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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 99

January 15, 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; creating the Minnesota Land Conservation Property Tax
1.3 Law; amending Minnesota Statutes 2008, section 273.111, subdivision 3a;
1.4 proposing coding for new law in Minnesota Statutes, chapter 273.

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

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

1.8 Subd. 3a. **Property no longer eligible for deferment.** (a) Real estate receiving
1.9 the tax deferment under this section for assessment year 2008, but that does not qualify
1.10 for the 2009 assessment year due to changes in qualification requirements under Laws
1.11 2008, chapter 366, shall continue to qualify until any part of the land is sold, transferred,
1.12 or subdivided, provided that the property continues to meet the requirements of Minnesota
1.13 Statutes 2006, section 273.111, subdivision 3.

1.14 (b) When property assessed under this subdivision is withdrawn from the program or
1.15 becomes ineligible, the property shall be subject to additional taxes, in the amount equal
1.16 to the average difference between the taxes determined in accordance with subdivision
1.17 4, and the amount determined under subdivision 5, for the current year and the two
1.18 preceding years, multiplied by (1) three, in the case of class 2a property under section
1.19 273.13, subdivision 23, or any property withdrawn before January 2, 2009, or (2) seven, in
1.20 the case of property withdrawn after January 2, 2009, that is not class 2a property. The
1.21 number of years used as the multiplier must not exceed the number of years during which
1.22 the property was subject to this section. The amount determined under subdivision 5 shall
1.23 not be greater than it would have been had the actual bona fide sale price of the real
1.24 property at an arm's-length transaction been used in lieu of the market value determined

2.1 under subdivision 5. The additional taxes shall be extended against the property on the
 2.2 tax list for the current year, provided that no interest or penalties shall be levied on the
 2.3 additional taxes if timely paid.

2.4 (c) When property assessed under this subdivision is withdrawn from the program
 2.5 and enrolls in the land conservation property tax law program under section 273.113, the
 2.6 property is not subject to the additional taxes required under this subdivision.

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

2.8 **Sec. 2. [273.114] LAND CONSERVATION PROPERTY TAX.**

2.9 Subdivision 1. **Citation.** This section may be cited as the "Minnesota Land
 2.10 Conservation Property Tax Law."

2.11 Subd. 2. **Public policy.** The purpose of this section is to encourage the conservation
 2.12 of the natural, scenic, or open space value of real property in this state for the benefit
 2.13 of current citizens and future generations and to encourage the conservation of land in
 2.14 accordance with the Minnesota Statewide Conservation and Preservation Plan. The
 2.15 present general system of ad valorem property taxation in the state of Minnesota does not
 2.16 provide an equitable basis for the taxation of land being conserved for long-term use and
 2.17 enjoyment. Therefore, it is hereby declared that the public policy of this state would
 2.18 be best served by reducing the tax burdens upon certain land within this state through
 2.19 appropriate taxing measures to encourage its conservation.

2.20 Subd. 3. **Definitions.** (a) In this section, the terms defined in this subdivision have
 2.21 the meanings given them.

2.22 (b) "Conservation" means retaining, protecting, or restoring the natural, scenic,
 2.23 or open-space values of real property, assuring their availability for recreational or
 2.24 open-space use, protecting natural resources, maintaining or enhancing air or water
 2.25 quality, or conducting reforestation efforts as defined in section 89.001, subdivision 11.

2.26 (c) "Natural area lands" means lands that are in their natural state and serve the
 2.27 primary purpose of conserving:

2.28 (1) significant ecological communities;

2.29 (2) undisturbed habitats and disturbed habitats that are actively being restored of a
 2.30 diverse array of wildlife and plant species; and

2.31 (3) the functions of natural systems, including sloughs and wetlands that provide
 2.32 hydrolic, carbon sequestering, and other public benefits.

2.33 (d) "Cultivated agricultural land" means land which is currently being used or
 2.34 formerly was used to raise agricultural crops, including organic farming, is capable of use

3.1 for that purpose or is plowed, fallow, or contains harvested crop residue or is current or
3.2 former pasture land.

3.3 Subd. 4. **Requirements.** Unimproved real estate primarily used for the conservation
3.4 of natural area lands or cultivated agricultural land, or is land that is enrolled in the reinvest
3.5 in Minnesota program under sections 103F.501 to 103F.535, the federal Conservation
3.6 Reserve Program as contained in Public Law 99-198, or a similar local, state, or federal
3.7 conservation program, shall be entitled to valuation and tax deferment under this section.
3.8 Real estate may not be enrolled for valuation or deferment under this section and section
3.9 273.111, 273.112, or 273.117 concurrently. Land that is required to be undeveloped under
3.10 a local setback ordinance does not qualify for valuation and deferment under this section.

