As Introduced

136th General Assembly
Regular Session **H. B. No. 575**
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Representatives Thomas, D., Peterson

Cosponsors: Representatives Gross, Hall, T., Klopfenstein, Robb Blasdel, Workman

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To amend sections 323.131, 5713.03, 5713.30, 5713.31, 5713.32, and 5713.351; to enact new section 5713.36; and to repeal section 5713.36 of the Revised Code to make various changes to the law governing the property taxation of farmland.

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

Section 1. That sections 323.131, 5713.03, 5713.30, 5713.31, 5713.32, and 5713.351 be amended and new section 5713.36 of the Revised Code be enacted to read as follows:

Sec. 323.131. (A) Each tax bill prepared and mailed or delivered under section 323.13 of the Revised Code shall be in the form and contain the information required by the tax commissioner. The commissioner may prescribe different forms for each county and may authorize the county auditor to make up tax bills and tax receipts to be used by the county treasurer. For any county in which the board of county commissioners has granted a partial property tax exemption on homesteads under section 323.158 of the Revised Code, the commissioner shall require that the tax bills for those homesteads include a notice of the amount of the tax reduction that results from the partial exemption. In addition to the information required by the commissioner, each tax bill shall contain the following information:

(1) The taxes levied and the taxes charged and payable against the property;

(2) The effective tax rate. The words "effective tax rate" shall appear in boldface type.

(3) The following notices:

(a) "Notice: If the taxes are not paid within sixty days from the date they are certified delinquent, the property is subject to foreclosure for tax delinquency." Failure to provide such notice has no effect upon the validity of any tax foreclosure to which a property is subjected.

(b) "Notice: If the taxes charged against this parcel have been reduced by the 2-1/2 per cent tax reduction for residences occupied by the owner but the property is not a residence occupied by the owner, the owner must notify the county auditor's office not later than March 31 of the year following the year for which the taxes are due. Failure to do so may result in the owner being convicted of a fourth degree misdemeanor, which is punishable by imprisonment up to 30 days, a fine up to $250, or both, and in the owner having to repay the amount by which the taxes were erroneously or illegally reduced, plus any interest that may apply.

If the taxes charged against this parcel have not been reduced by the 2-1/2 per cent tax reduction and the parcel includes a residence occupied by the owner, the parcel may qualify for the tax reduction. To obtain an application for the tax reduction or further information, the owner may contact the county auditor's office at __________ (insert the address and telephone number of the county auditor's office)."

(4) For a tract or lot on the real property tax suspension list under section 319.48 of the Revised Code, the following notice: "Notice: The taxes shown due on this bill are for the current year only. Delinquent taxes, penalties, and interest also are due on this property. Contact the county treasurer to learn the total amount due."

The tax bill shall not contain or be mailed or delivered with any information or material that is not required by this section or that is not authorized by section 321.45 of the Revised Code or by the tax commissioner.

(B) If the property is residential rental property, the tax bill shall contain a statement that the owner of the residential rental property shall file with the county auditor the information required under division (A) or (C) of section 5323.02 of the Revised Code.

(C) If the property is valued in accordance with its current agricultural use value under sections 5713.30 to 5713.38 of the Revised Code, the tax bill shall separately state the tax savings for the property for the tax year. This amount shall be labeled "CAUV savings." For the purposes of this section, "tax savings" has the same meaning as in section 5713.30 of the Revised Code.

(D) Each county auditor and treasurer shall post on their respective web sites, or on the county's web site, the percentage of property taxes charged by each taxing unit and, in the case of the county as a taxing unit, the percentage of taxes charged by the county for each of the county purposes for which taxes are charged.

~~(D)~~ (E) As used in this section, "residential rental property" has the same meaning as in section 5323.01 of the Revised Code.

Sec. 5713.03. The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate, as if unencumbered but subject to any effects from the exercise of police powers or from other governmental actions, of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon and the current agricultural use value of land valued for tax purposes in accordance with section 5713.31 of the Revised Code, in every district, according to the rules prescribed by this chapter and section 5715.01 of the Revised Code, and in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner. The auditor shall determine the taxable value of all real property by reducing its true or current agricultural use value by the percentage ordered by the commissioner. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor may consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. However, the sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the property sold if subsequent to the sale:

(A) The tract, lot, or parcel of real estate loses value due to some casualty;

(B) An improvement is added to the property.

