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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE NO. 1925

March 19, 2009
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The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

relating to taxation; property; repealing the 2008 changes to the Green Acres law; providing appointments; amending Minnesota Statutes 2008, section 273.111, subdivisions 3, 4, 8, 9, 11, 11a, by adding a subdivision; Laws 2008, chapter 366, article 6, section 52; repealing Minnesota Statutes 2008, section 273.111, subdivision 3a.

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

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

Subd. 3. **Requirements.** (a) Real estate consisting of ten acres or more or a nursery or greenhouse, and qualifying for classification as class 2a or 2b under section 273.13, shall be entitled to valuation and tax deferment under this section if it is primarily devoted to agricultural use, and meets the requirements in subdivision 6, and either:

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

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

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

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

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

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

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

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

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

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

(c) Land that previously qualified for tax deferment under this section and no longer qualifies because it is not primarily used for agricultural purposes but would otherwise qualify under ~~Minnesota Statutes 2006, section 273.111, subdivision~~ subdivisions 3 and 6, for a period of at least three years will not be required to make payment of the previously deferred taxes, notwithstanding the provisions of subdivision 9. Sale of the land prior to the expiration of the three-year period requires payment of deferred taxes as follows: sale in the year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of deferred taxes for the two prior years; sale during the second year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of the deferred taxes for the prior year; and sale during the third year the land no longer qualifies requires payment of the current year's deferred taxes. Deferred taxes shall be paid even if the land qualifies pursuant to subdivision 11a. When such property is sold or no longer qualifies under this paragraph, or at the end of the three-year period, whichever comes first, all deferred special assessments plus interest are payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest are payable within 90 days. The provisions of section 429.061, subdivision 2, apply to the collection of these installments. Penalties are not imposed on any such special assessments if timely paid.

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

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

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

Subd. 3b. **Voluntary withdrawal of land.** Notwithstanding the provisions of subdivision 9, land enrolled under this section that is withdrawn between the effective date of this section and May 1, 2010, is not subject to additional taxes under subdivision 9.

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

Sec. 3. Minnesota Statutes 2008, section 273.111, subdivision 4, is amended to read:

Subd. 4. **Determination of value.** ~~(a)~~ The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 8, be determined solely with reference to its appropriate agricultural classification and value notwithstanding sections 272.03, subdivision 8, and 273.11. Furthermore, the assessor shall not consider any added values resulting from nonagricultural factors. In order to account for the presence of nonagricultural influences that may affect the value of agricultural land, the commissioner of revenue shall develop a fair and uniform method of determining agricultural values for each county in the state that are consistent with this subdivision. The commissioner shall annually assign the resulting values to each county, and these values shall be used as the basis for determining the agricultural value for all properties in the county qualifying for tax deferment under this section.

~~(b) In the case of property qualifying for tax deferment only under subdivision 3a, the value shall be based on the value in effect for assessment year 2008, multiplied by the ratio of the total taxable market value of all property in the county for the current assessment year divided by the total taxable market value of all property in the county for assessment year 2008.~~

EFFECTIVE DATE. This section is effective for assessment year 2009 and thereafter.

Sec. 4. Minnesota Statutes 2008, section 273.111, subdivision 8, is amended to read:

Subd. 8. **Application.** Application for deferment of taxes and assessment under this section shall be filed by May 1 of the year prior to the year in which the taxes are payable. Any application filed hereunder and granted shall continue in effect for subsequent years until the property no longer qualifies. The application must be filed with the assessor of

the taxing district in which the real property is located on the form prescribed by the commissioner of revenue. The assessor may require proof by affidavit or otherwise that the property qualifies under ~~subdivision~~ subdivisions 3 and 6 and may require the applicant to provide a copy of the appropriate schedule or form showing farm income that is attested to by the applicant as having been included in the most recently filed federal income tax return of the applicant.

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

Sec. 5. Minnesota Statutes 2008, section 273.111, subdivision 9, is amended to read:

Subd. 9. **Additional taxes.** When real property which is being, or has been valued and assessed under this section no longer qualifies under ~~subdivision~~ subdivisions 3 and 6, the portion no longer qualifying shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5. Provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last three years that the said property has been valued and assessed under this section.

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

Sec. 6. Minnesota Statutes 2008, section 273.111, subdivision 11, is amended to read:

Subd. 11. **Special local assessments.** The payment of special local assessments levied after June 1, 1967, for improvements made to any real property described in subdivision 3 together with the interest thereon shall, on timely application as provided in subdivision 8, be deferred as long as such property meets the conditions contained in ~~subdivision~~ subdivisions 3 ~~or 3a~~ and 6 or is transferred to an agricultural preserve under sections 473H.02 to 473H.17. If special assessments against the property have been deferred pursuant to this subdivision, the governmental unit shall file with the county recorder in the county in which the property is located a certificate containing the legal description of the affected property and of the amount deferred. When such property no longer qualifies under ~~subdivision~~ subdivisions 3 ~~or 3a~~ and 6, all deferred special assessments plus interest shall be payable in equal installments spread over the time

remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest shall be payable within 90 days. The provisions of section 429.061, subdivision 2, apply to the collection of these installments. Penalty shall not be levied on any such special assessments if timely paid.

