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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 338

January 26, 2009

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The bill was read for the first time and referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to taxation; modifying the Minnesota agricultural property tax law;
1.3 establishing a new property tax classification for preservation and legacy land;
1.4 amending Minnesota Statutes 2008, sections 273.111, subdivisions 3, 3a, by
1.5 adding a subdivision; 273.13, subdivision 23; proposing coding for new law in
1.6 Minnesota Statutes, chapter 273.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.32 (d) Land that is enrolled in the reinvest in Minnesota program under sections
2.33 103F.501 to 103F.535, the federal Conservation Reserve Program as contained in Public
2.34 Law 99-198, or a similar state or federal conservation program does not qualify for
2.35 valuation and assessment deferral under this section. This paragraph applies to land that
2.36 has not qualified under this section for taxes payable in 2009 or previous years.

3.1 (e) Land classified as class 2p under section 273.13, subdivision 23, is not eligible
 3.2 for enrollment in the program defined in this section.

3.3 (f) For the purposes of this subdivision, "primarily devoted to agricultural use"
 3.4 means property that is being operated in the trade or business of farming, as defined by
 3.5 the Internal Revenue Service. In order to administer this subdivision, the assessor may
 3.6 require the property owner to furnish a copy of the appropriate schedule or form showing
 3.7 farm income for the most recent filing year, and may require the owner to sign an affidavit
 3.8 asserting that it is a copy of the schedule or form actually included with the owner's
 3.9 filed federal income tax return.

3.10 **EFFECTIVE DATE.** This section is effective for applications for enrollment filed
 3.11 after May 1, 2008.

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

3.13 Subd. 3a. **Property that no longer eligible for deferment qualifies as agricultural**
 3.14 **under 2008 law changes.** (a) Real estate receiving qualifying for the tax deferment under
 3.15 this section for assessment year 2008, but that does not qualify for the 2009 assessment
 3.16 year due to changes in qualification requirements under Laws 2008, chapter 366 is not
 3.17 classified as class 2a in a subsequent assessment year, shall continue to qualify until
 3.18 any part of the land is sold; or otherwise transferred, or subdivided; provided that the
 3.19 property continues to meet the requirements of Minnesota Statutes 2006, section 273.111,
 3.20 subdivision 3. Property described under this paragraph that is sold or transferred to a
 3.21 qualifying owner may be reenrolled in the program, provided that the property continues
 3.22 to meet the requirements of Minnesota Statutes 2006, section 273.111, subdivision 3,
 3.23 and if reenrolled, is not subject to the additional taxes provided under subdivision 9 at
 3.24 the time of transfer.

3.25 ~~(b) When property assessed under this subdivision is withdrawn from the program or~~
 3.26 ~~becomes ineligible, the property shall be subject to additional taxes, in the amount equal~~
 3.27 ~~to the average difference between the taxes determined in accordance with subdivision~~
 3.28 ~~4, and the amount determined under subdivision 5, for the current year and the two~~
 3.29 ~~preceding years, multiplied by (1) three, in the case of class 2a property under section~~
 3.30 ~~273.13, subdivision 23, or any property withdrawn before January 2, 2009, or (2) seven, in~~
 3.31 ~~the case of property withdrawn after January 2, 2009, that is not class 2a property. The~~
 3.32 ~~number of years used as the multiplier must not exceed the number of years during which~~
 3.33 ~~the property was subject to this section. The amount determined under subdivision 5 shall~~
 3.34 ~~not be greater than it would have been had the actual bona fide sale price of the real~~
 3.35 ~~property at an arm's-length transaction been used in lieu of the market value determined~~

4.1 ~~under subdivision 5. The additional taxes shall be extended against the property on the~~
 4.2 ~~tax list for the current year, provided that no interest or penalties shall be levied on the~~
 4.3 ~~additional taxes if timely paid. Property described in paragraph (a) that is withdrawn~~
 4.4 ~~from the program prior to January 2, 2010, is not subject to the additional taxes provided~~
 4.5 ~~under subdivision 9.~~

4.6 (c) For the purposes of this subdivision, "qualifying owner" means the mother,
 4.7 father, brother, sister, son, daughter, grandson, or granddaughter of the current owner. This
 4.8 relationship may be by blood or by marriage.

4.9 **EFFECTIVE DATE.** This section is effective for property transfers and program
 4.10 withdrawals occurring after May 1, 2008.

4.11 Sec. 3. Minnesota Statutes 2008, section 273.111, is amended by adding a subdivision
 4.12 to read:

4.13 Subd. 17. **Program audit.** Each year, the commissioner of revenue shall perform a
 4.14 random audit of property enrolled under this section. The audit must include properties
 4.15 comprising approximately one percent of the total number of acres enrolled in the
 4.16 program in each county. There must be a visual inspection of each property included in
 4.17 the audit, plus a review of any relevant forms or schedules of the owner's federal tax form
 4.18 if deemed necessary by the commissioner to determine eligibility under subdivision 3.
 4.19 If the commissioner determines that there is a significant level of improperly enrolled
 4.20 property in a county, five percent of the enrolled acres in the county shall be audited in
 4.21 each subsequent year until the commissioner determines that the county is in substantial
 4.22 compliance with the law.

