

**As Passed by the Senate**

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**Sub. S. B. No. 36**

**Senator Hite**

**Cosponsors: Senators Obhof, Gardner, Beagle, Peterson, Coley, Hoagland, Hottinger, LaRose, Hackett, Williams, Brown, O'Brien, Lehner, Bacon, Balderson, Burke, Dolan, Eklund, Huffman, Oelslager, Sykes, Tavares, Thomas, Uecker, Wilson, Yuko**

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**A BILL**

To amend sections 5713.31, 5713.34, and 5715.01 of  
the Revised Code to require that the computation  
of the capitalization rate for the purposes of  
determining CAUV of agricultural land be  
computed using a method that excludes  
appreciation and equity buildup and to stipulate  
that CAUV land used for a conservation practice  
or enrolled in a federal land retirement or  
conservation program for at least three years  
must be valued at the lowest of the values  
assigned on the basis of soil type.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 5713.31, 5713.34, and 5715.01 of  
the Revised Code be amended to read as follows:

**Sec. 5713.31.** At any time after the first Monday in  
January and prior to the first Monday in March of any year, an  
owner of agricultural land may file an application with the

county auditor of the county in which such land is located, 17  
requesting the auditor to value the land for real property tax 18  
purposes at the current value such land has for agricultural 19  
use, in accordance with section 5715.01 of the Revised Code and 20  
the rules adopted by the commissioner for the valuation of such 21  
land. An owner's first application with respect to the owner's 22  
land shall be in the form of an initial application. Each 23  
application filed in ensuing consecutive years after the initial 24  
application by that owner shall be in the form of a renewal 25  
application. The commissioner shall prescribe the form of the 26  
initial and the renewal application, but the renewal application 27  
shall require no more information than is necessary to establish 28  
the applicant's continued eligibility to have the applicant's 29  
land valued for agricultural use, for all lots, parcels, or 30  
tracts of land, or portions thereof, within a county, that have 31  
been valued at the current value of such land for agricultural 32  
use in the preceding tax year. If, on the first day of January 33  
of the tax year, any portion of the applicant's agricultural 34  
land is used for a conservation practice or devoted to a land 35  
retirement or conservation program under an agreement with an 36  
agency of the federal government, the applicant shall so 37  
indicate on the initial or renewal application. 38

On or before the second Tuesday after the first Monday in 39  
March, the auditor shall determine whether the current owner of 40  
any lot, parcel, or tract of land or portion thereof contained 41  
in the preceding tax year's agricultural land tax list failed to 42  
file an initial or renewal application, as appropriate, for the 43  
current tax year with respect to such lot, parcel, or tract or 44  
portion thereof. The auditor shall forthwith notify, by 45  
certified mail, each owner who failed to file an application 46  
that unless application is filed with the auditor prior to the 47

first Monday of April of the current year, the land will be 48  
valued for real property tax purposes in the current tax year at 49  
its true value in money and that the recoupment required by 50  
sections 5713.34 and 5713.35 of the Revised Code will be placed 51  
on the current year's tax list and duplicate for collection. 52

Each initial application shall be accompanied by a fee of 53  
twenty-five dollars. Application fees shall be paid into the 54  
county treasury to the credit of the real estate assessment fund 55  
created under section 325.31 of the Revised Code. 56

Upon receipt of an application and payment of the required 57  
fee the auditor shall determine whether the information 58  
contained therein is correct and the application complete. 59

If the auditor determines the information is incorrect or 60  
the application is incomplete, the auditor shall return the 61  
application to the applicant by certified mail with an 62  
enumeration of the items which are incorrect or incomplete. An 63  
applicant may file an amended application, without charge, 64  
within fifteen days of the receipt of the returned application. 65

If the auditor determines the application or amended 66  
application is complete and the information therein is correct, 67  
the auditor shall, prior to the first Monday in August, view or 68  
cause to be viewed the land described in the application and 69  
determine whether the land is land devoted exclusively to 70  
agricultural use. 71

