

SENATE BILL No. 59

January 16, 2013, Introduced by Senator BOOHER and referred to the Committee on Natural Resources, Environment and Great Lakes.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 51102, 51103, 51108, 51113, and 51115 (MCL 324.51102, 324.51103, 324.51108, 324.51113, and 324.51115), sections 51102 and 51115 as added by 1995 PA 57, sections 51103 and 51113 as amended by 2006 PA 383, and section 51108 as amended by 2012 PA 248.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 51102. The department shall establish and maintain
2 commercial forests and may promulgate and enforce rules as
3 necessary to accomplish the ~~intent and purpose~~ of this part. ~~All~~
4 ~~expenses incurred and staff employed to implement this part shall~~
5 ~~be with the approval of the state administrative board.~~

6 Sec. 51103. (1) The owner of at least 40 contiguous acres or a

1 survey unit consisting of 1/4 of 1/4 of a section of forestland
2 located within this state may apply to the department to have that
3 forestland ~~determined to be~~ **CLASSIFIED AS** a commercial forest under
4 this part. For purposes of this subsection, "contiguous" means land
5 that touches at any point. Even if portions of commercial
6 forestland are contiguous only at a point, the privilege of hunting
7 and fishing **AS PROVIDED IN SECTION 51113** shall not be denied for
8 any portion of the land. ~~as provided in section 51113.~~ The
9 existence of a public or private road, a railroad, or a utility
10 right-of-way that separates any part of the land does not make the
11 land noncontiguous.

12 (2) To be eligible for ~~determination~~ **CLASSIFICATION** as a
13 commercial forest, forestland shall be capable of all of the
14 following:

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

17 (b) Producing tree species that have economic or commercial
18 value.

19 (c) Producing a commercial stand of timber within a reasonable
20 period of time.

21 (3) An application for classification as commercial forest
22 shall be submitted on a form prescribed by the department. The
23 application shall be postmarked or delivered not later than April 1
24 to be eligible for ~~approval~~ **CLASSIFICATION** as commercial forest for
25 the following tax year. In addition to any information that the
26 department may reasonably require by rule, the applicant shall
27 provide all of the following to the department:

1 (a) A nonrefundable application fee in the amount of \$1.00 per
2 acre or fraction of an acre, but not less than \$200.00 and not more
3 than \$1,000.00. The department shall remit the application fee to
4 the state treasurer for deposit into the fund.

5 (b) A legal description and the amount of acreage considered
6 for ~~determination~~ **CLASSIFICATION** as a commercial forest.

7 (c) A statement certifying that a forest management plan
8 covering the forestland has been prepared and is in effect.

9 (d) A statement certifying that the owner of the forestland
10 owns the timber rights to the timber standing on the forestland.

11 (4) The department shall prepare and distribute to any person
12 desiring to apply for classification of forestland as commercial
13 forest under this part a brochure that lists and explains, in
14 simple, nontechnical terms, all of the following:

15 (a) The application, hearing, determination, declassification,
16 and prosecution process.

17 (b) The requirements of the forest management plan.

18 (5) Not later than 3 months after the effective date of the
19 ~~2006-2013~~ amendatory act that amended this section, the department
20 shall notify each county and township and all owners of forestland
21 that is classified as commercial forest under this part, **WHO ARE ON**
22 **RECORD WITH THE DEPARTMENT**, of the amendments to this part that
23 were enacted in ~~2006-2013~~.

24 ~~—— (6) If an applicant is unable to secure the services of a~~
25 ~~registered forester or a natural resources professional to prepare~~
26 ~~a forest management plan, the department upon request shall prepare~~
27 ~~the forest management plan on behalf of the owner of the forestland~~

1 ~~and charge the owner a forest management plan fee not to exceed the~~
2 ~~actual cost of preparing the forest management plan.~~

3 (6) ~~(7)~~ After an owner certifies to the department that a
4 forest management plan has been prepared and is in effect, a
5 violation of that forest management plan is a violation of this
6 part.

7 (7) **A FOREST MANAGEMENT PLAN THAT HAS BEEN SUBMITTED TO THE**
8 **DEPARTMENT OR THE LOCAL TAX COLLECTING UNIT IS EXEMPT FROM**
9 **DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL**
10 **15.231 TO 15.246.**

11 Sec. 51108. (1) An owner of a commercial forest may withdraw
12 his or her ~~land,~~ **FORESTLAND**, in whole or in part, from the
13 ~~operation of~~ **CLASSIFICATION AS COMMERCIAL FOREST UNDER** this part
14 upon application to the department and payment of the withdrawal
15 application fee and penalty, as provided in this section.

