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2021 South Dakota Legislature

House Bill 1085

SENATE TAXATION ENGROSSED

Introduced by: Representative Chaffee

- 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.

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

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

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

- (1) In three of the previous five years, a—an annual gross income of at least two thousand five hundred dollars is derived from the pursuit of agriculture from the land that is at least ten percent of the taxable valuation of the bare land assessed as agricultural property, excluding any improvements. If there is a crop share arrangement or cash rent agreement, the gross income from the land of both the landlord and tenant shall be combined and used to meet this requirement. Alternatively, at least two thousand five hundred dollars of the owner's gross income is annually derived from the pursuit of agriculture, excluding transactions between:
 - (a) An individual and anyone with whom the individual shares a residence;

1		(b) An individual and an entity in which the individual and anyone who shares
2		a residence with the individual have an aggregate ownership interest of
3		more than fifty percent; or
4		(c) Entities that are members of the same controlled group, as defined in § 10-
5		<u>45-20.3.</u>
6		The owner shall produce to the director of equalization any writing that is requested
7		by the director for the purpose of verifying that the requirement of this subdivision
8		has been satisfied; or
9	(2)	The Subject to the board of county commissioners increasing the minimum acre
LO		requirements, the land consists of not less than at least twenty acres of unplatted
l1		land or is a part of a management unit of not less than eighty acres of unplatted
12		land. The same acreage specifications apply to platted land, excluding land platted
13		as a subdivision, which is in an unincorporated area. However, the board of county
L4		commissioners may increase the minimum acre requirement up to one hundred
15		sixty acres. The board of county commissioners may not increase the minimum
16		acre requirements of this subdivision to an amount greater than one hundred sixty
L7		acres.
18		For the purposes of this section, the term, management unit, means any $\underline{two}\ or$
L9	more	parcels of land, whether adjoining or not, under common ownership located within
20	this st	ate and managed and operated as a unit for one or more of the principal uses listed
21	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.

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