

Support of SB 418 - Property Tax - Agricultural La

Uploaded by: Colby Ferguson

Position: FAV



Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

February 22, 2023

To: Senate Budget & Taxation Committee

From: Maryland Farm Bureau, Inc.

Re: **Support of SB 418 - Property Tax - Agricultural Land and Improvements - Assessment**

On behalf of our member families, I submit this written testimony in support of SB 418. This bill outlines that value-added agricultural activities are a farm or agricultural use of land for assessment purposes. It defines Value-added agricultural activities as: (I) Agricultural Alcohol Production; (II) Agritourism; (III) Equine Activities; (IV) Value Added Ag products processing from products derived from the farm; (V) Roadside Stands; (VI) other Ag uses that are permissible under local zoning; and (VII) other activities the Secretary of Ag determines are value-added Ag activities. It creates a subclass of real property consisting of improvements on an actively used farm that support value-added agricultural activities and requires these improvements on an actively used farm that support value-added agricultural activities to be assessed at the agricultural use rate.

For a few years now, SDAT has reassessed the barns on value-added farms with a significantly higher assessment than years prior. The reasons given is these value-added farms generate more money and the improvements should be assessed as commercial uses instead of agricultural structures. This bill defines these barns and structures used in value-added farms as Ag structures and required to be assessed as such.

MDFB Policy: Farms operating on-farm food processing, alcohol production, and agritourism businesses should be assessed at the agricultural use tax rate.

MARYLAND FARM BUREAU SUPPORTS SB 418 AND REQUEST A FAVORABLE REPORT

A handwritten signature in black ink, appearing to read "Colby Ferguson".

Colby Ferguson
Director of Government Relations

For more information contact Colby Ferguson at (240) 578-0396

MD- SB 418- Property Tax Agriculture Land and Impr

Uploaded by: Darrin Youker

Position: FAV



February 22, 2023

To: Senate Budget and Taxation Committee

From: Horizon Farm Credit

Bill: **SB 418 Property Tax - Agricultural Land and Improvements - Assessment**

Position: **SUPPORT**

Horizon Farm Credit is a member-owned cooperative supporting rural communities and agriculture with reliable, consistent credit and financial services throughout our five-state lending territory in good times and bad. With over \$6 billion dollars in loans outstanding to nearly 23,000 member-owners representing the full range of agriculture, we are one of the largest agricultural lenders on the East Coast.

Value-added agriculture represents an important component of agriculture in Maryland and allows farmers to diversify their business. In many cases, value-added agriculture is where agriculture and tourism intersect. Both industries are major contributors to the economy of Maryland and are vitally important to communities throughout the state. According to Grow & Fortify, value-added agriculture has an economic impact of \$20.6 billion and enables consumers to interact directly with the farmers who grow their food, brew their beer, and make their wine.

Value-added agriculture often involves farmers making improvements and additions to their properties, such as storefronts, wineries, breweries, or agritourism ventures. **SB 418** provides important clarifications for how these types of improvements to agriculture lands are assessed – treating them the same as other types of agriculture.

Value-added agriculture is agriculture. Whether a farmer builds a winery, opens a corn maze, or sells their products at a storefront on the farm, these are still agriculture endeavors, utilizing Maryland-grown crops for public consumption and enjoyment.

Horizon Farm Credit SUPPORTS SB 418.

For more information, please contact Darrin Youker at 717-634-0004 or dyouker@horizonfc.com.



SB 418 Support.docx.pdf

Uploaded by: Dawn Luedtke

Position: FAV



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

DAWN LUEDTKE
COUNCILMEMBER
DISTRICT 7

February 21, 2023

The Honorable Senator Guy Guzzone
3 West Wing, Miller Senate Office Building
Annapolis, MD 21401

SUBJECT: Support SB 418

Dear Senator Guzzone and Members of the Budget and Taxation Committee,

I am writing to urge you to support Senate Bill 418 so that farm alcohol production, agricultural processing, agritourism, and other important agricultural activities are rightfully considered as agriculture for the purposes of State tax assessments. This change will support the further growth of these businesses, which add value to our economy and are important to sustain farmers and the broader agricultural community.

Over the last decade, the County Council District I represent has seen a welcome increase in vineyards, breweries, and cideries connected to farms, as well as other forms of agritourism. These businesses bring people to farms so they can enjoy locally-produced agricultural goods and local venues, boosting our economy. They also expand the agricultural products for sale to residents who live in urban and suburban areas.

These activities serve as an important economic tool for many farmers in Montgomery County to preserve their agricultural lands for agricultural use and provide a farm-fresh product that our local farmers can sell directly at their farms, at farmers markets, and in concert with other local small businesses.

By rightfully recognizing these activities as agricultural entities in our property taxes, we are promoting their continued success and encouraging further innovation in the areas of agritourism, equine activities, alcohol production, roadside stands, and other value-added agricultural activities. Please support local agriculture by supporting SB 418.

Yours Truly,

Dawn Luedtke,
Councilmember, District 7
Montgomery County

testimony - ag assessment-Senate.pages.pdf

Uploaded by: Jane Seigler

Position: FAV



MARYLAND
HORSE
COUNCIL

P.O. Box 606 | Lisbon, Maryland 21797
www.mdhorsecouncil.org

One Common Bond: The Horse
One Common Voice: The Horse Council

In the Senate Budget & Taxation Committee, February 22, 2023

Testimony of the Maryland Horse Council on SB 418

Property Tax - Agricultural Land and Improvements - Assessment - FAVORABLE

The Maryland Horse Council (MHC) is a membership-based trade association that represents the state-wide horse industry in Maryland. Our members include horse farms; horse related businesses; equestrian competitors; trainers; individual enthusiasts; equine-assisted therapy programs; and breed, interest, and discipline associations. We represent over 30,000 Marylanders who make their living with horses, or who just own and love them.

MHC supports SB 418 because it makes an important clarification about the nature of value-added agricultural activities in the real property tax context.

We particularly support it because it makes clear that “equine activities” as defined in § 2–701 of the Agriculture Article are part of value-added agriculture. Under current Maryland law, “Equine activities shall be treated as agricultural activities for the purposes of this subtitle.” Ag. Article § 2-702.1. Equine activities include “teaching equestrian skills, participating in equestrian competitions, exhibitions or other displays of equestrian skills, and caring for, breeding, boarding, renting, riding, or training horses.” Ag. Article § 2-701(d). Therefore, this bill will ensure that improvements that support equine activities, like other value-added agricultural activities, will be assessed at the agricultural use rate.

We request that the Committee give SB 418 a favorable report.

Respectfully submitted,

THE MARYLAND HORSE COUNCIL
(844) MDHORSE (844-634-6773)
info@mdhorsecouncil.org

SDAT Bill Testimony.pdf

Uploaded by: Kelly Dudeck

Position: FAV



SB 418 – Property Tax Assessments for Improvements on Agricultural Land
Budget & Taxation Committee - 2/22/23
SUPPORT

Recently, there has been discrepancy in the tax assessment rate used to assess certain value-added agricultural improvements with the agricultural use assessment. The State Department of Assessments and Taxation (“SDAT”) has been inconsistently assessing agricultural improvements at a commercial rate. This is prohibitively burdensome to those impacted landowners; further, contemporaneous economic situations have put landowners in a position where they can least afford to comply with this significant tax increase.

SDAT should to be required to assess value added agricultural improvements as agricultural property, not commercial. HB0592 / SB0418 requires the State Department of Assessments and Taxation (“SDAT”) to assess certain value-added agricultural improvements with the agricultural use assessment rate. Nationwide, at least fourteen states also have explicitly adopted similar provisions – including the neighboring Bay state of New York.

Value-added agriculture and agritourism have become invaluable ways for many farmers to stay afloat, increasing this tax rate will result in detrimental cost increases. SDAT’s position is tantamount to imposing a new tax on Maryland farmers who are operating on razor-thin margins prior to the global pandemic. Proceeding with this position will only reduce the number of Maryland farmers and open space in Maryland.

Agriculture faces a myriad of challenges already: climate change, labor shortages, supply chain disruptions, inflation, lost revenue from COVID closures and capacity reductions – higher taxes stemming from an arbitrary decision should not be another problem that our farmers face.

Critical in this legislation is the focus on agriculture – these improvements are tied to ingredients or crops that are grown or produced on the farm and are subsequently converted into a product related to activity on the farm. Also prominent in this legislation are certain minor agritourism activities that so many Marylanders participate in and love that are critical to the sustainability and viability of agriculture, such as hayrides, corn mazes, pumpkin patches, pick your own produce and so on.

Passage of this legislation will help to foster important growth in Maryland's agricultural community and value-added agriculture field; this exceptionally important to encourage landowners to engage with UMD's fermentation science major.

This legislation does not change local zoning. These activities and improvements are only permitted if they are on agricultural-zoned land, and if local zoning permits these activities on agriculture zoned land. If local zoning does not permit large venues or other activities – that will still not be permissible under this bill.

Finally, this legislation is absolutely necessary to correct harm incorrectly inflicted on many agricultural entities already – therefore a refund in taxes is included for those entities that have been incorrectly reclassified.

Thank you for your consideration and we urge you to vote in favor of this legislation.

One Pager - SB 418.pdf

Uploaded by: Matthew Bohle

Position: FAV



HB 592 & SB 418

PROPERTY TAX

AGRICULTURAL USE ASSESSMENT - IMPROVEMENTS

POSITION: SUPPORT

BILL SUMMARY:

This legislation requires the State Department of Assessments and Taxation (“SDAT”) to assess certain value-added agricultural improvements with the agricultural use assessment. The bill defines value-added agriculture on actively used farms. Additionally, entities that have been recently reclassified shall be reassessed.

WHAT IS THE PROBLEM:

SDAT ought to be required to assess value added agricultural improvements as agricultural property. These properties being assessed as other than agricultural has greatly increased taxes on farmers at a time when they can least afford to comply with this tax increase.

WHY SUPPORT HB 592 / SB 418:

Agriculture faces a myriad of challenges already: climate change, labor shortages, supply chain disruptions, inflation, lost revenue from COVID closures and capacity reductions – higher taxes stemming from an arbitrary decision should not be another problem that our farmers face.

Critical in this legislation is the focus on agriculture – these improvements are tied to ingredients or crops that are grown or produced on the farm and are subsequently converted into a product related to activity on the farm. Also prominent in this legislation are certain minor agritourism activities that so many Marylanders participate in and love that are critical to the sustainability and viability of agriculture, such as hayrides, corn mazes, pumpkin patches, pick your own produce and so on. Value-added agriculture and agritourism have become invaluable ways for many farmers to stay afloat.

The fiscal note relies on tax revenue projections the State had not been and should not be collecting or assessing. Even if this fiscal note is correct, not resolving this issue is tantamount to imposing a new tax on Maryland farmers who have been operating on razor-thin margins even prior to the global pandemic. Proceeding with this position will only reduce the number of Maryland farmers and open space in Maryland.

This legislation does not change local zoning. These activities and improvements are only permitted if they are on agricultural-zoned land, and if local zoning permits these activities on agriculture zoned land. If local zoning does not permit large venues or other activities – that will still not be permissible under this bill.

This legislation is necessary to correct harm incorrectly inflicted on many agricultural entities already – therefore a refund in taxes is included for those entities that have been incorrectly reclassified.

SB418 - RMC Support Testimony - Property Tax - Agr

Uploaded by: Megan D'Arcy

Position: FAV



Susan O'Neill, Chair

Charlotte Davis, Executive Director

Testimony in Support of
Senate Bill 418 – Property Tax – Agricultural Land and Improvements - Assessment
Budget and Taxation Committee
Wednesday, February 22, 2023

The Rural Maryland Council supports Senate Bill 418 - Property Tax - Agricultural Land and Improvements - Assessment. The bill will help agricultural landowners as it contains provisions that support value-added agricultural activities as a farm or agricultural use of land for tax assessment purposes. These improvements include the manufacturing, packaging, storage, promotion, or sale of value-added agricultural products derived from ingredients produced on the land; agricultural alcohol production; and agritourism. Allowing these parts of the land to be assessed as agricultural land will support viable and profitable farms, promote the growth of value-added agriculture activities in Maryland, and connect more people to the State's working landscapes.

Agritourism and value-added production provide revenue streams essential to the stability of Maryland Farmers. Many farmers are using their land for agritourism and other forms of value-added agriculture to make up for the lack of income they are receiving from less profitable conventional agricultural sales. Farmer investments in agritourism and on-farm value-added production bring additional tourism and revenue benefits to the State's economy. Grow and Fortify's *Value-Added Agriculture in Maryland - An Economic Analysis*, reports that value added agriculture provides nearly 74,000 jobs, has an economic impact of over \$20.6 billion annually, and adds nearly \$875 million to the State's fiscal resources. These farms are operating tasting rooms, retail markets, and other forms of value-added agriculture. Because these operations are being held on agriculture land and require farmers' time and resources derived from the land, these parts of the land should be properly assessed and taxed as agricultural land.

The Council supports and encourages value-added agriculture and the benefits it brings to both farmers and the State's economy. The Rural Maryland Council respectfully requests your favorable support with amendment of Senate Bill 418.

The Rural Maryland Council (RMC) is an independent state agency governed by a nonpartisan, 40-member board that consists of inclusive representation from the federal, state, regional, county, and municipal governments, as well as the for-profit and nonprofit sectors. We bring together federal, state, county, and municipal government officials as well as representatives of the for-profit and nonprofit sectors to identify challenges unique to rural communities and to craft public policy, programmatic or regulatory solutions.

SB0418_FAV_Montgomery County Food Council .pdf

Uploaded by: Michelle Caruso

Position: FAV



February 22, 2023

**2023 SESSION SUPPORT TESTIMONY
SB0418: Property Tax for Agricultural Land**

BILL: SB0418: Property Tax - Agricultural Land and Improvements - Assessment
COMMITTEE: Budget and Taxation
POSITION: Testimony in Support of Senate Bill 0418
BILL ANALYSIS: Providing that value-added agricultural activities are a farm or agricultural use of land for assessment purposes: creating subclass of real property consisting of improvements on an actively used farm that support value-added agricultural activities; requiring improvements on an actively used farm that support value-added agricultural activities to be assessed at the agricultural use rate.

Dear Chair Guzzone and members of the Senate Budget and Taxation Committee:

The Montgomery County Food Council (MCFC) urges you to **SUPPORT** this bill to adjust the assessment of agricultural land and improvements that support value-added agricultural activities and to evaluate value-added agriculture at the agricultural use rate.

The enactment of this bill will be to the benefit of agricultural landowners across the State of Maryland. This bill will allow for certain improvements on land that qualifies for the agricultural use assessment to be assessed as agricultural property. These improvements include the promotion, sale, production, storage, or manufacturing of value-added agricultural products. Value-added agricultural products are products produced through ingredients that are grown on the land. This change in assessment will promote the growth of value-added agriculture activities and support local products, which benefits local farmer owners and the State economy.

Due to lost revenue in traditional agricultural sales, the continued impact of Covid-19 on farmer incomes, and the impacts of climate change, this legislation can support additional ways for farmers to increase their income. Farmers often use land for retail spaces such as farm stands, tasting rooms, and small buildings for cutting and washing produce. These essential market opportunities create viability for many farmers. Because they are happening on agricultural land using resources from the land, we feel they should be assessed as agricultural land as described in this legislation.

This legislation will support local farmers, value-added agriculture, and create more opportunities



P.O. Box 32212 | Bethesda, MD 20814 | 310-637-7071
mocofoodcouncil.org | info@mocofoodcouncil.org

for success for our Maryland agricultural economy. **For these reasons, the Montgomery County Food Council supports SBo418 and urges a FAVORABLE REPORT for this bill.**

The Montgomery County Food Council is a nonprofit organization that serves as the primary connection point for businesses, nonprofits, government agencies, and residents around food system issues in our County. We bring together over 2,000 local and regional partners in community-wide education, advocacy, and capacity building initiatives. Our work cultivates a more resilient, sustainable, and equitable local food system by enhancing food access for the over 100,000 at risk for hunger, expanding food education opportunities for all residents, supporting our County's farms and food and beverage businesses, and addressing the impact of local food production, distribution, consumption and recycling on our natural resources

For more information, please contact Massa Cressall, Interim Executive Director, at the email and phone number below.



P.O. Box 32212 | Bethesda, MD 20814 | 310-637-7071
mocofoodcouncil.org | info@mocofoodcouncil.org

Commissioners of St. Mary's Co support SB 418 - Pr

Uploaded by: Randy Guy

Position: FAV

ST. MARY'S COUNTY GOVERNMENT
**COMMISSIONERS OF
ST. MARY'S COUNTY**



James R. Guy, President
Michael R. Alderson, Jr., Commissioner
Eric S. Colvin, Commissioner
Michael L. Hewitt, Commissioner
Scott R. Ostrow, Commissioner

**SB 418 - Property Tax –
Agricultural Land and Improvements – Assessment**
SUPPORT

February 14, 2023

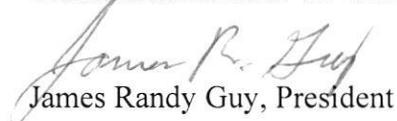
The Honorable Senator Guy Guzzone, Chairman
Budget and Taxation Committee
3 West, Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Dear Chairman Guzzone:

The Commissioners of St. Mary's County **SUPPORT SB 418** – Property Tax –
Agricultural Land and Improvements – Assessment which is being heard in the Budget and Taxation
Committee.

We support SB 418 and request a favorable report. We appreciate the introduction of this legislation
and believe it will benefit the citizens of St. Mary's County. We look forward to working with you on
this and other initiatives throughout the session.

Sincerely,
COMMISSIONERS OF ST. MARY'S COUNTY


James Randy Guy, President

CSMC/AB/sf
T:/Consent/2023/043

Cc: Senator Jack Bailey
Delegate Matthew Morgan
Delegate Todd Morgan
Delegate Brian Crosby
Commissioner Mike Alderson, Jr.
Commissioner Eric Colvin
Commissioner Michael Hewitt
Commissioner Scott R. Ostrow
David Weiskopf, Interim County Administrator/County Attorney
John Sterling Houser, Assistant County Attorney

Elfreth_SB418_FAV.pdf

Uploaded by: Sarah Elfreth

Position: FAV

SENATOR SARAH ELFRETH
Legislative District 30
Anne Arundel County



James Senate Office Building
11 Bladen Street, Room 104
Annapolis, Maryland 21401
410-841-3578 · 301-858-3578
800-492-7122 Ext. 3578
Fax 410-841-3156 · 301-858-3156
Sarah.Elfreth@senate.state.md.us

Budget and Taxation Committee

Subcommittees

Capital Budget

Pensions

Chair, Public Safety,
Transportation, and Environment

Joint Committee on the Chesapeake and
Atlantic Coastal Bays Critical Area

Chair, Joint Subcommittee on
Program Open Space/Agricultural
Land Preservation

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 22, 2023

Testimony in Favor of SB0418
Property Tax - Agricultural Land and Improvements - Assessment

Chairman Guzzone, Vice-Chair Rosapepe, and members of the Budget and Taxation Committee.

I respectfully request a favorable report of Senate Bill 418, which will clarify that the State Department of Assessments and Taxation (SDAT) should assess certain agricultural improvements as agriculture rather than as commercial properties. At its heart, SB418 is about fairness. Agricultural buildings on working farms, including buildings that support value-added agriculture, should be assessed as agriculture. If Maryland is going to preserve its rich history of supporting farms in order for our farms to in turn support us, we need to ensure tax fairness and economic viability for our agricultural community.

This legislation will sound familiar – last year this Committee heard and the full Senate unanimously passed the legislation in a similar posture. However, issues arose in the House and we amended the legislation into a workgroup to study and report on this issue. That study was conducted over the interim through SDAT with the partnership of Maryland Department of Agriculture and in consultation with different stakeholders in this effort. **It is unfortunate that, despite a number of stakeholder meetings over the interim, the workgroup did not result in any concrete policy solutions.**

Despite this failure to find a solution, the problem remains. Today this Committee will hear from farmers and agricultural small businesses that received an increased tax bill when SDAT reevaluated their value-added agricultural improvements as commercial property. This reclassification has resulted in a significant increase in agricultural taxes at a time when farmers can least afford to comply or satisfy these requirements. SB418 ensures that SDAT recognizes these value-added industries as what they are: agricultural endeavors.

As one of the largest commercial industries in Maryland, the agricultural community comprises nearly 6,000 fulltime farmers and employs approximately 350,000 individuals. The agricultural community's contribution to the Maryland economy cannot be understated. According to the Maryland State Archives, agricultural entities contribute some \$8.25 billion annually to the State's economy.

As it stands, agriculture faces a myriad of challenges: poor harvest seasons, climate change, labor shortages, supply chain disruptions, inflation, and lost revenue from COVID-19 related closures and capacity reductions. It is paramount that higher property taxes – through a sudden change in State policy - do not become another complication that Maryland burdens farmers. This legislation goes on to protect a variety of agricultural entities - including beloved hayrides, corn mazes, pumpkin patches, and produce farms - from reassessment. Potential reassessment of these entities would not only undermine the strong agricultural presence in Maryland, but also limit civilian access to these programs, services, and seasonal activities.

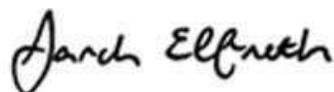
SDAT continues to claim that they have not changed their methodology - yet the agricultural community will share that their assessments have changed. But even if we concede the point that SDAT's methodology hasn't changed, then this legislation remains important as we, as a State, need to make a concerted policy decision as to how we are going to use our tax system to further preserve agriculture as the industry at-large transitions more towards value-added based industry.

SB 418 requires the State Department of Assessments and Taxation to recognize these value-added industries as what they are – agricultural endeavors. Farm breweries, wineries, distilleries, creameries and others have emerged as a way for agriculture to further support themselves through the fruits of their labor – turning the barley they grow into beer, or the grapes they grow into wine, or wheat into distilled spirits.

Recognizing that we do not want to wreak havoc on our local partners or create unforeseen consequences, SB 418 is precise in its definitions of the type of value-added agricultural projects we are seeking to encourage via our tax code. **We have worked with our local partners to ensure local zoning prevails, to narrowly define value-added agricultural activities, to ensure that large wedding venues are not included in the legislation - and most importantly - to ensure that the improvements have to be on an actively used farm.**

I urge this committee to protect agriculture and adopt a favorable report on SB 418.

Sincerely,

A handwritten signature in black ink that reads "Sarah Elfretth". The signature is written in a cursive, flowing style.

Sarah Elfretth

Support of SB 418 Ag Tax Assesment (HB 592).pdf

Uploaded by: Shelby Watson-Hampton

Position: FAV



POSITION STATEMENT

Support of SB 418 (HB 592)

Property Tax - Agricultural Land and Improvements -Assessment

As Director of the Southern Maryland Agricultural Development Commission (SMADC), I am requesting that you provide a favorable report for SB 418.

The importance of the ability of our farmers to be able to make a living with their farm businesses cannot be overstated; and the state's current approach to Ag assessment directly threatens that.

It seems to many farmers and agricultural industry professionals, that agricultural improvements and assessments began to skyrocket. When questioned, the reasons given by the department were that these value-added farms seem to be generating more money, and because of that their on-farm improvements should be assessed at a higher rate – without the ag use assessment. These buildings are not Walmart's, or 7- 11's, or any other commercial structure, these buildings are located on farms, owned by farmers, and being used for farm use - thus they should be assessed and taxed under the agricultural use tax rate, as they always have previously.

Alleviating this sudden unnecessary tax increase for our farms will allow them to operate their local businesses with peace of mind, and in a more regulatory friendly environment, as they continue to boost the agricultural economy within their communities across the state.

Considering that the population of the State of Maryland is approx. 6.1 million people (2021), but we only have roughly 12,000 farms, we want to do what we can to ensure their survival, as they provide fresh and shelf stable local products for us all, as well as ensuring open space remains a state that is constantly being highly developed.

Farmers face a lot of challenges; weather, labor shortages, an increasing cost of living, stringent permitting and regulatory processes, and others, let not add an undo tax burden to their worries as well.

I humbly request that the committee support HB 592 and give it a favorable report.

Thank You,

Shelby Watson-Hampton

Director, Southern Maryland Agricultural
Development Commission (SMADC)

swatsonhampton@smadc.com

www.smadc.com

(240) 304-8535

The Southern Maryland Agricultural Development Commission
is a division of the Tri-County Council for Southern Maryland
P.O. Box 745 Hughesville, MD 20637
Phone - 240-528-8850 ~ Email – info@smadc.com



SB 418 Position paper Support .docx.pdf

Uploaded by: Steven Connelly

Position: FAV



Maryland Department of Agriculture

Office of the Secretary

Wes Moore, Governor

Aruna Miller, Lt. Governor

Kevin Atticks, Acting Secretary

Steven A. Connelly, Deputy Secretary

The Wayne A. Cawley, Jr. Building

50 Harry S Truman Parkway

Annapolis, Maryland 21401

mda.maryland.gov

Agriculture | Maryland's Leading
Industry

410.841.5885 Baltimore/Washington

410.841.5846 Fax

Maryland Department of Agriculture

Legislative Comment

Date: February 22, 2023

BILL NUMBER: SENATE BILL 418

SHORT TITLE: PROPERTY TAX- AGRICULTURAL LAND AND IMPROVEMENTS-ASSESSMENT

MDA POSITION: SUPPORT

SB 418 creates a subclass of real property tax assessment to include farms that support value-added agricultural activities. Value-added enterprises may hold significant income and risk diversification benefits for farmers across a wide spectrum of agricultural production. Traditional commodity production of high volumes at the lowest (labor) cost is characterized by low profits and the need to constantly expand the size of the farming operation. This has had significant effects in many rural areas as less competitive producers continue to leave farming. Advocates of value-added production expect value-added agriculture to create the potential for higher profit margins for producers. Value-added agriculture also expands opportunities for rural communities in processing and marketing these products to end-users, as well as stimulating growth and expansion of rural businesses. As more new farmers return to farming practices, additional value added enterprises will allow them to be more competitive and viable.

A 2018 study by the Business Economic and Community Outreach Network (BEACON) of Salisbury University showed the overall value-added ag sector supports 74,000 jobs with an economic impact of over \$20 billion to Maryland's economy. This in turn adds around \$875 million to state resources. The increased economic activity will be of benefit to rural communities by creating jobs and providing local activities for residents to participate in. The loss of property tax revenue may be offset by increased employment, income taxes, and increased economic activity. In addition, profitable farms will preserve and protect our farmland and rural landscape.

MDA supports SB 418 and respectfully requests a favorable report.

If you have additional questions, please contact Steve Connelly, Deputy Secretary, at steve.connelly@maryland.gov or (410) 841-5881.

Sun OpEd 7.11.2022 New Tax on Farms.pdf

Uploaded by: Thomas Croghan

Position: FAV

Maryland's stealthy new tax on small farms

Croghan, Tom

[ProQuest document link](#)

FULL TEXT

The war in Ukraine, the COVID-19 pandemic and the shortage of baby formula highlight the fragility of the food supply. Regrettably, as the consequences of climate change threaten even more devastating disruption, higher property taxes - implemented without public comment, court order or legislative support - further jeopardize Maryland's ability to feed its residents.

Agriculture is risky, especially for families living and working on small farms. Most farms in the United States report losses each year. Moreover, agriculture faces enormous weather-related challenges and requires significant capital investment.

Recognizing these threats to the state's food security in 1960, Maryland became the first state in the nation to adopt an agricultural use assessment. Property used for "farm and agricultural purposes" is assessed at a preferential rate per acre, independent of its market value or any improvements, including barns, packing houses or processing facilities.

This historical practice ended a year ago when the State Department of Assessment and Taxation began reassessing at their commercial market value properties where "value-added" agricultural processing and sales occur. The result has been a sudden and significant increase in property taxes that endangers the very existence of many small farm businesses.

In case after case, farmers that added new storage, processing and sales facilities decades ago are now being reassessed at higher rates than in prior years. The state views its assessment policy as unchanged. But from the landowner's perspective, the higher assessments and tax bills undoubtedly feel like new taxes.

It is easy to understand how the tax department could conclude that value-added activities should be classified as commercial. A creamery on a farm and one in an industrial park look the same, at least from the inside. Moreover, the tax department's job is to raise money, not ensure that Maryland residents have healthy diets.

However, the department's interpretation that value-added production is commercial is not shared by those best equipped to understand the evolving nature of agriculture. The state and federal department of agriculture and many counties define value-added activities as having an agricultural purpose when the ingredients are produced on the farm. These agencies did not make their decisions casually. On the contrary, they often followed an intense public debate.

Perhaps the most convincing case for the agricultural basis of value-added activities is found in decisions made by the Maryland Agricultural Land Preservation Foundation. Although the foundation's policies prohibit commercial and industrial uses of an easement property, it has consistently judged that value-added operations, including creameries, wineries and agritourism, have an agricultural purpose and thus are allowed on easement farms.

Ironically, the foundation and the tax department arrived at their conflicting opinions by looking back, not forward. From the tax department's perspective, a barn with bathrooms for its staff and visitors is not a "standard barn" and thus not used for agricultural purposes. Likewise, a "traditional agricultural use" is the foundation's threshold test for a permitted activity on easement property. Both agencies justify crucial policies with widespread consequences based on vague perceptions of past agriculture that conjure Justice Potter Stewart's definition of obscenity: "I know it when I see it."

From a policy perspective, producing more food locally will help stabilize the climate, restore ecosystem function,

improve human health and result in a more equitable society. Achieving these goals requires investing in agriculture with subsidies, tax reductions and credits, and other incentives. Unfortunately, higher property taxes make it harder, not easier, to establish the types of farms we need to achieve these benefits.

Encouraging value-added production represents a cost-effective investment in a better future. Producers receive less than eight cents of every dollar spent on food. Capturing more value from their agricultural products by processing and selling them directly to consumers can mean the difference between financial stability and selling the farm. Recognizing the substantial community benefits of an expanding local food sector, the General Assembly has required the tax department and the Maryland Department of Agriculture to study the issue and chart a path forward. This vital study should examine Maryland's future needs, not a past that polluted the Chesapeake Bay, destabilized the climate, and degraded ecosystems.

Higher property taxes will add to ongoing financial pressures on farms that threaten their ability to meet the needs of their communities. As farms become too expensive to maintain, the property is often developed for residential or commercial uses. And every time a farm is sold for non-agricultural purposes, we inch closer to food insecurity and climate catastrophe.

Tom Croghan (tom@dodonvineyards.com) is co-owner and winemaker at The Vineyards at Dodon in Davidsonville.

DETAILS

Subject:	Food supply; Agriculture; Food; Climate change; Property taxes; Farms; COVID-19
Business indexing term:	Subject: Property taxes
Location:	Maryland; United States--US
Publication title:	The Baltimore Sun; Baltimore, Md.
First page:	A.9
Publication year:	2022
Publication date:	Jul 11, 2022
Publisher:	Tribune Publishing Company, LLC
Place of publication:	Baltimore, Md.
Country of publication:	United States, Baltimore, Md.
Publication subject:	General Interest Periodicals--United States
ISSN:	19439504
Source type:	Newspaper
Language of publication:	English
Document type:	News
ProQuest document ID:	2687661534

Document URL: <http://proxygw.wrlc.org/login?url=https://www.proquest.com/newspapers/marylands-stealthy-new-tax-on-small-farms/docview/2687661534/se-2?accountid=11243>

Copyright: Copyright © 2022 The Baltimore Sun

Last updated: 2022-07-11

Database: ProQuest Central

LINKS

[Linking Service](#), [Linking Service](#), [Linking Service](#)

Database copyright © 2023 ProQuest LLC. All rights reserved.

[Terms and Conditions](#) [Contact ProQuest](#)

Merry Acres Farm Example2.pdf

Uploaded by: Daniel Phillips

Position: FWA

Example:
3807 Walt Ann Dr Ellicott City, MD 21042
Merry Acres Farm



Google Earth Image April 2020



Google Earth Image April 2004

SB0418.docx (1).pdf

Uploaded by: Director Michael Higgs

Position: FWA

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



MICHAEL HIGGS
Director

MARCUS ALZONA
Deputy Director

301 W. Preston Street, Room 801, Baltimore, Maryland 21201
Legislative Director: Jonathan.Glaser@Maryland.gov
1-888-246-5941 TTY: 1-800-735-2258
www.dat.maryland.gov

HEARING DATE: February 22, 2023

BILL: SB0418

TITLE: Property Tax - Agricultural Land and Improvements - Assessment

SDAT POSITION: SUPPORT WITH AMENDMENTS

All improvements situated on a parcel of land are valued at their full cash value based upon the actual building construction type, quality, and features included in the building which is used to determine the contributory added value to the property regardless of the land use. This process has been used for all property, including agricultural property, since the Maryland State Department of Assessments and Taxation (SDAT) assumed the assessment of properties from the county governments in 1974.

SDAT has assessed improvements in the same manner throughout this 49-year period by valuing those improvements based on the construction type, quality, size, and features, including siding materials, roof types, electrical systems, plumbing systems, heating and cooling systems, porches, garages, and other features present in each structure. This methodology is applied to improvements located on all classes of property to meet the uniformity provisions of state law.

SDAT relies on the issuance of building permits to know when improvements are built. Maryland Tax Property § 5-103 requires each jurisdiction to immediately submit a copy of building permits to SDAT. However, some jurisdictions do not require building permits for buildings on agricultural property. Therefore, buildings constructed on agricultural property are not always assessed in a timely fashion, leading to a lag in time before a revised assessment is known to the property owner.

The Department recommends that SB0418 be amended to conform with the recommendations of MSAR # 14320, mandated by SB 567/Ch. 643, 2022.

MSAR 14320.pdf

Uploaded by: Jonathan Glaser

Position: FWA

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor



MICHAEL HIGGS
Director

MARCUS ALZONA
Deputy Director

300 W. Preston Street, Suite 605, Baltimore, Maryland 21201
Legislative Director: Jonathan.Glaser@Maryland.gov
1-888-246-5941 TTY: 1-800-735-2258
www.dat.maryland.gov

The Honorable Guy Guzzone
Chair, Senate Budget and Taxation Committee
3 West Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

The Honorable Vanessa Atterbeary
Chair, House Ways and Means Committee
131 House Office Building
6 Bladen Street
Annapolis, MD 21401

December 1, 2022

Re: Report required by SB 567/Ch. 643, 2022 (MSAR # 14320)

Dear Chair Guzzone and Chair Atterbeary:

SB 567/Ch. 643 of 2022 requires the Department of Agriculture (MDA) and the State Department of Assessments and Taxation (SDAT) to jointly conduct a study of the assessment of agricultural accessory use improvements.

SDAT would like to thank MDA for assisting with bringing stakeholders to the table and assisting with facilitating the study group meetings.

In conducting the study, the departments were required to consult with (1) local governments; (2) nonprofit associations that represent agricultural interests, alcohol manufacturers, and equine interests; and (3) other relevant stakeholders.

The study was to examine (1) whether agricultural accessory use improvements should be assessed using a different methodology from improvements located on nonagricultural land; (2) if a different methodology for assessing agricultural accessory use improvements is recommended, the proper method for assessing agricultural accessory use improvements; and (3) how other states assess agricultural accessory use improvements.

Enclosed is the requested report. Please feel free to follow up with me or other members of my team should you require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Higgs", is written over a light blue rectangular background.

Michael Higgs
Director

Consulting Parties

Brewers Association of Maryland

Maryland Distillers Guild

Maryland Wineries Association

Delmarva Chicken Association

Maryland Farm Bureau

Maryland Horse Council

Montgomery County Office of Agricultural Services

St. Mary's County Agriculture, Seafood & Forestry Advisory Board

Documents submitted to the legislature for Senate Bill 567 and House Bill 1282 were also reviewed for consideration. These documents were submitted by the following parties:

- Maryland State Department of Assessments and Taxation
- Rural Maryland Council
- Maryland Farm Bureau
- Maryland Municipal League
- Maryland Association of Counties
- Matt Bohle, Rifkin Weiner Livingston LLC, On behalf of
 - Brewers Association of Maryland
 - Maryland Distillers Guild
 - Maryland Wineries Association

Background

All real property is currently valued by the Maryland State Department of Assessments and Taxation (SDAT) as set forth in the Maryland Tax Property Article § 8–102.

”(a) Except as provided in subsection (b) of this section, the value of real property shall be its value on the date of finality.

”(b) The value of the land described in §§ 8-209 through 8-217 and 8-220 through 8-225 of this title shall be its use value on the date of finality as described in those sections.”

Value as stated in Tax Property Article § 8–102 (a) is defined in Tax Property Article § 1–101

”(qq) “Value” means the full cash value of property.”

All improvements situated on a parcel of land are valued at their full cash value based upon the actual building construction type, quality, and features included in the building which is used to determine the contributory added value to the property regardless of the land use. This process has been used for all property, including agricultural property, since the Maryland State Department of Assessments and Taxation (SDAT) assumed the assessment of properties from the county governments in 1974.

SDAT has assessed improvements in the same manner throughout this 48-year period by valuing those improvements based on the construction type, quality, size, and features, including siding materials, roof types, electrical systems, plumbing systems, heating and cooling systems, porches, garages, and other features present in each structure. This methodology is applied to improvements located on all classes of property to meet the uniformity provisions of state law.

SDAT relies on the issuance of building permits to know when improvements are built. Maryland Tax Property § 5-103 requires each jurisdiction to immediately submit a copy of building permits to SDAT. However, some jurisdictions do not require building permits for buildings on agricultural property. Therefore, buildings constructed on agricultural property are not always assessed in a timely fashion, leading to a lag in time before a revised assessment is known to the property owner.

Senate Bill 567 and House Bill 1282, as introduced, included the following language.

(3) an improvement located on land that qualifies for agricultural use assessment under this section shall be assessed as agricultural property if the improvement is used for:

- (I) the manufacture, packaging, storage, promotion, or sale of a value-added agricultural product, including a dairy product, that is derived from ingredients produced on the agricultural land or any associated agricultural land;
- (II) agricultural alcohol production, as defined in § 4-214(a) of the land use article; or
- (II) agritourism, as defined in § 4-212 of the land use article.

Maryland Land Use Article § 4-214(b)

“A local jurisdiction may adopt the definition of “agricultural alcohol production” as defined in this section by local ordinance, resolution, law, or rule.”

Maryland Land Use Article § 4-212(b)

“A local jurisdiction may adopt the definition of “agritourism” as defined in this section by local ordinance, resolution, law, or rule.”

It should be noted that the adoption of the definitions in Senate Bill 567 and House Bill 1282 item (II) and item (III) is optional and is not mandated upon each jurisdiction. Therefore these definitions should not be mandated for use in the statewide assessment process as they may not have been adopted by all jurisdictions.

Considerations

Public meetings were held utilizing Zoom for public input on September 8, 2022, and October 25, 2022.

Representatives of the Brewers Association of Maryland, Delmarva Chicken Association, Maryland Distillers Guild, Maryland Farm Bureau, Maryland Horse Council, Maryland Wineries Association, and the Montgomery County Office of Agricultural Services have requested that SDAT adopt the Legislative Session 2022 *Senate Bill 567 Third Reader* version methodology for assessing agricultural accessory use improvements. Such a change would carry a significant fiscal impact to state and local revenues. Based on the suggested alternate methodology, SDAT would be required to reinspect and revalue around 234,000 property accounts located on parcels that have agricultural assessed land. These parcels would be located in all assessment groups.

SDAT estimates that county tax revenue loss could be upwards of \$76,000,000 and state revenue loss could reach \$9,000,000 with the potential of additional losses, once it is determined if facilities such as grain mills, food processing plants, and cannabis processing plants qualify for agricultural use assessments of the land and buildings under the law.

Note: the 2022 *Senate Bill 567 Third Reader* version was Emergency Legislation. This short time frame would have prevented SDAT from completing that year's assessments.

Oral testimony provided by property owner's representatives indicated a desire for lower taxes and an assumption that applying any different methodology should result in lower assessments. If a different methodology is adopted for agricultural accessory use improvements the result would likely be to reduce the assessment of these properties.

However, reducing the assessment on agricultural alcohol production facilities, agritourism facilities, equine activity facilities, and facilities that are related to the manufacture, packaging, promotion, or sales of agricultural products may shift the burden from agricultural property owners to other property owners.

SDAT contracted the University of Maryland Agricultural Law Education Initiative (ALEI) to compile a summary of laws in all other states regarding the methodology of the assessment of agricultural accessory use improvements. Sarah Everhart, Managing Director, ALEI, UMB, UMCSL submitted the findings to SDAT. A summary of the laws in other states as reported by ALEI is incorporated as part of this report as Appendix A. A review of the reported laws indicates most states do not have statutes regarding the assessment methodology of agricultural improvements or agricultural accessory use improvements. A review of the laws of states surrounding Maryland indicated there are no laws granting another methodology for the assessment of agricultural accessory use improvements. Therefore the same methodology is applied for the assessment of improvements on all types of property in those states which is consistent with the approach utilized in Maryland.

Maryland Tax Property Article §8–209.

“(a) The General Assembly declares that it is in the general public interest of the State to foster and encourage farming activities to:

(1) maintain a readily available source of food and dairy products close to the metropolitan areas of the State;

(2) encourage the preservation of open space as an amenity necessary for human welfare and happiness; and

(3) prevent the forced conversion of open space land to more intensive uses because of the economic pressures caused by the assessment of the land at rates or levels incompatible with its practical use for farming.”

Improvements utilized for added value activities, including agricultural alcohol production facilities, agritourism facilities, wedding facilities, and facilities that are related to the manufacture, packaging, promotion, or sales of agricultural products also add value to the property. These improvements are currently assessed as added value to the full cash value of the property.

The position of the Maryland Municipal League, written testimony to House Bill 1282, March 1, 2022:

“The Maryland Municipal League opposes HB 1282 which seeks to assess commercial improvements on agriculturally zoned land differently than everywhere else in the State.

While Maryland cities and towns are proud to support and help market agrotourism and other value-added farm business models, we believe this bill goes well beyond the mom-and-pop farmstand and into a growing set of new commercial activities. It presents a tax-fairness issue that would create an imbalance as they compete with other businesses within our jurisdictions.

With a substantial business model change, it makes sense that the owners’ tax liability may change as well. It is also quite natural that this government evaluation would experience some lag as it happened in response to an emerging new use and the fact that SDAT has a rotating assessment schedule.

HB 1282 seeks to redefine certain commercial improvements for the purpose of providing a special tax privilege. Therefore, the League respectfully requests that this committee provide HB 1282 with an unfavorable report.”

Recommendations

(1) Whether agricultural accessory use improvements should be assessed using a different methodology from improvements located on nonagricultural land.

It is SDAT's belief that agricultural accessory use improvements should not be assessed using a different methodology from improvements located on nonagricultural land. As the attached report from the University of Maryland has indicated, SDAT is following a methodology that is similar to most other states.

(2) If a different methodology for assessing agricultural accessory use improvements is recommended, the proper method for assessing agricultural accessory use improvements

Property tax exemptions are largely controlled at the local level, given that the county and local governments receive the largest apportionment of that revenue. To remain consistent across property types, SDAT recommends that this remain a local self-determination topic for local governments.

For example, Frederick County currently grants a property tax credit to offset the assessment of agricultural use improvements for agricultural property that has been placed in a conservation easement. A jurisdiction that desires to provide such relief for agricultural accessory use improvements should choose to do so based on their own self-determination and governance.

Appendix A

University of Maryland Agricultural Law Initiative Report of State Agricultural Use Assessment Laws

Key: ** = Not Included in NALC Project and/or Some Part of Section Updated Since 2018

Red Text = Important applicable language

Alabama

Sources / Changes

Ala. Code §§ 40-7-25.0-25.4

Ala. Code § 40-8-1 [Classification of property; assessment rate]

**Ala. Code § 40-18-372. Qualifying projects -- Activities and standards.

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 40-7-25.3. Current use value of Class III property -- Conversion of property to other taxable use.

If the sale or other disposition of taxable property qualified for assessment based on its current use value results in or is followed by the conversion of such property, within two years from the date of sale or other disposition, to a use that is not so qualified, then with respect to such property, there shall be levied and collected, in the ad valorem tax year beginning on the October 1 next succeeding the conversion of such property, an amount of additional taxes to be computed in the manner provided by this section. If taxable property qualified for assessment at its current use value is converted to a use not so qualified, then the tax assessor shall thereupon appraise such property in accordance with the provisions of Section 40-7-15 and Section 40-7-25, as amended, and shall compute the amount of additional taxes payable with respect to such property in the manner provided in this section. The owner of taxable property qualified for assessment at its current use value which is converted to a use not so qualified shall so notify the tax assessor of the county in which such property is located, on and after October 1 but not later than January 1 in the taxable year next succeeding the taxable year in which such conversion is made. The tax assessor shall compute the amount of ad valorem property taxes that would have been payable with respect to such converted property if the sales price or the fair and reasonable market value of such property at the time of its conversion, whichever is greater, had been used instead of the current use value of such property in computing the amount of taxes payable with respect to such property for each of the three ad valorem tax years preceding the tax year beginning on the October 1 next succeeding the conversion of such property. Such amount shall be additional taxes to be levied and collected on the first assessment lists prepared subsequent to such conversion in the same manner and at the same time as other taxes and shall constitute a lien on such property to the same extent as other taxes, as provided in Section 40-1-3. If such converted property constitutes only a portion of a parcel so qualified on the assessment lists, the tax assessor shall apportion the assessment of such parcel on the first assessment

lists prepared subsequent to the conversion and enter the apportioned amount attributable to the portion converted as a separately assessed parcel on the assessment lists. Such apportionment shall be made for each of the years to which additional taxes apply.

§ 40-7-25.4. Current use value of Class III property -- Abatement of tax under Section 40-7-25.3.

(a) The governing body of a county may grant an abatement of all or a portion of the taxes otherwise due under Section 40-7-25.3 with respect to property located within the county.

(b) The abatement provided by subsection (a) may only be granted if all of the following are satisfied:

(1) The property will be used for a qualifying project as defined in Section 40-18-372 (1).

(2) The qualifying project shall create at least the number of new jobs specified in Section 40-18-372 (2).

(3) The property is an area within which not less than fifty million dollars (\$50,000,000) of capital expenditures in connection with the establishment, expansion, construction, equipping, development, or rehabilitation of such qualifying project is anticipated to be made based upon representations and information provided by the anticipated user or users of the qualifying project and such other information as the county shall have available to it and deems appropriate.

(4) If the property is located within a municipality, the abatement shall be consented to by resolution of the governing body of the municipality.

(c) The abatement granted by a county pursuant to this section shall be embodied in an agreement between the county and the owner or user of the property. The agreement shall be filed with the Department of Revenue within 90 days after the granting of the abatement, the contents of which the Department of Revenue shall use solely for its statistical and recordkeeping activities but shall otherwise keep confidential unless consented to in writing by the owner or user of the property. [Ala.Code 1975 § 40-7-25.4]

§ 40-18-372. Qualifying projects -- Activities and standards.

Currentness

A qualifying project must be found by the Secretary of Commerce to conduct an activity specified in subdivision (1) and to meet the minimum standard set forth in subdivision (2).

(1) A qualifying project must predominantly conduct an activity that is any one or more of the following:

a. Described by NAICS Code 1133, 115111, 2121, 22111, 221330, 31 (other than 311811), 32, 33, 423, 424, 482, 4862, 48691, 48699, 48819, 4882, 4883 (other than 48833), 493, 511, 5121 (other than 51213), 51221, 517, 518 (without regard to the premise that data processing and related services be performed in conjunction with a third party), 51913, 52232, 54133 (if predominantly in furtherance of another activity described in this article), 54134 (if predominantly in furtherance of another activity described in this article), 54138, 5415, 541614, 5417, 55 (if not for the production of electricity), 561422 (other than establishments that originate telephone calls), 562213, 56291, 56292, 611512, 927, or 92811.

b. The production of biofuel as such term is defined in Section 2-2-90(c)(2).

c. The conduct of original investigations undertaken on a systematic basis to gain new knowledge or the application of research findings or other scientific knowledge to create new or significantly improved products or processes.

d. The national or regional headquarters for a company that conducts significant business operations outside the state and that will serve as the principal office of the company's principal operating officer with chief responsibility for the daily business operations of the company.

e. A commercial enterprise which is open to the public not less than 120 days during a calendar year and is designed to attract visitors from inside or outside of the State of Alabama, typically for its inherent cultural value, historical significance, natural or man-made beauty, or entertainment or amusement opportunities, including, but not limited to, a cultural or historical site, a botanical garden, a museum, a wildlife park or aquarium open to the public that cares for and displays a collection of animals or fish, an amusement park, a convention hotel and conference center, a water park, or a spectator venue or arena.

f. A target of the state's economic development efforts pursuant to the Accelerate Alabama Strategic Economic Development Plan adopted in January 2012 by the Alabama Economic Development Alliance, created by Executive Order Number 21 of the Governor on July 18, 2011, or any amended version or successor document thereto.

g. A type listed in a regulation adopted by the Department of Commerce, other than a regulation

submitted as an emergency rule.

§ 40-18-372. Qualifying projects -- Activities and standards.

Notwithstanding the foregoing, a qualifying project may not engage predominantly in farming activities involving trees, animals, or crops, and a qualifying project may not engage predominantly in the retail sale of tangible personal property or services, and may not be a shopping center, restaurant, movie theater, bowling alley, fitness center, miniature golf course, nightclub, gaming facility, or establishment serving the local community. However, if such excluded activities are not the predominant activity at the project, and if the project is otherwise a qualifying project, then the project agreement may provide that the capital investment may include costs related to excluded activities that are ancillary to the primary business conducted as part of the project. This provision shall not be deemed to exclude customer service centers, call centers or headquarters otherwise allowed by this subdivision (1).

(2) A qualifying project shall create a significant number of new jobs for the area in which the qualifying project shall be located. Absent a finding of extraordinary circumstances by the Secretary of Commerce, a qualifying project shall employ either of the following number of new employees:

- a. Any number of new employees, for a qualifying project in which the predominant activity involves chemical manufacturing, data centers, engineering, design, or research, metal/machining technology or toolmaking; or
- b. At least 50 new employees, for all other qualifying projects.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

No statute.

Agricultural Land Valuation Methodology

§ 40-8-1. Classification of property; assessment rate.

(a) On and after October 1, 1978, with respect to ad valorem taxes levied by the state, and, unless otherwise provided, with respect to ad valorem taxes levied by a county, municipality, or other taxing authority other than the state, all taxable property shall be divided into the following classes and no other and shall be assessed for ad valorem tax purposes at the following ratios of assessed value to the fair and reasonable market value of such property, or, as may be provided by law, to the current use value of such property:

CLASS I. All property of utilities used in the business of such utilities, 30 percent.

CLASS II. All property not otherwise classified, 20 percent.

CLASS III. All agricultural, forest, and residential property, and historic buildings and sites, 10 percent.

CLASS IV. All private passenger automobiles and motor trucks of the type commonly known as "pickups" or "pickup trucks" owned and operated by an individual for personal or private use and not for hire, rent, or compensation, 15 percent.

(b) As used herein, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) AGRICULTURAL AND FOREST PROPERTY. All real property used for raising, harvesting, and selling crops or for the feeding, breeding, management, raising, sale of, or the production of livestock, including beef cattle, sheep, swine, horses, ponies, mules, poultry, fur-bearing animals, honey bees, and fish, or for dairying and the sale of dairy products, or for the growing and sale of timber and forest products, or any other agricultural or horticultural use or animal husbandry and any combination thereof.

§ 40-7-25.1. Current use value of Class III property -- Definition; appraisal of property at request of

owner; legislative intent; applicability of section; method of valuation; factors considered in appraisal; rules and regulations of Department of Revenue; hearing objections.

Agricultural Land Exclusions

No statute.

Alaska

Sources / Changes

§ 29.45.060. Farm or agricultural land

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 29.45.060. Farm or agricultural land

(a) Farm use land included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use and may not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the land for both full and true value and farm use value. If the land is sold, leased, or otherwise disposed of for uses incompatible with farm use or converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (d) of this section for the preceding seven years. The balance of the payment shall be made to the municipality.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

No statute.

Agricultural Land Valuation Methodology

§ 29.45.060. Farm or agricultural land

(b) An owner of farm use land shall, to secure the assessment under this section, apply to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor, and must include information that may reasonably be required to determine the entitlement of the applicant. If the land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested. This subsection does not apply to a person with an interest in land that is classified by the state for agricultural use or that is restricted by the state for agricultural purposes.

(c) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 percent of gross income for the past three years was from farming.

(d) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the property tax revenues lost to it by the operation of this section.

(e) All land that is classified by the state for agricultural use or that is restricted by the state for agricultural purposes shall be assessed on the basis of full and true value based upon that restricted use.

(f) This section does not apply to land for which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the land. Failure to make the filing required in this subsection forfeits the exemption.

(g) In this section, "farm use" means the use of land for profit for raising and harvesting crops, for the feeding, breeding, and management of livestock, for dairying, or another agricultural use, or any combination of these. To be farm use land, the owner or lessee must be actively engaged in farming the land, and derive at least 10 percent of yearly gross income from the land.

Agricultural Land Exclusions

No statute.

Arizona

Sources / Changes

§ 42-12154. Approval of nonconforming property

§ 42-13101. Valuation of agricultural land

**CHANGED in 2019:

§ 42-12151. Definition of agricultural real property (& definitions)

§ 42-12152. Criteria for classification of property used for agricultural purposes; exception; affidavit

**CHANGED 2021:

§ 42-12156. Notice of change in use

Definition of Agricultural Improvements

§ 3-111. Definitions

In this chapter, unless the context otherwise requires:

1. "Agricultural operations" means all activities by the owner, lessee, agent, independent contractor and supplier conducted on any facility for the production of crops, livestock, poultry, livestock products or poultry products or for the purposes of agritourism.

2. "Agritourism" means any activity that allows members of the general public, for recreational or educational purposes, to view, enjoy or participate in rural activities, including farming, ranching, historical, cultural, u-pick, harvest-your-own produce or natural activities and attractions occurring on property defined as agricultural real property pursuant to § 42-12151 if the activity is conducted in connection with and directly related to a business whose primary income is derived from producing livestock or agricultural commodities for commercial purposes.

3. "Farmland" means land devoted primarily to the production for commercial purposes of livestock or agricultural commodities.

Improvement Valuation Methodology

§ 42-12151. Definition of agricultural real property

In this article, unless the context otherwise requires, "agricultural real property" means real property that is one or more of the following:

1. Cropland in the aggregate of at least twenty gross acres.
2. An aggregate ten or more gross acres of permanent crops.
3. Grazing land with a minimum carrying capacity of forty animal units and containing an economically feasible number of animal units.
4. Land and improvements devoted to commercial breeding, raising, boarding or training equine, as defined in § 3-1201 or equine rescue facilities registered with the department of agriculture pursuant to § 3-1350.
5. Land and improvements devoted to high density use for producing commodities.
6. Land and improvements devoted to use in processing cotton necessary for marketing.
7. Land and improvements devoted to use in processing wine grapes for marketing.
8. Land and improvements devoted to use in processing citrus for marketing.
9. Land and improvements devoted to use as fruit or vegetable commodity packing plants that do not cut or otherwise physically alter the produce.
10. Land and improvements owned by a dairy cooperative devoted to high density use in producing, transporting, receiving, processing, storing, marketing and selling milk and manufactured milk products without the presence of any animal units on the land.
11. Land of at least five acres and improvements devoted to algaculture. For the purposes of this paragraph "algaculture" means the controlled propagation, growth and harvest of algae.
12. Land and improvements devoted to agritourism as defined in § 3-111.

§ 42-12154. Approval of nonconforming property

A. The county assessor may:

1. Approve the agricultural classification of property if the property has either:
 - (a) Fewer than the minimum number of acres or animal units as prescribed in § 42-12151.
 - (b) Been in commercial agricultural production for less than the period prescribed in § 42-12152, subsection A, paragraph 1.
2. Continue the agricultural classification of owner occupied property if a change in classification of the property would cause extreme hardship to the property owner.

B. The county assessor may continue the agricultural classification of owner occupied property that has fewer than the minimum number of animal units as prescribed in § 42-12151, paragraph 3 if the number of animal units equals, as nearly as practicable, the property's carrying capacity.

§ 42-12156. Notice of change in use

A. If all or part of the property ceases to qualify as agricultural property under this article, the person who owns the property at the time of change shall notify the county assessor within sixty days after the change.

B. If the county assessor determines that there has been a change of use and the property ceases to qualify as agricultural property under this article, the county assessor shall notify the property owner by certified mail of the reason for reclassifying the property and include information for the property owner to appeal the reclassification.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 42-12151. Definition of agricultural real property

In this article, unless the context otherwise requires, "agricultural real property" means real property that is one or more of the following:

1. Cropland in the aggregate of at least twenty gross acres.
2. An aggregate ten or more gross acres of permanent crops.

3. Grazing land with a minimum carrying capacity of forty animal units and containing an economically feasible number of animal units.
4. Land and improvements devoted to commercial breeding, raising, boarding or training equine, as defined in § 3-1201 or equine rescue facilities registered with the department of agriculture pursuant to § 3-1350.
5. Land and improvements devoted to high density use for producing commodities.
6. Land and improvements devoted to use in processing cotton necessary for marketing.
7. Land and improvements devoted to use in processing wine grapes for marketing.
8. Land and improvements devoted to use in processing citrus for marketing.
9. Land and improvements devoted to use as fruit or vegetable commodity packing plants that do not cut or otherwise physically alter the produce.
10. Land and improvements owned by a dairy cooperative devoted to high density use in producing, transporting, receiving, processing, storing, marketing and selling milk and manufactured milk products without the presence of any animal units on the land.
11. Land of at least five acres and improvements devoted to algaculture. For the purposes of this paragraph "algaculture" means the controlled propagation, growth and harvest of algae.
12. Land and improvements devoted to agritourism as defined in § 3-111.

§ 42-12152. Criteria for classification of property used for agricultural purposes; exception; affidavit

A. Property is not eligible for classification as property used for agricultural purposes unless it meets the following criteria:

1. The primary use of the property is as agricultural land and the property has been in active production according to generally accepted agricultural practices for at least three of the last five years. Property that has been in active production may be:

(a) Inactive for a period of not more than twelve months as a result of acts of God.

(b) Inactive as a result of participation in:

(i) A federal farm program that allows voluntary land conserving use acreage or acreage conservation, or both.

(ii) A scheduled crop rotation program.

