
HOUSE BILL 1261

State of Washington

69th Legislature

2025 Regular Session

By Representatives Low, Berg, Peterson, and Nance

Read first time 01/14/25. Referred to Committee on Finance.

1 AN ACT Relating to providing tax relief for certain incidental
2 uses on open space land; and amending RCW 84.34.020 and 84.34.108.

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

4 **Sec. 1.** RCW 84.34.020 and 2014 c 125 s 2 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

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
10 and zoned accordingly, or (b) any land area, the preservation of
11 which in its present use would (i) conserve and enhance natural or
12 scenic resources, or (ii) protect streams or water supply, or (iii)
13 promote conservation of soils, wetlands, beaches or tidal marshes, or
14 (iv) enhance the value to the public of abutting or neighboring
15 parks, forests, wildlife preserves, nature reservations or
16 sanctuaries or other open space, or (v) enhance recreation
17 opportunities, or (vi) preserve historic sites, or (vii) preserve
18 visual quality along highway, road, and street corridors or scenic
19 vistas, or (viii) retain in its natural state tracts of land not less
20 than one acre situated in an urban area and open to public use on
21 such conditions as may be reasonably required by the legislative body

1 granting the open space classification, or (c) any land meeting the
2 definition of farm and agricultural conservation land under
3 subsection (8) of this section. As a condition of granting open space
4 classification, the legislative body may not require public access on
5 land classified under (b)(iii) of this subsection for the purpose of
6 promoting conservation of wetlands.

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

8 (a) Any parcel of land that is (~~twenty~~) 20 or more acres or
9 multiple parcels of land that are contiguous and total (~~twenty~~) 20
10 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
15 agriculture; or

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

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

22 (A) (~~One hundred dollars~~) \$100 or more per acre per year for
23 three of the five calendar years preceding the date of application
24 for classification under this chapter for all parcels of land that
25 are classified under this subsection or all parcels of land for which
26 an application for classification under this subsection is made with
27 the granting authority prior to January 1, 1993; and

28 (B) On or after January 1, 1993, (~~two hundred dollars~~) \$200 or
29 more per acre per year for three of the five calendar years preceding
30 the date of application for classification under this chapter;

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

35 (c) Any parcel of land of less than five acres devoted primarily
36 to agricultural uses which has produced a gross income as of January
37 1, 1993, of:

38 (i) (~~One thousand dollars~~) \$1,000 or more per year for three of
39 the five calendar years preceding the date of application for
40 classification under this chapter for all parcels of land that are

1 classified under this subsection or all parcels of land for which an
2 application for classification under this subsection is made with the
3 granting authority prior to January 1, 1993; and

4 (ii) On or after January 1, 1993, (~~(fifteen hundred dollars)~~)
5 \$1,500 or more per year for three of the five calendar years
6 preceding the date of application for classification under this
7 chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this
8 subsection will, upon any transfer of the property excluding a
9 transfer to a surviving spouse or surviving state registered domestic
10 partner, be subject to the limits of (b)(i)(B) and (c)(ii) of this
11 subsection;

12 (d) Any parcel of land that is five acres or more but less than
13 (~~(twenty)~~) 20 acres devoted primarily to agricultural uses, which
14 meet one of the following criteria:

15 (i) Has produced a gross income from agricultural uses equivalent
16 to (~~(two hundred dollars)~~) \$200 or more per acre per year for three
17 of the five calendar years preceding the date of application for
18 classification under this chapter;

19 (ii) Has standing crops with an expectation of harvest within
20 seven years, except as provided in (d)(iii) of this subsection, and a
21 demonstrable investment in the production of those crops equivalent
22 to (~~(one hundred dollars)~~) \$100 or more per acre in the current or
23 previous calendar year. For the purposes of this subsection
24 (2)(d)(ii), "standing crop" means Christmas trees, vineyards, fruit
25 trees, or other perennial crops that: (A) Are planted using
26 agricultural methods normally used in the commercial production of
27 that particular crop; and (B) typically do not produce harvestable
28 quantities in the initial years after planting; or

