

SENATE, No. 3839

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Authorizes farmland assessment for forested lands and woodlands devoted to the production of USDA designated specialty crops; exempts such lands from woodland management plan requirement.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning farmland assessment for lands devoted to the
2 production of specialty crops and amending P.L.1964, c.48.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.1964, c.48 (54:4-23.3) is amended to read
8 as follows:

9 3. Land shall be deemed to be in agricultural use when devoted
10 to the production for sale of plants and animals useful to man,
11 including but not limited to: forages and sod crops; grains and feed
12 crops; dairy animals and dairy products; poultry and poultry
13 products; livestock, including beef cattle, sheep, swine, horses,
14 ponies, mules or goats, including the breeding, boarding, raising,
15 rehabilitating, training or grazing of any or all of such animals,
16 except that "livestock" shall not include dogs; bees and apiary
17 products; fur animals; trees and forest products; or when devoted to
18 and meeting the requirements and qualifications for payments or
19 other compensation pursuant to a soil conservation program under
20 an agreement with an agency of the federal government, except that
21 land which is devoted exclusively to the production for sale of tree
22 and forest products, other than Christmas trees, or devoted as
23 sustainable forestland, and is not appurtenant woodland, shall not
24 be deemed to be in agricultural use unless the landowner fulfills the
25 following additional conditions:

26 a. The landowner establishes and complies with the provisions
27 of a forest stewardship plan for this land, approved by the
28 Department of Environmental Protection pursuant to section 3 of
29 P.L.2009, c.256 (C.13:1L-31), or a woodland management plan for
30 this land, prepared in accordance with policies, guidelines and
31 practices approved by the Division of Parks and Forestry in the
32 Department of Environmental Protection, in consultation with the
33 Department of Agriculture and the Dean of Cook College at
34 Rutgers, The State University, which policies, guidelines and
35 practices are designed to eliminate excessive and unnecessary
36 cutting;

37 b. The landowner, and a forester from a list of foresters
38 approved by the Department of Environmental Protection or other
39 professional from a list of other professionals authorized by the
40 department in consultation with the forest stewardship advisory
41 committee established pursuant to section 8 of P.L.2009, c.256
42 (C.13:1L-36), annually attest to compliance with subsection a. of
43 this section; and

44 c. The landowner annually submits an application, as
45 prescribed in section 13 of P.L.1964, c.48 (C.54:4-23.13), to the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 assessor, accompanied by a copy of the plan established pursuant to
2 subsection a. of this section; written documentation of compliance
3 with subsection b. of this section; a supplementary woodland data
4 form setting forth woodland management actions taken in the pre-
5 tax year, the type and quantity of tree and forest products sold, and
6 the amount of income received or anticipated for same; a map of the
7 land showing the location of the activity and the soil group classes
8 of the land; and other pertinent information required by the Director
9 of the Division of Taxation as part of the application for valuation,
10 assessment and taxation, as provided in P.L.1964, c.48 (C.54:4-
11 23.1 et seq.). The landowner shall, at the same time, submit to the
12 Commissioner of the Department of Environmental Protection an
13 exact copy of the application and accompanying information
14 submitted to the assessor pursuant to this subsection.

15 The requirements of subsections a. through c. of this section
16 shall not apply to the production of a crop designated as a specialty
17 crop by the United States Department of Agriculture. Forested land
18 or woodlands shall be deemed to be in agricultural use when
19 devoted to the production for sale of a specialty crop, including, but
20 not limited to, the production of maple syrup from sap collected
21 from trees grown and maintained on the forested lands or
22 woodlands. The landowner producing a specialty crop on forested
23 land or woodlands shall not be required to submit a woodland
24 management plan for the forested lands or woodlands as part of the
25 application for farmland assessment. The landowner shall annually
26 submit an application, as prescribed in section 13 of P.L.1964, c.48
27 (C.54:4-23.13), to the assessor, accompanied with written
28 documentation of the production of a specialty crop on the lands,
29 the designation of the specialty crop as such by the United States
30 Department of Agriculture, the type and quantity of the specialty
31 crop produced and sold, and the amount of income received or
32 anticipated for the same.

