
SENATE BILL 5188

State of Washington 65th Legislature 2017 Regular Session

By Senators Angel, Takko, Warnick, and Pearson

Read first time 01/16/17. Referred to Committee on Local Government.

1 AN ACT Relating to removal of land from the current use property
2 tax classification due to certain natural disasters; amending RCW
3 84.33.145; and reenacting and amending RCW 84.34.108.

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

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

7 (1) When land has once been classified under this chapter, a
8 notation of the classification must be made each year upon the
9 assessment and tax rolls and the land must be valued pursuant to RCW
10 84.34.060 or 84.34.065 until removal of all or a portion of the
11 classification by the assessor upon occurrence of any of the
12 following:

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

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

20 (c) Sale or transfer of all or a portion of the land to a new
21 owner, unless the new owner has signed a notice of classification

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

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

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

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

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

32 (b) The creation, sale, or transfer of a fee interest or a
33 conservation easement for the riparian open space program under RCW
34 76.09.040.

35 (3) Within thirty days after the removal of all or a portion of
36 the land from current use classification under subsection (1) of this
37 section, the assessor must notify the owner in writing, setting forth
38 the reasons for the removal. The seller, transferor, or owner may
39 appeal the removal to the county board of equalization in accordance
40 with the provisions of RCW 84.40.038. The removal notice must explain

1 the steps needed to appeal the removal decision, including when a
2 notice of appeal must be filed, where the forms may be obtained, and
3 how to contact the county board of equalization.

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

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

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

29 (c) The amount of the penalty must be as provided in RCW
30 84.34.080. The penalty may not be imposed if the removal satisfies
31 the conditions of RCW 84.34.070.

32 (5) Additional tax, applicable interest, and penalty become a
33 lien on the land that attaches at the time the land is removed from
34 classification under this chapter and have priority to and must be
35 fully paid and satisfied before any recognizance, mortgage, judgment,
36 debt, obligation, or responsibility to or with which the land may
37 become charged or liable. This lien may be foreclosed upon expiration
38 of the same period after delinquency and in the same manner provided
39 by law for foreclosure of liens for delinquent real property taxes as
40 provided in RCW 84.64.050. Any additional tax unpaid on the due date

1 ((are—[is])) is delinquent as of the due date. From the date of
2 delinquency until paid, interest must be charged at the same rate
3 applied by law to delinquent ad valorem property taxes.

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

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

10 (b)(i) A taking through the exercise of the power of eminent
11 domain, or (ii) sale or transfer to an entity having the power of
12 eminent domain in anticipation of the exercise of such power, said
13 entity having manifested its intent in writing or by other official
14 action;

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

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

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

23 (f) Acquisition of property interests by state agencies or
24 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
25 for the purposes enumerated in those sections. At such time as these
26 property interests are not used for the purposes enumerated in RCW
27 84.34.210 and 64.04.130 the additional tax specified in subsection
28 (4) of this section must be imposed;

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

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

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

36 (j) The creation, sale, or transfer of a conservation easement of
37 private forestlands within unconfined channel migration zones or
38 containing critical habitat for threatened or endangered species
39 under RCW 76.09.040;

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

8 (l)(i) The discovery that the land was classified under this
9 chapter in error through no fault of the owner. For purposes of this
10 subsection (6)(l), "fault" means a knowingly false or misleading
11 statement, or other act or omission not in good faith, that
12 contributed to the approval of classification under this chapter or
13 the failure of the assessor to remove the land from classification
14 under this chapter.

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

22 **Sec. 2.** RCW 84.33.145 and 2014 c 137 s 4 are each amended to
23 read as follows:

24 (1) If no later than thirty days after removal of designation
25 under this chapter the owner applies for classification under:

26 (a) RCW 84.34.020(1);

27 (b) RCW 84.34.020(2); or

28 (c) RCW 84.34.020(3), unless the timberland classification and
29 designated forestland program are merged under RCW 84.34.400, then,
30 for the purposes of (a), (b), or (c) of this subsection, the
31 designated forestland may not be considered removed from designation
32 for purposes of the compensating tax under RCW 84.33.140 until the
33 application for current use classification under chapter 84.34 RCW is
34 denied or the property is removed from classification under RCW
35 84.34.108.

36 (2)(a) Except as provided otherwise in (b) of this subsection,
37 upon removal of classification under RCW 84.34.108, the amount of
38 compensating tax due under this chapter is equal to:

1 ~~((a))~~ (i) The difference, if any, between the amount of tax
2 last levied on the land as designated forestland and an amount equal
3 to the new assessed valuation of the land when removed from
4 classification under RCW 84.34.108 multiplied by the dollar rate of
5 the last levy extended against the land, multiplied by

6 ~~((b))~~ (ii) A number equal to:

7 ~~((i))~~ (I) The number of years the land was designated under
8 this chapter, if the total number of years the land was designated
9 under this chapter and classified under chapter 84.34 RCW is less
10 than ten; or

11 ~~((ii))~~ (II) Ten minus the number of years the land was
12 classified under chapter 84.34 RCW, if the total number of years the
13 land was designated under this chapter and classified under chapter
14 84.34 RCW is at least ten.

15 (b) Compensating tax may not be imposed under this chapter if the
16 land is removed from classification under RCW 84.34.108 solely as a
17 result of a natural disaster such as a flood, windstorm, earthquake,
18 wildfire, or other such calamity rather than by virtue of the act of
19 the landowner changing the use of the property.

20 (3) Nothing in this section authorizes the continued designation
21 under this chapter or defers or reduces the compensating tax imposed
22 upon forestland not transferred to classification under subsection
23 (1) of this section that does not meet the definition of forestland
24 under RCW 84.33.035. Nothing in this section affects the additional
25 tax imposed under RCW 84.34.108.

26 (4) In a county with a population of more than six hundred
27 thousand inhabitants or in a county with a population of at least two
28 hundred forty-five thousand inhabitants that borders Puget Sound as
29 defined in RCW 90.71.010, no amount of compensating tax is due under
30 this section if the removal from classification under RCW 84.34.108
31 results from a transfer of property described in RCW 84.34.108(6).

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