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HOUSE BILL 2349

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State of Washington

65th Legislature

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By Representatives Kraft, Shea, Haler, and Young

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1 AN ACT Relating to exempting land removed from open space or farm  
2 and agricultural land classification from additional tax, interest,  
3 and other penalties if the land is owned in whole or in part by a  
4 retired farmer; amending RCW 84.34.108; and creating a new section.

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

6 **Sec. 1.** RCW 84.34.108 and 2017 3rd sp.s. c 37 s 1001 are each  
7 amended to read as follows:

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

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

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

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

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

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

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

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

34 (b) The creation, sale, or transfer of a fee interest or a  
35 conservation easement for the riparian open space program under RCW  
36 76.09.040.

37 (3) Within thirty days after the removal of all or a portion of  
38 the land from current use classification under subsection (1) of this  
39 section, the assessor must notify the owner in writing, setting forth  
40 the reasons for the removal. The seller, transferor, or owner may

1 appeal the removal to the county board of equalization in accordance  
2 with the provisions of RCW 84.40.038. The removal notice must explain  
3 the steps needed to appeal the removal decision, including when a  
4 notice of appeal must be filed, where the forms may be obtained, and  
5 how to contact the county board of equalization.

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

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

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

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

34 (5) Additional tax, applicable interest, and penalty become a  
35 lien on the land. The lien attaches at the time the land is removed  
36 from classification under this chapter and has priority to and must  
37 be fully paid and satisfied before any recognizance, mortgage,  
38 judgment, debt, obligation, or responsibility to or with which the  
39 land may become charged or liable. This lien may be foreclosed upon  
40 expiration of the same period after delinquency and in the same

1 manner provided by law for foreclosure of liens for delinquent real  
2 property taxes as provided in RCW 84.64.050. Any additional tax  
3 unpaid on the due date is delinquent as of the due date. From the  
4 date of delinquency until paid, interest must be charged at the same  
5 rate applied by law to delinquent ad valorem property taxes.

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

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

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

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

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

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

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

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

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

38 (j) The creation, sale, or transfer of a conservation easement of  
39 private forestlands within unconfined channel migration zones or

1 containing critical habitat for threatened or endangered species  
2 under RCW 76.09.040;

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

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

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

24 (m)(i) Removal of land from classification if, during the  
25 immediately preceding ten years, the land has been continuously:

26 (A) Classified under RCW 84.34.020 (1)(c) or (2) or any  
27 combination of these provisions; and

28 (B) Owned in whole or in part by an individual who is currently a  
29 retired farmer or by an entity that is owned in whole or in part by  
30 an individual who is currently a retired farmer.

31 (ii) For the purposes of this subsection (6)(m), the following  
32 definitions apply unless the context clearly requires otherwise:

33 (A) "Farmer" has the same meaning as provided in RCW 82.04.213  
34 (2)(a).

35 (B) "Owned" means a fee interest in real property, a life estate  
36 in real property, or a vendee's interest in a contract for the sale  
37 of real property.

38 (C) "Retired farmer" means an individual who has qualified as a  
39 farmer, as defined in RCW 82.04.213 (2)(a), for at least five of the  
40 previous ten years, and as of December 31st of the year in which the

1 request for removal of land from classification is made, the  
2 individual is either:

3 (I) Sixty years of age or older;

4 (II) Retired from gainful employment by reason of disability; or

5 (III) A veteran of the armed forces of the United States entitled  
6 to and receiving compensation from the United States department of  
7 veterans affairs at a total disability rating for a service-connected  
8 disability.

9 NEW SECTION. Sec. 2. This act is not subject to the provisions  
10 of RCW 82.32.805 and 82.32.808.

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