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11 classification until and unless withdrawn from classification after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

1 this chapter unless the remaining parcel has different income criteria.
2 Within seven days the assessor shall transmit one copy of such notice
3 to the legislative body which originally approved the application. The
4 assessor or assessors, as the case may be, shall, when two assessment
5 years have elapsed following the date of receipt of such notice,
6 withdraw such land from such classification (~~and the land~~). For land
7 that has been classified under RCW 84.34.020(2) for twenty or more
8 years the assessor or assessors, as the case may be, shall revalue the
9 affected land with reference to its true and fair value on January 1st
10 of the year specified in the notice of request for withdrawal from
11 classification and the assessed valuation before and after the date of
12 withdrawal of classification shall be listed and taxes shall be
13 allocated according to that part of the year to which each assessed
14 valuation applies. Land withdrawn from classification under this
15 subsection shall be subject to the additional tax and applicable
16 interest due under RCW 84.34.108. Agreement to tax according to use
17 shall not be considered to be a contract and can be abrogated at any
18 time by the legislature in which event no additional tax or penalty
19 shall be imposed.

20 (2) The following reclassifications are not considered withdrawals
21 or removals (~~and are not subject to additional tax under RCW~~
22 ~~84.34.108~~):

- 23 (a) Reclassification between lands under RCW 84.34.020 (2) and (3);
- 24 (b) Reclassification of land classified under RCW 84.34.020 (2) or
- 25 (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);
- 26 (c) Reclassification of land classified under RCW 84.34.020 (2) or
- 27 (3) to forest land classified under chapter 84.33 RCW; and
- 28 (d) Reclassification of land classified as open space land under
- 29 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land
- 30 under RCW 84.34.020(2) if the land had been previously classified as
- 31 farm and agricultural land under RCW 84.34.020(2).

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

35 (4) The income criteria for land classified under RCW 84.34.020(2)
36 (b) and (c) may be deferred for land being reclassified from land
37 classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into

1 RCW 84.34.020(2) (b) or (c) for a period of up to five years from the
2 date of reclassification.

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

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

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

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

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

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

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 the 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) Land may not be removed from classification because of:

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

12 (b) The creation, sale, or transfer of a fee interest or a
13 conservation easement for the riparian open space program under RCW
14 76.09.040.

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

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

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

1 (b) The amount of applicable interest shall be equal to the
2 interest upon the amounts of the additional tax paid (~~at the same~~
3 ~~statutory rate charged on delinquent property taxes~~) from the dates on
4 which the additional tax could have been paid without penalty if the
5 land had been assessed at a value without regard to this chapter. The
6 interest rate shall be determined as follows:

7 (i) The same statutory rate charged on delinquent property taxes
8 for land classified under RCW 84.34.020 (1) and (3);

9 (ii) An annual rate of eight percent for land classified under RCW
10 84.34.020(2) if the land has been classified for less than ten years;
11 and

12 (iii) An annual rate of five percent for land classified under RCW
13 84.34.020(2) if the land has been classified for ten or more years;

14 (c) The amount of the penalty shall be as provided in RCW
15 84.34.080. The penalty shall not be imposed if the removal satisfies
16 the conditions of RCW 84.34.070.

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

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

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

36 (b)(i) A taking through the exercise of the power of eminent
37 domain, or (ii) sale or transfer to an entity having the power of

1 eminent domain in anticipation of the exercise of such power, said
2 entity having manifested its intent in writing or by other official
3 action;

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

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

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

12 (f) Acquisition of property interests by state agencies or agencies
13 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
14 purposes enumerated in those sections. At such time as these property
15 interests are not used for the purposes enumerated in RCW 84.34.210 and
16 64.04.130 the additional tax specified in subsection (4) of this
17 section shall be imposed;

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

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

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

25 (j) The creation, sale, or transfer of a fee interest or a
26 conservation easement for the riparian open space program under RCW
27 76.09.040;

28 (k) The sale or transfer of land within two years after the death
29 of the owner of at least a fifty percent interest in the land if the
30 land has been assessed and valued as classified forest land, designated
31 as forest land under chapter 84.33 RCW, or classified under this
32 chapter continuously since 1993. The date of death shown on a death
33 certificate is the date used for the purposes of this subsection
34 (6)(k); or

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

1 continuously since 1993 and the sale or transfer takes place after July
2 22, 2001, and on or before July 22, 2003, and the death of the owner
3 occurred after January 1, 1991. The date of death shown on a death
4 certificate is the date used for the purpose of this subsection (6)(1).

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