

# STATE OF NEW YORK

7653

## IN SENATE

January 5, 2022

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to lowering the qualification amounts of acreage and annual sales for agricultural assessments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph and paragraphs b, f, h, i, j, k, l,  
2 and n of subdivision 4 of section 301 of the agriculture and markets  
3 law, the opening paragraph as amended by chapter 344 of the laws of  
4 2012, paragraphs b and f as amended by chapter 445 of the laws of 2002,  
5 paragraph h as amended by chapter 587 of the laws of 2005, paragraph i  
6 as added by chapter 252 of the laws of 2004, paragraph j as added by  
7 chapter 256 of the laws of 2006, paragraph k as added by chapter 341 of  
8 the laws of 2008, paragraph l as added by chapter 384 of the laws of  
9 2011, and paragraph n as added by chapter 192 of the laws of 2018, are  
10 amended to read as follows:

11 "Land used in agricultural production" means not less than [~~seven~~  
12 five acres of land used as a single operation in the preceding two years  
13 for the production for sale of crops, livestock or livestock products of  
14 an average gross sales value of [~~ten~~ five thousand dollars or more; or,  
15 not less than [~~seven~~ five acres of land used in the preceding two years  
16 to support a commercial horse boarding operation or a commercial equine  
17 operation with annual gross receipts of [~~ten~~ five thousand dollars or  
18 more. Land used in agricultural production shall not include land or  
19 portions thereof used for processing or retail merchandising of such  
20 crops, livestock or livestock products. Land used in agricultural  
21 production shall also include:

22 b. Land of not less than [~~seven~~ five acres used as a single operation  
23 for the production for sale of crops, livestock or livestock products,  
24 exclusive of woodland products, which does not independently satisfy the  
25 gross sales value requirement, where such land was used in such  
26 production for the preceding two years and currently is being so used

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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1 under a written rental arrangement of five or more years in conjunction  
2 with land which is eligible for an agricultural assessment.

3 f. Land of not less than [~~seven~~ five] acres used as a single operation  
4 in the preceding two years for the production for sale of crops, live-  
5 stock or livestock products of an average gross sales value of [~~ten~~]  
6 five thousand dollars or more, or land of less than [~~seven~~ five] acres  
7 used as a single operation in the preceding two years for the production  
8 for sale of crops, livestock or livestock products of an average gross  
9 sales value of fifty thousand dollars or more.

10 h. Land that is owned or rented by a farm operation in its first or  
11 second year of agricultural production, or, in the case of a commercial  
12 horse boarding operation in its first or second year of operation, that  
13 consists of (1) not less than [~~seven~~ five] acres used as a single opera-  
14 tion for the production for sale of crops, livestock or livestock  
15 products of an annual gross sales value of [~~ten~~ five] thousand dollars  
16 or more; or (2) less than [~~seven~~ five] acres used as a single operation  
17 for the production for sale of crops, livestock or livestock products of  
18 an annual gross sales value of fifty thousand dollars or more; or (3)  
19 land situated under a structure within which crops, livestock or live-  
20 stock products are produced, provided that such crops, livestock or  
21 livestock products have an annual gross sales value of (i) [~~ten~~ five]  
22 thousand dollars or more, if the farm operation uses seven or more acres  
23 in agricultural production, or (ii) fifty thousand dollars or more, if  
24 the farm operation uses less than [~~seven~~ five] acres in agricultural  
25 production; or (4) not less than [~~seven~~ five] acres used as a single  
26 operation to support a commercial horse boarding operation with annual  
27 gross receipts of [~~ten~~ five] thousand dollars or more.

28 i. Land of not less than [~~seven~~ five] acres used as a single operation  
29 for the production for sale of orchard or vineyard crops when such land  
30 is used solely for the purpose of planting a new orchard or vineyard and  
31 when such land is also owned or rented by a newly established farm oper-  
32 ation in its first, second, third or fourth year of agricultural  
33 production.

34 j. Land of not less than [~~seven~~ five] acres used as a single operation  
35 for the production and sale of Christmas trees when such land is used  
36 solely for the purpose of planting Christmas trees that will be made  
37 available for sale, whether dug for transplanting or cut from the stump  
38 and when such land is owned or rented by a newly established farm opera-  
39 tion in its first, second, third, fourth or fifth year of agricultural  
40 production.

41 k. Land used to support an apiary products operation which is owned by  
42 the operation and consists of (i) not less than [~~seven~~ five] acres nor  
43 more than ten acres used as a single operation in the preceding two  
44 years for the production for sale of crops, livestock or livestock  
45 products of an average gross sales value of [~~ten~~ five] thousand dollars  
46 or more or (ii) less than [~~seven~~ five] acres used as a single operation  
47 in the preceding two years for the production for sale of crops, live-  
48 stock or livestock products of an average gross sales value of fifty  
49 thousand dollars or more. The land used to support an apiary products  
50 operation shall include, but not be limited to, the land under a struc-  
51 ture within which apiary products are produced, harvested and stored for  
52 sale; and a buffer area maintained by the operation between the opera-  
53 tion and adjacent landowners. Notwithstanding any other provision of  
54 this subdivision, rented land associated with an apiary products opera-  
55 tion is not eligible for an agricultural assessment based on this para-  
56 graph.

