



2001 SENATE BILL 304

October 31, 2001 - Introduced by Senators DECKER, JAUCH and GROBSCHMIDT, cosponsored by Representatives KRUG, REYNOLDS, COGGS, BLACK, KREUSER, MILLER, HUBER and LA FAVE. Referred to Committee on Universities, Housing, and Government Operations.

1 **AN ACT to repeal** 74.48; **to amend** 70.32 (2) (c) 1.; and **to create** 70.32 (2) (c) 1m.,
2 70.32 (2s) and 74.485 of the statutes; **relating to:** the definition of agricultural
3 land for property tax purposes and the penalty for converting agricultural land.

Analysis by the Legislative Reference Bureau

Under current law, "agricultural land" is defined, for property tax purposes, as land, exclusive of buildings and improvements, that is devoted primarily to agricultural use, as defined by rule by the department of revenue (DOR). Under this bill, "agricultural land" is defined, for property tax purposes, as land, exclusive of buildings and improvements and the land necessary for their location and convenience, that is devoted primarily to agricultural use, as defined by rule by DOR, if the land is a farm and if the person who either owns or leases the land files a form with the taxation district in which the land is located.

Under the bill, a "farm" is defined, for property tax purposes, as a business that is engaged in animal production or crop production; including growing sod, Christmas trees, and ginseng but excluding growing nursery product and nursery stock; and that either generates at least \$6,000 in gross receipts from such production in the year preceding the date on which the required form is filed or is likely to generate at least \$6,000 in gross receipts from such production in the year following the date on which the required form is filed. The person who files the form must do so no later than March 1. The person who files the form certifies that the farm generated at least \$6,000 in gross receipts from animal or crop production in the year preceding the filing of the form or is likely to generate at least \$6,000 in gross receipts from such production in the year following the filing of the form.

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Under current law, a person who owns land that has been assessed as agricultural land, for property tax purposes, and who changes the land's use so that the land is no longer assessed as agricultural land is subject to a penalty. The penalty is equal to the difference between the property taxes that would have been levied on the land if the land had been assessed at full market value and the property taxes levied on the land for the last two years that the land has been assessed as agricultural land. The taxation district in which the land is located administers and collects the penalty and distributes the penalty amount to the taxing jurisdictions in which the land is located in proportion to the taxes levied by the taxing jurisdictions during the last two years that the land has been assessed as agricultural land.

Under the bill, a person who owns land that has been assessed as agricultural land, for property tax purposes, and who converts the land's use so that the land is no longer assessed as agricultural land is subject to a penalty equal to the number of acres converted, multiplied by the amount of the difference between the average fair market value of an acre of agricultural land sold in the county in which the land is located in the previous year and the average equalized value of an acre of agricultural land sold in the county in the previous year, multiplied by the following: 5%, if the converted land is more than 30 acres; 7 1/2%, if the converted land is 30 acres or less but at least ten acres; or 10%, if the converted land is less than ten acres. However, a person who converts agricultural land is not subject to the penalty if the amount of the penalty represents less than \$25 for each acre of converted land.

Under the bill, the county in which the converted land is located administers and collects the penalty. The county distributes 50% of the amount of any penalty to the taxation district in which the land is located. The taxation district must distribute 50% of the amount it received from the county to an adjoining taxation district, if the taxation district annexed the converted land from the adjoining taxation district in either of the previous two years.

Under the bill, the county may defer payment of the penalty if the person who owes the penalty demonstrates to the county that the person's land will be used as agricultural land in the succeeding taxable year. If the land is used as agricultural land in the succeeding taxable year, the person does not pay penalty. If the land is not used as agricultural land in the succeeding taxable year, the person pays the penalty with interest at the rate of 1% a month from the date that the county granted a deferral to the date that the penalty is paid.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 70.32 (2) (c) 1. of the statutes is amended to read:

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1 70.32 (2) (c) 1. “Agricultural land” means land, exclusive of buildings and
2 improvements and the land necessary for their location and convenience, that is
3 devoted primarily to agricultural use, as defined by rule, if the land is a farm, as
4 defined in sub. (2s) (a) 2., and the owner or lessee of the land files the form under sub.
5 (2s).

