

Chapter 84.34 RCW
OPEN SPACE, AGRICULTURAL, TIMBERLANDS—CURRENT USE—CONSERVATION
FUTURES

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RCW 84.34.010 Legislative declaration. The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens. The legislature further declares that assessment practices must be so

designed as to permit the continued availability of open space lands for these purposes, and it is the intent of this chapter so to provide. The legislature further declares its intent that farm and agricultural lands shall be valued on the basis of their value for use as authorized by section 11 of Article VII of the Constitution of the state of Washington. [1973 1st ex.s. c 212 § 1; 1970 ex.s. c 87 § 1.]

RCW 84.34.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Farm and agricultural land" means:

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

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

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

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

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

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

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

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

value of agricultural products donated to nonprofit food banks or feeding programs;

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

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

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

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

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

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

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

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

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

(g) Any land that is used primarily for equestrian related activities for which a charge is made, including, but not limited to,

stabling, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meet the requirements of (a), (b), or (c) of this subsection; or

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

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

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

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

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

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

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

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

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

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

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

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

(B) Owned by:

(I) Members of the same family;

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

(III) An individual who owns at least one of the parcels and a legal entity or entities that own the other parcel or parcels if the

entity or entities are wholly owned by that individual, members of his or her family, or that individual and members of his or her family.

(ii) "Family" includes only:

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

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

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

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

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

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

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

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture. [2014 c 125 § 2; 2011 c 101 § 1; 2010 c 106 § 304. Prior: 2009 c 513 § 1; 2009 c 255 § 1; 2005 c 57 § 1; 2004 c 217 § 1; 2002 c 315 § 1; 2001 c 249 § 12; 1998 c 320 § 7; 1997 c 429 § 31; 1992 c 69 § 4; 1988 c 253 § 3; 1983 c 3 § 227; 1973 1st ex.s. c 212 § 2; 1970 ex.s. c 87 § 2.]

Intent—2014 c 125: "The legislature intends to clarify and update the description of farm and agricultural land as it is used under the property tax open space program. Modern technology and water quality and labor regulations have all caused nurseries to increasingly grow plants in containers rather than in the ground. Growing plants in containers preserves topsoil, allows more plants to be grown per acre, allows soil and nutrients to be customized for each type of plant, allows more efficient use of water and fertilizer, allows year-round harvest and sales, and reduces labor cost and injuries." [2014 c 125 § 1.]

Intent—2014 c 125: "The amendments to RCW 84.34.020, as provided in section 2 of this act, are intended to clarify an ambiguity in an existing tax preference, and are therefore exempt from the requirements of RCW 82.32.805 and 82.32.808." [2014 c 125 § 3.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Purpose—2004 c 217 § 1: "The purpose of the amendatory language in section 1 of this act is to clarify the timberland definition as it relates to tax issues. The language does not affect land use policy or law." [2004 c 217 § 2.]

Severability—1997 c 429: See note following RCW 36.70A.3201.

RCW 84.34.030 Applications for current use classification—Forms

—Fee—Times for making. (1) An owner of land desiring current use classification under RCW 84.34.020 must make application as follows:

(a) Application for classification under RCW 84.34.020(2) must be made to the county assessor upon forms prepared by the state department of revenue and supplied by the county assessor.

(b) Application for classification under:

(i) RCW 84.34.020(1); or

(ii) RCW 84.34.020(3), unless the timberland classification and designated forestland program are merged under RCW 84.34.400 must be made, for (b)(i) or (ii) of this subsection, to the county legislative authority upon forms prepared by the state department of revenue and supplied by the county assessor.

(2) The application must be accompanied by a reasonable processing fee if a processing fee is established by the city or county legislative authority. The application may require only such information reasonably necessary to properly classify an area of land under this chapter with a notarized verification of the truth thereof and must include a statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as open space, farm and agricultural or timberland. Applications must be made during the calendar year preceding that in which classification is to begin.

(3) The assessor must make necessary information, including copies of this chapter and applicable regulations, readily available to interested parties, and must render reasonable assistance to such parties upon request. [2014 c 137 § 6; 1989 c 378 § 10; 1973 1st ex.s. c 212 § 3; 1970 ex.s. c 87 § 3.]

RCW 84.34.035 Applications for current use classification—

Approval or denial—Appeal—Duties of assessor upon approval. The assessor shall act upon the application for current use classification of farm and agricultural lands under RCW 84.34.020(2), with due regard to all relevant evidence. The application shall be deemed to have been approved unless, prior to the first day of May of the year after such application was mailed or delivered to the assessor, the assessor shall notify the applicant in writing of the extent to which the application is denied. An owner who receives notice that his or her application has been denied may appeal such denial to the board of equalization in the county where the property is located. The appeal shall be filed in accordance with RCW 84.40.038. Within ten days following approval of the application, the assessor shall submit notification of such approval to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property. The assessor shall retain a copy of all applications.

The assessor shall, as to any such land, make a notation each year on the assessment list and the tax roll of the assessed value of such land for the use for which it is classified in addition to the assessed value of such land were it not so classified. [2001 c 185 § 6; 1992 c 69 § 5; 1973 1st ex.s. c 212 § 4.]

Application—2001 c 185 §§ 1-12: See note following RCW 84.14.110.

RCW 84.34.037 Applications for current use classification—To whom made—Factors—Review. (1) Applications for classification or reclassification under RCW 84.34.020(1) shall be made to the county legislative authority. An application made for classification or reclassification of land under RCW 84.34.020(1) (b) and (c) which is in an area subject to a comprehensive plan shall be acted upon in the same manner in which an amendment to the comprehensive plan is processed. Application made for classification of land which is in an area not subject to a comprehensive plan shall be acted upon after a public hearing and after notice of the hearing shall have been given by one publication in a newspaper of general circulation in the area at least ten days before the hearing: PROVIDED, That applications for classification of land in an incorporated area shall be acted upon by: (a) A granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located in a meeting where members may be physically absent but participating through telephonic connection; or (b) separate affirmative acts by both the county and city legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications.

(2) In determining whether an application made for classification or reclassification under RCW 84.34.020(1) (b) and (c) should be approved or disapproved, the granting authority may take cognizance of the benefits to the general welfare of preserving the current use of the property which is the subject of application, and shall consider:

(a) The resulting revenue loss or tax shift;

(b) Whether granting the application for land applying under RCW 84.34.020(1)(b) will (i) conserve or enhance natural, cultural, or scenic resources, (ii) protect streams, stream corridors, wetlands, natural shorelines and aquifers, (iii) protect soil resources and unique or critical wildlife and native plant habitat, (iv) promote conservation principles by example or by offering educational opportunities, (v) enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, (vi) enhance recreation opportunities, (vii) preserve historic and archaeological sites, (viii) preserve visual quality along highway, road, and street corridors or scenic vistas, (ix) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property; and

(c) Whether granting the application for land applying under RCW 84.34.020(1)(c) will (i) either preserve land previously classified under RCW 84.34.020(2) or preserve land that is traditional farmland and not classified under chapter 84.33 or 84.34 RCW, (ii) preserve land with a potential for returning to commercial agriculture, and (iii) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of property.

