
ENGROSSED HOUSE BILL 1309

State of Washington 65th Legislature 2017 Regular Session

By Representatives Steele, Chapman, Kretz, and Condotta

Read first time 01/17/17. Referred to Committee on Finance.

1 AN ACT Relating to removal of land from the current use property
2 tax classification due to certain natural disasters; reenacting and
3 amending RCW 84.34.108 and 84.33.140; creating new sections; and
4 providing an expiration date.

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

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

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

17 (3) The joint legislative audit and review committee must review
18 the revenue impact attributable to the tax exemption in section
19 4(15), chapter . . . , Laws of 2017 (section 4(15) of this act), by
20 county and statewide. In order to obtain the data necessary to
21 perform the review, the joint legislative audit and review committee

1 may refer to data sources including county assessor records and
2 information from the department of revenue.

3 NEW SECTION. **Sec. 2.** (1) The legislature intends section 3 of
4 this act to clarify that land removed from the current use
5 classification due to wildfire, rather than by virtue of an act of
6 the landowner changing the use of the property, is not subject to
7 additional tax, applicable interest, and penalty, as provided in RCW
8 84.34.108(6)(c). The section clarifies an ambiguity in current law
9 and therefore is exempt from the provisions of RCW 82.32.805.

10 (2) The automatic expiration date provisions of RCW
11 82.32.805(1)(a) do not apply to section 3 of this act.

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

14 (1) When land has once been classified under this chapter, a
15 notation of the classification must be made each year upon the
16 assessment and tax rolls and the land must be valued pursuant to RCW
17 84.34.060 or 84.34.065 until removal of all or a portion of the
18 classification by the assessor upon occurrence of any of the
19 following:

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

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

27 (c) Sale or transfer of all or a portion of the land to a new
28 owner, unless the new owner has signed a notice of classification
29 continuance, except transfer to an owner who is an heir or devisee of
30 a deceased owner or transfer by a transfer on death deed does not, by
31 itself, result in removal of classification. The notice of
32 continuance must be on a form prepared by the department. If the
33 notice of continuance is not signed by the new owner and attached to
34 the real estate excise tax affidavit, all additional taxes,
35 applicable interest, and penalty calculated pursuant to subsection
36 (4) of this section become due and payable by the seller or
37 transferor at time of sale. The auditor may not accept an instrument
38 of conveyance regarding classified land for filing or recording

1 unless the new owner has signed the notice of continuance or the
2 additional tax, applicable interest, and penalty has been paid, as
3 evidenced by the real estate excise tax stamp affixed thereto by the
4 treasurer. The seller, transferor, or new owner may appeal the new
5 assessed valuation calculated under subsection (4) of this section to
6 the county board of equalization in accordance with the provisions of
7 RCW 84.40.038. Jurisdiction is hereby conferred on the county board
8 of equalization to hear these appeals;

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

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

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

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

22 (b) The creation, sale, or transfer of a fee interest or a
23 conservation easement for the riparian open space program under RCW
24 76.09.040.

25 (3) Within thirty days after the removal of all or a portion of
26 the land from current use classification under subsection (1) of this
27 section, the assessor must notify the owner in writing, setting forth
28 the reasons for the removal. The seller, transferor, or owner may
29 appeal the removal to the county board of equalization in accordance
30 with the provisions of RCW 84.40.038. The removal notice must explain
31 the steps needed to appeal the removal decision, including when a
32 notice of appeal must be filed, where the forms may be obtained, and
33 how to contact the county board of equalization.

34 (4) Unless the removal is reversed on appeal, the assessor must
35 revalue the affected land with reference to its true and fair value
36 on January 1st of the year of removal from classification. Both the
37 assessed valuation before and after the removal of classification
38 must be listed and taxes must be allocated according to that part of
39 the year to which each assessed valuation applies. Except as provided
40 in subsection (6) of this section, an additional tax, applicable

1 interest, and penalty must be imposed, which are due and payable to
2 the treasurer thirty days after the owner is notified of the amount
3 of the additional tax, applicable interest, and penalty. As soon as
4 possible, the assessor must compute the amount of additional tax,
5 applicable interest, and penalty and the treasurer must mail notice
6 to the owner of the amount thereof and the date on which payment is
7 due. The amount of the additional tax, applicable interest, and
8 penalty must be determined as follows:

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

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

19 (c) The amount of the penalty must be as provided in RCW
20 84.34.080. The penalty may not be imposed if the removal satisfies
21 the conditions of RCW 84.34.070.

