

SSB 5401 - H COMM AMD

By Committee on Agriculture & Natural Resources

ADOPTED 04/13/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 76.09.040 and 2000 c 11 s 3 are each amended to read
4 as follows:

5 (1) Where necessary to accomplish the purposes and policies stated
6 in RCW 76.09.010, and to implement the provisions of this chapter, the
7 board shall adopt forest practices rules pursuant to chapter 34.05 RCW
8 and in accordance with the procedures enumerated in this section that:

9 (a) Establish minimum standards for forest practices;

10 (b) Provide procedures for the voluntary development of resource
11 management plans which may be adopted as an alternative to the minimum
12 standards in (a) of this subsection if the plan is consistent with the
13 purposes and policies stated in RCW 76.09.010 and the plan meets or
14 exceeds the objectives of the minimum standards;

15 (c) Set forth necessary administrative provisions;

16 (d) Establish procedures for the collection and administration of
17 forest practice fees as set forth by this chapter; and

18 (e) Allow for the development of watershed analyses.

19 Forest practices rules pertaining to water quality protection shall
20 be adopted by the board after reaching agreement with the director of
21 the department of ecology or the director's designee on the board with
22 respect thereto. All other forest practices rules shall be adopted by
23 the board.

24 Forest practices rules shall be administered and enforced by either
25 the department or the local governmental entity as provided in this
26 chapter. Such rules shall be adopted and administered so as to give
27 consideration to all purposes and policies set forth in RCW 76.09.010.

28 (2) The board shall prepare proposed forest practices rules. In
29 addition to any forest practices rules relating to water quality

1 protection proposed by the board, the department of ecology may submit
2 to the board proposed forest practices rules relating to water quality
3 protection.

4 Prior to initiating the rule-making process, the proposed rules
5 shall be submitted for review and comments to the department of fish
6 and wildlife and to the counties of the state. After receipt of the
7 proposed forest practices rules, the department of fish and wildlife
8 and the counties of the state shall have thirty days in which to review
9 and submit comments to the board, and to the department of ecology with
10 respect to its proposed rules relating to water quality protection.
11 After the expiration of such thirty day period the board and the
12 department of ecology shall jointly hold one or more hearings on the
13 proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any
14 county may propose specific forest practices rules relating to problems
15 existing within such county. The board may adopt and the department of
16 ecology may approve such proposals if they find the proposals are
17 consistent with the purposes and policies of this chapter.

18 (3) The board shall establish by rule a program for the acquisition
19 of riparian open space ((~~program that includes acquisition of a fee~~
20 interest in, or at the landowner's option, a conservation easement on))
21 and critical habitat for threatened or endangered species as designated
22 by the board. Acquisition must be a conservation easement. Lands
23 eligible for acquisition are forest lands within unconfined
24 ((~~avulsing~~)) channel migration zones or forest lands containing
25 critical habitat for threatened or endangered species as designated by
26 the board. Once acquired, these lands may be held and managed by the
27 department, transferred to another state agency, transferred to an
28 appropriate local government agency, or transferred to a private
29 nonprofit nature conservancy corporation, as defined in RCW 64.04.130,
30 in fee or transfer of management obligation. The board shall adopt
31 rules governing the acquisition by the state or donation to the state
32 of such interest in lands including the right of refusal if the lands
33 are subject to unacceptable liabilities. The rules shall include
34 definitions of qualifying lands, priorities for acquisition, and
35 provide for the opportunity to transfer such lands with limited
36 warranties and with a description of boundaries that does not require
37 full surveys where the cost of securing the surveys would be
38 unreasonable in relation to the value of the lands conveyed. The rules

