

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1261

69th Legislature
2025 Regular Session

Passed by the House March 7, 2025
Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 14, 2025
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1261** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1261

Passed Legislature - 2025 Regular Session

State of Washington

69th Legislature

2025 Regular Session

By House Finance (originally sponsored by Representatives Low, Berg, Peterson, and Nance)

READ FIRST TIME 02/20/25.

1 AN ACT Relating to providing tax relief for certain incidental
2 uses on open space land; amending RCW 84.34.020, 84.34.080, and
3 84.34.108; and creating new sections.

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

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

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

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

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

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

9 (a) Any parcel of land that is (~~twenty~~) 20 or more acres or
10 multiple parcels of land that are contiguous and total (~~twenty~~) 20
11 or more acres:

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

14 (ii) Enrolled in the federal conservation reserve program or its
15 successor administered by the United States department of
16 agriculture; or

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

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

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

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

32 (ii) For the purposes of (b)(i) of this subsection, "gross income
33 from agricultural uses" includes, but is not limited to(~~the~~):

34 (A) The wholesale value of agricultural products donated to
35 nonprofit food banks or feeding programs; and

36 (B) The wholesale value of agricultural products sold to persons
37 allowed to harvest the agricultural products they purchase, if the
38 products harvested are grown on the same land;

1 (c) Any parcel of land of less than five acres devoted primarily
2 to agricultural uses which has produced a gross income as of January
3 1, 1993, of:

4 (i) (~~One thousand dollars~~) \$1,000 or more per year for three of
5 the five calendar years preceding the date of application for
6 classification under this chapter for all parcels of land that are
7 classified under this subsection or all parcels of land for which an
8 application for classification under this subsection is made with the
9 granting authority prior to January 1, 1993; and

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

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

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

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

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

1 (e) Any lands including incidental uses (~~as are compatible with~~
2 ~~agricultural purposes, including wetlands preservation, provided such~~
3 ~~incidental use does not exceed twenty percent of the classified~~
4 ~~land~~) and the land on which appurtenances necessary to the
5 production, preparation, or sale of the agricultural products exist
6 in conjunction with the lands producing such products. Agricultural
7 lands also include any parcel of land of one to five acres, which is
8 not contiguous, but which otherwise constitutes an integral part of
9 farming operations being conducted on land qualifying under this
10 section as "farm and agricultural lands";

11 (f) The land on which housing for employees and the principal
12 place of residence of the farm operator or owner of land classified
13 pursuant to (a) of this subsection is sited if: The housing or
14 residence is on or contiguous to the classified parcel; and the use
15 of the housing or the residence is integral to the use of the
16 classified land for agricultural purposes;

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

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

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

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

33 (iii) If more than (~~twenty~~) 20 percent of the land used for
34 growing plants in containers qualifying under this subsection (2)(h)
35 is covered by pavement, none of the paved area is eligible for
36 classification as "farm and agricultural land" under this subsection
37 (2)(h). The eligibility limitations described in this subsection
38 (2)(h)(iii) do not affect the land's eligibility to qualify under (e)
39 of this subsection; and

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

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

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

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

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

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

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

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

30 (B) Owned by:

31 (I) Members of the same family;

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

34 (III) An individual who owns at least one of the parcels and a
35 legal entity or entities that own the other parcel or parcels if the
36 entity or entities are wholly owned by that individual, members of
37 his or her family, or that individual and members of his or her
38 family.

39 (ii) "Family" includes only:

1 (A) An individual and his or her spouse or domestic partner,
2 child, stepchild, adopted child, grandchild, parent, stepparent,
3 grandparent, cousin, or sibling;

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

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

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

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

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

16 (a) Land that was previously classified under subsection (2) of
17 this section, that no longer meets the criteria of subsection (2) of
18 this section, and that is reclassified under subsection (1) of this
19 section; or

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

24 (9) "Appurtenance" means something used with, and related to or
25 dependent upon another thing that is, something that belongs to
26 something else, an adjunct. The thing appurtenant is strictly
27 necessary and essential to the proper use and enjoyment of the land,
28 as well as useful or necessary for carrying out the purposes for
29 which the land is classified under this chapter.

30 (a) In terms of farm and agricultural land, an "appurtenance" is
31 something used for a particular sort of farm and is widely and
32 routinely used in the operation of the commercial agricultural
33 enterprise.

