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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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