

EHB 1815 - S COMM AMD

By Committee on Agriculture & Rural Economic Development

ADOPTED 04/22/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 84.34.020 and 2005 c 57 s 1 are each amended to read
4 as follows:

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

7 (1) "Open space land" means (a) any land area so designated by an
8 official comprehensive land use plan adopted by any city or county and
9 zoned accordingly, or (b) any land area, the preservation of which in
10 its present use would (i) conserve and enhance natural or scenic
11 resources, or (ii) protect streams or water supply, or (iii) promote
12 conservation of soils, wetlands, beaches or tidal marshes, or (iv)
13 enhance the value to the public of abutting or neighboring parks,
14 forests, wildlife preserves, nature reservations or sanctuaries or
15 other open space, or (v) enhance recreation opportunities, or (vi)
16 preserve historic sites, or (vii) preserve visual quality along
17 highway, road, and street corridors or scenic vistas, or (viii) retain
18 in its natural state tracts of land not less than one acre situated in
19 an urban area and open to public use on such conditions as may be
20 reasonably required by the legislative body granting the open space
21 classification, or (c) any land meeting the definition of farm and
22 agricultural conservation land under subsection (8) of this section.
23 As a condition of granting open space classification, the legislative
24 body may not require public access on land classified under (b)(iii) of
25 this subsection for the purpose of promoting conservation of wetlands.

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

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

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

1 (ii) Enrolled in the federal conservation reserve program or its
2 successor administered by the United States department of agriculture;
3 or

4 (iii) Other similar commercial activities as may be established by
5 rule;

6 (b)(i) Any parcel of land that is five acres or more but less than
7 twenty acres devoted primarily to agricultural uses, which has produced
8 a gross income from agricultural uses equivalent to, as of January 1,
9 1993:

10 (A) One hundred dollars or more per acre per year for three of the
11 five calendar years preceding the date of application for
12 classification under this chapter for all parcels of land that are
13 classified under this subsection or all parcels of land for which an
14 application for classification under this subsection is made with the
15 granting authority prior to January 1, 1993; and

16 (B) On or after January 1, 1993, two hundred dollars or more per
17 acre per year for three of the five calendar years preceding the date
18 of application for classification under this chapter;

19 (ii) For the purposes of (b)(i) of this subsection, "gross income
20 from agricultural uses" includes, but is not limited to, the wholesale
21 value of agricultural products donated to nonprofit food banks or
22 feeding programs;

23 (c) Any parcel of land of less than five acres devoted primarily to
24 agricultural uses which has produced a gross income as of January 1,
25 1993, of:

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

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

35 Parcels of land described in (b)(i)(A) and (c)(i) of this subsection
36 shall, upon any transfer of the property excluding a transfer to a
37 surviving spouse, be subject to the limits of (b)(i)(B) and (c)(ii) of
38 this subsection;

1 (d) Any parcel of land that is five acres or more but less than
2 twenty acres devoted primarily to agricultural uses, which meet one of
3 the following criteria:

4 (i) Has produced a gross income from agricultural uses equivalent
5 to two hundred dollars or more per acre per year for three of the five
6 calendar years preceding the date of application for classification
7 under this chapter;

8 (ii) Has standing crops with an expectation of harvest within seven
9 years, except as provided in (d)(iii) of this subsection, and a
10 demonstrable investment in the production of those crops equivalent to
11 one hundred dollars or more per acre in the current or previous
12 calendar year. For the purposes of this subsection (2)(d)(ii),
13 "standing crop" means Christmas trees, vineyards, fruit trees, or other
14 perennial crops that: (A) Are planted using agricultural methods
15 normally used in the commercial production of that particular crop; and
16 (B) typically do not produce harvestable quantities in the initial
17 years after planting; or

18 (iii) Has a standing crop of short rotation hardwoods with an
19 expectation of harvest within fifteen years and a demonstrable
20 investment in the production of those crops equivalent to one hundred
21 dollars or more per acre in the current or previous calendar year;

22 (e) Any lands including incidental uses as are compatible with
23 agricultural purposes, including wetlands preservation, provided such
24 incidental use does not exceed twenty percent of the classified land
25 and the land on which appurtenances necessary to the production,
26 preparation, or sale of the agricultural products exist in conjunction
27 with the lands producing such products. Agricultural lands shall also
28 include any parcel of land of one to five acres, which is not
29 contiguous, but which otherwise constitutes an integral part of farming
30 operations being conducted on land qualifying under this section as
31 "farm and agricultural lands"; or

32 ~~((e))~~ (f) The land on which housing for employees and the
33 principal place of residence of the farm operator or owner of land
34 classified pursuant to (a) of this subsection is sited if: The housing
35 or residence is on or contiguous to the classified parcel; and the use
36 of the housing or the residence is integral to the use of the
37 classified land for agricultural purposes.

