
HOUSE BILL 1683

State of Washington

67th Legislature

2022 Regular Session

By Representative Corry

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1 AN ACT Relating to involuntary removal of property from current
2 use classification; and amending RCW 84.34.100 and 84.34.108.

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

4 **Sec. 1.** RCW 84.34.100 and 1980 c 134 s 4 are each amended to
5 read as follows:

6 (1) The additional tax, penalties, and/or interest provided by
7 RCW 84.34.070 and 84.34.080 shall be payable in full ((thirty)) 30
8 days after the date which the treasurer's statement therefor is
9 rendered. Such additional tax when collected shall be distributed by
10 the county treasurer in the same manner in which current taxes
11 applicable to the subject land are distributed.

12 (2) If the property was involuntarily removed from current use
13 and:

14 (a) A property owner provides documentation within one year of
15 removal which would have prevented the removal, 80 percent of the
16 additional taxes, penalties, and/or interest paid pursuant to RCW
17 84.34.070 and 84.34.080 must be refunded. The moneys must be refunded
18 within 60 days of the documentation being provided. The property must
19 be restored to the current use program under this chapter.

20 (b) The owner, or owner's representative, provides documentation
21 that the owner was incapable of understanding audit or notices of

1 removal, or that the owner was unreachable for audit or did not
2 receive notices of removal, any additional tax, penalties, and/or
3 interest paid pursuant to RCW 84.34.070 and 84.34.080 must be fully
4 refunded. The moneys must be refunded within 60 days of the
5 documentation being provided. The property must be returned to the
6 current use program under this chapter.

7 **Sec. 2.** RCW 84.34.108 and 2017 3rd sp.s. c 37 s 1001 are each
8 amended to read as follows:

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

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

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

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

1 RCW 84.40.038. Jurisdiction is hereby conferred on the county board
2 of equalization to hear these appeals;

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

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

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

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

16 (b) The creation, sale, or transfer of a fee interest or a
17 conservation easement for the riparian open space program under RCW
18 76.09.040.

19 (3) (a) Within thirty days after the removal of all or a portion
20 of the land from current use classification under subsection (1) of
21 this section, the assessor must notify the owner in writing, setting
22 forth the reasons for the removal.

23 (b) The seller, transferor, or owner may appeal the removal to
24 the county board of equalization in accordance with the provisions of
25 RCW 84.40.038.

26 (c) The removal notice must explain the steps needed to appeal
27 the removal decision, including when a notice of appeal must be
28 filed, where the forms may be obtained, and how to contact the county
29 board of equalization.

30 (d) Prior to the implementation of an involuntary removal process
31 under this section, the assessor must inspect the property to
32 determine if a change in use has occurred. If the assessor's
33 inspection cannot determine whether a change in use has occurred that
34 would be cause for involuntary removal, the assessor shall notify the
35 owner, by method requiring confirmed delivery, and request additional
36 documentation regarding the use. The owner has 90 days from the date
37 of notice to respond with any necessary documentation.

38 (4) Unless the removal is reversed on appeal, the assessor must
39 revalue the affected land with reference to its true and fair value
40 on January 1st of the year of removal from classification. Both the

1 assessed valuation before and after the removal of classification
2 must be listed and taxes must be allocated according to that part of
3 the year to which each assessed valuation applies. Except as provided
4 in subsection (6) of this section, an additional tax, applicable
5 interest, and penalty must be imposed, which are due and payable to
6 the treasurer thirty days after the owner is notified of the amount
7 of the additional tax, applicable interest, and penalty. As soon as
8 possible, the assessor must compute the amount of additional tax,
9 applicable interest, and penalty and the treasurer must mail notice
10 to the owner of the amount thereof and the date on which payment is
11 due. The amount of the additional tax, applicable interest, and
12 penalty must be determined as follows:

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

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

23 (c) The amount of the penalty is as provided in RCW 84.34.080.
24 The penalty may not be imposed if the removal satisfies the
25 conditions of RCW 84.34.070.

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

38 (6) The additional tax, applicable interest, and penalty
39 specified in subsection (4) of this section may not be imposed if the

1 removal of classification pursuant to subsection (1) of this section
2 resulted solely from:

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

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

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

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

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

18 (f) Acquisition of property interests by state agencies or
19 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
20 for the purposes enumerated in those sections. At such time as these
21 property interests are not used for the purposes enumerated in RCW
22 84.34.210 and 64.04.130 the additional tax specified in subsection
23 (4) of this section must be imposed;

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

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

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

31 (j) The creation, sale, or transfer of a conservation easement of
32 private forestlands within unconfined channel migration zones or
33 containing critical habitat for threatened or endangered species
34 under RCW 76.09.040;

35 (k) The sale or transfer of land within two years after the death
36 of the owner of at least a fifty percent interest in the land if the
37 land has been assessed and valued as classified forestland,
38 designated as forestland under chapter 84.33 RCW, or classified under
39 this chapter continuously since 1993. The date of death shown on a

1 death certificate is the date used for the purposes of this
2 subsection (6)(k); or

3 (1)(i) The discovery that the land was classified under this
4 chapter in error through no fault of the owner. For purposes of this
5 subsection (6)(1), "fault" means a knowingly false or misleading
6 statement, or other act or omission not in good faith, that
7 contributed to the approval of classification under this chapter or
8 the failure of the assessor to remove the land from classification
9 under this chapter.

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

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