

A bill for an act

relating to taxation; modifying green acres and agricultural property tax provisions; establishing a land conservation property tax program; requiring a report; amending Minnesota Statutes 2008, sections 273.111, subdivisions 3, 3a, 9; 273.13, subdivision 23; proposing coding for new law in Minnesota Statutes, chapter 273.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 273.111, subdivision 3, is amended to read:

Subd. 3. **Requirements.** (a) Real estate consisting of ten acres or more or a nursery or greenhouse, and qualifying for classification as class 2a under section 273.13, shall be entitled to valuation and tax deferment under this section if it is primarily devoted to agricultural use, and either:

(1) is the homestead of the owner, or of a surviving spouse, child, or sibling of the owner or is real estate which is farmed with the real estate which contains the homestead property; or

(2) has been in possession of the applicant, the applicant's spouse, parent, or sibling, or any combination thereof, for a period of at least seven years prior to application for benefits under the provisions of this section, or is real estate which is farmed with the real estate which qualifies under this clause and is within four townships or cities or combination thereof from the qualifying real estate; or

(3) is the homestead of an individual who is part of an entity described in paragraph (b), clause (1), (2), or (3); or

(4) is in the possession of a nursery or greenhouse or an entity owned by a proprietor, partnership, or corporation which also owns the nursery or greenhouse operations on the

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parcel or parcels, provided that only the acres used to produce nursery stock qualify for treatment under this section.

(b) Valuation of real estate under this section is limited to parcels owned by individuals except for:

(1) a family farm entity or authorized farm entity regulated under section 500.24;

(2) a poultry entity other than a limited liability entity in which the majority of the members, partners, or shareholders are related and at least one of the members, partners, or shareholders either resides on the land or actively operates the land; and

(3) corporations that derive 80 percent or more of their gross receipts from the wholesale or retail sale of horticultural or nursery stock.

The terms in this paragraph have the meanings given in section 500.24, where applicable.

(c) Land that previously qualified for tax deferment under this section and no longer qualifies because it is not primarily used for agricultural purposes but would otherwise qualify under Minnesota Statutes 2006, section 273.111, subdivision 3, for a period of at least three years will not be required to make payment of the previously deferred taxes, notwithstanding the provisions of subdivision 9. Sale of the land prior to the expiration of the three-year period requires payment of deferred taxes as follows: sale in the year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of deferred taxes for the two prior years; sale during the second year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of the deferred taxes for the prior year; and sale during the third year the land no longer qualifies requires payment of the current year's deferred taxes. Deferred taxes shall be paid even if the land qualifies pursuant to subdivision 11a. When such property is sold or no longer qualifies under this paragraph, or at the end of the three-year period, whichever comes first, all deferred special assessments plus interest are payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest are payable within 90 days. The provisions of section 429.061, subdivision 2, apply to the collection of these installments. Penalties are not imposed on any such special assessments if timely paid.

~~(d) Land that is enrolled in the reinvest in Minnesota program under sections 103F.501 to 103F.535, the federal Conservation Reserve Program as contained in Public Law 99-198, or a similar state or federal conservation program does not qualify for valuation and assessment deferral under this section. This paragraph applies to land that has not qualified under this section for taxes payable in 2009 or previous years.~~

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2008, section 273.111, subdivision 3a, is amended to read:

Subd. 3a. **Property no longer eligible for deferment.** (a) Real estate receiving the tax deferment under this section for assessment year 2008, but that does not qualify for the 2009 assessment year due to changes in qualification requirements under Laws 2008, chapter 366, shall continue to qualify until ~~any part of:~~ (1) the land is sold, transferred, or subdivided, or (2) the 2013 assessment, whichever is earlier, provided that the property continues to meet the requirements of Minnesota Statutes 2006, section 273.111, subdivision 3.

