

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1414

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DATE	D-PG	OFFICIAL STATUS
03/05/2015	570	Introduction and first reading Referred to Environment and Energy
03/12/2015	694a	Comm report: To pass as amended and re-refer to Taxes

A bill for an act

1.1 relating to taxation; Sustainable Forest Incentive Act; providing rules for transfer
 1.2 of ownership; providing additional eligibility, certification, and notification
 1.3 requirements; making clarifying changes; repealing obsolete provisions;
 1.4 amending Minnesota Statutes 2014, sections 290C.01; 290C.02, subdivisions
 1.5 1, 3, 6; 290C.03; 290C.05; 290C.055; 290C.06; 290C.07; 290C.08; 290C.10;
 1.6 290C.11; proposing coding for new law in Minnesota Statutes, chapter 290C;
 1.7 repealing Minnesota Statutes 2014, section 290C.02, subdivisions 5, 9.
 1.8

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2014, section 290C.01, is amended to read:

1.11 **290C.01 PURPOSE.**

1.12 It is the policy of this state to promote sustainable forest resource management on
 1.13 the state's public and private lands. ~~Recognizing that~~ The state's private forests comprise
 1.14 approximately one-half of the state forest land resources, that healthy and robust forest
 1.15 land provides significant benefits to the state of Minnesota, and that ad. These forests
 1.16 play a critical role in protecting water quality and soil resources, and provide extensive
 1.17 wildlife habitat, diverse recreational experiences, and significant forest products that
 1.18 support the state's economy. Ad valorem property taxes represent a significant annual
 1.19 cost that can discourage long-term forest management investments. In order to foster
 1.20 silviculture investments and retain these forests for their economic and ecological benefits,
 1.21 this chapter, hereafter referred to as the "Sustainable Forest Incentive Act," is enacted
 1.22 to encourage the state's private forest landowners to make a long-term commitment to
 1.23 sustainable forest management.

1.24 Sec. 2. Minnesota Statutes 2014, section 290C.02, subdivision 1, is amended to read:

2.1 Subdivision 1. **Application.** When used in sections 290C.01 to ~~290C.11~~ 290C.13,
 2.2 the terms in this section have the meanings given them.

2.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.4 Sec. 3. Minnesota Statutes 2014, section 290C.02, subdivision 3, is amended to read:

2.5 Subd. 3. **Claimant.** (a) "Claimant" means:

2.6 (1) a person, as that term is defined in section 290.01, subdivision 2, who owns
 2.7 forest land in Minnesota and files an application authorized by the Sustainable Forest
 2.8 Incentive Act;

2.9 (2) a purchaser or grantee if property enrolled in the program was sold or transferred
 2.10 after the original application was filed and prior to the annual incentive payment being
 2.11 made; or

2.12 (3) an owner of land previously covered by an auxiliary forest contract that
 2.13 automatically qualifies for inclusion in the Sustainable Forest Incentive Act program
 2.14 pursuant to section 88.49, subdivision 9a, or 88.491, subdivision 2.

2.15 ~~(b) The purchaser or grantee must notify the commissioner in writing of the sale or~~
 2.16 ~~transfer of the property.~~ Owners of land that qualifies for inclusion pursuant to section
 2.17 88.49, subdivision 9a, or 88.491, subdivision 2, must notify the commissioner in writing
 2.18 of the expiration of the auxiliary forest contract or land trade with a governmental unit and
 2.19 submit an application to the commissioner by August 15 in order to be eligible to receive a
 2.20 payment by October 1 of that same year. For purposes of section 290C.11, claimant also
 2.21 includes any person bound by the covenant required in section 290C.04.

2.22 ~~(b)~~ (c) No more than one claimant is entitled to a payment under this chapter with
 2.23 respect to any tract, parcel, or piece of land enrolled under this chapter that has been
 2.24 assigned the same parcel identification number. When enrolled forest land is owned by
 2.25 two or more persons, the owners must determine between them which person is eligible to
 2.26 claim the payments provided under sections 290C.01 to 290C.11. In the case of property
 2.27 sold or transferred, ~~the former owner and the purchaser or grantee must determine between~~
 2.28 ~~them which person~~ is eligible to claim the payments provided under sections 290C.01 to
 2.29 290C.11. The new owners, transferees, or grantees must notify the commissioner in
 2.30 writing ~~which person is eligible~~ to claim the payments.