(3) If a public benefit rating system is adopted under RCW 84.34.055, the county legislative authority shall rate property for which application for classification has been made under RCW 84.34.020(1) (b) and (c) according to the public benefit rating system in determining whether an application should be approved or disapproved, but when such a system is adopted, open space properties then classified under this chapter which do not qualify under the system shall not be removed from classification but may be rated according to the public benefit rating system.

(4) The granting authority may approve the application with respect to only part of the land which is the subject of the application. If any part of the application is denied, the applicant may withdraw the entire application. The granting authority in approving in part or whole an application for land classified or reclassified pursuant to RCW 84.34.020(1) may also require that certain conditions be met, including but not limited to the granting of easements. As a condition of granting open space classification, the legislative body may not require public access on land classified under RCW 84.34.020(1)(b)(iii) for the purpose of promoting conservation of wetlands.

(5) The granting or denial of the application for current use classification or reclassification is a legislative determination and shall be reviewable only for arbitrary and capricious actions. [2009 c 350 § 13; 1992 c 69 § 6; 1985 c 393 § 1; 1984 c 111 § 1; 1973 1st ex.s. c 212 § 5.]

RCW 84.34.041 Application for current use classification—Forms—Public hearing—Approval or denial. (1) An application for current use classification or reclassification under RCW 84.34.020(3) must be made to the county legislative authority.

The application must be made upon forms prepared by the department of revenue and supplied by the granting authority and must include the following elements that constitute a timber management plan:

- (a) A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timberland;
- (b) The date or dates of acquisition of the land;
- (c) A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;
- (d) Whether there is a forest management plan for the land;
- (e) If so, the nature and extent of implementation of the plan;
- (f) Whether the land is used for grazing;
- (g) Whether the land has been subdivided or a plat filed with respect to the land;
- (h) Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;
- (i) Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;
- (j) Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;
- (k) A summary of the past experience and activity of the applicant in growing and harvesting timber;
- (l) A summary of current and continuing activity of the applicant in growing and harvesting timber;
- (m) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timberland.

(2) An application made for classification of land under RCW 84.34.020(3) must be acted upon after a public hearing and after notice of the hearing is given by one publication in a newspaper of general circulation in the area at least ten days before the hearing.

Application for classification of land in an incorporated area must be acted upon by: (a) A granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located in a meeting where members may be physically absent but participating through telephonic connection; or (b) separate affirmative acts by both the county and city legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications.

(3) The granting authority must act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:

(a) The land does not contain a stand of timber as defined in chapter 76.09 RCW and applicable rules, except this reason alone is not sufficient to deny the application (i) if the land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or the longer period necessitated by unavailability of seed or seedlings, or (ii) if only isolated areas within the land do not meet minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions;

(b) The applicant, with respect to the land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line.

(4) (a) The timber management plan must be filed with the county legislative authority either: (i) When an application for classification under this chapter is submitted; (ii) when a sale or transfer of timberland occurs and a notice of continuance is signed; or (iii) within sixty days of the date the application for reclassification under this chapter or from designated forestland is received. The application for reclassification must be accepted, but may not be processed until the timber management plan is received. If the timber management plan is not received within sixty days of the date the application for reclassification is received, the application for reclassification must be denied.

(b) If circumstances require it, the county assessor may allow in writing an extension of time for submitting a timber management plan when an application for classification or reclassification or notice of continuance is filed. When the assessor approves an extension of time for filing the timber management plan, the county legislative authority may delay processing an application until the timber management plan is received. If the timber management plan is not received by the date set by the assessor, the application or the notice of continuance must be denied.

(c) The granting authority may approve the application with respect to only part of the land that is described in the application, and if any part of the application is denied, the applicant may withdraw the entire application. The granting authority, in approving

in part or whole an application for land classified pursuant to RCW 84.34.020(3), may also require that certain conditions be met.

(d) Granting or denial of an application for current use classification is a legislative determination and is reviewable only for arbitrary and capricious actions. The granting authority may not require the granting of easements for land classified pursuant to RCW 84.34.020(3).

(e) The granting authority must approve or disapprove an application made under this section within six months following the date the application is received.

(5) No application may be approved under this section, and land may not otherwise be classified or reclassified under RCW 84.34.020(3), if the timberland classification and designated forestland program are merged under RCW 84.34.400. [2014 c 137 § 7; 2009 c 350 § 14; 2002 c 315 § 2; 1992 c 69 § 20.]

RCW 84.34.050 Notice of approval or disapproval—Procedure when approval granted. (1) The granting authority shall immediately notify the assessor and the applicant of its approval or disapproval which shall in no event be more than six months from the receipt of said application. No land other than farm and agricultural land shall be classified under this chapter until an application in regard thereto has been approved by the appropriate legislative authority.

(2) When the granting authority classifies land under this chapter, it shall file notice of the same with the assessor within ten days. The assessor shall, as to any such land, make a notation each year on the assessment list and the tax roll of the assessed value of such land for the use for which it is classified in addition to the assessed value of such land were it not so classified.

(3) Within ten days following receipt of the notice from the granting authority of classification of such land under this chapter, the assessor shall submit such notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property. [1992 c 69 § 7; 1973 1st ex.s. c 212 § 6; 1970 ex.s. c 87 § 5.]

RCW 84.34.055 Open space priorities—Open space plan and public benefit rating system. (1)(a) The county legislative authority may direct the county planning commission to set open space priorities and adopt, after a public hearing, an open space plan and public benefit rating system for the county. The plan shall consist of criteria for determining eligibility of lands, the process for establishing a public benefit rating system, and an assessed valuation schedule. The assessed valuation schedule shall be developed by the county assessor and shall be a percentage of market value based upon the public benefit rating system. The open space plan, the public benefit rating system, and the assessed valuations schedule shall not be effective until approved by the county legislative authority after at least one public hearing: PROVIDED, That any county which has complied with the procedural requisites of chapter 393, Laws of 1985, prior to July 28, 1985, need not repeat those procedures in order to adopt an open space plan pursuant to chapter 393, Laws of 1985.

(b) County legislative authorities, in open space plans, public benefit rating systems, and assessed valuation schedules, shall give

priority consideration to lands used for buffers that are planted with or primarily contain native vegetation.

(c) "Priority consideration" as used in this section may include, but is not limited to, establishing classification eligibility and maintenance criteria for buffers meeting the requirements of (b) of this subsection.

