

## CHAPTER 43

**AN ACT** concerning farmland assessment, amending and supplementing P.L.1964, c.48, amending P.L.1999, c.278, and repealing section 1 of P.L.1968, c.455 (C.54:4-23.13a).

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.54:4-23.3d Development of guidelines for certain agricultural, horticultural practices.

1. a. (1) The State Board of Agriculture and the Department of Agriculture shall develop, within one year after the date of enactment of P.L.2013, c.43 (C.54:4-23.3d et al.), guidelines describing generally accepted agricultural and horticultural practices, which may be used by municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.). The Division of Taxation in the Department of the Treasury shall review the guidelines, and, upon its approval thereof, shall adopt them as rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The guidelines shall be advisory, and need not be exhaustive or comprehensive in terms of applicability, nor specifically tailored, to each and every possible agricultural or horticultural practice or use. The Director of the Division of Taxation shall distribute these guidelines to all municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials, by including them, to the maximum extent possible, with other information on real property taxation regularly distributed by the division to such individuals.

(2) Upon the request of a municipal tax assessor, county assessor, county tax administrator, or other appropriate local official, the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, shall provide advice to assist the municipal tax assessor, county assessor, county tax administrator, or other appropriate local official in determining whether or not a particular parcel may qualify for valuation, assessment and taxation pursuant to P.L.1964, c.48 based on the agricultural or horticultural activities taking place on the parcel.

b. The Division of Taxation, in conjunction with the Department of Agriculture, shall offer, at such time intervals as may be established by the Director of the Division of Taxation but at least biennially, and free of charge, a continuing education course to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials on the guidelines developed and adopted pursuant to subsection a. of this section and other issues concerning the valuation, assessment and taxation of land pursuant to P.L.1964, c.48.

c. The State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection shall consult with the New Jersey Forestry Association and the New Jersey Division of the Society of American Foresters on any issues pertaining to woodland management or forest stewardship and P.L.1964, c.48.

2. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read as follows:

C.54:4-23.5 Land deemed actively devoted to agricultural, horticultural, woodland use.

5. a. Except as otherwise provided in subsection d. of this section, land, five acres in area, shall be deemed to be actively devoted to agricultural or horticultural use when the amount of the gross sales of agricultural or horticultural products produced thereon, any payments

received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to cropland pastured and permanent pasture land used for grazing in the amount determined by the State Farmland Evaluation Committee created pursuant to section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under P.L.1964, c.48, have averaged at least \$1,000 per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales, payments, fees, and imputed income amounting to at least \$1,000 within a reasonable period of time, or such amount as may be established by the State Farmland Evaluation Committee pursuant to this section. In the case of woodland subject to a woodland management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3), the amount shall be at least \$500, or such amount as may be established by the State Farmland Evaluation Committee pursuant to this section. Every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation, the State Farmland Evaluation Committee shall review the minimum gross sales, payments, fees, and imputed income requirements, and anticipated yearly gross sales, payments, fees, and imputed income requirements, established in this section for the first five acres, and may, by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), raise the amounts of those minimums to such levels as the committee determines appropriate. Any increase made to the minimum gross sales, payments, fees, and imputed income requirements, and anticipated yearly gross sales, payments, fees and imputed income requirements, for the first five acres as authorized pursuant to this section shall not be enforced until the third tax year following adoption of the increase.

In addition, where the land is more than five acres in area, it shall be deemed to be actively devoted to agricultural or horticultural use when the amount of the gross sales of agricultural or horticultural products produced on the area above five acres, any payments received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to cropland pastured and permanent pasture land used for grazing in the amount determined by the State Farmland Evaluation Committee created pursuant to section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under P.L.1964, c.48, have averaged at least \$5.00 per acre per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales, payments, fees, and imputed income amounting to an average of at least \$5.00 per year within a reasonable period of time; except in the case of woodland and wetland, where the minimum requirement shall be an average of \$0.50 per acre on the area above five acres.

In addition, in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use must be consistent with the guidelines describing generally accepted agricultural and horticultural practices developed and adopted pursuant to subsection a. of section 1 of P.L.2013, c.43 (C.54:4-23.3d).

As used in this section, "livestock" shall not include dogs.

For the purposes of this section, the presence of an intervening public thoroughfare shall not preclude a finding of contiguity.

b. (1) Land previously qualified as actively devoted to agricultural or horticultural use under P.L.1964, c.48, but failing to meet the additional requirement on acreage above five acres, shall not be subject to the roll-back tax because of such disqualification, but shall be treated as land for which an annual application has not been submitted, provided that the land remains in agricultural or horticultural use.

