

A bill for an act

relating to taxation; property; restoring green acres and agricultural classifications to pre-2008 status; amending Minnesota Statutes 2010, sections 273.111, subdivisions 3, 11a; 273.13, subdivision 23; repealing Minnesota Statutes 2010, sections 273.1108; 273.111, subdivisions 3a, 4, 8, 9, 9a, 11; 273.114; 273.1384, subdivision 2; Laws 2008, chapter 366, article 6, section 52.

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

Section 1. Minnesota Statutes 2010, 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 1b, 2a, or 2b under section 273.13, shall be entitled to valuation and tax deferment under this section only if it is primarily devoted to agricultural use, and meets the qualifications of subdivision 6, 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

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) an entity, not regulated under section 500.24, 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~~ subdivisions 3 and 6, 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 qualifies for valuation and assessment deferral under this section if it was in agricultural use before enrollment ~~and~~,

~~provided that, in the case of land enrolled in the reinvest in Minnesota program, it is not subject to a perpetual easement.~~

EFFECTIVE DATE. This section is effective for assessment year 2011 and thereafter, for taxes payable in 2012 and thereafter.

Sec. 2. Minnesota Statutes 2010, section 273.111, subdivision 11a, is amended to read:

Subd. 11a. **Continuation of tax treatment upon sale or other event.** (a) When real property qualifying under ~~subdivision~~ subdivisions 3 and 6 is sold or transferred, no additional taxes or deferred special assessments plus interest shall be extended against the property provided the property continues to qualify pursuant to ~~subdivision~~ subdivisions 3 and 6, and provided the new owner files an application for continued deferment within 30 days after the sale or transfer.

For purposes of meeting the income requirements of subdivision 6, the property purchased shall be considered in conjunction with other qualifying property owned by the purchaser.

(b) The following transfers do not constitute a change of ownership of property qualifying under subdivision 3:

(1) death of a property owner when a surviving owner retains ownership of the property thereafter;

(2) divorce of a married couple when one of the spouses retains ownership of the property thereafter;

(3) marriage of a single property owner when that owner retains ownership of the property in whole or in part thereafter;

(4) organization into or reorganization of a farm entity ownership under section 500.24, if all owners maintain the same beneficial interest both before and after the organizational changes; and

(5) placement of the property in trust provided that the individual owners of the property are the grantors of the trust and they maintain the same beneficial interest both before and after placement of the property in trust.

EFFECTIVE DATE. This section is effective for assessment year 2011 and thereafter, for taxes payable in 2012 and thereafter.

Sec. 3. Minnesota Statutes 2010, section 273.13, subdivision 23, is amended to read:

Subd. 23. **Class 2.** (a) ~~An agricultural homestead consists of class 2a agricultural land and Class 2a property is agricultural land including any improvements that is~~

homesteaded, along with any class 2b rural vacant land that is contiguous to the class 2a land under the same ownership. The market value of the house and garage and immediately surrounding one acre of land has the same class rates as class 1a or 1b property under subdivision 22. The value of the remaining land including improvements up to the first tier valuation limit of agricultural homestead property has a net class rate of 0.5 percent of market value. The remaining property over the first tier has a class rate of one percent of market value. For purposes of this subdivision, the "first tier valuation limit of agricultural homestead property" and "first tier" means the limit certified under 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 must also include any property that would otherwise be classified as 2b, but is interspersed with class 2a property, including but not limited to sloughs, wooded wind shelters, acreage abutting ditches, ravines, rock piles, land subject to a setback requirement, 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 property is (1) real estate, rural in character and not used for agricultural purposes, including land used exclusively for growing trees for timber, lumber, and wood and wood products; (2) real estate that is not improved with a structure and is used exclusively for growing trees for timber, lumber, and wood and wood products, if the owner has participated or is participating in a cost-sharing program for afforestation, reforestation, or timber stand improvement on that particular property, administered or coordinated by the commissioner of natural resources; or (3) real estate that is nonhomestead agricultural land. 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) (c).~~

~~(d)~~ (c) 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 in order for the property to initially qualify for the reduced rate and provide the information required by the assessor to verify that the property qualifies for the reduced rate. If the assessor receives the application and information before May 1 in an assessment year, the property qualifies beginning with that assessment year. If the assessor receives the application and information after April 30 in an assessment year, the property may not qualify until the next assessment year. 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. 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.