33 For the purposes of this amendatory and supplementary act,
34 "appurtenant woodland" means a wooded piece of property which is
35 contiguous to, part of, or beneficial to a tract of land, which tract of
36 land has a minimum area of at least five acres devoted to
37 agricultural or horticultural uses other than the production for sale
38 of trees and forest products, exclusive of Christmas trees, to which
39 tract of land the woodland is supportive and subordinate.

40 For the purposes of section 7 of P.L.2009, c.213 and P.L.1964,
41 c.48 (C.54:4-23.1 et seq.):

42 (1) agricultural use shall also include biomass, solar, or wind
43 energy generation, provided that the biomass, solar, or wind energy
44 generation is consistent with the provisions of P.L.2009, c.213
45 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations
46 adopted therefor; and

47 (2) "biomass" means an agricultural crop, crop residue, or
48 agricultural byproduct that is cultivated, harvested, or produced on

1 the farm, or directly obtained from a farm where it was cultivated,
2 harvested, or produced, and which can be used to generate energy in
3 a sustainable manner, except with respect to preserved farmland,
4 "biomass" means the same as that term is defined in section 1 of
5 P.L.2009, c.213 (C.4:1C-32.4).
6 (cf: P.L.2009, c.256, s.13)
7

8 2. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read
9 as follows:

10 5. a. Except as otherwise provided in subsection d. of this
11 section, land, five acres in area, shall be deemed to be actively
12 devoted to agricultural or horticultural use when the amount of the
13 gross sales of agricultural or horticultural products produced
14 thereon, including a crop designated as a specialty crop by the
15 United States Department of Agriculture, any payments received
16 under a soil conservation program, fees received for breeding,
17 raising or grazing any livestock, income imputed to cropland
18 pastured and permanent pasture land used for grazing in the amount
19 determined by the State Farmland Evaluation Committee created
20 pursuant to section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees
21 received for boarding, rehabilitating or training any livestock where
22 the land under the boarding, rehabilitating or training facilities is
23 contiguous to land which otherwise qualifies for valuation,
24 assessment and taxation under P.L.1964, c.48, have averaged at
25 least \$1,000 per year during the two-year period immediately
26 preceding the tax year in issue, or there is clear evidence of
27 anticipated yearly gross sales, payments, fees, and imputed income
28 amounting to at least \$1,000 within a reasonable period of time, or
29 such amount as may be established by the State Farmland
30 Evaluation Committee pursuant to this section. In the case of
31 woodland subject to a woodland management plan pursuant to
32 section 3 of P.L.1964, c.48 (C.54:4-23.3), the amount shall be at
33 least \$500, or such amount as may be established by the State
34 Farmland Evaluation Committee pursuant to this section. Every
35 three years, or sooner at the call of the Secretary of Agriculture or
36 the Director of the Division of Taxation, the State Farmland
37 Evaluation Committee shall review the minimum gross sales,
38 payments, fees, and imputed income requirements, and anticipated
39 yearly gross sales, payments, fees, and imputed income
40 requirements, established in this section for the first five acres, and
41 may, by rule or regulation adopted pursuant to the "Administrative
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), raise the
43 amounts of those minimums to such levels as the committee
44 determines appropriate. Any increase made to the minimum gross
45 sales, payments, fees, and imputed income requirements, and
46 anticipated yearly gross sales, payments, fees and imputed income
47 requirements, for the first five acres as authorized pursuant to this

1 section shall not be enforced until the third tax year following
2 adoption of the increase.

3 In addition, where the land is more than five acres in area, it
4 shall be deemed to be actively devoted to agricultural or
5 horticultural use when the amount of the gross sales of agricultural
6 or horticultural products, including a crop designated as a specialty
7 crop by the United States Department of Agriculture, produced on
8 the area above five acres, any payments received under a soil
9 conservation program, fees received for breeding, raising or grazing
10 any livestock, income imputed to cropland pastured and permanent
11 pasture land used for grazing in the amount determined by the State
12 Farmland Evaluation Committee created pursuant to section 20 of
13 P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding,
14 rehabilitating or training any livestock where the land under the
15 boarding, rehabilitating or training facilities is contiguous to land
16 which otherwise qualifies for valuation, assessment and taxation
17 under P.L.1964, c.48, have averaged at least \$5.00 per acre per year
18 during the two-year period immediately preceding the tax year in
19 issue, or there is clear evidence of anticipated yearly gross sales,
20 payments, fees, and imputed income amounting to an average of at
21 least \$5.00 per year within a reasonable period of time; except in
22 the case of woodland and wetland, where the minimum requirement
23 shall be an average of \$0.50 per acre on the area above five acres.

