

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 246**

**Senator Hite**

**Cosponsors: Senators Gardner, Peterson, Cafaro**

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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,  
requesting the auditor to value the land for real property tax

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 ~~his~~ the 22  
owner's land shall be in the form of an initial application. 23  
Each application filed in ensuing consecutive years after the 24  
initial application by that owner shall be in the form of a 25  
renewal application. The commissioner shall prescribe the form 26  
of the initial and the renewal application, but the renewal 27  
application shall require no more information than is necessary 28  
to establish the applicant's continued eligibility to have ~~his~~ 29  
the applicant's land valued for agricultural use, for all lots, 30  
parcels, or tracts of land, or portions thereof, within a 31  
county, that have been valued at the current value of such land 32  
for agricultural use in the preceding tax year. If, on the first 33  
day of January of the tax year, any portion of the applicant's 34  
agricultural land is used for a conservation practice or devoted 35  
to a land retirement or conservation program under an agreement 36  
with an 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. ~~He~~ 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, ~~he~~ 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 67  
correct, ~~he~~ the auditor shall, prior to the first Monday in June, 68  
view or cause to be viewed the land described in the application 69  
and 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 June, annually, that the land is 73  
land devoted exclusively to agricultural use ~~he~~ 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 values 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. 97

**Sec. 5713.34.** (A)(1) Upon the conversion of all or any 98  
portion of a tract, lot, or parcel of land devoted exclusively 99  
to agricultural use a portion of the tax savings upon such 100  
converted land shall be recouped as provided for by Section 36, 101  
Article II, Ohio Constitution by levying a charge on such land 102  
in an amount equal to the amount of the tax savings on the 103  
converted land during the three tax years immediately preceding 104  
the year in which the conversion occurs. If the auditor 105  
discovers that agricultural land valued at the lowest valued 106  
soil type, pursuant to section 5713.31 of the Revised Code, 107  
because of its use for a conservation practice or devotion to a 108  
land retirement or conservation program ceases to be used or 109

devoted to such purposes sooner than thirty-six months after the 110  
initial certification, the auditor shall levy a charge on such 111  
agricultural land in an amount equal to the taxes saved based on 112  
its valuation at the lowest valued soil type, rather than 113  
valuation at its actual soil type, in all preceding years the 114  
land was so valued, not to exceed the most recent three years. 115  
The ~~charge~~ charges levied under this section shall constitute a 116  
lien of the state upon such converted land as of the first day 117  
of January of the tax year in which the charge is levied and 118  
shall continue until discharged as provided by law. 119

(2) Upon the conversion of an adequately described portion 120  
of a tract, lot, or parcel of land, the county auditor shall 121  
divide any numbered permanent parcel into economic units and 122  
value each unit individually for the purpose of levying the 123  
charge under division (A) (1) of this section against only the 124  
converted portion. 125

(3) A charge shall not be levied under this section for 126  
the conversion of a portion of a tract, lot, or parcel of land 127  
devoted exclusively to agricultural use if the conversion is 128  
incident to the construction or installation of an energy 129  
facility, as defined in section 5727.01 of the Revised Code, and 130  
if the remaining portion of the tract, lot, or parcel continues 131  
to be devoted exclusively to agricultural use. 132

(B) Except as otherwise provided in division (C) or (D) of 133  
this section, a public entity that acquires by any means and 134  
converts land devoted exclusively to agricultural use and a 135  
private entity granted the power of eminent domain that acquires 136  
by any means and converts land devoted exclusively to 137  
agricultural use shall pay the charge levied by division (A) of 138  
this section and shall not, directly or indirectly, transfer the 139

charge to the person from whom the land is acquired. A person 140  
injured by a violation of this division may recover, in a civil 141  
action, any damages resulting from the violation. 142

(C) The charge levied by division (A) (1) of this section 143  
does not apply to the conversion of land acquired by a public 144  
entity by means other than eminent domain and thereafter used 145  
exclusively for a public purpose that leaves the land 146  
principally undeveloped when either of the following conditions 147  
applies: 148

(1) In the case of land so acquired and converted by a 149  
park district created under Chapter 1545. of the Revised Code, 150  
the land is located within the boundaries of the park district. 151

(2) In the case of land so acquired and converted by a 152  
public entity other than a park district created under Chapter 153  
1545. of the Revised Code, the land is located within the 154  
boundaries of any city, local, exempted village, or joint 155  
vocational school district that is wholly or partially located 156  
within the boundaries of the public entity that so acquired and 157  
converted the land. 158

If all or any portion of a tract, lot, or parcel of such 159  
land is later developed or otherwise converted to a purpose 160  
other than one of the purposes enumerated under division (E) (1) 161  
of this section, the charge levied by division (A) (1) of this 162  
section shall be levied against such developed or converted land 163  
as otherwise required by that division. 164

The county auditor of the county in which the land is 165  
located shall determine annually whether all or any portion of a 166  
tract, lot, or parcel of land formerly converted to a purpose 167  
enumerated under division (E) (1) of this section has been 168

developed in such a way or converted to such a purpose as to 169  
require the charge levied by division (A) (1) of this section to 170  
be levied against the land so developed or converted. 171

(D) Division (B) of this section does not apply to a 172  
public entity that acquires by means other than eminent domain 173  
and converts land devoted exclusively to agricultural use to use 174  
for public, active or passive, outdoor education, recreation, or 175  
similar open space uses when either of the following conditions 176  
applies: 177

(1) In the case of land so acquired and converted by a 178  
park district created under Chapter 1545. of the Revised Code, 179  
the land is located outside the boundaries of the park district. 180