If the auditor determines, which determination shall be 72  
made as of the first Monday of August, annually, that the land 73  
is land devoted exclusively to agricultural use, the auditor 74  
shall appraise it for real property tax purposes in accordance 75  
with section 5715.01 of the Revised Code and the rules adopted 76

by the commissioner for the valuation of land devoted 77  
exclusively to agricultural use and such appraised value shall 78  
be the value used by the auditor in determining the taxable 79  
value of such land for the current tax year under section 80  
5713.03 of the Revised Code and as shown on the general tax list 81  
compiled under section 319.28 of the Revised Code. 82

The auditor shall enter on the real property record 83  
required under section 5713.03 of the Revised Code for the 84  
tract, lot, or parcel of land so appraised, in addition to the 85  
other information required to be recorded thereon, its value as 86  
land devoted exclusively to agricultural use based on the values 87  
determined by the commissioner for each soil type present in the 88  
tract, lot, or parcel. Subject to division (A)(1) of section 89  
5713.34 of the Revised Code, tracts, lots, or parcels of land or 90  
portions thereof used for a conservation practice or devoted to 91  
a land retirement or conservation program under an agreement 92  
with an agency of the federal government on the first day of 93  
January of the tax year shall be valued at the lowest valued of 94  
all soil types listed in the commissioner's annual publication 95  
of the per-acre agricultural use values for each soil type in 96  
the state. For the purposes of this section and division (A)(1) 97  
of section 5713.34 of the Revised Code, "conservation practice" 98  
shall not include the use of cover crops. 99

**Sec. 5713.34.** (A) (1) Upon the conversion of all or any 100  
portion of a tract, lot, or parcel of land devoted exclusively 101  
to agricultural use a portion of the tax savings upon such 102  
converted land shall be recouped as provided for by Section 36, 103  
Article II, Ohio Constitution by levying a charge on such land 104  
in an amount equal to the amount of the tax savings on the 105  
converted land during the three tax years immediately preceding 106  
the year in which the conversion occurs. If the auditor 107

discovers that agricultural land valued at the lowest valued 108  
soil type, pursuant to section 5713.31 of the Revised Code, 109  
because of its use for a conservation practice or devotion to a 110  
land retirement or conservation program ceases to be used or 111  
devoted to such purposes sooner than thirty-six months after the 112  
initial certification, the auditor shall levy a charge on such 113  
agricultural land in an amount equal to the reduction in taxes 114  
resulting from the land's valuation at the lowest valued soil 115  
type, rather than valuation at its actual soil type, in all 116  
preceding years the land was so valued, not to exceed the most 117  
recent three years. The ~~charge~~ charges levied under this section 118  
shall constitute a lien of the state upon such converted land as 119  
of the first day of January of the tax year in which the charge 120  
is levied and shall continue until discharged as provided by 121  
law. 122

(2) Upon the conversion of an adequately described portion 123  
of a tract, lot, or parcel of land, the county auditor shall 124  
divide any numbered permanent parcel into economic units and 125  
value each unit individually for the purpose of levying the 126  
charge under division (A) (1) of this section against only the 127  
converted portion. 128

(3) A charge shall not be levied under this section for 129  
the conversion of a portion of a tract, lot, or parcel of land 130  
devoted exclusively to agricultural use if the conversion is 131  
incident to the construction or installation of an energy 132  
facility, as defined in section 5727.01 of the Revised Code, and 133  
if the remaining portion of the tract, lot, or parcel continues 134  
to be devoted exclusively to agricultural use. 135

(B) Except as otherwise provided in division (C) or (D) of 136  
this section, a public entity that acquires by any means and 137

converts land devoted exclusively to agricultural use and a 138  
private entity granted the power of eminent domain that acquires 139  
by any means and converts land devoted exclusively to 140  
agricultural use shall pay the charge levied by division (A) of 141  
this section and shall not, directly or indirectly, transfer the 142  
charge to the person from whom the land is acquired. A person 143  
injured by a violation of this division may recover, in a civil 144  
action, any damages resulting from the violation. 145

