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HOUSE BILL 112

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

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO PROPERTY TAXATION; EXPANDING THE DEFINITION OF
"AGRICULTURAL USE" FOR PROPERTY VALUATION PURPOSES; REQUIRING
ISSUANCE OF RULES PROHIBITING SOLE CONSIDERATION OF LAND
ACREAGE IN A DETERMINATION OF WHETHER LAND IS USED PRIMARILY
FOR AGRICULTURAL PURPOSES.

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

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

11 B. For the purpose of this section:

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

15 (2) "agricultural use" means the:

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

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

24 (c) use of land to raise or keep horses,
25 but does not include the use of land to train, show or race

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1 horses;

2 (d) resting of land to maintain its
3 capacity to produce agricultural products; or

4 (e) resting of land used in the previous
5 tax year for a purpose identified pursuant to this paragraph if
6 the resting of land is concurrent with and a direct result of
7 at least moderate drought conditions confirmed by the United
8 States department of agriculture for the portion of the county
9 within which the land is located.

10 C. The department shall adopt rules for determining
11 whether land is used primarily for agricultural purposes. The
12 rules shall provide that:

13 (1) the use of land for the lawful taking of
14 game shall not be considered in determining whether land is
15 used primarily for agricultural purposes; and

16 (2) the acreage of the land shall not be
17 considered as the only factor in determining whether land is
18 used primarily for agricultural purposes.

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

21 The rules shall:

22 (1) specify procedures to use in determining
23 the capacity of land to produce agricultural products and the
24 derivation of value of the land based upon its production
25 capacity;

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1 (2) establish carrying capacity as the
2 measurement of the production capacity of land used for grazing
3 purposes, develop a system of determining carrying capacity
4 through the use of an animal unit concept and establish
5 carrying capacities for the land in the state classified as
6 grazing land;

7 (3) provide that land the bona fide and
8 primary use of which is the production of captive deer or elk
9 shall be valued as grazing land and that captive deer shall be
10 valued and taxed as sheep and captive elk shall be valued and
11 taxed as cattle;

12 (4) provide for the consideration of
13 determinations of any other governmental agency concerning the
14 capacity of the same or similar lands to produce agricultural
15 products;

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

19 (6) provide for the periodic review by the
20 department of determined production capacities and
21 capitalization rates used for determining annually the value of
22 land used primarily for agricultural purposes.

23 E. All improvements, other than those specified in
24 Section 7-36-15 NMSA 1978, on land used primarily for
25 agricultural purposes shall be valued separately for property

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1 taxation purposes, and the value of these improvements shall be
2 added to the value of the land determined under this section.

3 F. The owner of the land [~~must~~] shall make
4 application to the county assessor in a tax year in which the
5 valuation method of this section is first claimed to be
6 applicable to the land or in a tax year immediately subsequent
7 to a tax year in which the land was not valued under this
8 section. Application shall be made under oath, shall be in a
9 form and contain the information required by department rules
10 and [~~must~~] shall be made no later than thirty days after the
11 date of mailing by the assessor of the notice of valuation.
12 Once land is valued under this section, application need not be
13 made in subsequent tax years as long as there is no change in
14 the use of the land.

15 G. The owner of land valued under this section
16 shall report to the county assessor whenever the use of the
17 land changes so that it is no longer being used primarily for
18 agricultural purposes. This report shall be made on a form
19 prescribed by department rules and shall be made by the last
20 day of February of the tax year immediately following the year
21 in which the change in the use of the land occurs.

22 H. Any person who is required to make a report
23 under the provisions of Subsection G of this section and who
24 fails to do so is personally liable for a civil penalty in an
25 amount equal to the greater of twenty-five dollars (\$25.00)

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1 or twenty-five percent of the difference between the property
2 taxes ultimately determined to be due and the property taxes
3 originally paid for the tax years for which the person failed
4 to make the required report."

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

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