
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1437

State of Washington

63rd Legislature

2013 Regular Session

By House Finance (originally sponsored by Representatives Reykdal, Blake, Haigh, Orcutt, Lytton, Van De Wege, and Zeiger)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to small farms under the current use property tax
2 program for farm and agricultural lands; amending RCW 84.34.020;
3 creating new sections; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that small farms
6 should have similar current use valuation as larger farms. The
7 legislature intends this act to provide that farms five to twenty acres
8 are eligible for current use valuation of the land underlying the
9 residential structures the same as farms twenty acres and over and
10 farms less than five acres are also eligible if certain gross income
11 thresholds are met.

12 **Sec. 2.** RCW 84.34.020 and 2011 c 101 s 1 are each amended to read
13 as follows:

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

16 (1) "Open space land" means (a) any land area so designated by an
17 official comprehensive land use plan adopted by any city or county and
18 zoned accordingly, or (b) any land area, the preservation of which in

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

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

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

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

22 (ii) Enrolled in the federal conservation reserve program or its
23 successor administered by the United States department of agriculture;
24 or

25 (iii) Other similar commercial activities as may be established by
26 rule;

27 (b)(i) Any parcel of land that is five acres or more but less than
28 twenty acres devoted primarily to agricultural uses, which has produced
29 a gross income from agricultural uses equivalent to, as of January 1,
30 1993:

31 (A) One hundred dollars or more per acre per year for three of the
32 five calendar years preceding the date of application for
33 classification under this chapter for all parcels of land that are
34 classified under this subsection or all parcels of land for which an
35 application for classification under this subsection is made with the
36 granting authority prior to January 1, 1993; and

37 (B) On or after January 1, 1993, two hundred dollars or more per

1 acre per year for three of the five calendar years preceding the date
2 of application for classification under this chapter;

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

7 (c) Any parcel of land of less than five acres devoted primarily to
8 agricultural uses which has produced a gross income as of January 1,
9 1993, of:

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

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

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

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

30 (ii) Has standing crops with an expectation of harvest within seven
31 years, except as provided in (d)(iii) of this subsection, and a
32 demonstrable investment in the production of those crops equivalent to
33 one hundred dollars or more per acre in the current or previous
34 calendar year. For the purposes of this subsection (2)(d)(ii),
35 "standing crop" means Christmas trees, vineyards, fruit trees, or other
36 perennial crops that: (A) Are planted using agricultural methods
37 normally used in the commercial production of that particular crop; and

1 (B) typically do not produce harvestable quantities in the initial
2 years after planting; or

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

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

17 (f) The land on which housing for employees and the principal place
18 of residence of the farm operator or owner of land classified pursuant
19 to (a) of this subsection is sited if: The housing or residence is on
20 or contiguous to the classified parcel; and the use of the housing or
21 the residence is integral to the use of the classified land for
22 agricultural purposes; (~~(e)~~)

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

28 (h) The land on which housing for employees and the principal place
29 of residence of the farm operator or owner of land classified pursuant
30 to (b), (c), (d), or (g) of this subsection is sited, if such land also
31 meets the following requirements:

32 (i) The housing or residence is located within a county west of the
33 crest of the Cascade mountains, with a population between two hundred
34 fifty thousand and four hundred thousand, adjacent to a county with a
35 population between seventy-five thousand and one hundred thousand;

36 (ii) The housing or residence is on or contiguous to the classified
37 parcel;

1 (iii) The use of the housing or the residence is integral to the
2 use of the classified land for agricultural purposes; and

3 (iv) For classified parcels that are ten acres or less, the
4 classified land produced a gross income of ten thousand dollars or more
5 per year for three of the five calendar years preceding the date of
6 application of classification under this chapter.

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

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

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

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

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

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

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

31 (B) Owned by:

32 (I) Members of the same family;

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

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

1 (ii) "Family" includes only:

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

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

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

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

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

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

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

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

25 NEW SECTION. **Sec. 3.** (1) The department of revenue is directed to
26 develop guidance on the administration of RCW 84.34.020(2)(h) in
27 consultation with stakeholders, including farmers, farm organizations
28 and associations, county assessors, and county commissioners to be
29 completed by July 1, 2014.

30 (2) This section expires July 1, 2014.

31 NEW SECTION. **Sec. 4.** By December 1, 2018, and in compliance with
32 RCW 43.01.036, the joint legislative audit and review committee must
33 provide a report to the legislature addressing the modifications to the
34 open space property tax program provided in this act. The report must
35 indicate: The number and acreage of properties qualifying under this
36 act for current use valuation; the total reduction in state and local

1 property taxes for property owners with land qualifying under this act
2 and whether such reductions are shifted to other property owners or
3 result in a decrease in state or local revenue; and any other data the
4 joint legislative audit and review committee deems necessary in
5 determining the fiscal impact of the program and the program's efficacy
6 in preserving farmland.

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