

Proposed amendment to RCW 84.40.039 to address present health crisis restrictions imposed by government order.

The existing language of RCW 84.40.039 was motivated in large part by land use and critical area regulations. The plain language of the statute could be construed to more broadly apply to any government-imposed "limitation, requirement, regulation or restriction that limits the use of property. These would include those imposed by ordinances, resolutions, rules, regulations, policies, statutes and conditions of land use approval." RCW 84.40.039(5).

Under this literal reading, assuming that the property owner can demonstrate that the current emergency restrictions limit use of property in a manner that adversely affects fair market value, RCW 84.40.039 appears to provide a potential vehicle for affording property tax relief to impacted property owners.

The Department of Revenue has had some concern about whether RCW 84.40.039 would provide a mechanism for applying an assessment date other than January 1. In order to further address that issue, we have drafted a proposed legislative clarification that establishes the date of restriction as an alternative assessment date and specifies the formula for determining assessed value in that assessment year.

Amended language:

- Allows property revaluation on a date other than January 1.
- Applies only to a reduction in value caused by government restriction.
- Pro rates reduction in value for portion of year restriction is in place.
- Allows reduction in valuation for duration of restriction.
- Applies to personal and real property.

Existing language already allows:

- Owner must petition for relief.
- Owner to apply for relief within 3 years of imposition of restriction.
- Maximum of 3 years of relief available.
- "Restriction" to be broadly construed and imposed by any government.
- Changes in valuation established after June 1 will be used for imposing taxes in the following year.

Proposed amending language for real and personal property (underlined):

RCW 84.40.039

Reducing valuation after government restriction—Petitioning assessor—Establishing new valuation—Notice—Appeal—Refund.

(1) The owner or person responsible for payment of taxes on any real or personal property may petition the assessor for a reduction in the assessed value of the ~~((real))~~ property at any time within three years of adoption of a restriction by a government entity.

(2) For restrictions taking effect after January 1 of the assessment year, the assessor shall reconsider the true and fair value of the property for which the petition was filed and shall adjust the assessed value to its true and fair value as of the effective date of the restriction. The value of such property shall be reduced in proportion to the number of days in the year that the property was restricted. This determination shall be made by: (a) adding (i) the property's true and fair value as of January 1 of the assessment year multiplied by the number of days in the year prior to the effective date of restriction, and (ii) the property's true and fair value as of the effective date of the restriction multiplied by the number of days in the year including and after the effective date of the restriction; and then (b) dividing the sum of these values by the number of days in the year.

~~(23)~~ Notwithstanding the revaluation cycle for the county, the assessor shall reconsider the valuation of the ~~((real))~~ property within one hundred twenty days of the filing of a petition under subsection (1) of this section. If the new valuation is established for the real or personal property after this review, the assessor shall notify the property owner in the manner provided in RCW 84.40.045 or RCW 84.40.200. Unless the ~~((real))~~ property would otherwise be revalued that year as a result of the revaluation cycle or new construction, the valuation of the ~~((real))~~ property shall not be increased as a result of this revaluation. If the new valuation is established after June 1st in any year, the new valuation shall be used for purposes of imposing property taxes in the following year, but the property owner shall be eligible for a refund under RCW 84.69.020.

~~(34)~~ A new valuation established under this section may be appealed under RCW 84.40.038.

~~(45)~~ If the assessor reduces the valuation of ~~((real))~~ property using the process under this section, the property owner shall be entitled to a refund on property taxes paid on this property calculated as follows:

(a) A property owner is entitled to receive a refund for each year after the restriction was adopted, but not to exceed three years, that the taxpayer paid property taxes on the ~~((real))~~ property based upon the prior higher valuation; and

(b) The amount of the refund in each year shall be the amount of reduced valuation on the ~~((real))~~ property for that year, multiplied by the rate of property taxes imposed on the property in that year.

~~(56)~~ As used in this section, "restriction" means a limitation, requirement, regulation, or restriction that limits the use of the property, including those imposed by the application of ordinances, resolutions, rules, regulations, policies, statutes, and conditions of land use approval.