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:

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

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

b. Land of not less than [~~seven~~] **five** acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such 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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under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.

f. Land of not less than [~~seven~~] **five** acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of [~~ten~~] **five** thousand dollars or more, or land of less than [~~seven~~] **five** acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.

h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than [~~seven~~] **five** acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of [~~ten~~] **five** thousand dollars or more; or (2) less than [~~seven~~] **five** acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) [~~ten~~] **five** thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than [~~seven~~] **five** acres in agricultural production; or (4) not less than [~~seven~~] **five** acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of [~~ten~~] **five** thousand dollars or more.

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

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

k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than [~~seven~~] **five** acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of [~~ten~~] **five** thousand dollars or more or (ii) less than [~~seven~~] **five** acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

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

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

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

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least [~~seven~~] five acres and boarding at least ten horses, regardless of ownership, that receives [~~ten~~] five thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding 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, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least [~~seven~~] five acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

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

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

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