34 (b) An "appurtenance" includes, but is not limited to, portable
35 sanitation equipment, barn, or tool shed, or equipment used for a
36 particular purpose or task, such as tools, instruments, or machinery.

37 (10) "Incidental use" means a use of land classified as farm and
38 agricultural land or timberland that is compatible with commercial
39 agricultural purposes. "Incidental use" for land classified as farm
40 and agricultural land may not exceed 20 percent of the total

1 classified land, while incidental use for timberland may not exceed
2 10 percent of the total classified land. An "incidental use" may
3 include, but is not limited to, wetland preservation, a gravel pit, a
4 farm woodlot, a produce stand, or an unpaved parking area necessary
5 for the safe visiting or viewing of classified land.

6 **Sec. 2.** RCW 84.34.080 and 1999 sp.s. c 4 s 705 are each amended
7 to read as follows:

8 When land which has been classified under this chapter as open
9 space land, farm and agricultural land, or timberland is applied to
10 some other use, except through compliance with RCW 84.34.070, or
11 except as a result solely from any one of the conditions listed in
12 RCW 84.34.108(6), the owner shall within (~~sixty~~) 60 days notify the
13 county assessor of such change in use and additional real property
14 tax shall be imposed upon such land in an amount equal to the sum of
15 the following:

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

18 (2) (~~(A)~~) Except as provided in RCW 84.34.108(4)(c), a penalty
19 amounting to (~~twenty~~) 20 percent of the amount determined in
20 subsection (1) of this section.

21 **Sec. 3.** RCW 84.34.108 and 2024 c 109 s 2 are each amended to
22 read as follows:

23 (1) When land has once been classified under this chapter, a
24 notation of the classification must be made each year upon the
25 assessment and tax rolls and the land must be valued pursuant to RCW
26 84.34.060 or 84.34.065 until removal of all or a portion of the
27 classification by the assessor upon occurrence of any of the
28 following:

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

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

36 (c) Sale or transfer of all or a portion of the land to a new
37 owner, unless the new owner has signed a notice of classification
38 continuance, except transfer to an owner who is an heir or devisee of

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

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

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

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

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

31 ~~(b)~~) (ii) The creation, sale, or transfer of a fee interest or a
32 conservation easement for the riparian open space program under RCW
33 76.09.040.

34 (b) Land classified as farm and agricultural land under RCW
35 84.34.020 upon which an existing appurtenance is located may not be
36 removed from classification as a result of minor upgrades and
37 alterations to the appurtenance such as the addition of a cement pad,
38 plumbing, or electrical, or limited compatible uses including
39 educational and recreational farming programs, events such as

1 seasonal farm festivals, and celebratory gatherings such as weddings,
2 unless:

3 (i) Retaining the classification of such land would exceed the 20
4 percent incidental use limitation provided in the definition of
5 incidental use in RCW 84.34.020; or

6 (ii) The structure no longer meets the definition of appurtenance
7 under RCW 84.34.020.

8 (c) For the purpose of this subsection (2), "existing
9 appurtenance" does not include a newly constructed structure, or
10 major redevelopment of an existing structure.

11 (3) Within (~~thirty~~) 30 days after the removal of all or a
12 portion of the land from current use classification under subsection
13 (1) of this section, the assessor must notify the owner in writing,
14 setting forth the reasons for the removal. The seller, transferor, or
15 owner may appeal the removal to the county board of equalization in
16 accordance with the provisions of RCW 84.40.038. The removal notice
17 must explain the steps needed to appeal the removal decision,
18 including when a notice of appeal must be filed, where the forms may
19 be obtained, and how to contact the county board of equalization.

20 (4) Unless the removal is reversed on appeal, the assessor must
21 revalue the affected land with reference to its true and fair value
22 on January 1st of the year of removal from classification. Both the
23 assessed valuation before and after the removal of classification
24 must be listed and taxes must be allocated according to that part of
25 the year to which each assessed valuation applies. Except as provided
26 in subsection (6) of this section, an additional tax, applicable
27 interest, and penalty must be imposed, which are due and payable to
28 the treasurer (~~thirty~~) 30 days after the owner is notified of the
29 amount of the additional tax, applicable interest, and penalty. As
30 soon as possible, the assessor must compute the amount of additional
31 tax, applicable interest, and penalty and the treasurer must mail
32 notice to the owner of the amount thereof and the date on which
33 payment is due. The amount of the additional tax, applicable
34 interest, and penalty must be determined as follows:

35 (a) The amount of additional tax is (~~equal~~):

36 (i) Except as provided in (a)(ii) of this subsection, equal to
37 the difference between the property tax paid as "open space land,"
38 "farm and agricultural land," or "timberland" and the amount of
39 property tax otherwise due and payable for the seven years last past
40 had the land not been so classified;

1 (ii) For removals, or withdrawals, of classified farm and
2 agricultural land on or after September 1, 2025, equal to the
3 difference between the property tax paid as farm and agricultural and
4 the amount of property tax otherwise due and payable for the four
5 years last past had the land not been so classified.

