

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

735E0449

SENATE BILL NO. 197

Introduced by: Senators Hutmacher and Symens and Representatives Hanson (Gary),
Nachtigal, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to create a classification for owner-operated farm property
2 and class 2 agricultural property, to establish a maximum property tax levy for class 2
3 agricultural property for the general fund of a school district, and to repeal the classification
4 for nonagricultural acreage.

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

6 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 If a farm or ranch is owned and operated by an individual or individuals to produce gross
9 derived income from the farm or ranch as defined in § 61 of the Internal Revenue Code, as
10 amended on January 1, 2001, the individual or individuals may request that the farm or ranch be
11 classified as an owner-operated farm pursuant to this Act. An owner-operated farm may be
12 organized in any legal form authorized by South Dakota law. The individual or individuals shall
13 own one hundred percent of the owner-operated farm and the individual or individuals are, or
14 were before retirement, actively operating the farm or ranch as their primary economic activity.
15 Primary economic activity means that all the individuals spend, or spent before retirement, a

1 majority of their time working on such farm or ranch, that this activity is the owner's primary
2 source of income, and the owner shares in the risk of producing agricultural products and is
3 entitled to share in the agricultural products available for marketing from the farm or ranch. For
4 purposes of this Act, an owner-operated farm property is any building, structure, or land which
5 is owned by all the owners of the owner-operated farm and assessed and taxed as a separate unit.
6 If the owner operates the farm or ranch in less than one hundred percent of the property, the
7 portion of the property so used by the owner shall be classified as an owner-operated farm. For
8 the purposes of this Act an individual is a natural person.

9 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 To be eligible for a property tax classification as an owner-operated farm pursuant to this
12 Act, all the owners of such farm or ranch shall submit a certificate prescribed by the Department
13 of Revenue, signed by each owner under oath, to the county director of equalization stating such
14 individual or individuals are the owners of the property on the legal assessment date and meet
15 the requirements of this Act. The owner shall sign the certificate under penalty of perjury and
16 shall submit the certificate by March fifteenth. The owner shall notify the director of equalization
17 if a change in eligibility for this classification occurs.

18 The director of equalization may request the owner or owners to supply any information the
19 director deems necessary to establish the classification. If the director of equalization classifies
20 the property as an owner-operated farm, the property shall retain this classification until such
21 time that the owner's eligibility for this classification changes. If the director has questions as to
22 the continued compliance with the requirements to maintain this property tax classification, the
23 director of equalization may require evidence of compliance from the owner or owners.

24 Section 3. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any individual or individuals who receive an owner-operated farm classification by
3 misrepresenting the facts concerning ownership or eligibility for such classification shall be
4 assessed a penalty equal to five dollars per thousand dollars of valuation on the property, which
5 assessment shall become a perpetual lien on the property pursuant to § 10-21-33. The individual
6 or individuals shall be barred from receiving the owner-operated farm classification for any
7 property in the state for the following five years.

8 Section 4. That § 10-6-31.3 be amended to read as follows:

9 10-6-31.3. For tax purposes, land is agricultural land if it meets ~~two~~ of the following ~~three~~
10 criteria:

11 (1) ~~At least thirty-three and one-third percent of the total family gross income of the~~
12 ~~owner is derived from the pursuit of agriculture as defined in subdivision (2) of this~~
13 ~~section or it is a state-owned public shooting area or a state-owned game production~~
14 ~~area as identified in § 41-4-8 and it is owned and managed by the Department of~~
15 ~~Game, Fish and Parks~~ The property has been classified as an owner-operated farm
16 pursuant to sections 1 and 2 of this Act;

17 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit
18 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or nursery
19 stock, the production of bees and apiary products, or horticulture, all for intended
20 profit pursuant to subdivision (1) of this section. Agricultural real estate also includes
21 woodland, wasteland, and pasture land, but only if the land is held and operated in
22 conjunction with agricultural real estate as defined and it is under the same ownership;
23 and

24 (3) It consists of not less than twenty acres of unplatted land or is a part of a contiguous

1 ownership of not less than eighty acres of unplatted land. The same acreage
 2 specifications apply to platted land, excluding land platted as a subdivision, which is
 3 in an unincorporated area. However, the board of county commissioners may increase
 4 the minimum acre requirement up to one hundred sixty acres.

5 ~~— However, for tax purposes, land is not agricultural land if the land is classified pursuant to~~
 6 ~~§ 10-6-33.14 as a nonagricultural acreage.~~

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

9 For tax purposes, land is class 2 agricultural property if it meets two of the following three
 10 criteria:

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

16 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit
 17 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or nursery
 18 stock, the production of bees and apiary products, or horticulture, all for intended
 19 profit pursuant to subdivision (1) of this section. Agricultural real estate also includes
 20 woodland, wasteland, and pasture land, but only if the land is held and operated in
 21 conjunction with agricultural real estate as defined and it is under the same ownership;
 22 or

23 (3) It consists of not less than twenty acres of unplatted land or is a part of a contiguous
 24 ownership of not less than eighty acres of unplatted land. The same acreage

1 specifications apply to platted land, excluding land platted as a subdivision, which is
2 in an unincorporated area. However, the board of county commissioners may increase
3 the minimum acre requirement up to one hundred sixty acres.

