

QUALIFIED FOREST PROPERTY EXEMPTIONS
AND
CHICAGO CLIMATE CHANGE

Michigan Department of Treasury

Qualified Forest Property Exemption

Questions and Answers

Public Act 378 of 2006

Public Act 379 of 2006

Background Information

Note: The Assessment and Certification Division of the Michigan Department of Treasury and the State Tax Commission are not authorized to issue legal opinions. Therefore, the comments in this publication are not to be considered as such, but rather as statements of fact as the State Tax Commission and the Assessment and Certification Division interprets the facts.

Public Act 378, 379, and 380 enacted in September 2006, created the Qualified Forest Property (QFP) program. This is an opportunity for 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. The benefit to landowners enrolled in the Qualified Forest Property program is that the enrolled forestland is exempt from certain school operating taxes if it meets certain size, productivity, and management requirements. 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.

Introduction

What is the qualified forest property exemption?

The qualified forest property exemption is an exemption from certain local school operating millage provided by law for parcels that are qualified forest property.

Does the qualified forest property exemption eliminate the property taxes for parcels that receive the exemption?

Not completely. Property taxes are determined by multiplying a parcel's taxable value by an overall (composite) millage rate as follows:

$$\text{Taxable Value} \times \text{Millage Rate} = \text{Property Taxes}$$

Some property tax exemptions eliminate the taxable value of property receiving the exemption. The qualified forest property exemption, however, has no effect on the taxable value of parcels receiving the exemption. Instead, the qualified forest property exemption works to reduce (not eliminate) property taxes by reducing the overall (composite) millage rate for parcels receiving the exemption.

How does the qualified forest property exemption affect the property taxes for a parcel? In other words, what is the potential benefit to a property owner whose parcel receives the qualified forest property tax exemption?

A parcel that is qualified forest property is entitled to an exemption from certain local school operating taxes. Local school operating taxes typically are 18 mills and (when levied) usually constitute a large portion of the total property taxes for a parcel. Exemption from this millage rate is therefore a significant benefit to a property owner.

When was the qualified forest property exemption first established?

The qualified forest property exemption was first established by P.A. 378 in September of 2006. The first enrollment period began in 2007 and the first exemptions begin in 2008.

Is the qualified forest property exemption the same as the homeowner's principal residence exemption (formerly known as the homestead exemption) or the qualified agricultural property exemption?

No. The qualified forest property exemption, the homeowner's principal residence exemption, and the qualified agricultural property exemption all provide an exemption from certain local school operating taxes however the requirements for obtaining each of these exemptions are quite different.

Please see the document **Qualified Agricultural Property Exemptions Guidelines** available on the Michigan Department of Treasury's website for the requirements to obtain the qualified agricultural property exemption, www.michigan.gov/treasury.

Please see **Form 2856, Guidelines for the Michigan Homeowner's Principal Residence Exemption** available on the Michigan Department of Treasury's website for the requirements to obtain the principal residence exemption.

Is it possible for a qualified forest property to also qualify for either the qualified agricultural property exemption or the principal residence exemption at the same time?

No, the definitions of the three types of properties do not co-exist.

Note: It is generally not possible for the same property to receive both a qualified forest property exemption and a qualified agricultural exemption or a principal residence exemption at the same time

because each exempts the same local school operating millage.

If the qualified forest property exemption, the qualified agricultural exemption, and the principal residence exemption all provide an exemption from the same millage, how can someone tell which of these exemptions a parcel is receiving?

For 2003 and years before 2003, it was the practice of many assessors to label parcels which had the qualified agricultural property exemption as having the homestead exemption (now known as the homeowner's principal residence exemption). The result was viewing the assessment roll, or the tax roll, or tax bills, a person could not determine whether a parcel was receiving the homestead exemption or the qualified agricultural property exemption. It is important to have the ability to make this distinction because different eligibility criteria apply for each exemption and different appeal procedures apply for each. The same problem occurs with property receiving the qualified forest exemption. Starting in 2004, the State Tax Commission required that assessors indicate on the following documents whether a parcel is receiving the homeowner's principal residence exemption or the qualified agricultural property exemption so that a reader of these documents can determine which exemption (if any) the parcel is receiving:

Assessment roll
Tax roll
Tax bills
State Tax Commission Form L-4046,
Taxable Valuations

The State Tax Commission also recommends that the annual form used to notify property owners of increases in tentative state equalized value or tentative taxable value (e.g., State Tax Commission Forms L-4400 and L-4400 LH) also indicate whether a parcel of property qualifies for the

homeowner's principal residence exemption or the qualified agricultural property exemption. The State Tax Commission also recommends these documents to include identification of properties receiving a qualified forest exemption in 2008 and requires the identification after 2008.

Note: See also State Tax Commission Bulletin No. 9 of 2003.

Exemption Requirements

What are the main requirements for a parcel to be eligible for the qualified forest property exemption?

1. The minimum size parcel that may be enrolled in the program is 20 contiguous acres. This ensures that the property is large enough for forest management. The property must not contain buildings or other structures.
2. The maximum acreage that can be enrolled by a single owner is 320 acres within a township or city.
3. At least 80% of the property must be productive forest. The standard for productive forest is that it is capable of growing at least 20 cubic feet per acre per year; or approximately one-quarter of a cord of timber per acre per year.
4. The forestland must be stocked with forest products – timber, pulpwood, and related products. Stocked means that the forestland must have a sufficient number of trees per acre or a sufficient percentage of the area occupied by trees that would produce a forest product.
5. No buildings or other structures are permitted on the property.
6. Must have a forest management plan approved by the Michigan Department of Natural Resources, OR a plan approved by a third party certifying organization. Third party certifying organizations include but may not be limited to the Forest Stewardship Council and the Sustainable Forest Initiative. Please contact the Department of Natural Resources for a complete list of third party certifying organizations.
7. Each forest management plan must include at a minimum: map of property, description of practices that will be undertaken, estimate of time before each practice is completed, soil conservation practices that may be necessary, and activities for the management of forest resources other than trees.

The following are items that will be checked by the Department of Natural Resources:

- a. Name, address and dated signature of ALL property owners.
- b. Name, address and dated signature of plan writer.
- c. Time period covered in the plan (cannot exceed 20 years)
- d. Complete legal description of the property including parcel identification numbers.
- e. Acreage covered in the plan conforms to the requirements (20 contiguous acres, 80% productive forest).
- f. Statement of property owners' forest management goals and objectives.
- g. Description of activities to be undertaken for the management of forest resources other than timber.
- h. Soil types and a description of soil conservation practices to be used if needed.
- i. Maps, diagrams or aerial photographs of the property.
- j. Narrative description of each management unit.
- k. List of prescribed practices, approximate treatment

schedule and accomplishment dates for each stand.

1. Signature of compliance with all terms and conditions of the approved plan.
8. The forest management plan must be updated at a minimum of 20-year periods.
9. The applicant must attest that the property will be managed according to the plan.
10. The property owner must report the amount of timber produced on their enrolled lands each year to the Michigan Department of Natural Resources.
11. The applicant must file Treasury Form 4449 with two copies of the forest management plan to the Michigan Department of Natural Resources by November 1 in order to be considered for enrollment in the following tax year.
12. The DNR approved plan and the affidavit must then be submitted to the local assessor by December 31st. The local assessor determines if the property qualifies for the qualified forest property enrollment based upon the recommendation from the DNR (the forest management plan is acceptable and the State-wide acreage limitation has not been exceeded), a field review of the property to ensure that it is vacant (no buildings or other structures), and a check of the assessment rolls to determine that the acreage limitation of the property owner has not been exceeded.

I own a forty acre parcel in one section and a 120 acre parcel in another section that is not contiguous. Do I need to submit two forest management plans to the Department of Natural Resources and pay \$200 for each plan?

No, the DNR's rules for plan submission are:

Land within a single taxing unit (township or city), contiguous or not – 1 plan

Land in two taxing units, but is contiguous – 1 plan

Land in two or more taxing units, but is not contiguous – 1 plan for each taxing jurisdiction.

You may ask your plan writer to write one or more plans for your submission based on the rules stated above. Most forest lands will have more than one type of forest stand and will require different treatments. This can easily be accomplished in a single plan. If your property is in two or more townships or cities, you will need to submit a copy of the Treasury Form 4449 for each township or city with the forest management plan.

May a forest management plan be transferred to a new owner of QFP land or will a new plan be required?

The forest management plan submitted by the original applicant will be the basis for determining the compliance with the QFP Act. If property is transferred, the grantee should inquire of the grantor about receiving a copy of the forest management plan. The new owner may wish to submit a revised plan along with the appropriate fee to the DNR. The new forest management plan will enable the new owner to tailor the forest land to individual and specific goals.

My land is used for forest production and for hunting. Will my property qualify for the QFP exemption?

Yes, as long as the requirements are met (acreage limitations, productivity, forest management plan and practices, and the property is vacant).

A parcel's eligibility for most property tax exemptions is determined as of December 31 of the prior year (i.e., the year immediately before the year of the exemption being considered). This status day is often called "tax day". Is tax day

also the status day for the qualified forest property exemption?

Yes. The application form (Treasury Form 4449) and two copies of the forest management plan must be submitted to the Department of Natural Resources by November 1 to provide the Department time to review the plan. The approved plan and the application form then must be submitted to the local assessor on or before December 31 (tax day) to be considered for the exemption in the following year.

CFA lands, Ownership, and Buildings and Structures.

Commercial Forest Act lands (CFA, CFR)

I currently have 160 acres enrolled in the Commercial Forest Act. I have received a letter from the Department of Natural Resources indicating that I can withdraw from the CFA provisions without penalty if I enroll the land under the provisions of the Qualified Forest Property act. I want to keep my land listed as CFA land. Do I need to do anything to keep my land in CFA?

No, if you decide not to change programs, you do not need to take any action.

What happens if I decide to switch from CFA to QFP before September 26, 2007?

You must notify the Department of Natural Resources of your decision by submitting a Commercial Forest Withdrawal Application and application fee postmarked not later than September 26, 2007, plus you must submit Treasury Form 4449 to the Department of Natural Resources. You will not need to supply another forest management plan provided the current plan

on file is less than 20 years old however you will be required to pay the \$200 plan review fee with the application.

The Department of Natural Resources will notify the local assessor that the plan on file is approved and that there is acreage available under the State-wide limitation. The assessor will examine the property to ensure there are no buildings or structures on the land.

Since lands listed in CFA are exempt from ad valorem taxes, the assessor must treat the value as new value. The assessor will assess the property at 50% of the market value (true cash value). The taxable value (the value the millage rate is multiplied by to determine the tax bill) will be equal to the State Equalized Value (SEV) – normally the same as the assessed value.

What if I decide to switch from CFA to QFP after September 26, 2007?

You will be required to withdraw from CFA and pay all withdrawal fees. A QFP application Form 4449 must then be submitted to the DNR. If the forest management plan is more than 20 years old, a new or revised plan and fee must be submitted. If the plan is less than 20 years old and requires no revisions the DNR will make a recommendation to the local assessor and supply the assessor with a copy of your original forest management plan.

The assessor's duties will remain the same as in the previous question.

Ownership

I own a 600 acre tract of land described as a single parcel on the assessment role. The QFP exemption has a maximum limitation of 320 acres. Can I get a partial exemption to cover 320 of my 600 acres?

No. The QFP act does not provide for partial exemptions or for more than 320 acres per

township or city. However, you may request that the assessor split your 600 acre parcel into two or more smaller parcels.

Will I be required to have my parcel split before I can apply for a QFP exemption?