2.31 **EFFECTIVE DATE.** This section is effective for certifications and applications
 2.32 due in 2015 and thereafter.

2.33 Sec. 4. Minnesota Statutes 2014, section 290C.02, subdivision 6, is amended to read:

3.1 Subd. 6. **Forest land.** "Forest land" means land containing a minimum of 20
 3.2 contiguous acres for which the owner has implemented a forest management plan that was
 3.3 prepared or updated within the past ten years by an approved plan writer. For purposes of
 3.4 this subdivision, acres are considered to be contiguous even if they are separated by a road,
 3.5 waterway, railroad track, or other similar intervening property. At least 50 percent of the
 3.6 contiguous acreage must meet the definition of forest land in section 88.01, subdivision
 3.7 7. For the purposes of sections 290C.01 to 290C.11, forest land does not include (i)
 3.8 land used for residential or agricultural purposes, (ii) land enrolled in the reinvest in
 3.9 Minnesota program, a state or federal conservation reserve or easement reserve program
 3.10 under sections 103F.501 to 103F.531, the Minnesota agricultural property tax law under
 3.11 section 273.111, or land subject to agricultural land preservation controls or restrictions
 3.12 as defined in section 40A.02 or under the Metropolitan Agricultural Preserves Act under
 3.13 chapter 473H, (iii) ~~land exceeding 60,000 acres that is subject to a single conservation~~
 3.14 ~~easement funded under section 97A.056 or a comparable permanent easement conveyed~~
 3.15 ~~to a governmental or nonprofit entity;~~ (iv) any land that becomes subject to a conservation
 3.16 easement funded under section 97A.056 or a comparable permanent easement conveyed
 3.17 to a governmental or nonprofit entity after May 30, 2013; or ~~(v)~~ (iv) land improved with a
 3.18 structure, pavement, sewer, campsite, or any road, other than a township road, used for
 3.19 purposes not prescribed in the forest management plan.

3.20 **EFFECTIVE DATE.** This section is effective for applications made in 2016 and
 3.21 thereafter.

3.22 Sec. 5. Minnesota Statutes 2014, section 290C.03, is amended to read:

3.23 **290C.03 ELIGIBILITY REQUIREMENTS.**

3.24 (a) Land may be enrolled in the sustainable forest incentive program under this
 3.25 chapter if all of the following conditions are met:

3.26 (1) the land consists of at least 20 contiguous acres and at least 50 percent of the
 3.27 land must meet the definition of forest land in section 88.01, subdivision 7, during the
 3.28 enrollment;

3.29 (2) a forest management plan for the land must be prepared by an approved plan
 3.30 writer and implemented during the period in which the land is enrolled;

3.31 (3) timber harvesting and forest management guidelines must be used in conjunction
 3.32 with any timber harvesting or forest management activities conducted on the land during
 3.33 the period in which the land is enrolled;

3.34 (4) the land must be enrolled for a minimum of eight years;

4.1 (5) there are no delinquent property taxes on the land; and

4.2 (6) claimants enrolling more than 1,920 acres or enrolling any land that is subject
 4.3 to a conservation easement funded under section 97A.056, or a comparable permanent
 4.4 easement conveyed to a governmental or nonprofit entity before May 31, 2013, in the
 4.5 sustainable forest incentive program must allow year-round, nonmotorized access to fish
 4.6 and wildlife resources and motorized access on established and maintained roads and trails,
 4.7 unless the road or trail is temporarily closed for safety, natural resource, or road damage
 4.8 reasons on enrolled land except within one-fourth mile of a permanent dwelling or during
 4.9 periods of high fire hazard as determined by the commissioner of natural resources; and

4.10 (7) the claimant has registered the forest management plan under clause (2) with the
 4.11 commissioner of natural resources who has concurred that the land is qualified.

