
HOUSE BILL 1979

State of Washington 61st Legislature 2009 Regular Session

By Representatives Takko and Blake

Read first time 02/04/09. Referred to Committee on Finance.

1 AN ACT Relating to current use valuation for crops under the
2 property tax open space program; and amending RCW 84.34.020 and
3 84.34.108.

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

5 **Sec. 1.** RCW 84.34.020 and 2005 c 57 s 1 are each amended to read
6 as follows:

7 As used in this chapter, unless a different meaning is required by
8 the context:

9 (1) "Open space land" means (a) any land area so designated by an
10 official comprehensive land use plan adopted by any city or county and
11 zoned accordingly, or (b) any land area, the preservation of which in
12 its present use would (i) conserve and enhance natural or scenic
13 resources, or (ii) protect streams or water supply, or (iii) promote
14 conservation of soils, wetlands, beaches or tidal marshes, or (iv)
15 enhance the value to the public of abutting or neighboring parks,
16 forests, wildlife preserves, nature reservations or sanctuaries or
17 other open space, or (v) enhance recreation opportunities, or (vi)
18 preserve historic sites, or (vii) preserve visual quality along
19 highway, road, and street corridors or scenic vistas, or (viii) retain

1 in its natural state tracts of land not less than one acre situated in
2 an urban area and open to public use on such conditions as may be
3 reasonably required by the legislative body granting the open space
4 classification, or (c) any land meeting the definition of farm and
5 agricultural conservation land under subsection (8) of this section.
6 As a condition of granting open space classification, the legislative
7 body may not require public access on land classified under (b)(iii) of
8 this subsection for the purpose of promoting conservation of wetlands.

9 (2) "Farm and agricultural land" means:

10 (a) Any parcel of land that is twenty or more acres or multiple
11 parcels of land that are contiguous and total twenty or more acres:

12 (i) Devoted primarily to the production of livestock or
13 agricultural commodities for commercial purposes;

14 (ii) Enrolled in the federal conservation reserve program or its
15 successor administered by the United States department of agriculture;
16 or

17 (iii) Other similar commercial activities as may be established by
18 rule;

19 (b)(i) Any parcel of land that is five acres or more but less than
20 twenty acres devoted primarily to agricultural uses, which has produced
21 a gross income from agricultural uses equivalent to, as of January 1,
22 1993:

23 (A) One hundred dollars or more per acre per year for three of the
24 five calendar years preceding the date of application for
25 classification under this chapter for all parcels of land that are
26 classified under this subsection or all parcels of land for which an
27 application for classification under this subsection is made with the
28 granting authority prior to January 1, 1993; and

29 (B) On or after January 1, 1993, two hundred dollars or more per
30 acre per year for three of the five calendar years preceding the date
31 of application for classification under this chapter;

32 (ii) For the purposes of (b)(i) of this subsection, "gross income
33 from agricultural uses" includes, but is not limited to, the wholesale
34 value of agricultural products donated to nonprofit food banks or
35 feeding programs;

36 (c) Any parcel of land of less than five acres devoted primarily to
37 agricultural uses which has produced a gross income as of January 1,
38 1993, of:

1 (i) One thousand dollars or more per year for three of the five
2 calendar years preceding the date of application for classification
3 under this chapter for all parcels of land that are classified under
4 this subsection or all parcels of land for which an application for
5 classification under this subsection is made with the granting
6 authority prior to January 1, 1993; and

7 (ii) On or after January 1, 1993, fifteen hundred dollars or more
8 per year for three of the five calendar years preceding the date of
9 application for classification under this chapter.

10 Parcels of land described in (b)(i)(A) and (c)(i) of this subsection
11 shall, upon any transfer of the property excluding a transfer to a
12 surviving spouse, be subject to the limits of (b)(i)(B) and (c)(ii) of
13 this subsection;

14 (d) Any parcel of land that is five acres or more but less than
15 twenty acres with standing crops with an expectation of harvest within
16 fifteen years and a demonstrable investment in the cultivation of those
17 crops equivalent to one hundred dollars or more per acre in the current
18 or previous calendar year;

19 (e) Any lands including incidental uses as are compatible with
20 agricultural purposes, including wetlands preservation, provided such
21 incidental use does not exceed twenty percent of the classified land
22 and the land on which appurtenances necessary to the production,
23 preparation, or sale of the agricultural products exist in conjunction
24 with the lands producing such products. Agricultural lands shall also
25 include any parcel of land of one to five acres, which is not
26 contiguous, but which otherwise constitutes an integral part of farming
27 operations being conducted on land qualifying under this section as
28 "farm and agricultural lands"; or

29 ((+e)) (f) The land on which housing for employees and the
30 principal place of residence of the farm operator or owner of land
31 classified pursuant to (a) of this subsection is sited if: The housing
32 or residence is on or contiguous to the classified parcel; and the use
33 of the housing or the residence is integral to the use of the
34 classified land for agricultural purposes.

