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States' Differential Tax Assessment of Agricultural Land Statutes

New Jersey

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States' Differential Tax Assessment of Agricultural Land Statutes
State of New Jersey

N.J. Rev. Stat. §§ 54:4-23.1 to 54:4-23.23

Current with laws through L.2018, c. 169 and J.R. No. 14.

§ 54:4-23.1. Short title; Farmland Assessment Act of 1964

This act shall be known and referred to by its short title, the "Farmland Assessment Act of 1964."

§ 54:4-23.2. Value of land actively devoted to agricultural or horticultural use

For general property tax purposes, the value of land, not less than 5 acres in area, which is actively devoted to agricultural or horticultural use and which has been so devoted for at least the 2 successive years immediately preceding the tax year in issue, shall, on application of the owner, and approval thereof as hereinafter provided, be that value which such land has for agricultural or horticultural use.

§ 54:4-23.3. Land deemed in agricultural use

Land shall be deemed to be in agricultural use when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding, boarding, raising, rehabilitating, training or grazing of any or all of such animals, except that "livestock" shall not include dogs; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government, except that land which is devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, or devoted as sustainable forestland, and is not appurtenant woodland, shall not be deemed to be in agricultural use unless the landowner fulfills the following additional conditions:

a. The landowner establishes and complies with the provisions of a forest stewardship plan for this land, approved by the Department of Environmental Protection pursuant to section 3 of P.L.2009, c. 256 (C.13:1L-31), or a woodland management plan for this land, prepared in accordance with policies, guidelines and practices approved by the Division of Parks and Forestry in the Department of Environmental Protection, in consultation with the Department of Agriculture and the

Dean of Cook College at Rutgers, The State University, which policies, guidelines and practices are designed to eliminate excessive and unnecessary cutting;

b. The landowner, and a forester from a list of foresters approved by the Department of Environmental Protection or other professional from a list of other professionals authorized by the department in consultation with the forest stewardship advisory committee established pursuant to section 8 of P.L.2009, c. 256 (C.13:1L-36), annually attest to compliance with subsection a. of this section; and

c. The landowner annually submits an application, as prescribed in section 13 of P.L.1964, c. 48 (C.54:4-23.13), to the assessor, accompanied by a copy of the plan established pursuant to subsection a. of this section; written documentation of compliance with subsection b. of this section; a supplementary woodland data form setting forth woodland management actions taken in the pre-tax year, the type and quantity of tree and forest products sold, and the amount of income received or anticipated for same; a map of the land showing the location of the activity and the soil group classes of the land; and other pertinent information required by the Director of the Division of Taxation as part of the application for valuation, assessment and taxation, as provided in P.L.1964, c. 48 (C.54:4-23.1 et seq.). The landowner shall, at the same time, submit to the Commissioner of the Department of Environmental Protection an exact copy of the application and accompanying information submitted to the assessor pursuant to this subsection. For the purposes of this amendatory and supplementary act, "appurtenant woodland" means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

For the purposes of section 7 of P.L.2009, c. 213 and P.L.1964, c. 48 (C.54:4-23.1 et seq.):

(1) agricultural use shall also include biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of P.L.2009, c. 213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor; and

(2) "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c. 213 (C.4:1C-32.4).

§ 54:4-23.3a. Application for land to be deemed in agricultural use; review by commissioner; notice of compliance to assessor; approval or disapproval

a. Upon receipt of a copy of an application and accompanying information pursuant to section 3 of P.L.1964, c. 48 (C. 54:4-23.3), the Commissioner of the Department of Environmental Protection shall acknowledge receipt of such to

both the applicant and the assessor of the taxing district in which the land is situated.

b. The commissioner shall provide for a review of the application for compliance with subsection a. of section 3 of P.L.1964, c. 48 (C. 54:4-23.3). The application review shall include an on-site inspection of the property during one of the first three years in which applications are received, and not less frequently than once every three years following the first inspection.

