

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1465/12

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DOA:.....Miner, BB0332 - Farmland preservation program changes
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Lps: Please
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see p. 12

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

AGRICULTURE

Under current law, an eligible claimant may recover a certain amount of property taxes paid through the refundable farmland preservation credit. When a tax credit is refundable and the amount of the credit that is otherwise due an eligible claimant exceeds the claimant's tax liability, or there is no outstanding tax liability, the excess amount of the credit is paid to the claimant by check.

Under current law, the land to which a claim for the farmland preservation credit relates must be subject either to a farmland preservation agreement or to an exclusive agricultural use zoning ordinance that is certified by the Land and Water Conservation Board (LWCB). Land that is not subject to exclusive agricultural use zoning may become subject to a farmland preservation agreement only if the county in which the land is located has an agricultural preservation plan that is certified by LWCB. A farmland preservation agreement is between the landowner and DATCP. The agreement commits the owner to keep the land in agricultural use for the duration of the agreement, up to 25 years, although the law allows DATCP or LWCB to release land from an agreement under certain circumstances. Under current law, when land is rezoned from exclusive agricultural use and in some of the circumstances under which land is released from a farmland preservation agreement, DATCP is required to file a lien against the land for the amount of the farmland preservation credit received by the owner during the preceding ten years.

This bill eliminates the requirement that DATCP file a lien against land that is released from a farmland preservation agreement or that is rezoned from exclusive agricultural use. Under this bill, DATCP may not release land from a farmland preservation agreement until the owner pays \$100 per acre to this state, except in certain cases, such as the death or disability of the owner. Also under this bill, rezoning of land from exclusive agricultural zoning must be conditioned on payment of \$100 per acre of land that is rezoned. Payment is made to the local governmental unit that grants the rezoning.

This bill also provides that DATCP, rather than LWCB, certifies exclusive agricultural use zoning ordinances and county agricultural preservation plans and revisions to the ordinances and plans. DATCP may, but is not required to, grant certification based on a signed statement, by the relevant local governmental unit, that the ordinance or plan meets the requirements for certification.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.60 (1) (b) of the statutes is amended to read:

2 71.60 (1) (b) The credit allowed under this subchapter shall be limited to 90%
3 of the first \$2,000 of excessive property taxes plus 70% of the 2nd \$2,000 of excessive
4 property taxes plus 50% of the 3rd \$2,000 of excessive property taxes. The maximum
5 credit shall not exceed \$4,200 for any claimant. The credit for any claimant shall be
6 the greater of either the credit as calculated under this subchapter as it exists at the
7 end of the year for which the claim is filed or as it existed on the date on which the
8 farmland became subject to a current agreement under subch. II ~~or~~ III of ch. 91 or
9 under subch. III of ch. 91, 2005 stats., using for such calculations household income
10 and property taxes accrued of the year for which the claim is filed.

11 **SECTION 2.** 71.60 (1) (c) 3. of the statutes is amended to read:

12 71.60 (1) (c) 3. If the claimant or any member of the claimant's household owns
13 farmland which is ineligible for credit under subd. 1. or 2. but was subject to a
14 farmland preservation agreement under subch. III of ch. 91, 2005 stats., on July 1

1 of the year for which credit is claimed, or the owner had applied for such an
2 agreement before July 1 of such year and the agreement has subsequently been
3 executed, and if the owner has applied by the end of the year in which conversion
4 under s. 91.41, 2005 stats., is first possible for conversion of the agreement to a
5 transition area agreement under subch. II of ch. 91, and the transition area
6 agreement has subsequently been executed, and the farmland is located in a city or
7 village which has a certified exclusive agricultural use zoning ordinance under
8 subch. V of ch. 91 in effect at the close of the year for which credit is claimed, or in
9 a town which is subject to a certified county exclusive agricultural use zoning
10 ordinance under subch. V of ch. 91 in effect at the close of the year for which credit
11 is claimed, the amount of the claim shall be that specified in par. (b).

12 **SECTION 3.** 71.60 (1) (c) 5. of the statutes is amended to read:

13 71.60 (1) (c) 5. If the claimant or any member of the claimant's household owns
14 farmland which is ineligible for credit under subds. 1. to 4. but was subject to a
15 farmland preservation agreement under subch. III of ch. 91, 2005 stats., on July 1
16 of the year for which credit is claimed, or the owner had applied for such an
17 agreement before July 1 of such year and the agreement has subsequently been
18 executed, and if the owner has applied by the end of the year in which conversion
19 under s. 91.41, 2005 stats., is first possible for conversion of the agreement to an
20 agreement under subch. II of ch. 91, and the agreement under subch. II of ch. 91 has
21 subsequently been executed, the amount of the claim shall be limited to 80% of that
22 specified in par. (b).

23 **SECTION 4.** 71.60 (1) (c) 8. of the statutes is amended to read:

24 71.60 (1) (c) 8. If the farmland is subject to a farmland preservation agreement
25 under subch. III of ch. 91, 2005 stats., on July 1 of the year for which credit is claimed

1 or the claimant had applied for such an agreement before July 1 of such year and the
2 agreement has subsequently been executed, the amount of the claim shall be limited
3 to 50% of that specified in par. (b).

