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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **4134**

03/21/2018 Authored by Hertaus, Drazkowski and Pugh
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; property; allowing certain land used to provide environmental
1.3 benefits to be defined as an agricultural purpose; amending Minnesota Statutes
1.4 2017 Supplement, section 273.13, subdivision 23.

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

1.6 Section 1. Minnesota Statutes 2017 Supplement, section 273.13, subdivision 23, is amended
1.7 to read:

1.8 Subd. 23. **Class 2.** (a) An agricultural homestead consists of class 2a agricultural land
1.9 that is homesteaded, along with any class 2b rural vacant land that is contiguous to the class
1.10 2a land under the same ownership. The market value of the house and garage and immediately
1.11 surrounding one acre of land has the same classification rates as class 1a or 1b property
1.12 under subdivision 22. The value of the remaining land including improvements up to the
1.13 first tier valuation limit of agricultural homestead property has a classification rate of 0.5
1.14 percent of market value. The remaining property over the first tier has a classification rate
1.15 of one percent of market value. For purposes of this subdivision, the "first tier valuation
1.16 limit of agricultural homestead property" and "first tier" means the limit certified under
1.17 section 273.11, subdivision 23.

1.18 (b) Class 2a agricultural land consists of parcels of property, or portions thereof, that
1.19 are agricultural land and buildings. Class 2a property has a classification rate of one percent
1.20 of market value, unless it is part of an agricultural homestead under paragraph (a). Class 2a
1.21 property must also include any property that would otherwise be classified as 2b, but is
1.22 interspersed with class 2a property, including but not limited to sloughs, wooded wind
1.23 shelters, acreage abutting ditches, ravines, rock piles, land subject to a setback requirement,

2.1 and other similar land that is impractical for the assessor to value separately from the rest
2.2 of the property or that is unlikely to be able to be sold separately from the rest of the property.

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

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

2.15 (d) Class 2c managed forest land consists of no less than 20 and no more than 1,920
2.16 acres statewide per taxpayer that is being managed under a forest management plan that
2.17 meets the requirements of chapter 290C, but is not enrolled in the sustainable forest resource
2.18 management incentive program. It has a classification rate of .65 percent, provided that the
2.19 owner of the property must apply to the assessor in order for the property to initially qualify
2.20 for the reduced rate and provide the information required by the assessor to verify that the
2.21 property qualifies for the reduced rate. If the assessor receives the application and information
2.22 before May 1 in an assessment year, the property qualifies beginning with that assessment
2.23 year. If the assessor receives the application and information after April 30 in an assessment
2.24 year, the property may not qualify until the next assessment year. The commissioner of
2.25 natural resources must concur that the land is qualified. The commissioner of natural
2.26 resources shall annually provide county assessors verification information on a timely basis.
2.27 The presence of a minor, ancillary nonresidential structure as defined by the commissioner
2.28 of revenue does not disqualify the property from classification under this paragraph.

2.29 (e) Agricultural land as used in this section means:

2.30 (1) contiguous acreage of ten acres or more, used during the preceding year for
2.31 agricultural purposes; or

2.32 (2) contiguous acreage used during the preceding year for an intensive livestock or
2.33 poultry confinement operation, provided that land used only for pasturing or grazing does
2.34 not qualify under this clause.

3.1 "Agricultural purposes" as used in this section means the raising, cultivation, drying, or
3.2 storage of agricultural products for sale, or the storage of machinery or equipment used in
3.3 support of agricultural production by the same farm entity. For a property to be classified
3.4 as agricultural based only on the drying or storage of agricultural products, the products
3.5 being dried or stored must have been produced by the same farm entity as the entity operating
3.6 the drying or storage facility. "Agricultural purposes" also includes (i) enrollment in a local
3.7 conservation program or the Reinvest in Minnesota program under sections 103F.501 to
3.8 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198
3.9 or a similar state or federal conservation program if the property was classified as agricultural
3.10 ~~(+)~~ (A) under this subdivision for taxes payable in 2003 because of its enrollment in a
3.11 qualifying program and the land remains enrolled or ~~(+)~~ (B) in the year prior to its enrollment,
3.12 or (ii) use of land, not to exceed the greater of three acres or ten percent of the total land
3.13 area, to provide environmental benefits such as buffer strips, old growth forest restoration
3.14 or retention, or retention ponds to prevent soil erosion. For purposes of this section, a "local
3.15 conservation program" means a program administered by a town, statutory or home rule
3.16 charter city, or county, including a watershed district, water management organization, or
3.17 soil and water conservation district, in which landowners voluntarily enroll land and receive
3.18 incentive payments equal to at least \$50 per acre in exchange for use or other restrictions
3.19 placed on the land. In order for property to qualify under the local conservation program
3.20 provision, a taxpayer must apply to the assessor by February 1 of the assessment year and
3.21 must submit the information required by the assessor, including but not limited to a copy
3.22 of the program requirements, the specific agreement between the land owner and the local
3.23 agency, if applicable, and a map of the conservation area. Agricultural classification shall
3.24 not be based upon the market value of any residential structures on the parcel or contiguous
3.25 parcels under the same ownership.

3.26 "Contiguous acreage," for purposes of this paragraph, means all of, or a contiguous
3.27 portion of, a tax parcel as described in section 272.193, or all of, or a contiguous portion
3.28 of, a set of contiguous tax parcels under that section that are owned by the same person.

