

---

HOUSE BILL 2584

---

State of Washington

63rd Legislature

2014 Regular Session

By Representative Blake

Read first time 01/21/14. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to allowing prepayment of the penalty for removal  
2 of land from the farm and agricultural land current use property tax  
3 classification; amending RCW 84.34.080; reenacting and amending RCW  
4 84.34.108; and adding a new section to chapter 84.34 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 84.34 RCW  
7 to read as follows:

8 (1) The removal of land from farm and agricultural land current use  
9 classification is not subject to interest payments under RCW  
10 84.34.108(4)(b) and is not subject to a penalty under RCW 84.34.080, if  
11 upon removal from classification the owner has paid the full amount of  
12 any additional tax owed under RCW 84.34.108(4)(a) by the due date  
13 specified in RCW 84.34.108 for additional tax payments. However, if  
14 the full amount due under RCW 84.34.108(4)(a) is not paid by the due  
15 date, the owner is required to pay interest under RCW 84.34.108(4)(b)  
16 and is subject to the penalty under RCW 84.34.080(2).

17 (2)(a) An owner of land classified as farm and agricultural land  
18 may at any time make prepayments to be deposited and applied towards  
19 any additional tax payments that would be due, if, at a later date, the

1 owner decides to remove such land from farm and agricultural land  
2 current use classification and additional tax is owed at the time of  
3 removal under RCW 84.34.108(4)(a). However, prepayments made under  
4 this section may not in any one tax year exceed the difference between  
5 the property tax paid as farm and agricultural land and the amount of  
6 property tax otherwise due and payable, for the year in which the  
7 prepayment is made, had the land not been classified as farm and  
8 agricultural land.

9 (b) An owner that makes prepayments under this subsection (2) and  
10 later decides to not remove the farm and agricultural land from current  
11 use classification may request to have such prepayments applied as a  
12 credit against any property tax due by the owner. The credit may be  
13 carried forward until such prepayments have been used in full. No  
14 refunds of prepayments may be issued under this section.

15 **Sec. 2.** RCW 84.34.108 and 2009 c 513 s 2, 2009 c 354 s 3, 2009 c  
16 255 s 2, and 2009 c 246 s 3 are each reenacted and amended to read as  
17 follows:

18 (1) When land has once been classified under this chapter, a  
19 notation of the classification (~~shall~~) must be made each year upon  
20 the assessment and tax rolls and the land (~~shall~~) must be valued  
21 pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a  
22 portion of the classification by the assessor upon occurrence of any of  
23 the following:

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

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

31 (c) Sale or transfer of all or a portion of the land to a new  
32 owner, unless the new owner has signed a notice of classification  
33 continuance, except transfer to an owner who is an heir or devisee of  
34 a deceased owner (~~shall~~) may not, by itself, result in removal of  
35 classification. The notice of continuance (~~shall~~) must be on a form  
36 prepared by the department. If the notice of continuance is not signed  
37 by the new owner and attached to the real estate excise tax affidavit,

1 all additional taxes calculated pursuant to subsection (4) of this  
2 section (~~shall~~) become due and payable by the seller or transferor at  
3 time of sale. The auditor (~~shall~~) may not accept an instrument of  
4 conveyance regarding classified land for filing or recording unless the  
5 new owner has signed the notice of continuance or the additional tax  
6 has been paid, as evidenced by the real estate excise tax stamp affixed  
7 thereto by the treasurer. The seller, transferor, or new owner may  
8 appeal the new assessed valuation calculated under subsection (4) of  
9 this section to the county board of equalization in accordance with the  
10 provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the  
11 county board of equalization to hear these appeals;

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

17 (ii) The granting authority, upon request of an assessor, (~~shall~~)  
18 must provide reasonable assistance to the assessor in making a  
19 determination whether the land continues to meet the qualifications of  
20 RCW 84.34.020 (1) or (3). The assistance (~~shall~~) must be provided  
21 within thirty days of receipt of the request.

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

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

25 (b) The creation, sale, or transfer of a fee interest or a  
26 conservation easement for the riparian open space program under RCW  
27 76.09.040.