4 **SECTION 5.** 91.06 of the statutes is renumbered 91.06 (1) and amended to read:

5 91.06 (1) CERTIFICATION BY BOARD. The Before the effective date of this
6 subsection [revisor inserts date], the board shall review farmland preservation
7 plans and exclusive agricultural use zoning ordinances submitted to it under ss.
8 91.61 and 91.78 and shall certify to the appropriate zoning authority whether the
9 plans and ordinances meet the standards of subchs. IV and V, respectively.
10 Certifications may be in whole or in part.

11 **SECTION 6.** 91.06 (2) and (3) of the statutes are created to read:

12 91.06 (2) **CERTIFICATION OF PLANS.** (a) Beginning on the effective date of this
13 paragraph [revisor inserts date], all of the following apply:

14 1. The department may certify a county farmland preservation plan or revision
15 to a county farmland preservation plan based on the county certification under s.
16 91.61 (2) (d).

17 2. The department may do any of the following before it determines whether
18 to certify a county's farmland preservation plan or revision to a plan:

19 a. Review the plan or revision for compliance with ss. 91.51 to 91.59.

20 b. Review and audit the application for certification under s. 91.61 (2).

21 (b) The department shall grant or deny an application for certification under
22 s. 91.61 (2) in writing no later than the 90th day following receipt of a complete
23 application, unless the county agrees to an extension.

24 (c) The department may grant an application for certification under s. 91.61 (2)
25 subject to conditions specified by the department in its certification decision. The

1 department may revoke the certification if the county does not make the required
2 changes by a deadline specified by the department.

3 (d) For the purposes of this chapter and subch. IX of ch. 71, a certified farmland
4 preservation plan does not include a revision to the plan adopted after the effective
5 date of this paragraph [revisor inserts date], unless the department certifies the
6 revision under par. (b).

7 **(3) CERTIFICATION OF ORDINANCES.** (a) Beginning on the effective date of this
8 paragraph [revisor inserts date], all of the following apply:

9 1. The department may certify an exclusive agricultural use zoning ordinance
10 or revision to an ordinance based on the certification under s. 91.78 (2) (d).

11 2. The department may do any of the following before it determines whether
12 to certify an exclusive agricultural use zoning ordinance or revision to an ordinance:

13 a. Review the ordinance or revision for compliance with ss. 91.75 and 91.77.

14 b. Review and audit the application for certification under s. 91.78 (2).

15 (b) The department shall grant or deny an application for certification under
16 s. 91.78 (2) in writing no later than the 90th day following receipt of a complete
17 application, unless the county, city, village, or town agrees to an extension.

18 (c) The department may grant an application for certification under s. 91.78 (2)
19 subject to conditions specified by the department in its certification decision. The
20 department may revoke the certification if the county, city, village, or town does not
21 make the required changes by a deadline specified by the department.

22 **SECTION 7.** 91.13 (8) (fm) of the statutes is amended to read:

23 91.13 (8) (fm) A statement in boldface uppercase type that contains the
24 following language: "UPON RELINQUISHMENT—(WITHDRAWAL OR

1 ~~EXPIRATION) OF FROM THIS AGREEMENT, A PAYBACK OF CREDITS WITH~~
2 ~~INTEREST PAYMENT TO THE STATE MAY BE REQUIRED.”~~

3 **SECTION 8.** 91.17 (1) of the statutes is amended to read:

4 91.17 (1) Land subject to a farmland preservation agreement may be sold
5 without a ~~lien being filed~~ payment being made under s. 91.19 (7m), subject to the
6 reservation of rights contained in the agreement. The seller shall notify the
7 department of any such transfer. ~~The purchaser shall be liable under any~~
8 ~~subsequent lien under s. 91.19 only for the amount of tax credits paid on that portion~~
9 ~~of the land purchased.~~

10 **SECTION 9.** 91.17 (2) of the statutes is amended to read:

11 91.17 (2) When the owner of land subject to a farmland preservation agreement
12 dies or is certified by a physician to be totally and permanently disabled, the land
13 may be released from the program under this chapter and shall not be subject to a
14 ~~lien~~ payment under s. 91.19 (8) (7m).

15 **SECTION 10.** 91.17 (3) of the statutes is repealed.