c. The commissioner shall notify the assessor of the taxing district, in writing, of his findings of compliance or noncompliance of each applicant with subsection a. of section 3 of P.L.1964, c. 48 (C. 54:4-23.3). If the commissioner indicates to the assessor a finding of compliance, the assessor may, upon his own determination that the property is otherwise qualified for valuation, assessment and taxation, as provided in P.L.1964, c. 48 (C. 54:4-23.1 et seq.), approve or disapprove the application. If the commissioner indicates to the assessor that the applicant is not in compliance, the assessor shall disapprove the application. The assessor's approval or disapproval shall be transmitted to the applicant as in the case of other applications for valuation, assessment and taxation, as provided in P.L.1964, c. 48 (C. 54:4-23.1 et seq.).

d. In the event that the commissioner does not give timely notice to the assessor of his findings after review of the application, as timely notice is prescribed by rules and regulations adopted by the Director of the Division of Taxation, pursuant to section 3 of this amendatory and
supplementary act, the assessor may approve or disapprove the application as in the case of other applications not subject to provisions of this amendatory and supplementary act.

§ 54:4-23.3b. Land used exclusively for production of trees and forest products; failure to meet additional conditions during first tax year

Land used exclusively for the production of trees and forest products, other than Christmas trees, and previously deemed to be in agricultural use under section 3 of P.L.1964, c. 48 (C. 54:4-23.3), the owner of which fails to meet the additional conditions imposed by this amendatory and supplementary act during the first tax year next following implementation of this act, is not subject to the rollback tax because of disqualification under this amendatory and supplementary act, but shall be treated as land for which an annual application has not been submitted.

§ 54:4-23.3c. Land used for biomass, solar or wind energy generation; income; rules and regulations; definitions

a. (1) No land used for biomass, solar, or wind energy generation shall be considered land in agricultural or horticultural use or actively devoted to agricultural or horticultural use for the purposes of the “Farmland Assessment Act of 1964,” P.L.1964, c. 48 (C.54:4-23.1 et seq.), except as provided in this section.

(2) No generated energy from any source shall be considered an agricultural or horticultural product.

b. Land used for biomass, solar, or wind energy generation may be eligible for valuation, assessment and taxation pursuant to P.L.1964, c. 48 (C.54:4-23.1 et seq.), provided that:

(1) the biomass, solar, or wind energy generation facilities, structures, and equipment were constructed, installed, and operated on property that is part of an operating farm continuing to be in operation as a farm in the tax year for which the valuation, assessment and taxation pursuant to P.L.1964, c. 48 (C.54:4-23.1 et seq.) is applied for;

(2) in the tax year preceding the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment on an operating farm, the acreage used for the biomass, solar, or wind energy generation facilities, structures, and equipment was valued, assessed and taxed as land in agricultural or horticultural use;

(3) the power or heat generated by the biomass, solar, or wind energy generation facilities, structures, and equipment is used to provide, either directly or indirectly but not necessarily exclusively, power or heat to the farm or agricultural or horticultural operations supporting the viability of the farm;

(4) the owner of the property has filed a conservation plan with the soil conservation district, with provisions for compliance with paragraph (5) of this subsection where applicable, to account for the aesthetic, impervious coverage, and environmental impacts of the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment, including, but not necessarily limited to, water recapture and filtration, and the conservation plan has been approved by the district;

(5) where solar energy generation facilities, structures, and equipment are installed, the property under the solar panels is used to the greatest extent practicable for the farming of shade crops or other plants capable of being grown under such conditions, or for pasture for grazing;

(6) the amount of acreage devoted to the biomass, solar, or wind energy generation facilities, structures, and equipment does not exceed a ratio of one to five acres, or portion thereof, of land devoted to energy generation facilities, structures, and equipment and land devoted to agricultural or horticultural operations;

(7) biomass, solar, or wind energy generation facilities, structures, and equipment are constructed or installed on no more than 10 acres of the farmland for which the owner of the property is applying for valuation, assessment and taxation pursuant to P.L.1964, c. 48 (C.54:4-23.1 et seq.), and if power is being generated, no more than two megawatts of power are generated on the 10 acres or less; and

(8) for biomass energy generation, the owner of the property has obtained the approval of the Department of Agriculture pursuant to section 5 of P.L.2009, c. 213 (C.4:1C-32.5).

c. No income from any power or heat sold from the biomass, solar, or wind energy generation may be considered income for eligibility for valuation, assessment and taxation of land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.1 et seq.), and, notwithstanding the provisions of that act, or any rule or regulation adopted pursuant thereto, to the contrary, there shall be no income requirement for property valued, assessed and taxed pursuant to subsection b. of this section.

