

HOUSE BILL NO. 506

INTRODUCED BY M. LINDEEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT LAND MUST BE TAXED AS AGRICULTURAL
5 LAND IF IT MEETS THE QUALIFICATIONS OF AGRICULTURAL LAND REGARDLESS OF INTENDED USE,
6 SPECULATED USE, OR HIGHEST OR BEST USE; AMENDING SECTIONS 15-6-133, 15-7-202, 15-7-208,
7 AND 76-6-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 15-6-133, MCA, is amended to read:
12 **"15-6-133. Class three property -- description -- taxable percentage.** (1) Class three property
13 includes:
14 (a) agricultural land as defined in 15-7-202;
15 (b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an
16 owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this
17 subsection (1)(b), the following provisions apply:
18 (i) The claim may not include any property that is used for residential purposes, recreational purposes
19 as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which
20 is being used for other than mining purposes or has a separate and independent value for other purposes.
21 (ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided
22 in this title, including that portion of the land upon which the improvements are located and that is reasonably
23 required for the use of the improvements.
24 (iii) Nonproductive patented mining claim property must be valued as if the land were devoted to
25 agricultural grazing use.
26 (c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible
27 ~~for valuation, assessment, and taxation~~ valued, assessed, and taxed as agricultural land under 15-7-202(1). The
28 land may not be devoted to a commercial or industrial purpose.
29 (2) Class three property is taxed at the taxable percentage rate applicable to class four property, as
30 provided in 15-6-134(2)(a).

1 (3) The taxable value of the land described in subsection (1)(c) is ~~valued at the productive capacity~~
 2 ~~value of grazing land, at the average grade of grazing land, and the taxable value is computed by multiplying~~
 3 the value of the land by seven times the taxable percentage rate for agricultural land."
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5 **Section 2.** Section 15-7-202, MCA, is amended to read:

6 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land totaling
 7 160 acres or more under one ownership ~~are eligible for valuation, assessment, and taxation~~ must be valued,
 8 assessed, and taxed as agricultural land each year that none of the parcels is devoted to a residential,
 9 commercial, or industrial use.

10 (b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership ~~are~~
 11 ~~eligible for valuation, assessment, and taxation~~ must be valued, assessed, and taxed as agricultural land if the
 12 land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition
 13 of agricultural in 15-1-101. A parcel of land is presumed to be used primarily for raising agricultural products if
 14 the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500
 15 in annual gross income from the raising of agricultural products produced by the land. The owner of land that
 16 is not presumed to be agricultural land shall verify to the department that the land is used primarily for raising
 17 and marketing agricultural products.

18 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) ~~are eligible~~
 19 ~~for valuation, assessment, and taxation~~ must be valued, assessed, and taxed as agricultural land under
 20 subsection (1)(b)(i) if:

21 (A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth
 22 in subsection (1)(b)(i) as defined in this section; and

23 (B) the land is not devoted to a residential, commercial, or industrial use.

24 (c) For the purposes of this subsection (1):

25 (i) "marketing" means the selling of agricultural products produced by the land and includes but is not
 26 limited to:

27 (A) rental or lease of the land as long as the land is actively used for grazing livestock or for other
 28 agricultural purposes; and

29 (B) rental payments made under the federal conservation reserve program or a successor to that
 30 program;

1 (ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or
 2 is contiguous to land under the same ownership that is classified as agricultural land, other than land described
 3 in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

4 (2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that
 5 are actively devoted to agricultural use ~~are eligible for valuation, assessment, and taxation~~ must be valued,
 6 assessed, and taxed as agricultural each year that the parcels meet any of the following qualifications:

7 (a) the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than
 8 \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; or

9 (b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent,
 10 intervening causes of production failure beyond the control of the producer or marketing delay for economic
 11 advantage, in which case proof of qualification in a prior year will suffice.

12 (3) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified
 13 or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder
 14 in compliance with the Montana Subdivision and Platting Act.

15 (4) Land may not be classified or valued as agricultural if it is subdivided land with stated restrictions
 16 effectively prohibiting its use for agricultural purposes. For the purposes of this subsection only, "subdivided
 17 land" includes parcels of land larger than 20 acres that have been subdivided for commercial or residential
 18 purposes.

