

HOUSE BILL NO. 28

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ELIGIBILITY FOR CLASSIFICATION OF PROPERTY AS AGRICULTURAL FOR PROPERTY VALUATION PURPOSES; REVISING THE ANNUAL GROSS INCOME THAT MUST BE MARKETED FROM PARCELS OF LESS THAN 160 ACRES TO QUALIFY FOR AGRICULTURAL CLASSIFICATION; AMENDING SECTIONS 15-6-133, 15-7-202, AND 15-7-206, 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 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)~~(2) through (4), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial

1 or industrial purpose. Nonqualified agricultural land is valued at the average productive capacity value of grazing
2 land.

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

4 (3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of the
5 land by seven times the taxable percentage rate for agricultural land."
6

7 **Section 2.** Section 15-7-202, MCA, is amended to read:

8 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) ~~(a)~~ Contiguous parcels of land totaling
9 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land
10 each year that none of the parcels is devoted to a residential, commercial, or industrial use.

11 ~~(b)~~ ~~(i)~~ (2) Contiguous or noncontiguous parcels of land of ~~20 acres or more~~ but less than 160 acres under
12 one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation
13 as agricultural land if:

14 ~~(A)~~ (a) the land is used primarily for raising and marketing, ~~as defined in subsection (1)(c),~~ products that
15 meet the definition of agricultural in 15-1-101 and if, except as provided in subsection ~~(3)~~ (5), the owner or the
16 owner's immediate family members, agent, employee, or lessee markets not less than ~~\$1,500~~ \$3,500 in annual
17 gross income from the raising of agricultural products produced by the land; ~~or. For the purposes of determining~~
18 annual gross income under this subsection:

19 (i) "marketing" means the selling of agricultural products produced by the land; and

20 (ii) for parcels of land of 20 acres or more and less than 160 acres, includes:

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

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

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

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

30 ~~—— (A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth~~

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

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

3 (3) The following parcels are also eligible for valuation, assessment, and taxation as agricultural land:

4 (a) parcels that totaled 20 acres or more in a prior year and qualified as agricultural land under this
 5 section but for which the number of acres was reduced to less than 20 acres for a public use described in
 6 70-30-102 by the federal government, the state, a county, or a municipality, and since that reduction in acres, the
 7 parcels have not been further divided; and

8 ~~(iii)(b) Parcels~~ parcels of land that are part of a family-operated farm, family corporation, family
 9 partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting of
 10 20 acres or more but less than 160 acres that do not meet the income requirement of subsection ~~(1)(b)(i)~~ may
 11 ~~also be valued, assessed, and taxed as agricultural land (2)(a)~~ if the owner:

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

13 ~~(B)(ii)~~ (ii) 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 this subsection ~~(1)(b)(iii)(C)~~ (3)(b);
 15 and

16 ~~(C)(iii)~~ (iii) verifies that:

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

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

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

25 ~~(c) For the purposes of this subsection (1):~~

26 ~~—— (i) "marketing" means the selling of agricultural products produced by the land and includes but is not~~
 27 ~~limited to:~~

28 ~~—— (A) rental or lease of the land as long as the land is actively used for grazing livestock or for other~~
 29 ~~agricultural purposes; and~~

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

1 program;

2 (ii)(4) ~~land~~ Land that is devoted to residential use or that is used for agricultural buildings and is included
3 in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified
4 agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued
5 as provided in 15-7-206.

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

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

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

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

19 ~~(3)(5)~~ (5) For grazing land to be eligible for classification as agricultural land under subsections ~~(1)(b) and~~
20 ~~(2) and (3)~~, the land must be capable of sustaining a minimum number of animal unit months of carrying capacity.
21 The minimum number of animal unit months of carrying capacity must equate to ~~\$1,500~~ \$3,500 in annual gross
22 income as determined by the Montana state university-Bozeman department of agricultural economics and
23 economics.

24 ~~(4)(6)~~ (6) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide
25 agricultural enterprise is not considered a bona fide agricultural operation.

26 ~~(5)(7)~~ (7) The department may not classify land less than 160 acres as agricultural unless the owner has
27 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which
28 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed
29 as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must
30 continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A

1 reclassification does not mean revaluation pursuant to 15-7-111.

2 ~~(6)(8)~~ For the purposes of this part, growing timber is not an agricultural use."

3

4 **Section 3.** Section 15-7-206, MCA, is amended to read:

5 **"15-7-206. Improvements on agricultural land.** (1) In determining the total area of land actively
6 devoted to agricultural use, there is included the area of all land under barns, sheds, silos, cribs, greenhouses,
7 and like structures, lakes, dams, ponds, streams, irrigation ditches, and like facilities.

8 (2) One acre of land beneath agricultural improvements on agricultural land, as described in
9 15-7-202~~(1)(c)(ii)~~(4), is valued at the class with the highest productive value and production capacity of
10 agricultural land."

11

12 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

13

14 NEW SECTION. **Section 5. Retroactive applicability.** [This act] applies retroactively, within the
15 meaning of 1-2-109, to tax years beginning after December 31, 2016, and to the reappraisal cycle beginning
16 January 1, 2017.

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