(d) County legislative authorities shall meet the requirements of (b) of this subsection no later than July 1, 2006, unless buffers already receive priority consideration in the existing open space plans, public benefit rating systems, and assessed valuation schedules.

(2) In adopting an open space plan, recognized sources shall be used unless the county does its own survey of important open space priorities or features, or both. Recognized sources include but are not limited to the natural heritage database; the state office of historic preservation; the recreation and conservation office inventory of dry accretion beach and shoreline features; state, national, county, or city registers of historic places; the shoreline master program; or studies by the parks and recreation commission and by the departments of fish and wildlife and natural resources. Features and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency to be sent to the county legislative authority for final approval as open space.

(3) When the county open space plan is adopted, owners of open space lands then classified under this chapter shall be notified in the same manner as is provided in RCW 84.40.045 of their new assessed value. These lands may be removed from classification, upon request of owner, without penalty within thirty days of notification of value.

(4) The open space plan and public benefit rating system under this section may be adopted for taxes payable in 1986 and thereafter. [2007 c 241 § 73; 2005 c 310 § 1; 1994 c 264 § 76; 1988 c 36 § 62; 1985 c 393 § 3.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

RCW 84.34.060 Determination of true and fair value of classified land—Computation of assessed value. In determining the true and fair value of open space land and timberland, which has been classified as such under the provisions of this chapter, the assessor shall consider only the use to which such property and improvements is currently applied and shall not consider potential uses of such property. The assessed valuation of open space land shall not be less than the minimum value per acre of classified farm and agricultural land except that the assessed valuation of open space land may be valued based on the public benefit rating system adopted under RCW 84.34.055: PROVIDED FURTHER, That timberland shall be valued according to chapter 84.33 RCW. In valuing any tract or parcel of real property designated and zoned under a comprehensive plan adopted under chapter 36.70A RCW as agricultural, forest, or open space land, the appraisal shall not be based on similar sales of parcels that have been converted to nonagricultural, nonforest, or nonopen-space uses within five years after the sale. [1997 c 429 § 32; 1992 c 69 § 8; 1985 c 393 § 2; 1981 c 148 § 10; 1973 1st ex.s. c 212 § 7; 1970 ex.s. c 87 § 6.]

Severability—1997 c 429: See note following RCW 36.70A.3201.

Purpose—Severability—Effective dates—1981 c 148: See notes following RCW 84.33.130.

RCW 84.34.065 Determination of true and fair value of farm and agricultural land—Definitions. (1) The true and fair value of farm and agricultural land shall be determined by consideration of the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years, capitalized at indicative rates. The earning or productive capacity of farm and agricultural lands is the "net cash rental," capitalized at a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes. The current use value of land under RCW 84.34.020(2)(f) must be established as: The prior year's average value of open space farm and agricultural land used in the county plus the value of land improvements such as septic, water, and power used to serve the residence. This may not be interpreted to require the assessor to list improvements to the land with the value of the land.

(2) For the purposes of the above computation:

(a) (i) The term "net cash rental" means the average rental paid on an annual basis, in cash, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for production of agricultural crops. There is allowed as a deduction from the rental received or computed any costs of crop production charged against the landlord if the costs are such as are customarily paid by a landlord. If "net cash rental" data is not available, the earning or productive capacity of farm and agricultural lands is determined by the cash value of typical or usual crops grown on land of similar quality and similarly situated averaged over not less than five years. Standard costs of production are allowed as a deduction from the cash value of the crops.

(ii) The current "net cash rental" or "earning capacity" is determined by the assessor with the advice of the advisory committee as provided in RCW 84.34.145, and through a continuing internal study, assisted by studies of the department of revenue. This net cash rental figure as it applies to any farm and agricultural land may be challenged before the same boards or authorities as would be the case with regard to assessed values on general property.

(b) (i) The term "rate of interest" means the rate of interest charged by the farm credit administration and other large financial institutions regularly making loans secured by farm and agricultural lands through mortgages or similar legal instruments, averaged over the immediate past five years.

(ii) The "rate of interest" must be determined annually by a rule adopted by the department of revenue and such rule must be published in the state register not later than January 1 of each year for use in that assessment year. The department of revenue determination may be appealed to the state board of tax appeals within thirty days after the date of publication by any owner of farm or agricultural land or the assessor of any county containing farm and agricultural land.

(c) The "component for property taxes" is a figure obtained by dividing the assessed value of all property in the county into the property taxes levied within the county in the year preceding the assessment and multiplying the quotient obtained by one hundred. [2014 c 97 § 310; 2001 c 249 § 13; 2000 c 103 § 23; 1998 c 320 § 8; 1997 c 429 § 33; 1992 c 69 § 9; 1989 c 378 § 11; 1973 1st ex.s. c 212 § 10.]

Severability—1997 c 429: See note following RCW 36.70A.3201.

RCW 84.34.070 Withdrawal from classification. (1) (a) When land has once been classified under this chapter, it must remain under such classification and must not be applied to other use except as provided by subsection (2) of this section for at least ten years from the date of classification. It must continue under such classification until and unless withdrawn from classification after notice of request for withdrawal is made by the owner. After the initial ten-year classification period has elapsed, notice of request for withdrawal of all or a portion of the land may be given by the owner to the assessor or assessors of the county or counties in which the land is situated. If a portion of a parcel is removed from classification, the remaining portion must meet the same requirements as did the entire parcel when the land was originally granted classification under this chapter unless the remaining parcel has different income criteria. Within seven days the assessor must transmit one copy of the notice to the legislative body that originally approved the application. The assessor or assessors, as the case may be, must withdraw the land from the classification and the land is subject to the additional tax and applicable interest due under RCW 84.34.108. Agreement to tax according to use is not considered to be a contract and can be abrogated at any time by the legislature in which event no additional tax or penalty may be imposed.

(b) If the assessor gives written notice of removal as provided in RCW 84.34.108(1)(d)(i) of all or a portion of land classified under this chapter before the owner gives a notice of request for withdrawal in (a) of this subsection, the provisions of RCW 84.34.108 apply.

(2) (a) The following reclassifications are not considered withdrawals or removals and are not subject to additional tax under RCW 84.34.108:

(i) Reclassification between lands under RCW 84.34.020 (2) and (3);

(ii) Reclassification of land classified under RCW 84.34.020 (2) or (3) or designated under chapter 84.33 RCW to open space land under RCW 84.34.020(1);

(iii) Reclassification of land classified under RCW 84.34.020 (2) or (3) to forestland designated under chapter 84.33 RCW; and

(iv) Reclassification of land classified as open space land under RCW 84.34.020(1)(c) and reclassified to farm and agricultural land under RCW 84.34.020(2) if the land had been previously classified as farm and agricultural land under RCW 84.34.020(2).

