

Tax Relief for Disaster and Destroyed Property

Minnesota Laws 2007 1st Special Session, Chapter 2, Article 3, Sections 6-12 established new tax relief for disasters and destroyed property under M.S. 273.1231 to 273.1235, that replaces both the old disaster credit and the local option reductions that had been provided under M.S. 273.123. The new statutes consist of definitions (273.1231), general provisions (273.1232), and separate sections providing three specific forms of relief:

- (1) **local option disaster abatements** (273.1233) for taxes payable in the year of the disaster or destruction;
- (2) **homestead disaster credits** (273.1234) for taxes payable the year following the disaster (relating to the assessment year in which the disaster occurred); and
- (3) **local option disaster credits** (273.1235) for taxes payable the year following the disaster or destruction (relating to the assessment year in which the disaster or destruction occurred).

Note that relief is not necessary for the assessment year following the year of the disaster (for taxes payable in the second following year), or any years thereafter, because the normal course of assessment and taxation will reflect the value as damaged or rebuilt.

What's Changed?

Generally

The new disaster relief provisions continue to provide tax relief on largely the same basis as before with a homestead disaster credit applied to taxes payable in the year following the disaster, and local option relief available for both disaster situations and more isolated destruction for both taxes payable in the year of the destruction and for taxes payable in the following year.

The big difference is that the disaster-related relief has been made more generous for qualifying disaster or emergency situations. Whereas, the old approach simply sought to recognize an adjusted average value for the assessment year based on an apportionment of the original January 2 value for the time prior to the disaster and the reassessed value for only the portion of the year for which it was damaged; the new approach is more assistance-oriented and allows recognition of the reassessed value for the whole year. In addition to the more generous calculation, the new law broadens relief by reimbursing local option abatements and credits, along with the homestead credits, when the property is in a qualifying disaster or emergency area, (whereas prior law only reimbursed credits to homesteads). The more narrow apportionment of relief, without reimbursement, does still apply, however, to destruction that does not meet the criteria of being in a disaster or emergency area.

Specific Changes

- Homestead disaster credits, local option abatements, and local option disaster credits will not be pro-rated by the number of months the structure was unusable when granted in a disaster or emergency area. (Local option abatements and credits for destroyed properties that are not in a disaster or emergency area are still calculated using the pro-ration.)
- Local option abatements and credits granted by the county board for damage that occurs in a disaster or emergency area will be reimbursed by the state. (There is still no reimbursement for damage outside a disaster or emergency area.)

- The implementation of local option reductions are formalized by making the relief in the year of the damage an abatement and making relief in the following year a credit (under separate sections).
- Local option abatements for state-assessed property are to be determined and granted through the commissioner of revenue instead of the county board.
- Local option abatements and credits are also now allowed in cases of arson. (This was a consensus provision in the 2007 vetoed tax bill that was incorporated in the new language.)
- The definition of “disaster or emergency area” was changed to incorporate the application requirements necessary for approval by the Executive Council. One of the requirements was changed—in recognition of the additional relief for properties other than homesteads—from requiring damage to at least 25 homes or 1% of homestead market value, to requiring damage to at least 25 buildings or 1% of building market value.
- The definition of “homestead property” added missing references to class 1b and 1c property.
- A definition was added for “nonhomestead property” to be any class of property other than: 1) homestead property; and 2) property that is state-assessed.
- A definition was added for “net tax” to clarify that it means both market value and net tax capacity taxes, including the state property tax, after subtraction for all other credits, but excluding special assessments regardless of their computation.
- A definition was added for “reassessed market value” to clarify that it means the January 2 value adjusted by the county (or the commissioner of revenue in regards to state-assessed property) to reflect the loss in market value caused by the damage, and to require that this value be reported to the county auditor as soon as practical.