(b) Except as provided in paragraph (c), and subdivision 9, paragraph (b), when property assessed under this subdivision is withdrawn from the program or becomes ineligible, the property shall be subject to additional taxes, ~~in the amount equal to the average difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5, for the current year and the two preceding years, multiplied by (1) three, in the case of class 2a property under section 273.13, subdivision 23, or any property withdrawn before January 2, 2009, or (2) seven, in the case of property withdrawn after January 2, 2009, that is not class 2a property. The number of years used as the multiplier must not exceed the number of years during which the property was subject to this section. The amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. The additional taxes shall be extended against the property on the tax list for the current year, provided that no interest or penalties shall be levied on the additional taxes if timely paid as provided in subdivision 9.~~

(c) If land described in paragraph (a) is sold or otherwise transferred to a son or daughter of the owner, it will continue to qualify for treatment under this section as long as it continues to meet the requirements of section 273.111, subdivision 3.

(d) When property assessed under this subdivision is removed from the program and is enrolled in the land conservation property tax law program under section 273.114, the property is not subject to the additional taxes required under this subdivision or subdivision 9.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2008, section 273.111, subdivision 9, is amended to read:

Subd. 9. **Additional taxes.** (a) Except as provided in paragraph (b), when real property which is being, or has been valued and assessed under this section no longer qualifies under subdivision 3, the portion no longer qualifying shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5. Provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last three years that the said property has been valued and assessed under this section.

(b) Real property that has been valued and assessed under this section prior to May 29, 2008, and that ceases to qualify under this section after May 28, 2008, and before January 1, 2010, is not subject to additional taxes under this subdivision or subdivision 3, paragraph (c).

Sec. 4. [273.114] LAND CONSERVATION PROPERTY TAX.

Subdivision 1. **Definitions.** (a) In this section, the terms defined in this subdivision have the meanings given them.

(b) "Conservation management plan" means a written document providing a framework for site-specific healthy, productive, and sustainable conservation resources. A conservation management plan must include at least the following:

- (1) conservation management goals for the land;
- (2) a reliable field inventory of the individual conservation cover types;
- (3) a description of the soil type and quality;
- (4) an aerial photo or map of the vegetation and other natural features of the land clearly indicating the boundaries of the conservation land;
- (5) the proposed future conditions of the land;
- (6) prescriptions to meet proposed future conditions of the land;
- (7) a recommended timetable for implementing the prescribed activities; and
- (8) a legal description of the land encompassing the parcels included in the plan.

(c) "Approved plan writers" are natural resource professionals who are self-employed, employed by private companies or individuals, nonprofit organizations, local units of government, or public agencies, and who are approved by the Board of Water and Soil Resources. Persons employed to write conservation plans for soil and

water conservation districts or federal agencies shall be deemed to meet the standards required under this subdivision. The Board of Water and Soil Resources shall issue a unique identification number to each approved planner.

(d) All management activities prescribed in a plan must be in accordance with the recommended conservation management guidelines. The commissioner of natural resources shall provide a framework for plan content and updating and revising plans.

Subd. 2. **Requirements.** Class 2b property that had been subject to Minnesota Statutes 2006, section 273.111, or that is part of an agricultural homestead under section 273.13, subdivision 23, paragraph (a), is entitled to valuation and tax deferment under this section if:

(1) the land consists of at least ten acres;

(2) a conservation management plan for the land must be prepared by an approved plan writer and implemented during the period in which the land is subject to valuation and deferment under this section;

(3) conservation management guidelines must be used in conjunction with any conservation management activities conducted on the land during the period in which the land is subject to valuation and deferment under this section;

(4) the land must be enrolled for a minimum of eight years; and

(5) there are no delinquent property taxes on the land.

Real estate may not be enrolled for valuation and deferment under this section and section 273.111, 273.112, or 273.117 concurrently.

