

SENATE BILL NO. 69

INTRODUCED BY M. BLASDEL

BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AGRICULTURAL CLASSIFICATION LAWS; PROVIDING PROVISIONAL AGRICULTURAL CLASSIFICATION FOR CERTAIN ORCHARDS, VINEYARDS, AND CHRISTMAS TREE FARMS; REQUIRING APPLICATION FOR AGRICULTURAL CLASSIFICATION AFTER THE EXPIRATION OF PROVISIONAL 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 on 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 15-7-202, MCA, is amended to read:~~

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

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

15 ~~—— (A)(i) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that
 16 meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3)(7), the owner or the
 17 owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross
 18 income from the raising of agricultural products produced by the land; or~~

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

22 ~~—— (b) For the purposes of determining annual gross income under this section, the term "marketing":~~

23 ~~—— (i) means the selling of agricultural products produced by the land; and~~

24 ~~—— (ii) for parcels of land of 20 acres or more but less than 160 acres, includes:~~

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.~~

29 ~~—— (ii)(3) Noncontiguous parcels of land of less than 160 acres under one ownership that are actively
 30 devoted to agricultural use and that meet the income requirement of subsection (1)(b)(i) (2)(a)(i) or the exception~~

1 ~~in subsection (2)(a)(ii) are eligible for valuation, assessment, and taxation as agricultural land under subsection~~
2 ~~(1)(b)(i) if:~~

3 ~~—— (A)(a) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth~~
4 ~~in subsection (1)(b)(i) as defined in this section (2)(a); and~~

5 ~~—— (B)(b) the land is not devoted to a residential, commercial, or industrial use:~~

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

11 ~~—— (iii) Parcels(b) parcels of land that are part of a family-operated farm, family corporation, family~~
12 ~~partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting of~~
13 ~~20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may~~
14 ~~also be valued, assessed, and taxed as agricultural land (2)(a) if the owner:~~

15 ~~—— (A)(i) applies to the department requesting classification of the parcel as agricultural;~~
16 ~~—— (B)(ii) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel~~
17 ~~is located within 15 air miles of the family-operated farming entity referred to in this subsection (1)(b)(iii)(C) (4)(b);~~
18 ~~and~~

19 ~~—— (C)(iii) verifies that:~~

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

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

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

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

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

- 1 ~~——— (A) rental or lease of the land as long as the land is actively used for grazing livestock or for other~~
 2 ~~agricultural purposes; and~~
- 3 ~~——— (B) rental payments made under the federal conservation reserve program or a successor to that~~
 4 ~~program;~~
- 5 ~~——— (ii) land(5) (a) Upon application by the property owner, the following parcels of land are eligible for~~
 6 ~~provisional agricultural classification for 5 years to allow crops to reach salable maturity:~~
- 7 ~~——— (i) a fruit orchard consisting of a minimum of 100 live fruit trees maintained using accepted fruit tree~~
 8 ~~husbandry practices, including fencing and a watering system;~~
- 9 ~~——— (ii) a vineyard containing a minimum of 120 live vines maintained using accepted husbandry practices,~~
 10 ~~including weed and grass maintenance, pruning, and trellising and staking; and~~
- 11 ~~——— (iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted~~
 12 ~~husbandry practices, including regular shearing;~~
- 13 ~~——— (b) Following the 5th year of provisional agricultural classification, the property owner shall submit an~~
 14 ~~application for agricultural classification. The application must include documentation proving that the property~~
 15 ~~continues to meet the requirements of subsection (5)(a) and that the income requirements of subsection (2)(a)~~
 16 ~~have been met.~~
- 17 ~~——— (6) Land that is devoted to residential use or that is used for agricultural buildings and is included in or~~
 18 ~~is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified~~
 19 ~~agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued~~
 20 ~~as provided in 15-7-206.~~
- 21 ~~——— (2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that~~
 22 ~~are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each~~
 23 ~~year that the parcels meet any of the following qualifications:~~
- 24 ~~——— (a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent,~~
 25 ~~employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products~~
 26 ~~as defined in 15-1-101;~~
- 27 ~~——— (b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent,~~
 28 ~~intervening causes of production failure beyond the control of the producer or marketing delay for economic~~
 29 ~~advantage, in which case proof of qualification in a prior year will suffice; or~~
- 30 ~~——— (c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this~~

1 section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by
 2 the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have
 3 not been further divided.

4 ~~——— (3)(7) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and~~
 5 ~~(2) through (4), the land must be capable of sustaining a minimum number of animal unit months of carrying~~
 6 ~~capacity. The minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross~~
 7 ~~income as determined by the Montana state university-Bozeman department of agricultural economics and~~
 8 ~~economics.~~

9 ~~——— (4)(8) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide~~
 10 ~~agricultural enterprise is not considered a bona fide agricultural operation.~~

11 ~~——— (5)(9) The department may not classify land of less than 160 acres as agricultural unless the owner has~~
 12 ~~applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which~~
 13 ~~no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed~~
 14 ~~as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must~~
 15 ~~continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A~~
 16 ~~reclassification does not mean revaluation pursuant to 15-7-111.~~

17 ~~——— (6)(10) For the purposes of this part, growing timber is not an agricultural use."~~

18

19 **SECTION 1. SECTION 15-7-202, MCA, IS AMENDED TO READ:**

20 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land totaling
 21 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land
 22 each year that none of the parcels is devoted to a residential, commercial, or industrial use.

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

26 (A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that
 27 meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the
 28 owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross
 29 income from the raising of agricultural products produced by the land; or

30 (B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for

1 independent, intervening causes of production failure beyond the control of the producer or a marketing delay
2 for economic advantage, in which case proof of qualification in a prior year will suffice.

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

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

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

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

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

13 (B) 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 subsection (1)(b)(iii)(C); and

15 (C) verifies that:

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

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

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

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

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

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

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

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

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

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

22 (4) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide
23 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 provisional
25 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 tree
27 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 practices,
29 including weed and grass maintenance, pest and disease management, pruning, and trellising and staking; and

30 (iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted

1 husbandry practices, including regular shearing.

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

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

12 ~~(6)(7)~~ For the purposes of this part, growing timber is not an agricultural use."
 13

14 **Section 2.** Section 15-7-206, MCA, is amended to read:

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

18 (2) One acre of land beneath ~~agricultural residential~~ improvements on agricultural land, as described in
 19 15-7-202~~(1)(c)(ii)(C)(II)~~, is valued at the class with the highest productive value and production capacity of
 20 agricultural land."
 21

22 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.
 23

24 NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the
 25 meaning of 1-2-109, to tax years beginning after December 31, 2018, and to the reappraisal cycle beginning
 26 January 1, 2019.
 27

- END -