

CHAPTER 134

[Substitute House Bill No. 810]

REAL ESTATE EXCISE TAX AFFIDAVIT—FOREST LAND COMPENSATING TAX LIABILITY—YOUTH ORGANIZATION TIMBER TAX EXEMPTION

AN ACT Relating to revenue and taxation; amending section 28A.45.120, chapter 223, Laws of 1969 ex. sess. and RCW 28A.45.120; amending section 12, chapter 294, Laws of 1971 ex. sess. as last amended by section 5, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.120; amending section 14, chapter 294, Laws of 1971 ex. sess. as last amended by section 7, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.140; amending section 10, chapter 87, Laws of 1970 ex. sess. and RCW 84.34.100; amending section 12, chapter 212, Laws of 1973 1st ex. sess. and RCW 84.34.108; and adding a new section to chapter 84.33 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 28A.45.120, chapter 223, Laws of 1969 ex. sess. and RCW 28A.45.120 are each amended to read as follows:

The department of revenue is authorized and ((directed to)) shall prescribe minimum standards for uniformity in reporting, application, and collection of the real estate excise tax imposed by this chapter.

The department of revenue shall also prescribe a real estate excise tax affidavit form which shall contain, at least, the following:

- (1) Identification of the seller and purchaser;
- (2) Description of the property involved including the tax parcel or account number(s);
- (3) Date of sale, type of instrument of sale, nature of transfer;
- (4) Gross sales price;
- (5) Whether or not the land is classified or designated as forest land under chapter 84.33 RCW; or classified as open space land, farm and agricultural land, or timberland under chapter 84.34 RCW; and
- (6) Signatures of both the buyer and seller, under oath.

Each county shall use the affidavit form prescribed by the department of revenue.

Sec. 2. Section 12, chapter 294, Laws of 1971 ex. sess. as last amended by section 5, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.120 are each amended to read as follows:

(1) On or before March 1, 1972 and January 1 of each year commencing with 1973, subject to review by the ways and means committees of the house and senate and after compliance with the procedures set forth in chapter 34.04 RCW for adoption of rules, the department of revenue shall determine the true and fair value of each grade of bare forest land and shall certify such values to the county assessors. Such values shall be determined on the basis that the only use of the land is for growing and harvesting timber, and other potential uses shall not be considered in fixing such values.

(2) In preparing the assessment rolls as of January 1, 1971 for taxes payable in 1972, the assessor shall list each parcel of forest land at a value not to exceed the value used on the 1970 assessment roll for such land. In preparing the assessment roll for 1972 and each year thereafter, the assessor shall enter as the true and fair value of each parcel of forest land the appropriate grade value certified to him by the department of revenue, and he shall compute the assessed value of such land by using the same assessment ratio he applies generally in computing the assessed value of other property in his county. In preparing the assessment roll for 1975 and each year thereafter, the assessor shall assess and value as classified forest land all forest land that is not then designated pursuant to subsection (3) of RCW 84.33.120 or 84.33.130 and shall make a notation of such classification upon the assessment and tax rolls. On or before January 15 of the first year in which such notation is made, the assessor shall mail notice by certified mail to the owner that such land has been classified as forest land and is subject to the compensating tax imposed by this section. If the owner desires not to have such land assessed and valued as classified forest land, he shall give the assessor written notice thereof on or before March 31 of such year and the assessor shall remove from the assessment and tax rolls the classification notation entered pursuant to this subsection, and shall thereafter assess and value such land in the manner provided by law other than this chapter 84-33 RCW.

(3) In any year commencing with 1972, an owner of land which is assessed and valued by the assessor other than pursuant to the procedures set forth in RCW 84.33.110 and subsections (1) and (2) of this section, and which has, in the immediately preceding year, been assessed and valued by the assessor as forest land, may appeal to the county board of equalization by filing an application with the board in the manner prescribed in subsection (2) of RCW 84.33.130. The county board shall afford the applicant an opportunity to be heard if the application so requests and shall act upon the application in the manner prescribed in subsection (3) of RCW 84.33.130.

(4) Land that has been assessed and valued as classified forest land as of any year commencing with 1975 assessment year or earlier shall continue to be so assessed and valued until removal of classification by the assessor only upon the occurrence of one of the following events:

- (a) Receipt of notice from the owner to remove such land from classification as forest land;
- (b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;
- (c) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that, because of actions taken by the owner, such land is no longer primarily devoted to and used for growing and harvesting timber;

(d) Determination that a higher and better use exists for such land than growing and harvesting timber after giving the owner written notice and an opportunity to be heard;

(e) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 28A.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (6) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (6) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals.

