
ENGROSSED SUBSTITUTE HOUSE BILL 2850

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Finance (originally sponsored by Representatives Clements, Orcutt, Dunn, Armstrong and Newhouse)

READ FIRST TIME 2/3/06.

1 AN ACT Relating to eliminating tax, interest, and penalty
2 provisions for land valued under the open space program; and amending
3 RCW 84.34.070 and 84.34.108.

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

5 **Sec. 1.** RCW 84.34.070 and 1992 c 69 s 10 are each amended to read
6 as follows:

7 (1)(a) When land has once been classified under (~~this chapter~~)
8 RCW 84.34.020 (1) or (3), or RCW 84.34.020(2) and does not meet the
9 ownership requirements in (b) of this subsection, it shall remain under
10 such classification and shall not be applied to other use except as
11 provided by subsection (2) of this section for at least ten years from
12 the date of classification and shall continue under such classification
13 until and unless withdrawn from classification after notice of request
14 for withdrawal shall be made by the owner. During any year after eight
15 years of the initial ten-year classification period have elapsed,
16 notice of request for withdrawal of all or a portion of the land may be
17 given by the owner to the assessor or assessors of the county or
18 counties in which such land is situated. In the event that a portion
19 of a parcel is removed from classification, the remaining portion must

1 meet the same requirements as did the entire parcel when such land was
2 originally granted classification pursuant to this chapter unless the
3 remaining parcel has different income criteria. Within seven days the
4 assessor shall transmit one copy of such notice to the legislative body
5 which originally approved the application. The assessor or assessors,
6 as the case may be, shall, when two assessment years have elapsed
7 following the date of receipt of such notice, withdraw such land from
8 such classification ((and the land)).

9 (b)(i) Except as provided in (b)(ii) of this subsection, when land
10 has once been classified under RCW 84.34.020(2), it shall remain under
11 such classification and shall not be applied to other use except as
12 provided by subsection (2) of this section for at least seven years
13 from the date of classification and shall continue under such
14 classification until and unless withdrawn from classification after
15 notice of request for withdrawal shall be made by the owner. During
16 any year after seven years have elapsed, notice of request for
17 withdrawal of all or a portion of the land may be given by the owner to
18 the assessor or assessors of the county or counties in which such land
19 is situated. In the event that a portion of a parcel is removed from
20 classification, the remaining portion must meet the same requirements
21 as did the entire parcel when such land was originally granted
22 classification pursuant to this chapter unless the remaining parcel has
23 different income criteria. Within seven days the assessor shall
24 transmit one copy of such notice to the legislative body which
25 originally approved the application. The assessor or assessors, as the
26 case may be, shall, when two assessment years have elapsed following
27 the date of receipt of such notice, withdraw such land from such
28 classification.

29 (ii) For land that has been classified under RCW 84.34.020(2) for
30 twenty or more years the assessor or assessors, as the case may be,
31 shall withdraw and revalue the affected land with reference to its true
32 and fair value on January 1st of the year specified in the notice of
33 request for withdrawal from classification and the assessed valuation
34 before and after the date of withdrawal of classification shall be
35 listed and taxes shall be allocated according to that part of the year
36 to which each assessed valuation applies.

37 (iii) To qualify for the preferential withdrawal requirements under
38 this subsection (1)(b), at least a fifty percent ownership interest in

1 the land must have been maintained by the owner or the owner's spouse
2 for the entire period the land has been classified under RCW
3 84.34.020(2).

4 (c) Land withdrawn from classification under this subsection shall
5 be subject to the additional tax and applicable interest due under RCW
6 84.34.108, except land withdrawn from classification under this
7 subsection shall not be subject to applicable interest if the land
8 meets the requirements of RCW 84.34.108(4)(b)(ii). Agreement to tax
9 according to use shall not be considered to be a contract and can be
10 abrogated at any time by the legislature in which event no additional
11 tax or penalty shall be imposed.

12 (2) The following reclassifications are not considered withdrawals
13 or removals (~~and are not subject to additional tax under RCW~~
14 ~~84.34.108~~):

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

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

20 (d) Reclassification of land classified as open space land under
21 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land
22 under RCW 84.34.020(2) if the land had been previously classified as
23 farm and agricultural land under RCW 84.34.020(2).

24 (3) Applications for reclassification shall be subject to
25 applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and
26 chapter 84.33 RCW.

