

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

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

Section 1. Section 15-6-133, MCA, is amended to read:

"15-6-133. Class three property – description -- taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation valued, assessed, and taxed as agricultural land under 15-7-202(1)(B). AND THE PARCELS OF land may ARE not be devoted to a RESIDENTIAL, commercial, or industrial purpose. LAND DESCRIBED UNDER THIS SUBSECTION (1) (C) DOES NOT INCLUDE LAND UNDER A RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL IMPROVEMENT OR LAND THAT IS USED TO DIRECTLY SUPPORT A COMMERCIAL OR INDUSTRIAL PURPOSE SUCH

AS A PARKING LOT OR A STORAGE AREA. LAND DESCRIBED UNDER THIS SUBSECTION (1)(C) IS VALUED AT THE PRODUCTIVE CAPACITY VALUE OF GRAZING LAND, AT THE AVERAGE GRADE OF GRAZING LAND.

(2) Class three property is taxed at the taxable percentage rate applicable to class four property, as provided in 15-6-134(2)(a).

(3) The taxable value of the land described in subsection (1)(c) is ~~valued at the productive capacity value of grazing land, at the average grade of grazing land, and the taxable value is computed by multiplying the value of the land by seven times the taxable percentage rate for agricultural land.~~"

Section 2. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership ~~are eligible for valuation, assessment, and taxation must be valued, assessed, and taxed~~ as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use OR HAS STATED RESTRICTIONS THAT EFFECTIVELY PROHIBIT ITS USE FOR ANY AGRICULTURAL PURPOSE. AGRICULTURAL LAND DOES NOT INCLUDE ANY LAND UNDER A COMMERCIAL OR INDUSTRIAL IMPROVEMENT OR LAND THAT IS USED TO DIRECTLY SUPPORT A COMMERCIAL OR INDUSTRIAL PURPOSE SUCH AS A PARKING LOT OR A STORAGE AREA.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership ~~are eligible for valuation, assessment, and taxation must be valued, assessed, and taxed~~ as agricultural land if the land is used PRIMARILY for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101. A parcel of land is presumed to be used PRIMARILY for raising agricultural products if the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land. The owner of land that is not presumed to be agricultural land shall verify to the department that the land is used primarily for raising marketing of agricultural products. AGRICULTURAL LAND UNDER THIS SUBSECTION (1)(B)(I) DOES NOT INCLUDE LAND UNDER A RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL IMPROVEMENT OR LAND

THAT IS USED TO SUPPORT A COMMERCIAL OR INDUSTRIAL PURPOSE
SUCH AS PARKING LOTS OR STORAGE AREAS.

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

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

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

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

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

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

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

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

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

(a) the parcels produce not less than \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; or

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

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

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

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

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

(7) For the purposes of this part, growing timber is not an agricultural use."

Section 3. Section 15-7-208, MCA, is amended to read:

"15-7-208. Reclassification by department. (1) The department may not reclassify agricultural land as nonagricultural if the land meets the qualifications of 15-7-202, regardless of the intended use, speculated use, or highest or best use.

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

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

"76-6-109. Powers of public bodies -- county real property acquisition procedure maintained. (1) A public body has the power to carry out the purposes and provisions of this chapter, including the following powers in addition to others granted by this chapter:

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

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

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

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

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

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

(g) to demolish or dispose of any structures or facilities that may be detrimental to or inconsistent with the use of real property as open-space land; and

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

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

(a) appropriate funds;

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. SECTION 5. APPLICABILITY. [THIS ACT] APPLIES TO PROPERTY TAX YEARS BEGINNING AFTER DECEMBER 31, 2005.

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