

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **2242**

March 19, 2007

Authored by Marquart and Juhnke

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; reducing the class rate on certain seasonal
1.3 restaurant property; amending Minnesota Statutes 2006, section 273.13,
1.4 subdivision 25.

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

1.6 Section 1. Minnesota Statutes 2006, section 273.13, subdivision 25, is amended to read:

1.7 Subd. 25. **Class 4.** (a) Class 4a is residential real estate containing four or more
1.8 units and used or held for use by the owner or by the tenants or lessees of the owner
1.9 as a residence for rental periods of 30 days or more, excluding property qualifying for
1.10 class 4d. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other
1.11 than hospitals exempt under section 272.02, and contiguous property used for hospital
1.12 purposes, without regard to whether the property has been platted or subdivided. The
1.13 market value of class 4a property has a class rate of 1.25 percent.

1.14 (b) Class 4b includes:

1.15 (1) residential real estate containing less than four units that does not qualify as class
1.16 4bb, other than seasonal residential recreational property;

1.17 (2) manufactured homes not classified under any other provision;

1.18 (3) a dwelling, garage, and surrounding one acre of property on a nonhomestead
1.19 farm classified under subdivision 23, paragraph (b) containing two or three units; and

1.20 (4) unimproved property that is classified residential as determined under subdivision
1.21 33.

1.22 The market value of class 4b property has a class rate of 1.25 percent.

1.23 (c) Class 4bb includes:

2.1 (1) nonhomestead residential real estate containing one unit, other than seasonal
2.2 residential recreational property; and

2.3 (2) a single family dwelling, garage, and surrounding one acre of property on a
2.4 nonhomestead farm classified under subdivision 23, paragraph (b).

2.5 Class 4bb property has the same class rates as class 1a property under subdivision 22.

2.6 Property that has been classified as seasonal residential recreational property at
2.7 any time during which it has been owned by the current owner or spouse of the current
2.8 owner does not qualify for class 4bb.

2.9 (d) Class 4c property includes:

2.10 (1) except as provided in subdivision 22, paragraph (c), real property devoted to
2.11 temporary and seasonal residential occupancy for recreation purposes, including real
2.12 property devoted to temporary and seasonal residential occupancy for recreation purposes
2.13 and not devoted to commercial purposes for more than 250 days in the year preceding
2.14 the year of assessment. For purposes of this clause, property is devoted to a commercial
2.15 purpose on a specific day if any portion of the property is used for residential occupancy,
2.16 and a fee is charged for residential occupancy. In order for a property to be classified as
2.17 class 4c, seasonal residential recreational for commercial purposes, at least 40 percent of
2.18 the annual gross lodging receipts related to the property must be from business conducted
2.19 during 90 consecutive days and either (i) at least 60 percent of all paid bookings by lodging
2.20 guests during the year must be for periods of at least two consecutive nights; or (ii) at least
2.21 20 percent of the annual gross receipts must be from charges for rental of fish houses,
2.22 boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for
2.23 marina services, launch services, and guide services, or the sale of bait and fishing tackle.
2.24 For purposes of this determination, a paid booking of five or more nights shall be counted
2.25 as two bookings. Class 4c also includes commercial use real property used exclusively
2.26 for recreational purposes in conjunction with class 4c property devoted to temporary
2.27 and seasonal residential occupancy for recreational purposes, up to a total of two acres,
2.28 provided the property is not devoted to commercial recreational use for more than 250
2.29 days in the year preceding the year of assessment and is located within two miles of the
2.30 class 4c property with which it is used. Owners of real property devoted to temporary and
2.31 seasonal residential occupancy for recreation purposes and all or a portion of which was
2.32 devoted to commercial purposes for not more than 250 days in the year preceding the year
2.33 of assessment desiring classification as class 1c or 4c, must submit a declaration to the
2.34 assessor designating the cabins or units occupied for 250 days or less in the year preceding
2.35 the year of assessment by January 15 of the assessment year. Those cabins or units and a
2.36 proportionate share of the land on which they are located will be designated class 1c or 4c