(2) Land previously qualified as actively devoted to agricultural or horticultural use under P.L.1964, c.48, but failing to meet any increase in the minimum amount of gross sales, payments and fees received, and imputed income requirements, and anticipated yearly gross sales, payments, fees, and imputed income requirements, established pursuant to subsection a. of this section, shall not be subject to the roll-back tax because of such disqualification, but shall be treated as land for which an annual application has not been submitted, provided that the land remains in agricultural or horticultural use.

(3) Land qualified as actively devoted to agricultural or horticultural use as of the day before the date of enactment of P.L.2013, c.43 (C.54:4-23.3d et al.) due to the use of payments or other compensation received under a soil conservation program agreement with any agency of the federal government, but which payments or other compensation do not meet the minimum amounts required pursuant to subsection a. of this section as amended by P.L.2013, c.43 (C.54:4-23.3d et al.), shall continue to be deemed to be actively devoted to agricultural or horticultural use for purposes of valuation, assessment and taxation under P.L.1964, c.48 until the end of the soil conservation program agreement period.

c. In determining the eligibility of land for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), the assessor of the taxing district in which the land is located shall, upon request by the owner of the land, exempt the owner from the income requirements of this section if the owner demonstrates to the satisfaction of the assessor that the failure to meet the income requirements was due to an injury, illness or death of the person responsible for performing the activities which produce the income necessary to meet the income eligibility requirement of this section. The request of the owner shall be accompanied by a certificate of a physician stating that the person was physically incapacitated or by a certified copy of the death certificate, as the case may be. The assessor may only grant an exemption once for a particular illness, injury or death.

d. The gross sales, payments, fees, and imputed income received pursuant to the requirements of this section shall not apply to land that (1) is the subject of a forest stewardship plan approved by the Department of Environmental Protection pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) which is fully implemented, and (2) otherwise qualifies under the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for valuation, assessment and taxation as land in agricultural or horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3).

3. Section 7 of P.L.1964, c.48 (C.54:4-23.7) is amended to read as follows:

C.54:4-23.7 Considerations of assessor in valuing land.

7. The assessor in valuing land which qualifies as land actively devoted to agricultural or horticultural use under the tests prescribed by P.L.1964, c.48 and the guidelines describing generally accepted agricultural and horticultural practices developed and adopted pursuant to subsection a. of section 1 of P.L.2013, c.43 (C.54:4-23.3d), and as to which the owner thereof has made timely application for valuation, assessment and taxation hereunder for the tax year in issue, shall consider only those indicia of value which such land has for

agricultural or horticultural use. In addition to use of personal knowledge, judgment and experience as to the value of land in agricultural or horticultural use, the assessor shall, in arriving at the value of such land, consider available evidence of agricultural and horticultural capability derived from the soil survey data at Rutgers, The State University, the National Co-operative Soil Survey, the recommendations of value of such land as made by any county or Statewide committee which may be established to assist the assessor, and the guidelines describing generally accepted agricultural and horticultural practices developed and adopted pursuant to subsection a. of section 1 of P.L.2013, c.43 (C.54:4-23.3d).

4. Section 14 of P.L.1964, c.48 (C.54:4-23.14) is amended to read as follows:

C.54:4-23.14 Application form; contents; violations, penalties.

14. a. Application for valuation, assessment and taxation of land in agricultural or horticultural use under P.L.1964, c.48 shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury, in consultation with the State Board of Agriculture, and provided for the use of claimants by the governing bodies of the respective taxing districts. The form of application shall provide for the reporting of information pertinent to the provisions of Article VIII, Section 1, paragraph 1(b) of the Constitution, as amended, and P.L.1964, c.48. The form shall include a plain language recitation and explanation of the guidelines describing generally accepted agricultural and horticultural practices developed and adopted pursuant to subsection a. of section 1 of P.L.2013, c.43 (C.54:4-23.3d) that may be used by municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.). The applicant shall include with the form of application, in a manner prescribed by the director, proofs of sales of agricultural or horticultural products, and of any other payments, fees, or imputed income received from the agricultural or horticultural use of the land, in the prior year, or clear evidence of anticipated yearly gross sales, payments, fees, or imputed income, amounting to at least \$1,000 for the first five acres, or in the case of woodland subject to a woodland management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) amounting to at least \$500 for the first five acres, or in either case amounting to such sums as may be established by the State Farmland Evaluation Committee pursuant to subsection a. of section 5 of P.L.1964, c.48 (C.54:4-23.5).

In the case of land that is the subject of a forest stewardship plan approved by the Department of Environmental Protection pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) which is fully implemented, and otherwise qualifies under the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for valuation, assessment and taxation as land in agricultural or horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3), no proofs required pursuant to this subsection of gross sales, payments, fees, or imputed income, or of clear evidence of anticipated yearly gross sales, payments, fees, or imputed income, need be included with the form or otherwise submitted. However, the applicant shall include documentation demonstrating implementation of the forest stewardship plan, including documentation of scheduled activities, a forest inventory and yield parameters to document forest productivity, and inspections performed, in accordance with rules and regulations adopted for the forest stewardship program by the Department of Environmental Protection.

b. A certification by the landowner that the facts set forth in the application are true may be prescribed by the director to be in lieu of a sworn statement to that effect. Statements so certified shall be considered as if made under oath and subject to the same penalties as provided by law for perjury.

