

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** S.F. 1126 (H.F. 1395)      **DATE:** April 27, 2010  
**Version:** First unofficial engrossment (UES1126-1)  
**Authors:** Mullery  
**Subject:** Conditional use deeds  
**Analyst:** Karen Baker, 651-296-8959

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: [www.house.mn/hrd](http://www.house.mn/hrd).

### Overview

- Updates and restructures the land classification provisions for tax-forfeited land.
- Modifies the current process and allows county boards the option to elect to use a second process to classify and reclassify tax forfeited lands.
- Defines “authorized public use” for the state and local government for purposes of obtaining a conditional use deed.
- Allows for a reduced price for certain property (i.e., to correct for blight, to develop affordable housing, sliver parcels, to manage drainage and storm water, to create and preserve wetlands, etc.).
- Provides for a reverter clause that expires after 30 years, but not before 2015 to allow for any possible compliance reviews of alder deeds. After 15 years of compliance, the use deed can be exchanged with county approval for a quit claim deed.
- Includes an application fee of \$250, with \$150 refunded if the application is denied.
- Removes obsolete language and archaic provisions that have been in statute since 1941.

Effective July 1, 2010.

### Section

- 1**      **Classification as conservation or nonconservation.** Updates land classification provisions for tax-forfeited property. Establishes two processes to classify and reclassify lands.
- (1) Provides a new more structured process (paragraphs (b), (c), and (d)) which includes an open meeting and notification, allowing persons and agencies possessing pertinent information to make or submit comments at the meeting, and designating tracts as assessed and acquired, or may by resolution provide for the subdivision of the tracts into smaller units or groupings deemed advantageous for conservation or

sale purposes.

- (2) Updates the current process. Allows the county board to elect to use this process, and if elected, the election is effective for a minimum of five years. Allows the county board to classify or reclassify lands based on available. If lands are within the boundaries of an organized town or incorporated municipality, the classification or reclassification and sale must first be approved by the town board or governing body of the municipality in which lands are located. Requires the county board to follow the open-meeting procedures from process (1) above, if the town or municipality rejects the classification.

- 2 **Conveyance to public entities.** Updates the provisions for conveyance of tax-forfeited land to public entities. Adds a new process for withholding lands from sale due to local government interest in acquisition, replacing what was deleted in section 1.

Changes the existing opportunities for local government acquisition. Under current law, the opportunities are limited to purchasing at full market value for any purpose or receiving free-but-contingent deeds for an authorized public use. (This free “use deed” has caused compliance-related issues and title problems.) The proposal significantly limits the uses for which these use-contingent deeds may be acquired while providing new alternative methods for acquisition that are more tailored to specific needs and purposes.

Paragraph (a) directs the county auditor to withhold a parcel from lease or sale for six months, upon the request from a state agency or governmental subdivision.

Paragraphs (b) to (d) clarify the provisions related to the sale of nonconservation tax-forfeited lands, including the sale to the state agency or governmental subdivision for a reduced price to correct for blighted conditions or for the development of affordable housing. “Market value” is clarified to be an estimate of the full and actual market value as determined by the county board and does not require a formal appraisal.

Paragraph (e) clarifies the definition of “authorized public use” for the purposes of eligibility for the conveyance of this nonconservation land to a governmental subdivision for which for which a “use deed” may be granted.

The following purposes allow the local government to obtain a use deed for “free”:

- A road, or right-of-way for a road;
- A park that is both available to, and accessible by, the public that contains amenities such as campgrounds, playgrounds, athletic fields, trails, or shelters;
- Trails for walking, bicycling, snowmobiling, or other recreational purposes, along with a reasonable amount of surrounding land maintained in its natural state;
- Transit facilities for buses, light rail transit, commuter rail or passenger rail, including transitways, park-and-ride lots, transit stations, maintenance and garage facilities, and other facilities related to a public transit system;
- Public beaches or boat launches;
- Public parking;

- Civic recreation or conference facilities; and
- Public service facilities such as fire halls, police stations, lift stations, water towers, sanitation facilities, water treatment facilities, and administrative offices.

The following provide for new free options of acquisition:

- Outlots that developers promised but failed to convey to local governments under development agreements (paragraph (f)).
- Parcels that associations of common interest communities were entitled to under a written agreement that forfeited without conveyance (paragraph (g)).

The following provide for new options of acquisition at a price that may be less than market value (as negotiated between the county and local government):

- Correcting blight (paragraph (d));
- Developing affordable housing (paragraph (d));
- Creating or preserving wetlands (paragraph(h));
- Managing the drainage or storage of storm water under a management plan (paragraph (h)); and
- Preserving land in its natural state (paragraph (h)).

