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Understanding the 2009 Green Acres “Reforms”

This fact sheet is for farmers and landowners currently enrolled in the Green Acres program who are seeking to understand how legislation passed in April and May of 2009 (2009 changes) will affect them. The 2009 changes were made by the Minnesota Legislature in an attempt to address the problems created when it dramatically changed the program during the 2008 legislative session (2008 law).

In this fact sheet, the term “Old Green Acres” is used to refer to the Green Acres program as it existed before the changes made in 2008. “New Green Acres” refers to the program as it currently exists as a result of the 2009 changes. In addition, the 2009 changes created a new “Rural Preserves Property Tax” Program. The changes and these programs are described below.

We highly recommend that you contact your county assessor before making any changes on your land because of concerns about Green Acres eligibility, or doing anything that may affect your current Green Acres status. While Green Acres is a state law, it is implemented at the county level and the specifics of how the new law is implemented may differ from county-to-county. The assessor in your county is in charge of the program locally.

LSP wants to know how the New Green Acres program works for you, especially as it relates to good stewardship of the land. LSP is committed to pursuing further reforms if necessary. Contact LSP’s Bobby King at 612-722-6377 or bking@landstewardshipproject.org to provide feedback.

1. The most problematic changes made by the 2008 law are repealed or amended by the 2009 changes.

- Payback period changed from 3 to 7 years. — **REPEALED.**
- Land in the Conservation Reserve Program (CRP), Reinvest in Minnesota program (RIM) and other similar conservation programs, such as the Conservation Reserve Enhancement Program (CREP), ineligible for Green Acres. — **REPEALED.**
- Distinction between “productive” and “unproductive” acres. — **AMENDED** (Item 5B has details.)

2. There is a grace period to comply with the 2009 changes. The grace period lasts until the 2013 assessment. Those enrolled in the Old Green Acres program can continue in the program until the 2013 assessment. At that time they must comply with the 2009 changes to continue to receive benefits. Land sold or transferred to a son or daughter can remain enrolled in the Old Green Acres until the 2013 assessment. However, if land is subdivided, sold or transferred to anyone else prior to 2013, the property must be enrolled in the New Green Acres or the Rural Preserves Program to continue to receive the Green Acres benefits.

This fact sheet was prepared by the Land Stewardship Project (LSP) in consultation with the Farmers’ Legal Action Group (FLAG).

3. **Reimbursement to the landowner is required for property taxes paid on “unproductive land” that was withdrawn from Green Acres due to the 2008 law.** If land that was classified as “unproductive” was withdrawn from the Old Green Acres because of the 2008 law and back taxes were paid, the 2009 changes require counties to reimburse landowners. The 2009 changes state that the county must repay them in a manner required by the Minnesota Commissioner of Revenue.
4. **Land in the Old Green Acres that does not qualify for the New Green Acres can be withdrawn by May 1, 2010, with no payment of back taxes.**
5. **The New Green Acres Program.** Below are the most significant ways in which the New Green Acres program differs from the 2008 law and the Old Green Acres.
 - A. **Conservation land eligible.** Unlike the 2008 law, land enrolled in RIM, CRP and similar conservation programs (such as CREP) can be in the New Green Acres, provided the land was in agricultural use prior to enrollment in the conservation programs. The exception is that land enrolled in RIM under a permanent easement is ineligible.
 - B. **The distinction between “productive” and “unproductive” acres is amended.** The 2008 law limited the type of land eligible for Green Acres to 2a agricultural land (often called “productive land”). The 2009 changes amended the definition of Class 2a agricultural land in an attempt to include acreage that would normally be part of farm stewardship, and to include acreage that is unlikely to be sold separately from the farm. Below is how the definition of class 2a land was changed (language added by the 2009 changes is underlined and language deleted by the 2009 changes has a line through it).

Class 2a property ~~may contain~~ must also include any property that would otherwise be classified as 2b, but is interspersed with class 2a property, including but not limited to sloughs, wooded wind shelters, acreage abutting ditches, ravines, rock piles, land subject to a setback requirement, and other similar land that is impractical for the assessor to value separately from the rest of the property or that is unlikely to be able to be sold separately from the rest of the property.

There is room for interpretation in the phrase “unlikely to be able to be sold separately,” and landowners should talk to their county assessors about how they intend to apply it. In some complicated situations you may need to visit with your assessor to explain how you think the rule should apply to your land.

Class 2b agricultural land is defined as “rural vacant land (that) consists of parcels of property, or portions thereof, that are unplatted real estate, rural in character and not used for agricultural purposes, including land for growing trees for timber, lumber and wood and wood products, that is not improved with structure.”

It is important to note that the terms “productive” and “unproductive” land are not terms used in statute but have been used to refer to 2a and 2b agricultural land respectively. However, the terms “productive” and “unproductive” are not completely accurate and have created confusion.