16 (2) Except as otherwise provided by this section, upon
17 application to the department to withdraw ~~commercial~~ forestland
18 from the ~~operation of~~ **CLASSIFICATION AS COMMERCIAL FOREST UNDER**
19 this part, the applicant shall forward to the department a
20 withdrawal application fee in the amount of \$1.00 per acre with a
21 minimum withdrawal application fee of \$200.00 per application and a
22 maximum withdrawal application fee of \$1,000.00 per application.

23 (3) Except as otherwise provided in this section, an
24 application to withdraw ~~commercial~~ forestland from the ~~operation of~~
25 **CLASSIFICATION AS COMMERCIAL FOREST UNDER** this part shall be
26 granted upon the payment **OF A PENALTY** to the ~~township~~ treasurer **OF**
27 **THE TOWNSHIP** in which the ~~commercial~~ forestland is located. ~~of a~~

1 ~~penalty. For applications to withdraw commercial forestland filed~~
 2 ~~on or after September 27, 2007 in which the withdrawal penalty has~~
 3 ~~not been paid before October 8, 2008, the~~ **THE** withdrawal penalty
 4 shall be calculated in the following manner:

5 (a) Multiply the number of acres of ~~commercial forestland~~
 6 withdrawn from the ~~operation of~~ **CLASSIFICATION AS COMMERCIAL FOREST**
 7 **UNDER** this part by 1 of the following:

8 (i) For 2007, 1/2 of the valuation per acre for the county in
 9 which the forestland is located.

10 (ii) Beginning in 2008, and for each subsequent year, the
 11 number described in subparagraph (i) adjusted annually by the
 12 inflation rate for each year after 2007.

13 (b) Multiply the product of the calculation in subdivision (a)
 14 by the average millage rate levied by all townships, excluding
 15 villages, in the county in which the ~~property~~ **FORESTLAND** is
 16 located.

17 (c) Multiply the product of the calculation in subdivision (b)
 18 by the number of years, to a maximum of 7 years, in which the
 19 ~~property~~ **FORESTLAND** withdrawn from the ~~operation of~~ **CLASSIFICATION**
 20 **AS COMMERCIAL FOREST UNDER** this part has been ~~designated~~ **CLASSIFIED**
 21 as commercial ~~forestland~~ **FOREST** under this part.

22 (d) Multiply the product of the calculation in subdivision (c)
 23 by the following:

24 (i) 0.2, if the ~~commercial forestland~~ is located in Luce
 25 county.

26 (ii) 0.3, if the ~~commercial forestland~~ is located in Grand
 27 Traverse, Manistee, Ottawa, or Wexford county.

1 (iii) 0.4, if the ~~commercial~~-forestland is located in
2 Charlevoix, Chippewa, Emmet, Gladwin, Leelanau, Midland, Oscoda, or
3 Tuscola county.

4 (iv) 0.5, if the ~~commercial~~-forestland is located in Cheboygan,
5 Delta, Mackinac, Oceana, Otsego, or Schoolcraft county.

6 (v) 0.6, if the ~~commercial~~-forestland is located in Alcona,
7 Alger, Allegan, Alpena, Arenac, Barry, Bay, Benzie, Berrien,
8 Branch, Calhoun, Cass, Clare, Clinton, Crawford, Dickinson, Eaton,
9 Genesee, Gogebic, Gratiot, Hillsdale, Houghton, Huron, Ingham,
10 Ionia, Iosco, Iron, Isabella, Jackson, Kalamazoo, Kalkaska, Kent,
11 Lapeer, Lenawee, Livingston, Macomb, Marquette, Mecosta, Monroe,
12 Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Ogemaw, Osceola,
13 Presque Isle, Roscommon, Saginaw, St. Clair, St. Joseph, Sanilac,
14 Shiawassee, Van Buren, Washtenaw, or Wayne county.

15 (vi) 0.7, if the ~~commercial~~-forestland is located in Antrim,
16 Baraga, Mason, or Menominee county.

17 (vii) 0.8, if the ~~commercial~~-forestland is located in Keweenaw,
18 Lake, Missaukee, or Ontonagon county.

19 (4) The department shall publish all of the following on its
20 website:

21 (a) The calculation described in subsection (3)(a)(i) for each
22 county.

23 (b) The adjusted value and the inflation rate described in
24 subsection (3)(a)(ii) for each county.

25 (c) The average millage rate described in subsection (3)(b)
26 for each county.