Nothing in this section or section 5713.01 of the Revised Code and no rule adopted under section 5715.01 of the Revised Code shall require the county auditor to change the true value in money of any property in any year except a year in which the tax commissioner is required to determine under section 5715.24 of the Revised Code whether the property has been assessed as required by law.

Nothing in this section or section 5713.01 of the Revised Code and no rule adopted under section 5715.01 of the Revised Code prevents a county auditor from valuing residential property or wasteland at a value that is less than the value that would be determined for that land if it were valued at its current agricultural use value. As used in this paragraph, "residential property" means any property classified as to use as residential in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code.

The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and taxable value of land and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, the number of acres of arable land, permanent pasture land, woodland, and wasteland in each tract, lot, or parcel. The auditor shall record pertinent information and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres to which, during the three calendar years prior to the tax year ~~in which application is filed under section 5713.31 of the Revised Code~~, and through the last day of May of ~~such~~ the tax year, one or more of the following apply:

(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the cultivation of hemp by a person issued a hemp cultivation license under section 928.02 of the Revised Code, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use.

(b) The tracts, lots, or parcels of land were devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership or leasehold that is otherwise devoted exclusively to agricultural use, provided that (i) at least fifty per cent of the feedstock used in the production is agricultural feedstock, (ii) at least twenty per cent of the agricultural feedstock used in the production is derived from parcels of land under common ownership or leasehold, and (iii) none of the feedstock used in the production consists of human waste. As used in this division, "agricultural feedstock" means manure and food waste, and "human waste" includes sludge as defined in section 6111.01 of the Revised Code.

(c) The tracts, lots, or parcels of land are eligible conservation land.

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the tax year ~~in which application is filed under section 5713.31 of the Revised Code~~ and through the last day of May of ~~such~~ the tax year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the cultivation of hemp by a person issued a hemp cultivation license under section 928.02 of the Revised Code, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental trees, sod, or flowers where such activities produced an average yearly gross income of at least twenty-five hundred dollars during such three-year period or where there is evidence of an anticipated gross income of such amount from such activities during the tax year ~~in which application is made~~, or were eligible conservation land;

(3) Tracts, lots, or parcels of land, or portions thereof that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow for up to one year and no action has occurred to such land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use as defined in this section. Such land shall remain designated as

land devoted exclusively to agricultural use provided that beyond one year, but less than three years, the landowner proves good cause as determined by the board of revision.

(4) Tracts, lots, or parcels of land, or portions thereof that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow because of dredged material being stored or deposited on such land pursuant to a contract between the land's owner and the department of natural resources or the United States army corps of engineers and no action has occurred to the land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use. Such land shall remain designated as land devoted exclusively to agricultural use until the last year in which dredged material is stored or deposited on the land pursuant to such a contract, but not to exceed five years.

(5) Tracts, lots, or parcels of land, or portions thereof that, during the immediately preceding calendar year, had been designated as land devoted exclusively to agricultural use but that have been lying idle or fallow due to circumstances that have led to a declaration of a disaster or state of emergency issued by the president of the United States or the governor of this state.

"Land devoted exclusively to agricultural use" includes tracts, lots, or parcels of land or portions thereof that are used for conservation practices, provided that the tracts, lots, or parcels of land or portions thereof comprise twenty-five per cent or less of the total of the tracts, lots, or parcels of land that satisfy the criteria established in division (A)(1), (2), (3), or (4) of this section together with the tracts, lots, or parcels of land or portions thereof that are used for conservation practices.

"Land devoted exclusively to agricultural use" includes tracts, lots, or parcels of land or portions thereof that are used for a purpose that is incidental to the primary use of the land for agricultural purposes, provided that such tracts, lots, or parcels of land or portions thereof are contiguous to such land and are not used for a commercial purpose that is unrelated to the land's primary agricultural use. Tracts, lots, or parcels that are used for a purpose that is incidental to an agricultural use includes land used as a driveway or access road or upon which a staging area, barn, or farm market is located.