No. You can ask the assessor to make the split at anytime, but the action will not become effective until the next tax year. You can ask the assessor to split the parcel when the Department of Natural Resources informs him/her that the forest management plan and Treasury Form 4449 have been approved. Since the QFP exemption will not be effective until the following year and the split parcels will be effective then also the exemption will be permitted provided there is acreage available under the State-wide limitation.

A split will normally result in a new parcel identification number that will not match the number indicated on the original application form. If the assessor makes any parcel identification number changes he or she shall include the new number on the application form and return a copy of that form to the DNR for record keeping purposes. The new number and legal description should be included with the next forest management plan update. The DNR may request a copy of a changed legal description for inclusion with the DNR copy of the forest management plan.

If the assessor splits my acreage into two or more parcels, will I lose the benefit of the capped taxable value? Will the taxable value uncap?

No. The capped value will not uncap unless there is a change in ownership. Please review State Tax Commission Bulletin 8 of 1995 (Taxable Value) and Bulletin 16 of 1995 (Transfers of Ownership) for detailed discussions of these subjects.

What does the assessor need to split this parcel?

You will need to supply the assessor with the legal descriptions of each parcel you wish created. A registered survey is not required. The assessor will retire the parcel identification number of your original parcel and assign a new number for each split parcel.

Can property owned by a legal entity (such as a partnership, corporation, limited liability company, association, etc.) receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption. Unlike the homeowner's principal residence exemption, ownership by a partnership, corporation, limited liability company, association, or other legal entity does not disqualify the property for the qualified forest property exemption. Ownership by an individual also does not disqualify the property for the qualified forest property exemption. For information regarding the homeowner's principal residence exemption, please see **Form 2856, Guidelines for the Michigan Homeowner's Principal Residence Exemption**. This form is available at the Michigan Department of Treasury Web site, www.michigan.gov/treasury.

Who determines if QFP remains QFP after a portion of the ownership is rescinded or transferred?

The assessor will determine if the acreage limitations (minimum 20 acres) is met. The assessor will consult with the DNR to determine if the forest management plan and/or productive acreage meet the requirements.

Can property owned or being purchased under a land contract receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

Can property owned by someone who has retained a life lease on that property receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

Can property owned by someone as a result of being a beneficiary of a will receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

Can property owned by someone as a result of being a beneficiary of a trust receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

Can property owned by someone as a result of intestate succession receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

I plan to purchase land enrolled as QFP. I already own 320 acres of QFP in this township.

There are three options available to you. The first is to request the owner of the property you wish to purchase to rescind the land and pay the recapture taxes.

If this request is not granted and you still desire to purchase the property you may either rescind the property and pay the recapture taxes yourself or select another

parcel of your existing QFP ownership equal to the acreage of the property you are acquiring and rescind and pay the recapture taxes on that property.

Buildings and Other Structures

I have an old pole barn on my property that is no longer being used. Will this count as a structure or a building?

Yes, this building will disqualify the parcel for the QFP exemption. If you want to receive the exemption you will need to accomplish one of two actions. Either remove the pole barn or request the assessor make a split so that the pole barn is not part of the parcel requesting the exemption.

I have 65 acres of woodland with a cabin on it. How can I enroll this property?

You will need to supply the assessor with a legal description that includes the cabin and request it be split into a separate parcel. Only vacant parcels will qualify as QFP.

How does zoning or the Land Division Act affect QFP?

Forest management will need to be permitted by local zoning ordinances before the property will qualify. The Land Division Act will not affect a property's ability to be enrolled as QFP. If a split of the property is required to make a parcel qualify, you will need to check with the local municipality regarding land divisions. Each municipality is required to have a designated land division coordinator.

I also use my forest land for deer hunting. How are my deer blinds treated?

As long as the deer blind is of the traditional nature (small, non-habitable, no utilities) it will not be considered a building or a structure whether it is a ground blind or an elevated blind. If the blind is constructed so

as to provide sleeping quarters or other amenities, it will be considered a structure.

What about gas and oil wells?

There are many types of gas and oil well structures. The well and non-enclosed pump will not be considered a structure. The acreage used by these facilities will be included in the non-productive forest land area and thus, with other openings, must be less than 20% of the parcel. This is in line with the treatment of similar items permitted for Commercial Forest Act lands.

Maintenance sheds and/or storage tanks will be considered structures.

The property owner may request the assessor create a split for improved or non-productive gas and oil field lands provided the remaining property meets all QFP guidelines. The property owner shall supply the legal description for each split parcel. The assessor will retire the original parcel identification number and supply new parcel identification numbers for each newly described parcel.

I have two brothers and we own a section of land (640 acres) as a single parcel. Can we each enroll a portion of this property or are we limited to 320 acres?

No. The limitation is 320 acres per owner. You and your brothers together are considered one owner. You may, however, transfer ownership of a portion of the property to each person and then each person may enroll their ownership. This will likely cause the taxable value to uncap due to this transfer of ownership.

My brother and I own 200 acres of land as a single parcel. I also own an additional 300 acres in the same township with no co-owners. Can all of this property be enrolled as QFP?

Yes, the 200 acre parcel owned by you and your brother is one ownership and is less

than the 320 acre maximum limitation. The 300 acre parcel owned by you alone would be a separate ownership. If your brother deeds his interest in the 200 acre parcel to you, you will need to immediately withdraw any portion that will cause you to exceed 320 acres in the unit

**Rescinding and Withdrawal of
Qualified Forest Property,
Penalties, Recapture Taxes**

Withdrawals and Rescissions

Can a property owner withdraw a qualified forest property exemption that has been incorrectly granted?

Yes. If a qualified forest property exemption is erroneously granted, an owner may request in writing that the local tax collecting unit withdraw the exemption.

If a property owner requests that a local tax collecting unit withdraw an erroneously granted qualified forest property exemption, what are the property tax officials required to do?

The local assessor must notify the property owner that the qualified forest property exemption has been denied based on the owner's request. The exemption is to be removed immediately from the tax roll(s) affected by the denial as if the exemption had not been granted. The local unit and the County treasurer are responsible for changing the tax roll(s) in their possession. A corrected tax bill for each affected tax year must be issued by the local unit and/or the County treasurer, again depending on possession of the tax roll(s) for the affected years. The corrected tax bill(s) will be for the additional taxes caused by the removal of the qualified forest property exemption.

If a property owner requests that a local tax collecting unit withdraw an erroneously granted qualified forest property exemption, will the resulting corrected tax bill(s) include penalty or interest?

If an owner requests that the exemption be withdrawn before the owner is contacted in writing by the local assessor regarding the owner's eligibility for the exemption, and if the owner pays the corrected tax bill(s) within 30 days after the corrected tax bill(s) are issued, the owner is not liable for any penalty or interest on the additional taxes. An owner who pays a corrected tax bill more than 30 days after the corrected tax bill is issued will be liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

What is the difference between a withdrawal of a qualified forest property exemption and a rescission of this exemption?

A withdrawal of the qualified forest property exemption works to remove the exemption from the parcel for the year(s) involved as if the exemption had not been granted for the year(s). A withdrawal results in additional taxes being billed for the current and/or prior years. A withdrawal is only available for a QFP exemption that was erroneously granted. A rescission of the qualified forest property exemption, on the other hand, works to remove all of the qualified forest property exemption for the next tax year. A rescission will result in the application of the recapture tax and if there was an exempt transfer of ownership, a repayment of the benefit the property received (up to the most recent 10 years after the exempt transfer of ownership – see Recapture Taxes later in this document).

Example: It is June. A 60-acre parcel is classified residential by the assessor on the assessment roll. In prior years and until this

month, the parcel had been used entirely to grow commercial timber. The parcel has been receiving a qualified forest property exemption since the current owner enrolled the property. The commercial timber operation ceased on this parcel this month when the owner sold the parcel to a developer who has begun to construct a subdivision over the entire parcel. The new owner has rescinded the qualified forest property exemption since the property is no longer qualified forest property. Under these circumstances, the parcel will continue to receive the qualified forest property exemption on its tax bills for the current year; however the recapture taxes must be paid. The assessor must remove the qualified forest property exemption for the next tax year.

Is a property owner required to rescind the qualified forest property exemption when all or a part of the property benefiting from that exemption is no longer qualified forest property?

Yes. Not more than 90 days after all or a portion of property receiving the qualified forest property exemption is no longer qualified forest property, the owner must rescind the exemption for the applicable portion of the property by filing a rescission form with the local assessor. The rescission form for this purpose is Form 4450, Request To Rescind Qualified Forest Property Exemption. This form is available at the Michigan Department of Treasury Web site, www.michigan.gov/treasury.

Note: A property owner may request that the assessor create a split of the parcel and withdraw only that part of the property not qualified provided the split is requested prior to the non-qualified use and the remainder of the property still meets the requirements of the Act.

Is there a penalty when a property owner fails to file a rescission form when all or a part of the property receiving the

qualified forest property exemption is no longer qualified forest property?

Yes. An owner who fails to file a rescission form as required by law in this situation is subject to a penalty of \$5 per day (beginning after the 90 days to file have elapsed) up to a maximum of \$1,000. This penalty is to be collected under MCL 205.1 to 205.31 and is to be deposited in the General Fund of this State.

Note: It is not the responsibility of local unit or County treasurers to collect this penalty. In fact, local unit treasurers and County treasurers are not legally authorized to collect this penalty. This penalty is collected by the Revenue Division of the Department of Treasury. The assessor, local treasurer, or county treasurer should notify the Department of Treasury, Revenue Division of any penalty for timely collection.

Should assessors remove the qualified forest property exemption from a parcel after that parcel transfers ownership?

No. Once a parcel is granted the qualified forest property exemption, the exemption remains in place until the end of the year in which the property is no longer qualified forest property (except in withdrawal and denial situations). Ownership is not relevant in determining whether a parcel continues to receive the qualified forest property exemption. Unless the new owner files Form 4508, Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property, the assessor will uncap the taxable value of the property.

Example: A parcel is 20 acres in size and is classified residential on the assessment roll. Several years ago, the owner filed Form 4449, Claim For Qualified Forest Property Exemption From Some School Operating Taxes, to claim the qualified forest property exemption and the parcel is still receiving this exemption. In June of this year, the

owner decides to sell the parcel. The sale occurs in August of this year. In this situation, the exemption will remain in place for the rest of the year in which the sale occurred (i.e., this year) and for subsequent years as well, provided that the property remains qualified forest property. The new ownership of the parcel is not a consideration with regard to the parcel's eligibility to continue receiving the qualified forest property exemption. Also, unlike the homeowner's principal residence exemption where eligibility for the exemption is tied to ownership, with the qualified forest property exemption, a new owner is not required to file an affidavit (Form 4449, Claim For Qualified Forest Property Exemption From Some School Operating Taxes) to maintain the qualified forest property exemption for the year(s) following the change in ownership.

Note: For information regarding the homeowner's principal residence exemption, please see Form 2856, Guidelines for the Michigan Homeowner's Principal Residence Exemption. This form and Form 4449 which is mentioned in the preceding paragraph are available at the Michigan Department of Treasury Web Site:

www.michigan.gov/treasury

Denials and Appeals

Application Appeals

I timely submitted my application and copies of the forest management plan to the Department of Natural Resources who determined that the plan met the qualifications of the act and indicated there was available acreage under the State-wide cap. The appropriate paperwork was submitted to the local assessor but no action was taken by the assessor. What do I do now?

The Act provides that an owner of property, that is qualified forest property on December 31, which an exemption was not on the tax roll, may file an appeal with the July or December board of review under section 211.53b in the year the exemption was claimed or in the immediately succeeding year. If the property qualified and there is acreage available under the State-wide cap, you may appeal to the July board of review or to the December board of review. You also have a right to further appeal to the Michigan Tax Tribunal's small claims division should the July or December board of review deny your claim.