27 (5) **UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2013**

1 AMENDATORY ACT THAT AMENDED THIS SECTION, THE OWNER OF FORESTLAND
2 THAT IS WITHDRAWN FROM THE CLASSIFICATION AS COMMERCIAL FOREST
3 UNDER THIS PART IS NOT SUBJECT TO A WITHDRAWAL PENALTY IF ALL OF
4 THE FOLLOWING OCCUR:

5 (A) THE OWNER OF THE FORESTLAND WITHDRAWS HIS OR HER
6 FORESTLAND FROM THE CLASSIFICATION AS COMMERCIAL FOREST UNDER THIS
7 PART AS PROVIDED IN THIS SECTION.

8 (B) THE FORMER COMMERCIAL FORESTLAND IS PLACED ON THE
9 ASSESSMENT ROLL IN THE LOCAL TAX COLLECTING UNIT IN WHICH THE
10 FORMER COMMERCIAL FORESTLAND IS LOCATED.

11 (C) THE OWNER OF THE FORMER COMMERCIAL FORESTLAND CLAIMS AND
12 IS GRANTED AN EXEMPTION FOR THAT LAND FROM THE TAX LEVIED BY A
13 LOCAL SCHOOL DISTRICT FOR SCHOOL OPERATING PURPOSES UNDER SECTION
14 7JJ OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7JJ[1].
15 THE OWNER SHALL SUBMIT TO THE DEPARTMENT A COPY OF THE RECORDED
16 QUALIFIED FOREST SCHOOL TAX AFFIDAVIT BY DECEMBER 31 OF THE YEAR IN
17 WHICH THE LAND IS WITHDRAWN FROM THIS PART.

18 (6) ~~(5)~~—An application to withdraw ~~commercial~~ forestland from
19 the ~~operation of~~ CLASSIFICATION AS COMMERCIAL FOREST UNDER this
20 part that meets 1 or more of the following requirements shall be
21 granted without payment of the withdrawal application fee or
22 penalty under this section:

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

25 (b) ~~Commercial forestland~~ FORESTLAND that has been exchanged
26 for property belonging to a public body if the property received is
27 ~~designated~~ CLASSIFIED as a commercial forest as determined by the

1 department.

2 (c) ~~Commercial forestland~~ **FORESTLAND** that has been condemned
3 for public use.

4 (7) ~~(6)~~ An application to withdraw ~~commercial forestland~~ from
5 the ~~operation of~~ **CLASSIFICATION AS COMMERCIAL FOREST UNDER** this
6 part that meets all of the following requirements shall be granted
7 without payment of the withdrawal application fee or penalty under
8 this section:

9 (a) Evidence is submitted to the department that the land met
10 the legal requirements to be exempt from ad valorem property tax on
11 tax day for the tax year in which the list application was
12 submitted and approved and that the land would have met the legal
13 requirements to be exempt from ad valorem property tax on tax day
14 for each year that the land was ~~subject to the operation of~~
15 **CLASSIFIED AS COMMERCIAL FOREST UNDER** this part, if the land had
16 not been ~~subject to the operation of~~ **CLASSIFIED AS COMMERCIAL**
17 **FOREST UNDER** this part. As used in this subdivision, "tax day"
18 means that term as provided in section 2 **OF THE GENERAL PROPERTY**
19 **TAX ACT, 1893 PA 206, MCL 211.2.**

20 (b) The application ~~to withdraw~~ is submitted to the department
21 by the same landowner that owned the land on tax day for the tax
22 year in which the ~~list~~ application was submitted and that submitted
23 the application for determination under section 51103.

24 (c) ~~Reimbursement is made by the~~ **THE** landowner ~~to~~ **REIMBURSES**
25 the state treasurer for the specific tax that was paid by the state
26 treasurer to the county treasurer, as provided in section 51106(1),
27 for each tax year the land was ~~commercial forestland~~ **CLASSIFIED AS**

1 COMMERCIAL FOREST UNDER THIS PART.

2 (8) THE DEPARTMENT MAY WITHDRAW FORESTLAND FROM THE
3 CLASSIFICATION AS COMMERCIAL FOREST UNDER THIS PART IF THE
4 FORESTLAND HAS BEEN ACQUIRED BY A FEDERALLY RECOGNIZED INDIAN TRIBE
5 AND THE ASSOCIATED PROPERTY TAXES ARE SUBSEQUENTLY PREEMPTED UNDER
6 FEDERAL LAW. A WITHDRAWAL UNDER THIS SUBSECTION IS NOT SUBJECT TO
7 THE WITHDRAWAL APPLICATION FEE OR PENALTY UNDER THIS SECTION.

