

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5401

Chapter 246, Laws of 2009

61st Legislature
2009 Regular Session

THREATENED OR ENDANGERED SPECIES--HABITAT OPEN SPACE

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 20, 2009
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 13, 2009
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 28, 2009, 3:52 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5401** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 29, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5401

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Natural Resources, Ocean & Recreation (originally sponsored by Senators Morton, Jacobsen, Stevens, Ranker, Hatfield, Roach, and Kline)

READ FIRST TIME 02/20/09.

1 AN ACT Relating to habitat open space; and amending RCW 76.09.040,
2 84.33.140, 84.34.108, and 76.09.020.

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

4 **Sec. 1.** RCW 76.09.040 and 2000 c 11 s 3 are each amended to read
5 as follows:

6 (1) Where necessary to accomplish the purposes and policies stated
7 in RCW 76.09.010, and to implement the provisions of this chapter, the
8 board shall adopt forest practices rules pursuant to chapter 34.05 RCW
9 and in accordance with the procedures enumerated in this section that:

10 (a) Establish minimum standards for forest practices;

11 (b) Provide procedures for the voluntary development of resource
12 management plans which may be adopted as an alternative to the minimum
13 standards in (a) of this subsection if the plan is consistent with the
14 purposes and policies stated in RCW 76.09.010 and the plan meets or
15 exceeds the objectives of the minimum standards;

16 (c) Set forth necessary administrative provisions;

17 (d) Establish procedures for the collection and administration of
18 forest practice fees as set forth by this chapter; and

19 (e) Allow for the development of watershed analyses.

1 Forest practices rules pertaining to water quality protection shall
2 be adopted by the board after reaching agreement with the director of
3 the department of ecology or the director's designee on the board with
4 respect thereto. All other forest practices rules shall be adopted by
5 the board.

6 Forest practices rules shall be administered and enforced by either
7 the department or the local governmental entity as provided in this
8 chapter. Such rules shall be adopted and administered so as to give
9 consideration to all purposes and policies set forth in RCW 76.09.010.

10 (2) The board shall prepare proposed forest practices rules. In
11 addition to any forest practices rules relating to water quality
12 protection proposed by the board, the department of ecology may submit
13 to the board proposed forest practices rules relating to water quality
14 protection.

15 Prior to initiating the rule-making process, the proposed rules
16 shall be submitted for review and comments to the department of fish
17 and wildlife and to the counties of the state. After receipt of the
18 proposed forest practices rules, the department of fish and wildlife
19 and the counties of the state shall have thirty days in which to review
20 and submit comments to the board, and to the department of ecology with
21 respect to its proposed rules relating to water quality protection.
22 After the expiration of such thirty day period the board and the
23 department of ecology shall jointly hold one or more hearings on the
24 proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any
25 county may propose specific forest practices rules relating to problems
26 existing within such county. The board may adopt and the department of
27 ecology may approve such proposals if they find the proposals are
28 consistent with the purposes and policies of this chapter.

29 (3) The board shall establish by rule a program for the acquisition
30 of riparian open space (~~((program that includes acquisition of a fee~~
31 ~~interest in, or at the landowner's option, a conservation easement on))~~)
32 and critical habitat for threatened or endangered species as designated
33 by the board. Acquisition must be a conservation easement. Lands
34 eligible for acquisition are forest lands within unconfined
35 ((avulsing)) channel migration zones or forest lands containing
36 critical habitat for threatened or endangered species as designated by
37 the board. Once acquired, these lands may be held and managed by the
38 department, transferred to another state agency, transferred to an