29 (iii) Has a standing crop of short rotation hardwoods with an
30 expectation of harvest within (~~(fifteen)~~) 15 years and a demonstrable
31 investment in the production of those crops equivalent to (~~(one~~
32 ~~hundred dollars)~~) \$100 or more per acre in the current or previous
33 calendar year;

34 (e) Any lands including incidental uses as are compatible with
35 agricultural purposes, including wetlands preservation, provided such
36 incidental use does not exceed (~~(twenty)~~) 20 percent of the
37 classified land and the land on which appurtenances necessary to the
38 production, preparation, or sale of the agricultural products exist
39 in conjunction with the lands producing such products. Agricultural
40 lands also include any parcel of land of one to five acres, which is

1 not contiguous, but which otherwise constitutes an integral part of
2 farming operations being conducted on land qualifying under this
3 section as "farm and agricultural lands";

4 (f) The land on which housing for employees and the principal
5 place of residence of the farm operator or owner of land classified
6 pursuant to (a) of this subsection is sited if: The housing or
7 residence is on or contiguous to the classified parcel; and the use
8 of the housing or the residence is integral to the use of the
9 classified land for agricultural purposes;

10 (g) Any land that is used primarily for equestrian related
11 activities for which a charge is made, including, but not limited to,
12 stabling, training, riding, clinics, schooling, shows, or grazing for
13 feed and that otherwise meet the requirements of (a), (b), or (c) of
14 this subsection; or

15 (h) Any land primarily used for commercial horticultural
16 purposes, including growing seedlings, trees, shrubs, vines, fruits,
17 vegetables, flowers, herbs, and other plants in containers, whether
18 under a structure or not, subject to the following:

19 (i) The land is not primarily used for the storage, care, or
20 selling of plants purchased from other growers for retail sale;

21 (ii) If the land is less than five acres and used primarily to
22 grow plants in containers, such land does not qualify as "farm and
23 agricultural land" if more than (~~twenty-five~~) 25 percent of the
24 land used primarily to grow plants in containers is open to the
25 general public for on-site retail sales;

26 (iii) If more than (~~twenty~~) 20 percent of the land used for
27 growing plants in containers qualifying under this subsection (2)(h)
28 is covered by pavement, none of the paved area is eligible for
29 classification as "farm and agricultural land" under this subsection
30 (2)(h). The eligibility limitations described in this subsection
31 (2)(h)(iii) do not affect the land's eligibility to qualify under (e)
32 of this subsection; and

33 (iv) If the land classified under this subsection (2)(h), in
34 addition to any contiguous land classified under this subsection, is
35 less than (~~twenty~~) 20 acres, it must meet the applicable income or
36 investment requirements in (b), (c), or (d) of this subsection.

37 (3) "Timberland" means any parcel of land that is five or more
38 acres or multiple parcels of land that are contiguous and total five
39 or more acres which is or are devoted primarily to the growth and
40 harvest of timber for commercial purposes. Timberland means the land

1 only and does not include a residential homesite. The term includes
2 land used for incidental uses that are compatible with the growing
3 and harvesting of timber but no more than ((ten)) 10 percent of the
4 land may be used for such incidental uses. It also includes the land
5 on which appurtenances necessary for the production, preparation, or
6 sale of the timber products exist in conjunction with land producing
7 these products.

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

10 (5) "Owner" means the party or parties having the fee interest in
11 land, except that where land is subject to real estate contract
12 "owner" means the contract vendee.

13 (6) (a) "Contiguous" means land adjoining and touching other
14 property held by the same ownership. Land divided by a public road,
15 but otherwise an integral part of a farming operation, is considered
16 contiguous.

17 (b) For purposes of this subsection (6):

18 (i) "Same ownership" means owned by the same person or persons,
19 except that parcels owned by different persons are deemed held by the
20 same ownership if the parcels are:

21 (A) Managed as part of a single operation; and

22 (B) Owned by:

23 (I) Members of the same family;

24 (II) Legal entities that are wholly owned by members of the same
25 family; or

26 (III) An individual who owns at least one of the parcels and a
27 legal entity or entities that own the other parcel or parcels if the
28 entity or entities are wholly owned by that individual, members of
29 his or her family, or that individual and members of his or her
30 family.