3.11 Subd. 5. **Determination of value.** (a) The value of any real estate that qualifies
3.12 under subdivision 4 shall upon timely application by the owner, in the manner provided
3.13 in subdivision 7, be determined solely with reference to its current use, notwithstanding
3.14 sections 272.03, subdivision 8, and 273.11. The house and garage, if any, and the
3.15 immediately surrounding one acre of land and a minor, ancillary nonresidential structure,
3.16 if any, shall be valued according to their appropriate use. In determining the value for
3.17 ad valorem tax purposes, the assessor shall not consider the presence of commercial,
3.18 industrial, residential, or seasonal recreational land use influences that may affect the
3.19 value of real estate defined in subdivision 3.

3.20 (b) The commissioner of revenue shall develop a fair and uniform method of
3.21 determining real estate values for each county in the state that are consistent with this
3.22 section. The commissioner shall annually assign the resulting values to each county, and
3.23 these values shall be used as the basis for determining the value for all properties in the
3.24 county qualifying for tax deferment under this section.

3.25 Subd. 6. **Separate determination of market value and tax.** The assessor shall
3.26 make a separate determination of the market value of the real estate based on its highest
3.27 and best use. The tax based upon that value and the appropriate local tax rate applicable to
3.28 the property in the taxing district shall be recorded on the property assessment records.

3.29 Subd. 7. **Application and covenant agreement.** (a) Application for deferment
3.30 of taxes and assessment under this section shall be filed by May 1 of the year prior to
3.31 the year in which the taxes are payable. Any application filed under this subdivision
3.32 and granted shall continue in effect for subsequent years until the termination of the
3.33 covenant agreement under paragraph (b). The application must be filed with the assessor
3.34 of the taxing district in which the real property is located on the form prescribed by the
3.35 commissioner of revenue. The assessor may require proof of affidavit or otherwise that
3.36 the property qualifies under subdivision 4.

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

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

4.5 (2) name and address of the owner;

4.6 (3) a statement that the land described in the covenant must be kept as conservation
4.7 land, which meets the requirements of subdivision 4, for the duration of the covenant;

4.8 (4) a statement that the landowner may terminate the covenant agreement by
4.9 notifying the county assessor in writing seven years in advance of the date of proposed
4.10 termination;

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

4.13 (6) a witnessed signature of the owner, agreeing by covenant, to maintain the land as
4.14 described in subdivision 4.

4.15 Subd. 8. **Additional taxes.** Upon termination of a covenant agreement in
4.16 subdivision 7, paragraph (b), the land to which the covenant applied shall be subject to
4.17 additional taxes in the amount equal to the difference between the taxes determined in
4.18 accordance with subdivision 5 and the amount determined under subdivision 6, provided
4.19 that the amount determined under subdivision 6 shall not be greater than it would have
4.20 been had the actual bona fide sale price of the real property at an arm's-length transaction
4.21 been used in lieu of the market value determined under subdivision 6. The additional taxes
4.22 shall be extended against the property on the tax list for the current year, provided that
4.23 no interest or penalties shall be levied on the additional taxes if timely paid and that the
4.24 additional taxes shall only be levied with respect to the last three years that the property
4.25 has been valued and assessed under this section.

4.26 Subd. 9. **Lien.** The additional tax imposed by this section shall be a lien upon the
4.27 property assessed to the same extent and for the same duration as other taxes imposed on
4.28 the property in this state. The tax shall be annually extended by the county auditor and if
4.29 and when payable shall be collected and distributed in the manner provided by law for the
4.30 collection and distribution of other property taxes.

4.31 Subd. 10. **Special local assessments.** The payment of special local assessments
4.32 levied after June 1, 2009, for improvements made to any real property described in
4.33 subdivision 3 together with the interest thereon shall, on timely application as provided
4.34 in subdivision 8, be deferred as long as such property meets the conditions contained in
4.35 subdivision 3. If special assessments against the property have been deferred pursuant to
4.36 this subdivision, the governmental unit shall file with the county recorder in the county

5.1 in which the property is located a certificate containing the legal description of the
5.2 affected property and of the amount deferred. When such property no longer qualifies
5.3 under subdivision 3, all deferred special assessments plus interest shall be payable in
5.4 equal installments spread over the time remaining until the last maturity date of the bonds
5.5 issued to finance the improvement for which the assessments were levied. If the bonds
5.6 have matured, the deferred special assessments plus interest shall be payable within 90
5.7 days. The provisions of section 429.061, subdivision 2, apply to the collection of these
5.8 installments. Penalty shall not be levied on any such special assessments if timely paid.

5.9 **EFFECTIVE DATE.** This section is effective for deferred taxes payable in 2010
5.10 and thereafter, except that for the 2009 assessment year, the application deadline in
5.11 subdivision 7 is extended to September 1.