4.12 (b) Claimants required to allow access under paragraph (a), clause (6), do not by
 4.13 that action:

4.14 (1) extend any assurance that the land is safe for any purpose;

4.15 (2) confer upon the person the legal status of an invitee or licensee to whom a duty
 4.16 of care is owed; or

4.17 (3) assume responsibility for or incur liability for any injury to the person or property
 4.18 caused by an act or omission of the person.

4.19 (c) The commissioner of natural resources shall annually provide county assessors
 4.20 verification information regarding plan registration under paragraph (a), clause (7), on
 4.21 a timely basis.

4.22 **EFFECTIVE DATE.** This section is effective for applications made in 2016 and
 4.23 thereafter.

4.24 Sec. 6. Minnesota Statutes 2014, section 290C.05, is amended to read:

4.25 **290C.05 ANNUAL CERTIFICATION.**

4.26 On or before July 1 of each year, beginning with the year after the ~~original~~
 4.27 ~~claimant has received an approved application~~ property tax parcel was enrolled under the
 4.28 sustainable forest incentive program, the commissioner shall send each claimant ~~enrolled~~
 4.29 ~~under the sustainable forest incentive program~~ a certification form. For purposes of this
 4.30 section, the ~~original~~ claimant is the person that ~~filed the first application under section~~
 4.31 ~~290C.04 to enroll the land in the program~~ is the current property owner on record. The
 4.32 claimant must sign and return the certification by August 15 of that same year, attesting
 4.33 and (1) attest that the requirements and conditions for continued enrollment in the program
 4.34 are currently being met, and ~~must return the signed certification form to the commissioner~~

5.1 ~~by August 15 of that same year~~ (2) provide a report in the format and manner determined
 5.2 by the commissioner on what management practices have been carried out on the enrolled
 5.3 property in the past year. If the claimant does not return an annual certification form by
 5.4 the due date, the provisions in section 290C.11 apply.

5.5 **EFFECTIVE DATE.** This section is effective for certifications and applications in
 5.6 2015 and thereafter.

5.7 Sec. 7. Minnesota Statutes 2014, section 290C.055, is amended to read:

5.8 **290C.055 LENGTH OF COVENANT.**

5.9 (a) ~~The covenant remains in effect for a minimum of eight years.~~ Claimants enrolling
 5.10 any land that is subject to a conservation easement funded under section 97A.056 or a
 5.11 comparable permanent easement conveyed to a governmental or nonprofit entity before
 5.12 May 31, 2013, may enroll their land under a covenant with a duration of eight years. All
 5.13 other claimants may choose to enroll their land under a covenant with a duration of eight,
 5.14 20, or 50 years. If land is removed from the program before it has been enrolled for ~~four~~
 5.15 ~~years~~ half the number of years of the covenant's duration, the covenant remains in effect
 5.16 for ~~eight years~~ the entire duration of the covenant from the date recorded.

5.17 (b) If land that has been enrolled for ~~four years~~ half the number of years of the
 5.18 covenant's duration or more is removed from the program for any reason, there is a
 5.19 waiting period before the covenant terminates. The covenant terminates on January 1 of
 5.20 the fifth, 11th, or 26th calendar year for the eight-, 20-, or 50-year covenant respectively,
 5.21 that begins after the date that:

5.22 (1) the commissioner receives notification from the claimant that the claimant wishes
 5.23 to remove the land from the program under section 290C.10; or

5.24 (2) the date that the land is removed from the program under section 290C.11.

5.25 (c) Notwithstanding the other provisions of this section, the covenant is terminated:

5.26 (1) at the same time that the land is removed from the program due to acquisition of
 5.27 title or possession for a public purpose under section 290C.10; or

5.28 (2) at the request of the claimant after a reduction in payments due to changes in the
 5.29 payment formula under section 290C.07.

5.30 **EFFECTIVE DATE.** This section is effective for certifications and applications
 5.31 due in 2016 and thereafter.