This criteria still excludes from eligibility larger wooded acreages and any non-tillable acreage that can be separated from the farm and sold separately. This type of land was commonly a part of the Old Green Acres. To accommodate some of these lands, the Legislature created the Rural Preserves Program. To continue to receive Green Acres benefits after 2013, land that does not qualify for the New Green Acres must be enrolled in the Rural Preserves Program. No payment of back taxes is required for properties that transition from the Old Green Acres into the new Rural Preserves Program.

C. In the New Green Acres program, some property transfers will not be considered a change in ownership and do not trigger a tax payback. When a property owner sells or transfers land enrolled in the New Green Acres, deferred taxes (the previous 3 years only) and special assessments are owed unless the new owner files an application to remain in Green Acres within 30 days after the sale or transfer. For land in the New Green Acres, certain types of transfers are not considered a change of ownership and do not trigger the requirement to pay back taxes and deferred assessments. These include transfers due to:

- death when a surviving owner retains ownership of the property;
- divorce of a married couple when one of the spouses retains ownership;
- marriage of a single property owner when that owner retains ownership in whole or part; or
- organization or reorganization into a farm entity under Minnesota's Corporate Farm Law, and placement of the property in trust provided owners of the property retain the same beneficial interest.

6. The Rural Preserves Property Tax Program. The Rural Preserves Program has the same tax benefits as Green Acres but has additional requirements. The program takes effect for taxes payable in 2012 and thereafter. The program was created primarily for larger tracts of 2b agricultural vacant land adjoining a property that is in the New Green Acres program.

A. Eligible land: Any land that was enrolled in the Old Green Acres is eligible and any land that is part of an agricultural homestead is eligible provided the land:

- Consists of at least 10 acres.
- Has an approved conservation management plan that will be implemented while the land is in the program (details below).
- Is enrolled for a minimum of 10 years. This is a covenant that runs with the land. The land can be sold but the covenant is binding on the buyer.
- Has no delinquent property taxes.

B. Conservation management plan. Full details about the management plan are yet to be established, but the 2009 changes stipulate that a plan must include:

- conservation management goals for the land;
- a reliable field inventory of the individual conservation practices and cover types;
- a description of the soil type and quality;
- aerial photo or map of the vegetation and other natural features of the land clearly indicating the boundaries of the conservation land;
- proposed future conditions of the land;
- prescriptions to meet proposed future conditions of the land;
- recommended timetable for implementing the prescribed practices;
- a legal description of the land encompassing the parcels included in the plan.

The Minnesota Board of Water and Soil Resources will develop and distribute guidance for conservation management plan preparation and approval. The Minnesota Commissioner of Revenue is authorized to make rulings on any disputes arising over plan approvals.

C. Special assessments: Payment of special assessments are deferred on land in the Rural Preserves Program. Once land is taken out of the program, payment of special assessments becomes due. If the bond issued to finance the improvement is still due, then payments are spread out in equal installments over the life of the bond. If the bonds have matured, then the entire amount is due, plus interest, within 90 days.

D. Payment of back taxes upon disenrollment: Land removed from the Rural Preserves Program is subject to the same three-year back taxes requirement as land enrolled in Green Acres.

The 2009 changes are in MN Session Laws 2009, Regular Session, Chapter 12, Article 2, at www.revisor.leg.state.mn.us/laws/?id=12&doctype=Chapter&year=2009&type=0 and Chapter 88, sec. 43, at www.revisor.leg.state.mn.us/laws/?id=88&doctype=Chapter&year=2009&type=0.

In the summer of 2009 these changes will be incorporated into the online Minnesota statutes and can be found at www.revisor.leg.state.mn.us/statutes/?id=273. The provisions will be found in Minnesota Statutes 2009, sections 273.111, 273.114 and 273.13

A pdf version of this fact sheet is available online at
www.landstewardshipproject.org/pdf/green_acres_2009_factsheet.pdf.

Help Keep the Land and People Together

Become a member of the Land Stewardship Project today.

LSP is a grassroots membership organization of family farmers, rural citizens and others working together to advance stewardship of the land. For 27 years the Land Stewardship Project has been a sustainable agriculture leader, successfully working for policies that promote family farms and conservation. Our work on the Green Acres issue is a part of this tradition.

LSP's power to create positive change comes from our members. With your membership, you will receive LSP's *Land Stewardship Letter* newsletter, our *LIVE-WIRE* e-letter, timely updates on issues important to family farmers and rural communities, invitations to meetings and events, and opportunities to take effective actions to advance stewardship, family farms and healthy rural communities.

Annual membership dues start at \$35 and are tax deductible. Please make checks payable to the Land Stewardship Project and send to: The Land Stewardship Project, 821 E. 35th Street, Suite 200, Minneapolis, MN 55406. You can also join us online at www.landstewardshipproject.org or by calling 612-722-6377.

Fact Sheet Updated: May 27, 2009, after the close of the 2009 legislative session.