

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

555M0051

SENATE ENGROSSED NO. **HB 1009** - 02/28/2006

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 to revise certain provisions concerning the valuation of agricultural land for ad valorem
3 taxation, and to revise certain provisions concerning the taxation of certain agricultural
4 property.

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

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

7 10-6-31.3. For tax purposes, land is class one agricultural land if it meets ~~two~~ of the
8 following ~~three~~ criteria:

9 (1) ~~At least thirty-three and one-third percent of the total family gross income of the~~
10 ~~owner is derived~~ In three of the previous five years, the operator derived a gross
11 income from the pursuit of agriculture as defined in subdivision (2) of this section
12 ~~or it is a state-owned public shooting area or a state-owned game production area as~~
13 ~~identified in § 41-4-8 and it is owned and managed by the Department of Game, Fish~~
14 ~~and Parks;~~ that is at least five percent of the assessed value of the bare land,



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

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

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

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

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

24 (1) In three of the previous five years, the operator derived a gross income from the

1 pursuit of agriculture as defined in subdivision (2) of this section that is at least five
2 percent of the assessed value of the bare land, excluding any improvements. If it is
3 a crop share arrangement, the gross income of both the landlord and the tenant shall
4 be combined and used to meet this criteria. However, any person owning at least
5 forty acres of land is presumed to meet this criteria. The board of county
6 commissioners may increase the amount of acres necessary to receive this
7 presumption up to two hundred acres;

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

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

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

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

24 The director of equalization may request documentation from the owner or operator to

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

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

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

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

11 10-12-42. For taxes payable in ~~2006~~ 2007 and each year thereafter, the levy for the general
12 fund of a school district shall be as follows:

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

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

24 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in

1 § 10-13-40, for such school district may not exceed five dollars and thirteen cents per
 2 thousand dollars of taxable valuation. If the district's levies are less than the
 3 maximum levies as stated in this section, the levies shall maintain the same
 4 proportion to each other as represented in the mathematical relationship at the
 5 maximum levies;~~and~~

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

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

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

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

1 Notwithstanding the provisions of § 10-6-31.3, any state-owned public shooting area or a
2 state-owned game production area, as identified in § 41-4-8, and owned and managed by the
3 Department of Game, Fish and Parks shall be classified as class one agricultural land for tax
4 purposes.

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

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

10 Section 8. Sections 1 to 7, inclusive, are effective on July 1, 2007.

11 Section 9. That § 10-6-33.25 be amended to read as follows:

12 10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be
13 determined using capitalized annual cash rent. The annual cash rent is the annual cash rent,
14 excluding the per acre tax on agricultural land, determined through an analysis of arms-length
15 rental agreements collected within the county in the three years prior to the year for which the
16 agricultural income value is being determined. The agricultural income value of cropland shall
17 be based on average rents over a three-year period for cropland under natural conditions. The
18 agricultural income value of noncropland shall be based on average rents over a three-year
19 period for noncropland under natural conditions. However, no arms-length rental agreements
20 for irrigated land may be used to determine the annual cash rent pursuant to this section. The
21 annual cash rent shall be capitalized at ~~seven and three-fourths~~ six and one-fifth percent.

22 The secretary of revenue and regulation may enter into a contract for the collection of cash
23 rent information by county. Cash rent information shall be adjusted by soil survey statistics, if
24 available, and pursuant to § 10-6-33.26.

1 Section 10. Section 9 of this Act is repealed on July 1, 2007.