

State of South Dakota

NINETIETH SESSION LEGISLATIVE ASSEMBLY, 2015

942W0056

HOUSE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to revise the criteria for classifying property as agricultural
2 land.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-6-31.3 be amended to read as follows:

5 10-6-31.3. For tax purposes, land is agricultural land if it ~~meets two of the following three~~
6 ~~criteria:~~

7 ~~(1) At least thirty-three and one-third percent of the total family gross income of the~~
8 ~~owner is derived from the pursuit of agriculture as defined in subdivision (2) of this~~
9 ~~section or it is a state-owned public shooting area or a state-owned game production~~
10 ~~area as identified in § 41-4-8 and it is owned and managed by the Department of~~
11 ~~Game, Fish and Parks;~~

12 ~~(2) Its its principal use is ~~devoted to the~~ one or more of the following: raising and~~
13 ~~harvesting of crops ~~or timber~~ or fruit trees;~~ producing timber in compliance with the
14 requirements provided in section 4 of this Act; the rearing; and feeding; ~~and~~
15 ~~management~~ of farm livestock, poultry, fish, or nursery stock; the production of bees
16 and apiary products; ~~or~~ horticulture, all for ~~intended~~ the primary purpose of obtaining



1 a monetary profit pursuant to ~~subdivision (1) of this section~~. Agricultural ~~real estate~~
2 ~~also includes~~ land may also include woodland, wasteland, and pasture land, but only
3 if ~~the~~ that land is held and operated in conjunction with agricultural ~~real estate~~ land
4 as defined in this section and ~~it~~ all of the land is under ~~the same~~ common ownership;

5 (3) It consists of a single parcel of not less than twenty fifty acres of unplatted land
6 or is a part of a ~~contiguous ownership of not less than eighty~~ management unit of not
7 less than one hundred fifty acres of unplatted land. ~~The same acreage specifications~~
8 ~~apply to platted land, excluding land platted as a subdivision, which is in an~~
9 ~~unincorporated area. However, the board of county commissioners may increase the~~
10 ~~minimum acre requirement up to one hundred sixty acres. However, no land that is~~
11 platted as a subdivision may qualify as agricultural land under the acreage criteria
12 provided in this section.

13 For the purpose of this section, the term, management unit, means any parcel of land,
14 whether adjoining or not, under common ownership located within this state and managed and
15 operated as a unit for one or more of the agricultural uses listed in this section. No parcel of land
16 that is less than fifty acres within a management unit may be more than twenty air miles from
17 the nearest other parcel within the management unit. If requested by the director of equalization,
18 the owner shall provide supporting documentation of the land contained in the management
19 unit.

20 For the purposes of this section, the term, principal use, means the primary use to which the
21 land is devoted. This definition is intended to reference the primary and predominant use of the
22 land as opposed to a mere secondary and incidental use.

23 For the purposes of this section, the term, subdivision, means any division of land which
24 creates five or more lots and is recorded with a subdivision name.

1 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Land that consists of an acreage that is less than fifty acres may qualify for the agricultural
4 land classification pursuant to § 10-6-31.3 if the owner applies to the director of equalization
5 requesting classification of the parcel as agricultural land verifying under oath that the land
6 meets the following criteria:

7 (1) The land has been used consistent with its size, location, and capability and has been
8 primarily used for the raising and marketing of agricultural products as required by
9 § 10-6-31.3;

10 (2) The land is not devoted to a residential, commercial, industrial, or recreational use;
11 and

12 (3) At least two thousand five hundred dollars of gross income is annually derived from
13 agricultural use on the land by the owner. The board of county commissioners may
14 allow an exception to the annual income requirement for a production failure,
15 marketing delay for an economic advantage, planting a crop that will not yield an
16 income in the tax year, or raising and harvesting timber.

17 Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 Notwithstanding the provisions of § 10-6-31.3, any state-owned public shooting area or a
20 state-owned game production area as identified in § 41-4-8 that is owned and managed by the
21 Department of Game, Fish and Parks for the purposes of this chapter shall be assessed and taxed
22 as agricultural land.

23 Section 4. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 A parcel of timber land that consists of at least fifty acres of land or is part of a management
2 unit of not less than one hundred fifty acres of land, that is used to produce tangible wood
3 products that originate from the productivity of the land for the primary purpose of obtaining
4 a monetary profit, may be classified as agricultural land pursuant to § 10-6-31.3, if the land:

5 (1) Is subject to a forest management plan, that:

6 (a) Has been executed between the owner of the timber land and the South Dakota
7 state forester; or

8 (b) Has been executed between the owner of the timber land and a professional
9 forester, which plan has been reviewed and received a favorable
10 recommendation from the state forester;

11 (2) Is subject to a forest management plan that includes a component for obtaining a
12 monetary profit through the management of the timber; and

13 (3) Is annually inspected by the state forester to determine if the terms and conditions of
14 the plan are being complied with by the owner. The state forester shall report by June
15 first of each year to the directors of equalization in each affected county the legal
16 description of the timber land inspected, the name of the owner of each parcel, and
17 whether the owner is in compliance with the owner's forest management plan. The
18 state forester shall also report the legal description of the timber land and the name
19 of any owner that is no longer in compliance with the owner's forest management
20 plan.

21 Section 5. The South Dakota state forester shall charge a fee to the owner for the inspection
22 of each parcel of timber land in such amount for the reasonable costs incurred by the state
23 forester for conducting the inspections required by 4 of this Act. The revenue from the
24 inspection fee shall be deposited in the general fund.