22 (5) Additional tax, applicable interest, and penalty become a
23 lien on the land that attaches at the time the land is removed from
24 classification under this chapter and have priority to and must be
25 fully paid and satisfied before any recognizance, mortgage, judgment,
26 debt, obligation, or responsibility to or with which the land may
27 become charged or liable. This lien may be foreclosed upon expiration
28 of the same period after delinquency and in the same manner provided
29 by law for foreclosure of liens for delinquent real property taxes as
30 provided in RCW 84.64.050. Any additional tax unpaid on the due date
31 (~~are~~~~is~~) is delinquent as of the due date. From the date of
32 delinquency until paid, interest must be charged at the same rate
33 applied by law to delinquent ad valorem property taxes.

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

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

1 (b)(i) A taking through the exercise of the power of eminent
2 domain, or (ii) sale or transfer to an entity having the power of
3 eminent domain in anticipation of the exercise of such power, said
4 entity having manifested its intent in writing or by other official
5 action;

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

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

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

14 (f) Acquisition of property interests by state agencies or
15 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
16 for the purposes enumerated in those sections. At such time as these
17 property interests are not used for the purposes enumerated in RCW
18 84.34.210 and 64.04.130 the additional tax specified in subsection
19 (4) of this section must be imposed;

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

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

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

27 (j) The creation, sale, or transfer of a conservation easement of
28 private forestlands within unconfined channel migration zones or
29 containing critical habitat for threatened or endangered species
30 under RCW 76.09.040;

31 (k) The sale or transfer of land within two years after the death
32 of the owner of at least a fifty percent interest in the land if the
33 land has been assessed and valued as classified forestland,
34 designated as forestland under chapter 84.33 RCW, or classified under
35 this chapter continuously since 1993. The date of death shown on a
36 death certificate is the date used for the purposes of this
37 subsection (6)(k); or

38 (l)(i) The discovery that the land was classified under this
39 chapter in error through no fault of the owner. For purposes of this
40 subsection (6)(l), "fault" means a knowingly false or misleading

1 statement, or other act or omission not in good faith, that
2 contributed to the approval of classification under this chapter or
3 the failure of the assessor to remove the land from classification
4 under this chapter.

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

12 **Sec. 4.** RCW 84.33.140 and 2014 c 137 s 3, 2014 c 97 s 309, and
13 2014 c 58 s 27 are each reenacted and amended to read as follows:

14 (1) When land has been designated as forestland under RCW
15 84.33.130, a notation of the designation must be made each year upon
16 the assessment and tax rolls. A copy of the notice of approval
17 together with the legal description or assessor's parcel numbers for
18 the land must, at the expense of the applicant, be filed by the
19 assessor in the same manner as deeds are recorded.

20 (2) In preparing the assessment roll as of January 1, 2002, for
21 taxes payable in 2003 and each January 1st thereafter, the assessor
22 must list each parcel of designated forestland at a value with
23 respect to the grade and class provided in this subsection and
24 adjusted as provided in subsection (3) of this section. The assessor
25 must compute the assessed value of the land using the same assessment
26 ratio applied generally in computing the assessed value of other
27 property in the county. Values for the several grades of bare
28 forestland are as follows:

29	LAND	OPERABILITY	VALUES
30	GRADE	CLASS	PER ACRE
31		1	\$234
32	1	2	229
33		3	217
34		4	157
35		1	198
36	2	2	190
37		3	183

1		4	132
2		1	154
3	3	2	149
4		3	148
5		4	113
6		1	117
7	4	2	114
8		3	113
9		4	86
10		1	85
11	5	2	78
12		3	77
13		4	52
14		1	43
15	6	2	39
16		3	39
17		4	37
18		1	21
19	7	2	21
20		3	20
21		4	20
22	8		1

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

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

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

5 (c) Adjust the forestland values contained in subsection (2) of
6 this section by a percentage equal to one-half of the percentage
7 change in the average values of harvested timber reflected by
8 comparing the resultant values calculated under (a) and (b) of this
9 subsection.