(c) Inactive or partially inactive due to a temporary or partial reduction in or transfer of the available water supply or irrigation district water allotments for agriculture use in the farm unit. For land within an irrigation district in a county with a population of less than nine hundred thousand persons, the temporary or partial reduction or transfer may be verified by an official certification from the irrigation district to the county assessor that confirms the reduction or transfer, except that if that land is located in an active management area and the land does not have an irrigation grandfathered groundwater right, the land is not eligible as cropland. A certification for temporary or partial reduction is not valid for full inactivity of the farm unit for more than one year.

(d) Grazing land that is inactive or partially inactive due to reduced carrying capacity or generally accepted range management practices.

2. There is a reasonable expectation of operating profit, exclusive of land cost, from the agricultural use of the property.

3. If the property consists of noncontiguous parcels, the noncontiguous parcels must be managed and operated on a unitary basis and each parcel must make a functional contribution to the agricultural use of the property.

B. If feedlot or dairy operations that are in active production are moved to another property at which the operations are in active production, the requirement that the property be in active production for at least three of the last five years does not apply to the property to which the operations are moved for the first three years after the operations are moved.

C. The requirement in subsection A, paragraph 2 of this section is satisfied if the owner files with the assessor an affidavit of agricultural use, signed by the owner attesting that all information in the affidavit is true and the property is actively producing with an expectation of profit.

Agricultural Land Valuation Methodology

§ 42-13101. Valuation of agricultural land

- A. Land that is used for agricultural purposes shall be valued using only the income approach to value without any allowance for urban or market influences.
- B. The income of agricultural property shall be determined using the capitalized average annual net cash rental of the property. For purposes of this subsection the average annual net cash rental of the property:
1. Is the average of the annual net cash rental, excluding real estate and sales taxes, determined through an analysis of typical arm's length rental agreements collected for a five year period before the year for which the valuation is being determined for comparable agricultural land used for agricultural purposes and located in the vicinity, if practicable, of the property being valued.
 2. Shall be capitalized at a rate 1.5 percentage points higher than the average long-term annual effective interest rate for all new farm credit services loans for the five year period before the year for which the valuation is being determined.

Agricultural Land Exclusions

No statute.

Arkansas

Sources / Changes

- § 26-26-303. Valuation used in appraisals
§ 26-26-407. Valuation of different types and uses of property
§ 26-26-1108. Certain agricultural lands

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 26-26-407. Valuation of different types and uses of property

- (g)(1) Whenever land that has qualified for valuation on use or productivity under subsection (b) of this section is converted to another use, the person converting the land to another use shall notify, immediately and in writing, the county assessor of the change in use.
- (2) At the appropriate time, the county assessor shall extend the taxes on the land based on the change in use and shall certify to the county collector the amount to be collected.

§ 26-26-1108. Certain agricultural lands

- (a) All lands which may be annexed by any city or incorporated town which are being used for agricultural purposes shall be assessed as agricultural lands upon an acreage basis, regardless of the fact that any or all of the lands are embraced in a plat of a subdivision or other real estate development, and regardless of the fact that the lands may be zoned as commercial, industrial, or residential, and regardless of the fact that the lands may be adaptable to commercial, industrial, or residential uses.
- (b) Agricultural purposes shall include lands which are presently used and have been used for a period of five (5) continuous years in a bona fide farming, pasture, or grove operation by the owner, lessee, or some person in his or her employ.
- (c) Lands which have not been used for agricultural purposes prior to March 29, 1963, shall be prima facie subject to assessment on the same basis as assessed for the previous years, and any demand for a reassessment of such lands for agricultural purposes shall be subject to the scrutiny of the county assessor to the end that the lands shall be classified properly.
- (d) When lands subject to this section cease to be used for agricultural purposes, the lands shall be assessed as other lands of the same character.
- (e) For the purposes of this section, agricultural lands shall include dairy, livestock, poultry, and all forms of farm products and farm production.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 26-26-407. Valuation of different types and uses of property

(a) Residential property used solely as the principal place of residence of the owner shall be assessed in accordance with its value as a residence, so long as the property is used as the principal place of residence of the owner and shall not be assessed in accordance with some other method of valuation until the property ceases to be used for the residential purpose.

(b)(1)(A) Agricultural land, pasture land, and timberland valuation shall be based on the productivity of the agricultural land, pasture land, or timberland soil.

(B) Agricultural land, pasture land, and timberland guidelines shall be developed based on the typical or most probable use of the soils for agricultural land, pasture land, and timberland in the region.

(2) Land that is enrolled in the Wetlands Reserve Program of the Natural Resources Conservation Service of the United States Department of Agriculture or in the Conservation Reserve Program of the Natural Resources Conservation Service of the United States Department of Agriculture shall be treated as agricultural land, pasture land, or timberland for purposes of valuation.

(c)(1) Commercial land and residential land that are vacant shall be valued on their typical use.

(2) The county assessor shall determine what the typical use of vacant commercial land or residential land is by considering the primary current use of adjacent lands.

(d)(1) For real property in which the mineral estate and surface estate are severed, if a surface estate owner's use and enjoyment of the surface estate are adversely affected by a severed mineral estate owner's use and enjoyment of the severed mineral estate, or a surface estate owner's utility of the surface estate interest is adversely affected by a severed mineral estate owner's use and enjoyment of the severed mineral estate, the assessment of the surface estate is as follows:

(A) For agricultural land, pasture land, or timberland, a well drilled for the purpose of extracting minerals from a severed mineral estate creates a presumption of diminished utility of the surface estate, and the assessed value of the affected surface estate shall reflect the minimum productivity value of the surface estate and shall be reduced accordingly; and

(B) For residential property and commercial property, a well drilled for the purpose of extracting minerals from a severed mineral estate creates a presumption of diminished utility of the surface estate, and the assessed value of the affected surface estate shall reflect the diminished utility of the surface estate and reduced accordingly.

(2) Unless market evidence indicates an increase in land area value or an increase in value of the surface estate, the portion of the surface estate for which a presumption of diminished utility exists under subdivision (d)(1) of this section shall not exceed one (1) acre per well, and the value of the surface estate for that one (1) acre shall be assessed in an amount not to exceed twenty-five percent (25%) less than surrounding comparable property.

(e)(1) The county equalization board may reclassify land upon proof of change in use of the land or upon proof that the land is not eligible for classification under the provisions of this section.

(2) The owner may appeal the decisions of the county assessor and county equalization board as provided by law for other appeals from the county assessor or county equalization board.

(f)(1) In devising and developing methods of assessing and levying the ad valorem property tax on real property, the Assessment Coordination Division shall annually develop and publish valuation tables and other data that shall be used by county assessors for assessing lands qualifying under this subchapter.

(2)(A) Each year the division shall update the valuation tables for assessing lands qualifying as agricultural land, pasture land, and timber land in time for counties to use the updated tables when they finish their countywide appraisals.

(B) When there is a countywide reappraisal, a county shall assess agricultural land, pasture land, and timberland based upon the updated land values in the valuation tables issued for the assessment year.

(3)(A) The division by rule shall develop appropriate formulas reflecting the productivity valuation of the land based upon income capability attributable to agricultural land, pasture land, and timberland soils.

(B) Each year the division shall develop and calculate capitalization rates by using appropriate long-term federal security rates, risk rates, management rates, and other appropriate financial rates.

(C) However, the capitalization rate developed under subdivision (f)(3)(B) of this section shall not be less than eight percent (8%) nor more than twelve percent (12%).

(4) By October 15 of each year, the division shall report to the Legislative Council any changes to any part of the formula used to determine the value of land or the capitalization rate.

(g)(1) Whenever land that has qualified for valuation on use or productivity under subsection (b) of this section is converted to another use, the person converting the land to another use shall notify, immediately and in writing, the county assessor of the change in use.

(2) At the appropriate time, the county assessor shall extend the taxes on the land based on the change in use and shall certify to the county collector the amount to be collected.

(h)(1) If any person fails to give written notice of a change in use of land as required in subsection (g) of this section, the person shall be subject to a penalty in an amount equal to three (3) years of taxes on the land at the value in the new use or conversion use.

(2) Any penalty so assessed shall be included in the taxes on the land for the year in which the failure is discovered and shall be a lien on the land to the same extent as any other taxes levied on the land.

(i) Any funds derived from penalties assessed pursuant to subsection (h) of this section shall be deposited into the county general fund to be used for the purposes prescribed by law.

Agricultural Land Valuation Methodology

§ 26-26-303. Valuation used in appraisals

(a) The appraisal and assessment shall be according to value as required by Arkansas Constitution, Article 16, Section 5.

(b) The percentage of true and full market or actual value to be used in the appraisal and assessment shall be fixed and certified by the Arkansas Public Service Commission as provided by § 26-24-104.

(c) Until and unless a budget system is adopted with provisions for eliminating excessive and illegal tax rates and expenditures, the commission shall not fix and certify a percentage of true and full market or actual value in excess of twenty percent (20%).

Agricultural Land Exclusions

No statute.

California

Sources / Changes

Most provisions on NALC page apply to land that has been burdened (i.e. easements) . . .

** ADDED 2020: § 402.1. Land; effect of restrictions on value; presumption

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

No statute.

Agricultural Land Valuation Methodology

§ 402.1. Land; effect of restrictions on value; presumption

(a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

- (1) Zoning.
- (2) Recorded contracts with governmental agencies other than those provided in Sections 422, 422.5, and 422.7.
- (3) Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.
- (4) Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.
- (5) Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.
- (6) Environmental constraints applied to the use of land pursuant to provisions of statutes.
- (7) Hazardous waste land use restriction pursuant to Section 25226 of the Health and Safety Code.
- (8)(A) A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code¹ that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.
- (B) A recorded greenway easement, as described in Section 816.52 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has as its primary purpose the developing and preserving of greenways.
- (9) A solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190) of Part 1 of Division 1 of Title 5 of the Government Code.
- (10) A contract where the following apply:
 - (A) The contract is with a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 for properties intended to be sold to low-income families who participate in a special no-interest loan program.
 - (B) The contract restricts the use of the land for at least 30 years to owner-occupied housing available at affordable housing cost in accordance with Section 50052.5 of the Health and Safety Code.
 - (C) The contract includes a deed of trust on the property in favor of the nonprofit corporation to ensure compliance with the terms of the program, which has no value unless the owner fails to comply with the covenants and restrictions of the terms of the home sale.
 - (D) The local housing authority or an equivalent agency, or, if none exists, the city attorney or county counsel, has made a finding that the long-term deed restrictions in the contract serve a public purpose.
 - (E) The contract is recorded and provided to the assessor.
- (11)(A) A contract where the following apply:
 - (i) The contract is a renewable 99-year ground lease between a community land trust and the qualified owner of an owner-occupied single-family dwelling or an owner-occupied unit in a multifamily dwelling.
 - (ii) The contract subjects a single-family dwelling or unit in a multifamily dwelling, and the land on which the dwelling or unit is situated that is leased to the qualified owner by a community land trust for the convenient occupation and use of that dwelling or unit, to affordability restrictions.
 - (iii) One of the following public agencies or officials has made a finding that the affordability restrictions in the contract serve the public interest to create and preserve the affordability of residential housing for persons and families of low or moderate income:
 - (l) The director of the local housing authority or equivalent agency.

- (II) The county counsel.
- (III) The director of a county housing department.
- (IV) The city attorney.
- (V) The director of a city housing department.
- (iv) The contract is recorded and is provided to the assessor.
- (B)(i) For purposes of this paragraph, the sale or resale price of the dwelling or unit is rebuttably presumed to include both the dwelling or unit and the leased land on which the dwelling or unit is situated. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of the leased land is not reflected in the sale or resale price of the dwelling or unit.
- (ii) Notwithstanding any other law, corrections of base year values and declines in value owing to the restrictions on properties assessed under this subparagraph shall apply to all lien dates occurring after September 27, 2016.
- (C) For purposes of this paragraph, all of the following definitions shall apply:
 - (i) "Affordability restrictions" mean that all of the following conditions are met:
 - (I) The dwelling or unit can only be sold or resold to a qualified owner to be occupied as a principal place of residence.
 - (II) The sale or resale price of the dwelling or unit is determined by a formula that ensures the dwelling or unit has a purchase price that is affordable to qualified owners.
 - (III) There is a purchase option for the dwelling or unit in favor of a community land trust intended to preserve the dwelling or unit as affordable to qualified owners.
 - (IV) The dwelling or unit is to remain affordable to qualified owners by a renewable 99-year ground lease.
 - (ii) "Community land trust" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that satisfies all of the following:
 - (I) Has as its primary purposes the creation and maintenance of permanently affordable single-family or multifamily residences.
 - (II) All dwellings and units located on the land owned by the nonprofit corporation are sold to a qualified owner to be occupied as the qualified owner's primary residence or rented to persons and families of low or moderate income.
 - (III) The land owned by the nonprofit corporation, on which a dwelling or unit sold to a qualified owner is situated, is leased by the nonprofit corporation to the qualified owner for the convenient occupation and use of that dwelling or unit for a renewable term of 99 years.
 - (iii) "Limited equity housing cooperative" has the same meaning as that term is defined in Section 817 of the Civil Code.
 - (iv) "Persons and families of low or moderate income" has the same meaning as that term is defined in Section 50093 of the Health and Safety Code.
 - (v) "Qualified owner" means persons and families of low or moderate income, including persons and families of low or moderate income that own a dwelling or unit collectively as member occupants or resident shareholders of a limited equity housing cooperative.
- (b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.
- (c) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.
- (d) In assessing land with respect to which the presumption is un rebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.
- (e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

(f) For the purposes of this section the following definitions apply:

(1) "Comparable lands" are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

(2) "Representative sales information" is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

(g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land that legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. This statute shall not be construed as requiring the assessment of any land at a value less than as required by Section 401 or as prohibiting the use of representative comparable sales information on land under similar restrictions when this information is available.

Agricultural Land Exclusions

No statute.

Colorado

Sources / Changes

**§39-1-102. Definitions

**§39-1-103. Actual value determined

**§39-1-104. Valuation for assessment--definitions

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§39-1-102. Definitions

(b)(I) Except as provided in subparagraph (II) of this paragraph (b), all other agricultural property that does not meet the definition set forth in paragraph (a) of this subsection (1.6) shall be classified as all other property and shall be valued using appropriate consideration of the three approaches to appraisal based on its actual use on the assessment date.

(II) On and after January 1, 2015, "all other agricultural property" includes greenhouse and nursery production areas used to grow food products, agricultural products, or horticultural stock for wholesale purposes only that originate above the ground.

(1.6)(a) "Agricultural land", whether used by the owner of the land or a lessee, means one of the following:

(I)(A) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, or that is in the process of being restored through conservation practices. Such land must have been classified or eligible for classification as "agricultural land", consistent with this subsection (1.6), during the ten years preceding the year of assessment. Such land must continue to have actual agricultural use. "Agricultural land" under this subparagraph (I) shall not include two acres or less of land on which a residential improvement is located unless the improvement is integral to an agricultural operation conducted on such land. "Agricultural land" also includes the land underlying other improvements if such improvements are an integral part of the farm or ranch and if such other improvements and the land area dedicated to such other improvements

are typically used as an ancillary part of the operation. The use of a portion of such land for hunting, fishing, or other wildlife purposes, for monetary profit or otherwise, shall not affect the classification of agricultural land. For purposes of this subparagraph (I), a parcel of land shall be "in the process of being restored through conservation practices" if: The land has been placed in a conservation reserve program established by the natural resources conservation service pursuant to 7 U.S.C. secs. 1 to 5506; or a conservation plan approved by the appropriate conservation district has been implemented for the land for up to a period of ten crop years as if the land has been placed in such a conservation reserve program.

(B) A residential improvement shall be deemed to be "integral to an agricultural operation" for purposes of sub-subparagraph (A) of this subparagraph (I) if an individual occupying the residential improvement either regularly conducts, supervises, or administers material aspects of the agricultural operation or is the spouse or a parent, grandparent, sibling, or child of the individual.

(II) A parcel of land that consists of at least forty acres, that is forest land, that is used to produce tangible wood products that originate from the productivity of such land for the primary purpose of obtaining a monetary profit, that is subject to a forest management plan, and that is not a farm or ranch, as defined in subsections (3.5) and (13.5) of this section. "Agricultural land" under this subparagraph (II) includes land underlying any residential improvement located on such agricultural land.

(III) A parcel of land that consists of at least eighty acres, or of less than eighty acres if such parcel does not contain any residential improvements, and that is subject to a perpetual conservation easement, if such land was classified by the assessor as agricultural land under subparagraph (I) or (II) of this paragraph (a) at the time such easement was granted, if the grant of the easement was to a qualified organization, if the easement was granted exclusively for conservation purposes, and if all current and contemplated future uses of the land are described in the conservation easement. "Agricultural land" under this subparagraph (III) does not include any portion of such land that is actually used for nonagricultural commercial or nonagricultural residential purposes.

(IV) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, if the owner of the land has a decreed right to appropriated water granted in accordance with article 92 of title 37, C.R.S., or a final permit to appropriated groundwater granted in accordance with article 90 of title 37, C.R.S., for purposes other than residential purposes, and water appropriated under such right or permit shall be and is used for the production of agricultural or livestock products on such land;

(V) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that has been reclassified from agricultural land to a classification other than agricultural land and that met the definition of agricultural land as set forth in subparagraphs (I) to (IV) of this paragraph (a) during the three years before the year of assessment. For purposes of this subparagraph (V), the parcel of land need not have been classified or eligible for classification as agricultural land during the ten years preceding the year of assessment as required by subparagraph (I) of this paragraph (a).

(b)(I) Except as provided in subparagraph (II) of this paragraph (b), all other agricultural property that does not meet the definition set forth in paragraph (a) of this subsection (1.6) shall be classified as all other property and shall be valued using appropriate consideration of the three approaches to appraisal based on its actual use on the assessment date.

(II) On and after January 1, 2015, "all other agricultural property" includes greenhouse and nursery production areas used to grow food products, agricultural products, or horticultural stock for wholesale purposes only that originate above the ground.

(c) An assessor must determine, based on sufficient evidence, that a parcel of land does not qualify as agricultural land, as defined in subparagraph (IV) of paragraph (a) of this subsection (1.6), before land may be changed from agricultural land to any other classification.

(d) Notwithstanding any other provision of law to the contrary, property that is used solely for the cultivation of medical marijuana shall not be classified as agricultural land.

§ 39-1-103. Actual value determined

(5)(a) The actual value of agricultural lands, exclusive of building improvements thereon, shall be determined by consideration of the earning or productive capacity of such lands during a reasonable period of time, capitalized at a rate of thirteen percent. Land that is valued as agricultural and that

becomes subject to a perpetual conservation easement shall continue to be valued as agricultural notwithstanding its dedication for conservation purposes; except that, if any portion of such land is actually used for nonagricultural commercial or nonagricultural residential purposes, that portion shall be valued according to such use.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§39-1-102. Definitions

(1.1)(a) "Agricultural and livestock products" means plant or animal products in a raw or unprocessed state that are derived from the science and art of agriculture, regardless of the use of the product after its sale and regardless of the entity that purchases the product. "Agriculture", for the purposes of this subsection (1.1), means farming, ranching, animal husbandry, and horticulture.

(b) On and after January 1, 2023, for the purposes of this subsection (1.1), "agricultural and livestock products" includes crops grown within a controlled environment agricultural facility in a raw or unprocessed state for human or livestock consumption. For the purposes of this subsection (1.1)(b), "agricultural and livestock products" does not include marijuana, as defined in section 18-18-102(18)(a), or any other nonfood crop agricultural products.

(1.3) "Agricultural equipment that is used on the farm or ranch or in a CEA facility in the production of agricultural products":

(a) Means any personal property used on a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, for planting, growing, and harvesting agricultural products or for raising or breeding livestock for the primary purpose of obtaining a monetary profit; and

(b) Includes:

(I) Any mechanical system used on the farm or ranch for the conveyance and storage of animal products in a raw or unprocessed state, regardless of whether or not such mechanical system is affixed to real property;

(II) Silviculture personal property that is designed, adapted, and used for the planting, growing, maintenance, or harvesting of trees in a raw or unprocessed state; and

(III) Any personal property within a facility, whether attached to a building or not, that is capable of being removed from the facility, and is used in direct connection with the operation of a controlled environment agricultural facility, which facility is used solely for planting, growing, or harvesting crops in a raw or unprocessed state.

(1.6)(a) "Agricultural land", whether used by the owner of the land or a lessee, means one of the following:

(I)(A) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, or that is in the process of being restored through conservation practices. Such land must have been classified or eligible for classification as "agricultural land", consistent with this subsection (1.6), during the ten years preceding the year of assessment. Such land must continue to have actual agricultural use. "Agricultural land" under this subparagraph (I) shall not include two acres or less of land on which a residential improvement is located unless the improvement is integral to an agricultural operation conducted on such land. "Agricultural land" also includes the land underlying other improvements if such improvements are an integral part of the farm or ranch and if such other improvements and the land area dedicated to such other improvements are typically used as an ancillary part of the operation. The use of a portion of such land for hunting, fishing, or other wildlife purposes, for monetary profit or otherwise, shall not affect the classification of agricultural land. For purposes of this subparagraph (I), a parcel of land shall be "in the process of being restored through conservation practices" if: The land has been placed in a conservation reserve program established by the natural resources conservation service pursuant to 7 U.S.C. secs. 1 to 5506; or a conservation plan approved by the appropriate conservation district has been implemented for the land for up to a period of ten crop years as if the land has been placed in such a conservation reserve program.

(B) A residential improvement shall be deemed to be “integral to an agricultural operation” for purposes of sub-subparagraph (A) of this subparagraph (I) if an individual occupying the residential improvement either regularly conducts, supervises, or administers material aspects of the agricultural operation or is the spouse or a parent, grandparent, sibling, or child of the individual.

(II) A parcel of land that consists of at least forty acres, that is forest land, that is used to produce tangible wood products that originate from the productivity of such land for the primary purpose of obtaining a monetary profit, that is subject to a forest management plan, and that is not a farm or ranch, as defined in subsections (3.5) and (13.5) of this section. “Agricultural land” under this subparagraph (II) includes land underlying any residential improvement located on such agricultural land.

(III) A parcel of land that consists of at least eighty acres, or of less than eighty acres if such parcel does not contain any residential improvements, and that is subject to a perpetual conservation easement, if such land was classified by the assessor as agricultural land under subparagraph (I) or (II) of this paragraph (a) at the time such easement was granted, if the grant of the easement was to a qualified organization, if the easement was granted exclusively for conservation purposes, and if all current and contemplated future uses of the land are described in the conservation easement. “Agricultural land” under this subparagraph (III) does not include any portion of such land that is actually used for nonagricultural commercial or nonagricultural residential purposes.

(IV) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, if the owner of the land has a decreed right to appropriated water granted in accordance with article 92 of title 37, C.R.S., or a final permit to appropriated groundwater granted in accordance with article 90 of title 37, C.R.S., for purposes other than residential purposes, and water appropriated under such right or permit shall be and is used for the production of agricultural or livestock products on such land;

(V) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that has been reclassified from agricultural land to a classification other than agricultural land and that met the definition of agricultural land as set forth in subparagraphs (I) to (IV) of this paragraph (a) during the three years before the year of assessment. For purposes of this subparagraph (V), the parcel of land need not have been classified or eligible for classification as agricultural land during the ten years preceding the year of assessment as required by subparagraph (I) of this paragraph (a).

(b)(I) Except as provided in subparagraph (II) of this paragraph (b), all other agricultural property that does not meet the definition set forth in paragraph (a) of this subsection (1.6) shall be classified as all other property and shall be valued using appropriate consideration of the three approaches to appraisal based on its actual use on the assessment date.

(II) On and after January 1, 2015, “all other agricultural property” includes greenhouse and nursery production areas used to grow food products, agricultural products, or horticultural stock for wholesale purposes only that originate above the ground.

(c) An assessor must determine, based on sufficient evidence, that a parcel of land does not qualify as agricultural land, as defined in subparagraph (IV) of paragraph (a) of this subsection (1.6), before land may be changed from agricultural land to any other classification.

(d) Notwithstanding any other provision of law to the contrary, property that is used solely for the cultivation of medical marijuana shall not be classified as agricultural land.

Agricultural Land Valuation Methodology

§ 39-1-103. Actual value determined

(5)(a) All real and personal property shall be appraised and the actual value thereof for property tax purposes determined by the assessor of the county wherein such property is located. The actual value of such property, other than agricultural lands exclusive of building improvements thereon and other than residential real property and other than producing mines and lands or leaseholds producing oil or gas, shall be that value determined by appropriate consideration of the cost approach, the market approach, and the income approach to appraisal. The assessor shall consider and document all elements of such approaches that are applicable prior to a determination of actual value. The actual value reflects the value of the fee simple estate. Despite any orders of the state board of equalization, no assessor shall arbitrarily increase the valuations for assessment of all parcels represented within the abstract of a county or within

a class or subclass of parcels on that abstract by a common multiple in response to the order of said board. If an assessor is required, pursuant to the order of said board, to increase or decrease valuations for assessment, such changes shall be made only upon individual valuations for assessment of each and every parcel, using each of the approaches to appraisal specified in this subsection (5)(a), if applicable. The actual value of agricultural lands, exclusive of building improvements thereon, shall be determined by consideration of the earning or productive capacity of such lands during a reasonable period of time, capitalized at a rate of thirteen percent. Land that is valued as agricultural and that becomes subject to a perpetual conservation easement shall continue to be valued as agricultural notwithstanding its dedication for conservation purposes; except that, if any portion of such land is actually used for nonagricultural commercial or nonagricultural residential purposes, that portion shall be valued according to such use. Nothing in this subsection (5) shall be construed to require or permit the reclassification of agricultural land or improvements, including residential property, due solely to subjecting the land to a perpetual conservation easement. The actual value of residential real- property shall be determined solely by consideration of the market approach to appraisal. A gross rent multiplier may be considered as a unit of comparison within the market approach to appraisal. The valuation for assessment of producing mines and of lands or leaseholds producing oil or gas shall be determined pursuant to articles 6 and 7 of this title 39.

(b) If, having considered the three approaches prescribed in paragraph (a) of this subsection (5), at the sole discretion of the assessor the use of the three approaches to value cannot accurately determine the actual value of any parcel of taxable property, or in the opinion of the assessor the application of the three approaches to value does not result in uniform, just, and equalized valuation, then the actual value thereof shall be determined by comparison of the surface use of such property with a similar surface use.

(c) Except as provided in section 39-1-102(14.4)(b) or 39-1-102(14.4)(c) and in subsections (5)(e) and (5)(f) of this section, once any property is classified for property tax purposes, it shall remain so classified until such time as its actual use changes or the assessor discovers that the classification is erroneous. The property owner shall endeavor to comply with the reasonable requests of the assessor to supply information which cannot be ascertained independently but which is necessary to determine actual use and properly classify the property when the assessor has evidence that there has been a change in the use of the property. Failure to supply such information shall not be the sole reason for reclassifying the property. Any such request for such information shall be accompanied by a notice that states that failure on the part of the property owner to supply such information will not be used as the sole reason for reclassifying the property in question. Subject to the availability of funds under the assessor's budget for such purpose, no later than May 1 of each year, the assessor shall inform each person whose property has been reclassified from agricultural land to any other classification of property of the reasons for such reclassification including, but not limited to, the basis for the determination that the actual use of the property has changed or that the classification of such property is erroneous.

(d) If a parcel of land is classified as agricultural land as defined in section 39-1-102(1.6)(a)(III) and the perpetual conservation easement is terminated, violated, or substantially modified so that the easement is no longer granted exclusively for conservation purposes, the assessor may reassess the land retroactively for a period of seven years and the additional taxes, if any, that would have been levied on the land during the seven year period prior to the termination, violation, or modification shall become due.

(e)(I) Except as provided in subparagraph (II) of this paragraph (e) and in paragraph (f) of this subsection (5), if a parcel of land is classified as agricultural land as defined in section 39-1-102(1.6) and the productivity of such parcel of land is destroyed by a natural cause on or after January 1, 2012, so that, were it not for the destruction of the productivity of the land by a natural cause, the land would have qualified as agricultural land for the following property tax year, the agricultural land classification shall remain in place for the year of destruction and the four subsequent property tax years so long as the assessor receives evidence from the owner that the owner is in the process of rehabilitating the productivity of the land for agricultural use. Such evidence includes, but is not limited to, removing debris, removing contaminants, restoring fences and agricultural structures, reseeding, providing water for livestock, or contouring the land suitable for agricultural use.

(II) The agricultural land classification of the land described in subparagraph (I) of this paragraph (e) must change according to current use if:

(A) The productivity of the land is not rehabilitated for agricultural use prior to the January 1 after the period described in subparagraph (I) of this paragraph (e), unless the property owner provides

documentary evidence to the assessor that during such period a good-faith effort was made to rehabilitate the productivity of the land for agricultural use but that additional time is necessary;

(B) The assessor determines that the classification at the time of destruction of the productivity of the land as a result of a natural cause was erroneous; or

(C) A change of use has occurred. For purposes of this sub-subparagraph (C), a change of use does not include the temporary loss of agricultural classification of the land as a result of the destruction of the productivity of the land by a natural cause.

(f)(I) Except as provided in subparagraph (II) of this paragraph (f), if a parcel of land is classified as agricultural land as defined in section 39-1-102(1.6)(a)(II) and the productivity of the parcel of land is destroyed by a natural cause on or after January 1, 2012, so that, were it not for the destruction of the productivity of the land by a natural cause, the land would have qualified as agricultural land for the following property tax year, the agricultural land classification shall remain in place notwithstanding the length of the rehabilitation period specified in subparagraph (I) of paragraph (e) of this subsection (5) so long as the owner is in compliance with an approved forest management plan and is on the list provided by the Colorado state forest service as having such a plan.

(II) The agricultural land classification of the land described in subparagraph (I) of this paragraph (f) must change according to current use if:

(A) The assessor determines that the classification at the time of destruction of the productivity of the land as a result of a natural cause was erroneous; or

(B) A change of use has occurred. For purposes of this sub-subparagraph (B), a change of use does not include the temporary loss of agricultural classification of the land as a result of the destruction of the productivity of the land by a natural cause.

§ 39-1-104. Valuation for assessment--definitions

(1.8)(a) The valuation for assessment of real and personal property that is classified as agricultural property or renewable energy production property is twenty-nine percent of the actual value thereof; except that, for property tax years commencing on January 1, 2022, January 1, 2023, and January 1, 2024, the valuation for assessment of this property is temporarily reduced to twenty-six and four-tenths percent of the actual value thereof.

Agricultural Land Exclusions

No statute.

Connecticut

Sources / Changes

**§ 12-63. (a) Rule of valuation. Depreciation schedules

§ 12-81m. Municipal option to abate up to fifty per cent of property taxes of dairy farm, fruit orchard, vegetable, nursery, nontraditional or tobacco farm or commercial lobstering business operated on maritime heritage land

§ 12-91. Exemption for farm machinery, horses or ponies. Additional optional exemption for farm buildings or buildings used for housing for seasonal employees

§ 12-107a. Declaration of policy

§ 12-107b. Definitions

**§ 12-107c. Classification of land as farm land

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 12-107c. Classification of land as farm land

(a) An owner of land may apply for its classification as farm land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether such land is farm land and, if such assessor determines that it is farm land, he or she shall classify and include it as such on the grand list. In determining whether such land is farm land, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous. The assessor shall not deny the application of an owner of land for classification of such land as farm land if such land meets the criteria for classification as farm land pursuant to this subsection. The assessor shall not deny the application for any portion of such land on account of any minimum acreage requirement for residential parcels or agricultural use established under municipal zoning regulations.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 12-107b. Definitions

When used in sections 12-107a to 12-107e, inclusive, and 12-107g:

(1) The term "farm land" means any tract or tracts of land, including woodland and wasteland and any underwater farmlands used for aquaculture, constituting a farm unit

Agricultural Land Valuation Methodology

§ 12-63. (a) Rule of valuation. Depreciation schedules

(a) The present true and actual value of land classified as farm land pursuant to section 12-107c, as forest land pursuant to section 12-107d, as open space land pursuant to section 12-107e, or as maritime heritage land pursuant to section 12-107g shall be based upon its current use without regard to neighborhood land use of a more intensive nature, provided in no event shall the present true and actual value of open space land be less than it would be if such open space land comprised a part of a tract or tracts of land classified as farm land pursuant to section 12-107c. The present true and actual value of all other property shall be deemed by all assessors and boards of assessment appeals to be the fair market value thereof and not its value at a forced or auction sale.

§ 12-81m. Municipal option to abate up to fifty per cent of property taxes of dairy farm, fruit orchard, vegetable, nursery, nontraditional or tobacco farm or commercial lobstering business operated on maritime heritage land

A municipality may, by vote of its legislative body or, in a municipality where the legislative body is a town meeting, by vote of the board of selectmen, and by vote of its board of finance, abate up to fifty per cent of the property taxes of any of the following properties provided such property is maintained as a business: (1) Dairy farm, (2) fruit orchard, including a vineyard for the growing of grapes for wine, (3) vegetable farm, (4) nursery farm, (5) any farm which employs nontraditional farming methods, including, but not limited to, hydroponic farming, (6) tobacco farms, or (7) commercial lobstering businesses operated on maritime heritage land, as defined in section 12-107b. Such a municipality may also establish a recapture in the event of sale provided such recapture shall not exceed the original amount of taxes abated and may not go back further than ten years. For purposes of this section, the municipality may

include in the abatement for such fruit orchard any building for seasonal residential use by workers in such orchard which is adjacent to the fruit orchard itself, but shall not include any residence of the person receiving such abatement.

§ 12-91. Exemption for farm machinery, horses or ponies. Additional optional exemption for farm buildings or buildings used for housing for seasonal employees

(a) All farm machinery, except motor vehicles, as defined in section 14-1, to the assessed value of one hundred thousand dollars, any horse or pony which is actually and exclusively used in farming, as defined in section 1-1, when owned and kept in this state by, or when held in trust for, any farmer or group of farmers operating as a unit, a partnership or a corporation, a majority of the stock of which corporation is held by members of a family actively engaged in farm operations, shall be exempt from local property taxation; provided each such farmer, whether operating individually or as one of a group, partnership or corporation, shall qualify for such exemption in accordance with the standards set forth in subsection (d) of this section for the assessment year for which such exemption is sought. Only one such exemption shall be allowed to each such farmer, group of farmers, partnership or corporation. Subdivision (38) of section 12-81 shall not apply to any person, group, partnership or corporation receiving the exemption provided for in this subsection.

(b) Any municipality, upon approval by its legislative body, may provide an additional exemption from property tax for such machinery to the extent of an additional assessed value of one hundred thousand dollars. Any such exemption shall be subject to the same limitations as the exemption provided under subsection (a) of this section and the application and qualification process provided in subsection (d) of this section.

(c) Any municipality, upon approval by its legislative body, may provide an exemption from property tax for any building used actually and exclusively in farming, as defined in section 1-1, or for any building used to provide housing for seasonal employees of such farmer. The municipality shall establish the amount of such exemption from the assessed value, provided such amount may not exceed one hundred thousand dollars with respect to each eligible building. Such exemption shall not apply to the residence of such farmer and shall be subject to the application and qualification process provided in subsection (d) of this section.

(d) Annually, on or before the first day of November or the extended filing date granted by the assessor pursuant to section 12-42, each such individual farmer, group of farmers, partnership or corporation shall make written application for the exemption provided for in subsection (a) of this section to the assessor or board of assessors in the town in which such farm is located, including therewith a notarized affidavit certifying that such farmer, individually or as part of a group, partnership or corporation, derived at least fifteen thousand dollars in gross sales from such farming operation, or incurred at least fifteen thousand dollars in expenses related to such farming operation, with respect to the most recently completed taxable year of such farmer prior to the commencement of the assessment year for which such application is made, on forms to be prescribed by the Commissioner of Agriculture. Failure to file such application in said manner and form on or before the first day of November shall be considered a waiver of the right to such exemption for the assessment year. Any person aggrieved by any action of the assessors shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of the assessors or board of assessment appeals.

§ 12-107a. Declaration of policy

It is hereby declared (1) that it is in the public interest to encourage the preservation of farm land, forest land, open space land and maritime heritage land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state, (2) that it is in the public interest to prevent the forced conversion of farm land, forest land, open space land and maritime heritage land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land, forest land, open space land and maritime heritage land, and (3) that the necessity in the public interest of the enactment of the provisions of sections 12-107b to 12-107e, inclusive, 12-107g and 12-504f is a matter of legislative determination.

§ 12-107c. Classification of land as farm land

(a) An owner of land may apply for its classification as farm land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether such land is farm land and, if such assessor determines that it is farm land, he or she shall classify and include it as such on the grand list. In determining whether such land is farm land, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous. The assessor shall not deny the application of an owner of land for classification of such land as farm land if such land meets the criteria for classification as farm land pursuant to this subsection. The assessor shall not deny the application for any portion of such land on account of any minimum acreage requirement for residential parcels or agricultural use established under municipal zoning regulations.

(b) An application for classification of land as farm land shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504f, inclusive, and such other information as the assessor may require to aid the assessor in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as farm land within the time limit prescribed in subsection (a) and in the manner and form prescribed in subsection (b) shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial of any application for the classification of land as farm land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

Agricultural Land Exclusions

No statute.

Delaware

Sources / Changes

§ 8328. Purpose
§ 8329. Valuation of agricultural, horticultural and forest land use
§ 8330. Agricultural use land
**§ 8333. Criteria for agricultural, horticultural, or forestry land use
**§ 8334. Eligibility for valuation under §§ 8330-8337
§ 8335. Assessment procedures
§ 8336. Annual review
§ 8337. State Farmland Evaluation Advisory Committee

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 8335. Assessment procedures

(d) When land in agricultural use and being valued, assessed and taxed under the provisions of this chapter, is applied to a use other than agriculture, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would

have been paid or payable had the land been valued, assessed and taxed as other land in the taxing district, in the current tax year immediately preceding, in which the land was valued, assessed and taxed hereunder.

(1) If in the tax year in which a change in use of land occurs the land was not valued, assessed and taxed under this chapter, then such land shall be subject to roll-back taxes in the following manner. If the change of the use of land occurs prior to January 1, 1996, then such land shall be subject to roll-back taxes for the 5 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1996, and December 31, 1996, then such land shall be subject to roll-back taxes for the 6 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1997, and December 31, 1997, then such land shall be subject to roll-back taxes for the 7 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1998, and December 31, 1998, then such land will be subject to roll-back taxes for the 8 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1999, and December 31, 1999, then such land shall be subject to roll-back taxes for the 9 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs on January 1, 2000, or thereafter, then such land shall be subject to roll-back taxes for the 10 tax years immediately preceding in which the land was valued, assessed and taxed hereunder.

(2) In determining the amounts of the roll-back taxes chargeable on land which has undergone a change in use, the assessor shall for each of the roll-back tax years involved, ascertain:

- a. The full and fair value of such land under the valuation standard applicable to other land in the taxing district;
- b. The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined by the assessing authority; and
- c. The amount of the roll-back tax for that tax year by multiplying the amount of the additional assessment determined under paragraph (d)(2)b. of this section by the general property tax rate of the taxing district applicable for that tax year.

(3) Roll-back taxes as provided herein shall become payable when the land is applied to a use other than agricultural, horticultural or forestry. The terms "applied to a use other than agriculture" and "change in use" for purposes of this subsection shall include any of the following:

- a. The actual use of the land for an activity other than agricultural, horticultural or forestry;
- b. The rezoning of the land to a nonagricultural category;
- c. The approval of a site plan or issuance of a certificate of occupancy which allows for a nonagricultural usage; and
- d. The loss of eligibility for valuation under §§ 8330-8337 of this title.

(4) Notwithstanding anything in this chapter to the contrary, whenever land in agricultural use is applied to a use other than agriculture, and such land is but a portion of a larger tract of land, the remainder of which continues in agricultural use, roll-back taxes as provided herein shall become payable only with respect to the portion of the land which is applied to a use other than agricultural, and the remainder of the land which continues in agricultural use shall remain eligible for valuation under §§ 8330-8337 of this title, provided the criteria for land use set forth under § 8333 of this title continue to be satisfied. The owner of the land which continues in agricultural use shall not be required to apply for eligibility for valuation, and the burden for establishing ineligibility shall rest with the assessing authority.

(5) Roll-back taxes hereunder shall be paid within 90 days of their due date, and payment thereafter shall include a penalty of 6 percent of the amount due for the first month thereafter, and 1 percent of the amount due for each consecutive month until payment is made. The amount due for roll-back tax shall become a lien on the land which was subject to a change in use or applied to a use other than agriculture as of the due date. The school tax component of the roll-back tax shall be paid to the respective school districts which established the tax rates applicable to the lands through a payment first to the appropriate county receiver of taxes, treasurer or director of finance, who collects school taxes. The balance of the roll-back tax shall, when collected by the appropriate county receiver of taxes, treasurer or director of finance, be paid to the Delaware Agricultural Lands Preservation Foundation; provided, however, that 7 ½ percent of such balance shall be withheld and paid to the county as a charge for administration. For purposes of this paragraph, the due date shall be the earlier of the date following conversion under

paragraph (d)(3) of this section which is established by the respective counties for annual taxes or the date indicated by the county in any special billing for roll-back taxes.

(6) When land in agricultural use and being valued, assessed and taxed under the provisions of this chapter, is acquired for public use by State agencies, whether by condemnation, gift or purchase, and is then applied to a use other than agriculture, that portion of the land which is applied to such other use shall be subject to a payment by the agency in lieu of roll-back taxes, to be paid to the Delaware Agricultural Lands Preservation Foundation. The amount of this payment in lieu shall be determined as if it were the roll-back tax chargeable under this section for the tax year in which the land was acquired by the agency, or the tax year in which the land is applied to such other use, whichever is greater, after first deducting the school tax component of the roll-back tax chargeable for that year. This payment shall be made directly by the agency to the Foundation, after obtaining the assessment information from the appropriate county receiver of taxes, treasurer or director of finance, and shall not be subject to any charge for administration by the county. In all other respects, the land so acquired for such public use shall not be assessed or charged for roll-back or other property taxes by any county, school district or other political subdivision.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 8333. Criteria for agricultural, horticultural, or forestry land use

(a) Land is actively devoted to agricultural, horticultural, or forestry use when all of the following criteria are met:

- (1) The use results in \$1,000 or more of agricultural, horticultural, or forestry products being produced and sold during the applicable year. For the purposes of this section, "applicable year" means the calendar year immediately before the February 1 that an application is due under § 8334(3) of this title.
- (2) The owner of the land filed a Schedule F (Profit or Loss from Farming) form with the United States Department of Treasury, Internal Revenue Service, for the applicable year.

(b) In applying the criteria under this section, all contiguous parcels of land held by identical owners in identical proportions of ownership and in identical legal form of title, are considered as a single unit.

§ 8334. Eligibility for valuation under §§ 8330-8337

Land is actively devoted to agricultural, horticultural or forest use and eligible for valuation, assessment, and taxation as provided in this section when it meets all of the following qualifications:

- (1) The land use meets the criteria under § 8333 of this title.
- (2) Repealed by 83 Laws 2022, ch. 384, § 2.
- (3) The owner of the land submits an application for valuation under this section and the application meets all of the following:
 - a. Is submitted on or before February 1 of the year immediately preceding the tax year to the assessor of the taxing district in which the land is situated. If February 1 falls on a weekend day or legal holiday, then the application must be submitted on the next official business day.
 - b. Is submitted on the form prescribed by the State Farmland Evaluation Advisory Committee.
 - c. Includes evidence in writing of the required production and sales.

Agricultural Land Valuation Methodology

§ 8328. Purpose

It is declared that it is in the public interest to:

- (1) Encourage the preservation of farm land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the State, to conserve the State's natural resources and to provide for the welfare and happiness of the inhabitants of the State;
- (2) Prevent the forced conversion of farm land and forest land to more intensive uses as a result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land and forest land; and

(3) That the necessity of the enactment of the provisions of this section is a matter of legislative determination.

§ 8329. Valuation of agricultural, horticultural and forest land use

For general property tax purposes including school tax purposes, the value of land which is actively devoted to agricultural, horticultural or forest use and which has been so devoted for at least the 2 successive years immediately preceding the tax year in issue, shall, on application of the owner, and approval thereof as provided in this section, be that value which such lands have for agricultural, horticultural or forest use; provided, that in the case of school taxes where such land is located in a public school district situated in 2 counties, the value of such land shall be that value arrived at by multiplying the value determined hereunder by the lower of the 2 general percentage rates of assessment in force in such counties for the tax year in issue.

§ 8330. Agricultural use land

Land shall be deemed to be in agricultural use when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

§ 8331. Horticultural use land

Land shall be deemed to be in horticultural use when devoted to the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

§ 8335. Assessment procedures

(a) The assessor in valuing land which qualifies as land actively devoted to agricultural, horticultural or forestry use under the tests prescribed by this section, and as to which the owner thereof has made timely application for valuation, assessment and taxation under this section for the tax year in issue, shall consider only those indicia of value of such land as established by the State Farmland Evaluation Advisory Committee.

(b) In determining the total area of land actively devoted to agricultural, horticultural or forest use there shall be included the area of all land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities, but land under, and such additional land as may be actually used in connection with the farmhouse, shall be excluded in determining such total area.

(c) All structures which are located on land in agricultural, horticultural or forest use and the farmhouse and the land on which the farmhouse is located, together with the additional land used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other land in the taxing district.

§ 8336. Annual review

(a) Eligibility of land for valuation, assessment and taxation under this section shall be determined for each tax year separately. Application shall be submitted by the owner to the assessor of the taxing district in which such land is situated on or before February 1 of the year immediately preceding the tax year for which such valuation, assessment and taxation are sought; provided however, that unless the eligibility of land under this section changes, those applications which have met the provisions to qualify under this chapter shall be automatically renewed without the owner having to apply annually. With respect to new applications, eligibility of the land for valuation, assessment and taxation under this section shall be conditioned upon advance execution by the landowner of a certification, in recordable form, as provided by the Delaware Agricultural Lands Preservation Foundation, which certification indicates that a roll-back tax is due and payable to the school districts and the Foundation under the provisions of § 8335(d) of this

title at such time that the land is subjected to a change in use or applied to a use other than agricultural, horticultural or forestry, as such terms are defined, and that a failure to pay the roll-back tax when due results in the imposition of a lien on the land for nonpayment.

(b)(1) If the eligibility of land under this section changes the owner shall on or before February 1, of the following year in which the eligibility of the land changes, notify the assessing authority in the taxing district, in writing, of the change in land use.

(2) Any owner who fails to properly notify the assessing authority in the tax district of the change in land use shall be assessed a penalty for such failure in an amount of 20% of the rollback taxes recoverable against the property, which penalty shall be collected by the taxing district.

§ 8337. State Farmland Evaluation Advisory Committee

(a) There is created a State Farmland Evaluation Advisory Committee, consisting of 3 members. One member shall be the Dean of the College of Agricultural Sciences of the University of Delaware; 1 member shall be appointed by the Governor from a list of 3 eligible citizens, which list shall be supplied the Governor by the Executive Committee of the Delaware State Grange; and 1 member shall be appointed by the Governor from a list of 3 eligible citizens, which list shall be supplied the Governor by the Executive Committee of the Delaware Farm Bureau. No more than 2 members of the Committee shall be of the same political party. Each member shall be a citizen of this State and shall be appointed for a term of 3 years beginning on the 1st day of July in the year of appointment. Vacancies for any cause other than the expiration of term shall be filled by the Governor for the unexpired term.

(b) The Committee shall meet from time to time on the call of the Dean of the College of Agricultural Sciences and annually determine and publish a range of values for each of the several classifications of land in agricultural, horticultural or forest use in the various areas of the State. The primary objective of the Committee shall be the determination of the ranges in fair value of such land based upon its productive capabilities when devoted to agricultural, horticultural or forest uses. In making these annual determinations of value, the Committee shall consider available evidence of agricultural, horticultural or forest capability derived from the soil survey and such other evidence of value of land devoted exclusively to agricultural, horticultural or forest uses as it may in its judgment deem pertinent. On or before February 1 of each year, the Committee shall make these ranges of fair value available to the assessing authority in each of the taxing districts in which land in agricultural, horticultural and forest use is located. The Committee shall review at least every 2 years the formula, method or system being utilized to determine the ranges of fair values for agricultural, horticultural and forestry land and make such changes and revisions as are required to insure that the objectives of this section are met. The formula used by the Committee shall be based on not less than the preceding 20 years of land values.

Agricultural Land Exclusions

No statute.

Florida

Sources / Changes

193.461. Agricultural lands; classification and assessment; mandated eradication or quarantine program; natural disasters

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

193.461. Agricultural lands; classification and assessment; mandated eradication or quarantine program; natural disasters

b) Subject to the restrictions specified in this section, only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land.

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been so used.
- b. Whether the use has been continuous.
- c. The purchase price paid.
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
- f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- g. Such other factors as may become applicable.

(4) The property appraiser shall reclassify the following lands as nonagricultural:

(a) Land diverted from an agricultural to a nonagricultural use.

(b) Land no longer being utilized for agricultural purposes.

(5) For the purpose of this section, the term "agricultural purposes" includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture as defined in s. 597.0015; algaculture; sod farming; and all forms of farm products as defined in s. 823.14(3) and farm production.

(6)(a) In years in which proper application for agricultural assessment has been made and granted pursuant to this section, the assessment of land shall be based solely on its agricultural use. The property appraiser shall consider the following use factors only:

1. The quantity and size of the property;
2. The condition of the property;
3. The present market value of the property as agricultural land;
4. The income produced by the property;
5. The productivity of land in its present use;
6. The economic merchantability of the agricultural product; and
7. Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

193.461. Agricultural lands; classification and assessment; mandated eradication or quarantine program; natural disasters

b) Subject to the restrictions specified in this section, only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land.

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been so used.
- b. Whether the use has been continuous.
- c. The purchase price paid.
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.

- f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- g. Such other factors as may become applicable.

Agricultural Land Valuation Methodology

193.461. Agricultural lands; classification and assessment; mandated eradication or quarantine program; natural disasters

(1) The property appraiser shall, on an annual basis, classify for assessment purposes all lands within the county as either agricultural or nonagricultural.

(2) Any landowner whose land is denied agricultural classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of agricultural classification on or before July 1 of the year for which the application was filed. The notification shall advise the landowner of his or her right to appeal to the value adjustment board and of the filing deadline. The property appraiser shall have available at his or her office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

(3)(a) Lands may not be classified as agricultural lands unless a return is filed on or before March 1 of each year. Before classifying such lands as agricultural lands, the property appraiser may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that such lands were actually used for a bona fide agricultural purpose. Failure to make timely application by March 1 constitutes a waiver for 1 year of the privilege granted in this section for agricultural assessment. However, an applicant who is qualified to receive an agricultural classification who fails to file an application by March 1 must file an application for the classification with the property appraiser on or before the 25th day after the mailing by the property appraiser of the notice required under s. 194.011(1). Upon receipt of sufficient evidence, as determined by the property appraiser, that demonstrates that the applicant was unable to apply for the classification in a timely manner or that otherwise demonstrates extenuating circumstances that warrant the granting of the classification, the property appraiser may grant the classification. If the applicant files an application for the classification and fails to provide sufficient evidence to the property appraiser as required, the applicant may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the classification be granted. The petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding s. 194.013, the applicant must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the classification and demonstrates particular extenuating circumstances judged by the value adjustment board to warrant granting the classification, the value adjustment board may grant the classification for the current year. The owner of land that was classified agricultural in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. The lessee of property may make original application or reapply using the short form if the lease, or an affidavit executed by the owner, provides that the lessee is empowered to make application for the agricultural classification on behalf of the owner and a copy of the lease or affidavit accompanies the application. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted by the property appraiser. Such waiver may be revoked by a majority vote of the governing body of the county.

(b) Subject to the restrictions specified in this section, only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land.

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been so used.
- b. Whether the use has been continuous.
- c. The purchase price paid.
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.

e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.

f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.

g. Such other factors as may become applicable.

2. Offering property for sale does not constitute a primary use of land and may not be the basis for denying an agricultural classification if the land continues to be used primarily for bona fide agricultural purposes while it is being offered for sale.

(c) The maintenance of a dwelling on part of the lands used for agricultural purposes does not in itself preclude an agricultural classification.

(d) When property receiving an agricultural classification contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage must be assessed separately, pursuant to s. 193.011, to qualify for the assessment limitation set forth in s. 193.155. The remaining property may be classified under the provisions of paragraphs (a) and (b).

(e) Notwithstanding the provisions of paragraph (a), land that has received an agricultural classification from the value adjustment board or a court of competent jurisdiction pursuant to this section is entitled to receive such classification in any subsequent year until such agricultural use of the land is abandoned or discontinued, the land is diverted to a nonagricultural use, or the land is reclassified as nonagricultural pursuant to subsection (4). The property appraiser must, no later than January 31 of each year, provide notice to the owner of land that was classified agricultural in the previous year informing the owner of the requirements of this paragraph and requiring the owner to certify that neither the ownership nor the use of the land has changed. The department shall, by administrative rule, prescribe the form of the notice to be used by the property appraiser under this paragraph. If a county has waived the requirement that an annual application or statement be made for classification of property pursuant to paragraph (a), the county may, by a majority vote of its governing body, waive the notice and certification requirements of this paragraph and shall provide the property owner with the same notification provided to owners of land granted an agricultural classification by the property appraiser. Such waiver may be revoked by a majority vote of the county's governing body. This paragraph does not apply to any property if the agricultural classification of that property is the subject of current litigation.

(4) The property appraiser shall reclassify the following lands as nonagricultural:

(a) Land diverted from an agricultural to a nonagricultural use.

(b) Land no longer being utilized for agricultural purposes.

(5) For the purpose of this section, the term "agricultural purposes" includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture as defined in s. 597.0015; algaculture; sod farming; and all forms of farm products as defined in s. 823.14(3) and farm production.

(6)(a) In years in which proper application for agricultural assessment has been made and granted pursuant to this section, the assessment of land shall be based solely on its agricultural use. The property appraiser shall consider the following use factors only:

1. The quantity and size of the property;

2. The condition of the property;

3. The present market value of the property as agricultural land;

4. The income produced by the property;

5. The productivity of land in its present use;

6. The economic merchantability of the agricultural product; and

7. Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.

(b) Notwithstanding any provision relating to annual assessment found in s. 192.042, the property appraiser shall rely on 5-year moving average data when utilizing the income methodology approach in an assessment of property used for agricultural purposes.

(c) 1. For purposes of the income methodology approach to assessment of property used for agricultural purposes, irrigation systems, including pumps and motors, physically attached to the land shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.

2. Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms shall be assessed by the methodology described in subparagraph 1.

3. Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the Department of Agriculture and Consumer Services pursuant to s. 570.93 or s. 403.067(7)(c), shall be assessed by the methodology described in subparagraph 1.

4. Screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements shall be assessed by the methodology described in subparagraph 1.

(d) In years in which proper application for agricultural assessment has not been made, the land shall be assessed under the provisions of s. 193.011.

(7)(a) Lands classified for assessment purposes as agricultural lands which are taken out of production by a state or federal eradication or quarantine program, including the Citrus Health Response Program, shall continue to be classified as agricultural lands for 5 years after the date of execution of a compliance agreement between the landowner and the Department of Agriculture and Consumer Services or a federal agency, as applicable, pursuant to such program or successor programs. Lands under these programs which are converted to fallow or otherwise nonincome-producing uses shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to \$50 per acre on a single-year assessment methodology while fallow or otherwise used for nonincome-producing purposes. Lands under these programs which are replanted in citrus pursuant to the requirements of the compliance agreement shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to \$50 per acre, on a single-year assessment methodology, during the 5-year term of agreement. However, lands converted to other income-producing agricultural uses permissible under such programs shall be assessed pursuant to this section. Land under a mandated eradication or quarantine program which is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.

(b) Lands classified for assessment purposes as agricultural lands that participate in a dispersed water storage program pursuant to a contract with the Department of Environmental Protection or a water management district which requires flooding of land shall continue to be classified as agricultural lands for the duration of the inclusion of the lands in such program or successor programs and shall be assessed as nonproductive agricultural lands. Land that participates in a dispersed water storage program that is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.

(c) Lands classified for assessment purposes as agricultural lands which are not being used for agricultural production as a result of a natural disaster for which a state of emergency is declared pursuant to s. 252.36, when such disaster results in the halting of agricultural production, must continue to be classified as agricultural lands for 5 years after termination of the emergency declaration. However, if such lands are diverted from agricultural use to nonagricultural use during or after the 5-year recovery period, such lands must be assessed under s. 193.011. This paragraph applies retroactively to natural disasters that occurred on or after July 1, 2017.

(8) Lands classified for assessment purposes as agricultural lands, which are not being used for agricultural production due to a hurricane that made landfall in this state during calendar year 2017, must continue to be classified as agricultural lands for assessment purposes through December 31, 2022, unless the lands are converted to a nonagricultural use. Lands converted to nonagricultural use are not covered by this subsection and must be assessed as otherwise provided by law.

Agricultural Land Exclusions

No statute.

Georgia

Sources / Changes

****§ 48-5-7 Assessment of tangible property**

§ 48-5-7.1. Preferential assessment of tangible real property devoted to bona fide agricultural purposes

****§ 48-5-7.4. Current use valuation and taxation of bona fide conservation use property and bona fide residential transitional property**

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 48-5-7.1. Preferential assessment of tangible real property devoted to bona fide agricultural purposes

(e) No property shall maintain its eligibility for preferential assessment unless a valid covenant remains in effect and unless the property is continuously devoted to bona fide agricultural purposes during the entire period of the covenant.