Subd. 3. **Determination of value.** Notwithstanding sections 272.03, subdivision 8, and 273.11, the value of any real estate that qualifies under subdivision 2 must, upon timely application by the owner in the manner provided in subdivision 5, be determined as the value prescribed by the commissioner of revenue for class 2a tillable property in that county. The house and garage, if any, and the immediately surrounding one acre of land and a minor, ancillary nonresidential structure, if any, shall be valued according to their appropriate value. In determining the value for ad valorem tax purposes, the assessor shall not consider the presence of commercial, industrial, residential, or seasonal recreational land use influences that may affect the value of real estate defined in subdivision 1.

Subd. 4. **Separate determination of market value and tax.** The assessor shall make a separate determination of the market value of the real estate based on its highest and best use. The tax based upon that value and the appropriate local tax rate applicable to the property in the taxing district shall be recorded on the property assessment records.

Subd. 5. **Application and covenant agreement.** (a) Application for deferment of taxes and assessment under this section shall be filed by May 1 of the year prior to

the year in which the taxes are payable. Any application filed under this subdivision and granted shall continue in effect for subsequent years until the termination of the covenant agreement under paragraph (b). The application must be filed with the assessor of the taxing district in which the real property is located on the form prescribed by the commissioner of revenue. The assessor may require proof by affidavit or otherwise that the property qualifies under subdivision 2.

(b) The owner of the property must sign a covenant agreement that is filed with the county assessor and recorded in the county where the property is located. The covenant agreement must include all of the following:

(1) legal description of the area to which the covenant applies;

(2) name and address of the owner;

(3) a statement that the land described in the covenant must be kept as conservation land, which meets the requirements of subdivision 2, for the duration of the covenant;

(4) a statement that the landowner may terminate the covenant agreement by notifying the county assessor in writing four years in advance of the date of proposed termination, provided that the notice of intent to terminate may not be given at any time before the land has been subject to the covenant for a period of four years;

(5) a statement that the covenant is binding on the owner or the owner's successor or assigns and runs with the land; and

(6) a witnessed signature of the owner, agreeing by covenant, to maintain the land as described in subdivision 2.

(c) After a covenant under this section has been terminated, the land that had been subject to the covenant is ineligible for subsequent valuation under this section for a period of three years after the termination.

Subd. 6. **Additional taxes.** Upon termination of a covenant agreement in subdivision 5, paragraph (b), the land to which the covenant applied shall be subject to additional taxes in the amount equal to the difference between the taxes determined in accordance with subdivision 3 and the amount determined under subdivision 4, provided that the amount determined under subdivision 4 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 4. The additional taxes shall be extended against the property on the tax list for the current year, provided that no interest or penalties shall be levied on the additional taxes if timely paid and that the additional taxes shall only be levied with respect to the last three years that the property has been valued and assessed under this section.

7.1 Subd. 7. **Lien.** The additional tax imposed by this section shall be a lien upon the
7.2 property assessed to the same extent and for the same duration as other taxes imposed on
7.3 the property in this state. The tax shall be annually extended by the county auditor and if
7.4 and when payable shall be collected and distributed in the manner provided by law for the
7.5 collection and distribution of other property taxes.

7.6 Subd. 8. **Special local assessments.** The payment of special local assessments
7.7 levied after June 1, 2009, for improvements made to any real property described in
7.8 subdivision 1 together with the interest thereon shall, on timely application as provided
7.9 in subdivision 6, be deferred as long as the property meets the conditions contained in
7.10 subdivision 1. If special assessments against the property have been deferred pursuant to
7.11 this subdivision, the governmental unit shall file with the county recorder in the county
7.12 in which the property is located a certificate containing the legal description of the
7.13 affected property and of the amount deferred. When such property no longer qualifies
7.14 under subdivision 1, all deferred special assessments plus interest shall be payable in
7.15 equal installments spread over the time remaining until the last maturity date of the bonds
7.16 issued to finance the improvement for which the assessments were levied. If the bonds
7.17 have matured, the deferred special assessments plus interest shall be payable within 90
7.18 days. The provisions of section 429.061, subdivision 2, apply to the collection of these
7.19 installments. Penalty shall not be levied on any such special assessments if timely paid.
7.20 This subdivision does not apply to special assessments levied at any time by a county or
7.21 district court under chapter 116A or by a watershed district under chapter 103D.

