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DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 163

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO FARMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 8333, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8333. Criteria for agricultural, horticultural, or forestry land use.

(a) Land ~~shall be deemed to be~~ is actively devoted to agricultural, ~~horticultural~~ horticultural, or forestry use ~~when:~~
when all of the following criteria are met:

(1) The use results in \$1,000 or more of agricultural, horticultural, or forestry products being produced and sold during the applicable year. For the purposes of this section, "applicable year" means the calendar year immediately before the February 1 that an application is due under § 8334(3) of this title.

(2) The owner of the land filed a Schedule F (Profit or Loss from Farming) form with the United States Department of Treasury, Internal Revenue Service, for the applicable year.

(3) The use is on at least 10 acres.

~~(1) Not less than 10 acres are in such use, and the gross sales of agricultural, horticultural or forestry products produced thereon together with any agricultural program payments and sales of commodities received under government entitlement programs have averaged at least \$1,000 per year within a 2-year period of time immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$1,000 per year, within a 2-year period of time; or~~

~~(2) Less than 10 acres are in such use and the gross sales of agricultural, horticultural or forestry products produced thereon together with any agricultural program payments and sales of commodities received under government entitlement programs shall have averaged at least \$10,000 per year within a 2-year period of time immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$10,000 per year within a 2-year period of time. In computing such anticipated yearly~~

gross sales for land under 10 acres in such use, the maximum amount computed from future sales of forestry products shall be not more than \$2,000 annually.

(b) In applying ~~these~~ the criteria under this section, and in determining whether the minimum acreage requirements ~~are~~ requirement is met, all contiguous parcels of land held by identical owners in identical proportions of ownership and in identical legal form of title, ~~shall be~~ are considered as a single unit.

Section 2. Amend § 8334, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8334. Eligibility for valuation under §§ 8330-8337.

Land ~~which~~ is actively devoted to agricultural, horticultural or forest use ~~shall be~~ and eligible for valuation, ~~assessment~~ assessment, and taxation as provided in this section when it meets all of the following qualifications:

(1) ~~It has been so devoted for at least the 2 successive years immediately preceding the tax year for which valuation under this section is requested;~~ The land use meets the criteria under § 8333 of this title.

(2) ~~The area of such land:~~

(a) ~~Is not less than 10 acres in such use, and the gross sales of agricultural, horticultural or forestry products produced thereon together with any agricultural program payments and sales of commodities received under government entitlement programs have averaged at least \$1,000 per year within a 2-year period of time immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$1,000 per year, within a 2-year period of time; or~~

(b) ~~Is less than 10 acres in such use and the gross sales of agricultural, horticultural or forestry products produced thereon together with any agricultural program payments and sales of commodities received under government entitlement programs shall have averaged at least \$10,000 per year within a 2-year period of time immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$10,000 per year within a 2-year period of time. In computing such anticipated yearly gross sales for land under 10 acres in such use, the maximum amount computed from future sales of forestry products shall not be more than \$2,000 annually.~~ [Repealed.]

~~In applying these criteria, and in determining whether the minimum acreage requirements are met, all contiguous parcels of land held by identical owners in identical proportions of ownership and in identical legal form of title, shall be considered as a single unit.~~

(3) ~~Application by the owner of such land for valuation under this section is submitted~~ The owner of the land submits an application for valuation under this section and the application meets all of the following:

52 a. Is submitted on or before February 1 of the year immediately preceding the tax year to the assessor of
53 the taxing district in which ~~such~~ the land is ~~situated~~ situated. If February 1 falls on a weekend day or legal holiday,
54 then the application must be submitted on the next official business day.

55 b. Is submitted on the form prescribed by the State Farmland Evaluation Advisory ~~Committee~~
56 Committee.

57 c. ~~together with~~ Includes evidence in writing of the required ~~sales, payments and anticipated sales and~~
58 ~~payments~~ production and sales.

SYNOPSIS

This Act more closely aligns the meaning of agricultural, horticultural, and forestry land use with the U.S. Census Bureau's definition of "farm," which, since the 1974 Census, has included "any place from which \$1,000 or more of agricultural products were produced and sold . . . during the year." This alignment will ensure a more equitable tax treatment of farms throughout Delaware.

Under this Act, the use qualifies as agricultural, horticultural, or forestry only if, during the applicable year, the use results in \$1,000 or more of products being produced or sold, the owner of the land files a Schedule F (Profit or Loss From Farming) form with the U.S. Internal Revenue Service, and the use is made on at least 10 acres. "Applicable year" means the calendar year immediately before the February 1 that an application for valuation is due under § 8334(3) of Title 9.

This Act keeps the existing Delaware law that allows contiguous parcels to be combined to reach the required threshold. This Act also clarifies that an application for valuation must be submitted on the next official business day if February 1 falls on a weekend day or legal holiday.

Finally, this Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual, including citing to § 8333 within § 8334, both of Title 9, instead of duplicating identical language in 2 places in the Code.

Author: Senator Lawson