16 **SECTION 11.** 91.19 (2) (intro.) of the statutes is amended to read:

17 91.19 (2) (intro.) The Subject to sub. (7m), the department may relinquish the
18 farmland preservation agreement or may release part of the land from a farmland
19 preservation agreement prior to the termination date contained in the instrument
20 as follows:

21 **SECTION 12.** 91.19 (3) of the statutes is amended to read:

22 91.19 (3) If the request for relinquishment of the farmland preservation
23 agreement or release of part of the land from the agreement is approved by the local
24 governing body having jurisdiction, a copy of the application, along with the
25 comments and recommendations of the reviewing agencies, shall be forwarded to the

1 ~~board department.~~ The ~~board department~~ shall, within 60 days, upon consideration
2 of the factors in sub. (2) (b) and (c) 2., approve or reject the application for
3 relinquishment or release. If the ~~board department~~ approves the application it shall
4 notify the local governing body having jurisdiction and the department of revenue,
5 ~~prepare an instrument under sub. (7) and record it with the register of deeds of the~~
6 ~~county in which the land is located.~~

7 **SECTION 13.** 91.19 (5) of the statutes is amended to read:

8 91.19 (5) If the application for relinquishment of the agreement or release of
9 part of the land from the agreement is rejected by the local governing body having
10 jurisdiction, the application shall be returned to the applicant with a written
11 statement regarding the reasons for rejection. Within 30 days after receipt of the
12 rejected application, the applicant may appeal the rejection to the ~~board department.~~
13 The ~~board department~~ shall, within 60 days after the appeal has been received, upon
14 consideration of the factors listed in sub. (2) (b) and (c) 2., approve or reject the
15 request for relinquishment or release. If the ~~board department~~ approves the
16 application it shall notify the local governing body having jurisdiction and the
17 department of revenue, ~~prepare an instrument under sub. (7) and record it with the~~
18 ~~register of deeds of the county in which the land is located.~~

19 **SECTION 14.** 91.19 (6p) of the statutes is repealed.

20 **SECTION 15.** 91.19 (6s) (a) 1. of the statutes is amended to read:

21 91.19 (6s) (a) 1. An application for release of the land, made by either the owner
22 or the local unit of government, is approved by the local governing body having
23 jurisdiction and the ~~board department~~ under the procedures of subs. (2) to (5).

24 **SECTION 16.** 91.19 (6s) (b) of the statutes is amended to read:

1 91.19 (6s) (b) If an owner of land subject to a farmland preservation agreement
2 opposes an application brought by a local unit of government for release of that land,
3 the owner may appeal the approval of that application by the local governing body
4 having jurisdiction to the board department according to the procedures in par. (c).

5 **SECTION 17.** 91.19 (6s) (c) of the statutes is amended to read:

6 91.19 (6s) (c) If the application for release of any land from the agreement is
7 approved by the local governing body having jurisdiction, the application shall be
8 returned to the applicant, and a copy of the application to the owner, with a written
9 statement regarding the reasons for approval. Within 30 days after receipt of a copy
10 of the approved application, the owner may appeal the approval to the board
11 department. The board department shall, within 60 days after the appeal has been
12 received, upon consideration of the factors listed in sub. (2) (b) and (c) 2., approve or
13 reject the request to disapprove the release. If the board department approves the
14 owner's appeal it shall notify the local governing body having jurisdiction.

15 **SECTION 18.** 91.19 (6s) (d) of the statutes is amended to read:

16 91.19 (6s) (d) The board department may waive its approval authority under
17 this subsection for applications affecting less than 5 acres of land.

18 **SECTION 19.** 91.19 (6t) of the statutes is amended to read:

19 91.19 (6t) The Subject to sub. (7m), the department shall relinquish from a
20 farmland preservation agreement land that has been subject to a farmland
21 preservation agreement for at least 10 years if the owner of the land so requests.

22 **SECTION 20.** 91.19 (7) of the statutes is repealed.

23 **SECTION 21.** 91.19 (7m) of the statutes is created to read:

24 91.19 (7m) (a) Except as provided in par. (b), the department may not
25 relinquish a farmland preservation agreement under sub. (3), (5), or (6t) or release

1 land from a farmland preservation agreement under sub. (3) or (5) until the owner
2 pays to the department \$100 per acre of land that is no longer covered by the
3 farmland preservation agreement.

4 (b) The payment under par. (a) does not apply to land that is zoned exclusively
5 for agricultural use under an ordinance certified under subch. V.

6 **SECTION 22.** 91.19 (8) to (13) of the statutes are repealed.

7 **SECTION 23.** 91.21 (1) of the statutes is amended to read:

8 91.21 (1) If the owner or a successor in title of the land upon which a farmland
9 preservation agreement has been recorded under this chapter changes the use of the
10 land to a prohibited use without first acting under ss. 91.17 and 91.19 and the land
11 is not relinquished under s. 91.19 (6p) or (6t), the owner or successor in title may be
12 enjoined by the state, acting through the attorney general, or by the local governing
13 body having jurisdiction, acting through its attorney, and is subject to a civil penalty
14 for actual damages, but in no case to exceed double the value of the land as
15 established at the time the application for the agreement was approved.

16 **SECTION 24.** 91.23 of the statutes is amended to read:

17 **91.23 Conversion.** An owner under a farmland preservation agreement may
18 at any time apply for a transition area agreement, and an owner under a transition
19 area agreement may at any time apply for a farmland preservation agreement. If
20 such an application is approved, the prior agreement shall be relinquished without
21 ~~a lien being filed~~ payment being made under s. 91.19 (7m).