The assessor shall remove classification pursuant to subsections (c) or (d) above prior to September 30 of the year prior to the assessment year for which termination of classification is to be effective. Removal of classification as forest land upon occurrence of subsection (a), (b) ((or)), (d), or (e) above shall apply only to the land affected, and upon occurrence of subsection (c) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber: PROVIDED, That any remaining classified forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(5) Within thirty days after such removal of classification as forest land, the assessor shall notify the owner in writing setting forth the reasons for such removal. The owner of such land shall thereupon have the right to apply for designation of such land as forest land pursuant to subsection (3) of this section or RCW 84.33.130 ((or to)). The seller, transferor, or owner may appeal such removal to the county board of equalization.

(6) Unless the owner successfully applies for designation of such land or unless the removal is reversed on appeal, notation of removal from classification shall immediately be made upon the assessment and tax rolls, and commencing on January 1 of the year following the year in which the assessor made such notation, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection (8) of this section and unless the assessor shall not have mailed notice of classification pursuant to subsection (2) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer ((on or before April 30 of the following year. On or before May 31 following such assessment date)) thirty days after the owner is notified of

the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years, commencing with assessment year 1975, for which such land was assessed and valued as classified forest land.

(7) ((Any)) Compensating tax ((unpaid on its due date shall thereupon become delinquent and)), together with applicable interest thereon, shall ((as of said date)) become a lien on such land which shall attach at the time such land is removed from classification as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such 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 compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(8) The compensating tax specified in subsection (6) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection (4) of this section resulted solely from:

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

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.

(9) With respect to any land that has been designated prior to May 6, 1974, pursuant to subsection (3) of RCW 84.33.120 or 84.33.130, the assessor may, prior to January 1, 1975, on his own motion or pursuant to petition by the owner, change, without imposition of the compensating tax provided under RCW 84.33.140, the status of such designated land to classified forest land.

Sec. 3. Section 14, chapter 294, Laws of 1971 ex. sess. as last amended by section 7, chapter 187, Laws of 1974 ex. sess. and RCW 84.33.140 are each amended to read as follows:

(1) When land has been designated as forest land pursuant to subsection (3) of RCW 84.33.120 or 84.33.130, a notation of such designation shall be made each year upon the assessment and tax rolls, a copy of the notice of approval together with the legal description or assessor's tax lot numbers for such land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and such land shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120 until removal of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove such designation;

(b) ~~((Passage of sixty days following the sale or transfer of such land to a new owner without receipt of an application pursuant to RCW 84.33.130 from the new owner;~~

(c)) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land designation continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 28A.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that (i) such land is no longer primarily devoted to and used for growing and harvesting timber, (ii) such owner 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 and forest debris provisions of Title 76 RCW or any applicable regulations thereunder, or (iii) restocking has not occurred to the extent or within the time specified in the application for designation of such land.

Removal of designation upon occurrence of any of subsections (a) through (c) above shall apply only to the land affected, and upon occurrence of subsection (d) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber, without regard to other land that may have been included in the same application and approval for designation: PROVIDED, That any remaining designated forest

land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(2) Within thirty days after such removal of designation of forest land, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal a copy of the notice of removal with notation of the action, if any, upon appeal, together with the legal description or assessor's tax lot numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and commencing on January 1 of the year following the year in which the assessor mailed such notice, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection (5) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer ((on or before April 30 of the following year. On or before May 31 following such assessment date)) thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years for which such land was designated as forest land.

(4) ((Any)) Compensating tax ((unpaid on its due date shall thereupon become delinquent and)), together with applicable interest thereon, shall ((as of said date)) become a lien on such land which shall attach at the time such land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such 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 compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The compensating tax specified in subsection (3) of this section shall not be imposed if the removal of designation pursuant to subsection (1) of this section resulted solely from:

- (a) Transfer to a government entity in exchange for other forest land located within the state of Washington;
- (b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;
- (c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.

Sec. 4. Section 10, chapter 87, Laws of 1970 ex. sess. and RCW 84.34-100 are each amended to read as follows:

The additional tax, penalties, and/or interest provided by RCW 84.34-070 and 84.34.080 shall be payable in full ((on or before April 30th following)) 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.