(C) The charge levied by division (A) (1) of this section 146  
does not apply to the conversion of land acquired by a public 147  
entity by means other than eminent domain and thereafter used 148  
exclusively for a public purpose that leaves the land 149  
principally undeveloped when either of the following conditions 150  
applies: 151

(1) In the case of land so acquired and converted by a 152  
park district created under Chapter 1545. of the Revised Code, 153  
the land is located within the boundaries of the park district. 154

(2) In the case of land so acquired and converted by a 155  
public entity other than a park district created under Chapter 156  
1545. of the Revised Code, the land is located within the 157  
boundaries of any city, local, exempted village, or joint 158  
vocational school district that is wholly or partially located 159  
within the boundaries of the public entity that so acquired and 160  
converted the land. 161

If all or any portion of a tract, lot, or parcel of such 162  
land is later developed or otherwise converted to a purpose 163  
other than one of the purposes enumerated under division (E) (1) 164  
of this section, the charge levied by division (A) (1) of this 165  
section shall be levied against such developed or converted land 166  
as otherwise required by that division. 167

The county auditor of the county in which the land is 168  
located shall determine annually whether all or any portion of a 169  
tract, lot, or parcel of land formerly converted to a purpose 170  
enumerated under division (E) (1) of this section has been 171  
developed in such a way or converted to such a purpose as to 172  
require the charge levied by division (A) (1) of this section to 173  
be levied against the land so developed or converted. 174

(D) Division (B) of this section does not apply to a 175  
public entity that acquires by means other than eminent domain 176  
and converts land devoted exclusively to agricultural use to use 177  
for public, active or passive, outdoor education, recreation, or 178  
similar open space uses when either of the following conditions 179  
applies: 180

(1) In the case of land so acquired and converted by a 181  
park district created under Chapter 1545. of the Revised Code, 182  
the land is located outside the boundaries of the park district. 183

(2) In the case of land so acquired and converted by a 184  
public entity other than a park district created under Chapter 185  
1545. of the Revised Code, the land is located outside the 186  
boundaries of any city, local, exempted village, or joint 187  
vocational school district that is wholly or partially located 188  
within the boundaries of the public entity that so acquired and 189  
converted the land. 190

(E) As used in divisions (C) and (D) of this section: 191

(1) "Principally undeveloped" means a parcel of real 192  
property that is used for public, active or passive, outdoor 193  
education, recreation, or similar open space uses and contains 194  
only the structures, roadways, and other facilities that are 195  
necessary for such uses. 196

(2) "Public entity" means any political subdivision of this state or any agency or instrumentality of a political subdivision.

**Sec. 5715.01.** (A) The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule for such values and for the determination of the current agricultural use value of land devoted exclusively to agricultural use. ~~The~~

(1) ~~The~~ uniform rules shall prescribe methods of determining the true value and taxable value of real property and shall also ~~prescribe the method for determining the current agricultural use value of land devoted exclusively to agricultural use, which method shall reflect standard and modern appraisal techniques that take into consideration: the productivity of the soil under normal management practices; the average price patterns of the crops and products produced to determine the income potential to be capitalized; the market value of the land for agricultural use; and other pertinent factors.~~ The rules shall provide that in determining the true value of lands or improvements thereon for tax purposes, all facts and circumstances relating to the value of the property, its availability for the purposes for which it is constructed or being used, its obsolete character, if any, the income capacity of the property, if any, and any other factor that tends to prove its true value shall be used. In determining the true value of minerals or rights to minerals for the purpose of real property taxation, the tax commissioner shall not include in the value of the minerals or rights to minerals the value of any tangible personal property used in the recovery of those



minerals. 228

(2) The uniform rules shall prescribe the method for 229  
determining the current agricultural use value of land devoted 230  
exclusively to agricultural use, which method shall reflect 231  
standard and modern appraisal techniques that take into 232  
consideration the productivity of the soil under normal 233  
management practices, typical cropping and land use patterns, 234  
the average price patterns of the crops and products produced 235  
and the typical production costs to determine the net income 236  
potential to be capitalized, and other pertinent factors. 237