Notwithstanding any other provision of law to the contrary, the existence of agritourism on a tract, lot, or parcel of land that otherwise meets the definition of "land devoted exclusively to agricultural use" as defined in this division does not disqualify that tract, lot, or parcel from valuation under sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use.

A tract, lot, parcel, or portion thereof on which medical marijuana, as defined by section 3796.01 of the Revised Code, is cultivated or processed is not land devoted exclusively to agricultural use.

For purposes of divisions (A)(1) and (2) of this section, the total acreage of land described in those divisions may include tracts, lots, and parcels that are not contiguous, provided that the owner's use of the tracts, lots, and parcels are part of a single operation within one county or within two or more counties.

For the purposes of division (A) of this section, common ownership or leasehold exists when the same individual or individuals own or lease the tracts, lots, or parcels, either directly or indirectly through one or more entities.

(B) "Conversion of land devoted exclusively to agricultural use" means any of the following:

(1) ~~The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;~~

~~(2)~~ The failure of the new owner of ~~such~~ land devoted exclusively to agricultural use to file an ~~initial~~ application under ~~that~~ section 5713.31 of the Revised Code without good cause as determined by the board of revision;

~~(3)~~(2) The failure of such land or portion thereof to qualify as land devoted exclusively to agricultural use for the current calendar year ~~as requested by an application filed under such section~~;

~~(4)~~(3) The failure of the owner of the land described in division (A)(3) or (4) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

The construction or installation of an energy facility, as defined in section 5727.01 of the Revised Code, on a portion of a tract, lot, or parcel of land devoted exclusively to agricultural use shall not cause the remaining portion of the tract, lot, or parcel to be regarded as a conversion of land devoted exclusively to agricultural use if the remaining portion of the tract, lot, or parcel continues to be devoted exclusively to agricultural use.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar amount of real property taxes that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate or a buyer on a land installment contract.

(E) "Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code.

(G) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats or any combination of those reagents and that meets the American society for testing and materials specification D6751-03a for biodiesel fuel (B100) blend stock distillate fuels.

(H) "Biologically derived methane gas" means gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues.

(I) "Biomass energy" means energy that is produced from organic material derived from plants or animals and available on a renewable basis, including, but not limited to, agricultural crops, tree crops, crop by-products, and residues.

(J) "Electric or heat energy" means electric or heat energy generated from manure, cornstalks, soybean waste, or other agricultural feedstocks.

(K) "Dredged material" means material that is excavated or dredged from waters of this state. "Dredged material" does not include material resulting from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting, for production of food, fiber, and forest products.

(L) "Agritourism" has the same meaning as in section 901.80 of the Revised Code.

(M) "Eligible conservation land" means either of the following:

(1) A tract, lot, or parcel devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(2) A tract, lot, or parcel that meets at least one of the conditions described in divisions (M)(2)(a) to (c) of this section and the condition described in division (M)(2)(d) of this section.

(a) The land is subject to an agricultural water project or nature water project that receives funding from the H2Ohio fund created in section 126.60 of the Revised Code.

(b) The land was subject to such a project during the immediately preceding calendar year.

(c) The land is or was subject to such a project for the current or one of the two immediately preceding tax years and, for the current tax year, is subject to either a conservation easement held by the state or an agency of the state or a conservation easement held by any other person if such easement is a condition of a nature water project that is funded through the H2Ohio fund.

(d) For the tax year that includes or immediately precedes the year in which the land became subject to the project described in division (M)(2)(a), (b), or (c) of this section, as applicable, the land qualified as land devoted exclusively to agricultural use pursuant to other criteria in divisions (A)(1) to (4) of this section.

As used in division (M)(2) of this section, "conservation easement" has the same meaning as in section 5301.67 of the Revised Code.

(N) "Internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.

