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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **511**

February 5, 2009

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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; providing for a seasonal recreational property
1.3 tax deferral program; appropriating money; proposing coding for new law as
1.4 Minnesota Statutes, chapter 290D.

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

1.6 Section 1. **[290D.01] CITATION.**

1.7 This program shall be named the "seasonal recreational property tax deferral
1.8 program."

1.9 Sec. 2. **[290D.02] TERMS.**

1.10 Subdivision 1. **Terms.** For purposes of sections 290D.01 to 290D.08, the terms
1.11 defined in this section have the meanings given them.

1.12 Subd. 2. **Primary property owner.** "Primary property owner" means a person who
1.13 (1) has been the owner, or one of the owners, of the eligible property for at least 15 years
1.14 prior to the year the application is filed under section 290D.04; and (2) applies for the
1.15 deferral of property taxes under section 290D.04.

1.16 Subd. 3. **Secondary property owner.** "Secondary property owner" means any
1.17 person, other than the primary property owner, who has been an owner of the eligible
1.18 property for at least 15 years prior to the year the initial application is filed for deferral
1.19 of property taxes under section 290D.04.

1.20 Subd. 4. **Eligible property.** "Eligible property" means a parcel of property or
1.21 contiguous parcels of property under the same ownership classified as noncommercial
1.22 seasonal residential recreational 4c(1) property under section 273.13, subdivision 25.

2.1 Subd. 5. **Base property tax amount.** "Base property tax amount" means the total
2.2 property taxes levied by all taxing jurisdictions, including special assessments, on the
2.3 eligible property in the year prior to the year that the initial application is approved under
2.4 section 290D.04 and payable in the year of the application.

2.5 Subd. 6. **Special assessments.** "Special assessments" mean any assessment, fee, or
2.6 other charge that may be made by law, and that appears on the property tax statement for
2.7 the property for collection under the laws applicable to the enforcement of real estate taxes.

2.8 Subd. 7. **Commissioner.** "Commissioner" means the commissioner of revenue.

2.9 **Sec. 3. [290D.03] QUALIFICATIONS FOR DEFERRAL.**

2.10 In order for an eligible property to qualify for treatment under this program:

2.11 (1) the eligible property must have been owned solely by the primary property owner,
2.12 or jointly with others, for at least 15 years prior to the year the initial application is filed;

2.13 (2) there must be no state or federal tax liens or judgment liens on the eligible
2.14 property;

2.15 (3) there must be no mortgages or other liens on the eligible property that secure
2.16 future advances, except for those subject to credit limits that result in compliance with
2.17 clause (4); and

2.18 (4) the total unpaid balances of debts secured by mortgages and other liens on the
2.19 eligible property, including unpaid and delinquent special assessments and interest and
2.20 any delinquent property taxes, penalties, and interest, but not including property taxes
2.21 payable during the year, must not exceed 60 percent of the assessor's estimated market
2.22 value for the current assessment year.

2.23 **Sec. 4. [290D.04] APPLICATION FOR DEFERRAL.**

2.24 Subdivision 1. **Initial application.** (a) A primary owner of a property meeting
2.25 the qualifications under section 290D.03 may apply to the commissioner for deferral
2.26 of taxes on the eligible property. Applications are due on or before July 1 for deferral
2.27 of any taxes payable in the following year. The application, which must be prescribed
2.28 by the commissioner, shall include the following items and any other information the
2.29 commissioner deems necessary:

2.30 (1) the name, address, and Social Security number of the primary property owner
2.31 and secondary property owners, if any;

2.32 (2) a copy of the property tax statement for the current taxes payable year for the
2.33 eligible property;

3.1 (3) the initial year of ownership of the primary property owner and any second
3.2 property owners of the eligible property;

3.3 (4) information on any mortgage loans or other amounts secured by mortgages or
3.4 other liens against the eligible property, for which purpose the commissioner may require
3.5 the applicant to provide a copy of the mortgage note, the mortgage, or a statement of the
3.6 balance owing on the mortgage loan provided by the mortgage holder. The commissioner
3.7 may require the appropriate documents in connection with obtaining and confirming
3.8 information on unpaid amounts secured by other liens; and

3.9 (5) the signatures of the primary property owner and all other owners, if any, stating
3.10 that each owner agrees to enroll the eligible property in the program to defer property
3.11 taxes under this chapter.

