
HOUSE BILL 1746

State of Washington 65th Legislature 2017 Regular Session

By Representatives Taylor, Volz, and Shea

Read first time 01/27/17. Referred to Committee on Finance.

1 AN ACT Relating to interest rate and penalty provisions in the
2 current use program; amending RCW 84.34.070; reenacting and amending
3 RCW 84.34.108; and creating a new section.

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;)) The
29 interest rate provided in RCW 82.32.050(2) must be charged on the
30 amount of additional tax imposed under (a) of this subsection. The
31 annual rate of interest in effect at the time of removal must be
32 applied to the total amount of additional tax due;~~

33 (c) The amount of the penalty must be as provided in RCW
34 84.34.080. The penalty may not be imposed if the removal satisfies
35 the conditions of RCW 84.34.070.

36 (5) Additional tax, applicable interest, and penalty become a
37 lien on the land that attaches at the time the land is removed from
38 classification under this chapter and have priority to and must be
39 fully paid and satisfied before any recognizance, mortgage, judgment,
40 debt, obligation, or responsibility to or with which the land may

1 become charged or liable. This lien may be foreclosed upon expiration
2 of the same period after delinquency and in the same manner provided
3 by law for foreclosure of liens for delinquent real property taxes as
4 provided in RCW 84.64.050. Any additional tax unpaid on the due date
5 (~~are~~~~is~~) is delinquent as of the due date. From the date of
6 delinquency until paid, interest must be charged at the same rate
7 applied by law to delinquent ad valorem property taxes.

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

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

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

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

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

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

27 (f) Acquisition of property interests by state agencies or
28 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
29 for the purposes enumerated in those sections. At such time as these
30 property interests are not used for the purposes enumerated in RCW
31 84.34.210 and 64.04.130 the additional tax specified in subsection
32 (4) of this section must be imposed;

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

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

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

1 (j) The creation, sale, or transfer of a conservation easement of
2 private forestlands within unconfined channel migration zones or
3 containing critical habitat for threatened or endangered species
4 under RCW 76.09.040;

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

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

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

26 **Sec. 2.** RCW 84.34.070 and 2014 c 137 s 8 are each amended to
27 read as follows:

28 (1) When land has once been classified under this chapter, it
29 must remain under such classification and (~~must~~) may not be applied
30 to other use except as provided by subsection (2) of this section for
31 at least ten years from the date of classification. It must continue
32 under such classification until and unless withdrawn from
33 classification after notice of request for withdrawal is made by the
34 owner. (~~During any year after eight years of~~) After the initial
35 ten-year classification period (~~have~~) has elapsed, notice of
36 request for withdrawal of all or a portion of the land may be given
37 by the owner to the assessor or assessors of the county or counties
38 in which the land is situated. If a portion of a parcel is removed
39 from classification, the remaining portion must meet the same

1 requirements as did the entire parcel when the land was originally
2 granted classification under this chapter unless the remaining parcel
3 has different income criteria. Within seven days the assessor must
4 transmit one copy of the notice to the legislative body that
5 originally approved the application. The assessor or assessors, as
6 the case may be, (~~must, when two assessment years have elapsed~~
7 ~~following the date of receipt of the notice,~~) must withdraw the land
8 from the classification and the land is subject to the additional tax
9 and applicable interest due under RCW 84.34.108. Agreement to tax
10 according to use is not considered to be a contract and can be
11 abrogated at any time by the legislature in which event no additional
12 tax or penalty may be imposed.

13 (2)(a) The following reclassifications are not considered
14 withdrawals or removals and are not subject to additional tax under
15 RCW 84.34.108:

16 (i) Reclassification between lands under RCW 84.34.020 (2) and
17 (3);

18 (ii) Reclassification of land classified under RCW 84.34.020 (2)
19 or (3) or designated under chapter 84.33 RCW to open space land under
20 RCW 84.34.020(1);

21 (iii) Reclassification of land classified under RCW 84.34.020 (2)
22 or (3) to forestland designated under chapter 84.33 RCW; and

23 (iv) Reclassification of land classified as open space land under
24 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land
25 under RCW 84.34.020(2) if the land had been previously classified as
26 farm and agricultural land under RCW 84.34.020(2).

27 (b) Designation as forestland under RCW 84.33.130(1) as a result
28 of a merger adopted under RCW 84.34.400 is not considered a
29 withdrawal or removal and is not subject to additional tax under RCW
30 84.34.108.

31 (c) Any owner of land classified under RCW 84.34.020(3) who has
32 provided the assessor with a notice of request (~~(to—[for])~~) for
33 withdrawal under subsection (1) of this section within two years of
34 the date of merger as described in RCW 84.34.400, will have their
35 land removed as designated forestland under the provisions of chapter
36 84.33 RCW when two assessment years have elapsed following the
37 receipt of this notice.

38 (3) Applications for reclassification are subject to applicable
39 provisions of RCW 84.34.037, 84.34.035, 84.34.041, and chapter 84.33
40 RCW.

1 (4) The income criteria for land classified under RCW
2 84.34.020(2) (b) and (c) may be deferred for land being reclassified
3 from land classified under RCW 84.34.020 (1)(c) or (3), or chapter
4 84.33 RCW into RCW 84.34.020(2) (b) or (c) for a period of up to five
5 years from the date of reclassification.

6 NEW SECTION. **Sec. 3.** This act applies to taxes levied for
7 collection in 2018 and thereafter.

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