1 appropriate local government agency, or transferred to a private
2 nonprofit nature conservancy corporation, as defined in RCW 64.04.130,
3 in fee or transfer of management obligation. The board shall adopt
4 rules governing the acquisition by the state or donation to the state
5 of such interest in lands including the right of refusal if the lands
6 are subject to unacceptable liabilities. The rules shall include
7 definitions of qualifying lands, priorities for acquisition, and
8 provide for the opportunity to transfer such lands with limited
9 warranties and with a description of boundaries that does not require
10 full surveys where the cost of securing the surveys would be
11 unreasonable in relation to the value of the lands conveyed. The rules
12 shall provide for the management of the lands for ecological protection
13 or fisheries enhancement. ~~((Because there are few, if any, comparable
14 sales of forest land within unconfined avulsing channel migration
15 zones, separate from the other lands or assets, these lands are likely
16 to be extraordinarily difficult to appraise and the cost of a
17 conventional appraisal often would be unreasonable in relation to the
18 value of the land involved. Therefore, for the purposes of voluntary
19 sales under this section, the legislature declares that these lands are
20 presumed to have a value equal to: (a) The acreage in the sale
21 multiplied by the average value of commercial forest land in the region
22 under the land value tables used for property tax purposes under RCW
23 84.33.120; plus (b) the cruised volume of any timber located within the
24 channel migration multiplied by the appropriate quality code stumpage
25 value for timber of the same species shown on the appropriate table
26 used for timber harvest excise tax purposes under RCW 84.33.091. For
27 purposes of this section, there shall be an eastside region and a
28 westside region as defined in the forests and fish report as defined in
29 RCW 76.09.020.))~~ For the purposes of conservation easements entered
30 into under this section, the following apply: (a) For conveyances of
31 a conservation easement in which the landowner conveys an interest in
32 the trees only, the compensation must include the timber value
33 component, as determined by the cruised volume of any timber located
34 within the channel migration zone or critical habitat for threatened or
35 endangered species as designated by the board, multiplied by the
36 appropriate quality code stumpage value for timber of the same species
37 shown on the appropriate table used for timber harvest excise tax
38 purposes under RCW 84.33.091; (b) for conveyances of a conservation

1 easement in which the landowner conveys interests in both land and
2 trees, the compensation must include the timber value component in (a)
3 of this subsection plus such portion of the land value component as
4 determined just and equitable by the department. The land value
5 component must be the acreage of qualifying channel migration zone or
6 critical habitat for threatened or endangered species as determined by
7 the board, to be conveyed, multiplied by the average per acre value of
8 all commercial forest land in western Washington or the average for
9 eastern Washington, whichever average is applicable to the qualifying
10 lands. The department must determine the western and eastern
11 Washington averages based on the land value tables established by RCW
12 84.33.140 and revised annually by the department of revenue.

13 (4) Subject to appropriations sufficient to cover the cost of such
14 an acquisition program and the related costs of administering the
15 program, the department (~~is directed to purchase a fee interest or, at~~
16 ~~the owner's option,~~) must establish a conservation easement in land
17 that an owner tenders for purchase; provided that such lands have been
18 taxed as forest lands and are located within an unconfined (~~avulsing~~)
19 channel migration zone or contain critical habitat for threatened or
20 endangered species as designated by the board. Lands acquired under
21 this section shall become riparian or habitat open space. These
22 acquisitions shall not be deemed to trigger the compensating tax of
23 chapters 84.33 and 84.34 RCW.

24 (5) Instead of offering to sell interests in qualifying lands,
25 owners may elect to donate the interests to the state.

26 (6) Any acquired interest in qualifying lands by the state under
27 this section shall be managed as riparian open space or critical
28 habitat.

29 **Sec. 2.** RCW 84.33.140 and 2007 c 54 s 24 are each amended to read
30 as follows:

31 (1) When land has been designated as forest land under RCW
32 84.33.130, a notation of the designation shall be made each year upon
33 the assessment and tax rolls. A copy of the notice of approval
34 together with the legal description or assessor's parcel numbers for
35 the land shall, at the expense of the applicant, be filed by the
36 assessor in the same manner as deeds are recorded.