22 **SECTION 25.** Subchapter III of chapter 91 [precedes 91.31] of the statutes is
23 repealed.

24 **SECTION 26.** 91.59 (title) of the statutes is amended to read:

25 **91.59 (title) Coordination; public comment.**

1 **SECTION 27.** 91.59 (2m) of the statutes is created to read:

2 **91.59 (2m)** A county shall make a proposed agricultural preservation plan or
3 revision to a plan available to the public for at least 30 days before the public hearing
4 under s. 59.69 (3) (d) and shall accept comments from the public during that time.

5 **SECTION 28.** 91.61 of the statutes is renumbered 91.61 (1) and amended to read:

6 **91.61 (1)** ~~Upon~~ Before the effective date of this subsection [revisor inserts
7 date], upon completion of a county agricultural preservation ~~plans~~ plan described in
8 this subchapter, copies of the plan may be submitted to the board for review and
9 certification under s. 91.06.

10 **SECTION 29.** 91.61 (2) of the statutes is created to read:

11 **91.61 (2)** Beginning on the effective date of this subsection [revisor inserts
12 date], to apply for certification under s. 91.06 for a county agricultural preservation
13 plan or a revision to the plan, a county shall submit all of the following to the
14 department:

15 (a) A copy of the plan or revision to the plan.

16 (b) A description of how the plan or revision to the plan complies with ss. 91.51
17 to 91.59.

18 (c) Other relevant information required by the department by rule.

19 (d) A statement signed by the county corporation counsel certifying that the
20 plan or revision to the plan complies with ss. 91.51 to 91.59.

21 **SECTION 30.** 91.75 (6) of the statutes is amended to read:

22 **91.75 (6)** For purposes of farm consolidation and if permitted by local
23 regulation, farm residences or structures ~~which~~ that existed prior to the adoption of
24 the ordinance may be separated from a larger farm parcel. Farm residences or
25 structures with up to 5 acres of land ~~which~~ that are separated from a larger farm

1 parcel under this section are not subject to the ~~lien under s. 91.19 (8) to (10), as~~
2 payment required in s. 91.77 (2) or 91.79.

3 **SECTION 31.** 91.77 (2) of the statutes is amended to read:

4 91.77 (2) ~~Land which is rezoned~~ Except as otherwise provided in this
5 subsection, rezoning under this section shall be subject to the lien provided under s.
6 91.19 (8) to (10) for the amount of tax credits paid on the land rezoned may not be
7 completed until the landowner makes a payment of \$100 per acre of land that is
8 rezoned to the county, city, village, or town that approves the petition. If the rezoning
9 occurs solely as a result of action initiated by a governmental unit, ~~any lien required~~
10 under s. 91.19 (8) to (10) other than the county, city, village, or town that approves
11 the petition, the payment shall be paid made by the governmental unit initiating the
12 action. If the rezoning occurs solely as a result of action initiated by the county, city,
13 village, or town that approves the petition, that county, city, village, or town shall
14 make the payment to the department.

15 **SECTION 32.** 91.78 of the statutes is renumbered 91.78 (1) and amended to read:

16 91.78 (1) ~~Copies~~ Before the effective date of this subsection [revisor inserts
17 date], copies of exclusive agricultural zoning ordinances may be submitted to the
18 board for review and certification under s. 91.06.

19 **SECTION 33.** 91.78 (2) of the statutes is created to read:

20 91.78 (2) Beginning on the effective date of this subsection [revisor inserts
21 date], to apply for certification under s. 91.06 for an exclusive agricultural use zoning
22 ordinance or a revision to the ordinance, a county, city, village, or town shall submit
23 all of the following to the department:

24 (a) A copy of the ordinance or revision to the ordinance.

1 (b) A description of how the ordinance or revision to the ordinance complies
2 with ss. 91.75 and 91.77.

3 (c) Other relevant information required by the department by rule.

4 (d) A statement signed by the chief elected official, as defined in s. 229.821 (3),
5 of, or the attorney for, the county, city, village, or town certifying that the ordinance
6 or revision to the ordinance complies with ss. 91.75 and 91.77.

7 **SECTION 34.** 91.79 of the statutes is amended to read:

8 **91.79 Conditional uses; lien payment.** ~~Any land zoned under this~~
9 ~~subchapter which is granted~~ A county, city, village, or town may not grant a special
10 exception or conditional use permit for a use which is not an agricultural use shall
11 be subject to the lien provided under s. 91.19 (8) to (10) for the amount of tax credits
12 paid on the land granted such a permit for land zoned under this subchapter until
13 the landowner pays to the county, city, village, or town \$100 per acre of land for which
14 the special exception or conditional use permit is granted.

