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**HOUSE BILL 1818**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Tharinger and Chapman

Read first time 02/10/23. Referred to Committee on Finance.

1 AN ACT Relating to exclusion of compensating tax when land is  
2 sold to a governmental entity intending to manage the land similarly  
3 to designated forestland or timberland; amending RCW 84.33.140 and  
4 84.34.108; and creating a new section.

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

6 **Sec. 1.** RCW 84.33.140 and 2017 3rd sp.s. c 37 s 1002 are each  
7 amended to read as follows:

8 (1) When land has been designated as forestland under RCW  
9 84.33.130, a notation of the designation must be made each year upon  
10 the assessment and tax rolls. A copy of the notice of approval  
11 together with the legal description or assessor's parcel numbers for  
12 the land must, at the expense of the applicant, be filed by the  
13 assessor in the same manner as deeds are recorded.

14 (2) In preparing the assessment roll as of January 1, 2002, for  
15 taxes payable in 2003 and each January 1st thereafter, the assessor  
16 must list each parcel of designated forestland at a value with  
17 respect to the grade and class provided in this subsection and  
18 adjusted as provided in subsection (3) of this section. The assessor  
19 must compute the assessed value of the land using the same assessment  
20 ratio applied generally in computing the assessed value of other

1 property in the county. Values for the several grades of bare  
2 forestland are as follows:

	LAND	OPERABILITY	VALUES
	GRADE	CLASS	PER ACRE
3		1	\$234
4		2	229
5		3	217
6	1	4	157
7		1	198
8		2	190
9		3	183
10	2	4	132
11		1	154
12		2	149
13		3	148
14		4	113
15		1	117
16		2	114
17		3	113
18		4	86
19		1	85
20		2	78
21		3	77
22		4	52
23		1	43
24		2	39
25	6	3	39
26		4	37
27		1	21
28		2	21
29		3	20
30	7	4	20
31			
32			
33	8		1

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

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

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

16 (c) Adjust the forestland values contained in subsection (2) of  
17 this section by a percentage equal to one-half of the percentage  
18 change in the average values of harvested timber reflected by  
19 comparing the resultant values calculated under (a) and (b) of this  
20 subsection.

21 (4) For the adjustments to be made on or before December 31,  
22 2002, and each succeeding year thereafter, the same procedure  
23 described in subsection (3) of this section must be followed using  
24 harvester excise tax returns filed under RCW 84.33.074. However, this  
25 adjustment must be made to the prior year's adjusted value, and the  
26 five-year periods for calculating average harvested timber values  
27 must be successively one year more recent.

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

31 (a) Receipt of notice of request to withdraw land classified  
32 under RCW 84.34.020(3) within two years before the date of the merger  
33 under RCW 84.34.400. Land previously classified under chapter 84.34  
34 RCW will be removed under the provisions of this chapter when two  
35 assessment years have passed following receipt of the notice as  
36 described in RCW 84.34.070(1);

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

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

1 (d) Sale or transfer of all or a portion of the land to a new  
2 owner, unless the new owner has signed a notice of forestland  
3 designation continuance, except transfer to an owner who is an heir  
4 or devisee of a deceased owner or transfer by a transfer on death  
5 deed, does not, by itself, result in removal of designation. The  
6 signed notice of continuance must be attached to the real estate  
7 excise tax affidavit provided for in RCW 82.45.150. The notice of  
8 continuance must be on a form prepared by the department. If the  
9 notice of continuance is not signed by the new owner and attached to  
10 the real estate excise tax affidavit, all compensating taxes  
11 calculated under subsection (11) of this section are due and payable  
12 by the seller or transferor at time of sale. The auditor may not  
13 accept an instrument of conveyance regarding designated forestland  
14 for filing or recording unless the new owner has signed the notice of  
15 continuance or the compensating tax has been paid, as evidenced by  
16 the real estate excise tax stamp affixed thereto by the treasurer.  
17 The seller, transferor, or new owner may appeal the new assessed  
18 valuation calculated under subsection (11) of this section to the  
19 county board of equalization in accordance with the provisions of RCW  
20 84.40.038. Jurisdiction is hereby conferred on the county board of  
21 equalization to hear these appeals;