Sec. 5713.31. (A) 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, requesting the auditor to value the land for real property tax purposes at the current value such land has for agricultural use, in accordance with section 5715.01 of the Revised Code and the rules adopted by the commissioner for the valuation of such land. ~~An owner's first application with respect to the owner's land shall be in the form of an initial application. Each application filed in ensuing consecutive years after the initial application by that owner shall be in the form of a renewal application.~~ The commissioner shall prescribe the form of the ~~initial and the renewal~~ application~~, but the renewal application shall require no more information than is necessary to establish the applicant's continued eligibility to have the applicant's land valued for agricultural use, for all lots, parcels, or tracts of land, or portions thereof, within a county, that have been valued at the current value of such land for agricultural use in the preceding tax year~~. Each county shall provide taxpayers with at least one means of submitting the application electronically. If~~, on the first day of January of the tax year,~~ any portion of the applicant's agricultural land is eligible conservation land or is used for a conservation practice, the applicant shall so indicate on the ~~initial or renewal~~ application.

(B) ~~On or before the second Tuesday after the first Monday in March, the auditor shall determine whether the current owner of any lot, parcel, or tract of land or portion thereof contained in the preceding tax year's agricultural land tax list failed to file an initial or renewal application, as appropriate, for the current tax year with respect to such lot, parcel, or tract or portion thereof. The auditor shall forthwith notify each owner who failed to file an application that unless application is filed with the auditor prior to the first Monday of April of the current year, the land will be valued for real property tax purposes in the current tax year at its true value~~

~~in money and that the recoupment required by sections 5713.34 and 5713.35 of the Revised Code will be placed on the current year's tax list and duplicate for collection. The auditor shall send that notice either by certified mail or, if the auditor has record of an internet identifier of record associated with the owner, by ordinary mail and by that internet identifier of record.~~

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

~~(D)~~(C) Upon receipt of an application and payment of the required fee the auditor shall determine whether the information contained therein is correct and the application complete.

~~(E)~~(D) If the auditor determines the information is incorrect or the application is incomplete, the auditor shall return the application to the applicant with an enumeration of the items which are incorrect or incomplete. The auditor shall return the application or a copy of the application either by certified mail or, if the auditor has record of an internet identifier of record associated with the applicant, by ordinary mail and by that internet identifier of record. An applicant may file an amended application, without charge, within fifteen days of the receipt of the returned application.

~~(F)~~(E) If the auditor determines the application or amended application is complete and the information therein is correct, the auditor shall, prior to the first Monday in August, view or cause to be viewed the land described in the application and determine whether the land is land devoted exclusively to agricultural use.

~~(G)~~ (F) If the auditor determines, which determination shall be made as of the first Monday of August, annually, that the land is land devoted exclusively to agricultural use, the auditor shall so notify the property owner either by certified mail or, if the auditor has record of an internet identifier of record associated with the person, by ordinary mail and by that internet identifier of record.

(G) On or before the first Monday of August, the auditor shall determine whether each tract, lot, or parcel of land or portion thereof contained in the preceding tax year's agricultural land tax list continues to qualify as land devoted exclusively to agricultural use.

(H) If the auditor determines that land is devoted exclusively to agricultural use pursuant to either division (F) or (G) of this section for a tax year, the auditor shall appraise ~~it~~ that land for real property tax purposes in accordance with section 5715.01 of the Revised Code and the rules adopted by the commissioner for the valuation of land devoted exclusively to agricultural use and such appraised value shall be the value used by the auditor in determining the taxable value of such land for the current tax year under section 5713.03 of the Revised Code and as shown on the general tax list compiled under section 319.28 of the Revised Code.

~~(H)~~ (I) The auditor shall enter on the real property record required under section 5713.03 of the Revised Code for the tract, lot, or parcel of land so appraised, in addition to the other information required to be recorded thereon, its value as land devoted exclusively to agricultural use based on the values determined by the commissioner for each soil type present in the tract, lot, or parcel. Subject to division (A)(1) of section

5713.34 of the Revised Code, tracts, lots, or parcels of land or portions thereof that were eligible conservation land described in division (M)(1) of section 5713.30 of the Revised Code or that were used for a conservation practice on the first day of January of the tax year shall be valued at the lowest valued of all soil types listed in the commissioner's annual publication of the per-acre agricultural use values for each soil type in the state. Any tract, lot, or parcel of land or portion thereof that was eligible conservation land described in division (M)(2) of that section shall be valued at its actual soil type.