7.22 **EFFECTIVE DATE.** This section is effective for deferred taxes payable in 2010
7.23 and thereafter, except that for the 2009 assessment year, the application deadline in
7.24 subdivision 5 is extended to September 1.

7.25 Sec. 5. Minnesota Statutes 2008, section 273.13, subdivision 23, is amended to read:

7.26 Subd. 23. **Class 2.** (a) An agricultural homestead consists of class 2a agricultural
7.27 land that is homesteaded, along with any class 2b rural vacant land that is contiguous to
7.28 the class 2a land under the same ownership. The market value of the house and garage
7.29 and immediately surrounding one acre of land has the same class rates as class 1a or 1b
7.30 property under subdivision 22. The value of the remaining land including improvements
7.31 up to the first tier valuation limit of agricultural homestead property has a net class rate
7.32 of 0.5 percent of market value. The remaining property over the first tier has a class rate
7.33 of one percent of market value. For purposes of this subdivision, the "first tier valuation
7.34 limit of agricultural homestead property" and "first tier" means the limit certified under
7.35 section 273.11, subdivision 23.

(b) Class 2a agricultural land consists of parcels of property, or portions thereof, that are agricultural land and buildings. Class 2a property has a net class rate of one percent of market value, unless it is part of an agricultural homestead under paragraph (a). Class 2a property ~~may contain~~ must also include any property that would otherwise be classified as 2b, including but not limited to sloughs, wooded wind shelters, acreage abutting ditches, ravines, rock piles, and other similar land that is impractical for the assessor to value separately from the rest of the property or that is unlikely to be able to be sold separately from the rest of the property.

An assessor may classify the part of a parcel described in this subdivision that is used for agricultural purposes as class 2a and the remainder in the class appropriate to its use.

(c) Class 2b rural vacant land consists of parcels of property, or portions thereof, that are unplatted real estate, rural in character and not used for agricultural purposes, including land used for growing trees for timber, lumber, and wood and wood products, that is not improved with a structure. The presence of a minor, ancillary nonresidential structure as defined by the commissioner of revenue does not disqualify the property from classification under this paragraph. Any parcel of 20 acres or more improved with a structure that is not a minor, ancillary nonresidential structure must be split-classified, and ten acres must be assigned to the split parcel containing the structure. Class 2b property has a net class rate of one percent of market value unless it is part of an agricultural homestead under paragraph (a), or qualifies as class 2c under paragraph (d).

(d) Class 2c managed forest land consists of no less than 20 and no more than 1,920 acres statewide per taxpayer that is being managed under a forest management plan that meets the requirements of chapter 290C, but is not enrolled in the sustainable forest resource management incentive program. It has a class rate of .65 percent, provided that the owner of the property must apply to the assessor to receive the reduced class rate and provide the information required by the assessor to verify that the property qualifies for the reduced rate. The commissioner of natural resources must concur that the land is qualified. The commissioner of natural resources shall annually provide county assessors verification information on a timely basis.

(e) Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity. For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored must have been produced by the same farm entity as the entity

operating the drying or storage facility. "Agricultural purposes" also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment. Agricultural classification shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

(f) Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:

(i) for drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;

(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;

(iii) for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; or

(iv) for market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.

(g) Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes.

Classification under this subdivision is not determinative for qualifying under section 273.111.

(h) The property classification under this section supersedes, for property tax purposes only, any locally administered agricultural policies or land use restrictions that define minimum or maximum farm acreage.

(i) The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

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(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;

(6) insects primarily bred to be used as food for animals;

(7) trees, grown for sale as a crop, including short rotation woody crops, and not sold for timber, lumber, wood, or wood products; and

(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor.

