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HOUSE BILL 1112

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

RAYMOND G. SANCHEZ

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 7-36-20 NMSA
1978 (BEING LAWS 1973, CHAPTER 258, SECTION 21, AS AMENDED)
PERTAINING TO VALUATION OF LAND 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. [~~The burden of demonstrating
primary agricultural use is on the owner of the land, and he
must produce objective~~] Evidence of bona fide primary

Underscored material = new
[bracketed material] = delete

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[bracketed material] = delete

1 agricultural use of land for the tax year preceding the year in
2 which application is made for [~~his~~] the land to be valued under
3 this section [~~The fact that land was devoted to agricultural~~
4 ~~use in the preceding year is not of itself sufficient evidence~~
5 ~~to support a finding of bona fide primary agricultural use when~~
6 ~~there is evidence that the agricultural use was subordinate to~~
7 ~~another use or purpose of the owner, such as holding for~~
8 ~~speculative land subdivision and sale, commercial use of a~~
9 ~~nonagricultural character, recreational use or other~~
10 ~~nonagricultural purpose]~~ creates a presumption that the land is
11 used primarily for agricultural purposes during the tax year in
12 which the application is made. If the land was valued under
13 this section in either or both of the two tax years preceding
14 the year in which application is made and the use of the land
15 has not changed since the most recent valuation under this
16 section, a presumption is created that the land continues to be
17 entitled to that valuation.

18 B. For the purpose of this section, "agricultural
19 use" means the use of land for the production of plants, crops,
20 trees, forest products, orchard crops, livestock, poultry or
21 fish. The term also includes the use of land that meets the
22 requirements for payment or other compensation pursuant to a
23 soil conservation program under an agreement with an agency of
24 the federal government.

25 C. The department shall adopt regulations for

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1 determining whether or not land is used primarily for
2 agricultural purposes.

3 D. The department shall adopt regulations for
4 determining the value of land used primarily for agricultural
5 purposes. The regulations shall:

6 (1) specify procedures to use in determining
7 the capacity of land to produce agricultural products and the
8 derivation of value of the land based upon its production
9 capacity;

10 (2) establish carrying capacity as the
11 measurement of the production capacity of land used for grazing
12 purposes, develop a system of determining carrying capacity
13 through the use of an animal unit concept and establish carrying
14 capacities for the land in the state classified as grazing land;

15 (3) provide for the consideration of
16 determinations of any other governmental agency concerning the
17 capacity of the same or similar lands to produce agricultural
18 products;

19 (4) assure that land determined under the
20 regulations to have the same or similar production capacity
21 shall be valued uniformly throughout the state; and

22 (5) provide for the periodic review by the
23 department of determined production capacities and
24 capitalization rates used for determining annually the value of
25 land used primarily for agricultural purposes.

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1 E. All improvements, other than those specified in
2 Section ~~[72-29-5 NMSA 1953]~~ 7-36-15 NMSA 1978, on land used
3 primarily for agricultural purposes shall be valued separately
4 for property taxation purposes and the value of these
5 improvements shall be added to the value of the land determined
6 under this section.

7 F. The owner of the land must make application to the
8 county assessor in each tax year in which the valuation method
9 of this section is claimed to be applicable to his land.
10 Application shall be made under oath, shall be in a form and
11 contain the information required by department regulations and
12 must be made no later than the last day of February of the tax
13 year. If the owner of the land fails to make the application
14 required by this subsection, the county assessor shall:

15 (1) if the land was valued under this section in
16 the immediately preceding tax year and if he determines that the
17 land continues to be entitled to valuation under this section,
18 value the land under this section and impose a penalty for
19 failure to make the required application in an amount equal to
20 fifteen percent of the tax determined to be due on the land for
21 that tax year; or

22 (2) if the land was valued under this section in
23 the immediately preceding tax year and if he determines that the
24 land is no longer entitled to valuation under this section,
25 value the land in accordance with the applicable provisions of

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1 the Property Tax Code and department regulations.

2 If land is initially valued under Paragraph (2) of this
3 subsection and, due to subsequent action by the county assessor
4 or as a result of a protest, the land is determined to be
5 entitled to valuation as land used primarily for agricultural
6 purposes, the penalty provided in Paragraph (1) of this
7 subsection shall be applied. The presumptions created in
8 Subsection A of this section shall apply to this subsection."

9 Section 2. APPLICABILITY. --The provisions of this act apply
10 to the 1998 and subsequent property tax years.

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State of New Mexico
House of Representatives

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4 FORTY-THIRD LEGISLATURE
5 FIRST SESSION, 1997
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8 February 28, 1997
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11 Mr. Speaker:
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13 Your TAXATION AND REVENUE COMMITTEE, to whom has
14 been referred

15
16 HOUSE BILL 1112

17 has had it under consideration and reports same with
18 recommendation that it DO PASS, amended as follows:
19

20 1. On page 2, line 1, strike "in" and insert in lieu thereof
21 "for".
22

23 2. On page 2, line 2, strike "application" and insert in lieu
24 thereof "determination".
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3. On page 2, line 2, after "made" insert "of eligibility".

4. On page 2, line 12, strike "application" and insert in lieu thereof "determination".

5. On page 2, line 13, strike "either or both" and insert in lieu thereof "one or more".

6. On page 2, line 13, strike "two" and insert in lieu thereof "three".

7. On page 2, line 14, strike "application" and insert in lieu thereof "the determination".

8. On page 4, line 8, strike "each" and insert in lieu thereof "a".

9. On page 4, line 9, after "is" insert "first".

10. On page 4, line 9, strike "his" and insert in lieu thereof "the".

11. On page 4, line 9, before the period insert "or in a tax year immediately subsequent to a tax year in which the land was not valued under this section".

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12. On page 4, line 13, after the period strike the remainder of the line and strike all of lines 14 through 25 and on page 5, strike all of lines 1 through 8, and insert in lieu thereof:

"Once land is valued under this section, application need not be made in subsequent tax years as long as there is no change in the use of the land.

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

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

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Gonzales, Lovejoy, Ryan

Absent: None

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FIRST SESSION, 1997

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5 FORTY-THIRD LEGISLATURE
6 FIRST SESSION, 1997

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March 15, 1997

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10 Mr. President:

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12 Your WAYS AND MEANS COMMITTEE, to whom has been
13 referred

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HOUSE BILL 1112, as amended

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has had it under consideration and reports same with
17 recommendation that it DO PASS.

18

19 Respectfully submitted,

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Carlos R. Cisneros, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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3 Adopted _____ Not Adopted _____
4 (Chief Clerk) (Chief Clerk)

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Date _____

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10 The roll call vote was 6 For 0 Against

11 Yes: 6

12 No: 0

13 Excused: Duran, Jennings, Wilson

14 Absent: None

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16 H1112WMI

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