6.1 Sec. 8. Minnesota Statutes 2014, section 290C.06, is amended to read:

6.2 **290C.06 CALCULATION OF AVERAGE ESTIMATED MARKET VALUE;**
 6.3 ~~**MANAGED FOREST RURAL VACANT LAND.**~~

6.4 The commissioner shall annually calculate a statewide average estimated market
 6.5 value per acre for class ~~2e managed forest~~ 2b rural vacant land under section 273.13,
 6.6 subdivision 23.

6.7 **EFFECTIVE DATE.** This section is effective for calculations made in 2016 and
 6.8 thereafter.

6.9 Sec. 9. Minnesota Statutes 2014, section 290C.07, is amended to read:

6.10 **290C.07 CALCULATION OF INCENTIVE PAYMENT.**

6.11 An approved claimant under the sustainable forest incentive program is eligible to
 6.12 receive an annual payment. The payment shall equal ~~\$7 per acre for each acre enrolled~~
 6.13 ~~in the sustainable forest incentive program~~ a percentage of the property tax that would
 6.14 be paid on the land determined by using the previous year's statewide average total tax
 6.15 rate for all taxes levied within townships or unorganized territories, the estimated market
 6.16 value per acre as calculated in section 290C.06, and a class rate of one percent as follows:
 6.17 (1) for claimants enrolling land that is subject to a conservation easement funded under
 6.18 section 97A.056 or a comparable permanent easement conveyed to a governmental or
 6.19 nonprofit entity before May 31, 2013, under an eight-year covenant, 25 percent; (2) for
 6.20 claimants enrolling land that is not subject to a conservation easement under an eight-year
 6.21 covenant, 50 percent; (3) for claimants enrolling land that is not subject to a conservation
 6.22 easement under a 20-year covenant, 75 percent; and (4) for claimants enrolling land that
 6.23 is not subject to a conservation easement under a 50-year covenant, 100 percent. The
 6.24 calculated payment shall not increase or decrease by more than ten percent relative to the
 6.25 payment received for the previous year.

6.26 **EFFECTIVE DATE.** This section is effective for calculations made in 2016 and
 6.27 thereafter.

6.28 Sec. 10. Minnesota Statutes 2014, section 290C.08, is amended to read:

6.29 **290C.08 ANNUAL INCENTIVE PAYMENT; APPROPRIATION.**

6.30 Subdivision 1. **Annual payment.** An incentive payment for each acre of enrolled
 6.31 land will be made annually to each claimant in the amount determined under section
 6.32 290C.07. By September 1 of each year, the commissioner of natural resources will certify

7.1 to the commissioner the eligibility of each claimant to receive a payment. The incentive
 7.2 payment shall be paid by the commissioner on or before October 1 each year based on
 7.3 the certifications due August 15 of that year. Interest at the annual rate determined under
 7.4 section 270C.40 shall be included with any incentive payment not paid by the later of
 7.5 October 1 of the year the certification was due, or 45 days after the completed certification
 7.6 was returned or filed if the commissioner accepts a certification filed after August 15 of
 7.7 the taxes payable year as the resolution of an appeal.

7.8 Subd. 2. **Appropriation.** The amount necessary to make the payments under this
 7.9 section is annually appropriated to the commissioner from the general fund.

7.10 **EFFECTIVE DATE.** This section is effective for certifications and applications in
 7.11 2016 and thereafter.

