

HOUSE BILL NO. 624

INTRODUCED BY B. HARRIS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CERTAIN UNDEVELOPED RECREATIONAL
5 LAND MUST BE VALUED IN THE SAME MANNER AS NONQUALIFIED AGRICULTURAL LAND; INCREASING
6 THE TAXABLE VALUE OF CERTAIN UNDEVELOPED RECREATIONAL LAND BY SEVEN TIMES THE
7 TAXABLE PERCENTAGE RATE FOR AGRICULTURAL LAND; DEFINING "UNDEVELOPED RECREATIONAL
8 LAND"; PROVIDING THAT A GOVERNMENTAL ENTITY THAT IS AUTHORIZED TO IMPOSE MILLS MAY
9 REQUEST A REVIEW BY THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF DETERMINING IF
10 AGRICULTURAL LAND SHOULD BE VALUED AS NONQUALIFIED AGRICULTURAL LAND; EXPANDING
11 RULEMAKING AUTHORITY; AMENDING SECTIONS 15-1-101, 15-6-133, AND 15-7-202, MCA; AND
12 PROVIDING AN APPLICABILITY DATE."

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14 WHEREAS, there are large tracts of agricultural land being purchased in Montana by nonagricultural
15 entities; and

16 WHEREAS, many of these agricultural acres are removed from production of agricultural products in
17 conversion to "wildlife habitat" or similar nonagricultural purposes; and

18 WHEREAS, these actions are adversely affecting the economic viability of rural communities; and

19 WHEREAS, the tax base is being shifted to other taxpayers based on the loss of agricultural production.

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

22
23 **Section 1.** Section 15-1-101, MCA, is amended to read:

24 **"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this
25 section are used in connection with taxation, they are defined in the following manner:

- 26 (a) The term "agricultural" refers to:
- 27 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control
 - 28 insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or
 - 29 produced for commercial purposes; and
 - 30 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

- 1 (b) The term "assessed value" means the value of property as defined in 15-8-111.
- 2 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit
3 margin shown in national appraisal guides and manuals or the valuation schedules of the department.
- 4 (d) (i) The term "commercial", when used to describe property, means property used or owned by a
5 business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property
6 described in subsection (1)(d)(ii).
- 7 (ii) The following types of property are not commercial:
- 8 (A) agricultural lands;
- 9 (B) timberlands and forest lands;
- 10 (C) single-family residences and ancillary improvements and improvements necessary to the function
11 of a bona fide farm, ranch, or stock operation;
- 12 (D) mobile homes and manufactured homes used exclusively as a residence except when held by a
13 distributor or dealer as stock in trade; and
- 14 (E) all property described in 15-6-135.
- 15 (e) The term "comparable property" means property that:
- 16 (i) has similar use, function, and utility;
- 17 (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and
- 18 (iii) has the potential of a similar highest and best use.
- 19 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.
- 20 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue
21 provided for in 2-15-1301.
- 22 (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.
- 23 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The
24 terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas
25 found in any coal formation.
- 26 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon,
27 erected upon, or affixed to land. When the department determines that the permanency of location of a mobile
28 home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or
29 housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or
30 housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot

1 feasily be relocated and only when the wheels are removed.

2 (j) The term "leasehold improvements" means improvements to mobile homes and mobile homes located
3 on land owned by another person. This property is assessed under the appropriate classification, and the taxes
4 are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements
5 are a lien only on the leasehold improvements.

6 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison,
7 ostriches, rheas, emus, and domestic ungulates.

8 (l) (i) The term "manufactured home" means a residential dwelling built in a factory in accordance with
9 the United States department of housing and urban development code and the federal Manufactured Home
10 Construction and Safety Standards.

11 (ii) A manufactured home does not include a mobile home, as defined in subsection (1)(m), or a mobile
12 home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went
13 into effect on June 15, 1976.

14 (m) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer
15 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an
16 independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet
17 in length used as a principal residence.

18 (n) The term "personal property" includes everything that is the subject of ownership but that is not
19 included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as
20 that term is defined in 15-6-218.

21 (o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in
22 domestication to produce food or feathers.

