

Change in the ground

Some ag land could be re-classed as residential under new law

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Approximately 2,000 Montrose County properties are being reviewed to see how their agricultural valuation and assessment rates — and eventually, their property tax — could change come Jan.

1. That's when HB1146 passed earlier this year, goes into effect. Under it, up to 2 acres of land beneath residential dwelling/residential improvements that are not integral to agricultural operations will no longer receive the ag-land designation, but will instead be classed as residential.

"The law does nothing to change the classification of vacant land, or simple ag land — only ag land with residential improvements on it. If a home is occupied by the farmer or rancher, and/or is a necessary component of the ag operation, there is no change in classification. "This is primarily designed for people who lease to a rancher or farmer but have a home on the property," said Mon-

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trous County Assessor Brad Hughes. "For true farming and ranching families, there will be no change to their classification structure."

On the farmer and agri-businessman John Harold said he didn't know how the new law might affect his properties. He has ag land with residences on it, in which laborers who work the land live. Harold said he needs to study the law more.

Agricultural property has a lower valuation than residential-improved properties. The valuation formula for ag land sets the value based on how much the property can produce.

Valuation for other types of property is market value; this is determined by analyses of sales of vacant land and improved properties over an 18-month period.

The value is multiplied by the assessment rate, which is 29 percent of market value for all classes of properties except for residential-improved properties, the assessment rate of which is 7.96 percent.

The assessed value is multiplied by whatever mill levy rates apply in the district in which property is located to determine property tax.

Although ag land's assessment rate of 29 percent is higher than the residential-improved assessment rate of 7.96 percent, there is usually a substantial property tax break, because ag-land's valuation is significantly lower to begin with.

The 2010 classification task force of which Hughes was a member found a number of loopholes in the ag-classification law: no minimum acreage requirement, no duration requirement for livestock grazing, no minimum income for the land or the land's operator, no primary purpose criteria, no hobby farm classifica-

tion, no mixed-use residential/ag classification and no federal income tax filing requirements.

"There's a lot of abuse with this. We're trying to close tax loopholes on these agricultural classifications that really aren't warranted," Hughes said.

The law has fans and foes, and will affect each county differently, with its effects being felt more in resort areas, such as nearby San Miguel County. There, the average home site values can run to hundreds of thousands — even millions — of dollars. "You're dealing with higher valuations on the land under the residential building sites," Hughes said.

HB1146 made only slight changes to current law, removing a provision that classed as agricultural the land underlying residential improvements, and adding that the ag-classification "shall not include 2 acres or less of land on which a residential improvement is located unless the improvement is integral to an agricultural operation conducted on such land."

"It's a lot more fair. It's more equitable," Hughes said. "If you are a true farmer or rancher and that residence is necessary to operate, you still get the ag valuation."

Though the law allows for the reclassification of up to 2 acres beneath and around a residence that is not integral to farming or ranching operations, Hughes said he expects to use only a half-acre in most cases in Montrose County. For example, a 100-acre parcel would see 99.5 acres remain classified as ag, and half an acre, where the home sits, classified as residential.

"You're not taking away agriculture on the entire property," Hughes said. "... This bill isn't really taking away an ag classification for anyone. It's just making it so there's a mixed-use portion. Their ag can remain ag."

In Montrose County, the properties that wind up with the mixed ag/residential designation can expect to see property tax increase, on average, by about \$250 a year, Hughes said.

Property owners will receive reclassification notices in May 2012.

The law works another way, as well. Where before rural properties with a secondary agricultural use — such as a 4H pen — were classed as residential, the portion of land on which the secondary use occurs will be classed as agricultural and receive that valuation.

"Currently, the system is all or nothing," Hughes said. "This is going to allow more small properties with secondary ag use to get an ag classification on at least a portion of their land."

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