3.1 as otherwise provided. The remainder of the cabins or units and a proportionate share of
3.2 the land on which they are located will be designated as class 3a. The owner of property
3.3 desiring designation as class 1c or 4c property must provide guest registers or other
3.4 records demonstrating that the units for which class 1c or 4c designation is sought were
3.5 not occupied for more than 250 days in the year preceding the assessment if so requested.
3.6 The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, and (4) other
3.7 nonresidential facility operated on a commercial basis not directly related to temporary and
3.8 seasonal residential occupancy for recreation purposes shall not qualify for class 1c or 4c;

3.9 (2) qualified property used as a golf course if:

3.10 (i) it is open to the public on a daily fee basis. It may charge membership fees or
3.11 dues, but a membership fee may not be required in order to use the property for golfing,
3.12 and its green fees for golfing must be comparable to green fees typically charged by
3.13 municipal courses; and

3.14 (ii) it meets the requirements of section 273.112, subdivision 3, paragraph (d).

3.15 A structure used as a clubhouse, restaurant, or place of refreshment in conjunction
3.16 with the golf course is classified as class 3a property;

3.17 (3) real property up to a maximum of one acre of land owned by a nonprofit
3.18 community service oriented organization; provided that the property is not used for a
3.19 revenue-producing activity for more than six days in the calendar year preceding the year
3.20 of assessment and the property is not used for residential purposes on either a temporary
3.21 or permanent basis. For purposes of this clause, a "nonprofit community service oriented
3.22 organization" means any corporation, society, association, foundation, or institution
3.23 organized and operated exclusively for charitable, religious, fraternal, civic, or educational
3.24 purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3),
3.25 (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31,
3.26 1990. For purposes of this clause, "revenue-producing activities" shall include but not be
3.27 limited to property or that portion of the property that is used as an on-sale intoxicating
3.28 liquor or 3.2 percent malt liquor establishment licensed under chapter 340A, a restaurant
3.29 open to the public, bowling alley, a retail store, gambling conducted by organizations
3.30 licensed under chapter 349, an insurance business, or office or other space leased or
3.31 rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of
3.32 the property which is used for revenue-producing activities for more than six days in the
3.33 calendar year preceding the year of assessment shall be assessed as class 3a. The use of
3.34 the property for social events open exclusively to members and their guests for periods of
3.35 less than 24 hours, when an admission is not charged nor any revenues are received by the
3.36 organization shall not be considered a revenue-producing activity;

4.1 (4) postsecondary student housing of not more than one acre of land that is owned by
 4.2 a nonprofit corporation organized under chapter 317A and is used exclusively by a student
 4.3 cooperative, sorority, or fraternity for on-campus housing or housing located within two
 4.4 miles of the border of a college campus;

4.5 (5) manufactured home parks as defined in section 327.14, subdivision 3;

4.6 (6) real property that is actively and exclusively devoted to indoor fitness, health,
 4.7 social, recreational, and related uses, is owned and operated by a not-for-profit corporation,
 4.8 and is located within the metropolitan area as defined in section 473.121, subdivision 2;

4.9 (7) a leased or privately owned noncommercial aircraft storage hangar not exempt
 4.10 under section 272.01, subdivision 2, and the land on which it is located, provided that:

4.11 (i) the land is on an airport owned or operated by a city, town, county, Metropolitan
 4.12 Airports Commission, or group thereof; and

4.13 (ii) the land lease, or any ordinance or signed agreement restricting the use of the
 4.14 leased premise, prohibits commercial activity performed at the hangar.

