

HB 1309 - H AMD 277

By Representative Steele

ADOPTED 04/20/2017

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

3 "NEW SECTION. **Sec. 1.** (1) This section is the tax preference
4 performance statement for the tax preference contained in section
5 4(15), chapter . . ., Laws of 2017 (section 4(15) of this act). This
6 preference statement is only intended to be used for subsequent
7 evaluation of the tax preference. It is not intended to create a
8 private right of action by any party or be used to determine
9 eligibility for preferential tax treatment.

10 (2) The legislature categorizes this tax preference as one
11 intended to provide tax relief as indicated in RCW 82.32.808(2)(e),
12 to grant land removed from the designated forestland due to natural
13 disaster an exemption from compensating tax.

14 (3) The joint legislative audit and review committee must review
15 the revenue impact attributable to the tax exemption in section
16 4(15), chapter . . ., Laws of 2017 (section 4(15) of this act), by
17 county and statewide. In order to obtain the data necessary to
18 perform the review, the joint legislative audit and review committee
19 may refer to data sources including county assessor records and
20 information from the department of revenue.

21 NEW SECTION. **Sec. 2.** (1) The legislature intends section 3 of
22 this act to clarify that land removed from the current use
23 classification due to wildfire, rather than by virtue of an act of
24 the landowner changing the use of the property, is not subject to
25 additional tax, applicable interest, and penalty, as provided in RCW
26 84.34.108(6)(c). The section clarifies an ambiguity in current law
27 and therefore is exempt from the provisions of RCW 82.32.805.

28 (2) The automatic expiration date provisions of RCW
29 82.32.805(1)(a) do not apply to section 3 of this act.

1 **Sec. 3.** RCW 84.34.108 and 2014 c 97 s 311 and 2014 c 58 s 28 are
2 each reenacted and amended to read as follows:

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

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

11 (b) Sale or transfer to an ownership, except a transfer that
12 resulted from a default in loan payments made to or secured by a
13 governmental agency that intends to or is required by law or
14 regulation to resell the property for the same use as before, making
15 all or a portion of the land exempt from ad valorem taxation;

16 (c) Sale or transfer of all or a portion of the land to a new
17 owner, unless the new owner has signed a notice of classification
18 continuance, except transfer to an owner who is an heir or devisee of
19 a deceased owner or transfer by a transfer on death deed does not, by
20 itself, result in removal of classification. The notice of
21 continuance must be on a form prepared by the department. If the
22 notice of continuance is not signed by the new owner and attached to
23 the real estate excise tax affidavit, all additional taxes,
24 applicable interest, and penalty calculated pursuant to subsection
25 (4) of this section become due and payable by the seller or
26 transferor at time of sale. The auditor may not accept an instrument
27 of conveyance regarding classified land for filing or recording
28 unless the new owner has signed the notice of continuance or the
29 additional tax, applicable interest, and penalty has been paid, as
30 evidenced by the real estate excise tax stamp affixed thereto by the
31 treasurer. The seller, transferor, or new owner may appeal the new
32 assessed valuation calculated under subsection (4) of this section to
33 the county board of equalization in accordance with the provisions of
34 RCW 84.40.038. Jurisdiction is hereby conferred on the county board
35 of equalization to hear these appeals;

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

1 (ii) The granting authority, upon request of an assessor, must
2 provide reasonable assistance to the assessor in making a
3 determination whether the land continues to meet the qualifications
4 of RCW 84.34.020 (1) or (3). The assistance must be provided within
5 thirty days of receipt of the request.

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

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

9 (b) The creation, sale, or transfer of a fee interest or a
10 conservation easement for the riparian open space program under RCW
11 76.09.040.

12 (3) Within thirty days after the removal of all or a portion of
13 the land from current use classification under subsection (1) of this
14 section, the assessor must notify the owner in writing, setting forth
15 the reasons for the removal. The seller, transferor, or owner may
16 appeal the removal to the county board of equalization in accordance
17 with the provisions of RCW 84.40.038. The removal notice must explain
18 the steps needed to appeal the removal decision, including when a
19 notice of appeal must be filed, where the forms may be obtained, and
20 how to contact the county board of equalization.