d. Notwithstanding any provision of this section, section 3 of P.L.1964, c. 48 (C.54:4-23.3), or section 4 of P.L.1964, c. 48 (C.54:4-23.4) to the contrary, the construction, installation, or operation of any biomass, solar, or wind energy generation facility, structure, or equipment in the pinelands area, as defined and regulated by the "Pinelands Protection Act," P.L.1979, c. 111 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979, c. 111 and the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c. 111.

e. The Division of Taxation, in consultation with the Department of Agriculture, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary for the implementation and administration of this section.

f. For the purposes of this section:

"Biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c. 213 (C.4:1C-32.4).

"Land used for biomass, solar, or wind energy generation" means the land upon which the biomass, solar, or wind energy generation facilities, structures, and equipment are constructed, installed, and operated. In the case of biomass energy generation, "land used for biomass, solar, or wind energy generation" shall not mean the land upon which agricultural or horticultural products used as fuel in the biomass energy generation facility, structure, or equipment are grown.

"Preserved farmland" means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c. 32 (C.4:1C-31), section 5 of P.L.1988, c. 4 (C.4:1C-31.1), section 1 of P.L.1989, c. 28 (C.4:1C-38), section 1 of P.L.1999, c. 180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c. 152 (C.13:8C37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

§ 54:4-23.3d. Guidelines for generally accepted agricultural and horticultural practices; adoption; distribution to assessors; biennial educational course offerings

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.

§ 54:4-23.4. Land deemed in horticultural use

Land shall be deemed to be in horticultural use when devoted to the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

For the purposes of this section and P.L.1964, c. 48 (C.54:4-23.1 et seq.):

(1) horticultural use shall also include biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of P.L.2009, c. 213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor; and

(2) "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c. 213 (C.4:1C-32.4).

§ 54:4-23.5. Land deemed actively devoted to agricultural or horticultural use

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.

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).

§ 54:4-23.6. Qualifications for valuation, assessment and taxation as land actively devoted to agricultural or horticultural use

Land which is actively devoted to agricultural or horticultural use shall be eligible for valuation, assessment and taxation as herein provided when it meets the following qualifications:

(a) It has been so devoted for at least the two successive years immediately preceding the tax year for which valuation under this act is requested;

(b) The area of such land is not less than five acres when measured in accordance with the provisions of section 11 hereof; and

(c) Application by the owner of such land for valuation hereunder is submitted on or before August 1 of the year immediately preceding the tax year to the assessor of the taxing district in which such land is situated on the form prescribed by the Director of the Division of Taxation in the Department of the Treasury;

(d) The assessor may grant an extension of time for filing an application required by this section, which extension shall terminate no later than September 1 of the year immediately preceding the tax year, in any event where it shall appear to the satisfaction of the assessor that failure to file by August 1 was due to (1) the illness of the owner and a certificate of a physician stating that the owner was physically incapacitated and unable to file on or before August 1 and the application is filed with the assessor; or (2) the death of the owner or an immediate member of the owner's family and a certified copy of the death certificate and the application is filed with the assessor by the individual legally responsible for the estate of the owner, or the owner, as the case may be.

As used in this act, "immediate family member" means a person's spouse, child, parent or sibling residing in the same household.

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

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).

§ 54:4-23.7a. "Forest stewardship plan", "owner" and "woodland management plan" defined

As used in this section and section 10 of P.L.2009, c. 256 (C.54:4-23.7a and C.54:4-23.7b):

"Forest stewardship plan" means a plan prepared and implemented by an owner of forest land, and approved by the Department of Environmental Protection, pursuant to section 3 of P.L.2009, c. 256 (C.13:1L-31).

"Owner" means an owner of forest land.

"Woodland management plan" means a plan prepared and implemented by an owner of forest land or woodland pursuant to section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.3) and any rule or regulation adopted pursuant thereto.