7.12 Sec. 11. Minnesota Statutes 2014, section 290C.10, is amended to read:

7.13 **290C.10 WITHDRAWAL PROCEDURES.**

7.14 (a) An approved claimant or current owner of lands enrolled under the sustainable
 7.15 forest incentive program for a minimum of four years half the number of years of the
 7.16 covenant's duration may notify the commissioner of the intent to terminate enrollment.
 7.17 Within 90 days of receipt of notice to terminate enrollment, the commissioner shall
 7.18 inform the claimant in writing, acknowledging receipt of this notice and indicating the
 7.19 effective date of termination from the sustainable forest incentive program. Termination
 7.20 of enrollment in the sustainable forest incentive program occurs on January 1 of the fifth,
 7.21 11th, or 26th calendar year for the eight-, 20-, or 50-year covenant respectively that begins
 7.22 after receipt by the commissioner of the termination notice. After the commissioner issues
 7.23 an effective date of termination, a claimant wishing to continue the land's enrollment
 7.24 in the sustainable forest incentive program beyond the termination date must apply for
 7.25 enrollment as prescribed in section 290C.04. A claimant who withdraws a parcel of land
 7.26 from this program may not reenroll the parcel for a period of three years. Within 90 days
 7.27 after the termination date, the commissioner shall execute and acknowledge a document
 7.28 releasing the land from the covenant required under this chapter. The document must be
 7.29 mailed to the claimant and is entitled to be recorded.

7.30 (b) Notwithstanding paragraph (a), the commissioner may allow early withdrawal
 7.31 from the Sustainable Forest Incentive Act without penalty when the state of Minnesota,
 7.32 any local government unit, or any other entity which has the power of eminent domain
 7.33 acquires title or possession to the land for a public purpose ~~notwithstanding the provisions~~
 7.34 ~~of this section.~~ In the case of such an eligible acquisition under this paragraph, the

8.1 commissioner shall execute and acknowledge a document releasing the land acquired by
8.2 the state, local government unit, or other entity from the covenant.

8.3 (c) Notwithstanding paragraph (a), the commissioner shall allow early withdrawal
8.4 from the Sustainable Forest Incentive Act without penalty when the state acquires a
8.5 permanent conservation easement on the enrolled property and the conservation easement
8.6 is at least as restrictive as the covenant required under section 290C.04. In the case of an
8.7 eligible easement acquisition under this paragraph, the commissioner shall execute and
8.8 acknowledge a document releasing the land subject to the easement from the covenant.

8.9 (d) Notwithstanding paragraph (a), the commissioner shall allow early withdrawal
8.10 from the Sustainable Forest Incentive Act without penalty for land that is subject to fee
8.11 or easement acquisition or lease to the state of Minnesota or a political subdivision
8.12 of the state for the public purpose of a paved trail. In the case of an eligible fee or
8.13 easement acquisition or lease under this paragraph, the commissioner shall execute and
8.14 acknowledge a document releasing the land subject to fee or easement acquisition or lease
8.15 by the state or political subdivision of the state.

8.16 (e) All other enrolled land must remain in the program.

8.17 **EFFECTIVE DATE.** Paragraphs (c) and (d) are effective the day following final
8.18 enactment. The remainder of this section is effective for notifications made in 2016 and
8.19 thereafter.

8.20 Sec. 12. **[290C.101] TRANSFER OF OWNERSHIP.**

8.21 Subdivision 1. **Definitions.** (a) For purposes of this section, "new owner" means a
8.22 prospective purchaser or grantee.

8.23 (b) For purposes of this section, "owner" means a grantor or seller.

8.24 Subd. 2. **Disclosure to new owner.** When lands enrolled in the sustainable forest
8.25 incentive program are sold or transferred to new owners, the owner must:

8.26 (1) disclose to the new owner information describing the imposition of penalties in
8.27 section 290C.11 for noncompliance with sections 290C.03 and 290C.04; and

8.28 (2) obtain the signature of the new owner on a statement acknowledging the
8.29 disclosures.

8.30 Subd. 3. **Notification to commissioner.** (a) An owner must notify a new owner
8.31 if the owner transfers all of the owner's land enrolled in the sustainable forest incentive
8.32 program to the new owner. A new owner must notify the commissioner within 60 days
8.33 of the transfer of title to the property if the owner has notified the new owner that the
8.34 owner has transferred all of the owner's land enrolled in the sustainable forest incentive
8.35 program to the new owner.

9.1 (b) An owner who transfers only part of the owner's land enrolled in the sustainable
 9.2 forest incentive program, or all of the owner's land enrolled in the sustainable forest
 9.3 incentive program to more than one new owner, must notify the commissioner in writing
 9.4 of the transfer within 60 days of the transfer of title. The notification must include the
 9.5 legal description of the transferred property, the tax parcel number, and the name and
 9.6 address of the new owner.

