

SENATE BILL No. 565

October 24, 1991, Introduced by Senators BARCIA, KELLY, FAUST, MILLER and MC MANUS and referred to the Committee on Agriculture, Forestry, and Wildlife.

A bill to provide for the establishment of private forest reserves; to prescribe the powers and duties of certain state agencies and officials; to provide for certain taxes, credits, penalties, and fees; to prescribe penalties; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "private forest reserve act".

3 Sec. 2. As used in this act:

4 (a) "Department" means the department of natural resources.

5 (b) "Director" means the director of the department.

6 (c) "Forest management plan" means a detailed plan of the
7 forest products that are to be planted, harvested, or removed
8 from the private forest reserve. The forest management plan

1 shall also include a detailed timetable for planting, harvesting,
2 and removing forest products.

3 (d) "Fund" means the private forest reserve fund created
4 pursuant to section 10.

5 (e) "Person" means an individual, partnership, corporation,
6 association, governmental entity, or other legal entity.

7 (f) "Private forest reserve" or "private forest reserves"
8 means a woodlot that is designated a private forest reserve under
9 section 3.

10 (g) "Rule" means a rule promulgated pursuant to the adminis-
11 trative procedures act of 1969, Act No. 306 of the Public Acts of
12 1969, being sections 24.201 to 24.328 of the Michigan Compiled
13 Laws.

14 (h) "Single business tax act" means the single business tax
15 act, Act No. 228 of the Public Acts of 1975, being sections 208.1
16 to 208.145 of the Michigan Compiled Laws.

17 (i) "State income tax act" means the income tax act of 1967,
18 Act No. 281 of the Public Acts of 1967, being sections 206.1 to
19 206.532 of the Michigan Compiled Laws.

20 (j) "Woodlot" means a tract of land consisting of not less
21 than 20 acres and less than 100 acres that does not contain mate-
22 rial natural resources other than forest growth or the potential
23 for forest growth that is not used for mineral extraction, indus-
24 trial, developed recreational, or resort purposes, and upon which
25 the owner proposes to develop, maintain, and actively manage a
26 forest through planting, natural reproduction, or other forest
27 management practices. Woodlot may include nonproductive land

1 including a homestead and agricultural land that is intermixed
2 with a productive woodlot that is an integral part of a managed
3 forest.

4 Sec. 3. (1) The owner of a woodlot located within this
5 state may apply to the department to have that woodlot designated
6 as a private forest reserve under this act.

7 (2) To be eligible for designation as a private forest
8 reserve under this act, a woodlot shall be capable of all of the
9 following:

10 (a) Producing not less than 20 cubic feet per acre per year
11 of forest growth upon maturity.

12 (b) Sufficient forest growth of suitable character as deter-
13 mined by the department by rule and distributed to give assurance
14 that a stand of merchantable timber will be developed within a
15 reasonable period of time.

16 (3) Application shall be on a form prescribed by the
17 department. In addition to any information that the department
18 may reasonably require by rule, the applicant shall provide all
19 of the following to the department:

20 (a) A nonrefundable application fee in the amount of
21 \$50.00. The department shall remit the application fee to the
22 treasurer for deposit into the fund.

23 (b) A legal description and the amount of acreage considered
24 for determination as a private forest reserve.

25 (c) A forest management plan.

26 Sec. 4. (1) Upon receipt of the application, the forest
27 management plan, and application fee described in section 3, the

1 department shall evaluate the woodlot and fix a date for a public
2 hearing upon the eligibility of the woodlot for designation as a
3 private forest reserve. The hearing shall be held in the county
4 where the land is located not later than November 1 following
5 receipt of an application filed before October 1. Applications
6 offering lands in the same county may be heard on the same day
7 and at the same place. The department shall publish notice of
8 hearing and a list of the legal descriptions of lands being con-
9 sidered for designation as private forest reserves in a newspaper
10 of general circulation in the county in which the land is
11 located. The notice of hearing shall be published at least 20
12 days before the date of the hearing. At the time of publication,
13 the department shall provide a copy of the notice of hearing and
14 a list of descriptions of land in each township to be considered
15 for designation as a private forest reserve to each township
16 supervisor in whose township the lands are located. Any person
17 who wishes may testify as to eligibility for designation as a
18 private forest reserve of any of the described lands. The hear-
19 ing shall be conducted by the director of the department or an
20 employee designated by the director.

21 (2) After the hearing, if the department determines that the
22 applicant and woodlot meet the requirements of this act and
23 determines that all valid taxes assessed against that woodlot
24 have been paid, the department shall approve the application and
25 designate the woodlot as a private forest reserve. Upon approval
26 of the application, the department shall immediately record the
27 application in the register of deeds office in the county in

1 which the land is located with the department approval endorsed
2 on the application and forward a copy of the approved application
3 to the applicant and to the township supervisor of the township
4 in which the land is located.