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

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

38 (ii) The owner has failed to comply with a final administrative  
39 or judicial order with respect to a violation of the restocking,  
40 forest management, fire protection, insect and disease control, and

1 forest debris provisions of Title 76 RCW or any applicable rules  
2 under Title 76 RCW; or

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

5 (6) Land may not be removed from designation if there is a  
6 governmental restriction that prohibits, in whole or in part, the  
7 owner from harvesting timber from the owner's designated forestland.  
8 If only a portion of the parcel is impacted by governmental  
9 restrictions of this nature, the restrictions cannot be used as a  
10 basis to remove the remainder of the forestland from designation  
11 under this chapter. For the purposes of this section, "governmental  
12 restrictions" includes: (a) Any law, regulation, rule, ordinance,  
13 program, or other action adopted or taken by a federal, state,  
14 county, city, or other governmental entity; or (b) the land's zoning  
15 or its presence within an urban growth area designated under RCW  
16 36.70A.110.

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

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

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

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

29 (8) If land is removed from designation because of any of the  
30 circumstances listed in subsection (5)(a) through (d) of this  
31 section, the removal applies only to the land affected. If land is  
32 removed from designation because of subsection (5)(e) of this  
33 section, the removal applies only to the actual area of land that is  
34 no longer primarily devoted to the growing and harvesting of timber,  
35 without regard to any other land that may have been included in the  
36 application and approved for designation, as long as the remaining  
37 designated forestland meets the definition of forestland contained in  
38 RCW 84.33.035.

39 (9) Within thirty days after the removal of designation as  
40 forestland, the assessor must notify the owner in writing, setting

1 forth the reasons for the removal. The seller, transferor, or owner  
2 may appeal the removal to the county board of equalization in  
3 accordance with the provisions of RCW 84.40.038.

4 (10) Unless the removal is reversed on appeal a copy of the  
5 notice of removal with a notation of the action, if any, upon appeal,  
6 together with the legal description or assessor's parcel numbers for  
7 the land removed from designation must, at the expense of the  
8 applicant, be filed by the assessor in the same manner as deeds are  
9 recorded and a notation of removal from designation must immediately  
10 be made upon the assessment and tax rolls. The assessor must revalue  
11 the land to be removed with reference to its true and fair value as  
12 of January 1st of the year of removal from designation. Both the  
13 assessed value before and after the removal of designation must be  
14 listed. Taxes based on the value of the land as forestland are  
15 assessed and payable up until the date of removal and taxes based on  
16 the true and fair value of the land are assessed and payable from the  
17 date of removal from designation.

18 (11) Except as provided otherwise in this section, a compensating  
19 tax is imposed on land removed from designation as forestland. The  
20 compensating tax is due and payable to the treasurer thirty days  
21 after the owner is notified of the amount of this tax. As soon as  
22 possible after the land is removed from designation, the assessor  
23 must compute the amount of compensating tax, and the treasurer must  
24 mail a notice to the owner of the amount of compensating tax owed and  
25 the date on which payment of this tax is due. The amount of  
26 compensating tax is equal to the difference between the amount of tax  
27 last levied on the land as designated forestland and an amount equal  
28 to the new assessed value of the land multiplied by the dollar rate  
29 of the last levy extended against the land, multiplied by a number,  
30 in no event greater than nine, equal to the number of years for which  
31 the land was designated as forestland, plus compensating taxes on the  
32 land at forestland values up until the date of removal and the  
33 prorated taxes on the land at true and fair value from the date of  
34 removal to the end of the current tax year.

35 (12) Compensating tax, together with applicable interest thereon,  
36 becomes a lien on the land, which attaches at the time the land is  
37 removed from designation as forestland and has priority and must be  
38 fully paid and satisfied before any recognizance, mortgage, judgment,  
39 debt, obligation, or responsibility to or with which the land may  
40 become charged or liable. The lien may be foreclosed upon expiration

1 of the same period after delinquency and in the same manner provided  
2 by law for foreclosure of liens for delinquent real property taxes as  
3 provided in RCW 84.64.050. Any compensating tax unpaid on its due  
4 date will thereupon become delinquent. From the date of delinquency  
5 until paid, interest is charged at the same rate applied by law to  
6 delinquent ad valorem property taxes.