3.12 The application must state that program participation is voluntary. The application
3.13 must also state that program participation includes authorization for the annual deferred
3.14 amount. The deferred property tax calculated by the county and the cumulative deferred
3.15 property tax amount is public data.

3.16 (b) As part of the initial application process, if the property is abstract property, the
3.17 commissioner may require the applicant to obtain at the applicant's cost a report prepared
3.18 by a licensed abstracter showing the last deed and any unsatisfied mortgages, liens,
3.19 judgments, and state and federal tax lien notices which were recorded on or after the date
3.20 of that last deed with respect to the eligible property or to the applicant.

3.21 The certificate or report need not include references to any documents filed or
3.22 recorded more than 40 years prior to the date of the certification or report. The certification
3.23 or report must be as of a date not more than 30 days prior to submission of the application
3.24 under this section.

3.25 The commissioner may also require the county recorder or county registrar of the
3.26 county where the eligible property is located to provide copies of recorded documents
3.27 related to the applicant of the eligible property, for which the recorder or registrar shall
3.28 not charge a fee. The commissioner may use any information available to determine or
3.29 verify eligibility under this section.

3.30 Subd. 2. **Approval; recording.** The commissioner shall approve all initial
3.31 applications that qualify under this chapter and shall notify the primary property owner on
3.32 or before December 1. The commissioner may investigate the facts or require confirmation
3.33 in regard to an application. The commissioner shall record or file a notice of qualification
3.34 for deferral, including the names of the primary and any secondary property owners and a
3.35 legal description of the eligible property, in the office of the county recorder, or registrar of
3.36 titles, whichever is applicable, in the county where the eligible property is located. The

notice must state that it serves as a notice of lien and that it includes deferrals under this section for future years. The primary property owner shall pay the recording or filing fees for the notice, which, notwithstanding section 357.18, shall be paid by that owner at the time of satisfaction of the lien.

Subd. 3. Penalty for failure; investigations. (a) The commissioner shall assess a penalty equal to 20 percent of the property taxes improperly deferred in the case of a false application. The commissioner shall assess a penalty equal to 50 percent of the property taxes improperly deferred if the taxpayer knowingly filed a false application. The commissioner shall assess penalties under this section through the issuance of an order under the provisions of chapter 270C. Persons affected by a commissioner's order issued under this section may appeal as provided in chapter 270C.

(b) The commissioner may conduct investigations related to initial applications required under this chapter within the period ending 3-1/2 years from the due date of the application.

Subd. 4. Annual certification to commissioner. Annually on or before July 1, the primary property owner must certify to the commissioner that the person continues to qualify as a primary property owner. If the primary owner has died or has transferred the property in the preceding year, a certification may be filed by the primary owner's spouse, or by one of the secondary owners, provided that the person is currently an owner of the property. In this case, the primary owner's spouse or the secondary owner shall be considered the primary owner from that point forward. If neither the primary owner, the primary owner's spouse, or a secondary owner is eligible to file the required annual certification for the property, the property's participation in the program shall be terminated, and the procedures in section 290D.08 apply.

Subd. 5. Annual notice to primary property owner. Annually, on or before September 1, the commissioner shall notify each primary property owner, in writing, of the total cumulative deferred taxes and accrued interest on the qualifying property as of that date.

Sec. 5. **[290D.05] DEFERRED PROPERTY TAX AMOUNT.**

Subdivision 1. Calculation of deferred property tax amount. Each year after the county auditor has determined the final property tax rates under section 275.08, the "deferred property tax amount" must be calculated on each eligible property. The deferred property tax amount is equal to 50 percent of the amount of the difference between (1) the total amount of property taxes and special assessments levied upon the eligible property for the current year by all taxing jurisdictions and (2) the eligible property's base property

5.1 tax amount. Any tax attributable to new improvements made to the eligible property after
5.2 the initial application has been approved under section 290D.04, subdivision 2, must be
5.3 excluded in determining the deferred property tax amount. The eligible property's total
5.4 current year's tax less the deferred property tax amount for the current year must be listed
5.5 on the property tax statement and is the amount due to the county under chapter 276.
5.6 Reference that the property is enrolled in the seasonal recreational property tax deferral
5.7 program under this chapter and a state lien has been recorded must be clearly printed on
5.8 the statement.