I applied for the Qualified Forest Exemption on an 80 acre tract I own, my plan was approved by the Department of Natural Resources, there is acreage available under the State-wide limitation, and I currently have no land listed. The assessor denied my claim. Do I have any recourse?

Yes. An owner of property that is qualified forest property on May 1 for which an exemption was denied by the assessor in the year the affidavit was filed, may file an appeal with the July board of review for summer taxes or, if there is not a summer levy of school operating taxes, with the December board of review under MCL 211.53b. You also have a right to further appeal to the Michigan Tax Tribunal's small claims division should the July or December board of review deny your claim.

I was granted a Qualified Forest Property exemption last year. This year the assessor denied my exemption. Do I have any recourse?

Yes. An owner of property that is qualified forest property on December 31 for which an exemption was denied by the assessor, may file an appeal with the March Board of Review under MCL 211.30 followed by an

additional appeal to the residential and small claims division of the Michigan Tax Tribunal if needed.

Local Unit Denials

Can an assessor deny a qualified forest property exemption for a prior year on the initiative of the assessor?

No. With the exception of withdrawal situations, where the property owner has requested the withdrawal of the qualified forest property exemption for a prior year, the assessor cannot deny a qualified forest property exemption for a prior year.

*Note: See the section on **withdrawals and rescissions** in this publication for additional information on withdrawals of the qualified forest property exemption*

Can an assessor deny the qualified forest property exemption for the current year?

Yes, in these situations:

1. The assessor can deny a claim for a **new** qualified forest property exemption if there are buildings or structures on the parcel, or if the owner of the property has or will have more than 320 acres of land enrolled as qualified forest property in the local unit, or the Department of Natural Resources indicates the submitted forest management plan is deficient.
2. The assessor can deny an existing qualified forest property exemption when preparing the annual assessment roll. If the assessor believes that a parcel that received the qualified forest property exemption last year is no longer qualified forest property, the assessor is to deny the exemption when preparing the annual assessment roll.

3. The Department of Natural Resources notifies the assessor that the property owner has not filed the required annual report of harvest, acreage, and new construction.

If an assessor discovers that a parcel which was exempt in a prior year is incorrectly receiving this exemption for the current year, can the assessor deny the qualified forest property exemption for the current year?

No. Even if the assessor discovers a situation where it is clear that a parcel is incorrectly receiving the qualified forest property exemption for the current year, after the close of the March Board of Review, the assessor has no power to deny the exemption. The assessor in such a situation may only deny the exemption for the next year (and must do so if the parcel's eligibility remains the same when the next year's assessment roll is created). However, see the note below.

Note: However, an assessor can deny a qualified forest property exemption for the current year after the close of the March Board of Review for that year if the property owner has requested the withdrawal of the exemption for the current year. (See the section on withdrawals and rescissions in this publication for additional information on withdrawals of the qualified forest property exemption.) An assessor can also deny a qualified forest property exemption for the current year after the close of the March Board of Review of that year due to a processing delay. If, for example, an affidavit claiming the exemption is filed on or before the filing deadline of December 31, the assessor may take time to process and deny that exemption claim. The denial may then occur after the close of the March board of review. (The State Tax Commission has recommended to assessors that the denial occur before July 1.)

In situations where the assessor can deny the qualified forest property exemption for the current year, how does the assessor deny this exemption? What notification is made to the property owner?

The way in which the assessor denies a qualified forest property exemption for the current year, and what type of notification is made to the property owner regarding the denial, depends on the circumstances:

1. To deny a new claim for a qualified forest property exemption, the State Tax Commission has recommended the assessor deny the exemption and the owner be notified immediately of the denial, the reason for the denial, and the owner's rights of appeal to the July or December board of review. The notification should be made in writing.

2. To deny an existing qualified forest property exemption when preparing the annual assessment roll, the assessor eliminates the exemption from the upcoming assessment roll and notifies the property owner by mailing the property owner a notice of increase in tentative state equalized valuation or tentative taxable valuation at least 10 days before the March board of review. This notice shows the level of the qualified forest property exemption, if any. Although not required by statute, it is advisable for the assessor to notify any property owner in writing if their exemption is being denied.

3. To deny an existing qualified forest property exemption after the close of the March board of review, an assessor would deny the exemption and notify the owner immediately of the denial, the reason for the denial, and the owner's rights of appeal to the July or December board of review. The notification should be made in writing.

Note: An assessor can deny a qualified forest property exemption for the current year in a fourth situation as well: when the

property owner has requested a withdrawal of the exemption for the current year. See the section on withdrawals and rescissions in this publication for additional information on withdrawals of the qualified forest property exemption. This section includes a discussion on the method of the denial by the assessor and the notification provided to the property owner when a withdrawal occurs.

Can a denial of a qualified forest property exemption be appealed?

Yes.

What is the appeal process for appealing the denial of a qualified forest property exemption?

The process for appealing the denial of a qualified forest property exemption depends on the denial situation. Appeals processes associated with various denial situations are provided below:

1. When the assessor has denied (or partially denied) a claim for a **new** qualified forest property exemption, the property owner must appeal in the same year to the July or December board of review of the City or Township where the property is located. If not satisfied with the decision of the July or December board of review, the property owner may then appeal further to the Michigan Tax Tribunal within 30 days of the board of review action.
2. When the assessor denies an existing qualified forest property exemption while preparing the annual assessment roll, the property owner must appeal in that year to the March board of review of the City or Township where the property is located. If not satisfied with the decision of the March board of review, the property owner must then appeal further to the residential and small claims division of the Michigan Tax Tribunal by July 31 of that year.

3. When the assessor has denied an existing qualified forest property exemption after the close of the March board of review, the property owner must, in the opinion of the State Tax Commission, appeal in that year to the July or December board of review of the City or Township where the property is located. If not satisfied with the decision of the July or December board of review, the property owner must then appeal further to the Michigan Tax Tribunal within 30 days of board of review action.

Note: The State Tax Commission annually publishes a chart concerning property tax appeal procedures. For a summary of the appeal options discussed above (and information on other property tax appeal processes), the reader is directed to the most recent edition of this annual bulletin at the Department of Treasury Web site, www.michigan.gov/treasury.

If a parcel did not receive the qualified forest property exemption last year, can the March board of review grant an appeal by the property owner requesting the qualified forest property exemption be added for the current year?

No. If the parcel did not receive the qualified forest property exemption in the prior year, the March board of review of the City or Township where the property is located does not have the legal authority to grant the exemption for the current year, even if the parcel qualifies for the exemption.

If a parcel received the qualified forest property exemption last year and continuation of the existing exemption was denied by the assessor this year, as the assessor prepared the assessment roll, can the property owner appeal the denial to the July or December board of review?

No. The appeal in this situation is to the March board of review of the City or Township where the property is located and

then to the Michigan Tax Tribunal by July 31 of that year (if not satisfied with the March board of review decision). Neither the July nor the December boards of review have the legal authority to hear an appeal regarding the denial by the assessor of the continuation of a qualified forest property exemption under these circumstances.

Can an owner of property that was qualified forest property on December 31 for which an exemption was not on the tax roll, later obtain that exemption?

Yes. The law provides that an owner of property that was qualified forest property on December 31 for which an exemption was not on the tax roll, may appeal to the July or December board of review of the City or Township where the property is located. July and December boards of review have the power to grant the exemption for the current year (the year in which the appeal is made) and the immediately preceding year—provided the parcel in question otherwise qualified for the exemption for the year(s) involved.

The July or December Board of Review may only grant this exemption for the previous year if a timely filed application with an approved forest management plan was submitted but the exemption was not placed on the assessment roll.

Note: If an appeal of the type discussed in this question is denied, the property owner may then appeal further to the Michigan Tax Tribunal within 30 days of board of review action.

Transfers of Qualified Forest Property

A general discussion of transfers of ownership is the subject of the State Tax Commission Bulletin No. 16 of 1995 located

on the Michigan Department of Treasury web site.

A question and answer document dealing extensively with transfers of ownership is has also been published by the Department of Treasury; Transfer of Ownership and Taxable Value Uncapping Guidelines

Certain Transfers of Qualified Forest Property Are Not "Transfers of Ownership".

PA 378 of 2006 provides that a transfer of qualified forest property is not a "transfer of ownership" provided that:

- a) The property remains qualified forest property after the transfer, AND
- b) The person to whom the property is transferred files an affidavit with the assessor and the register of deeds. (The STC recommends that the assessor verify that an affidavit has also been filed with the register of deeds.)

The signer of the affidavit must attest that the qualified forest property shall remain qualified agricultural property. The affidavit, Form 4508, can be obtained at the Department of Treasury web site, www.michigan.gov/treasury.

When a property is transferred and the transfer is not a "transfer of ownership", the taxable value of the property is not uncapped in the year following the transfer.

Important Note: *If qualified forest property is transferred and does not remain qualified forest property, the taxable value may still be exempt from uncapping if the transfer qualifies under some other section of law, such as a qualifying transfer to a trust, etc. See STC Bulletin 16 of 1995 for a discussion regarding "Transfers of Ownership".*

What happens to the QFP exemption when I die and my land passes to my children or other heirs?

The exemption follows the property until such time as the property is no longer qualified forest property. Property is no longer qualified forest property when a rescission is made (Form 4450), the forest management plan has not been revised during the past 20 years, or the requirements of the exemption are not met. The taxable value of the property will uncapped when your heirs become the beneficiary of your estate. However they may file the appropriate form with the register of deeds in the county the property is located and with the assessor certifying that the property will remain qualified forest land and the taxable value will not be uncapped. Once this form is filed, the property will be subject to the repayment of the benefits the property received for up to ten years after the first exempt transfer if the property ceases to be qualified forest property.

Can I sell my land if it has a QF property tax exemption?

Yes, you may sell the land. The land may retain the qualified forest exemption if the purchaser desires and agrees to maintain the property as qualified forest. Additionally, the new owner may also file the appropriate forms with the register of deeds in the county in which the property is located and the local assessor to prevent the uncapping of the property. If this form is not filed, the taxable value of the property will uncapped.

Note: The owner of qualified forest property shall inform a prospective buyer that the qualified forest property is subject to recapture tax provided in the qualified forest property recapture tax act. If the new owner of the property does not wish to maintain the property as QFP, he/she may desire that you rescind the exemption and pay the recapture tax. The recapture tax is the responsibility of the owner at the time the property ceases to be QFP.

I wish to sell 10 acres of my 80 acre ownership. The entire 80 acres is QFP. What will happen to the 10 acre parcel I wish to sell? What will happen to the remaining 70 acres?

The assessor will split the 80 acre parcel into a 70 acre parcel and a 10 acre parcel. The original parcel identification numbers should be retired and new parcel identification numbers assigned to each parcel.

You will be required to rescind the QFP exemption on the 10 acre parcel. If the parcel is not rescinded within 90 days of the split, a \$5.00 per day fine up to a maximum of \$1,000 will be due on the property. Additionally, the property will be subject to the Qualified Forest Recapture Tax Act (see next section).

The 10 acre parcel will be uncapped in the year following the transfer of ownership

The 70 acre parcel will remain QFP and you will not need to take any special action regarding this parcel, its capped value will remain in place.

I own 40 acres of QFP and I want to add my son to the deed as an equal owner. What complications should I anticipate?

50% of the property's taxable value will uncapped unless you and your son file Form 4508, Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property, with both the Register of Deeds and the assessor (see Transfer of Ownership document). Should the property later cease to be QFP, part two of the Recapture Tax Act will be applied in addition to the recapture tax.

Qualified Forest Property Recapture Tax

When does the QFP recapture tax apply?