31 (ii) "Family" includes only:

32 (A) An individual and his or her spouse or domestic partner,
33 child, stepchild, adopted child, grandchild, parent, stepparent,
34 grandparent, cousin, or sibling;

35 (B) The spouse or domestic partner of an individual's child,
36 stepchild, adopted child, grandchild, parent, stepparent,
37 grandparent, cousin, or sibling;

38 (C) A child, stepchild, adopted child, grandchild, parent,
39 stepparent, grandparent, cousin, or sibling of the individual's
40 spouse or the individual's domestic partner; and

1 (D) The spouse or domestic partner of any individual described in
2 (b) (ii) (C) of this subsection (6).

3 (7) "Granting authority" means the appropriate agency or official
4 who acts on an application for classification of land pursuant to
5 this 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
12 under chapter 84.33 or 84.34 RCW, that has not been irrevocably
13 devoted to a use inconsistent with agricultural uses, and that has a
14 high potential for returning to commercial agriculture.

15 (9) (a) "Agritourism activity" means any activity carried out on a
16 farm whose primary use is agriculture and that allows members of the
17 general public, for recreational, entertainment, or educational
18 purposes, to view or enjoy rural activities.

19 (b) (i) "Agritourism activity" must be incidental to and
20 compatible with the required growing and production of agriculture on
21 classified farm and agricultural land.

22 (ii) "Agritourism activity" includes: Farming; historic,
23 cultural, and on-site educational programs; recreational farming
24 programs that may include on-site hospitality services; guided and
25 self-guided tours; petting zoos; farm festivals; corn mazes; harvest-
26 your-own operations; hayrides; barn parties; horseback riding;
27 fishing; and camping.

28 (iii) "Agritourism activity" includes celebratory gatherings and
29 events, including birthday parties, graduation parties, and weddings.

30 (10) "Appurtenance" means something used with, and related to or
31 dependent upon, another thing that is strictly necessary and
32 essential to the proper use and enjoyment of the land, as well as
33 useful or necessary for carrying out the purposes for which the land
34 is classified under this chapter.

35 (11) "Incidental use" means a use of land classified as farm and
36 agricultural land that is compatible with commercial agricultural
37 purposes. "Incidental use" for land classified as farm and
38 agricultural land cannot exceed 20 percent of the total classified
39 land. An "incidental use" may include, but is not limited to,

1 agritourism activities, wetland preservation, a gravel pit, a farm
2 woodlot, or a produce stand.

3 (12) "Primary use" means the existing use of a parcel or parcels
4 of land so prevalent that when the characteristic use of the land is
5 evaluated a conflicting or nonrelated use appears to be very limited
6 or excluded. The primary use of a parcel does not represent a
7 specific percentage of the total classified land.

8 **Sec. 2.** RCW 84.34.108 and 2024 c 109 s 2 are each amended to
9 read as follows:

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

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

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

23 (c) Sale or transfer of all or a portion of the land to a new
24 owner, unless the new owner has signed a notice of classification
25 continuance, except transfer to an owner who is an heir or devisee of
26 a deceased owner or transfer by a transfer on death deed does not, by
27 itself, result in removal of classification. The notice of
28 continuance must be on a form prepared by the department. If the
29 notice of continuance is not signed by the new owner and attached to
30 the real estate excise tax affidavit, all additional taxes,
31 applicable interest, and penalty calculated pursuant to subsection

32 (4) of this section become due and payable by the seller or
33 transferor at time of sale. The auditor may not accept an instrument
34 of conveyance regarding classified land for filing or recording
35 unless the new owner has signed the notice of continuance or the
36 additional tax, applicable interest, and penalty has been paid, as
37 evidenced by the real estate excise tax stamp affixed thereto by the
38 treasurer. The seller, transferor, or new owner may appeal the new
39 assessed valuation calculated under subsection (4) of this section to

1 the county board of equalization in accordance with the provisions of
2 RCW 84.40.038. Jurisdiction is hereby conferred on the county board
3 of equalization to hear these appeals;

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

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

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

15 (a) The creation, sale, or transfer of forestry riparian
16 easements under RCW 76.13.120; (~~or~~)

17 (b) The creation, sale, or transfer of a fee interest or a
18 conservation easement for the riparian open space program under RCW
19 76.09.040;

20 (c) The occurrence of celebratory gatherings and events,
21 including birthday parties, graduation parties, and weddings on the
22 land; or

23 (d) The construction of small supporting structures, gravel
24 parking lots, or de minimis alterations to an existing appurtenance
25 on the land that are deemed by the department to be integral for
26 agritourism activities or other incidental uses of the land. The
27 department must determine what "integral for agritourism activities"
28 means through rule making according to chapter 34.05 RCW.