35 (3) "Timber land" means any parcel of land that is five or more
36 acres or multiple parcels of land that are contiguous and total five or
37 more acres which is or are devoted primarily to the growth and harvest
38 of timber for commercial purposes. Timber land means the land only and

1 does not include a residential homesite. The term includes land used
2 for incidental uses that are compatible with the growing and harvesting
3 of timber but no more than ten percent of the land may be used for such
4 incidental uses. It also includes the land on which appurtenances
5 necessary for the production, preparation, or sale of the timber
6 products exist in conjunction with land producing these products.

7 (4) "Current" or "currently" means as of the date on which property
8 is to be listed and valued by the assessor.

9 (5) "Owner" means the party or parties having the fee interest in
10 land, except that where land is subject to real estate contract "owner"
11 shall mean the contract vendee.

12 (6) "Contiguous" means land adjoining and touching other property
13 held by the same ownership. Land divided by a public road, but
14 otherwise an integral part of a farming operation, shall be considered
15 contiguous.

16 (7) "Granting authority" means the appropriate agency or official
17 who acts on an application for classification of land pursuant to this
18 chapter.

19 (8) "Farm and agricultural conservation land" means either:

20 (a) Land that was previously classified under subsection (2) of
21 this section, that no longer meets the criteria of subsection (2) of
22 this section, and that is reclassified under subsection (1) of this
23 section; or

24 (b) Land that is traditional farmland that is not classified under
25 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a
26 use inconsistent with agricultural uses, and that has a high potential
27 for returning to commercial agriculture.

28 **Sec. 2.** RCW 84.34.108 and 2007 c 54 s 25 are each amended to read
29 as follows:

30 (1) When land has once been classified under this chapter, a
31 notation of the classification shall be made each year upon the
32 assessment and tax rolls and the land shall be valued pursuant to RCW
33 84.34.060 or 84.34.065 until removal of all or a portion of the
34 classification by the assessor upon occurrence of any of the following:

35 (a) Receipt of notice from the owner to remove all or a portion of
36 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. The written
29 notice by the assessor must provide information regarding the process
30 to appeal a determination by a county assessor under this subsection
31 (1)(d) including timelines, petition forms, and county board of
32 equalization contact information.

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) 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;

35 (c) The amount of the penalty shall be as provided in RCW
36 84.34.080. The penalty shall not be imposed if the removal satisfies
37 the conditions of RCW 84.34.070.

1 (5) Additional tax, applicable interest, and penalty, shall become
2 a lien on the land which shall attach at the time the land is removed
3 from classification under this chapter and shall have priority to and
4 shall be fully paid and satisfied before any recognizance, mortgage,
5 judgment, debt, obligation or responsibility to or with which the land
6 may become charged or liable. This lien may be foreclosed upon
7 expiration of the same period after delinquency and in the same manner
8 provided by law for foreclosure of liens for delinquent real property
9 taxes as provided in RCW 84.64.050. Any additional tax unpaid on its
10 due date shall thereupon become delinquent. From the date of
11 delinquency until paid, interest shall be charged at the same rate
12 applied by law to delinquent ad valorem property taxes.

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

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

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

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

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

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

32 (f) Acquisition of property interests by state agencies or agencies
33 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
34 purposes enumerated in those sections. At such time as these property
35 interests are not used for the purposes enumerated in RCW 84.34.210 and
36 64.04.130 the additional tax specified in subsection (4) of this
37 section shall be imposed;

1 (g) Removal of land classified as farm and agricultural land under
2 RCW 84.34.020(2)((~~e~~)) (f);

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

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

8 (j) The creation, sale, or transfer of a fee interest or a
9 conservation easement for the riparian open space program under RCW
10 76.09.040; or

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

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