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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-SIXTH
SESSION**

HOUSE FILE NO. 561

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; modifying requirements for classification as class 4c
1.3 property; amending Minnesota Statutes 2008, section 273.13, subdivision 25.

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

1.5 Section 1. Minnesota Statutes 2008, section 273.13, subdivision 25, is amended to read:

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

1.13 (b) Class 4b includes:

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

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

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

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

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

1.22 (c) Class 4bb includes:

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

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

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

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

2.7 (d) Class 4c property includes:

2.8 (1) except as provided in subdivision 22, paragraph (c), or subdivision 23, paragraph
2.9 (b), clause (1), real and personal property devoted to temporary and seasonal residential
2.10 occupancy for recreation purposes, including real and personal property devoted to
2.11 temporary and seasonal residential occupancy for recreation purposes and not devoted to
2.12 commercial purposes for more than 250 days in the year preceding the year of assessment.
2.13 For purposes of this clause, property is devoted to a commercial purpose on a specific
2.14 day if any portion of the property is used for residential occupancy, and a fee is charged
2.15 for residential occupancy. Class 4c property must contain three or more rental units. A
2.16 "rental unit" is defined as a cabin, condominium, townhouse, sleeping room, or individual
2.17 camping site equipped with water and electrical hookups for recreational vehicles. Class
2.18 4c property must provide recreational activities such as renting ice fishing houses, boats
2.19 and motors, snowmobiles, downhill or cross-country ski equipment; provide marina
2.20 services, launch services, or guide services; or sell bait and fishing tackle. A camping pad
2.21 offered for rent by a property that otherwise qualifies for class 4c is also class 4c regardless
2.22 of the term of the rental agreement, as long as the use of the camping pad does not
2.23 exceed 250 days. In order for a property to be classified as class 4c, seasonal residential
2.24 recreational for commercial purposes under this clause, at least 40 percent of the annual
2.25 gross lodging receipts related to the property must be from business conducted during 90
2.26 consecutive days and either (i) at least 60 percent of all paid bookings by lodging guests
2.27 during the year must be for periods of at least two consecutive nights; ~~or~~ (ii) at least 20
2.28 percent of the annual gross receipts must be from charges for rental of fish houses, boats
2.29 and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina
2.30 services, launch services, and guide services, or the sale of bait and fishing tackle; or (iii)
2.31 the property contains no more than 24 rental units and is not located within the boundaries
2.32 of a statutory or home rule charter city. For purposes of this determination, a paid booking
2.33 of five or more nights shall be counted as two bookings. Class 4c also includes commercial
2.34 use real property used exclusively for recreational purposes in conjunction with class
2.35 4c property devoted to temporary and seasonal residential occupancy for recreational
2.36 purposes, up to a total of two acres, provided the property is not devoted to commercial

3.1 recreational use for more than 250 days in the year preceding the year of assessment and is
3.2 located within two miles of the class 4c property with which it is used. Owners of real and
3.3 personal property devoted to temporary and seasonal residential occupancy for recreation
3.4 purposes and all or a portion of which was devoted to commercial purposes for not more
3.5 than 250 days in the year preceding the year of assessment desiring classification as class
3.6 4c, must submit a declaration to the assessor designating the cabins or units occupied
3.7 for 250 days or less in the year preceding the year of assessment by January 15 of the
3.8 assessment year. Those cabins or units and a proportionate share of the land on which
3.9 they are located must be designated class 4c as otherwise provided. The remainder of the
3.10 cabins or units and a proportionate share of the land on which they are located will be
3.11 designated as class 3a. The owner of property desiring designation as class 4c property
3.12 must provide guest registers or other records demonstrating that the units for which class
3.13 4c designation is sought were not occupied for more than 250 days in the year preceding
3.14 the assessment if so requested. The portion of a property operated as a (1) restaurant, (2)
3.15 bar, (3) gift shop, (4) conference center or meeting room, and (5) other nonresidential
3.16 facility operated on a commercial basis not directly related to temporary and seasonal
3.17 residential occupancy for recreation purposes does not qualify for class 4c;

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

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

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

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

3.26 (3) real property up to a maximum of three acres of land owned and used by a
3.27 nonprofit community service oriented organization and that is not used for residential
3.28 purposes on either a temporary or permanent basis, qualifies for class 4c provided that
3.29 it meets either of the following:

3.30 (i) the property is not used for a revenue-producing activity for more than six days
3.31 in the calendar year preceding the year of assessment; or

3.32 (ii) the organization makes annual charitable contributions and donations at least
3.33 equal to the property's previous year's property taxes and the property is allowed to be
3.34 used for public and community meetings or events for no charge, as appropriate to the
3.35 size of the facility.