1 (2) In preparing the assessment roll as of January 1, 2002, for
 2 taxes payable in 2003 and each January 1st thereafter, the assessor
 3 shall list each parcel of designated forest land at a value with
 4 respect to the grade and class provided in this subsection and adjusted
 5 as provided in subsection (3) of this section. The assessor shall
 6 compute the assessed value of the land using the same assessment ratio
 7 applied generally in computing the assessed value of other property in
 8 the county. Values for the several grades of bare forest land shall be
 9 as follows:

10	LAND	OPERABILITY	VALUES
11	GRADE	CLASS	PER ACRE
12		1	\$234
13	1	2	229
14		3	217
15		4	157
16		1	198
17	2	2	190
18		3	183
19		4	132
20		1	154
21	3	2	149
22		3	148
23		4	113
24		1	117
25	4	2	114
26		3	113
27		4	86
28		1	85
29	5	2	78
30		3	77
31		4	52
32		1	43
33	6	2	39
34		3	39
35		4	37
36		1	21

1	7	2	21
2		3	20
3		4	20
4	8		1

5 (3) On or before December 31, 2001, the department shall adjust by
6 rule under chapter 34.05 RCW, the forest land values contained in
7 subsection (2) of this section in accordance with this subsection, and
8 shall certify the adjusted values to the assessor who will use these
9 values in preparing the assessment roll as of January 1, 2002. For the
10 adjustment to be made on or before December 31, 2001, for use in the
11 2002 assessment year, the department shall:

12 (a) Divide the aggregate value of all timber harvested within the
13 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
14 volume for the same period, as determined from the harvester excise tax
15 returns filed with the department under RCW 84.33.074; and

16 (b) Divide the aggregate value of all timber harvested within the
17 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
18 volume for the same period, as determined from the harvester excise tax
19 returns filed with the department under RCW 84.33.074; and

20 (c) Adjust the forest land values contained in subsection (2) of
21 this section by a percentage equal to one-half of the percentage change
22 in the average values of harvested timber reflected by comparing the
23 resultant values calculated under (a) and (b) of this subsection.

24 (4) For the adjustments to be made on or before December 31, 2002,
25 and each succeeding year thereafter, the same procedure described in
26 subsection (3) of this section shall be followed using harvester excise
27 tax returns filed under RCW 84.33.074. However, this adjustment shall
28 be made to the prior year's adjusted value, and the five-year periods
29 for calculating average harvested timber values shall be successively
30 one year more recent.

31 (5) Land graded, assessed, and valued as forest land shall continue
32 to be so graded, assessed, and valued until removal of designation by
33 the assessor upon the occurrence of any of the following:

- 34 (a) Receipt of notice from the owner to remove the designation;
- 35 (b) Sale or transfer to an ownership making the land exempt from ad
36 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 forest land
3 designation continuance, except transfer to an owner who is an heir or
4 devisee of a deceased owner, shall not, by itself, result in removal of
5 designation. The signed notice of continuance shall be attached to the
6 real estate excise tax affidavit provided for in RCW 82.45.150. The
7 notice of continuance shall be on a form prepared by the department.
8 If the notice of continuance is not signed by the new owner and
9 attached to the real estate excise tax affidavit, all compensating
10 taxes calculated under subsection (11) of this section shall become due
11 and payable by the seller or transferor at time of sale. The auditor
12 shall not accept an instrument of conveyance regarding designated
13 forest land for filing or recording unless the new owner has signed the
14 notice of continuance or the compensating tax has been paid, as
15 evidenced by the real estate excise tax stamp affixed thereto by the
16 treasurer. The seller, transferor, or new owner may appeal the new
17 assessed valuation calculated under subsection (11) of this section to
18 the county board of equalization in accordance with the provisions of
19 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
20 equalization to hear these appeals;

21 (d) Determination by the assessor, after giving the owner written
22 notice and an opportunity to be heard, that:

23 (i) The land is no longer primarily devoted to and used for growing
24 and harvesting timber. However, land shall not be removed from
25 designation if a governmental agency, organization, or other recipient
26 identified in subsection (13) or (14) of this section as exempt from
27 the payment of compensating tax has manifested its intent in writing or
28 by other official action to acquire a property interest in the
29 designated forest land by means of a transaction that qualifies for an
30 exemption under subsection (13) or (14) of this section. The
31 governmental agency, organization, or recipient shall annually provide
32 the assessor of the county in which the land is located reasonable
33 evidence in writing of the intent to acquire the designated land as
34 long as the intent continues or within sixty days of a request by the
35 assessor. The assessor may not request this evidence more than once in
36 a calendar year;

37 (ii) The owner has failed to comply with a final administrative or
38 judicial order with respect to a violation of the restocking, forest

1 management, fire protection, insect and disease control, and forest
2 debris provisions of Title 76 RCW or any applicable rules under Title
3 76 RCW; or

4 (iii) Restocking has not occurred to the extent or within the time
5 specified in the application for designation of such land.

6 (6) Land shall not be removed from designation if there is a
7 governmental restriction that prohibits, in whole or in part, the owner
8 from harvesting timber from the owner's designated forest land. If
9 only a portion of the parcel is impacted by governmental restrictions
10 of this nature, the restrictions cannot be used as a basis to remove
11 the remainder of the forest land from designation under this chapter.
12 For the purposes of this section, "governmental restrictions" includes:

13 (a) Any law, regulation, rule, ordinance, program, or other action
14 adopted or taken by a federal, state, county, city, or other
15 governmental entity; or (b) the land's zoning or its presence within an
16 urban growth area designated under RCW 36.70A.110.

17 (7) The assessor shall have the option of requiring an owner of
18 forest land to file a timber management plan with the assessor upon the
19 occurrence of one of the following:

20 (a) An application for designation as forest land is submitted; or
21 (b) Designated forest land is sold or transferred and a notice of
22 continuance, described in subsection (5)(c) of this section, is signed.

23 (8) If land is removed from designation because of any of the
24 circumstances listed in subsection (5)(a) through (c) of this section,
25 the removal shall apply only to the land affected. If land is removed
26 from designation because of subsection (5)(d) of this section, the
27 removal shall apply only to the actual area of land that is no longer
28 primarily devoted to the growing and harvesting of timber, without
29 regard to any other land that may have been included in the application
30 and approved for designation, as long as the remaining designated
31 forest land meets the definition of forest land contained in RCW
32 84.33.035.

33 (9) Within thirty days after the removal of designation as forest
34 land, the assessor shall notify the owner in writing, setting forth the
35 reasons for the removal. The seller, transferor, or owner may appeal
36 the removal to the county board of equalization in accordance with the
37 provisions of RCW 84.40.038.

1 (10) Unless the removal is reversed on appeal a copy of the notice
2 of removal with a notation of the action, if any, upon appeal, together
3 with the legal description or assessor's parcel numbers for the land
4 removed from designation shall, at the expense of the applicant, be
5 filed by the assessor in the same manner as deeds are recorded and a
6 notation of removal from designation shall immediately be made upon the
7 assessment and tax rolls. The assessor shall revalue the land to be
8 removed with reference to its true and fair value as of January 1st of
9 the year of removal from designation. Both the assessed value before
10 and after the removal of designation shall be listed. Taxes based on
11 the value of the land as forest land shall be assessed and payable up
12 until the date of removal and taxes based on the true and fair value of
13 the land shall be assessed and payable from the date of removal from
14 designation.