Paragraph (h) allows for the sale of conservation tax-forfeited lands at less than market value to governmental subdivisions for certain conservation purposes. Requires a restrictive covenant for 30 years. The lands may be reconveyed back to the state, at which point the restrictive covenant would cease. If reconveyed lands are to be sold, the county board can take into account the original amount paid when setting the terms of the sale. If the reconveyed lands are unplatted and located outside of an incorporated municipality, the sale is subject to the approval of the commissioner of the Department of Natural Resources if the commissioner determines there is a mineral use potential.

Paragraph (i) clarifies that a park and recreation board in a city of the first class qualifies as a governmental subdivision for purposes of this section.

- 3 Conveyance; targeted community lands.** Limits the provisions for the conveyance of lands located within a targeted community to lands in a city of the first class, clarifies that this conveyance is by a quit claim deed rather than a use deed, and clarifies that the conveyance requires a favorable recommendation of the county board. Eliminates the statement of facts requirement.

The name of this area has been changed from “targeted neighborhood” to “targeted community.”

- 4 Deed of conveyance; form; approvals.** Clarifies that any reversion to the state of tax forfeited land that was conveyed for an authorized public purpose (i.e. a conditional use deed) and is not used for that purpose is by operation of law and without requirement of any

affirmative act by the state.

- 5 Reverter for failure to use; conveyance to state.** Clarifies the actions that must occur when a local government fails to put the land to the use required in the “use deed”, and specifically clarifies that there is no failure to put the land to the use and no abandonment of that use if that use is contained in a formal plan of that local government.

Deletes language providing that a sale, lease, transfer or other conveyance under Chapter 469 does not constitute a failure or abandonment of use. This provision created some compliance problems for the Department of Revenue. (The new method of acquisition in Section 2 relating to blight and economic development is intended as a more focused substitute to this deleted provision.)

Includes a provision that allows a local government to exchange a “use deed” issued on or after January 1, 2007, for a quit claim deed after 15 years if it has demonstrated compliance with the use restriction and received the favorable recommendation of the county board. For “use deeds” issued before January 1, 2007, the use restriction and possibility of reversion is released on January 1, 2022, if the county board records a document to that effect.

Nullifies the use restriction on the later of: (1) January 1, 2015; (2) 30 years from the date the deed was acknowledged; or (3) upon final resolution of an appeal initiated prior to January 1, 2015, whereby (i) creating a 30-year expiration on all “use deeds,” but (ii) allowing counties and the Department of Revenue the possibility to pursue compliance action through 2014 on existing deeds.

- 6 Conditional use deed fees.** Establishes an application fee of \$250 for “use deeds,” of which \$150 shall be refunded if the application is denied. The proceeds must be deposited in a Department of Revenue revolving fund and are appropriated to the Commissioner of Revenue for making the \$150 refunds and for administering the conditional use deed law.
- 7 Conveyance; form.** Provides that the instruments of conveyance are to be on a form approved by the Attorney General and that the instruments are prima facie evidence and that the execution and issuance of the conveyance complies with the applicable laws. These provisions assure persons examining the real estate records that the various requirements were met.
- 8 Conservation lands; county board supervision.** Clarifies the process for conservation lands, including that they must not be conveyed or sold, unless they are (1) reclassified; (2) conveyed to a governmental subdivision; (3) released from the trust in favor of the taxing district; or (4) conveyed or sold under the authority of another general or special law. Deletes obsolete language. Recodifies the provision for the sale of timber, lease of crops of hay, or other revenue from lands under the jurisdiction of the commissioner of natural resources shall be credited to the general fund.
- 9 Nonconservation lands; appraisal and sale.** Strikes a provision on the classification of land that is recodified in section 1 of the bill.
- 10 Sale: method, requirements, effects.** Includes cross-references due to changes in other sections.

- 11 County sales; notice, purchase price, disposition.** Clarifies that the ability to add reappraised lands to a sale only applies to nonconservation lands.
- 12 City sales; alternate procedures.** Allows for the sale of irregular parcels that cannot be improved because of noncompliance with local ordinances without being adjoined to a neighboring parcel to be sold for less than its appraised value.
- 13 Notice; public hearing for use change.** Requires notice to surrounding landowners within 400 feet of a parcel and a public hearing if a governmental subdivision intends to change the use of a parcel acquired by a use deed.
- 14 Repealer.** Repeals obsolete provisions:
- section 282.01, subdivisions 9, 10, and 11; and
  - section 383A.76 (alternative “use deed” provisions for cities in Ramsey County that are inconsistent).