§ 48-5-7.4. Current use valuation and taxation of bona fide conservation use property and bona fide residential transitional property

(a) For purposes of this article, the term “bona fide conservation use property” means property described in and meeting the requirements of paragraph (1) or (2) of this subsection, as follows:

(1) Not more than 2,000 acres of tangible real property of a single person, the primary purpose of which is any good faith production, including but not limited to subsistence farming or commercial production, from or on the land of agricultural products or timber, subject to the following qualifications:

(A) Such property includes the value of tangible property permanently affixed to the real property which is directly connected to such owner's production of agricultural products or timber and which is devoted to the storage and processing of such agricultural products or timber from or on such real property;

(A.1) In the application of the limitation contained in the introductory language of this paragraph, the following rules shall apply to determine beneficial interests in bona fide conservation use property held in a family owned farm entity as described in division (1)(C)(iv) of this subsection:

(i) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection shall be considered to own only the percent of the bona fide conservation use property held by such family owned farm entity that is equal to the percent interest owned by such person in such family owned farm entity; and

(ii) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection may elect to allocate the lesser of any unused portion of such person's 2,000 acre limitation or the product of such person's percent interest in the family owned farm entity times the total number of acres owned by the family owned farm entity subject to such bona fide conservation use assessment, with the result that the family owned farm entity may receive bona fide conservation use assessment on more than 2,000 acres;

(B) Such property excludes the entire value of any residence and its underlying property; as used in this subparagraph, the term “underlying property” means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less. The board of tax assessors shall not require a recorded plat or survey to set the boundaries of the underlying property. This provision for excluding the underlying property of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant on or after May 1, 2012;

(C) Except as otherwise provided in division (vii) of this subparagraph, such property must be owned by:

(i) One or more natural or naturalized citizens;

(ii) An estate of which the devisees or heirs are one or more natural or naturalized citizens;

(iii) A trust of which the beneficiaries are one or more natural or naturalized citizens;

- (iv) A family owned farm entity, such as a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, except that, solely with respect to a family limited partnership, a corporation, limited partnership, limited corporation, or limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5 percent interest in such family limited partnership, an estate of which the devisees or heirs are one or more natural or naturalized citizens, a trust of which the beneficiaries are one or more natural or naturalized citizens, or an entity created by the merger or consolidation of two or more entities which independently qualify as a family owned farm entity, and which family owned farm entity derived 80 percent or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility;
- (v) A bona fide nonprofit organization designated under Section 501(c)(3) of the Internal Revenue Code;
- (vi) A bona fide club organized for pleasure, recreation, and other non-profitable purposes; or
- (vii) In the case of constructed storm-water wetlands, any person may own such property;
- (D) Factors which may be considered in determining if such property is qualified may include, but not be limited to:
 - (i) The nature of the terrain;
 - (ii) The density of the marketable product on the land;
 - (iii) The past usage of the land;
 - (iv) The economic merchantability of the agricultural product; and
 - (v) The utilization or nonutilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof;
- (E) Such property shall, if otherwise qualified, include, but not be limited to, property used for:
 - (i) Raising, harvesting, or storing crops;
 - (ii) Feeding, breeding, or managing livestock or poultry;
 - (iii) Producing plants, trees, fowl, or animals, including without limitation the production of fish or wildlife by maintaining not less than ten acres of wildlife habitat either in its natural state or under management, which shall be deemed a type of agriculture; provided, however, that no form of commercial fishing or fish production shall be considered a type of agriculture; or
 - (iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products; and
- (F) The primary purpose described in this paragraph includes land conservation and ecological forest management in which commercial production of wood and wood fiber products may be undertaken primarily for conservation and restoration purposes rather than financial gain; or
- ...
- (p) The following shall not constitute a breach of a covenant:
 - (6) Allowing all or part of the property subject to the covenant on which a corn crop is grown to be used for the purpose of constructing and operating a maze so long as the remainder of such corn crop is harvested;
 - (7)(A) Allowing all or part of the property subject to the covenant to be used for agritourism purposes.
 - (B) As used in this paragraph, the term "agritourism" means charging admission for persons to visit, view, or participate in the operation of a farm or dairy or production of farm or dairy products for entertainment or educational purposes or selling farm or dairy products to persons who visit such farm or dairy;
 - (8) Allowing all or part of the property which has been subject to a covenant for at least one year to be used as a site for farm weddings;
 - (9) Allowing all or part of the property which has been subject to a covenant for at least one year to be used to host not for profit equestrian performance events to which spectator admission is not contingent upon an admission fee but which may charge an entry fee from each participant;
 - (10) Allowing all or part of the property subject to the covenant to be used to host a not for profit rodeo event to which spectator admission and participant entry fees are charged in an amount that in aggregate does not exceed the cost of hosting such event;

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 48-5-7.1. Preferential assessment of tangible real property devoted to bona fide agricultural purposes

(a) For purposes of this article, the term “tangible real property which is devoted to bona fide agricultural purposes”:

(1) Is tangible real property, the primary use of which is good faith commercial production from or on the land of agricultural products, including horticultural, floricultural, forestry, dairy, livestock, poultry, and apiarian products and all other forms of farm products; but

(2) Includes only the value which is \$100,000.00 or less of the fair market value of tangible real property which is devoted to the storage or processing of agricultural products from or on the property; and

(3) Excludes the entire value of any residence located on the property.

(b) No property shall qualify for the preferential ad valorem property tax assessment provided for in subsection (b) of Code Section 48-5-7 unless:

(1) It is owned by one or more natural or naturalized citizens; or

(2) It is owned by a family-farm corporation, the controlling interest of which is owned by individuals related to each other within the fourth degree by civil reckoning, and such corporation derived 80 percent or more of its gross income for the year immediately preceding the year in which application for preferential assessment is made from bona fide agricultural pursuits carried out on tangible real property located in this state, which property is devoted to bona fide agricultural purposes.

(c) No property shall qualify for said preferential assessment if such assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving in any tax year any benefit of preferential assessment as to more than 2,000 acres. If any taxpayer has any beneficial interest in more than 2,000 acres of tangible real property which is devoted to bona fide agricultural purposes, such taxpayer shall apply for preferential assessment only as to 2,000 acres of such land.

(d) No property shall qualify for preferential assessment unless and until the owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in bona fide agricultural purposes for a period of at least ten years beginning on the first day of January of the year in which such property qualifies for preferential assessment and ending on the last day of December of the tenth year of the covenant period. After the expiration of any ten-year covenant period, the property shall not qualify for further preferential assessment until and unless the owner of the property enters into a renewal covenant for an additional period of ten years.

(e) No property shall maintain its eligibility for preferential assessment unless a valid covenant remains in effect and unless the property is continuously devoted to bona fide agricultural purposes during the entire period of the covenant.

§ 48-5-7.4. Current use valuation and taxation of bona fide conservation use property and bona fide residential transitional property

(a) For purposes of this article, the term “bona fide conservation use property” means property described in and meeting the requirements of paragraph (1) or (2) of this subsection, as follows:

(1) Not more than 2,000 acres of tangible real property of a single person, the primary purpose of which is any good faith production, including but not limited to subsistence farming or commercial production, from or on the land of agricultural products or timber, subject to the following qualifications:

(A) Such property includes the value of tangible property permanently affixed to the real property which is directly connected to such owner's production of agricultural products or timber and which is devoted to the storage and processing of such agricultural products or timber from or on such real property;

(A.1) In the application of the limitation contained in the introductory language of this paragraph, the following rules shall apply to determine beneficial interests in bona fide conservation use property held in a family owned farm entity as described in division (1)(C)(iv) of this subsection:

(i) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection shall be considered to own only the percent of the bona fide conservation use property held by

such family owned farm entity that is equal to the percent interest owned by such person in such family owned farm entity; and

(ii) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection may elect to allocate the lesser of any unused portion of such person's 2,000 acre limitation or the product of such person's percent interest in the family owned farm entity times the total number of acres owned by the family owned farm entity subject to such bona fide conservation use assessment, with the result that the family owned farm entity may receive bona fide conservation use assessment on more than 2,000 acres;

(B) Such property excludes the entire value of any residence and its underlying property; as used in this subparagraph, the term "underlying property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less. The board of tax assessors shall not require a recorded plat or survey to set the boundaries of the underlying property. This provision for excluding the underlying property of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant on or after May 1, 2012;

(C) Except as otherwise provided in division (vii) of this subparagraph, such property must be owned by:

(i) One or more natural or naturalized citizens;

(ii) An estate of which the devisees or heirs are one or more natural or naturalized citizens;

(iii) A trust of which the beneficiaries are one or more natural or naturalized citizens;

(iv) A family owned farm entity, such as a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, except that, solely with respect to a family limited partnership, a corporation, limited partnership, limited corporation, or limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5 percent interest in such family limited partnership, an estate of which the devisees or heirs are one or more natural or naturalized citizens, a trust of which the beneficiaries are one or more natural or naturalized citizens, or an entity created by the merger or consolidation of two or more entities which independently qualify as a family owned farm entity, and which family owned farm entity derived 80 percent or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility;

(v) A bona fide nonprofit organization designated under Section 501(c)(3) of the Internal Revenue Code;

(vi) A bona fide club organized for pleasure, recreation, and other nonprofitable purposes; or

(vii) In the case of constructed storm-water wetlands, any person may own such property;

(D) Factors which may be considered in determining if such property is qualified may include, but not be limited to:

(i) The nature of the terrain;

(ii) The density of the marketable product on the land;

(iii) The past usage of the land;

(iv) The economic merchantability of the agricultural product; and

(v) The utilization or nonutilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof;

(E) Such property shall, if otherwise qualified, include, but not be limited to, property used for:

(i) Raising, harvesting, or storing crops;

(ii) Feeding, breeding, or managing livestock or poultry;

(iii) Producing plants, trees, fowl, or animals, including without limitation the production of fish or wildlife by maintaining not less than ten acres of wildlife habitat either in its natural state or under management, which shall be deemed a type of agriculture; provided, however, that no form of commercial fishing or fish production shall be considered a type of agriculture; or

(iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products; and

(F) The primary purpose described in this paragraph includes land conservation and ecological forest management in which commercial production of wood and wood fiber products may be undertaken primarily for conservation and restoration purposes rather than financial gain; or

(2) Not more than 2,000 acres of tangible real property, excluding the value of any improvements thereon, of a single owner of the types of environmentally sensitive property specified in this paragraph and certified as such by the Department of Natural Resources, if the primary use of such property is its maintenance in its natural condition or controlling or abating pollution of surface or ground waters of this state by storm-water runoff or otherwise enhancing the water quality of surface or ground waters of this state and if such owner meets the qualifications of subparagraph (C) of paragraph (1) of this subsection:

(A) Environmentally sensitive areas, including any otherwise qualified land area 1,000 feet or more above the lowest elevation of the county in which such area is located that has a percentage slope, which is the difference in elevation between two points 500 feet apart on the earth divided by the horizontal distance between those two points, of 25 percent or greater and shall include the crests, summits, and ridge tops which lie at elevations higher than any such area;

(B) Wetland areas that are determined by the United States Army Corps of Engineers to be wetlands under their jurisdiction pursuant to Section 404 of the federal Clean Water Act,¹ as amended, or wetland areas that are depicted or delineated on maps compiled by the Department of Natural Resources or the United States Fish and Wildlife Service pursuant to its National Wetlands Inventory Program;

(C) Significant ground-water recharge areas as identified on maps or data compiled by the Department of Natural Resources;

(D) Undeveloped barrier islands or portions thereof as provided for in the federal Coastal Barrier Resources Act,² as amended;

(E) Habitats as certified by the Department of Natural Resources as containing species that have been listed as either endangered or threatened under the federal Endangered Species Act of 1973,³ as amended;

(F) River or stream corridors or buffers which shall be defined as those undeveloped lands which are:

(i) Adjacent to rivers and perennial streams that are within the 100 year flood plain as depicted on official maps prepared by the Federal Emergency Management Agency; or

(ii) Within buffer zones adjacent to rivers or perennial streams, which buffer zones are established by law or local ordinance and within which land-disturbing activity is prohibited; or

(G)(i) Constructed storm-water wetlands of the free-water surface type certified by the Department of Natural Resources under subsection (k) of Code Section 12-2-4 and approved for such use by the local governing authority.

(ii) No property shall maintain its eligibility for current use assessment as a bona fide conservation use property as defined in this subparagraph unless the owner of such property files an annual inspection report from a licensed professional engineer certifying that as of the date of such report the property is being maintained in a proper state of repair so as to accomplish the objectives for which it was designed. Such inspection report and certification shall be filed with the county board of tax assessors on or before the last day for filing ad valorem tax returns in the county for each tax year for which such assessment is sought.

(a.1) Notwithstanding any other provision of this Code section to the contrary, in the case of property which otherwise meets the requirements for current use assessment and the qualifying use is pursuant to division (1)(E)(iii) of subsection (a) of this Code section, when the owner seeks to renew the covenant or reenter a covenant subsequent to the termination of a previous covenant which met such requirements and the owner meets the qualifications under this Code section but the property is no longer being used for the qualified use for which the previous covenant was entered pursuant to division (1)(E)(iii) of subsection (a) of this Code section, the property is not environmentally sensitive property within the meaning of paragraph (2) of subsection (a) of this Code section, and the primary use of the property is maintenance of a wildlife habitat of not less than ten acres either by maintaining the property in its natural condition or under management, the county board of tax assessors shall be required to accept such use as a qualifying use for purposes of this Code section.

(b) Except in the case of the underlying portion of a tract of real property on which is actually located a constructed storm-water wetland, the following additional rules shall apply to the qualification of conservation use property for current use assessment:

(1) When one-half or more of the area of a single tract of real property is used for a qualifying purpose, then such tract shall be considered as used for such qualifying purpose unless some other type of business is being operated on the unused portion; provided, however, that such unused portion must be minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems. The lease of hunting rights or the use of the property for hunting purposes shall

not constitute another type of business. The charging of admission for use of the property for fishing purposes shall not constitute another type of business;

(2)(A) The owner of a tract, lot, or parcel of land totaling less than ten acres shall be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that on or after May 1, 2012, is either first made subject to a covenant or is subject to a renewal of a previous covenant. The provisions of this paragraph relating to requiring additional relevant records regarding proof of bona fide conservation use shall not apply to such property if the owner of the subject property provides one or more of the following:

(i) Proof that such owner has filed with the Internal Revenue Service a Schedule E, reporting farm related income or loss, or a Schedule F, with Form 1040, or, if applicable, a Form 4835, pertaining to such property;

(ii) Proof that such owner has incurred expenses for the qualifying use; or

(iii) Proof that such owner has generated income from the qualifying use.

Prior to a denial of eligibility under this paragraph, the tax assessor shall conduct and provide proof of a visual, on-site inspection of the property. Reasonable notice shall be provided to the property owner before being allowed a visual, on-site inspection of the property by the tax assessor.

(B) The owner of a tract, lot, or parcel of land totaling ten acres or more shall not be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that on or after May 1, 2012, is either first made subject to a covenant or is subject to a renewal of a previous covenant;

(3) No property shall qualify as bona fide conservation use property if such current use assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving in any tax year any benefit of current use assessment as to more than 2,000 acres. If any taxpayer has any beneficial interest in more than 2,000 acres of tangible real property which is devoted to bona fide conservation uses, such taxpayer shall apply for current use assessment only as to 2,000 acres of such land;

(4) No property shall qualify as bona fide conservation use property if it is leased to a person or entity which would not be entitled to conservation use assessment;

(5) No property shall qualify as bona fide conservation use property if such property is at the time of application for current use assessment subject to a restrictive covenant which prohibits the use of the property for the specific purpose described in subparagraph (a)(1)(E) of this Code section for which bona fide conservation use qualification is sought; and

(6) No otherwise qualified property shall be denied current use assessment on the grounds that no soil map is available for the county in which such property is located; provided, however, that if no soil map is available for the county in which such property is located, the owner making an application for current use assessment shall provide the board of tax assessors with a certified soil survey of the subject property unless another method for determining the soil type of the subject property is authorized in writing by such board.

Agricultural Land Valuation Methodology

§ 48-5-7. Assessment of tangible property

(a) Except as otherwise provided in this Code section, taxable tangible property shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value.

(b) Tangible real property which is devoted to bona fide agricultural purposes as defined in this chapter and which otherwise conforms to the conditions and limitations imposed in this chapter shall be assessed for ad valorem property tax purposes at 75 percent of the value which other tangible real property is assessed and shall be taxed on a levy made by each respective tax jurisdiction according to said assessment.

(c) Tangible real property which qualifies as rehabilitated historic property pursuant to the provisions of Code Section 48-5-7.2 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of

rehabilitated historic property pursuant to the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2.

(c.1) Tangible real property which qualifies as landmark historic property pursuant to the provisions of Code Section 48-5-7.3 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of landmark historic property pursuant to the provisions of subparagraph (D) of paragraph (3) of Code Section 48-5-2.

(c.2) Tangible real property which is devoted to bona fide conservation uses as defined in this chapter and which otherwise conforms to the conditions and limitations imposed in this chapter shall be assessed for property tax purposes at 40 percent of its current use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's current use value.

(c.3) Tangible real property located in a transitional developing area which is devoted to bona fide residential uses and which otherwise conforms to the conditions and limitations imposed in this chapter for bona fide residential transitional property shall be assessed for property tax purposes at 40 percent of its current use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's current use value.

(c.4) Tangible real property which qualifies as brownfield property pursuant to the provisions of Code Section 48-5-7.6 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of brownfield property pursuant to the provisions of subparagraph (F) of paragraph (3) of Code Section 48-5-2.

(c.5) Tangible real property which qualifies as forest land conservation use property pursuant to the provisions of Code Section 48-5-7.7 shall be assessed at 40 percent of its forest land conservation use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's forest land conservation use value.

(c.6) Tangible real property which qualifies as qualified timberland property in accordance with the provisions of Article 13 of this chapter shall be assessed at 40 percent of its fair market value of qualified timberland property and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of its fair market value of qualified timberland property as such value is determined by the commissioner in accordance with Article 13 of this chapter.

(d) The requirement contained in this Code section that all tax jurisdictions assess taxable tangible property at 40 percent of fair market value shall not apply to any tax jurisdiction whose ratio of assessed value to fair market value exceeded 40 percent for the tax year 1971. No tax jurisdiction so exempted shall assess at a ratio of less than 40 percent except as necessary to effect the preferential assessment provided in subsection (b) of this Code section.

(e) Each notice of ad valorem taxes due sent to taxpayers of counties and municipalities shall include both the fair market value of the property of the taxpayer which is subject to taxation and the assessed value of the property after being reduced as provided by this Code section.

§ 48-5-7.1. Preferential assessment of tangible real property devoted to bona fide agricultural purposes

(a) For purposes of this article, the term "tangible real property which is devoted to bona fide agricultural purposes":

(1) Is tangible real property, the primary use of which is good faith commercial production from or on the land of agricultural products, including horticultural, floricultural, forestry, dairy, livestock, poultry, and apiarian products and all other forms of farm products; but

(2) Includes only the value which is \$100,000.00 or less of the fair market value of tangible real property which is devoted to the storage or processing of agricultural products from or on the property; and

(3) Excludes the entire value of any residence located on the property.

(b) No property shall qualify for the preferential ad valorem property tax assessment provided for in subsection (b) of Code Section 48-5-7 unless:

(1) It is owned by one or more natural or naturalized citizens; or

(2) It is owned by a family-farm corporation, the controlling interest of which is owned by individuals related to each other within the fourth degree by civil reckoning, and such corporation derived 80 percent or more of its gross income for the year immediately preceding the year in which application for

preferential assessment is made from bona fide agricultural pursuits carried out on tangible real property located in this state, which property is devoted to bona fide agricultural purposes.

(c) No property shall qualify for said preferential assessment if such assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving in any tax year any benefit of preferential assessment as to more than 2,000 acres. If any taxpayer has any beneficial interest in more than 2,000 acres of tangible real property which is devoted to bona fide agricultural purposes, such taxpayer shall apply for preferential assessment only as to 2,000 acres of such land.

(d) No property shall qualify for preferential assessment unless and until the owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in bona fide agricultural purposes for a period of at least ten years beginning on the first day of January of the year in which such property qualifies for preferential assessment and ending on the last day of December of the tenth year of the covenant period. After the expiration of any ten-year covenant period, the property shall not qualify for further preferential assessment until and unless the owner of the property enters into a renewal covenant for an additional period of ten years.

(e) No property shall maintain its eligibility for preferential assessment unless a valid covenant remains in effect and unless the property is continuously devoted to bona fide agricultural purposes during the entire period of the covenant.

(f) If any change in ownership of such qualified property occurs during the covenant period, all qualification requirements must be met again before the property shall be eligible to be continued for preferential assessment. If ownership of the property is acquired during a covenant period by a person qualified to enter into an original covenant, by a newly formed corporation the stock in which is owned by the original covenantor or others related to the original covenantor within the fourth degree by civil reckoning, or by the personal representative of an owner who was a party to the covenant, then the original covenant may be continued by such acquiring party for the remainder of the term, in which event no breach of the covenant shall be deemed to have occurred.

(g) A penalty shall be imposed under this subsection if during the period of the covenant entered into by a taxpayer the covenant is breached. The penalty shall be computed by multiplying the amount by which the preferential assessment has reduced taxes otherwise due for the year in which the breach occurs times:

- (1) A factor of five if the breach occurs in the first or second year of the covenant period;
- (2) A factor of four if the breach occurs during the third or fourth year of the covenant period;
- (3) A factor of three if the breach occurs during the fifth or sixth year of the covenant period; or
- (4) A factor of two if the breach occurs in the seventh, eighth, ninth, or tenth year of the covenant period.

(h) A penalty imposed under subsection (g) of this Code section shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.

(i) Penalties and interest imposed under this Code section shall constitute a lien against the property and shall be collected as other unpaid ad valorem taxes are collected. Such penalties and interest shall be distributed pro rata to each taxing jurisdiction wherein the preferential assessment has been granted based upon the total amount by which such preferential assessment has reduced taxes for each such taxing jurisdiction on the property in question as provided in this Code section.

(j) The penalty imposed by subsection (g) of this Code section shall not apply in any case where a covenant is breached solely as a result of:

- (1) The acquisition of part or all of the property under the power of eminent domain;
- (2) The sale of part or all of the property to a public or private entity which would have had the authority to acquire the property under the power of eminent domain; or
- (3) The death of an owner who was a party to the covenant.

(k) All applications for preferential assessment, including the covenant agreement required under this Code section, shall be filed on or before the last day for filing ad valorem tax returns in the county for the tax year for which such preferential assessment shall be first applicable. An application for continuation of preferential assessment upon a change in ownership of the qualified property shall be filed on or before the last date for filing tax returns in the year following the year in which the change in ownership occurred. Applications for preferential assessment shall be filed with the county board of tax assessors who shall approve or deny the application. If the application is approved on or after July 1, 1998, the county board of tax assessors shall file a copy of the approved application in the office of the clerk of the superior court in the county in which the eligible property is located. The clerk of the superior court shall file and index

such application in the real property records maintained in the clerk's office. Applications approved prior to July 1, 1998, shall be filed and indexed in like manner without payment of any fee. If the application is not so recorded in the real property records, a transferee of the property affected shall not be bound by the covenant or subject to any penalty for its breach. The fee of the clerk of the superior court for recording such applications approved on or after July 1, 1998, shall be paid by the owner of the eligible property with the application for preferential treatment and shall be paid to the clerk by the board of tax assessors when the application is filed with the clerk. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311. As to property approved for preferential assessment prior to July 1, 1998, the county board of tax assessors shall file copies of all approved applications in the office of the clerk of the superior court not later than August 14, 1998, and the clerk shall file, index, and record such approved applications, as provided for in this subsection, with the fee of the clerk of the superior court for filing, indexing, and recording to be paid out of the general funds of the county.

(l) The commissioner shall by regulation provide uniform application and covenant forms to be used in making application for preferential assessment. Such application shall include an oath or affirmation by the taxpayer that he has not at any time received, or made a pending application for, preferential assessment in the same or another county with respect to any property which taken together with property for which application is then being made exceeds 2,000 acres.

(m) The commissioner shall annually submit a report to the Governor and members of the General Assembly which shall show the fiscal impact of the preferential assessment provided for in this Code section. The report shall include the amount of assessed value eliminated from each county's digest as a result of the preferential assessment; approximate tax dollar losses, by county, to all local governments affected by such preferential assessment; and any recommendations regarding state and local administration of this Code section, with emphasis upon enforcement problems, if any, attendant with this Code section. The report shall also include any other data or facts which the commissioner deems relevant.

(n)(1) The transfer prior to July 1, 1988, of a part of the property subject to a covenant shall not constitute a breach of a covenant entered into before or after July 1, 1984, if:

(A) The part of the property so transferred is used for single-family residential purposes and the residence is occupied by a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and

(B) The part of the property so transferred, taken together with any other part of the property so transferred during the covenant period, does not exceed a total of three acres.

(2) The transfer on or after July 1, 1988, of a part of the property subject to a covenant shall not constitute a breach of a covenant entered into before or after July 1, 1988, if:

(A) The part of the property so transferred is transferred to a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and

(B) The part of the property so transferred, taken together with any other part of the property transferred to the same relative during the covenant period, does not exceed a total of five acres.

(o) The following shall not constitute a breach of a covenant entered into before or after July 1, 1984:

(1) Mineral exploration of the property subject to the covenant or the leasing of the property subject to the covenant for purposes of mineral exploration if the primary use of the property continues to be the good faith commercial production from or on the land of agricultural products; or

(2) Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any land conservation program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes.

(p) Property which is subject to preferential assessment shall be separately classified from all other property on the tax digest; and such separate classification shall be such as will enable any person examining the tax digest to readily ascertain that the property is subject to preferential assessment. Covenants shall be public records and shall be indexed and maintained in such manner as will allow members of the public to readily locate the covenant affecting any particular property subject to preferential assessment.

(q)(1) In any case in which a covenant is breached solely as a result of the foreclosure of a deed to secure debt, or the property is conveyed to the lienholder without compensation and in lieu of foreclosure,

the penalty specified by paragraph (2) of this subsection shall apply and the penalty specified by subsection (g) of this Code section shall not apply if:

(A) The deed to secure debt was executed as a part of a bona fide commercial loan transaction in which the grantor of the deed to secure debt received consideration equal in value to the principal amount of the debt secured by the deed to secure debt;

(B) The loan was made by a person or financial institution who or which is regularly engaged in the business of making loans; and

(C) The deed to secure debt was intended by the parties as security for the loan and was not intended for the purpose of carrying out a transfer which would otherwise be subject to the penalty specified by subsection (g) of this Code section.

(2) When a breach occurs solely as a result of a foreclosure which meets the qualifications of paragraph (1) of this subsection, the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year in which the covenant is breached.

(3) A penalty imposed under this subsection shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.

(r)(1) In any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the owner of the real property physically unable to continue the property in agricultural use, the penalty specified by paragraph (2) of this subsection shall apply and the penalty specified by subsection (g) of this Code section shall not apply. The penalty specified by paragraph (2) of this subsection shall likewise be substituted for the penalty specified by subsection (g) of this Code section in any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the operator of the real property physically unable to continue the property in agricultural use, provided that the alternative penalty shall apply in this case only if the operator of the real property is a member of the family owning a family-farm corporation which owns the real property.

(2) When a breach occurs which meets the qualifications of paragraph (1) of this subsection, the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year during which the covenant is breached.

(3) A penalty imposed under this subsection shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.

(4) Prior to the imposition of the alternative penalty authorized by this subsection in lieu of the penalty specified by subsection (g) of this Code section, the board of tax assessors shall require satisfactory evidence which clearly demonstrates that the breach is the result of a medically demonstrable illness or disability which meets the qualifications of paragraph (1) of this subsection.

(r.1) In any case in which a covenant is breached solely as a result of an owner electing to discontinue the property in its qualifying use, provided such owner has renewed without an intervening lapse at least once the covenant under this Code section, has reached the age of 65 or older, and has kept the property in a qualifying use under the renewal covenant for at least three years the penalty specified by subsection (g) of this Code section shall not apply and the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year in which the covenant is breached. Such penalty shall bear interest at the rate specified in Code Section 48-2-40 from the date of the breach. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors.

(s) Property which is subject to preferential assessment and which is subject to a covenant under this Code section may be changed from such covenant and placed in a covenant for bona fide conservation use under Code Section 48-5-7.4 if such property meets all of the requirements and conditions specified in Code Section 48-5-7.4. Any such change shall terminate the covenant under this Code section, shall not constitute a breach of the covenant under this Code section, and shall require the establishment of a new covenant period under Code Section 48-5-7.4. No property may be changed under this subsection more than once.

(t) At such time as the property ceases to be eligible for preferential assessment or when any ten-year covenant period expires and the property does not qualify for further preferential assessment, the owner of the property shall file an application for release of preferential treatment with the county board of tax assessors who shall approve the release upon verification that all taxes and penalties with respect to the property have been satisfied. After the application for release has been approved by the board of tax assessors, the board shall file the release in the office of the clerk of the superior court in the county in which the original covenant was filed. The clerk of the superior court shall file and index such release in

the real property records maintained in the clerk's office. No fee shall be paid to the clerk of the superior court for recording such release. The commissioner shall by regulation provide uniform release forms.

Agricultural Land Exclusions

No statute.

Hawaii

Sources / Changes

- **§ 205-42. Important agricultural lands; definition and objectives
- **§ 205-44. Standards and criteria for the identification of important agricultural lands
- **§ 205-45. Petition by farmer or landowner
- § 205-46 Incentives for important agricultural lands
- **§ 205-49. Designation of important agricultural lands; adoption of important agricultural lands maps

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 205-42. Important agricultural lands; definition and objectives

<This section is suspended through the disaster emergency relief period. See the Supplemental Emergency Proclamation for COVID-19 (2019 HI EO P20-33) signed on March 16, 2020, and executive actions issued subsequent thereto.>

(a) As used in this part, unless the context otherwise requires, "important agricultural lands" means those lands, identified pursuant to this part, that:

- (1) Are capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology;
- (2) Contribute to the State's economic base and produce agricultural commodities for export or local consumption; or
- (3) Are needed to promote the expansion of agricultural activities and income for the future, even if currently not in production.

(b) The objective for the identification of important agricultural lands is to identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations. To achieve this objective, the State shall:

- (1) Promote agricultural development and land use planning that delineates blocks of productive agricultural land and areas of agricultural activity for protection from the encroachment of nonagricultural uses; and
- (2) Establish incentives that promote:
 - (A) Agricultural viability;
 - (B) Sustained growth of the agriculture industry; and
 - (C) The long-term agricultural use and protection of these productive agricultural lands

§ 205-45. Petition by farmer or landowner

(a) A farmer or landowner with lands qualifying under section 205-44 may file with the commission a petition for declaratory order to designate the lands as important agricultural lands. The petition may be filed at any time in the designation process.

(b) Any law to the contrary notwithstanding, within the same petition for declaratory order as described in subsection (a), the petitioner may seek a reclassification of land in the agricultural district to the rural, urban, or conservation district, or a combination thereof; provided that:

- (1) The land sought to be reclassified to the rural, urban, or conservation district is within the same county as the land sought to be designated as important agricultural lands;
- (2) If the reclassification of the land is proposed to the urban district, that reclassification to urban is consistent with the relevant county general and community, development, or community development plans; and
- (3) The total acreage of the land sought to be designated or reclassified in the petition complies with the following proportions:
 - (A) At least eighty-five per cent of the total acreage is sought to be designated as important agricultural land; and
 - (B) The remainder of the acreage is sought to be reclassified to the rural, urban, or conservation district.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 205-44. Standards and criteria for the identification of important agricultural lands

<This section is suspended through the disaster emergency relief period. See the Supplemental Emergency Proclamation for COVID-19 (2019 HI EO P20-33) signed on March 16, 2020, and executive actions issued subsequent thereto.>

- (a) The standards and criteria in this section shall be used to identify important agricultural lands. Lands identified as important agricultural lands need not meet every standard and criteria listed in subsection (c). Rather, lands meeting any of the criteria in subsection (c) shall be given initial consideration; provided that the designation of important agricultural lands shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in article XI, section 3, of the Hawaii constitution and the objectives and policies for important agricultural lands in sections 205-42 and 205-43.
- (b) In a petition for a declaratory order submitted under section 205-45 that seeks to both designate lands as important agricultural lands and reclassify lands in the agricultural district to the rural, conservation, or urban district, the lands shall be deemed qualified for designation as important agricultural land if the commission reasonably finds that the lands meet at least the criteria of subsection (c)(5) and (7) of this section.

If a petition seeks to only designate land as important agricultural lands, then the commission shall evaluate the lands in accordance with subsection (a).

(c) The standards and criteria shall be as follows:

- (1) Land currently used for agricultural production;
- (2) Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops;
- (3) Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system adopted by the board of agriculture on January 28, 1977;
- (4) Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production;
- (5) Land with sufficient quantities of water to support viable agricultural production;
- (6) Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county;
- (7) Land that contributes to maintaining a critical land mass important to agricultural operating productivity; and
- (8) Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power.

"§ 205-42. Important agricultural lands; definition and objectives

<This section is suspended through the disaster emergency relief period. See the Supplemental Emergency Proclamation for COVID-19 (2019 HI EO P20-33) signed on March 16, 2020, and executive actions issued subsequent thereto.>

(a) As used in this part, unless the context otherwise requires, "important agricultural lands" means those lands, identified pursuant to this part, that:

(1) Are capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology;

(2) Contribute to the State's economic base and produce agricultural commodities for export or local consumption; or

(3) Are needed to promote the expansion of agricultural activities and income for the future, even if currently not in production.

(b) The objective for the identification of important agricultural lands is to identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations. To achieve this objective, the State shall:

(1) Promote agricultural development and land use planning that delineates blocks of productive agricultural land and areas of agricultural activity for protection from the encroachment of nonagricultural uses; and

(2) Establish incentives that promote:

(A) Agricultural viability;

(B) Sustained growth of the agriculture industry; and

(C) The long-term agricultural use and protection of these productive agricultural lands."

Agricultural Land Valuation Methodology

[§ 205-46]. Incentives for important agricultural lands

<This section is suspended through the disaster emergency relief period. See the Supplemental Emergency Proclamation for COVID-19 (2019 HI EO P20-33) signed on March 16, 2020, and executive actions issued subsequent thereto.>

(a) To achieve the long-term agricultural viability and use of important agricultural lands, the State and each county shall ensure that their:

(1) Agricultural development, land use, water use, regulatory, tax, and land protection policies; and

(2) Permitting and approval procedures, enable and promote the economic sustainability of agriculture.

Agricultural operations occurring on important agricultural lands shall be eligible for incentives and protections provided by the State and counties pursuant to this section to promote the viability of agricultural enterprise on important agricultural lands and to assure the availability of important agricultural lands for long-term agricultural use.

(b) State and county incentive programs shall provide preference to important agricultural lands and agricultural businesses on important agricultural lands. The State and each county shall cooperate in program development to prevent duplication of and to streamline and consolidate access to programs and services for agricultural businesses located on important agricultural lands.

(c) Incentive and protection programs shall be designed to provide a mutually supporting framework of programs and measures that enhance agricultural viability on important agricultural lands, including but not limited to:

(1) Grant assistance;

(2) Real property tax systems that support the needs of agriculture, including property tax assessments based on agricultural use valuation;

(3) Reduced infrastructure requirements and facilitated building permit processes for dedicated agricultural structures;

(4) Tax incentives to offset operational costs, promote agricultural business viability, and promote the long-term protection of important agricultural lands;

(5) Agricultural business planning, marketing, and implementation grants;

(6) Tax incentives and programs for equity investments and financing for agricultural operations, including agricultural irrigation systems;

(7) Other programs and mechanisms that promote investment in agricultural businesses or agricultural land protection, such as the purchase of development rights;

(8) State funding mechanisms to fund business viability and land protection programs;

(9) Water regulations and policies that provide farmers of important agricultural lands access to adequate and cost-effective sources of water;

- (10) Other measures that would ensure that state capital investments, projects, programs, and rules are consistent with this part; and
- (11) Agricultural education and training for new farmers; upgrading the skills of existing farmers and other agriculture-related employees through the use of mentoring, business incubators, and public or private scholarships; and increasing the returns of farming by adding value to food processing and other tools and methods.
- (d) State and county agencies shall review the protection and incentive measures enacted for important agricultural lands and agricultural viability pursuant to this chapter at least every five years to:
- (1) Determine their effectiveness in sustaining agriculture in Hawaii, assuring agricultural diversification, and increasing agricultural self-sufficiency;
- (2) Determine whether the effectiveness of tax credits or incentive programs will be enhanced by creating revolving funds or increasing rates based upon the tax revenues generated by enhanced investment and agricultural activities on important agricultural lands; and
- (3) Modify measures and programs as needed.
- (e) This section shall apply only to those lands designated as important agricultural lands pursuant to sections 205-45 and 205-49.

§ 205-49. Designation of important agricultural lands; adoption of important agricultural lands maps

(a) After receipt of the maps of eligible important agricultural lands from the counties and the recommendations of the department of agriculture and the office of planning and sustainable development, the commission shall then proceed to identify and designate important agricultural lands, subject to section 205-45. The decision shall consider the county maps of eligible important agricultural lands; declaratory orders issued by the commission designating important agricultural lands during the three year period following the enactment of legislation establishing incentives and protections contemplated under section 205-46, as provided in section 9 of Act 183, Session Laws of Hawaii 2005; landowner position statements and representations; and any other relevant information.

In designating important agricultural lands in the State, pursuant to the recommendations of individual counties, the commission shall consider the extent to which:

- (1) The proposed lands meet the standards and criteria under section 205-44;
- (2) The proposed designation is necessary to meet the objectives and policies for important agricultural lands in sections 205-42 and 205-43; and
- (3) The commission has designated lands as important agricultural lands, pursuant to section 205-45; provided that if the majority of landowners' landholdings is already designated as important agricultural lands, excluding lands held in the conservation district, pursuant to section 205-45 or any other provision of this part, the commission shall not designate any additional lands of that landowner as important agricultural lands except by a petition pursuant to section 205-45.

Any decision regarding the designation of lands as important agricultural lands and the adoption of maps of those lands pursuant to this section shall be based upon written findings of fact and conclusions of law, presented in at least one public hearing conducted in the county where the land is located in accordance with chapter 91, that the subject lands meet the standards and criteria set forth in section 205-44 and shall be approved by two-thirds of the membership to which the commission is entitled.

§ 205-45. Petition by farmer or landowner

<This section is suspended through the disaster emergency relief period. See the Supplemental Emergency Proclamation for COVID-19 (2019 HI EO P20-33) signed on March 16, 2020, and executive actions issued subsequent thereto.>

- (a) A farmer or landowner with lands qualifying under section 205-44 may file with the commission a petition for declaratory order to designate the lands as important agricultural lands. The petition may be filed at any time in the designation process.
- (b) Any law to the contrary notwithstanding, within the same petition for declaratory order as described in subsection (a), the petitioner may seek a reclassification of land in the agricultural district to the rural, urban, or conservation district, or a combination thereof; provided that:

- (1) The land sought to be reclassified to the rural, urban, or conservation district is within the same county as the land sought to be designated as important agricultural lands;
- (2) If the reclassification of the land is proposed to the urban district, that reclassification to urban is consistent with the relevant county general and community, development, or community development plans; and
- (3) The total acreage of the land sought to be designated or reclassified in the petition complies with the following proportions:
 - (A) At least eighty-five per cent of the total acreage is sought to be designated as important agricultural land; and
 - (B) The remainder of the acreage is sought to be reclassified to the rural, urban, or conservation district.
- (c) The petition for declaratory order shall be submitted in accordance with subchapter 14 of the commission's rules and shall include:
 - (1) Tax map key numbers of the land to be designated as important agricultural lands and, if applicable, the land to be reclassified from the agricultural district to the rural, urban, or conservation district, along with verification and authorization from the applicable landowners;
 - (2) Proof of qualification for designation as important agricultural lands under section 205-44, respecting a regional perspective;
 - (3) The current or planned agricultural use of the area sought to be designated as important agricultural lands; and
 - (4) If applicable, the current or planned use of the area sought to be reclassified to the rural, urban, or conservation district.
- (d) Prior to the commission considering a petition for a declaratory order to designate important agricultural land in combination with the reclassification of agricultural land to the rural, urban, or conservation district, the petitioner shall submit to the commission a certification issued by the department of agriculture as to the quality of the land for which designation as important agricultural land is being sought.
- (e) The commission shall review the petition and the accompanying submissions to evaluate the qualifications of the land for designation as important agricultural lands in accordance with section 205-44.

If the petition also seeks the reclassification of land to the rural, urban, or conservation district, the commission shall review the petition and accompanying submissions to evaluate:

- (1) The suitability of the land for the reclassification in accordance with section 205-2;
- (2) If the reclassification of the land is proposed to the urban district, that reclassification to urban is consistent with the relevant county general and community, development, or community development plans; and
- (3) Compliance with the other provisions of subsection (b).

If the commission, after its review, finds that the designation and, if applicable, reclassification sought in the petition should be approved, the commission shall vote, by a two-thirds majority of the members of the commission, to issue a declaratory order designating the petitioner's identified lands as important agricultural lands and, if applicable, reclassifying the petitioner's identified land from the agricultural district to the rural, urban, or conservation district. The commission may include reasonable conditions in the declaratory order.

With respect to a petition that seeks to both designate important agricultural lands and reclassify agricultural lands to the rural, urban, or conservation district, if the commission finds that either the designation or reclassification as proposed by the petitioner should not be approved, the commission shall deny the petition in its entirety.

- (f) The designation or reclassification of land pursuant to subsection (a) or (b) shall not be subject to the district boundary amendment procedures of sections 205-3.1 and 205-4 or become effective prior to legislative enactment of protection and incentive measures for important agricultural land and agricultural viability, as provided in section 9 of Act 183, Session Laws of Hawaii 2005.
- (g) Farmers or landowners with lands qualifying under section 205-44 may file petitions for a declaratory order to designate lands as important agricultural lands following the legislative enactment of protection and incentive measures for important agricultural lands and agricultural viability, as provided in section 9 of Act 183, Session Laws of Hawaii 2005.

(h) A petitioner granted a declaratory order that designates important agricultural land, whether or not combined with the reclassification of land to the rural, urban, or conservation district, shall earn credits if the amount of land reclassified to the rural, urban, or conservation district is less than fifteen per cent of the total acreage of land subject to the order. The "total acreage of land subject to the order" means the total acreage designated as important agricultural land and, if applicable, reclassified to the rural, urban, or conservation district by the declaratory order.

The credits shall equal the difference between the following, rounded to the nearer tenth of an acre:

(1) The number that is fifteen per cent of the total acreage of land subject to the order; less

(2) The amount of the petitioner's land that is reclassified from the agricultural district to the rural, urban, or conservation district by the declaratory order.

A petitioner with credits earned within a county may petition the commission for a declaratory order to reclassify any of the petitioner's other land in the same county from the agricultural district to the rural, urban, or conservation district until the credits are exhausted or expired. The "petitioner's other land in the same county" means land owned by the petitioner that is in the same county as the land designated or reclassified under the petition. The commission may issue the declaratory order if it finds that the land is suitable for reclassification in accordance with section 205-2 and that the reclassification is consistent with the relevant county general and community, development, or community development plans. The petitioner may petition for such reclassification until all of the petitioner's credits are exhausted. Any unexhausted credits shall expire and become unusable ten years after the granting of the declaratory order that designated the important agricultural land and, if applicable, reclassified land to the rural, urban, or conservation district.

A petitioner with unused and unexhausted credits shall not transfer the credits to another person.

(i) Notwithstanding any other law to the contrary, the land use commission may grant declaratory orders pursuant to this section before the commission receives from any county a map delineating recommended important agricultural lands.

(j) Land designated as important agricultural land pursuant to a declaratory order that both designates land as important agricultural land and reclassifies land in the agricultural district to the rural, urban, or conservation district, or a combination thereof pursuant to this section shall be redesignated only with the prior authorization of the legislature. The authorization shall be expressed by the adoption of a concurrent resolution approved by a two-thirds vote of each house of the legislature voting separately. When making its decision, the legislature shall consider the standards and criteria in section 205-50.

(k) The commission may adopt rules pursuant to chapter 91 to effectuate this section.

Agricultural Land Exclusions

No statute.

Idaho

Sources / Changes

**§ 63-205C. Valuation of agricultural land (Formerly cited as ID ST § 63-602K)

**§ 63-604. Land actively devoted to agriculture defined

Definition of Agricultural Improvements

No statute

Improvement Valuation Methodology

§ 63-606A. Small employer growth incentive exemption

(1) The county board of equalization of any county in which any property, the investment in which qualifies for the income tax credits described in sections 63-4403 and 63-4404, Idaho Code, is located may exempt all or a portion of the value of such property from property taxation. The board may grant the exemption when it finds that the investments in such property benefit the citizens within the county and taxing districts within the county in a manner and to such a degree that to grant the exemption is necessary and just.

(2) Property exempted under this section shall not be included on any new construction roll prepared by the county assessor in accordance with section 63-301A, Idaho Code.

(3) Applications for the exemption under this section shall be considered by the board as other applications for exemption under section 63-501, Idaho Code. Upon request of the board, the state tax commission may disclose to the board or county official designated by the board information necessary to identify and determine the property upon which the exemption may be granted.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 63-604. Land actively devoted to agriculture defined

(1) For property tax purposes, land actively devoted to agriculture shall be eligible for appraisal, assessment, and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture, which means:

(i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables; or

(ii) It is used to produce nursery stock as defined in section 22-2302(11), Idaho Code; or

(iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise or is leased by the owner to a bona fide lessee for grazing purposes; or

(iv) It is in a cropland retirement or rotation program.

(b) The area of such land is five (5) contiguous acres or less and such land has been actively devoted to agriculture within the meaning of subsection (1)(a) of this section during the last three (3) growing seasons; and

(i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owner's or lessee's annual gross income; or

(ii) It agriculturally produced gross revenues in the immediately preceding year of one thousand dollars (\$1,000) or more. When the area of land is five (5) contiguous acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met.

(2) Land that is contiguous to land qualifying under subsection (1) of this section shall also be appraised, assessed, and taxed as land actively devoted to agriculture if the land:

(a) Consists of pivot corners for a center pivot-irrigated crop, provided such pivot corners are not used for a commercial or residential purpose; or

(b) Is used primarily to store agricultural commodities or agricultural equipment, or both.

(3) Land shall not be classified or valued as agricultural land which is part of a platted subdivision with stated restrictions prohibiting its use for agricultural purposes, whether within or without a city.

(4) Land utilized for the grazing of a horse or other animals kept primarily for personal use or pleasure rather than as part of a bona fide for-profit enterprise shall not be considered to be land actively devoted to agriculture.

(5) Land actively devoted to agriculture, having previously qualified for exemption under this section in the preceding year, or that would have qualified under this section during the current year, shall not lose such qualification due to the owner's or lessee's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone, as defined in section 112 of the Internal Revenue Code, and the land would otherwise qualify for exemption under this section, then the board of county commissioners of the county in which

the land actively devoted to agriculture is located shall refund property taxes, if previously paid, in an amount equal to the exemption that would otherwise have applied.

(6) If the land qualified for exemption pursuant to section 63-602FF, Idaho Code, in 2005, then the land will qualify in 2006 for the exemption pursuant to section 63-602K, Idaho Code, upon the filing of a statement by the owner with the board of county commissioners that the land will be actively devoted to agriculture pursuant to this section in 2006.

(7) For purposes of this section, the act of platting land actively devoted to agriculture does not, in and of itself, cause the land to lose its status as land being actively devoted to agriculture if the land otherwise qualifies for the exemption under this section.

(8) As used in this section:

(a) "Contiguous" means being in actual contact or touching along a boundary or at a point, except no area of land shall be considered not contiguous solely by reason of a roadway or other right-of-way.

(b) "For-profit" means the enterprise will, over some period of time, make or attempt to make a return of income exceeding expenses.

(c) "Platting" means the filing of the drawing, map or plan of a subdivision or a replatting of such, including certification, descriptions and approvals with the proper county or city official.

Agricultural Land Valuation Methodology

§ 63-205C. Valuation of agricultural land *(Formerly cited as ID ST § 63-602K)*

(1) The market value of land actively devoted to agriculture is its actual use value. Actual use value shall be established by capitalization of economic rent or long-term average crop rental at a capitalization rate that shall be either the rate of interest charged by lenders in the local area for agricultural property loans or by the Spokane office of the farm credit system, each averaged over the immediate past five (5) years, whichever is higher, plus the local tax rate.

(2) "Land actively devoted to agriculture" means that property defined by section 63-604, Idaho Code. For purposes of this section, the act of platting land actively devoted to agriculture does not, in and of itself, cause the land to lose its status as land being actively devoted to agriculture if the land otherwise qualifies for the exemption under this section.

(3) Land actively devoted to agriculture shall not be valued at its speculative value as development property until the use has changed and it is no longer actively devoted to agriculture.

(4) Rental rates, interest rates, commodity prices, and input prices or other landlord expenses typical to the county of the property being assessed shall be used.

(5) The state tax commission shall adopt rules implementing the provisions of this section that shall provide the procedure by which economic rent, average crop rental, and capitalization rates shall be established.

Agricultural Land Exclusions

No statute.

Illinois

Sources / Changes

200/10-110. Farmland

200/10-115. Department guidelines and valuations for farmland

200/10-125. Assessment level by type of farmland

200/10-130. Farmland valuation; counties of 3,000,000 or more

200/10-135. Farmland not subject to equalization

200/10-140. Other improvements

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

200/10-140. Other improvements

§ 10-140. Other improvements. Improvements other than the dwelling, appurtenant structures and site, including, but not limited to, roadside stands and buildings used for storing and protecting farm machinery and equipment, for housing livestock or poultry, or for storing feed, grain or any substance that contributes to or is a product of the farm, shall have an equalized assessed value of 33 ⅓ % of their value, based upon the current use of those buildings and their contribution to the productivity of the farm.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

200/10-110. Farmland

§ 10-110. Farmland. The equalized assessed value of a farm, as defined in Section 1-60 and if used as a farm for the 2 preceding years, except tracts subject to assessment under Section 10-145, shall be determined as described in Sections 10-115 through 10-140. To assure proper implementation of Sections 10-110 through 10-140, the Department may withhold non-farm multipliers for any county other than a county with more than 3,000,000 inhabitants that classifies property for tax purposes.

200/10-115. Department guidelines and valuations for farmland

§ 10-115. Department guidelines and valuations for farmland. The Department shall issue guidelines and recommendations for the valuation of farmland to achieve equitable assessment within and between counties.

The Director of Revenue shall appoint a five-person Farmland Assessment Technical Advisory Board, consisting of technical experts from the colleges or schools of agriculture of the State universities and State and federal agricultural agencies, to advise in and provide data and technical information needed for implementation of this Section.

By May 1 of each year, the Department shall certify to each chief county assessment officer the following, calculated from data provided by the Farmland Technical Advisory Board, on a per acre basis by soil productivity index for harvested cropland, using moving averages for the most recent 5-year period for which data are available:

- (a) gross income, estimated by using yields per acre as assigned to soil productivity indices, the crop mix for each soil productivity index as determined by the College of Agriculture of the University of Illinois and average prices received by farmers for principal crops as published by the Illinois Crop Reporting Service;
- (b) production costs, other than land costs, provided by the College of Agriculture of the University of Illinois;
- (c) net return to land, which shall be the difference between (a) and (b) above;
- (d) a proposed agricultural economic value determined by dividing the net return to land by the moving average of the Federal Land Bank farmland mortgage interest rate as calculated by the Department;
- (e) the equalized assessed value per acre of farmland for each soil productivity index, which shall be 33-1/3% of the agricultural economic value, or the percentage as provided under Section 17-5; but any increase or decrease in the equalized assessed value per acre by soil productivity index shall not exceed 10% from the immediate preceding year's soil productivity index certified assessed value of the median cropped soil; in tax year 2015 only, that 10% limitation shall be reduced by \$5 per acre;
- (f) a proposed average equalized assessed value per acre of cropland for each individual county, weighted by the distribution of soils by productivity index in the county; and
- (g) a proposed average equalized assessed value per acre for all farmland in each county, weighted (i) to consider the proportions of all farmland acres in the county which are cropland, permanent pasture, and other farmland, and (ii) to reflect the valuations for those types of land and debasements for slope and erosion as required by Section 10-125.

Agricultural Land Valuation Methodology

200/10-125. Assessment level by type of farmland

§ 10-125. Assessment level by type of farmland. Cropland, permanent pasture and other farmland shall be defined according to U.S. Census Bureau definitions in use during that assessment year and assessed in the following way:

(a) Cropland shall be assessed in accordance with the equalized assessed value of its soil productivity index as certified by the Department and shall be debased to take into account factors including, but not limited to, slope, drainage, ponding, flooding, and field size and shape.

(b) Permanent pasture shall be assessed at $\frac{1}{3}$ of its debased productivity index equalized assessed value as cropland.

(c) Other farmland shall be assessed at $\frac{1}{6}$ of its debased productivity index equalized assessed value as cropland.

(d) Wasteland shall be assessed on its contributory value to the farmland parcel.

In no case shall the equalized assessed value of permanent pasture be below $\frac{1}{3}$, nor the equalized assessed value of other farmland, except wasteland, be below $\frac{1}{6}$, of the equalized assessed value per acre of cropland of the lowest productivity index certified under Section 10-115.

200/10-130. Farmland valuation; counties of 3,000,000 or more

§ 10-130. Farmland valuation; counties of 3,000,000 or more. In counties with more than 3,000,000 inhabitants, the equalized assessed value per acre of farmland shall be the lesser of either 16% of the fair cash value of the farmland estimated at the price it would bring at a fair, voluntary sale for use by the buyer as a farm as defined in Section 1-60, or 90% of the 1983 average equalized assessed value per acre certified by the Department.

200/10-135. Farmland not subject to equalization

§ 10-135. Farmland not subject to equalization. The assessed valuation of farmland assessed under Sections 10-110 through 10-130 shall not be subject to equalization by means of State equalization factors. Equalization factors applied by a chief county assessment officer or a Board of Review under Sections 9-205 and 16-60 shall be applied to assessments of farmland only to achieve assessments as required by Sections 10-110 through 10-130.

200/10-140. Other improvements

§ 10-140. Other improvements. Improvements other than the dwelling, appurtenant structures and site, including, but not limited to, roadside stands and buildings used for storing and protecting farm machinery and equipment, for housing livestock or poultry, or for storing feed, grain or any substance that contributes to or is a product of the farm, shall have an equalized assessed value of $33\frac{1}{3}\%$ of their value, based upon the current use of those buildings and their contribution to the productivity of the farm.

Agricultural Land Exclusions

No statute.

Indiana

Sources / Changes

6-1.1-4-13 Agricultural land; assessment

6-1.1-4-13.2 Statewide agricultural land base rate value per acre; amount

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

6-1.1-4-13 Agricultural land; assessment

Sec. 13. (a) In assessing or reassessing land, the land shall be assessed as agricultural land only when it is devoted to agricultural use.

(b) For purposes of this section, and in addition to any other land considered devoted to agricultural use, any:

(1) land enrolled in:

(A) a land conservation or reserve program administered by the United States Department of Agriculture;

(B) a land conservation program administered by the United States Department of Agriculture's Farm Service Agency; or

(C) a conservation reserve program or agricultural easement program administered by the United States Department of Agriculture's National Resources Conservation Service;

(2) land enrolled in the department of natural resources' classified forest and wildlands program (or any similar or successor program);

(3) land classified in the category of other agriculture use, as provided in the department of local government finance's real property assessment guidelines; or

(4) land devoted to the harvesting of hardwood timber;

is considered to be devoted to agricultural use. Agricultural use for purposes of this section includes but is not limited to the uses included in the definition of "agricultural use" in IC 36-7-4-616(b), such as the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, other agricultural crops, general farming operation purposes, native timber lands, or land that lays fallow. Agricultural use may not be determined by the size of a parcel or size of a part of the parcel. This subsection does not affect the assessment of any real property assessed under IC 6-1.1-6 (assessment of certain forest lands), IC 6-1.1-6.2 (assessment of certain windbreaks), or IC 6-1.1-6.7 (assessment of filter strips).

Agricultural Land Valuation Methodology

6-1.1-4-13 Agricultural land; assessment

Sec. 13. (a) In assessing or reassessing land, the land shall be assessed as agricultural land only when it is devoted to agricultural use.

(b) For purposes of this section, and in addition to any other land considered devoted to agricultural use, any:

(1) land enrolled in:

(A) a land conservation or reserve program administered by the United States Department of Agriculture;

(B) a land conservation program administered by the United States Department of Agriculture's Farm Service Agency; or

(C) a conservation reserve program or agricultural easement program administered by the United States Department of Agriculture's National Resources Conservation Service;

(2) land enrolled in the department of natural resources' classified forest and wildlands program (or any similar or successor program);

(3) land classified in the category of other agriculture use, as provided in the department of local government finance's real property assessment guidelines; or

(4) land devoted to the harvesting of hardwood timber;

is considered to be devoted to agricultural use. Agricultural use for purposes of this section includes but is not limited to the uses included in the definition of "agricultural use" in IC 36-7-4-616(b), such as the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, other agricultural crops, general farming operation purposes, native timber lands, or land that lays fallow. Agricultural use may not be determined by the size of a parcel or size of a part of the parcel. This subsection does not affect the assessment of any real property assessed under IC 6-1.1-6 (assessment of certain forest lands), IC 6-1.1-6.2 (assessment of certain windbreaks), or IC 6-1.1-6.7 (assessment of filter strips).

(c) The department of local government finance shall give written notice to each county assessor of:
(1) the availability of the United States Department of Agriculture's soil survey data; and
(2) the appropriate soil productivity factor for each type or classification of soil shown on the United States Department of Agriculture's soil survey map.

All assessing officials and the property tax assessment board of appeals shall use the data in determining the true tax value of agricultural land. However, notwithstanding the availability of new soil productivity factors and the department of local government finance's notice of the appropriate soil productivity factor for each type or classification of soil shown on the United States Department of Agriculture's soil survey map for the March 1, 2012, assessment date, the soil productivity factors used for the March 1, 2011, assessment date shall be used for the January 1, 2016, assessment date and each assessment date thereafter.

(d) The department of local government finance shall by rule provide for the method for determining the true tax value of each parcel of agricultural land.

(e) This section does not apply to land purchased for industrial or commercial uses.

6-1.1-4-13.2 Statewide agricultural land base rate value per acre; amount

Sec. 13.2. Notwithstanding the provisions of this chapter and any real property assessment guidelines of the department of local government finance, for the property tax assessment of agricultural land for the 2015 assessment date, the statewide agricultural land base rate value per acre used to determine the value of agricultural land is two thousand fifty dollars (\$2,050).

Agricultural Land Exclusions

No statute.

