

HOUSE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 112

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

AN ACT

RELATING TO PROPERTY TAXATION; EXPANDING THE DEFINITION OF  
"AGRICULTURAL USE" FOR PROPERTY VALUATION PURPOSES TO INCLUDE  
THE RESTING OF LAND UNDER CERTAIN CONDITIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 7-36-20 NMSA 1978 (being Laws 1973,  
Chapter 258, Section 21, as amended) is amended to read:

"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

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underscored material = new  
[bracketed material] = delete

1 creates a presumption that the land is used primarily for  
2 agricultural purposes during the tax year in which the  
3 determination is made. If the land was valued under this  
4 section in one or more of the three tax years preceding the  
5 year in which the determination is made and the use of the land  
6 has not changed since the most recent valuation under this  
7 section, a presumption is created that the land continues to be  
8 entitled to that valuation.

9 B. For the purpose of this section:

10 (1) "agricultural products" means plants,  
11 crops, trees, forest products, orchard crops, livestock,  
12 poultry, captive deer or elk, or fish; and

13 (2) "agricultural use" means the:

14 (a) use of land for the production of  
15 [plants, crops, trees, forest products, orchard crops,  
16 livestock, poultry, captive deer or elk, or fish. The term  
17 also includes the] agricultural products;

18 (b) use of land that meets the  
19 requirements for payment or other compensation pursuant to a  
20 soil conservation program under an agreement with an agency of  
21 the federal government;

22 (c) resting of land to maintain its  
23 capacity to produce agricultural products; or

24 (d) resting of land as the direct result  
25 of at least moderate drought conditions as designated by the

1 United States department of agriculture, if the drought  
2 conditions occurred in the county within which the land is  
3 located for at least eight consecutive weeks during the  
4 previous tax year; provided that the land was used in the tax  
5 year immediately preceding the previous tax year primarily for  
6 a purpose identified pursuant to this paragraph.

7 C. The department shall adopt rules for determining  
8 whether land is used primarily for agricultural purposes. The  
9 rules shall provide that the use of land for the lawful taking  
10 of game shall not be considered in determining whether land is  
11 used primarily for agricultural purposes.

12 D. The department shall adopt rules for determining  
13 the value of land used primarily for agricultural purposes.

14 The rules shall:

15 (1) specify procedures to use in determining  
16 the capacity of land to produce agricultural products and the  
17 derivation of value of the land based upon its production  
18 capacity;

19 (2) establish carrying capacity as the  
20 measurement of the production capacity of land used for grazing  
21 purposes, develop a system of determining carrying capacity  
22 through the use of an animal unit concept and establish  
23 carrying capacities for the land in the state classified as  
24 grazing land;

25 (3) provide that land the bona fide and

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1 primary use of which is the production of captive deer or elk  
2 shall be valued as grazing land and that captive deer shall be  
3 valued and taxed as sheep and captive elk shall be valued and  
4 taxed as cattle;

5 (4) provide for the consideration of  
6 determinations of any other governmental agency concerning the  
7 capacity of the same or similar lands to produce agricultural  
8 products;

9 (5) assure that land determined under the  
10 rules to have the same or similar production capacity shall be  
11 valued uniformly throughout the state; and

12 (6) provide for the periodic review by the  
13 department of determined production capacities and  
14 capitalization rates used for determining annually the value of  
15 land used primarily for agricultural purposes.

16 E. All improvements, other than those specified in  
17 Section 7-36-15 NMSA 1978, on land used primarily for  
18 agricultural purposes shall be valued separately for property  
19 taxation purposes, and the value of these improvements shall be  
20 added to the value of the land determined under this section.

21 F. The owner of the land [~~must~~] shall make  
22 application to the county assessor in a tax year in which the  
23 valuation method of this section is first claimed to be  
24 applicable to the land or in a tax year immediately subsequent  
25 to a tax year in which the land was not valued under this

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1 section. Application shall be made under oath, shall be in a  
 2 form and contain the information required by department rules  
 3 and ~~must~~ shall be made no later than thirty days after the  
 4 date of mailing by the assessor of the notice of valuation.  
 5 Once land is valued under this section, application need not be  
 6 made in subsequent tax years as long as there is no change in  
 7 the use of the land.

8 G. The owner of land valued under this section  
 9 shall report to the county assessor whenever the use of the  
 10 land changes so that it is no longer being used primarily for  
 11 agricultural purposes. This report shall be made on a form  
 12 prescribed by department rules and shall be made by the last  
 13 day of February of the tax year immediately following the year  
 14 in which the change in the use of the land occurs.

15 H. Any person who is required to make a report  
 16 under the provisions of Subsection G of this section and who  
 17 fails to do so is personally liable for a civil penalty in an  
 18 amount equal to the greater of twenty-five dollars (\$25.00)  
 19 or twenty-five percent of the difference between the property  
 20 taxes ultimately determined to be due and the property taxes  
 21 originally paid for the tax years for which the person failed  
 22 to make the required report."

23 **SECTION 2. APPLICABILITY.**--The provisions of this act  
 24 apply to the 2016 and subsequent property tax years.