

**Unofficial Draft Copy**

As of: August 23, 2016 (1:16pm)

LCag02

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act revising the eligibility for classification of property as agricultural for property valuation purposes; removing the nonqualified agricultural property designation; amending sections 15-6-133, 15-6-134, 15-6-229, 15-7-202, and 15-10-420, MCA; and providing an immediate effective date and a retroactive 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

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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 as agricultural land under 15-7-202(1), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified agricultural land is valued at the average productive capacity value of grazing land.~~

(2) Subject to subsection (3), class three property is taxed at 2.16% of its productive capacity value.

~~(3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of the land by seven times the taxable percentage rate for agricultural land."~~

{*Internal References to 15-6-133:*

15-1-101x	15-6-134a	15-6-229a	15-7-102x
15-7-102x	15-7-111x	15-7-202a	15-7-202a
15-7-202a	15-8-111 *x	15-8-111x	15-10-420a }

**Section 2.** Section 15-6-134, MCA, is amended to read:

**"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:

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- (a) subject to subsection (1)(d), all land, except that specifically included in another class;
- (b) subject to subsection (1)(d):
  - (i) all improvements, including single-family residences, trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;
  - (ii) appurtenant improvements to the residences, including the parcels of land upon which the residences are located and any leasehold improvements;
  - (iii) vacant residential lots; and
  - (iv) rental multifamily dwelling units.
- (c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, ~~including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.~~; and
- (d) all commercial and industrial property, as defined in 15-1-101, and including:
  - (i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of income;
  - (ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;
  - (iii) commercial buildings and parcels of land upon which the buildings are situated; and

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(iv) vacant commercial lots.

(2) If a property includes both residential and commercial uses, the property is classified and appraised as follows:

(a) the land use with the highest percentage of total value is the use that is assigned to the property; and

(b) the improvements are apportioned according to the use of the improvements.

(3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (3)(b), class four residential property described in subsections (1)(a) through (1)(c) of this section is taxed at 1.35% of market value.

(b) The tax rate for the portion of the market value of a single-family residential dwelling in excess of \$1.5 million is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(c) The tax rate for commercial property is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(4) Property described in subsection (1)(d)(ii) is taxed at one-half the tax rate established in subsection (3)(c)."

{*Internal References to 15-6-134:*

15-1-101x	15-2-301x	15-6-156x	15-6-302x
15-6-305x	15-6-311x	15-6-311x	15-7-102x
15-7-102x	15-7-103x	15-7-111x	15-8-111x
15-8-111x	15-8-111x	15-8-205x	15-10-420x
15-24-3001x	15-24-3201x	15-24-3201x	15-30-2336x }

**Section 3.** Section 15-6-229, MCA, is amended to read:

**"15-6-229. Exemption for land adjacent to transmission line right-of-way easement -- application -- limitations.** (1) Subject

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to the conditions of this section, ~~for tax years beginning after December 31, 2007,~~ there is allowed an exemption from property taxes for land that is within 660 feet on either side of the midpoint of a transmission line right-of-way or easement.

(2) (a) An owner or operator of a transmission line shall apply to the department for an exemption under this section on a form provided by the department. The application must include a legal description ~~and,~~ a digitized certificate of survey of the property in the county for which the exemption is sought prepared by a surveyor registered with the board of professional engineers and professional land surveyors provided for in 2-15-1763 ~~of the property in the county for which the exemption is sought,~~ and other information required by the department. A separate application must be made for each county in which an exemption is sought.

(b) An application for an exemption that would be in effect for the tax year and subsequent tax years must be filed with the department by March 1 in the tax year that the exemption is sought.

(3) (a) The owner or operator of a transmission line shall inform the department of any change in ownership of the land or other circumstances that may affect the eligibility of the land for the exemption. The department shall determine whether any changes have occurred that affect the eligibility of the land for the exemption.

(b) The exemption allowed under this section does not apply to:

(i) the boundaries of an incorporated or unincorporated city or town;

(ii) a platted and filed subdivision;

(iii) tracts of land used for residential, commercial, or industrial purposes; or

(iv) the 1 acre of land beneath improvements on land described in ~~15-6-133(1)(c)~~ and 15-7-206(2).

(4) For the purposes of this section, "transmission line" means an electric line with a design capacity of 30 megavoltamperes or greater that is constructed after January 1, 2007."

{*Internal References to 15-6-229: None.*}

**Section 4.** 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

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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 eligible for valuation, assessment, and taxation 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.

(iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

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

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

(C) verifies that:

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

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

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

(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

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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 nonqualified agricultural 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 as agricultural each year that the parcels meet any of the following qualifications:

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

(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; or

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

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

(4) 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.

(5) 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 valued as provided in 15-6-133(1)(c) and is taxed as provided in 15-6-133(3).~~ 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.

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

{*Internal References to 15-7-202:*

15-6-133x	15-6-133a	15-6-134a	15-7-206x
15-7-208x	15-8-111x	76-2-205x	76-6-109x
80-12-102x	}		

**Section 5.** Section 15-10-420, MCA, is amended to read:

**"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies

authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

- (i) annexation of real property and improvements into a taxing unit;
- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If

a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 ~~or as nonqualified agricultural land as described in 15-6-133(1)(c).~~

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a

loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under

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7-2-2807 upon relocation of a county boundary.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit."

{*Internal References to 15-10-420:*

2-9-212x	2-9-212x	2-9-212x	2-9-212x
2-9-212x	2-9-212x	2-9-212x	2-18-703x
7-1-112x	7-1-114x	7-1-2103x	7-1-4123x
7-2-2730x	7-2-2730x	7-2-2746x	7-2-2807x
7-2-4111x	7-2-4918x	7-2-4918x	7-3-1104x
7-3-1310x	7-3-1310x	7-3-1311x	7-3-1311x
7-3-1313x	7-3-1313x	7-3-4312x	7-6-502x
7-6-2501x	7-6-2511x	7-6-2512x	7-6-2513x
7-6-2522x	7-6-4035x	7-6-4036x	7-6-4401x
7-6-4406x	7-6-4421x	7-6-4431x	7-6-4431x
7-6-4438x	7-6-4438x	7-6-4453x	7-10-115x
7-11-1112x	7-11-1112x	7-13-144x	7-13-3027x
7-14-111x	7-14-232x	7-14-1111x	7-14-1131x
7-14-2101x	7-14-2101x	7-14-2101x	7-14-2501x
7-14-2502x	7-14-2503x	7-14-2801x	7-14-2801x
7-14-2807x	7-14-4404x	7-14-4644x	7-14-4703x
7-14-4713x	7-14-4734x	7-15-4281x	7-16-101x
7-16-2102x	7-16-2108x	7-16-2109x	7-16-4105x
7-16-4113x	7-16-4114x	7-21-3203x	7-22-2142x
7-22-2142x	7-22-2306x	7-22-2512x	7-32-235x

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7-32-4117x	7-33-2109x	7-33-2120x	7-33-2120x
7-33-2209x	7-33-4111x	7-33-4130x	7-34-102x
7-34-2122x	7-34-2133x	7-34-2417x	7-35-2205x
13-13-230x	15-7-403x	15-10-202x	15-10-401x
15-10-402x	15-10-425x	15-10-425x	15-16-203x
15-16-203x	15-23-214x	15-24-1402x	15-24-1402x
15-24-1501x	15-24-1603x	19-7-404x	19-9-209x
19-13-214x	19-18-504x	19-19-301x	20-7-714x
20-9-331x	20-9-333x	20-9-360x	20-9-404x
20-9-533x	20-15-305x	20-15-311x	20-15-311x
20-15-313x	20-15-314x	20-15-314x	20-25-439x
22-1-304x	22-1-316x	22-1-702x	22-1-707x
22-1-708x	22-1-711x	22-1-711x	23-4-303x
39-71-403x	41-5-1804x	50-2-111x	50-2-111x
53-20-208x	53-21-1010x	67-10-402x	67-11-201x
67-11-301x	67-11-301x	67-11-302x	67-11-303x
67-11-303x	75-10-112x	76-1-111x	76-1-403x
76-1-404x	76-1-406x	76-2-102x	76-5-1116x
76-5-1116x	76-6-109x	76-15-501x	76-15-505x
76-15-515x	76-15-516x	76-15-516x	76-15-516x
76-15-518x	76-15-623x	81-8-504x	85-3-412x
85-3-422x	85-7-307x	85-8-601x	85-8-615x
85-8-618x	85-20-1001x	85-20-1001x	90-5-112x
90-6-403x	90-6-403x	90-6-403x	}

NEW SECTION. **Section 6. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 7. {standard} Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2016, and to the reappraisal cycle beginning January 1, 2017.

- END -

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