4.23 **EFFECTIVE DATE.** This section is effective January 1, 2010.

4.24 Sec. 4. **[273.114] PRESERVATION AND LEGACY LAND.**

4.25 Subdivision 1. **Election.** A county board may establish a property tax classification
 4.26 for preservation and legacy land under this section.

4.27 Subd. 2. **Area designation.** In order to establish the property tax classification
 4.28 authorized under this section, the county must designate one or more preservation
 4.29 and legacy areas within the county. In the designation of areas, the county must give
 4.30 consideration to the creation and preservation of water buffers, wildlife corridors, scenic
 4.31 assets, and cultural assets, plus whatever other characteristics the county deems important.
 4.32 Any property enrolled in the reinvest in Minnesota program under sections 103F.501 to

5.1 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198
5.2 is deemed to be included in the county's designated preservation and legacy area.

5.3 Subd. 3. **Public hearings.** Before its initial designation of preservation and legacy
5.4 areas, and before any subsequent changes may be made to the designation, the county
5.5 must give proper notice and conduct a public hearing. Once a county has designated areas,
5.6 the designation may not be altered more than one time in each subsequent year.

5.7 Subd. 4. **Enrollment of property; covenant.** Owners of property within
5.8 preservation and legacy areas may apply to the county board for classification as
5.9 environmentally sensitive rural vacant land. The board must establish the conditions
5.10 under which any property receiving this classification must be maintained and used. The
5.11 applicant must file a covenant stating that the property will be maintained and used in
5.12 accordance with the conditions established by the county board at the time of approval,
5.13 and providing that the covenant shall be binding on the owner or the owner's successor
5.14 or assignee, and shall run with the land.

5.15 A landowner may initiate termination of the covenant by notifying the county
5.16 assessor on a form provided to the county by the commissioner of revenue. The form
5.17 shall describe the property for which termination is desired and shall state the date of
5.18 termination, which shall be eight years from the date of the landowner's notice to the
5.19 county. Once a notice of termination is filed for a parcel of property, the parcel can
5.20 never be reenrolled in the program unless it has been sold or otherwise transferred to
5.21 a different owner.

5.22 The board may not remove the property from the classification unless the county
5.23 changes the boundaries of its preservation and legacy areas. If a property ceases to
5.24 qualify because the county has changed the boundaries of an area, the covenant shall be
5.25 terminated, and the property shall continue to receive the classification for three years
5.26 following the change unless the property becomes noncompliant with the conditions
5.27 under which the classification was granted.

5.28 Subd. 5. **Acreage limitation.** A county may not approve any property for
5.29 classification under this section if the designation would cause the total acreage of
5.30 property in the county receiving the classification to exceed 20 percent of the total amount
5.31 of acreage classified as class 2b and class 2p under section 273.13, subdivision 23.

5.32 Subd. 6. **Reporting requirements.** Each year, each county that has designated a
5.33 preservation and legacy area must file a copy of the designation with the commissioner
5.34 of revenue. Each year, each county must report the acreage and market value of
5.35 environmentally sensitive rural vacant land with the abstracts of assessment filed with the
5.36 Department of Revenue. In 2012, and every fourth year thereafter, the commissioner of

6.1 revenue shall make a report to the chairs of the house of representatives and senate tax
 6.2 committees indicating for each county the total amount of market value classified as
 6.3 environmentally sensitive rural vacant land, and an approximation of the total tax benefit
 6.4 received by those lands.

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

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

6.7 Subd. 23. **Class 2.** (a) An agricultural homestead consists of class 2a agricultural
 6.8 land that is homesteaded, along with any class 2b rural vacant land that is contiguous to
 6.9 the class 2a land under the same ownership. The market value of the house and garage
 6.10 and immediately surrounding one acre of land has the same class rates as class 1a or 1b
 6.11 property under subdivision 22. The value of the remaining land including improvements
 6.12 up to the first tier valuation limit of agricultural homestead property has a net class rate
 6.13 of 0.5 percent of market value. The remaining property over the first tier has a class rate
 6.14 of one percent of market value. For purposes of this subdivision, the "first tier valuation
 6.15 limit of agricultural homestead property" and "first tier" means the limit certified under
 6.16 section 273.11, subdivision 23.

6.17 (b) Class 2a agricultural land consists of parcels of property, or portions thereof, that
 6.18 are agricultural land and buildings. Class 2a property has a net class rate of one percent of
 6.19 market value, unless it is part of an agricultural homestead under paragraph (a). Class 2a
 6.20 property may contain property that would otherwise be classified as 2b, including but not
 6.21 limited to sloughs, wooded wind shelters, acreage abutting ditches, and other similar land
 6.22 impractical for the assessor to value separately from the rest of the property.