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

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

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

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

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

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

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

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

1 (h) 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 this chapter, or classified under  
5 chapter 84.34 RCW continuously since 1993. The date of death shown on  
6 a death certificate is the date used for the purposes of this  
7 subsection (13)(h); (~~⊖~~)

8 (i)(i) The discovery that the land was designated under this  
9 chapter in error through no fault of the owner. For purposes of this  
10 subsection (13)(i), "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 designation under this chapter or the  
13 failure of the assessor to remove the land from designation under  
14 this chapter.

15 (ii) For purposes of this subsection (13), the discovery that  
16 land was designated under this chapter in error through no fault of  
17 the owner is not the sole reason for removal of designation under  
18 subsection (5) of this section if an independent basis for removal  
19 exists. An example of an independent basis for removal includes the  
20 land no longer being devoted to and used for growing and harvesting  
21 timber; or

22 (j) The sale or transfer to a governmental entity if the  
23 governmental entity manages the land in the same manner as designated  
24 forestland under this chapter or property classified as timberland  
25 under chapter 84.34 RCW, and the governmental entity provides the  
26 county assessor with a timber management plan or a notice of intent  
27 to manage the land as required under this subsection (13)(j). When  
28 the land is not managed as required under this subsection (13)(j), or  
29 when the governmental entity sells or transfers the land at any time,  
30 the compensating tax specified in subsection (11) of this section is  
31 due from the current government owner, unless the change in use of  
32 the land, sale or transfer, meets one of the other exceptions in this  
33 subsection (13) and subsections (14) and (15) of this section.

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



1 (a) An action described in subsection (13) of this section; or  
2 (b) A transfer of a property interest to a government entity, or  
3 to a nonprofit historic preservation corporation or nonprofit nature  
4 conservancy corporation, as defined in RCW 64.04.130, to protect or  
5 enhance public resources, or to preserve, maintain, improve, restore,  
6 limit the future use of, or otherwise to conserve for public use or  
7 enjoyment, the property interest being transferred. At such time as  
8 the property interest is not used for the purposes enumerated, the  
9 compensating tax is imposed upon the current owner.

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

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

17 (1) When land has once been classified under this chapter, a  
18 notation of the classification must be made each year upon the  
19 assessment and tax rolls and the land must be valued pursuant to RCW  
20 84.34.060 or 84.34.065 until removal of all or a portion of the  
21 classification by the assessor upon occurrence of any of the  
22 following:

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

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

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

1 transferor at time of sale. The auditor may not accept an instrument  
2 of conveyance regarding classified land for filing or recording  
3 unless the new owner has signed the notice of continuance or the  
4 additional tax, applicable interest, and penalty has been paid, as  
5 evidenced by the real estate excise tax stamp affixed thereto by the  
6 treasurer. The seller, transferor, or new owner may appeal the new  
7 assessed valuation calculated under subsection (4) of this section to  
8 the county board of equalization in accordance with the provisions of  
9 RCW 84.40.038. Jurisdiction is hereby conferred on the county board  
10 of equalization to hear these appeals;

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

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

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

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

24 (b) The creation, sale, or transfer of a fee interest or a  
25 conservation easement for the riparian open space program under RCW  
26 76.09.040.

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

36 (4) Unless the removal is reversed on appeal, the assessor must  
37 revalue the affected land with reference to its true and fair value  
38 on January 1st of the year of removal from classification. Both the  
39 assessed valuation before and after the removal of classification  
40 must be listed and taxes must be allocated according to that part of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (m) The sale or transfer to a governmental entity if the  
16 governmental entity manages the land in the same manner as designated  
17 forestland under chapter 84.33 RCW, or as property classified as  
18 timberland under this chapter, and the governmental entity provides  
19 the county assessor with a timber management plan or a notice of  
20 intent to manage the land as required under this subsection (6)(m).  
21 When the land is not managed as required under this subsection  
22 (6)(m), or when the governmental entity sells or transfers the land  
23 at any time, the additional tax specified in subsection (4) of this  
24 section is due from the current government owner, unless the change  
25 in use of the land, sale or transfer, meets one of the other  
26 exceptions in this subsection (6).

27 NEW SECTION. Sec. 3. RCW 82.32.805 and 82.32.808 do not apply  
28 to this act.

--- END ---