21 (4) Unless the removal is reversed on appeal, the assessor must
22 revalue the affected land with reference to its true and fair value
23 on January 1st of the year of removal from classification. Both the
24 assessed valuation before and after the removal of classification
25 must be listed and taxes must be allocated according to that part of
26 the year to which each assessed valuation applies. Except as provided
27 in subsection (6) of this section, an additional tax, applicable
28 interest, and penalty must be imposed, which are due and payable to
29 the treasurer thirty days after the owner is notified of the amount
30 of the additional tax, applicable interest, and penalty. As soon as
31 possible, the assessor must compute the amount of additional tax,
32 applicable interest, and penalty and the treasurer must mail notice
33 to the owner of the amount thereof and the date on which payment is
34 due. The amount of the additional tax, applicable interest, and
35 penalty must be determined as follows:

36 (a) The amount of additional tax is equal to the difference
37 between the property tax paid as "open space land," "farm and
38 agricultural land," or "timberland" and the amount of property tax
39 otherwise due and payable for the seven years last past had the land
40 not been so classified;

1 (b) The amount of applicable interest is equal to the interest
2 upon the amounts of the additional tax paid at the same statutory
3 rate charged on delinquent property taxes from the dates on which the
4 additional tax could have been paid without penalty if the land had
5 been assessed at a value without regard to this chapter;

6 (c) The amount of the penalty must be as provided in RCW
7 84.34.080. The penalty may not be imposed if the removal satisfies
8 the conditions of RCW 84.34.070.

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

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

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

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

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

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

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

1 (f) Acquisition of property interests by state agencies or
2 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
3 for the purposes enumerated in those sections. At such time as these
4 property interests are not used for the purposes enumerated in RCW
5 84.34.210 and 64.04.130 the additional tax specified in subsection
6 (4) of this section must be imposed;

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

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

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

14 (j) The creation, sale, or transfer of a conservation easement of
15 private forestlands within unconfined channel migration zones or
16 containing critical habitat for threatened or endangered species
17 under RCW 76.09.040;

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

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

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

1 **Sec. 4.** RCW 84.33.140 and 2014 c 137 s 3, 2014 c 97 s 309, and
2 2014 c 58 s 27 are each reenacted and amended to read as follows:

3 (1) When land has been designated as forestland under RCW
4 84.33.130, a notation of the designation must be made each year upon
5 the assessment and tax rolls. A copy of the notice of approval
6 together with the legal description or assessor's parcel numbers for
7 the land must, at the expense of the applicant, be filed by the
8 assessor in the same manner as deeds are recorded.

9 (2) In preparing the assessment roll as of January 1, 2002, for
10 taxes payable in 2003 and each January 1st thereafter, the assessor
11 must list each parcel of designated forestland at a value with
12 respect to the grade and class provided in this subsection and
13 adjusted as provided in subsection (3) of this section. The assessor
14 must compute the assessed value of the land using the same assessment
15 ratio applied generally in computing the assessed value of other
16 property in the county. Values for the several grades of bare
17 forestland are as follows:

LAND	OPERABILITY	VALUES
GRADE	CLASS	PER ACRE
	1	\$234
1	2	229
	3	217
	4	157
	1	198
2	2	190
	3	183
	4	132
	1	154
3	2	149
	3	148
	4	113
	1	117
4	2	114
	3	113
	4	86

1		1	85
2	5	2	78
3		3	77
4		4	52
5		1	43
6	6	2	39
7		3	39
8		4	37
9		1	21
10	7	2	21
11		3	20
12		4	20
13	8		1

14 (3) On or before December 31, 2001, the department must adjust by
15 rule under chapter 34.05 RCW, the forestland values contained in
16 subsection (2) of this section in accordance with this subsection,
17 and must certify the adjusted values to the assessor who will use
18 these values in preparing the assessment roll as of January 1, 2002.
19 For the adjustment to be made on or before December 31, 2001, for use
20 in the 2002 assessment year, the department must:

21 (a) Divide the aggregate value of all timber harvested within the
22 state between July 1, 1996, and June 30, 2001, by the aggregate
23 harvest volume for the same period, as determined from the harvester
24 excise tax returns filed with the department under RCW 84.33.074; and

25 (b) Divide the aggregate value of all timber harvested within the
26 state between July 1, 1995, and June 30, 2000, by the aggregate
27 harvest volume for the same period, as determined from the harvester
28 excise tax returns filed with the department under RCW 84.33.074; and

29 (c) Adjust the forestland values contained in subsection (2) of
30 this section by a percentage equal to one-half of the percentage
31 change in the average values of harvested timber reflected by
32 comparing the resultant values calculated under (a) and (b) of this
33 subsection.