The QFP recapture tax applies when the property ceases to be QFP either through rescission (Form 4450), violation of the requirements of the QFP Act, or by a change in use that is not compatible with the QFP Act.

What is the QFP recapture tax?

There are two parts of the QFP Recapture Tax Act.

Part 1 applies whenever a QFP ceases to be QFP. The recapture tax is payable by the parties in ownership of the property when it ceases to be QFP. There are two possible calculations for Part 1 that depend on whether a harvest of forest products was made after the enrollment of the property.

If a harvest was made, the recapture tax is:

(Current SEV of the Property) X (Total Millage in the Township or City the property is located in) X 7

Example:

Current taxable value = \$15,000

Current SEV = \$25,000

Current Millage = 45 Mills

$\$25,000 \times 0.045 \times 7 = \$7,875$

If there was not a harvest made, the recapture tax is twice the above.

Same Example – no harvest

$\$25,000 \times 0.045 \times 7 \times 2 = \$15,750$

Part 2 of the recapture tax applies if there was a transfer of ownership that was exempt from the uncapping requirement because Form 4508, Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property. Part 2 equals the difference in the amount of property tax paid and the amount of property tax that would have been paid if the taxable value of the property had uncapped, but only for the

most recent 10 years after the exempt transfer. If there was more than one exempt transfer, the calculation will be made taking into consideration the taxable values that would have resulted because of each transfer of ownership.

Must a harvest be of commercial products to qualify as a harvest when determining part 1 of the recapture tax?

The prescriptions included in the approved forest management plan will be the determining factor. In some cases non-commercial harvesting may be indicated by the forest management plan for pre-commercial thinning, silvicultural best management practices, or for environmental concerns such as soil erosion.

I own 120 acres of QFP in a township. I have had a timber harvest on 40 acres but wish to rescind 10 acres in an area that has not been harvested. What portion of the recapture tax will I pay?

If the acreage was enrolled as a single parcel (a single property tax identification number) then the property will be considered to have had a harvest and will be subject to a recapture tax (Part 1) of the current SEV of the acreage withdrawn times the total millage times 7.

If the acreage is part of more than one QFP application (two or more non-contiguous parcels) and the harvest was not in the parcel being withdrawn, the amount calculated above will be multiplied by 2.

Note: The SEV should be determined by the parent parcel rate per acre and not the child (10 acre) rate.

Who pays Part 1 and Part 2 of the Recapture Tax?

The parties that own the property when the property ceases to be QFP pay the recapture taxes.

Who is responsible for collecting the recapture tax?

The Treasurer of the State of Michigan is charged with the collection of the recapture tax.

How is the Treasurer notified that the recapture tax is assessable?

MCL 211.1035(2) states: The assessor of the local tax collecting unit shall notify the treasurer of the date the property is converted by a change in use. *The method and forms for this portion of the requirement are not developed at the time this document is issued. Please check the Michigan Department of Treasury web site for further information.*

Who calculates the amount of the recapture tax the Treasurer shall collect?

The assessor of the local unit shall determine the SEV and, if necessary, the taxable values of the parcels. The local treasurer shall determine the millage rates required. If the property ceases to be QFP and the property owner does not rescind the exemption within 90 days, the assessor will determine the penalty (\$5.00/day, maximum of \$1,000). Together the assessor and the local unit treasurer shall complete the recapture tax spreadsheet provided by the Department of Treasury. A copy of the spreadsheet calculation and the notification form shall be sent to the Michigan Department of Treasury after all appeal periods the property owner may be entitled to have expired.

Who is the recapture tax credited to?

MCL 211.1035(3) states: The treasurer shall credit the proceeds of the recapture tax collected under this act to the general fund of this state.

What if the recapture tax is not paid when billed?

MCL 211.1033(2) - If the recapture tax is imposed, it becomes a lien upon the property until paid. If the recapture tax is not paid within 90 days of the date the property was converted, the treasurer (State) may bring a civil action against the owner of the property as of the date the property was converted. If the recapture tax remains unpaid on March 1 in the year immediately succeeding the year in which the property is converted, the property shall be returned as delinquent to the county treasurer. If the recapture tax, interest, penalties, and fees remain unpaid after the property is returned as delinquent to the county treasurer, it is subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in sections 78 to 79a of the general property tax act.

NOTE: The recapture tax local unit reporting procedures are currently being developed by the Department of Treasury. Specific details and forms will be appended to this document when available.

Michigan Department of Natural Resources
Forest, Mineral and Fire Management
Qualified Forest Application Checklist

Indicate if the Forest Management Plan submitted with the application contains all required information, and if the property meets Qualified Forest Property conditions. Provide the Department recommendation after review.

Landowner(s) name(s) _____

Tax I.D. number _____

FOREST MANAGEMENT PLAN

____ Name, address and dated signature of all property owners

____ Name, address and dated signature of plan writer

____ Time period covered in the plan does not exceed 20 years. Expiration Date: _____

____ Complete legal description of property including parcel identification number

____ Statement of property owners forest management goals and objectives

____ Maps, diagrams or aerial photographs of the property

____ Narrative description of each management unit

____ List of prescribed practices, approximate treatment schedule and accomplishment dates for each stand

____ Soil types (optional) and a description of soil conservation practices to be used if needed

____ Description of activities to be undertaken for the management of forest resources other than timber

____ Signature of compliance with all terms and conditions of the approved plan

QUALIFIED FOREST PROPERTY

____ Acreage conforms with requirements (minimum 20 contiguous)

____ 80% of property is productive forest capable of producing wood products

____ Property is capable of growing not less than 20 cubic feet of wood/acre/year

____ Property is stocked with forest products

____ Has no buildings or structures (based on information provided by applicant; local assessor – please verify)

____ Has an approved Management Plan

DEPARTMENT RECOMMENDATION

____ Forest Management Plan meets requirements as stated in Section 7jj(10)(e) of PA 378

____ Property meets the Qualified Forest Property conditions defined in Section 7jj(10)(f) of PA 378

DNR Service Forester

Date

Claim for Qualified Forest Property Tax Exemption from Some School Operating Taxes

Issued under P.A. 378 of 2006. Filing is required if you wish to receive an exemption.

Do you need to file this claim?

Is the property vacant? Yes ☐ No ☐
Does this property have a Principal Residence Exemption? Yes ☐ No ☐

If you answered NO to the property being vacant you do not qualify.

If you answered YES, you have a Homeowners Principal Residence Exemption for this property, you will be required to rescind that exemption if you are granted the Qualified Forest Property Tax Exemption.

This form and two copies of your forest management plan, and, if applicable, two copies of the third party certification, must be submitted to the Michigan Department of Natural Resources (DNR) prior to November 1 of the year prior to assessment year requested. Submit materials to the DNR Office location that corresponds to the county in which your land is located. See DNR Service Forester list provided.

SECTION 1: File a separate claim for each qualified parcel.

Name of Owner (first, middle, last)		Name of Co-Owner (first, middle, last)	
Address of Property Owner(s)		City, State, ZIP Code	
Name of Township/City Where Property is Located	County of Property	Check one: <input type="checkbox"/> Township <input type="checkbox"/> City	
Property Owner E-mail Address	Property Owner Telephone Number		
Enter the property tax identification number of the qualified property you are claiming. This number is on your tax bill or your assessment notice. Start at the left and leave any extra spaces blank. Use a full space for any hyphens (-) in the number.			
Does this property include any buildings? Yes <input type="checkbox"/> No <input type="checkbox"/>	Do you have other Qualified Forest property in this local unit? Yes <input type="checkbox"/> No <input type="checkbox"/>	Number of qualified acres applied for	
Written description of parcel (i.e., town, range, section)			
<input type="checkbox"/> Two copies of my forest management plan are attached for DNR review. A \$200 fee payable to the State of Michigan is attached.			
<input type="checkbox"/> Two copies of my third party certification and forest management plan are attached for DNR review. A \$100 fee payable the State of Michigan is attached.			

CERTIFICATION: This affidavit is invalid unless it is signed.

I certify, under penalty of perjury, that I own (or co-own) the property claimed on this affidavit, that the property is qualified forest property, and that all information is true to the best of my knowledge. I agree to manage my land according to the approved Forest Management Plan.

Owner's Signature	Date
Co - owner's Signature	Date

SECTION 2: To Be Completed by the DNR and Forwarded to Assessor

Forest Managment Plan approved by the Michigan DNR (attach management plan to this form. If no, explain below) Yes <input type="checkbox"/> No <input type="checkbox"/>
Reason for Denial Date

DNR ACCOUNTING USE ONLY (LOCAL-51130-9026)

SECTION 3: To Be Completed by the Assessor and Forwarded to the DNR

Number of Qualified Acres Confirmed	Does application meet statutory eligibility requirements? ... Yes <input type="checkbox"/> No <input type="checkbox"/> (20-320 acres per local unit)
	Was the exemption approved by the Assessor? Yes <input type="checkbox"/> No <input type="checkbox"/>
Reason for denial by assessor	Date
Assessor Name	Assessor Telephone Number

Assessor shall forward copy of this form to DNR upon completion to:

Qualified Forest Property Tax Exemption
Forest, Mineral & Fire Management
Michigan Department of Natural Resources
P.O. Box 30452
Lansing, MI 48909-7952

Instructions for Completing Form 4449, Qualified Forest Property Tax Exemption Requirements (Public Act 378 of 2006)

You may apply for the exemption if the property is vacant, a minimum of 20 acres (a maximum of 320 acres per Township or City), and 80% of the acreage is productive forest (land capable of producing not less than 20 cubic feet of wood per acre per year). You must complete an application form for each parcel of land that meets these requirements. There is a State-wide limit of the number of acres that may be enrolled.

The **property owner** shall complete section 1 of this affidavit to Claim for Qualified Forest Property Tax Exemption from Some School Operating Taxes (4449). Mail this form along with two copies of the required forest management plan, and third party certification (if applicable), and a check or money order made out to the State of Michigan for the Forest Management Plan review fee to the Department of Natural Resources (DNR) office location that corresponds to the county in which your land is located. See the DNR Service Forester list provided. The application and copies of the forest management plan must be received by the DNR by November 1 prior to the year of the applied for exemption.

The DNR will review the forest management plan. If the plan is acceptable, notice will be sent to the assessor of the local unit in which the property is located. If there is a deficiency in the forest management plan, the DNR will return it to the property owner with an explanation. The property owner may have the deficiencies corrected and resubmit the application.

Once the assessor receives a copy of the affidavit from the DNR, he/she will determine if the property is qualified forest property based on a recommendation from the DNR and confirmation that the acreage limitation set forth in MCL 211.7jj1 has not been reached and if so shall exempt the property from the collection of the tax until December 31 of the year in which the property is no longer qualified forest property. The assessor shall then forward a completed copy of Form 4449 to the DNR to the following address:

Qualified Forest Property Tax Exemption
Forest, Mineral & Fire Management
Michigan Department of Natural Resources
P.O. Box 30452
Lansing, MI 48909-7952

Not more than 90 days after all or a portion of the exempted property is no longer qualified forest property, the **OWNER SHALL** rescind the exemption for the applicable portion of the property by filing Form 4450,

Request to Rescind Qualified Forest Property Tax Exemption with the local tax collecting unit a rescission. If the rescission form is not filed timely, a penalty of \$5.00 per day up to a maximum of \$1,000 will be levied.

The **OWNER** of property granted a qualified forest property tax exemption shall annually submit on a form prescribed by the DNR the amount of timber produced on that qualified forest property and whether any buildings or structures have been constructed on the qualified forest property. Failure to submit this form will be a violation and subject the property to withdrawal from the exemption.