10 (4) For the adjustments to be made on or before December 31,
11 2002, and each succeeding year thereafter, the same procedure
12 described in subsection (3) of this section must be followed using
13 harvester excise tax returns filed under RCW 84.33.074. However, this
14 adjustment must be made to the prior year's adjusted value, and the
15 five-year periods for calculating average harvested timber values
16 must be successively one year more recent.

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

20 (a) Receipt of notice of request to withdraw land classified
21 under RCW 84.34.020(3) within two years before the date of the merger
22 under RCW 84.34.400. Land previously classified under chapter 84.34
23 RCW will be removed under the provisions of this chapter when two
24 assessment years have passed following receipt of the notice as
25 described in RCW 84.34.070(1);

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

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

29 (d) Sale or transfer of all or a portion of the land to a new
30 owner, unless the new owner has signed a notice of forestland
31 designation continuance, except transfer to an owner who is an heir
32 or devisee of a deceased owner or transfer by a transfer on death
33 deed, does not, by itself, result in removal of designation. The
34 signed notice of continuance must be attached to the real estate
35 excise tax affidavit provided for in RCW 82.45.150. The notice of
36 continuance must be on a form prepared by the department. If the
37 notice of continuance is not signed by the new owner and attached to
38 the real estate excise tax affidavit, all compensating taxes
39 calculated under subsection (11) of this section are due and payable
40 by the seller or transferor at time of sale. The auditor may not

1 accept an instrument of conveyance regarding designated forestland
2 for filing or recording unless the new owner has signed the notice of
3 continuance or the compensating tax has been paid, as evidenced by
4 the real estate excise tax stamp affixed thereto by the treasurer.
5 The seller, transferor, or new owner may appeal the new assessed
6 valuation calculated under subsection (11) of this section to the
7 county board of equalization in accordance with the provisions of RCW
8 84.40.038. Jurisdiction is hereby conferred on the county board of
9 equalization to hear these appeals;

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

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

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

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

33 (6) Land may not be removed from designation if there is a
34 governmental restriction that prohibits, in whole or in part, the
35 owner from harvesting timber from the owner's designated forestland.
36 If only a portion of the parcel is impacted by governmental
37 restrictions of this nature, the restrictions cannot be used as a
38 basis to remove the remainder of the forestland from designation
39 under this chapter. For the purposes of this section, "governmental
40 restrictions" includes: (a) Any law, regulation, rule, ordinance,

1 program, or other action adopted or taken by a federal, state,
2 county, city, or other governmental entity; or (b) the land's zoning
3 or its presence within an urban growth area designated under RCW
4 36.70A.110.

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

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

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

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

17 (8) If land is removed from designation because of any of the
18 circumstances listed in subsection (5)(a) through (d) of this
19 section, the removal applies only to the land affected. If land is
20 removed from designation because of subsection (5)(e) of this
21 section, the removal applies only to the actual area of land that is
22 no longer primarily devoted to the growing and harvesting of timber,
23 without regard to any other land that may have been included in the
24 application and approved for designation, as long as the remaining
25 designated forestland meets the definition of forestland contained in
26 RCW 84.33.035.

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

32 (10) Unless the removal is reversed on appeal a copy of the
33 notice of removal with a notation of the action, if any, upon appeal,
34 together with the legal description or assessor's parcel numbers for
35 the land removed from designation must, at the expense of the
36 applicant, be filed by the assessor in the same manner as deeds are
37 recorded and a notation of removal from designation must immediately
38 be made upon the assessment and tax rolls. The assessor must revalue
39 the land to be removed with reference to its true and fair value as
40 of January 1st of the year of removal from designation. Both the

1 assessed value before and after the removal of designation must be
2 listed. Taxes based on the value of the land as forestland are
3 assessed and payable up until the date of removal and taxes based on
4 the true and fair value of the land are assessed and payable from the
5 date of removal from designation.

