

SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE
SUBSTITUTE FOR SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 112

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

AN ACT

RELATING TO PROPERTY TAXATION; EXPANDING THE DEFINITION OF
"AGRICULTURAL USE" FOR PROPERTY VALUATION PURPOSES TO INCLUDE
THE RESTING OF LAND UNDER CERTAIN CONDITIONS.

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
land's capacity to produce agricultural products. Evidence of
bona fide primary agricultural use of land for the tax year
preceding the year for which determination is made of
eligibility for the land to be valued under this section

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underscoring material = new
~~[bracketed material] = delete~~

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

9 B. For the purpose of this section:

10 (1) "agricultural products" means plants,
11 crops, trees, forest products, orchard crops, livestock,
12 poultry, captive deer or elk, or fish; and

13 (2) "agricultural use" means the:

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

18 (b) use of land that meets the
19 requirements for payment or other compensation pursuant to a
20 soil conservation program under an agreement with an agency of
21 the federal government;

22 (c) resting of land to maintain its
23 capacity to produce agricultural products; or

24 (d) resting of land as the direct result
25 of at least moderate drought conditions as designated by the

1 United States department of agriculture, if the drought
2 conditions occurred in the county within which the land is
3 located for at least eight consecutive weeks during the
4 previous tax year; provided that the land was used in the tax
5 year immediately preceding the previous tax year primarily for
6 a purpose identified pursuant to this paragraph.

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

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

14 The rules shall:

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

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

25 (3) provide that land the bona fide and

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1 primary use of which is the production of captive deer or elk
2 shall be valued as grazing land and that captive deer shall be
3 valued and taxed as sheep and captive elk shall be valued and
4 taxed as cattle;

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

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

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

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

21 F. The owner of the land [~~must~~] shall make
22 application to the county assessor in a tax year in which the
23 valuation method of this section is first claimed to be
24 applicable to the land or in a tax year immediately subsequent
25 to a tax year in which the land was not valued under this

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

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

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

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