Iowa

Sources / Changes

Chapter 425A. Family Farm Tax Credit

425A.1. Family farm tax credit fund

425A.2. Definitions

425A.3. Where credit given

Chapter 426: Agricultural Land Tax Credit

426.1. Agricultural land credit fund

426.2. Definition

**426.6. Computation by auditor--appeal

426.7. Warrants authorized by director

426.8. Apportionment by auditor

426.10. Rules

Chapter 441: Assessment

441.21. Actual, assessed, and taxable value

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

425A.2 Definitions [Family Farm]

5. "Eligible tract" or "eligible tract of agricultural land" means an area of agricultural land which meets all of the following:

- a. Is comprised of all of the contiguous tracts under identical legal ownership that are located within the same county.
- b. In the aggregate more than half the acres of the contiguous tract is devoted to the production of crops or livestock by a designated person who is actively engaged in farming.
- c. For purposes of paragraph "b", if some or all of the contiguous tract is being farmed under a lease arrangement, the activities of the lessor do not constitute being actively engaged in farming on the areas of the tract covered by the lease. If the lessee is a designated person who is actively engaged in farming, the acres under lease may be considered in determining whether more than half the acres of the contiguous tract are devoted to the production of crops or livestock.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

[Family Farm]

425A.2. Definitions

As used in this chapter, unless the context otherwise requires:

1. "Actively engaged in farming" means the designated person is personally involved in the production of crops and livestock on the eligible tract on a regular, continuous, and substantial basis. However, a lessor, whether under a cash or a crop share lease, is not actively engaged in farming on the area of the tract covered by the lease. This provision applies to both written and oral leases.
2. "Agricultural land" means land in tracts of ten acres or more excluding any buildings or other structures located on the land, and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, lying within a school corporation and in good faith used for agricultural or horticultural purposes. Any land in tracts laid off or platted into lots of less than ten acres belonging to and a part of other lands of more than ten acres and in good faith used for agricultural or horticultural purposes is entitled to the benefits of this chapter.
3. "Crop" or "crop production" includes pastureland.
4. "Designated person" means one of the following:
 - a. If the owner is an individual, the designated person includes the owner of the tract, the owner's spouse, the owner's child or stepchild, and their spouses, or the owner's relative within the third degree of consanguinity, and the relative's spouse.
 - b. If the owner is a partnership, a partner, or the partner's spouse.
 - c. If the owner is a family farm corporation, a family member who is a shareholder of the family farm corporation or the shareholder's spouse.
 - d. If the owner is a family farm limited liability company, a family member who is a member of the family farm limited liability company or the member's spouse.
 - e. If the owner is an authorized farm corporation, a shareholder who owns at least fifty-one percent of the stock of the authorized farm corporation or the shareholder's spouse.
 - f. If the owner is an authorized limited liability company, a member who holds at least fifty-one percent of all membership interests in the authorized limited liability company, or the member's spouse.
 - g. If the owner is an individual who leases the tract to a family farm corporation, a shareholder of the corporation if the combined stock of the family farm corporation owned by the owner of the tract and

persons related to the owner as enumerated in paragraph "a" is equal to at least fifty-one percent of the stock of the family farm corporation.

h. If the owner is an individual who leases the tract to a family farm limited liability company, a member of the family farm limited liability company if the combined interests of the family farm limited liability company held by the owner of the tract and persons related to the owner as enumerated in paragraph "a" is equal to at least fifty-one percent of the interests of the family farm limited liability company.

i. If the owner is an individual who leases the tract to a partnership, a partner if the combined partnership interest owned by a designated person as defined in paragraph "a" is equal to at least fifty-one percent of the ownership interest of the partnership.

5. "Eligible tract" or "eligible tract of agricultural land" means an area of agricultural land which meets all of the following:

a. Is comprised of all of the contiguous tracts under identical legal ownership that are located within the same county.

b. In the aggregate more than half the acres of the contiguous tract is devoted to the production of crops or livestock by a designated person who is actively engaged in farming.

c. For purposes of paragraph "b", if some or all of the contiguous tract is being farmed under a lease arrangement, the activities of the lessor do not constitute being actively engaged in farming on the areas of the tract covered by the lease. If the lessee is a designated person who is actively engaged in farming, the acres under lease may be considered in determining whether more than half the acres of the contiguous tract are devoted to the production of crops or livestock.

6. "Owner" means any of the following:

a. An individual who holds the fee simple title to the agricultural land.

b. An individual who owns the agricultural land under a contract of purchase which has been recorded in the office of the county recorder of the county in which the agricultural land is located.

c. An individual who owns the agricultural land under devise or by operation of the inheritance laws, where the whole interest passes or where the divided interest is shared only by individuals related or formerly related to each other by blood, marriage, or adoption.

d. An individual who owns the agricultural land under a deed which conveys a divided interest, where the divided interest is shared only by individuals related or formerly related to each other by blood, marriage, or adoption.

e. A partnership where all partners are related or formerly related to each other by blood, marriage, or adoption.

f. A family farm corporation, family farm limited liability company, authorized farm corporation, or authorized limited liability company, as defined in section 9H.1, which owns the agricultural land.

[Agricultural Land]

426.2. Definition

"Agricultural lands" as used in this chapter shall mean and include land in tracts of ten acres or more excluding any buildings or other structures located on such land, and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, lying within any school corporation in this state and in good faith used for agricultural or horticultural purposes.

Any land laid off or platted into lots of less than ten acres belonging to and a part of other lands of more than ten acres and in good faith used for agricultural or horticultural purposes shall be entitled to the benefits of this chapter.

Agricultural Land Valuation Methodology

e. The actual value of agricultural property shall be determined on the basis of productivity and net earning capacity of the property determined on the basis of its use for agricultural purposes capitalized at a rate of seven percent and applied uniformly among counties and among classes of property. Any formula or method employed to determine productivity and net earning capacity of property shall be adopted in full by rule.

425A.1. Family farm tax credit fund

The family farm tax credit fund is created in the office of the treasurer of state. There shall be transferred annually to the fund the first ten million dollars of the amount annually appropriated to the agricultural land credit fund, provided in section 426.1. Any balance in the fund on June 30 shall revert to the general fund.

425A.2. Definitions

As used in this chapter, unless the context otherwise requires:

1. "Actively engaged in farming" means the designated person is personally involved in the production of crops and livestock on the eligible tract on a regular, continuous, and substantial basis. However, a lessor, whether under a cash or a crop share lease, is not actively engaged in farming on the area of the tract covered by the lease. This provision applies to both written and oral leases.
2. "Agricultural land" means land in tracts of ten acres or more excluding any buildings or other structures located on the land, and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, lying within a school corporation and in good faith used for agricultural or horticultural purposes. Any land in tracts laid off or platted into lots of less than ten acres belonging to and a part of other lands of more than ten acres and in good faith used for agricultural or horticultural purposes is entitled to the benefits of this chapter.
3. "Crop" or "crop production" includes pastureland.
4. "Designated person" means one of the following:
 - a. If the owner is an individual, the designated person includes the owner of the tract, the owner's spouse, the owner's child or stepchild, and their spouses, or the owner's relative within the third degree of consanguinity, and the relative's spouse.
 - b. If the owner is a partnership, a partner, or the partner's spouse.
 - c. If the owner is a family farm corporation, a family member who is a shareholder of the family farm corporation or the shareholder's spouse.
 - d. If the owner is a family farm limited liability company, a family member who is a member of the family farm limited liability company or the member's spouse.
 - e. If the owner is an authorized farm corporation, a shareholder who owns at least fifty-one percent of the stock of the authorized farm corporation or the shareholder's spouse.
 - f. If the owner is an authorized limited liability company, a member who holds at least fifty-one percent of all membership interests in the authorized limited liability company, or the member's spouse.
 - g. If the owner is an individual who leases the tract to a family farm corporation, a shareholder of the corporation if the combined stock of the family farm corporation owned by the owner of the tract and persons related to the owner as enumerated in paragraph "a" is equal to at least fifty-one percent of the stock of the family farm corporation.
 - h. If the owner is an individual who leases the tract to a family farm limited liability company, a member of the family farm limited liability company if the combined interests of the family farm limited liability company held by the owner of the tract and persons related to the owner as enumerated in paragraph "a" is equal to at least fifty-one percent of the interests of the family farm limited liability company.
 - i. If the owner is an individual who leases the tract to a partnership, a partner if the combined partnership interest owned by a designated person as defined in paragraph "a" is equal to at least fifty-one percent of the ownership interest of the partnership.
5. "Eligible tract" or "eligible tract of agricultural land" means an area of agricultural land which meets all of the following:
 - a. Is comprised of all of the contiguous tracts under identical legal ownership that are located within the same county.
 - b. In the aggregate more than half the acres of the contiguous tract is devoted to the production of crops or livestock by a designated person who is actively engaged in farming.
 - c. For purposes of paragraph "b", if some or all of the contiguous tract is being farmed under a lease arrangement, the activities of the lessor do not constitute being actively engaged in farming on the areas of the tract covered by the lease. If the lessee is a designated person who is actively engaged in farming, the acres under lease may be considered in determining whether more than half the acres of the contiguous tract are devoted to the production of crops or livestock.
6. "Owner" means any of the following:
 - a. An individual who holds the fee simple title to the agricultural land.
 - b. An individual who owns the agricultural land under a contract of purchase which has been recorded in the office of the county recorder of the county in which the agricultural land is located.

- c. An individual who owns the agricultural land under devise or by operation of the inheritance laws, where the whole interest passes or where the divided interest is shared only by individuals related or formerly related to each other by blood, marriage, or adoption.
- d. An individual who owns the agricultural land under a deed which conveys a divided interest, where the divided interest is shared only by individuals related or formerly related to each other by blood, marriage, or adoption.
- e. A partnership where all partners are related or formerly related to each other by blood, marriage, or adoption.
- f. A family farm corporation, family farm limited liability company, authorized farm corporation, or authorized limited liability company, as defined in section 9H.1, which owns the agricultural land.

425A.3. Where credit given

1. The family farm tax credit fund shall be apportioned each year in the manner provided in this chapter so as to give a credit against the tax on each eligible tract of agricultural land within the several school districts of the state in which the levy for the general school fund exceeds five dollars and forty cents per thousand dollars of assessed value. The amount of the credit on each eligible tract of agricultural land shall be the amount the tax levied for the general school fund exceeds the amount of tax which would be levied on each eligible tract of agricultural land were the levy for the general school fund five dollars and forty cents per thousand dollars of assessed value for the previous year. However, in the case of a deficiency in the family farm tax credit fund to pay the credits in full, the credit on each eligible tract of agricultural land in the state shall be proportionate and applied as provided in this chapter.
2. An eligible tract of agricultural land qualifies for the credit computed under subsection 1 if the tract is owned by an owner as defined in section 425A.2 and a designated person is actively engaged in farming during the fiscal year preceding the fiscal year in which the auditor computes the amount of the credit under section 425A.5 for which the tract would be eligible. Notwithstanding the foregoing sentence, the "actively engaged in farming" requirement is satisfied if the designated person is in general control of the tract under a federal program pertaining to agricultural land.
3. The county board of supervisors shall determine the eligibility of each tract for which an application is received.

425A.5. Computation by county auditor

The family farm tax credit allowed each year shall be computed as follows: On or before April 1, the county auditor shall list by school districts all tracts of agricultural land which are entitled to credit, the taxable value for the previous year, the budget from each school district for the previous year, and the tax rate determined for the general fund of the school district in the manner prescribed in section 444.3 for the previous year, and if the tax rate is in excess of five dollars and forty cents per thousand dollars of assessed value, the auditor shall multiply the tax levy which is in excess of five dollars and forty cents per thousand dollars of assessed value by the total taxable value of the agricultural land entitled to credit in the school district, and on or before April 1, certify the total amount of credit and the total number of acres entitled to the credit to the department of revenue.

[Agricultural Land Credit]

426.1. Agricultural land credit fund

There is created as a permanent fund in the office of the treasurer of state a fund to be known as the agricultural land credit fund, and for the purpose of establishing and maintaining this fund for each fiscal year there is appropriated thereto from funds in the general fund not otherwise appropriated the sum of thirty-nine million one hundred thousand dollars of which the first ten million dollars shall be transferred to and deposited into the family farm tax credit fund created in section 425A.1. Any balance in said fund on June 30 shall revert to the general fund.

426.6. Computation by auditor--appeal

1. The agricultural land tax credit allowed each year shall be computed as follows: On or before April 1, the county auditor shall list by school districts all tracts of agricultural lands which are entitled to credit,

together with the taxable value for the previous year, together with the budget from each school district for the previous year, and the tax rate determined for the general fund of the district in the manner prescribed in section 444.3 for the previous year, and if such tax rate is in excess of five dollars and forty cents per thousand dollars of assessed value, the auditor shall multiply the tax levy which is in excess of five dollars and forty cents per thousand dollars of assessed value by the total taxable value of the agricultural lands entitled to credit in the district, and on or before April 1, certify the amount to the department of revenue.

2. In the event the county auditor denies a credit upon any such lands, the auditor shall immediately mail to the owner at the owner's last known address notice of the decision thereon. The owner may, within thirty days thereafter, appeal to the board of supervisors of the county wherein the land involved is situated by serving notice of said appeal upon the chairperson of said board. The board shall hear such appeal promptly and shall determine anew all questions involved in said appeal and shall within ten days after such hearing, mail to the owner at the owner's last known address, notice of its decision. In the event of disallowance the owner may, within ten days from the date such notice is mailed, appeal such disallowance by the board of supervisors to the district court of that county by serving written notice of appeal on the county auditor. The appeal shall be tried de novo and may be heard in term time or vacation. The decision of the district court thereon shall be final.

426.7. Warrants authorized by director

After receiving from the county auditors the certifications provided for in section 426.6, and during the following fiscal year, the director of revenue shall authorize the department of administrative services to draw warrants on the agricultural land credit fund created in section 426.1, payable to the county treasurers in the amount certified by the county auditors of the respective counties and mail the warrants to the county auditors on July 15 of each year taking into consideration the relative budget and cash position of the state resources. However, if the agricultural land credit fund is insufficient to pay in full the total of the amounts certified to the director of revenue, the director shall prorate the fund to the county treasurers and notify the county auditors of the pro rata percentage on or before June 15.

426.8. Apportionment by auditor

Upon receiving the pro rata percentage from the director of revenue, the county auditor shall determine the amount to be credited to each tract of agricultural land, and shall enter upon tax lists as a credit against the tax levied on each tract of agricultural land on which there has been made an allowance of credit before delivering said tax lists to the county treasurer. Upon receipt of the warrant by the county auditor, the auditor shall deliver said warrant to the county treasurer for apportionment. The county treasurer shall show on each tax receipt the amount of tax credit for each tract of agricultural land. In case of change of ownership the credit shall follow the title.

426.10. Rules

The director of revenue shall prescribe forms and rules, not inconsistent with this chapter, necessary to carry out its purposes.

Agricultural Land Exclusions

No statute.

Kansas

Sources / Changes

**79-1459. Preparation of appraisal maps, contents; preparation of appraisal records for improvements and land parcels, contents; classification of property

**79-1476. Statewide reappraisal of real property; duties and authorities of state director of property valuation and county and district appraisers; methods of establishing valuations; time of application of valuations

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

79-1476. Statewide reappraisal of real property; duties and authorities of state director of property valuation and county and district appraisers; methods of establishing valuations; time of application of valuations

. . . For the purpose of the foregoing provisions of this section, the phrase “land devoted to agricultural use” shall mean and include land, regardless of whether it is located in the unincorporated area of the county or within the corporate limits of a city, that is devoted to the production of plants, animals or horticultural products, including, but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; and nursery, floral, ornamental and greenhouse products. “Land devoted to agricultural use” shall include land established as a controlled shooting area pursuant to K.S.A. 32-943, and amendments thereto, which shall be deemed to be land devoted to agricultural use. “Land devoted to agricultural use” shall include land that is utilized by zoos that hold a valid class C exhibitor license issued by the United States department of agriculture. “Land devoted to agricultural use” shall include land otherwise devoted to the production of plants, animals or horticultural products that is incidentally used for agritourism activity. For purposes of this section, “agritourism activity” means any activity that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including, but not limited to, farming activities, ranching activities or historic, cultural or natural attractions. An activity may be an “agritourism activity” whether or not the participant pays to participate in the activity. An activity is not an “agritourism activity” if the participant is paid to participate in the activity. If a parcel has land devoted to agricultural purposes and land used for suburban residential acreages, rural home sites or farm home sites, the county appraiser shall determine the amount of the parcel used for agricultural purposes and value and assess it accordingly as land devoted to agricultural purposes. The county appraiser shall then determine the amount of the remaining land used for such other purposes and value and assess that land according to its use.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

79-1476. Statewide reappraisal of real property; duties and authorities of state director of property valuation and county and district appraisers; methods of establishing valuations; time of application of valuations

. . . For the purpose of the foregoing provisions of this section, the phrase “land devoted to agricultural use” shall mean and include land, regardless of whether it is located in the unincorporated area of the county or within the corporate limits of a city, that is devoted to the production of plants, animals or horticultural products, including, but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; and nursery, floral, ornamental and greenhouse products. “Land devoted to agricultural use” shall include land established as a controlled shooting area pursuant to K.S.A. 32-943, and amendments thereto, which shall be deemed to be land devoted to agricultural use. “Land devoted to agricultural use” shall include land that is utilized by zoos that hold a valid class C exhibitor license issued by the United States department of agriculture. “Land devoted to agricultural use” shall include land otherwise devoted to the production of plants, animals or horticultural products that is incidentally used for agritourism activity. For purposes of this section, “agritourism activity” means any activity that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including, but not

limited to, farming activities, ranching activities or historic, cultural or natural attractions. An activity may be an "agritourism activity" whether or not the participant pays to participate in the activity. An activity is not an "agritourism activity" if the participant is paid to participate in the activity. If a parcel has land devoted to agricultural purposes and land used for suburban residential acreages, rural home sites or farm home sites, the county appraiser shall determine the amount of the parcel used for agricultural purposes and value and assess it accordingly as land devoted to agricultural purposes. The county appraiser shall then determine the amount of the remaining land used for such other purposes and value and assess that land according to its use.

Agricultural Land Valuation Methodology

79-1476. Statewide reappraisal of real property; duties and authorities of state director of property valuation and county and district appraisers; methods of establishing valuations; time of application of valuations

The director of property valuation is hereby directed and empowered to administer and supervise a statewide program of reappraisal of all real property located within the state. Except as otherwise authorized by K.S.A. 19-428, and amendments thereto, each county shall comprise a separate appraisal district under such program, and the county appraiser shall have the duty of reappraising all of the real property in the county pursuant to guidelines and timetables prescribed by the director of property valuation and of updating the same on an annual basis. In the case of multi-county appraisal districts, the district appraiser shall have the duty of reappraising all of the real property in each of the counties comprising the district pursuant to such guidelines and timetables and of updating the same on an annual basis. Commencing in 2000, every parcel of real property shall be actually viewed and inspected by the county or district appraiser once every six years.

Compilation of data for the initial preparation or updating of inventories for each parcel of real property and entry thereof into the state computer system as provided for in K.S.A. 79-1477, and amendments thereto, shall be completed not later than January 1, 1989. Whenever the director determines that reappraisal of all real property within a county is complete, notification thereof shall be given to the governor and to the state board of tax appeals.

Valuations shall be established for each parcel of real property at its fair market value in money in accordance with the provisions of K.S.A. 79-503a, and amendments thereto.

In addition thereto, valuations shall be established for each parcel of land devoted to agricultural use upon the basis of the agricultural income or productivity attributable to the inherent capabilities of such land in its current usage under a degree of management reflecting median production levels in the manner hereinafter provided. A classification system for all land devoted to agricultural use shall be adopted by the director of property valuation using criteria established by the United States department of agriculture natural resources conservation service. For all taxable years commencing after December 31, 1989, all land devoted to agricultural use that is subject to the federal conservation reserve program shall be classified as cultivated dry land for the purpose of valuation for property tax purposes pursuant to this section, except that for all taxable years commencing after December 31, 2022, all land devoted to agricultural use that is subject to the federal grassland conservation reserve program (CRP grasslands) shall be classified as grassland for the purpose of valuation for property tax purposes pursuant to this section. For all taxable years commencing after December 31, 1999, all land devoted to agricultural use that is subject to the federal wetlands reserve program shall be classified as native grassland for the purpose of valuation for property tax purposes pursuant to this section. Productivity of land devoted to agricultural use shall be determined for all land classes within each county or homogeneous region based on an average of the eight calendar years immediately preceding the calendar year that immediately precedes the year of valuation, at a degree of management reflecting median production levels. The director of property valuation shall determine median production levels based on information available from state and federal crop and livestock reporting services, the natural resources conservation service, and any other sources of data that the director considers appropriate.

The share of net income from land in the various land classes within each county or homogeneous region that is normally received by the landlord shall be used as the basis for determining agricultural income for all land devoted to agricultural use except pasture or rangeland. The net income normally received by the landlord from such land shall be determined by deducting expenses normally incurred by the landlord from the share of the gross income normally received by the landlord. The net rental income normally

received by the landlord from pasture or rangeland within each county or homogeneous region shall be used as the basis for determining agricultural income from such land. The net rental income from pasture and rangeland that is normally received by the landlord shall be determined by deducting expenses normally incurred from the gross income normally received by the landlord. Commodity prices, crop yields and pasture and rangeland rental rates and expenses shall be based on an average of the eight calendar years immediately preceding the calendar year that immediately precedes the year of valuation. Net income for every land class within each county or homogeneous region shall be capitalized at a rate determined to be the sum of the contract rate of interest on new federal land bank loans in Kansas on July 1 of each year averaged over a five-year period that includes the five years immediately preceding the calendar year which immediately precedes the year of valuation, plus a percentage not less than 0.75% nor more than 2.75%, as determined by the director of property valuation, except that the capitalization rate calculated for property tax year 2003, and all such years thereafter, shall not be less than 11% nor more than 12%.

Based on the foregoing procedures, the director of property valuation shall make an annual determination of the value of land within each of the various classes of land devoted to agricultural use within each county or homogeneous region and furnish the same to the several county appraisers who shall classify such land according to its current usage and apply the value applicable to such class of land according to the valuation schedules prepared and adopted by the director of property valuation under the provisions of this section.

It is the intent of the legislature that appraisal judgment and appraisal standards be followed and incorporated throughout the process of data collection and analysis and establishment of values pursuant to this section.

For the purpose of the foregoing provisions of this section, the phrase "land devoted to agricultural use" shall mean and include land, regardless of whether it is located in the unincorporated area of the county or within the corporate limits of a city, that is devoted to the production of plants, animals or horticultural products, including, but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; and nursery, floral, ornamental and greenhouse products. "Land devoted to agricultural use" shall include land established as a controlled shooting area pursuant to K.S.A. 32-943, and amendments thereto, which shall be deemed to be land devoted to agricultural use. "Land devoted to agricultural use" shall include land that is utilized by zoos that hold a valid class C exhibitor license issued by the United States department of agriculture. "Land devoted to agricultural use" shall include land otherwise devoted to the production of plants, animals or horticultural products that is incidentally used for agritourism activity. For purposes of this section, "agritourism activity" means any activity that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including, but not limited to, farming activities, ranching activities or historic, cultural or natural attractions. An activity may be an "agritourism activity" whether or not the participant pays to participate in the activity. An activity is not an "agritourism activity" if the participant is paid to participate in the activity. If a parcel has land devoted to agricultural purposes and land used for suburban residential acreages, rural home sites or farm home sites, the county appraiser shall determine the amount of the parcel used for agricultural purposes and value and assess it accordingly as land devoted to agricultural purposes. The county appraiser shall then determine the amount of the remaining land used for such other purposes and value and assess that land according to its use.

The term "expenses" shall mean those expenses typically incurred in producing the plants, animals and horticultural products described above, including management fees, production costs, maintenance and depreciation of fences, irrigation wells, irrigation laterals and real estate taxes, but the term shall not include those expenses incurred in providing temporary or permanent buildings used in the production of such plants, animals and horticultural products.

The provisions of this act shall not be construed to conflict with any other provisions of law relating to the appraisal of tangible property for taxation purposes including the equalization processes of the county and state board of tax appeals.

Agricultural Land Exclusions

No statute.

Kentucky

Sources / Changes

**132.010 Definitions for chapter

132.454 Tax liability when real property taxed as agricultural or horticultural is converted to another use

132.450 Assessment; special procedure and provision for assessing real property at agricultural or horticultural value; election by owner

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

132.450 Assessment; special procedure and provision for assessing real property at agricultural or horticultural value; election by owner

(c) When the use of a part of a tract of land which is assessed as agricultural or horticultural land is changed either by conveyance or other action of the owner, the right of the remaining land to be retained in the agricultural or horticultural assessment shall not be impaired provided it meets the minimum requirements, except the minimum ten (10) contiguous acre requirement shall not be applicable if any portion of the agricultural or horticultural land has been acquired for a public purpose as long as the remaining land continues to meet the other requirements of this section.

132.454 Tax liability when real property taxed as agricultural or horticultural is converted to another use

When land which is valued and taxed as agricultural or horticultural land under paragraph (c) of subsection (2) of KRS 132.450 is converted to any other use after January 1 of the tax year, that portion of the land upon which the use is changed shall be subject to tax for the succeeding tax year at its fair cash value. The owner of the property at the time the land use change is initiated shall, within ninety (90) days, report the change to the property valuation administrator. The owner shall also provide to the property valuation administrator information concerning the most recent sale or lease of the property, copies of any appraisal or feasibility reports made, and any other information useful in determining the fair cash value of the property.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

132.010 Definitions for chapter

(9) "Agricultural land" means:

(a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;

(b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

(c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;

Agricultural Land Valuation Methodology

132.450 Assessment; special procedure and provision for assessing real property at agricultural or horticultural value; election by owner

(1) Each property valuation administrator shall assess at its fair cash value all property which it is his duty to assess except as provided in paragraph (c) of subsection (2) of this section. The property of one (1) person shall not be assessed willfully or intentionally at a lower or higher relative value than the same class of property of another, and any grossly discriminatory valuation shall be construed as an intentional discrimination. The property valuation administrator shall make every effort, through visits with the taxpayer, personal inspection of the property, from records, from his own knowledge, from information in property schedules, and from such other evidence as he may be able to obtain, to locate, identify, and assess property.

(2) (a) In determining the total area of land devoted to agricultural or horticultural use, there shall be included the area of all land under farm buildings, greenhouses and like structures, lakes, ponds, streams, irrigation ditches and similar facilities, and garden plots devoted to growth of products for on-farm personal consumption but there shall be excluded, land used in connection with dwelling houses including, but not limited to, lawns, drives, flower gardens, swimming pools, or other areas devoted to family recreation. Where contiguous land in agricultural or horticultural use in one (1) ownership is located in more than one (1) county or taxing district, compliance with the minimum requirements shall be determined on the basis of the total area of such land and not the area of land which is located in the particular county or taxing district.

(b) Land devoted to agricultural or horticultural use, where the owner or owners have petitioned for, and been granted, a zoning classification other than for agricultural or horticultural purposes qualifies for the agricultural or horticultural assessment until such time as the land changes from agricultural or horticultural use to the use granted by the zoning classification.

(c) When the use of a part of a tract of land which is assessed as agricultural or horticultural land is changed either by conveyance or other action of the owner, the right of the remaining land to be retained in the agricultural or horticultural assessment shall not be impaired provided it meets the minimum requirements, except the minimum ten (10) contiguous acre requirement shall not be applicable if any portion of the agricultural or horticultural land has been acquired for a public purpose as long as the remaining land continues to meet the other requirements of this section.

(d) When in the opinion of the property valuation administrator any land has a value in excess of that for agricultural or horticultural use the property valuation administrator shall enter into the tax records the value of the property according to its fair cash value. When the property valuation administrator determines that the land meets the requirements for valuation as agricultural or horticultural land, the valuation for tax purposes shall be its agricultural or horticultural value.

(3) When land which has been valued and taxed as agricultural land for five (5) or more consecutive years under the same ownership fails to qualify for the classification through no other action on the part of the owner or owners other than ceasing to farm the land, the land shall retain its agricultural classification for assessment and taxation purposes. Classification as agricultural land shall expire upon change of use by the owner or owners or upon conveyance of the property to a person other than a surviving spouse.

(4) If the property valuation administrator assesses any property at a greater value than that listed by the taxpayer or assesses unlisted property, the property valuation administrator shall serve notice on the taxpayer of such action. The notice shall be given by first-class mail or as provided in the Kentucky Rules of Civil Procedure.

(5) Any taxpayer may designate on the property schedule any property which he does not consider to be subject to taxation, and it shall be the duty of the property valuation administrator to obtain and follow advice from the department relative to the taxability of such property.

Agricultural Land Exclusions

No statute.

Louisiana

Sources / Changes

§ 2302. Definitions

§ 2303. Eligibility for use value assessment

§ 2307. Determination of use value

**Chapter 31. Urban Agricultural Incentive Zones

§ 4751. Definitions

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

Chapter 31. [APPLIES ONLY TO] Urban Agricultural Incentive Zones

§ 4751. Definitions

As used in this Chapter, the following words, terms, and phrases shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

(1) "Agricultural use" means farming in all of its branches, including but not limited to the cultivation and the tillage of the soil; the production, cultivation, growing, and harvesting of any products from agricultural, horticulture, aquaponic, hydroponic, or aquaculture practices; the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry; agricultural education; agricultural tourism; or any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. This also is inclusive of administrative or office space used to run any of the above practices or operations. For purposes of this Chapter, the term "agricultural use" does not include timber production.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 2302. Definitions

A. Bona fide agricultural land is land devoted to the production for sale, in reasonable commercial quantities, of plants and animals, or their products, useful to man, and agricultural land under a contract with a state or federal agency restricting its use for agricultural production; or land under contract for agricultural use pursuant to an ordinance authorizing urban agricultural incentive zones as defined in R.S. 3:4751 through 4754.

B. Bona fide horticultural land is land devoted to the production for sale, in reasonable commercial quantities, of fruits, vegetables, flowers or ornamental plants, and horticultural land under a contract with a state or federal agency restricting its use for horticultural production.

§ 2303. Eligibility for use value assessment

In order to be classified as bona fide agricultural, horticultural, marsh or timber land and assessed at its use value under the provisions of Article VII, Section 18(C) of the Louisiana Constitution of 1974, it must meet the definition of bona fide agricultural, horticultural, marsh or timber land as described in R.S. 47:2302 and, in the case of bona fide agricultural, horticultural, or timber land:

A. Be at least three acres in size, or have produced an average gross annual income of at least two thousand dollars in one or more of the designated classifications for the four preceding years, and

B. The landowner has signed an agreement that the land will be devoted to one or more of the designated uses as defined in R.S. 47:2302.

Chapter 31. [APPLIES ONLY TO] Urban Agricultural Incentive Zones

§ 4751. Definitions

As used in this Chapter, the following words, terms, and phrases shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

(1) "Agricultural use" means farming in all of its branches, including but not limited to the cultivation and the tillage of the soil; the production, cultivation, growing, and harvesting of any products from agricultural, horticulture, aquaponic, hydroponic, or aquaculture practices; the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry; agricultural education; agricultural tourism; or any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. This also is inclusive of administrative or office space used to run any of the above practices or operations. For purposes of this Chapter, the term "agricultural use" does not include timber production.

(2) "Political subdivision" means any unit of local government including a municipality, parish, or special district authorized by law to perform governmental functions.

(3) "Urban" means an area within the boundaries of an urbanized area, as that term is used by the United States Census Bureau, that includes at least forty-five thousand people.

(4) "Urban Agriculture Incentive Zone" means an area within a political subdivision that is comprised of individual properties designated as urban agriculture preserves by the political subdivision for farming purposes.

Agricultural Land Valuation Methodology

§ 2307. Determination of use value

A. Agricultural and horticultural lands

(1) Formula. Use value of bona fide agricultural and horticultural lands shall be determined by the application of the following formula:

Value equals net income divided by capitalization rate.

In applying this formula the assessors shall utilize the use value table and the capitalization rate as determined by the Louisiana Tax Commission or its successor and said formula shall be applied uniformly throughout the state.

(2) Net income. To assist the assessors in the application of the formula described in Paragraph (A)(1) of this Section, and to determine the net income factor to be used in the formula, the Louisiana Tax Commission or its successor shall prepare and publish a table defining the different classifications of land, the range of production costs and gross returns based on four year averages. In preparing the use value table for agricultural and horticultural lands, the Louisiana Tax Commission or its successor shall consider the following factors:

(a) Classification

In defining classifications of land, the first four classifications of the U.S. Soil Conservation Service shall be used, with such modifications as may be required by special circumstances, provided that all land historically subject to regular and periodic flooding may be classified as Class IV land.

(b) Range of productivity

In determining the range of productivity the average soil productivity for various classifications of soils within each classification as determined by the U.S. Soil Conservation shall be used.

(c) Cost of production and gross returns--weighted average

In determining cost of production and gross returns, the Louisiana Tax Commission or its successor shall use the weighted average cost of production and gross returns, by land classification, of major agricultural commodities produced in Louisiana for the four production years immediately preceding the year in which the table is prepared. Provided, however, no negative income factor shall ever be an input factor in any such table, and if negative, said value shall be entered as zero value.

(3) Capitalization rate

The Louisiana Tax Commission, or its successor, shall determine a capitalization rate for use in determining use value by considering the following factors:

- (a) physical and economic risk;
- (b) effect of relative marketability of agricultural and horticultural lands on liquidity of investments;
- (c) competition with other investments and prevailing interest rate; and
- (d) any other appropriate factors.

In no event shall the capitalization rate be less than twelve percent.

Agricultural Land Exclusions

No statute.

Maine

Sources / Changes

Title 36. Chapter 105. Subchapter 10. Farm and Open Space Tax Law

§ 1102. Definitions

§ 1105. Valuation of farmland

§ 1108. Assessment of tax

**§ 1112-C. Recapture penalty

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 1102. Definitions

4. Farmland. "Farmland" means any tract or tracts of land, including woodland and wasteland, of at least 5 contiguous acres on which farming or agricultural activities have contributed to a gross annual farming income of at least \$2,000 per year from the sales value of agricultural products as defined in Title 7, section 152, subsection 2 in one of the 2, or 3 of the 5, calendar years preceding the date of application for classification. The farming or agricultural activity and income derived from that activity may be achieved by either the owner or a lessee of the land.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 1102. Definitions

3. Cropland. "Cropland" means acreage within a farm unit of land in tillage rotation, open land formerly cropped and land in bush fruits.

4. Farmland. "Farmland" means any tract or tracts of land, including woodland and wasteland, of at least 5 contiguous acres on which farming or agricultural activities have contributed to a gross annual farming income of at least \$2,000 per year from the sales value of agricultural products as defined in Title 7, section 152, subsection 2 in one of the 2, or 3 of the 5, calendar years preceding the date of application for classification. The farming or agricultural activity and income derived from that activity may be achieved by either the owner or a lessee of the land.

A. Deleted. Laws 1987, c. 728, § 1.

B. Deleted. Laws 1987, c. 728, § 1.

C. A parcel of land that is located on an island may not be considered contiguous to another parcel of land that is not located on the same island if the parcels of land are separated by water at the normal high-water mark or high tide. A parcel of land located on an island that was included within a parcel classified as farmland before April 1, 2017 and that is excluded from classification as farmland under this paragraph must be considered as land classified as open space land unless the owner withdraws the land from classification under this subchapter.

5. Farm woodland. "Farm woodland" means the combined acreage within a farm unit of forested land.

5-A. Horticultural land. "Horticultural land" means land which is engaged in the production of vegetables, tree fruits, small fruits, flowers and woody or herbaceous plants.

6. Open space land. "Open space land" means any area of land, including state wildlife and management areas, sanctuaries and preserves designated as such in Title 12, the preservation or restriction of the use of which provides a public benefit in any of the following areas:

A. Conserving scenic resources;

B. Enhancing public recreation opportunities;

C. Promoting game management; or

D. Preserving wildlife or wildlife habitat.

7. Orchard land. "Orchard land" means the combined acreage within a farm unit of land devoted to the cultivation of trees bearing edible fruit.

8. Pastureland. "Pastureland" means the combined acreage within a farm unit of land devoted to the production of forage plants used for animal production.

Agricultural Land Valuation Methodology

§ 1105. Valuation of farmland

The municipal assessor, chief assessor or State Tax Assessor for the unorganized territory shall establish the 100% valuation per acre based on the current use value of farmland used for agricultural or horticultural purposes. The values established must be guided by the Department of Agriculture, Conservation and Forestry as provided in section 1119 and adjusted by the assessor if determined necessary on the basis of such considerations as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography and other relevant factors. These values may not reflect development or market value purposes other than agricultural or horticultural use. The values may not reflect value attributable to road frontage or shore frontage.

The 100% valuation per acre for farm woodland within a parcel classified as farmland under this subchapter is the 100% valuation per acre for each forest type established for each county pursuant to subchapter 2-A.1 Areas other than woodland, agricultural land or horticultural land located within any parcel of farmland classified under this subchapter are valued on the basis of just value.

§ 1108. Assessment of tax

1. Organized areas. The municipal assessors shall adjust the 100% valuations per acre for farmland for their jurisdiction by whatever ratio or percentage of current just value is then being applied to other property within the municipality to obtain the assessed values. For any tax year, the classified farmland value must reflect only the current use value for farm or open space purposes and may not include any increment of value reflecting development pressure. Commencing April 1, 1978, land in the organized

areas subject to taxation under this subchapter must be taxed at the property tax rate applicable to other property in the municipality, which rate must be applied to the assessed values so determined.

2. Unorganized territory. The State Tax Assessor shall adjust the 100% valuations per acre for farmland for the unorganized territory by such ratio or percentage as is then being used to determine the state valuation applicable to other property in the unorganized territory to obtain the assessed values. For any tax year, the classified farmland value must reflect only the current use value for farm or open space purposes and shall not include any increment of value reflecting development pressure. Commencing April 1, 1978, land in the unorganized territory subject to taxation under this subchapter shall be taxed at the state property tax rate applicable to other property in the unorganized territory, which rate shall be applied to the assessed values so determined.

§ 1112-C. Recapture penalty

1. Assessor determination; owner request. If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor shall withdraw the land from taxation under this subchapter. The owner of land subject to this subchapter may at any time request withdrawal of any of the owner's land from taxation under this subchapter by certifying in writing to the assessor that the land is no longer to be classified under this subchapter. For purposes of this section, the transfer of land between different classifications within this subchapter does not constitute a withdrawal.

2. Withdrawal of portion. In the case of withdrawal of a portion of farmland or open space land, the owner, as a condition of withdrawal, shall file with the assessor a schedule including the information required under section 1109 showing the area withdrawn and the area remaining under this subchapter.

3. Penalty. If land is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner. The penalty is the greater of:

A. An amount equal to the taxes that would have been assessed on the land on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that land over the preceding 5 years, or any lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable; and

B. An amount computed by multiplying the amount, if any, by which the just value of the land on the date of withdrawal exceeds the 100% valuation of the land pursuant to this subchapter on the preceding April 1st by the following rates:

(1) If the land was subject to valuation under this subchapter for 10 years or fewer prior to the date of withdrawal, the rate is 30%; and

(2) If the land was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is 30% reduced by one percentage point for each full year beyond 10 years that the land was subject to valuation under this subchapter prior to the date of withdrawal, except that the minimum rate is 20%.

For purposes of this subsection, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

4. Assessment and collection of penalties. The owner shall pay the penalties for withdrawal upon withdrawal to the tax collector as additional property taxes. Penalties may be assessed and collected as supplemental assessments in accordance with section 713-B.

5. Eminent domain. A penalty may not be assessed under this section if the withdrawal of the parcel is occasioned by a transfer to the State or other entity holding the power of eminent domain resulting from the exercise or threatened exercise of that power.

6. Relief from requirements. Upon withdrawal, the land is relieved of the requirements of this subchapter immediately and is returned to taxation under subchapter 2 beginning the April 1st following withdrawal.

7. Reclassification under other current use program. A penalty may not be assessed upon the withdrawal of land from taxation under this subchapter if the owner applies for classification of that land in another current use program prior to withdrawal and the application is accepted. If a penalty is later assessed under section 581 or 1138, the period of time that the land was taxed as farmland or open space land under this subchapter is included for purposes of establishing the amount of the penalty.

8. Report of penalty. A municipality that receives a penalty for the withdrawal of land from taxation under this subchapter shall report to the State Tax Assessor the total amount received in that reporting year on the municipal valuation return form described in section 383.

9. Collection of farmland penalty; annual installments. An owner of farmland that has been classified under this subchapter for 5 full years or more may pay any penalty owed under this section in up to 5 equal annual installments with interest at the rate set by the municipality, which begins to accrue 60 days after the date of assessment. Notwithstanding section 943, for an owner paying a penalty under this subsection, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months from the date of the filing of the tax lien certificate.

Agricultural Land Exclusions

No statute.

Maryland

Sources / Changes

§ 8-209. Farm and agricultural land [** to portions not applicable]

§ 9-206. Agricultural land

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 8-209. Farm and agricultural land

2) Except as provided in paragraph (4) of this subsection, the Department shall establish in regulations criteria to determine if land that appears to be actively used for farm or agricultural purposes:

- (i) is actually used for farm or agricultural purposes; and
- (ii) qualifies for assessment under this section.

(3) The criteria shall include:

- (i) the zoning of the land;
- (ii) the present and past use of the land including land under the Soil Bank Program of the United States;
- (iii) the productivity of the land, including timberlands and reforested lands; and
- (iv) the gross income that is derived from the agricultural activity.

Agricultural Land Valuation Methodology

§ 8-209. Farm and agricultural land

Purpose

(a) The General Assembly declares that it is in the general public interest of the State to foster and encourage farming activities to:

- (1) maintain a readily available source of food and dairy products close to the metropolitan areas of the State;
- (2) encourage the preservation of open space as an amenity necessary for human welfare and happiness; and
- (3) prevent the forced conversion of open space land to more intensive uses because of the economic pressures caused by the assessment of the land at rates or levels incompatible with its practical use for farming.

Intention of the General Assembly

(b) It is the intention of the General Assembly that the assessment of farmland:

- (1) be maintained at levels compatible with the continued use of the land for farming; and
- (2) not be affected adversely by neighboring land uses of a more intensive nature.

Land actively used for farm or agriculture purpose

(c) Land that is actively used for farm or agricultural use shall be valued on the basis of that use and may not be valued as if subdivided.

Assessment based on value

(d) Land that is valued under subsection (c) of this section shall be assessed on the basis of its use value.

Regulations

(e)(1)(i) In this subsection the following words have the meanings indicated.

(ii) "Agrivoltaics" has the meaning stated in § 7-237 of this article.

(iii) "Community solar energy generating system" has the meaning stated in § 7-306.2 of the Public Utilities Article.

(2) Except as provided in paragraph (4) of this subsection, the Department shall establish in regulations criteria to determine if land that appears to be actively used for farm or agricultural purposes:

- (i) is actually used for farm or agricultural purposes; and
- (ii) qualifies for assessment under this section.

(3) The criteria shall include:

- (i) the zoning of the land;
- (ii) the present and past use of the land including land under the Soil Bank Program of the United States;
- (iii) the productivity of the land, including timberlands and reforested lands; and
- (iv) the gross income that is derived from the agricultural activity.

(4)(i) This paragraph applies through the life cycle of a community solar energy generating system that:

1. is placed in service after June 30, 2022; and
2. has been approved on or before December 31, 2025, as a community solar energy generating system by the Public Service Commission under § 7-306.2 of the Public Utilities Article.

(ii) The Department shall assess and qualify land that is used by a community solar energy generating system for agrivoltaics as land that is actively used for farm or agricultural purposes.

Administering this section

(f) In administering this section, periodically, the Director shall consult with:

- (1) the Secretary of Agriculture;
- (2) officials of the State who are knowledgeable in agriculture;
- (3) representatives of the agricultural community;
- (4) officials of counties and municipal corporations; and
- (5) other persons as determined by the Director.

Definitions; affirmation for parcel of land less than 20 acres

(g)(1) In this subsection the following words have the meanings indicated:

(i) "actively used" means land that is actually and primarily used for a continuing farm or agricultural use;

(ii) "agricultural land unit" means the combination of not more than 3 parcels of land when the parcels are:

1. located in the same county; and
2. under the same ownership;

(iii) "average gross income" means the average of the 2 highest years of gross income during a 3-year period;

(iv) "family farm unit" means not more than 1 parcel of land of less than 20 acres for each immediate family member for land that is:

1. contiguous to land receiving the farm or agricultural use assessment; and
2. owned by a member or members of the immediate family of the owner of the farm or agricultural use land; and

(v) "gross income" means the actual income that is received in a calendar year that results directly from the farm or agricultural use of the land.

(2) In determining if a parcel of land of less than 20 acres, or not zoned for agricultural use, is actively used, the Department may require the owner of the land to affirm, under oath, on a standard form provided by the Department that the farm or agricultural use of the land results in an average gross income of at least \$2,500 from the parcel or the agricultural land unit.

(3) The Department may require an owner who submits an affirmation under paragraph (2) of this subsection to verify the gross income from the land by providing:

- (i) copies of sales receipts or invoices;
- (ii) lease agreements; or
- (iii) other documents required by the Department.

(4) An affirmation under paragraph (2) of this subsection shall be filed before July 1 of the taxable year.

(5) If land that appears to be actively used does not yield an average gross income of \$2,500, the Director shall waive the gross income requirement on finding that:

- (i) the land is leased and the nature of the farm or agricultural use of the land when related to the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least \$2,500;
- (ii) the nature of the farm or agricultural use of the land and the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least \$2,500 from the agricultural products, if sold, that are derived from the use of the land;
- (iii) a drought or other natural cause has adversely affected the income-producing capability of the land during a 3-year period; or
- (iv) for a newly established farm or agricultural use, the nature of the use and the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least \$2,500 if the use had existed for a 3-year period.

(6) The Director may grant only the following additional waivers:

- (i) under paragraph (5)(iii) of this subsection, for 1 additional consecutive 3-year period; and
- (ii) under paragraph (5)(iv) of this subsection, for 1 additional consecutive 3-year period.

(7) The gross income requirement of paragraph (2) of this subsection does not apply if the land is actively used as a family farm unit.

(8) For purposes of qualifying for the agricultural use assessment under this section, the following real property is deemed to be a single contiguous parcel:

- (i) parcels that are created or separated by roads, easements, or other rights-of-way; and
- (ii) land relating to a right-of-way that reverts back to its owner's use for purposes of farming.

Applicability

(h)(1) Subject to paragraph (2) of this subsection, the following land does not qualify to be assessed under this section:

- (i) land rezoned to a more intensive use than the use that immediately preceded the rezoning, if a person with an ownership interest in the land has applied for or requested the rezoning;
- (ii) land used as a homesite, which means the area of land that is reasonably related to a dwelling;
- (iii) parcels of land of less than 3 acres that are under the same ownership excluding the homesite unless:
 - 1. the land is owned by an owner of adjoining land that is receiving the farm or agricultural use assessment and is actively used;
 - 2. the owner receives at least 51% of the owner's gross income from the active use; or
 - 3. the parcels are part of a family farm unit;
- (iv) if part of a subdivision plat, parcels of land of less than 10 acres that are owned by an owner of 5 other parcels of land of less than 10 acres each that are located in the same county and that are receiving the farm or agricultural use assessment;
- (v) parcels of woodland of less than 5 acres excluding the homesite; or
- (vi) land that fails to meet the gross income requirement of subsection (g) of this section.

(2) No more than 2 parcels of less than 3 acres under the same ownership may qualify for the agricultural use assessment.

Definitions; waiver

(i)(1)(i) In this subsection the following words have the meanings indicated.

(ii) "Surviving spouse" means the surviving spouse of the property owner who applied for the waiver under this subsection if the surviving spouse has not remarried and had a legal interest in the property at the time of the application for the waiver.

(iii) "3-year cycle" has the meaning stated in § 8-103 of this title.

(2) The Director may grant a waiver from the requirements of subsection (e) or (g) of this section if:

(i) the property owner is at least 70 years of age;

(ii) the property owner applies to the Department for a waiver of the requirements of either subsection (e) or (g) of this section;

(iii) the land has not changed ownership during the two previous 3-year cycles; and

(iv) the land has been assessed for at least the two previous 3-year cycles on the basis of farm or agricultural use under the law or regulations of the Department that were in effect as of the date of the application.

(3) The Director may grant a waiver from the requirements of subsection (e) or (g) of this section if:

(i) the property owner becomes disabled and is unable to continue the farm or agricultural use of the land;

(ii) the property owner applies to the Department for a waiver of the requirements of either subsection (e) or (g) of this section;

(iii) the property owner engaged in farm or agricultural use activities on the land prior to the disability; and

(iv) the land has been assessed for at least the two previous 3-year cycles on the basis of farm or agricultural use under the law or regulations of the Department that were in effect as of the date of the application.

(4) Any waiver granted under this subsection shall be in effect until:

(i) the transfer of the property; or

(ii) the later of the death of the property owner who received the waiver or the death of the surviving spouse.

(5) The Department may adopt regulations to carry out the provisions of this subsection.

§ 9-206. Agricultural land

"Agricultural land" defined

(a) In this section, "agricultural land" means real property subject to an easement or other interest that is permanently conveyed or assigned to the Maryland Agricultural Land Preservation Foundation under § 2-504 of the Agriculture Article.

Amount of tax credit

(b) The Mayor and City Council of Baltimore City or the governing body of a county may grant, by law, a property tax credit not exceeding 75% of any county property tax imposed on agricultural land.

Procedures

(c) The Mayor and City Council of Baltimore City or the governing body of a county may provide, by law, any procedural or enforcement provision necessary to carry out this section.

Valuation and assessment

(d) Valuation and assessment of agricultural land shall be made in the same manner as any other real property in the county.

Agricultural Land Exclusions

No statute.

Massachusetts

Sources / Changes

Chapter 61A. Assessment and Taxation of Agricultural and Horticultural Land

§ 1. Land in agricultural use defined

§ 2. Land in horticultural use defined

§ 3. Land of five-acre minimum area actively devoted to agricultural or horticultural uses defined; gross sales and program payment standard

- § 4. Valuation of land in agricultural, etc. use; contiguous land; tax rate
- § 4A. Tax rate for land actively devoted to agricultural or horticultural use
- § 10. Factors to be considered in valuing land
- § 13. Change of use; liability for roll-back taxes
- § 16. Continuance of land valuation, assessment and taxation under this chapter dependent upon qualifying use
- § 18. Special or betterment assessments; payment; interest

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 17. Separation of land to other use; liability for conveyance or roll-back taxes; continuing qualification of remainder

Currentness

If, by conveyance or other action of the owner thereof, a portion of land which is valued, assessed and taxed under the provisions of this chapter is separated for a use other than agricultural or horticultural, the land so separated shall be subject to liability for conveyance or roll-back taxes applicable thereto, but such separation shall not impair the right of the remainder of such land to continuance of valuation, assessment and taxation thereunder; provided, that such remaining land continues to qualify under the usage, minimum acreage and other provisions thereof.

§ 13. Change of use; liability for roll-back taxes

Whenever land which is valued, assessed and taxed under this chapter no longer meets the definition of land actively devoted to agricultural, horticultural or agricultural and horticultural use, it shall be subject to additional taxes, in this section called roll-back taxes, in the current tax year in which it is disqualified and in those years of the 4 immediately preceding tax years in which the land was so valued, assessed and taxed, but roll-back taxes shall not apply unless the amount of those taxes as computed under this section, exceeds the amount, if any, imposed under section 12 and, in that case, the land shall not be subject to the conveyance tax imposed under said section 12. For each tax year, the roll-back tax shall be an amount equal to the difference, if any, between the taxes paid or payable for that tax year in accordance with this chapter and the taxes that would have been paid or payable in that tax year had the land been valued, assessed and taxed without regard to those provisions. Notwithstanding this paragraph, roll-back taxes shall not be assessed if the land involved, or a lesser interest in the land, is: (a) acquired for a natural resource purpose by (1) the city or town in which it is situated; (2) the commonwealth; or (3) a nonprofit conservation organization; (b) used or converted to a renewable energy generating source pursuant to section 2A; (c) subject to a permanent wetland reserve easement through the agricultural conservation easement program established pursuant to 16 U.S.C. 3865c; or (d) otherwise subject to another federal conservation program; provided, however, that if a portion of the land is sold or converted to commercial, residential or industrial use within 5 years after acquisition by a nonprofit conservation organization, roll-back taxes shall be assessed against the nonprofit conservation organization in the amount that would have been assessed at the time of acquisition of the subject parcel by the nonprofit conservation organization had the transaction been subject to a roll-back tax. If, at the time during a tax year when a change in land use has occurred, the land was not then valued, assessed and taxed under the provisions of this chapter, then such land shall be subject to roll-back taxes only for such of the five immediately preceding years in which the land was valued, assessed and taxed thereunder. In determining the amount of roll-back taxes on land which has undergone a change in use, the board of assessors shall have ascertained the following for each of the roll-back tax years involved: (a) The full and fair value of such land under the valuation standard applicable to other land in the city or town; (b) The amount of the land assessment for the particular tax year; (c) The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined under subsection (a); and,

(d) The amount of the roll-back tax for that tax year by multiplying the amount of the additional assessment determined under subsection (c) by the general property tax rate of the city or town applicable for that tax year.

Roll-back taxes will be subject to a simple interest rate of 5 per cent per annum. Land which is valued, assessed and taxed under this chapter as of July 1, 2006 shall be exempt from any interest if it remains in the same ownership as it was on that date or under the ownership of the original owner's spouse, parent, grandparent, child, grandchild, brother, sister or surviving spouse of any deceased such relative.

If the board of assessors determines that the total amount of roll-back taxes to be assessed under this section, before the addition of any interest, as provided for in the preceding paragraph, would be less than \$10, no tax shall be assessed.

No roll-back tax imposed by this section will be assessed on land that meets the definition of forest land under section 1 of chapter 61 or recreational land under section 1 of chapter 61B or renewable energy generating source pursuant to section 2A.

Land retained as open space as required for the mitigation of development shall be subject to the roll-back taxes imposed by this section.

§ 18. Special or betterment assessments; payment; interest

Land qualifying for valuation, assessment and taxation under this chapter shall be subject to special assessments or betterment assessments to such pro rata extent as the service or facility financed by such assessment is used for improving the agricultural or horticultural use capability of said land or for the personal benefit of the owner thereof. Any such assessment shall, however, upon application, be suspended during the time the land is in agricultural or horticultural use and shall become due and payable as of the date when the use of such land is changed. In the event only a portion of a tract of land which benefits from a suspension of payment is changed from such use, the assessment shall become due and payable as of the date when the use was changed only to the extent of and in the proportion that the frontage of such portion bears to the street frontage of the entire tract of land which originally benefited from a suspension of payment. Upon full payment of a portion of a suspended assessment, the tax collector may dissolve the lien for the assessment insofar as it affects the portion of the land changed from agricultural or horticultural use. The lien for the portion of the original assessment which remains unpaid shall continue and remain in full force and effect until dissolved in accordance with law. A request for such release shall be made in writing to the tax collector, and shall be accompanied by a plan and such other information as is required in the case of a request for a division of an assessment pursuant to section fifteen.

Payment of the assessment and interest on it shall be made in accordance with section 13 of chapter 80, but any interest shall be computed from the date of the change in use.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 1. Land in agricultural use defined

Land shall be deemed to be in agricultural use when primarily and directly used in raising animals, including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, for the purpose of selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for market.

§ 2. Land in horticultural use defined

Land shall be considered to be in horticultural use when primarily and directly used in raising fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flower, sod, trees, nursery or greenhouse products, and ornamental plants and shrubs for the purpose of selling these products in the regular course of business; or when primarily and directly used in raising forest products under a certified forest management plan, approved by and subject to procedures established by the

state forester, designed to improve the quantity and quality of a continuous crop for the purpose of selling these products in the regular course of business; or when primarily and directly used in a related manner which is incidental to those uses and represents a customary and necessary use in raising these products and preparing them for market.

§ 3. Land of five-acre minimum area actively devoted to agricultural or horticultural uses defined; gross sales and program payment standard

Land not less than five acres in area shall be deemed to be actively devoted to agricultural or horticultural uses when the gross sales of agricultural, horticultural or agricultural and horticultural products resulting from such uses together with the amount, if any, payable under a soil conservation or pollution abatement program of the federal government or the commonwealth total not less than five hundred dollars per year or when the use of such land is clearly proven to be for the purpose of achieving an annual total of not less than five hundred dollars from such gross sales and program payments within the normal product development period as determined by the farmland valuation advisory commission established pursuant to section eleven of this chapter. In cases where the land is more than five acres in area, the gross sales and program payment standard above set forth shall be increased at the rate of five dollars per acre except in the case of woodland or wetland for which such increase shall be at the rate of fifty cents per acre.

Agricultural Land Valuation Methodology

§ 4. Valuation of land in agricultural, etc. use; contiguous land; tax rate

For general property tax purposes, the value of land, not less than five acres in area, which is actively devoted to agricultural, horticultural or agricultural and horticultural uses during the tax year in issue and has been so devoted for at least the two immediately preceding tax years, shall, upon application of the owner of such land and approval thereof, be that value which such land has for agricultural or horticultural purposes. For the said tax purposes, land so devoted shall be deemed to include such contiguous land under the same ownership as is not committed to residential, industrial or commercial use and which is covered by application submitted pursuant to section six. Land shall be deemed contiguous if it is separated from other land under the same ownership only by a public or private way or waterway. Land under the same ownership shall be deemed contiguous if it is connected to other land under the same ownership by an easement for water supply. All such land which is contiguous or is deemed contiguous for purposes of this chapter shall not exceed in acreage one hundred per cent of the acreage which is actively devoted to agricultural, horticultural or agricultural and horticultural uses. The rate of tax applicable to such agricultural or horticultural land shall be the rate determined to be applicable to class three, commercial property under chapter fifty-nine.

§ 4A. Tax rate for land actively devoted to agricultural or horticultural use

In a city or town that accepts this section, the rate of tax applicable to land actively devoted to agricultural, horticultural or agricultural and horticultural uses shall be the rate determined to be applicable to class two, open space.

§ 10. Factors to be considered in valuing land

The board of assessors of a city or town, in valuing land with respect to which timely application has been made and approved as provided in this chapter, shall consider only those indicia of value which such land has for agricultural, horticultural or agricultural and horticultural uses. Said board, in establishing the use value of such land, shall use the list of ranges published pursuant to section eleven and its personal knowledge, judgment and experience as to such agricultural land values but these factors shall be limited to data specific to the crop or product being grown or produced.

§ 16. Continuance of land valuation, assessment and taxation under this chapter dependent upon qualifying use

Continuance of land valuation, assessment and taxation under the provisions of this chapter shall depend upon continuance of such land in agricultural or horticultural uses and compliance with other requirements of this chapter and not upon continuance in the same owner of title to such land. Liability to roll-back taxes, determined pursuant to section thirteen, shall attach when such land no longer qualifies as actively

devoted to agricultural or horticultural use and shall be the obligation of the then owner of the land. For purposes relating to roll-back taxes such qualification shall depend on the actual use of such land for the previous 5 years, and not on the filing of application under section six for any year.

Agricultural Land Exclusions

No statute.