15 (11) Except as provided in subsection (5)(c), (13), or (14) of this
16 section, a compensating tax shall be imposed on land removed from
17 designation as forest land. The compensating tax shall be due and
18 payable to the treasurer thirty days after the owner is notified of the
19 amount of this tax. As soon as possible after the land is removed from
20 designation, the assessor shall compute the amount of compensating tax
21 and mail a notice to the owner of the amount of compensating tax owed
22 and the date on which payment of this tax is due. The amount of
23 compensating tax shall be equal to the difference between the amount of
24 tax last levied on the land as designated forest land and an amount
25 equal to the new assessed value of the land multiplied by the dollar
26 rate of the last levy extended against the land, multiplied by a
27 number, in no event greater than nine, equal to the number of years for
28 which the land was designated as forest land, plus compensating taxes
29 on the land at forest land values up until the date of removal and the
30 prorated taxes on the land at true and fair value from the date of
31 removal to the end of the current tax year.

32 (12) Compensating tax, together with applicable interest thereon,
33 shall become a lien on the land which shall attach at the time the land
34 is removed from designation as forest land and shall have priority to
35 and shall be fully paid and satisfied before any recognizance,
36 mortgage, judgment, debt, obligation, or responsibility to or with
37 which the land may become charged or liable. The lien may be
38 foreclosed upon expiration of the same period after delinquency and in

1 the same manner provided by law for foreclosure of liens for delinquent
2 real property taxes as provided in RCW 84.64.050. Any compensating tax
3 unpaid on its due date shall thereupon become delinquent. From the
4 date of delinquency until paid, interest shall be charged at the same
5 rate applied by law to delinquent ad valorem property taxes.

6 (13) The compensating tax specified in subsection (11) of this
7 section shall not be imposed if the removal of designation under
8 subsection (5) of this section resulted solely from:

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

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

14 (c) A donation of fee title, development rights, or the right to
15 harvest timber, to a government agency or organization qualified under
16 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
17 sections, or the sale or transfer of fee title to a governmental entity
18 or a nonprofit nature conservancy corporation, as defined in RCW
19 64.04.130, exclusively for the protection and conservation of lands
20 recommended for state natural area preserve purposes by the natural
21 heritage council and natural heritage plan as defined in chapter 79.70
22 RCW or approved for state natural resources conservation area purposes
23 as defined in chapter 79.71 RCW. At such time as the land is not used
24 for the purposes enumerated, the compensating tax specified in
25 subsection (11) of this section shall be imposed upon the current
26 owner;

27 (d) The sale or transfer of fee title to the parks and recreation
28 commission for park and recreation purposes;

29 (e) Official action by an agency of the state of Washington or by
30 the county or city within which the land is located that disallows the
31 present use of the land;

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

34 (g) The creation, sale, or transfer of a ~~((fee-interest-or-a))~~
35 conservation easement ~~((for-the-riparian-open-space-program))~~ of
36 private forest lands within unconfined channel migration zones or
37 containing critical habitat for threatened or endangered species under
38 RCW 76.09.040; or

1 (h) The sale or transfer of land within two years after the death
2 of the owner of at least a fifty percent interest in the land if the
3 land has been assessed and valued as classified forest land, designated
4 as forest land under this chapter, or classified under chapter 84.34
5 RCW continuously since 1993. The date of death shown on a death
6 certificate is the date used for the purposes of this subsection
7 (13)(h).

8 (14) In a county with a population of more than one million
9 inhabitants, the compensating tax specified in subsection (11) of this
10 section shall not be imposed if the removal of designation as forest
11 land under subsection (5) of this section resulted solely from:

12 (a) An action described in subsection (13) of this section; or

13 (b) A transfer of a property interest to a government entity, or to
14 a nonprofit historic preservation corporation or nonprofit nature
15 conservancy corporation, as defined in RCW 64.04.130, to protect or
16 enhance public resources, or to preserve, maintain, improve, restore,
17 limit the future use of, or otherwise to conserve for public use or
18 enjoyment, the property interest being transferred. At such time as
19 the property interest is not used for the purposes enumerated, the
20 compensating tax shall be imposed upon the current owner.

