

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 540

February 5, 2009

Authored by Koenen

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; providing for assessment of certain rural vacant land;
1.3 modifying the recapture that applies to certain property in the green acres
1.4 program; amending Minnesota Statutes 2008, sections 273.111, subdivisions
1.5 3a, 9; 273.13, subdivision 23.

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

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

1.9 Subd. 3a. **Property no longer eligible for deferment.** (a) Real estate receiving
1.10 the tax deferment under this section for assessment year 2008, but that does not qualify
1.11 for the 2009 assessment year due to changes in qualification requirements under Laws
1.12 2008, chapter 366, shall continue to qualify until ~~any part of~~ the land is sold, transferred,
1.13 or subdivided, provided that the property continues to meet the requirements of Minnesota
1.14 Statutes 2006, section 273.111, subdivision 3.

1.15 (b) Except as provided in paragraph (c) and subdivision 9, paragraph (b), when
1.16 property assessed under this subdivision is withdrawn from the program or becomes
1.17 ineligible, the property shall be subject to additional taxes, ~~in the amount equal to the~~
1.18 ~~average difference between the taxes determined in accordance with subdivision 4, and the~~
1.19 ~~amount determined under subdivision 5, for the current year and the two preceding years,~~
1.20 ~~multiplied by (1) three, in the case of class 2a property under section 273.13, subdivision~~
1.21 ~~23, or any property withdrawn before January 2, 2009, or (2) seven, in the case of property~~
1.22 ~~withdrawn after January 2, 2009, that is not class 2a property. The number of years used as~~
1.23 ~~the multiplier must not exceed the number of years during which the property was subject~~
1.24 ~~to this section. The amount determined under subdivision 5 shall not be greater than it~~
1.25 ~~would have been had the actual bona fide sale price of the real property at an arm's-length~~

2.1 ~~transaction been used in lieu of the market value determined under subdivision 5. The~~
 2.2 ~~additional taxes shall be extended against the property on the tax list for the current year,~~
 2.3 ~~provided that no interest or penalties shall be levied on the additional taxes if timely~~
 2.4 ~~paid as provided in subdivision 9.~~

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

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

2.9 Sec. 2. Minnesota Statutes 2008, section 273.111, subdivision 9, is amended to read:

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

2.22 (b) Real property that has been valued and assessed under this section prior to May
 2.23 29, 2008, and that ceases to qualify under this section after May 28, 2008, and before
 2.24 January 1, 2010, is not subject to additional taxes under this subdivision or subdivision 3,
 2.25 paragraph (c).

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

2.27 Sec. 3. Minnesota Statutes 2008, section 273.13, subdivision 23, is amended to read:

2.28 Subd. 23. **Class 2.** (a) An agricultural homestead consists of class 2a agricultural
 2.29 land that is homesteaded, along with any class 2b rural vacant land that is contiguous to
 2.30 the class 2a land under the same ownership. The market value of the house and garage
 2.31 and immediately surrounding one acre of land has the same class rates as class 1a or 1b
 2.32 property under subdivision 22. The value of the remaining land including improvements
 2.33 up to the first tier valuation limit of agricultural homestead property has a net class rate

3.1 of 0.5 percent of market value. The remaining property over the first tier has a class rate
3.2 of one percent of market value. For purposes of this subdivision, the "first tier valuation
3.3 limit of agricultural homestead property" and "first tier" means the limit certified under
3.4 section 273.11, subdivision 23.

3.5 (b) Class 2a agricultural land consists of parcels of property, or portions thereof, that
3.6 are agricultural land and buildings. Class 2a property has a net class rate of one percent of
3.7 market value, unless it is part of an agricultural homestead under paragraph (a). Class
3.8 2a property ~~may contain~~ must include property that would otherwise be classified as 2b,
3.9 including but not limited to sloughs, wooded wind shelters, acreage abutting ditches,
3.10 ravines, rock piles, and other similar land that is impractical for the assessor to value
3.11 separately from the rest of the property or that is unlikely to be able to be sold separately
3.12 from the rest of the property.

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

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

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

3.34 (e) Agricultural land as used in this section means contiguous acreage of ten
3.35 acres or more, used during the preceding year for agricultural purposes. "Agricultural
3.36 purposes" as used in this section means the raising, cultivation, drying, or storage of

4.1 agricultural products for sale, or the storage of machinery or equipment used in support
4.2 of agricultural production by the same farm entity. For a property to be classified as
4.3 agricultural based only on the drying or storage of agricultural products, the products
4.4 being dried or stored must have been produced by the same farm entity as the entity
4.5 operating the drying or storage facility. "Agricultural purposes" also includes enrollment
4.6 in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal
4.7 Conservation Reserve Program as contained in Public Law 99-198 or a similar state
4.8 or federal conservation program if the property was classified as agricultural (i) under
4.9 this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment.
4.10 Agricultural classification shall not be based upon the market value of any residential
4.11 structures on the parcel or contiguous parcels under the same ownership.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.19 (1) wholesale and retail sales;

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

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

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

5.24 the assessor shall classify the part of the parcel used for agricultural purposes as class
 5.25 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its
 5.26 use. The grading, sorting, and packaging of raw agricultural products for first sale is
 5.27 considered an agricultural purpose. A greenhouse or other building where horticultural
 5.28 or nursery products are grown that is also used for the conduct of retail sales must be
 5.29 classified as agricultural if it is primarily used for the growing of horticultural or nursery
 5.30 products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of
 5.31 those products. Use of a greenhouse or building only for the display of already grown
 5.32 horticultural or nursery products does not qualify as an agricultural purpose.

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

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

6.10 (i) the land is properly cleared and regularly maintained for the primary purposes of
6.11 the landing, taking off, and taxiing of aircraft; but that portion of the land that contains
6.12 facilities 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,
6.17 or until the airport or landing area no longer meets the requirements of this paragraph.
6.18 For purposes of this paragraph, "public access area" means property used as an aircraft
6.19 parking ramp, apron, or storage hangar, or an arrival and departure building in connection
6.20 with the airport.

6.21 (l) 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. It has a class rate of one
6.23 percent of market value. To qualify for classification under this paragraph, the property
6.24 must be at least ten contiguous acres in size and the owner of the property must record with
6.25 the county recorder of the county in which the property is located an affidavit containing:

6.26 (1) a legal description of the property;

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

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

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

6.35 For purposes of this section and section 273.1115, "commercial aggregate deposit"
6.36 means a deposit that will yield crushed stone or sand and gravel that is suitable for use

7.1 as a construction aggregate; and "actively mined" means the removal of top soil and
7.2 overburden in preparation for excavation or excavation of a commercial deposit.

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

7.15 **EFFECTIVE DATE.** This section is effective for assessment year 2010, for taxes
7.16 payable in 2011, and thereafter.