15 **SECTION 9303. Initial applicability; Agriculture, Trade and Consumer**
16 **Protection.**

17 (AR) (1) FARMLAND PRESERVATION CONVERSION FEES. The treatment of sections 91.17
18 (1), (2), and (3), 91.19 (2) (intro.), (3), (5), (6t), (7), (7m), and (8) to (13), 91.23, 91.75
19 (6), 91.77 (2), and 91.79 of the statutes first applies to land that is released or
20 relinquished from a farmland preservation agreement or rezoned from exclusive
21 agricultural zoning on the effective date of this subsection.

22 (END)

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Nonstat File Sequence: **FFF**

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RA : : _____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of sections of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute:..**create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 0 3 . Effective dates; Agriculture, Trade

and Consumer Protection

(#1) () Farm and preservation changes The treatment of sections 91060 (1) (b) and (c) 30, 50, and 80, 91613 (8) (fm), 91617 (1) (2) and (3)

of the statutes takes effect on October 1, 2007, or the day after publication, whichever is later

and subchapter II of chapter 91, of the statutes, the renumbering and amendment of sections

[rev: 9/8/04 2005effdate(fm)]

91060 and 91617 and the creation of sections 91060 (2) and (3) and 91617 (2) and 91.78 (2)

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and Section 9303 (1) of this act

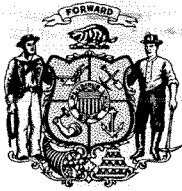
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9619 (2) (intro),[^] (3),[^] (5),[^] (6p),[^] (6s) (a) b,[^] (b),[^] (c),[^] and (d),[^]
~~subscript~~
(6t),[^] (7),[^] (7m),[^] and (8) to (13),[^] 9621 (1),[^] 9623,[^] 9659 (title),[^]
and (2m),[^] 9675 (6),[^] 9677 (2),[^] 9678 (intro) (a),[^] and 9679



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1465/2
RCT:wlj:jf

DOA:.....Miner, BB0332 - Farmland preservation program changes
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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This bill eliminates the requirement that DATCP file a lien against land that is released from a farmland preservation agreement or that is rezoned from exclusive agricultural use. Under this bill, DATCP may not release land from a farmland preservation agreement until the owner pays \$100 per acre to this state, except in certain cases, such as the death or disability of the owner. Also under this bill, rezoning of land from exclusive agricultural zoning must be conditioned on payment of \$100 per acre of land that is rezoned. Payment is made to the local governmental unit that grants the rezoning.

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4 property taxes plus 50% of the 3rd \$2,000 of excessive property taxes. The maximum
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6 the greater of either the credit as calculated under this subchapter as it exists at the
7 end of the year for which the claim is filed or as it existed on the date on which the
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10 and property taxes accrued of the year for which the claim is filed.

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1 of the year for which credit is claimed, or the owner had applied for such an
2 agreement before July 1 of such year and the agreement has subsequently been
3 executed, and if the owner has applied by the end of the year in which conversion
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5 transition area agreement under subch. II of ch. 91, and the transition area
6 agreement has subsequently been executed, and the farmland is located in a city or
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8 subch. V of ch. 91 in effect at the close of the year for which credit is claimed, or in
9 a town which is subject to a certified county exclusive agricultural use zoning
10 ordinance under subch. V of ch. 91 in effect at the close of the year for which credit
11 is claimed, the amount of the claim shall be that specified in par. (b).

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18 executed, and if the owner has applied by the end of the year in which conversion
19 under s. 91.41, 2005 stats., is first possible for conversion of the agreement to an
20 agreement under subch. II of ch. 91, and the agreement under subch. II of ch. 91 has
21 subsequently been executed, the amount of the claim shall be limited to 80% of that
22 specified in par. (b).

23 **SECTION 4.** 71.60 (1) (c) 8. of the statutes is amended to read:

24 71.60 (1) (c) 8. If the farmland is subject to a farmland preservation agreement
25 under subch. III of ch. 91, 2005 stats., on July 1 of the year for which credit is claimed

1 or the claimant had applied for such an agreement before July 1 of such year and the
2 agreement has subsequently been executed, the amount of the claim shall be limited
3 to 50% of that specified in par. (b).

4 **SECTION 5.** 91.06 of the statutes is renumbered 91.06 (1) and amended to read:

5 91.06 (1) CERTIFICATION BY BOARD. The Before the effective date of this
6 subsection [revisor inserts date], the board shall review farmland preservation
7 plans and exclusive agricultural use zoning ordinances submitted to it under ss.
8 91.61 and 91.78 and shall certify to the appropriate zoning authority whether the
9 plans and ordinances meet the standards of subchs. IV and V, respectively.
10 Certifications may be in whole or in part.

11 **SECTION 6.** 91.06 (2) and (3) of the statutes are created to read:

12 91.06 (2) CERTIFICATION OF PLANS. (a) Beginning on the effective date of this
13 paragraph [revisor inserts date], all of the following apply:

14 1. The department may certify a county farmland preservation plan or revision
15 to a county farmland preservation plan based on the county certification under s.
16 91.61 (2) (d).

17 2. The department may do any of the following before it determines whether
18 to certify a county's farmland preservation plan or revision to a plan:

19 a. Review the plan or revision for compliance with ss. 91.51 to 91.59.