In addition, for a gross and intentional misrepresentation on the application, the landowner shall be subject to a civil penalty of up to \$5,000. Any such civil penalty may be imposed and collected by the municipality, the county, or the State, with costs, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this subsection. One-half of any civil penalties so collected by a municipality or county shall be dedicated and used by the municipality or county in administering and enforcing the provisions of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) in the municipality or county. The remaining one-half of any civil penalties so collected by a municipality or county shall be paid by the municipality or county to the State, and together with any civil penalties so collected directly by the State, shall be dedicated and used by the Department of Agriculture and the Division of Taxation in administering and enforcing the provisions of P.L.1964, c.48.

c. Any landowner, except those who have submitted a woodland management plan or a forest stewardship plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) for lands not previously qualified under P.L.1964, c.48 shall submit with the application a map of land use classes and soil groups that conforms with standards established by the Division of Taxation in consultation with the State Board of Agriculture.

d. For any landowner whose farm management unit is less than seven acres in size, the landowner shall submit with the application form a narrative describing the agricultural or horticultural uses on the farm management unit, the number of acres that will be actively devoted to those uses, and a sketch of the location on the farm management unit of those uses. For the purposes of this subsection, "farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

e. The director, after consultation with the State Board of Agriculture, shall include with each application a letter or other document explaining any changes to the law, rules, regulations, and guidelines on the valuation, assessment and taxation of land pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) that have occurred in the prior tax year and which shall be newly in effect in the tax year for which the application is being submitted.

f. The director shall devise a form for the extension of filing time for the valuation application, which form shall include the name and address of the applicant, the reason for the extension, and a space for the approval or rejection of the assessor.

5. Section 20 of P.L.1964, c.48 (C.54:4-23.20) is amended to read as follows:

C.54:4-23.20 State Farmland Evaluation Committee.

20. a. There is hereby created a State Farmland Evaluation Committee, the members of which shall be the Director of the Division of Taxation; the Dean of the College of Agriculture, Rutgers, The State University; the Secretary of Agriculture; a municipal tax

assessor, county assessor, or county tax administrator, who shall be appointed by the Governor with the advice and consent of the Senate; and a farmer who is a current or former member of the State Board of Agriculture, who shall be appointed by the Governor with the advice and consent of the Senate. Each appointed member shall serve for a term of three years and may be appointed to successive terms.

b. The committee shall meet from time to time on the call of the Secretary of Agriculture or the Director of the Division of Taxation and annually determine and publish a range of values for each of the several classifications of land in agricultural and horticultural use in the various areas of the State. The committee shall determine the ranges in fair value of such land based upon its productive capabilities when devoted to agricultural or horticultural uses. In making these annual determinations of value, the committee shall consider available evidence of agricultural or horticultural capability derived from the soil survey at Rutgers, The State University, the National Co-operative Soil Survey, and such other evidence of value of land devoted exclusively to agricultural or horticultural uses as it may in its judgment deem pertinent. On or before October 1 of each year, the committee shall make these ranges of fair value available to the assessing authority in each of the taxing districts in which land in agricultural and horticultural use is located.

c. The committee shall also conduct the review, required every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation, of the minimum gross sales, payments, fees, and imputed income requirements, and anticipated yearly gross sales, payments, fees, and imputed income requirements, in order for land which is actively devoted to agricultural or horticultural use to be eligible for valuation, assessment and taxation under the provisions of P.L.1964, c.48 (C.54:4-23.1 et seq.), as prescribed by section 5 of P.L.1964, c.48 (C.54:4-23.5), and may raise the amounts of those minimums to such levels as the committee determines appropriate as authorized pursuant to section 5 of P.L.1964, c.48.

d. Within one year after the date of enactment of P.L.2013, c.43 (C.54:4-23.3d et al.), and every five years thereafter, the committee shall review the application form or forms for valuation, assessment and taxation of land in agricultural or horticultural use pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), and provide any recommendations the committee may have thereon to the Director of the Division of Taxation.

6. Section 1 of P.L.1999, c.278 (C.54:1-35.25b) is amended to read as follows:

C.54:1-35.25b Continuing education, training requirements for certified tax assessors.

1. a. All tax assessor certificates issued prior to the effective date of P.L.1999, c.278 (C.54:1-35.25b et al.) shall expire five years following that effective date and shall be renewed in accordance with the procedure established in this section. All tax assessor certificates issued on or after the effective date of P.L.1999, c.278 (C.54:1-35.25b et al.) shall expire five years after the issuance of the certificate and shall be renewed in accordance with the procedure established in this section.