~~(I) As used in this section, "internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.~~

(J) Notwithstanding division (A) of this section, if an application relates to agricultural tracts, lots, or parcels that are not contiguous, but that are used as part of a single operation within two or more contiguous counties, the owner of the land shall submit the application to the auditor of the county in which the most acres of the total land subject to the application are located. That auditor shall review the application in accordance with this section and, upon making a determination of the land's eligibility to be valued as its current agricultural use value, shall provide notice of that determination to each other county in which land subject to the application is located.

The auditor that approves the application shall also annually review the eligibility of the land pursuant to division (G) of this section and, if the auditor determines that the land no longer qualifies as land devoted exclusively to agricultural use, shall provide notice of that determination to each other county in which the land is located. Any notice required under division (K) of this section shall be sent to the auditor that approved the application.

(K) An application submitted under this section constitutes a continuing application for land to be valued according to its current agricultural use value for each year in which the land is devoted exclusively to agricultural use. A property owner shall notify the county auditor if, in any year after an application has been filed under this section, the land does not qualify to be valued in that manner or if the status of the land as eligible conservation land or land used for a conservation practice changes.

Sec. 5713.32. (A) Prior to the first Monday in October, the county auditor shall notify each person who filed an application or an amended application under section 5713.31 of the Revised Code and whose land the auditor determines is not land devoted exclusively to agricultural use, of the reason for such determination. The auditor shall send that notice either by certified mail or, if the auditor has record of an internet identifier of record associated with the person, by ordinary mail and by that internet identifier of record. ~~As used in this division, "internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.~~

(B) A complaint against the auditor's determination may be made in the manner prescribed in section 5715.19 of the Revised Code.

Sec. 5713.351. If the county auditor has determined under section 5713.35 of the Revised Code that a conversion of land has occurred with respect to any tract, lot, or parcel on the agricultural land tax list because of a failure to file an

~~initial or renewal~~ application, and if the auditor, upon application of the owner and payment by the owner of a twenty-five-dollar fee, finds that the land would be land devoted exclusively to agricultural use for the current year if the board of revision finds the failure arose for good cause, the owner may file a complaint against that determination with the board as provided in section 5715.19 of the Revised Code on the grounds that the tract, lot, or parcel is land devoted exclusively to agricultural use because there was good cause for the owner's failure to file an ~~initial or renewal~~ application. If the board finds that there was such good cause, the application under this section shall be considered an application that was properly filed under section 5713.31 of the Revised Code.

Sec. 5713.36. (A) For each tax year in which a county undergoes a reappraisal or update in accordance with section 5715.24 of the Revised Code, the county auditor shall provide a notice that includes all of the following information to each owner of land valued at its current agricultural use value for that tax year:

(1) All of the soil types in the county, and an explanation of the means by which a property owner can determine the soil type of the owner's property;

(2) The current agricultural use value assigned to each soil type in the county according to the land tables prescribed by the tax commissioner for the current tax year and for the tax year in which the county most recently underwent a reappraisal or update in accordance with section 5715.24 of the Revised Code.

(B) The notice required under this section shall be sent by certified mail or, if the auditor has record of an internet identifier of record associated with the person, by ordinary mail and by that internet identifier of record.

(C) The county auditor shall also publish the information described in division (A)(1) of this section on the auditor's web site.

Section 2. That existing sections 323.131, 5713.03, 5713.30, 5713.31, 5713.32, and 5713.351 of the Revised Code are hereby repealed.

Section 3. That section 5713.36 of the Revised Code is hereby repealed.

Section 4. The amendment or reenactment by this act of sections 323.131, 5713.03, 5713.30, 5713.31, 5713.32, 5713.351, and 5713.36 of the Revised Code applies to tax years beginning on or after the effective date of this section.