1 1. Land that is owned or rented by a farm operation in its first or  
2 second year of agricultural production or in the case of a commercial  
3 equine operation, in its first or second year of operation, that  
4 consists of not less than [~~seven~~] five acres and stabling at least ten  
5 horses, regardless of ownership, that receives [~~ten~~] five thousand  
6 dollars or more in gross receipts annually from fees generated through  
7 the provision of commercial equine activities including, but not limited  
8 to riding lessons, trail riding activities or training of horses or  
9 through the production for sale of crops, livestock, and livestock  
10 products, or through both the provision of such commercial equine activ-  
11 ities and such production. Under no circumstances shall this subdivision  
12 be construed to include operations whose primary on site function is  
13 horse racing.

14 n. Land of not less than [~~seven~~] five acres used as a single operation  
15 for the production for sale of hops when such land is used solely for  
16 the purpose of planting a new hopyard and when such land is also owned  
17 or rented by a newly established farm operation in its first, second,  
18 third or fourth year of agricultural production.

19 § 2. Subdivisions 13 and 14 of section 301 of the agriculture and  
20 markets law, subdivision 13 as amended by chapter 587 of the laws of  
21 2005 and subdivision 14 as amended by chapter 120 of the laws of 2010,  
22 are amended to read as follows:

23 13. "Commercial horse boarding operation" means an agricultural enter-  
24 prise, consisting of at least [~~seven~~] five acres and boarding at least  
25 ten horses, regardless of ownership, that receives [~~ten~~] five thousand  
26 dollars or more in gross receipts annually from fees generated either  
27 through the boarding of horses or through the production for sale of  
28 crops, livestock, and livestock products, or through both such boarding  
29 and such production. Under no circumstances shall this subdivision be  
30 construed to include operations whose primary on site function is horse  
31 racing. Notwithstanding any other provision of this subdivision, a  
32 commercial horse boarding operation that is proposed or in its first or  
33 second year of operation may qualify as a farm operation if it is an  
34 agricultural enterprise, consisting of at least [~~seven~~] five acres, and  
35 boarding at least ten horses, regardless of ownership, by the end of the  
36 first year of operation.

37 14. "Timber operation" means the on-farm production, management,  
38 harvesting, processing and marketing of timber grown on the farm opera-  
39 tion into woodland products, including but not limited to logs, lumber,  
40 posts and firewood, provided that such farm operation consists of at  
41 least [~~seven~~] five acres and produces for sale crops, livestock or live-  
42 stock products of an annual gross sales value of [~~ten~~] five thousand  
43 dollars or more and that the annual gross sales value of such processed  
44 woodland products does not exceed the annual gross sales value of such  
45 crops, livestock or livestock products.

46 § 3. Subdivision 18 of section 301 of the agriculture and markets law,  
47 as added by chapter 384 of the laws of 2011 and as renumbered by chap-  
48 ter 35 of the laws of 2016, is amended to read as follows:

49 18. "Commercial equine operation" means an agricultural enterprise,  
50 consisting of at least [~~seven~~] five acres and stabling at least ten  
51 horses, regardless of ownership, that receives [~~ten~~] five thousand  
52 dollars or more in gross receipts annually from fees generated through  
53 the provision of commercial equine activities including, but not limited  
54 to riding lessons, trail riding activities or training of horses or  
55 through the production for sale of crops, livestock, and livestock  
56 products, or through both the provision of such commercial equine activ-

ities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least [~~seven~~] **five** acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

§ 4. Paragraphs e and f of subdivision 1 of section 305 of the agriculture and markets law, paragraph e as amended by chapter 385 of the laws of 1994, as further amended by subdivision (d) of section 1 of part W of chapter 56 of the laws of 2010 and as relettered by chapter 35 of the laws of 2016, and subdivision f as added by chapter 220 of the laws of 2020, are amended to read as follows:

e. Notwithstanding any inconsistent general, special or local law to the contrary, if a natural disaster, act of God, or continued adverse weather conditions shall destroy the agricultural production and such fact is certified by the cooperative extension service and, as a result, such production does not produce an average gross sales value of [~~ten~~] **five** thousand dollars or more, the owner may nevertheless qualify for an agricultural assessment provided the owner shall substantiate in such manner as prescribed by the commissioner of taxation and finance that the agricultural production initiated on such land would have produced an average gross sales value of [~~ten~~] **five** thousand dollars or more but for the natural disaster, act of God or continued adverse weather conditions.

f. Notwithstanding any other provision of law to the contrary, the owner of real property which qualified for an agricultural assessment on the two thousand twenty -- two thousand twenty-one assessment roll and is not producing an average annual gross sales value of at least either [~~ten~~] **five** thousand dollars or more or fifty thousand dollars or more, as such value would normally be determined pursuant to section three hundred one of this article may nevertheless qualify for an agricultural assessment on the two thousand twenty-one -- two thousand twenty-two assessment roll provided the owner shall substantiate in such manner, including, but not limited to, analysis by an entity with recognized expertise in farm production and finances, such as cooperative extension or a farm credit institution or federal farm agency, as prescribed by the commissioner of taxation and finance that the agricultural production initiated on such land would have produced an average annual gross sales value of [~~ten~~] **five** thousand dollars or more or fifty thousand dollars or more over the time period beginning on January first, two thousand nineteen and ending on December thirty-first, two thousand twenty but for the effects of the state disaster emergency declared pursuant to executive order number two hundred two of two thousand twenty.

§ 5. This act shall take effect immediately; provided, however, that the amendments made to paragraph f of subdivision 1 of section 305 of the agriculture and markets law made by section four of this act shall not affect the repeal of such paragraph and shall be deemed repealed therewith.