~~(e)~~ (d) 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. Contiguous acreage on the same parcel, or contiguous acreage on an immediately adjacent parcel under the same ownership, may also qualify as agricultural land, but only if it is pasture, timber, waste, unusable wild land, or land included in state or federal farm programs. Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

~~(f)~~ (e) 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)~~ (f) 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)~~ (g) 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)~~ (h) 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;

(3) the commercial boarding of horses, which may include related horse training and riding instruction, if the boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other 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)~~ (i) 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.

~~(k)~~ (j) 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.

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

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

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

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

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

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

(1) a legal description of the property;

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

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

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

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

~~(m)~~ (m) When any portion of the property under this subdivision or subdivision 22 begins to be actively mined, the owner must file a supplemental affidavit within 60 days from the day any aggregate is removed stating the number of acres of the property that is actively being mined. The acres actively being mined must be (1) valued and classified under subdivision 24 in the next subsequent assessment year, and (2) removed from the aggregate resource preservation property tax program under section 273.1115, if the land was enrolled in that program. Copies of the original affidavit and all supplemental affidavits must be filed with the county assessor, the local zoning administrator, and the

Department of Natural Resources, Division of Land and Minerals. A supplemental affidavit must be filed each time a subsequent portion of the property is actively mined, provided that the minimum acreage change is five acres, even if the actual mining activity constitutes less than five acres.

~~(c)~~ (n) The ~~definitions~~ definition prescribed by the commissioner under ~~paragraphs~~ paragraph (c) and (d) ~~are~~ is not ~~rules~~ a rule and ~~are~~ is exempt from the rulemaking provisions of chapter 14, and the provisions in section 14.386 concerning exempt rules do not apply.

EFFECTIVE DATE. This section is effective for assessment year 2011 and thereafter, for taxes payable in 2012 and thereafter.

Sec. 4. **LAND REMOVED FROM PROGRAM.**

(a) Any land that had been enrolled in the Minnesota Agricultural Property Tax Law under Minnesota Statutes 2006, section 273.111, and that was removed from the program between May 21, 2008, and the effective date of this section, must be reinstated to the program at the request of the owner provided that the eligibility requirements under Minnesota Statutes 2006, section 273.111, subdivisions 3 and 6, are met.

(b) If additional taxes have been paid by a property owner prior to the effective date of this section with respect to property described in paragraph (a), as a result of the property being removed from the program authorized under Minnesota Statutes 2006, section 273.111, the county must repay the property owner in the manner prescribed by the commissioner of revenue.

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

Sec. 5. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall correct internal cross-references to sections that are affected by the relettering in section 3.

Sec. 6. **REPEALER, REENACTMENT, AND REVIVAL.**

(a) Minnesota Statutes 2010, sections 273.1108; 273.111, subdivisions 3a, 4, 8, 9, 9a, and 11; 273.114; and 273.1384, subdivision 2, are repealed.

(b) Minnesota Statutes 2006, section 273.111, subdivisions 4, 8, 9, and 11; and 273.1384, subdivision 2, are reenacted.

H.F. No. 54, as introduced - 87th Legislative Session (2011-2012) [11-0447]

10.1 (c) Laws 2008, chapter 366, article 6, section 52, paragraph (c), is repealed, and
10.2 pursuant to Minnesota Statutes, section 645.36, Minnesota Statutes 2006, section 273.111,
10.3 subdivision 6, is revived.

10.4 **EFFECTIVE DATE.** This section is effective for assessment year 2011 and
10.5 thereafter, for taxes payable in 2012 and thereafter.