34 (4) For the adjustments to be made on or before December 31,
35 2002, and each succeeding year thereafter, the same procedure
36 described in subsection (3) of this section must be followed using

1 harvester excise tax returns filed under RCW 84.33.074. However, this
2 adjustment must be made to the prior year's adjusted value, and the
3 five-year periods for calculating average harvested timber values
4 must be successively one year more recent.

5 (5) Land graded, assessed, and valued as forestland must continue
6 to be so graded, assessed, and valued until removal of designation by
7 the assessor upon the occurrence of any of the following:

8 (a) Receipt of notice of request to withdraw land classified
9 under RCW 84.34.020(3) within two years before the date of the merger
10 under RCW 84.34.400. Land previously classified under chapter 84.34
11 RCW will be removed under the provisions of this chapter when two
12 assessment years have passed following receipt of the notice as
13 described in RCW 84.34.070(1);

14 (b) Receipt of notice from the owner to remove the designation;

15 (c) Sale or transfer to an ownership making the land exempt from
16 ad valorem taxation;

17 (d) Sale or transfer of all or a portion of the land to a new
18 owner, unless the new owner has signed a notice of forestland
19 designation continuance, except transfer to an owner who is an heir
20 or devisee of a deceased owner or transfer by a transfer on death
21 deed, does not, by itself, result in removal of designation. The
22 signed notice of continuance must be attached to the real estate
23 excise tax affidavit provided for in RCW 82.45.150. The notice of
24 continuance must be on a form prepared by the department. If the
25 notice of continuance is not signed by the new owner and attached to
26 the real estate excise tax affidavit, all compensating taxes
27 calculated under subsection (11) of this section are due and payable
28 by the seller or transferor at time of sale. The auditor may not
29 accept an instrument of conveyance regarding designated forestland
30 for filing or recording unless the new owner has signed the notice of
31 continuance or the compensating tax has been paid, as evidenced by
32 the real estate excise tax stamp affixed thereto by the treasurer.
33 The seller, transferor, or new owner may appeal the new assessed
34 valuation calculated under subsection (11) of this section to the
35 county board of equalization in accordance with the provisions of RCW
36 84.40.038. Jurisdiction is hereby conferred on the county board of
37 equalization to hear these appeals;

38 (e) Determination by the assessor, after giving the owner written
39 notice and an opportunity to be heard, that:

1 (i) The land is no longer primarily devoted to and used for
2 growing and harvesting timber. However, land may not be removed from
3 designation if a governmental agency, organization, or other
4 recipient identified in subsection (13) or (14) of this section as
5 exempt from the payment of compensating tax has manifested its intent
6 in writing or by other official action to acquire a property interest
7 in the designated forestland by means of a transaction that qualifies
8 for an exemption under subsection (13) or (14) of this section. The
9 governmental agency, organization, or recipient must annually provide
10 the assessor of the county in which the land is located reasonable
11 evidence in writing of the intent to acquire the designated land as
12 long as the intent continues or within sixty days of a request by the
13 assessor. The assessor may not request this evidence more than once
14 in a calendar year;

15 (ii) The owner has failed to comply with a final administrative
16 or judicial order with respect to a violation of the restocking,
17 forest management, fire protection, insect and disease control, and
18 forest debris provisions of Title 76 RCW or any applicable rules
19 under Title 76 RCW; or

20 (iii) Restocking has not occurred to the extent or within the
21 time specified in the application for designation of such land.

22 (6) Land may not be removed from designation if there is a
23 governmental restriction that prohibits, in whole or in part, the
24 owner from harvesting timber from the owner's designated forestland.
25 If only a portion of the parcel is impacted by governmental
26 restrictions of this nature, the restrictions cannot be used as a
27 basis to remove the remainder of the forestland from designation
28 under this chapter. For the purposes of this section, "governmental
29 restrictions" includes: (a) Any law, regulation, rule, ordinance,
30 program, or other action adopted or taken by a federal, state,
31 county, city, or other governmental entity; or (b) the land's zoning
32 or its presence within an urban growth area designated under RCW
33 36.70A.110.

