

HOUSE BILL No. 5454

November 29, 2005, Introduced by Reps. Elsenheimer, Schuitmaker, Stahl, Robertson, Booher, Emmons, Huizenga, Taub and Walker and referred to the Committee on Conservation, Forestry, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 51105, 51106, 51108, 51113, and 51116 (MCL 324.51105, 324.51106, 324.51108, 324.51113, and 324.51116), section 51105 as amended by 1996 PA 451 and sections 51106, 51108, 51113, and 51116 as added by 1995 PA 57.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 51105. (1) Commercial forests are not subject to the ad
2 valorem general property tax after the date the township supervisor
3 is notified by the department that the land is a commercial forest,
4 except taxes as previously levied. Except as provided in subsection
5 (5), commercial forests are subject to an annual specific tax ~~as~~
6 ~~follows:~~
7 ~~—— (a) Through October 1, 1981, 15 cents per acre.~~

1 ~~—— (b) After October 1, 1981 and through December 31, 1989, 30~~
2 ~~cents per acre.~~

3 ~~—— (c) After December 31, 1989 and through December 31, 1993, 38~~
4 ~~cents per acre.~~

5 ~~—— (d) Beginning January 1, 1994, OF \$1.10 per acre. as~~
6 ~~adjusted pursuant to section 51107.~~

7 (2) The supervisor of the township shall remove from the list
8 of land descriptions assessed and taxed under the ad valorem
9 general property tax the land descriptions certified to him or her
10 by the department as being commercial forests and shall enter those
11 land descriptions on a roll separate from lands assessed and taxed
12 by the ad valorem general property tax and shall spread against
13 these commercial forests the specific tax provided by this section.

14 (3) The township treasurer shall collect the specific tax at
15 the same time and in the same manner as ad valorem general property
16 taxes are collected and this tax is subject to the same collection
17 charges levied for the collection of ad valorem property taxes.
18 Commercial forests are subject to return and sale for nonpayment of
19 taxes in the same manner, at the same time, and under the same
20 penalties as lands returned and sold for nonpayment of taxes levied
21 under the ad valorem general property tax laws. A valuation shall
22 not be determined for descriptions listed as commercial forests and
23 these lands shall not be considered by the county board of
24 commissioners or by the state board of equalization in connection
25 with county or state equalization for ad valorem property taxation
26 purposes.

27 (4) Except as provided in section 51109(2), all sums collected

1 pursuant to this section shall be distributed by the township
2 treasurer in the same proportions to the various funds as the ad
3 valorem general property tax is allocated in the township.

4 (5) Commercial forestland located in a renaissance zone under
5 the Michigan renaissance zone act, ~~Act No. 376 of the Public Acts~~
6 ~~of 1996, being sections 125.2681 to 125.2696 of the Michigan~~
7 ~~Compiled Laws 1996 PA 376, MCL 125.2681 TO 125.2696~~, is exempt
8 from the annual specific tax levied under this section to the
9 extent and for the duration provided pursuant to ~~Act No. 376 of~~
10 ~~the Public Acts of 1996~~ **THAT ACT.**

11 Sec. 51106. On December 1 of each year, the department shall
12 certify to the state treasurer the number of acres that are
13 commercial forestlands in each county and the state treasurer shall
14 transmit to the treasurer of each county in which these commercial
15 forests are located a warrant on the state treasurer for an amount
16 equal to \$1.20 per acre ~~—, as adjusted by section 51107,—~~ upon each
17 acre of commercial forest in the county. The county treasurer of
18 each county shall distribute an amount equal to 25 cents per acre
19 for each acre of commercial forest in the county in the same
20 proportions between the various funds as the ad valorem general
21 property tax is distributed by the township treasurers in each
22 township. Except as provided by section 51109(2), the county
23 treasurer of each county shall distribute the remainder of the
24 funds transmitted pursuant to this section ~~pursuant to the manner~~
25 ~~in which~~ **IN THE SAME MANNER AS** ad valorem property taxes are
26 distributed.

27 Sec. 51108. (1) An owner of a commercial forest may withdraw

his or her land, in whole or in part, from the operation of this part upon application to the department and payment of the withdrawal application fee and penalty, as provided in this section.

(2) Except as otherwise provided by this section, upon application to the department to withdraw commercial forestland from the operation of this part, the applicant shall forward to the department a withdrawal application fee in the amount of \$1.00 per acre with a minimum withdrawal application fee of \$200.00 per application and a maximum withdrawal application fee of \$1,000.00 per application.