3.36 For purposes of this clause,

4.1 (A) "charitable contributions and donations" has the same meaning as lawful
4.2 gambling purposes under section 349.12, subdivision 25, excluding those purposes
4.3 relating to the payment of taxes, assessments, fees, auditing costs, and utility payments;

4.4 (B) "property taxes" excludes the state general tax;

4.5 (C) a "nonprofit community service oriented organization" means any corporation,
4.6 society, association, foundation, or institution organized and operated exclusively for
4.7 charitable, religious, fraternal, civic, or educational purposes, and which is exempt
4.8 from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal
4.9 Revenue Code; and

4.10 (D) "revenue-producing activities" shall include but not be limited to property or that
4.11 portion of the property that is used as an on-sale intoxicating liquor or 3.2 percent malt
4.12 liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling
4.13 alley, a retail store, gambling conducted by organizations licensed under chapter 349, an
4.14 insurance business, or office or other space leased or rented to a lessee who conducts a
4.15 for-profit enterprise on the premises.

4.16 Any portion of the property qualifying under item (i) which is used for revenue-producing
4.17 activities for more than six days in the calendar year preceding the year of assessment
4.18 shall be assessed as class 3a. The use of the property for social events open exclusively
4.19 to members and their guests for periods of less than 24 hours, when an admission is
4.20 not charged nor any revenues are received by the organization shall not be considered a
4.21 revenue-producing activity.

4.22 The organization shall maintain records of its charitable contributions and donations
4.23 and of public meetings and events held on the property and make them available upon
4.24 request any time to the assessor to ensure eligibility. An organization meeting the
4.25 requirement under item (ii) must file an application by May 1 with the assessor for
4.26 eligibility for the current year's assessment. The commissioner shall prescribe a uniform
4.27 application form and instructions;

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

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

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

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

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

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

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

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

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

5.13 (ii) the owner of the aircraft storage hangar provides the assessor with a signed
5.14 agreement restricting the use of the premises, prohibiting commercial use or activity
5.15 performed at the hangar; and

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

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

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

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

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

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

5.29 (10) real property up to a maximum of three acres and operated as a restaurant
5.30 as defined under section 157.15, subdivision 12, provided it: (A) is located on a lake
5.31 as defined under section 103G.005, subdivision 15, paragraph (a), clause (3); and (B)
5.32 is either devoted to commercial purposes for not more than 250 consecutive days, or
5.33 receives at least 60 percent of its annual gross receipts from business conducted during
5.34 four consecutive months. Gross receipts from the sale of alcoholic beverages must be
5.35 included in determining the property's qualification under subitem (B). The property's
5.36 primary business must be as a restaurant and not as a bar. Gross receipts from gift shop

6.1 sales located on the premises must be excluded. Owners of real property desiring 4c
6.2 classification under this clause must submit an annual declaration to the assessor by
6.3 February 1 of the current assessment year, based on the property's relevant information for
6.4 the preceding assessment year.

6.5 Class 4c property has a class rate of 1.5 percent of market value, except that (i) each
6.6 parcel of seasonal residential recreational property not used for commercial purposes has
6.7 the same class rates as class 4bb property, (ii) manufactured home parks assessed under
6.8 clause (5) have the same class rate as class 4b property, (iii) commercial-use seasonal
6.9 residential recreational property has a class rate of one percent for the first \$500,000 of
6.10 market value, and 1.25 percent for the remaining market value, (iv) the market value of
6.11 property described in clause (4) has a class rate of one percent, (v) the market value of
6.12 property described in clauses (2), (6), and (10) has a class rate of 1.25 percent, and (vi)
6.13 that portion of the market value of property in clause (9) qualifying for class 4c property
6.14 has a class rate of 1.25 percent.

6.15 (e) Class 4d property is qualifying low-income rental housing certified to the assessor
6.16 by the Housing Finance Agency under section 273.128, subdivision 3. If only a portion
6.17 of the units in the building qualify as low-income rental housing units as certified under
6.18 section 273.128, subdivision 3, only the proportion of qualifying units to the total number
6.19 of units in the building qualify for class 4d. The remaining portion of the building shall be
6.20 classified by the assessor based upon its use. Class 4d also includes the same proportion of
6.21 land as the qualifying low-income rental housing units are to the total units in the building.
6.22 For all properties qualifying as class 4d, the market value determined by the assessor must
6.23 be based on the normal approach to value using normal unrestricted rents.

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

6.25 **EFFECTIVE DATE.** This section is effective for taxes levied in 2009, payable
6.26 in 2010, and thereafter.