6 (11) Except as provided (~~in subsection (5)(d), (13), or (14)~~
7 ~~ef~~)) otherwise in this section, a compensating tax is imposed on land
8 removed from designation as forestland. The compensating tax is due
9 and payable to the treasurer thirty days after the owner is notified
10 of the amount of this tax. As soon as possible after the land is
11 removed from designation, the assessor must compute the amount of
12 compensating tax, and the treasurer must mail a notice to the owner
13 of the amount of compensating tax owed and the date on which payment
14 of this tax is due. The amount of compensating tax is equal to the
15 difference between the amount of tax last levied on the land as
16 designated forestland and an amount equal to the new assessed value
17 of the land multiplied by the dollar rate of the last levy extended
18 against the land, multiplied by a number, in no event greater than
19 nine, equal to the number of years for which the land was designated
20 as forestland, plus compensating taxes on the land at forestland
21 values up until the date of removal and the prorated taxes on the
22 land at true and fair value from the date of removal to the end of
23 the current tax year.

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

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

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

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

5 (c) A donation of fee title, development rights, or the right to
6 harvest timber, to a government agency or organization qualified
7 under RCW 84.34.210 and 64.04.130 for the purposes enumerated in
8 those sections, or the sale or transfer of fee title to a
9 governmental entity or a nonprofit nature conservancy corporation, as
10 defined in RCW 64.04.130, exclusively for the protection and
11 conservation of lands recommended for state natural area preserve
12 purposes by the natural heritage council and natural heritage plan as
13 defined in chapter 79.70 RCW or approved for state natural resources
14 conservation area purposes as defined in chapter 79.71 RCW, or for
15 acquisition and management as a community forest trust as defined in
16 chapter 79.155 RCW. At such time as the land is not used for the
17 purposes enumerated, the compensating tax specified in subsection
18 (11) of this section is imposed upon the current owner;

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

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

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

26 (g) The creation, sale, or transfer of a conservation easement of
27 private forestlands within unconfined channel migration zones or
28 containing critical habitat for threatened or endangered species
29 under RCW 76.09.040;

30 (h) The sale or transfer of land within two years after the death
31 of the owner of at least a fifty percent interest in the land if the
32 land has been assessed and valued as classified forestland,
33 designated as forestland under this chapter, or classified under
34 chapter 84.34 RCW continuously since 1993. The date of death shown on
35 a death certificate is the date used for the purposes of this
36 subsection (13)(h); or

37 (i)(i) The discovery that the land was designated under this
38 chapter in error through no fault of the owner. For purposes of this
39 subsection (13)(i), "fault" means a knowingly false or misleading
40 statement, or other act or omission not in good faith, that

1 contributed to the approval of designation under this chapter or the
2 failure of the assessor to remove the land from designation under
3 this chapter.

4 (ii) For purposes of this subsection (13), the discovery that
5 land was designated under this chapter in error through no fault of
6 the owner is not the sole reason for removal of designation under
7 subsection (5) of this section if an independent basis for removal
8 exists. An example of an independent basis for removal includes the
9 land no longer being devoted to and used for growing and harvesting
10 timber.

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

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

19 (b) A transfer of a property interest to a government entity, or
20 to a nonprofit historic preservation corporation or nonprofit nature
21 conservancy corporation, as defined in RCW 64.04.130, to protect or
22 enhance public resources, or to preserve, maintain, improve, restore,
23 limit the future use of, or otherwise to conserve for public use or
24 enjoyment, the property interest being transferred. At such time as
25 the property interest is not used for the purposes enumerated, the
26 compensating tax is imposed upon the current owner.

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

32 NEW SECTION. **Sec. 5.** Section 4 of this act expires January 1,
33 2028.

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