Michigan

Sources / Changes

211.7dd. Definitions; §§ 211.7cc and 211.7ee. Qualified agricultural property

211.1003. Imposition of the agricultural property recapture tax, conditions

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

211.7dd. Definitions; §§ 211.7cc and 211.7ee

Sec. 7dd. As used in sections 7cc and 7ee:1

. . (d) "Qualified agricultural property" means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 36101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a principal residence exemption on other property. For taxes levied after December 31, 2008, property shall not lose its status as qualified agricultural property as a result of an owner or lessee of that property implementing a wildlife risk mitigation action plan. Notwithstanding any other provision of this act to the contrary, if after December 31, 2008 the classification of property was changed as a result of the implementation of a wildlife risk mitigation action plan, the owner of that property may appeal that change in classification to the board of review under section 304 in the year in which the amendatory act that added this sentence⁵ takes effect or in the 3 immediately succeeding years. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building. . . .

211.1003. Imposition of the agricultural property recapture tax, conditions

Sec. 3. (1) Beginning January 1, 2001, the agricultural property recapture tax provided under section 41 is imposed as provided in this section if the property meets all of the following conditions:

(a) The property was transferred after December 31, 1999.

(b) The taxable value of the property was not adjusted under section 27a(3) of the general property tax act, 1893 PA 206, MCL 211.27a, after the transfer described in subdivision (a) due to the provisions of section 27a(7)(n) of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) The property is converted by a change in use after December 31, 2000.

(2) If a recapture tax is imposed because qualified agricultural property is converted by a change in use described under section 2(c)(i),² the recapture tax is the obligation of the person who owned the property at the time the property was converted by a change in use. If a recapture tax is imposed on the owner of

the property under this subsection, the recapture tax is a lien on the property subject to the recapture tax until paid. If the recapture tax is not paid within 90 days of the date the property was converted by a change in use, the treasurer may bring a civil action against the owner of the property as of the date the property was converted by a change in use. If the recapture tax remains unpaid on the March 1 in the year immediately succeeding the year in which the property is converted by a change in use, the property on which the recapture tax is due shall be returned as delinquent to the county treasurer of the county in which the property is located. Property returned as delinquent under this section, and upon which the recapture tax, interest, penalties, and fees remain unpaid after the property is returned as delinquent to the county treasurer, is subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a.

(3) If a recapture tax is imposed because qualified agricultural property is converted by a change in use as described in section 2(c)(ii), the recapture tax is an obligation of the person who owned the property prior to the transfer and the recapture tax is due when the instruments transferring the property are recorded with the register of deeds. The register of deeds shall not record an instrument transferring the property before the recapture tax is paid.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

211.7dd. Definitions; §§ 211.7cc and 211.7ee

Sec. 7dd. As used in sections 7cc and 7ee:1

. . (d) "Qualified agricultural property" means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 36101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a principal residence exemption on other property. For taxes levied after December 31, 2008, property shall not lose its status as qualified agricultural property as a result of an owner or lessee of that property implementing a wildlife risk mitigation action plan. Notwithstanding any other provision of this act to the contrary, if after December 31, 2008 the classification of property was changed as a result of the implementation of a wildlife risk mitigation action plan, the owner of that property may appeal that change in classification to the board of review under section 304 in the year in which the amendatory act that added this sentence⁵ takes effect or in the 3 immediately succeeding years. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building. . . .

Agricultural Land Valuation Methodology

211.7ee. Qualified agricultural property

Sec. 7ee. (1) Qualified agricultural property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, according to the provisions of this section.

(2) Qualified agricultural property that is classified as agricultural under section 34c1 is exempt under subsection (1) and the owner is not required to file an affidavit claiming an exemption with the local tax collecting unit unless requested by the assessor to determine whether the property includes structures that are not exempt under this section. To claim an exemption under subsection (1) for qualified agricultural property that is not classified as agricultural under section 34c, the owner shall file an affidavit claiming the exemption with the local tax collecting unit by May 1.

(3) The affidavit shall be on a form prescribed by the department of treasury.

(4) For property classified as agricultural, and upon receipt of an affidavit filed under subsection (2) for property not classified as agricultural, the assessor shall determine if the property is qualified agricultural property and if so shall exempt the property from the collection of the tax as provided in subsection (1) until December 31 of the year in which the property is no longer qualified agricultural property as defined in section 7dd.2 An owner is required to file a new claim for exemption on the same property as requested by the assessor under subsection (2).

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified agricultural property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) An owner of property that is qualified agricultural property on May 1 for which an exemption was not on the tax roll may file an appeal with the July or December board of review in the year the exemption was claimed or the immediately succeeding year. An owner of property that is qualified agricultural property on May 1 for which an exemption was denied by the assessor in the year the affidavit was filed, may file an appeal with the July board of review for summer taxes or, if there is not a summer levy of school operating taxes, with the December board of review.

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified agricultural property, the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c.3 A taxpayer may appeal the assessor's determination to the board of review meeting under section 30.4 A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal.

(8) If an exemption under this section is erroneously granted, an owner may request in writing that the local tax collecting unit withdraw the exemption. If an owner requests that an exemption be withdrawn, the local assessor shall notify the owner that the exemption issued under this section has been denied based on that owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If an owner requests that an exemption under this section be withdrawn before that owner is contacted in writing by the local assessor regarding that owner's eligibility for the exemption and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

Agricultural Land Exclusions

No statute.

Minnesota

Sources / Changes

273.11. Valuation of property

**273.13. Classification of property

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

273.13. Classification of property

(j) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

- (1) wholesale and retail sales;
- (2) processing of raw agricultural products or other goods;
- (3) warehousing or storage of processed goods; and
- (4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3), the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

273.13. Classification of property

(d) Class 1d property includes structures that meet all of the following criteria:

- (1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;
- (2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;
- (3) the structure meets all applicable health and safety requirements for the appropriate season; and
- (4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same classification rates as class 1a property under paragraph (a).

Subd. 23. Class 2. (a) An agricultural homestead consists of class 2a agricultural land that is homesteaded, along with any class 2b rural vacant land that is contiguous to the class 2a land under the same ownership. The market value of the house and garage and immediately surrounding one acre of land has the same classification rates as class 1a or 1b property under subdivision 22. The value of the remaining land including improvements up to the first tier valuation limit of agricultural homestead property has a classification rate of 0.5 percent of market value. The remaining property over the first tier has a classification rate of one percent of market value. For purposes of this subdivision, the "first tier valuation limit of agricultural homestead property" and "first tier" means the limit certified under section 273.11, subdivision 23.

(b) Class 2a agricultural land consists of parcels of property, or portions thereof, that are agricultural land and buildings. Class 2a property has a classification rate of one percent of market value, unless it is part of an agricultural homestead under paragraph (a). Class 2a property must also include any property that would otherwise be classified as 2b, but is interspersed with class 2a property, including but not limited to sloughs, wooded wind shelters, acreage abutting ditches, ravines, rock piles, land subject to a setback requirement, and other similar land that is impractical for the assessor to value separately from the rest of the property or that is unlikely to be able to be sold separately from the rest of the property.

An assessor may classify the part of a parcel described in this subdivision that is used for agricultural purposes as class 2a and the remainder in the class appropriate to its use.

(c) Class 2b rural vacant land consists of parcels of property, or portions thereof, that are unplatted real estate, rural in character and not used for agricultural purposes, including land used for growing trees for timber, lumber, and wood and wood products, that is not improved with a structure. The presence of a minor, ancillary nonresidential structure as defined by the commissioner of revenue does not disqualify the property from classification under this paragraph. Any parcel of 20 acres or more improved with a structure that is not a minor, ancillary nonresidential structure must be split-classified, and ten acres must be assigned to the split parcel containing the structure. If a parcel of 20 acres or more is enrolled in the sustainable forest management incentive program under chapter 290C, the number of acres assigned to the split parcel improved with a structure that is not a minor, ancillary nonresidential structure must equal three acres or the number of acres excluded from the sustainable forest incentive act covenant due to the structure, whichever is greater. Class 2b property has a classification rate of one percent of market value unless it is part of an agricultural homestead under paragraph (a), or qualifies as class 2c under paragraph (d).

(d) Class 2c managed forest land consists of no less than 20 and no more than 1,920 acres statewide per taxpayer that is being managed under a forest management plan that meets the requirements of chapter 290C, but is not enrolled in the sustainable forest resource management incentive program. It has a classification rate of .65 percent, provided that the owner of the property must apply to the assessor in order for the property to initially qualify for the reduced rate and provide the information required by the assessor to verify that the property qualifies for the reduced rate. If the assessor receives the application and information before May 1 in an assessment year, the property qualifies beginning with that assessment year. If the assessor receives the application and information after April 30 in an assessment year, the property may not qualify until the next assessment year. The commissioner of natural resources must concur that the land is qualified. The commissioner of natural resources shall annually provide county assessors verification information on a timely basis. The presence of a minor, ancillary nonresidential structure as defined by the commissioner of revenue does not disqualify the property from classification under this paragraph.

(e) Agricultural land as used in this section means:

(1) contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes; or
(2) contiguous acreage used during the preceding year for an intensive livestock or poultry confinement operation, provided that land used only for pasturing or grazing does not qualify under this clause. "Agricultural purposes" as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity. For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored must have been produced by the same farm entity as the entity operating the drying or storage facility. "Agricultural purposes" also includes (i) enrollment in a local conservation program or the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (A) under this subdivision for taxes payable in 2003 because of its enrollment in a qualifying program and the land remains enrolled or (B) in the year prior to its enrollment, or (ii) use of land, not to exceed three acres, to provide environmental benefits such as buffer strips, old growth forest restoration or retention, or retention ponds to prevent soil erosion. For purposes of this section, a "local conservation program" means a program administered by a town, statutory or home rule charter city, or county, including a watershed district, water management organization, or soil and water conservation district, in which landowners voluntarily enroll land and receive incentive payments equal to at least \$50 per acre in exchange for use or other restrictions placed on the land. In order for property to qualify under the local conservation program provision, a taxpayer must apply to the assessor by February 1 of the assessment year and must submit the information required by the assessor, including but not limited to a copy of the program requirements, the specific agreement between the land owner and the local agency, if applicable, and a map of the conservation area. Agricultural classification shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

"Contiguous acreage," for purposes of this paragraph, means all of, or a contiguous portion of, a tax parcel as described in section 272.193, or all of, or a contiguous portion of, a set of contiguous tax parcels under that section that are owned by the same person.

(f) Agricultural land under this section also includes:

(1) contiguous acreage that is less than ten acres in size and exclusively used in the preceding year for raising or cultivating agricultural products; or

(2) contiguous acreage that contains a residence and is less than 11 acres in size, if the contiguous acreage exclusive of the house, garage, and surrounding one acre of land was used in the preceding year for one or more of the following three uses:

(i) for an intensive grain drying or storage operation, or for intensive machinery or equipment storage activities used to support agricultural activities on other parcels of property operated by the same farming entity;

(ii) as a nursery, provided that only those acres used intensively to produce nursery stock are considered agricultural land; or

(iii) for intensive market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.

"Contiguous acreage," for purposes of this paragraph, means all of a tax parcel as described in section 272.193, or all of a set of contiguous tax parcels under that section that are owned by the same person.

(g) Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes.

Classification under this subdivision is not determinative for qualifying under section 273.111.

(h) The property classification under this section supersedes, for property tax purposes only, any locally administered agricultural policies or land use restrictions that define minimum or maximum farm acreage.

(i) The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) aquacultural products for sale and consumption, as defined under section 17.47, if the aquaculture occurs on land zoned for agricultural use;

(3) the commercial boarding of horses, which may include related horse training and riding instruction, if the boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

(5) game birds and waterfowl bred and raised (i) on a game farm licensed under section 97A.105, provided that the annual licensing report to the Department of Natural Resources, which must be submitted annually by March 30 to the assessor, indicates that at least 500 birds were raised or used for breeding stock on the property during the preceding year and that the owner provides a copy of the owner's most recent schedule F; or (ii) for use on a shooting preserve licensed under section 97A.115;

(6) insects primarily bred to be used as food for animals;

(7) trees, grown for sale as a crop, including short rotation woody crops, and not sold for timber, lumber, wood, or wood products; and

(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor.

(j) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3), the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

(k) The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

Agricultural Land Valuation Methodology

273.11. Valuation of property

Subdivision 1. Generally. Except as provided in this section or section 273.17, subdivision 1, all property shall be valued at its market value. The market value as determined pursuant to this section shall be stated such that any amount under \$100 is rounded up to \$100 and any amount exceeding \$100 shall be rounded to the nearest \$100. In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall the assessor adopt as a criterion of value the price for which such property would sell at a forced sale, or in the aggregate with all the property in the town or district; but the assessor shall value each article or description of property by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. The assessor shall take into account the effect on the market value of property of environmental factors in the vicinity of the property. In assessing any tract or lot of real property, the value of the land, exclusive of structures and improvements, shall be determined, and also the value of all structures and improvements thereon, and the aggregate value of the property, including all structures and improvements, excluding the value of crops growing upon cultivated land. In valuing real property upon which there is a mine or quarry, it shall be valued at such price as such property, including the mine or quarry, would sell for at a fair, voluntary sale, for cash, if the material being mined or quarried is not subject to taxation under section 298.015 and the mine or quarry is not exempt from the general property tax under section 298.25. In valuing real property which is vacant, platted property shall be assessed as provided in subdivisions 14a and 14c. All property, or the use thereof, which is taxable under section 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value.

273.111. Agricultural property tax

Subdivision 1. Citation. This section may be cited as the "Minnesota Agricultural Property Tax Law."

Subd. 2. Public policy. The present general system of ad valorem property taxation in the state of Minnesota does not provide an equitable basis for the taxation of certain agricultural real property and has resulted in inadequate taxes on some lands and excessive taxes on others. Therefore, it is hereby declared to be the public policy of this state that the public interest would best be served by equalizing tax burdens upon agricultural property within this state through appropriate taxing measures.

Subd. 2a. Purpose. The legislature finds that it is in the interest of the state to encourage and preserve farms by mitigating the property tax impact of increasing land values due to nonagricultural economic forces.

Subd. 3. Requirements. (a) Real estate consisting of ten acres or more or a nursery or greenhouse, and qualifying for classification as class 2a under section 273.13, shall be entitled to valuation and tax deferment under this section if it is primarily devoted to agricultural use, and either:

- (1) is the homestead of the owner, or of a surviving spouse, child, or sibling of the owner or is real estate which is farmed with the real estate which contains the homestead property; or
- (2) has been in possession of the applicant, the applicant's spouse, parent, or sibling, or any combination thereof, for a period of at least seven years prior to application for benefits under the provisions of this section, or is real estate which is farmed with the real estate which qualifies under this clause and is within four townships or cities or combination thereof from the qualifying real estate; or
- (3) is the homestead of an individual who is part of an entity described in paragraph (b), clause (1), (2), or (3); or
- (4) is in the possession of a nursery or greenhouse or an entity owned by a proprietor, partnership, or corporation which also owns the nursery or greenhouse operations on the parcel or parcels, provided that only the acres used to produce nursery stock qualify for treatment under this section.

(b) Valuation of real estate under this section is limited to parcels owned by individuals except for:

- (1) a family farm entity or authorized farm entity regulated under section 500.24;

(2) an entity, not regulated under section 500.24, in which the majority of the members, partners, or shareholders are related and at least one of the members, partners, or shareholders either resides on the land or actively operates the land; and

(3) corporations that derive 80 percent or more of their gross receipts from the wholesale or retail sale of horticultural or nursery stock.

The terms in this paragraph have the meanings given in section 500.24, where applicable.

(c) Land that previously qualified for tax deferral under this section and no longer qualifies because it is not primarily used for agricultural purposes but would otherwise qualify under Minnesota Statutes 2006, section 273.111, subdivision 3, for a period of at least three years will not be required to make payment of the previously deferred taxes, notwithstanding the provisions of subdivision 9. Sale of the land prior to the expiration of the three-year period requires payment of deferred taxes as follows: sale in the year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of deferred taxes for the two prior years; sale during the second year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of the deferred taxes for the prior year; and sale during the third year the land no longer qualifies requires payment of the current year's deferred taxes. Deferred taxes shall be paid even if the land qualifies pursuant to subdivision 11a. When such property is sold or no longer qualifies under this paragraph, or at the end of the three-year period, whichever comes first, all deferred special assessments plus interest are payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest are payable within 90 days. The provisions of section 429.061, subdivision 2, apply to the collection of these installments. Penalties are not imposed on any such special assessments if timely paid.

(d) Land that is enrolled in the reinvest in Minnesota program under sections 103F.501 to 103F.535, the federal Conservation Reserve Program as contained in Public Law 99-198,1 or a similar state or federal conservation program qualifies for valuation and assessment deferral under this section if it was in agricultural use before enrollment and, provided that, in the case of land enrolled in the reinvest in Minnesota program, it is not subject to a perpetual easement.

Subd. 3a. Property no longer eligible for deferral. (a) Real estate receiving the tax deferral under this section for assessment year 2008, but that does not qualify for the 2009 assessment year due to changes in qualification requirements under Laws 2008, chapter 366, shall continue to qualify until: (1) the land is sold, transferred, or subdivided, or (2) the 2013 assessment, whichever is earlier, provided that the property continues to meet the requirements of Minnesota Statutes 2006, section 273.111, subdivision 3.

(b) Except as provided in paragraph (c), and subdivision 9, paragraph (b), when property assessed under this subdivision is withdrawn from the program or becomes ineligible, the property shall be subject to additional taxes as provided in subdivision 9.

(c) If land described in paragraph (a) is (1) sold or otherwise transferred to a son or daughter of the owner, or (2) transferred from a family farm limited liability company upon its termination to a son or daughter of an individual who had an ownership interest in the company, it will continue to qualify for treatment under this section as long as it continues to meet the requirements of Minnesota Statutes 2006, section 273.111, subdivision 3, but no later than the 2013 assessment.

(d) When property assessed under this subdivision is removed from the program and is enrolled in the rural preserve property tax law program under section 273.114, the property is not subject to the additional taxes required under this subdivision or subdivision 9.

Subd. 4. Determination of value. (a) The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 8, be determined solely with reference to its appropriate agricultural classification and value notwithstanding sections 272.03, subdivision 8, and 273.11. Furthermore, the assessor shall not consider any added values resulting from nonagricultural factors. In order to account for the presence of nonagricultural influences that may affect the value of agricultural land, the commissioner of revenue shall, in consultation with the Department of Applied Economics at the University of Minnesota, develop a fair and uniform method of determining the average value of agricultural land for each county in the state consistent with this subdivision. The values must be determined using appropriate sales data. When appropriate, the commissioner may make reasonable adjustments to the values based on the most recent available county or regional data for agricultural production, commodity prices, production expenses, rent, and investment return. The commissioner shall annually assign the resulting countywide average value to each county, and these values shall be used as the basis for determining the agricultural value for all properties in the county

qualifying for tax deferment under this section. The county assessor, in consultation with the Department of Revenue, shall determine the relative value of agricultural land for each assessment district in comparison to the countywide average value, considering and giving recognition to appropriate agricultural market and soil data available.

(b) In the case of property qualifying for tax deferment only under subdivision 3a, the assessor shall not consider the presence of commercial, industrial, residential, or seasonal recreational land use influences in determining the value for ad valorem tax purposes provided that in no case shall the value exceed the value prescribed by the commissioner of revenue for class 2a tillable property in that county.

Subd. 5. Separate determination of market value and tax. The assessor shall, however, make a separate determination of the market value of such real estate. The tax based upon the appropriate local tax rate applicable to such property in the taxing district shall be recorded on the property assessment records.

Subd. 6. Repealed by Laws 2008, c. 366, art. 6, § 52, par. (c), eff. Jan. 1, 2009.

Subd. 7. Repealed by Laws 1969, c. 1039, § 10.

Subd. 8. Application. Application for deferment of taxes and assessment under this section shall be filed by May 1 of the year prior to the year in which the taxes are payable. Any application filed hereunder and granted shall continue in effect for subsequent years until the property no longer qualifies. The application must be filed with the assessor of the taxing district in which the real property is located on the form prescribed by the commissioner of revenue. The assessor may require proof by affidavit or otherwise that the property qualifies under subdivision 3 and may require the applicant to provide a copy of the appropriate schedule or form showing farm income that is attested to by the applicant as having been included in the most recently filed federal income tax return of the applicant.

Subd. 8a. Repealed by Laws 1984, c. 593, § 46.

Subd. 9. Additional taxes. (a) Except as provided in paragraph (b), when real property which is being, or has been valued and assessed under this section no longer qualifies under subdivision 3, the portion no longer qualifying shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5. Provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last three years that the said property has been valued and assessed under this section.

(b) Real property that has been valued and assessed under this section prior to May 29, 2008, and that ceases to qualify under this section after May 28, 2008, and is withdrawn from the program before August 16, 2010, is not subject to additional taxes under this subdivision or subdivision 3, paragraph (c). If additional taxes have been paid under this subdivision with respect to property described in this paragraph prior to April 3, 2009, the county must repay the property owner in the manner prescribed by the commissioner of revenue.

Subd. 9a. Repealed by Laws 2015, c. 21, art. 1, § 110, subd. 7, eff. May 12, 2015.

Subd. 10. Lien. The tax imposed by this section shall be a lien upon the property assessed to the same extent and for the same duration as other taxes imposed upon property within this state. The tax shall be annually extended by the county auditor and if and when payable shall be collected and distributed in the manner provided by law for the collection and distribution of other property taxes.

Subd. 11. Special local assessments. The payment of special local assessments levied after June 1, 1967, for improvements made to any real property described in subdivision 3 together with the interest thereon shall, on timely application as provided in subdivision 8, be deferred as long as such property meets the conditions contained in subdivision 3 or 3a or is transferred to an agricultural preserve under sections 473H.02 to 473H.17. If special assessments against the property have been deferred pursuant to this subdivision, the governmental unit shall file with the county recorder in the county in which the property is located a certificate containing the legal description of the affected property and of the amount deferred. When such property no longer qualifies under subdivision 3 or 3a, all deferred special assessments plus interest shall be payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest shall be payable within 90

days. The provisions of section 429.061, subdivision 2, apply to the collection of these installments. Penalty shall not be levied on any such special assessments if timely paid.

Subd. 11a. Continuation of tax treatment upon sale or other event. (a) When real property qualifying under subdivision 3 is sold or transferred, no additional taxes or deferred special assessments plus interest shall be extended against the property provided the property continues to qualify pursuant to subdivision 3, and provided the new owner files an application for continued deferment within 30 days after the sale or transfer.

(b) The following transfers do not constitute a change of ownership of property qualifying under subdivision 3:

- (1) death of a property owner when a surviving owner retains ownership of the property thereafter;
- (2) divorce of a married couple when one of the spouses retains ownership of the property thereafter;
- (3) marriage of a single property owner when that owner retains ownership of the property in whole or in part thereafter;
- (4) organization into or reorganization of a farm entity ownership under section 500.24, if all owners maintain the same beneficial interest both before and after the organizational changes; and
- (5) placement of the property in trust provided that the individual owners of the property are the grantors of the trust and they maintain the same beneficial interest both before and after placement of the property in trust.

Subd. 12. Statutory construction. This section shall be broadly construed to achieve its purpose. The invalidity of any provision shall be deemed not to affect the validity of other provisions.

Subd. 13. General applicability. This section shall apply to assessments for tax purposes made in 1968 and thereafter.

Subd. 14. Applicability of special assessment provisions. (a) This section shall apply to special local assessments levied after July 1, 1967, and payable in the years thereafter, but shall not apply to any special assessments levied at any time by a county or district court under chapter 116A or by a watershed district under chapter 103D.

(b) For special assessments levied by a watershed district under chapter 103D before June 1, 2008, this section is effective only for real property initially qualifying for tax deferment after May 31, 2008. For special assessments by a watershed district under chapter 103D levied after May 31, 2008, this section is effective for all real property qualifying for tax deferment under this section.

Subd. 15. Dissected parcels; continued deferment. Real estate consisting of more than ten, but less than 15, acres which has:

- (1) been owned by the applicant or the applicant's parents for at least 70 years;
- (2) been dissected by two or more major parkways or interstate highways; and
- (3) qualified for the agricultural valuation and tax deferment under this section through assessment year 1996, taxes payable in 1997,

shall continue to qualify for treatment under this section until the applicant's death or transfer or sale by the applicant of the applicant's interest in the real estate. When the property ceases to qualify for treatment under this section, the recapture provisions of subdivision 9 will apply with respect to the last ten years that the property has been valued and assessed under this section.

Subd. 16. Implementation of program. This section must be applied to eligible properties by all county assessors, beginning no later than assessments for taxes levied in 2009, payable in 2010, and thereafter, unless the commissioner of revenue determines that a county is unable to comply with this requirement, in which case the county must implement it for taxes levied in 2010, payable in 2011, and thereafter.

Agricultural Land Exclusions

No statute.

Mississippi

Sources / Changes

****§ 27-35-50. True value determination**

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

No statute.

Agricultural Land Valuation Methodology

§ 27-35-50. True value determination

(1) True value shall mean and include, but shall not be limited to, market value, cash value, actual cash value, proper value and value for the purposes of appraisal for ad valorem taxation.

(2) With respect to each and every parcel of property subject to assessment, the tax assessor shall, in ascertaining true value, consider whenever possible the income capitalization approach to value, the cost approach to value and the market data approach to value, as such approaches are determined by the Department of Revenue. For differing types of categories of property, differing approaches may be appropriate. The choice of the particular valuation approach or approaches to be used should be made by the assessor upon a consideration of the category or nature of the property, the approaches to value for which the highest quality data is available, and the current use of the property.

(3) Except as otherwise provided in subsection (4) of this section, in determining the true value of land and improvements thereon, factors to be taken into consideration are the proximity to navigation; to a highway; to a railroad; to a city, town, village or road; and any other circumstances that tend to affect its value, and not what it might bring at a forced sale but what the owner would be willing to accept and would expect to receive for it if he were disposed to sell it to another able and willing to buy.

(4)(a) In arriving at the true value of all Class I and Class II property and improvements, the appraisal shall be made according to current use, regardless of location.

(b) In arriving at the true value of any land used for agricultural purposes, the appraisal shall be made according to its use on January 1 of each year, regardless of its location; in making the appraisal, the assessor shall use soil types, productivity and other criteria set forth in the land appraisal manuals of the Department of Revenue, which criteria shall include, but not be limited to, an income capitalization approach with a capitalization rate of not less than ten percent (10%) and a moving average of not more than ten (10) years; however, for the year 2022 and thereafter, the moving average for such land, except land devoted to the production of timber, shall be as follows: for the year 2022, four (4) years; for the year 2023, five (5) years; for the year 2024, six (6) years; for the year 2025, seven (7) years; for the year 2026, eight (8) years; for the year 2027, nine (9) years; and for the year 2028 and thereafter, ten (10) years. However, for the year 1990, the moving average shall not be more than five (5) years; for the year 1991, not more than six (6) years; for the year 1992, not more than seven (7) years; for the year 1993, not more than eight (8) years; and for the year 1994, not more than nine (9) years; and for the year 1990, the variation up or down from the previous year shall not exceed twenty percent (20%) and thereafter, the variation, up or down, from a previous year shall not exceed ten percent (10%) through the year 2018; and for the year 2019 and thereafter, the variation, up or down, from a previous year shall not exceed four percent (4%). Government payments and crop insurance indemnities shall not be included in determining the true value of such land, and a charge for management of each crop equal to twenty-five percent (25%) of the sum of a crop's estimated variable cost, machinery ownership cost, and general farm overhead cost, shall be deducted in determining the true value of such land. The land shall be deemed to

be used for agricultural purposes when it is devoted to the commercial production of crops and other commercial products of the soil, including, but not limited to, the production of fruits and timber or the raising of livestock and poultry; however, enrollment in the federal Conservation Reserve Program or in any other United States Department of Agriculture conservation program or the fact that the land is leased for hunting or fishing purposes shall not preclude land being deemed to be used for agricultural purposes solely on the ground that the land is not being devoted to the production of commercial products of the soil, and income derived from participation in the federal program or income derived from a hunting or fishing lease may be used in combination with other relevant criteria to determine the true value of such land. The true value of aquaculture shall be determined in the same manner as that used to determine the true value of row crops.

Agricultural Land Exclusions

No statute.

Missouri

Sources / Changes

Mo. Const. Art. X § 4(b. Basis of assessment of tangible property--real property-- taxation of intangibles--limitations

137.016. Real property, subclasses of, defined--political subdivision may adjust operating levy to recoup revenue, when--reclassification to apply, when--placement of certain property within proper subclass, factors considered

137.017. Agricultural and horticultural property, how assessed

137.021. Grading of land for valuation, agricultural and horticultural land, factors to be considered--split-off, effect of

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

137.021. Grading of land for valuation, agricultural and horticultural land, factors to be considered--split-off, effect of

4. Separation or split-off of a part of the land which is being valued and assessed for general property tax purposes pursuant to the provisions of sections 137.017 to 137.021, either by conveyance or other action of the owner of the land, so that such land is no longer agricultural and horticultural property, as defined in section 137.016, shall subject the land so separated to reassessment as of the following January first. This shall not impair the right of the remaining land to continuance of valuation and assessment for general property tax purposes pursuant to the provisions of sections 137.017 to 137.021.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

Mo. Const. Art. X § 4(b. Basis of assessment of tangible property--real property-- taxation of intangibles--limitations

Property in classes 1 and 2 and subclasses of those classes, shall be assessed for tax purposes at its value or such percentage of its value as may be fixed by law for each class and for each subclass.

Property in class 3 and its subclasses shall be taxed only to the extent authorized and at the rate fixed by law for each class and subclass, and the tax shall be based on the annual yield and shall not exceed eight percent thereof. Property in class 1 shall be subclassed in the following classifications:

(1) Residential property;

(2) Agricultural and horticultural property;

(3) Utility, industrial, commercial, railroad, and all other property not included in subclasses (1) and (2) of class 1. Property in the subclasses of class 1 may be defined by law, however subclasses (1), (2), and (3) shall not be further divided, provided, land in subclass (2) may by general law be assessed for tax purposes on its productive capability. The same percentage of value shall be applied to all properties within any subclass. No classes or subclass shall have a percentage of its true value in money in excess of thirty-three and one-third percent.

137.016. Real property, subclasses of, defined--political subdivision may adjust operating levy to recoup revenue, when--reclassification to apply, when--placement of certain property within proper subclass, factors considered

(2) "Agricultural and horticultural property", all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding and management of livestock which shall include breeding, showing, and boarding of horses; to dairying, or to any other combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. Agricultural and horticultural property shall also include land devoted to and qualifying for payments or other compensation under a soil conservation or agricultural assistance program under an agreement with an agency of the federal government. Agricultural and horticultural property shall further include any reliever airport. Real property classified as forest croplands shall not be agricultural or horticultural property so long as it is classified as forest croplands and shall be taxed in accordance with the laws enacted to implement Section 7 of Article X of the Missouri Constitution. Agricultural and horticultural property shall also include any sawmill or planing mill defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number 2421. Agricultural and horticultural property shall also include urban and community gardens. For the purposes of this section, "urban and community gardens" shall include real property cultivated by residents of a neighborhood or community for the purposes of providing agricultural products, as defined in section 262.900, for the use of residents of the neighborhood or community, and shall not include a garden intended for individual or personal use;

Agricultural Land Valuation Methodology

137.017. Agricultural and horticultural property, how assessed

1. For general property assessment purposes, the true value in money of land which is in use as agricultural and horticultural property, as defined in section 137.016, shall be that value which such land has for agricultural or horticultural use. The true value of buildings or other structures customarily associated with farming, agricultural, and horticultural uses, excluding residential dwellings and related land, shall be added to the use value of the agricultural and horticultural land to determine the value of the agricultural and horticultural property under sections 137.017 to 137.021.

2. After it has been established that the land is actually agricultural and horticultural property, as defined in section 137.016, and is being valued and assessed accordingly, the land shall remain in this category as long as the owner of the land complies with the provisions of sections 137.017 to 137.021.

3. Continuance of valuation and assessment for general property taxation under the provisions of sections 137.017 to 137.021 shall depend upon continuance of the land being used as agricultural and horticultural property, as defined in section 137.016, and compliance with the other requirements of sections 137.017 to 137.021 and not upon continuance in the same owner of title to the land.

4. For general property assessment purposes, the true value in money of vacant and unused land which is classified as agricultural and horticultural property under subsection 31 of section 137.016 shall be its fair market value. This subsection shall not apply to any reliever airport.

5. For general property assessment purposes, the true value in money of a reliever airport shall be that value which such land has for agricultural or horticultural use.

137.021. Grading of land for valuation, agricultural and horticultural land, factors to be considered--split-off, effect of

1. The assessor, in grading land which is devoted primarily to the raising and harvesting of crops, to the feeding, breeding and management of livestock, to dairying, or to any combination thereof, as defined in section 137.016, pursuant to the provisions of sections 137.017 to 137.021, shall in addition to the assessor's personal knowledge, judgment and experience, consider soil surveys, decreases in land valuation due to natural disasters, level of flood protection, governmental regulations limiting the use of such land, the estate held in such land, and other relevant information. On or before December thirty-first of each odd-numbered year, the state tax commission shall promulgate by regulation and publish a value based on productive capability for each of the several grades of agricultural and horticultural land. If such rules are not disapproved by the general assembly in the manner set out below, they shall take effect on January first of the next odd-numbered year. Such values shall be based upon soil surveys, soil productivity indexes, production costs, crop yields, appropriate capitalization rates and any other pertinent factors, all of which may be provided by the college of agriculture of the University of Missouri, and shall be used by all county assessors in conjunction with their land grades in determining assessed values. Any regulation promulgated pursuant to this subsection shall be deemed to be beyond the scope and authority provided in this subsection if the general assembly, within the first sixty calendar days of the regular session immediately following the promulgation of such regulation, by concurrent resolution, shall disapprove the values contained in such regulation. If the general assembly so disapproves any regulation promulgated pursuant to this subsection, the state tax commission shall continue to use values set forth in the most recent preceding regulation promulgated pursuant to this subsection.
2. Any land which is used as an urban or community garden, as defined in section 137.016, shall be graded as grade #4, or its equivalent, under the rule promulgated by the state tax commission under subsection 1 of this section.
3. When land that is agricultural and horticultural property, as defined in section 137.016, and is being valued and assessed for general property tax purposes pursuant to the provisions of sections 137.017 to 137.021 becomes property other than agricultural and horticultural property, as defined in section 137.016, it shall be reassessed as of the following January first.
4. Separation or split-off of a part of the land which is being valued and assessed for general property tax purposes pursuant to the provisions of sections 137.017 to 137.021, either by conveyance or other action of the owner of the land, so that such land is no longer agricultural and horticultural property, as defined in section 137.016, shall subject the land so separated to reassessment as of the following January first. This shall not impair the right of the remaining land to continuance of valuation and assessment for general property tax purposes pursuant to the provisions of sections 137.017 to 137.021.

Agricultural Land Exclusions

No statute.

Montana

Sources / Changes

15-6-133. Class three property--description--taxable percentage

**15-7-201. Legislative intent--value of agricultural property

**15-7-202. Eligibility of land for valuation as agricultural

**15-7-206. Improvements on agricultural land

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

15-7-202. Eligibility of land for valuation as agricultural

(1)(a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b)(i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land if:

(A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land; or

(B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

15-6-133. Class three property--description--taxable percentage

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified agricultural land is valued at the average productive capacity value of grazing land.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

****15-7-202. Eligibility of land for valuation as agricultural**

(1)(a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b)(i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land if:

(A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land; or

(B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

(A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and
(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or
(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101;

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice; or

(c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have not been further divided.

(3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as determined by the Montana state university-Bozeman college of agriculture.

(4) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

(5)(a) Upon application by the property owner, the following parcels of land are eligible for provisional agricultural classification for 5 years to allow crops to reach salable maturity:

(i) a fruit orchard consisting of a minimum of 100 live fruit trees maintained using accepted fruit tree husbandry practices, including pest and disease management, fencing, and a watering system;

(ii) a vineyard containing a minimum of 120 live vines maintained using accepted husbandry practices, including weed and grass maintenance, pest and disease management, pruning, and trellising and staking; and

(iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted husbandry practices, including regular shearing.

(b) Following the 5th year of provisional agricultural classification, the property owner shall submit an application for agricultural classification. The application must include documentation proving that the property continues to meet the requirements of subsection (5)(a) and that the income requirements of subsection (2)(a) have been met.

(6) The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any

year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use.

****15-7-206. Improvements on agricultural land**

(1) In determining the total area of land actively devoted to agricultural use, there is included the area of all land under barns, sheds, silos, cribs, greenhouses, and like structures, lakes, dams, ponds, streams, irrigation ditches, and like facilities.

(2) One acre of land beneath residential improvements on agricultural land, as described in 15-7-202(1)(c)(ii), is valued at the class with the highest productive value and production capacity of agricultural land.

15-6-133. Class three property--description--taxable percentage

(1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified agricultural land is valued at the average productive capacity value of grazing land.

(2) Subject to subsection (3), class three property is taxed at 2.16% of its productive capacity value.

(3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of the land by seven times the taxable percentage rate for agricultural land.

Agricultural Land Valuation Methodology

15-7-201. Legislative intent--value of agricultural property

(1) Because the market value of many agricultural properties is based on speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

(2) Agricultural land must be classified according to its use, which classifications include but are not limited to irrigated use, nonirrigated use, and grazing use.

(3) Within each class, land must be subclassified by productive capacity. Productive capacity is determined based on yield.

(4) In computing the agricultural land valuation schedules to take effect on the date when each revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine the productive capacity value of all agricultural lands using the formula $V = I/R$ where:

(a) V is the per-acre productive capacity value of agricultural land in each subclass;

(b) I is the per-acre net income of agricultural land in each subclass and is to be determined as provided in subsection (5); and

(c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the department adopts the recommended capitalization rate by rule, is equal to 6.4%. This capitalization rate must remain in effect until the next revaluation cycle.

- (5)(a) Net income must be determined separately for each subclass.
- (b)(i) Net income must be based on commodity price data, which may include grazing fees, crop and livestock share arrangements, cost of production data, and water cost data for the base period using the best available data.
- (ii) Commodity price data and cost of production data for the base period must be obtained from the Montana Agricultural Statistics, the Montana crop and livestock reporting service, and other sources of publicly available information if considered appropriate by the advisory committee.
- (iii) Crop share and livestock share arrangements are based on typical agricultural business practices and average landowner costs.
- (iv) Allowable water costs are \$50 for each acre of irrigated land.
- (c) The base crop for valuation of irrigated land is alfalfa hay adjusted to 80% of the sales price, and the base crop for valuation of nonirrigated land is spring wheat. The base unit for valuation of grazing lands is animal unit months, defined as the average monthly requirement of pasture forage to support a 1,200-pound cow with a calf or its equivalent.
- (d) Unless the advisory committee recommends a different base period and the department adopts the recommended base period by rule, the base period used to determine net income must be the most recent 10 years for which data is available prior to the date the revaluation cycle ends. Unless the advisory committee recommends a different averaging method and the department adopts the recommended averaging method by rule, data referred to in subsection (5)(b) must be averaged, but the average must exclude the lowest and highest yearly data in the period.
- (6) The department shall compile data and develop valuation manuals adopted by rule to implement the valuation method established by subsections (4) and (5).
- (7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and agricultural economics. The advisory committee shall include one member of the Montana state university-Bozeman, college of agriculture, staff. The advisory committee shall:
- (a) compile and review data required by subsections (4) and (5);
- (b) recommend to the department any adjustments to data or to landowners' share percentages if required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;
- (c) recommend appropriate base periods and averaging methods to the department;
- (d) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;
- (e) verify for each class and subclass of land that the income determined in subsection (5) reasonably approximates that which the average Montana farmer or rancher could have attained;
- (f) recommend agricultural land valuation schedules to the department. With respect to irrigated land, the recommended value of irrigated land may not be below the value that the land would have if it were not irrigated.
- (g) provide methods for adjusting agricultural land productivity values when more site-specific data is available and pertinent; and
- (h) recommend to the department definitions for "site-specific" and "pertinent".

Agricultural Land Exclusions

No statute.

Nebraska

Sources / Changes

77-1343. Agricultural or horticultural land; terms, defined

**77-1344. Agricultural or horticultural land; special valuation; when applicable

**77-1363. Agricultural and horticultural land; classes and subclasses

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

77-1343. Agricultural or horticultural land; terms, defined

The purpose of sections 77-1343 to 77-1347.01 is to provide a special valuation for qualified agricultural or horticultural land so that the current assessed valuation of the land for property tax purposes is the value that the land would have without regard to the value the land would have for other purposes or uses. For purposes of sections 77-1343 to 77-1347.01:

- (1) Agricultural or horticultural land means that land as defined in section 77-1359;
- (2) Applicant means an owner or lessee;
- (3) Lessee means a person leasing agricultural or horticultural land from a state or governmental subdivision which is an owner that is subject to taxation under section 77-202.11;
- (4) Owner means an owner of record of agricultural or horticultural land or the purchaser of agricultural or horticultural land under a contract for sale; and
- (5) Special valuation means the value that the land would have for agricultural or horticultural purposes or uses without regard to the actual value the land would have for other purposes or uses.

77-1359. Agricultural and horticultural land; legislative findings; terms, defined

The Legislature finds and declares that agricultural land and horticultural land shall be a separate and distinct class of real property for purposes of assessment. The assessed value of agricultural land and horticultural land shall not be uniform and proportionate with all other real property, but the assessed value shall be uniform and proportionate within the class of agricultural land and horticultural land.

For purposes of this section and section 77-1363:

- (1) Agricultural land and horticultural land means a parcel of land, excluding land associated with a building or enclosed structure located on the parcel, which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land;
- (2)(a) Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture;
- (b) Agricultural or horticultural purposes includes the following uses of land:
 - (i) Land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the parcel or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and
 - (ii) Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production; and
- (c) Whether a parcel of land is primarily used for agricultural or horticultural purposes shall be determined without regard to whether some or all of the parcel is platted and subdivided into separate lots or developed with improvements consisting of streets, sidewalks, curbs, gutters, sewer lines, water lines, or utility lines;
- (3) Farm home site means land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes and which is located outside of urban areas or outside a platted and zoned subdivision; and
- (4) Farm site means the portion of land contiguous to land actively devoted to agriculture which includes improvements that are agricultural or horticultural in nature, including any uninhabitable or unimproved farm home site.

Agricultural Land Valuation Methodology

77-1344. Agricultural or horticultural land; special valuation; when applicable

(1) Agricultural or horticultural land which has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses shall be assessed as provided in subsection (3) of section 77-201 if the land meets the qualifications of this subsection and an application for such special valuation is filed and approved pursuant to section 77-1345. In order for the land to qualify for special valuation, all of the following criteria shall be met: (a) The land must be located outside the corporate boundaries of any sanitary and improvement district, city, or village except as provided in subsection (2) of this section; and (b) the land must be agricultural or horticultural land. If the land consists of five contiguous acres or less, the owner or lessee of the land must also provide an Internal Revenue Service Schedule F documenting a profit or loss from farming for two out of the last three years in order for such land to qualify for special valuation.

(2) Special valuation may be applicable to agricultural or horticultural land included within the corporate boundaries of a city or village if:

(a) The land is subject to a conservation or preservation easement as provided in the Conservation and Preservation Easements Act and the governing body of the city or village approves the agreement creating the easement;

(b) The land is subject to air installation compatible use zone regulations; or

(c) The land is within a flood plain.

(3) The eligibility of land for the special valuation provisions of this section shall be determined each year as of January 1. If the land so qualified becomes disqualified on or before December 31 of that year, it shall continue to receive the special valuation until January 1 of the year following.

(4) The special valuation placed on such land by the county assessor under this section shall be subject to equalization by the county board of equalization and the Tax Equalization and Review Commission.

77-1363. Agricultural and horticultural land; classes and subclasses

Agricultural land and horticultural land shall be divided into classes and subclasses of real property under section 77-103.01, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Classes shall be inventoried by subclasses of real property based on soil classification standards developed by the Natural Resources Conservation Service of the United States Department of Agriculture as converted into land capability groups by the Property Tax Administrator. Land capability groups shall be Natural Resources Conservation Service specific to the applied use and not all based on a dryland farming criterion. County assessors shall utilize soil surveys from the Natural Resources Conservation Service of the United States Department of Agriculture as directed by the Property Tax Administrator. Nothing in this section shall be construed to limit the classes and subclasses of real property that may be used by county assessors or the Tax Equalization and Review Commission to achieve more uniform and proportionate valuations.

Agricultural Land Exclusions

No statute.

Nevada

Sources / Changes

CHAPTER 361A. TAXES ON AGRICULTURAL REAL PROPERTY AND OPEN SPACE

361A.020. "Agricultural real property" defined

361A.030. "Agricultural use" defined

361A.031. "Converted to a higher use" defined

361A.032. "Higher use" defined

361A.130. Determination of value for agricultural use; notification of assessment

361A.277. Determination of taxable value when property converted to higher use

Definition of Agricultural Improvements

361A.031. “Converted to a higher use” defined

1. “Converted to a higher use” means:

- (a) A physical alteration of the surface of the property enabling it to be used for a higher use;
- (b) The recording of a final map or parcel map which creates one or more parcels not intended for agricultural or open-space use;
- (c) The existence of a final map or parcel map which creates one or more parcels not intended for agricultural or open-space use; or
- (d) A change in zoning to a higher use made at the request of the owner.

2. The term does not apply to any portion of the parcel that continues to qualify as agricultural or open-space real property.

3. The term does not include leasing the land to or otherwise permitting the land to be used by an agricultural association formed pursuant to chapter 547 of NRS.

4. As used in this section:

- (a) “Final map” has the meaning ascribed to it in NRS 278.0145.
- (b) “Parcel map” has the meaning ascribed to it in NRS 278.017.

361A.032. “Higher use” defined

“Higher use” means any use other than agricultural use or open-space use.

Improvement Valuation Methodology

361A.270. Owner to notify assessor of cessation of agricultural or open-space use or conversion to higher use; survey of portion of parcel converted to higher use

1. Within 30 days after a parcel or any portion of a parcel of real property which has received agricultural or open-space use assessment ceases to be used exclusively for agricultural use or the approved open-space use or is converted to a higher use, the owner shall notify the county assessor in writing of the date of cessation or change of that use.

2. In addition to the notice required by subsection 1, an owner of agriculturally assessed land who wishes to have a portion of a parcel converted to a higher use rather than the entire parcel must record and transmit to the county assessor a survey of the portion of the parcel to be converted. The survey must be transmitted to the county assessor at the same time as the notice required by subsection 1. The recordation of a survey pursuant to this subsection does not create a new parcel.

3. The county assessor shall keep a description of any portion of a parcel that is separately converted to a higher use and a record of the taxes paid on that portion of the parcel with the records for the parcel until the remainder of the parcel is converted to a higher use or the parcel becomes inactive.

361A.277. Determination of taxable value when property converted to higher use

When any portion of agricultural or open-space land is converted to a higher use, the county assessor shall determine its taxable and, as appropriate, agricultural or open-space use values against which to compute the deferred tax for each fiscal year the property was under agricultural or open-space assessment during the current fiscal year and the preceding 6 fiscal years, or such other period as is required pursuant to NRS 361A.283. The taxable values for each year must be comparable for the corresponding years to the taxable values for property similar, including, without limitation, in size, zoning and location, to the portion of property actually converted to a higher use. When agricultural land is converted to a higher use, the agricultural use values for each of the years may be based on the agricultural use for the latest year. When open-space land that is used as a golf course is converted to a higher use, the taxable values for the property must be determined, for the purpose of computing the deferred tax, in accordance with the provisions of NRS 361.227 based upon the assessment of the land as a golf course.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

361A.020. “Agricultural real property” defined

1. “Agricultural real property” means:

(a) Land devoted exclusively for at least 3 consecutive years immediately preceding the assessment date to agricultural use.

(b) Land leased by the owner to another person for agricultural use and composed of any lot or parcel which:

(1) Includes at least 7 acres of land devoted to accepted agricultural practices; or

(2) Is contiguous to other agricultural real property owned by the lessee.

(c) Land covered by a residence or necessary to support the residence if it is part of a qualified agricultural parcel.

2. The term does not include any land with respect to which the owner has granted and has outstanding any lease or option to buy the surface rights for other than agricultural use, except leases for the exploration of geothermal resources as defined in NRS 361.027, mineral resources or other subsurface resources, or options to purchase such resources, if such exploration does not interfere with the agricultural use of the land.

3. As used in this section, “accepted agricultural practices” means a mode of operation that is common to farms or ranches of a similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

361A.030. “Agricultural use” defined

1. “Agricultural use” means the current employment of real property as a business venture for profit, which business produced a minimum gross income of \$5,000 from agricultural pursuits during the immediately preceding calendar year by:

(a) Raising, harvesting and selling crops, fruit, flowers, timber and other products of the soil;

(b) Feeding, breeding, management and sale of livestock, poultry, or the produce thereof, if the real property used therefor is owned or leased by the operator and is of sufficient size and capacity to produce more than one-half of the feed required during that year for the agricultural pursuit;

(c) Operating a feed lot consisting of at least 50 head of cattle or an equivalent number of animal units of sheep or hogs, for the production of food;

(d) Raising furbearing animals or bees;

(e) Dairying and the sale of dairy products; or

(f) Any other use determined by the Department to constitute agricultural use if such use is verified by the Department.

The term includes every process and step necessary and incident to the preparation and storage of the products raised on such property for human or animal consumption or for marketing except actual market locations.

2. As used in this section, “current employment” of real property in agricultural use includes:

(a) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry;

(b) Land planted in orchards or other perennials prior to maturity; and

(c) Land leased or otherwise made available for use by an agricultural association formed pursuant to chapter 547 of NRS.

Agricultural Land Valuation Methodology

361A.130. Determination of value for agricultural use; notification of assessment

1. If the property is found to be agricultural real property, the county assessor shall determine its value for agricultural use and assess it for taxes to be collected in the ensuing fiscal year at 35 percent of that value.

2. The agricultural use assessment must be maintained in the records of the assessor and must be made available to any person upon request. The property owner must be notified of the agricultural use assessment in the manner provided for notification of taxable value assessments. The notice must

contain the following statement: Deferred taxes will become due on this parcel if it is converted to a higher use.

Agricultural Land Exclusions

No statute.

New Hampshire

Sources / Changes

Chapter 79–F. Taxation of Farm Structures and Land Under Farm Structures

79-F:3 Definitions.

79-F:4 Appraisal of Qualifying Farm Structures and Land Under Them.

79-F:5 Consideration for Use Change.

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

79-F:5 Consideration for Use Change.

Land and qualifying farm structures which have been appraised pursuant to this chapter shall be subject to a use change tax, payable to the tax collector of the municipality, if the use thereof changes to such an extent that the structure no longer meets the definition of a qualifying farm structure as defined in RSA 79-F:3, IX. The consideration shall be at the rate of 10 percent of the full value assessment determined without regard to the current use of the land or qualifying farm structure. Notwithstanding the provisions of RSA 76:2, such assessed value shall be determined as of the actual date of the use change if such date is not April. This use change tax shall be in addition to the annual real estate tax imposed upon the property, and shall be due and payable upon the use change.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

79-F:3 Definitions.

I. "Appurtenances" means the land necessary to support or service the qualifying structure.

II. "Assessing official" means the assessing authority of any town, city, or place.

III. "Board of tax and land appeals" means the board of tax and land appeals established pursuant to the provisions of RSA 71-B:1.

IV. "Commissioner" means the commissioner of the department of revenue administration.

V. "Land under and curtilage of the qualifying farm structure" means only the land immediately under the footprint of the qualifying farm structure and its appurtenances.

VI. "Open space land" means any or all farm land, forest land, or unproductive land assessed under RSA 79-A and as defined as follows.

(a) "Farm land" means any cleared land devoted to or capable of agricultural or horticultural use.

(b) "Forest land" means any land growing trees.

(c) "Unproductive land" means land, including wetlands, which by its nature is incapable of producing agricultural or forest products due to poor soil or site characteristics, or the location of which renders it inaccessible or impractical to harvest agricultural or forest products.

VII. "Owner" means the person who is the owner of record of any land assessed under RSA 79-A.

VIII. "Person" means any individual, firm, corporation, partnership, or other form of organization or group of individuals.

IX. "Qualifying farm structures" mean structures contiguous to a minimum of 10 acres of open space land that are used by the owner of the land to exclusively:

- (a) House livestock;
- (b) Store feed grown or used on the farm;
- (c) Store livestock bedding;
- (d) Store crops or fertilizer for crops grown on the farm;
- (e) Store farm equipment which is actively used to maintain the farm; or
- (f) Boil sap from maple trees and store fuel-wood used to boil sap from maple trees.

Agricultural Land Valuation Methodology

79-F:4 Appraisal of Qualifying Farm Structures and Land Under Them.

I. The selectmen or assessing officials in any municipality adopting the provisions of this chapter shall appraise:

- (a) Qualifying farm structures for no more than their replacement costs less depreciation; and
- (b) The land under the qualifying farm structures at no more than 10 percent of its market value. The land under the qualifying farm structure shall be contiguous to a minimum of 10 acres of open space land.

II. No owner of a qualifying structure shall be entitled to have the qualifying structure or land under it classified for any tax year under the provisions of this chapter unless he or she applies to the assessing officials on or before April 15 of said year, on a form approved and provided by the commissioner, to have his or her parcel of land so classified. If any owner satisfies the assessing officials that he or she was prevented by accident, mistake, or misfortune from filing such application on or before April 15, the assessing officials may receive the application at a later date and classify the structure and parcel of land under this chapter; but no such application shall be received after the local tax rate has been approved by the commissioner for that year.

III. The assessing officials shall notify the applicant on a form provided by the commissioner no later than July 1, or within 15 days if the application is filed after July 1, of their decision to classify or refusal to classify the structure and parcel of land under the provisions of this chapter by delivery of such notification to him or her in person or by mailing such notification to his or her last and usual place of abode.

IV. Prior to July 1 each year, the assessing officials shall determine if previously classified structures and lands have been reapplied or have undergone a change in use so that the use change tax may be levied against the structures and lands changed in use, according to RSA 79-F:5. A list of all classified structures and lands and their owners in each town or city shall be filed by the respective assessing officials each year. Such list shall be part of the invoice and subject to inspection as provided in RSA 76:7.

V. The commissioner shall include on the inventory blank, required under RSA 74:4, a question concerning whether any changes have been made in the use of qualifying structures and land classified as land under qualifying farm structures. The question shall be written to enable the assessing officials to locate structures and parcels which may require a change in assessment and to fit the context of the blank.

VI. The assessing officials shall file with the register of deeds in the appropriate county, on or before August 1 in each year, a notice of contingent liens describing all structures and parcels of land classified under the provisions of this chapter. If a parcel of land is classified as land under qualifying farm structures after such date, the assessing officials shall file notice of contingent lien with the register of deeds in the appropriate county within 14 days of said classification. The notice filed pursuant to this paragraph shall be on a form provided by the commissioner, shall contain the name of each owner, the date of classification, and a short description of each parcel of real estate together with such other information as the board may prescribe; provided, however, the assessing officials shall not file each year parcels of land classified under this chapter which have been previously filed, unless there has been some change in the acreage involved.

VII. A fee, in accordance with RSA 478:17-g, I, shall be paid by the owner for each parcel which is classified as land under qualifying farm structures to the local assessing officials, to be paid over to the register of deeds for recording the notice of contingent lien. The notice of contingent lien shall constitute notice to all interested parties that a lien on the parcel shall be created if and when the land is subsequently disqualified from taxation under this chapter, in the same manner as provided in RSA 80:85.

Agricultural Land Exclusions

No statute.

New Jersey

Sources / Changes

54:4-23.1. Short title; Farmland Assessment Act of 1964

54:4-23.2. Value of land actively devoted to agricultural or horticultural use

54:4-23.3. Land deemed in agricultural use

54:4-23.5. Land deemed actively devoted to agricultural or horticultural use

54:4-23.6. Qualifications for valuation, assessment and taxation as land actively devoted to agricultural or horticultural use

54:4-23.7. Considerations of assessor in valuing land

54:4-23.8. Roll-back taxes; determination of amounts

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

54:4-23.8. Roll-back taxes; determination of amounts

When land which is in agricultural or horticultural use and is being valued, assessed and taxed under the provisions of P.L.1964, c. 48 (C.54:4-23.1 et seq.), is applied to a use other than agricultural or horticultural, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued, assessed and taxed as other land in the taxing district, in the current tax year (the year of change in use) and in such of the two tax years immediately preceding, in which the land was valued, assessed and taxed as herein provided.

If the tax year in which a change in use of the land occurs, the land was not valued, assessed and taxed under P.L.1964, c. 48 (C.54:4-23.1 et seq.), then such land shall be subject to roll-back taxes for such of the two tax years, immediately preceding, in which the land was valued, assessed and taxed hereunder. Notwithstanding the provisions of any law, rule, or regulation to the contrary, land which is valued, assessed and taxed under the provisions of P.L.1964, c. 48 (C.54:4-23.1 et seq.) and is acquired by the State, a local government unit, a qualifying tax exempt nonprofit organization, or the Palisades Interstate Park Commission for recreation and conservation purposes shall not be subject to roll-back taxes. As used in this section, "acquired," "local government unit," "qualifying tax exempt nonprofit organization," and "recreation and conservation purposes" mean the same as those terms are defined pursuant to section 3 of P.L.1999, c. 152 (C.13:8C-3).

In determining the amounts of the roll-back taxes chargeable on land which has undergone a change in use, the assessor shall for each of the roll-back tax years involved, ascertain:

(a) The full and fair value of such land under the valuation standard applicable to other land in the taxing district;

(b) The amount of the land assessment for the particular tax year by multiplying such full and fair value by the county percentage level, as determined by the county board of taxation in accordance with section 3 of P. L.1960, c. 51 (C.54:4-2.27);

(c) The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined under (b) hereof; and

(d) The amount of the roll-back tax for that tax year by multiplying the amount of the additional assessment determined under (c) hereof by the general property tax rate of the taxing district applicable for that tax year.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

54:4-23.11. Area of land included

In determining the total area of land actively devoted to agricultural or horticultural use there shall be included the area of all land under barns, sheds, seasonal farm markets selling predominantly agricultural products, seasonal agricultural labor housing, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities, but land under and such additional land as may be actually used in connection with the farmhouse shall be excluded in determining such total area.

54:4-23.2. Value of land actively devoted to agricultural or horticultural use

For general property tax purposes, the value of land, not less than 5 acres in area, which is actively devoted to agricultural or horticultural use and which has been so devoted for at least the 2 successive years immediately preceding the tax year in issue, shall, on application of the owner, and approval thereof as hereinafter provided, be that value which such land has for agricultural or horticultural use.