Sec. 5. Section 12, chapter 212, Laws of 1973 1st ex. sess. and RCW 84.34.108 are each amended to read as follows:

(1) When land has once been classified under this ((1973 amendatory act)) chapter, a notation of such designation shall be made each year upon the assessment and tax rolls and such land shall be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of such designation by the assessor upon occurrence of any of the following:

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

(b) ((Passage of sixty days following the sale or transfer of all or a portion of such land to a new owner without receipt of a notice of compliance from the new owner. Notice of compliance forms shall be prepared by the state department of revenue and supplied by the county assessor. Said notice shall contain a statement that the new owner is aware of the use classification of the land and of the potential tax liability involved when such land ceases to be designated as open space, farm and agricultural or timber land;))

(c)) Sale or transfer to an ownership making all or a portion of such land exempt from ad valorem taxation;

(d) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 28A.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax

has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of such land is no longer primarily devoted to and used for the purposes under which it was granted classification.

(2) Within thirty days after such removal of all or a portion of such land from current use classification, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to full market value on the date of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (5) of this section, an additional tax shall be imposed which shall be due and payable to the county treasurer (((on or before April 30 of the following year:))) thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor shall compute the amount of such an additional tax and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such additional tax shall be equal to:

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

(b) Interest upon the amounts of such additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which such additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter.

(4) ((Any)) Additional tax ((unpaid on its due date shall thereupon become delinquent and)), together with applicable interest thereon, shall ((as of said date)) become a lien on such land which shall attach at the time such land is removed from current use classification under this chapter and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such 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 now or as hereafter amended. Any additional tax unpaid on its due date shall thereupon become delinquent.

From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The additional tax specified in subsection (3) of this section shall not be imposed if the removal of designation 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) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.

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

(e) 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 such land.

(f) Transfer to a church and such land would qualify for property tax exemption pursuant to RCW 84.36.020.

NEW SECTION. Sec. 6. There is added to chapter 84.33 RCW a new section to read as follows:

The excise tax imposed by RCW 84.33.071 shall not apply to any timber harvested by a nonprofit organization, association, or corporation from forest lands owned by it, where such lands are exempt from property taxes under RCW 84.36.030, and where all of the income and receipts of the nonprofit organization, association, or corporation derived from such timber sales are used solely for the expense of promoting, operating, and maintaining youth programs which are equally available to all, regardless of race, color, national origin, ancestry, or religious belief.

In order to determine whether the harvesting of timber by a nonprofit organization, association, or corporation is exempt, the director of the department of revenue shall have access to its books.

For the purposes of this section, a "nonprofit" organization, association, or corporation is one: (1) Which pays no part of its income directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and bylaws; and (2) which pays salary

or compensation to its officers only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public services of the state.

Passed the House March 4, 1980.

Passed the Senate February 19, 1980.

Approved by the Governor March 13, 1980.

Filed in Office of Secretary of State March 13, 1980.

CHAPTER 135

[Substitute House Bill No. 1471]

INSURERS—SURPLUS REQUIREMENTS

AN ACT Relating to insurance; amending section 7, chapter 195, Laws of 1963 as amended by section 5, chapter 150, Laws of 1967 and RCW 48.05.340; amending section .09.09, chapter 79, Laws of 1947 as amended by section 5, chapter 193, Laws of 1957 and RCW 48.09.090; and repealing section 4, chapter 193, Laws of 1957 and RCW 48.09.081.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 7, chapter 195, Laws of 1963 as amended by section 5, chapter 150, Laws of 1967 and RCW 48.05.340 are each amended to read as follows:

(1) Subject to RCW 48.05.350 and 48.05.360 to qualify for authority to transact any one kind of insurance as defined in chapter 48.11 RCW or combination of kinds of insurance as shown below, a foreign or alien insurer, whether stock, mutual, ((or a reciprocal)) or a domestic ((stock)) insurer hereafter formed shall possess and thereafter maintain unimpaired paid-in capital stock, if a stock insurer, or unimpaired ((basic)) surplus if a ((foreign)) mutual insurer ((or foreign reciprocal insurer)), and shall possess when first so authorized additional funds in surplus as follows:

Kind or kinds of insurance	Paid-in capital stock or basic surplus	Additional surplus
Life	(((\$400,000)) <u>\$1,000,000</u>	(((\$400,000)) <u>\$1,000,000</u>
Disability	((400,000)) <u>1,000,000</u>	((400,000)) <u>1,000,000</u>
Life and disability	((500,000)) <u>1,200,000</u>	((500,000)) <u>1,200,000</u>
Property	((400,000)) <u>1,000,000</u>	((400,000)) <u>1,000,000</u>
Marine & transportation	((450,000)) <u>1,000,000</u>	((450,000)) <u>1,000,000</u>
General casualty	((500,000)) <u>1,200,000</u>	((500,000)) <u>1,200,000</u>
Vehicle	((400,000))	((400,000))