1 shall provide for the management of the lands for ecological protection
2 or fisheries enhancement. (~~Because there are few, if any, comparable~~
3 ~~sales of forest land within unconfined avulsing channel migration~~
4 ~~zones, separate from the other lands or assets, these lands are likely~~
5 ~~to be extraordinarily difficult to appraise and the cost of a~~
6 ~~conventional appraisal often would be unreasonable in relation to the~~
7 ~~value of the land involved. Therefore, for the purposes of voluntary~~
8 ~~sales under this section, the legislature declares that these lands are~~
9 ~~presumed to have a value equal to: (a) The acreage in the sale~~
10 ~~multiplied by the average value of commercial forest land in the region~~
11 ~~under the land value tables used for property tax purposes under RCW~~
12 ~~84.33.120; plus (b) the cruised volume of any timber located within the~~
13 ~~channel migration multiplied by the appropriate quality code stumpage~~
14 ~~value for timber of the same species shown on the appropriate table~~
15 ~~used for timber harvest excise tax purposes under RCW 84.33.091. For~~
16 ~~purposes of this section, there shall be an eastside region and a~~
17 ~~westside region as defined in the forests and fish report as defined in~~
18 ~~RCW 76.09.020.)) For the purposes of conservation easements entered
19 into under this section, the following apply: (a) For conveyances of
20 a conservation easement in which the landowner conveys an interest in
21 the trees only, the compensation must include the timber value
22 component, as determined by the cruised volume of any timber located
23 within the channel migration zone or critical habitat for threatened or
24 endangered species as designated by the board, multiplied by the
25 appropriate quality code stumpage value for timber of the same species
26 shown on the appropriate table used for timber harvest excise tax
27 purposes under RCW 84.33.091; (b) for conveyances of a conservation
28 easement in which the landowner conveys interests in both land and
29 trees, the compensation must include the timber value component in (a)
30 of this subsection plus such portion of the land value component as
31 determined just and equitable by the department. The land value
32 component must be the acreage of qualifying channel migration zone or
33 critical habitat for threatened or endangered species as determined by
34 the board, to be conveyed, multiplied by the average per acre value of
35 all commercial forest land in western Washington or the average for
36 eastern Washington, whichever average is applicable to the qualifying
37 lands. The department must determine the western and eastern~~

1 Washington averages based on the land value tables established by RCW
2 84.33.140 and revised annually by the department of revenue.

3 (4) Subject to appropriations sufficient to cover the cost of such
4 an acquisition program and the related costs of administering the
5 program, the department (~~(is directed to purchase a fee interest or, at~~
6 ~~the owner's option,)~~) must establish a conservation easement in land
7 that an owner tenders for purchase; provided that such lands have been
8 taxed as forest lands and are located within an unconfined (~~(avulsing)~~)
9 channel migration zone or contain critical habitat for threatened or
10 endangered species as designated by the board. Lands acquired under
11 this section shall become riparian or habitat open space. These
12 acquisitions shall not be deemed to trigger the compensating tax of
13 chapters 84.33 and 84.34 RCW.

14 (5) Instead of offering to sell interests in qualifying lands,
15 owners may elect to donate the interests to the state.

16 (6) Any acquired interest in qualifying lands by the state under
17 this section shall be managed as riparian open space or critical
18 habitat.

19 **Sec. 2.** RCW 84.33.140 and 2007 c 54 s 24 are each amended to read
20 as follows:

21 (1) When land has been designated as forest land under RCW
22 84.33.130, a notation of the designation shall be made each year upon
23 the assessment and tax rolls. A copy of the notice of approval
24 together with the legal description or assessor's parcel numbers for
25 the land shall, at the expense of the applicant, be filed by the
26 assessor in the same manner as deeds are recorded.

