
HOUSE BILL 2850

State of Washington 59th Legislature 2006 Regular Session

By Representatives Clements, Orcutt, Dunn, Armstrong and Newhouse

Read first time 01/16/2006. Referred to Committee on Finance.

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, 84.34.080, 84.34.090, 84.34.100, 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11 classification until and unless withdrawn from classification after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 shall be~~
7 ~~subject to the additional tax and applicable interest due under RCW~~
8 ~~84.34.108~~). Agreement to tax according to use shall not be considered
9 to be a contract and can be abrogated at any time by the legislature in
10 which event no additional tax or penalty shall be imposed.

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

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

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

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

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

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

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

31 **Sec. 2.** RCW 84.34.080 and 1999 sp.s. c 4 s 705 are each amended to
32 read as follows:

33 When land which has been classified under this chapter as open
34 space land, farm and agricultural land, or timber land is applied to
35 some other use, (~~except through compliance with RCW 84.34.070, or~~)
36 except as a result solely from any one of the conditions listed in RCW
37 84.34.108(6), the owner shall within sixty days notify the county

1 assessor of such change in use and additional real property tax shall
2 be imposed upon such land in an amount equal to the sum of the
3 following:

4 (1) The total amount of the additional tax and applicable interest
5 due under RCW 84.34.108; plus

6 (2) A penalty amounting to twenty percent of the amount determined
7 in subsection (1) of this section.

8 **Sec. 3.** RCW 84.34.090 and 1970 ex.s. c 87 s 9 are each amended to
9 read as follows:

10 The additional tax and penalties, if any, provided by RCW
11 (~~(84.34.070 and)~~) 84.34.080 shall be extended on the tax roll and shall
12 be, together with the interest thereon, a lien on the land to which
13 such tax applies as of January 1st of the year for which such
14 additional tax is imposed. Such lien shall have priority as provided
15 in chapter 84.60 RCW: PROVIDED, That for purposes of all periods of
16 limitation of actions specified in Title 84 RCW, the year in which the
17 tax became payable shall be as specified in RCW 84.34.100.

18 **Sec. 4.** RCW 84.34.100 and 1980 c 134 s 4 are each amended to read
19 as follows:

20 The additional tax, penalties, (~~(and/or)~~) and interest provided by
21 RCW (~~(84.34.070 and)~~) 84.34.080 shall be payable in full thirty days
22 after the date which the treasurer's statement therefor is rendered.
23 Such additional tax when collected shall be distributed by the county
24 treasurer in the same manner in which current taxes applicable to the
25 subject land are distributed.

26 **Sec. 5.** RCW 84.34.108 and 2003 c 170 s 6 are each amended to read
27 as follows:

28 (1) When land has once been classified under this chapter, a
29 notation of the classification shall be made each year upon the
30 assessment and tax rolls and the land shall be valued pursuant to RCW
31 84.34.060 or 84.34.065 until removal of all or a portion of the
32 classification by the assessor upon occurrence of any of the following:

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

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

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

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

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

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

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

37 (b) The creation, sale, or transfer of a fee interest or a

1 conservation easement for the riparian open space program under RCW
2 76.09.040.

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

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

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

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

32 (c) The amount of the penalty shall be as provided in RCW
33 84.34.080(~~(. The penalty)~~);

34 (d) Additional tax, interest, and penalties shall not be imposed if
35 the removal satisfies the conditions of RCW 84.34.070.

36 (5) Additional tax, applicable interest, and penalty, shall become
37 a lien on the land which shall attach at the time the land is removed
38 from classification under this chapter and shall have priority to and

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

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

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

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

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

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

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

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

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

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

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

6 (j) The creation, sale, or transfer of a fee interest or a
7 conservation easement for the riparian open space program under RCW
8 76.09.040;

9 (k) The sale or transfer of land within two years after the death
10 of the owner of at least a fifty percent interest in the land if the
11 land has been assessed and valued as classified forest land, designated
12 as forest land under chapter 84.33 RCW, or classified under this
13 chapter continuously since 1993. The date of death shown on a death
14 certificate is the date used for the purposes of this subsection
15 (6)(k); ~~((e))~~

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 after July
21 22, 2001, and on or before July 22, 2003, and the death of the owner
22 occurred after January 1, 1991. The date of death shown on a death
23 certificate is the date used for the purpose of this subsection (6)(l);
24 or

25 (m) Removal of land satisfying the conditions of RCW 84.34.070.

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