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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2493

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State of Washington

63rd Legislature

2014 Regular Session

By House Finance (originally sponsored by Representatives Wilcox, Tharinger, Buys, Lytton, Vick, Orcutt, Reykdal, Springer, and Haigh)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to current use valuation for land primarily used  
2 for commercial horticultural purposes; amending RCW 84.34.020; and  
3 creating new sections.

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

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

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

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

1 (1) "Open space land" means (a) any land area so designated by an  
2 official comprehensive land use plan adopted by any city or county and  
3 zoned accordingly, or (b) any land area, the preservation of which in  
4 its present use would (i) conserve and enhance natural or scenic  
5 resources, or (ii) protect streams or water supply, or (iii) promote  
6 conservation of soils, wetlands, beaches or tidal marshes, or (iv)  
7 enhance the value to the public of abutting or neighboring parks,  
8 forests, wildlife preserves, nature reservations or sanctuaries or  
9 other open space, or (v) enhance recreation opportunities, or (vi)  
10 preserve historic sites, or (vii) preserve visual quality along  
11 highway, road, and street corridors or scenic vistas, or (viii) retain  
12 in its natural state tracts of land not less than one acre situated in  
13 an urban area and open to public use on such conditions as may be  
14 reasonably required by the legislative body granting the open space  
15 classification, or (c) any land meeting the definition of farm and  
16 agricultural conservation land under subsection (8) of this section.  
17 As a condition of granting open space classification, the legislative  
18 body may not require public access on land classified under (b)(iii) of  
19 this subsection for the purpose of promoting conservation of wetlands.

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

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

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

25 (ii) Enrolled in the federal conservation reserve program or its  
26 successor administered by the United States department of agriculture;  
27 or

28 (iii) Other similar commercial activities as may be established by  
29 rule;

30 (b)(i) Any parcel of land that is five acres or more but less than  
31 twenty acres devoted primarily to agricultural uses, which has produced  
32 a gross income from agricultural uses equivalent to, as of January 1,  
33 1993:

34 (A) One hundred dollars or more per acre per year for three of the  
35 five calendar years preceding the date of application for  
36 classification under this chapter for all parcels of land that are  
37 classified under this subsection or all parcels of land for which an

1 application for classification under this subsection is made with the  
2 granting authority prior to January 1, 1993; and

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

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

10 (c) Any parcel of land of less than five acres devoted primarily to  
11 agricultural uses which has produced a gross income as of January 1,  
12 1993, of:

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

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

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

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

33 (ii) Has standing crops with an expectation of harvest within seven  
34 years, except as provided in (d)(iii) of this subsection, and a  
35 demonstrable investment in the production of those crops equivalent to  
36 one hundred dollars or more per acre in the current or previous  
37 calendar year. For the purposes of this subsection (2)(d)(ii),  
38 "standing crop" means Christmas trees, vineyards, fruit trees, or other

1 perennial crops that: (A) Are planted using agricultural methods  
2 normally used in the commercial production of that particular crop; and  
3 (B) typically do not produce harvestable quantities in the initial  
4 years after planting; or

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

9 (e) Any lands including incidental uses as are compatible with  
10 agricultural purposes, including wetlands preservation, provided such  
11 incidental use does not exceed twenty percent of the classified land  
12 and the land on which appurtenances necessary to the production,  
13 preparation, or sale of the agricultural products exist in conjunction  
14 with the lands producing such products. Agricultural lands also  
15 include any parcel of land of one to five acres, which is not  
16 contiguous, but which otherwise constitutes an integral part of farming  
17 operations being conducted on land qualifying under this section as  
18 "farm and agricultural lands." Notwithstanding anything to the  
19 contrary in this subsection (2)(e), land specifically excluded under  
20 (h) of this subsection does not qualify as "farm and agricultural land"  
21 under this subsection (2)(e);

22 (f) The land on which housing for employees and the principal place  
23 of residence of the farm operator or owner of land classified pursuant  
24 to (a) of this subsection is sited if: The housing or residence is on  
25 or contiguous to the classified parcel; and the use of the housing or  
26 the residence is integral to the use of the classified land for  
27 agricultural purposes; (~~(e)~~)

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

33 (h) Any land primarily used for commercial horticultural purposes,  
34 including growing seedlings, trees, shrubs, vines, fruits, vegetables,  
35 flowers, herbs, and other plants in containers, whether under a  
36 structure or not. Land used for commercial horticultural purposes  
37 cannot exceed an area reasonably necessary for such purposes. If the  
38 land classified under this subsection (2)(h), in addition to any

1 contiguous land classified under this subsection, is less than twenty  
2 acres, it must meet the applicable income or investment requirements in  
3 (b), (c), or (d) of this subsection. Any parcel that is less than five  
4 acres and used primarily to grow plants in containers does not qualify  
5 as "farm and agricultural land" if more than twenty-five percent of the  
6 parcel is open to the general public for on-site retail sales.

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

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

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

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

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

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

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

31 (B) Owned by:

32 (I) Members of the same family;

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

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

- 1 (ii) "Family" includes only:
- 2 (A) An individual and his or her spouse or domestic partner, child,  
3 stepchild, adopted child, grandchild, parent, stepparent, grandparent,  
4 cousin, or sibling;
- 5 (B) The spouse or domestic partner of an individual's child,  
6 stepchild, adopted child, grandchild, parent, stepparent, grandparent,  
7 cousin, or sibling;
- 8 (C) A child, stepchild, adopted child, grandchild, parent,  
9 stepparent, grandparent, cousin, or sibling of the individual's spouse  
10 or the individual's domestic partner; and
- 11 (D) The spouse or domestic partner of any individual described in  
12 (b)(ii)(C) of this subsection (6).
- 13 (7) "Granting authority" means the appropriate agency or official  
14 who acts on an application for classification of land pursuant to this  
15 chapter.
- 16 (8) "Farm and agricultural conservation land" means either:
- 17 (a) Land that was previously classified under subsection (2) of  
18 this section, that no longer meets the criteria of subsection (2) of  
19 this section, and that is reclassified under subsection (1) of this  
20 section; or
- 21 (b) Land that is traditional farmland that is not classified under  
22 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a  
23 use inconsistent with agricultural uses, and that has a high potential  
24 for returning to commercial agriculture.

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

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