

HOUSE BILL 294

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO PROPERTY TAXATION; PROVIDING THAT CERTAIN LAND WITH
A CONSERVATION EASEMENT SHALL BE VALUED AS AGRICULTURAL LAND
FOR THE PURPOSES OF PROPERTY TAXATION.

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--CONSERVATION EASEMENTS---

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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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 agricultural products;

16 (b) use of land that meets the
17 requirements for payment or other compensation pursuant to a
18 soil conservation program under an agreement with an agency of
19 the federal government or pursuant to a land conservation
20 easement, over a landowner's land that contains important
21 habitat area or significant natural, open space or historic
22 resources, entered into between a landowner and an agency of
23 the state or federal government or between a landowner and a
24 land trust accredited by the land trust accreditation
25 commission, or if that commission no longer exists, a national

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1 land trust accreditation organization that is recommended by
2 the energy, minerals and natural resources department;

3 (c) resting of land to maintain its
4 capacity to produce agricultural products; or

5 (d) resting of land as the direct result
6 of at least moderate drought conditions as designated by the
7 United States department of agriculture, if the drought
8 conditions occurred in the county within which the land is
9 located for at least eight consecutive weeks during the
10 previous tax year; provided that the land was used in the tax
11 year immediately preceding the previous tax year primarily for
12 a purpose identified pursuant to this paragraph.

13 C. The department shall adopt rules for determining
14 whether land is used primarily for agricultural purposes. The
15 rules shall provide that the use of land for the lawful taking
16 of game shall not be considered in determining whether land is
17 used primarily for agricultural purposes.

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

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

25 (2) establish carrying capacity as the

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

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

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

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

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

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

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1 added to the value of the land determined under this section.

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

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

20 H. Any person who is required to make a report
21 under the provisions of Subsection G of this section and who
22 fails to do so is personally liable for a civil penalty in an
23 amount equal to the greater of twenty-five dollars (\$25.00) or
24 twenty-five percent of the difference between the property
25 taxes ultimately determined to be due and the property taxes

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1 originally paid for the tax years for which the person failed
2 to make the required report."

3 SECTION 2. Section 7-38-12.1 NMSA 1978 (being Laws 2003,
4 Chapter 118, Section 2, as amended) is amended to read:

5 "7-38-12.1. RESIDENTIAL PROPERTY TRANSFERS--CONSERVATION
6 EASEMENT DEEDS--AFFIDAVIT TO BE FILED WITH ASSESSOR.--

7 A. [~~After January 1, 2004~~] A transferor or the
8 transferor's authorized agent or a transferee or the
9 transferee's authorized agent presenting for recording with a
10 county clerk a conservation easement deed or a deed, real
11 estate contract or memorandum of real estate contract
12 transferring an interest in real property classified as
13 residential property for property taxation purposes shall also
14 file with the county assessor within thirty days of the date of
15 filing with the county clerk an affidavit signed and completed
16 in accordance with the provisions of Subsection B of this
17 section.

18 B. The affidavit required for submission shall be
19 in a form approved by the department and signed by the
20 transferors or their authorized agents or the transferees or
21 their authorized agents of any interest in residential real
22 property transferred by deed or real estate contract. The
23 affidavit shall contain only the following information to be
24 used only for analytical and statistical purposes in the
25 application of appraisal methods:

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1 (1) the complete names of all transferors and
2 transferees;

3 (2) the current mailing addresses of all
4 transferors and transferees;

5 (3) the legal description of the real property
6 interest transferred as it appears in the document of transfer;

7 (4) the full consideration, including money or
8 any other thing of value, paid or exchanged for the transfer
9 and the terms of the sale, including any amount of seller
10 incentives; and

11 (5) the value and a description of personal
12 property that is included in the sale price.

13 C. Upon receipt of the affidavit required by
14 Subsection A of this section, the county assessor shall place
15 the date of receipt on the original affidavit and on a copy of
16 the affidavit. The county assessor shall retain the original
17 affidavit as a confidential record and as proof of compliance
18 and shall return the copy marked with the date of receipt to
19 the person presenting the affidavit. The assessor shall index
20 the affidavits in a manner that permits cross-referencing to
21 other records in the assessor's office pertaining to the
22 specific property described in the affidavit. The affidavit
23 and its contents are not part of the valuation record of the
24 assessor.

25 D. The affidavit required by Subsection A of this
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1 section shall not be required for:

2 (1) a deed transferring nonresidential
3 property;

4 (2) a deed that results from the payment in
5 full or forfeiture by a transferee under a recorded real estate
6 contract or recorded memorandum of real estate contract;

7 (3) a lease of or easement on real property,
8 regardless of the length of term, except for conservation
9 easements;

10 (4) a deed, patent or contract for sale or
11 transfer of real property in which an agency or representative
12 of the United States or New Mexico or any political subdivision
13 of the state is the named grantor or grantee and authorized
14 transferor or transferee;

15 (5) a quitclaim deed to quiet title or clear
16 boundary disputes;

17 (6) a conveyance of real property executed
18 pursuant to court order;

19 (7) a deed to an unpatented mining claim;

20 (8) an instrument solely to provide or release
21 security for a debt or obligation;

22 (9) an instrument that confirms or corrects a
23 deed previously recorded;

24 (10) an instrument between husband and wife or
25 parent and child with only nominal actual consideration

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1 therefor;

2 (11) an instrument arising out of a sale for
3 delinquent taxes or assessments;

4 (12) an instrument accomplishing a court-
5 ordered partition;

6 (13) an instrument arising out of a merger or
7 incorporation;

8 (14) an instrument by a subsidiary corporation
9 to its parent corporation for no consideration, nominal
10 consideration or in sole consideration of the cancellation or
11 surrender of the subsidiary's stock;

12 (15) an instrument from a person to a trustee
13 or from a trustee to a trust beneficiary with only nominal
14 actual consideration therefor;

15 (16) an instrument to or from an intermediary
16 for the purpose of creating a joint tenancy estate or some
17 other form of ownership; or

18 (17) an instrument delivered to establish a
19 gift or a distribution from an estate of a decedent or trust.

20 E. The affidavit required by Subsection A of this
21 section shall not be construed to be a valuation record
22 pursuant to Section 7-38-19 NMSA 1978.

23 F. ~~[Prior to November 1, 2003, the department shall~~
24 ~~print and distribute to each county assessor affidavit forms~~
25 ~~for distribution to the public upon request]~~ As used in this

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1 section, "conservation easement" means a legal agreement
2 entered into between a landowner and a land trust or state or
3 federal agency to permanently limit the use of the landowner's
4 land to conservation of the land in the land's natural and
5 undeveloped state."

6 SECTION 3. APPLICABILITY.--The provisions of this act
7 apply to taxable years beginning on or after January 1, 2025.

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