(b) Designation as forestland under RCW 84.33.130(1) as a result of a merger adopted under RCW 84.34.400 is not considered a withdrawal or removal and is not subject to additional tax under RCW 84.34.108.

(3) Applications for reclassification are subject to applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and chapter 84.33 RCW.

(4) The income criteria for land classified under RCW 84.34.020(2) (b) and (c) may be deferred for land being reclassified from land classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into RCW 84.34.020(2) (b) or (c) for a period of up to five years from the date of reclassification. [2017 c 251 § 1; 2014 c 137 § 8; 1992 c 69 § 10; 1984 c 111 § 2; 1973 1st ex.s. c 212 § 8; 1970 ex.s. c 87 § 7.]

RCW 84.34.080 Change in use. When land which has been classified under this chapter as open space land, farm and agricultural land, or timberland is applied to some other use, except through compliance with RCW 84.34.070, or except as a result solely from any one of the conditions listed in RCW 84.34.108(6), the owner shall within sixty days notify the county assessor of such change in use and additional real property tax shall be imposed upon such land in an amount equal to the sum of the following:

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

(2) A penalty amounting to twenty percent of the amount determined in subsection (1) of this section. [1999 sp.s. c 4 § 705; 1992 c 69 § 11; 1973 1st ex.s. c 212 § 9; 1970 ex.s. c 87 § 8.]

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 84.34.090 Extension of additional tax and penalties on tax roll—Lien. The additional tax and penalties, if any, provided by RCW 84.34.070 and 84.34.080 shall be extended on the tax roll and shall be, together with the interest thereon, a lien on the land to which such tax applies as of January 1st of the year for which such additional tax is imposed. Such lien shall have priority as provided in chapter 84.60 RCW: PROVIDED, That for purposes of all periods of limitation of actions specified in Title 84 RCW, the year in which the tax became payable shall be as specified in RCW 84.34.100. [1970 ex.s. c 87 § 9.]

RCW 84.34.100 Payment of additional tax, penalties, and/or interest. The additional tax, penalties, and/or interest provided by RCW 84.34.070 and 84.34.080 shall be payable in full thirty days after the date which the treasurer's statement therefor is rendered. Such additional tax when collected shall be distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. [1980 c 134 § 4; 1970 ex.s. c 87 § 10.]

RCW 84.34.108 Removal of classification—Factors—Notice of continuance—Additional tax—Lien—Delinquencies—Exemptions. (1) When land has once been classified under this chapter, a notation of the classification must be made each year upon the assessment and tax rolls and the land must be valued pursuant to RCW 84.34.060 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) For purposes of this subsection (6), the discovery that land was classified under this chapter in error through no fault of the owner is not the sole reason for removal of classification pursuant to subsection (1) of this section if an independent basis for removal exists. Examples of an independent basis for removal include the owner changing the use of the land or failing to meet any applicable income criteria required for classification under this chapter. [2017 3rd sp.s. c 37 § 1001; 2017 c 323 § 506. Prior: 2014 c 97 § 311; 2014 c 58 § 28; prior: 2009 c 513 § 2; 2009 c 354 § 3; 2009 c 255 § 2; 2009 c 246 § 3; 2007 c 54 § 25; 2003 c 170 § 6; prior: 2001 c 305 § 3; 2001 c 249 § 14; 2001 c 185 § 7; prior: 1999 sp.s. c 4 § 706; 1999 c 233 § 22; 1999 c 139 § 2; 1992 c 69 § 12; 1989 c 378 § 35; 1985 c 319 § 1; 1983 c 41 § 1; 1980 c 134 § 5; 1973 1st ex.s. c 212 § 12.]

Tax preference performance statement and expiration—2017 3rd sp.s. c 37 §§ 1001 and 1002: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this part." [2017 3rd sp.s. c 37 § 1003.]

Effective date—2017 3rd sp.s. c 37 §§ 301, 302, and 1001-1003: See note following RCW 82.04.628.

Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323: See note following RCW 82.04.040.

Uniformity of application and construction—Relation to electronic signatures in global and national commerce act—2014 c 58: See RCW 64.80.903 and 64.80.904.

Finding—Intent—2009 c 354: See note following RCW 84.33.140.

Severability—2007 c 54: See note following RCW 82.04.050.

Purpose—2003 c 170 § 6: "During the regular session of the 2001 legislature, RCW 84.34.108 was amended by section 7, chapter 185, by section 14, chapter 249, and by section 3, chapter 305, each without reference to the other. The purpose of section 6 of this act is to reenact and amend RCW 84.34.108 so that it reflects all amendments made by the legislature and to clarify any misunderstanding as to how the exemption contained in chapter 305, Laws of 2001 is to be applied." [2003 c 170 § 3.]

Purpose—Intent—2003 c 170: See note following RCW 84.33.130.

Application—2001 c 185 §§ 1-12: See note following RCW 84.14.110.

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

Effective date—1999 c 233: See note following RCW 4.28.320.

RCW 84.34.111 Remedies available to owner liable for additional tax. The owner of any land as to which additional tax is imposed as provided in this chapter shall have with respect to valuation of the land and imposition of the additional tax all remedies provided by this title. [1998 c 311 § 14; 1973 1st ex.s. c 212 § 13.]

RCW 84.34.121 Information required. The assessor may require owners of land classified under this chapter to submit pertinent data regarding the use of the land, productivity of typical crops, and such similar information pertinent to continued classification and appraisal of the land. [1973 1st ex.s. c 212 § 14.]

RCW 84.34.131 Valuation of timber not affected. Nothing in this chapter shall be construed as in any manner affecting the method for valuation of timber standing on timberland which has been classified under this chapter. [1998 c 311 § 15; 1973 1st ex.s. c 212 § 16.]

RCW 84.34.141 Rules and regulations. The department of revenue of the state of Washington shall make such rules and regulations consistent with this chapter as shall be necessary or desirable to permit its effective administration. [1998 c 311 § 16; 1973 1st ex.s. c 212 § 17.]

RCW 84.34.145 Advisory committee. The county legislative authority shall appoint a five member committee representing the active farming community within the county to serve in an advisory capacity to the assessor in implementing assessment guidelines as established by the department of revenue for the assessment of open space, farms and agricultural lands, and timberlands classified under this chapter. [1998 c 311 § 17; 1992 c 69 § 13; 1973 1st ex.s. c 212 § 11.]

RCW 84.34.150 Reclassification of land classified under prior law which meets definition of farm and agricultural land. Land classified under the provisions of chapter 84.34 RCW prior to July 16, 1973 which meets the criteria for classification under this chapter, is hereby reclassified under this chapter. This change in classification shall be made without additional tax, applicable interest, penalty, or other requirements, but subsequent to such reclassification, the land shall be fully subject to this chapter. A condition imposed by a granting authority prior to July 16, 1973, upon land classified pursuant to RCW 84.34.020 (1) or (3) shall remain in effect during the period of classification. [1998 c 311 § 18; 1992 c 69 § 14; 1973 1st ex.s. c 212 § 15.]