27 (2) In preparing the assessment roll as of January 1, 2002, for
28 taxes payable in 2003 and each January 1st thereafter, the assessor
29 shall list each parcel of designated forest land at a value with
30 respect to the grade and class provided in this subsection and adjusted
31 as provided in subsection (3) of this section. The assessor shall
32 compute the assessed value of the land using the same assessment ratio
33 applied generally in computing the assessed value of other property in
34 the county. Values for the several grades of bare forest land shall be
35 as follows:

	LAND	OPERABILITY	VALUES
	GRADE	CLASS	PER ACRE
1		1	\$234
2		2	229
3		3	217
4	1	4	157
5		1	198
6		2	190
7	2	3	183
8		4	132
9		1	154
10		2	149
11	3	3	148
12		4	113
13		1	117
14		2	114
15	4	3	113
16		4	86
17		1	85
18		2	78
19	5	3	77
20		4	52
21		1	43
22		2	39
23	6	3	39
24		4	37
25		1	21
26		2	21
27	7	3	20
28		4	20
29			
30	8		1
31			

32 (3) On or before December 31, 2001, the department shall adjust by
33 rule under chapter 34.05 RCW, the forest land values contained in
34 subsection (2) of this section in accordance with this subsection, and
35 shall certify the adjusted values to the assessor who will use these

1 values in preparing the assessment roll as of January 1, 2002. For the
2 adjustment to be made on or before December 31, 2001, for use in the
3 2002 assessment year, the department shall:

4 (a) Divide the aggregate value of all timber harvested within the
5 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
6 volume for the same period, as determined from the harvester excise tax
7 returns filed with the department under RCW 84.33.074; and

8 (b) Divide the aggregate value of all timber harvested within the
9 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
10 volume for the same period, as determined from the harvester excise tax
11 returns filed with the department under RCW 84.33.074; and

12 (c) Adjust the forest land values contained in subsection (2) of
13 this section by a percentage equal to one-half of the percentage change
14 in the average values of harvested timber reflected by comparing the
15 resultant values calculated under (a) and (b) of this subsection.

16 (4) For the adjustments to be made on or before December 31, 2002,
17 and each succeeding year thereafter, the same procedure described in
18 subsection (3) of this section shall be followed using harvester excise
19 tax returns filed under RCW 84.33.074. However, this adjustment shall
20 be made to the prior year's adjusted value, and the five-year periods
21 for calculating average harvested timber values shall be successively
22 one year more recent.

23 (5) Land graded, assessed, and valued as forest land shall continue
24 to be so graded, assessed, and valued until removal of designation by
25 the assessor upon the occurrence of any of the following:

26 (a) Receipt of notice from the owner to remove the designation;

27 (b) Sale or transfer to an ownership making the land exempt from ad
28 valorem taxation;

29 (c) Sale or transfer of all or a portion of the land to a new
30 owner, unless the new owner has signed a notice of forest land
31 designation continuance, except transfer to an owner who is an heir or
32 devisee of a deceased owner, shall not, by itself, result in removal of
33 designation. The signed notice of continuance shall be attached to the
34 real estate excise tax affidavit provided for in RCW 82.45.150. The
35 notice of continuance shall be on a form prepared by the department.
36 If the notice of continuance is not signed by the new owner and
37 attached to the real estate excise tax affidavit, all compensating
38 taxes calculated under subsection (11) of this section shall become due

1 and payable by the seller or transferor at time of sale. The auditor
2 shall not accept an instrument of conveyance regarding designated
3 forest land for filing or recording unless the new owner has signed the
4 notice of continuance or the compensating tax has been paid, as
5 evidenced by the real estate excise tax stamp affixed thereto by the
6 treasurer. The seller, transferor, or new owner may appeal the new
7 assessed valuation calculated under subsection (11) of this section to
8 the county board of equalization in accordance with the provisions of
9 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
10 equalization to hear these appeals;

11 (d) Determination by the assessor, after giving the owner written
12 notice and an opportunity to be heard, that:

13 (i) The land is no longer primarily devoted to and used for growing
14 and harvesting timber. However, land shall not be removed from
15 designation if a governmental agency, organization, or other recipient
16 identified in subsection (13) or (14) of this section as exempt from
17 the payment of compensating tax has manifested its intent in writing or
18 by other official action to acquire a property interest in the
19 designated forest land by means of a transaction that qualifies for an
20 exemption under subsection (13) or (14) of this section. The
21 governmental agency, organization, or recipient shall annually provide
22 the assessor of the county in which the land is located reasonable
23 evidence in writing of the intent to acquire the designated land as
24 long as the intent continues or within sixty days of a request by the
25 assessor. The assessor may not request this evidence more than once in
26 a calendar year;

27 (ii) The owner has failed to comply with a final administrative or
28 judicial order with respect to a violation of the restocking, forest
29 management, fire protection, insect and disease control, and forest
30 debris provisions of Title 76 RCW or any applicable rules under Title
31 76 RCW; or

32 (iii) Restocking has not occurred to the extent or within the time
33 specified in the application for designation of such land.

