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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-SIXTH  
SESSION

**HOUSE FILE No. 2113**

March 24, 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 a property valuation reduction for land  
1.3 constituting a riparian buffer; proposing coding for new law in Minnesota  
1.4 Statutes, chapter 273.

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

1.6 Section 1. **[273.114] PRESERVATION OF RIPARIAN BUFFERS.**

1.7 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following  
1.8 definitions apply.

1.9 (b) "Riparian buffer" means a strip or area of deep-rooted, original native perennial  
1.10 vegetation or vegetation restored with plants or seeds that originate from sources as close  
1.11 to the site as possible, including trees, adjacent to public waters that extends a minimum  
1.12 of 50 and a maximum of 100 feet landward from the ordinary high water level.

1.13 (c) "Public waters" has the same meaning as defined in section 103G.005,  
1.14 subdivision 15, excluding "wetlands," as defined under section 103G.005, subdivision 19,  
1.15 and "public waters wetlands," as defined under section 103G.005, subdivision 15a.

1.16 (d) "Ordinary high water level" means the boundary of public waters, and shall be an  
1.17 elevation delineating the highest water level which has been maintained for a sufficient  
1.18 period of time to leave evidence upon the landscape, commonly that point where the  
1.19 natural vegetation changes from predominantly aquatic to predominantly terrestrial. For  
1.20 watercourses, the ordinary high water level is the elevation of the top of the bank of  
1.21 the channel. For reservoirs and flowages, the ordinary high water level is the operating  
1.22 elevation of the normal summer pool.

1.23 (e) "Buffer maintenance" means:

2.1 (1) inspecting the buffer periodically and identifying, repairing, and reseeding any  
2.2 eroded or damaged areas;

2.3 (2) preventing or addressing any soil compaction from vehicles, livestock, and  
2.4 impervious surfaces that could inhibit infiltration or disrupt water flow patterns;

2.5 (3) controlling weeds and managing any grazing livestock so as to minimize the  
2.6 removal or alteration of the perennial plant community; and

2.7 (4) refraining from applying fertilizers, pesticides, or animal wastes to the buffer  
2.8 area, except to establish native vegetation.

2.9 Subd. 2. **Requirements.** (a) Land constituting a riparian buffer that is classified  
2.10 as class 2a or class 2b under section 273.13, subdivision 23, is entitled to valuation and  
2.11 tax deferment under this section if a covenant has been filed with the county assessor and  
2.12 recorded in the county where the property is located.

2.13 (b) The covenant must state that the buffer will be maintained in a natural state and  
2.14 that annual buffer maintenance will be performed. The landowner must file an affidavit  
2.15 with the county assessor at least once every three years stating that the buffer has been  
2.16 maintained according to the definition in subdivision 1. If a landowner fails to meet this  
2.17 requirement, the assessor must issue a written warning. If an affidavit is not filed within  
2.18 90 days of the written warning, the land shall be immediately removed from the program.  
2.19 All deferred taxes on the property during the current owner's time of ownership shall be  
2.20 extended against the property on the tax list for the current year, provided that no interest  
2.21 or penalties shall be levied on the additional taxes if timely paid.

2.22 (c) Land qualifying under this subdivision shall be liable only for the taxes  
2.23 determined based on the valuation prescribed in subdivision 3. All special assessments  
2.24 levied against the land after the property has been enrolled in the program shall be deferred  
2.25 until the property is withdrawn or becomes ineligible to continue in the program.

2.26 (d) Real estate may not be enrolled for valuation and deferment under this section  
2.27 and section 273.111, 273.112, or 273.117 concurrently. Land enrolled under section  
2.28 273.111 that is withdrawn for enrollment under this subdivision shall not be required to  
2.29 pay additional taxes under section 273.111, subdivision 3a or 9.

2.30 Subd. 3. **Determination of value.** (a) Land for which an irrevocable covenant has  
2.31 been recorded must be valued at 25 percent of the average value per acre of class 2b  
2.32 rural vacant land in the surrounding area.

2.33 (b) Land for which a revocable covenant has been recorded must be valued at 75  
2.34 percent of the average value per acre of class 2b rural vacant land in the surrounding  
2.35 area, provided that the covenant does not allow for its termination until at least 20 years  
2.36 from the date that it was originally recorded.

3.1 (c) For the purposes of this subdivision, "surrounding area" means the city or  
3.2 township where the property is located, provided that there are at least ten other parcels  
3.3 containing class 2b land in the city or township; otherwise, "surrounding area" means the  
3.4 city or township where the property is located and all adjoining cities and townships  
3.5 within the same county.

