

HOUSE BILL NO. 906

INTRODUCED BY C. KNUDSEN, T. FRANCE, L. JONES, B. BARKER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO AGRICULTURAL PROPERTY TAXATION; PROVIDING THAT THE OWNER OF A PARCEL OF 160 ACRES OR MORE MUST BE ELIGIBLE FOR FARM SERVICE AGENCY PAYMENTS TO QUALIFY FOR AGRICULTURAL PROPERTY CLASSIFICATION; AMENDING SECTION 15-7-202, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** 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:

(i) the owner OR LESSEE is eligible for U.S. department of agriculture farm service agency payments; and

(ii) 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 income from the raising of agricultural products produced by the land; or

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

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are

1 eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

2 (A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set

3 forth in subsection (1)(b)(i) as defined in this section; and

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

5 (iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership,

6 sole proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or

7 more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be

8 valued, assessed, and taxed as agricultural land if the owner:

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

10 (B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the

11 parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C);

12 and

13 (C) verifies that:

14 (I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or

15 more of the owner's Montana annual gross income is derived from agricultural production; and

16 (II) property taxes on the property are paid by a family corporation, family partnership, sole

17 proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's

18 Montana annual gross income is derived from agricultural production; or

19 (III) the owner is a shareholder, partner, owner, or member of the family corporation, family

20 partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of

21 the person's or entity's Montana annual gross income is derived from agricultural production.

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

23 (i) "marketing" means the selling of agricultural products produced by the land and includes but is

24 not limited to:

25 (A) rental or lease of the land as long as the land is actively used for grazing livestock or for other

26 agricultural purposes; and

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

28 program;

1 (ii) land that is devoted to residential use or that is used for agricultural buildings and is included in  
2 or is 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  
4 valued as provided in 15-7-206.

5 (2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership  
6 that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural  
7 each 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  
10 products 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  
12 independent, intervening causes of production failure beyond the control of the producer or marketing delay for  
13 economic 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  
17 have not been further divided.

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

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

24 (5) (a) Upon application by the property owner, the following parcels of land are eligible for  
25 provisional agricultural classification for 5 years to allow crops to reach salable maturity:

26 (i) a fruit orchard consisting of a minimum of 100 live fruit trees maintained using accepted fruit  
27 tree husbandry practices, including pest and disease management, fencing, and a watering system;

28 (ii) a vineyard containing a minimum of 120 live vines maintained using accepted husbandry

1 practices, including weed and grass maintenance, pest and disease management, pruning, and trellising and  
2 staking; and

3 (iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted  
4 husbandry practices, including regular shearing.

5 (b) Following the 5th year of provisional agricultural classification, the property owner shall submit  
6 an application for agricultural classification. The application must include documentation proving that the  
7 property continues to meet the requirements of subsection (5)(a) and that the income requirements of  
8 subsection (2)(a) have been met.

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

15 (7) For the purposes of this part, growing timber is not an agricultural use."  
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17 **NEW SECTION. Section 2. Applicability.** [This act] applies to property tax years beginning on or  
18 after January 1, 2024.

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