

SSB 5424 - S AMD 5

By Senators Parlette, Sheldon

ADOPTED 02/05/2010

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

3 "Sec. 1. RCW 84.34.108 and 2009 c 513 s 2, 2009 c 354 s 3, 2009 c
4 255 s 2, and 2009 c 246 s 3 are each reenacted and amended to read as
5 follows:

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

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

1 has been paid, as evidenced by the real estate excise tax stamp affixed
2 thereto by the treasurer. The seller, transferor, or new owner may
3 appeal the new assessed valuation calculated under subsection (4) of
4 this section to the county board of equalization in accordance with the
5 provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the
6 county board 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~~) must
13 provide reasonable assistance to the assessor in making a determination
14 whether the land continues to meet the qualifications of RCW 84.34.020
15 (1) or (3). The assistance (~~shall~~) must be provided within thirty
16 days of receipt of 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 the removal of all or a portion of the
24 land from current use classification under subsection (1) of this
25 section, the assessor shall notify the owner in writing, setting forth
26 the reasons for the removal. The seller, transferor, or owner may
27 appeal the removal to the county board of equalization in accordance
28 with the provisions of RCW 84.40.038. The removal notice must explain
29 the steps needed to appeal the removal decision, including when a
30 notice of appeal must be filed, where the forms may be obtained, and
31 how to contact the county board of equalization.

32 (4) Unless the removal is reversed on appeal, the assessor
33 (~~shall~~) must revalue the affected land with reference to its true and
34 fair value on January 1st of the year of removal from classification.
35 Both the assessed valuation before and after the removal of
36 classification shall be listed and taxes shall be allocated according
37 to that part of the year to which each assessed valuation applies.
38 Except as provided in subsection (6) of this section, an additional

1 tax, applicable interest, and penalty (~~shall be~~) is imposed which
2 (~~shall be~~) is due and payable to the treasurer thirty days after the
3 owner is notified of the amount of the additional tax. As soon as
4 possible, the assessor (~~shall~~) must compute the amount of additional
5 tax, applicable interest, and penalty and the treasurer shall mail
6 notice to the owner of the amount thereof and the date on which payment
7 is due. The amount of the additional tax, applicable interest, and
8 penalty (~~shall~~) must be determined as follows:

9 (a) The amount of additional tax (~~shall be~~) is equal to the
10 difference between the property tax paid as "open space land," "farm
11 and agricultural land," or "timber land" and the amount of property tax
12 otherwise due and payable for the seven years last past had the land
13 not been so classified;

14 (b) (~~The amount of applicable interest shall be equal to the~~
15 ~~interest upon the amounts of the additional tax paid at the same~~
16 ~~statutory rate charged on delinquent property taxes from the dates on~~
17 ~~which the additional tax could have been paid without penalty if the~~
18 ~~land had been assessed at a value without regard to this chapter;~~) The
19 interest rate provided in RCW 84.69.100 must be charged on the amount
20 of additional tax imposed under (a) of this subsection. The annual
21 rate of interest in effect at the time of removal must be applied to
22 the total amount of additional tax due;

23 (c) The amount of the penalty (~~shall be~~) is as provided in RCW
24 84.34.080. The penalty (~~shall~~) may not be imposed if the removal
25 satisfies the conditions of RCW 84.34.070.

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

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

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

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

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

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

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

20 (f) Acquisition of property interests by state agencies or agencies
21 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
22 purposes enumerated in those sections. At such time as these property
23 interests are not used for the purposes enumerated in RCW 84.34.210 and
24 64.04.130 the additional tax specified in subsection (4) of this
25 section (~~shall be~~) is imposed;

26 (g) Removal of land classified as farm and agricultural land under
27 RCW 84.34.020(2)(f);

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

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

33 (j) The creation, sale, or transfer of a conservation easement of
34 private forest lands within unconfined channel migration zones or
35 containing critical habitat for threatened or endangered species under
36 RCW 76.09.040;

37 (k) The sale or transfer of land within two years after the death
38 of the owner of at least a fifty percent interest in the land if the

1 land has been assessed and valued as classified forest land, designated
2 as forest land under chapter 84.33 RCW, or classified under this
3 chapter continuously since 1993. The date of death shown on a death
4 certificate is the date used for the purposes of this subsection
5 (6)(k); or

6 (1)(i) The discovery that the land was classified under this
7 chapter in error through no fault of the owner. For purposes of this
8 subsection (6)(l), "fault" means a knowingly false or misleading
9 statement, or other act or omission not in good faith, that contributed
10 to the approval of classification under this chapter or the failure of
11 the assessor to remove the land from classification under this chapter.

12 (ii) For purposes of this subsection (6), the discovery that land
13 was classified under this chapter in error through no fault of the
14 owner is not the sole reason for removal of classification pursuant to
15 subsection (1) of this section if an independent basis for removal
16 exists. Examples of an independent basis for removal include the owner
17 changing the use of the land or failing to meet any applicable income
18 criteria required for classification under this chapter.

19 **Sec. 2.** RCW 84.34.070 and 1992 c 69 s 10 are each amended to read
20 as follows:

21 (1) When land has once been classified under this chapter, it shall
22 remain under such classification and shall not be applied to other use
23 except as provided by subsection (2) of this section for at least ten
24 years from the date of classification and shall continue under such
25 classification until and unless withdrawn from classification after
26 notice of request for withdrawal shall be made by the owner. (~~During~~
27 ~~any year~~) After (~~eight years of~~) the initial ten-year classification
28 period (~~have~~) has elapsed, notice of request for withdrawal of all or
29 a portion of the land may be given by the owner to the assessor or
30 assessors of the county or counties in which such land is situated. In
31 the event that a portion of a parcel is removed from classification,
32 the remaining portion must meet the same requirements as did the entire
33 parcel when such land was originally granted classification pursuant to
34 this chapter unless the remaining parcel has different income criteria.
35 Within seven days the assessor shall transmit one copy of such notice
36 to the legislative body which originally approved the application. The
37 assessor or assessors, as the case may be, shall(~~, when two assessment~~

1 ~~years have elapsed following the date of receipt of such notice,)~~
2 withdraw such land from such classification and the land shall be
3 subject to the additional tax and applicable interest due under RCW
4 84.34.108. Agreement to tax according to use shall not be considered
5 to be a contract and can be abrogated at any time by the legislature in
6 which event no additional tax or penalty shall be imposed.

7 (2) The following reclassifications are not considered withdrawals
8 or removals and are not subject to additional tax under RCW 84.34.108:

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

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

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

14 (d) Reclassification of land classified as open space land under
15 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land
16 under RCW 84.34.020(2) if the land had been previously classified as
17 farm and agricultural land under RCW 84.34.020(2).

18 (3) Applications for reclassification shall be subject to
19 applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and
20 chapter 84.33 RCW.

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

26 NEW SECTION. **Sec. 3.** This act applies to taxes levied for
27 collection in 2011 and thereafter."

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28 On page 1, line 1 of the title, after "Relating to" strike the
29 remainder of the title and insert "interest rate and penalty provisions

1 in the current use program; amending RCW 84.34.070; reenacting and
2 amending RCW 84.34.108; and creating a new section."

EFFECT: Changes the interest rate on property tax upon removal from a current use program. Under current law, the rate is 12%. Under the bill as it was introduced, the rate was the short-term federal rate, plus two percentage points. The striking amendment changes the interest rate to the property tax refund rate provided in RCW 84.69.100. The amendment also removes hold harmless provisions, which were enacted by separate legislation in 2009. The effective date is updated.

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