

CERTIFICATION OF ENROLLMENT
SUBSTITUTE HOUSE BILL 2765

57th Legislature
2002 Regular Session

Passed by the House March 9, 2002
Yeas 94 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 6, 2002
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2765** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2765

AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Orcutt, Fromhold, Morell and McDermott)

Read first time 02/06/2002. Referred to Committee on .

1 AN ACT Relating to timber and forest lands; and amending RCW
2 84.34.020 and 84.34.041.

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

4 **Sec. 1.** RCW 84.34.020 and 2001 c 249 s 12 are each amended to read
5 as follows:

6 As used in this chapter, unless a different meaning is required by
7 the context:

8 (1) "Open space land" means (a) any land area so designated by an
9 official comprehensive land use plan adopted by any city or county and
10 zoned accordingly, or (b) any land area, the preservation of which in
11 its present use would (i) conserve and enhance natural or scenic
12 resources, or (ii) protect streams or water supply, or (iii) promote
13 conservation of soils, wetlands, beaches or tidal marshes, or (iv)
14 enhance the value to the public of abutting or neighboring parks,
15 forests, wildlife preserves, nature reservations or sanctuaries or
16 other open space, or (v) enhance recreation opportunities, or (vi)
17 preserve historic sites, or (vii) preserve visual quality along
18 highway, road, and street corridors or scenic vistas, or (viii) retain
19 in its natural state tracts of land not less than one acre situated in

1 an urban area and open to public use on such conditions as may be
2 reasonably required by the legislative body granting the open space
3 classification, or (c) any land meeting the definition of farm and
4 agricultural conservation land under subsection (8) of this section.
5 As a condition of granting open space classification, the legislative
6 body may not require public access on land classified under (b)(iii) of
7 this subsection for the purpose of promoting conservation of wetlands.

8 (2) "Farm and agricultural land" means:

9 (a) Any parcel of land that is twenty or more acres or multiple
10 parcels of land that are contiguous and total twenty or more acres:

11 (i) Devoted primarily to the production of livestock or
12 agricultural commodities for commercial purposes;

13 (ii) Enrolled in the federal conservation reserve program or its
14 successor administered by the United States department of agriculture;
15 or

16 (iii) Other similar commercial activities as may be established by
17 rule;

18 (b) Any parcel of land that is five acres or more but less than
19 twenty acres devoted primarily to agricultural uses, which has produced
20 a gross income from agricultural uses equivalent to, as of January 1,
21 1993:

22 (i) One hundred dollars or more per acre per year for three of the
23 five calendar years preceding the date of application for
24 classification under this chapter for all parcels of land that are
25 classified under this subsection or all parcels of land for which an
26 application for classification under this subsection is made with the
27 granting authority prior to January 1, 1993; and

28 (ii) On or after January 1, 1993, two hundred dollars or more per
29 acre per year for three of the five calendar years preceding the date
30 of application for classification under this chapter;

31 (c) Any parcel of land of less than five acres devoted primarily to
32 agricultural uses which has produced a gross income as of January 1,
33 1993, of:

34 (i) One thousand dollars or more per year for three of the five
35 calendar years preceding the date of application for classification
36 under this chapter for all parcels of land that are classified under
37 this subsection or all parcels of land for which an application for
38 classification under this subsection is made with the granting
39 authority prior to January 1, 1993; and

1 (ii) On or after January 1, 1993, fifteen hundred dollars or more
2 per year for three of the five calendar years preceding the date of
3 application for classification under this chapter.

4 Parcels of land described in (b)(i) and (c)(i) of this subsection
5 shall, upon any transfer of the property excluding a transfer to a
6 surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of
7 this subsection;

8 (d) Any lands including incidental uses as are compatible with
9 agricultural purposes, including wetlands preservation, provided such
10 incidental use does not exceed twenty percent of the classified land
11 and the land on which appurtenances necessary to the production,
12 preparation, or sale of the agricultural products exist in conjunction
13 with the lands producing such products. Agricultural lands shall also
14 include any parcel of land of one to five acres, which is not
15 contiguous, but which otherwise constitutes an integral part of farming
16 operations being conducted on land qualifying under this section as
17 "farm and agricultural lands"; or

18 (e) The land on which housing for employees and the principal place
19 of residence of the farm operator or owner of land classified pursuant
20 to (a) of this subsection is sited if: The housing or residence is on
21 or contiguous to the classified parcel; and the use of the housing or
22 the residence is integral to the use of the classified land for
23 agricultural purposes.

24 (3) "Timber land" means any parcel of land that is five or more
25 acres or multiple parcels of land that are contiguous and total five or
26 more acres which is or are devoted primarily to the growth and harvest
27 of timber for commercial purposes. (~~(A timber management plan shall be~~
28 ~~filed with the county legislative authority at the time (a) an~~
29 ~~application is made for classification as timber land pursuant to this~~
30 ~~chapter or (b) when a sale or transfer of timber land occurs and a~~
31 ~~notice of classification continuance is signed.)) Timber land means
32 the land only.~~

33 (4) "Current" or "currently" means as of the date on which property
34 is to be listed and valued by the assessor.

35 (5) "Owner" means the party or parties having the fee interest in
36 land, except that where land is subject to real estate contract "owner"
37 shall mean the contract vendee.

38 (6) "Contiguous" means land adjoining and touching other property
39 held by the same ownership. Land divided by a public road, but

1 otherwise an integral part of a farming operation, shall be considered
2 contiguous.

