

SENATE BILL NO. 316
INTRODUCED BY J. ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PARCEL OF LAND LESS THAN 20 ACRES TO QUALIFY AS AGRICULTURAL LAND IF THE PARCEL HAD PREVIOUSLY TOTALED 20 ACRES OR MORE AND WAS QUALIFIED AS AGRICULTURAL LAND BUT THE SIZE OF THE PARCEL WAS REDUCED TO LESS THAN 20 ACRES ~~THROUGH EMINENT DOMAIN PROCEEDINGS~~ FOR A PUBLIC USE BY THE FEDERAL GOVERNMENT, THE STATE, OR A LOCAL GOVERNMENT AND THE PARCEL HAS NOT BEEN FURTHER SPLIT; AMENDING SECTION 15-7-202, 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 15-7-202, 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 are eligible for valuation, assessment, and taxation 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 and marketing agricultural products.

(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 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;

(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 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) 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; ~~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; 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 because of an eminent domain proceeding FOR A PUBLIC USE DESCRIBED IN 70-30-102 by THE FEDERAL GOVERNMENT, the state, A COUNTY, OR A MUNICIPALITY, and since that proceeding REDUCTION IN ACRES, the parcels have not been further divided.

(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 land or nonqualified agricultural land if it has stated covenants or other restrictions that effectively prohibit its use for agricultural 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 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.

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

COORDINATION SECTION. SECTION 2. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 488 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN [SECTION 2] OF HOUSE BILL NO. 488 RELATING TO THE APPROPRIATION FOR THE STUDY OF THE REVALUATION OF CERTAIN PROPERTY, INCLUDING AGRICULTURAL LAND, MUST READ AS FOLLOWS:

"NEW SECTION. Section 2. Appropriation. There is appropriated \$50,000 from the general fund to the legislative services division for the 2009 biennium for the operating expenses and personnel expenses related to the study required by [section 1] of House Bill No. 488."

NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

NEW SECTION. Section 4. Applicability -- RETROACTIVE APPLICABILITY. (1) [This act] applies to parcels reduced to less than 20 acres because of ~~an eminent domain~~ A PUBLIC USE proceeding by THE FEDERAL GOVERNMENT, the state, A COUNTY, OR A MUNICIPALITY regardless of when the proceeding occurred if those parcels

have not been further divided since the proceeding.

(2) [This act] applies RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, to property tax years beginning after December 31, 2006. Taxpayers are not allowed refunds of taxes resulting from a reclassification of parcels under [this act].

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