34 (7) The assessor has the option of requiring an owner of
35 forestland to file a timber management plan with the assessor upon
36 the occurrence of one of the following:

37 (a) An application for designation as forestland is submitted;

38 (b) Designated forestland is sold or transferred and a notice of
39 continuance, described in subsection (5)(d) of this section, is
40 signed; or

1 (c) The assessor has reason to believe that forestland sized less
2 than twenty acres is no longer primarily devoted to and used for
3 growing and harvesting timber. The assessor may require a timber
4 management plan to assist with determining continuing eligibility as
5 designated forestland.

6 (8) If land is removed from designation because of any of the
7 circumstances listed in subsection (5)(a) through (d) of this
8 section, the removal applies only to the land affected. If land is
9 removed from designation because of subsection (5)(e) of this
10 section, the removal applies only to the actual area of land that is
11 no longer primarily devoted to the growing and harvesting of timber,
12 without regard to any other land that may have been included in the
13 application and approved for designation, as long as the remaining
14 designated forestland meets the definition of forestland contained in
15 RCW 84.33.035.

16 (9) Within thirty days after the removal of designation as
17 forestland, the assessor must notify the owner in writing, setting
18 forth the reasons for the removal. The seller, transferor, or owner
19 may appeal the removal to the county board of equalization in
20 accordance with the provisions of RCW 84.40.038.

21 (10) Unless the removal is reversed on appeal a copy of the
22 notice of removal with a notation of the action, if any, upon appeal,
23 together with the legal description or assessor's parcel numbers for
24 the land removed from designation must, at the expense of the
25 applicant, be filed by the assessor in the same manner as deeds are
26 recorded and a notation of removal from designation must immediately
27 be made upon the assessment and tax rolls. The assessor must revalue
28 the land to be removed with reference to its true and fair value as
29 of January 1st of the year of removal from designation. Both the
30 assessed value before and after the removal of designation must be
31 listed. Taxes based on the value of the land as forestland are
32 assessed and payable up until the date of removal and taxes based on
33 the true and fair value of the land are assessed and payable from the
34 date of removal from designation.

35 (11) Except as provided (~~in subsection (5)(d), (13), or (14)~~
36 ~~of~~) otherwise in this section, a compensating tax is imposed on land
37 removed from designation as forestland. The compensating tax is due
38 and payable to the treasurer thirty days after the owner is notified
39 of the amount of this tax. As soon as possible after the land is
40 removed from designation, the assessor must compute the amount of

1 compensating tax, and the treasurer must mail a notice to the owner
2 of the amount of compensating tax owed and the date on which payment
3 of this tax is due. The amount of compensating tax is equal to the
4 difference between the amount of tax last levied on the land as
5 designated forestland and an amount equal to the new assessed value
6 of the land multiplied by the dollar rate of the last levy extended
7 against the land, multiplied by a number, in no event greater than
8 nine, equal to the number of years for which the land was designated
9 as forestland, plus compensating taxes on the land at forestland
10 values up until the date of removal and the prorated taxes on the
11 land at true and fair value from the date of removal to the end of
12 the current tax year.

13 (12) Compensating tax, together with applicable interest thereon,
14 becomes a lien on the land, which attaches at the time the land is
15 removed from designation as forestland and has priority and must be
16 fully paid and satisfied before any recognizance, mortgage, judgment,
17 debt, obligation, or responsibility to or with which the land may
18 become charged or liable. The lien may be foreclosed upon expiration
19 of the same period after delinquency and in the same manner provided
20 by law for foreclosure of liens for delinquent real property taxes as
21 provided in RCW 84.64.050. Any compensating tax unpaid on its due
22 date will thereupon become delinquent. From the date of delinquency
23 until paid, interest is charged at the same rate applied by law to
24 delinquent ad valorem property taxes.

