

CHAPTER 136

TAXATION

SENATE BILL 97-039

BY SENATORS Johnson, Ament, Chlouber, Hernandez, and Wattenberg;
also REPRESENTATIVES Grampas, Alexander, Johnson, Lamborn, Musgrave, Nichol, Reeser, Schwarz, Udall, and Young.

AN ACT

CONCERNING EXPANSION OF REQUIREMENTS FOR CLASSIFICATION AS AGRICULTURAL PROPERTY FOR
PROPERTY TAX PURPOSES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 39-1-102 (1.1) and (1.6), Colorado Revised Statutes, 1994 Repl. Vol., as amended, are amended to read:

39-1-102. Definitions. As used in articles 1 to 13 of this title, unless the context otherwise requires:

(1.1) "Agricultural and livestock products" means plant or animal products in a raw or unprocessed state ~~which~~ 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.

(1.6) (a) "Agricultural land", WHETHER USED BY THE OWNER OF THE LAND OR A LESSEE, means one of the following:

(I) A parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, ~~which~~ 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 ~~and the gross income resulting from such use equals or exceeds one-third of the total gross income resulting from all uses of the property during any given property tax year; or which~~ THAT is in the process of being restored

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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) includes land underlying any residential improvement located on such agricultural land and 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 RESOURCE CONSERVATION SERVICE PURSUANT TO 7 U.S.C. SECS. 01 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.

(II) A parcel of land ~~which~~ THAT consists of at least forty acres, ~~which~~ THAT is forest land, ~~which~~ 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, ~~which~~ THAT is subject to a forest management plan, and ~~which~~ 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 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 GROUND WATER 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) All other agricultural property ~~which~~ 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.

(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.

SECTION 2. 39-10-114 (1) (a) (I) (A), Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended to read:

39-10-114. Abatement, cancellation of taxes. (1) (a) (I) (A) Except as otherwise provided in sub-subparagraphs (D) and (E) of this subparagraph (I), if taxes have been levied erroneously or illegally, whether due to erroneous valuation for assessment, irregularity in levying, clerical error, or overvaluation, the treasurer shall report the amount thereof to the board of county commissioners, which shall proceed to abate such taxes in the manner provided by law. The assessor shall make such report if the assessor discovers that taxes have been levied erroneously or illegally. If such taxes have been collected by the treasurer, the board of county commissioners shall authorize refund of the same in the manner provided by law. Except as provided in sub-subparagraphs (E) and (F) of this subparagraph (I), in no case shall an abatement or refund of taxes be made unless a petition for abatement or refund is filed within two years after January 1 of the year following the year in which the taxes were levied. For purposes of this sub-subparagraph (A), "clerical error" shall include, but shall not be limited to, any clerical error made by a taxpayer in completing personal property schedules pursuant to the provisions of article 5 of this title. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (A), "ERRONEOUS VALUATION" SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO: ANY RECLASSIFICATION OF PROPERTY FROM AGRICULTURAL LAND TO ANY OTHER CLASSIFICATION OF PROPERTY FOR THE PROPERTY TAX YEAR COMMENCING JANUARY 1, 1996, IF THE PROPERTY IN QUESTION QUALIFIES FOR CLASSIFICATION AS AGRICULTURAL LAND AS DETERMINED PURSUANT TO SECTION 39-1-102 (1.6), AS AMENDED BY SENATE BILL 97-039, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY; AND ANY DENIAL OF EXEMPTION FROM TAXATION FOR PROPERTY CLAIMED AS AGRICULTURAL AND LIVESTOCK PRODUCTS FOR THE PROPERTY TAX YEAR COMMENCING JANUARY 1, 1996, IF THE PROPERTY IN QUESTION QUALIFIES AS AGRICULTURAL AND LIVESTOCK PRODUCTS AS DETERMINED PURSUANT TO SECTION 39-1-102 (1.1), AS AMENDED BY SENATE BILL 97-039, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY.

SECTION 3. Effective date - applicability. This act shall take effect upon

passage and section 1 of this act shall apply to property tax years commencing on or after January 1, 1997.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 24, 1997