54:4-23.3. Land deemed in agricultural use

Land shall be deemed to be in agricultural use when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding, boarding, raising, rehabilitating, training or grazing of any or all of such animals, except that "livestock" shall not include dogs; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government, except that land which is devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, or devoted as sustainable forestland, and is not appurtenant woodland, shall not be deemed to be in agricultural use unless the landowner fulfills the following additional conditions:

- a. The landowner establishes and complies with the provisions of a forest stewardship plan for this land, approved by the Department of Environmental Protection pursuant to section 3 of P.L.2009, c. 256 (C.13:1L-31), or a woodland management plan for this land, prepared in accordance with policies, guidelines and practices approved by the Division of Parks and Forestry in the Department of Environmental Protection, in consultation with the Department of Agriculture and the Dean of Cook College at Rutgers, The State University, which policies, guidelines and practices are designed to eliminate excessive and unnecessary cutting;
- b. The landowner, and a forester from a list of foresters approved by the Department of Environmental Protection or other professional from a list of other professionals authorized by the department in consultation with the forest stewardship advisory committee established pursuant to section 8 of P.L.2009, c. 256 (C.13:1L-36), annually attest to compliance with subsection a. of this section; and
- c. The landowner annually submits an application, as prescribed in section 13 of P.L.1964, c. 48 (C.54:4-23.13), to the assessor, accompanied by a copy of the plan established pursuant to subsection a. of this section; written documentation of compliance with subsection b. of this section; a supplementary woodland data form setting forth woodland management actions taken in the pre-tax year, the type and quantity of tree and forest products sold, and the amount of income received or anticipated for same; a map of the land showing the location of the activity and the soil group classes of the land; and other pertinent information required by the Director of the Division of Taxation as part of the application for valuation, assessment and taxation, as provided in P.L.1964, c. 48 (C.54:4-23.1 et seq.). The landowner shall, at the same time, submit to the Commissioner of the Department of Environmental Protection an exact copy of the application and accompanying information submitted to the assessor pursuant to this

subsection. For the purposes of this amendatory and supplementary act, "appurtenant woodland" means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

For the purposes of section 7 of P.L.2009, c. 213 and P.L.1964, c. 48 (C.54:4-23.1 et seq.):

(1) agricultural use shall also include biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of P.L.2009, c. 213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor; and

(2) "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c. 213 (C.4:1C-32.4).

54:4-23.6. Qualifications for valuation, assessment and taxation as land actively devoted to agricultural or horticultural use

Land which is actively devoted to agricultural or horticultural use shall be eligible for valuation, assessment and taxation as herein provided when it meets the following qualifications:

(a) It has been so devoted for at least the two successive years immediately preceding the tax year for which valuation under this act is requested;

(b) The area of such land is not less than five acres when measured in accordance with the provisions of section 11 hereof; and

(c) Application by the owner of such land for valuation hereunder is submitted on or before August 1 of the year immediately preceding the tax year to the assessor of the taxing district in which such land is situated on the form prescribed by the Director of the Division of Taxation in the Department of the Treasury;

(d) The assessor may grant an extension of time for filing an application required by this section, which extension shall terminate no later than September 1 of the year immediately preceding the tax year, in any event where it shall appear to the satisfaction of the assessor that failure to file by August 1 was due to (1) the illness of the owner and a certificate of a physician stating that the owner was physically incapacitated and unable to file on or before August 1 and the application is filed with the assessor; or (2) the death of the owner or an immediate member of the owner's family and a certified copy of the death certificate and the application is filed with the assessor by the individual legally responsible for the estate of the owner, or the owner, as the case may be.

As used in this act, "immediate family member" means a person's spouse, child, parent or sibling residing in the same household.

Agricultural Land Valuation Methodology

54:4-23.5. Land deemed actively devoted to agricultural or horticultural use

a. Except as otherwise provided in subsection d. of this section, land, five acres in area, shall be deemed to be actively devoted to agricultural or horticultural use when the amount of the gross sales of agricultural or horticultural products produced thereon, any payments received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to cropland pastured and permanent pasture land used for grazing in the amount determined by the State Farmland Evaluation Committee created pursuant to section 20 of P.L.1964, c. 48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under P.L.1964, c. 48, have averaged at least \$1,000 per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales, payments, fees, and imputed income amounting to at least \$1,000 within a reasonable period of time, or such amount as may be established by the State Farmland Evaluation Committee pursuant to this section. In the case of woodland subject to a woodland management plan pursuant to section 3 of P.L.1964, c. 48 (C.54:4-23.3), the amount shall be at least \$500, or such amount as may be established by the State Farmland Evaluation Committee pursuant to this section. Every three years, or sooner at the call of the

Secretary of Agriculture or the Director of the Division of Taxation, the State Farmland Evaluation Committee shall review the minimum gross sales, payments, fees, and imputed income requirements, and anticipated yearly gross sales, payments, fees, and imputed income requirements, established in this section for the first five acres, and may, by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), raise the amounts of those minimums to such levels as the committee determines appropriate. Any increase made to the minimum gross sales, payments, fees, and imputed income requirements, and anticipated yearly gross sales, payments, fees and imputed income requirements, for the first five acres as authorized pursuant to this section shall not be enforced until the third tax year following adoption of the increase.

In addition, where the land is more than five acres in area, it shall be deemed to be actively devoted to agricultural or horticultural use when the amount of the gross sales of agricultural or horticultural products produced on the area above five acres, any payments received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to cropland pastured and permanent pasture land used for grazing in the amount determined by the State Farmland Evaluation Committee created pursuant to section 20 of P.L.1964, c. 48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under P.L.1964, c. 48, have averaged at least \$5.00 per acre per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales, payments, fees, and imputed income amounting to an average of at least \$5.00 per year within a reasonable period of time; except in the case of woodland and wetland, where the minimum requirement shall be an average of \$0.50 per acre on the area above five acres.

In addition, in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use must be consistent with the guidelines describing generally accepted agricultural and horticultural practices developed and adopted pursuant to subsection a. of section 1 of P.L.2013, c. 43 (C.54:4-23.3d).

As used in this section, "livestock" shall not include dogs.

For the purposes of this section, the presence of an intervening public thoroughfare shall not preclude a finding of contiguity.

b. (1) Land previously qualified as actively devoted to agricultural or horticultural use under P.L.1964, c. 48, but failing to meet the additional requirement on acreage above five acres, shall not be subject to the roll-back tax because of such disqualification, but shall be treated as land for which an annual application has not been submitted, provided that the land remains in agricultural or horticultural use.

(2) Land previously qualified as actively devoted to agricultural or horticultural use under P.L.1964, c. 48, but failing to meet any increase in the minimum amount of gross sales, payments and fees received, and imputed income requirements, and anticipated yearly gross sales, payments, fees, and imputed income requirements, established pursuant to subsection a. of this section, shall not be subject to the roll-back tax because of such disqualification, but shall be treated as land for which an annual application has not been submitted, provided that the land remains in agricultural or horticultural use.

(3) Land qualified as actively devoted to agricultural or horticultural use as of the day before the date of enactment of P.L.2013, c. 43 (C.54:4-23.3d et al.) due to the use of payments or other compensation received under a soil conservation program agreement with any agency of the federal government, but which payments or other compensation do not meet the minimum amounts required pursuant to subsection a. of this section as amended by P.L.2013, c. 43 (C.54:4-23.3d et al.), shall continue to be deemed to be actively devoted to agricultural or horticultural use for purposes of valuation, assessment and taxation under P.L.1964, c. 48 until the end of the soil conservation program agreement period.

c. In determining the eligibility of land for valuation, assessment and taxation pursuant to P.L.1964, c. 48 (C.54:4-23.1 et seq.), the assessor of the taxing district in which the land is located shall, upon request by the owner of the land, exempt the owner from the income requirements of this section if the owner demonstrates to the satisfaction of the assessor that the failure to meet the income requirements was due to an injury, illness or death of the person responsible for performing the activities which produce the income necessary to meet the income eligibility requirement of this section. The request of the owner shall be accompanied by a certificate of a physician stating that the person was physically incapacitated or by a certified copy of the death certificate, as the case may be. The assessor may only grant an exemption once for a particular illness, injury or death.

d. The gross sales, payments, fees, and imputed income received pursuant to the requirements of this section shall not apply to land that (1) is the subject of a forest stewardship plan approved by the Department of Environmental Protection pursuant to section 3 of P.L.2009, c. 256 (C.13:1L-31) which is fully implemented, and (2) otherwise qualifies under the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.1 et seq.), for valuation, assessment and taxation as land in agricultural or horticultural use pursuant to section 3 of P.L.1964, c. 48 (C.54:4-23.3).

54:4-23.7. Considerations of assessor in valuing land

The assessor in valuing land which qualifies as land actively devoted to agricultural or horticultural use under the tests prescribed by P.L.1964, c. 48 and the guidelines describing generally accepted agricultural and horticultural practices developed and adopted pursuant to subsection a. of section 1 of P.L.2013, c. 43 (C.54:4-23.3d), and as to which the owner thereof has made timely application for valuation, assessment and taxation hereunder for the tax year in issue, shall consider only those indicia of value which such land has for agricultural or horticultural use. In addition to use of personal knowledge, judgment and experience as to the value of land in agricultural or horticultural use, the assessor shall, in arriving at the value of such land, consider available evidence of agricultural and horticultural capability derived from the soil survey data at Rutgers, The State University, the National Co-operative Soil Survey, the recommendations of value of such land as made by any county or Statewide committee which may be established to assist the assessor, and the guidelines describing generally accepted agricultural and horticultural practices developed and adopted pursuant to subsection a. of section 1 of P.L.2013, c. 43 (C.54:4-23.3d).

Agricultural Land Exclusions

No statute.

New Mexico

Sources / Changes

§ 7-36-20. Special method of valuation; land used primarily for agricultural purposes

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 7-36-20. Special method of valuation; land used primarily for agricultural purposes

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

§ 7-36-15. Methods of valuation for property taxation purposes; general provisions

A. Property subject to valuation for property taxation purposes under this article of the Property Tax Code shall be valued by the methods required by this article of the Property Tax Code whether the determination of value is made by the department or the county assessor. The same or similar methods of valuation shall be used for valuation of the same or similar kinds of property for property taxation purposes.

B. Unless a method or methods of valuation are authorized in Sections 7-36-20 through 7-36-33 NMSA 1978, the value of property for property taxation purposes shall be its market value as determined by application of the sales of comparable property, income or cost methods of valuation or any combination of these methods. In using any of the methods of valuation authorized by this subsection, the valuation authority:

(1) shall apply generally accepted appraisal techniques; and
(2) in determining the market value of residential housing, shall consider any decrease in the value that would be realized by the owner in a sale of the property because of the effects of any affordable housing subsidy, covenant or encumbrance imposed pursuant to a federal, state or local affordable housing program that restricts the future use of the property or the resale price of the property or would otherwise prohibit the owner from fully benefitting from any enhanced value of the property. As used in this paragraph:

(a) "subsidy, covenant or encumbrance imposed pursuant to a federal, state or local affordable housing program" includes those imposed by a nonprofit entity approved by a governmental entity as a qualifying grantee pursuant to the Affordable Housing Act;¹ and

(b) "residential housing" means any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential housing" includes congregate housing, manufactured homes, housing intended to provide or providing transitional or temporary housing for homeless persons and common health care, kitchen, dining, recreational and other facilities primarily for use by residents of a residential housing project.

C. Dams, reservoirs, tanks, canals, irrigation wells, installed irrigation pumps, stock-watering wells and pumps, similar structures and equipment used for irrigation or stock-watering purposes, water rights and private roads shall not be valued separately from the land they serve. The foregoing improvements and rights shall be considered as appurtenances to the land they serve, and their value shall be included in the determination of value of the land.

D. The department shall adopt regulations to implement the methods of valuation authorized in this article of the Property Tax Code.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

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

B. For the purpose of this section:

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

(2) "agricultural use" means the:

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

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

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

(d) resting of land as the direct result of at least moderate drought conditions as designated by the United States department of agriculture, if the drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year; provided that the land was used in the tax year immediately preceding the previous tax year primarily for a purpose identified pursuant to this paragraph.

Agricultural Land Valuation Methodology

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

B. For the purpose of this section:

- (1) "agricultural products" means plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish; and
- (2) "agricultural use" means the:
 - (a) use of land for the production of agricultural products;
 - (b) use of land that meets the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government;
 - (c) resting of land to maintain its capacity to produce agricultural products; or
 - (d) resting of land as the direct result of at least moderate drought conditions as designated by the United States department of agriculture, if the drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year; provided that the land was used in the tax year immediately preceding the previous tax year primarily for a purpose identified pursuant to this paragraph.

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

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

- (1) specify procedures to use in determining the capacity of land to produce agricultural products and the derivation of value of the land based upon its production capacity;
- (2) establish carrying capacity as the measurement of the production capacity of land used for grazing purposes, develop a system of determining carrying capacity through the use of an animal unit concept and establish carrying capacities for the land in the state classified as grazing land;
- (3) provide that land the bona fide and primary use of which is the production of captive deer or elk shall be valued as grazing land and that captive deer shall be valued and taxed as sheep and captive elk shall be valued and taxed as cattle;
- (4) provide for the consideration of determinations of any other governmental agency concerning the capacity of the same or similar lands to produce agricultural products;
- (5) assure that land determined under the rules to have the same or similar production capacity shall be valued uniformly throughout the state; and
- (6) provide for the periodic review by the department of determined production capacities and capitalization rates used for determining annually the value of land used primarily for agricultural purposes.

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

F. The owner of the land shall make application to the county assessor in a tax year in which the valuation method of this section is first claimed to be applicable to the land or in a tax year immediately subsequent to a tax year in which the land was not valued under this section. Application shall be made under oath, shall be in a form and contain the information required by department rules and shall be made no later than thirty days after the date of mailing by the assessor of the notice of valuation. Once land is valued under this section, application need not be made in subsequent tax years as long as there is no change in the use of the land.

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

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

Agricultural Land Exclusions

No statute.

New York

Sources / Changes

NY Agri & Mkts Ch. 69, Art. 25-AA - Agricultural Districts

**§ 301. Definitions

§ 304-a. Agricultural assessment values

Definition of Agricultural Improvements

§ 301. Definitions

4. "Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation or a commercial equine operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include: . . .

c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment. Such land shall include land used for agricultural amusements which are produced from crops grown or produced on the farm, provided that such crops are harvested and marketed in the same manner as other crops produced on such farm. Such agricultural amusements shall include, but not be limited to, so-called "corn mazes" or "hay bale mazes". . .

i. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production

n. Land of not less than seven acres used as a single operation for the production for sale of hops when such land is used solely for the purpose of planting a new hopyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 301. Definitions

When used in this article:

1. "Agricultural assessment value" means the value per acre assigned to land for assessment purposes determined pursuant to the capitalized value of production procedure prescribed by section three hundred four-a of this article.
2. "Crops, livestock and livestock products" shall include but not be limited to the following:
 - a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
 - b. Fruits, including apples, peaches, grapes, cherries and berries.
 - c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
 - d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
 - e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.
 - f. Maple sap.
 - g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
 - h. Aquaculture products, including fish, fish products, water plants and shellfish.
 - i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
 - j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.
 - k. Actively managed log-grown woodland mushrooms.
 - l. Industrial hemp as defined in section five hundred five of this chapter.
3. "Farm woodland" means land used for the production of woodland products intended for sale, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.
4. "Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation or a commercial equine operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:
 - a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.
 - a-1. Land used by a not-for-profit institution for the purposes of agricultural research that is intended to improve the quality or quantity of crops, livestock or livestock products. Such land shall qualify for an agricultural assessment upon application made pursuant to paragraph (a) of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.
 - b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.
 - c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment. Such land shall include land used for agricultural amusements which are produced from crops grown or produced on the farm, provided that such crops are harvested and marketed in the same manner as other crops produced on such farm. Such agricultural amusements shall include, but not be limited to, so-called "corn mazes" or "hay bale mazes".
 - d. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.
 - e. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five¹ or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous

tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

f. Land of not less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or land of less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.

g. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements of paragraph f of this subdivision.

h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.

i. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.

j. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.

k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more or (ii) less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

l. Land that is owned or rented by a farm operation in its first or second year of agricultural production or in the case of a commercial equine operation, in its first or second year of operation, that consists of not less than seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing.

m. Land used in silvopasturing shall be limited to up to ten fenced acres per large livestock, including cattle, horses and camelids, and up to five fenced acres per small livestock, such as sheep, hogs, goats and poultry. For the purposes of this subdivision, "silvopasturing" shall mean the intentional combination of trees, forages and livestock managed as a single integrated practice for the collective benefit of each, including the planting of appropriate grasses and legume forages among trees for sound grazing and livestock husbandry.

n. Land of not less than seven acres used as a single operation for the production for sale of hops when such land is used solely for the purpose of planting a new hopyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.

5. "Oil, gas or wind exploration, development or extraction activities" means the installation and use of fixtures and equipment which are necessary for the exploration, development or extraction of oil, natural gas or wind energy, including access roads, drilling apparatus, pumping facilities, pipelines, and wind turbines.

6. "Unique and irreplaceable agricultural land" means land which is uniquely suited for the production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties.

7. "Viable agricultural land" means land highly suitable for a farm operation as defined in this section.

8. "Conversion" means an outward or affirmative act changing the use of agricultural land and shall not mean the nonuse or idling of such land.

9. "Gross sales" means the proceeds from the sale of:

a. Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state;

b. Woodland products from farm woodland eligible to receive an agricultural assessment, not to exceed two thousand dollars annually;

c. Honey, royal jelly, bee pollen, propolis and beeswax produced by bees in hives located on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation;

d. Maple syrup processed from maple sap produced on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation;

e. Or payments received by reason of land set aside pursuant to paragraph e of subdivision four of this section;

f. Or payments received by thoroughbred breeders pursuant to section two hundred fifty-four of the racing, pari-mutuel wagering and breeding law; and

g. Compost, mulch or other organic biomass crops as defined in subdivision sixteen of this section produced on land used in agricultural production, not to exceed five thousand dollars annually.

10. Renumbered 9.

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section, "compost, mulch or other biomass crops" as defined in subdivision seventeen of this section and "commercial equine operation" as defined in subdivision eighteen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

12. "Agricultural data statement" means an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five-b of this article.

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand

dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

15. "Agricultural tourism" means activities, including the production of maple sap and pure maple products made therefrom, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

16. "Apiary products operation" means an agricultural enterprise, consisting of land owned by the operation, upon which bee hives are located and maintained for the purpose of producing, harvesting and storing apiary products for sale.

17. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

18. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

Agricultural Land Valuation Methodology

§ 304-a. Agricultural assessment values

1. Agricultural assessment values shall be calculated and certified annually in accordance with the provisions of this section.

2. a. The commissioner of agriculture and markets shall establish and maintain an agricultural land classification system based upon soil productivity and capability. The agricultural land classification system shall distinguish between mineral and organic soils. There shall be ten primary groups of mineral soils and such other subgroups as the commissioner determines necessary to represent high-lime and low-lime content. There shall be four groups of organic soils.

b. The land classification system shall be promulgated by rule by the commissioner following a review of comments and recommendations of the advisory council on agriculture and after a public hearing. In making any revisions to the land classification system the commissioner may, in his or her discretion, conduct a public hearing. The commissioner shall foster participation by county agricultural and farmland protection boards, district soil and water conservation committees, and the cooperative extension service and consult with other state agencies, appropriate federal agencies, municipalities, the New York state college of agriculture and life sciences at Cornell university and farm organizations.

c. The commissioner shall certify to the commissioner of taxation and finance the soil list developed in accordance with the land classification system and any revisions thereto.

d. The commissioner shall prepare such materials as may be needed for the utilization of the land classification system and provide assistance to landowners and local officials in its use.

3. a. The commissioner of taxation and finance shall annually calculate a single agricultural assessment value for each of the mineral and organic soil groups which shall be applied uniformly throughout the state. A base agricultural assessment value shall be separately calculated for mineral and organic soil

groups in accordance with the procedure set forth in subdivision four of this section and shall be assigned as the agricultural assessment value of the highest grade mineral and organic soil group.

b. The agricultural assessment values for the remaining mineral soil groups shall be the product of the base agricultural assessment value and a percentage, derived from the productivity measurements determined for each soil and related soil group in conjunction with the land classification system, as follows: . . .

c. The agricultural assessment values for the remaining organic soil groups shall be the product of the base agricultural assessment value and a percentage, as follows: . . .

d. The agricultural assessment value for organic soil group A shall be two times the base agricultural assessment value calculated for mineral soil group 1A.

e. The agricultural assessment value for farm woodland shall be the same as that calculated for mineral soil group seven.

f. Where trees or vines used for the production of fruit are located on land used in agricultural production, the value of such trees and vines, and the value of all posts, wires and trellises used for the production of fruit, shall be considered to be part of the agricultural assessment value of such land.

g. The agricultural assessment value for land and waters used in aquacultural enterprises shall be the same as that calculated for mineral soil group 1A.

4. a. The base agricultural assessment value shall be the average capitalized value of production per acre for the eight year period ending in the second year preceding the year for which the agricultural assessment values are certified. The capitalized value of production per acre shall be calculated by dividing the product of the value of production per acre and the percentage of net profit by a capitalization rate of ten percent, representing an assumed investment return rate of eight percent and an assumed real property tax rate of two percent.

b. The value of production per acre shall be the value of production divided by the number of acres harvested in New York state.

c. The percentage of net profit shall be adjusted net farm income divided by realized gross farm income.

(i) Adjusted net farm income shall be the sum of net farm income, taxes on farm real estate and the amount of mortgage interest debt attributable to farmland, less a management charge of one percent of realized gross farm income plus seven percent of adjusted production expenses.

(ii) The amount of mortgage interest debt attributable to farmland shall be the product of the interest on mortgage debt and the percentage of farm real estate value attributable to land.

(iii) The percentage of farm real estate value attributable to land shall be the difference between farm real estate value and farm structure value divided by farm real estate value.

(iv) Adjusted production expenses shall be production expenses, less the sum of the taxes on farm real estate and the interest on mortgage debt.

d. The following data, required for calculations pursuant to this subdivision, shall be as published by the United States department of agriculture for all farming in New York state:

(i) Farm real estate value shall be the total value of farmland and buildings, including improvements.

(ii) Farm structure value shall be the total value of farm buildings, including improvements.

(iii) Interest on mortgage debt shall be the total interest paid on farm real estate debt.

(iv) Net farm income shall be realized gross income less production expenses, as adjusted for change in inventory.

(v) Production expenses shall be the total cost of production.

(vi) Realized gross income shall be the total of cash receipts from farm marketings, government payments, nonmoney income and other farm income.

(vii) Taxes on farm real estate shall be the total real property taxes on farmland and buildings, including improvements.

(viii) Number of acres harvested including all reported crops.

(ix) Value of production shall be the total estimated value of all reported crops.

e. In the event that the data required for calculation pursuant to this subdivision is not published by the United States department of agriculture or is incomplete, such required data shall be obtained from the New York state department of agriculture and markets.

f. Upon completion of each annual calculation of agricultural assessment values, the commissioner of taxation and finance shall publish an annual report, which shall include a schedule of values, citations to data sources and presentation of all calculations.

The commissioner of taxation and finance shall thereupon certify the schedule of agricultural assessment values and shall transmit a schedule of such certified values to each assessor. Beginning in the year two thousand six and every five years thereafter, the commissioner of taxation and finance shall transmit copies of such annual reports for the five years previous to such transmittal, to the governor and legislature, the advisory council on agriculture, and other appropriate state agencies and interested parties.

g. Notwithstanding any other provision of this section to the contrary, in no event shall the change in the base agricultural assessment value for any given year exceed two percent of the base agricultural assessment value of the preceding year.

5. a. In carrying out their responsibilities under this section, the commissioner of taxation and finance and the commissioner shall keep the advisory council on agriculture fully apprised on matters relating to its duties and responsibilities.

b. In doing so, the commissioner of taxation and finance and the commissioner shall provide, in a timely manner, any materials needed by the advisory council on agriculture to carry out its responsibilities under this section.

Agricultural Land Exclusions

No statute.

North Carolina

Sources / Changes

**§ 105-277.2. Agricultural, horticultural, and forestland--Definitions

**§ 105-277.3. Agricultural, horticultural, and forestland--Classifications

**§ 105-277.4. Agricultural, horticultural and forestland--Application; appraisal at use value; notice and appeal; deferred taxes

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 105-277.2. Agricultural, horticultural, and forestland--Definitions

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

(1) Agricultural land.--Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. For purposes of this definition, the commercial production or growing of animals includes the rearing, feeding, training, caring, boarding, and managing of horses. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program.

Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.

§ 105-277.3. Agricultural, horticultural, and forestland--Classifications

(a) Classes Defined.--The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

(1) Agricultural land.--Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, grazing fees for livestock, the sale of bees or products derived from beehives other than honey, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

(2) Horticultural land.--Individually owned horticultural land consisting of one or more tracts, one of which consists of at least five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have met the applicable minimum gross income requirement. Land in actual production includes land under improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products. Land that has been used to produce evergreens intended for use as Christmas trees must have met the minimum gross income requirements established by the Department of Revenue for the land. All other horticultural land must have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the horticultural products produced from the land and any payments received under a governmental soil conservation or land retirement program.

(3) Forestland.--Individually owned forestland consisting of one or more tracts, one of which consists of at least 20 acres that are in actual production and are not included in a farm unit.

(b) Individual Ownership Requirements.--In order to come within a classification described in subsection (a) of this section, land owned by an individual must also satisfy one of the following conditions:

(1) It is the owner's place of residence.

(2) It has been owned by the current owner or a relative of the current owner for the four years preceding January 1 of the year for which the benefit of this section is claimed.

(3) At the time of transfer to the current owner, it qualified for classification in the hands of a business entity or trust that transferred the land to the current owner who was a member of the business entity or a beneficiary of the trust, as appropriate.

(b1) Entity Ownership Requirements.--In order to come within a classification described in subsection (a) of this section, land owned by a business entity must meet the requirements of subdivision (1) of this subsection and land owned by a trust must meet the requirements of subdivision (2) of this subsection.

(1) Land owned by a business entity must have been owned by one or more of the following for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed:

a. The business entity.

b. A member of the business entity.

c. Another business entity whose members include a member of the business entity that currently owns the land.

(2) Land owned by a trust must have been owned by the trust or by one or more of its creators for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed.

(b2) Exceptions to Ownership Requirements.--Notwithstanding the provisions of subsections (b) and (b1) of this section, land may qualify for classification in the hands of the new owner if all of the conditions

listed in either subdivision of this subsection are met, even if the new owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the land.

(1) Continued use.--If the land qualifies for classification in the hands of the new owner under the provisions of this subdivision, then any deferred taxes remain a lien on the land under G.S. 105-277.4(c), the new owner becomes liable for the deferred taxes, and the deferred taxes become payable if the land fails to meet any other condition or requirement for classification. Land qualifies for classification in the hands of the new owner if all of the following conditions are met:

a. The land was appraised at its present use value at the time title to the land passed to the new owner.

b. The new owner acquires the land and continues to use the land for the purpose for which it was classified under subsection (a) of this section while under previous ownership.

c. The new owner has timely filed an application as required by G.S. 105-277.4(a) and has certified that the new owner accepts liability for any deferred taxes and intends to continue the present use of the land.

(2) Expansion of existing unit.--Land qualifies for classification in the hands of the new owner if, at the time title passed to the new owner, the land was not appraised at its present-use value but was being used for the same purpose and was eligible for appraisal at its present-use value as other land already owned by the new owner and classified under subsection (a) of this section. The new owner must timely file an application as required by G.S. 105-277.4(a).

(c) Repealed by Session Laws 1995, c. 454, s. 2.

(d) Exception for Conservation Reserve Program.--Land enrolled in the federal Conservation Reserve Program authorized by 16 U.S.C. Chapter 58 is considered to be in actual production, and income derived from participation in the federal Conservation Reserve Program may be used in meeting the minimum gross income requirements of this section either separately or in combination with income from actual production. Land enrolled in the federal Conservation Reserve Program must be assessed as agricultural land if it is planted in vegetation other than trees, or as forestland if it is planted in trees.

(d1) Conservation Exception.--Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 without regard to actual production or income requirements of this section as long as (i) the property is subject to a qualifying conservation easement that meets the requirements of G.S. 113A-235(a); and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to a qualifying conservation easement. The exception provided in this subsection applies only to that part of the property that is subject to the easement.

Agricultural Land Valuation Methodology

§ 105-277.4. Agricultural, horticultural and forestland--Application; appraisal at use value; notice and appeal; deferred taxes

(a) Application.--Property coming within one of the classes defined in G.S. 105-277.3 is eligible for taxation on the basis of the value of the property in its present use if a timely and proper application is filed with the assessor of the county in which the property is located. The application must clearly show that the property comes within one of the classes and must also contain any other relevant information required by the assessor to properly appraise the property at its present-use value. An initial application must be filed during the regular listing period of the year for which the benefit of this classification is first claimed, or within 30 days of the date shown on a notice of a change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred or becomes ineligible for use-value appraisal because of a change in use or acreage. An application required due to transfer of the land may be submitted at any time during the calendar year but must be submitted within 60 days of the date of the property's transfer.

(a1) Late Application.--Upon a showing of good cause by the applicant for failure to make a timely application as required by subsection (a) of this section, an application may be approved by the board of equalization and review or, if that board is not in session, by the board of county commissioners. An untimely application approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed. Decisions of the county board may be appealed to the Property Tax Commission.

(b) Appraisal at Present-use Value.--Upon receipt of a properly executed application, the assessor must appraise the property at its present-use value as established in the schedule prepared pursuant to G.S. 105-317. In appraising the property at its present-use value, the assessor must appraise the improvements located on qualifying land according to the schedules and standards used in appraising other similar improvements in the county. If all or any part of a qualifying tract of land is located within the limits of an incorporated city or town, or is property annexed subject to G.S. 160A-37(f1) or G.S. 160A-49(f1), the assessor must furnish a copy of the property record showing both the present-use appraisal and the valuation upon which the property would have been taxed in the absence of this classification to the collector of the city or town. The assessor must also notify the tax collector of any changes in the appraisals or in the eligibility of the property for the benefit of this classification. Upon a request for a certification pursuant to G.S. 160A-37(f1) or G.S. 160A-49(f1), or any change in the certification, the assessor for the county where the land subject to the annexation is located must, within 30 days, determine if the land meets the requirements of G.S. 160A-37(f1)(2) or G.S. 160A-49(f1)(2) and report the results of its findings to the city.

(b1) Notice and Appeal.--If the assessor determines that the property loses its eligibility for present-use value classification for a reason other than failure to file a timely application required due to transfer of the land, the assessor shall provide written notice of the decision as required by G.S. 105-296(i). The notice shall include the property's tax identification number, the specific reason for the disqualification, and the date of the decision. Decisions of the assessor regarding the qualification or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. An appeal must be made within 60 days after date of the written notice of the decision of the assessor. If an owner submits additional information to the assessor pursuant to G.S. 105-296(j), the appeal must be made within 60 days after the assessor's decision based on the additional information. Decisions of the county board may be appealed to the Property Tax Commission.

A new appeal to a decision of the assessor regarding the disqualification of property for which notice was received is not required to be submitted for subsequent tax years while the appeal of that disqualifying event is outstanding. When a property's present-use value classification is reinstated upon appeal of the disqualifying event, it is reinstated retroactive to the date the classification was revoked, as provided under G.S. 105-296(j).

If, while an assessor's decision that a property has lost its eligibility for present-use value classification is under appeal to the county board or to the Property Tax Commission, the assessor determines that the property is no longer eligible for present-use value classification because of an additional disqualifying event independent of the one that is the basis of the disqualification under appeal, the assessor shall follow the notice and appeal procedure set forth in this subsection with regard to the subsequent disqualification.

(c) Deferred Taxes.--Land meeting the conditions for classification under G.S. 105-277.3 must be taxed on the basis of the value of the land for its present use. The difference between the taxes due on the present-use basis and the taxes that would have been payable in the absence of this classification, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes must be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the land fails to meet any condition or requirement for classification or when an application is not approved.

(d) Set Exception.--Notwithstanding the provisions of subsection (c) of this section, if property loses its eligibility for present use value classification solely due to a change in income caused by enrollment of the property in the federal conservation reserve program established under 16 U.S.C. Chapter 58, then no deferred taxes are due and the lien for the deferred taxes is extinguished.

(d1) Variable Exception.--Notwithstanding the provisions of subsection (c) of this section, if property loses its eligibility for present-use value classification because the property is conveyed to a nonprofit organization and qualifies for exclusion from the tax base pursuant to G.S. 105-275(12) or G.S. 105-275(29) or to the State, a political subdivision of the State, or the United States, then deferred taxes are due as follows:

(1) If the property is conveyed at or below present-use value, then no deferred taxes are due, and the lien for the deferred taxes is extinguished.

(2) If the property is conveyed for more than present-use value, then a portion of the deferred taxes for the preceding three fiscal years is due and payable in accordance with G.S. 105-277.1F. The portion due is equal to the lesser of the amount of the deferred taxes or the deferred taxes multiplied by a fraction, the numerator of which is the sale price of the property minus the present-use value of the property and the denominator of which is the true value of the property minus the present-use value of the property.

(e) Repealed by S.L. 1997-270, § 3, eff. July 3, 1997.

(f) The Department shall publish a present-use value program guide annually and make the guide available electronically on its Web site. When making decisions regarding the qualifications or appraisal of property under this section, the assessor shall adhere to the Department's present-use value program guide.

Agricultural Land Exclusions

No statute.

North Dakota

Sources / Changes

§ 57-02-27. Property to be valued at a percentage of assessed value--Classification of property--Limitation on valuation of annexed agricultural lands

§ 57-02-27.2. Valuation and assessment of agricultural lands

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 57-02-27.2. Valuation and assessment of agricultural lands

1. "True and full value" of agricultural lands must be their agricultural value for the purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural value is defined as the "capitalized average annual gross return", except for inundated agricultural land. The "annual gross return" must be determined from crop share rent, cash rent, or a combination thereof reduced by estimated property taxes and crop marketing expenses incurred by farmland owners renting their lands on a cash or crop share basis.

2. For purposes of this section, "annual gross return" for cropland used for growing crops other than sugar beets and potatoes means thirty percent of annual gross income produced, "annual gross return" for cropland used for growing sugar beets and potatoes means twenty percent of annual gross income produced, and "annual gross return" for land used for grazing farm animals means twenty-five percent of an amount determined by the department of agribusiness and applied economics of North Dakota state university to represent the annual gross income potential of the land based upon the animal unit carrying capacity of the land.

3. The "average annual gross return" for each county must be determined as follows:

a. Total the annual gross returns for the ten years immediately preceding the current year for which data is available and discard the highest and lowest annual gross returns of the ten.

b. The department of agribusiness and applied economics of North Dakota state university shall establish a base year index of prices paid by farmers using annual statistics on that topic compiled by the national agricultural statistics service for the seven-year period ending in 1995, discarding the highest and lowest years' indexes, and averaging the remaining five years' indexes. The department of agribusiness and applied economics shall gather the national agricultural statistics service annual index of prices paid by farmers for the ten years ending with the most recent year used under subdivision a, discard the highest and lowest years' indexes, average the remaining eight years' indexes, and divide the resulting amount by the base year index of prices paid by farmers. This amount must be divided into the amount determined under subdivision a.

c. Divide the figure arrived at in subdivision b by eight.

4. To find the "capitalized average annual gross return", the average annual gross return must be capitalized by a rate that is a ten-year average of the gross agribank mortgage rate of interest for North Dakota. The ten-year average must be computed from the twelve years ending with the most recent year used under subdivision a of subsection 3, discarding the highest and lowest years, and the gross agribank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in section 20.2032A-4(e)(2).

5. The department of agribusiness and applied economics of North Dakota state university shall compute annually an estimate of the average agricultural value per acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis; shall compute the average agricultural value per acre [.40 hectare] for cropland, noncropland, and inundated agricultural land for each county; and shall provide the tax commissioner with this information by December first of each year. Fifty percent of the annual gross income from irrigated cropland must be considered additional expense of production and may not be included in computation of the average agricultural value per acre [.40 hectare] for cropland for the county as determined by the department of agribusiness and applied economics. Before January first of each year, the tax commissioner shall provide to each county director of tax equalization these estimates of agricultural value for each county.

6. For purposes of this section, "inundated agricultural land" means property classified as agricultural property containing a minimum of ten contiguous acres if the value of the inundated land exceeds ten percent of the average agricultural value of noncropland for the county, which is inundated to an extent making it unsuitable for growing crops or grazing farm animals for two consecutive growing seasons or more, and which produced revenue from any source in the most recent prior year which is less than the county average revenue per acre for noncropland calculated by the department of agribusiness and applied economics of North Dakota state university. Application for classification as inundated agricultural land must be made in writing to the township assessor or county director of tax equalization by March thirty-first of each year. Before all or part of a parcel of property may be classified as inundated agricultural land, the board of county commissioners must approve that classification for that property for the taxable year. The agricultural value of inundated agricultural lands for purposes of this section must be determined by the department of agribusiness and applied economics of North Dakota state university to be ten percent of the average agricultural value of noncropland for the county as determined under this section. Valuation of individual parcels of inundated agricultural land may recognize the probability that the property will be suitable for agricultural production as cropland or for grazing farm animals in the future. Determinations made under this subsection may be appealed through the informal equalization process and formal abatement process provided for in this title.

7. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors within the county an estimate of the average agricultural value of agricultural lands within each assessment district. The estimate must be based upon the average agricultural value for the county adjusted by the relative values of lands within each assessment district compared to the county average. In determining the relative value of lands for each assessment district compared to the county average, the county director of tax equalization shall use soil type and soil classification data from detailed and general soil surveys.

8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of

equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization. In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations, which are listed in descending order of significance to the assessment determination:

- a. Soil type and soil classification data from detailed or general soil surveys.
 - b. The schedule of modifiers that must be used to adjust agricultural property assessments within the county as approved by the state supervisor of assessments under subsection 9.
 - c. Actual use of the property for cropland or noncropland purposes by the owner of the parcel.
9. Before February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county.
10. For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys by February first of any taxable year after 2011, the tax commissioner shall direct the state treasurer to withhold five percent of that county's allocation each quarter from the state aid distribution fund under section 57-39.2-26.1 beginning with the first quarter of 2013, and continuing until the tax commissioner certifies to the state treasurer that that county has fully implemented use of soil type or soil classification data. The amount withheld from the allocation must be deposited into the agricultural land valuation fund. The amount withheld from the allocation must be withheld entirely from the portion of the allocation which may be retained by the county and may not reduce allocations to any political subdivisions within the county.

Agricultural Land Valuation Methodology

§ 57-02-27. Property to be valued at a percentage of assessed value--Classification of property--Limitation on valuation of annexed agricultural lands

All property subject to taxation based on the value thereof must be valued as follows:

1. All residential property to be valued at nine percent of assessed value. If any property is used for both residential and nonresidential purposes, the valuation must be prorated accordingly.
2. All agricultural property to be valued at ten percent of assessed value as determined pursuant to section 57-02-27.2.
3. All commercial property to be valued at ten percent of assessed value.
4. All centrally assessed property to be valued at ten percent of assessed value except as provided in section 57-06-14.1.

The resulting amounts must be known as the taxable valuation. In determining the assessed value of real and personal property, except agricultural property, the assessor may not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor may the assessor adopt as a criterion of value the price at which said property would sell at auction, or at forced sale, or in the aggregate with all the property in the town or district, but the assessor shall value each article or description by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. In assessing any tract or lot of real property, there must be determined the value of the land, exclusive of improvements, and the value of all taxable improvements and structures thereon, and the aggregate value of the property, including all taxable structures and other improvements, excluding the value of crops growing upon cultivated lands. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same must be valued at such a price as such property, including the mine or quarry, would sell for at a fair voluntary sale for cash. Agricultural lands within the corporate limits of a city which are not platted constitute agricultural property and must be so classified and valued for ad valorem property tax purposes until such lands are put to another use. Agricultural lands, whether within the corporate limits of a city or not, which were platted and assessed as agricultural property prior to March 30, 1981, must be assessed as agricultural property for ad valorem property tax purposes until put to another use. Such valuation must be uniform with the valuation of adjoining unannexed agricultural land

Agricultural Land Exclusions

No statute.

Ohio

Sources / Changes

OH ST T. LVII, Ch. 5713, Agricultural Land, Refs & Annos

****5713.30 Definitions**

5713.34 Land converted from farm use; recoupment charge; certain purchasers to pay charge and not transfer to seller; exceptions

901.80 Agritourism immunity; warning notice

5715.01 Tax commissioner to direct and supervise assessment of real property; procedures; county board of revision to hear complaints; rules of commissioner

Definition of Agricultural Improvements

901.80 Agritourism immunity; warning notice

“Agritourism” means an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.

Improvement Valuation Methodology

5713.30 Definitions

(4) . . .Notwithstanding any other provision of law to the contrary, the existence of agritourism on a tract, lot, or parcel of land that otherwise meets the definition of “land devoted exclusively to agricultural use” as defined in this division does not disqualify that tract, lot, or parcel from valuation under sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

5713.34 Land converted from farm use; recoupment charge; certain purchasers to pay charge and not transfer to seller; exceptions

(A)(1) Upon the conversion of all or any portion of a tract, lot, or parcel of land devoted exclusively to agricultural use a portion of the tax savings upon such converted land shall be recouped as provided for by Section 36, Article II, Ohio Constitution by levying a charge on such land in an amount equal to the amount of the tax savings on the converted land during the three tax years immediately preceding the year in which the conversion occurs. If the auditor discovers that agricultural land valued at the lowest valued soil type, pursuant to section 5713.31 of the Revised Code, because of its use for a conservation practice or devotion to a land retirement or conservation program ceases to be used or devoted to such purposes sooner than thirty-six months after the initial certification, the auditor shall levy a charge on such agricultural land in an amount equal to the reduction in taxes resulting from the land's valuation at the lowest valued soil type, rather than valuation at its actual soil type, in all preceding years the land was so valued, not to exceed the most recent three years. The charges levied under this section shall constitute a lien of the state upon such converted land as of the first day of January of the tax year in which the charge is levied and shall continue until discharged as provided by law.

(2) Upon the conversion of an adequately described portion of a tract, lot, or parcel of land, the county auditor shall divide any numbered permanent parcel into economic units and value each unit individually for the purpose of levying the charge under division (A)(1) of this section against only the converted portion.

(3) A charge shall not be levied under this section for the conversion of a portion of a tract, lot, or parcel of land devoted exclusively to agricultural use if the conversion is incident to the construction or installation

of an energy facility, as defined in section 5727.01 of the Revised Code, and if the remaining portion of the tract, lot, or parcel continues to be devoted exclusively to agricultural use.

(B) Except as otherwise provided in division (C) or (D) of this section, a public entity that acquires by any means and converts land devoted exclusively to agricultural use and a private entity granted the power of eminent domain that acquires by any means and converts land devoted exclusively to agricultural use shall pay the charge levied by division (A) of this section and shall not, directly or indirectly, transfer the charge to the person from whom the land is acquired. A person injured by a violation of this division may recover, in a civil action, any damages resulting from the violation.

...

If all or any portion of a tract, lot, or parcel of such land is later developed or otherwise converted to a purpose other than one of the purposes enumerated under division (E)(1) of this section, the charge levied by division (A)(1) of this section shall be levied against such developed or converted land as otherwise required by that division.

The county auditor of the county in which the land is located shall determine annually whether all or any portion of a tract, lot, or parcel of land formerly converted to a purpose enumerated under division (E)(1) of this section has been developed in such a way or converted to such a purpose as to require the charge levied by division (A)(1) of this section to be levied against the land so developed or converted.

(E) As used in divisions (C) and (D) of this section:

(1) "Principally undeveloped" means a parcel of real property that is used for public, active or passive, outdoor education, recreation, or similar open space uses and contains only the structures, roadways, and other facilities that are necessary for such uses.

(2) "Public entity" means any political subdivision of this state or any agency or instrumentality of a political subdivision.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

5713.30 Definitions

As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres to which, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, one or more of the following apply:

(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the cultivation of hemp by a person issued a hemp cultivation license under section 928.02 of the Revised Code, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use.

(b) The tracts, lots, or parcels of land were devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership or leasehold that is otherwise devoted exclusively to agricultural use, provided that (i) at least fifty per cent of the feedstock used in the production is agricultural feedstock, (ii) at least twenty per cent of the agricultural feedstock used in the production is derived from parcels of land under common ownership or leasehold, and (iii) none of the feedstock used in the production consists of human waste. As used in this division, "agricultural feedstock" means manure and food waste, and "human waste" includes sludge as defined in section 6111.01 of the Revised Code.

(c) The tracts, lots, or parcels of land were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government.

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the cultivation of hemp by a person issued a hemp cultivation license under section 928.02 of the Revised Code, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental trees, sod, or flowers where such activities produced an average yearly gross income of at least twenty-five hundred dollars during such three-year period or where there is evidence of an anticipated gross income of such amount from such activities during the tax year in which application is made, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(3) Tracts, lots, or parcels of land, or portions thereof that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow for up to one year and no action has occurred to such land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use as defined in this section. Such land shall remain designated as land devoted exclusively to agricultural use provided that beyond one year, but less than three years, the landowner proves good cause as determined by the board of revision.

(4) Tracts, lots, or parcels of land, or portions thereof that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow because of dredged material being stored or deposited on such land pursuant to a contract between the land's owner and the department of natural resources or the United States army corps of engineers and no action has occurred to the land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use. Such land shall remain designated as land devoted exclusively to agricultural use until the last year in which dredged material is stored or deposited on the land pursuant to such a contract, but not to exceed five years.

"Land devoted exclusively to agricultural use" includes tracts, lots, or parcels of land or portions thereof that are used for conservation practices, provided that the tracts, lots, or parcels of land or portions thereof comprise twenty-five per cent or less of the total of the tracts, lots, or parcels of land that satisfy the criteria established in division (A)(1), (2), (3), or (4) of this section together with the tracts, lots, or parcels of land or portions thereof that are used for conservation practices.

Notwithstanding any other provision of law to the contrary, the existence of agritourism on a tract, lot, or parcel of land that otherwise meets the definition of "land devoted exclusively to agricultural use" as defined in this division does not disqualify that tract, lot, or parcel from valuation under sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use.

A tract, lot, parcel, or portion thereof on which medical marijuana, as defined by section 3796.01 of the Revised Code, is cultivated or processed is not land devoted exclusively to agricultural use.

(B) "Conversion of land devoted exclusively to agricultural use" means any of the following:

(1) The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

(4) The failure of the owner of the land described in division (A)(3) or (4) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

The construction or installation of an energy facility, as defined in section 5727.01 of the Revised Code, on a portion of a tract, lot, or parcel of land devoted exclusively to agricultural use shall not cause the remaining portion of the tract, lot, or parcel to be regarded as a conversion of land devoted exclusively to agricultural use if the remaining portion of the tract, lot, or parcel continues to be devoted exclusively to agricultural use.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar

amount of real property taxes that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate or a buyer on a land installment contract.

(E) "Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code.

(G) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats or any combination of those reagents and that meets the American society for testing and materials specification D6751-03a for biodiesel fuel (B100) blend stock distillate fuels.

(H) "Biologically derived methane gas" means gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues.

(I) "Biomass energy" means energy that is produced from organic material derived from plants or animals and available on a renewable basis, including, but not limited to, agricultural crops, tree crops, crop by-products, and residues.

(J) "Electric or heat energy" means electric or heat energy generated from manure, cornstalks, soybean waste, or other agricultural feedstocks.

(K) "Dredged material" means material that is excavated or dredged from waters of this state. "Dredged material" does not include material resulting from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting, for production of food, fiber, and forest products.

(L) "Agritourism" has the same meaning as in section 901.80 of the Revised Code.

Agricultural Land Valuation Methodology

5715.01 Tax commissioner to direct and supervise assessment of real property; procedures; county board of revision to hear complaints; rules of commissioner

(A) The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule for such values and for the determination of the current agricultural use value of land devoted exclusively to agricultural use.

(1) The uniform rules shall prescribe methods of determining the true value and taxable value of real property. The rules shall provide that in determining the true value of lands or improvements thereon for tax purposes, all facts and circumstances relating to the value of the property, its availability for the purposes for which it is constructed or being used, its obsolete character, if any, the income capacity of the property, if any, and any other factor that tends to prove its true value shall be used. In determining the true value of minerals or rights to minerals for the purpose of real property taxation, the tax commissioner shall not include in the value of the minerals or rights to minerals the value of any tangible personal property used in the recovery of those minerals.

(2) The uniform rules shall prescribe the method for determining the current agricultural use value of land devoted exclusively to agricultural use, which method shall reflect standard and modern appraisal techniques that take into consideration the productivity of the soil under normal management practices, typical cropping and land use patterns, the average price patterns of the crops and products produced and the typical production costs to determine the net income potential to be capitalized, and other pertinent factors.

In determining the agricultural land capitalization rate to be applied to the net income potential from agricultural use, the commissioner shall use standard and modern appraisal techniques. In calculating the capitalization rate for any year, the commissioner shall comply with both of the following requirements:

(a) The commissioner shall use an equity yield rate equal to the greater of (i) the average of the total rates of return on farm equity for the twenty-five most recent years for which those rates have been calculated and published by the United States department of agriculture economic research service or another published source or (ii) the loan interest rate the commissioner uses for that year to calculate the capitalization rate;

(b) The commissioner shall assume that the holding period for agricultural land is twenty-five years for the purpose of computing buildup of equity or appreciation with respect to that land.

The commissioner shall add to the overall capitalization rate a tax additur. The sum of the overall capitalization rate and the tax additur shall represent as nearly as possible the rate of return a prudent investor would expect from an average or typical farm in this state considering only agricultural factors. The commissioner shall annually determine and announce the overall capitalization rate, tax additur, agricultural land capitalization rate, and the individual components used in computing such amounts in a determination, finding, computation, or order of the commissioner published simultaneously with the commissioner's annual publication of the per-acre agricultural use values for each soil type.

(3) Notwithstanding any other provision of this chapter and Chapter 5713. of the Revised Code, the current agricultural use value of land devoted exclusively to agricultural use shall equal the following amounts for the years specified:

(a) In counties that undergo a reappraisal or triennial update in 2017, the current agricultural use value of the land for each of the 2017, 2018, and 2019 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(a)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2016 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2016 tax year, exceeds the value determined under division (A)(3)(a)(i) of this section.

(b) In counties that undergo a reappraisal or triennial update in 2018, the current agricultural use value of the land for each of the 2018, 2019, and 2020 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(b)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2017 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2017 tax year, exceeds the value determined under division (A)(3)(b)(i) of this section.

(c) In counties that undergo a reappraisal or triennial update in 2019, the current agricultural use value of the land for each of the 2019, 2020, and 2021 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(c)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2018 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2018 tax year, exceeds the value determined under division (A)(3)(c)(i) of this section.

(B) The taxable value shall be that per cent of true value in money, or current agricultural use value in the case of land valued in accordance with section 5713.31 of the Revised Code, the commissioner by rule establishes, but it shall not exceed thirty-five per cent. The uniform rules shall also prescribe methods of making the appraisals set forth in section 5713.03 of the Revised Code. The taxable value of each tract, lot, or parcel of real property and improvements thereon, determined in accordance with the uniform rules and methods prescribed thereby, shall be the taxable value of the tract, lot, or parcel for all purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 5717.01 to 5717.06 of the Revised Code. County auditors shall, under the direction and supervision of the commissioner, be the chief assessing officers of their respective counties, and shall list and value the real property within their respective counties for taxation in accordance with this section and sections 5713.03 and 5713.31 of the Revised Code and with such rules of the commissioner. There shall also be a board in each county, known as the county board of revision, which shall hear complaints and revise assessments of real property for taxation.

(C) The commissioner shall neither adopt nor enforce any rule that requires true value for any tax year to be any value other than the true value in money on the tax lien date of such tax year or that requires taxable value to be obtained in any way other than by reducing the true value, or in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, by a specified, uniform percentage.

Agricultural Land Exclusions

No statute.

Oklahoma

Sources / Changes

§ 2817. Valuation and assessment of property--Fair cash value--Use value

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

No statute.

Agricultural Land Valuation Methodology

C. The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including, but not limited to:

1. Soil types, as depicted on soil maps published by the Natural Resources Conservation Service of the United States Department of Agriculture;
2. Soil productivity indices approved by the Ad Valorem Division of the Tax Commission;
3. The specific agricultural purpose of the soil based on use categories approved by the Ad Valorem Division of the Tax Commission; and
4. A capitalization rate to be determined annually by the Ad Valorem Division of the Tax Commission based on the sum of the average first mortgage interest rate charged by the Federal Land Bank for the immediately preceding five (5) years, weighted with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

The final use value will be calculated using the soil productivity indices and the agricultural use classification as defined by rules promulgated by the State Board of Equalization. This subsection shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to valuation of the counties as fixed and defined by Section 21 of Article X of the Oklahoma Constitution. However, in calculating the use value of buffer strips as defined in Section 2817.2 of this title, exclusive consideration shall be based only on income from production agriculture from such buffer strips, not including federal or state subsidies, when valued as required by subsection C of Section 2817.2 of this title.

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

The use value of facilities used for poultry production shall be determined according to the following procedures:

1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a standard system of valuation of both real and personal property of such facilities, which shall be used by all county assessors in this state, under which valuation based on the following shall be presumed to be the fair cash value of the property:

a. for real property, a ten-year depreciation schedule, at the end of which the residual value is twenty percent (20%) of the value of the facility during its first year of operation, and
b. for personal property, a five-year depreciation schedule, at the end of which the residual value is zero;

2. Such facilities shall be valued only in comparison to other facilities used exclusively for poultry production. Such a facility which is no longer used for poultry production shall be deemed to have no productive use;

3. During the first year such a facility is placed on the tax rolls, its fair cash value shall be presumed to be the lesser of the actual purchase price or the actual documented cost of construction; and

4. For the purpose of determining the valuation of nonresidential improvements used for poultry production, the provisions of this subsection shall be applicable and such improvements shall not be considered to be commercial property.

E. The value of investment in property used exclusively by an oil refinery that is used wholly as a facility, device or method for the desulphurization of gasoline or diesel fuel as defined in Section 2817.3 of this title shall not be included in the capitalization used in the determination of fair market value of such oil refinery if such property would qualify as exempt property pursuant to Section 2902 of this title, whether or not an application for such exemption is made by an otherwise qualifying manufacturing concern owning the property described by Section 2817.3 of this title.

F. The use value of a lot in any platted addition or a subdivision in a city, town or county zoned for residential, commercial, industrial or other use shall be deemed to be the fair cash value of the underlying tract of land platted, divided by the number of lots contained in the platted addition or subdivision until the lot shall have been conveyed to a bona fide purchaser or the lot with building or buildings located thereon shall have been occupied other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. One who purchases a lot for the purposes of constructing and selling a building on such lot shall not be deemed to be a bona fide purchaser for purposes of this section. However, if the lot is held for a period longer than two (2) years before construction, then the assessor may consider the lot to have been conveyed to a bona fide purchaser. The cost of any land or improvements to any real property required to be dedicated to public use, including, but not limited to, streets, curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or retention ponds, easements, parks or reserves shall not be utilized by the county assessor in the valuation of any real property for assessment purposes.

Agricultural Land Exclusions

No statute.

Oregon

Sources / Changes

Chapter 308A. Land Special Assessments:

Farm Use Special Assessment

308A.053. Definitions

**308A.056. "Farm use" defined

308A.092. Method of determining value for farm use

308A.095. Income-approach factors; county board of review to advise assessor

Definition of Agricultural Improvements

308A.056. "Farm use" defined

- (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by:
- (a) Raising, harvesting and selling crops.
 - (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees or the produce thereof.
 - (c) Dairying and selling dairy products.
 - (d) Stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows.
 - (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.
 - (f) On-site constructing and maintaining equipment and facilities used for the activities described in this subsection.
 - (g) Preparing, storing or disposing of, by marketing, donation to a local food bank or school or otherwise, the products or by-products raised for human or animal use on land described in this section.
 - (h) Implementing a remediation plan previously presented to the assessor for the county in which the land that is the subject of the plan is located.
 - (i) Using land described in this section for any other agricultural or horticultural use or animal husbandry or any combination thereof.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

308A.053. Definitions

As used in ORS 308A.050 to 308A.128:

- (1) "Exclusive farm use zone" means a zoning district established by a county or a city under the authority granted by ORS chapter 215 or 227 that is consistent with the farm use zone provisions set forth in ORS 215.203 to 215.311, 215.438, 215.448, 215.452, 215.453, 215.455 or 215.700 to 215.780.
- (2) "Exclusive farm use zone farmland" means land that qualifies for special assessment under ORS 308A.062.
- (3) "Homesite" means the land, including all tangible improvements to the land under and adjacent to a dwelling and other structures, if any, that are customarily provided in conjunction with a dwelling.
- (4) "Nonexclusive farm use zone farmland" means land that is not within an exclusive farm use zone but that qualifies for farm use special assessment under ORS 308A.068.
- (5) "Remediation plan" means a plan certified by an extension agent of the Oregon State University Extension Service to remediate or mitigate severe adverse conditions on farmland.
- (6) "Severe adverse conditions on farmland" means conditions that render impracticable continued farm use and that are not due to an intentional or negligent act or omission by the owner, tenant or lessee of the farmland or the applicant for certification of a remediation plan.

308A.056. "Farm use" defined

- (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by:
- (a) Raising, harvesting and selling crops.
 - (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees or the produce thereof.
 - (c) Dairying and selling dairy products.
 - (d) Stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows.
 - (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.
 - (f) On-site constructing and maintaining equipment and facilities used for the activities described in this subsection.
 - (g) Preparing, storing or disposing of, by marketing, donation to a local food bank or school or otherwise, the products or by-products raised for human or animal use on land described in this section.
 - (h) Implementing a remediation plan previously presented to the assessor for the county in which the land that is the subject of the plan is located.
 - (i) Using land described in this section for any other agricultural or horticultural use or animal husbandry or any combination thereof.
- (2) "Farm use" does not include the use of land subject to timber and forestland taxation under ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber, including hybrid cottonwood).
- (3) For purposes of this section, land is currently employed for farm use if the land is:
- (a) Farmland, the operation or use of which is subject to any farm-related government program;
 - (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
 - (c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of this subsection, prior to maturity;
 - (d) Land not in an exclusive farm use zone that has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
 - (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that is not currently being used for any economic farm use;
 - (f) Except for land under a single family dwelling, land under buildings supporting accepted farming practices, including the processing facilities allowed by ORS 215.255 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);
 - (g) Water impoundments lying in or adjacent to and in common ownership with farm use land;
 - (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
 - (i) Land lying idle for no more than one year when the absence of farming activity is the result of the illness of the farmer or a member of the farmer's immediate family, including injury or infirmity, regardless of whether the illness results in death;
 - (j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber, including hybrid cottonwood);
 - (k) Land subject to a remediation plan previously presented to the assessor for the county in which the land that is the subject of the plan is located; or
 - (L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
 - (A) Only the crops of the landowner are being processed;
 - (B) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
 - (C) The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.
- (4) As used in this section:

(a) "Accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of these similar farms to obtain a profit in money and customarily utilized in conjunction with farm use.

