

Legislative Analysis



COMMERCIAL FORESTLAND PROGRAM: NO FEE OR PENALTY FOR LAND WITHDRAWN AFTER SALE TO PUBLIC BODY FOR PUBLIC USE

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House Bill 5681

Sponsor: Rep. Darwin Booher

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 5-25-10

A SUMMARY OF HOUSE BILL 5681 AS INTRODUCED 12-10-09

The bill would allow commercial forestland that has been *purchased by a public body for public use before its withdrawal from the Commercial Forestland program* to be withdrawn from this program without the payment of an application fee to the Department of Natural Resources and Environment (DNRE) or a penalty to the township.

The Commercial Forestland program, governed by Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act (NREPA), 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. Generally speaking, to withdraw commercial forestland from this program, a landowner must pay a withdrawal application fee and penalty as provided in Section 51108 of NREPA, MCL 324.51108. The application fee of \$1 per acre (subject to a \$200 minimum and \$1,000 maximum) is paid to the DNRE; the applicable penalty is paid to the township in which the commercial forestland is located. The amount of the penalty is determined by a formula found in Section 51108, as recently revised by Public Act 299 of 2008.

In a few situations, landowners do not have to pay an application fee or penalty to withdraw commercial forestland from this program: (1) when commercial forestland has been donated to a public body for public use before withdrawal; (2) when commercial forestland has been exchanged for property belonging to a public body if the property received is designated as a commercial forest as determined by the DNRE; and (3) when commercial forestland has been condemned for public use. The bill would also exempt commercial forestland *that has been purchased by a public body for public use before its withdrawal from the program*.

MCL 324.51108

FISCAL IMPACT:

House Bill 5681 would create a new exemption from the requirement to pay a withdrawal application fee or penalty when an owner of a commercial forest withdraws land from the commercial forest program. The bill would potentially reduce the amount of revenue that

would be collected from application fees and withdrawal penalties under current law when such a withdrawal is applied for and granted.

The withdrawal application fee is collected by the DNRE and is \$1.00 per acre being withdrawn, with a minimum fee of \$200 per application and a maximum of \$1,000. The DNRE uses the revenue from this fee to pay for the administration costs of the program. This fee is the only funding source for processing these applications. Under House Bill 5681, the Department would not receive any revenue from a withdrawal application fee from applications falling under the new exception. Therefore, in these instances, the DNRE would not receive the funding to cover the costs of processing these applications.

The withdrawal penalty fee is collected by the township treasurer for the township in which the commercial forestland is located. The penalty fee is determined by the formula established in Section 51108 (3) of PA 451 of 1994. The penalty fee could be characterized as a partial payback of the tax savings the owner received over the years for having the land in the state program. The formula takes into account a variety of factors such as how much land is being withdrawn, how long the land has been in the program (up to 7 years), the average township millage rate in the county, and the property values of the county. The revenue from the withdrawal penalty fee goes to the township with a portion deposited into the State School Aid Fund. The DNRE does not receive any of the withdrawal penalty fee. The elimination of these fees in the cases that fall under the new exception would reduce revenue to local townships and the State School Aid Fund.

According to the DNRE, the withdrawal penalty fees vary in amount based upon the factors mentioned above. Roughly speaking, a 40-acre commercial forest that is withdrawn might receive a penalty of up to \$6,000 in the Upper Peninsula. In the Lower Peninsula, where land values are often higher, the penalty on 40 acres might fall within the range of \$5,000 to \$12,000. Under current law, these revenues would go to the township and the State School Aid Fund. House Bill 5681 would eliminate this revenue in withdrawal cases that fall under the new proposed exception.

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