34 (6) Land shall not be removed from designation if there is a
35 governmental restriction that prohibits, in whole or in part, the owner
36 from harvesting timber from the owner's designated forest land. If
37 only a portion of the parcel is impacted by governmental restrictions
38 of this nature, the restrictions cannot be used as a basis to remove

1 the remainder of the forest land from designation under this chapter.
2 For the purposes of this section, "governmental restrictions" includes:
3 (a) Any law, regulation, rule, ordinance, program, or other action
4 adopted or taken by a federal, state, county, city, or other
5 governmental entity; or (b) the land's zoning or its presence within an
6 urban growth area designated under RCW 36.70A.110.

7 (7) The assessor shall have the option of requiring an owner of
8 forest land to file a timber management plan with the assessor upon the
9 occurrence of one of the following:

10 (a) An application for designation as forest land is submitted; or
11 (b) Designated forest land is sold or transferred and a notice of
12 continuance, described in subsection (5)(c) of this section, is signed.

13 (8) If land is removed from designation because of any of the
14 circumstances listed in subsection (5)(a) through (c) of this section,
15 the removal shall apply only to the land affected. If land is removed
16 from designation because of subsection (5)(d) of this section, the
17 removal shall apply only to the actual area of land that is no longer
18 primarily devoted to the growing and harvesting of timber, without
19 regard to any other land that may have been included in the application
20 and approved for designation, as long as the remaining designated
21 forest land meets the definition of forest land contained in RCW
22 84.33.035.

23 (9) Within thirty days after the removal of designation as forest
24 land, the assessor shall notify the owner in writing, setting forth the
25 reasons for the removal. The seller, transferor, or owner may appeal
26 the removal to the county board of equalization in accordance with the
27 provisions of RCW 84.40.038.

28 (10) Unless the removal is reversed on appeal a copy of the notice
29 of removal with a notation of the action, if any, upon appeal, together
30 with the legal description or assessor's parcel numbers for the land
31 removed from designation shall, at the expense of the applicant, be
32 filed by the assessor in the same manner as deeds are recorded and a
33 notation of removal from designation shall immediately be made upon the
34 assessment and tax rolls. The assessor shall revalue the land to be
35 removed with reference to its true and fair value as of January 1st of
36 the year of removal from designation. Both the assessed value before
37 and after the removal of designation shall be listed. Taxes based on
38 the value of the land as forest land shall be assessed and payable up

1 until the date of removal and taxes based on the true and fair value of
2 the land shall be assessed and payable from the date of removal from
3 designation.

4 (11) Except as provided in subsection (5)(c), (13), or (14) of this
5 section, a compensating tax shall be imposed on land removed from
6 designation as forest land. The compensating tax shall be due and
7 payable to the treasurer thirty days after the owner is notified of the
8 amount of this tax. As soon as possible after the land is removed from
9 designation, the assessor shall compute the amount of compensating tax
10 and mail a notice to the owner of the amount of compensating tax owed
11 and the date on which payment of this tax is due. The amount of
12 compensating tax shall be equal to the difference between the amount of
13 tax last levied on the land as designated forest land and an amount
14 equal to the new assessed value of the land multiplied by the dollar
15 rate of the last levy extended against the land, multiplied by a
16 number, in no event greater than nine, equal to the number of years for
17 which the land was designated as forest land, plus compensating taxes
18 on the land at forest land values up until the date of removal and the
19 prorated taxes on the land at true and fair value from the date of
20 removal to the end of the current tax year.