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

6.25 (c) Class 2b rural vacant land consists of parcels of property, or portions thereof,
 6.26 that are unplatted real estate, rural in character and not used for agricultural purposes,
 6.27 including land used for growing trees for timber, lumber, and wood and wood products,
 6.28 that is not improved with a structure, and that is not classified as class 2p. The presence
 6.29 of a minor, ancillary nonresidential structure as defined by the commissioner of revenue
 6.30 does not disqualify the property from classification under this paragraph. Any parcel of
 6.31 20 acres or more improved with a structure that is not a minor, ancillary nonresidential
 6.32 structure must be split-classified, and ten acres must be assigned to the split parcel
 6.33 containing the structure. Class 2b property has a net class rate of one percent of market
 6.34 value unless it is part of an agricultural homestead under paragraph (a), or qualifies as
 6.35 class 2c under paragraph (d).

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

7.10 (e) Agricultural land as used in this section means contiguous acreage of ten
7.11 acres or more, used during the preceding year for agricultural purposes. "Agricultural
7.12 purposes" as used in this section means the raising, cultivation, drying, or storage of
7.13 agricultural products for sale, or the storage of machinery or equipment used in support
7.14 of agricultural production by the same farm entity. For a property to be classified as
7.15 agricultural based only on the drying or storage of agricultural products, the products
7.16 being dried or stored must have been produced by the same farm entity as the entity
7.17 operating the drying or storage facility. "Agricultural purposes" also includes enrollment
7.18 in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal
7.19 Conservation Reserve Program as contained in Public Law 99-198 or a similar state
7.20 or federal conservation program if the property was classified as agricultural (i) under
7.21 this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment.
7.22 Agricultural classification shall not be based upon the market value of any residential
7.23 structures on the parcel or contiguous parcels under the same ownership.

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

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

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

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

7.35 (iv) for market farming; for purposes of this paragraph, "market farming" means the
7.36 cultivation of one or more fruits or vegetables or production of animal or other agricultural

8.1 products for sale to local markets by the farmer or an organization with which the farmer
8.2 is affiliated.

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

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

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

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

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

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

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

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

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

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

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

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

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

8.30 (1) wholesale and retail sales;

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

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

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

8.35 the assessor shall classify the part of the parcel used for agricultural purposes as class
8.36 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its

9.1 use. The grading, sorting, and packaging of raw agricultural products for first sale is
9.2 considered an agricultural purpose. A greenhouse or other building where horticultural
9.3 or nursery products are grown that is also used for the conduct of retail sales must be
9.4 classified as agricultural if it is primarily used for the growing of horticultural or nursery
9.5 products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of
9.6 those products. Use of a greenhouse or building only for the display of already grown
9.7 horticultural or nursery products does not qualify as an agricultural purpose.

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

9.12 (k) Class 2d airport landing area consists of a landing area or public access area of
9.13 a privately owned public use airport. It has a class rate of one percent of market value.
9.14 To qualify for classification under this paragraph, a privately owned public use airport
9.15 must be licensed as a public airport under section 360.018. For purposes of this paragraph,
9.16 "landing area" means that part of a privately owned public use airport properly cleared,
9.17 regularly maintained, and made available to the public for use by aircraft and includes
9.18 runways, taxiways, aprons, and sites upon which are situated landing or navigational aids.
9.19 A landing area also includes land underlying both the primary surface and the approach
9.20 surfaces that comply with all of the following:

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

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

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

- 10.1 (1) a legal description of the property;
- 10.2 (2) a disclosure that the property contains a commercial aggregate deposit that is not
10.3 actively being mined but is present on the entire parcel enrolled;
- 10.4 (3) documentation that the conditional use under the county or local zoning
10.5 ordinance of this property is for mining; and
- 10.6 (4) documentation that a permit has been issued by the local unit of government
10.7 or the mining activity is allowed under local ordinance. The disclosure must include a
10.8 statement from a registered professional geologist, engineer, or soil scientist delineating
10.9 the deposit and certifying that it is a commercial aggregate deposit.

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

10.14 (m) When any portion of the property under this subdivision or subdivision 22
10.15 begins to be actively mined, the owner must file a supplemental affidavit within 60 days
10.16 from the day any aggregate is removed stating the number of acres of the property that is
10.17 actively being mined. The acres actively being mined must be (1) valued and classified
10.18 under subdivision 24 in the next subsequent assessment year, and (2) removed from the
10.19 aggregate resource preservation property tax program under section 273.1115, if the
10.20 land was enrolled in that program. Copies of the original affidavit and all supplemental
10.21 affidavits must be filed with the county assessor, the local zoning administrator, and the
10.22 Department of Natural Resources, Division of Land and Minerals. A supplemental
10.23 affidavit must be filed each time a subsequent portion of the property is actively mined,
10.24 provided that the minimum acreage change is five acres, even if the actual mining activity
10.25 constitutes less than five acres.

10.26 (n) Class 2p is environmentally sensitive rural vacant land certified by a county
10.27 board under section 273.114. It has a class rate of 0.25 percent.

10.28 **EFFECTIVE DATE.** This section is effective for taxes payable in 2011 and
10.29 thereafter.