
SENATE BILL 6470

State of Washington 57th Legislature

2002 Regular Session

By Senators Honeyford, Rasmussen, Swecker, Sheahan, Morton and Hewitt

Read first time 01/17/2002. Referred to Committee on Agriculture & International Trade.

1 AN ACT Relating to penalties assessed when farm and agricultural
2 land is removed from open space classification; and reenacting and
3 amending RCW 84.34.108.

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

5 **Sec. 1.** RCW 84.34.108 and 2001 c 305 s 3, 201 c 249 s 14, and 2001
6 c 185 s 7 are each reenacted and amended to read as follows:

7 (1) When land has once been classified under this chapter, a
8 notation of the classification shall be made each year upon the
9 assessment and tax rolls and the land shall be valued pursuant to RCW
10 84.34.060 or 84.34.065 until removal of all or a portion of the
11 classification by the assessor upon occurrence of any of the following:

12 (a) Receipt of notice from the owner to remove all or a portion of
13 the classification;

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

1 (c) Sale or transfer of all or a portion of the land to a new
2 owner, unless the new owner has signed a notice of classification
3 continuance, except transfer to an owner who is an heir or devisee of
4 a deceased owner shall not, by itself, result in removal of
5 classification. The notice of continuance shall be on a form prepared
6 by the department. If the notice of continuance is not signed by the
7 new owner and attached to the real estate excise tax affidavit, all
8 additional taxes calculated pursuant to subsection (4) of this section
9 shall become due and payable by the seller or transferor at time of
10 sale. The auditor shall not accept an instrument of conveyance of
11 classified land for filing or recording unless the new owner has signed
12 the notice of continuance or the additional tax has been paid, as
13 evidenced by the real estate excise tax stamp affixed thereto by the
14 treasurer. The seller, transferor, or new owner may appeal the new
15 assessed valuation calculated under subsection (4) of this section to
16 the county board of equalization in accordance with the provisions of
17 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
18 equalization to hear these appeals;

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

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

29 (2) Land may not be removed from classification because of:

30 (a) The creation, sale, or transfer of forestry riparian easements
31 under RCW 76.13.120; or

32 (b) The creation, sale, or transfer of a fee interest or a
33 conservation easement for the riparian open space program under RCW
34 76.09.040.

35 (3) Within thirty days after such removal of all or a portion of
36 the land from current use classification, the assessor shall notify the
37 owner in writing, setting forth the reasons for the removal. The
38 seller, transferor, or owner may appeal the removal to the county board
39 of equalization in accordance with the provisions of RCW 84.40.038.

1 (4) Unless the removal is reversed on appeal, the assessor shall
2 revalue the affected land with reference to its true and fair value on
3 January 1st of the year of removal from classification. Both the
4 assessed valuation before and after the removal of classification shall
5 be listed and taxes shall be allocated according to that part of the
6 year to which each assessed valuation applies. Except as provided in
7 subsection (6) of this section, an additional tax, applicable interest,
8 and penalty shall be imposed which shall be due and payable to the
9 treasurer thirty days after the owner is notified of the amount of the
10 additional tax. As soon as possible, the assessor shall compute the
11 amount of additional tax, applicable interest, and penalty and the
12 treasurer shall mail notice to the owner of the amount thereof and the
13 date on which payment is due. The amount of the additional tax,
14 applicable interest, and penalty shall be determined as follows:

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

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

25 (c) The amount of the penalty shall be as provided in RCW
26 84.34.080. The penalty shall not be imposed if:

27 (i) The removal satisfies the conditions of RCW 84.34.070; or

28 (ii) Up to five acres of farm and agricultural land classified
29 under RCW 84.34.020(2) that includes a residential homesite is removed
30 from classification when the owner sells or transfers the remainder of
31 the classified land to a new ownership if the new owner signs a notice
32 of continuance; the remaining land qualifies for continued
33 classification as farm and agricultural land under RCW 84.34.020(2);
34 and the removed land is not transferred to a new owner within five
35 years of the initial removal. If the land is transferred within five
36 years of the initial removal, the penalty shall be due on transfer and
37 shall become a lien on the land and be collected in the same manner as
38 provided in subsection (5) of this section.

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

14 (6) The additional tax, applicable interest, and penalty specified
15 in subsection (4) of this section shall not be imposed if the removal
16 of classification pursuant to subsection (1) of this section resulted
17 solely from:

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

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

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

28 (d) Official action by an agency of the state of Washington or by
29 the county or city within which the land is located which disallows the
30 present use of the land;

31 (e) Transfer of land to a church when the land would qualify for
32 exemption pursuant to RCW 84.36.020;

33 (f) Acquisition of property interests by state agencies or agencies
34 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
35 purposes enumerated in those sections. At such time as these property
36 interests are not used for the purposes enumerated in RCW 84.34.210 and
37 64.04.130 the additional tax specified in subsection (4) of this
38 section shall be imposed;

1 (g) Removal of land classified as farm and agricultural land under
2 RCW 84.34.020(2)(e);
3 (h) Removal of land from classification after enactment of a
4 statutory exemption that qualifies the land for exemption and receipt
5 of notice from the owner to remove the land from classification;
6 (i) The creation, sale, or transfer of forestry riparian easements
7 under RCW 76.13.120;
8 (j) The creation, sale, or transfer of a fee interest or a
9 conservation easement for the riparian open space program under RCW
10 76.09.040;
11 (k) The sale or transfer of land within two years after the death
12 of the owner of at least a fifty percent interest in the land if the
13 land has been assessed and valued as classified forest land, designated
14 as forest land under chapter 84.33 RCW, or classified under this
15 chapter continuously since 1993;
16 (l) The sale or transfer of land after the death of the owner of at
17 least a fifty percent interest in the land if the land has been
18 assessed and valued as classified forest land, designated as forest
19 land under chapter 84.33 RCW, or classified under this chapter
20 continuously since 1993 and the sale or transfer takes place within two
21 years after July 22, 2001, and the death of the owner occurred after
22 January 1, 1991; or
23 (m) The date of death shown on a death certificate is the date used
24 for the purpose of this subsection (6).

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