

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 112

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO PROPERTY TAXATION; DEFINING "AGRICULTURAL PRODUCTS"; EXPANDING THE DEFINITION OF "AGRICULTURAL USE" FOR PROPERTY VALUATION PURPOSES TO INCLUDE THE RESTING OF LAND TO MAINTAIN ITS CAPACITY TO PRODUCE AGRICULTURAL PRODUCTS, INCLUDING THE RESTING OF LAND AS THE DIRECT RESULT OF A DESIGNATION OF A DROUGHT DISASTER AREA BY THE UNITED STATES SECRETARY OF AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-36-20 NMSA 1978 (being Laws 1973, Chapter 258, Section 21, as amended) is amended to read:

"7-36-20. SPECIAL METHOD OF VALUATION--LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES.--

A. The value of land used primarily for agricultural purposes shall be determined on the basis of the

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1 land's capacity to produce agricultural products. Evidence of
2 bona fide primary agricultural use of land for the tax year
3 preceding the year for which determination is made of
4 eligibility for the land to be valued under this section
5 creates a presumption that the land is used primarily for
6 agricultural purposes during the tax year in which the
7 determination is made. If the land was valued under this
8 section in one or more of the three tax years preceding the
9 year in which the determination is made and the use of the land
10 has not changed since the most recent valuation under this
11 section, a presumption is created that the land continues to be
12 entitled to that valuation.

13 B. For the purpose of this section:

14 (1) "agricultural products" means plants,
15 crops, trees, forest products, orchard crops, livestock,
16 poultry, captive deer or elk, or fish; and

17 (2) "agricultural use" means the:

18 (a) use of land for the production of
19 [plants, crops, trees, forest products, orchard crops,
20 livestock, poultry, captive deer or elk, or fish. The term
21 also includes the] agricultural products;

22 (b) use of land that meets the
23 requirements for payment or other compensation pursuant to a
24 soil conservation program under an agreement with an agency of
25 the federal government; or

1 (c) resting of land to maintain its
2 capacity to produce agricultural products, including resting of
3 land as the direct result of a designation of a drought
4 disaster area by the United States secretary of agriculture.

5 C. The department shall adopt rules for determining
6 whether land is used primarily for agricultural purposes. The
7 rules shall provide that the use of land for the lawful taking
8 of game shall not be considered in determining whether land is
9 used primarily for agricultural purposes.

10 D. The department shall adopt rules for determining
11 the value of land used primarily for agricultural purposes.

12 The rules shall:

13 (1) specify procedures to use in determining
14 the capacity of land to produce agricultural products and the
15 derivation of value of the land based upon its production
16 capacity;

17 (2) establish carrying capacity as the
18 measurement of the production capacity of land used for grazing
19 purposes, develop a system of determining carrying capacity
20 through the use of an animal unit concept and establish
21 carrying capacities for the land in the state classified as
22 grazing land;

23 (3) provide that land the bona fide and
24 primary use of which is the production of captive deer or elk
25 shall be valued as grazing land and that captive deer shall be

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1 valued and taxed as sheep and captive elk shall be valued and
2 taxed as cattle;

3 (4) provide for the consideration of
4 determinations of any other governmental agency concerning the
5 capacity of the same or similar lands to produce agricultural
6 products;

7 (5) assure that land determined under the
8 rules to have the same or similar production capacity shall be
9 valued uniformly throughout the state; and

10 (6) provide for the periodic review by the
11 department of determined production capacities and
12 capitalization rates used for determining annually the value of
13 land used primarily for agricultural purposes.

14 E. All improvements, other than those specified in
15 Section 7-36-15 NMSA 1978, on land used primarily for
16 agricultural purposes shall be valued separately for property
17 taxation purposes, and the value of these improvements shall be
18 added to the value of the land determined under this section.

19 F. The owner of the land [~~must~~] shall make
20 application to the county assessor in a tax year in which the
21 valuation method of this section is first claimed to be
22 applicable to the land or in a tax year immediately subsequent
23 to a tax year in which the land was not valued under this
24 section. Application shall be made under oath, shall be in a
25 form and contain the information required by department rules

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1 and ~~must~~ shall be made no later than thirty days after the
 2 date of mailing by the assessor of the notice of valuation.
 3 Once land is valued under this section, application need not be
 4 made in subsequent tax years as long as there is no change in
 5 the use of the land.

6 G. The owner of land valued under this section
 7 shall report to the county assessor whenever the use of the
 8 land changes so that it is no longer being used primarily for
 9 agricultural purposes. This report shall be made on a form
 10 prescribed by department rules and shall be made by the last
 11 day of February of the tax year immediately following the year
 12 in which the change in the use of the land occurs.

13 H. Any person who is required to make a report
 14 under the provisions of Subsection G of this section and who
 15 fails to do so is personally liable for a civil penalty in an
 16 amount equal to the greater of twenty-five dollars (\$25.00)
 17 or twenty-five percent of the difference between the property
 18 taxes ultimately determined to be due and the property taxes
 19 originally paid for the tax years for which the person failed
 20 to make the required report."

21 SECTION 2. APPLICABILITY.--The provisions of this act
 22 apply to the 2016 and subsequent property tax years.
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