24 In addition, in order for land to be deemed to be actively devoted
25 to agricultural or horticultural use, the activity and use must be
26 consistent with the guidelines describing generally accepted
27 agricultural and horticultural practices developed and adopted
28 pursuant to subsection a. of section 1 of P.L.2013, c.43 (C.54:4-
29 23.3d).

30 As used in this section, "livestock" shall not include dogs.

31 For the purposes of this section, the presence of an intervening
32 public thoroughfare shall not preclude a finding of contiguity.

33 b. (1) Land previously qualified as actively devoted to
34 agricultural or horticultural use under P.L.1964, c.48, but failing to
35 meet the additional requirement on acreage above five acres, shall
36 not be subject to the roll-back tax because of such disqualification,
37 but shall be treated as land for which an annual application has not
38 been submitted, provided that the land remains in agricultural or
39 horticultural use.

40 (2) Land previously qualified as actively devoted to agricultural
41 or horticultural use under P.L.1964, c.48, but failing to meet any
42 increase in the minimum amount of gross sales, payments and fees
43 received, and imputed income requirements, and anticipated yearly
44 gross sales, payments, fees, and imputed income requirements,
45 established pursuant to subsection a. of this section, shall not be
46 subject to the roll-back tax because of such disqualification, but
47 shall be treated as land for which an annual application has not been

1 submitted, provided that the land remains in agricultural or
2 horticultural use.

3 (3) Land qualified as actively devoted to agricultural or
4 horticultural use as of the day before the date of enactment of
5 P.L.2013, c.43 (C.54:4-23.3d et al.) due to the use of payments or
6 other compensation received under a soil conservation program
7 agreement with any agency of the federal government, but which
8 payments or other compensation do not meet the minimum amounts
9 required pursuant to subsection a. of this section as amended by
10 P.L.2013, c.43 (C.54:4-23.3d et al.), shall continue to be deemed to
11 be actively devoted to agricultural or horticultural use for purposes
12 of valuation, assessment and taxation under P.L.1964, c.48 until the
13 end of the soil conservation program agreement period.

14 c. In determining the eligibility of land for valuation,
15 assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-
16 23.1 et seq.), the assessor of the taxing district in which the land is
17 located shall, upon request by the owner of the land, exempt the
18 owner from the income requirements of this section if the owner
19 demonstrates to the satisfaction of the assessor that the failure to
20 meet the income requirements was due to an injury, illness or death
21 of the person responsible for performing the activities which
22 produce the income necessary to meet the income eligibility
23 requirement of this section. The request of the owner shall be
24 accompanied by a certificate of a physician stating that the person
25 was physically incapacitated or by a certified copy of the death
26 certificate, as the case may be. The assessor may only grant an
27 exemption once for a particular illness, injury or death.

28 d. The gross sales, payments, fees, and imputed income
29 received pursuant to the requirements of this section shall not apply
30 to land that (1) is the subject of a forest stewardship plan approved
31 by the Department of Environmental Protection pursuant to section
32 3 of P.L.2009, c.256 (C.13:1L-31) which is fully implemented, and
33 (2) otherwise qualifies under the "Farmland Assessment Act of
34 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for valuation,
35 assessment and taxation as land in agricultural or horticultural use
36 pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3).
37 (cf: P.L.2013, c.43, s.2)

38

39 3. This act shall take effect immediately.

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41

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STATEMENT

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44 This bill amends the "Farmland Assessment Act of 1964," to
45 deem forested land or woodlands to be in agricultural use when
46 devoted to the production for sale of a crop designated as a
47 specialty crop by the United States Department of Agriculture,
48 including, but not limited to, the production of maple syrup from

1 sap collected from trees grown and maintained on the forested lands
2 or woodlands. The bill further exempts the landowner of such lands
3 from the woodland management plan requirement to receive
4 farmland assessment valuation for such lands. The bill does not
5 change the other income and eligibility requirements for farmland
6 assessment under the current law.