
SUBSTITUTE SENATE BILL 5188

State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Angel, Takko, Warnick, and Pearson)

READ FIRST TIME 03/29/17.

1 AN ACT Relating to removal of land from the current use property
2 tax classification due to certain natural disasters; reenacting and
3 amending RCW 84.34.108 and 84.33.140; 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;

29 (c) The amount of the penalty must be as provided in RCW
30 84.34.080. The penalty may not be imposed if the removal satisfies
31 the conditions of RCW 84.34.070.

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

1 ((are—[is])) is delinquent as of the due date. From the date of
2 delinquency until paid, interest must be charged at the same rate
3 applied by law to delinquent ad valorem property taxes.

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

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

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

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

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

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

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

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

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

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

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

1 (k) 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 chapter 84.33 RCW, or classified under
5 this chapter continuously since 1993. The date of death shown on a
6 death certificate is the date used for the purposes of this
7 subsection (6)(k); or

8 (l)(i) The discovery that the land was classified under this
9 chapter in error through no fault of the owner. For purposes of this
10 subsection (6)(l), "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 classification under this chapter or
13 the failure of the assessor to remove the land from classification
14 under this chapter.

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

22 **Sec. 2.** RCW 84.33.140 and 2014 c 137 s 3, 2014 c 97 s 309, and
23 2014 c 58 s 27 are each reenacted and amended to read as follows:

24 (1) When land has been designated as forestland under RCW
25 84.33.130, a notation of the designation must be made each year upon
26 the assessment and tax rolls. A copy of the notice of approval
27 together with the legal description or assessor's parcel numbers for
28 the land must, at the expense of the applicant, be filed by the
29 assessor in the same manner as deeds are recorded.

30 (2) In preparing the assessment roll as of January 1, 2002, for
31 taxes payable in 2003 and each January 1st thereafter, the assessor
32 must list each parcel of designated forestland at a value with
33 respect to the grade and class provided in this subsection and
34 adjusted as provided in subsection (3) of this section. The assessor
35 must compute the assessed value of the land using the same assessment
36 ratio applied generally in computing the assessed value of other
37 property in the county. Values for the several grades of bare
38 forestland are as follows:

	LAND	OPERABILITY	VALUES
	GRADE	CLASS	PER ACRE
1			
2			
3		1	\$234
4	1	2	229
5		3	217
6		4	157
7		1	198
8	2	2	190
9		3	183
10		4	132
11		1	154
12	3	2	149
13		3	148
14		4	113
15		1	117
16	4	2	114
17		3	113
18		4	86
19		1	85
20	5	2	78
21		3	77
22		4	52
23		1	43
24	6	2	39
25		3	39
26		4	37
27		1	21
28	7	2	21
29		3	20
30		4	20
31	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 (~~subsection (5)(d), (13),~~
19 ~~or (14) of~~) this section, a compensating tax is imposed on land
20 removed from designation as forestland. The compensating tax is due
21 and payable to the treasurer thirty days after the owner is notified
22 of the amount of this tax. As soon as possible after the land is
23 removed from designation, the assessor must compute the amount of
24 compensating tax, and the treasurer must mail a notice to the owner
25 of the amount of compensating tax owed and the date on which payment
26 of this tax is due. The amount of compensating tax is equal to the
27 difference between the amount of tax last levied on the land as
28 designated forestland and an amount equal to the new assessed value
29 of the land multiplied by the dollar rate of the last levy extended
30 against the land, multiplied by a number, in no event greater than
31 nine, equal to the number of years for which the land was designated
32 as forestland, plus compensating taxes on the land at forestland
33 values up until the date of removal and the prorated taxes on the
34 land at true and fair value from the date of removal to the end of
35 the current tax year.

36 (12) Compensating tax, together with applicable interest thereon,
37 becomes a lien on the land, which attaches at the time the land is
38 removed from designation as forestland and has priority 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. The 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 compensating tax unpaid on its due
5 date will thereupon become delinquent. From the date of delinquency
6 until paid, interest is charged at the same rate applied by law to
7 delinquent ad valorem property taxes.

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

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

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

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

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

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

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

38 (g) 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 (h) 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 this chapter, or classified under
7 chapter 84.34 RCW continuously since 1993. The date of death shown on
8 a death certificate is the date used for the purposes of this
9 subsection (13)(h); or

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

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

24 (14) In a county with a population of more than six hundred
25 thousand inhabitants or in a county with a population of at least two
26 hundred forty-five thousand inhabitants that borders Puget Sound as
27 defined in RCW 90.71.010, the compensating tax specified in
28 subsection (11) of this section may not be imposed if the removal of
29 designation as forestland under subsection (5) of this section
30 resulted solely from:

31 (a) An action described in subsection (13) of this section; or

32 (b) A transfer of a property interest to a government entity, or
33 to a nonprofit historic preservation corporation or nonprofit nature
34 conservancy corporation, as defined in RCW 64.04.130, to protect or
35 enhance public resources, or to preserve, maintain, improve, restore,
36 limit the future use of, or otherwise to conserve for public use or
37 enjoyment, the property interest being transferred. At such time as
38 the property interest is not used for the purposes enumerated, the
39 compensating tax is imposed upon the current owner.

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

6 NEW SECTION. **Sec. 3.** The provisions of RCW 82.32.805 and
7 82.32.808 do not apply to this act.

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