25 (13) The compensating tax specified in subsection (11) of this
26 section may not be imposed if the removal of designation under
27 subsection (5) of this section resulted solely from:

28 (a) Transfer to a government entity in exchange for other
29 forestland located within the state of Washington;

30 (b)(i) A taking through the exercise of the power of eminent
31 domain, or (ii) a sale or transfer to an entity having the power of
32 eminent domain in anticipation of the exercise of such power based on
33 official action taken by the entity and confirmed in writing;

34 (c) A donation of fee title, development rights, or the right to
35 harvest timber, to a government agency or organization qualified
36 under RCW 84.34.210 and 64.04.130 for the purposes enumerated in
37 those sections, or the sale or transfer of fee title to a
38 governmental entity or a nonprofit nature conservancy corporation, as
39 defined in RCW 64.04.130, exclusively for the protection and
40 conservation of lands recommended for state natural area preserve

1 purposes by the natural heritage council and natural heritage plan as
2 defined in chapter 79.70 RCW or approved for state natural resources
3 conservation area purposes as defined in chapter 79.71 RCW, or for
4 acquisition and management as a community forest trust as defined in
5 chapter 79.155 RCW. At such time as the land is not used for the
6 purposes enumerated, the compensating tax specified in subsection
7 (11) of this section is imposed upon the current owner;

8 (d) The sale or transfer of fee title to the parks and recreation
9 commission for park and recreation purposes;

10 (e) Official action by an agency of the state of Washington or by
11 the county or city within which the land is located that disallows
12 the present use of the land;

13 (f) The creation, sale, or transfer of forestry riparian
14 easements under RCW 76.13.120;

15 (g) The creation, sale, or transfer of a conservation easement of
16 private forestlands within unconfined channel migration zones or
17 containing critical habitat for threatened or endangered species
18 under RCW 76.09.040;

19 (h) The sale or transfer of land within two years after the death
20 of the owner of at least a fifty percent interest in the land if the
21 land has been assessed and valued as classified forestland,
22 designated as forestland under this chapter, or classified under
23 chapter 84.34 RCW continuously since 1993. The date of death shown on
24 a death certificate is the date used for the purposes of this
25 subsection (13)(h); or

26 (i)(i) The discovery that the land was designated under this
27 chapter in error through no fault of the owner. For purposes of this
28 subsection (13)(i), "fault" means a knowingly false or misleading
29 statement, or other act or omission not in good faith, that
30 contributed to the approval of designation under this chapter or the
31 failure of the assessor to remove the land from designation under
32 this chapter.

33 (ii) For purposes of this subsection (13), the discovery that
34 land was designated under this chapter in error through no fault of
35 the owner is not the sole reason for removal of designation under
36 subsection (5) of this section if an independent basis for removal
37 exists. An example of an independent basis for removal includes the
38 land no longer being devoted to and used for growing and harvesting
39 timber.

1 (14) In a county with a population of more than six hundred
2 thousand inhabitants or in a county with a population of at least two
3 hundred forty-five thousand inhabitants that borders Puget Sound as
4 defined in RCW 90.71.010, the compensating tax specified in
5 subsection (11) of this section may not be imposed if the removal of
6 designation as forestland under subsection (5) of this section
7 resulted solely from:

8 (a) An action described in subsection (13) of this section; or

9 (b) A transfer of a property interest to a government entity, or
10 to a nonprofit historic preservation corporation or nonprofit nature
11 conservancy corporation, as defined in RCW 64.04.130, to protect or
12 enhance public resources, or to preserve, maintain, improve, restore,
13 limit the future use of, or otherwise to conserve for public use or
14 enjoyment, the property interest being transferred. At such time as
15 the property interest is not used for the purposes enumerated, the
16 compensating tax is imposed upon the current owner.

17 (15) Compensating tax authorized in this section may not be
18 imposed on land removed from designation as forestland solely as a
19 result of a natural disaster such as a flood, windstorm, earthquake,
20 wildfire, or other such calamity rather than by virtue of the act of
21 the landowner changing the use of the property.

22 NEW SECTION. Sec. 5. Section 4 of this act expires January 1,
23 2028."

24 Correct the title.

EFFECT: (1) Makes a technical correction by amending RCW
84.33.140, in lieu of RCW 84.33.145, to grant land removed from the
designated forestland due to natural disaster an exemption from
compensating tax.

(2) Provides intent language, specifying that section 3 of this
act, related to current use valuation, clarifies existing law and
therefore is not subject to the 10-year expiration date requirement
for new and expanded tax preferences.

(3) Provides a tax preference performance statement and 10-year
expiration date for section 4 of this act, the compensating tax
exemption for land removed from the designated forestland program due
to natural disaster.

(4) Directs the Joint Legislative Audit and Review Committee to
review the revenue impact attributable to the compensating tax
exemption provided in section 4 of this act.

--- END ---