(1) All tax assessor certificates shall be renewed upon application, payment of the required renewal fee, and verification that the applicant has met continuing education requirements, as set forth in paragraph (2) and paragraph (3) of this subsection. After the initial expiration of any tax assessor certificates following the effective date of P.L.1999, c.278 (C.54:1-35.25b et al.), each renewal period shall thereafter be for a period of three

years. The renewal date shall be 30 days prior to the expiration date of the tax assessor certificate.

(2) Prior to the first renewal date of a tax assessor certificate pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.) every applicant for renewal shall, on a form prescribed by the Director of the Division of Taxation, furnish proof of having earned a total of at least 50 continuing education credit hours over the prior five-year period. Thereafter, prior to each succeeding renewal date of a tax assessor certificate, every applicant for renewal shall, on a form prescribed by the Director of the Division of Taxation, furnish proof of having earned a total of at least 30 continuing education credit hours over the prior three-year period. For the purposes of this section, one continuing education credit hour means 50 minutes of classroom or lecture time. After verifying that the applicant has fulfilled the continuing education requirement and after receiving a fee of not less than \$50 paid by the applicant to the order of the Treasurer of the State of New Jersey, the Director of the Division of Taxation shall renew the tax assessor certificate. The Director of the Division of Taxation shall determine, by regulation, the circumstances under which an extension of time to complete the requirements for continuing education may be granted by the director.

(3) Commencing January 1, 2018, for any tax assessor of a municipality, and for any county assessor of a county, in which one or more Class 3B (Farm Qualified) properties subject to valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) are located, prior to every renewal date of a tax assessor certificate issued to that tax assessor pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.), the applicant for renewal shall, on a form prescribed by the Director of the Division of Taxation, furnish proof of having taken, at least once in the prior three years, the continuing education course concerning certain aspects of farmland assessment required to be offered, free of charge, by the Division of Taxation, in conjunction with the Department of Agriculture, pursuant to subsection b. of section 1 of P.L.2013, c.43 (C.54:4-23.3d).

b. There is established within the Division of Taxation in the Department of the Treasury the Tax Assessor Continuing Education Eligibility Board. The board shall consist of six members and be comprised as follows: the Director of the Division of Taxation or his designee, the President of the Association of Municipal Assessors, and the President of the New Jersey Association of County Tax Board Commissioners and County Tax Administrators shall be permanent members. The Director of the Division of Taxation and the President of the Association of Municipal Assessors shall each appoint an additional member who shall serve for a term of two years. The Director of Government Services at Rutgers University shall serve ex officio. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided by the original appointment. The first meeting of the board shall be held at the call of the Director of the Division of Taxation, and thereafter the board shall meet annually and shall hold at least one additional meeting within each 12-month period. The board shall establish the curriculum areas and the number of hours in each curriculum area that an assessor shall complete in order to renew certification.

c. When the holder of a tax assessor certificate has allowed the certificate to lapse by failing to renew the certificate, a new application and certificate shall be required. If application is made within six months of the expiration of the certificate, then application may be made in the same manner as a renewal, but with an additional late renewal fee of \$50.

d. (Deleted by amendment, P.L.2013, c.15).

e. In addition to the requirements of this section, to address the introduction to, and competency of, municipal assessors and county tax board personnel with the technology, administrative procedures, and real property appraisal requirements within a demonstration county under a demonstration program established in section 4 of P.L.2013, c.15 (C.54:1-104), the county tax administrator of a demonstration county, in consultation with the members of the county tax board of that demonstration county, shall develop a training program to provide annually, free of charge, an additional 10 credit hours of continuing education training concerning the requirements of the real property assessment function in the demonstration county for all assessors, deputy assessors, tax board commissioners, the county tax administrator, and the deputy county tax administrator, practicing within that demonstration county. Attendance at the training program shall be required for each of these professionals, and the county tax administrator of the demonstration county shall annually certify to the Director of the Division of Taxation in the Department of the Treasury that each of these professionals has completed this training. The continuing education credit hours required by this subsection shall be in addition to the requirements of subsection a. of this section, and shall not be used to satisfy any requirements of that subsection. Any person who does not meet the additional continuing education training requirement required by this subsection shall be ineligible to function as an assessor or deputy assessor in any municipality located in a demonstration county until such time as the additional continuing education training requirement has been satisfied.

The Director of the Division of Taxation, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such regulations as are necessary to effectuate the provisions of this section.

Repealer.

7. Section 1 of P.L.1968, c.455 (C.54:4-23.13a) is repealed.

8. This act shall take effect immediately, except that it shall be applicable to tax years commencing with tax year 2015.

Approved April 15, 2013.