

ESSB 6286 - H COMM AMD

By Committee on Agriculture & Natural Resources

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

3 "NEW SECTION. **Sec. 1.** The legislature intends to clarify and
4 update the description of farm and agricultural land as it is used
5 under the property tax open space program. Modern technology and water
6 quality and labor regulations have all caused nurseries to increasingly
7 grow plants in containers rather than in the ground. Growing plants in
8 containers preserves topsoil, allows more plants to be grown per acre,
9 allows soil and nutrients to be customized for each type of plant,
10 allows more efficient use of water and fertilizer, allows year round
11 harvest and sales, and reduces labor cost and injuries.

12 **Sec. 2.** RCW 84.34.020 and 2011 c 101 s 1 are each amended to read
13 as follows:

14 (~~(As used in this chapter, unless a different meaning is required~~
15 ~~by the context:)~~) The definitions in this section apply throughout this
16 chapter unless the context clearly requires otherwise.

17 (1) "Open space land" means (a) any land area so designated by an
18 official comprehensive land use plan adopted by any city or county and
19 zoned accordingly, or (b) any land area, the preservation of which in
20 its present use would (i) conserve and enhance natural or scenic
21 resources, or (ii) protect streams or water supply, or (iii) promote
22 conservation of soils, wetlands, beaches or tidal marshes, or (iv)
23 enhance the value to the public of abutting or neighboring parks,
24 forests, wildlife preserves, nature reservations or sanctuaries or
25 other open space, or (v) enhance recreation opportunities, or (vi)
26 preserve historic sites, or (vii) preserve visual quality along
27 highway, road, and street corridors or scenic vistas, or (viii) retain
28 in its natural state tracts of land not less than one acre situated in
29 an urban area and open to public use on such conditions as may be

1 reasonably required by the legislative body granting the open space
2 classification, or (c) any land meeting the definition of farm and
3 agricultural conservation land under subsection (8) of this section.
4 As a condition of granting open space classification, the legislative
5 body may not require public access on land classified under (b)(iii) of
6 this subsection for the purpose of promoting conservation of wetlands.

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

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

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

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

15 (iii) Other similar commercial activities as may be established by
16 rule;

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

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

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

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

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

37 (i) One thousand dollars or more per year for three of the five
38 calendar years preceding the date of application for classification

1 under this chapter for all parcels of land that are classified under
2 this subsection or all parcels of land for which an application for
3 classification under this subsection is made with the granting
4 authority prior to January 1, 1993; and

5 (ii) On or after January 1, 1993, fifteen hundred dollars or more
6 per year for three of the five calendar years preceding the date of
7 application for classification under this chapter. Parcels of land
8 described in (b)(i)(A) and (c)(i) of this subsection will, upon any
9 transfer of the property excluding a transfer to a surviving spouse or
10 surviving state registered domestic partner, be subject to the limits
11 of (b)(i)(B) and (c)(ii) of this subsection;

12 (d) Any parcel of land that is five acres or more but less than
13 twenty acres devoted primarily to agricultural uses, which meet one of
14 the following criteria:

15 (i) Has produced a gross income from agricultural uses equivalent
16 to two hundred dollars or more per acre per year for three of the five
17 calendar years preceding the date of application for classification
18 under this chapter;

19 (ii) Has standing crops with an expectation of harvest within seven
20 years, except as provided in (d)(iii) of this subsection, and a
21 demonstrable investment in the production of those crops equivalent to
22 one hundred dollars or more per acre in the current or previous
23 calendar year. For the purposes of this subsection (2)(d)(ii),
24 "standing crop" means Christmas trees, vineyards, fruit trees, or other
25 perennial crops that: (A) Are planted using agricultural methods
26 normally used in the commercial production of that particular crop; and
27 (B) typically do not produce harvestable quantities in the initial
28 years after planting; or

29 (iii) Has a standing crop of short rotation hardwoods with an
30 expectation of harvest within fifteen years and a demonstrable
31 investment in the production of those crops equivalent to one hundred
32 dollars or more per acre in the current or previous calendar year;

33 (e) Any lands including incidental uses as are compatible with
34 agricultural purposes, including wetlands preservation, provided such
35 incidental use does not exceed twenty percent of the classified land
36 and the land on which appurtenances necessary to the production,
37 preparation, or sale of the agricultural products exist in conjunction
38 with the lands producing such products. Agricultural lands also

1 include any parcel of land of one to five acres, which is not
2 contiguous, but which otherwise constitutes an integral part of farming
3 operations being conducted on land qualifying under this section as
4 "farm and agricultural lands";

5 (f) The land on which housing for employees and the principal place
6 of residence of the farm operator or owner of land classified pursuant
7 to (a) of this subsection is sited if: The housing or residence is on
8 or contiguous to the classified parcel; and the use of the housing or
9 the residence is integral to the use of the classified land for
10 agricultural purposes; ((~~or~~))

