

**Unofficial Draft Copy**

As of: August 23, 2016 (1:15pm)

LCag01

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

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

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

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 15-6-134, 15-6-229, 15-7-202, and 15-7-206, MCA; and providing an immediate effective date and a retroactive applicability date."

**Section 1.** Section 15-6-134, MCA, is amended to read:

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

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

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

(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

**Unofficial Draft Copy**

As of: August 23, 2016 (1:15pm)

LCag01

valuation, assessment, and taxation as agricultural land under 15-7-202, ~~including 1 acre of real property beneath [and~~ improvements on nonqualified agricultural land described in 15-6-133(1)(c)];

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

~~(d)~~(e) 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

(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.

**Unofficial Draft Copy**

As of: August 23, 2016 (1:15pm)

LCag01

(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)~~ (1)(d) 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)~~ (1)(e)(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 2.** 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 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

**Unofficial Draft Copy**

As of: August 23, 2016 (1:15pm)

LCag01

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 3.** 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 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

**Unofficial Draft Copy**

As of: August 23, 2016 (1:15pm)

LCag01

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;

(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

**Unofficial Draft Copy**

As of: August 23, 2016 (1:15pm)

LCag01

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) 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.

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

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

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

**Unofficial Draft Copy**

As of: August 23, 2016 (1:15pm)

LCag01

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

{*Internal References to 15-7-206:*  
15-6-229a 15-7-202a }

NEW SECTION. **Section 5. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 6. {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 -

{Name : Megan M. Moore  
Title : Research Analyst  
Agency : Montana Legislative Services  
Phone : 406-444-4496  
E-Mail : memooore@mt.gov}