§ 54:4-23.7b. Application may include forest stewardship plan or woodland management plan; requirements

a. Notwithstanding any provision of the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, an owner who annually submits an application pursuant to subsection c. of section 3 of P.L.1964, c. 48 (C.54:4-23.3) may provide a forest stewardship plan or a woodland management plan to accompany the application.

b. When a forest stewardship plan is submitted with an application pursuant to subsection a. of this section, the forest land shall not be deemed to be actively devoted to agricultural or horticultural use for the two successive years immediately preceding the tax year in issue if the forest stewardship plan has expired during those two years and a new forest stewardship plan has not been approved prior to the expiration date of the current forest stewardship plan.

c. In the case where a forest stewardship plan was approved more than two years preceding the tax year in issue, the forest land shall be deemed to be actively devoted to agricultural or horticultural use and to have been so devoted for at least the two successive years immediately preceding the tax year in issue if the owner has implemented in full the approved forest stewardship plan for at least the two successive years immediately preceding the tax year in issue.

d. In the case where a forest stewardship plan was approved less than two years preceding the tax year in issue, the forest land shall be deemed to be actively devoted to agricultural or horticultural use and to have been so devoted for at least two successive years immediately preceding the tax year in issue if:

(1) the owner has implemented in full the forest stewardship plan once it was approved; and

(2) for at least the remaining portion of the two-year period immediately preceding the tax year in issue, prior to the approval of the forest stewardship plan, the forest land qualifies, pursuant to sections 5 and 6 of the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.5 and C.54:4-23.6), to be deemed to have been actively devoted to agricultural or horticultural use. Additionally, if the land was devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, and is not appurtenant woodland, the owner must have established a woodland management plan more than two years preceding the tax year in issue and complied with that plan until such time as a forest stewardship plan was approved pursuant to section 3 of P.L.2009, c. 256 (C.13:1L-31).

e. The Department of Environmental Protection, in consultation with the Department of Agriculture and the Department of the Treasury, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), any rules and regulations necessary for the implementation of this section.

§ 54:4-23.8. Roll-back taxes; determination of amounts

When land which is in agricultural or horticultural use and is being valued, assessed and taxed under the provisions of P.L.1964, c. 48 (C.54:4-23.1 et seq.), is applied to a use other than agricultural or horticultural, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued, assessed and taxed as other land in the taxing district, in the current tax year (the year of change in use) and in such of the two tax years immediately preceding, in which the land was valued, assessed and taxed as herein provided.

If the tax year in which a change in use of the land occurs, the land was not valued, assessed and taxed under P.L.1964, c. 48 (C.54:4-23.1 et seq.), then such land shall be subject to roll-back taxes for such of the two tax years, immediately preceding, in which the land was valued, assessed and taxed hereunder. Notwithstanding the provisions of any law, rule, or regulation to the contrary, land which is valued, assessed and taxed under the provisions of P.L.1964, c. 48 (C.54:4-23.1 et seq.) and is acquired by the State, a local government unit, a qualifying tax exempt nonprofit organization, or the Palisades Interstate Park Commission for recreation and conservation purposes shall not be subject to roll-back taxes. As used in this section, “acquired,” “local government unit,” “qualifying tax exempt nonprofit organization,” and “recreation and conservation purposes” mean the same as those terms are defined pursuant to section 3 of P.L.1999, c. 152 (C.13:8C-3).

In determining the amounts of the roll-back taxes chargeable on land which has undergone a change in use, the assessor shall for each of the roll-back tax years involved, ascertain:

(a) The full and fair value of such land under the valuation standard applicable to other land in the taxing district;

(b) The amount of the land assessment for the particular tax year by multiplying such full and fair value by the county percentage level, as determined by the county board of taxation in accordance with section 3 of P. L.1960, c. 51 (C.54:4-2.27);

(c) The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined under (b) hereof; and

(d) The amount of the roll-back tax for that tax year by multiplying the amount of the additional assessment determined under (c) hereof by the general property tax rate of the taxing district applicable for that tax year.

§ 54:4-23.9. Procedure for assessment, collection, payment, etc., of roll-back taxes

The assessment, collection, apportionment and payment over of the roll-back taxes imposed by section 8,1 the attachment of the lien for such taxes, and the right of a taxing district, owner or other interested party to review any judgment of the county board of taxation affecting such roll-back taxes, shall be governed by the procedures provided for the assessment and taxation of omitted property under chapter 413 of the laws of 1947.2 Such

procedures shall apply to each tax year for which roll-back taxes may be imposed, notwithstanding the limitation prescribed in section 1 of said chapter respecting the periods for which omitted property assessments may be imposed.