11 (g) Any land that is used primarily for equestrian related
12 activities for which a charge is made, including, but not limited to,
13 stabling, training, riding, clinics, schooling, shows, or grazing for
14 feed and that otherwise meet the requirements of (a), (b), or (c) of
15 this subsection; or

16 (h) Any land primarily used for commercial horticultural purposes,
17 including growing seedlings, trees, shrubs, vines, fruits, vegetables,
18 flowers, herbs, and other plants in containers, whether under a
19 structure or not, subject to the following:

20 (i) The land is not primarily used for the storage, care, or
21 selling of plants purchased from other growers for retail sale;

22 (ii) If the land is less than five acres and used primarily to grow
23 plants in containers, such land does not qualify as "farm and
24 agricultural land" if more than twenty-five percent of the land used
25 primarily to grow plants in containers is open to the general public
26 for on-site retail sales;

27 (iii) If more than twenty percent of the land used for growing
28 plants in containers qualifying under this subsection (2)(h) is covered
29 by pavement, none of the paved area is eligible for classification as
30 "farm and agricultural land" under this subsection (2)(h). The
31 eligibility limitations described in this subsection (2)(h)(iii) do not
32 affect the land's eligibility to qualify under (e) of this subsection;
33 and

34 (iv) If the land classified under this subsection (2)(h), in
35 addition to any contiguous land classified under this subsection, is
36 less than twenty acres, it must meet the applicable income or
37 investment requirements in (b), (c), or (d) of this subsection.

1 (3) "Timber land" means any parcel of land that is five or more
2 acres or multiple parcels of land that are contiguous and total five or
3 more acres which is or are devoted primarily to the growth and harvest
4 of timber for commercial purposes. Timber land means the land only and
5 does not include a residential homesite. The term includes land used
6 for incidental uses that are compatible with the growing and harvesting
7 of timber but no more than ten percent of the land may be used for such
8 incidental uses. It also includes the land on which appurtenances
9 necessary for the production, preparation, or sale of the timber
10 products exist in conjunction with land producing these products.

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

13 (5) "Owner" means the party or parties having the fee interest in
14 land, except that where land is subject to real estate contract "owner"
15 means the contract vendee.

16 (6)(a) "Contiguous" means land adjoining and touching other
17 property held by the same ownership. Land divided by a public road,
18 but otherwise an integral part of a farming operation, is considered
19 contiguous.

20 (b) For purposes of this subsection (6):

21 (i) "Same ownership" means owned by the same person or persons,
22 except that parcels owned by different persons are deemed held by the
23 same ownership if the parcels are:

24 (A) Managed as part of a single operation; and

25 (B) Owned by:

26 (I) Members of the same family;

27 (II) Legal entities that are wholly owned by members of the same
28 family; or

29 (III) An individual who owns at least one of the parcels and a
30 legal entity or entities that own the other parcel or parcels if the
31 entity or entities are wholly owned by that individual, members of his
32 or her family, or that individual and members of his or her family.

33 (ii) "Family" includes only:

34 (A) An individual and his or her spouse or domestic partner, child,
35 stepchild, adopted child, grandchild, parent, stepparent, grandparent,
36 cousin, or sibling;

37 (B) The spouse or domestic partner of an individual's child,

1 stepchild, adopted child, grandchild, parent, stepparent, grandparent,
2 cousin, or sibling;

3 (C) A child, stepchild, adopted child, grandchild, parent,
4 stepparent, grandparent, cousin, or sibling of the individual's spouse
5 or the individual's domestic partner; and

6 (D) The spouse or domestic partner of any individual described in
7 (b)(ii)(C) of this subsection (6).

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

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

12 (a) Land that was previously classified under subsection (2) of
13 this section, that no longer meets the criteria of subsection (2) of
14 this section, and that is reclassified under subsection (1) of this
15 section; or

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

20 NEW SECTION. **Sec. 3.** The amendments to RCW 84.34.020, as provided
21 in section 2 of this act, are intended to clarify an ambiguity in an
22 existing tax preference, and are therefore exempt from the requirements
23 of RCW 82.32.805 and 82.32.808."

24 Correct the title.

EFFECT: Makes the following changes to the conditions under which commercial horticulture land qualifies for farm and agricultural land use classification: Removes the requirement that commercial horticultural land not exceed a reasonably necessary area; clarifies that if more than twenty percent of commercial horticulture land is covered by pavement, the paved area may not be classified for farm and agricultural land use unless the land is otherwise eligible for farm and agricultural use classification as an incidental use that is compatible with farm and agricultural use; adds a restriction that lands smaller than 5 acres do not qualify for farm and agricultural use classification if more than 25 percent of the land used to grow plants in containers is also open to the public for retail sales.

Clarifies that the bill is exempt from the review requirements associated with the creation of new tax preferences because the intent of the bill is to clarify an ambiguity in an existing tax preference.

--- END ---