RCW 84.34.155 Reclassification of land classified as timberland which meets definition of forestland under chapter 84.33 RCW. Land classified under the provisions of RCW 84.34.020 (2) or (3) which meets the definition of forestland under the provisions of chapter 84.33 RCW, upon request for such change made by the owner to the granting authority, shall be reclassified by the assessor under the provisions of chapter 84.33 RCW. This change in classification shall be made without additional tax, applicable interest, penalty, or other requirements set forth in chapter 84.34 RCW: PROVIDED, That subsequent to such reclassification, the land shall be fully subject to the provisions of chapter 84.33 RCW, as now or hereafter amended. [1992 c 69 § 15; 1973 1st ex.s. c 212 § 19.]

RCW 84.34.160 Information on current use classification—Publication and dissemination. The department of revenue and each granting authority is hereby directed to publicize the qualifications and manner of making applications for classification. Notice of the qualifications, method of making applications, and availability of further information on current use classification shall be included with every notice of change in valuation. [1992 c 69 § 16; 1973 1st ex.s. c 212 § 18.]

RCW 84.34.200 Acquisition of open space, etc., land or rights to future development by counties, cities, or metropolitan municipal corporations—Legislative declaration—Purposes. The legislature finds that the haphazard growth and spread of urban development is encroaching upon, or eliminating, numerous open areas and spaces of varied size and character, including many devoted to agriculture, the cultivation of timber, and other productive activities, and many others having significant recreational, social, scenic, or esthetic

values. Such areas and spaces, if preserved and maintained in their present open state, would constitute important assets to existing and impending urban and metropolitan development, at the same time that they would continue to contribute to the welfare and well-being of the citizens of the state as a whole. The acquisition of interests or rights in real property for the preservation of such open spaces and areas constitutes a public purpose for which public funds may properly be expended or advanced. [1971 ex.s. c 243 § 1.]

RCW 84.34.210 Acquisition of open space, land, or rights to future development by certain entities—Authority to acquire—Conveyance or lease back. Any county, city, town, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, may acquire by purchase, gift, grant, bequest, devise, lease, or otherwise, except by eminent domain, the fee simple or any lesser interest, development right, easement, covenant, or other contractual right necessary to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve, selected open space land, farm and agricultural land, and timberland as such are defined in chapter 84.34 RCW for public use or enjoyment. Among interests that may be so acquired are mineral rights. Any county, city, town, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, may acquire such property for the purpose of conveying or leasing the property back to its original owner or other person under such covenants or other contractual arrangements as will limit the future use of the property in accordance with the purposes of chapter 243, Laws of 1971 ex. sess. [1993 c 248 § 1; 1987 c 341 § 2; 1975-'76 2nd ex.s. c 22 § 1; 1971 ex.s. c 243 § 2.]

Acquisition of interests in land for conservation, protection, preservation, or open space purposes by certain entities: RCW 64.04.130.

Property tax exemption for conservation futures on agricultural land: RCW 84.36.500.

RCW 84.34.220 Acquisition of open space, land, or rights to future development by certain entities—Developmental rights—"Conservation futures"—Acquisition—Restrictions. In accordance with the authority granted in RCW 84.34.210, a county, city, town, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, may specifically purchase or otherwise acquire, except by eminent domain, rights in perpetuity to future development of any open space land, farm and agricultural land, and timberland which are so designated under the provisions of chapter 84.34 RCW and taxed at current use assessment as provided by that chapter. For the purposes of chapter 243, Laws of 1971 ex. sess., such

developmental rights shall be termed "conservation futures". The private owner may retain the right to continue any existing open space use of the land, and to develop any other open space use, but, under the terms of purchase of conservation futures, the county, city, town, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, may forbid or restrict building thereon, or may require that improvements cannot be made without county, city, town, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, permission. The land may be alienated or sold and used as formerly by the new owner, subject to the terms of the agreement made by the county, city, town, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, with the original owner. [1993 c 248 § 2; 1987 c 341 § 3; 1975-'76 2nd ex.s. c 22 § 2; 1971 ex.s. c 243 § 3.]

RCW 84.34.230 Acquisition of open space, etc., land or rights to future development by certain entities—Additional property tax levy authorized. Conservation futures are a useful tool for counties to preserve lands of public interest for future generations. Counties are encouraged to use some conservation futures as one tool for salmon preservation purposes.

For the purpose of acquiring conservation futures and other rights and interests in real property pursuant to RCW 84.34.210 and 84.34.220, and for maintaining and operating any property acquired with these funds, a county may levy an amount not to exceed six and one-quarter cents per thousand dollars of assessed valuation against the assessed valuation of all taxable property within the county. The limitations in RCW 84.52.043 shall not apply to the tax levy authorized in this section. Any rights or interests in real property acquired under this section after July 24, 2005, must be located within the assessing county. Further, the county must determine if the rights or interests in real property acquired with these funds would reduce the capacity of land suitable for development necessary to accommodate the allocated housing and employment growth, as adopted in the countywide planning policies. When actions are taken that reduce capacity to accommodate planned growth, the jurisdiction shall adopt reasonable measures to increase the capacity lost by such actions. [2005 c 449 § 1; 1995 c 318 § 8; 1994 c 301 § 33; 1973 1st ex.s. c 195 § 94; 1973 1st ex.s. c 195 § 145; 1971 ex.s. c 243 § 4.]

Effective date—1995 c 318: See note following RCW 82.04.030.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 84.34.240 Acquisition of open space, etc., land or rights to future development by certain entities—Conservation futures fund—

Additional requirements, authority. Conservation futures are a useful tool for counties to preserve lands of public interest for future generations. Counties are encouraged to use some conservation futures as one tool for salmon preservation purposes.

(1) Any board of county commissioners may establish by resolution a special fund which may be termed a conservation futures fund to which it may credit all taxes levied pursuant to RCW 84.34.230. Amounts placed in this fund may be used for the purpose of acquiring rights and interests in real property pursuant to the terms of RCW 84.34.210 and 84.34.220, and for the maintenance and operation of any property acquired with these funds.

(2) (a) Generally, the amount of revenue used for maintenance and operations of real property, the rights or interests of which were acquired pursuant to the terms of RCW 84.34.210 and 84.34.220, may not exceed fifteen percent of the total amount collected from the tax levied under RCW 84.34.230 in the preceding calendar year. Revenues from this tax may not be used to supplant existing maintenance and operation funding.