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

15 (10) ~~(8)~~—If an application to withdraw ~~commercial~~ forestland
16 FROM CLASSIFICATION AS COMMERCIAL FOREST UNDER THIS PART is
17 granted, the department shall immediately notify the applicant, the
18 supervisor of the township, and the register of deeds of the county
19 in which the lands are located of the action and shall file with
20 those officials a list of the lands withdrawn.

21 (11) ~~(9)~~—As used in this section:

22 (a) "Inflation rate" means the lesser of 1.05 or the inflation
23 rate as defined in section 34d of the general property tax act,
24 1893 PA 206, MCL 211.34d.

25 (b) "Valuation" means the market value as determined by the
26 state tax commission.

27 Sec. 51113. (1) Except as provided in this section, the owner

1 of a ~~FORESTLAND THAT IS CLASSIFIED AS~~ commercial forest shall not
2 use that land in a manner that is prejudicial to its development as
3 a commercial forest, use the land for agricultural, mineral
4 extraction except as provided in this section, **WIND ENERGY**
5 **DEVELOPMENT EXCEPT AS PROVIDED IN THIS SECTION**, grazing,
6 industrial, developed recreational, residential, resort,
7 commercial, or developmental purposes, or deny the general public
8 the privilege of hunting and fishing on commercial forestland
9 unless the land is closed to hunting or fishing, or both, by order
10 of the department or by an act of the legislature. **IF THE**
11 **DEPARTMENT DETERMINES THAT THE OWNER OF COMMERCIAL FORESTLAND HAS**
12 **TAKEN AN ACTION THAT HAS THE EFFECT OF DENYING OR INHIBITING ACCESS**
13 **TO THE COMMERCIAL FORESTLAND FOR PUBLIC HUNTING AND FISHING, EXCEPT**
14 **AS SPECIFICALLY PROVIDED IN THIS PART, THE DEPARTMENT MAY REQUIRE**
15 **WITHDRAWAL OF THE FORESTLAND AS COMMERCIAL FOREST UNDER THIS PART**
16 **UNLESS THE OWNER CORRECTS THAT ACTION AND ALLOWS ACCESS TO THE**
17 **COMMERCIAL FORESTLAND FOR PUBLIC HUNTING AND FISHING. IF, ON THE**
18 **EFFECTIVE DATE OF THE 2013 AMENDMENTS TO THIS SECTION, THERE IS NOT**
19 **ACCESS TO COMMERCIAL FORESTLAND AND THE LACK OF ACCESS IS NOT THE**
20 **CONSEQUENCE OF AN ACTION TAKEN BY THE OWNER OF COMMERCIAL**
21 **FORESTLAND, THE FORESTLAND MAY REMAIN AS COMMERCIAL FORESTLAND IF**
22 **ALL OF THE FOLLOWING APPLY:**

23 (A) THERE IS NOT A TRANSFER OF TITLE FOR THE PARCEL OF
24 COMMERCIAL FORESTLAND, OTHER THAN AS A PART OF A LARGER SALE OF
25 10,000 OR MORE ACRES.

26 (B) THE LANDOWNER HAS NOT TAKEN AN ACTION FOLLOWING
27 ACQUISITION OF THE COMMERCIAL FORESTLAND THAT HAS THE EFFECT OF

1 DENYING OR INHIBITING ACCESS TO THE COMMERCIAL FORESTLAND TO THE
2 PUBLIC FOR HUNTING AND FISHING.

3 (C) THE COMMERCIAL FORESTLAND IS OTHERWISE IN COMPLIANCE WITH
4 THIS PART.

5 (2) Exploration for minerals shall be permitted on ~~land listed~~
6 **FORESTLAND THAT IS CLASSIFIED AS COMMERCIAL FOREST** under this part.
7 Except as provided in subsections (3) and (4), before the removal
8 of any commercial mineral deposits, the owner shall withdraw the
9 portion of the commercial forestland directly affected by the
10 removal pursuant to section 51108. The withdrawal of commercial
11 forestland due to mineral removal as provided in this section and
12 section 51108 ~~shall DOES~~ not ~~cause~~ **REQUIRE** the remaining portion of
13 the commercial forestland to be withdrawn due to insufficient
14 acreage of the remaining commercial forestland.

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

22 (a) The owner of a commercial ~~forest~~ **FORESTLAND** for personal
23 use if the owner of the commercial ~~forest~~ **FORESTLAND** is also the
24 owner of the sand and gravel deposits.

25 (b) The owner of the sand and gravel deposits for his or her
26 personal use or for sale to the owner of the commercial ~~forest~~
27 **FORESTLAND** for personal use, if the owner of the commercial ~~forest~~

1 **FORESTLAND** is not also the owner of the sand and gravel deposits.