§ 54:4-23.10. Determination of true value of land for purposes of State school aid and determining apportionment valuation

The Director of the Division of Taxation in equalizing the value of land assessed and taxed under this act for the purposes of State school aid, and each county board of taxation in equalizing such land for the purposes of determining the "apportionment valuation" under section 54:4-49 of the Revised Statutes, shall determine the true value of such land on the basis of its agricultural or horticultural use. The director shall promulgate rules and regulations to effectuate the purposes of this section.

§ 54:4-23.11. Area of land included

In determining the total area of land actively devoted to agricultural or horticultural use there shall be included the area of all land under barns, sheds, seasonal farm markets selling predominantly agricultural products, seasonal agricultural labor housing, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities, but land under and such additional land as may be actually used in connection with the farmhouse shall be excluded in determining such total area.

§ 54:4-23.12. Valuation, assessment and taxation of structures

a. All structures, which are located on land in agricultural or horticultural use and the farmhouse and the land on which the farmhouse is located, together with the additional land used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other land in the taxing district, regardless of the fact that the land is being valued, assessed and taxed pursuant to P.L.1964, c. 48 (C.54:4-23.1 et seq.); provided, however, that the term "structures" shall not include "single-use agricultural or horticultural facilities." As used in this act, "single-use agricultural or horticultural facility" means property employed in farming operations and commonly used for either storage or growing, which is designed or constructed so as to be readily dismantled and is of a type which can be marketed or sold separately from the farmland and buildings and shall include, but not be limited to, temporary demountable plastic covered framework made up of portable parts with no permanent understructures or related apparatus, commonly known as seed starting plastic greenhouses, or other readily dismantled silos, greenhouses, grain bins, manure handling equipment, and impoundments, but shall not include a structure that encloses a space within its walls used for housing, shelter, or working, office or sales space, whether or not removable.

b. The Director of the Division of Taxation shall adopt, in consultation with the Secretary of Agriculture and in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations establishing criteria for the assessment of all farm structures.

§ 54:4-23.13. Determination of eligibility for each tax year; application; added assessment

Eligibility of land for valuation, assessment and taxation under this act shall be determined for each tax year separately. Application shall be submitted by the owner to the assessor of the taxing district in which such land is situated on or before August 1 or September 1, if an extension of time has been granted by the assessor under section 6 of P.L.1964, c. 48 (C.54:4-23.6), of the year immediately preceding the tax year for which such valuation, assessment and taxation are sought. If the application is filed by delivery through the mails or a commercial courier or messenger service, compliance with the time limit for filing shall be established if there is satisfactory evidence that it was committed for delivery to the United States Postal Service or the courier or messenger service within the time allowed for filing. In the case of a courier or messenger service, the application shall be received by the tax assessor of the taxing district within three days after the statutory filing date. An application once filed with the assessor for the ensuing tax year may not be withdrawn by the applicant after August 1 or after September 1, in cases where an extension of time for filing the application has been granted by the assessor, of the pretax year.

If a change in use of the land occurs between August 1 and December 31 of the pretax year, either the assessor or the county board of taxation shall deny or nullify such application and, after examination and inquiry, shall determine the full and fair value of said land under the valuation standard applicable to other land in the taxing district and shall assess the same, according to such value. If, notwithstanding such change of use, the land is valued, assessed and taxed under the provisions of this act in the ensuing year, the assessor shall enter an assessment, as an added assessment against such land, in the “Added Assessment List” for the particular year involved in the manner prescribed in P.L.1941, c. 397 (C.54:4-63.1 et seq.). The amount of the added assessment shall be in an amount equal to the difference, if any, between the assessment imposed under this act and the assessment which would have been imposed had the land been valued and assessed as other land in the taxing district. The enforcement and collection of additional taxes resulting from any additional assessments so imposed shall be as provided by said chapter. The additional assessment imposed under this section shall not affect the roll-back taxes, if any, under section 8 of this act.

The application review shall include an on-site inspection of the land at least once every three years. The municipality may impose a fee for an on-site inspection of not more than $25, except that contiguous and non-contiguous parcels of land owned by the same owner would be subject to a single fee.