(b) A county may use up to twenty-five percent of the total amount for maintenance and operations of real property, the rights and interests of which were acquired pursuant to the terms of RCW 84.34.210 and 84.34.220, which may not be used to supplant existing maintenance and operation funding, if the county has:

(i) Acquired rights and interests in four hundred or more acres of real property under RCW 84.34.210 and 84.34.220; and

(ii) Collected a conservation futures levy for twenty or more years.

(3) Any rights or interests in real property acquired under this section must be located within the assessing county. The county must determine if the rights or interests in real property acquired with these funds would reduce the capacity of land suitable for development necessary to accommodate the allocated housing and employment growth, as adopted in the countywide planning policies. When actions are taken that reduce capacity to accommodate planned growth, the jurisdiction must adopt reasonable measures to increase the capacity lost by such actions.

(4) In counties greater than one hundred thousand in population, the board of county commissioners or county legislative authority shall develop a process to help ensure distribution of the tax levied under RCW 84.34.230, over time, throughout the county.

(5) (a) Between July 24, 2005, and July 1, 2008, the county legislative authority of a county with a population density of fewer than four persons per square mile may enact an ordinance offering a ballot proposal to the people of the county to determine whether or not the county legislative authority may make a one-time emergency reallocation of unspent conservation futures funds to pay for other county government purposes, where such conservation futures funds were originally levied under RCW 84.34.230 but never spent to acquire rights and interests in real property.

(b) Upon adoption by the county legislative authority of a ballot proposal ordinance under (a) of this subsection the county auditor shall: (i) Confer with the county legislative authority and review any proposal to the people as to form and style; (ii) give the ballot proposal a number, which thereafter must be the identifying number for the proposal; (iii) transmit a copy of the proposal to the prosecuting attorney; and (iv) submit the proposal to the people at the next

general or special election that is not less than ninety days after the adoption of the ordinance by the county legislative authority.

(c) The county prosecuting attorney must within fifteen working days of receipt of the proposal compose a concise statement, posed as a positive question, not to exceed twenty-five words, which shall express and give a true and impartial statement of the proposal. Such concise statement must be the ballot title.

(d) If the measure is affirmed by a majority voting on the issue it shall become effective ten days after the results of the election are certified.

(6) Nothing in this section may be construed as limiting in any manner methods and funds otherwise available to a county for financing the acquisition of such rights and interests in real property. [2017 c 148 § 1; 2005 c 449 § 2; 1971 ex.s. c 243 § 5.]

RCW 84.34.250 Nonprofit nature conservancy corporation or association defined. As used in RCW 84.34.210, as now or hereafter amended, RCW 84.34.220, as now or hereafter amended, and *RCW 79A.15.010, "nonprofit nature conservancy corporation or association" means an organization which qualifies as being tax exempt under 26 U.S.C. section 501(c) (of the Internal Revenue Code) as it exists on June 25, 1976 and one which has as one of its principal purposes the conducting or facilitating of scientific research; the conserving of natural resources, including but not limited to biological resources, for the general public; or the conserving of open spaces, including but not limited to wildlife habitat to be utilized as public access areas, for the use and enjoyment of the general public. [2009 c 341 § 6; 1975-'76 2nd ex.s. c 22 § 4.]

***Reviser's note:** RCW 79A.15.010 was amended by 2016 c 149 § 2, changing the term "nonprofit nature conservancy corporation or association" to "nonprofit nature conservancies."

RCW 84.34.300 Special benefit assessments for farm and agricultural land or timberland—Legislative findings—Purpose. (1) The legislature finds that farming, timber production, and the related agricultural and forest industries have historically been and currently are central factors in the economic and social lifeblood of the state; that it is a fundamental policy of the state to protect agricultural and timberlands as a major natural resource in order to maintain a source to supply a wide range of agricultural and forest products; and that the public interest in the protection and stimulation of farming, timber production, and the agricultural and forest industries is a basic element of enhancing the economic viability of this state. The legislature further finds that farmland and timberland in urbanizing areas are often subjected to high levels of property taxation and benefit assessment, and that such levels of taxation and assessment encourage and even force the removal of such lands from agricultural and forest uses. The legislature further finds that because of this level of taxation and assessment, such farmland and timberland in urbanizing areas are either converted to nonagricultural and nonforest uses when significant amounts of nearby nonagricultural and nonforest area could be suitably used for such nonagricultural and nonforest uses, or, much of this farmland and timberland is left in an unused state. The legislature further finds

that with the approval by the voters of the Fifty-third Amendment to the state Constitution, and with the enactment of chapter 84.34 RCW, the owners of farmlands and timberlands were provided with an opportunity to have such land valued on the basis of its current use and not its "highest and best use" and that such current use valuation is one mechanism to protect agricultural and timberlands. The legislature further finds that despite this potential property tax reduction, farmlands and timberlands in urbanized areas are still subject to high levels of benefit assessments and continue to be removed from farm and forest uses.

(2) It is therefore the purpose of the legislature to establish, with the enactment of RCW 84.34.300 through 84.34.380, another mechanism to protect agricultural and timberland which creates an analogous system of relief from certain benefit assessments for farm and agricultural land and timberland. It is the intent of the legislature that special benefit assessments not be imposed for the availability of sanitary and/or storm sewerage service, or domestic water service, or for road construction and/or improvement purposes on farm and agricultural lands and timberlands which have been designated for current use classification as farm and agricultural lands or timberlands until such lands are withdrawn or removed from such classification or unless such lands benefit from or cause the need for the local improvement district.

(3) The legislature finds, and it is the intent of RCW 84.34.300 through 84.34.380 and 84.34.922, that special benefit assessments for the improvement or construction of sanitary and/or storm sewerage service, or domestic water service, or certain road construction do not generally benefit land which has been classified as farm and agricultural land or timberland under the open space act, chapter 84.34 RCW, until such land is withdrawn or removed from such classification. The purpose of RCW 84.34.300 through 84.34.380 and 84.34.922 is to provide an exemption from certain special benefit assessments which do not benefit timberland or open space farm and agricultural land, and to provide the means for local governmental entities to recover such assessments in current dollar value in the event such land is no longer devoted to farming or timber production under chapter 84.34 RCW. Where the owner of such land chooses to make limited use of improvements related to special benefit assessments, RCW 84.34.300 through 84.34.380 provides the means for the partial assessment on open space timber and farmland to the extent the land is directly benefited by the improvement. [2014 c 97 § 312; 1992 c 52 § 14; 1979 c 84 § 1.]

RCW 84.34.310 Special benefit assessments for farm and agricultural land or timberland—Definitions. As used in RCW 84.34.300 through 84.34.380, unless a different meaning is required, the words defined in this section shall have the meanings indicated.

(1) The term "average rate of inflation" shall mean the annual rate of inflation as determined by the department of revenue averaged over the period of time as provided in *RCW 84.34.330 (1) and (2). Such determination shall be published not later than January 1 of each year for use in that assessment year.

