

HOUSE BILL NO. 27

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CLASSIFICATION OF REAL PROPERTY BENEATH A RESIDENTIAL IMPROVEMENT ON AGRICULTURAL LAND; PROVIDING THAT 1 ACRE OF REAL PROPERTY BENEATH A RESIDENTIAL IMPROVEMENT IS CLASSIFIED AS CLASS FOUR PROPERTY AND VALUED AT MARKET VALUE; AMENDING SECTIONS 15-6-133, 15-6-134, 15-6-229, 15-6-305, 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

1 considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial
 2 or industrial purpose. Nonqualified agricultural land is valued at the average productive capacity value of grazing
 3 land.

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

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

7

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

9 **"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:

10 (a) subject to subsection ~~(1)(d)~~ (1)(e), all land, except that specifically included in another class;

11 (b) subject to subsection ~~(1)(d)~~ (1)(e):

12 (i) all improvements, including single-family residences, trailers, manufactured homes, or mobile homes
 13 used as a residence, except those specifically included in another class;

14 (ii) appurtenant improvements to the residences, including the parcels of land ~~upon~~ on which the
 15 residences are located and any leasehold improvements;

16 (iii) vacant residential lots; and

17 (iv) rental multifamily dwelling units;

18 (c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land
 19 under 15-7-202, ~~including 1 acre of real property beneath~~ and improvements on nonqualified agricultural land
 20 described in 15-6-133(1)(c);

21 (d) 1 acre of real property beneath an improvement used as a residence on land that is eligible for
 22 valuation, assessment, and taxation as agricultural land under 15-7-202 or as nonqualified agricultural land under
 23 15-6-133(1)(c). The 1 acre must be valued at market value.

24 ~~(d)~~(e) all commercial and industrial property, as defined in 15-1-101, and including:

25 (i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a
 26 corporation, a limited liability company, or a partnership and that is used primarily for the production of income;

27 (ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that
 28 consist of at least nine holes and not less than 700 lineal yards;

29 (iii) commercial buildings and parcels of land ~~upon~~ on which the buildings are situated; and

30 (iv) vacant commercial lots.

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

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

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

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

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

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

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

14

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

16 **"15-6-229. Exemption for land adjacent to transmission line right-of-way easement -- application**
17 **-- limitations.** (1) Subject to the conditions of this section, ~~for tax years beginning after December 31, 2007,~~ there
18 is allowed an exemption from property taxes for land that is within 660 feet on either side of the midpoint of a
19 transmission line right-of-way or easement.

20 (2) (a) An owner or operator of a transmission line shall apply to the department for an exemption under
21 this section on a form provided by the department. The application must include a legal description ~~and~~ a
22 digitized certificate of survey of the property in the county for which the exemption is sought prepared by a
23 surveyor registered with the board of professional engineers and professional land surveyors provided for in
24 2-15-1763 ~~of the property in the county for which the exemption is sought,~~ and other information required by the
25 department. A separate application must be made for each county in which an exemption is sought.

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

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

1 exemption.

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

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

4 (ii) a platted and filed subdivision;

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

6 (iv) the 1 acre of land beneath improvements on nonqualified agricultural land described in ~~15-6-133(1)(c)~~
 7 ~~and 15-7-206(2)~~ 15-6-134(1)(d).

8 (4) For the purposes of this section, "transmission line" means an electric line with a design capacity of
 9 30 megavoltamperes or greater that is constructed after January 1, 2007."
 10

11 **Section 4.** Section 15-6-305, MCA, is amended to read:

12 **"15-6-305. Property tax assistance program -- fixed or limited income.** (1) There is a property tax
 13 assistance program that provides graduated levels of tax assistance for the purpose of assisting citizens with
 14 limited or fixed incomes. To be eligible for the program, applicants must meet the requirements of 15-6-302.

15 (2) The first \$200,000 in appraisal value of residential real property qualifying for the property tax
 16 assistance program is taxed at the rates established by 15-6-134~~(2)~~ multiplied by a percentage figure based on
 17 the applicant's qualifying income determined from the following table:

18	Income	Income	Percentage
19	Single Person	Married Couple	Multiplier
20		Head of Household	
21	\$0 - \$8,413	\$0 - \$11,217	33%
22	\$8,414 - \$12,900	\$11,218 - \$19,630	50%
23	\$12,901 - \$21,032	\$19,631 - \$28,043	70%

24 (3) The qualifying income levels contained in subsection (2) must be adjusted annually using the PCE
 25 inflation factor defined in 15-6-301, rounded to the nearest whole dollar amount."
 26

27 **Section 5.** Section 15-7-202, MCA, is amended to read:

28 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) ~~(a)~~ Contiguous parcels of land totaling
 29 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land

1 each year that none of the parcels is devoted to a residential, commercial, or industrial use.

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

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

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

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

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

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

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

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

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

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

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

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

29 ~~(iii)~~(b) ~~Parcels~~ parcels of land that are part of a family-operated farm, family corporation, family
30 partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting of

1 20 acres or more but less than 160 acres that do not meet the income requirement of subsection ~~(1)(b)(i)~~ may
 2 also be valued, assessed, and taxed as agricultural land (2)(a) if the owner:

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

4 ~~(B)(ii)~~ verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel
 5 is located within 15 air miles of the family-operated farming entity referred to in this subsection ~~(1)(b)(iii)(C)~~ (3)(b);
 6 and

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

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

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

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

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

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

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

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

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

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

30 ~~—— (a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent,~~

1 employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products
2 as defined in 15-1-101;

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

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

10 ~~(3)(5)~~ For grazing land to be eligible for classification as agricultural land under subsections ~~(1)(b) and~~
11 ~~(2) and (3)~~, the land must be capable of sustaining a minimum number of animal unit months of carrying capacity.
12 The minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income
13 as determined by the Montana state university-Bozeman department of agricultural economics and economics.

14 ~~(4)(6)~~ The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide
15 agricultural enterprise is not considered a bona fide agricultural operation.

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

22 ~~(6)(8)~~ For the purposes of this part, growing timber is not an agricultural use."
23

24 **Section 6.** Section 15-7-206, MCA, is amended to read:

25 **"15-7-206. Improvements on Land devoted to agricultural land use.** ~~(1)~~ In determining the total area
26 of land actively devoted to agricultural use, there is included the area of all land under barns, sheds, silos, cribs,
27 greenhouses, and like structures, lakes, dams, ponds, streams, irrigation ditches, and like facilities.

28 ~~(2) One acre of land beneath agricultural improvements on agricultural land, as described in~~
29 ~~15-7-202(1)(c)(ii), is valued at the class with the highest productive value and production capacity of agricultural~~
30 ~~land."~~