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

33 (13) The compensating tax specified in subsection (11) of this
34 section shall not be imposed if the removal of designation under
35 subsection (5) of this section resulted solely from:

36 (a) Transfer to a government entity in exchange for other forest
37 land located within the state of Washington;

1 (b) A taking through the exercise of the power of eminent domain,
2 or sale or transfer to an entity having the power of eminent domain in
3 anticipation of the exercise of such power;

4 (c) A donation of fee title, development rights, or the right to
5 harvest timber, to a government agency or organization qualified under
6 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
7 sections, or the sale or transfer of fee title to a governmental entity
8 or a nonprofit nature conservancy corporation, as defined in RCW
9 64.04.130, exclusively for the protection and conservation of lands
10 recommended for state natural area preserve purposes by the natural
11 heritage council and natural heritage plan as defined in chapter 79.70
12 RCW or approved for state natural resources conservation area purposes
13 as defined in chapter 79.71 RCW. At such time as the land is not used
14 for the purposes enumerated, the compensating tax specified in
15 subsection (11) of this section shall be imposed upon the current
16 owner;

17 (d) The sale or transfer of fee title to the parks and recreation
18 commission for park and recreation purposes;

19 (e) Official action by an agency of the state of Washington or by
20 the county or city within which the land is located that disallows the
21 present use of the land;

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

24 (g) The creation, sale, or transfer of a ~~((fee interest or a))~~
25 conservation easement ~~((for the riparian open space program))~~ of
26 private forest lands within unconfined channel migration zones or
27 containing critical habitat for threatened or endangered species under
28 RCW 76.09.040; or

29 (h) The sale or transfer of land within two years after the death
30 of the owner of at least a fifty percent interest in the land if the
31 land has been assessed and valued as classified forest land, designated
32 as forest land under this chapter, or classified under chapter 84.34
33 RCW continuously since 1993. The date of death shown on a death
34 certificate is the date used for the purposes of this subsection
35 (13)(h).

36 (14) In a county with a population of more than one million
37 inhabitants, the compensating tax specified in subsection (11) of this

1 section shall not be imposed if the removal of designation as forest
2 land under subsection (5) of this section resulted solely from:

3 (a) An action described in subsection (13) of this section; or

4 (b) A transfer of a property interest to a government entity, or to
5 a nonprofit historic preservation corporation or nonprofit nature
6 conservancy corporation, as defined in RCW 64.04.130, to protect or
7 enhance public resources, or to preserve, maintain, improve, restore,
8 limit the future use of, or otherwise to conserve for public use or
9 enjoyment, the property interest being transferred. At such time as
10 the property interest is not used for the purposes enumerated, the
11 compensating tax shall be imposed upon the current owner.

12 **Sec. 3.** RCW 84.34.108 and 2007 c 54 s 25 are each amended to read
13 as follows:

14 (1) When land has once been classified under this chapter, a
15 notation of the classification shall be made each year upon the
16 assessment and tax rolls and the land shall be valued pursuant to RCW
17 84.34.060 or 84.34.065 until removal of all or a portion of the
18 classification by the assessor upon occurrence of any of the following:

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

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

26 (c) Sale or transfer of all or a portion of the land to a new
27 owner, unless the new owner has signed a notice of classification
28 continuance, except transfer to an owner who is an heir or devisee of
29 a deceased owner shall not, by itself, result in removal of
30 classification. The notice of continuance shall be on a form prepared
31 by the department. If the notice of continuance is not signed by the
32 new owner and attached to the real estate excise tax affidavit, all
33 additional taxes calculated pursuant to subsection (4) of this section
34 shall become due and payable by the seller or transferor at time of
35 sale. The auditor shall not accept an instrument of conveyance
36 regarding classified land for filing or recording unless the new owner
37 has signed the notice of continuance or the additional tax has been

1 paid, as evidenced by the real estate excise tax stamp affixed thereto
2 by the treasurer. The seller, transferor, or new owner may appeal the
3 new assessed valuation calculated under subsection (4) of this section
4 to the county board of equalization in accordance with the provisions
5 of RCW 84.40.038. Jurisdiction is hereby conferred on the county board
6 of equalization to hear these appeals;

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

12 The granting authority, upon request of an assessor, shall provide
13 reasonable assistance to the assessor in making a determination whether
14 the land continues to meet the qualifications of RCW 84.34.020 (1) or
15 (3). The assistance shall be provided within thirty days of receipt of
16 the request.