5.9 Subd. 2. **Certification to commissioner.** The county auditor shall annually, on or
5.10 before April 15, certify to the commissioner the property tax deferral amounts determined
5.11 under this section for each eligible property in the county. The commissioner shall
5.12 prescribe the information that is necessary to identify the eligible properties.

5.13 Subd. 3. **Limitation on total amount of deferred taxes.** The total amount of
5.14 deferred taxes and interest on a property, when added to (1) the balance owed on any
5.15 mortgages on the property at the time of initial application; (2) other amounts secured by
5.16 liens on the property at the time of the initial application; and (3) any unpaid and delinquent
5.17 special assessments and interest and any delinquent property taxes, penalties, and interest,
5.18 but not including property taxes payable during the year, must not exceed 60 percent of
5.19 the assessor's estimated market value of the property for the current assessment year.

5.20 **Sec. 6. [290D.06] LIEN; DEFERRED PORTION.**

5.21 (a) Payment by the state to the county treasurer of property taxes, penalties, interest,
5.22 or special assessments and interest, deferred under this chapter is deemed a loan from the
5.23 state to the program participant. The commissioner shall compute the interest as provided
5.24 in section 270C.40, subdivision 5, but not to exceed two percent over the maximum
5.25 interest rate provided in section 290B.07, paragraph (a), and maintain records of the total
5.26 deferred amount and interest for each participant. Interest accrues beginning September 1
5.27 of the payable year for which the taxes are deferred. Any deferral made under this chapter
5.28 must not be construed as delinquent property taxes.

5.29 The lien created under section 272.31 continues to secure payment by the taxpayer,
5.30 or by the taxpayer's successors or assigns, of the amount deferred, including interest, with
5.31 respect to all years for which amounts are deferred. The lien for deferred taxes and interest
5.32 has the same priority as any other lien under section 272.31, except that liens, including
5.33 mortgages, recorded or filed prior to the recording or filing of the notice under section
5.34 290D.04, subdivision 2, have priority over the lien for deferred taxes and interest. A
5.35 seller's interest in a contract for deed, in which a qualifying owner is the purchaser or an

assignee of the purchaser, has priority over deferred taxes and interest on deferred taxes, regardless of whether the contract for deed is recorded or filed. The lien for deferred taxes and interest for future years has the same priority as the lien for deferred taxes and interest for the first year, which is always higher in priority than any mortgages or other liens filed, recorded, or created after the notice recorded or filed under section 290D.04, subdivision 2. The county treasurer or auditor shall maintain records of the deferred portion and shall list the amount of deferred taxes for the year and the cumulative deferral and interest for all previous years as a lien against the eligible property. In any certification of unpaid taxes for a tax parcel, the county auditor shall clearly distinguish between taxes payable in the current year, deferred taxes and interest, and delinquent taxes. Payment of the deferred portion becomes due and owing at the time specified in section 290D.07. Upon receipt of the payment, the commissioner shall issue a receipt to the person making the payment upon request and shall notify the auditor of the county in which the parcel is located, within ten days, identifying the parcel to which the payment applies. Upon receipt by the commissioner of collected funds in the amount of the deferral, the state's loan to the program participant is deemed paid in full.

(b) If eligible property for which taxes have been deferred under this chapter forfeits under chapter 281 for nonpayment of a nondeferred property tax amount, or because of nonpayment of amounts previously deferred following a termination under section 290D.07, the lien for the taxes deferred under this chapter, plus interest and costs, shall be canceled by the county auditor as provided in section 282.07. However, notwithstanding any other law to the contrary, any proceeds from a subsequent sale of the eligible property under chapter 282 or another law, must be used to first reimburse the county's forfeited tax sale fund for any direct costs of selling the eligible property or any costs directly related to preparing the eligible property for sale, and then to reimburse the state for the amount of the canceled lien. Within 90 days of the receipt of any sale proceeds to which the state is entitled under these provisions, the county auditor must pay those funds to the commissioner by warrant for deposit in the general fund. No other deposit, use, distribution, or release of gross sale proceeds or receipts may be made by the county until payments sufficient to fully reimburse the state for the canceled lien amount have been transmitted to the commissioner.