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

Sec. 7. Minnesota Statutes 2008, section 273.111, subdivision 11a, is amended to read:

Subd. 11a. **Continuation of tax treatment upon sale.** (a) When real property qualifying under ~~subdivision~~ subdivisions 3 and 6 is sold, no additional taxes or deferred special assessments plus interest shall be extended against the property provided the property continues to qualify pursuant to ~~subdivision~~ subdivisions 3 and 6, and provided the new owner files an application for continued deferment within 30 days after the sale.

(b) For purposes of meeting the income requirements of subdivision 6, the property purchased shall be considered in conjunction with other qualifying property owned by the purchaser.

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

Sec. 8. Laws 2008, chapter 366, article 6, section 52, is amended to read:

Sec. 52. **REPEALER.**

(a) Minnesota Statutes 2006, section 272.027, subdivision 3, is repealed.

(b) Minnesota Statutes 2006, section 273.11, subdivision 14, is repealed.

~~(c) Minnesota Statutes 2006, section 273.111, subdivision 6, is repealed.~~

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

Sec. 9. **REVIVAL.**

Pursuant to Minnesota Statutes, section 645.36, Minnesota Statutes, section 273.111, subdivision 6, is revived, effective the day following final enactment.

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

Sec. 10. **LAND REMOVED FROM PROGRAM.**

Any land that had been enrolled in the Minnesota Agricultural Property Tax Law under Minnesota Statutes 2008, section 273.111, and that was removed from the program between May 21, 2008, and the effective date of this section, must be reinstated to the

program at the request of the owner provided that the eligibility requirements under Minnesota Statutes 2008, section 273.111, subdivisions 3 and 6, are met.

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

Sec. 11. **MINNESOTA AGRICULTURAL PROPERTY TAX LAW WORKING GROUP.**

Subdivision 1. **Creation.** The Minnesota Agricultural Property Tax Law working group consists of the following members:

(1) two members of the house of representatives, including one member from the majority party, appointed by the speaker of the house, and one member from the minority party, appointed by the minority leader;

(2) two senators, including one member from the majority party and one member from the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate;

(3) the commissioners of the Department of Agriculture and the Department of Revenue, or their designees; and

(4) four members appointed by the Minnesota Association of Assessment Officers, two of whom must be from the metropolitan area and two of whom must be from greater Minnesota;

(5) one member appointed by the Minnesota Farm Bureau;

(6) one member appointed by the Minnesota Farmers Union; and

(7) five public members who have an interest in agriculture, land use, or property taxation, appointed by the governor. At least three of the public members must be farmers. The public membership must include balanced representation from greater Minnesota and from the metropolitan area.

Subd. 2. **Duties.** The working group must study and make recommendations for legislative and administrative changes in the Minnesota Agricultural Property Tax Law and the metropolitan agricultural preserves program, and in the classification and taxation of agricultural land and other rural land. The results of the study and the recommendations must be made to the legislative committees with jurisdiction over property taxes and to the governor by January 15, 2011.

Subd. 3. **Administrative provisions.** (a) The commissioner of revenue or the commissioner's designee must convene the initial meeting of the working group. Upon request of the working group, the commissioner must provide meeting space and administrative and research services for the group. The members of the working group must elect a chair or cochairs from the members of the working group at the initial meeting.

(b) Public members of the working group serve without compensation or payment of expenses.

(c) The working group expires January 15, 2011, or upon submission of the report required under subdivision 2, whichever is earlier.

Subd. 4. **Deadline for appointments and designations.** The appointments and designations authorized by this section must be completed by July 1, 2009.

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

Sec. 12. **REPEALER.**

Minnesota Statutes 2008, section 273.111, subdivision 3a, is repealed.

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

273.111 AGRICULTURAL PROPERTY TAX.

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

(b) When property assessed under this subdivision is withdrawn from the program or becomes ineligible, the property shall be subject to additional taxes, in the amount equal to the average difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5, for the current year and the two preceding years, multiplied by (1) three, in the case of class 2a property under section 273.13, subdivision 23, or any property withdrawn before January 2, 2009, or (2) seven, in the case of property withdrawn after January 2, 2009, that is not class 2a property. The number of years used as the multiplier must not exceed the number of years during which the property was subject to this section. The amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. The additional taxes shall be extended against the property on the tax list for the current year, provided that no interest or penalties shall be levied on the additional taxes if timely paid.