(b) "Cultured Christmas trees" means trees:

(A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(B) Of a marketable species;

(C) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

(D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices:

(i) Basal pruning;

(ii) Fertilizing;

(iii) Insect and disease control;

(iv) Stump culture;

(v) Soil cultivation; or

(vi) Irrigation.

308A.062. Exclusive farm use zones; qualification of farmland

(1) Any land that is within an exclusive farm use zone and that is used exclusively for farm use shall qualify for farm use special assessment under ORS 308A.050 to 308A.128, unless disqualified under other provisions of law.

(2) Whether farmland qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. However, if land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232, at its real market value as defined by law without regard to this section, and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year.

Agricultural Land Valuation Methodology

308A.092. Method of determining value for farm use

(1) This section applies to:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The values for farm use of farmland shall be determined utilizing an income approach. In utilizing the income approach, the capitalization rate shall be the effective rate of interest charged in Oregon by the Federal Farm Credit Bank system at the time of closing on loans for farm properties estimated as an average over the past five reported calendar years, plus a component for the local tax rate. The Department of Revenue annually shall determine and specify the rate according to the best information available, and shall certify the rate to the county assessors.

(3) The county assessors shall develop tables for each assessment year that reflect, for each class and area, the values determined under this section and that express the values as values per acre.

308A.095. Income-approach factors; county board of review to advise assessor

(1) Income-approach factors being utilized by a county assessor in arriving at the values for farm use of farmland determined under ORS 308A.092 may be submitted by the county assessor to a county board of review appointed at the request of the county assessor for the purpose of advising the county assessor as to whether the factors are proper under ORS 308A.092.

308A.107. Farm use value; maximum assessed values and assessed values

(1) The value for farm use, maximum assessed value and assessed value shall be determined under this section for both:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The value for farm use for each property subject to special assessment under this section shall equal the applicable value derived from the tables created pursuant to ORS 308A.092 for the tax year multiplied by the acreage of the property within the applicable class and area.

(3)(a) The maximum assessed value for property subject to special assessment under this section shall be determined as provided in this subsection.

(b) The county assessor shall develop tables for each tax year that provide, for each class and area, a maximum assessed value per acre that is equal to 103 percent of the assessed value per acre for the preceding tax year or 100 percent of the maximum assessed value per acre for the preceding tax year, whichever is greater.

(4) Property subject to special assessment under this section shall have an assessed value for the tax year equal to the acreage of the property that is within the same class and area multiplied by the lesser of the value per acre applicable to the property under subsection (2) of this section or under subsection (3) of this section.

(5) If property subject to special assessment under this section consists of different classes, the assessed value of the property shall be the sum of the assessed values computed for each applicable class under subsection (4) of this section.

(6) Property that newly qualifies for farm use special assessment shall, for the first tax year for which the special assessment applies, have:

(a) A value for farm use as determined under subsection (2) of this section;

(b) A maximum assessed value as determined under the tables developed under subsection (3) of this section; and

(c) An assessed value as determined under subsections (4) and (5) of this section.

Agricultural Land Exclusions

No statute.

Pennsylvania

Sources / Changes

72 P.S. PA ST Ch. 4, ASSESSMENTS, Assessment of Farmland and Forest Land

§ 5490.2. Definitions

§ 5490.3. Land devoted to agricultural use, agricultural reserve, and/or forest reserve

§ 5490.4b. Responsibilities of county assessor in establishing use values

§ 5490.5a. Penalty for ineligible use

§ 5490.6. Split-off, separation or transfer; leasing for wireless service; utilization of land or conveyance of rights for exploration or extraction of gas, oil or coal bed methane; utilization of land for commercial alternative energy generation; death of landowner; temporary leases

Definition of Agricultural Improvements

§ 5490.2. Definitions

“Agritainment.” Farm-related tourism or farm-related entertainment activities, which are permitted or authorized by a landowner in return for a fee on agricultural land for recreational or educational purposes. The term includes, but is not limited to, corn mazes, hay mazes, farm tours and hay rides. The term does not include activities authorized under section 8(d).1

“Farm building.” A structure utilized to store, maintain or house farm implements, agricultural commodities or crops, livestock and livestock products, as defined in the act of June 30, 1981 (P.L. 128, No. 43),2 known as the “Agricultural Area Security Law.”

Improvement Valuation Methodology

§ 5490.8. Roll-back taxes; special circumstances

(d)(1) A landowner may apply a maximum of two acres of a tract of land subject to preferential assessment toward direct commercial sales of agriculturally related products and activities or for a rural enterprise incidental to the operational unit without subjecting the entire tract to roll-back taxes, provided that:

(i) The commercial activity is owned and operated by the landowner or his beneficiaries who are designated as class A for inheritance tax purposes.

(ii) An assessment of the inventory of the goods involved verifies that it is owned by the landowner or his beneficiaries.

(iii) The rural enterprise does not permanently render the land incapable of producing an agricultural commodity.

(2) Roll-back taxes shall be imposed upon that portion of the tract where the commercial activity takes place and the fair market value of that tract shall be adjusted accordingly.

(3) Notwithstanding the provisions of paragraph (2), no roll-back taxes shall be due and no breach of a preferential assessment shall be deemed to have occurred if the direct commercial sales of agriculturally related products:

(i) Take place on no more than one half of an acre;

(ii) Are of at least fifty percent (50%) of products produced on the tract; and

(iii) Require no new utilities or buildings.

§ 5490.5a. Penalty for ineligible use

If a landowner removes land from a preferential assessment under section [§ 5490.8a.] If a landowner changes the use of any tract of land subject to preferential assessment under this act to one which is inconsistent with the provisions of section 32 or if for any other reason the land is removed from a land use category under section 3, except for a condemnation of the land, the land so removed and the entire tract of which it was a part shall be subject to roll-back taxes plus interest on each year's roll-back tax at the rate of six percent (6%) per annum. After the first seven years of preferential assessment, the roll-back tax shall apply to the seven most recent tax years.

§ 5490.6. Split-off, separation or transfer; leasing for wireless service; utilization of land or conveyance of rights for exploration or extraction of gas, oil or coal bed methane; utilization of land for commercial alternative energy generation; death of landowner; temporary leases

(a) Repealed by 1998, Dec. 21, P.L. 1225, No. 156, § 7, imd. effective.

(a.1)(1) The split-off of a part of land which is subject to preferential assessment under this act shall subject the land so split off and the entire tract from which the land was split off to roll-back taxes as set forth in section 5.1, except as provided in this subsection. The landowner who conducts the split-off shall be liable for payment of roll-back taxes. If one of the following provisions apply, roll-back taxes under section 5.11 shall only be due as provided in this subsection:

(i) The tract or tracts split off do not exceed two acres annually, except that a maximum of the minimum residential lot size requirement annually may be split off if the property is situated in a local government unit which requires a minimum residential lot size of two to three acres; the tract or tracts split off are used only for agricultural use, agricultural reserve or forest reserve or for the construction of a residential dwelling to be occupied by the person to whom the land is conveyed; and the total tract or tracts so split off do not exceed the lesser of ten acres or ten percent (10%) of the entire tract subject to preferential assessment.

(ii) The split-off occurs through a condemnation.

(2) Each tract which has been split off under and meets the provisions of paragraph (1)(i) shall be subject to roll-back taxes for such a period of time as provided in section 5.1. The landowner who conducts the split-off shall be liable for payment of roll-back taxes, which shall only be due with respect to the split-off portion of land. If the owner of the tract which has been split off under paragraph (1)(i) subsequently changes the use of that land to an ineligible use, the owner of the original tract which continues to be eligible for preferential assessment shall not be liable for any roll-back taxes triggered as a result.

(2.1) No roll-back taxes shall be due for a split-off described in paragraph (1)(ii).

(3) The split-off of a tract of land which meets the provisions of paragraph (1) shall not invalidate the preferential assessment on any land retained by the landowner which continues to meet the provisions of section 3.2

(4) Payment of roll-back taxes by the liable landowner shall not invalidate the preferential assessment on any land which continues to meet the provisions of section 3.

(5) Any person may bring an action in equity to enjoin use of the land inconsistent with the use provided in this subsection.

(6) Land which has been split off shall be deemed to be used for residential use, agricultural use, agricultural reserve or forest reserve unless it is demonstrated that the owner of the split-off parcel is actively using the tract in a manner which is inconsistent with residential use, agricultural use, agricultural reserve or forest reserve.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 5490.2. Definitions

"Agricultural use." Land which is used for the purpose of producing an agricultural commodity or is devoted to and meets the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government. The term includes:

(1) any farmstead land on the tract;

(2) a woodlot;

(3) any land which is rented to another person and used for the purpose of producing an agricultural commodity; and

(4) any land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract.

§ 5490.3. Land devoted to agricultural use, agricultural reserve, and/or forest reserve

(a) For general property tax purposes, the value of land which is presently devoted to agricultural use, agricultural reserve, and/or forest reserve shall, on application of the owner and approval thereof as hereinafter provided, be that value which such land has for its particular land use category if it also meets the following conditions:

(1) Land presently devoted to agricultural use: Such land was devoted to agricultural use the preceding three years and is not less than ten contiguous acres in area, including the farmstead land, or has an anticipated yearly gross income of at least two thousand dollars (\$2,000).

(2) Land presently devoted to agricultural reserve: Such land is not less than ten contiguous acres in area, including the farmstead land.

(3) Land presently devoted to forest reserve: Such land is not less than ten contiguous acres in area, including the farmstead land.

(4) Deleted by 1998, Dec. 21, P.L. 1225, No. 156, § 2, imd. effective.

(a.1) The following apply to enrollment:

(1) A landowner may enroll one tract or more than one contiguous tract for preferential assessment if the total area to be enrolled meets the minimum requirements for eligibility otherwise prescribed in this section. A landowner may not enroll less than the entire contiguous portion of land described in the deed applicable to a tract for which enrollment for preferential assessment is sought.

(2) A tract of land which is used for agricultural use, agricultural reserve or forest reserve purposes may be enrolled for preferential assessment notwithstanding that the tract itself does not meet the minimum requirements for eligibility otherwise prescribed in this section if the tract is contiguous to a tract or tracts which have been previously enrolled by the landowner for preferential assessment.

(a.2) Land area that is burdened by a public or private road, right-of-way or easement shall be included in determining whether the condition for minimum contiguous area required under subsection (a) has been met.

(b), (c) Deleted by 1998, Dec. 21, P.L. 1225, No. 156, § 2, imd. effective.

(d) The county board of assessment appeals may not terminate preferential assessment of land previously determined by the board to qualify for preferential assessment without:

(1) written notice under section 4(c.1)1 from the landowner expressing that preferential assessment is to be terminated; or

(2) written notice under section 5(a)(2)2 from the county assessor to the landowner that preferential assessment is to be terminated, stating the reason for such termination and the opportunity for a hearing under section 9.3

(e) A county assessor may not impose any requirements or conditions of eligibility for preferential assessment other than those otherwise prescribed in this section.

(f) A tract of land enrolled in either the agricultural use or forest reserve land use category and otherwise eligible for preferential assessment under this section shall not be deemed ineligible because the owner of the tract of land permits or authorizes or has permitted or authorized a recreational activity on the tract pursuant to section 8(f).4

(g)(1) The county commissioners may adopt an ordinance to include farmstead land in the total use value for land in agricultural reserve. Any ordinance adopted pursuant to this subsection shall be applied uniformly to all land in agricultural reserve in the county.

(2) The county commissioners may adopt an ordinance to include farmstead land in the total use value for land in forest reserve. Any ordinance adopted pursuant to this subsection shall be applied uniformly to all land in forest reserve in the county.

Agricultural Land Valuation Methodology

§ 5490.4b. Responsibilities of county assessor in establishing use values

(a) For each application for preferential assessment, the county assessor shall establish a total use value for land in agricultural use, including farmstead land, and for land in agricultural reserve by considering available evidence of the capability of the land for its particular use utilizing the USDA-NRCS Agricultural Land Capability Classification system and other information available from USDA-ERS, The Pennsylvania State University and the Pennsylvania Agricultural Statistics Service. Contributory value of farm buildings shall be used.

(b) For each application for preferential assessment, the county assessor shall establish a total use value for land in forest reserve by considering available evidence of capability of the land for its particular use. Contributory value of farm buildings shall be used.

(b.1)(1) Except as provided in paragraph (2) and subject to the provisions of subsections (c), (c.1), (c.2), (c.3) and (c.4), for any county in which preferential assessment of land enrolled in forest reserve is based on county-specific values established by the department under section (4.1)(c),1 a county assessor may apply a use value for land enrolled in forest reserve that equals the average of all subcategories of forest reserve use values established by the department.

(2) Subject to the provisions of subsections (c), (c.1), (c.2), (c.3) and (c.4), if a landowner provides a statement defining the predominate forest classification type on the enrolled land, the county assessor shall apply to that land the value established for that forest type.

(c) A county assessor may establish use values which are less than the values provided by the department under section 4.1, but lesser values shall be applied uniformly to all land in the county eligible for preferential assessment.

(c.1) A county assessor shall apply the use values in effect on the effective date of this subsection until such time as a countywide reassessment of real property values is implemented.

(c.2) Subject to the limitation in subsection (c.4), a county assessor shall recalculate and apply for the year in which a countywide reassessment of real property values is being implemented use values for land in each land use category using the criteria established under subsections (a), (b) and (c). The use values determined by the county assessor under this subsection in the year that a countywide reassessment of real property values is implemented shall be applied as follows:

(1) to all properties enrolled in preferential assessment in the year of the countywide reassessment;

(2) to each application for preferential assessment filed with the county assessor in the year of the countywide reassessment; or

(3) to all land enrolled in preferential assessment for the years following a countywide reassessment until a subsequent countywide reassessment of real property values is implemented.

(c.3) The use value applied to land under subsection (c.1) or (c.2) may not be changed for any property until such time as a subsequent countywide reassessment of real property values is implemented, unless there is a reclassification of land or portion of land to a different land use category as otherwise provided

for under this act, in which case the use value to be applied to that land or portion of land shall be the use value applicable to the particular land use category for which the land was reclassified.

(c.4)(1) A county assessor may not, under any circumstances, establish or apply a use value to any land enrolled as agricultural use, agricultural reserve or forest reserve:

(i) that is greater than the assessment value that would apply to the land if the land were not enrolled in preferential assessment; or

(ii) that is greater than the county-specific use value applicable to that land established by the department under section (4.1).

(2) A county assessor shall apply the lower of the values under clause (i) or (ii), or a value established under subsection (c).

(d) For purposes of this section:

(1) Farmstead land located within an area enrolled as agricultural use shall be assessed at agricultural use value.

(2) Farmstead land located within an area enrolled as agricultural reserve or forest reserve shall be assessed at agricultural use value if either:

(i) a majority of land in the application for preferential assessment is enrolled as agricultural use land; or

(ii) in the circumstance that noncontiguous tracts of land are enrolled under one application, a majority of land on the tract where the farmstead land is located is enrolled as agricultural use land.

Agricultural Land Exclusions

No statute.

Rhode Island

Sources / Changes

**§ 44-5-12. Assessment at full and fair cash value

**§ 44-5-39. Land use change tax

**§ 44-27-2. Definitions

**§ 44-27-3. Classification of farmland or dairy farmland

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 44-5-39. Land use change tax

(a) After May 15, 1980, when land classified as farm, dairy farm, forest, or open space land and assessed and taxed under the provisions of § 44-5-12 is applied to a use other than as farm, dairy farm, forest, or open space, or when the land owner voluntarily withdraws that classification, it shall be subject to additional taxes, subsequently referred to as a land use change tax. The tax is at the following rate:

(1) Ten percent (10%) of the then fair market value of the land if the use is changed or classification is withdrawn during the first six (6) years of classification.

(2) Nine percent (9%) of the then fair market value of the land if the use is changed or classification is withdrawn during the seventh (7th) year of classification.

(3) Eight percent (8%) of the then fair market value of the land if the use is changed or classification is withdrawn during the eighth (8th) year of classification.

(4) Seven percent (7%) of the then fair market value of the land if the use is changed or classification is withdrawn during the ninth (9th) year of classification.

(5) Six percent (6%) of the then fair market value of the land if the use is changed or classification is withdrawn during the tenth (10th) year of classification.

- (6) Five percent (5%) of the then fair market value of the land if the use is changed or classification is withdrawn during the eleventh (11th) year of classification.
 - (7) Four percent (4%) of the then fair market value of the land if the use is changed or classification is withdrawn during the twelfth (12th) year of classification.
 - (8) Three percent (3%) of the then fair market value of the land if the use is changed or classification is withdrawn during the thirteenth (13th) year of classification.
 - (9) Two percent (2%) of the then fair market value of the land if the use is changed or classification is withdrawn during the fourteenth (14th) year of classification.
 - (10) One percent (1%) of the then fair market value of the land if the use is changed or classification is withdrawn during the fifteenth (15th) year of classification. No tax shall be imposed by the provisions of this section following the end of the fifteenth (15th) year of classification.
- (b) Owners of land classified as farmland or dairy farmland who have held title to the land, and where the land has been farmed or used as a dairy farm for five (5) years previous to classification, are liable for a land use change tax of:
- (1) Ten percent (10%) of the then fair market value of the land if the use is changed or classification is withdrawn during the first (1st) year of classification.
 - (2) Nine percent (9%) of the then fair market value of the land if the use is changed or classification is withdrawn during the second (2nd) year of classification.
 - (3) Eight percent (8%) of the then fair market value of the land if the use is changed or classification is withdrawn during the third (3rd) year of classification.
 - (4) Seven percent (7%) of the then fair market value of the land if the use is changed or classification is withdrawn during the fourth (4th) year of classification.
 - (5) Six percent (6%) of the then fair market value of the land if the use is changed or classification is withdrawn during the fifth (5th) year of classification.
 - (6) Five percent (5%) of the then fair market value of the land if the use is changed or classification is withdrawn during the sixth (6th) year of classification.
 - (7) Four percent (4%) of the then fair market value of the land if the use is changed or classification is withdrawn during the seventh (7th) year of classification.
 - (8) Three percent (3%) of the then fair market value of the land if the use is changed or classification is withdrawn during the eighth (8th) year of classification.
 - (9) Two percent (2%) of the then fair market value of the land if the use is changed or classification is withdrawn during the ninth (9th) year of classification.
 - (10) One percent (1%) of the then fair market value of the land if the use is changed or classification is withdrawn during the tenth (10th) year of classification. No tax shall be imposed by the provisions of this section following the end of the tenth year of classification.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 44-27-2. Definitions

When used in this chapter:

- (1) "Farmland" means:
 - (i) Any tract or tracts of land, including woodland and wasteland constituting a farm unit;
 - (ii) Land which is actively devoted to agricultural or horticultural use including, but not limited to: forages and sod crops; grains and feed crops; fruits and vegetables; poultry, dairy, and other livestock and their products; nursery, floral, and greenhouse products; other food or fiber products useful to people;
 - (iii) When meeting the requirements and qualifications for payments pursuant to a soil conservation program under an agreement with the federal government, the director of environmental management is authorized to promulgate and adopt rules and regulations defining particular categories and minimum acreages of land eligible for designation as farmland under this chapter.
- (2) "Forest land" means any tract or contiguous tracts of land, ten (10) acres or larger bearing a dense growth of trees, including any underbrush, and having either the quality of self perpetuation, or being dependent upon its development by the planting and replanting of trees in stands of closely growing

timber, actively managed under a forest management plan approved by the director of environmental management.

(3) "Open space land" means any tract or contiguous tracts of undeveloped land, where the undeveloped land serves to enhance agricultural values, or land in its natural state that conserves forests, enhances wildlife habitat or protects ecosystem health, and that is:

(i) Ten (10) total acres or larger, exclusive of house site, where "house site" means the zoned lot size or one acre, whichever is smaller, and land surrounding dwellings or devoted to developed facilities, such as tennis courts, pool, etc., related to the use of the residence; or

(ii) Tracts of land of any size that are designated as open space land in the comprehensive community plan; or

(iii) Tracts of land of any size that have conservation restrictions or easements in full force and applied for as open space, which shall be taxed on an equitable basis.

§ 44-27-3. Classification of farmland or dairy farmland

(a) An owner of land may file a written application with the director of environmental management, for its designation by the director as farmland or as dairy farmland. When the application is made and after a filing fee of ten dollars (\$10.00) is paid, the director shall examine the land and, if the director determines that it is farmland or dairy farmland, the director shall issue a certificate in his or her office, furnish a copy to the owner of the land, and file one copy in the office of the assessor of the city or town in which the land is located.

(b) When requested to do so by the assessor or whenever the director deems it necessary, the director of environmental management shall re-examine land designated by the director as farmland or as dairy farmland. If the director finds that this land is no longer farmland or dairy farmland, the director shall send a notice to the landowner that the landowner has thirty (30) days either to bring the land into compliance or to request a formal hearing before the director. If after the thirty (30) days or after the hearing, the director confirms that the land is no longer farmland or dairy farmland, the director shall issue a certificate canceling his or her designation of the land as farmland or dairy farmland, and shall furnish one copy to the owner and file one in the office of the assessor. Loss of designation by action of the director of environmental management makes the land subject to the land use change tax provided for in § 44-5-39.

(c)(1) An owner of land designated as farmland or dairy farmland by the director of environmental management may apply for its classification as farmland or dairy farmland on any assessment list of the city or town where it is located by filing a written application for that classification with the assessor of the city or town not earlier than thirty (30) days before nor later than thirty (30) days after the date of assessment, except that in years of revaluation not later than thirty (30) days after written notice of revaluation or in its absence after receipt of the tax bill, and if the director has not cancelled his or her designation of that land as farmland or dairy farmland as of a date at or prior to the date of the assessment, the assessor shall classify the land as farmland or dairy farmland and include it as farmland or dairy farmland on the assessment list.

(2) In order to maintain this classification, each year thereafter, the property owner shall submit to the assessor a certificate on a form prescribed by the assessor confirming that the land is still used in farming or dairy farming. The assessor shall in the first notification mail the forms by first class mail not later than the thirtieth of November and if a second notification is needed, it shall be mailed certified. Failure to submit the certificate by thirty (30) days after the date of assessment is construed as voluntary withdrawal of the classification, except that the assessor may waive this requirement for good cause.

(3) Notwithstanding the preceding subsections, whenever the owner of land designated and classified as farmland or dairy farmland is a municipal land trust, municipal conservation commission, or private nonprofit land trust, annual certification is not required, and the classification continues until the voluntary withdrawal of the classification by the owner, or the transfer of the land by the owner in fee simple.

(d) Application to the director of environmental management for designation as farmland or dairy farmland shall be made upon a form prescribed by the director and shall present a description of the land and any other information that he or she may require to aid the director in determining whether the land qualifies for that designation. An application to an assessor for classification of land as farmland or dairy farmland shall be made upon a form prescribed by the assessor and shall present a description of the land and the date of issuance by the director of environmental management of his or her certificate designating it as farmland or dairy farmland.

(e) Failure to file an application for classification of farmland or dairy farmland within the time limit prescribed in subsection (c) of this section and in the manner and form prescribed in subsection (d) of this section shall be construed as a waiver of the right to that classification on the assessment list.

(f) Any landowner aggrieved by: (1) the cancellation of a designation under subsection (b) of this section or the denial of an application, filed in accordance with the provisions of subsections (c) and (d) of this section, by the assessor of a city or town for a classification of land as farmland or dairy farmland; or (2) the use value assessment placed on land classified as farmland or dairy farmland by the assessor; has the right to file an appeal within ninety (90) days of receiving notice, in writing, of the denial or the use value assessment with the board of assessment review of the city or town. Should the city or town not have a board of assessment review, the city or town council shall review the appeal. The assessor shall be given the opportunity to explain either his or her refusal to classify the land or the assessment placed on the classified land. The board of review, or city or town council, shall also consider the testimony of the landowner and the city or town's planning board and conservation commission, if they exist. They shall also seek and consider the advice of the office of state planning, the department of environmental management, the dean of the college of resource development, and the conservation district in which the city or town is located.

(g)(1) The board of assessment review, or city or town council, shall not disturb the designation of the director issued pursuant to subsection (a) of this section, unless the tax assessor has shown by a preponderance of the evidence that that designation was erroneous.

(2) The board of assessment review, or city or town council, shall render a decision within forty-five (45) days of the date of filing the appeal. Decisions of the board of assessment review, or city or town council, may be appealed to the superior court pursuant to § 44-27-6.

Agricultural Land Valuation Methodology

§ 44-5-12. Assessment at full and fair cash value

(a) All real property subject to taxation shall be assessed at its full and fair cash value, as of December 31 in the year of the last update or revaluation, or at a uniform percentage thereof, not to exceed one hundred percent (100%), to be determined by the assessors in each town or city; provided, that:

(1) Any residential property encumbered by a covenant recorded in the land records in favor of a governmental unit or the Rhode Island housing and mortgage finance corporation restricting either or both the rents that may be charged or the incomes of the occupants shall be assessed and taxed in accordance with § 44-5-13.11;

(2) In assessing real estate that is classified as farmland, forest, or open space land in accordance with chapter 27 of this title, the assessors shall consider no factors in determining the full and fair cash value of the real estate other than those that relate to that use without regard to neighborhood land use of a more intensive nature;

...

Agricultural Land Exclusions

No statute.

South Carolina

Sources / Changes

**§ 12-43-220. Classifications shall be equal and uniform; particular classifications and assessment ratios; procedures for claiming certain classifications; roll-back taxes.

§ 12-43-230. Treatment of agricultural real property, mobile home and lessee improvements to real property; department shall prescribe regulations; off-premises outdoor advertising signs.

§ 12-43-232. Requirements for agricultural use.

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 12-43-233. Agritourism uses.

(A) In addition to and incidental to the uses required for real property to be classified as agricultural real property pursuant to Sections 12-43-220(d), 12-43-230(a), and 12-43-232, and applicable regulations, uses of tracts of agricultural real property for "agritourism" purposes is deemed an agricultural use of the property to the extent agritourism is not the primary reason any tract is classified as agricultural real property but is supplemental and incidental to the primary purposes of the tract's use for agriculture, grazing, horticulture, forestry, dairying, and mariculture. These supplemental and incidental agritourism uses are not an "other business for profit" for purposes of Section 12-43-230(a). For purposes of this section, agritourism uses include, but are not limited to: wineries, educational tours, education barns, on-farm historical reenactments, farm schools, farm stores, living history farms, on-farm heirloom plants and animals, roadside stands, agricultural processing demonstrations, on-farm collections of old farm machinery, agricultural festivals, on-farm theme playgrounds for children, on-farm fee fishing and hunting, pick your own, farm vacations, on-farm pumpkin patches, farm tours, horseback riding, horseback sporting events and training for horseback sporting events, cross-country trails, on-farm food sales, agricultural regional themes, hayrides, mazes, crop art, harvest theme productions, native ecology preservations, on-farm picnic grounds, dude ranches, trail rides, Indian mounds, earthworks art, farm animal exhibits, bird-watching, stargazing, nature-based attractions, and ecological-based attractions.

(B) The Department of Revenue by regulation may further define those uses qualifying as agritourism and appropriate definitions for "supplemental and incidental" as used in this section.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 12-43-230. Treatment of agricultural real property, mobile home and lessee improvements to real property; department shall prescribe regulations; off-premises outdoor advertising signs.

Currentness

(a) For the purposes of this article, unless otherwise required by the context, the words "agricultural real property" shall mean any tract of real property which is used to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or animals useful to man, including the preparation of the products raised thereon for man's use and disposed of by marketing or other means. It includes but is not limited to such real property used for agriculture, grazing, horticulture, forestry, dairying and mariculture. In the event at least fifty percent of a real property tract shall qualify as "agricultural real property", the entire tract shall be so classified, provided no other business for profit is being operated thereon. The term "agricultural real property" shall include real property used to provide free housing for farm laborers provided such housing is located on the tract of land that qualifies as agricultural real property.

The department shall provide by regulation for a more detailed definition of "agricultural real property" consistent with the general definition set forth in this section, to be used by county assessors in determining entitlement to special assessment under this article. Such regulations shall be designed to exclude from the special assessment that real property which is not bona fide agricultural real property for which the tax relief is intended.

§ 12-43-232. Requirements for agricultural use.

In addition to all other requirements for real property to be classified as agricultural real property, the property must meet the following requirements:

(1)(a) If the tract is used to grow timber, the tract must be five acres or more. Tracts of timberland of less than five acres which are contiguous to or are under the same management system as a tract of timberland which meets the minimum acreage requirement are treated as part of the qualifying tract.

Tracts of timberland of less than five acres are eligible to be agricultural real property when they are owned in combination with other tracts of nontimberland agricultural real property that qualify as agricultural real property. For the purposes of this item, tracts of timberland must be devoted actively to growing trees for commercial use.

(b) A tract which meets the acreage requirement of subitem (a) of this item devoted to growing Christmas trees is considered timberland. A Christmas tree tract not meeting the acreage requirement qualifies as agricultural property if the landowner reports gross income from Christmas trees that meets the income test provided in item (3) of this section, *mutatis mutandis*.

(2) For tracts not used to grow timber as provided in item (1) of this section, the tract must be ten acres or more. Nontimberland tracts of less than ten acres which are contiguous to other such tracts which, when added together, meet the minimum acreage requirement, are treated as a qualifying tract. For purposes of this item (2) only, contiguous tracts include tracts with identical owners of record separated by a dedicated highway, street, or road or separated by any other public way.

(3)(a) Nontimberland tracts not meeting the acreage requirement of item (2) qualify as agricultural real property if the person making the application required pursuant to Section 12-43-220(d)(3) earned at least one thousand dollars of gross farm income for at least three of the five taxable years preceding the year of the application. The assessor may require the applicant (i) to give written authorization consistent with privacy laws allowing the assessor to verify farm income from the Department of Revenue or the Internal Revenue Service and (ii) to provide the Agriculture Stabilization and Conservation Service (ASCS) farm identification number of the tract and allow verification with the ASCS office.

(b) An owner making an initial application required pursuant to Section 12-43-220(d)(3) for a nontimberland tract of less than ten acres may claim the property as agricultural real property for each year for the first five years of operation if he earned at least one thousand dollars of gross farm income in at least three of the first five years. The assessor may require the new owner (i) to give written authorization consistent with privacy laws allowing the assessor to verify farm income from the Department of Revenue or the Internal Revenue Service and (ii) to provide the Agriculture Stabilization and Conservation Service (ASCS) farm identification number of the tract and allow verification with the ASCS office.

If the new owner fails to meet the income requirements in the five-year period, the tract is not considered agricultural real property and is subject to the rollback tax.

(c) Real property idle under a federal or state land retirement program or property idle pursuant to accepted agricultural practices is agricultural real property if the property otherwise would have qualified as agricultural real property subject to satisfactory proof to the assessor.

(d) Unimproved real property subject to a perpetual conservation easement as provided in Chapter 8, Title 27 is agricultural real property if the property otherwise would have qualified as agricultural real property subject to satisfactory proof to the assessor.

(e) A nontimberland tract that does not meet the acreage or income requirements of this section to be classified as agricultural real property must nevertheless be classified as agricultural real property if the current owner or an immediate family member of the current owner has owned the property for at least the ten years ending January 1, 1994, and the property is classified as agricultural real property for property tax year 1994.

The property must continue to be classified as agricultural real property until the property is applied to some other use or until the property is transferred to other than an immediate family member, whichever occurs first. For purposes of this subitem, "immediate family" is a person related to the current owner within the third degree of consanguinity or affinity and a trust all of whose noncontingent beneficiaries are related to the grantor of the trust within the third degree of consanguinity or affinity.

(4) In the case of rented or leased agricultural real property, either the lessor or the lessee shall meet the requirements of this section.

(5)(a) On the application required pursuant to Section 12-43-220(d)(3), the owner or his agent shall certify substantially as follows: Subject to the penalty provided in Section 12-43-340, either:

(i) "I certify that the property which is the subject of this application meets the requirements to qualify as agricultural real property as of January first of the current tax year"; or

(ii) "I certify that the property which is the subject of this application meets the requirements to qualify as agricultural real property and for the special assessment ratio for certain agricultural real property as of January first of the current tax year".

(b) If it is determined that the property for which the certification was made did not meet the requirements to qualify for agricultural use classification at the time the certification was made, the property which is the subject of the certification is denied agricultural use value for the property tax year or years in question and in lieu of the rollback tax, the tax on the property for each tax year in question must be recalculated using fair market value, the appropriate assessment ratio, and the appropriate millage. There must be deducted from the recalculated tax liability any taxes paid for the year and the penalties provided pursuant to Section 12-45-180 must be added to the balance due. Interest at the rate of one percent a month must be added to the unpaid taxes calculated from the last penalty date. Additional property tax revenues derived from the operation of this section changing agricultural use property to some other use must be used only for the purpose of rolling back property tax millage.

Agricultural Land Valuation Methodology

§ 12-43-220. Classifications shall be equal and uniform; particular classifications and assessment ratios; procedures for claiming certain classifications; roll-back taxes.

(d)(1) Agricultural real property which is actually used for such agricultural purposes shall be taxed on an assessment equal to:

(A) Four percent of its fair market value for such agricultural purposes for owners or lessees who are individuals or partnerships and certain corporations which do not:

- (i) Have more than ten shareholders.
- (ii) Have as a shareholder a person (other than an estate) who is not an individual.
- (iii) Have a nonresident alien as a shareholder.
- (iv) Have more than one class of stock.

(B) Six percent of its fair market value for such agricultural purposes for owners or lessees who are corporations, except for certain corporations specified in (A) above.

(2)(A) "Fair market value for agricultural purposes", when applicable to land used for the growth of timber, is defined as the productive earning power based on soil capability to be determined by capitalization of typical cash rents of the lands for timber growth or by capitalization of typical net income of similar soil in the region or a reasonable area of the region from the sale of timber, not including the timber growing thereon, and when applicable to land used for the growth of other agricultural products the term is defined as the productive earning power based on soil capability to be determined by capitalization of typical cash rents or by capitalization of typical net annual income of similar soil in the region or a reasonable area of the region, not including the agricultural products thereon. Soil capability when applicable to lands used for the growth of timber products means the capability of the soil to produce such timber products of the region considering any natural deterrents to the potential capability of the soil as of the current assessment date. The term, when applicable to lands used for the growth of other agricultural products, means the capability of the soil to produce typical agricultural products of the region considering any natural deterrents to the potential capability of the soil as of the current assessment date. The term "region" means that geographical part of the State as determined by the department to be reasonably similar for the production of the agricultural products. After average net annual earnings have been established for agricultural lands, they must be capitalized to determine use-value of the property based on a capitalization rate which includes:

1. an interest component;
2. a local property tax differential component;
3. a risk component;
4. an illiquidity component.

Each of these components of the capitalization rate must be based on identifiable factors related to agricultural use of the property. The interest rate component is the average coupon (interest) rate applicable on all bonds which the Federal Land Bank of Columbia, which serves South Carolina farmers, has outstanding on July first of the crop-years being used to estimate net earnings and agricultural use-value. Implementation of the provisions contained in this section is the responsibility of the department.

(B)(i) For tax year 1988 and subsequent tax years, fair market value for agricultural purposes must be determined by adjusting the applicable base year value by an amount equal to the product of multiplying the applicable base year value by a percentage factor obtained through the formula provided in this item.

For tax year 1988, the applicable base year is 1981. The fair market value for agricultural purposes determined for the 1991 tax year is effective for all subsequent years.

(ii) The percentage factor provided in this item is derived from the most recent edition of the United States Department of Agriculture publication "AGRICULTURAL LAND VALUES AND MARKETS", specifically, from "Table 1--Farm Real Estate Values: Indexes of the average value per acre of land and buildings . . ." as listed for this State. The formula to determine the applicable percentage factor is the index of the year of change less the index of the base year with the resulting amount being divided by the index of the base year and rounded to the nearest whole number. For purposes of the formula, the base year is the last year in which values were adjusted under this item.

(3)(A) Agricultural real property does not come within the provisions of this section unless the owners of the real property or their agents make a written application therefor on or before the first penalty date for taxes due for the first tax year in which the special assessment is claimed. The application for the special assessment must be made to the assessor of the county in which the agricultural real property is located, on forms provided by the county and approved by the department and a failure to apply constitutes a waiver of the special assessment for that year. The governing body may extend the time for filing upon a showing satisfactory to it that the person had reasonable cause for not filing on or before the first penalty date. No additional annual filing is required while the use of the property remains bona fide agricultural and the ownership remains the same. The owner shall notify the assessor within six months of a change in use. For failure to notify the assessor of a change in use, in addition to any other penalties provided by law, a penalty of ten percent and interest at the rate of one-half of one percent a month must be paid on the difference between the amount that was paid and the amount that should have been paid, but not less than thirty dollars nor more than the current year's taxes.

(B) Roll-back taxes authorized pursuant to item (d)(4) must not be applied solely because the owner of the property fails to make written application for an agricultural assessment so long as the actual use of the property remains agricultural. If the property assessment is changed from agricultural or the property is assessed roll-back taxes, the owner may appeal, and if an appeal is made, the property must continue to be assessed as agricultural and the roll-back taxes may not be applied until the final appeal date.

(4) Except as provided pursuant to Section 12-43-222, when real property which is in agricultural use and is being valued, assessed, and taxed under the provisions of this article, is applied to a use other than agricultural, as evidenced by actions taken by the owner of the real property which is inconsistent with agricultural use, it is subject to additional taxes, referred to as rollback taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized pursuant to this item and the taxes that would have been paid or payable had the real property been valued, assessed, and taxed as other real property in the taxing district, in the current tax year (the year of change in use) and each of the three tax years immediately preceding in which the real property was valued, assessed, and taxed as provided in this item. If in the tax year in which a change in use of the real property occurs the real property was not valued, assessed, and taxed under this article, then the real property is subject to rollback taxes for each of the three tax years immediately preceding in which the real property was valued, assessed, and taxed pursuant to this item. In determining the amounts of the rollback taxes chargeable on real property which has undergone a change in use, the assessor for the rollback tax years involved shall ascertain:

(A) the fair market value without consideration of the standing timber of such real property under the valuation standard applicable to other real property in the same classification;

(B) the amount of the real property assessment for the particular tax year by multiplying such fair market value by the appropriate assessment ratio provided in this article;

(C) the amount of the additional assessment on the real property for the particular tax year by deducting the amount of the actual assessment on the real property for that year from the amount of the real property assessment determined under (B) of this section;

(D) the amount of the rollback for that tax year by multiplying the amount of the additional assessment determined under (C) of this section by the property tax rate of the taxing district applicable for that tax year.

(5) Any other provision of law to the contrary notwithstanding, a dockside facility whose primary use is the landing and processing of seafood is considered agricultural real property.

(6) Any property which becomes exempt from property taxes under Section 12-37-220(A)(1) or any economic development property which becomes exempt under Section 12-37-220(B) is not subject to rollback taxes.

Agricultural Land Exclusions

No statute.

South Dakota

Sources / Changes

- **10-6-110. Classification of property--Notation by director
- **10-6-112. Classification of agricultural land--Criteria
- **10-6-120. Property not used for agriculture separately assessed
- **10-6-127. Agricultural land to be assessed based on agricultural income value
- **10-6-137. Discretionary formula for reduced taxation of new structures and additions--Partially constructed structures

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

10-6-120. Property not used for agriculture separately assessed

Land or improvements on land within an operating unit that is not used incident to an agricultural pursuit shall be separately listed and assessed.

10-6-137. Discretionary formula for reduced taxation of new structures and additions--Partially constructed structures

Any structure classified pursuant to this section, must, following construction, be valued for taxation purposes in the usual manner. The board of county commissioners of the county in which the structure is located, may adopt a formula for assessed value to be used for tax purposes. Except as otherwise provided in § 10-6-137.1, the formula may include, for any or all of the five tax years following construction, all, any portion, or none of the assessed value for tax purposes. Any formula adopted must be equally applied to specifically classified properties within a tax increment finance district.

The board of county commissioners of the county in which the structure is located may, if requested by the owner of the structure, fully assess the structure without application of the formula. In waiving the formula for the structure of one owner, the board of county commissioners is not prohibited from applying the formula for subsequent new structures. The assessed value during any of the five years may not be less than the assessed value of the property in the year preceding the first year of the tax years following construction.

Any structure that is partially constructed on the assessment date may be valued for tax purposes, pursuant to this section, and the value may not be less than the assessed value of the property in the year preceding the beginning of construction. The period that the property is valued for tax purposes under this section may include the years when the property is partially constructed.

Following the five-year period under this section, the property must be assessed at the same percentage as all other property for tax purposes, except as otherwise provided in § 10-6-137.1.

Any of the following types of real property may be specifically classified for the purpose of taxation pursuant to this section:

- (1) Any new industrial or commercial structure, or any addition, renovation, or reconstruction to an existing structure, located within a designated urban renewal area as defined in § 11-8-4, if the new structure, addition, renovation, or reconstruction has a full and true value of thirty thousand dollars or more;
- (2) Any new industrial structure, including a power generation facility, or an addition to an existing structure, if the new structure or addition has a full and true value of thirty thousand dollars or more;

- (3) Any new nonresidential agricultural structure, or any addition to an existing structure, if the new structure or addition has a full and true value of ten thousand dollars or more;
- (4) Any new commercial structure, or any addition to an existing structure, except a commercial residential structure as described in subdivision (5), if the new structure or addition has a full and true value of thirty thousand dollars or more;
- (5) Any new commercial residential structure, or addition to an existing structure, containing four or more units, if the new structure or addition has a full and true value of thirty thousand dollars or more;
- (6) Any new affordable housing structure containing four or more units, with a monthly rental rate of the units at or below the annually calculated rent for the state's sixty percent area median income being used by the South Dakota Housing Development Authority for a minimum of ten years following the date of first occupancy, if the structure has a full and true value of thirty thousand dollars or more;
- (7) Any new residential structure, or addition to or renovation of an existing structure, located within a redevelopment neighborhood established pursuant to § 10-6-141, if the new structure, addition, or renovation has a full and true value of five thousand dollars or more. The structure must be located in an area defined and designated as a redevelopment neighborhood based on conditions provided in § 11-7-2 or 11-7-3; or
- (8) Any commercial, industrial, or nonresidential agricultural property that increases more than ten thousand dollars in full and true value, as a result of reconstruction or renovation of the structure.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

10-6-110. Classification of property--Notation by director

For the purposes of taxation, all property is hereby classified into the following classes:

- (1) Agricultural property;
- (2) Nonagricultural property; and
- (3) Owner-occupied single-family dwellings.

Agricultural property includes any land classified as agricultural land pursuant to § 10-6-112 and any improvements on the agricultural land used exclusively for agricultural purposes. However, agricultural property does not include any normally occupied dwelling or automobile garage or portion of a building used for that purpose by the occupant of such dwelling. Owner-occupied single-family dwellings include all property classified pursuant to § 10-13-39.

Nonagricultural property includes all other property not otherwise classified.

The director, in listing and assessing all property to which this section applies, shall designate opposite each description the class to which the property belongs.

10-6-112. Classification of agricultural land--Criteria

For tax purposes, land is agricultural land if 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 land also includes woodland, wasteland, and pasture land, but only if the land is held and operated in conjunction with agricultural land and 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 must meet one of the following criteria:

- (1) In three of the previous five years, an annual gross income of at least two thousand five hundred dollars is derived from the pursuit of agriculture from the land, excluding transactions between:
 - (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; 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) Subject to the board of county commissioners increasing the minimum acre requirements, the land consists of at least twenty acres or is a part of a management unit of not less than eighty 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, the owner shall provide supporting documentation of the land contained in the management unit.

Agricultural Land Valuation Methodology

10-6-127. Agricultural land to be assessed based on agricultural income value

Notwithstanding the provisions of § 10-6-119, beginning on July 1, 2009, agricultural land shall be assessed based on its agricultural income value on a per acre basis. The agricultural income value of agricultural land shall be determined on the basis of productivity and the annual earnings capacity of the agricultural land. The productivity of agricultural land and its annual earning capacity shall be based on data collected and analyzed pursuant to this section and §§ 10-6-128 to 10-6-132, inclusive.

Agricultural income value is defined as the capitalized annual earning capacity on a per acre basis which has been adjusted by an amount that reflects the landowner's share of the gross return. The capacity of cropland to produce agricultural products shall be based on the income from crops or plants produced on the land. The capacity of noncropland to produce agricultural products shall be based on cash rents or the animal unit carrying capacity of the land, or a combination of both. For the purpose of this section, annual earning capacity for:

- (1) Cropland is thirty-five percent of the annual gross return to the land; and
- (2) Noncropland is one hundred percent of the annual gross return to the land based on cash rent for noncropland.

The annual earning capacity shall be capitalized at a rate of six and six-tenths percent to determine the agricultural income value.

10-6-131. Agricultural income value for county--Adjustment of assessed value by director

Before July first each year, the secretary of revenue shall annually provide each director the agricultural income value for each county as computed pursuant to § 10-6-127. The director shall annually determine the assessed value of agricultural land. The assessed value of agricultural land may be adjusted by the director to the extent one or more of the following factors affect the productivity of the land:

- (1) Location;
- (2) Size;
- (3) Soil survey statistics;
- (4) Terrain;
- (5) Topographical condition;
- (6) Climate;
- (7) Accessibility; or
- (8) Surface obstructions.

The director shall document each adjustment. The director shall document an adjustment by using data from sources reasonably related to the adjustment being made. In addition, the director may use data from comparable sales of agricultural land to document the adjustment concerning productivity for any of the factors listed in this section.

If the actual use of agricultural land varies from the land use category specified by soil classification standards, or if any factors listed in this section exist that affect the productivity of the land, the property owner may request an examination of the land by the director on a form prescribed by the department. The director shall determine whether to adjust the assessed value of the agricultural land pursuant to the factors listed in this section.

The director shall document all supporting evidence for the adjustment determination. The director shall provide any adjustment documentation to the department upon request. The adjustment documentation must be kept in the director's office for the life of the adjustment.

Agricultural Land Exclusions

No statute.

Tennessee

Sources / Changes

Part 10—Classification and Assessment—Agricultural, Forest and Open Space Land Act of 1976

**§ 67-5-1004. Definitions

**§ 67-5-1005. Classification as agricultural land

**§ 67-5-1008. Value based on current use; separate recordation; converted land

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

(d)(1) The appropriate assessor shall compute the amount of taxes saved by the difference in present use value assessment and value assessment under part 6 of this chapter, for each of the preceding three (3) years for agricultural and forest land, and for the preceding five (5) years for open space land, and the assessor shall notify the trustee that such amount is payable, if:

(A) Such land ceases to qualify as agricultural land, forest land, or open space land as defined in § 67-5-1004;

(B) The owner of such land requests in writing that the classification as agricultural land, forest land, or open space land be withdrawn;

(C) The land is covered by a duly recorded subdivision plat or an unrecorded plan of development and any portion is being developed; except that, where a recorded plat or an unrecorded plan of development contains phases or sections, only the phases or sections being developed are disqualified;

(D) An owner fails to file an application as required by this part;

(E) The land exceeds the acreage limitations of § 67-5-1003(3); or

(F) The land is conveyed or transferred and the conveyance or transfer would render the status of the land exempt.

(2) When the tax rate for the most recent year of rollback taxes is not yet available, the assessor shall calculate the amount of taxes saved for the most recent year by using the last made assessment and rate fixed according to law, and the trustee shall accept tender of the amount determined to be owing.

(3) The amount of tax savings calculated under this subsection (d) shall be the rollback taxes due as the result of disqualification or withdrawal of the land from classification under this part. Rollback taxes shall be payable from the date written notice is provided by the assessor, but shall not be delinquent until March 1 of the following year. When the assessor determines there is liability for rollback taxes, the assessor shall give written notice to the tax collecting official identifying the basis of the rollback taxes and the person the assessor finds to be responsible for payment, and the assessor shall provide a copy of the notice to the responsible person. Rollback taxes shall be a first lien on the disqualified property in the same manner as other property taxes, and shall also be a personal responsibility of the current owner or seller of the land as provided in this part. The assessor may void the rollback assessment, if it determined that the assessment was imposed in error. Liability for rollback taxes, but not property values, may be appealed to the state board of equalization by March 1 of the year following the notice by the assessor. However, property values fixing the amount of rollback taxes may only be appealed as otherwise provided by law.

(4)(A) If, under subdivision (d)(1), only a portion of a parcel is subject to rollback taxes, the assessor of property shall apportion the assessment of such parcel on the first tax roll prepared after such taxes become payable, and enter the apportioned amount attributable to such portion as a separately assessed parcel on the tax roll.

(B) Such apportionment shall be made for each of the years to which the rollback taxes apply.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 67-5-1004. Definitions

As used in §§ 11-14-201, 11-15-107, 11-15-108, and this part, unless the context otherwise requires:

(1)(A) "Agricultural land" means land that meets the minimum size requirements specified in subdivision (1)(B) and that either:

(i) Constitutes a farm unit engaged in the production or growing of agricultural products; or
(ii) Has been farmed by the owner or the owner's parent or spouse for at least twenty-five (25) years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.

(B) To be eligible as agricultural land, property must meet one (1) of the following minimum size requirements by consisting of:

(i) A single tract of at least fifteen (15) acres, including woodlands and wastelands;
(ii) Two (2) noncontiguous tracts within the same county, including woodlands and wastelands, one (1) of which is at least fifteen (15) acres and the other being at least ten (10) acres and together constituting a farm unit; or
(iii) Two (2) noncontiguous tracts within the same county totaling at least fifteen (15) acres, including woodlands and wastelands, that are separated only by a road, body of water, or public or private easement and together constituting a farm unit;

(2) "Commissioner" means the commissioner of agriculture or the commissioner's designee;

(3)(A) "Forest land" means land constituting a forest unit engaged in the growing of trees under a sound program of sustained yield management that has tree growth in such quantity and quality and is so managed as to constitute a forest.

(B) To be eligible as forest land, property must meet one (1) of the following minimum size requirements by consisting of:

(i) A single tract of at least fifteen (15) acres; or
(ii) Two (2) noncontiguous tracts within the same county totaling at least fifteen (15) acres that are separated only by a road, body of water, or public or private easement and together constitute a forest unit;

(4) "Gross agricultural income" means total income, exclusive of adjustments or deductions, derived from the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products, including income from the rental of property for such purposes and income from federal set aside and related agricultural management programs;

(5) "Local government advisory committee," "Tennessee local government advisory committee," or "Tennessee local government planning advisory committee" means the local government planning advisory committee created by § 4-3-727;

(6) "Open space easement" means a perpetual right in land of less than fee simple that:

(A) Obligates the grantor and the grantor's heirs and assigns to certain restrictions constituted to maintain and enhance the existing open or natural character of the land;

(B) Is restricted to the area defined in the easement deed; and

(C) Grants no right of physical access to the public, except as provided for in the easement;

(7) "Open space land" means any area of land other than agricultural and forest land, of not less than three (3) acres, characterized principally by open or natural condition, and whose preservation would tend to provide the public with one (1) or more of the benefits enumerated in § 67-5-1002, and that is not currently in agricultural land or forest land use. "Open space land" includes greenbelt lands or lands primarily devoted to recreational use;

(8) "Owner" means the person holding title to the land;

- (9) "Person" means any individual, partnership, corporation, organization, association, or other legal entity;
- (10) "Planning commission" means a commission created under § 13-3-101 or § 13-4-101;
- (11) "Present use value" means the value of land based on its current use as either agricultural, forest, or open space land and assuming that there is no possibility of the land being used for another purpose;
- (12) "Rollback taxes" means the amount of back tax differential payable under § 67-5-1008; and
- (13) "State forester" means the director of the division of forestry.

§ 67-5-1005. Classification as agricultural land

- (a)(1) Any owner of land may apply for its classification as agricultural by filing a written application with the assessor of property. The application must be filed by March 15. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. Property that qualified as agricultural the year before under different ownership is disqualified if the new owner does not timely apply. The assessor shall send a notice of disqualification to these owners, but shall accept a late application if filed within thirty (30) days of the notice of disqualification and accompanied by a late application fee of fifty dollars (\$50.00).
- (2) The assessor shall determine whether such land is agricultural land, and, if such a determination is made, the assessor shall classify and include it as such on the county tax roll.
- (3) In determining whether any land is agricultural land, the assessor of property shall take into account, among other things, the acreage of such land, the productivity of such land, and the portion thereof in actual use for farming or held for farming or agricultural operation. The assessor may presume that a tract of land is used as agricultural land, if the land produces gross agricultural income averaging at least one thousand five hundred dollars (\$1,500) per year over any three-year period in which the land is so classified. The presumption may be rebutted, notwithstanding the level of agricultural income by evidence indicating whether the property is used as "agricultural land" as defined in this part.
- (b) An application for classification of land as agricultural land shall be made upon a form prescribed by the state board of equalization and shall set forth a description of the land, a general description of the use to which it is being put, and such other information as the assessor may require to aid the assessor in determining whether the land qualifies for classification as agricultural land.
- (c) The assessor shall verify actual agricultural uses claimed for the property during the on-site review provided under § 67-5-1601. The assessor may at any time require other proof of use or ownership necessary to verify compliance with this part.
- (d) Any person aggrieved by the denial of any application for the classification of land as agricultural land has the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors of property or boards of equalization.

Agricultural Land Valuation Methodology

§ 67-5-1008. Value based on current use; separate recordation; converted land

- (a) When a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under this part, it shall be subsequently considered that its current use for agricultural or timber purposes or as open space used for neither of these purposes is its immediate most suitable economic use, and assessment shall be based upon its value in that current use, rather than on value for some other use as may be determined in accordance with part 6 of this chapter. It is the responsibility of the applicant to promptly notify the assessor of any change in the use or ownership of the property that might affect its eligibility under this part.
- (b)(1) After a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under this part, the assessor of property shall record it on a separate list for the classified property. The assessor may record with the register of deeds the application for the classification of the property. However, if the assessor does not record the application, then the property owner shall record with the register of deeds the application for the classification of the property. Any fees that may be required shall be paid by the property owner.
- (2) Henceforth, the assessor shall appraise the land and compute the taxes each year based upon both:
- (A) The twenty-five percent (25%) of appraised value applicable to property in the farm classification and present use value; and

(B) Farm classification and value as determined under part 6 of this chapter, but taxes shall be assessed and paid only on the basis of farm classification and present use value under this part.

(3) The taxes computed under part 6 of this chapter shall be used to compute the rollback taxes, as defined in § 67-5-1004 and as provided for in subsection (d).

(4) The general assembly finds that value as determined under subdivision (b)(2)(B) should not be deemed the value of property for any purpose other than a future assessment of rollback taxes, because it does not determine the actual tax liability of a qualifying owner at the time of valuation. Accordingly, value as determined under subdivision (b)(2)(B) shall not be deemed determinative of fair market value for any purpose other than the administration of property taxes under this title.

(c)(1) A parcel of land classified by the assessor as agricultural, forest or open space land under this part shall be valued by dividing three (3) into the sum of two (2) times the use value as defined in this subsection (c), plus the farm land value as defined in this subsection (c). The rate of increase in per acre present use values as determined under this subsection (c) shall not exceed a factor measured by the number of years since the last general reappraisal or updating of values in the county, times six percent (6%).

(2)(A) Use value shall be determined by dividing:

(i) The annual agricultural income estimate for such parcel as determined by the division of property tax assessment by;

(ii) The capitalization rate as determined in subdivision (c)(2)(C).

(B) For purposes of this part, "agricultural income estimate" means anticipated net return to land utilizing sound farming or forestry practices. In determining anticipated net return to land that is used for agricultural and forestry purposes, the division of property tax assessments shall consider farm income, or forestry income, soil productivity, topography, susceptibility to flooding, rental value and other factors that may serve to determine anticipated agricultural or forestry income. The annual agricultural income estimate for a parcel of open space land shall be the same as that for the least productive type of agricultural land.

(C) The capitalization rate shall be the maximum allowable rate on loans for terms in excess of five (5) years guaranteed by the federal Farm Service Agency or its successor, as of the assessment date for the year in which the use value schedule is being developed. The rate may be adjusted by no more than one hundred (100) basis points to reflect differences in land classes within a jurisdiction.

(3) Farm land value shall be determined by the division of property assessments based solely on farm-to-farm sales least influenced by commercial, industrial, residential, recreational or urban development, the potential for such development, or any other speculative factors.

(4) The state board of equalization, upon petition by at least ten (10) owners of agricultural, forest or open space land, or upon petition of any organization representing ten (10) or more owners of agricultural, forest or open space land, shall convene a hearing to determine whether the capitalization rate has been properly determined by the division of property tax assessments, whether the agricultural income estimates determined by the division of property tax assessments are fair and reasonable, or if the farm land values have been determined in accordance with this section. Such hearing shall be held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. The petition shall be filed at the office of the state board of equalization on or before twenty (20) days after the date the division of property assessments publishes notice of the availability of the proposed use value schedule in a newspaper of general circulation within the county.

(d)(1) The appropriate assessor shall compute the amount of taxes saved by the difference in present use value assessment and value assessment under part 6 of this chapter, for each of the preceding three (3) years for agricultural and forest land, and for the preceding five (5) years for open space land, and the assessor shall notify the trustee that such amount is payable, if:

(A) Such land ceases to qualify as agricultural land, forest land, or open space land as defined in § 67-5-1004;

(B) The owner of such land requests in writing that the classification as agricultural land, forest land, or open space land be withdrawn;

(C) The land is covered by a duly recorded subdivision plat or an unrecorded plan of development and any portion is being developed; except that, where a recorded plat or an unrecorded plan of development contains phases or sections, only the phases or sections being developed are disqualified;

(D) An owner fails to file an application as required by this part;

(E) The land exceeds the acreage limitations of § 67-5-1003(3); or

(F) The land is conveyed or transferred and the conveyance or transfer would render the status of the land exempt.