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

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

20 (b) The creation, sale, or transfer of a fee interest or a
21 conservation easement for the riparian open space program under RCW
22 76.09.040.

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

28 (4) Unless the removal is reversed on appeal, the assessor shall
29 revalue the affected land with reference to its true and fair value on
30 January 1st of the year of removal from classification. Both the
31 assessed valuation before and after the removal of classification shall
32 be listed and taxes shall be allocated according to that part of the
33 year to which each assessed valuation applies. Except as provided in
34 subsection (6) of this section, an additional tax, applicable interest,
35 and penalty shall be imposed which shall be due and payable to the
36 treasurer thirty days after the owner is notified of the amount of the
37 additional tax. As soon as possible, the assessor shall compute the
38 amount of additional tax, applicable interest, and penalty and the

1 treasurer shall mail notice to the owner of the amount thereof and the
2 date on which payment is due. The amount of the additional tax,
3 applicable interest, and penalty shall be determined as follows:

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

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

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. Any additional tax unpaid on its
26 due date shall thereupon become delinquent. From the date of
27 delinquency until paid, interest shall be charged at the same rate
28 applied by law to delinquent ad valorem property taxes.

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

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

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

1 entity having manifested its intent in writing or by other official
2 action;

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

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

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

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

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

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

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

24 (j) The creation, sale, or transfer of a ~~((fee interest or a))~~
25 conservation easement ~~((for the riparian open space program))~~ of
26 private forest lands within unconfined channel migration zones or
27 containing critical habitat for threatened or endangered species under
28 RCW 76.09.040; or

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

36 **Sec. 4.** RCW 76.09.020 and 2003 c 311 s 3 are each amended to read
37 as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Adaptive management" means reliance on scientific methods to
4 test the results of actions taken so that the management and related
5 policy can be changed promptly and appropriately.

6 (2) "Appeals board" means the forest practices appeals board
7 created by RCW 76.09.210.

8 (3) "Aquatic resources" includes water quality, salmon, other
9 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes
10 identified in the forests and fish report, the Columbia torrent
11 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander
12 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*
13 *olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's
14 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and
15 their respective habitats.

16 (4) "Commissioner" means the commissioner of public lands.

17 (5) "Contiguous" means land adjoining or touching by common corner
18 or otherwise. Land having common ownership divided by a road or other
19 right-of-way shall be considered contiguous.

20 (6) "Conversion to a use other than commercial timber operation"
21 means a bona fide conversion to an active use which is incompatible
22 with timber growing and as may be defined by forest practices rules.

23 (7) "Department" means the department of natural resources.

24 (8) "Fish passage barrier" means any artificial instream structure
25 that impedes the free passage of fish.

26 (9) "Forest land" means all land which is capable of supporting a
27 merchantable stand of timber and is not being actively used for a use
28 which is incompatible with timber growing. Forest land does not
29 include agricultural land that is or was enrolled in the conservation
30 reserve enhancement program by contract if such agricultural land was
31 historically used for agricultural purposes and the landowner intends
32 to continue to use the land for agricultural purposes in the future.
33 As it applies to the operation of the road maintenance and abandonment
34 plan element of the forest practices rules on small forest landowners,
35 the term "forest land" excludes:

36 (a) Residential home sites, which may include up to five acres; and

37 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,

1 and the land on which appurtenances necessary to the production,
2 preparation, or sale of crops, fruit, dairy products, fish, and
3 livestock exist.

