

2021 South Dakota Legislature

House Bill 1085**AMENDMENT 1085J FOR THE HOUSE BILL**

1 **An Act to redefine the criteria for classifying land as agricultural for tax purposes.**

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

3 **Section 1.** That § 10-6-31.3 be AMENDED.

4 **10-6-31.3. Classification of agricultural land--Criteria.**

5 For tax purposes, land is agricultural land if ~~its~~ the land's principal use is devoted
6 to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and
7 management of farm livestock, poultry, fish, or nursery stock, the production of bees and
8 apiary products, or horticulture, all for intended profit. Agricultural ~~real estate~~ land also
9 includes woodland, wasteland, and pasture land, but only if the land is held and operated
10 in conjunction with agricultural ~~real estate as defined~~ land and ~~it is~~ under the same
11 ownership. For purposes of this section, the term, principal use, means the primary use
12 to which the land is devoted. This definition is intended to reference the primary and
13 predominant use of the land as opposed to a mere secondary and incidental use.

14 In addition, to be classified as agricultural land for tax purposes, the land shall meet
15 one of the following criteria:

16 (1) In three of the previous five years, ~~a~~ an annual gross income of at least two
17 thousand five hundred dollars is derived from the pursuit of agriculture from the
18 land that is at least ten percent of the taxable valuation of the ~~bare land assessed~~
19 ~~as agricultural property, excluding any improvements. If there is a crop share~~
20 ~~arrangement or cash rent agreement, the gross income from the land of both the~~
21 ~~landlord and tenant shall be combined and used to meet this requirement.~~
22 ~~Alternatively, at least two thousand five hundred dollars of the owner's gross~~
23 ~~income is annually derived from the pursuit of agriculture, excluding transactions~~
24 between:

25 (a) An individual and anyone with whom the individual shares a residence;

(b) An individual and an entity in which the individual and anyone who shares a residence with the individual have an aggregate ownership interest of more than fifty percent; ~~and or~~

(c) Entities that are members of the same controlled group, as defined in § 10-45-20.3.

The owner shall produce to the director of equalization any writing that is requested by the director for the purpose of verifying that the requirement of this subdivision has been satisfied; or

(2) ~~The~~ Subject to the board of county commissioners increasing the minimum acre requirements, the land consists of ~~not less than~~ at least twenty acres of unplatted land or is a part of a management unit of not less than eighty acres of unplatted land. The same acreage specifications apply to platted land, excluding land platted as a subdivision, which is in an unincorporated area. However, the board of county commissioners may increase the minimum acre requirement up to one hundred sixty acres. The board of county commissioners may not increase the minimum acre requirements of this subdivision to an amount greater than one hundred sixty acres.

For the purposes of this section, the term, management unit, means any two or more parcels of land, whether adjoining or not, under common ownership located within this state and managed and operated as a unit for one or more of the principal uses listed in this section. No parcel of land within a management unit may be more than twenty air miles from the nearest other parcel within the management unit. If requested by the director of equalization, the owner shall provide supporting documentation of the land contained in the management unit.

~~Section 2. That a NEW SECTION be added:~~

~~**10-6-31.10. Land prevented from classification as agricultural.**~~

~~**For tax purposes, land may not be classified as agricultural land and any agricultural land classification shall be removed if the land is platted as a subdivision with three or more lots.**~~

~~**For purposes of this section, the term, subdivision, means the division of any tract or parcel of land into two or more lots, sites, or other division for the purpose, whether immediate or future, of sale or building development and includes re-subdivision. The term does not apply to the conveyance of a portion**~~

1 ~~of any previously platted tract, parcel, lot, or site if the conveyance does not~~
2 ~~cause the tract, parcel, lot, or site from which the portion is severed to be in~~
3 ~~violation of any existing zoning ordinance or subdivision regulation applying to~~
4 ~~the tract, parcel, lot, or site.~~

AMENDED