In determining the agricultural land capitalization rate 238  
to be applied to the net income potential from agricultural use, 239  
the commissioner shall use standard and modern appraisal 240  
techniques. In calculating the capitalization rate for any year, 241  
the commissioner shall comply with both of the following 242  
requirements: 243

(a) The commissioner shall use an equity yield rate equal 244  
to the greater of (i) the average of the total rates of return 245  
on farm equity for the twenty-five most recent years for which 246  
those rates have been calculated and published by the United 247  
States department of agriculture economic research service or 248  
(ii) the loan interest rate the commissioner uses for that year 249  
to calculate the capitalization rate. 250

(b) The commissioner shall not use a method that includes 251  
in the computation buildup of equity or appreciation with 252  
respect to the agricultural land. 253

The commissioner shall add to the overall capitalization 254  
rate a tax additur. The sum of the overall capitalization rate 255  
and the tax additur shall represent as nearly as possible the 256

rate of return a prudent investor would expect from an average 257  
or typical farm in this state considering only agricultural 258  
factors. 259

The commissioner shall annually determine and announce the 260  
overall capitalization rate, tax additur, agricultural land 261  
capitalization rate, and the individual components used in 262  
computing such amounts in a determination, finding, computation, 263  
or order of the commissioner published simultaneously with the 264  
commissioner's annual publication of the per-acre agricultural 265  
use values for each soil type. 266

(B) The taxable value shall be that per cent of true value 267  
in money, or current agricultural use value in the case of land 268  
valued in accordance with section 5713.31 of the Revised Code, 269  
the commissioner by rule establishes, but it shall not exceed 270  
thirty-five per cent. The uniform rules shall also prescribe 271  
methods of making the appraisals set forth in section 5713.03 of 272  
the Revised Code. The taxable value of each tract, lot, or 273  
parcel of real property and improvements thereon, determined in 274  
accordance with the uniform rules and methods prescribed 275  
thereby, shall be the taxable value of the tract, lot, or parcel 276  
for all purposes of sections 5713.01 to 5713.26, 5715.01 to 277  
5715.51, and 5717.01 to 5717.06 of the Revised Code. County 278  
auditors shall, under the direction and supervision of the 279  
commissioner, be the chief assessing officers of their 280  
respective counties, and shall list and value the real property 281  
within their respective counties for taxation in accordance with 282  
this section and sections 5713.03 and 5713.31 of the Revised 283  
Code and with such rules of the commissioner. There shall also 284  
be a board in each county, known as the county board of 285  
revision, which shall hear complaints and revise assessments of 286  
real property for taxation. 287

(C) The commissioner shall neither adopt nor enforce any 288  
rule that requires true value for any tax year to be any value 289  
other than the true value in money on the tax lien date of such 290  
tax year or that requires taxable value to be obtained in any 291  
way other than by reducing the true value, or in the case of 292  
land valued in accordance with section 5713.31 of the Revised 293  
Code, its current agricultural use value, by a specified, 294  
uniform percentage. 295

**Section 2.** That existing sections 5713.31, 5713.34, and 296  
5715.01 of the Revised Code are hereby repealed. 297

**Section 3.** For each county, the amendment by this act of 298  
sections 5713.31, 5713.34, and 5715.01 of the Revised Code shall 299  
apply to the first tax year after tax year 2016 in which a 300  
sexennial appraisal or triennial update is performed for the 301  
county. 302