(2) "Farm and agricultural land" shall mean the same as defined in RCW 84.34.020(2).

(3) "Local government" shall mean any city, town, county, water-sewer district, public utility district, port district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special benefit assessments for sanitary and/or storm sewerage systems, domestic water supply and/or distribution systems, or road construction or improvement purposes. "Local government" does not include an irrigation district with respect to any local improvement district created or local improvement assessment levied by that irrigation district.

(4) "Local improvement district" shall mean any local improvement district, utility local improvement district, local utility district, road improvement district, or any similar unit created by a local government for the purpose of levying special benefit assessments against property specially benefited by improvements relating to such districts.

(5) "Owner" shall mean the same as defined in RCW 84.34.020(5) or the applicable statutes relating to special benefit assessments.

(6) "Special benefit assessments" shall mean special assessments levied or capable of being levied in any local improvement district or otherwise levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and which may be levied only for the special benefits to be realized by property by reason of that local improvement.

(7) "Timberland" shall mean the same as defined in RCW 84.34.020(3). [2013 c 177 § 2; 1999 c 153 § 71; 1992 c 52 § 15; 1979 c 84 § 2.]

Reviser's note: *(1) RCW 84.34.330 was amended by 2014 c 137 § 9, changing subsections (1) and (2) to subsection (1)(a) and (b).

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Part headings not law—1999 c 153: See note following RCW 57.04.050.

RCW 84.34.320 Special benefit assessments for farm and agricultural land or timberland—Exemption from assessment—Procedures relating to exemption—Constructive notice of potential liability—Waiver of exemption. (1) Any land classified as farm and agricultural land or timberland pursuant to chapter 84.34 RCW at the earlier of the times the legislative authority of a local government adopts a resolution, ordinance, or legislative act to: (a) Create a local improvement district, in which such land is included or would have been included but for such classification; or (b) approve or confirm a final special benefit assessment roll relating to a sanitary and/or storm sewerage system, domestic water supply and/or distribution system, or road construction and/or improvement, which roll would have included such land but for such classification, is exempt from special benefit assessments or charges in lieu of assessment for such purposes as long as that land remains in such classification, except as otherwise provided in RCW 84.34.360.

(2) Whenever a local government creates a local improvement district, the levying, collection and enforcement of assessments shall be in the manner and subject to the same procedures and limitations as are provided pursuant to the law concerning the initiation and

formation of local improvement districts for the particular local government. Notice of the creation of a local improvement district that includes farm and agricultural land or timberland must be filed with the county assessor and the legislative authority of the county in which such land is located. The assessor, upon receiving notice of the creation of such a local improvement district, must send a notice to the owner of the farm and agricultural land or timberland listed on the tax rolls of the applicable county treasurer of: (a) The creation of the local improvement district; (b) the exemption of that land from special benefit assessments; (c) the fact that the farm and agricultural land or timberland may become subject to the special benefit assessments if the owner waives the exemption by filing a notarized document with the governing body of the local government creating the local improvement district before the confirmation of the final special benefit assessment roll; and (d) the potential liability, pursuant to RCW 84.34.330, if the exemption is not waived and the land is subsequently removed or withdrawn from the farm and agricultural land or timberland classification. When a local government approves and confirms a special benefit assessment roll, from which farm and agricultural land or timberland has been exempted pursuant to this section, it shall file a notice of such action with the assessor and the legislative authority of the county in which such land is located and with the treasurer of that local government, which notice must describe the action taken, the type of improvement involved, the land exempted, and the amount of the special benefit assessment which would have been levied against the land if it had not been exempted. The filing of such notice with the assessor and the treasurer of that local government constitutes constructive notice to a purchaser or encumbrancer of the affected land, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded, that such exempt land is subject to the charges provided in RCW 84.34.330 and 84.34.340 if such land is withdrawn or removed from its current use classification as farm and agricultural land or timberland.

(3) The owner of the land exempted from special benefit assessments pursuant to this section may waive that exemption by filing a notarized document to that effect with the legislative authority of the local government upon receiving notice from said local government concerning the assessment roll hearing and before the local government confirms the final special benefit assessment roll. A copy of that waiver must be filed by the local government with the assessor, but the failure of such filing does not affect the waiver.

(4) Except to the extent provided in RCW 84.34.360, the local government has no duty to furnish service from the improvement financed by the special benefit assessment to such exempted land. [2014 c 97 § 313. Prior: 1992 c 69 § 17; 1992 c 52 § 16; 1979 c 84 § 3.]

RCW 84.34.330 Special benefit assessments for farm and agricultural land or timberland—Withdrawal from classification or change in use—Liability—Amount—Due date—Lien. (1) Whenever farm and agricultural land or timberland has once been exempted from special benefit assessments under RCW 84.34.320, and except as provided in subsection (2) of this section, any withdrawal or removal

from classification as farm and agricultural land or timberland under chapter 84.34 RCW results in the following:

(a) If the bonds used to fund the improvement in the local improvement district have not been completely retired, the land immediately becomes liable for: (i) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320; plus (ii) interest on the amount determined in (a)(i) of this subsection (1), compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity that created the local improvement district as provided in RCW 84.34.320 to the time the land is withdrawn or removed from the exemption category provided by this chapter.

(b) If the bonds used to fund the improvement in the local improvement district have been completely retired, the land immediately becomes liable for: (i) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320; plus (ii) interest on the amount determined in (b)(i) of this subsection (1) compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity that created the local improvement district as provided in RCW 84.34.320, to the time the bonds used to fund the improvement have been retired; plus (iii) interest on the total amount determined in (b)(i) and (ii) of this subsection (1) at a simple per annum rate equal to the average rate of inflation from the time the bonds used to fund the improvement have been retired to the time the land is withdrawn or removed from the exemption category provided by this chapter.

(c) The amount payable under this section becomes due on the date the land is withdrawn or removed from its farm and agricultural land or timberland classification and is [must be] a lien on the land prior and superior to any other lien whatsoever except for the lien for general taxes, and is enforceable in the same manner as the collection of special benefit assessments are enforced by that local government.

(2) Designation as forestland under RCW 84.33.130(1) as a result of a merger of programs adopted under RCW 84.34.400 is not considered a withdrawal, removal, or a change in use under this section. [2014 c 137 § 9; 2014 c 97 § 314; 1992 c 52 § 17; 1979 c 84 § 4.]