5 Sec. 6. Property designated as a private forest reserve
6 under Act No. 86 of the Public Acts of 1917, being sections
7 320.271 to 320.281 of the Michigan Compiled Laws, as of
8 December 31, 1992 is designated as a private forest reserve under
9 this act. Before January 1, 1998, an owner of a private forest
10 reserve designated under this section shall prepare and file a
11 forest management plan with the department. If an owner of a
12 private forest reserve fails to prepare and file a forest manage-
13 ment plan under this section, the department shall declassify the
14 owner's private forest reserve pursuant to section 15.

15 Sec. 7. (1) Except as provided in subsection (9), an owner
16 of a private forest reserve may withdraw his or her land, in
17 whole or in part, from the operation of this act upon application
18 to the department and payment of the withdrawal application fee,
19 penalty, and fee, if any, as provided in this section.

20 (2) Upon application to the department to withdraw a private
21 forest reserve, the applicant shall forward to the department a
22 withdrawal application fee in the amount of \$100.00 per
23 application.

24 (3) Except as provided in subsections (4), (5), and (9), an
25 application to withdraw a private forest reserve from this act
26 shall be granted upon the payment to the department of a penalty
27 equal to the sum of all credits received by the owner of the

1 private forest reserve for the last 7 years under section 38d of
2 the single business tax act and section 264 of the state income
3 tax act, together with a stumpage fee of 10% of the full stumpage
4 value of the merchantable forest products located in the private
5 forest reserve as determined by the department.

6 (4) An application to withdraw land that is condemned for
7 public use shall be granted upon the payment to the department of
8 a stumpage fee of 10% of the full stumpage value of the merchant-
9 able forest products located in the private forest reserve as
10 determined by the department. Private forest reserves withdrawn
11 under this subsection are exempt from the payment of an applica-
12 tion fee and penalty under this section.

13 (5) An application to withdraw a private forest reserve that
14 meets either of the following shall be granted without payment of
15 the withdrawal application fee, the stumpage fee, or any penalty
16 under this act:

17 (a) A private forest reserve that has been donated to a
18 public body of this state for public use as determined by the
19 department.

20 (b) A private forest reserve that has been exchanged with
21 property belonging to a public body if the property received is
22 designated as a private forest reserve as determined by the
23 department.

24 (6) The department shall remit the withdrawal application
25 fee under subsection (2) and the stumpage fees under
26 subsections (3) and (4) to the treasurer for deposit into the
27 fund pursuant to section 10.

1 (7) The department shall remit the penalty paid pursuant to
2 subsection (3) to the treasurer for deposit into the general
3 fund.

4 (8) If an application to withdraw a private forest reserve
5 is granted, the department shall immediately notify the appli-
6 cant, the supervisor of the township, and the register of deeds
7 of the county in which the lands are located of the action and
8 shall file with those officials a list of the lands withdrawn.

9 (9) An owner of property that is designated as a private
10 forest reserve pursuant to section 6 may withdraw his or her pri-
11 vate forest reserve by application to the department not more
12 than 1 year after the effective date of this act without the pay-
13 ment of a withdrawal application fee, stumpage fee, or penalty.

14 Sec. 8. (1) An owner of a private forest reserve who
15 desires to cut or remove merchantable forest products from his or
16 her land shall file an application with the department for a
17 permit to cut or remove merchantable forest products. The appli-
18 cation for a permit to cut or remove merchantable forest products
19 shall state all of the following:

20 (a) A description of land from which forest products are to
21 be cut or removed.

22 (b) The class, the approximate amount, the approximate acre-
23 age, and the approximate unit stumpage value of each forest prod-
24 uct proposed to be cut or removed at the place of cutting or
25 removal.

26 (2) If more than 1 harvesting operation is planned within a
27 township, the department may issue a single master permit.

1 (3) The owner of a private forest reserve is entitled to a
2 permit to cut or remove merchantable forest products on that land
3 without withdrawing it or affecting its status as a private
4 forest reserve and without payment of a fee or penalty. A person
5 shall not cut or remove merchantable forest products from a pri-
6 vate forest reserve without a permit issued by the department.

7 Sec. 9. After a permit is issued, the owner shall report to
8 the department the quantity of each kind and class of forest
9 products cut or removed. The report shall be on a form pre-
10 scribed by the department. A report shall be submitted to the
11 department within 1 year after the date the permit was issued.

12 Sec. 10. (1) The private forest reserve fund is hereby cre-
13 ated within the state treasury.

14 (2) The state treasurer shall deposit the money collected
15 from the following sources into the fund:

16 (a) The application fee pursuant to section 3(3)(a).

17 (b) The withdrawal application fee pursuant to
18 section 7(2).

19 (c) The stumpage fee pursuant to section 7(3) and (4).

20 (3) The state treasurer may receive money or other assets
21 from any source for deposit into the fund. The state treasurer
22 shall direct the investment of the fund. The state treasurer
23 shall credit to the fund interest and earnings from fund
24 investments.