(3) Except as otherwise provided in this section, an application to withdraw commercial forestland from the operation of this part shall be granted upon the payment to the township treasurer in which the commercial forestland is located of a penalty per acre equal to the ~~product of the current average ad valorem property tax per acre on timber cutover real property within the township in which the commercial forestland is located, as determined by the township assessor, multiplied by 1 of the following:~~ **SUM OF THE AD VALOREM GENERAL PROPERTY TAX FROM WHICH THE FORESTLAND WAS EXEMPTED UNDER SECTION 51105 FOR THE PRECEDING 15 YEARS, BUT NOT LONGER THAN THE PERIOD FOR WHICH THE PROPERTY HAS BEEN DESIGNATED AS COMMERCIAL FORESTLAND.**

~~(a) For forestland determined to be a commercial forest before January 1, 1994, the number of years, to a maximum of 7 years, that the land was subject to this part.~~

~~(b) For forestland determined to be a commercial forest after~~

~~December 31, 1993, the number of years, to a maximum of 15 years,
that the land was subject to this part.~~

~~— (4) For purposes of calculating the penalty in subsection (3),
if the township in which the commercial forestland is located does
not contain any real property classified as timber cutover real
property under the general property tax act, Act No. 206 of the
Public Acts of 1893, being sections 211.1 to 211.157 of the
Michigan Compiled Laws, then 1 of the following applies:~~

~~— (a) If there is timber cutover real property located within
the county in which the commercial forestland is located, the per
acre average of the ad valorem property tax for all timber cutover
real property located in the county in which the commercial
forestland is located shall be used in calculating the penalty
under subsection (3).~~

~~— (b) If there is no timber cutover real property located within
the county in which the commercial forestland is located, the per
acre average of the ad valorem property tax for all timber cutover
real property in townships contiguous to the county in which the
commercial forestland is located shall be used in calculating the
penalty under subsection (3).~~

~~(4) —(5) An application to withdraw commercial forestland
from the operation of this part that meets 1 or more of the
following requirements shall be granted without payment of the
withdrawal application fee or penalty under this section:~~

~~(a) Commercial forestland that has been donated to a public
body for public use prior to withdrawal.~~

~~(b) Commercial forestland that has been exchanged for property~~

1 belonging to a public body if the property received is designated
2 as a commercial forest as determined by the department.

3 (c) Commercial forestland that has been condemned for public
4 use.

5 (5) ~~—(6)—~~ The department shall remit the withdrawal
6 application fee paid pursuant to subsection (2) to the state
7 treasurer for deposit into the fund. The penalty received by the
8 township treasurer under subsection (3) shall be distributed by the
9 township treasurer in the same proportions to the various funds as
10 the ad valorem general property tax is allocated in the township,
11 except as provided by section 51109(2).

12 (6) ~~—(7)—~~ If an application to withdraw commercial forestland
13 is granted, the department shall immediately notify the applicant,
14 the supervisor of the township, and the register of deeds of the
15 county in which the lands are located of the action and shall file
16 with those officials a list of the lands withdrawn.

17 Sec. 51113. (1) Except as provided in this section, the owner
18 of a commercial forest shall not use that land in a manner that is
19 prejudicial to its development as a commercial forest, use the land
20 for agricultural, mineral extraction except as provided in this
21 section, grazing, industrial, developed recreational, residential,
22 resort, commercial, or developmental purposes, or deny the general
23 public the privilege of hunting and fishing on commercial
24 forestland unless the land is closed to hunting or fishing, or
25 both, by order of the department or by an act of the legislature.

26 **FOR LAND CLASSIFIED AS COMMERCIAL FOREST UNDER THIS PART ON OR**
27 **AFTER MARCH 30, 1995, THE OWNER OF THE COMMERCIAL FORESTLAND SHALL**

1 PROVIDE TO THE DEPARTMENT DOCUMENTATION THAT HE OR SHE WILL PROVIDE
2 ACCESS TO THE GENERAL PUBLIC FOR HUNTING AND FISHING AS REQUIRED
3 UNDER THIS SECTION. THE DOCUMENTATION SHALL INCLUDE 1 OR MORE OF
4 THE FOLLOWING:

5 (A) IF THE PUBLIC ACCESS WILL BE PROVIDED THROUGH LAND OWNED
6 BY THE OWNER OF THE COMMERCIAL FORESTLAND, A STATEMENT CERTIFYING
7 THE AREA OR AREAS THROUGH WHICH THE GENERAL PUBLIC MAY ACCESS THE
8 COMMERCIAL FORESTLAND.

9 (B) IF THE PUBLIC ACCESS WILL BE PROVIDED THROUGH LAND OWNED
10 BY A PERSON OTHER THAN THE OWNER OF THE COMMERCIAL FORESTLAND, A
11 COPY OF AN EASEMENT THAT GRANTS RIGHTS TO THE GENERAL PUBLIC TO
12 ACCESS THE COMMERCIAL FORESTLAND.

13 (C) IF THE PUBLIC ACCESS WILL BE PROVIDED THROUGH PUBLIC LAND
14 ACCESSIBLE TO THE GENERAL PUBLIC, A STATEMENT IDENTIFYING THOSE
15 PUBLIC LANDS THROUGH WHICH THE GENERAL PUBLIC MAY ACCESS THE
16 COMMERCIAL FORESTLAND.