1 (3) "Timber land" means any parcel of land that is five or more
2 acres or multiple parcels of land that are contiguous and total five or
3 more acres which is or are devoted primarily to the growth and harvest
4 of timber for commercial purposes. Timber land means the land only and
5 does not include a residential homesite. The term includes land used
6 for incidental uses that are compatible with the growing and harvesting
7 of timber but no more than ten percent of the land may be used for such
8 incidental uses. It also includes the land on which appurtenances
9 necessary for the production, preparation, or sale of the timber
10 products exist in conjunction with land producing these products.

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

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

16 (6) "Contiguous" means land adjoining and touching other property
17 held by the same ownership. Land divided by a public road, but
18 otherwise an integral part of a farming operation, shall be considered
19 contiguous.

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

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

24 (a) Land that was previously classified under subsection (2) of
25 this section, that no longer meets the criteria of subsection (2) of
26 this section, and that is reclassified under subsection (1) of this
27 section; or

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

32 **Sec. 2.** RCW 84.34.108 and 2007 c 54 s 25 are each amended to read
33 as follows:

34 (1) When land has once been classified under this chapter, a
35 notation of the classification shall be made each year upon the
36 assessment and tax rolls and the land shall be valued pursuant to RCW

1 84.34.060 or 84.34.065 until removal of all or a portion of the
2 classification by the assessor upon occurrence of any of the following:

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

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

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

28 (d) Determination by the assessor, after giving the owner written
29 notice and an opportunity to be heard, that all or a portion of the
30 land no longer meets the criteria for classification under this
31 chapter. The criteria for classification pursuant to this chapter
32 continue to apply after classification has been granted.

33 The granting authority, upon request of an assessor, shall provide
34 reasonable assistance to the assessor in making a determination whether
35 the land continues to meet the qualifications of RCW 84.34.020 (1) or
36 (3). The assistance shall be provided within thirty days of receipt of
37 the request.

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

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

3 (b) The creation, sale, or transfer of a fee interest or a
4 conservation easement for the riparian open space program under RCW
5 76.09.040.

6 (3) Within thirty days after (~~such~~) the removal of all or a
7 portion of the land from current use classification under subsection
8 (1) of this section, the assessor shall notify the owner in writing,
9 setting forth the reasons for the removal. The seller, transferor, or
10 owner may appeal the removal to the county board of equalization in
11 accordance with the provisions of RCW 84.40.038. The removal notice
12 must explain the steps needed to appeal the removal decision, including
13 when a notice of appeal must be filed, where the forms may be obtained,
14 and how to contact the county board of equalization.

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

29 (a) The amount of additional tax shall be equal to the difference
30 between the property tax paid as "open space land," "farm and
31 agricultural land," or "timber land" and the amount of property tax
32 otherwise due and payable for the seven years last past had the land
33 not been so classified;

34 (b) The amount of applicable interest shall be equal to the
35 interest upon the amounts of the additional tax paid at the same
36 statutory rate charged on delinquent property taxes from the dates on
37 which the additional tax could have been paid without penalty if the
38 land had been assessed at a value without regard to this chapter;

1 (c) The amount of the penalty shall be as provided in RCW
2 84.34.080. The penalty shall not be imposed if the removal satisfies
3 the conditions of RCW 84.34.070.

4 (5) Additional tax, applicable interest, and penalty, shall become
5 a lien on the land which shall attach at the time the land is removed
6 from classification under this chapter and shall have priority to and
7 shall be fully paid and satisfied before any recognizance, mortgage,
8 judgment, debt, obligation or responsibility to or with which the land
9 may become charged or liable. This lien may be foreclosed upon
10 expiration of the same period after delinquency and in the same manner
11 provided by law for foreclosure of liens for delinquent real property
12 taxes as provided in RCW 84.64.050. Any additional tax unpaid on its
13 due date shall thereupon become delinquent. From the date of
14 delinquency until paid, interest shall be charged at the same rate
15 applied by law to delinquent ad valorem property taxes.

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

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

22 (b)(i) A taking through the exercise of the power of eminent
23 domain, or (ii) sale or transfer to an entity having the power of
24 eminent domain in anticipation of the exercise of such power, said
25 entity having manifested its intent in writing or by other official
26 action;

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

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

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

35 (f) Acquisition of property interests by state agencies or agencies
36 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
37 purposes enumerated in those sections. At such time as these property

1 interests are not used for the purposes enumerated in RCW 84.34.210 and
2 64.04.130 the additional tax specified in subsection (4) of this
3 section shall be imposed;

4 (g) Removal of land classified as farm and agricultural land under
5 RCW 84.34.020(2)(~~(e)~~) (f);

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

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

11 (j) The creation, sale, or transfer of a fee interest or a
12 conservation easement for the riparian open space program under RCW
13 76.09.040; or

14 (k) The sale or transfer of land within two years after the death
15 of the owner of at least a fifty percent interest in the land if the
16 land has been assessed and valued as classified forest land, designated
17 as forest land under chapter 84.33 RCW, or classified under this
18 chapter continuously since 1993. The date of death shown on a death
19 certificate is the date used for the purposes of this subsection
20 (6)(k)."

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21 On page 1, line 2 of the title, after "program;" strike the
22 remainder of the title and insert "and amending RCW 84.34.020 and
23 84.34.108."

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