

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

555M0051

SENATE TAXATION COMMITTEE ENGROSSED NO.

HB 1009 - 02/22/2006

Introduced by: Representatives Rhoden, Glover, Hargens, Howie, Jensen, McCoy, Murschel, and Turbiville and Senators McNenny, Hundstad, Lintz, and Peterson (Jim) at the request of the Interim Committee on Classifications of Real Property Study Committee

1 FOR AN ACT ENTITLED, An Act to create additional classifications of agricultural property
2 and to revise certain provisions concerning the taxation of certain agricultural property.

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 class one agricultural land if it meets ~~two~~ of the
6 following ~~three~~ criteria:

7 (1) ~~At least thirty-three and one-third percent of the total family gross income of the~~
8 ~~owner is derived~~ In three of the previous five years, the operator derived a gross
9 income from the pursuit of agriculture as defined in subdivision (2) of this section
10 ~~or it is a state-owned public shooting area or a state-owned game production area as~~
11 ~~identified in § 41-4-8 and it is owned and managed by the Department of Game, Fish~~
12 ~~and Parks; that is at least five percent of the assessed value of the bare land,~~
13 excluding any improvements. If it is a crop share arrangement, the gross income of
14 both the landlord and the tenant shall be combined and used to meet this criteria.



1 However, any person owning at least forty acres of land is presumed to meet this
 2 criteria. The board of county commissioners may increase the amount of acres
 3 necessary to receive this presumption up to two hundred acres;

4 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit
 5 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or
 6 nursery stock, the production of bees and apiary products, or horticulture, all for
 7 intended profit pursuant to subdivision (1) of this section. Agricultural real estate also
 8 includes woodland, wasteland, and pasture land, but only if the land is held and
 9 operated in conjunction with agricultural real estate as defined and it is under the
 10 same ownership; and

11 (3) It consists of not less than twenty acres of ~~unplatted~~ land or is a part of a contiguous
 12 ownership of not less than eighty acres of ~~unplatted~~ land. ~~The same acreage~~
 13 ~~specifications apply to platted land, excluding land platted as a subdivision, which~~
 14 ~~is in an unincorporated area.~~ However, the board of county commissioners may
 15 increase the minimum acre requirement up to one hundred sixty acres.

16 However, for tax purposes, land is not class one agricultural land if the land is classified
 17 pursuant to § 10-6-33.14 as a nonagricultural acreage.

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

20 For tax purposes, land is class two agricultural land if it meets two of the following three
 21 criteria:

22 (1) In three of the previous five years, the operator derived a gross income from the
 23 pursuit of agriculture as defined in subdivision (2) of this section that is at least five
 24 percent of the assessed value of the bare land, excluding any improvements. If it is

1 a crop share arrangement, the gross income of both the landlord and the tenant shall
2 be combined and used to meet this criteria. However, any person owning at least
3 forty acres of land is presumed to meet this criteria. The board of county
4 commissioners may increase the amount of acres necessary to receive this
5 presumption up to two hundred acres;

6 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit
7 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or
8 nursery stock, the production of bees and apiary products, or horticulture, all for
9 intended profit pursuant to subdivision (1) of this section. Agricultural real estate also
10 includes woodland, wasteland, and pasture land, but only if the land is held and
11 operated in conjunction with agricultural real estate as defined and it is under the
12 same ownership; or

13 (3) It consists of not less than twenty acres of land or is a part of a contiguous ownership
14 of not less than eighty acres of land, excluding land platted as a subdivision.
15 However, the board of county commissioners may increase the minimum acre
16 requirement up to one hundred sixty acres.

17 However, for tax purposes, land is not class two agricultural land if the land is classified
18 pursuant to § 10-6-31.3 as class one agricultural land or § 10-6-33.14 as a nonagricultural
19 acreage.

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

22 The director of equalization may request documentation from the owner or operator to
23 determine whether the owner or operator meets the minimum eligibility criteria for gross income
24 established by subdivision 10-6-31.3(1) or subdivision (1) of section 2 of this Act. If the owner

1 or operator does not provide such documentation, the director of equalization may find that the
2 owner or operator does meet the minimum eligibility criteria for gross income established by
3 subdivision 10-6-31.3(1) or subdivision (1) of section 2 of this Act.

4 Section 4. That § 2-14-2 be amended by adding thereto a NEW SUBDIVISION to read as
5 follows:

6 "Agricultural land," any class one agricultural land as defined by § 10-6-31.3 or class two
7 agricultural land as defined by section 2 of this Act, unless otherwise specified.

8 Section 5. That § 10-12-42 be amended to read as follows:

9 10-12-42. For taxes payable in ~~2006~~ 2007 and each year thereafter, the levy for the general
10 fund of a school district shall be as follows:

11 (1) The maximum tax levy shall be eleven dollars per thousand dollars of taxable
12 valuation subject to the limitations on class one agricultural property land as provided
13 in subdivision (2) of this section, owner-occupied property as provided for in
14 subdivision (3) of this section, ~~and~~ nonagricultural acreage property as provided for
15 in subdivision (4) of this section, and class two agricultural land as provided in
16 subdivision (5) of this section;

17 (2) The maximum tax levy on class one agricultural property land for such school district
18 shall be three dollars and nineteen cents per thousand dollars of taxable valuation. If
19 the district's levies are less than the maximum levies as stated in this section, the
20 levies shall maintain the same proportion to each other as represented in the
21 mathematical relationship at the maximum levies;

22 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
23 § 10-13-40, for such school district may not exceed five dollars and thirteen cents per
24 thousand dollars of taxable valuation. If the district's levies are less than the

1 maximum levies as stated in this section, the levies shall maintain the same
 2 proportion to each other as represented in the mathematical relationship at the
 3 maximum levies;~~and~~

4 (4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-
 5 33.14, for such school district shall be four dollars and nineteen cents per thousand
 6 dollars of taxable valuation. If the district's levies are less than the maximum levies
 7 as stated in this section, the levies shall maintain the same proportion to each other
 8 as represented in the mathematical relationship at the maximum levies; and

9 (5) The maximum tax levy on class two agricultural land as defined in section 2 of this
 10 Act, for such school district shall be four dollars and nineteen cents per thousand
 11 dollars of taxable valuation. If the district's levies are less than the maximum levies
 12 as stated in this section, the levies shall maintain the same proportion to each other
 13 as represented in the mathematical relationship at the maximum levies.

14 All levies in this section shall be imposed on valuations where the median level of
 15 assessment represents eighty-five percent of market value as determined by the Department of
 16 Revenue and Regulation. These valuations shall be used for all school funding purposes. If the
 17 district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same
 18 proportion to each other as represented in the mathematical relationship at the maximum levies
 19 in this section. The school district may elect to tax at less than the maximum amounts set forth
 20 in this section.

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

23 Notwithstanding the provisions of § 10-6-31.3, any state-owned public shooting area or a
 24 state-owned game production area, as identified in § 41-4-8, and owned and managed by the

1 Department of Game, Fish and Parks shall be classified as class one agricultural land for tax
2 purposes.

3 Section 7. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any class two agricultural land containing a residence is specifically classified for the
6 purpose of taxation. The provisions of §§ 10-6-33.20 and 10-6-33.23 do not apply to the
7 valuation of such property.

8 Section 8. This Act is effective on July 1, 2007.