21 **Sec. 3.** RCW 84.34.108 and 2007 c 54 s 25 are each amended to read
22 as follows:

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

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

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

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

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

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

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

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

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

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

32 (3) Within thirty days after such removal of all or a portion of
33 the land from current use classification, the assessor shall notify the
34 owner in writing, setting forth the reasons for the removal. The
35 seller, transferor, or owner may appeal the removal to the county board
36 of equalization in accordance with the provisions of RCW 84.40.038.

37 (4) Unless the removal is reversed on appeal, the assessor shall
38 revalue the affected land with reference to its true and fair value on

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

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

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

23 (c) The amount of the penalty shall be as provided in RCW
24 84.34.080. The penalty shall not be imposed if the removal satisfies
25 the conditions of RCW 84.34.070.

26 (5) Additional tax, applicable interest, and penalty, shall become
27 a lien on the land which shall attach at the time the land is removed
28 from classification under this chapter and shall have priority to and
29 shall be fully paid and satisfied before any recognizance, mortgage,
30 judgment, debt, obligation or responsibility to or with which the land
31 may become charged or liable. This lien may be foreclosed upon
32 expiration of the same period after delinquency and in the same manner
33 provided by law for foreclosure of liens for delinquent real property
34 taxes as provided in RCW 84.64.050. Any additional tax unpaid on its
35 due date shall thereupon become delinquent. From the date of
36 delinquency until paid, interest shall be charged at the same rate
37 applied by law to delinquent ad valorem property taxes.

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

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

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

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

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

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

20 (f) Acquisition of property interests by state agencies or agencies
21 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
22 purposes enumerated in those sections. At such time as these property
23 interests are not used for the purposes enumerated in RCW 84.34.210 and
24 64.04.130 the additional tax specified in subsection (4) of this
25 section shall be imposed;

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

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

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

33 (j) The creation, sale, or transfer of a ~~((fee-interest-or-a))~~
34 conservation easement ~~((for-the-riparian-open-space-program))~~ of
35 private forest lands within unconfined channel migration zones or
36 containing critical habitat for threatened or endangered species under
37 RCW 76.09.040; or

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

8 **Sec. 4.** RCW 76.09.020 and 2003 c 311 s 3 are each amended to read
9 as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Adaptive management" means reliance on scientific methods to
13 test the results of actions taken so that the management and related
14 policy can be changed promptly and appropriately.

15 (2) "Appeals board" means the forest practices appeals board
16 created by RCW 76.09.210.

17 (3) "Aquatic resources" includes water quality, salmon, other
18 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes
19 identified in the forests and fish report, the Columbia torrent
20 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander
21 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*
22 *olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's
23 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and
24 their respective habitats.

25 (4) "Commissioner" means the commissioner of public lands.

26 (5) "Contiguous" means land adjoining or touching by common corner
27 or otherwise. Land having common ownership divided by a road or other
28 right-of-way shall be considered contiguous.

29 (6) "Conversion to a use other than commercial timber operation"
30 means a bona fide conversion to an active use which is incompatible
31 with timber growing and as may be defined by forest practices rules.

32 (7) "Department" means the department of natural resources.

33 (8) "Fish passage barrier" means any artificial instream structure
34 that impedes the free passage of fish.

35 (9) "Forest land" means all land which is capable of supporting a
36 merchantable stand of timber and is not being actively used for a use
37 which is incompatible with timber growing. Forest land does not

1 include agricultural land that is or was enrolled in the conservation
2 reserve enhancement program by contract if such agricultural land was
3 historically used for agricultural purposes and the landowner intends
4 to continue to use the land for agricultural purposes in the future.
5 As it applies to the operation of the road maintenance and abandonment
6 plan element of the forest practices rules on small forest landowners,
7 the term "forest land" excludes:

8 (a) Residential home sites, which may include up to five acres; and

9 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,
10 and the land on which appurtenances necessary to the production,
11 preparation, or sale of crops, fruit, dairy products, fish, and
12 livestock exist.