3.6 Subd. 4. **Separate determination of market value and tax.** The assessor shall  
3.7 make a separate determination of the market value of the real estate based on its highest  
3.8 and best use. The tax based upon that value and the appropriate local tax rate applicable to  
3.9 the property in the taxing district shall be recorded on the property assessment records.

3.10 Subd. 5. **Application and covenant agreement.** (a) Application for deferment of  
3.11 taxes and assessments under this subdivision shall be filed by May 1 of the year prior to  
3.12 the year in which the taxes are payable. Any application filed under this subdivision and  
3.13 granted shall continue in effect for subsequent years until the termination of the covenant  
3.14 agreement under paragraph (b). The application must be filed with the county assessor on  
3.15 a form prescribed by the commissioner of revenue. The assessor may require proof by  
3.16 affidavit or otherwise that the property qualifies under subdivision 1.

3.17 (b) The owner of the property must sign a covenant agreement that is filed with the  
3.18 county assessor and recorded in the county where the property is located. The covenant  
3.19 agreement must include all of the following:

3.20 (1) legal description of the area to which the covenant applies;

3.21 (2) name and address of the owner;

3.22 (3) a statement that the land described in the covenant must be kept in a natural state,  
3.23 and that annual buffer maintenance will be performed, for the duration of the covenant;

3.24 (4) in the case of a revocable covenant under subdivision 3, paragraph (b), a  
3.25 statement that the landowner may terminate the covenant agreement by notifying the  
3.26 county assessor in writing four years in advance of the date of proposed termination,  
3.27 provided that the notice of intent to terminate may not be given at any time before the land  
3.28 has been subject to the covenant for a period of 16 years;

3.29 (5) a statement that the covenant is binding on the owner or the owner's successor or  
3.30 assigns and runs with the land; and

3.31 (6) a witnessed signature of the owner, agreeing by covenant, to maintain the land as  
3.32 described in subdivision 2.

3.33 (c) Once a revocable covenant has been terminated, the property covered by  
3.34 the covenant can never be reenrolled under this subdivision unless it has been sold or  
3.35 otherwise transferred to a different owner.

4.1 Subd. 6. **Additional taxes.** Upon termination of a covenant agreement in  
4.2 subdivision 5, paragraph (b), clause (4), the land to which the covenant applied shall  
4.3 be subject to additional taxes in the amount equal to the difference between the taxes  
4.4 determined in accordance with subdivision 3 and the amount determined under subdivision  
4.5 4, provided that the amount determined under subdivision 4 shall not be greater than it  
4.6 would have been had the actual bona fide sale price of the real property at an arm's-length  
4.7 transaction been used in lieu of the market value determined under subdivision 4. The  
4.8 additional taxes shall be extended against the property on the tax list for the current year,  
4.9 provided that no interest or penalties shall be levied on the additional taxes if timely paid  
4.10 and that the additional taxes shall only be levied with respect to the last seven years that  
4.11 the property has been valued and assessed under this section.

4.12 Subd. 7. **Cross-compliance with agricultural chemical and water laws.** (a)  
4.13 Property enrolled under this subdivision whose owner or tenant is subject to a final  
4.14 enforcement action for a violation of chapter 18B, 18C, 103E, 103F, 103G, or 103H,  
4.15 or any rule adopted under these chapters including but not limited to the agricultural  
4.16 shoreland use standards in Minnesota Rules, chapter 6120, shall be immediately removed  
4.17 from the program. All deferred taxes on the property during the current owner's time  
4.18 of ownership shall be extended against the property on the tax list for the current year,  
4.19 provided that no interest or penalties shall be levied on the additional taxes if timely paid.

4.20 (b) For the purposes of this subdivision, "final enforcement action" means any  
4.21 administrative, civil, or criminal penalty or action other than an initial verbal or written  
4.22 warning. An enforcement action is not final until the action is upheld upon completion or  
4.23 expiration of any applicable review or appeal procedure or period provided by law.

4.24 Subd. 8. **Lien.** Any additional taxes imposed under subdivision 6 or 7 shall be a lien  
4.25 upon the property assessed to the same extent and for the same duration as other taxes  
4.26 imposed on the property in this state. The tax shall be annually extended by the county  
4.27 auditor and if and when payable shall be collected and distributed in the manner provided  
4.28 by law for the collection and distribution of other property taxes.

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