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

32 **Sec. 2.** RCW 84.34.108 and 2003 c 170 s 6 are each amended to read
33 as follows:

34 (1) When land has once been classified under this chapter, a
35 notation of the classification shall be made each year upon the
36 assessment and tax rolls and the land shall be valued pursuant to RCW

1 84.34.060 or 84.34.065 until removal of all or a portion of the
2 classification by the assessor upon occurrence of any of the following:

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

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

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

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

33 The granting authority, upon request of an assessor, shall provide
34 reasonable assistance to the assessor in making a determination whether
35 the land continues to meet the qualifications of RCW 84.34.020 (1) or
36 (3). The assistance shall be provided within thirty days of receipt of
37 the request.

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

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

3 (b) The creation, sale, or transfer of a fee interest or a
4 conservation easement for the riparian open space program under RCW
5 76.09.040.

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

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

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

30 (b)(i) The amount of applicable interest shall be equal to the
31 interest upon the amounts of the additional tax paid (~~at the same~~
32 ~~statutory rate charged on delinquent property taxes~~) from the dates on
33 which the additional tax could have been paid without penalty if the
34 land had been assessed at a value without regard to this chapter. The
35 interest rate shall be determined as follows:

36 (A) The same statutory rate charged on delinquent property taxes
37 for land classified under RCW 84.34.020 (1) and (3) and for land

1 classified under RCW 84.34.020(2) not meeting the requirements of
2 (b)(i)(B) or (C) of this subsection;

3 (B) An annual rate of eight percent for land classified under RCW
4 84.34.020(2) if the land has been classified for seven years or more
5 but less than twenty years and at least a fifty percent ownership
6 interest in the land has been maintained by the owner or the owner's
7 spouse for the entire period the land has been classified under RCW
8 84.34.020(2); and

9 (C) An annual rate of five percent for land classified under RCW
10 84.34.020(2) if the land has been classified under RCW 84.34.020(2) for
11 twenty years or more and at least a fifty percent ownership interest in
12 the land has been maintained by the owner or the owner's spouse for the
13 entire period the land has been classified under RCW 84.34.020(2),
14 except as provided in (b)(ii) of this subsection.

15 (ii) No interest shall be imposed for land classified under RCW
16 84.34.020(2) if the land has been classified under RCW 84.34.020(2) for
17 thirty years or more and at least a fifty percent ownership interest in
18 the land has been maintained by the owner or the owner's spouse for the
19 entire period the land has been classified under RCW 84.34.020(2);

20 (c) The amount of the penalty shall be as provided in RCW
21 84.34.080. The penalty shall not be imposed if the removal satisfies
22 the conditions of RCW 84.34.070.

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

36 (6) The additional tax, applicable interest, and penalty specified
37 in subsection (4) of this section shall not be imposed if the removal

1 of classification pursuant to subsection (1) of this section resulted
2 solely from:

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

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

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

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

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

18 (f) Acquisition of property interests by state agencies or agencies
19 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
20 purposes enumerated in those sections. At such time as these property
21 interests are not used for the purposes enumerated in RCW 84.34.210 and
22 64.04.130 the additional tax specified in subsection (4) of this
23 section shall be imposed;

24 (g) Removal of land classified as farm and agricultural land under
25 RCW 84.34.020(2)(e);

26 (h) Removal of land from classification after enactment of a
27 statutory exemption that qualifies the land for exemption and receipt
28 of notice from the owner to remove the land from classification;

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

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

34 (k) The sale or transfer of land within two years after the death
35 of the owner of at least a fifty percent interest in the land if the
36 land has been assessed and valued as classified forest land, designated
37 as forest land under chapter 84.33 RCW, or classified under this

1 chapter continuously since 1993. The date of death shown on a death
2 certificate is the date used for the purposes of this subsection
3 (6)(k); or

4 (1) The sale or transfer of land after the death of the owner of at
5 least a fifty percent interest in the land if the land has been
6 assessed and valued as classified forest land, designated as forest
7 land under chapter 84.33 RCW, or classified under this chapter
8 continuously since 1993 and the sale or transfer takes place after July
9 22, 2001, and on or before July 22, 2003, and the death of the owner
10 occurred after January 1, 1991. The date of death shown on a death
11 certificate is the date used for the purpose of this subsection (6)(1).

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