17 (2) FOR LAND CLASSIFIED AS COMMERCIAL FOREST UNDER THIS PART
18 ON OR AFTER MARCH 30, 1995, IF THE LOCATION OF THE PUBLIC ACCESS TO
19 THE COMMERCIAL FORESTLAND FOR HUNTING OR FISHING CHANGES BY AN ACT
20 OF THE OWNER, THE OWNER OF THE COMMERCIAL FORESTLAND SHALL PROVIDE
21 TO THE DEPARTMENT AN UPDATE TO THE DOCUMENTATION UNDER SUBSECTION
22 (1).

23 (3) FAILURE OF AN OWNER OF COMMERCIAL FORESTLAND TO MAINTAIN
24 ACCESS TO THE GENERAL PUBLIC FOR HUNTING AND FISHING AS PROVIDED IN
25 THIS SECTION IS A VIOLATION OF THIS PART AND SUBJECTS THE
26 COMMERCIAL FORESTLAND TO DECLASSIFICATION UNDER SECTION 51116.

27 (4) ~~-(2)-~~ Exploration for minerals ~~-shall be-~~ IS permitted on

1 land listed under this part. Except as provided in subsections ~~—(3)—~~
2 ~~(5)~~ and ~~—(4)—~~ ~~(6)~~, before the removal of any commercial mineral
3 deposits, the owner shall withdraw the portion of the commercial
4 forestland directly affected by the removal pursuant to section
5 51108. The withdrawal of commercial forestland due to mineral
6 removal as provided in this section and section 51108 shall not
7 cause the remaining portion of the commercial forestland to be
8 withdrawn due to insufficient acreage of the remaining commercial
9 forestland.

10 ~~(5)~~ ~~—(3)—~~ Upon application to and approval by the department,
11 sand and gravel may be removed from the commercial forest without
12 affecting the land's status as a commercial forest. The department
13 shall approve an application to remove sand and gravel deposits
14 only if the removal site is not greater than 5 acres, excluding
15 access to the removal site, and the sand and gravel are to be
16 utilized by 1 or more of the following:

17 (a) The owner of a commercial forest for personal use if the
18 owner of the commercial forest is also the owner of the sand and
19 gravel deposits.

20 (b) The owner of the sand and gravel deposits for his or her
21 personal use or for sale to the owner of the commercial forest for
22 personal use, if the owner of the commercial forest is not also the
23 owner of the sand and gravel deposits.

24 (c) This state, a local unit of government, or a county road
25 commission, for governmental use.

26 ~~(6)~~ ~~—(4)—~~ Upon application to and approval by the department,
27 deposits of oil and gas owned by this state may be removed from the

1 commercial forest without affecting the land's status as a
2 commercial forest.

3 Sec. 51116. ~~If an owner of a commercial forestland uses his~~
4 ~~or her commercial forest in violation of this part, fails to pay~~
5 ~~any specific tax under section 51105, fails to report to the~~
6 ~~department pursuant to section 51111, removes minerals in violation~~
7 ~~of section 51113, or, after an owner certifies to the department~~
8 ~~that a forest management plan has been prepared and is in effect,~~
9 ~~fails to plant, harvest, or remove forest products in compliance~~
10 ~~with the owner's forest management plan, the department may upon~~
11 ~~notice to the owner and hearing declassify all or a portion of the~~
12 ~~commercial forest. If, at the~~ **AFTER PROVIDING NOTICE AND AN**
13 **OPPORTUNITY FOR A** hearing, the department determines that ~~the~~ **A**
14 ~~commercial forests were~~ **FOREST WAS** used in violation of this
15 part, that the owner failed to pay the specific tax pursuant to
16 section 51105, that the owner failed to report to the department
17 pursuant to section 51111, that minerals were removed in violation
18 of section 51113, **THAT THE OWNER FAILED TO MAINTAIN PUBLIC ACCESS**
19 **FOR HUNTING OR FISHING UNDER SECTION 51113,** or, after an owner
20 certifies to the department that a forest management plan has been
21 prepared and is in effect, that the owner failed to plant, harvest,
22 or remove forest products in compliance with the owner's forest
23 management plan, then the department shall ~~declassify~~ **REMOVE THE**
24 **COMMERCIAL FOREST DESIGNATION FOR** the commercial forest, serve a
25 notice of declassification of the lands upon the owner, and record
26 a copy of the declassification in the office of the register of
27 deeds of the county in which the lands are located. Upon

1 declassification, the land is subject to the ad valorem general
2 property tax. Within 30 days after the service of the
3 declassification notice on the owner, the owner shall pay both of
4 the following:

5 (a) A fee equal to the withdrawal application fee described in
6 section 51108 to the department for deposit into the fund.

7 (b) An amount equal to the penalty described in section 51108
8 to the township treasurer of the township in which the land is
9 located to be distributed, except as provided in section 51109(2),
10 in the same proportions to the various funds as the ad valorem
11 general property tax is allocated in the township.

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Bill No.____ or House Bill No. 5455(request no.
14 02864'05 *) of the 93rd Legislature is enacted into law.