Reviser's note: This section was amended by 2014 c 97 § 314 and by 2014 c 137 § 9, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 84.34.340 Special benefit assessments for farm and agricultural land or timberland—Withdrawal or removal from classification—Notice to local government—Statement to owner of amounts payable—Delinquency date—Enforcement procedures. (1)

Whenever farm and agricultural land or timberland is withdrawn or removed from its current use classification as farm and agricultural land or timberland, except as provided in subsection (2) of this section, the county assessor of the county in which the land is located must give written notice of the withdrawal or removal to the local government or its successor that filed with the assessor the notice required by RCW 84.34.320. Upon receipt of the notice from the assessor, the local government must mail a written statement to the owner of the land for the amounts payable as provided in RCW

84.34.330. The amounts due are delinquent if not paid within one hundred eighty days after the date of mailing of the statement, and are subject to the same interest, penalties, lien priority, and enforcement procedures that are applicable to delinquent assessments on the assessment roll from which that land had been exempted, except that the rate of interest charged may not exceed the rate provided in RCW 84.34.330.

(2) Designation as forestland under RCW 84.33.130(1) as a result of a merger adopted under RCW 84.34.400 is not considered a withdrawal or removal under this section. [2014 c 137 § 10; 1992 c 52 § 18; 1979 c 84 § 5.]

RCW 84.34.350 Special benefit assessments for farm and agricultural land—Use of payments collected. Payments collected pursuant to RCW 84.34.330 and 84.34.340, or by enforcement procedures referred to therein, after the payment of the expenses of their collection, shall first be applied to the payment of general or special debt incurred to finance the improvements related to the special benefit assessments, and, if such debt is retired, then into the maintenance fund or general fund of the governmental entity which created the local improvement district, or its successor, for any of the following purposes: (1) Redemption or servicing of outstanding obligations of the district; (2) maintenance expenses of the district; or (3) construction or acquisition of any facilities necessary to carry out the purpose of the district. [1979 c 84 § 6.]

RCW 84.34.360 Special benefit assessments for farm and agricultural land or timberland—Rules to implement RCW 84.34.300 through 84.34.380. The department of revenue shall adopt rules it shall deem necessary to implement RCW 84.34.300 through 84.34.380 which shall include, but not be limited to, procedures to determine the extent to which a portion of the land otherwise exempt may be subject to a special benefit assessment for the actual connection to the domestic water system or sewerage facilities, and further to determine the extent to which all or a portion of such land may be subject to a special benefit assessment for access to the road improvement in relation to its value as farm and agricultural land or timberland as distinguished from its value under more intensive uses. The provision for limited special benefit assessments shall not relieve such land from liability for the amounts provided in RCW 84.34.330 and 84.34.340 when such land is withdrawn or removed from its current use classification as farm and agricultural land or timberland. [1992 c 69 § 18; 1992 c 52 § 19; 1979 c 84 § 7.]

Reviser's note: This section was amended by 1992 c 52 § 19 and by 1992 c 69 § 18, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 84.34.370 Special benefit assessments for farm and agricultural land or timberland—Assessments due on land withdrawn or removed (as amended by 2014 c 97). Whenever a portion of a parcel of land which was classified as farm and agricultural or timberland pursuant to this chapter is withdrawn or removed from classification

~~((or there is a change in use)),~~ and such land has been exempted from any benefit assessments pursuant to RCW 84.34.320, the previously exempt benefit assessments ~~((shall))~~ become due on only that portion of the land which is withdrawn or ~~((changed))~~ removed. [2014 c 97 § 315; 1992 c 52 § 20; 1979 c 84 § 8.]

RCW 84.34.370 Special benefit assessments for farm and agricultural land or timberland—Assessments due on land withdrawn or changed (as amended by 2014 c 137). (1) Except as provided in subsection (2) of this section, whenever a portion of a parcel of land ~~((which))~~ that was classified as farm and agricultural or timberland ~~((pursuant to))~~ under this chapter is withdrawn or removed from classification or there is a change in use, and ~~((such))~~ the land has been exempted from any benefit assessments ~~((pursuant to))~~ under RCW 84.34.320, the previously exempt benefit assessments ~~((shall))~~ become due on only that portion of the land ~~((which))~~ that is withdrawn, removed, or changed.

(2) Designation as forestland under RCW 84.33.130(1) as a result of a merger of programs adopted under RCW 84.34.400 is not considered a withdrawal, removal, or a change in use under this section. [2014 c 137 § 11; 1992 c 52 § 20; 1979 c 84 § 8.]

Reviser's note: RCW 84.34.370 was amended twice during the 2014 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

RCW 84.34.380 Special benefit assessments for farm and agricultural land or timberland—Application of exemption to rights and interests preventing nonagricultural or nonforest uses. Farm and agricultural land or timberland on which the right to future development has been acquired by any local government, the state of Washington, or the United States government shall be exempt from special benefit assessments in lieu of assessment for such purposes in the same manner, and under the same liabilities for payment and interest, as land classified under this chapter as farm and agricultural land or timberland, for as long as such classification applies.

Any interest, development right, easement, covenant, or other contractual right which effectively protects, preserves, maintains, improves, restores, prevents the future nonagricultural or nonforest use of, or otherwise conserves farm and agricultural land or timberland shall be exempt from special benefit assessments as long as such development right or other such interest effectively serves to prevent nonagricultural or nonforest development of such land. [1992 c 52 § 21; 1979 c 84 § 9.]

RCW 84.34.390 Application—Chapter 79.44 RCW—Assessments against public lands. Nothing in RCW 84.34.300 through 84.34.340 or 84.34.360 through 84.34.380 shall amend the provisions of chapter 79.44 RCW. [1992 c 52 § 25.]

RCW 84.34.400 County option to merge timberland and designated forestland programs. (1) A county legislative authority may opt to merge its timberland classification with its designated forestland program. To merge the programs, the authority must enact an ordinance that:

(a) Terminates the timberland classification; and
(b) Declares that the land that had been classified as timberland is designated forestland under chapter 84.33 RCW.

(2) After a county timberland program is terminated:

(a) Land that had been classified as timberland within the county is deemed to be designated forestland under the provisions of RCW 84.33.130(1) and is no longer considered to be classified timberland for the purposes of this chapter; and

(b) Any agreement prepared by the granting authority when an application was approved classifying land as timberland is terminated and no longer in effect.

(3) A county must notify the department after taking action under this section. The department must maintain a list of all counties that have provided this notice on their agency internet website. [2014 c 137 § 5.]

RCW 84.34.410 Application—Cannabis land uses. The provisions of this chapter do not apply with respect to land used in the growing, raising, or producing of cannabis, useable cannabis, or cannabis-infused products as those terms are defined under RCW 69.50.101. [2022 c 16 § 166; 2014 c 140 § 27.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

RCW 84.34.910 Effective date—1970 ex.s. c 87. The provisions of this act shall take effect on January 1, 1971. [1970 ex.s. c 87 § 16.]

RCW 84.34.922 Severability—1979 c 84. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1979 c 84 § 11.]

RCW 84.34.923 Effective date—1992 c 69. This act shall take effect January 1, 1993. [1992 c 69 § 22.]