4 However, for tax purposes, land is not class 2 agricultural property if the land is classified
5 pursuant to section 4 of this Act as agricultural land.

6 Section 6. Sections 1 to 5, inclusive, of this Act are effective on January 1, 2002.

7 Section 7. That § 10-12-42 be amended to read as follows:

8 10-12-42. For taxes payable in ~~2001~~ 2003 and each year thereafter, the levy for the general
9 fund of a school district shall be as follows:

10 (1) The maximum tax levy shall be thirteen dollars and ninety-three cents per thousand
11 dollars of taxable valuation subject to the limitations on agricultural property as
12 provided in subdivision (2) of this section, owner-occupied property as provided for
13 in subdivision (3) of this section, and ~~nonagricultural acreage property as provided for~~
14 ~~in subdivision (4) of this section~~ class 2 agricultural property as provided for in
15 subdivision (5) of this section;

16 (2) The maximum tax levy on agricultural property for such school district shall be four
17 dollars and five cents per thousand dollars of taxable valuation. If the district's levies
18 are less than the maximum levies as stated in this section, the levies shall maintain the
19 same proportion to each other as represented in the mathematical relationship at the
20 maximum levies;

21 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
22 § 10-13-40, for such school district may not exceed six dollars and fifty-two cents per
23 thousand dollars of taxable valuation. If the district's levies are less than the maximum
24 levies as stated in this section, the levies shall maintain the same proportion to each

1 other as represented in the mathematical relationship at the maximum levies; and

2 (4) ~~The maximum tax levy on nonagricultural acreage property as defined in~~
3 ~~§ 10-6-33.14, for such school district shall be five dollars and five cents per thousand~~
4 ~~dollars of taxable valuation. If the district's levies are less than the maximum levies as~~
5 ~~stated in this section, the levies shall maintain the same proportion to each other as~~
6 ~~represented in the mathematical relationship at the maximum levies.~~

7 (5) The maximum tax levy for class 2 agricultural property as defined in section 5 of this
8 Act, for such school district shall be six dollars and five cents per thousand dollars of
9 the property's taxable valuation. If the district's levies are less than the maximum
10 levies as stated in this section, the levies shall maintain the same proportion to each
11 other as represented in the mathematical relationship at the maximum levies.

12 All levies in this section shall be imposed on valuations where the median level of assessment
13 represents eighty-five percent of market value as determined by the Department of Revenue.
14 These valuations shall be used for all school funding purposes. If the district has imposed an
15 excess levy pursuant to § 10-12-43, the levies shall maintain the same proportion to each other
16 as represented in the mathematical relationship at the maximum levies in this section. The school
17 district may elect to tax at less than the maximum amounts set forth in this section.

18 Section 8. Section 7 of this Act is effective on January 1, 2003.

19 Section 9. That § 10-6-33.14 be repealed.

20 ~~—10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than one~~
21 ~~hundred fifty percent of its agricultural income value is hereby classified for purposes of ad~~
22 ~~valorem taxation as a nonagricultural acreage. The agricultural income value shall be determined~~
23 ~~pursuant to § 10-6-33.15.~~

24 Section 10. That § 10-6-33.15 be repealed.

1 ~~10-6-33.15. For the purposes of § 10-6-33.14, the agricultural income value shall be~~
2 ~~determined using capitalized actual annual cash rent. The actual annual cash rent is the actual~~
3 ~~annual cash rent, excluding the actual per acre tax on agricultural land, determined through an~~
4 ~~analysis of actual arm's length rental agreements collected within the county in the year prior to~~
5 ~~the year for which the income value is being determined. The annual cash rent shall be capitalized~~
6 ~~at eight percent.~~

7 Section 11. That § 10-6-33.16 be repealed.

8 ~~10-6-33.16. The secretary of revenue may enter into a contract for the collection of cash rent~~
9 ~~information by county. Cash rent information shall be adjusted by soil survey statistics if~~
10 ~~available.~~

11 Section 12. That § 10-6-33.17 be repealed.

12 ~~10-6-33.17. Any land which is classified pursuant to §§ 10-6-33.14 to 10-6-33.19, inclusive,~~
13 ~~shall remain so classified for a minimum of five years. Five years after the land is so classified,~~
14 ~~the land may be reclassified as agricultural land if the land remains in agricultural use during the~~
15 ~~five year period and if the owner of the land submits an annual application to the director of~~
16 ~~equalization. The application shall include verified documentation that the land has been in~~
17 ~~agricultural use during past year. If the land meets the criteria set forth in § 10-6-31.3, has been~~
18 ~~in agricultural use for five years, and the application requirement in this section is complied with,~~
19 ~~the director of equalization may reclassify the nonagricultural acreage as agricultural land.~~

20 Section 13. That § 10-6-33.18 be repealed.

21 ~~10-6-33.18. Land classified pursuant to §§ 10-6-33.14 to 10-6-33.19, inclusive, shall be~~
22 ~~valued for ad valorem tax purposes at the price for which such land sold multiplied times the~~
23 ~~level of assessment for nonagricultural property within the county. The value of such land shall~~
24 ~~be increased or decreased each year by the same percentage that the value of nonagricultural~~

1 ~~property increases or decreases.~~