4 (10) "Forest landowner" means any person in actual control of
5 forest land, whether such control is based either on legal or equitable
6 title, or on any other interest entitling the holder to sell or
7 otherwise dispose of any or all of the timber on such land in any
8 manner. However, any lessee or other person in possession of forest
9 land without legal or equitable title to such land shall be excluded
10 from the definition of "forest landowner" unless such lessee or other
11 person has the right to sell or otherwise dispose of any or all of the
12 timber located on such forest land.

13 (11) "Forest practice" means any activity conducted on or directly
14 pertaining to forest land and relating to growing, harvesting, or
15 processing timber, including but not limited to:

- 16 (a) Road and trail construction;
- 17 (b) Harvesting, final and intermediate;
- 18 (c) Precommercial thinning;
- 19 (d) Reforestation;
- 20 (e) Fertilization;
- 21 (f) Prevention and suppression of diseases and insects;
- 22 (g) Salvage of trees; and
- 23 (h) Brush control.

24 "Forest practice" shall not include preparatory work such as tree
25 marking, surveying and road flagging, and removal or harvesting of
26 incidental vegetation from forest lands such as berries, ferns,
27 greenery, mistletoe, herbs, mushrooms, and other products which cannot
28 normally be expected to result in damage to forest soils, timber, or
29 public resources.

30 (12) "Forest practices rules" means any rules adopted pursuant to
31 RCW 76.09.040.

32 (13) "Forest road," as it applies to the operation of the road
33 maintenance and abandonment plan element of the forest practices rules
34 on small forest landowners, means a road or road segment that crosses
35 land that meets the definition of forest land, but excludes residential
36 access roads.

37 (14) "Forest trees" does not include hardwood trees cultivated by
38 agricultural methods in growing cycles shorter than fifteen years if

1 the trees were planted on land that was not in forest use immediately
2 before the trees were planted and before the land was prepared for
3 planting the trees. "Forest trees" includes Christmas trees, but does
4 not include Christmas trees that are cultivated by agricultural
5 methods, as that term is defined in RCW 84.33.035.

6 (15) "Forests and fish report" means the forests and fish report to
7 the board dated April 29, 1999.

8 (16) "Application" means the application required pursuant to RCW
9 76.09.050.

10 (17) "Operator" means any person engaging in forest practices
11 except an employee with wages as his or her sole compensation.

12 (18) "Person" means any individual, partnership, private, public,
13 or municipal corporation, county, the department or other state or
14 local governmental entity, or association of individuals of whatever
15 nature.

16 (19) "Public resources" means water, fish and wildlife, and in
17 addition shall mean capital improvements of the state or its political
18 subdivisions.

19 (20) "Small forest landowner" has the same meaning as defined in
20 RCW 76.09.450.

21 (21) "Timber" means forest trees, standing or down, of a commercial
22 species, including Christmas trees. However, "timber" does not include
23 Christmas trees that are cultivated by agricultural methods, as that
24 term is defined in RCW 84.33.035.

25 (22) "Timber owner" means any person having all or any part of the
26 legal interest in timber. Where such timber is subject to a contract
27 of sale, "timber owner" shall mean the contract purchaser.

28 (23) "Board" means the forest practices board created in RCW
29 76.09.030.

30 (24) "Unconfined (~~(avulsing)~~) channel migration zone" means the
31 area within which the active channel of an unconfined (~~(avulsing)~~)
32 stream is prone to move and where the movement would result in a
33 potential near-term loss of riparian forest adjacent to the stream.
34 Sizeable islands with productive timber may exist within the zone.

35 (25) "Unconfined (~~(avulsing)~~) stream" means generally fifth order
36 or larger waters that experience abrupt shifts in channel location,
37 creating a complex floodplain characterized by extensive gravel bars,
38 disturbance species of vegetation of variable age, numerous side

1 channels, wall-based channels, oxbow lakes, and wetland complexes.
2 Many of these streams have dikes and levees that may temporarily or
3 permanently restrict channel movement."

4 Correct the title.

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