28 (3) Within thirty days after the removal of all or a portion of the  
29 land from current use classification under subsection (1) of this  
30 section, the assessor (~~shall~~) must notify the owner in writing,  
31 setting forth the reasons for the removal. The seller, transferor, or  
32 owner may appeal the removal to the county board of equalization in  
33 accordance with the provisions of RCW 84.40.038. The removal notice  
34 must explain the steps needed to appeal the removal decision, including  
35 when a notice of appeal must be filed, where the forms may be obtained,  
36 and how to contact the county board of equalization.

37 (4) Unless the removal is reversed on appeal, the assessor  
38 (~~shall~~) must revalue the affected land with reference to its true and

1 fair value on January 1st of the year of removal from classification.  
2 Both the assessed valuation before and after the removal of  
3 classification (~~shall~~) must be listed and taxes (~~shall~~) must be  
4 allocated according to that part of the year to which each assessed  
5 valuation applies. Except as provided in subsection (6) of this  
6 section, an additional tax, applicable interest, and penalty (~~shall~~)  
7 must be imposed, which (~~shall be~~) is due and payable to the treasurer  
8 thirty days after the owner is notified of the amount of the additional  
9 tax. As soon as possible, the assessor (~~shall~~) must compute the  
10 amount of additional tax, applicable interest, and penalty and the  
11 treasurer (~~shall~~) must mail notice to the owner of the amount thereof  
12 and the date on which payment is due. The amount of the additional  
13 tax, applicable interest, and penalty (~~shall be~~) is determined as  
14 follows:

15 (a) The amount of additional tax (~~shall be~~) is equal to the  
16 difference between the property tax paid as "open space land," "farm  
17 and agricultural land," or "timber land" and the amount of property tax  
18 otherwise due and payable for the seven years last past had the land  
19 not been so classified;

20 (b) The amount of applicable interest (~~shall be~~) is equal to the  
21 interest upon the amounts of the additional tax paid at the same  
22 statutory rate charged on delinquent property taxes from the dates on  
23 which the additional tax could have been paid without penalty if the  
24 land had been assessed at a value without regard to this chapter.  
25 Interest is not charged under this section if the removal satisfies the  
26 conditions of section 1 of this act;

27 (c) The amount of the penalty (~~shall be~~) is as provided in RCW  
28 84.34.080. The penalty (~~shall~~) may not be imposed if the removal  
29 satisfies the conditions of RCW 84.34.070 or section 1 of this act.

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

1 Any additional tax unpaid on its due date (~~shall thereupon~~) becomes  
2 delinquent as of the due date. From the date of delinquency until  
3 paid, interest (~~shall be~~) is charged at the same rate applied by law  
4 to delinquent ad valorem property taxes.

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

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

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

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

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

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

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

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

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

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

37 (j) The creation, sale, or transfer of a conservation easement of

1 private forest lands within unconfined channel migration zones or  
2 containing critical habitat for threatened or endangered species under  
3 RCW 76.09.040;

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

11 (l)(i) The discovery that the land was classified under this  
12 chapter in error through no fault of the owner. For purposes of this  
13 subsection (6)(l), "fault" means a knowingly false or misleading  
14 statement, or other act or omission not in good faith, that contributed  
15 to the approval of classification under this chapter or the failure of  
16 the assessor to remove the land from classification 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 to  
20 subsection (1) of this section if an independent basis for removal  
21 exists. Examples of an independent basis for removal include the owner  
22 changing the use of the land or failing to meet any applicable income  
23 criteria required for classification under this chapter.

24 **Sec. 3.** RCW 84.34.080 and 1999 sp.s. c 4 s 705 are each amended to  
25 read as follows:

26 When land which has been classified under this chapter as open  
27 space land, farm and agricultural land, or timber land is applied to  
28 some other use, except through compliance with RCW 84.34.070 or section  
29 1 of this act, or except as a result solely from any one of the  
30 conditions listed in RCW 84.34.108(6), the owner (~~shall~~) must within  
31 sixty days notify the county assessor of such change in use and  
32 additional real property tax (~~shall~~) must be imposed upon such land  
33 in an amount equal to the sum of the following:

34 (1) The total amount of the additional tax and applicable interest  
35 due under RCW 84.34.108; plus

1           (2) A penalty amounting to twenty percent of the amount determined  
2 in subsection (1) of this section.

--- END ---