19 (5) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide
 20 agricultural enterprise is not considered a bona fide agricultural operation.

21 (6) The department may not classify land less than 160 acres as agricultural unless the owner has
 22 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which
 23 no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c). If land has
 24 been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and
 25 taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation
 26 pursuant to 15-7-111.

27 (7) For the purposes of this part, growing timber is not an agricultural use."
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29 **Section 3.** Section 15-7-208, MCA, is amended to read:

30 **"15-7-208. Reclassification by department.** (1) The department may not reclassify agricultural land

1 as nonagricultural if the land meets the qualifications of 15-7-202, regardless of the intended use, speculated
 2 use, or highest or best use.

3 ~~(2) The~~ If the land does not meet the qualifications of agricultural land under 15-7-202, the department
 4 may reclassify the land as nonagricultural upon giving due notice to the property owner or any purchaser under
 5 contract for deed under the provisions of 15-7-102. Upon notice of a change in classification of land from
 6 agricultural to another use, the property owner may petition the department to reclassify the land as agricultural
 7 by completing a form prescribed by the department and by producing whatever information is necessary to prove
 8 that the subject land meets the definition of agricultural land embodied in 15-7-202."

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10 **Section 4.** Section 76-6-109, MCA, is amended to read:

11 **"76-6-109. Powers of public bodies -- county real property acquisition procedure maintained. (1)**

12 A public body has the power to carry out the purposes and provisions of this chapter, including the following
 13 powers in addition to others granted by this chapter:

14 (a) to borrow funds and make expenditures necessary to carry out the purposes of this chapter;

15 (b) to advance or accept advances of public funds;

16 (c) to apply for and accept and use grants and any other assistance from the federal government and
 17 any other public or private sources, to give security as may be required, to enter into and carry out contracts or
 18 agreements in connection with the assistance, and to include in any contract for assistance from the federal
 19 government conditions imposed pursuant to federal laws as the public body may consider reasonable and
 20 appropriate and that are not inconsistent with the purposes of this chapter;

21 (d) to make and execute contracts and other instruments necessary or convenient to the exercise of
 22 its powers under this chapter;

23 (e) in connection with the real property acquired or designated for the purposes of this chapter, to
 24 provide or to arrange or contract for the provision, construction, maintenance, operation, or repair by any person
 25 or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities or
 26 structures that may be necessary to the provision, preservation, maintenance, and management of the property
 27 as open-space land;

28 (f) to insure or provide for the insurance of any real or personal property or operations of the public body
 29 against any risks or hazards, including the power to pay premiums on the insurance;

30 (g) to demolish or dispose of any structures or facilities that may be detrimental to or inconsistent with

1 the use of real property as open-space land; and

2 (h) to exercise any of its functions and powers under this chapter jointly or cooperatively with public
3 bodies of one or more states, if they are authorized by state law, and with one or more public bodies of this state
4 and to enter into agreements for joint or cooperative action.

5 (2) For the purposes of this chapter, the state, a city, town, or other municipality, or a county may:

6 (a) appropriate funds;

7 (b) subject to 15-10-420, levy taxes and assessments according to existing codes and statutes;

8 (c) issue and sell its general obligation bonds in the manner and within the limitations prescribed by the
9 applicable laws of the state, subject to subsection (3); and

10 (d) exercise its powers under this chapter through a board or commission or through the office or
11 officers that its governing body by resolution determines or as the governor determines in the case of the state.

12 (3) Property taxes levied to pay the principal and interest on general obligation bonds issued by a city,
13 town, other municipality, or county pursuant to this chapter may not be levied against the following property:

14 (a) agricultural land ~~eligible for valuation, assessment, and taxation~~ that is valued, assessed, and taxed
15 as agricultural land under 15-7-202;

16 (b) forest land as defined in 15-44-102;

17 (c) all agricultural improvements on agricultural land referred to in subsection (3)(a);

18 (d) all noncommercial improvements on forest land referred to in subsection (3)(b); and

19 (e) agricultural implements and equipment described in 15-6-138(1)(a).

20 (4) This chapter does not supersede the provisions of 7-8-2202."

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22 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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