9.7 (c) Upon notification, the commissioner shall inform the new owner of the
 9.8 restrictions of the covenant required by section 290C.04, and that the new owner must
 9.9 register a new forest management plan within two years from the date the title of the
 9.10 property was transferred.

9.11 Subd. 4. **Termination of enrollment.** The commissioner will terminate enrollment
 9.12 in the sustainable forest incentive program according to the procedure in section 290C.10
 9.13 for failure of the new owner to register a forest management plan within the time period
 9.14 in subdivision 3, paragraph (c).

9.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.16 Sec. 13. Minnesota Statutes 2014, section 290C.11, is amended to read:

9.17 **290C.11 PENALTIES FOR REMOVAL.**

9.18 (a) If the commissioner determines that land enrolled in the sustainable forest
 9.19 incentive program is in violation of the conditions for enrollment as specified in section
 9.20 290C.03, the commissioner shall notify the ~~claimant~~ current owner of the enrolled land of
 9.21 the intent to remove ~~all~~ that tax parcel of the enrolled land where the violation has occurred
 9.22 from the sustainable forest incentive program. The ~~claimant~~ current owner of the affected
 9.23 tax parcel has 60 days to appeal this determination under the provisions of section 290C.13.

9.24 (b) If the commissioner determines the land is to be removed from the sustainable
 9.25 forest incentive program due to the construction of a building, the ~~claimant~~ current owner
 9.26 of the tax parcel that is in violation is liable for payment to the commissioner of revenue
 9.27 in the amount equal to (1) the payments received under this chapter for the previous
 9.28 four-year period in the case of an eight-year covenant, ten-year period in the case of a
 9.29 20-year covenant, and 25-year period in the case of a 50-year covenant, plus interest; and
 9.30 (2) 25 percent of the estimated market value as property reclassified under section 273.13,
 9.31 due to the structure being on the taxed parcel, as determined by the assessor.

9.32 (c) If the commissioner determines that the land is to be removed due to changes
 9.33 in the use of the land for uses other than forestry purposes, the current owner of the tax
 9.34 parcel that is in violation shall be liable to the commissioner of revenue in an amount

10.1 equal to (1) 30 percent of the estimated market value as property reclassified under section
10.2 273.13, due to the change in use, as determined by the assessor; and (2) the payments
10.3 received under this chapter for the previous four-year period in the case of an eight-year
10.4 covenant, ten-year period in the case of a 20-year covenant, and 25-year period in the
10.5 case of a 50-year covenant, plus interest.

10.6 (d) The claimant has 90 days to satisfy the payment for removal of land from the
10.7 sustainable forest incentive program under this section. If the penalty is not paid within
10.8 the 90-day period under this paragraph, the commissioner shall certify the amount to the
10.9 county auditor for collection as a part of the general ad valorem real property taxes on the
10.10 land in the following taxes payable year.

10.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

10.12 Sec. 14. **REPEALER.**

10.13 Minnesota Statutes 2014, sections 290C.02, subdivisions 5 and 9, are repealed.

10.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
Repealed Minnesota Statutes: S1414-1

290C.02 DEFINITIONS.

Subd. 5. **Current use value.** "Current use value" means the statewide average annual income per acre, multiplied by 90 percent and divided by the capitalization rate determined under subdivision 9. The statewide net annual income shall be a weighted average based on the most recent data as of July 1 of the computation year on stumpage prices and annual tree growth rates and acreage by cover type provided by the Department of Natural Resources and the United States Department of Agriculture Forest Service North Central Research Station.

Subd. 9. **Capitalization rate.** By July 1 of each year, the commissioner shall determine a statewide capitalization rate for use under this chapter. The rate shall be the average annual effective interest rate for St. Paul on new loans under the Farm Credit Bank system calculated under section 2032A(e)(7)(A) of the Internal Revenue Code.