2 (c) ~~This~~ **FOR SALE TO THIS** state, a local unit of government, **A**
3 **FEDERAL GOVERNMENT AGENCY**, or a county road commission, for
4 governmental use, **OR A CONTRACTOR OR OTHER AGENT UNDERTAKING**
5 **CONSTRUCTION, MAINTENANCE, OR A PROJECT FOR 1 OF THESE GOVERNMENTAL**
6 **ENTITIES.**

7 (4) Upon application to and approval by the department,
8 deposits of oil and gas may be removed from the commercial ~~forest~~
9 **FORESTLAND** without affecting the land's ~~status~~ **CLASSIFICATION** as a
10 commercial forest.

11 (5) **THE EXPLORATION FOR WIND ENERGY DEVELOPMENT IS PERMITTED**
12 **ON FORESTLAND CLASSIFIED AS COMMERCIAL FOREST UNDER THIS PART**
13 **PURSUANT TO THIS SUBSECTION. UPON APPLICATION TO AND APPROVAL BY**
14 **THE DEPARTMENT, METEOROLOGICAL TOWERS MAY BE ERECTED AND WIND**
15 **ENERGY EXPLORATION OR DEVELOPMENT LEASES, EASEMENTS, OR LICENSE**
16 **AGREEMENTS MAY BE ENTERED INTO WITHOUT AFFECTING THE LAND'S**
17 **CLASSIFICATION AS COMMERCIAL FOREST. A LANDOWNER MAY BE PAID**
18 **COMPENSATION FOR THESE LEASES, EASEMENTS, AND LICENSE AGREEMENTS.**
19 **BEFORE ANY WIND TURBINES ARE ERECTED FOR THE PURPOSE OF GENERATING**
20 **ELECTRICITY FOR COMMERCIAL PURPOSES, THE OWNER SHALL WITHDRAW THE**
21 **PORTION OF THE COMMERCIAL FOREST DIRECTLY AFFECTED AS FOLLOWS:**

22 (A) **THE ACTUAL PHYSICAL FOOTPRINT OF EACH WIND TURBINE,**
23 **ASSOCIATED BUILDINGS, AND ADJACENT AREAS THAT WILL BE PERMANENTLY**
24 **REMOVED FROM FOREST PRODUCTION SHALL BE REMOVED FROM THE**
25 **CLASSIFICATION AS COMMERCIAL FOREST.**

26 (B) **FORESTLAND UNDER A WIND ENERGY DEVELOPMENT LEASE,**
27 **EASEMENT, OR LICENSE AGREEMENT WHERE FOREST PRODUCTION WILL**

1 CONTINUE MAY CONTINUE TO BE CLASSIFIED AS COMMERCIAL FOREST.

2 (C) FORESTLAND CONTAINING ROAD AND UTILITY RIGHTS-OF-WAY MAY
3 CONTINUE TO BE CLASSIFIED AS COMMERCIAL FOREST.

4 Sec. 51115. (1) The transfer of title of forestland ~~subject to~~
5 **CLASSIFIED AS COMMERCIAL FOREST UNDER** this part ~~shall~~**DOES** not
6 affect that forestland's ~~status~~**CLASSIFICATION** as a commercial
7 forest if the forestland continues to meet all of the eligibility
8 requirements under this part. If the purchaser desires to withdraw
9 his or her forestland from **THE CLASSIFICATION AS COMMERCIAL FOREST**
10 **UNDER** this part, the purchaser shall withdraw that forestland
11 pursuant to section 51108. If the forestland's eligibility to be a
12 **CLASSIFIED AS** commercial forest is affected by the transfer of
13 title, the department shall determine which forestlands may remain
14 **CLASSIFIED AS COMMERCIAL FOREST** under this part and which
15 forestlands must be withdrawn or declassified.

16 (2) A document that transfers any interest in commercial
17 forestlands shall state on the face of the document that "this
18 property is subject to part 511, the commercial forest part of the
19 natural resources and environmental protection act". Failure to
20 comply with this subsection does not affect the ~~status~~
21 **CLASSIFICATION** of the land as commercial forestland.

22 (3) Not later than 30 days after the **COUNTY EQUALIZATION**
23 **OFFICE RECEIVES NOTICE OF A** transfer of title or the transfer of
24 any interest in **A** land contract concerning the commercial
25 forestland, the ~~owner~~**COUNTY EQUALIZATION OFFICE** shall notify the
26 department in writing of the transfer or ownership change.