



**A SUMMARY OF HOUSE BILL 4509 AS INTRODUCED 3-17-93**

The Commercial Forest Act of 1925 allows owners to have their woodlands exempted from the property tax if the Department of Natural Resources (DNR) certifies them as having enough growth to produce marketable lumber within a reasonable period. Once land is certified, its owners cannot use it for industrial, recreational, or other commercial purposes, and the public must be allowed hunting and fishing privileges at the discretion of the DNR. If they wish to harvest and sell timber, owners must obtain permits from the department and pay a yield or stumpage tax of ten percent of the stumpage value of the forest products gleaned. Instead of property taxes, township supervisors collect a specific tax of 38 cents per acre from owners of land classified as commercial forests, and the state pays counties 90 cents for each acre, which is distributed according to the regular distribution of property tax revenue to local governments. The specific tax and the state fees are adjusted every ten years based on a formula that measures growth in the state equalized value per acre of all timber cadaver land. (The current amounts were set in 1990 when the first such adjustments were made to the statutorily established amounts of 30 cents and 70 cents, respectively.) Owners who want their land removed from the program must pay, in addition to ten percent of the full stumpage value of merchantable forest products, a penalty equal to the current property tax times the number of years in the program, not to exceed seven. However, if land has been in the program for over 20 years or is being condemned or donated to a public body for public use, only the stumpage fee is due.

The bill would amend the commercial forest act (Public Act 94 of 1925) in the following ways:

Specific taxes and state payments. The bill would raise the specific tax by 72 cents per acre to \$1.10 per acre and raise the state payment by 50 cents per acre to \$1.20 per acre. It also would require that the specific tax and the state payment be adjusted in 2004 and every tenth year after (instead of every tenth year after 1990).

Classification as commercial forest. The bill would repeal the existing definition of "commercial forest" and instead define "forestland" and specify eligibility criteria for classification as a commercial forest. The forestland would have to be capable of producing: (a) not less than 20 cubic feet per acre per year of forest growth upon maturity; (b) trees with economic or commercial value; and (c) a commercial stand of timber within a "reasonable" period of time.

Application for classification would require a nonrefundable application fee of one dollar per acre (or fraction of an acre), with a maximum fee of \$1,000. In addition, the

applicant would have to give the Department of Natural Resources (DNR) a legal description of the land and the number of acres, a statement certifying that the owner of the forestland also owned the timber rights, and, for land of more than 500 acres, a statement certifying that a forest management plan had been prepared. Owners of more than 500 acres of commercial forest that had been designated before the bill took effect would have until January 1, 1997 to prepare a forest management plan and file a statement to that effect with the DNR. Owners who failed to file the required statement by January 1, 1997 would have their commercial forestland declassified (and would have to pay the declassification penalties).

The classification and hearing process would remain basically as they are now under the act.

Cutting forest products on commercial forestland. The bill would delete the existing requirement that a DNR permit be obtained before cutting forest products on commercial forestland. Instead, it would require that before cutting or removing any "merchantable" forest products, a "person" (i.e. individual, corporation, or other legal entity) "report" to the DNR. Owners could cut or remove merchantable forest products without withdrawing from the act if they did so in accordance with their forest management plan and the act. Owners further could cut or remove merchantable forest products for their "personal" use without paying any penalty or fee and without affecting the land's status as a commercial forest.

Transfer of commercial forestland. The bill would require that any document transferring an interest in commercial forestlands state that "this property is subject to the commercial forest act," and would require that the owner notify the DNR in writing not later than 30 days after the transfer or ownership change.

Public access to commercial forestland. Currently, the commercial forest act says that the owner may not use the land in a manner that would be prejudicial to its development as a commercial forest nor use the land for industrial, recreational, or other commercial purposes, or "enjoy exclusive privileges as to hunting and fishing". The general public must be "accorded the privilege of hunting and fishing" unless the land is closed to hunting or fishing, or both, by order of the DNR or state law.

The bill would say instead that owners of commercial forests could not use the land in a manner that was prejudicial to its development as a commercial forest, use the land for commercial purposes, or deny the general public the privilege of hunting, fishing, "and other public recreational activities that [were] not prejudicial to its development as a commercial forest" unless the land were closed by DNR order or state law.

Removal of mineral deposits. The bill would allow the removal deposits of sand, gravel, oil and gas from commercial forestlands without affecting the land's status as a commercial forest under the following circumstances:

Sand and gravel could be removed, with DNR approval, if the removal site were not more than 5 acres (excluding access to the removal site) and if the sand and gravel were for

the owner's personal use or for governmental use by the state, a local unit of government, or a county road commission.

Oil and gas owned by the state could be removed with DNR approval.

Withdrawal and declassification. The bill would establish withdrawal application fees of one dollar per acre, with minimum and maximum fees of \$200 and \$1,000, respectively. The bill also would establish two withdrawal penalty fees, depending on whether the forestland was designated commercial forestland before January 1, 1995 or after December 31, 1994. For lands classified before January 1, 1995, the withdrawal penalty would be based on current property taxes times the number of years in the program, not to exceed seven years. For lands classified after December 31, 1994, the penalty would be based on current property taxes times the number of years in the program, not to exceed 15 years. The bill would eliminate yield or stumpage fees on withdrawal.

Withdrawal and penalty fees would not be assessed on land (a) donated to a public body for public use; (b) condemned for public use; or (c) exchanged for government property that was designated as commercial forestland.

If the DNR declassified forestland (because the owner had used the land in violation of the act; failed to plant, harvest, or remove forest products in compliance with the forest management plan; failed to pay the specific tax; or removed minerals in violation of the act), the owner would have to pay fees as though he or she had voluntarily withdrawn from the act (i.e. fees equal to the withdrawal application fee and withdrawal penalty fee). Declassified land would be subject to property taxes 30 (instead of 90) days after the owner was notified of declassification.

Commercial forest fund. The bill would create a "commercial forest fund" in the treasury department to be used by the DNR for enforcing and monitoring compliance with the act. Money for the fund would come from:

- \* classification application fees;
- \* forest management plan fees [Note: the bill does not provide for forest management plan fees];
- \* withdrawal application fees;
- \* declassification fees; and
- \* general fund appropriations each fiscal year of 10 cents per acre of land in the program.

The fund would not lapse at the end of the fiscal year into the general fund.

Violations and penalties. Currently, all violations of the act are felonies punishable by imprisonment for up to 3 years and a fine of up to \$3,000. The bill would establish both felony and misdemeanor penalties. Cutting, harvesting, or removing forest products of \$2,500 or less would be a misdemeanor punishable by imprisonment for up to 90 days and a fine of up to \$500. Otherwise, harvesting, cutting, or removing forest products in violation of the act or of the forest management plan would be a felony punishable by imprisonment for up to 3 years and a fine of up to \$10,000.

**Other provisions.** The bill would officially name the act the "commercial forest act," and would repeal the existing legislative intent section of the act and instead specify the "intent and purpose" of the act, namely, "to encourage reforestation and proper forest management on lands valuable for those purposes."

**Repealer.** The bill would repeal four sections of the act: Section 1a, which specifies the legislative intent of the act; section 9, which requires a report on the actual quantity of each kind and class of forest product cut; section 12, which gives the DNR the authority to extend the period of time for harvesting forest products under permit; and section 13b, which gives the procedures for appealing DNR orders and determinations under the act to the circuit court.

MCL 320.301 et al.