20 b. Review and audit the application for certification under s. 91.61 (2).

21 (b) The department shall grant or deny an application for certification under
22 s. 91.61 (2) in writing no later than the 90th day following receipt of a complete
23 application, unless the county agrees to an extension.

24 (c) The department may grant an application for certification under s. 91.61 (2)
25 subject to conditions specified by the department in its certification decision. The

1 department may revoke the certification if the county does not make the required
2 changes by a deadline specified by the department.

3 (d) For the purposes of this chapter and subch. IX of ch. 71, a certified farmland
4 preservation plan does not include a revision to the plan adopted after the effective
5 date of this paragraph [revisor inserts date], unless the department certifies the
6 revision under par. (b).

7 **(3) CERTIFICATION OF ORDINANCES.** (a) Beginning on the effective date of this
8 paragraph [revisor inserts date], all of the following apply:

9 1. The department may certify an exclusive agricultural use zoning ordinance
10 or revision to an ordinance based on the certification under s. 91.78 (2) (d).

11 2. The department may do any of the following before it determines whether
12 to certify an exclusive agricultural use zoning ordinance or revision to an ordinance:

13 a. Review the ordinance or revision for compliance with ss. 91.75 and 91.77.

14 b. Review and audit the application for certification under s. 91.78 (2).

15 (b) The department shall grant or deny an application for certification under
16 s. 91.78 (2) in writing no later than the 90th day following receipt of a complete
17 application, unless the county, city, village, or town agrees to an extension.

18 (c) The department may grant an application for certification under s. 91.78 (2)
19 subject to conditions specified by the department in its certification decision. The
20 department may revoke the certification if the county, city, village, or town does not
21 make the required changes by a deadline specified by the department.

22 **SECTION 7.** 91.13 (8) (fm) of the statutes is amended to read:

23 91.13 (8) (fm) A statement in boldface uppercase type that contains the
24 following language: ~~“UPON RELINQUISHMENT—(WITHDRAWAL OR~~

1 ~~EXPIRATION) OF FROM THIS AGREEMENT, A PAYBACK OF CREDITS WITH~~
2 ~~INTEREST PAYMENT TO THE STATE MAY BE REQUIRED.”~~

3 **SECTION 8.** 91.17 (1) of the statutes is amended to read:

4 91.17 (1) Land subject to a farmland preservation agreement may be sold
5 without a lien being filed payment being made under s. 91.19 (7m), subject to the
6 reservation of rights contained in the agreement. The seller shall notify the
7 department of any such transfer. ~~The purchaser shall be liable under any~~
8 ~~subsequent lien under s. 91.19 only for the amount of tax credits paid on that portion~~
9 ~~of the land purchased.~~

10 **SECTION 9.** 91.17 (2) of the statutes is amended to read:

11 91.17 (2) When the owner of land subject to a farmland preservation agreement
12 dies or is certified by a physician to be totally and permanently disabled, the land
13 may be released from the program under this chapter and shall not be subject to a
14 lien payment under s. 91.19 (8) (7m).

15 **SECTION 10.** 91.17 (3) of the statutes is repealed.

16 **SECTION 11.** 91.19 (2) (intro.) of the statutes is amended to read:

17 91.19 (2) (intro.) The Subject to sub. (7m), the department may relinquish the
18 farmland preservation agreement or may release part of the land from a farmland
19 preservation agreement prior to the termination date contained in the instrument
20 as follows:

21 **SECTION 12.** 91.19 (3) of the statutes is amended to read:

22 91.19 (3) If the request for relinquishment of the farmland preservation
23 agreement or release of part of the land from the agreement is approved by the local
24 governing body having jurisdiction, a copy of the application, along with the
25 comments and recommendations of the reviewing agencies, shall be forwarded to the

1 ~~board department.~~ The ~~board department~~ shall, within 60 days, upon consideration
2 of the factors in sub. (2) (b) and (c) 2., approve or reject the application for
3 relinquishment or release. If the ~~board department~~ approves the application it shall
4 notify the local governing body having jurisdiction and the department of revenue,
5 ~~prepare an instrument under sub. (7) and record it with the register of deeds of the~~
6 ~~county in which the land is located.~~

7 **SECTION 13.** 91.19 (5) of the statutes is amended to read:

8 91.19 (5) If the application for relinquishment of the agreement or release of
9 part of the land from the agreement is rejected by the local governing body having
10 jurisdiction, the application shall be returned to the applicant with a written
11 statement regarding the reasons for rejection. Within 30 days after receipt of the
12 rejected application, the applicant may appeal the rejection to the ~~board department~~.
13 The ~~board department~~ shall, within 60 days after the appeal has been received, upon
14 consideration of the factors listed in sub. (2) (b) and (c) 2., approve or reject the
15 request for relinquishment or release. If the ~~board department~~ approves the
16 application it shall notify the local governing body having jurisdiction and the
17 department of revenue, ~~prepare an instrument under sub. (7) and record it with the~~
18 ~~register of deeds of the county in which the land is located.~~

19 **SECTION 14.** 91.19 (6p) of the statutes is repealed.