3.29 (f) Agricultural land under this section also includes:

3.30 (1) contiguous acreage that is less than ten acres in size and exclusively used in the
3.31 preceding year for raising or cultivating agricultural products; or

3.32 (2) contiguous acreage that contains a residence and is less than 11 acres in size, if the
3.33 contiguous acreage exclusive of the house, garage, and surrounding one acre of land was
3.34 used in the preceding year for one or more of the following three uses:

4.1 (i) for an intensive grain drying or storage operation, or for intensive machinery or
4.2 equipment storage activities used to support agricultural activities on other parcels of property
4.3 operated by the same farming entity;

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

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

4.10 "Contiguous acreage," for purposes of this paragraph, means all of a tax parcel as
4.11 described in section 272.193, or all of a set of contiguous tax parcels under that section that
4.12 are owned by the same person.

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

4.15 Classification under this subdivision is not determinative for qualifying under section
4.16 273.111.

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

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

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

4.25 (2) aquacultural products for sale and consumption, as defined under section 17.47, if
4.26 the aquaculture occurs on land zoned for agricultural use;

4.27 (3) the commercial boarding of horses, which may include related horse training and
4.28 riding instruction, if the boarding is done on property that is also used for raising pasture
4.29 to graze horses or raising or cultivating other agricultural products as defined in clause (1);

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

5.1 (5) game birds and waterfowl bred and raised (i) on a game farm licensed under section
5.2 97A.105, provided that the annual licensing report to the Department of Natural Resources,
5.3 which must be submitted annually by March 30 to the assessor, indicates that at least 500
5.4 birds were raised or used for breeding stock on the property during the preceding year and
5.5 that the owner provides a copy of the owner's most recent schedule F; or (ii) for use on a
5.6 shooting preserve licensed under section 97A.115;

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

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

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

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

5.14 (1) wholesale and retail sales;

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

5.16 (3) warehousing or storage of processed goods; and

5.17 (4) office facilities for the support of the activities enumerated in clauses (1), (2), and
5.18 (3),

5.19 the assessor shall classify the part of the parcel used for agricultural purposes as class 1b,
5.20 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use.

5.21 The grading, sorting, and packaging of raw agricultural products for first sale is considered
5.22 an agricultural purpose. A greenhouse or other building where horticultural or nursery
5.23 products are grown that is also used for the conduct of retail sales must be classified as
5.24 agricultural if it is primarily used for the growing of horticultural or nursery products from
5.25 seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products.
5.26 Use of a greenhouse or building only for the display of already grown horticultural or nursery
5.27 products does not qualify as an agricultural purpose.

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

6.1 (l) Class 2d airport landing area consists of a landing area or public access area of a
6.2 privately owned public use airport. It has a classification rate of one percent of market value.
6.3 To qualify for classification under this paragraph, a privately owned public use airport must
6.4 be licensed as a public airport under section 360.018. For purposes of this paragraph, "landing
6.5 area" means that part of a privately owned public use airport properly cleared, regularly
6.6 maintained, and made available to the public for use by aircraft and includes runways,
6.7 taxiways, aprons, and sites upon which are situated landing or navigational aids. A landing
6.8 area also includes land underlying both the primary surface and the approach surfaces that
6.9 comply with all of the following:

6.10 (i) the land is properly cleared and regularly maintained for the primary purposes of the
6.11 landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities
6.12 for servicing, repair, or maintenance of aircraft is not included as a landing area;

6.13 (ii) the land is part of the airport property; and

6.14 (iii) the land is not used for commercial or residential purposes.

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

6.21 (m) Class 2e consists of land with a commercial aggregate deposit that is not actively
6.22 being mined and is not otherwise classified as class 2a or 2b, provided that the land is not
6.23 located in a county that has elected to opt-out of the aggregate preservation program as
6.24 provided in section 273.1115, subdivision 6. It has a classification rate of one percent of
6.25 market value. To qualify for classification under this paragraph, the property must be at
6.26 least ten contiguous acres in size and the owner of the property must record with the county
6.27 recorder of the county in which the property is located an affidavit containing:

6.28 (1) a legal description of the property;

6.29 (2) a disclosure that the property contains a commercial aggregate deposit that is not
6.30 actively being mined but is present on the entire parcel enrolled;

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

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

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

7.9 (n) When any portion of the property under this subdivision or subdivision 22 begins to
7.10 be actively mined, the owner must file a supplemental affidavit within 60 days from the
7.11 day any aggregate is removed stating the number of acres of the property that is actively
7.12 being mined. The acres actively being mined must be (1) valued and classified under
7.13 subdivision 24 in the next subsequent assessment year, and (2) removed from the aggregate
7.14 resource preservation property tax program under section 273.1115, if the land was enrolled
7.15 in that program. Copies of the original affidavit and all supplemental affidavits must be
7.16 filed with the county assessor, the local zoning administrator, and the Department of Natural
7.17 Resources, Division of Land and Minerals. A supplemental affidavit must be filed each
7.18 time a subsequent portion of the property is actively mined, provided that the minimum
7.19 acreage change is five acres, even if the actual mining activity constitutes less than five
7.20 acres.

7.21 (o) The definitions prescribed by the commissioner under paragraphs (c) and (d) are not
7.22 rules and are exempt from the rulemaking provisions of chapter 14, and the provisions in
7.23 section 14.386 concerning exempt rules do not apply.

7.24 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.