
SENATE BILL 5281

State of Washington 60th Legislature 2007 Regular Session

By Senators Clements, Rasmussen, Schoesler, Honeyford and Roach

Read first time 01/16/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the interest rate calculation on property
2 removed from current use classification; amending RCW 84.34.108; and
3 creating a new section.

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

5 **Sec. 1.** RCW 84.34.108 and 2003 c 170 s 6 are each amended to read
6 as follows:

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

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

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

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

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

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

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

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

32 (b) The creation, sale, or transfer of a fee interest or a
33 conservation easement for the riparian open space program under RCW
34 76.09.040.

35 (3) Within thirty days after such removal of all or a portion of
36 the land from current use classification, the assessor shall notify the
37 owner in writing, setting forth the reasons for the removal. The

1 seller, transferor, or owner may appeal the removal to the county board
2 of equalization in accordance with the provisions of RCW 84.40.038.

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

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

22 (b) ~~The amount of applicable interest ((shall be equal to the~~
23 ~~interest upon the amounts of the additional tax paid at the same~~
24 ~~statutory rate charged on delinquent property taxes from the dates on~~
25 ~~which the additional tax could have been paid without penalty if the~~
26 ~~land had been assessed at a value without regard to this chapter)), to~~
27 be charged on the amount of additional tax imposed under subsection
28 (4)(a) of this section, shall equal the average of the rate of
29 inflation for each year used to calculate the total amount of
30 additional tax. For purposes of this subsection, "rate of inflation"
31 means the percentage change in the implicit price deflator for personal
32 consumption expenditures for the United States as published by the
33 bureau of economic analysis of the federal department of commerce, or
34 any successor agency, in September for the twelve-month period that
35 preceded each year used to calculate the amount of additional tax due.
36 The department of revenue must publish this rate every year by rule by
37 December 31st;

1 (c) The amount of the penalty shall be as provided in RCW
2 84.34.080. The penalty shall not be imposed if the removal satisfies
3 the conditions of RCW 84.34.070.

4 (5) Additional tax, applicable interest, and penalty, shall become
5 a lien on the land which shall attach at the time the land is removed
6 from classification under this chapter and shall have priority to and
7 shall be fully paid and satisfied before any recognizance, mortgage,
8 judgment, debt, obligation or responsibility to or with which the land
9 may become charged or liable. This lien may be foreclosed upon
10 expiration of the same period after delinquency and in the same manner
11 provided by law for foreclosure of liens for delinquent real property
12 taxes as provided in RCW 84.64.050 now or as hereafter amended. Any
13 additional tax unpaid on its due date shall thereupon become
14 delinquent. From the date of delinquency until paid, interest shall be
15 charged at the same rate applied by law to delinquent ad valorem
16 property taxes.

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

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

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

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

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

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

36 (f) Acquisition of property interests by state agencies or agencies
37 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
38 purposes enumerated in those sections. At such time as these property

1 interests are not used for the purposes enumerated in RCW 84.34.210 and
2 64.04.130 the additional tax specified in subsection (4) of this
3 section shall be imposed;

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

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

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

11 (j) The creation, sale, or transfer of a fee interest or a
12 conservation easement for the riparian open space program under RCW
13 76.09.040;

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

21 (l) The sale or transfer of land after the death of the owner of at
22 least a fifty percent interest in the land if the land has been
23 assessed and valued as classified forest land, designated as forest
24 land under chapter 84.33 RCW, or classified under this chapter
25 continuously since 1993 and the sale or transfer takes place after July
26 22, 2001, and on or before July 22, 2003, and the death of the owner
27 occurred after January 1, 1991. The date of death shown on a death
28 certificate is the date used for the purpose of this subsection (6)(l).

29 NEW SECTION. **Sec. 2.** This act applies only with respect to any
30 land removed or withdrawn from classification under chapter 84.34 RCW
31 on or after the effective date of this act.

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