3 (7) "Granting authority" means the appropriate agency or official
4 who acts on an application for classification of land pursuant to this
5 chapter.

6 (8) "Farm and agricultural conservation land" means either:

7 (a) Land that was previously classified under subsection (2) of
8 this section, that no longer meets the criteria of subsection (2) of
9 this section, and that is reclassified under subsection (1) of this
10 section; or

11 (b) Land that is traditional farmland that is not classified under
12 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a
13 use inconsistent with agricultural uses, and that has a high potential
14 for returning to commercial agriculture.

15 **Sec. 2.** RCW 84.34.041 and 1992 c 69 s 20 are each amended to read
16 as follows:

17 An application for current use classification or reclassification
18 under RCW 84.34.020(3) shall be made to the county legislative
19 authority.

20 (1) The application shall be made upon forms prepared by the
21 department of revenue and supplied by the granting authority and shall
22 include the following elements that constitute a timber management
23 plan:

24 (a) A legal description of, or assessor's parcel numbers for, all
25 land the applicant desires to be classified as timber land;

26 (b) The date or dates of acquisition of the land;

27 (c) A brief description of the timber on the land, or if the timber
28 has been harvested, the owner's plan for restocking;

29 (d) Whether there is a forest management plan for the land;

30 (e) If so, the nature and extent of implementation of the plan;

31 (f) Whether the land is used for grazing;

32 (g) Whether the land has been subdivided or a plat filed with
33 respect to the land;

34 (h) Whether the land and the applicant are in compliance with the
35 restocking, forest management, fire protection, insect and disease
36 control, weed control, and forest debris provisions of Title 76 RCW or
37 applicable rules under Title 76 RCW;

1 (i) Whether the land is subject to forest fire protection
2 assessments pursuant to RCW 76.04.610;

3 (j) Whether the land is subject to a lease, option, or other right
4 that permits it to be used for a purpose other than growing and
5 harvesting timber;

6 (k) A summary of the past experience and activity of the applicant
7 in growing and harvesting timber;

8 (l) A summary of current and continuing activity of the applicant
9 in growing and harvesting timber;

10 (m) A statement that the applicant is aware of the potential tax
11 liability involved when the land ceases to be classified as timber
12 land.

13 (2) An application made for classification of land under RCW
14 84.34.020(3) shall be acted upon after a public hearing and after
15 notice of the hearing is given by one publication in a newspaper of
16 general circulation in the area at least ten days before the hearing.
17 Application for classification of land in an incorporated area shall be
18 acted upon by a granting authority composed of three members of the
19 county legislative body and three members of the city legislative body
20 in which the land is located.

21 (3) The granting authority shall act upon the application with due
22 regard to all relevant evidence and without any one or more items of
23 evidence necessarily being determinative, except that the application
24 may be denied for one of the following reasons, without regard to other
25 items:

26 (a) The land does not contain a stand of timber as defined in
27 chapter 76.09 RCW and applicable rules, except this reason shall not
28 alone be sufficient to deny the application (i) if the land has been
29 recently harvested or supports a growth of brush or noncommercial type
30 timber, and the application includes a plan for restocking within three
31 years or the longer period necessitated by unavailability of seed or
32 (~~seedings~~—~~seedlings~~) seedlings, or (ii) if only isolated areas
33 within the land do not meet minimum standards due to rock outcroppings,
34 swamps, unproductive soil, or other natural conditions;

35 (b) The applicant, with respect to the land, has failed to comply
36 with a final administrative or judicial order with respect to a
37 violation of the restocking, forest management, fire protection, insect
38 and disease control, weed control, and forest debris provisions of
39 Title 76 RCW or applicable rules under Title 76 RCW;

1 (c) The land abuts a body of salt water and lies between the line
2 of ordinary high tide and a line paralleling the ordinary high tide
3 line and two hundred feet horizontally landward from the high tide
4 line.

5 (4) The timber management plan must be filed with the county
6 legislative authority either: (a) When an application for
7 classification under this chapter is submitted; (b) when a sale or
8 transfer of timber land occurs and a notice of continuance is signed;
9 or (c) within sixty days of the date the application for
10 reclassification under this chapter or from designated forest land is
11 received. The application for reclassification shall be accepted, but
12 shall not be processed until the timber management plan is received.
13 If the timber management plan is not received within sixty days of the
14 date the application for reclassification is received, the application
15 for reclassification shall be denied.

16 If circumstances require it, the county assessor may allow in
17 writing an extension of time for submitting a timber management plan
18 when an application for classification or reclassification or notice of
19 continuance is filed. When the assessor approves an extension of time
20 for filing the timber management plan, the county legislative authority
21 may delay processing an application until the timber management plan is
22 received. If the timber management plan is not received by the date
23 set by the assessor, the application or the notice of continuance shall
24 be denied.

25 The granting authority may approve the application with respect to
26 only part of the land that is described in the application, and if any
27 part of the application is denied, the applicant may withdraw the
28 entire application. The granting authority, in approving in part or
29 whole an application for land classified pursuant to RCW 84.34.020(3),
30 may also require that certain conditions be met.

31 Granting or denial of an application for current use classification
32 is a legislative determination and shall be reviewable only for
33 arbitrary and capricious actions. The granting authority may not
34 require the granting of easements for land classified pursuant to RCW
35 84.34.020(3).

1 The granting authority shall approve or disapprove an application
2 made under this section within six months following the date the
3 application is received.

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