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BILL ANALYSIS



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Senate Bill 1034 (as enacted)
Sponsor: Senator Darwin L. Booher
Senate Committee: Natural Resources
House Committee: Agriculture

PUBLIC ACT 672 of 2018

Date Completed: 4-9-19

CONTENT

The bill amended the General Property Tax Act to do the following:

- **Increase the total number of acres of qualified forest property that may be exempt from local school operating taxes, beginning in fiscal year (FY) 2018-19, from 1.2 million acres to 2.5 million acres.**
- **Require a parcel of qualified forest property to be at least 10, rather than 20, acres in size.**
- **Include in the definition of "productive forest" real property meeting certain tree density criteria.**
- **Require a qualified forest school tax affidavit to include a statement indicating that the property owner holds the timber rights for the property.**
- **Permit the Michigan Department of Agriculture and Rural Development (MDARD), for multiple parcels owned by the same person and located in the same local tax collecting unit, to include required information in a single affidavit.**
- **Revise the process for rescinding the exemption for property that is no longer qualified forest property, and require the property owner to be billed for any recapture tax required under the Qualified Forest Property Recapture Tax Act.**
- **Require a property owner to notify MDARD if the owner no longer wishes to keep property enrolled in the Qualified Forest Program.**
- **Provide for the fee collected locally on qualified forest property to be collected on the summer tax bill, unless a local tax collecting unit does not collect summer taxes.**
- **Require a qualified forester to be a member of the Association of Consulting Foresters.**

The bill took effect on March 29, 2019.

Acreage Limit

Under the Qualified Forest Program, property owners are exempt from the payment of local school operating taxes and instead pay a two-mill annual fee, which is deposited in the Private Forestland Enhancement Fund. Property in the program also remains subject to other property taxes, including the State Education Tax.

The General Property Tax Act limits the total number of acres statewide that may be eligible for the exemption. The previous limit was 1.2 million acres. Under the bill, that applied only

through the 2017-18 fiscal year. The limit for FY 2018-19 and each subsequent fiscal year is 2.5 million acres.

Qualified Forest Program Exemption

Under the Act, to claim an exemption from the payment of local school operating taxes and instead pay the two-mill annual fee, the property owner must provide a copy of the recorded qualified forest school tax affidavit attesting that the land is qualified forest property to the local tax collecting unit and assessor by December 31.

Previously, an owner could claim an exemption for not more than 640 acres or the equivalent of 16 survey units consisting of 1/4 of 1/4 of a section of qualified forest property in each tax collecting unit. If an exemption was granted for less than 640 acres in a local tax collecting unit, the owner could subsequently claim an exemption for additional property in that local tax collecting unit if the additional property met the Act's requirement. The bill deletes these provisions.

Qualified Forest Property; Productive Forest

The Act defines "qualified forest property" as a parcel of real estate that is not less than 20 contiguous acres in size and meets other criteria. For parcels smaller than 40 acres, at least 80% must be stocked with productive forest capable of producing forest products. For parcels of 40 acres or more, at least 50% must be stocked with productive forest capable of producing forest products.

The bill retains the stocking requirements, but states that the stocking requirements apply on a per-parcel basis only and may not be met on a basis that averaged stocking density across multiple parcels.

The Act defines "productive forest" as real property capable of growing at least 20 cubic feet of wood per acre per year. Under the bill, the term includes real property on which there is a tree density that meets at least one of the following:

- At least 200 seedlings per acre.
- At least 100 saplings per acre two to five inches in diameter.
- At least three cords per acre of either conifer species five to nine inches in diameter, or all other species five to 11 inches in diameter.
- At least 1,300 board feet per acre of either conifer species at least nine inches in diameter, or all other species at least 11 inches in diameter.

Except for seedlings, the diameter must be measured 4.5 feet from level ground.

Application Process; Affidavit

To obtain an exemption for qualified forest property, the owner must submit an application, a forest management plan, and a fee to MDARD. If it determines that the application and supporting documents comply with the Act, MDARD must approve the application and prepare a qualified forest school tax affidavit. The affidavit must contain specified information, including a statement that the owner is attesting that the property for which the exemption is claimed is qualified forest property and will be managed according to the approved forest management plan. The bill also requires the affidavit to include a statement indicating that the property owner holds the timber rights for the property.

If the approved application and supporting documents extended to multiple parcels owned by the same person and located in the same tax collecting unit, the Department may include the required information in a single qualified forest school tax affidavit.

Previously, MDARD was required to provide one copy of the qualified forest school tax affidavit to the local conservation district and one copy to the Department of Treasury. The bill requires MDARD, instead of providing copies, to provide a spreadsheet listing all parcels for which it has received a qualified forest school tax affidavit.

Rescission; Recapture Tax; Withdrawal

Previously, under the Act, within 90 days after all or a portion of exempted property was no longer qualified forest property, the owner had to rescind the exemption for the applicable portion by filing a rescission form with the register of deeds for the county where the property is located.

