for at least ten years
17 from the date of classification and shall continue under such
18 classification until and unless withdrawn from classification after
19 notice of request for withdrawal shall be made by the owner. During
20 any year after eight years of the initial ten-year classification
21 period have elapsed, notice of request for withdrawal of all or a
22 portion of the land may be given by the owner to the assessor or
23 assessors of the county or counties in which such land is situated. In
24 the event that a portion of a parcel is removed from classification,
25 the remaining portion must meet the same requirements as did the entire
26 parcel when such land was originally granted classification pursuant to
27 this chapter unless the remaining parcel has different income criteria.
28 Within seven days the assessor shall transmit one copy of such notice
29 to the legislative body which originally approved the application. The
30 assessor or assessors, as the case may be, shall, when two assessment
31 years have elapsed following the date of receipt of such notice,
32 withdraw such land from such classification and the land shall be
33 subject to the additional tax and applicable interest due under RCW
34 84.34.108. Agreement to tax according to use shall not be considered
35 to be a contract and can be abrogated at any time by the legislature in
36 which event no additional tax or penalty shall be imposed.

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

1 (a) Reclassification between lands under RCW 84.34.020 (2) and (3);
2 (b) Reclassification of land classified under RCW 84.34.020 (2) or
3 (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);

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

6 (d) Reclassification of land classified as open space land under
7 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land
8 under RCW 84.34.020(2) if the land had been previously classified as
9 farm and agricultural land under RCW 84.34.020(2).

10 (3) Applications for reclassification shall be subject to
11 applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and
12 chapter 84.33 RCW.

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

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

20 (1) When land has once been classified under this chapter as open
21 space land, farm and agricultural land, or timber land, a notation of
22 such classification shall be made each year upon the assessment and tax
23 rolls and such land shall be valued pursuant to RCW 84.34.060 or
24 84.34.065 until removal of all or a portion of such classification by
25 the assessor upon occurrence of any of the following:

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

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

33 (c) Sale or transfer of all or a portion of such land to a new
34 owner, unless the new owner has signed a notice of classification
35 continuance, except transfer to an owner who is an heir or devisee of
36 a deceased owner shall not, by itself, result in removal of
37 classification. (~~The signed notice of continuance shall be attached~~
38 ~~to the real estate excise tax affidavit provided for in RCW 82.45.120,~~

1 ~~as now or hereafter amended.~~) The signed notice of classification
2 continuance shall be part of the real estate excise tax affidavit
3 provided for in RCW 82.45.120 or attached as a separate document to the
4 real estate excise tax affidavit. The notice of continuance shall be
5 on a form prepared by the department of revenue. If the notice of
6 continuance is not signed by the new owner and attached to the real
7 estate excise tax affidavit, all additional taxes calculated pursuant
8 to subsection (3) of this section shall become due and payable by the
9 seller or transferor at time of sale. The county auditor shall not
10 accept an instrument of conveyance of classified land for filing or
11 recording unless the new owner has signed the notice of continuance or
12 the additional tax has been paid. The seller, transferor, or new owner
13 may appeal the new assessed valuation calculated under subsection (3)
14 of this section to the county board of equalization. Jurisdiction is
15 hereby conferred on the county board of equalization to hear these
16 appeals;

17 (d) Determination by the assessor, after giving the owner written
18 notice and an opportunity to be heard, that all or a portion of such
19 land no longer meets the criteria for classification under this
20 chapter. The criteria for classification pursuant to this chapter
21 continue to apply after classification has been granted.

22 The granting authority, upon request of an assessor, shall provide
23 reasonable assistance to the assessor in making a determination whether
24 such land continues to meet the qualifications of RCW 84.34.020 (1) or
25 (3). The assistance shall be provided within thirty days of receipt of
26 the request.

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

33 (3) Unless the removal is reversed on appeal, the assessor shall
34 revalue the affected land with reference to full market value on the
35 date of removal from classification. Both the assessed valuation
36 before and after the removal of classification shall be listed and
37 taxes shall be allocated according to that part of the year to which
38 each assessed valuation applies. Except as provided in subsection (5)
39 of this section, an additional tax, applicable interest, and penalty

1 shall be imposed which shall be due and payable to the county treasurer
2 thirty days after the owner is notified of the amount of the additional
3 tax. As soon as possible, the assessor shall compute the amount of
4 such an additional tax, applicable interest, and penalty and the
5 treasurer shall mail notice to the owner of the amount thereof and the
6 date on which payment is due. The amount of such additional tax,
7 applicable interest, and penalty shall be determined as follows:

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

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

18 (c) The amount of the penalty shall be as provided in RCW
19 84.34.080. The penalty shall not be imposed if the removal satisfies
20 the conditions of RCW 84.34.070.

21 (4) Additional tax, applicable interest, and penalty, shall become
22 a lien on such land which shall attach at the time such land is removed
23 from classification under this chapter and shall have priority to and
24 shall be fully paid and satisfied before any recognizance, mortgage,
25 judgment, debt, obligation or responsibility to or with which such land
26 may become charged or liable. Such lien may be foreclosed upon
27 expiration of the same period after delinquency and in the same manner
28 provided by law for foreclosure of liens for delinquent real property
29 taxes as provided in RCW 84.64.050 now or as hereafter amended. Any
30 additional tax unpaid on its due date shall thereupon become
31 delinquent. From the date of delinquency until paid, interest shall be
32 charged at the same rate applied by law to delinquent ad valorem
33 property taxes.

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

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

1 (b)(i) A taking through the exercise of the power of eminent
2 domain, or (ii) sale or transfer to an entity having the power of
3 eminent domain in anticipation of the exercise of such power, said
4 entity having manifested its intent in writing or by other official
5 action;

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

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

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

14 (f) Acquisition of property interests by state agencies or agencies
15 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
16 purposes enumerated in those sections: PROVIDED, That at such time as
17 these property interests are not used for the purposes enumerated in
18 RCW 84.34.210 and 64.04.130 the additional tax specified in subsection
19 (3) of this section shall be imposed; or

20 (g) Removal of land classified as farm and agricultural land under
21 RCW 84.34.020(2)(d).

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