25 (4) Money in the fund appropriated from the general fund
26 shall remain in the fund at the close of the fiscal year and
27 shall not lapse to the general fund.

1 (5) The department shall expend the money from the fund,
2 upon appropriation, for enforcement and monitoring of compliance
3 with this act and rules promulgated under this act.

4 Sec. 11. (1) The owner of a private forest reserve shall
5 not use that land in a manner that is prejudicial to its develop-
6 ment as a private forest reserve and shall not use the land for
7 commercial purposes. The general public has the right of access
8 to private forest reserves as provided in subsection (2) or (3).

9 (2) Except as provided in subsection (3), the general public
10 has the privilege of hunting, fishing, and other nonmotorized day
11 use on all private forest reserves unless the private forest
12 reserves are closed for the designated activity by order of the
13 commission of natural resources or by an act of the legislature.

14 (3) The owner of a private forest reserve may limit public
15 access to the owner's private forest reserve by notifying the
16 department on a form prescribed by the department before
17 January 1 of the year that the owner desires to limit public
18 access. The department may enter into an agreement with an owner
19 of a private forest reserve to provide for limited public access
20 for a period of up to 10 years.

21 (4) Exploration for minerals shall be permitted on land
22 listed under this act. If commercial mineral deposits are dis-
23 covered, before extraction is undertaken, the private forest
24 reserve affected shall be withdrawn from this act and all fees
25 and penalties shall be paid pursuant to section 7(2) and (3).

26 Sec. 12. All applications, statements, and information
27 required by the department in the administration of this act

1 shall be on forms prescribed by the department and shall be under
2 oath.

3 Sec. 13. On application of the owner, the department may
4 extend the period specified in cutting permits. The department
5 may shorten or revoke permits to cut if fraud or other proper
6 cause is found to exist as determined by the department.

7 Sec. 14. (1) The transfer of title of any woodlot shall not
8 affect the status of the land as a private forest reserve.

9 (2) A document that transfers any interest in a private
10 forest reserve shall state on the face of the document that "this
11 property is subject to the private forest reserve act".

12 Sec. 15. If an owner of a private forest reserve makes use
13 of the private forest reserve in a manner that is inconsistent
14 with this act, the department may upon notice to the owner and a
15 hearing, remove the designation of all or a portion of the mis-
16 used private forest reserve. If, at the hearing, the department
17 determines that any portion or all of the private forest reserve
18 is being used in a manner inconsistent with this act, then the
19 department shall remove the designation as a private forest
20 reserve and serve a notice of that removal upon the owner and
21 record a copy of that removal in the office of the register of
22 deeds of the county in which the lands are located. Within 90
23 days after the service of the notice of the removal on the owner,
24 the owner shall pay to the department the withdrawal application
25 fee described in section 7(2) and the penalty and stumpage fee
26 described in section 7(3).

1 Sec. 16. A duly authorized representative of the department
2 may at any time go upon any private forest reserve to ascertain
3 the validity of any return or report made pursuant to this act by
4 an owner or agent of the owner. The duly authorized representa-
5 tive of the department has the power to examine or cause to be
6 examined any books, papers, records, or memorandum bearing upon
7 the amounts of timber products cut from the private forest
8 reserve.

9 Sec. 17. (1) Except as provided in subsection (2), a person
10 who violates this act by harvesting, cutting, or removing forest
11 products in violation of his or her forest management plan, with-
12 out a permit, or in violation of his or her permit is guilty of a
13 felony punishable by imprisonment for not more than 3 years or a
14 fine of not more than \$10,000.00, or both.

15 (2) A person who does any of the following is guilty of a
16 misdemeanor, punishable by imprisonment for not more than 90
17 days, or a fine of not more than \$500.00, or both:

18 (a) Harvests, cuts, or removes forest products in violation
19 of his or her detailed forest management plan.

20 (b) Harvests, cuts, or removes forest products having a
21 value of \$2,500.00 or less without a permit or in violation of
22 the terms of a permit issued under this act.

23 (3) Upon conviction for a violation of this act, the court
24 may terminate the private forest reserve designation and require
25 the payment of the withdrawal application fee described in
26 section 7(2) and the penalty and stumpage fee described in
27 section 7(3).

1 Sec. 18. The department of natural resources shall
2 establish and maintain private forest reserves and may promulgate
3 rules as necessary to accomplish the purpose of this act.

4 Sec. 19. This act shall take effect January 1, 1993.

5 Sec. 20. Act No. 86 of the Public Acts of 1917, being
6 sections 320.271 to 320.281 of the Michigan Compiled Laws, is
7 repealed.

8 Sec. 21. This act shall not take effect unless all of the
9 following bills of the 86th Legislature are enacted into law:

10 (a) Senate Bill No. 563.

11

12 (b) Senate Bill No. 564.

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