6 **SECTION 2.** 70.32 (2) (c) 1m. of the statutes is created to read:

7 70.32 (2) (c) 1m. “Other” means buildings and improvements located on farms,
8 as defined in sub. (2s) (a) 2., and the land necessary for their location and
9 convenience.

10 **SECTION 3.** 70.32 (2s) of the statutes is created to read:

11 70.32 (2s) (a) In this subsection:

12 1. “Department” means the department of revenue.

13 2. “Farm” means a business engaged in activities included in the North
14 American Industry Classification System, 1997 edition, published by the U.S. office
15 of management and budget under any of the following classifications, if the business
16 generated at least \$6,000 in gross receipts from such activities in the year preceding
17 the date that a form is filed under par. (b) or if the business is likely to generate at
18 least \$6,000 in gross receipts from such activities in the year following the date that
19 a form is filed under par. (b):

20 a. Classification 111–Crop production including growing sod, Christmas trees,
21 and ginseng under industry number 111421, but excluding growing nursery product
22 and stock under industry number 111421.

23 b. Classification 112–Animal production.

24 (b) Any person who owns or who is a lessee of land used as a farm shall file a
25 form, as prescribed by the department, with the assessor of each taxation district in

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1 which land included in the farm is located no later than March 1 that certifies that
2 the person is the owner or lessee of land used as a farm. The person shall certify on
3 the form that the farm generated at least \$6,000 in gross receipts from the activities
4 described under par. (a) 2. in the preceding year, or is likely to generate at least
5 \$6,000 in gross receipts from such activities in the year following the date that a form
6 is filed under this paragraph. On the form, the person shall specify each such activity
7 and the gross receipts generated or likely to be generated from each activity. For
8 purposes of this subsection, gross receipts from the activities described under par. (a)
9 2. shall be calculated on a per farm basis, regardless of whether the farm is located
10 in more than one taxation district. A person who has filed a form under this
11 paragraph shall only file such a form in a subsequent year, if in that subsequent year
12 the person has acquired or leased additional land to be used as part of the farm.

13 (c) If the use of the person's land has changed so that it may no longer be
14 assessed as agricultural land under sub. (2r), the person who owns or who is the
15 lessee of the land shall notify the clerk of the taxation district in which the person's
16 land is located, on a form prescribed by the department. If the use of the person's land
17 has changed so that it may no longer be assessed as agricultural land under sub. (2r)
18 and the person who owns or who is the lessee of the land does not notify the clerk of
19 the taxation district as provided under this paragraph, the taxation district shall
20 treat the difference between the land's value as agricultural land under sub. (2r) and
21 the land's value under the appropriate classification as provided under sub. (2) (a)
22 as omitted property under s. 70.44 and collect from the owner of the land the penalty
23 under s. 74.485.

24 **SECTION 4.** 74.48 of the statutes is repealed.

25 **SECTION 5.** 74.485 of the statutes is created to read:

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1 **74.485 Penalty for converting agricultural land. (1) DEFINITION.** In this
2 section, “agricultural land” has the meaning given in s. 70.32 (2) (c) 1.

3 **(2) PENALTY.** Except as provided in sub. (4), a person who owns land that has
4 been assessed as agricultural land under s. 70.32 (2r) and who converts the land’s
5 use so that the land is not eligible to be assessed as agricultural land under s. 70.32
6 (2r), as determined by the county treasurer, shall pay a penalty to the county in which
7 the land is located in an amount equal to the number of acres converted multiplied
8 by the amount of the difference between the average fair market value of an acre of
9 agricultural land sold in the county in the year before the year that the person
10 converts the land, as determined under sub. (3), and the average equalized value of
11 an acre of agricultural land in the county in the year before the year that the person
12 converts the land, as determined under sub. (3), multiplied by the following:

13 (a) Five percent, if the converted land is more than 30 acres.

14 (b) Seven and one-half percent, if the converted land is 30 acres or less but at
15 least 10 acres.

16 (c) Ten percent, if the converted land is less than 10 acres.

