

1 payments that would be due, if, at a later date, the owner decides to
2 remove such land from farm and agricultural land current use
3 classification and additional tax is owed at the time of removal under
4 RCW 84.34.108(4)(a). However, prepayments made under this section may
5 not in any one tax year exceed the difference between the property tax
6 paid as farm and agricultural land and the amount of property tax
7 otherwise due and payable, for the year in which the prepayment is
8 made, had the land not been classified as farm and agricultural land.
9 Interest does not accrue on prepayments made for an additional tax
10 whether applied to the additional tax or used as a credit for other tax
11 due.

12 (b) An owner that makes prepayments under this subsection (2) and
13 later decides to not remove the farm and agricultural land from current
14 use classification may request to have such prepayments applied as a
15 credit against any property tax due in the county of the farm and
16 agricultural land by the owner. The credit may be carried forward
17 until such prepayments have been used in full. No refunds of
18 prepayments may be issued under this section.

19 (3) This section only applies if a county elects to accept
20 prepayments as provided in subsections (1) and (2) of this section.
21 Nothing in this section requires a county to accept prepayments from
22 landowners to be applied towards additional tax payments that would be
23 due as a result of a current use classification change.

24 **Sec. 2.** RCW 84.34.108 and 2009 c 513 s 2, 2009 c 354 s 3, 2009 c
25 255 s 2, and 2009 c 246 s 3 are each reenacted and amended to read as
26 follows:

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

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

35 (b) Sale or transfer to an ownership, except a transfer that
36 resulted from a default in loan payments made to or secured by a

1 governmental agency that intends to or is required by law or regulation
2 to resell the property for the same use as before, making all or a
3 portion of the land exempt from ad valorem taxation;

4 (c) Sale or transfer of all or a portion of the land to a new
5 owner, unless the new owner has signed a notice of classification
6 continuance, except transfer to an owner who is an heir or devisee of
7 a deceased owner (~~shall~~) may not, by itself, result in removal of
8 classification. The notice of continuance (~~shall~~) must be on a form
9 prepared by the department. If the notice of continuance is not signed
10 by the new owner and attached to the real estate excise tax affidavit,
11 all additional taxes calculated pursuant to subsection (4) of this
12 section (~~shall~~) become due and payable by the seller or transferor at
13 time of sale. The auditor (~~shall~~) may not accept an instrument of
14 conveyance regarding classified land for filing or recording unless the
15 new owner has signed the notice of continuance or the additional tax
16 has been paid, as evidenced by the real estate excise tax stamp affixed
17 thereto by the treasurer. The seller, transferor, or new owner may
18 appeal the new assessed valuation calculated under subsection (4) of
19 this section to the county board of equalization in accordance with the
20 provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the
21 county board of equalization to hear these appeals;

22 (d)(i) Determination by the assessor, after giving the owner
23 written notice and an opportunity to be heard, that all or a portion of
24 the land no longer meets the criteria for classification under this
25 chapter. The criteria for classification pursuant to this chapter
26 continue to apply after classification has been granted.

27 (ii) The granting authority, upon request of an assessor, (~~shall~~)
28 must provide reasonable assistance to the assessor in making a
29 determination whether the land continues to meet the qualifications of
30 RCW 84.34.020 (1) or (3). The assistance (~~shall~~) must be provided
31 within thirty days of receipt of the request.

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

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

35 (b) The creation, sale, or transfer of a fee interest or a
36 conservation easement for the riparian open space program under RCW
37 76.09.040.

1 (3) Within thirty days after the removal of all or a portion of the
2 land from current use classification under subsection (1) of this
3 section, the assessor (~~shall~~) must notify the owner in writing,
4 setting forth the reasons for the removal. The seller, transferor, or
5 owner may appeal the removal to the county board of equalization in
6 accordance with the provisions of RCW 84.40.038. The removal notice
7 must explain the steps needed to appeal the removal decision, including
8 when a notice of appeal must be filed, where the forms may be obtained,
9 and how to contact the county board of equalization.

10 (4) Unless the removal is reversed on appeal, the assessor
11 (~~shall~~) must revalue the affected land with reference to its true and
12 fair value on January 1st of the year of removal from classification.
13 Both the assessed valuation before and after the removal of
14 classification (~~shall~~) must be listed and taxes (~~shall~~) must be
15 allocated according to that part of the year to which each assessed
16 valuation applies. Except as provided in subsection (6) of this
17 section, an additional tax, applicable interest, and penalty (~~shall~~)
18 must be imposed, which (~~shall be~~) is due and payable to the treasurer
19 thirty days after the owner is notified of the amount of the additional
20 tax. As soon as possible, the assessor (~~shall~~) must compute the
21 amount of additional tax, applicable interest, and penalty and the
22 treasurer (~~shall~~) must mail notice to the owner of the amount thereof
23 and the date on which payment is due. The amount of the additional
24 tax, applicable interest, and penalty (~~shall be~~) is determined as
25 follows:

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

31 (b) The amount of applicable interest (~~shall be~~) is equal to the
32 interest upon the amounts of the additional tax paid at the same
33 statutory rate charged on delinquent property taxes from the dates on
34 which the additional tax could have been paid without penalty if the
35 land had been assessed at a value without regard to this chapter.
36 Interest is not charged under this section if the removal satisfies the
37 conditions of section 1 of this act;

1 (c) The amount of the penalty (~~shall be~~) is as provided in RCW
2 84.34.080. The penalty (~~shall~~) may not be imposed if the removal
3 satisfies the conditions of RCW 84.34.070 or section 1 of this act.

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

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

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

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

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

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

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

36 (f) Acquisition of property interests by state agencies or agencies
37 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
38 purposes enumerated in those sections. At such time as these property

1 interests are not used for the purposes enumerated in RCW 84.34.210 and
2 64.04.130 the additional tax specified in subsection (4) of this
3 section (~~shall~~) must be imposed;

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

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

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

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

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

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

28 (ii) For purposes of this subsection (6), the discovery that land
29 was classified under this chapter in error through no fault of the
30 owner is not the sole reason for removal of classification pursuant to
31 subsection (1) of this section if an independent basis for removal
32 exists. Examples of an independent basis for removal include the owner
33 changing the use of the land or failing to meet any applicable income
34 criteria required for classification under this chapter.

35 **Sec. 3.** RCW 84.34.080 and 1999 sp.s. c 4 s 705 are each amended to
36 read as follows:

37 When land which has been classified under this chapter as open

1 space land, farm and agricultural land, or timber land is applied to
2 some other use, except through compliance with RCW 84.34.070 or section
3 1 of this act, or except as a result solely from any one of the
4 conditions listed in RCW 84.34.108(6), the owner (~~shall~~) must within
5 sixty days notify the county assessor of such change in use and
6 additional real property tax (~~shall~~) must be imposed upon such land
7 in an amount equal to the sum of the following:

8 (1) The total amount of the additional tax and applicable interest
9 due under RCW 84.34.108; plus

10 (2) A penalty amounting to twenty percent of the amount determined
11 in subsection (1) of this section.

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