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

38 (4) Unless the removal is reversed on appeal, the assessor must
39 revalue the affected land with reference to its true and fair value
40 on January 1st of the year of removal from classification. Both the

1 assessed valuation before and after the removal of classification
2 must be listed and taxes must be allocated according to that part of
3 the year to which each assessed valuation applies. Except as provided
4 in subsection (6) of this section, an additional tax, applicable
5 interest, and penalty must be imposed, which are due and payable to
6 the treasurer (~~(thirty)~~) 30 days after the owner is notified of the
7 amount of the additional tax, applicable interest, and penalty. As
8 soon as possible, the assessor must compute the amount of additional
9 tax, applicable interest, and penalty and the treasurer must mail
10 notice to the owner of the amount thereof and the date on which
11 payment is due. The amount of the additional tax, applicable
12 interest, and penalty must be determined as follows:

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

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

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

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

38 (6) The additional tax, applicable interest, and penalty
39 specified in subsection (4) of this section may not be imposed if the

1 removal of classification pursuant to subsection (1) of this section
2 resulted solely from:

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

5 (b) (i) A taking through the exercise of the power of eminent
6 domain, or (ii) sale or transfer to an entity having the power of
7 eminent domain in anticipation of the exercise of such power, said
8 entity having manifested its intent in writing or by other official
9 action;

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

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

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

18 (f) Acquisition of property interests by state agencies or
19 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
20 for the purposes enumerated in those sections. At such time as these
21 property interests are not used for the purposes enumerated in RCW
22 84.34.210 and 64.04.130 the additional tax specified in subsection
23 (4) of this section must be imposed;

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

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

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

31 (j) The creation, sale, or transfer of a conservation easement of
32 private forestlands within unconfined channel migration zones or
33 containing critical habitat for threatened or endangered species
34 under RCW 76.09.040;

35 (k) The sale or transfer of land within two years after the death
36 of the owner of at least a (~~fifty~~) 50 percent interest in the land
37 if the land has been assessed and valued as classified forestland,
38 designated as forestland under chapter 84.33 RCW, or classified under
39 this chapter continuously since 1993. The date of death shown on a

1 death certificate is the date used for the purposes of this
2 subsection (6)(k);

3 (l)(i) The discovery that the land was classified under this
4 chapter in error through no fault of the owner. For purposes of this
5 subsection (6)(l), "fault" means a knowingly false or misleading
6 statement, or other act or omission not in good faith, that
7 contributed to the approval of classification under this chapter or
8 the failure of the assessor to remove the land from classification
9 under this chapter.

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

17 (m) The sale or transfer to a governmental entity if the
18 governmental entity manages the land in the same manner as designated
19 forestland under chapter 84.33 RCW, or as property classified as
20 timberland under this chapter, and the governmental entity provides
21 the county assessor with a timber management plan or a notice of
22 intent to manage the land as required under this subsection (6)(m).
23 The governmental entity must provide an updated timberland or
24 forestland management plan to the county assessor at least once every
25 revaluation cycle. The county is authorized to collect a fee from the
26 governmental entity for the filing of the forestland or timberland
27 management plan in accordance with the county's fee schedule. When
28 the land is not managed as required under this subsection (6)(m), or
29 when the governmental entity sells or transfers the land at any time,
30 the additional tax specified in subsection (4) of this section is due
31 from the current government owner, unless the change in use of the
32 land, sale or transfer, meets one of the other exceptions in this
33 subsection (6).

34 (7) An assessor may waive or a county treasurer refund, according
35 to chapter 84.69 RCW, any additional tax, applicable interest, and
36 penalty specified in subsection (4) of this section that is owed or
37 previously paid by a person.

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