4.15 If a hangar classified under this clause is sold after June 30, 2000, a bill of sale must
 4.16 be filed by the new owner with the assessor of the county where the property is located
 4.17 within 60 days of the sale;

4.18 (8) a privately owned noncommercial aircraft storage hangar not exempt under
 4.19 section 272.01, subdivision 2, and the land on which it is located, provided that:

4.20 (i) the land abuts a public airport; and

4.21 (ii) the owner of the aircraft storage hangar provides the assessor with a signed
 4.22 agreement restricting the use of the premises, prohibiting commercial use or activity
 4.23 performed at the hangar; ~~and~~

4.24 (9) residential real estate, a portion of which is used by the owner for homestead
 4.25 purposes, and that is also a place of lodging, if all of the following criteria are met:

4.26 (i) rooms are provided for rent to transient guests that generally stay for periods
 4.27 of 14 or fewer days;

4.28 (ii) meals are provided to persons who rent rooms, the cost of which is incorporated
 4.29 in the basic room rate;

4.30 (iii) meals are not provided to the general public except for special events on fewer
 4.31 than seven days in the calendar year preceding the year of the assessment; and

4.32 (iv) the owner is the operator of the property.

4.33 The market value subject to the 4c classification under this clause is limited to five rental
 4.34 units. Any rental units on the property in excess of five, must be valued and assessed as
 4.35 class 3a. The portion of the property used for purposes of a homestead by the owner must
 4.36 be classified as class 1a property under subdivision 22; and

5.1 (10) real property up to a maximum of three acres and operated as a restaurant
5.2 as defined under section 157.15, subdivision 12, provided it: (i) is located on a lake as
5.3 defined under section 103G.005, subdivision 15, paragraph (a), clause (3); and (ii) is either
5.4 devoted to commercial purposes for not more than 250 consecutive days, or receives
5.5 at least 60 percent of its annual gross receipts from business conducted during four
5.6 consecutive months. Gross receipts from the sale of alcoholic beverages must be included
5.7 in determining the property's qualification under item (ii). The property's primary business
5.8 must be as a restaurant and not as a bar. Gross receipts from gift shop sales located
5.9 on the premises must be excluded. Owners of real property desiring 4c classification
5.10 under this clause must submit an annual declaration to the assessor by February 1 of the
5.11 current assessment year, based on the property's relevant information for the preceding
5.12 assessment year.

5.13 Class 4c property has a class rate of 1.5 percent of market value, except that (i) each
5.14 parcel of seasonal residential recreational property not used for commercial purposes has
5.15 the same class rates as class 4bb property, (ii) manufactured home parks assessed under
5.16 clause (5) have the same class rate as class 4b property, (iii) commercial-use seasonal
5.17 residential recreational property and restaurant property under clause (10) has a class rate
5.18 of one percent for the first \$500,000 of market value, and 1.25 percent for the remaining
5.19 market value, (iv) the market value of property described in clause (4) has a class rate of
5.20 one percent, (v) the market value of property described in clauses (2) and (6) has a class
5.21 rate of 1.25 percent, and (vi) that portion of the market value of property in clause (9)
5.22 qualifying for class 4c property has a class rate of 1.25 percent.

5.23 (e) Class 4d property is qualifying low-income rental housing certified to the assessor
5.24 by the Housing Finance Agency under section 273.128, subdivision 3. If only a portion
5.25 of the units in the building qualify as low-income rental housing units as certified under
5.26 section 273.128, subdivision 3, only the proportion of qualifying units to the total number
5.27 of units in the building qualify for class 4d. The remaining portion of the building shall be
5.28 classified by the assessor based upon its use. Class 4d also includes the same proportion of
5.29 land as the qualifying low-income rental housing units are to the total units in the building.
5.30 For all properties qualifying as class 4d, the market value determined by the assessor must
5.31 be based on the normal approach to value using normal unrestricted rents.

5.32 Class 4d property has a class rate of 0.75 percent.

5.33 **EFFECTIVE DATE.** This section is effective for the 2007 assessment and
5.34 thereafter, taxes payable in 2008 and thereafter, except that the application date in clause
5.35 (10) for the 2007 assessment is extended to September 1, 2007.