

HOUSE BILL NO. 121

INTRODUCED BY P. INGRAHAM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CERTAIN PARCELS OF GROWING TIMBER TO QUALIFY AS AGRICULTURAL LAND FOR PROPERTY TAX PURPOSES; AND AMENDING SECTIONS 15-6-143 AND 15-7-202, MCA."

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

Section 1. Section 15-6-143, MCA, is amended to read:

"15-6-143. Class ten property -- description -- taxable percentage. (1) ~~Class~~ Except as provided in 15-7-202(8)(b), class ten property includes all forest lands as defined in 15-44-102.

(2) Class ten property is taxed at:

- (a) for tax year 2009, 0.34% of its forest productivity value;
- (b) for tax year 2010, 0.33% of its forest productivity value;
- (c) for tax year 2011, 0.32% of its forest productivity value;
- (d) for tax year 2012, 0.31% of its forest productivity value;
- (e) for tax year 2013, 0.3% of its forest productivity value; and
- (f) for tax years after 2013, 0.29% of its forest productivity value."

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 as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land if:

(A) 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 and if, except as provided in subsection (3), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross



1 income from the raising of agricultural products produced by the land; or

2 (B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for
3 independent, intervening causes of production failure beyond the control of the producer or a marketing delay
4 for economic advantage, in which case proof of qualification in a prior year will suffice.

5 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible
6 for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

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

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

10 (iii) Parcels of land of 20 acres or more but less than 160 acres that do not meet the income requirement
11 of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

12 (A) applies to the department requesting classification of the parcel as agricultural;

13 (B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel
14 is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

15 (C) verifies that:

16 (I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of
17 the owner's Montana annual gross income is derived from agricultural production; and

18 (II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship,
19 or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross
20 income is derived from agricultural production; or

21 (III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership,
22 sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or
23 entity's Montana annual gross income is derived from agricultural production.

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 is
2 contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified
3 agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued
4 as provided in 15-7-206.

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

8 (a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent,
9 employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products
10 as defined in 15-1-101;

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

14 (c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this
15 section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by
16 the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have
17 not been further divided.

18 (3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2),
19 the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The
20 minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as
21 determined by the Montana state university-Bozeman department of agricultural economics and economics.

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

25 (5) Land may not be classified or valued as agricultural land or nonqualified agricultural land if it has
26 stated covenants or other restrictions that effectively prohibit its use for agricultural purposes.

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

29 (7) The department may not classify land less than 160 acres as agricultural unless the owner has
30 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which

1 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed
2 as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must
3 continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A
4 reclassification does not mean revaluation pursuant to 15-7-111.

5 (8) (a) For the purposes of this part, growing timber is not an agricultural use except as provided in
6 subsection (8)(b).

7 (b) Contiguous parcels of growing timber totaling less than 15 acres qualify as agricultural land if the
8 following conditions are met:

9 (i) the parcel or parcels previously qualified as agricultural land;

10 (ii) a portion of the parcel or parcels was taken or given without compensation or sold for a public use,
11 as described in 70-30-102, to the federal government, the state, or a municipality, and that action reduced the
12 number of acres in the parcel or parcels to less than 15 acres; and

13 (iii) since the reduction in acreage occurred, the parcel or parcels have not been further divided or
14 devoted to a residential, commercial, or industrial use, and there are no covenants or other restrictions that
15 effectively prohibit agricultural use."

16

- END -