Sec. 7. [290D.07] TERMINATION OF DEFERRAL; PAYMENT OF DEFERRED TAXES.

Subdivision 1. Termination. (a) The deferral of taxes granted under this chapter terminates when one of the following occurs:

7.1 (1) the eligible property is sold or transferred to someone other than the primary
7.2 owner's spouse or a secondary owner;

7.3 (2) the death of the primary owner, or in the case of a married couple, after the
7.4 death of both spouses, provided that there is not a secondary owner eligible to become
7.5 the primary owner;

7.6 (3) the primary property owner notifies the commissioner, in writing, that all owners,
7.7 including any secondary property owners, desire to discontinue the deferral; or

7.8 (4) the eligible property no longer qualifies under section 290D.03.

7.9 (b) An eligible property is not terminated from the program because no deferred
7.10 property tax amount is determined for any given year after the eligible property's initial
7.11 enrollment into the program.

7.12 (c) An eligible property is not terminated from the program if the eligible property
7.13 subsequently becomes the homestead of one or more of the property owners and the
7.14 property and the owners qualify for, and are immediately enrolled in, the senior deferral
7.15 program under chapter 290B.

7.16 Subd. 2. **Payment upon termination.** Upon the termination of the deferral under
7.17 subdivision 1, the amount of deferred taxes, penalties, interest, and special assessments
7.18 and interest, plus the recording or filing fees under this subdivision and section 290D.04,
7.19 subdivision 2, becomes due and payable to the commissioner within 90 days of termination
7.20 of the deferral for terminations under subdivision 1, paragraph (a), clauses (1) and (2),
7.21 and within one year of termination of the deferral for terminations under subdivision 1,
7.22 paragraph (a), clauses (3) and (4). No additional interest is due on the deferral if timely
7.23 paid. On receipt of payment, the commissioner shall, within ten days, notify the auditor
7.24 of the county in which the parcel is located, identifying the parcel to which the payment
7.25 applies and shall remit the recording or filing fees under this subdivision and section
7.26 290D.04, subdivision 2, to the auditor. A notice of termination of deferral, containing the
7.27 legal description and the recording or filing data for the notice of qualification for deferral
7.28 under section 290D.04, subdivision 2, shall be prepared and recorded or filed by the
7.29 county auditor in the same office in which the notice of qualification for deferral under
7.30 section 290D.04, subdivision 2, was recorded or filed, and the county auditor shall mail a
7.31 copy of the notice of termination to the property owner. The property owner shall pay the
7.32 recording or filing fees. Upon recording or filing of the notice of termination of deferral,
7.33 the notice of qualification for deferral under section 290D.04, subdivision 2, and the lien
7.34 created by it are discharged. If the deferral is not timely paid, the penalty, interest, lien,
7.35 forfeiture, and other rules for the collection of ad valorem property taxes apply.

8.1 Sec. 8. **[290D.08] STATE REIMBURSEMENT.**

8.2 Subdivision 1. **Determination; payment.** The county auditor shall determine the
8.3 total current year's deferred amount of property tax under this chapter in the county, and
8.4 submit those amounts as part of the abstracts of tax lists submitted by the county auditors
8.5 under section 275.29. The commissioner may make changes in the abstracts of tax lists as
8.6 deemed necessary. The commissioner, after such review, shall pay the deferred amount of
8.7 property tax to each county treasurer on or before August 31.

8.8 The county treasurer shall distribute as part of the October settlement the funds
8.9 received as if they had been collected as part of the property tax.

8.10 Subd. 2. **Appropriation.** An amount sufficient to pay the total amount of property
8.11 tax determined under subdivision 1, plus any other amounts paid under this chapter, is
8.12 annually appropriated from the general fund to the commissioner.

8.13 Sec. 9. **EFFECTIVE DATE.**

8.14 Sections 1 to 8 are effective for applications filed July 1, 2009, and thereafter.