20 **SECTION 15.** 91.19 (6s) (a) 1. of the statutes is amended to read:

21 91.19 (6s) (a) 1. An application for release of the land, made by either the owner
22 or the local unit of government, is approved by the local governing body having
23 jurisdiction and the ~~board department~~ under the procedures of subs. (2) to (5).

24 **SECTION 16.** 91.19 (6s) (b) of the statutes is amended to read:

1 91.19 (6s) (b) If an owner of land subject to a farmland preservation agreement
2 opposes an application brought by a local unit of government for release of that land,
3 the owner may appeal the approval of that application by the local governing body
4 having jurisdiction to the board department according to the procedures in par. (c).

5 **SECTION 17.** 91.19 (6s) (c) of the statutes is amended to read:

6 91.19 (6s) (c) If the application for release of any land from the agreement is
7 approved by the local governing body having jurisdiction, the application shall be
8 returned to the applicant, and a copy of the application to the owner, with a written
9 statement regarding the reasons for approval. Within 30 days after receipt of a copy
10 of the approved application, the owner may appeal the approval to the board
11 department. The board department shall, within 60 days after the appeal has been
12 received, upon consideration of the factors listed in sub. (2) (b) and (c) 2., approve or
13 reject the request to disapprove the release. If the board department approves the
14 owner's appeal it shall notify the local governing body having jurisdiction.

15 **SECTION 18.** 91.19 (6s) (d) of the statutes is amended to read:

16 91.19 (6s) (d) The board department may waive its approval authority under
17 this subsection for applications affecting less than 5 acres of land.

18 **SECTION 19.** 91.19 (6t) of the statutes is amended to read:

19 91.19 (6t) The Subject to sub. (7m), the department shall relinquish from a
20 farmland preservation agreement land that has been subject to a farmland
21 preservation agreement for at least 10 years if the owner of the land so requests.

22 **SECTION 20.** 91.19 (7) of the statutes is repealed.

23 **SECTION 21.** 91.19 (7m) of the statutes is created to read:

24 91.19 (7m) (a) Except as provided in par. (b), the department may not
25 relinquish a farmland preservation agreement under sub. (3), (5), or (6t) or release

1 land from a farmland preservation agreement under sub. (3) or (5) until the owner
2 pays to the department \$100 per acre of land that is no longer covered by the
3 farmland preservation agreement.

4 (b) The payment under par. (a) does not apply to land that is zoned exclusively
5 for agricultural use under an ordinance certified under subch. V.

6 **SECTION 22.** 91.19 (8) to (13) of the statutes are repealed.

7 **SECTION 23.** 91.21 (1) of the statutes is amended to read:

8 91.21 (1) If the owner or a successor in title of the land upon which a farmland
9 preservation agreement has been recorded under this chapter changes the use of the
10 land to a prohibited use without first acting under ss. 91.17 and 91.19 and the land
11 is not relinquished under s. 91.19 (6p) or (6t), the owner or successor in title may be
12 enjoined by the state, acting through the attorney general, or by the local governing
13 body having jurisdiction, acting through its attorney, and is subject to a civil penalty
14 for actual damages, but in no case to exceed double the value of the land as
15 established at the time the application for the agreement was approved.

16 **SECTION 24.** 91.23 of the statutes is amended to read:

17 **91.23 Conversion.** An owner under a farmland preservation agreement may
18 at any time apply for a transition area agreement, and an owner under a transition
19 area agreement may at any time apply for a farmland preservation agreement. If
20 such an application is approved, the prior agreement shall be relinquished without
21 a lien being filed payment being made under s. 91.19 (7m).

22 **SECTION 25.** Subchapter III of chapter 91 [precedes 91.31] of the statutes is
23 repealed.

24 **SECTION 26.** 91.59 (title) of the statutes is amended to read:

25 **91.59 (title) Coordination; public comment.**

1 **SECTION 27.** 91.59 (2m) of the statutes is created to read:

2 **91.59 (2m)** A county shall make a proposed agricultural preservation plan or
3 revision to a plan available to the public for at least 30 days before the public hearing
4 under s. 59.69 (3) (d) and shall accept comments from the public during that time.

5 **SECTION 28.** 91.61 of the statutes is renumbered 91.61 (1) and amended to read:

6 **91.61 (1)** ~~Upon~~ Before the effective date of this subsection [revisor inserts
7 date], upon completion of a county agricultural preservation plans plan described in
8 this subchapter, copies of the plan may be submitted to the board for review and
9 certification under s. 91.06.

10 **SECTION 29.** 91.61 (2) of the statutes is created to read:

11 **91.61 (2)** Beginning on the effective date of this subsection [revisor inserts
12 date], to apply for certification under s. 91.06 for a county agricultural preservation
13 plan or a revision to the plan, a county shall submit all of the following to the
14 department:

15 (a) A copy of the plan or revision to the plan.

