

As Reported by the Senate Ways and Means Committee

132nd General Assembly

Regular Session

2017-2018

Sub. S. B. No. 36

Senator Hite

**Cosponsors: Senators Obhof, Gardner, Beagle, Peterson, Coley, Hoagland,
Hottinger, LaRose, Hackett, Williams, Brown, O'Brien, Lehner**

A BILL

To amend sections 5713.31, 5713.34, and 5715.01 of 1
the Revised Code to require that the computation 2
of the capitalization rate for the purposes of 3
determining CAUV of agricultural land be 4
computed using a method that excludes 5
appreciation and equity buildup and to stipulate 6
that CAUV land used for a conservation practice 7
or enrolled in a federal land retirement or 8
conservation program for at least three years 9
must be valued at the lowest of the values 10
assigned on the basis of soil type. 11

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

Section 1. That sections 5713.31, 5713.34, and 5715.01 of 12
the Revised Code be amended to read as follows: 13

Sec. 5713.31. At any time after the first Monday in 14
January and prior to the first Monday in March of any year, an 15
owner of agricultural land may file an application with the 16
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 197

this state or any agency or instrumentality of a political 198
subdivision. 199

Sec. 5715.01. (A) The tax commissioner shall direct and 200
supervise the assessment for taxation of all real property. The 201
commissioner shall adopt, prescribe, and promulgate rules for 202
the determination of true value and taxable value of real 203
property by uniform rule for such values and for the 204
determination of the current agricultural use value of land 205
devoted exclusively to agricultural use. ~~The~~ 206

(1) ~~The~~ uniform rules shall prescribe methods of 207
determining the true value and taxable value of real property 208
~~and shall also prescribe the method for determining the current-~~ 209
~~agricultural use value of land devoted exclusively to~~ 210
~~agricultural use, which method shall reflect standard and modern-~~ 211
~~appraisal techniques that take into consideration: the~~ 212
~~productivity of the soil under normal management practices; the~~ 213
~~average price patterns of the crops and products produced to~~ 214
~~determine the income potential to be capitalized; the market~~ 215
~~value of the land for agricultural use; and other pertinent~~ 216
~~factors.~~ The rules shall provide that in determining the true 217
value of lands or improvements thereon for tax purposes, all 218
facts and circumstances relating to the value of the property, 219
its availability for the purposes for which it is constructed or 220
being used, its obsolete character, if any, the income capacity 221
of the property, if any, and any other factor that tends to 222
prove its true value shall be used. In determining the true 223
value of minerals or rights to minerals for the purpose of real 224
property taxation, the tax commissioner shall not include in the 225
value of the minerals or rights to minerals the value of any 226
tangible personal property used in the recovery of those 227
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