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

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

14 (5) Additional tax, applicable interest, and penalty become a
15 lien on the land. The lien attaches at the time the land is removed
16 from classification under this chapter and has priority to and must
17 be fully paid and satisfied before any recognizance, mortgage,
18 judgment, debt, obligation, or responsibility to or with which the
19 land may become charged or liable. This lien may be foreclosed upon
20 expiration of the same period after delinquency and in the same
21 manner provided by law for foreclosure of liens for delinquent real
22 property taxes as provided in RCW 84.64.050. Any additional tax
23 unpaid on the due date is delinquent as of the due date. From the
24 date of delinquency until paid, interest must be charged at the same
25 rate applied by law to delinquent ad valorem property taxes.

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

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

32 (b) (i) A taking through the exercise of the power of eminent
33 domain, or (ii) sale or transfer to an entity having the power of
34 eminent domain in anticipation of the exercise of such power, said
35 entity having manifested its intent in writing or by other official
36 action;

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

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

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

6 (f) Acquisition of property interests by state agencies or
7 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
8 for the purposes enumerated in those sections. At such time as these
9 property interests are not used for the purposes enumerated in RCW
10 84.34.210 and 64.04.130 the additional tax specified in subsection
11 (4) of this section must be imposed;

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

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

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

19 (j) The creation, sale, or transfer of a conservation easement of
20 private forestlands within unconfined channel migration zones or
21 containing critical habitat for threatened or endangered species
22 under RCW 76.09.040;

23 (k) The sale or transfer of land within two years after the death
24 of the owner of at least a (~~fifty~~) 50 percent interest in the land
25 if the land has been assessed and valued as classified forestland,
26 designated as forestland under chapter 84.33 RCW, or classified under
27 this chapter continuously since 1993. The date of death shown on a
28 death certificate is the date used for the purposes of this
29 subsection (6)(k);

30 (l)(i) The discovery that the land was classified under this
31 chapter in error through no fault of the owner. For purposes of this
32 subsection (6)(l), "fault" means a knowingly false or misleading
33 statement, or other act or omission not in good faith, that
34 contributed to the approval of classification under this chapter or
35 the failure of the assessor to remove the land from classification
36 under this chapter.

37 (ii) For purposes of this subsection (6), the discovery that land
38 was classified under this chapter in error through no fault of the
39 owner is not the sole reason for removal of classification pursuant
40 to subsection (1) of this section if an independent basis for removal

1 exists. Examples of an independent basis for removal include the
2 owner changing the use of the land or failing to meet any applicable
3 income criteria required for classification under this chapter; or

4 (m) The sale or transfer to a governmental entity if the
5 governmental entity manages the land in the same manner as designated
6 forestland under chapter 84.33 RCW, or as property classified as
7 timberland under this chapter, and the governmental entity provides
8 the county assessor with a timber management plan or a notice of
9 intent to manage the land as required under this subsection (6)(m).
10 The governmental entity must provide an updated timberland or
11 forestland management plan to the county assessor at least once every
12 revaluation cycle. The county is authorized to collect a fee from the
13 governmental entity for the filing of the forestland or timberland
14 management plan in accordance with the county's fee schedule. When
15 the land is not managed as required under this subsection (6)(m), or
16 when the governmental entity sells or transfers the land at any time,
17 the additional tax specified in subsection (4) of this section is due
18 from the current government owner, unless the change in use of the
19 land, sale or transfer, meets one of the other exceptions in this
20 subsection (6).

21 NEW SECTION. **Sec. 4.** This act does not affect any existing
22 right acquired or liability or obligation incurred under the sections
23 amended or repealed in this act or under any rule or order adopted
24 under those sections, nor does it affect any proceeding instituted
25 under those sections.

26 NEW SECTION. **Sec. 5.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 6.** RCW 82.32.805 and 82.32.808 do not apply
31 to this act.

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