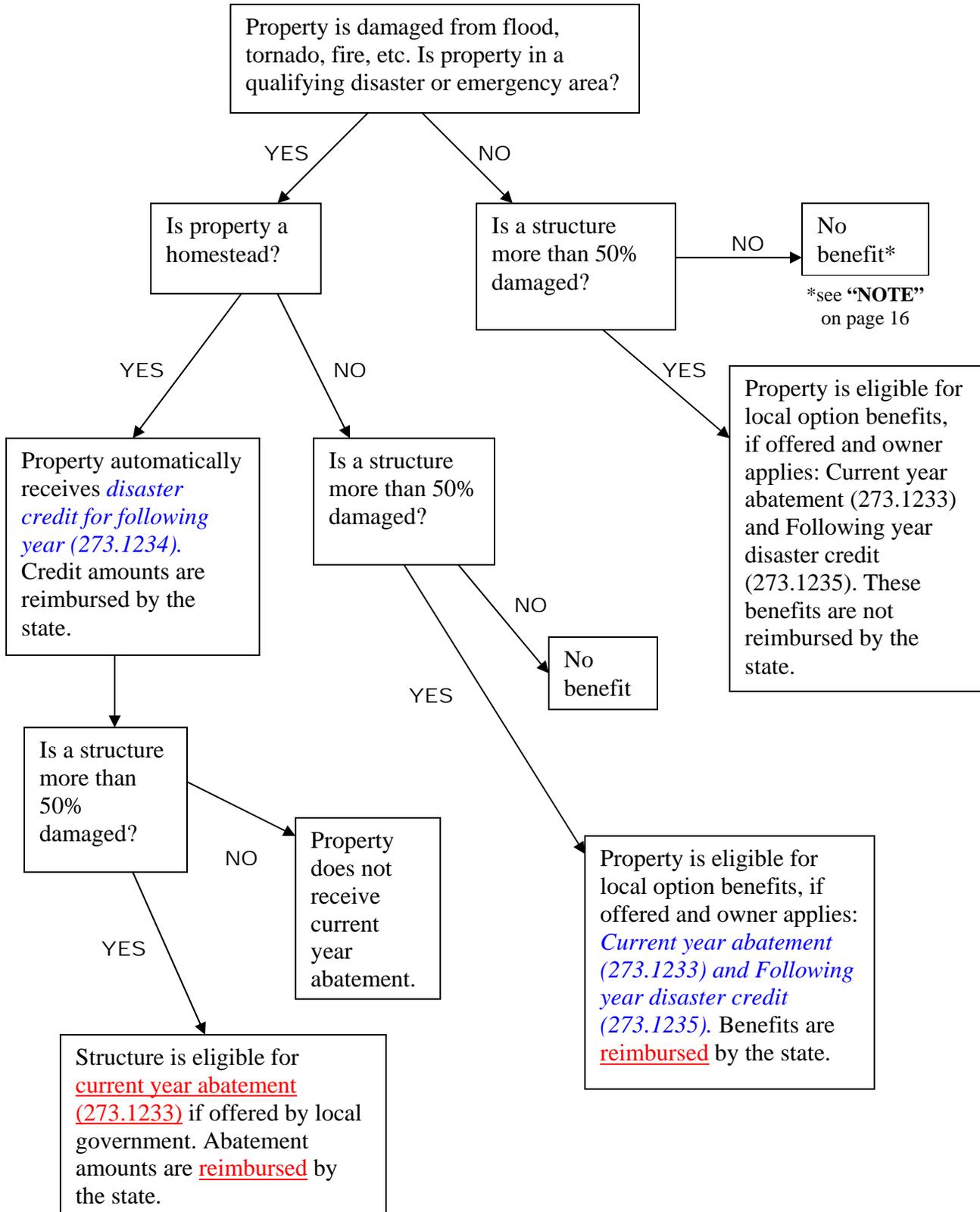
Effective Dates

- The effective date for arson-related relief is taxes payable 2006 and thereafter.
- The effective date for property damaged on or after September 13, 2007, is taxes payable 2007 (which would only effectively apply to local option abatements for taxes payable 2007) and thereafter.
- The effective date for all other disaster relief is taxes payable 2008 and thereafter (which means eligible property damaged by the SE Minnesota Floods or Ham Lake Fire in 2007 are subject to the new credit provisions, but would be subject to the old statute for any local option abatements of taxes payable in 2007 in the unlikely event that those provisions would be used instead of the reimbursable special abatements also adopted in the 2007 1st Special Session and described in separate documentation).

Flow Charts

The first flow chart on the following page provides one illustration of the new tax relief provisions with the changes highlighted. Two more detailed flow charts follow, the first for the local option disaster abatement and the second covering the homestead disaster credit and the local option disaster credit. (See the “NOTE” found under the eligibility discussion of the local option credit under M.S. 273.1235 for an important clarification relative to these charts.)

