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HOUSE BILL 28

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

INTRODUCED BY

Kathleen Gates

AN ACT

RELATING TO LAND VALUATION; PROVIDING THAT THE NEW MEXICO DEPARTMENT OF AGRICULTURE, A CONSERVANCY DISTRICT OR A SOIL AND WATER CONSERVATION DISTRICT CAN DESIGNATE WHETHER MODERATE DROUGHT CONDITIONS EXIST ON RESTING LAND FOR THE PURPOSE OF THE VALUATION OF PROPERTY AND DETERMINING WHETHER THE PROPERTY 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

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

12 B. For the purpose of this section:

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

16 (2) "agricultural use" means the:

17 (a) use of land for the production of
18 agricultural products;

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

23 (c) resting of land to maintain its
24 capacity to produce agricultural products; or

25 (d) resting of land as the direct result

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1 of at least moderate drought conditions as designated by the
2 United States department of agriculture, the New Mexico
3 department of agriculture, a conservancy district or a soil and
4 water conservation district, if the drought conditions occurred
5 in the county within which the land is located for at least
6 eight consecutive weeks during the previous tax year; provided
7 that the land was used in the tax year immediately preceding
8 the previous tax year primarily for a purpose identified
9 pursuant to this paragraph.

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

15 D. The department shall adopt rules for determining
16 the value of land used primarily for agricultural purposes.
17 The rules shall:

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

22 (2) establish carrying capacity as the
23 measurement of the production capacity of land used for grazing
24 purposes, develop a system of determining carrying capacity
25 through the use of an animal unit concept and establish

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1 carrying capacities for the land in the state classified as
2 grazing land;

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

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

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

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

19 E. All improvements, other than those specified in
20 Section 7-36-15 NMSA 1978, on land used primarily for
21 agricultural purposes shall be valued separately for property
22 taxation purposes, and the value of these improvements shall be
23 added to the value of the land determined under this section.

24 F. The owner of the land shall make application to
25 the county assessor in a tax year in which the valuation method

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

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

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