

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

681W0096

SENATE BILL NO. 44

Introduced by: Senators Sutton and Frerichs at the request of the Agricultural Land Assessment Implementation and Oversight Advisory Task Force

1 FOR AN ACT ENTITLED, An Act to revise the criteria for classifying property as agricultural
2 land and to provide for additional requirements for small agricultural acreages and timber
3 land to be classified as agricultural land.

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

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

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

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

13 ~~—(2) Its principal use is devoted to the~~ one or more of the following: raising and harvesting
14 ~~of crops or timber or fruit trees;~~ producing timber in compliance with the
15 requirements provided in section 4 of this Act; the rearing; and feeding; ~~and~~



1 ~~management~~ of farm livestock, poultry, fish, or nursery stock; the production of bees
2 and apiary products; or horticulture, all for ~~intended~~ the primary purpose of
3 obtaining a monetary profit pursuant to subdivision (1) of this section. Agricultural
4 ~~real estate also includes~~ land may also include woodland; and wasteland; and pasture
5 ~~land,~~ but only if ~~the~~ that land is held and operated in conjunction with agricultural
6 ~~real estate land~~ land as defined in this section and it all of the land is under ~~the same~~
7 common ownership; and

8 ~~(3)~~(2) It consists of a single parcel of not less than twenty acres of ~~unplatted~~ land or is a part
9 of a ~~contiguous ownership of not less than eighty~~ management unit of not less than
10 one hundred sixty acres of ~~unplatted~~ land. ~~The same acreage specifications apply to~~
11 ~~platted land, excluding land platted as a subdivision, which is in an unincorporated~~
12 ~~area.~~ However, the board of county commissioners may increase the minimum acre
13 requirement up to one hundred sixty acres. No land platted as a subdivision may
14 qualify as agricultural land.

15 For the purpose of this section and section 4 of this Act, the term, management unit, means
16 any parcels of land, whether adjoining or not, under common ownership located within this state
17 and managed and operated as a unit for one or more of the agricultural uses listed in this section.
18 No parcel of land less than twenty acres within a management unit may be more than twenty air
19 miles from the nearest other parcel within the management unit. No parcel of land within a
20 management unit may be located within a subdivision or an incorporated municipality. If
21 requested by the director of equalization, the owner shall provide supporting documentation of
22 the land contained in the management unit.

23 For the purposes of this section, the term, principal use, means the primary use to which the
24 land is devoted. This definition is intended to reference the primary and predominant use of the

1 land as opposed to a mere secondary and incidental use. Land is not agricultural land if its
2 principal use is devoted to a residential, commercial, industrial, or recreational use.

3 For the purpose of this section, the term, subdivision, means any division of land which
4 creates five or more lots and is recorded with a subdivision name.

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

7 A parcel of land that is less than twenty acres or the minimum acreage requirement
8 established by the board of county commissioners may qualify for the agricultural land
9 classification pursuant to § 10-6-31.3 and section 4 of this Act if the owner applies to the
10 director of equalization requesting classification of the parcel as agricultural land and it meets
11 the following additional criteria:

12 (1) The land is being used consistent with its size, location, and capability and its
13 principal use is for the raising and marketing of agricultural products as required by
14 § 10-6-31.3;

15 (2) The land is not devoted to a residential, commercial, industrial, or recreational use;
16 and

17 (3) At least two thousand five hundred dollars of gross income is annually derived from
18 agricultural use on the land by the owner. The board of county commissioners may
19 allow an exception to the annual income requirement for a production failure,
20 marketing delay for an economic advantage, planting a crop that will not yield an
21 income in the assessment year, or the raising or harvesting of timber.

22 The application or request shall contain an oath verifying the validity of the information
23 contained in the application or request.

24 Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Notwithstanding the provisions of § 10-6-31.3, any state-owned public shooting area or a
3 state-owned game production area as identified in § 41-4-8 that is owned and managed by the
4 Department of Game, Fish and Parks shall be assessed and taxed as agricultural land.

5 Section 4. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 A parcel of timber land that consists of at least twenty acres or the minimum acreage
8 requirement established by the board of county commissioners or is part of a management unit
9 of not less than one hundred sixty acres of land and that is used to produce tangible wood
10 products that originate from the land for the primary purpose of obtaining a monetary profit may
11 be classified as agricultural land pursuant to § 10-6-31.3, if the land is subject to a timber
12 management plan that has as its principal purpose the production and harvest of timber products
13 for a monetary profit.

14 The board of county of commissioners may adopt, by resolution or ordinance, the minimum
15 required components of a timber management plan. The board may also establish additional
16 criteria for the purpose of granting and maintaining the agricultural classification for timber
17 land.