2007 Special Session: Disaster Relief Flow Chart

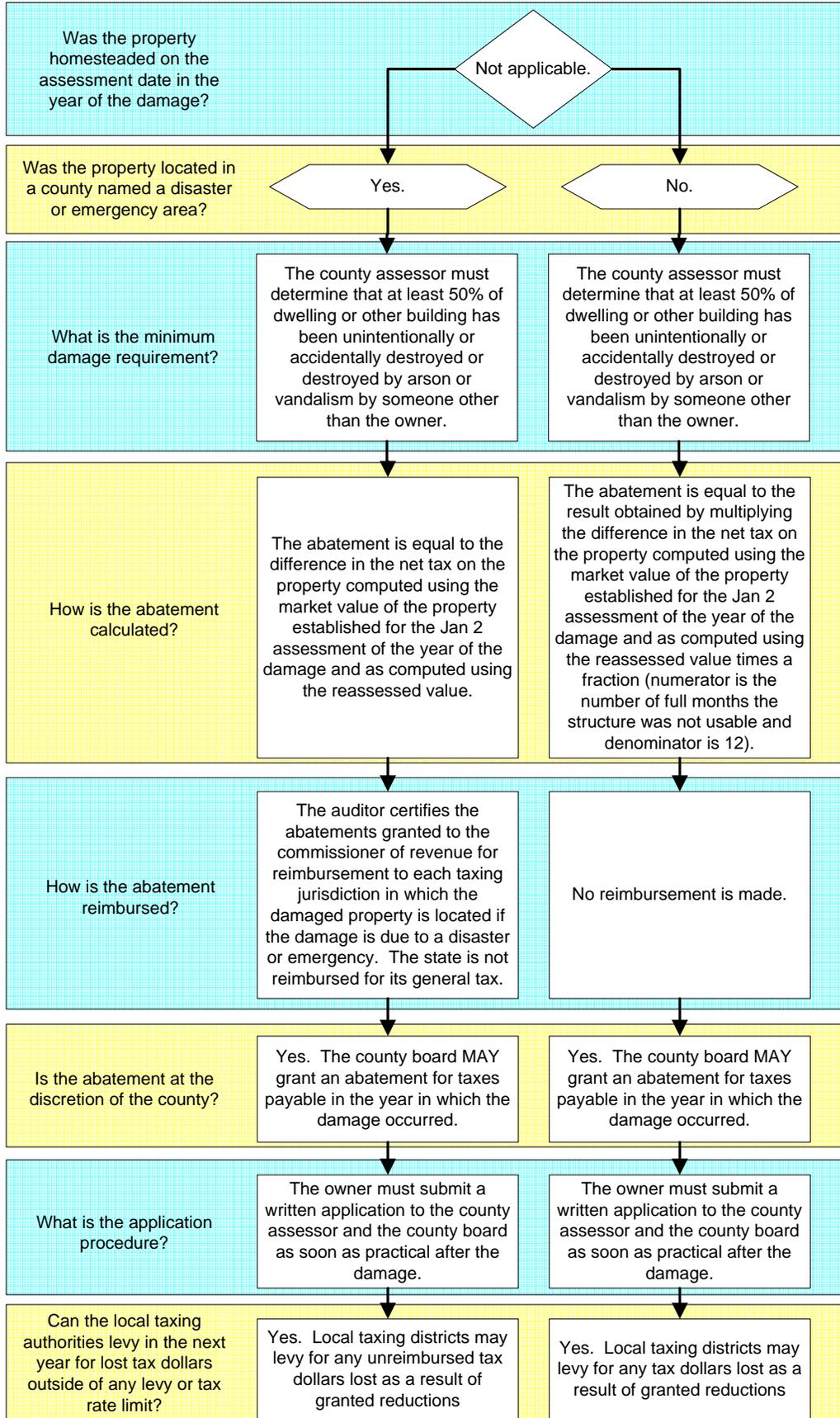


Red underlined provisions are new benefits not in the previous law (273.123).

Blue italicized provisions are existing benefits made more generous – ratio of months of damage is replaced with use of lower (damaged) market value for calculating following year credit.