(j) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),

the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

(k) Class 2d airport landing area consists of a landing area or public access area of a privately owned public use airport. It has a class rate of one percent of market value. To qualify for classification under this paragraph, a privately owned public use airport must be licensed as a public airport under section 360.018. For purposes of this paragraph, "landing area" means that part of a privately owned public use airport properly cleared,

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11.1 regularly maintained, and made available to the public for use by aircraft and includes
11.2 runways, taxiways, aprons, and sites upon which are situated landing or navigational aids.
11.3 A landing area also includes land underlying both the primary surface and the approach
11.4 surfaces that comply with all of the following:

- 11.5 (i) the land is properly cleared and regularly maintained for the primary purposes of
11.6 the landing, taking off, and taxiing of aircraft; but that portion of the land that contains
11.7 facilities for servicing, repair, or maintenance of aircraft is not included as a landing area;
11.8 (ii) the land is part of the airport property; and
11.9 (iii) the land is not used for commercial or residential purposes.

11.10 The land contained in a landing area under this paragraph must be described and certified
11.11 by the commissioner of transportation. The certification is effective until it is modified,
11.12 or until the airport or landing area no longer meets the requirements of this paragraph.
11.13 For purposes of this paragraph, "public access area" means property used as an aircraft
11.14 parking ramp, apron, or storage hangar, or an arrival and departure building in connection
11.15 with the airport.

11.16 (l) Class 2e consists of land with a commercial aggregate deposit that is not actively
11.17 being mined and is not otherwise classified as class 2a or 2b. It has a class rate of one
11.18 percent of market value. To qualify for classification under this paragraph, the property
11.19 must be at least ten contiguous acres in size and the owner of the property must record with
11.20 the county recorder of the county in which the property is located an affidavit containing:

- 11.21 (1) a legal description of the property;
11.22 (2) a disclosure that the property contains a commercial aggregate deposit that is not
11.23 actively being mined but is present on the entire parcel enrolled;

11.24 (3) documentation that the conditional use under the county or local zoning
11.25 ordinance of this property is for mining; and

11.26 (4) documentation that a permit has been issued by the local unit of government
11.27 or the mining activity is allowed under local ordinance. The disclosure must include a
11.28 statement from a registered professional geologist, engineer, or soil scientist delineating
11.29 the deposit and certifying that it is a commercial aggregate deposit.

11.30 For purposes of this section and section 273.1115, "commercial aggregate deposit"
11.31 means a deposit that will yield crushed stone or sand and gravel that is suitable for use
11.32 as a construction aggregate; and "actively mined" means the removal of top soil and
11.33 overburden in preparation for excavation or excavation of a commercial deposit.

11.34 (m) When any portion of the property under this subdivision or subdivision 22
11.35 begins to be actively mined, the owner must file a supplemental affidavit within 60 days
11.36 from the day any aggregate is removed stating the number of acres of the property that is

12.1 actively being mined. The acres actively being mined must be (1) valued and classified
12.2 under subdivision 24 in the next subsequent assessment year, and (2) removed from the
12.3 aggregate resource preservation property tax program under section 273.1115, if the
12.4 land was enrolled in that program. Copies of the original affidavit and all supplemental
12.5 affidavits must be filed with the county assessor, the local zoning administrator, and the
12.6 Department of Natural Resources, Division of Land and Minerals. A supplemental
12.7 affidavit must be filed each time a subsequent portion of the property is actively mined,
12.8 provided that the minimum acreage change is five acres, even if the actual mining activity
12.9 constitutes less than five acres.

12.10 **EFFECTIVE DATE.** This section is effective for assessments in 2010 for taxes
12.11 payable in 2011, and thereafter.

12.12 Sec. 6. **ANNUAL REPORT ON AGRICULTURAL VALUATION AND**
12.13 **CLASSIFICATION.**

12.14 The commissioner of revenue must study and annually report to the chairs of the
12.15 committees on taxes of the senate and the house of representatives on:

- 12.16 (1) trends in market values of class 2a and 2b properties;
12.17 (2) green acres value methodology and determinations; and
12.18 (3) assessment and classification practices pertaining to class 2a and 2b property.