16 (b) A description of how the plan or revision to the plan complies with ss. 91.51
17 to 91.59.

18 (c) Other relevant information required by the department by rule.

19 (d) A statement signed by the county corporation counsel certifying that the
20 plan or revision to the plan complies with ss. 91.51 to 91.59.

21 **SECTION 30.** 91.75 (6) of the statutes is amended to read:

22 **91.75 (6)** For purposes of farm consolidation and if permitted by local
23 regulation, farm residences or structures ~~which~~ that existed prior to the adoption of
24 the ordinance may be separated from a larger farm parcel. Farm residences or
25 structures with up to 5 acres of land ~~which~~ that are separated from a larger farm

1 parcel under this section are not subject to the lien under s. 91.19 (8) to (10), as
2 payment required in s. 91.77 (2) or 91.79.

3 **SECTION 31.** 91.77 (2) of the statutes is amended to read:

4 91.77 (2) ~~Land which is rezoned~~ Except as otherwise provided in this
5 subsection, rezoning under this section shall be subject to the lien provided under s.
6 91.19 (8) to (10) for the amount of tax credits paid on the land rezoned may not be
7 completed until the landowner makes a payment of \$100 per acre of land that is
8 rezoned to the county, city, village, or town that approves the petition. If the rezoning
9 occurs solely as a result of action initiated by a governmental unit, ~~any lien required~~
10 under s. 91.19 (8) to (10) other than the county, city, village, or town that approves
11 the petition, the payment shall be paid made by the governmental unit initiating the
12 action. If the rezoning occurs solely as a result of action initiated by the county, city,
13 village, or town that approves the petition, that county, city, village, or town shall
14 make the payment to the department.

15 **SECTION 32.** 91.78 of the statutes is renumbered 91.78 (1) and amended to read:

16 91.78 (1) ~~Copies~~ Before the effective date of this subsection [revisor inserts
17 date], copies of exclusive agricultural zoning ordinances may be submitted to the
18 board for review and certification under s. 91.06.

19 **SECTION 33.** 91.78 (2) of the statutes is created to read:

20 91.78 (2) Beginning on the effective date of this subsection [revisor inserts
21 date], to apply for certification under s. 91.06 for an exclusive agricultural use zoning
22 ordinance or a revision to the ordinance, a county, city, village, or town shall submit
23 all of the following to the department:

24 (a) A copy of the ordinance or revision to the ordinance.

1 (b) A description of how the ordinance or revision to the ordinance complies
2 with ss. 91.75 and 91.77.

3 (c) Other relevant information required by the department by rule.

4 (d) A statement signed by the chief elected official, as defined in s. 229.821 (3),
5 of, or the attorney for, the county, city, village, or town certifying that the ordinance
6 or revision to the ordinance complies with ss. 91.75 and 91.77.

7 **SECTION 34.** 91.79 of the statutes is amended to read:

8 **91.79 Conditional uses; lien payment.** ~~Any land zoned under this~~
9 ~~subchapter which is granted~~ A county, city, village, or town may not grant a special
10 exception or conditional use permit for a use which is not an agricultural use shall
11 ~~be subject to the lien provided under s. 91.19 (8) to (10) for the amount of tax credits~~
12 ~~paid on the land granted such a permit~~ for land zoned under this subchapter until
13 the landowner pays to the county, city, village, or town \$100 per acre of land for which
14 the special exception or conditional use permit is granted.

15 **SECTION 9303. Initial applicability; Agriculture, Trade and Consumer**
16 **Protection.**

17 (1) FARMLAND PRESERVATION CONVERSION FEES. The treatment of sections 91.17
18 (1), (2), and (3), 91.19 (2) (intro.), (3), (5), (6t), (7), (7m), and (8) to (13), 91.23, 91.75
19 (6), 91.77 (2), and 91.79 of the statutes first applies to land that is released or
20 relinquished from a farmland preservation agreement or rezoned from exclusive
21 agricultural zoning on the effective date of this subsection.

22 **SECTION 9403. Effective dates; Agriculture, Trade and Consumer**
23 **Protection.**

24 (1) FARMLAND PRESERVATION CHANGES. The treatment of sections 71.60 (1) (b) and
25 (c) 3., 5., and 8., 91.13 (8) (fm), 91.17 (1), (2), and (3), 91.19 (2) (intro.), (3), (5), (6p),

1 (6s) (a) 1., (b), (c), and (d), (6t), (7), (7m), and (8) to (13), 91.21 (1), 91.23, 91.59 (title)
2 and (2m), 91.75 (6), 91.77 (2), and 91.79 and subchapter III of chapter 91 of the
3 statutes, the renumbering and amendment of sections 91.06, 91.61, and 91.78 of the
4 statutes, the creation of sections 91.06 (2) and (3), 91.61 (2), and 91.78 (2) of the
5 statutes, and SECTION 9303 (1) of this act take effect on October 1, 2007, or the day
6 after publication, whichever is later.

7

(END)