LOCAL OPTION DISASTER ABATEMENT

(for taxes payable the year in which the destruction occurs)



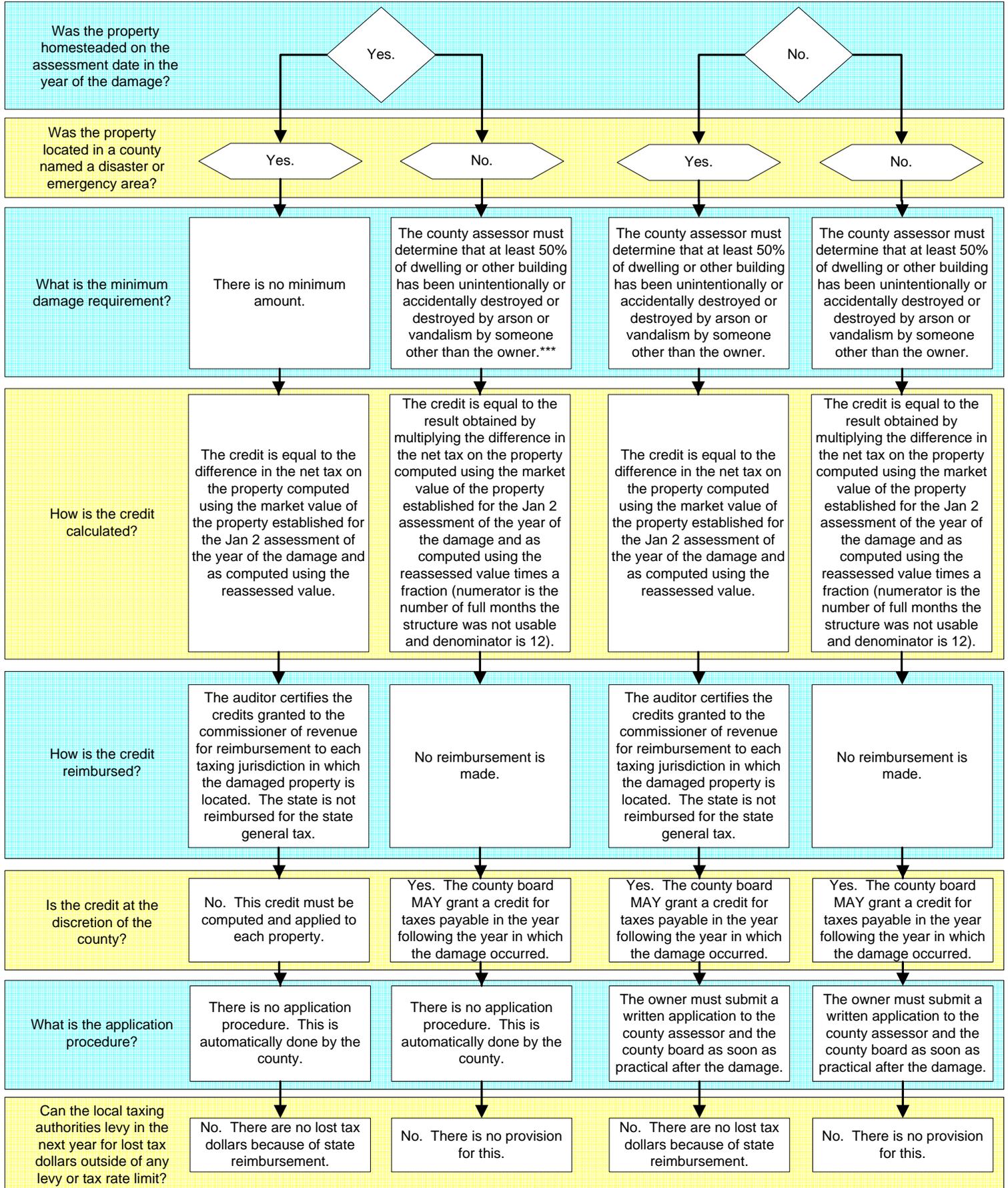
Statutory Reference

M.S. 273.1233

M.S. 273.1233

HOMESTEAD DISASTER CREDIT and LOCAL OPTION DISASTER CREDIT

(for taxes payable the year following the damage)



Statutory Reference

M.S. 273.1234

M.S. 273.1235

M.S. 273.1235

M.S. 273.1235

*** See "NOTE" on page 16

Revised 09/2007