23 (p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and
24 things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize
25 the taxation of the stocks of a company or corporation when the property of the company or corporation
26 represented by the stocks is within the state and has been taxed.

27 (q) The term "real estate" includes:

28 (i) the possession of, claim to, ownership of, or right to the possession of land;

29 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title
30 15, chapter 23, part 8;

1 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United States;
2 and

3 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

4 (r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and
5 winter sports, including but not limited to skiing, skating, and snowmobiling.

6 (s) "Research and development firm" means an entity incorporated under the laws of this state or a
7 foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical
8 analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific
9 and technical nature into practical application for experimental and demonstration purposes, including the
10 experimental production and testing of models, devices, equipment, materials, and processes.

11 (t) The term "stock in trade" means any mobile home, manufactured home, or house trailer that is listed
12 by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent
13 foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

14 (u) The term "taxable value" means the percentage of market or assessed value as provided for in Title
15 15, chapter 6, part 1.

16 (v) The term "undeveloped recreational land" means land that was classified as agricultural land on
17 January 1, 2013, and that produces an average of \$10 or less of annual gross farm income per acre from raising
18 agricultural products and is not used for residential, commercial, or industrial purposes or for growing timber,
19 including but not limited to land used for wildlife habitat, conservation, and similar nonagricultural use. The term
20 does not include parcels of land that would produce more than \$10 of average annual gross farm income per acre
21 were it not for independent, intervening causes of production failure beyond the control of the producer or a
22 marketing delay for economic advantage.

23 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,
24 incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or
25 organized body authorized by law to establish tax levies for the purpose of raising public revenue.

26 (3) The term "state board" or "board" when used without other qualification means the state tax appeal
27 board."

28

29 **Section 2.** Section 15-6-133, MCA, is amended to read:

30 **"15-6-133. Class three property -- description -- taxable percentage.** (1) Class three property

1 includes:

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

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

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

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

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

14 (c) nonqualified agricultural land. The following parcels of land are considered to be nonqualified
15 agricultural land:

16 (i) parcels of 20 acres or more but less than 160 acres under one ownership that are not eligible for
17 valuation, assessment, and taxation as agricultural land under 15-7-202(1); and

18 (ii) parcels of 160 acres or more of undeveloped recreational land under one ownership,~~which are~~
19 ~~considered to be nonqualified agricultural land.~~

20 (2) Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified
21 agricultural land is valued at the productive capacity value of grazing land, at the average grade of grazing land.
22 A governmental entity that is authorized to impose mills may request a review by the department of parcels
23 classified as agricultural land for the purpose of determining if the land should be valued as nonqualified
24 agricultural land.

25 (3) The department may require an owner of a parcel of land to submit internal revenue service form
26 1040, schedule F, or other relevant information for the purpose of verifying whether agricultural land should be
27 valued as nonqualified agricultural land.

28 (2)(4) Subject to subsection (3) (5), class three property is taxed at the taxable percentage rate
29 applicable to class four property, as provided in 15-6-134(2)(a).

30 (3)(5) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of

1 the land by seven times the taxable percentage rate for agricultural land."
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3 **Section 3.** Section 15-7-202, MCA, is amended to read:

4 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) ~~Contiguous~~ Except as provided in
 5 15-6-133(1)(c)(ii), contiguous parcels of land totaling 160 acres or more under one ownership are eligible for
 6 valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a
 7 residential, commercial, or industrial use.

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

11 (A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that
 12 meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the
 13 owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross
 14 income from the raising of agricultural products produced by the land; or

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

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

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

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

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

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

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

28 (C) verifies that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (7) The department may not classify land less than 160 acres as agricultural unless the owner has
13 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which
14 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed
15 as provided in 15-6-133(3)(5). # Except as provided in 15-6-133(1)(c)(ii), if land has been valued, assessed, and
16 taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the
17 department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

18 (8) For the purposes of this part, growing timber is not an agricultural use."
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20 **NEW SECTION. Section 4. Applicability.** [This act] applies to tax years beginning after December 31,
21 2013.

22 - END -