(2) In the case of land so acquired and converted by a 181  
public entity other than a park district created under Chapter 182  
1545. of the Revised Code, the land is located outside the 183  
boundaries of any city, local, exempted village, or joint 184  
vocational school district that is wholly or partially located 185  
within the boundaries of the public entity that so acquired and 186  
converted the land. 187

(E) As used in divisions (C) and (D) of this section: 188

(1) "Principally undeveloped" means a parcel of real 189  
property that is used for public, active or passive, outdoor 190  
education, recreation, or similar open space uses and contains 191  
only the structures, roadways, and other facilities that are 192  
necessary for such uses. 193

(2) "Public entity" means any political subdivision of 194  
this state or any agency or instrumentality of a political 195  
subdivision. 196

**Sec. 5715.01.** (A) The tax commissioner shall direct and 197

supervise the assessment for taxation of all real property. The 198  
commissioner shall adopt, prescribe, and promulgate rules for 199  
the determination of true value and taxable value of real 200  
property by uniform rule for such values and for the 201  
determination of the current agricultural use value of land 202  
devoted exclusively to agricultural use. ~~The~~ 203

(1) The uniform rules shall prescribe methods of 204  
determining the true value and taxable value of real property 205  
~~and shall also prescribe the method for determining the current~~ 206  
~~agricultural use value of land devoted exclusively to~~ 207  
~~agricultural use, which method shall reflect standard and modern~~ 208  
~~appraisal techniques that take into consideration: the~~ 209  
~~productivity of the soil under normal management practices; the~~ 210  
~~average price patterns of the crops and products produced to~~ 211  
~~determine the income potential to be capitalized; the market~~ 212  
~~value of the land for agricultural use; and other pertinent~~ 213  
~~factors.~~ The rules shall provide that in determining the true 214  
value of lands or improvements thereon for tax purposes, all 215  
facts and circumstances relating to the value of the property, 216  
its availability for the purposes for which it is constructed or 217  
being used, its obsolete character, if any, the income capacity 218  
of the property, if any, and any other factor that tends to 219  
prove its true value shall be used. In determining the true 220  
value of minerals or rights to minerals for the purpose of real 221  
property taxation, the tax commissioner shall not include in the 222  
value of the minerals or rights to minerals the value of any 223  
tangible personal property used in the recovery of those 224  
minerals. 225

(2) The uniform rules shall prescribe the method for 226  
determining the current agricultural use value of land devoted 227  
exclusively to agricultural use, which method shall reflect 228

standard and modern appraisal techniques that take into 229  
consideration the productivity of the soil under normal 230  
management practices, typical cropping and land use patterns, 231  
the average price patterns of the crops and products produced 232  
and the typical production costs to determine the net income 233  
potential to be capitalized, and other pertinent factors. 234

In determining the agricultural land capitalization rate 235  
to be applied to the net income potential from agricultural use, 236  
the commissioner shall use standard and modern appraisal 237  
techniques but shall not use a method that includes in the 238  
computation buildup of equity or appreciation with respect to 239  
the agricultural land. 240

The commissioner shall add to the overall capitalization 241  
rate a tax additur. The sum of the overall capitalization rate 242  
and the tax additur shall represent as nearly as possible the 243  
rate of return a prudent investor would expect from an average 244  
or typical farm in this state considering only agricultural 245  
factors. 246

The commissioner shall annually determine and announce the 247  
overall capitalization rate, tax additur, agricultural land 248  
capitalization rate, and the individual components used in 249  
computing such amounts in a determination, finding, computation, 250  
or order of the commissioner published simultaneously with the 251  
commissioner's annual publication of the per-acre agricultural 252  
use values for each soil type. 253

(B) The taxable value shall be that per cent of true value 254  
in money, or current agricultural use value in the case of land 255  
valued in accordance with section 5713.31 of the Revised Code, 256  
the commissioner by rule establishes, but it shall not exceed 257  
thirty-five per cent. The uniform rules shall also prescribe 258

methods of making the appraisals set forth in section 5713.03 of 259  
the Revised Code. The taxable value of each tract, lot, or 260  
parcel of real property and improvements thereon, determined in 261  
accordance with the uniform rules and methods prescribed 262  
thereby, shall be the taxable value of the tract, lot, or parcel 263  
for all purposes of sections 5713.01 to 5713.26, 5715.01 to 264  
5715.51, and 5717.01 to 5717.06 of the Revised Code. County 265  
auditors shall, under the direction and supervision of the 266  
commissioner, be the chief assessing officers of their 267  
respective counties, and shall list and value the real property 268  
within their respective counties for taxation in accordance with 269  
this section and sections 5713.03 and 5713.31 of the Revised 270  
Code and with such rules of the commissioner. There shall also 271  
be a board in each county, known as the county board of 272  
revision, which shall hear complaints and revise assessments of 273  
real property for taxation. 274

(C) The commissioner shall neither adopt nor enforce any 275  
rule that requires true value for any tax year to be any value 276  
other than the true value in money on the tax lien date of such 277  
tax year or that requires taxable value to be obtained in any 278  
way other than by reducing the true value, or in the case of 279  
land valued in accordance with section 5713.31 of the Revised 280  
Code, its current agricultural use value, by a specified, 281  
uniform percentage. 282

**Section 2.** That existing sections 5713.31, 5713.34, and 283  
5715.01 of the Revised Code are hereby repealed. 284

**Section 3.** The amendment by this act of sections 5713.31, 285  
5713.34, and 5715.01 of the Revised Code applies to tax year 286  
2015 and thereafter in all counties. 287