Forest Management Plan Requirements:

The forest management plan must be prepared by a qualified forester (natural resources professional, registered forester, or a conservation district forester) and meet sustainable forest management goals that include but are not limited to harvesting, planting, and regeneration of forest products. The plan will include the names and addresses of all owners, the legal description and parcel identification numbers of the properties, a statement of the owners forest management objectives, a map, diagram, or aerial photograph that identified both forested and unforested areas of the property using conventional map symbols indicating species, size, and density of vegetation and other major features of the property, a description of the forestry practices, including harvesting, thinning, and reforestation, that will be undertaken, specifying the approximate period of time before each is completed, a description of soil conservation practices that may be necessary to control any soil erosion that may result from the forestry practices, and a description of activities that may be undertaken for the management of forest resources other than trees, including wildlife habitat, watersheds, and aesthetic features. **NOTE: Plan shall not extend beyond a period of 20 years.**

OR

A forest management plan certified by a third-party certifying organization.

Contact the DNR (www.michigan.gov/dnr) for a list of third-party certifying organizations, resource professionals, registered foresters, or conservation district foresters (plan writers) and forest management plan requirements.



SERVICE FORESTERS

This information is provided by authority of the Michigan Department of Natural Resources.

The following is a list of Michigan DNR Service Foresters and the counties for which they have commercial forest, forest stewardship, and other forestry assistance responsibilities.

OFFICE LOCATION	SERVICE FORESTER & CONTACT INFORMATION	COUNTIES COVERED
Baraga Management Unit 427 US 41 North Baraga MI 49908	Gary Willis * 906-353-6651 willisg2@michigan.gov	Baraga Gogebic Houghton Iron Keweenaw Ontonagon
Escanaba Management Unit 6833 Hwy 2, 41 & M-35 Gladstone MI 49837	Ernie Houghton 906-786-2351 houghtoe@michigan.gov	Alger (West 1/2) Delta (<u>except</u> Garden Peninsula) Dickinson Marquette Menominee
Newberry Operations Service Center 5100 State Hwy. M-123 Newberry MI 49868-8117	Richard Stevenson 906-293-5131 stevenrd@michigan.gov	Alger (East 1/2) Chippewa Delta (Garden Peninsula <u>Only</u>) Luce Mackinac Schoolcraft
Indian River Field Office PO Box 10, 6984 Wilson Indian River MI 49749	Tom Stone 231-238-4282 stonet@michigan.gov	Alcona Alpena Antrim Charlevoix Cheboygan Crawford Emmett Iosco Kalkaska Montmorency Ogemaw Oscoda Otsego Presque Isle Roscommon
Cadillac Operations Service Center 8015 Mackinaw Trail Cadillac MI 49601	Steve Kalisz 231-775-9727, ext. 6043 kaliszs@michigan.gov	Arenac Bay Benzie Clare Gladwin Grand Traverse Isabella Lake Leelanau Manistee Mason Mecosta Midland Missaukee Montcalm Muskegon Newaygo Oceana Osceola Ottawa Wexford
Southern Lower Peninsula PO Box 30452 Lansing MI 48909-7952	Michael Hanley 517-241-1608 hanlevm@michigan.gov	Allegan Barry Berrien Branch Calhoun Cass Clinton Eaton Genesee Gratiot Hillsdale Huron Ingham Ionia Jackson Kalamazoo Kent Lapeer Lenawee Livingston Macomb Monroe Oakland Saginaw Sanilac St. Clair St. Joseph Shiawassee Tuscola VanBuren Washtenaw Wayne

TTY/TTD: 711 (Michigan Relay Center)

* Commercial Forest Program Only

IC 4113-A (Rev. 04/13/2007)

Request to Rescind Qualified Forest Property Tax Exemption

INSTRUCTIONS: If all or a portion of your property is no longer qualified forest property, you must file this form to rescind your claim. File within 90 days of the change. The exemption will remain in place through December 31. An owner who fails to rescind an exemption is subject to a penalty of \$5 per day (maximum \$1,000) for each separate failure.

1. Enter below the property tax identification number of property being rescinded, including hyphens. <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>		2. ZIP Code <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>
3. Street Address of Property <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>	4. Name of Township/City <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div> <div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> Township</div><div><input type="checkbox"/> City</div></div>	5. County of Property <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>
6. Town/Range Description <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>		
7. Name of Owner (first, middle, last) <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>		
Name of Co-Owner (first, middle, last) <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>		

Use the space below for any other information that may help us process your request.

Owner's Certification <i>I certify that all or a portion of the property identified above is no longer qualified forest property.</i>	
Owner's Signature <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>	Date <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>
Owner's Mailing Address <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>	
Co - owner's Signature <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>	Date <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>

File this form with assessor or supervisor in the township or city where the property is located.
Assessor shall inform the Department of Natural Resources of property rescinded.

ASSESSOR USE ONLY		
Number of Acres Withdrawn <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>	Assessor Signature <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>	Date <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div>

Assessor shall forward copy of this form to DNR upon completion to:
Qualified Forest Property Tax Exemption
Forest, Mineral & Fire Management
Michigan Department of Natural Resources
P.O. Box 30452
Lansing, MI 48909-7952

Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property

Issued under authority of P.A. 378 of 2006. Filing is mandatory.

INSTRUCTIONS: This form must be filed to claim that a transfer of property is not a statutory transfer of ownership because the property will continue to be qualified forest property. This form must be filed with the register of deeds for the county in which the qualified forest property is located and then with the assessor of the local tax collecting unit where this property is located.

1. Street Address of Property		2. County
3. City/Township/Village Where Real Estate is Located		<input type="checkbox"/> City <input type="checkbox"/> Township <input type="checkbox"/> Village
4. Name of Property Owner(s) and Address (Print or Type)	5. Property ID Number (from Tax Bill or Assessment Notice)	
6. Legal Description (Legal description is required; attach additional sheets if necessary)		
7. Daytime Telephone Number	8. E-mail Address	

CERTIFICATION & NOTARIZATION (Notarization necessary for recording with Register of Deeds)

I certify that the information above is true and complete to the best of my knowledge. I further certify that the property noted on this affidavit currently is and will remain qualified agricultural or qualified forest property.

Signed _____

Name (Print or Type) _____

Title _____

Must be signed by owner, partner, corporate officer, or a duly authorized agent.

State of _____

County of _____

Acknowledged before me this _____

day of _____, _____

By _____

Notary Signature _____

Name of Notary (Print or Type) _____

Notary Public, State of Michigan,
County of _____
My commission expires: _____
Acting in the County of _____

Drafter's Name _____

Drafter's Address _____

LOCAL GOVERNMENT USE ONLY		
Number of Acres <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	Assessor's Signature	Date

Assessor must forward a copy of this affidavit if approved to the Department of Natural Resources at:

**Qualified Forest Property Tax Exemption
Forest, Mineral & Fire Management
Michigan Department of Natural Resources
P.O. Box 30452
Lansing, MI 48909-7952**

Instructions for Completing Form 4508,

Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property

This form must be filed by the person to whom qualified forest property is transferred to claim that the transfer is not a statutory transfer of ownership because the property will continue to be used as qualified forest property. This form must be filed with the register of deeds for the county in which the qualified forest property is located. This form must also then be filed with the local assessor in the township or city where the qualified forest property is located.

EXCERPTS FROM MICHIGAN COMPILED LAWS (MCL)

Section 211.7jj[1]

(1) Except as otherwise limited in this subsection, qualified forest property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, according to the provisions of this section.

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified forest property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$1,000.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the general fund of this state.

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified forest property based on a recommendation from the department of natural resources, the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c. A taxpayer may appeal the assessor's determination to the board of review meeting under section 30. A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal.

(8) If property for which an exemption has been granted under this section is not qualified forest property, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for each tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll.

(9) If property for which an exemption has been granted under this section is converted by a change in use and is no longer qualified forest property, the property is subject to the qualified forest property recapture tax levied under the qualified forest property recapture tax act. An owner of qualified forest property shall inform a prospective buyer of that qualified forest property that the qualified forest property is subject to the recapture tax provided in the qualified forest property recapture tax act, if the qualified forest property is converted by a change in use.

(10) If qualified forest property is exempt under this section,

an owner of that qualified forest property shall annually report to the department of natural resources on a form prescribed by the department of natural resources the amount of timber produced on that qualified forest property and whether any buildings or structures have been constructed on the qualified forest property. Beginning in 2008, and every 3 years thereafter, the department of natural resources shall provide to the standing committees of the senate and house of representatives with primary jurisdiction over forestry issues a report that includes all of the following:

- (a) The number of acres of qualified forest property in each county.
- (b) The amount of timber produced on qualified forest property each year.

Section 211.27a. (3)

"Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer."

Section 211.27a. (6)

"...'[T]ransfer of ownership' means the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest."

Section 211.27a.(7)(O)

A transfer of qualified forest property, if the person to whom the qualified forest property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified forest property is located and with the register of deeds for the county in which the qualified forest property is located attesting that the qualified forest property shall remain qualified forest property. The affidavit under this subdivision shall be in a form prescribed by the department of treasury. An owner of qualified forest property shall inform a prospective buyer of that qualified forest property that the qualified forest property is subject to the recapture tax provided in the qualified forest property recapture tax act, 2006 PA 379, MCL 211.1031 to 211.1036, if the qualified forest property is converted by a change in use. If property ceases to be qualified forest property at any time after being transferred, all of the following shall occur:

- (i) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified forest property.
- (ii) The property is subject to the recapture tax provided for under the qualified forest property recapture tax act, 2006 PA 379, MCL 211.1031 to 211.1036.



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Senate Bill 917 (Substitute S-2 as passed by the Senate)
House Bill 5454 (Substitute S-1 as passed by the Senate)
House Bill 5455 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Shirley Johnson (S.B. 917)
Representative Kevin Elsenheimer (H.B. 5454)
Representative Bill Huizenga (H.B. 5455)
House Committee: Conservation, Forestry, and Outdoor Recreation
Senate Committee: Agriculture, Forestry and Tourism

Date Completed: 8-18-06

RATIONALE

Of Michigan's 19.0 million acres of forestland, about 2.2 million acres are registered as commercial forest under Part 511 (Commercial Forestland) of the Natural Resources and Environmental Protection Act (NREPA). Under that part, commercial forest is subject to a specific tax of \$1.10 per acre, rather than the ad valorem property tax. Part 511 requires that in 2006 and every 10 years after that, the tax rate for commercial forestland be adjusted according to the State equalized value of timber cutover lands. These provisions and others have not been amended since they were incorporated into NREPA in 1995. Some believe that the provisions for calculating the tax rate, along with other aspects of Part 511, should be updated.

In addition, some have suggested that specific provisions should allow for a conservation easement on commercial forestland. Under Part 21 (General Real Estate Powers) of NREPA, a conservation easement requires and prohibits certain actions with respect to the land for the purpose of maintaining it in its natural state; or maintaining the land for agricultural, farming, open space, or forest use, or other similar uses. A conservation easement may be acquired by the State, a charitable organization, a corporation, a trust, or another legal entity, which is then responsible for administering and ensuring compliance with the terms of the easement. The easement remains with the land in perpetuity, regardless of any change in

ownership. In some cases, easements have been donated to the State to ensure that an owner's wishes were carried out into the future, or to protect land from development. In other cases, the State has purchased easements to protect ecologically sensitive land or to preserve natural areas of the State. Currently, land under a conservation easement does not receive any specific tax exemption, although assessors do consider the terms of the easement in determining the taxable value of the land. According to the State Tax Commission, the cash value of the property is assessed according to its highest and best use, given the restrictions placed on it by the easement. Some believe that commercial forestland under a conservation easement should be subject to a reduced specific tax, instead.