17 **(3) VALUE DETERMINATION.** Annually, the department of revenue shall
18 determine the average equalized value of an acre of agricultural land in each county
19 in the previous year, as provided under s. 70.57, and the average fair market value
20 of an acre of agricultural land sold in each county in the previous year based on the
21 sales in each county in the previous year of parcels of agricultural land that are 38
22 acres or more to buyers who intend to use the land as agricultural land.

23 **(4) EXCEPTIONS AND DEFERRAL.** (a) A person who owns land that has been
24 assessed as agricultural land under s. 70.32 (2r) and who converts the land’s use so
25 that the land is not eligible to be assessed as agricultural land under s. 70.32 (2r) is

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1 not subject to a penalty under sub. (2) if the amount of the penalty determined under
2 sub. (2) represents less than \$25 for each acre of converted land.

3 (b) If a person owes a penalty under sub. (2), the treasurer of the county in
4 which the person's land is located may defer payment of the penalty to the succeeding
5 taxable year if the person demonstrates to the treasurer that the person's land will
6 be used as agricultural land in the succeeding taxable year. A person who receives
7 a deferral under this paragraph is not subject to the penalty under sub. (2) related
8 to the deferral, if the person's land is used as agricultural land in the succeeding
9 taxable year. If the land of a person who receives a deferral under this paragraph
10 is not used as agricultural land in the succeeding taxable year, the person shall pay
11 the penalty with interest at the rate of 1% a month, or fraction of a month, from the
12 date that the treasurer granted a deferral to the date that the penalty is paid.

13 (5) PAYMENT. Except as provided in sub. (4), a person who owes a penalty under
14 sub. (2) shall pay the penalty to the county in which the person's land related to the
15 penalty is located no later than 30 days after the date that the penalty is assessed.
16 A penalty that is not paid on the date it is due is considered delinquent and shall be
17 paid with interest at the rate of 1% a month, or fraction of a month, from the date that
18 the penalty is assessed to the date that the penalty is paid. The county shall collect
19 an unpaid penalty as a special charge against the land related to the penalty.

20 (6) DISTRIBUTION. A county that collects a penalty under this section shall
21 distribute 50% of the amount of the penalty to the taxation district in which the land
22 related to the penalty is located. If the land related to the penalty is located in 2 or
23 more taxation districts, the county shall distribute 50% of the amount of the penalty
24 to the taxation districts in proportion to the equalized value of the land related to the
25 penalty that is located in each taxation district. A taxation district shall distribute

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1 50% of any amount it receives under this subsection to an adjoining taxation district,
2 if the taxation district in which the land related to the penalty is located annexed the
3 land related to the penalty from the adjoining taxation district in either of the 2 years
4 preceding a distribution under this subsection.

5 (7) NOTICE. A person who owns land that has been assessed as agricultural land
6 under s. 70.32 (2r) and who sells the land shall notify the buyer of the land of all of
7 the following:

8 (a) That the land has been assessed as agricultural land under s. 70.32 (2r).

9 (b) Whether the person who owns the land and who is selling the land has been
10 assessed a penalty under sub. (2) related to the land.

11 (c) Whether the person who owns the land and who is selling the land has been
12 granted a deferral under sub. (4) related to the land.

13 (8) REGISTER OF DEEDS. The county register of deeds shall inform the county
14 treasurer of all sales of agricultural land located in the county.

15 (9) ADMINISTRATION. The county in which the land as described in sub. (1) is
16 located shall administer the penalty under this section.

17 **SECTION 6. Nonstatutory provisions.**

18 (1) PENALTY FOR CONVERTING AGRICULTURAL LAND. Notwithstanding section
19 70.32 (2s) (c) of the statutes, as created by this act, and section 74.485 of the statutes,
20 as created by this act, land assessed as agricultural land for the property tax
21 assessments as of January 1, 2001, that may no longer be assessed as agricultural
22 land for the property tax assessments as of January 1, 2002, because the land is not
23 used as a farm, as defined under section 70.32 (2s) (a) 2. of the statutes, is not subject
24 to the penalty under section 74.485 of the statutes with regard to the property tax
25 assessments as of January 1, 2001, and January 1, 2002.