(2) When the tax rate for the most recent year of rollback taxes is not yet available, the assessor shall calculate the amount of taxes saved for the most recent year by using the last made assessment and rate fixed according to law, and the trustee shall accept tender of the amount determined to be owing.

(3) The amount of tax savings calculated under this subsection (d) shall be the rollback taxes due as the result of disqualification or withdrawal of the land from classification under this part. Rollback taxes shall be payable from the date written notice is provided by the assessor, but shall not be delinquent until March 1 of the following year. When the assessor determines there is liability for rollback taxes, the assessor shall give written notice to the tax collecting official identifying the basis of the rollback taxes and the person the assessor finds to be responsible for payment, and the assessor shall provide a copy of the notice to the responsible person. Rollback taxes shall be a first lien on the disqualified property in the same manner as other property taxes, and shall also be a personal responsibility of the current owner or seller of the land as provided in this part. The assessor may void the rollback assessment, if it determined that the assessment was imposed in error. Liability for rollback taxes, but not property values, may be appealed to the state board of equalization by March 1 of the year following the notice by the assessor. However, property values fixing the amount of rollback taxes may only be appealed as otherwise provided by law.

(4)(A) If, under subdivision (d)(1), only a portion of a parcel is subject to rollback taxes, the assessor of property shall apportion the assessment of such parcel on the first tax roll prepared after such taxes become payable, and enter the apportioned amount attributable to such portion as a separately assessed parcel on the tax roll.

(B) Such apportionment shall be made for each of the years to which the rollback taxes apply.

(e)(1) In the event that any land classified under this part as agricultural, forest, or open space land or any portion thereof is converted to a use other than those stipulated herein by virtue of a taking by eminent domain or other involuntary proceeding, except a tax sale, such land or any portion thereof involuntarily converted to such other use shall not be subject to rollback taxes by the landowner, and the agency or body doing the taking shall be liable for the rollback taxes. Property transferred and converted to an exempt or nonqualifying use shall be considered to have been converted involuntarily if the transferee or an agent for the transferee sought the transfer and had power of eminent domain.

(2) In the event the land involuntarily converted to such other use constitutes only a portion of a parcel so classified on the assessment rolls, the assessor shall apportion the assessment and enter the portion involuntarily converted as a separately assessed parcel on the appropriate portion of the assessment roll. For as long as the landowner continues to own the remaining portion of such parcel and for as long as the landowner's lineal descendants collectively own at least fifty percent (50%) of the remaining portion of such parcel, the remaining portion so owned shall not be disqualified from use value classification under this part solely because it is made too small to qualify as the result of the involuntary proceeding.

(3) In the event that any land classified under this part as agricultural, forest, or open space land or any portion thereof is acquired by a bank, as defined in § 45-2-107(a)(1)(A), by a savings and loan association, as defined in § 45-3-104(a)(1), or by a holder of a deed of trust or mortgage in satisfaction or partial satisfaction of a debt previously contracted in good faith, such land or any portion thereof so acquired shall not be subject to rollback taxes assessed against or payable by the bank or savings and loan association, and shall be subject to rollback taxes, only if the land is used for a non-green belt purpose or after such land is sold by the bank, savings and loan association or a holder of a deed of trust or mortgage and then only as provided in subsection (d). This subdivision (e)(3) shall likewise apply to the temporary transfer of property classified under this part to a trustee in bankruptcy.

(4)(A) If any property or any portion of the property classified under this part as agricultural, forest, or open space land is disqualified by a change in the law or as a result of an assessor's correction of a prior error of law or fact, then the property or any portion of the property that is disqualified shall not be assessable for rollback taxes. The property owner shall be liable for rollback taxes under these circumstances if the erroneous classification resulted from any fraud, deception, or intentional misrepresentation, misstatement, or omission of full statement by the property owner or the property owner's designee.

(B) Nothing in this subdivision (e)(4) shall relieve a property owner of liability for rollback taxes if other disqualifying circumstances occur before the property has been assessed at market value for three (3) years.

(f) If the sale of agricultural, forest or open space land will result in such property being disqualified as agricultural, forest or open space land due to conversion to an ineligible use or otherwise, the seller shall be liable for rollback taxes, unless otherwise provided by written contract. If the buyer declares in writing at the time of sale an intention to continue the greenbelt classification but fails to file any form necessary to continue the classification within ninety (90) days from the sale date, the rollback taxes shall become solely the responsibility of the buyer.

(g) For purposes of valuation pursuant to this section, the maximum acreage available for any one (1) owner classified as forest or open space land under this part shall be one thousand five hundred (1,500) acres. This subsection (g) shall operate to change the classification of any such land in excess of one thousand five hundred (1,500) acres that has been so classified under this part prior to July 1, 1984.

(h) Property passing to a lineal descendant of a deceased greenbelt owner, by reason of the death of the greenbelt owner, shall not be subject to rollback solely because the total greenbelt acreage of the new owner exceeds the maximum under § 67-5-1003, or will exceed the maximum following the transfer. Property exceeding the limit in these circumstances shall be disqualified from greenbelt classification, but shall not be assessable for rollback unless other disqualifying circumstances occur before the property has been assessed at market value three (3) years.

Agricultural Land Exclusions

No statute.

Texas

Sources / Changes

Chapter 23. Appraisal Methods and Procedures

Subchapter C. Land Designated for Agricultural Use

§ 23.41. Appraisal

**§ 23.42. Eligibility

SUBCHAPTER D. APPRAISAL OF AGRICULTURAL LAND

**§ 23.51. Definitions

§ 23.52. Appraisal of Qualified Agricultural Land

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 23.42. Eligibility

(a) An individual is entitled to have land he owns designated for agricultural use if, on January 1:

(1) the land has been devoted exclusively to or developed continuously for agriculture for the three years preceding the current year;

(2) the individual is using and intends to use the land for agriculture as an occupation or a business venture for profit during the current year; and

(3) agriculture is the individual's primary occupation and primary source of income.

(a-1) Repealed by Acts 2019, 86th Leg., ch. 12 (H.B. 1254), § 2.

(b) Use of land for nonagricultural purposes does not deprive an owner of his right to an agricultural designation if the nonagricultural use is secondary to and compatible with the agricultural use of the land.

(c) Agriculture is an individual's primary occupation and primary source of income if as of January 1 he devotes a greater portion of his time to and derives a greater portion of his gross income from agriculture than any other occupation. The time an individual devotes to each occupation and the gross income he derives from each is determined by averaging the time he devoted to each and the gross income he derived from each for any number of consecutive years not exceeding five years immediately preceding

January 1 of the current year, that he has engaged in agriculture as an occupation. However, if he has not been engaged in agriculture as an occupation for the entire year preceding January 1, the time he has devoted to and the income he has derived from each occupation since the date he began engaging in agriculture as an occupation determine whether agriculture is his primary occupation and primary source of income.

(d) For purposes of this section:

(1) "Agriculture" means the use of land to produce plant or animal products, including fish or poultry products, under natural conditions but does not include the processing of plant or animal products after harvesting or the production of timber or forest products.

(2) "Occupation" includes employment and a business venture that requires continual supervision or management.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 23.42. Eligibility

(a) An individual is entitled to have land he owns designated for agricultural use if, on January 1:

(1) the land has been devoted exclusively to or developed continuously for agriculture for the three years preceding the current year;

(2) the individual is using and intends to use the land for agriculture as an occupation or a business venture for profit during the current year; and

(3) agriculture is the individual's primary occupation and primary source of income.

(a-1) Repealed by Acts 2019, 86th Leg., ch. 12 (H.B. 1254), § 2.

(b) Use of land for nonagricultural purposes does not deprive an owner of his right to an agricultural designation if the nonagricultural use is secondary to and compatible with the agricultural use of the land.

(c) Agriculture is an individual's primary occupation and primary source of income if as of January 1 he devotes a greater portion of his time to and derives a greater portion of his gross income from agriculture than any other occupation. The time an individual devotes to each occupation and the gross income he derives from each is determined by averaging the time he devoted to each and the gross income he derived from each for any number of consecutive years not exceeding five years immediately preceding January 1 of the current year, that he has engaged in agriculture as an occupation. However, if he has not been engaged in agriculture as an occupation for the entire year preceding January 1, the time he has devoted to and the income he has derived from each occupation since the date he began engaging in agriculture as an occupation determine whether agriculture is his primary occupation and primary source of income.

(d) For purposes of this section:

(1) "Agriculture" means the use of land to produce plant or animal products, including fish or poultry products, under natural conditions but does not include the processing of plant or animal products after harvesting or the production of timber or forest products.

(2) "Occupation" includes employment and a business venture that requires continual supervision or management.

§ 23.51. Definitions

In this subchapter:

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university and that has been used principally in that manner by a college or university for five of the preceding seven years. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights. Notwithstanding the other provisions of this subdivision, land that is currently devoted principally to wildlife management as defined by

Subdivision (7)(B) or (C) to the degree of intensity generally accepted in the area qualifies for appraisal as qualified open-space land under this subchapter regardless of the manner in which the land was used in any preceding year.

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management. The term also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 or more than 20 acres.

(3) "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. The chief appraiser shall determine the categories into which land in the appraisal district is classified. In classifying land according to categories, the chief appraiser shall distinguish between irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste. The chief appraiser may establish additional categories. The chief appraiser shall further divide each category according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors that influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, the Natural Resources Conservation Service of the United States Department of Agriculture, and other recognized agricultural sources for the purposes of determining the categories of land existing in the appraisal district.

Agricultural Land Valuation Methodology

§ 23.41. Appraisal

(a) Land designated for agricultural use is appraised at its value based on the land's capacity to produce agricultural products. The value of land based on its capacity to produce agricultural products is determined by capitalizing the average net income the land would have yielded under prudent management from production of agricultural products during the five years preceding the current year. However, if the value of land as determined by capitalization of average net income exceeds the market value of the land as determined by other generally accepted appraisal methods, the land shall be appraised by application of the other appraisal methods.

(b) The comptroller shall promulgate rules specifying the methods to apply and the procedures to use in appraising land designated for agricultural use.

(c), (d) Repealed by Acts 1999, 76th Leg., ch. 574, § 2(2).

(e) Improvements other than appurtenances to the land, the mineral estate, and all land used for residential purposes and for processing harvested agricultural products are appraised separately at market value. Riparian water rights, private roads, dams, reservoirs, water wells, and canals, ditches, terraces, and similar reshaping of or additions to the soil for agricultural purposes are appurtenances to the land, and the effect of each on the value of the land for agricultural use shall be considered in appraising the land. However, the comptroller shall provide that in calculating average net income from land a deduction from income be allowed for an appurtenance subject to depreciation or depletion.

§ 23.52. Appraisal of Qualified Agricultural Land

(a) The appraised value of qualified open-space land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value as determined by other appraisal methods.

(b) The chief appraiser shall determine the appraised value according to this subchapter and, when requested by a landowner, the appraised value according to Subchapter C of this chapter¹ of each category of open-space land owned by that landowner and shall make each value and the market value

according to the preceding year's appraisal roll available to a person seeking to apply for appraisal as provided by this subchapter or as provided by Subchapter C of this chapter.

(c) The chief appraiser may not change the appraised value of a parcel of open-space land unless the owner has applied for and the land has qualified for appraisal as provided by this subchapter or by Subchapter C of this chapter or unless the change is made as a result of a reappraisal.

(d) The comptroller by rule shall develop and distribute to each appraisal office appraisal manuals setting forth this method of appraising qualified open-space land, and each appraisal office shall use the appraisal manuals in appraising qualified open-space land. The comptroller by rule shall develop and the appraisal office shall enforce procedures to verify that land meets the conditions contained in Subdivision (1) of Section 23.51. The rules, before taking effect, must be approved by the comptroller with the review and counsel of the Department of Agriculture.

(e) For the purposes of Section 23.55 of this code, the chief appraiser also shall determine the market value of qualified open-space land and shall record both the market value and the appraised value in the appraisal records.

(f) The appraisal of minerals or subsurface rights to minerals is not within the provisions of this subchapter.

(g) The category of land that qualifies under Section 23.51(7) is the category of the land under this subchapter or Subchapter E,2 as applicable, before the wildlife-management use began.

Agricultural Land Exclusions

No statute.

Utah

Sources / Changes

Part 5. Farmland Assessment Act

§ 59-2-502. Definitions

§ 59-2-503. Qualifications for agricultural use assessment

§ 59-2-510. Separation of land

ADD URBAN FARMING?

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 59-2-510. Separation of land

Separation of a part of the land which is being valued, assessed, and taxed under this part, either by conveyance or other action of the owner of the land, for a use other than agricultural, subjects the land which is separated to liability for the applicable rollback tax, but does not impair the continuance of agricultural use valuation, assessment, and taxation for the remaining land if it continues to meet the requirements of this part.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 59-2-502. Definitions

As used in this part:

(1) "Actively devoted to agricultural use" means that the land in agricultural use produces in excess of 50% of the average agricultural production per acre:

(a) as determined under Section 59-2-503; and
(b) for:

(i) the given type of land; and
(ii) the given county or area.

(2) "Conservation easement rollback tax" means the tax imposed under Section 59-2-506.5.

(3) "Identical legal ownership" means legal ownership held by:

(a) identical legal parties; or
(b) identical legal entities.

(4) "Land in agricultural use" means:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;
(ii) grains and feed crops;
(iii) livestock as defined in Section 59-2-102;
(iv) trees and fruits; or
(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(5) "Other eligible acreage" means land that is:

(a) five or more contiguous acres;
(b) eligible for assessment under this part; and
(c)(i) located in the same county as land described in Subsection 59-2-503(1)(a); or
(ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as provided in Section 59-2-512.

(6) "Platted" means land in which:

(a) parcels of ground are laid out and mapped by their boundaries, course, and extent; and
(b) the plat has been approved as provided in Section 10-9a-604 or 17-27a-604.

(7) "Rollback tax" means the tax imposed under Section 59-2-506.

(8) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;
(b) the land is no longer actively devoted to agricultural use;
(c)(i) the land has a change in ownership; and
(ii)(A) the new owner fails to apply for assessment under this part as required by Section 59-2-509; or
(B)(I) an owner applies for assessment under this part as required by Section 59-2-509; and
(II) the land does not meet the requirements of this part to be assessed under this part;
(d)(i) the legal description of the land changes; and
(ii)(A) an owner fails to apply for assessment under this part as required by Section 59-2-509; or
(B)(I) an owner applies for assessment under this part as required by Section 59-2-509; and
(II) the land does not meet the requirements of this part to be assessed under this part;
(e) if required by the county assessor, the owner of the land:
(i) fails to file a new application as provided in Subsection 59-2-508(5); or
(ii) fails to file a signed statement as provided in Subsection 59-2-508(5); or
(f) except as provided in Section 59-2-503, the land fails to meet a requirement of Section 59-2-503.

§ 59-2-503. Qualifications for agricultural use assessment

(1) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(a) is not less than five contiguous acres in area, except that land may be assessed on the basis of the value that the land has for agricultural use:

(i) if:

(A) the land is devoted to agricultural use in conjunction with other eligible acreage; and

(B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have identical legal ownership; or

(ii) as provided under Subsection (4); and

(b) except as provided in Subsection (5) or (6):

(i) is actively devoted to agricultural use; and

(ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part.

(2) In determining whether land is actively devoted to agricultural use, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(a) production levels reported in the current publication of the Utah Agricultural Statistics;

(b) current crop budgets developed and published by Utah State University; and

(c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Land may be assessed on the basis of the land's agricultural value if the land:

(a) is subject to the privilege tax imposed by Section 59-4-101;

(b) is owned by the state or any of the state's political subdivisions; and

(c) meets the requirements of Subsection (1).

(4) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

(i) 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question; or

(ii)(A) the failure to meet the acreage requirement arose solely as a result of an acquisition by a governmental entity by:

(I) eminent domain; or

(II) the threat or imminence of an eminent domain proceeding;

(B) the land is actively devoted to agricultural use; and

(C) no change occurs in the ownership of the land.

(5)(a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

(A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

(B) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

(b) As used in Subsection (5)(a), "fault" does not include:

(i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use; or

(ii) implementation of a bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use.

(6) Land that otherwise qualifies for assessment under this part qualifies for assessment under this part in the first year the land resumes being actively devoted to agricultural use if:

(a) the land becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral; and

(b) the land qualified for assessment under this part in the year immediately preceding the year the land became ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral.

(7) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

Agricultural Land Valuation Methodology

§ 59-2-505. Indicia of value for agricultural use assessment--Inclusion of fair market value on certain property tax notices

- (1)(a) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:
- (i) that meets the requirements of Section 59-2-503 to be assessed under this part; and
 - (ii) for which the owner has:
 - (A) made a timely application in accordance with Section 59-2-508 for assessment under this part for the tax year for which the land is being assessed; and
 - (B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the county assessor.
- (b) If land that becomes subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, meets the requirements of Subsection (1)(a) for assessment under this part, the county assessor shall consider only those indicia of value that the land has for agricultural use in accordance with Subsection (1)(a) when assessing the land.
- (2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:
- (a) Section 59-2-919.1; and
 - (b) Section 59-2-1317.
- (3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.

Agricultural Land Exclusions

No statute.

Vermont

Sources / Changes

Agricultural Land and Managed Forestland Use Value Program

**§ 3752. Definitions

**§ 3755. Eligibility for use value appraisals

**§ 3757. Land use change tax

Definition of Agricultural Improvements

§3752. Definitions

(5)(A) "Development" means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road, or other structure, or any mining, excavation, or landfill activity.

<Text of subdiv. (5)(B) effective until July 1, 2023.>

(B) "Development" also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, ex-spouse in a divorce settlement, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then "development" shall not apply to any portion of the newly created parcel or parcels that qualify for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program.

<Text of subdiv. (5)(B) effective July 1, 2023.>

(B) "Development" also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, ex-spouse in a

divorce settlement, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then "development" shall not apply to any portion of the newly created parcel or parcels that qualify for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the Use Value Appraisal Program.

(C) "Development" also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the Commissioner of Forests, Parks and Recreation.

(D) "Development" also means notification of the Director by the Secretary of Agriculture, Food and Markets under section 3756 of this title that the owner or operator of agricultural land or a farm building is violating the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10.

<Text of subdiv. (5)(E) effective until July 1, 2023.>

(E) The term "development" shall not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, or structure for other than farming, logging, or forestry purposes.

<Text of subdiv. (5)(E) effective July 1, 2023.>

(E) The term "development" does not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, or structure for other than farming, logging, or forestry purposes.

(F) The term "development" shall not include the location of any solar generation facility that is, in the aggregate, on 0.1 of an acre of land or less, provided that the underlying land qualifies under this chapter as agricultural land or open land that qualifies as managed forestland in accordance with standards established by the Commissioner of Forests, Parks and Recreation.

Improvement Valuation Methodology

§ 3757. Land use change tax

(a) Land that has been classified as agricultural land or managed forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. The tax shall be at the rate of 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land as a separate parcel, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 3752. Definitions

As used in this subchapter:

(1) "Agricultural land" means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock, cultivate trees bearing edible fruit, or produce an annual maple product, and that is 25 acres or more in size, except as provided in this subdivision (1). Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets' Required Agricultural

Practices rule adopted under 6 V.S.A. chapter 215. There shall be a presumption that the land is used for agricultural purposes if:

(A) it is owned by a farmer and is part of the overall farm unit; or

(B) it is used by a farmer as part of the farmer's farming operation under written lease for at least three years; or

(C) it has produced an annual gross income from the sale of farm crops in one of two, or three of the five, calendar years preceding of at least:

(i) \$2,000.00 for parcels of up to 25 acres; and

(ii) \$75.00 per acre for each acre over 25, with the total income required not to exceed \$5,000.00.

(iii) Exceptions to these income requirements may be made in cases of orchard lands planted to fruit-producing trees, bushes, or vines that are not yet of bearing age. As used in this section, the term "farm crops" also includes animal fiber, cider, wine, and cheese, produced on the enrolled land or on a housesite adjoining the enrolled land, from agricultural products grown on the enrolled land.

(7) "Farmer" means a person:

(A) who earns at least one-half of the farmer's annual gross income from the business of farming as that term is defined in Regulation 1.175-3 issued under the Internal Revenue Code of 1986; or

(B)(i) who produces farm crops that are processed in a farm facility situated on land enrolled by the farmer in a use value appraisal program or on a housesite adjoining the enrolled land;

(ii) whose gross income from the sale of the processed farm products pursuant to subdivision (i) of this subdivision (B), when added to other gross income from the business of farming as used in subdivision (A) of this subdivision (7), equals at least one-half of the farmer's annual gross income; and

(iii) who produces on the farm a minimum of 75 percent of the farm crops processed in the farm facility.

§ 3755. Eligibility for use value appraisals

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings that meet the criteria contained in this subchapter and in the rules adopted by the Board shall be eligible for use value appraisal. (e) Any applicant for appraisal under this subchapter bears the burden of proof as to the applicant's qualification. Any documents submitted by an applicant as evidence of income shall be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of 1 V.S.A. § 317(c)(6).

[(b)-(f) apply to managed forestland]

(f) To maintain eligibility for use value appraisal under this subchapter, on or before November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. In the event the owner of agricultural land or buildings enrolled in the use value program fails to certify on or before November 1 of each year as required under this subsection, the Commissioner may waive the certification requirement, provided the Commissioner obtains, through other means, satisfactory information that the agricultural land continues or agricultural buildings continue to meet the other requirements for enrollment. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

(g) Any applicant for a use value appraisal or any beneficiary of a use value appraisal must be in good standing with the Department of Taxes pursuant to subsection 3113(g) of this title to be eligible or to maintain eligibility for use value appraisal under this subchapter.

Agricultural Land Valuation Methodology

No statute.

Agricultural Land Exclusions

No statute.

Virginia

Sources / Changes

Article 4. Special Assessment for Land Preservation

**§ 58.1-3230. Special classifications of real estate established and defined

§ 58.1-3236. Valuation of real estate under ordinance

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

§ 58.1-3230. Special classifications of real estate established and defined

For the purposes of this article the following special classifications of real estate are established and defined:

“Real estate devoted to agricultural use” shall mean real estate devoted to the bona fide production for sale of plants and animals, or products made from such plants and animals on the real estate, that are useful to man or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to soil and water conservation programs under an agreement with an agency of the state or federal government under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. **The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment.** The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 58.1-3230. Special classifications of real estate established and defined

For the purposes of this article the following special classifications of real estate are established and defined:

“Real estate devoted to agricultural use” shall mean real estate devoted to the bona fide production for sale of plants and animals, or products made from such plants and animals on the real estate, that are useful to man or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to soil and water conservation programs under an agreement with an agency of the state or federal government under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate

devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations.

“Real estate devoted to horticultural use” shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products; and plants or products directly produced from fruits, vegetables, nursery and floral products, or plants on such real estate or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil and water conservation program under an agreement with an agency of the state or federal government under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit or otherwise shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to horticultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be the sole considerations.

Agricultural Land Valuation Methodology

§ 58.1-3231. Authority of counties, cities and towns to adopt ordinances; general reassessment following adoption of ordinance

Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for the use value assessment and taxation, in accord with the provisions of this article, of real estate classified in § 58.1-3230. The local governing body pursuant to § 58.1-3237.1 may provide in the ordinance that property located in specified zoning districts shall not be eligible for special assessment as provided in this article. However, real estate that is being provided use value assessment and taxation shall not be denied such use value assessment and taxation solely because of its location in a newly created zoning district that was not requested by the real estate owner. The provisions of this article shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by the governing body thereof not later than June 30 of the year previous to the year when such taxes are first assessed and levied under this article, or December 31 of such year for localities which have adopted a fiscal year assessment date of July 1, under Chapter 30 (§ 58.1-3000 et seq.) of this subtitle. The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant to law by a central state agency.

Land used in agricultural and forestal production within an agricultural district, a forestal district or an agricultural and forestal district that has been established under Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use plan or local ordinance pursuant to this section has been adopted.

Such ordinance shall provide for the assessment and taxation in accordance with the provisions of this article of any or all of the four classes of real estate set forth in § 58.1-3230. If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to § 58.1-3230 require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then such ordinance may waive such prior use requirement for real estate devoted to the production of agricultural and horticultural crops that require more than two years from initial planting until commercially feasible harvesting. If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to § 58.1-3230 require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then (i) use of other similar property by a lessee of the owner shall be included in calculating such time and (ii) the Commissioner of Agriculture and Consumer Services shall include in the uniform standards a shorter minimum length of time for real estate with no prior qualifying use, provided that the owner submits a written document of the owner's intent regarding use of the real estate containing elements set out in the uniform standards. Localities are not required to maintain such written document.

Such ordinance may provide that the annual increase in the assessed value of property within the classes of real estate set forth in § 58.1-3230 shall not exceed a dollar amount per acre specified in the ordinance.

In addition to but not to replace any other requirements of a land-use plan such ordinance may provide that the special assessment and taxation be established on a sliding scale which establishes a lower assessment for property held for longer periods of time within the classes of real estate set forth in § 58.1-3230. Any such sliding scale shall be set forth in the ordinance.

Notwithstanding any other provision of law, the governing body of any county, city or town shall be authorized to direct a general reassessment of real estate in the year following adoption of an ordinance pursuant to this article.

§ 58.1-3236. Valuation of real estate under ordinance

A. In valuing real estate for purposes of taxation by any county, city or town which has adopted an ordinance pursuant to this article, the commissioner of the revenue or duly appointed assessor shall consider only those indicia of value which such real estate has for agricultural, horticultural, forest or open space use, and real estate taxes for such jurisdiction shall be extended upon the value so determined. In addition to use of his personal knowledge, judgment and experience as to the value of real estate in agricultural, horticultural, forest or open space use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural, forest or open space capability, and the recommendations of value of such real estate as made by the State Land Evaluation Advisory Council.

B. In determining the total area of real estate actively devoted to agricultural, horticultural, forest or open space use there shall be included the area of all real estate under barns, sheds, silos, cribs, greenhouses, public recreation facilities and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities; but real estate under, and such additional real estate as may be actually used in connection with, the farmhouse or home or any other structure not related to such special use, shall be excluded in determining such total area.

C. All structures which are located on real estate in agricultural, horticultural, forest or open space use and the farmhouse or home or any other structure not related to such special use and the real estate on which the farmhouse or home or such other structure is located, together with the additional real estate used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other real estate in the locality.

D. In addition, such real estate in agricultural, horticultural, forest or open space use shall be evaluated on the basis of fair market value as applied to other real estate in the taxing jurisdiction, and land book records shall be maintained to show both the use value and the fair market value of such real estate.

Agricultural Land Exclusions

No statute.

Washington

Sources / Changes

Chapter 84.34. Open Space, Agricultural, Timberlands—Current Use—Conservation Futures

84.34.020. Definitions

84.34.060. Determination of true and fair value of classified land--Computation of assessed value

84.34.065. Determination of true and fair value of farm and agricultural land--Definitions

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

84.34.020. Definitions

(2) "Farm and agricultural land" means: . . .

(e) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands";

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

84.34.020. Definitions

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or

(iii) Other similar commercial activities as may be established by rule;

(b)(i) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:

- (A) One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and
- (B) On or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;
- (ii) For the purposes of (b)(i) of this subsection, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs;
- (c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:
- (i) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and
- (ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this subsection will, upon any transfer of the property excluding a transfer to a surviving spouse or surviving state registered domestic partner, be subject to the limits of (b)(i)(B) and (c)(ii) of this subsection;
- (d) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which meet one of the following criteria:
- (i) Has produced a gross income from agricultural uses equivalent to two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;
- (ii) Has standing crops with an expectation of harvest within seven years, except as provided in (d)(iii) of this subsection, and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year. For the purposes of this subsection (2)(d)(ii), "standing crop" means Christmas trees, vineyards, fruit trees, or other perennial crops that: (A) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (B) typically do not produce harvestable quantities in the initial years after planting; or
- (iii) Has a standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year;
- (e) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands";
- (f) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes;
- (g) Any land that is used primarily for equestrian related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meet the requirements of (a), (b), or (c) of this subsection; or
- (h) Any land primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not, subject to the following:
- (i) The land is not primarily used for the storage, care, or selling of plants purchased from other growers for retail sale;
- (ii) If the land is less than five acres and used primarily to grow plants in containers, such land does not qualify as "farm and agricultural land" if more than twenty-five percent of the land used primarily to grow plants in containers is open to the general public for on-site retail sales;

- (iii) If more than twenty percent of the land used for growing plants in containers qualifying under this subsection (2)(h) is covered by pavement, none of the paved area is eligible for classification as "farm and agricultural land" under this subsection (2)(h). The eligibility limitations described in this subsection (2)(h)(iii) do not affect the land's eligibility to qualify under (e) of this subsection; and
- (iv) If the land classified under this subsection (2)(h), in addition to any contiguous land classified under this subsection, is less than twenty acres, it must meet the applicable income or investment requirements in (b), (c), or (d) of this subsection.
- (3) "Timberland" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timberland means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.
- (4) "Current" or "currently" means as of the date on which property is to be listed and valued by the assessor.
- (5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" means the contract vendee.
- (6)(a) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, is considered contiguous.
- (b) For purposes of this subsection (6):
- (i) "Same ownership" means owned by the same person or persons, except that parcels owned by different persons are deemed held by the same ownership if the parcels are:
- (A) Managed as part of a single operation; and
- (B) Owned by:
- (I) Members of the same family;
- (II) Legal entities that are wholly owned by members of the same family; or
- (III) An individual who owns at least one of the parcels and a legal entity or entities that own the other parcel or parcels if the entity or entities are wholly owned by that individual, members of his or her family, or that individual and members of his or her family.
- (ii) "Family" includes only:
- (A) An individual and his or her spouse or domestic partner, child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling;
- (B) The spouse or domestic partner of an individual's child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling;
- (C) A child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling of the individual's spouse or the individual's domestic partner; and
- (D) The spouse or domestic partner of any individual described in (b)(ii)(C) of this subsection (6).
- (7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.
- (8) "Farm and agricultural conservation land" means either:
- (a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or
- (b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

Agricultural Land Valuation Methodology

84.34.060. Determination of true and fair value of classified land--Computation of assessed value

In determining the true and fair value of open space land and timberland, which has been classified as such under the provisions of this chapter, the assessor shall consider only the use to which such property and improvements is currently applied and shall not consider potential uses of such property. The assessed valuation of open space land shall not be less than the minimum value per acre of classified farm and agricultural land except that the assessed valuation of open space land may be valued based on the public benefit rating system adopted under RCW 84.34.055: PROVIDED FURTHER, That timberland

shall be valued according to chapter 84.33 RCW. In valuing any tract or parcel of real property designated and zoned under a comprehensive plan adopted under chapter 36.70A RCW as agricultural, forest, or open space land, the appraisal shall not be based on similar sales of parcels that have been converted to nonagricultural, nonforest, or nonopen-space uses within five years after the sale.

84.34.065. Determination of true and fair value of farm and agricultural land--Definitions

(1) The true and fair value of farm and agricultural land shall be determined by consideration of the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years, capitalized at indicative rates. The earning or productive capacity of farm and agricultural lands is the "net cash rental," capitalized at a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes. The current use value of land under RCW 84.34.020(2)(f) must be established as: The prior year's average value of open space farm and agricultural land used in the county plus the value of land improvements such as septic, water, and power used to serve the residence. This may not be interpreted to require the assessor to list improvements to the land with the value of the land.

(2) For the purposes of the above computation:

(a)(i) The term "net cash rental" means the average rental paid on an annual basis, in cash, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for production of agricultural crops. There is allowed as a deduction from the rental received or computed any costs of crop production charged against the landlord if the costs are such as are customarily paid by a landlord. If "net cash rental" data is not available, the earning or productive capacity of farm and agricultural lands is determined by the cash value of typical or usual crops grown on land of similar quality and similarly situated averaged over not less than five years. Standard costs of production are allowed as a deduction from the cash value of the crops.

(ii) The current "net cash rental" or "earning capacity" is determined by the assessor with the advice of the advisory committee as provided in RCW 84.34.145, and through a continuing internal study, assisted by studies of the department of revenue. This net cash rental figure as it applies to any farm and agricultural land may be challenged before the same boards or authorities as would be the case with regard to assessed values on general property.

(b)(i) The term "rate of interest" means the rate of interest charged by the farm credit administration and other large financial institutions regularly making loans secured by farm and agricultural lands through mortgages or similar legal instruments, averaged over the immediate past five years.

(ii) The "rate of interest" must be determined annually by a rule adopted by the department of revenue and such rule must be published in the state register not later than January 1 of each year for use in that assessment year. The department of revenue determination may be appealed to the state board of tax appeals within thirty days after the date of publication by any owner of farm or agricultural land or the assessor of any county containing farm and agricultural land.

(c) The "component for property taxes" is a figure obtained by dividing the assessed value of all property in the county into the property taxes levied within the county in the year preceding the assessment and multiplying the quotient obtained by one hundred.

Agricultural Land Exclusions

No statute.

West Virginia

Sources / Changes

§ 11-1A-3. Definitions

§ 11-1A-10. Valuation of farm property

§ 11-4-3. Definitions

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 11-1A-3. Definitions

As used in this article, unless the context clearly requires a different meaning:

(a) "Assessed value" of any item of property is its assessed value after the certification of the first statewide reappraisal and shall be sixty percent of the market value of such item of property regardless of its class or species, except as hereinafter specifically provided in this article;

(b) "Base year" shall have the meaning ascribed to that term by the provisions of section two of this article;

(c) "Commission" shall mean the West Virginia appraisal control and review commission;

(d) "Commissioner" or "tax commissioner" shall mean the chief executive officer of the state tax department except in those instances where the context clearly relates to the West Virginia appraisal control and review commission, in which case "commissioner" shall mean any member of such commission;

(e) "Designated agent" shall mean a person, not directly employed by the tax commissioner, who is designated by the tax commissioner to perform reappraisal functions authorized or required by this article. Such term shall include, but not be limited to, agents and independent contractors, and nothing in this article shall be construed to alter the relationship of the state of West Virginia, or its officers, and such persons to create relationships not contemplated by agreements between the tax commissioner and such persons;

(f) "Farm" shall mean and include land currently being used primarily for farming purposes, whether by the owner thereof or by a tenant, and which has been so used for at least seasonally during the year next preceding the then current tax year, but shall not include lands used primarily in commercial forestry or the growing of timber for commercial purposes; and shall not include one acre surrounding the principal residence situate on a farm which shall be valued as a homesite in the same manner as surrounding homes and properties not situated on farmland, taking into consideration such variables as location, resale value and accessibility. The commissioner of agriculture shall formulate criteria upon which a parcel of land qualifies as a "farm". The county assessor may require the assistance of the commissioner of agriculture in making a determination of whether a parcel of land qualifies as a "farm".

(g) "Farming purposes" shall mean the utilization of land to produce for sale, consumption or use, any agricultural products, including, but not limited to, livestock, poultry, fruit, vegetables, grains or hays or any of the products derived from any of the foregoing, tobacco, syrups, honey, and any and all horticultural and nursery stock, Christmas trees, all sizes of ornamental trees, sod, seed and any and all similar commodities or products including farm wood lots and the parts of a farm which are lands lying fallow, or in timber or in wastelands;

(h) "Property situate in this state" shall mean:

(1) Property having legal situs in this state; or

(2) In the case of persons with a place of business located in this state and authorized to do business in this state and one or more other states of the United States or any foreign country:

(A) Any tangible property brought into this state from time to time or otherwise deemed to have situs in this state for purposes of ad valorem property taxation, and

(B) Any intangible property held by such person, wherever evidence thereof is situate. In the case of assessment of such intangible property for ad valorem property taxation after the first statewide

reappraisal only such part thereof as may be determined by applicable law or regulation to be subject to such taxation shall be deemed to be situate in this state;

(i) "Value", "market value" and "true and actual value" shall have the same meaning and shall mean the price at or for which a particular parcel or species of property would sell if it were sold to a willing buyer by a willing seller in an arm's length transaction without either the buyer or the seller being under any compulsion to buy or sell: Provided, That in determining value, primary consideration shall be given to the trends of price paid for like or similar property in the area or locality wherein such property is situate over a period of not less than three nor more than eight years next preceding the base year and in the case of a farm or farms shall be determined assuming such land is being used for farming purposes. In addition, the commissioner may, for purposes of appraisal of any tract or parcel of real property, or chattels, real or other species of property, real or personal, take into account one or more of the following factors: (1) The location of such property; (2) its site characteristics; (3) the ease of alienation thereof, considering the state of its title, the number of owners thereof, and the extent to which the same may be the subject of either dominant or servient easements; (4) the quantity of size of the property and the impact which its sale may have upon surrounding properties; (5) if purchased within the previous eight years, the purchase price thereof and the date of each such purchase; (6) recent sale of, or other transactions involving comparable property within the next preceding eight years; (7) the value of such property to its owner; (8) the condition of such property; (9) the income, if any, which the property actually produces and has produced within the next preceding eight years; and (10) any commonly accepted method of ascertaining the market value of any such property, including techniques and methods peculiar to any particular species of property if such technique or method is used uniformly and applied to all property of like species.

§ 11-4-3. Definitions

(4) "Farm" means a tract or contiguous tracts of land used for agriculture, horticulture or grazing and includes all real property designated as "wetlands" by the United States Army Corps of Engineers or the United States Fish and Wildlife Service.

Agricultural Land Valuation Methodology

§ 11-1A-10. Valuation of farm property

(a) With respect to farm property, the tax commissioner shall appraise such property so as to ascertain its fair and reasonable value for farming purposes regardless of what the value of the property would be if used for some other purpose, and the value shall be arrived at by giving consideration to the fair and reasonable income which the property might be expected to earn in the locality wherein situated, if rented. The fair and reasonable value for farming purposes shall be deemed to be the market value of such property for appraisal purposes.

(b) A person is not engaged in farming if he is primarily engaged in forestry or growing timber. Additionally, a corporation is not engaged in farming unless its principal activity is the business of farming, and in the event that the controlling stock interest in the corporation is owned by another corporation, the corporation owning the controlling interest must also be primarily engaged in the business of farming.

Agricultural Land Exclusions

No statute.

Wisconsin

Sources / Changes

70.32. Real estate, how valued
70.323. Assessment of divided parcel

Definition of Agricultural Improvements

No statute.

Improvement Valuation Methodology

70.32. Real estate, how valued

1g. "Agricultural land" means land, exclusive of buildings and improvements and the land necessary for their location and convenience, that is devoted primarily to agricultural use.

1i. "Agricultural use" means agricultural use as defined by the department of revenue by rule and includes the growing of short rotation woody crops, including poplars and willows, using agronomic practices.

1k. "Agronomic practices" means agricultural practices generally associated with field crop production, including soil management, cultivation, and row cropping.

1m. "Other," as it relates to par. (a)7., means buildings and improvements; including any residence for the farm operator's spouse, children, parents, or grandparents; and the land necessary for the location and convenience of those buildings and improvements.

70.323. Assessment of divided parcel

(1) Determination of value. (a) If a parcel of real property is divided, the owner of a divided parcel may request a valuation of the divided parcels. A request shall be in writing and submitted to the treasurer of the taxation district in which the property is located. If the taxation district treasurer is in possession of the tax roll, the treasurer shall make the requested valuation. If the tax roll has been returned under s. 74.43, the taxation district treasurer shall forward the request to the county treasurer, who shall make the requested valuation.

(b) The appropriate treasurer shall, with the assistance of the assessor of the taxation district, attribute to each new parcel its value for the year of division. The value of each new parcel shall represent a reasonable apportionment of the valuation of the original undivided parcel, and the total of the new valuations shall equal the valuation of the original undivided parcel on January 1 of that year. The value of a new parcel as determined under this subsection is the value of that property for purposes of s. 70.32 for the year of division.

(2) Appeal. A determination under sub. (1) may be appealed by bringing an action in circuit court within 60 days after the determination is made. The court shall determine whether the value determined under sub.

(1) represents a reasonable apportionment of the valuation of the original undivided parcel on January 1 of that year. If the court determines that the value does not represent a reasonable apportionment, the court shall redetermine the parcels' values, the total of which shall equal the valuation of the original undivided parcel on January 1 of that year.

(3) Lien extinguished. Payment of all real estate taxes based on the value determined under sub. (1) or (2) extinguishes the lien against the parcel created under s. 70.01.

(4) Cooperation of assessor. The assessor of the taxation district shall assist the treasurer of the taxation district or of the county under sub. (1).

(5) Not applicable where written agreement. This section does not apply if there is a written agreement providing for the payment of real property taxes on the divided parcels in the year of division.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

70.32. Real estate, how valued

(1) Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03(2a) from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefor at private sale. In determining the value, the assessor shall consider recent arm's-length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's-length sales of reasonably comparable property; recent arm's-length sales of reasonably

comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.

(1g) In addition to the factors set out in sub. (1), the assessor shall consider the effect on the value of the property of any zoning ordinance under s. 59.692, 61.351, 61.353, 62.231, or 62.233, any conservation easement under s. 700.40, any conservation restriction under an agreement with the federal government and any restrictions under ch. 91. Beginning with the property tax assessments as of January 1, 2000, the assessor may not consider the effect on the value of the property of any federal income tax credit that is extended to the property owner under section 42 of the Internal Revenue Code.

(1m) In addition to the factors set out in sub. (1), the assessor shall consider the impairment of the value of the property because of the presence of a solid or hazardous waste disposal facility or because of environmental pollution, as defined in s. 299.01(4).

(2) The assessor, having fixed a value, shall enter the same opposite the proper tract or lot in the assessment roll, following the instruction prescribed therein.

(a) The assessor shall segregate into the following classes on the basis of use and set down separately in proper columns the values of the land, exclusive of improvements, and, except for subds. 5., 5m., and 6., the improvements in each class:

1. Residential.
2. Commercial.
3. Manufacturing.
4. Agricultural.
5. Undeveloped.
- 5m. Agricultural forest.
6. Productive forest land.
7. Other.

(c) In this section:

1d. "Agricultural forest land" means land that is producing or is capable of producing commercial forest products, if the land satisfies any of the following conditions:

a. It is contiguous to a parcel that has b70.32. Real estate, how valued, is classified in whole as agricultural land under this subsection, if the contiguous parcel is owned by the same person that owns the land that is producing or is capable of producing commercial forest products. In this subdivision, "contiguous" includes separated only by a road.

b. It is located on a parcel that contains land that is classified as agricultural land in the property tax assessment on January 1, 2004, and on January 1 of the year of assessment.

c. It is located on a parcel at least 50 percent of which, by acreage, was converted to land that is classified as agricultural land in the property tax assessment on January 1, 2005, or thereafter.

1g. "Agricultural land" means land, exclusive of buildings and improvements and the land necessary for their location and convenience, that is devoted primarily to agricultural use.

1i. "Agricultural use" means agricultural use as defined by the department of revenue by rule and includes the growing of short rotation woody crops, including poplars and willows, using agronomic practices.

1k. "Agronomic practices" means agricultural practices generally associated with field crop production, including soil management, cultivation, and row cropping.

1m. "Other," as it relates to par. (a)7., means buildings and improvements; including any residence for the farm operator's spouse, children, parents, or grandparents; and the land necessary for the location and convenience of those buildings and improvements.

2. "Productive forest land" means land that is producing or is capable of producing commercial forest products and is not otherwise classified under this subsection.

3. "Residential" includes any parcel or part of a parcel of untilled land that is not suitable for the production of row crops, on which a dwelling or other form of human abode is located and which is not otherwise classified under this subsection.

4. "Undeveloped land" means bog, marsh, lowland brush, uncultivated land zoned as shoreland under s. 59.692 and shown as a wetland on a final map under s. 23.32 or other nonproductive lands not otherwise classified under this subsection.

(2r) Agricultural land shall be assessed according to the income that could be generated from its rental for agricultural use.

(3) Manufacturing property subject to assessment under s. 70.995 shall be assessed according to that section.

(4) Beginning with the assessments as of January 1, 2004, agricultural forest land shall be assessed at 50 percent of its full value, as determined under sub. (1), and undeveloped land shall be assessed at 50 percent of its full value, as determined under sub. (1).

(5) Beginning with the assessments as of January 1, 2017, the assessor shall assess the land within a district corridor described under s. 88.74 in the same class under sub. (2)(a) as the land adjoining the corridor, if the adjoining land and the land within the corridor are owned by the same person.

Agricultural Land Valuation Methodology

70.32. Real estate, how valued

(4) Beginning with the assessments as of January 1, 2004, agricultural forest land shall be assessed at 50 percent of its full value, as determined under sub. (1), and undeveloped land shall be assessed at 50 percent of its full value, as determined under sub. (1).

Agricultural Land Exclusions

No statute.

Wyoming

Sources / Changes

§39-13-101. Definitions

§ 39-13-103. Imposition

Definition of Agricultural Improvements

§39-13-101. Definitions

(viii) "Agricultural purpose," as used in W.S. 39-13-103(b)(x), means the following land uses when conducted consistent with the land's capability to produce or when supporting the land's capability to produce:

- (A) Cultivation of the soil for production of crops; or
- (B) Production of timber products or grasses for forage; or
- (C) Rearing, feeding, grazing or management of livestock; or
- (D) Land used for a farmstead structure.

...

(x) "Land used for a farmstead structure" means land that underlies and that supports the use of a barn, shop, shed, granary, corral or other structure if the structure:

- (A) Is used to support an agricultural purpose specified in subparagraphs (viii)(A) through (C) of this subsection;
- (B) Is not a structure built for human habitation or actually used for human habitation;
- (C) Is not attached to a structure built for human habitation or actually used for human habitation; and
- (D) Is built upon land used for the agricultural purpose supported by the structure.

Improvement Valuation Methodology

No statute.

Improvement Valuation Exclusions

No statute.

Agricultural Land Assessment Requirements

§ 39-13-101. Definitions

(a) As used in this article:

- (i) "Ad valorem" means according to value;
- (ii) "Ad valorem tax" means a property tax based on the assessed value of the property;
- (iii) "Agricultural land," as used in W.S. 39-13-103(b)(x), means land which meets the requirements of W.S. 39-13-103(b)(x) for the purpose of tax assessment;
- (iv) "Deed" means a conveyance of real property, in writing signed by the grantor, whereby the interest held by the grantor to real property is transferred from one to another;
- (v) "Tax deed" means the conveyance given upon a sale of real property for nonpayment of ad valorem taxes;
- (vi) "Telecommunications companies" means and includes any person engaged in the furnishing of telecommunications service;
- (vii) "Telecommunications service" means the offering of transmission for hire of telecommunications between or among points specified by the user, of information of the user's choosing without change in the content of the information as sent and received by means of telecommunications facilities, including switching facilities, using wire, cable, microwave, radio wave, light wave or a combination of those or similar media. The term shall include all types of telecommunications transmission such as telephone service, telegraph service, cellular, wireless or satellite. The term shall not include assets used for television or radio programming broadcast over airwaves for public consumption, cable or satellite television offered for public consumption or telephone answering service and one-way paging or beeper service;
- (viii) "Agricultural purpose," as used in W.S. 39-13-103(b)(x), means the following land uses when conducted consistent with the land's capability to produce or when supporting the land's capability to produce:
 - (A) Cultivation of the soil for production of crops; or
 - (B) Production of timber products or grasses for forage; or
 - (C) Rearing, feeding, grazing or management of livestock; or
 - (D) Land used for a farmstead structure.
- (ix) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;
- (x) "Land used for a farmstead structure" means land that underlies and that supports the use of a barn, shop, shed, granary, corral or other structure if the structure:
 - (A) Is used to support an agricultural purpose specified in subparagraphs (viii)(A) through (C) of this subsection;
 - (B) Is not a structure built for human habitation or actually used for human habitation;
 - (C) Is not attached to a structure built for human habitation or actually used for human habitation; and
 - (D) Is built upon land used for the agricultural purpose supported by the structure.

Agricultural Land Valuation Methodology

§ 39-13-103. Imposition

(x) The following shall apply to agricultural land:

- (A) The department shall determine the taxable value of agricultural land and prescribe the form of the sworn statement to be used by the property owner to declare that the property meets the requirements of subparagraph (B) of this paragraph. In determining the taxable value for assessment purposes under this paragraph, the value of agricultural land shall be based on the current use of the land, and the capability of the land to produce agricultural products, including grazing and forage, based on average yields of lands of the same classification under normal conditions. The area of land used for a farmstead structure shall be valued at the same value as the agricultural land supported;
- (B) Contiguous or noncontiguous parcels of land under one (1) operation owned or leased shall qualify for classification as agricultural land if the land meets each of the following qualifications:
 - (I) The land is presently being used and employed for an agricultural purpose including use as a farmstead to support an agricultural purpose as provided in W.S. 39-13-101(a)(viii)(D);
 - (II) The land is not part of a platted subdivision, except for a parcel of thirty-five (35) acres or more which otherwise qualifies as agricultural land;

(III) If the land is not leased land, the owner of the land has derived annual gross revenues of not less than five hundred dollars (\$500.00) from the marketing of agricultural products, or if the land is leased land the lessee has derived annual gross revenues of not less than one thousand dollars (\$1,000.00) from the marketing of agricultural products. If a portion of the land is used for a farmstead structure, that area of the land upon which the structure is built and which supports the use of the structure shall be deemed to meet the requirements of this subdivision if the farmstead structure is part of one (1) operation that meets the requirements of this subdivision; and

(IV) The land has been used or employed, consistent with the land's size, location and capability to produce as defined by department rules and the mapping and agricultural manual published by the department, primarily in an agricultural operation, or the land does not meet this requirement and the requirement of subdivision (III) of this subparagraph because the producer:

(1) Experiences an intervening cause of production failure beyond its control;

(2) Causes a marketing delay for economic advantage;

(3) Participates in a bona fide conservation program, in which case proof by an affidavit showing qualification in a previous year shall suffice; or

(4) Has planted a crop that will not yield an income in the tax year.

(C) If needed, the county assessor may require the producer to provide a sworn affidavit affirming that the land meets the requirements of this paragraph. When deemed necessary, the county assessor may further require supporting documentation.

Agricultural Land Exclusions

No statute.

SB 418 -FWA - MML.pdf

Uploaded by: Justin Fiore

Position: FWA



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 22, 2023

Committee: Senate Budget and Taxation Committee

Bill: _____ SB 418 – Property Tax – Agricultural Land and Improvements – Assessment

Position: Support with Amendment

Reason for Position:

The Maryland Municipal League supports Senate Bill 418 with amendments, which would allow improvements on an actively used farm for “value-added agricultural activities” to be assessed at a lower rate. This is a concept the League fully supports.

However, the League does have concerns with the bill as drafted. First, the definition of “value-added agricultural activities” encompasses activities and structures that are truly commercial in nature and operation. We simply cannot agree that a large tasting room or private wedding venue should be assessed like a crop barn. That would be a massive departure from current and best practices. SDAT has identified 85 municipalities with agricultural accounts and an assessable “at risk” base of \$888 million.

Also, while we do appreciate the role this legislation carves out for local zoning restrictions, it would appear the Secretary may override those restrictions by deeming a use “value-added” at any point in the future.

Finally, we cannot reliably estimate the costs of the bill because – in addition to the unwieldy definition – the “the agricultural use rate” is not intended to be applied to improvements.

To resolve these issues and help our farming communities, we wish to work with the Committee to establish a balanced framework for providing a local option tax credit on value added improvements. As such, MML respectfully requests that this committee provide a favorable report on Senate Bill 418.

FOR MORE INFORMATION CONTACT:

1212 West Street, Annapolis, Maryland 21401

410-268-5514 | 800-492-7121 | FAX: 410-268-7004 | www.mdmunicipal.org

Theresa Kuhns
Angelica Bailey Thupari, Esq.
Bill Jorch
Justin Fiore

Chief Executive Officer
Director, Advocacy & Public Affairs
Director, Public Policy
Deputy Director, Advocacy & Public Affairs

SB0418-BT_MACo_SWA.pdf

Uploaded by: Kevin Kinnally

Position: FWA



Senate Bill 418

Property Tax - Agricultural Land and Improvements - Assessment

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Budget and Taxation Committee

Date: February 22, 2023

From: Kevin Kinnally

The Maryland Association of Counties (MACo) **SUPPORTS SB 418 WITH AMENDMENTS**. This bill would require an improvement on land that qualifies for an agricultural use assessment to be assessed as agricultural property under specified circumstances.

The fiscal note shows that SB 418 creates a new standard for assessing a large, and fast-growing segment of commercial property. Doing so would slash the assessable base by billions of dollars. Local property tax revenues would decrease massively, jeopardizing limited funds for public schools, health, infrastructure, public safety, and other essential services.

Currently, state law creates a special, statutory scheme for assessing land subject to active agricultural use. This exception sets the value of that land at a “use value” rather than its actual market value under highest and best use, specifically to “encourage farming activities to ... maintain a readily available source of food and dairy products close to the metropolitan areas of the State.” (See Tax-Property, §8-209(a)). SB 418 nominally seeks to extend this similar assessment dictate to improvements on agricultural land even when they support higher intensity uses with some nexus to agriculture.

The extensive definition of activities under the bill, the thin connection between the activities and true active agriculture, and the impractical application of a land valuation to improvements, render the current bill language impossible to follow, giving rise to the enormous fiscal note. MACo has prepared alternative bill language (for ease of reading) attached to this testimony. Counties are willing to work with the Committee and the General Assembly to hone a balanced policy that assesses active agricultural land with its historic preference, reinforces that locally approved value-added agricultural activities should not jeopardize that status, and grants local governments clear tools to create tax incentives for commercial or other activities that are ancillary to active farmlands.

Many counties are interested in promoting agricultural tourism to support the agricultural industry. Agritourism can be a means to keeping farms profitable during times of low production, and it offers opportunities to highlight Maryland counties’ unique agricultural assets. However, the significant costs of this bill are simply untenable. For these reasons, MACo urges the Committee to issue a **FAVORABLE WITH AMENDMENTS** report on SB 418.

SB 418/HB 592 Proposed Alternative Bill Language offered by Maryland Association of Counties

(Replace current bill language to read as follows)

Components materially altered from the current bill are highlighted in **Bold Text** below.

(RR) (1) **EXCEPT AS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION**, “VALUE-ADDED AGRICULTURAL ACTIVITIES” MEANS ACTIVITIES ON AN ACTIVELY USED FARM THAT ARE RELATED TO:

- I. AGRICULTURAL ALCOHOL PRODUCTION, AS DEFINED IN §4-214(A) OF THE LAND USE ARTICLE;
- II. AGRITOURISM, AS DEFINED IN § 4-212 OF THE LAND USE ARTICLE;
- III. EQUINE ACTIVITIES, AS DEFINED IN § 2-701 OF THE AGRICULTURE ARTICLE;
- IV. INCREASING THE VALUE OF AN AGRICULTURAL PRODUCT BY PROCESSING, MANUFACTURING, PACKAGING, STORING, SELLING, OR PROMOTING THE AGRICULTURAL PRODUCT, IF THE AGRICULTURAL PRODUCT IS DERIVED FROM INGREDIENTS PRODUCED ON THE FARM OR ANY ASSOCIATED FARMLAND;
- V. ROADSIDE STANDS;
- VI. OTHER AGRICULTURAL USES THAT ARE PERMISSIBLE UNDER LOCAL ZONING; AND
- VII. ANY OTHER ACTIVITIES THAT THE SECRETARY OF AGRICULTURE DETERMINES BY REGULATION ARE VALUE-ADDED AGRICULTURAL ACTIVITIES.

(2) **NOTWITHSTANDING THE ITEMS SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION**, “VALUE-ADDED AGRICULTURAL ACTIVITIES” DOES NOT INCLUDE:

- (I) RENTING A FACILITY FOR PRIVATE EVENTS IF THE FACILITY HAS A SEATING CAPACITY OF 200 OR MORE INDIVIDUALS; OR
- (II) ANY ACTIVITY THAT THE LOCAL ZONING AUTHORITY HAS NOT APPROVED FOR LAND ZONED FOR AGRICULTURAL USE.

8-101. (b) Real property is a class of property and is divided into the following subclasses:

(11) IMPROVEMENTS ON AN ACTIVELY USED FARM THAT SUPPORT VALUE-ADDED AGRICULTURAL ACTIVITIES **THAT ARE ANCILLARY TO, AND PRINCIPALLY EMPLOY THE YIELD FROM, THE ACTIVELY USED FARM**, ASSESSED UNDER § 8-209.2 OF THIS TITLE; AND

9-268. (A) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY AUTHORIZE, BY LAW, A CREDIT AGAINST THE PROPERTY TAXES DUE ON IMPROVEMENTS ON AN ACTIVELY USED FARM AS DEFINED IN SECTION 8-101 OF THIS ARTICLE.

(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY PROVIDE FOR, BY LAW, FOR THE AMOUNT, DURATION AND CONDITIONS OF ANY CREDIT PROVIDED UNDER THIS SECTION.

SB 418, FWA, FCG OCE Testimony LS23 JF.pdf

Uploaded by: Victoria Venable

Position: FWA



JESSICA FITZWATER
COUNTY EXECUTIVE
FREDERICK COUNTY, MARYLAND

SB 418 – Property Tax – Agricultural Land and Improvements - Assessment

DATE: February 22, 2023
COMMITTEE: Senate Budget and Taxation Committee
POSITION: Favorable with Amendments
FROM: Frederick County Executive Jessica Fitzwater

As the County Executive of Frederick County, I urge the committee to give SB 418 – Property Tax – Agricultural Land and Improvements - Assessment a favorable report with MACO’s suggested amendments.

As drafted, this bill would require an improvement on land that qualifies for an agricultural use assessment be assessed as agricultural property under specified circumstances. As a county with many properties qualifying for agricultural use assessments and with many new businesses and commercial growth, I am concerned about the impact this bill would have on Frederick County’s community due to decreased local property tax revenues. While I support the current state law that creates a special, statutory scheme for assessing land subject to active agricultural use as a tool to encourage farming activities, the definition of activities in the bill extends the “use value” exception to apply to improvements on agricultural land even when their use may be better defined as commercial.

Frederick County has a thriving agritourism industry and we have enacted county policies, including an agricultural building tax credit, to support this sector. However, under the current bill language, we expect to see a decrease in revenue of roughly \$200,000, based on our local SDAT office’s estimate of how many assessments will be impacted by this change. I believe that the amendments offered by the Maryland Association of Counties will help us reach a more balanced policy that targets benefits to active agricultural land and grants local governments the tools to create the tax incentives for ancillary activities most appropriate for their communities.

Thank you for your consideration of SB 418 – Property Tax – Agricultural Land and Improvements – Assessment. I urge the committee to give this bill a favorable report with MACO’s suggested amendments.

Respectfully,



Jessica Fitzwater, County Executive
Frederick County, MD