CONTENT

Senate Bill 917 (S-2) would add Part 512 (Sustainable Forestry Conservation Easement Tax Incentives) to NREPA, to establish an annual specific tax for commercial forestland subject to a sustainable forest conservation easement, which would be 15 cents per acre less than the specific tax under Part 511 (Commercial Forests); and to require the owner to pay a penalty if forestland subject to an easement were used in violation of Part 512 or the easement.

House Bills 5454 (S-1) and 5455 (S-1) would amend Part 511 of the NREPA to do the following:

- **Increase the specific tax rate on commercial forestland from \$1.10 per acre to \$1.20 per acre on January 1, 2007, until December 31, 2011, and by five cents per acre on January 1, 2012, and every five years after that date.**
- **Revise the current application fee of \$1 per acre for a commercial forest classification to include a minimum fee of \$200.**
- **Establish a minimum size of 40 contiguous acres, or a survey unit consisting of 1/4 of 1/4 of a section of forestland, for land to be classified as commercial forest.**
- **Specify that the privilege of hunting and fishing could not be denied for any portion of commercial forestland, even if portions of it were contiguous only at one point.**
- **Require the Department of Natural Resources (DNR) to spend money in the Commercial Forest Fund for the administration and enforcement of Part 511 (as currently required) and proposed Part 512.**
- **Require the DNR to notify each county and township and all owners of commercial forestland of the amendments to Part 511 made by the bills.**
- **Repeal Section 51107 of the Act, which requires the tax rate for commercial forestland to be adjusted in 2006 and every 10th year after that.**

House Bills 5454 (S-1) and 5455 (S-1) are tie-barred to each other and to Senate Bill 917. House Bill 5454 (S-1) also is tie-barred to Senate Bill 912 (which would exempt qualified forest property from taxes levied by local school districts).

The bills are described in detail below.

Senate Bill 917 (S-2)

Under the bill, an owner of commercial forestland that was subject to a sustainable forest conservation easement would be subject to an annual specific tax equal to the specific tax under Section 51105, less 15 cents per acre. (Please see House Bill 5454

(S-1) for a description of Section 51105.) The tax would have to be administered, collected, and distributed in the same manner as the specific tax levied under that section.

An application for the sustainable forest conservation easement tax rate would have to be submitted on a form prescribed by the Department of Natural Resources and would have to be postmarked and delivered to the DNR by April 1 to be eligible for approval for the following tax year.

The application would have to include any information reasonably required by the DNR; a copy of the conservation easement covering the forestland; and a nonrefundable application fee of \$2 per acre or fraction of an acre, but not less than \$200 and not more than \$1,000. The DNR would have to remit the application fee to the State Treasurer for deposit into the Commercial Forest Fund.

The owner of commercial forestland subject to a sustainable forest conservation easement would be entitled to cut or remove forest products on his or her commercial forestland if the owner complied with Part 511 and the requirements of the easement.

If commercial forestland subject to a sustainable forest conservation easement were used in violation of Part 512 or the easement, the owner, in addition to any other penalties provided by law, would have to pay a penalty per acre for each year in which the violation occurred equal to the difference between the specific tax paid under Part 512 and the specific tax that otherwise would be paid under Part 511.

The specific tax collected under Part 512 would have to be paid to the treasurer of the township where the commercial forestland was located. The treasurer would have to distribute the penalty in the same manner as the specific tax would be distributed.

"Sustainable forest conservation easement" would mean a conservation easement (described in Section 2140) on commercial forestland that meets all of the following requirements:

- Is an easement granted in perpetuity to the State, a political subdivision of the State, or a charitable organization

described in Section 501(c)(3) of the Internal Revenue Code, that also meets the requirements of Section 170(h)(3) of the Code (which defines "qualified organization" for the purpose of a "qualified conservation contribution" deduction).

- Covers commercial forestland of 40 or more acres in size.
- Provides that the forestland subject to the conservation easement or the manager of that land is and continues to be certified under a sustainable forestry certification program that uses independent third party auditors and is recognized by the DNR.
- Provides that the forestland subject to the conservation easement provides for the nonmotorized use of the forestland by members of the public.

(Section 2140 defines "conservation easement" as an interest in land or a body of water that provides limitations on its use or requires or prohibits certain acts on or with respect to the land or body of water, and that is appropriate to retaining or maintaining the land or body of water predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.)

House Bill 5454 (S-1)

Tax Rate for Commercial Forests

Part 511 allows the owner of forestland to apply to the DNR to have that land determined to be a commercial forest. Commercial forests are not subject to the ad valorem general property tax, but instead are subject to an annual specific tax of \$1.10 per acre, as adjusted by Section 51107, which requires the tax rate to be adjusted in 2006 and every 10 years after that based on the State equalized value of timber cutover land in the State.

Under the bill, the tax rate would be \$1.10 per acre until December 31, 2006. Beginning January 1, 2007, through December 31, 2011, the rate would be \$1.20 per acre. Beginning January 1, 2012, and every five years after that date, the tax rate would have to be increased by five cents per acre.

The tax received under those provisions would have to be distributed in the same manner and proportion as ad valorem taxes collected under the General Property Tax Act are distributed, as is currently required.

The bill would repeal Section 51107.

Withdrawal Penalty

Under Part 511, an owner of a commercial forest may withdraw his or her land, in whole or in part, from the operation of the part upon application to the DNR and payment of a withdrawal application fee and penalty. The penalty per acre is equal to the product of the current average ad valorem property tax per acre on timber cutover real property within the township where the commercial forestland is located multiplied by the number of years, up to 15, that the land was subject to Part 511.

If the township where the commercial forestland is located does not contain any timber cutover real property, then the per-acre average of the ad valorem property tax for all timber cutover real property in the county must be used in calculating the penalty. If no timber cutover real property is located in the county, the per-acre average of the ad valorem property tax for all timber cutover real property in townships contiguous to the country where the commercial forestland is located must be used.

The bill would remove these provisions. Under the bill, the penalty would be calculated by multiplying the number of withdrawn acres of commercial forestland by the average value per acre for comparable property acquired after December 31, 2004, under Subpart 14 of Part 21 (dealing with payments in lieu of taxes (PILTs) for certain State-owned land); multiplying the product of that calculation by the total millage rate levied by all taxing units in the local tax collecting unit in which the property was located; and multiplying that product by the number of years, up to seven, in which the withdrawn property had been designated as commercial forestland.

(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.)

For one year after the bill's effective date, an owner of commercial forestland would not be subject to a withdrawal penalty if all of the following occurred:

- An owner of commercial forestland withdrew his or her land from the operation of Part 511.
- The former commercial forestland was placed on the assessment roll in the local tax collecting unit in which it was located.
- The owner of the former commercial forestland claimed and was granted an exemption from the tax levied by a local school district for school operating purposes.

In all other cases, for one year after the bill's effective date, the penalty would be the same as the withdrawal penalty that was in effect immediately before the bill's effective date.

Declassification of Commercial Forestland

Part 511 permits the DNR, upon notice to the owner and after a hearing, to declassify all or a portion of a commercial forest if an owner uses it in violation of the part; fails to pay any specific tax; fails to report to the DNR before harvesting, cutting, or removing forest products from the commercial forest; removes minerals in violation of the part; or, after certifying that a forest management plan has been prepared and is in effect, fails to plant, harvest, or remove forest products in compliance with the plan. The DNR must declassify the commercial forest if, at the hearing, the Department determines that one of those violations was committed.

Under the bill, the DNR would be required to remove the commercial forest designation for a commercial forest (rather than declassify it) if, after providing notice and an opportunity for a hearing, the Department determined that one of the violations currently listed had occurred.

House Bill 5455 (S-1)

Minimum Size of Commercial Forestland

As noted above, Part 511 allows the owner of forestland within the State to apply to the DNR to have that land designated a

commercial forest. Under the bill, the forestland would have to consist of at least 40 contiguous acres or a survey unit consisting of one quarter of one quarter of a section of forestland. (A section of land is one square mile, or 640 acres.)

"Contiguous" would mean land that touched at any point. Even if portions of commercial forestland were contiguous only at a point, the privilege of hunting and fishing could not be denied for any portion of the land. The existence of a road, railroad, or utility right-of-way that separated any part of the land would not make the land noncontiguous.

Application Process

The bill would require an application for classification as commercial forest to be postmarked or delivered by April 1 to be eligible for approval as commercial forest for the following tax year. Under Part 511, the applicant must pay an application fee of \$1 per acre, not to exceed \$1,000. The bill also would establish a minimum fee of \$200.

Other Provisions

Part 511 provides for the creation of the Commercial Forest Fund, which is to be used for enforcement, administration, and monitoring of compliance with Part 511 and rules promulgated under it. Under the bill, the Fund's uses also would include enforcement, administration, and monitoring of compliance with proposed Part 512.

Part 511 specifies that upon application to and approval by the DNR, deposits of oil and gas owned by the State may be removed from the commercial forest, without affecting the land's status as a commercial forest. The bill would refer to deposits of oil and gas, rather than those owned by the State.

Within three months of the bill's effective date, the DNR would have to notify each county and township and all owners of commercial forestland of the amendments to Part 511 enacted in 2006.

Proposed MCL 324.51201 (S.B. 917)
MCL 324.51105 et al. (H.B. 5454)
324.51101 et al. (H.B. 5455)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Unless amended, Part 511 will require the specific tax for commercial forestland to be recalculated before the end of 2006 based on the State equalized value of timber cutover land within the State. This requirement is unworkable, however, because complete information on timber cutover land values is not available. House Bill 5454 (S-1) would replace that provision with a simpler, more predictable formula that would require periodic increases of a set amount, so owners of commercial forestland would know in advance precisely what their future tax liability would be. Because managing forestland is a long-term enterprise in which decades may pass before owners receive a return on their investment, stability and transparency in the tax structure are important, to allow owners to make informed business decisions. The small, predictable increases specified in the bill would remove the current uncertainty over the tax rate, and could encourage more landowners to enter the program.

Under current law, the penalty for withdrawal of commercial forestland also is calculated based on the value of timber cutover land in the county in which the commercial forestland is located. If there is no timber cutover property in the county, the penalty must be calculated based on the value of timber cutover property in the surrounding counties. This is a very cumbersome process, and as noted above, the required data are not always available. House Bill 5454 (S-1) instead would base the penalty on the average value of certain comparable State-owned land. Since those data already are being collected and are readily available, the bill's provisions would be easier to implement than the current requirements are, simplifying the administration of the program.

Supporting Argument

The bills would ensure that commercial forests were open to recreational users. Historically, owners of commercial forestland in the State have been expected to allow public use of their land, in return for the substantial tax breaks they receive. In

practice, however, some commercial forestland has been inaccessible for various reasons. In some instances, owners may have sold off the surrounding land, leaving no way for the public to get to the commercial land without either trespassing or flying in. In other cases, no information on access points is made available to the public. Under House Bill 5455 (S-1), the privilege of hunting and fishing could not be denied for any portion of commercial forestland, even if portions of the land were contiguous only at a point, and under Senate Bill 917 (S-2), a sustainable forest conservation easement would have to provide for public access to the land. The provisions would ensure greater public access to the land.

Response: Previous versions of the bills included much stronger language to protect public access, requiring landowners to provide information to the DNR on access points, and allowing the DNR to declassify commercial forestland if an owner failed to provide access. Those provisions would have required greater accountability for individual landowners, some of whom reportedly have not complied with the current requirements to provide access. As presently written, the bills would offer much weaker protections for recreational users, and provide no penalties for owners who failed to allow access. In addition, although the bills would require landowners to allow public use of the land, there are no provisions specifying what type of access would have to be provided. If a parcel of land is accessible only by helicopter, for example, the majority of the public will be unable to use the land. The bills should require that the public have reasonable access at clearly marked access points.

