

Legislative Analysis



REVISE PENALTY FOR WITHDRAWING LAND FROM COMMERCIAL FORESTLAND PROGRAM

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House Bill 6133

Sponsor: Rep. Michael Lahti

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 6-2-08

A SUMMARY OF HOUSE BILL 6133 AS INTRODUCED 5-21-08

House Bill 6133 would revise the penalty that a landowner must pay when withdrawing commercial forestland on or after September 27, 2007, from the Commercial Forest program contained in Part 511 of the Natural Resources and Environmental Protection Act. The withdrawal penalty is paid to the township in which the land is located and distributed to local units of governments according to the statute.

Commercial Forestland (CF) and Qualified Forest Property programs. Michigan has two separate programs—the Commercial Forest program (CF), contained in Part 511 and the Qualified Forest program (QFP)¹—providing property tax reductions to landowners who retain and manage their forestland for long-term timber production. Eligible forestland can be enrolled in either the CF program or the QFP program, but not both. The current bill concerns the Commercial Forest or CF program, which allows participating landowners to pay a reduced property tax in return for developing, maintaining, and managing the land as a commercial forest under an approved management plan. In addition, land in the CF program, unlike land in the QFP program, must be open to the public for hunting and fishing (foot access only).

Withdrawing property from CF program. Generally speaking, an owner who decides to withdraw land from the CF program must submit an application and pay an application fee of \$1 per acre to the DNR, subject to a \$200 minimum and \$1,000 maximum. (The bill would not modify the application fee.) In addition, the owner must also pay a penalty to the township in which the commercial forestland is located according to a penalty formula in the act.

The legislature has revisited and altered the penalty formula several times over the years, most recently in 2006. The current formula was set by Public Act 382 of 2006 (House Bill 5454 of 2006), adopted as part of a multi-bill forestry package, and has been in effect

¹ The Qualified Forest Property or QFP program was created in 2006. This program allows owners of smaller forestland parcels in Michigan which are not classified as agricultural land or do not receive a principal residence exemption to receive reduced property taxes on land in productive managed forests. To be eligible, forestland must meet size, productivity, and management requirements. Forestland enrolled in the QFP program is exempt from certain school operating taxes. In addition, purchasers of QFP enrolled property may apply to their local government to prevent the property's taxable value from uncapping, which normally occurs in the year following a transfer of ownership. No buildings or structures are allowed on parcels enrolled in the QFP program.

less than one year. Under Public Act 382, owners of CF land who wanted to switch to the new QFP program were allowed a one-time opportunity to withdraw from the CF program without penalty until September 27, 2007, after their land was approved under the QFP program. (The DNR application fee was still required.) That act also allowed landowners meeting specified criteria to withdraw their land from program without penalty for one year after the bill was enacted (or until September 27, 2007), at which time the new withdrawal penalty formula would take effect.

Current withdrawal penalty. The current withdrawal penalty in effect since September 27, 2007, is calculated by multiplying (1) the number of acres being withdrawn from the CF program by (2) the average value per acre of comparable property purchased by the state in the last 10 years under Part 21, subpart 14 of NREPA (dealing with payments in lieu of taxes, or PILTS, for certain state-owned land), by (3) the total millage rate levied by all taxing units in the local tax collecting unit, and by (4) the number of years that the land was in the CF program, up to seven.

(Subpart 14 of Part 21 requires the State Tax Commission each year to determine the valuation of all real property owned by the state and controlled by the DNR, and to authorize the State Treasurer to transfer PILTS to local units of government based on those valuations.)

Proposed new withdrawal penalty. Under House Bill 6133, the withdrawal penalty would be determined by multiplying (1) the number of acres being withdrawn from the CF program by (2) the average taxable value per acre for "timber-cutover real property" within the township in which the land is located as determined by the DNR, by (3) the total millage rate levied by all taxing units in the local tax collecting unit, by (4) the number of years the land was in the CF program (up to 7) and (5) with the result of those calculations then multiplied by two.

The DNR would initially use previously-determined values for timber-cutover land as of December 31, 2006, subject to annual increases of not more than the rate of inflation or five percent, whichever is less. If there weren't enough timber-cutover parcels for the DNR to calculate the average value at the township level, the department would look to average values of such property at the county level. If there weren't sufficient parcels within the county, the DNR would look to the average for the upper or lower peninsula, depending on where the property being withdrawn was located.

The meaning of "timber-cutover real property" for purposes of calculating this penalty would be the same as under the General Tax Act—"parcels that are stocked with forest products of merchantable type and size, cutover forest land with little or no merchantable products, and marsh lands or other barren land."

Annual determinations of timber-cutover values by DNR. Under the bill, the initial timber-cutover real property values used for calculating a withdrawal penalty would be the value of such land in a given township as of December 31, 2006, as previously determined by the DNR. Beginning in 2007, and annually thereafter, the average taxable

value for timber-cutover real property could be adjusted upward by the lesser of five percent or the rate of inflation. The DNR would have to publish on its website each year the withdrawal penalty formula and the average taxable value for timber-cutover land for every township in which commercial forestland is located.

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BACKGROUND INFORMATION:

For additional information, see:

Frequently asked questions regarding Commercial Forest and Qualified Forest Property tax programs: http://www.michigan.gov/dnr/0,1607,7-153-30301_39170-164348--,00.html

Qualified Forest Property Tax Program, MSU Extension Forestry Fact Sheet, No. 32, May 2007, <http://forestry.msu.edu/extension/extdocs/facts32.pdf>

FISCAL IMPACT:

This bill would result in an indeterminate reduction in withdrawal penalties paid to townships when landowners withdraw land from the Commercial Forestland program as compared to the amount established in the 2006 legislation (effective September, 2007). But, the bill would result in an indeterminate increase in withdrawal penalty money paid compared to the penalty in existence prior to the 2006 legislation.

Because the number of acres of commercial forest land to be withdrawn and the corresponding taxable value of similar timber-cutover property are not known, it is not possible to determine the fiscal impact.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.