§ 54:4-23.13b. Notice of disallowance of claim

Where an application for valuation hereunder has been filed by the owner of land within the time provided herein, the assessor of the taxing district in which such land is situated shall, on or before November 1 of the pretax year, forward to such owner a notice of disallowance by regular mail when a claim has been disallowed. The assessor shall set forth in reason or reasons therefor together with a statement notifying the landowner of his right to appeal such determination to the county board of taxation on or before April 1 of the tax year. Any appeal made pursuant to this section shall be governed by the procedures provided for appeals in R.S.54:3-21.

§ 54:4-23.13c. Approval of application on appeal resulting from certain amendments made by L.1995, c. 276; effective date of eligibility for valuation, assessment and taxation; retroactive payments to landowner

If any application for valuation, assessment and taxation under P.L.1964, c. 48 (C.54:4-23.1 et seq.) made for the 1993 tax year or later, which was denied based on a determination that the use of land for breeding, boarding, raising, rehabilitating, training or grazing of livestock was not an agricultural use which met the eligibility requirements of section 3 of P.L.1964, c. 48 (C.54:4-23.3), and for which an appeal was filed and which is resubmitted after the effective date of P.L.1995, c. 276 and approved as a result of the amendments to section 3 of P.L.1964, c. 48 (C.54:4-23.3) by section 1 of P.L.1995, c.276, and to section 5 of P.L.1964, c. 48 (C.54:4-23.5) by section 2 of P.L.1995, c. 276, the land for which the application was made shall be deemed to have been eligible for valuation, assessment, and taxation under P.L.1964, c. 48 as of the first eligible tax year after the application, and the taxing district shall make retroactive payments to the landowner in the amount of the taxes paid which were in excess of the amount payable if taxed under P.L.1964, c. 48.

§ 54:4-23.14. Form of application; certification; civil penalties for perjury; extension of time

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.54:423.1 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.54:423.1 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.

§ 54:4-23.15. Continuance of valuation, assessment and taxation under act

Continuance of valuation, assessment and taxation under this act shall depend upon continuance of the land in agricultural or horticultural use and compliance with the other requirements of this act and not upon continuance in the same owner of title to the land. Liability to the roll-back tax shall attach when a change in use of the land occurs but not when a change in ownership of the title takes place if the new owner continues the land in agricultural or horticultural use, under the conditions prescribed in this act.

§ 54:4-23.15a. Mailing of form to claim continuance of valuation, assessment and taxation; notice of filing requirement

On or before July 1 the assessor shall mail to each taxpayer whose land has been valued, assessed, and taxed for the then current tax year pursuant to the "Farmland Assessment Act of 1964" a copy of the form prescribed to claim a continuance of valuation, assessment and taxation under such act for the succeeding tax year together with a notice that the completed form is required to be filed with the assessor on or before August 1.

The failure of any taxpayer to receive a form for claiming continuance of a farmland assessment shall not relieve him of the requirement to claim and establish his right thereto as required by law.

§ 54:4-23.16. Separation or split off of part of land

Separation or split off of a part of the land which is being valued, assessed and taxed under this act, either by conveyance or other action of the owner of such land, for a use other than agricultural or horticultural, shall subject the land so separated to liability for the roll-back taxes applicable thereto, but shall not impair the right of the remaining land to continuance of valuation, assessment and taxation hereunder, provided it meets the 5-acre minimum requirement and such other conditions of this act as may be applicable.

§ 54:4-23.18. Location of contiguous land in more than one taxing district

Where contiguous land in agricultural or horticultural use in one ownership is located in more than one taxing district, compliance with the 5-acre minimum area requirement shall be determined on the basis of the total area of such land and not the area which is located in the particular taxing district.

§ 54:4-23.19. Tax list and duplicate; factual details

The factual details to be shown on the assessor's tax list and duplicate with respect to land which is being valued, assessed and taxed under this act shall be the same as those set forth by the assessor with respect to other taxable property in the taxing district.

§ 54:4-23.20. State Farmland Evaluation Committee

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.

§ 54:4-23.21. Rules and regulations; forms

The director is empowered to promulgate such rules and regulations and to prescribe such forms as he shall deem necessary to effectuate the purposes of this act. Credits

§ 54:4-23.22. Partial invalidity

If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

§ 54:4-23.23. Applicability to tax year 1965 and subsequent tax years

The tax year 1965 shall be deemed to be the first tax year to which the provisions of this act shall apply, and this act shall apply to the tax year 1965 and subsequent tax years.