Supporting Argument

Senate Bill 917 (S-2) would establish a reduced specific tax for commercial forestland under a conservation easement, simplifying the calculation of taxes on such land and encouraging more landowners to enter into such easements. Conservation easements have proven to be a valuable way to ensure the sustainable management of private forestland, and to protect environmentally valuable property from development or ecological damage. The sustainable forest conservation easements established under the bill would ensure that the forestland was managed responsibly in perpetuity, while permitting the landowners

to harvest forest products in a manner consistent with the terms of the easement and with Part 511. These provisions would allow the forestland to serve both the public interest and the commercial interest of the landowners.

Opposing Argument

The tax rate on commercial forestland has not increased in 12 years, although during that time, timber and land values have increased substantially. House Bill 5454 (S-1) would replace currently required increases with smaller rate hikes that do not represent actual land values or timber values. The tax rate should reflect the underlying value of the property, rather than being subject to arbitrary increases every five years. A fairer mechanism would be to adjust the tax rate annually according to timber prices. Under that method, the taxes owed would rise and fall with the actual value being generated by the land. This could be done in a way that was transparent and predictable, so landowners would know their tax liability in advance. Such a method also would be easy to administer, since timber values are well known.

The bill also would provide for no increase in PILTs to local governments, which currently receive only \$1.20 per acre for commercial forestland. That amount has not increased in a number of years, despite the tremendous growth in property values in some areas. Local governments have been squeezed by losses in revenue sharing from the State, and they deserve to see an increase in their PILTs to reflect more accurately lost property tax revenue.

In addition, the penalty provisions in House Bill 5454 (S-1) would not be sufficiently stiff to deter to those who might abuse the program. Unscrupulous landowners could designate land as commercial forest to receive the tax break and then later withdraw the land for development or for other purposes. The penalty should be increased to remove any economic incentive for such abuse.

Opposing Argument

House Bill 5454 (S-1) would require all commercial forestland to be accessible to the public for hunting and fishing, but in some cases, that may not be possible. As property has changed hands, access to some parcels has been limited, or may have been

negotiated on an informal basis as individuals have been allowed to cross private land. Commercial forest owners have no control over the actions of other landowners in the surrounding area, and cannot guarantee that hunters and fishers will always be allowed to enter commercial forest via adjacent private land. Purchasing easements on surrounding land could be expensive and would negate the economic benefits of entering the program, and in some cases could be impossible. Because of these difficulties, landowners with forestland currently in the program should be grandfathered in, and not required to meet the access requirements of the bills.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

Senate Bill 917 (S-2)

The Commercial Forest Fund would receive the application revenue. The revenue collected would depend on the size of the parcel subject to the easement. Each fee collected would be between \$200 and \$1,000. This would be one-time revenue collected by the State.

There are approximately 2,209,700 acres classified as commercial forestland in Michigan. It is unknown how many acres would be subject to a sustainable forest conservation easement since the designation would be at the choice of the forestland owner. If all of the commercial forestland were subject to the easement, township treasurers would collect 95 cents per acre, for \$2,309,137 in revenue, which would be distributed in the same manner as ad valorem general property taxes.

If commercial forestland subject to a sustainable forest conservation easement were used in violation of proposed Part 512, the owner would owe to townships a penalty, per acre, for each year of the violation equal to the difference between what was paid under this part and under Part 511, which is \$1.10 per acre of commercial forestland. Revenue would depend on the number of violations, the size of forestland, and the duration of the violations.

House Bills 5454 (S-1) and 5455 (S-1)

House Bill 5455 (S-1) would set a minimum of \$200 for the commercial forest classification application fee, which would increase revenue to the Commercial Forest Fund by an undetermined amount. Applications regarding forestland of 199 acres or less would have to be accompanied by a minimum fee of \$200 instead of using the rate of \$1 per acre to calculate the fee. The Commercial Forest Fund receives annual revenue of approximately \$35,000 and statute designates its use for enforcement, administration, and monitoring of compliance with Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act.

House Bill 5454 (S-1) would revise the withdrawal penalty paid to local units of government by commercial forest owners. The revised formula could result in more or less revenue depending on how long the forestland had been in the program and the number of timber cutover acres that would be applied to the calculation under the current formula.

The bill would postpone implementation of these proposed changes to the withdrawal penalties until one year after the bill took effect. During that year, current owners of commercial forests would be allowed to withdraw from a commercial forest designation without paying the penalty if they met certain criteria. The suspension of the withdrawal penalty could encourage commercial forest owners to withdraw, resulting in an indeterminate loss of revenue to local units of government and the Commercial Forest Fund.

The bills would revise the scheduled increase in payments in lieu of taxes for commercial forestland. In FY 2005-06, there were 2,209,700 acres of commercial forestland, for which the Department of Natural Resources paid \$1.20 per acre for a total of \$2,651,600 and commercial foresters paid \$1.10 per acre for a total of \$2,430,670. All of this revenue went to local units of government. Under Section 51107, these amounts will increase by about 300% in FY 2006-07. The bills propose a different formula to increase the payments. Through December 31, 2011, payments made by commercial foresters would increase by 10 cents to \$1.20. The total payment would

increase by about \$220,970 annually with the revenue going to local units of government.

Beginning on January 1, 2012, the payments made by both the State and commercial foresters would increase by 5 cents every year. In 2012, local units of government would collect \$2.50 per acre of commercial forestland, which would be \$1.25 each from the two paying parties. The annual increase would be approximately \$110,485 each from the State and commercial foresters. The total annual increase in revenue of \$220,970 would go to local units of government. Under the bills, the payments in lieu of taxes on commercial forestland paid by the State and commercial foresters would increase, but at a slower rate than is currently established in statute.

Fiscal Analyst: Jessica Runnels

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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.

What is the Chicago Climate Exchange?

The Chicago Climate Exchange (CCX) is North America's only, and the world's first, greenhouse gas emission registry, reduction and trading system for all six greenhouse gases.[1] CCX is a self-regulatory, rule-based exchange designed and governed by CCX Members. Members make a voluntary but legally binding commitment to reduce greenhouse gas emissions.

What are forest carbon offset credits?

Exchange forestry offset credits (XFOs) are carbon credits issued to forestry projects registered with the Exchange. The CCX issues XFOs based on increases in carbon stocks or avoided deforestation - quantified in metric tons of carbon dioxide equivalent (CO₂e) - realized during the project period.

How does the sale of forestry carbon offset credit on the CCX reduce emissions of greenhouse gases?

Members of the CCX are legally bound to reduce emissions of greenhouse gases in accordance with the CCX rules. The Chicago Climate Exchange bases its rules on "cap and trade" emissions reduction strategies similar to the U.S. sulfur dioxide trading program. All Exchange members must show a 6% reduction by 2010, with at least 3% of the reductions from changes to facility operations. Members have the option of purchasing carbon credits remaining 3% required reductions may include purchases of carbon offsets. The fact that members are required to obtain reductions through changes to their operations guarantees that real emissions reductions will occur.

What forestry practices are eligible for the program?

Eligible forestry practices include:

Forestation: Forestation projects includes afforestation or reforestation initiated on or after January 1, 1990, on land not forested, or on forest land that had been degraded or unforested on December 31, 1989. The quantity of carbon credits (XFOs) to be issued to a CCX-registered forestry project shall be based on the annual increase in stored carbon (expressed in metric tons of carbon dioxide equivalence) on eligible sites included in the project during years 2003 through 2010.

Non-Industrial Working Forests: Projects in the U.S. involving working forests - forested land harvested in accordance with a sustainable forest management plan that is part of a CCX-approved forest stewardship program - may earn XFOs. The quantity of XFOs issued to a CCX-registered forestry project is based on the net annual increase in stored carbon (expressed in metric tons of carbon dioxide equivalence) above the baseline level. The baseline level, as well as annual carbon sequestration, is calculated by inputting data from the carbon inventory (conducted in accordance with the guidelines outlined in Attachment E) into the US Forest Service Forest Vegetation Simulator (FVS) or other CCX approved method.

Conservation Lands: Projects in the U.S. involving conservation lands - forested lands that have permanent legal protection via conservation easements - may earn XFOs. The quantity of XFOs issued to a CCX-registered forestry project is based on the net annual increase in stored carbon (expressed in metric tons of carbon dioxide equivalence) above the baseline level. The baseline level, as well as annual carbon sequestration, is calculated by inputting data from the carbon inventory (conducted in accordance with the guidelines outlined in Attachment E) into the US Forest Service Forest Vegetation Simulator or other CCX approved method.

What is the enrollment process?

The first step to enrolling eligible lands in the Managed Forest Carbon Offset and Trading Program is to complete an enrollment application and sign the forestry offset (XFO) contract. The XFO contract gives the Delta P2/E2 Center, LLC the right to trade carbon credits on your behalf through 2012. Second, obtain sustainable certification for your forestlands. For most landowners, this is accomplished by joining an American Tree Farm Certified Group, sponsored by a local forester. Then, gather a copy of your approved Forest Stewardship Plan, a signed letter of intent to manage your forestland according to your sustainable forest management plan, the signed letter of intent to maintain the enrolled project lands in an approved sustainable certification program, and aerial photos or maps of the property. Once you have compiled all the required documents, send them to the Delta P2/E2 Center. Finally, contact a "qualified" forester about conducting the carbon inventory on your property. You are responsible for hiring a qualified professional forester to conduct the property level carbon inventory. Since you are paying for the inventory, either directly to the forester or indirectly through the Technical Assistance Fund, it is worthwhile to get several quotes, as rates among qualified foresters will vary.

Once the inventory is complete, the Delta P2/E2 Center enters the information into a proprietary database and runs the Forest Vegetation Simulator to determine the carbon baseline and the annual carbon sequestration rate for the property. Delta multiplies the carbon sequestration rate by the number of enrolled acres to quantify the tons of carbon available for trading on the CCX. For properties with multiple forest stands, Delta calculates the tradable tons of carbon by using the weighted average sequestration rate for each stand on the property. Because you can only trade the net annual increase in carbon sequestration for the stand, as predicted by the model, Delta sells your carbon credits 12 to 14 months after the inventory has been completed. In other words, you cannot sell carbon

credits until the forest has a year's worth of growth. Prior to trading, an independent, third-party verifier reviews the inventory, database, and Forest Vegetation Simulator to ensure that the project owner has met all requirements and that the Delta P2/E2 Center has accurately applied the model. After approving the verification results, the Exchange releases the carbon credits to the Delta P2/E2 Center. Delta combines your credits with others, creating tradable quantities for CCX members to purchase. Once Delta sells the credits, the revenue - minus fees, verification cost and technical assistance debt - is returned to each landowner. Delta reports revenue from carbon credit sales to the Internal Revenue Service, so expect to receive a 1099-form each year.

As the project owner, you will be required to provide the Delta P2/E2 Center with yearly updates to the stand, such as new tree planting, harvesting, or catastrophic loss (see Attachment F). The Delta P2/E2 Center uses this information to update its database and re-run the Forest Vegetation Simulator.

What are long-lived wood product protocols?

When a landowner harvests timber according to a sustainable forest management plan, they reduce the short-term, carbon sequestration potential of the forestlands. A timber harvest could be thought of as a "carbon emission" since the land's ability to sequester carbon is reduced. However, when trees are milled into wood products, such as dimensional lumber or plywood, much of the carbon dioxide remains sequestered in the product. To quantify this long-term carbon benefit, the Chicago Climate Exchange created long-lived wood product protocols. These protocols allow Delta to quantify the amount of carbon dioxide that remains sequestered indefinitely from wood products. The long-lived wood product protocols should make it easier for smaller landowners to harvest timber without fear of creating an annual carbon deficit.