13 (10) "Forest landowner" means any person in actual control of
14 forest land, whether such control is based either on legal or equitable
15 title, or on any other interest entitling the holder to sell or
16 otherwise dispose of any or all of the timber on such land in any
17 manner. However, any lessee or other person in possession of forest
18 land without legal or equitable title to such land shall be excluded
19 from the definition of "forest landowner" unless such lessee or other
20 person has the right to sell or otherwise dispose of any or all of the
21 timber located on such forest land.

22 (11) "Forest practice" means any activity conducted on or directly
23 pertaining to forest land and relating to growing, harvesting, or
24 processing timber, including but not limited to:

25 (a) Road and trail construction;

26 (b) Harvesting, final and intermediate;

27 (c) Precommercial thinning;

28 (d) Reforestation;

29 (e) Fertilization;

30 (f) Prevention and suppression of diseases and insects;

31 (g) Salvage of trees; and

32 (h) Brush control.

33 "Forest practice" shall not include preparatory work such as tree
34 marking, surveying and road flagging, and removal or harvesting of
35 incidental vegetation from forest lands such as berries, ferns,
36 greenery, mistletoe, herbs, mushrooms, and other products which cannot
37 normally be expected to result in damage to forest soils, timber, or
38 public resources.

1 (12) "Forest practices rules" means any rules adopted pursuant to
2 RCW 76.09.040.

3 (13) "Forest road," as it applies to the operation of the road
4 maintenance and abandonment plan element of the forest practices rules
5 on small forest landowners, means a road or road segment that crosses
6 land that meets the definition of forest land, but excludes residential
7 access roads.

8 (14) "Forest trees" does not include hardwood trees cultivated by
9 agricultural methods in growing cycles shorter than fifteen years if
10 the trees were planted on land that was not in forest use immediately
11 before the trees were planted and before the land was prepared for
12 planting the trees. "Forest trees" includes Christmas trees, but does
13 not include Christmas trees that are cultivated by agricultural
14 methods, as that term is defined in RCW 84.33.035.

15 (15) "Forests and fish report" means the forests and fish report to
16 the board dated April 29, 1999.

17 (16) "Application" means the application required pursuant to RCW
18 76.09.050.

19 (17) "Operator" means any person engaging in forest practices
20 except an employee with wages as his or her sole compensation.

21 (18) "Person" means any individual, partnership, private, public,
22 or municipal corporation, county, the department or other state or
23 local governmental entity, or association of individuals of whatever
24 nature.

25 (19) "Public resources" means water, fish and wildlife, and in
26 addition shall mean capital improvements of the state or its political
27 subdivisions.

28 (20) "Small forest landowner" has the same meaning as defined in
29 RCW 76.09.450.

30 (21) "Timber" means forest trees, standing or down, of a commercial
31 species, including Christmas trees. However, "timber" does not include
32 Christmas trees that are cultivated by agricultural methods, as that
33 term is defined in RCW 84.33.035.

34 (22) "Timber owner" means any person having all or any part of the
35 legal interest in timber. Where such timber is subject to a contract
36 of sale, "timber owner" shall mean the contract purchaser.

37 (23) "Board" means the forest practices board created in RCW
38 76.09.030.

1 (24) "Unconfined (~~(avulsing)~~) channel migration zone" means the
2 area within which the active channel of an unconfined (~~(avulsing)~~)
3 stream is prone to move and where the movement would result in a
4 potential near-term loss of riparian forest adjacent to the stream.
5 Sizeable islands with productive timber may exist within the zone.

6 (25) "Unconfined (~~(avulsing)~~) stream" means generally fifth order
7 or larger waters that experience abrupt shifts in channel location,
8 creating a complex floodplain characterized by extensive gravel bars,
9 disturbance species of vegetation of variable age, numerous side
10 channels, wall-based channels, oxbow lakes, and wetland complexes.
11 Many of these streams have dikes and levees that may temporarily or
12 permanently restrict channel movement.

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