Instead, under the bill, within 90 days after all or a portion of exempted property is no longer qualified forest property, the owner must notify MDARD that all or a portion of the property is no longer qualified forest property. The Department must notify the county treasurer that a request has been made to remove the exemption for the applicable portion, and to calculate any recapture tax required under the Qualified Forest Property Recapture Tax Act. The county treasurer must bill the property owner for any required recapture tax. When the proceeds of the recapture tax are deposited into the Private Forestland Enhancement Fund, as provided in that Act, MDARD must prepare a rescission form for the applicable portion of the property that is no longer qualified forest property and file the form with the register of deeds.

(The Qualified Forest Property Recapture Tax Act imposes a tax on property that is converted by a change in use that makes it no longer eligible for the exemption as qualified forest property.)

Previously, if a property owner failed to file a rescission form, beginning after 90 days had elapsed, the owner was subject to a penalty of \$5 per day for each separate failure, up to a maximum of \$1,000. Under the bill, this penalty applies if a property owner fails to notify the Department as required.

Previously, under the Act, if all or a portion of forest property for which an exemption had been granted was converted by a change in use and was no longer qualified forest property, the owner had to immediately notify the local tax collecting unit, the assessor, MDARD, and the Department of Treasury.

Under the bill, if all or a portion of forest property for which an exemption has been granted is converted by a change in use and is no longer qualified forest property, or if an owner of qualified forest property does not wish to keep all or a portion of the property enrolled in the Qualified Forest Program, the owner immediately must notify MDARD.

Local Fee

Each year in which qualified forest property is first exempt from school operating taxes, the local tax collecting unit must collect a fee on each parcel of exempt forest property located in that local unit. The fee must be determined by multiplying two mills by the property's taxable value, and must be collected at the same time and in the same manner as taxes collected under the Act. The bill requires the fee to be collected on the summer tax bill or, if the local tax collecting unit does not collect summer taxes, on the winter tax bill.

Forest Management Plan

The Act requires a forest management plan to contain certain information, including a description of forest practices, including harvesting, thinning, and reforestation, that will be undertaken. The bill also requires a plan to include a description of all stands or management units, including basal area for forested stands.

The Act previously defined "forest management plan" as a written plan prepared and signed by a qualified forester that prescribed measures to optimize production, utilization, and regeneration of forest resources. Under the bill, the term means a written plan prepared and signed by a qualified forester that prescribes measures to optimize production, utilization, regeneration, and harvest of timber.

Previously, the Act defined "harvest" as the point at which timber that has been cut, severed, or removed for the purposes of sale or use is first measured in the ordinary course of business as determined by reference to common practice in the timber industry. The bill deletes the reference to "use", but retains the rest of the definition. Additionally, under the bill, the term does not include the cutting, severance, or removal of timber for firewood, fence posts, or other personal use.

Definitions

The Act defines "approved forest management plan" as a forest management plan developed by a qualified forester. Under the bill, that definition is subject to Section 9308 of the Natural Resources and Environmental Protection Act, which specifies that a conservation district may not develop management plans for nonindustrial private forest plans. A district must provide a landowner upon request with a list of qualified foresters to develop management plans.

"Converted by a change in use" means both of the following:

- That term as defined in Section 2 of the Qualified Forest Property Recapture Tax Act: that due to a change in use the property is no longer eligible for an exemption as qualified forest property under the General Property Tax Act.
- That due to a change in use of either productive forest property or agricultural use property, the property is no longer eligible for exemption as qualified forest property.

Under the bill, both definitions are subject to the following: property is not converted by change of use under either circumstance described above by the construction of a residence and related structures on not more than one acre of property if the remainder of the property qualifies as qualified forest property. The remainder of the property is that portion of it exclusive of one acre on which the residence and related structures are located, which is not eligible for exemption.

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Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill will have a negative fiscal impact on the State and local government. The bill lowers local school revenue, and thus increases School Aid Fund expenditures in order to maintain per-pupil funding guarantees, by an unknown amount that depends on the specific characteristics of any additional land enrolled in the program. The bill increases the total number of acres that can be categorized as qualified forest property from 1.2 million to 2.5 million. It is unknown how many property owners will choose to seek qualified forest property status under the bill. Assuming an average property tax rate of 33 mills and an average

taxable value of \$1,000 per acre, if the entire increase in available acres became qualified forest property (an increase of 1.3 million acres), the bill will reduce local school revenue by approximately \$21.0 million. It is not known how long it will take to reach the maximum number of acres, or if the maximum will ever be reached. In 2017, enrolled acres represented only 37% of the current 1.2-million-acre cap. If per-pupil funding guarantees are maintained, School Aid Fund expenditures will need to rise by the amount of any local school revenue loss.

The bill will have no fiscal impact on the Department of Agriculture and Rural Development.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.