Who conducts the property level inventory?

A landowner hires a "qualified", professional forester to perform the carbon inventory. For purposes of this agreement, a "qualified" forester is any forester that is: 1) a Certified Forester through the Society of American Foresters; 3) a State Registered Forester; or 4) a member of the Association of Consulting Foresters. In Michigan, certified Forest Stewardship Plan Writers are also considered "qualified" foresters for this program. The forester must provide proof of their credentials at the time they submit the carbon inventory data to the Delta P2/E2 Center. For this program, Delta will manage the inventory data. Property owners will have access to the inventory data. To establish the carbon baseline accurately, the forester must perform the carbon inventory during the dormant season.

What are the participation fees?

All landowners pay the aggregation and CCX Offset Registration and Trading Fee. In addition, some landowners will pay fees for sustainable forest plan development or carbon inventories. Technical assistance funds may be available for carbon inventories. Government cost-share funds may be available for forest plan development. Please consult with a qualified forester for funding options. All fees are collected upon the sale of credits.

1. **Inventory Development:** If you do not have an adequate inventory, you must obtain one. If you are having a sustainable forest management plan written, your forester may be able to incorporate the carbon inventory into the plan at a reduced cost. Although you are responsible for the inventory and forest plan development costs, you can request technical assistance funds to pay for the carbon inventory. However, you cannot request technical assistance funds to cover the costs of developing a sustainable forest management plan.
2. **Aggregation Fee:** The Delta P2/E2 Center collects a 10% aggregation fee or service fee to cover the program operating costs, data management, and forest modeling. The aggregation fee is applied to the gross revenues from the sale of carbon-offset credits. The landowner pays this fee every year their credits are sold.
3. **CCX Transaction Fee:** The CCX charges a fee of \$0.20 per metric ton of carbon trades. The landowner pays this fee every year their credits are sold.
4. **Verification Costs:** The landowner pays all verification costs, proportional to the amount of credits the landowner contributes to the enrollment pool. If a landowner contributes 10% of the credits in the enrollment pool, they are responsible for 10% of the verification costs. The Delta Institute will hire the CCX-approved verifier and negotiate the total verification costs. The landowner pays their share of verification costs in the first and last years in which their credits are sold, and then in any subsequent years as determined by the CCX.
5. **Technical Assistance Funds:** If a landowner used technical assistance funds, they must repay the technical assistance loan before they receive any revenue.

What is the Technical Assistance Fund?

The Michigan Department of Natural Resources has established a limited, revolving Technical Assistance Fund to assist forest landowners with the costs of developing the initial carbon inventory. A landowner can only request technical assistance funds for working forest projects. Afforestation or reforestation projects are not eligible for technical assistance funds.

The Delta P2/E2 Center manages the Technical Assistance Fund and pays the initial carbon inventory costs for landowners who request technical assistance funds. Landowners should inform their forester that they have requested technical assistance funds, allowing the forester to invoice Delta for the carbon inventory work. After receiving and approving all contracts, documentation, and inventory data, Delta pays the forester with technical assistance funds. The landowner repays their technical assistance 'debt' through the annual sale of carbon credits. Thus, the Technical Assistance Fund is self-perpetuating, providing funds each year for carbon inventories. Because technical assistance funding is limited, Delta disburses funds on a first-come first-served basis. As a way of minimizing technical assistance debt, Delta encourages landowners to pay a portion of the carbon inventory costs. Depending on the market price of a carbon credit and the cost of the carbon inventory, landowners with smaller acreages may not realize any profits over the contract period. Please contact the Delta P2/E2 Center prior to enrollment for an estimate of the revenue potential of your forestlands. Finally, a Michigan Forest Stewardship Plan and a signed Exchange Forest Offset Contract are required to receive technical assistance funds.

What is the Michigan Forest Stewardship Program?

The Forest Stewardship Program is a voluntary program that encourages non-industrial, private forest landowners to manage their property. Through the Forest Stewardship Program, landowners will increase the benefits they derive from their property while conserving it for the future. To enroll, a landowner must meet the eligibility requirements outlined in the Forest Stewardship Act of 1990; be a non-industrial, private forest landowner; and must own at least 12 acres, with at least 5 acres in forests or 5 acres to be planted with trees. If eligible, a landowner completes the Forest Stewardship Assessment Form, which leads to Forest Stewardship Management Plan. A certified plan writer must complete the Forest Stewardship Management Plans.

A Forest Stewardship Management Plan is a comprehensive plan that contains the following elements:

- § Clearly stated long-range goals and objectives that reflect forest stewardship ethics;
- § Michigan's Stewardship Ethic;
- § Maps showing current conditions, soil types (including soil descriptions), and locations of proposed activities;
- § A short overview of the property, discussing items such as major forest cover types, landforms, topography, wildlife use, threatened & endangered species, etc;
- § Description of each management unit, including goals and objectives, vegetative cover types, soils, forest density, age and condition, an evaluation of resource elements present, detailed descriptions of planned management activities, and precautionary steps to protect value resource elements;
- § Schedule of recommended management activities for all stands over the next 10 to 20 years;
- § Appendix of technical information to help landowner implement management recommendations

Once the plan is complete, a landowner can use the plan recommendations as a guide to implementing best forest management practices. However, plan implementation is voluntary. The landowner decides which, if any, recommendations to implement. The Michigan Department of Natural Resources encourages plan implementation, but does not monitor or enforce the extent to which landowner do or do not implement their Forest Stewardship Plans.

What are the yearly reporting requirements?

Participating landowners are required to submit yearly update reports, documenting any changes in the carbon stocks of the property (See Attachment F). Landowners should report events such as timber harvesting, afforestation/reforestation, natural disasters (wind-throw, forest fires, insect & disease outbreaks), property development (home construction, land divisions, pond construction) and changes in ownership. Delta uses this information to recalibrate the Forest Vegetation Simulator. In some cases, another carbon inventory may be required to re-establish the carbon baseline. Again, the landowner is responsible for this cost. Technical assistance funds are not available for recalibration inventories. Delta shares this information with the Michigan Department of Natural Resources.

Who will verify my practices and when? How frequently?

An independent, third party verification firm - with expertise in forestry practices and approved by the CCX - conducts desk and field verification for all forestry projects. Verification is intended to confirm the reported species mix and characteristics, verify enrolled acreage, confirm that forest management practices on enrolled land are in conformance with the program criteria, and identify any acres not in compliance with eligibility criteria.

When will I be paid and how frequently?

Because your lands are aggregated with other lands, Delta does not know when the credits generated by your land are actually sold. We sell the aggregated pool of credits, returning to each landowner in the pool, a percentage - proportional to the amount of credits each landowner contributes to the pool - of sale revenue. Thus, if your land contributes 1% of the credits in the overall pool, you will receive 1% of the revenue from each sale. This method allows each landowner to receive greater revenue from increases in market prices. Because, carbon credits are a commodity, the price may fluctuate over time. Delta reserves the right to hold credits, while waiting for a higher market price. The credits are always sold at the market rate - you are never locked into a certain sale price. You can expect to be paid 30 days after Delta sells all the credits in your enrollment pool. Each enrollment pool is eligible for sale 12 to 14 months after you enroll, to allow for forest growth and timber harvesting.

What are the consequences if I do not continue sustainable forestry management practices until the end of the contract period?

The contract contains stipulations for non-compliance with the forestry management plan. Non-compliance with the contract would require the project owner to return a quantity of the carbon credits for the project years or pay an amount equal to the cost of the credits. Additionally, the CCX may ban the project owner from future participation on the Exchange.

What is the Reserve Pool?

The Chicago Climate Exchange requires every landowner to place 20% of annual credits into the reserve pool. The reserve pool is your insurance policy against carbon losses on your property. At the end of the contract period, the CCX releases the unused reserve pool credits to Delta for sale on your behalf. Reserve pool provisions are detail in the XFO contract.

What happens if there is a net loss in carbon stocks due to harvesting?

Landowners earn offset credits for managed forest projects on the basis of net changes in carbon stocks on eligible sites included in the project during each of the years 2003 through 2012. The net change in carbon stocks is defined as the increases in carbon stocks due to growth (as determined by a CCX-approved model) minus the quantity by which carbon stocks decreased due to harvest, pest, fire and adverse weather events. If a timber harvest removes more carbon from the enrolled project lands than is sequestered through annual growth on the enrolled project lands, i.e. the net change in carbon stocks is negative, then the Project Owner has a carbon deficit for that year.

If a carbon deficit occurs prior to the sale of offset credits and only impacts the initial baseline of the enrolled project lands, then those lands are excluded from future projections of annual changes in carbon stocks until the quantity of carbon stocks in these stands reaches the reported quantities of the initial baseline.

If a carbon deficit occurs after the first year of enrollment for landowners that are part of an aggregated pool of projects and the landowner has sold credits then the landowner's carbon deficit will be shared equally among the other landowners in the enrollment pool. The Delta P2/E2 Center, LLC, will automatically deduct the carbon deficit from each landowner's XFOs. Additionally, the stands showing the carbon deficit are excluded from future projections of annual changes in carbon stocks until the quantity of carbon stocks in these stands reaches the reported quantities of the initial baseline.

Therefore, when planning a timber sale, please consider the impact on the carbon stocks. You do not want to remove more carbon through a harvest than you are annually sequestering!

What happens if there is a net loss in carbon stocks due to uncontrolled, catastrophic events?

Each CCX managed forest project must place 20% of the offsets it earns into a CCX Forest Carbon Reserve Pool. Such offsets remain the property of the landowners (pool participants in the case of aggregated projects) until released to the project owners by the CCX near the end of the market period. Accumulated offsets in the Forest Carbon Reserve Pool are used to compensate for any catastrophic losses. In cases of adverse weather events or outbreaks of fire and pest damage which reduce the quantity of carbon stocks on the enrolled project land (but do not impact the baseline level), the landowner shall document the quantity of timber destroyed by fire, pest or adverse weather event and surrender an equivalent amount of Carbon Financial Instrument (CFI) from the Forest Carbon Reserve Pool.

In cases of adverse weather events or outbreaks of fire and pest damage which reduce the quantity of carbon stocks on the enrolled project land below the documented baseline level, the landowner shall document the quantity of timber destroyed by fire, pest or adverse weather event and surrender an amount of CFIs in the Forest Carbon Reserve Pool equal to the amount destroyed by the catastrophic event. However, the CFIs in the Forest Carbon Reserve Pool represent the maximum amount that the landowner can lose in a catastrophic event. These stands are excluded from future projections of annual changes in carbon stocks until the quantity of carbon stocks in these stands reaches the reported quantities of the initial baseline.

All reports of significant damage caused by pest, fire and adverse weather events are subject to audit by a CCX-approved verifier.

What is a Carbon Financial Instrument?

A Carbon Financial Instrument or CFI is term given to carbon offset credits when the credits are traded on the Chicago Climate Exchange. One (1) CFI is one hundred (100) metric tons of carbon offset credits. For purposes of this agreement, CFIs also include carbon offset credits recognized by any established and recognized entity that validates carbon offset credits. Those institutions include, but are not limited to, the California Climate Action Registry, and the Voluntary Carbon Standard. Should the Project Owner and the Delta P2/E2 Center, LLC, decide to pursue registration of CFIs through a standard setting organization other than CCX, the registration and qualification requirements for that entity shall be substituted for the references herein to CCX.

Can I cancel my contract?

You can cancel your contract through a mutual agreement with the Delta P2/E2 Center.

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