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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1410

03/04/2015 Authored by Dill, Fabian, Anzelc, Lueck, Persell and others

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to taxation; Sustainable Forest Incentive Act; transferring powers from
1.3 the commissioner of revenue to the commissioner of natural resources; providing
1.4 rules for transfer of ownership; providing additional eligibility, certification,
1.5 and notification requirements; making clarifying changes; repealing obsolete
1.6 provisions; amending Minnesota Statutes 2014, sections 290C.01; 290C.02,
1.7 subdivisions 1, 2, 3, 4, 7; 290C.03; 290C.05; 290C.08; 290C.09; 290C.10;
1.8 290C.11; proposing coding for new law in Minnesota Statutes, chapter 290C;
1.9 repealing Minnesota Statutes 2014, sections 290C.02, subdivisions 5, 9; 290C.06.

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

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

1.12 **290C.01 PURPOSE.**

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

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

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

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

Sec. 3. Minnesota Statutes 2014, section 290C.02, subdivision 2, is amended to read:

Subd. 2. **Approved plan writers.** "Approved plan writers" are natural resource professionals who are self-employed, employed by private companies or individuals, nonprofit organizations, local units of government, or public agencies, and who are approved by the commissioner of natural resources. Persons determined to be certified foresters by the Society of American Foresters shall be deemed to meet the standards required under this subdivision. The commissioner of natural resources shall issue a unique identification number to each approved planner.

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

Sec. 4. Minnesota Statutes 2014, section 290C.02, subdivision 3, is amended to read:

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

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

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

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

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

~~(b)~~ (c) No more than one claimant is entitled to a payment under this chapter with respect to any tract, parcel, or piece of land enrolled under this chapter that has been assigned the same parcel identification number. When enrolled forest land is owned by

two or more persons, the owners must determine between them which person is eligible to claim the payments provided under sections 290C.01 to 290C.11. In the case of property sold or transferred, ~~the former owner and the purchaser or grantee must determine between them which person~~ is eligible to claim the payments provided under sections 290C.01 to 290C.11. The new owners, transferees, or grantees must notify the commissioner in writing ~~which person is eligible~~ to claim the payments.

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

Sec. 5. Minnesota Statutes 2014, section 290C.02, subdivision 4, is amended to read:

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of revenue natural resources.

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

Sec. 6. Minnesota Statutes 2014, section 290C.02, subdivision 7, is amended to read:

Subd. 7. **Forest management plan.** "Forest management plan" means a written document providing a framework for site-specific healthy, productive, and sustainable forest resources. A forest management plan must include at least the following: (i) forest management goals for the land; (ii) a reliable field inventory of the individual forest cover types, their age, and density; (iii) a description of the soil type and quality; (iv) an aerial photo and/or map of the vegetation and other natural features of the land clearly indicating the boundaries of the land and of the forest land; (v) the proposed future conditions of the land; (vi) prescriptions to meet proposed future conditions of the land; (vii) a recommended timetable for implementing the prescribed activities; and (viii) a legal description of the land encompassing the parcels included in the plan. All management activities prescribed in a plan must be in accordance with the recommended timber harvesting and forest management guidelines. ~~The commissioner of natural resources~~ shall provide a framework for plan content and updating and revising plans.

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

Sec. 7. Minnesota Statutes 2014, section 290C.03, is amended to read:

290C.03 ELIGIBILITY REQUIREMENTS.

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

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

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

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

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

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

(6) claimants enrolling more than 1,920 acres in the sustainable forest incentive program must allow year-round, nonmotorized access to fish and wildlife resources and motorized access on established and maintained roads and trails, unless the road or trail is temporarily closed for safety, natural resource, or road damage reasons on enrolled land except within one-fourth mile of a permanent dwelling or during periods of high fire hazard as determined by the commissioner of ~~natural resources~~; and

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

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

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

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

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

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

EFFECTIVE DATE. This section is effective for calculations made in 2015 and thereafter.

Sec. 8. Minnesota Statutes 2014, section 290C.05, is amended to read:

290C.05 ANNUAL CERTIFICATION.

On or before July 1 of each year, beginning with the year after the ~~original claimant has received an approved application~~ property tax parcel was enrolled under the sustainable forest incentive program, the commissioner shall send each claimant ~~enrolled~~

~~under the sustainable forest incentive program~~ a certification form. For purposes of this section, the ~~original~~ claimant is the person that ~~filed the first application under section 290C.04 to enroll the land in the program~~ is the current property owner on record. The claimant must sign and return the certification by August 15 of that same year, ~~attesting~~ and (1) attest that the requirements and conditions for continued enrollment in the program are currently being met, and ~~must return the signed certification form to the commissioner by August 15 of that same year~~ (2) provide a report in the format and manner determined by the commissioner on what management practices have been carried out on the enrolled property in the past year. If the claimant does not return an annual certification form by the due date, the provisions in section 290C.11 apply.

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

Sec. 9. Minnesota Statutes 2014, section 290C.08, is amended to read:

290C.08 ANNUAL INCENTIVE PAYMENT; APPROPRIATION.

Subdivision 1. **Annual payment.** An incentive payment for each acre of enrolled land will be made annually to each claimant in the amount determined under section 290C.07. By September 1 of each year, the commissioner will certify to the commissioner of revenue the annual incentive payment that each claimant is entitled to receive. The incentive payment shall be paid by the commissioner of revenue on or before October 1 each year based on the certifications due August 15 of that year. Interest at the annual rate determined under section 270C.40 shall be included with any incentive payment not paid by the later of October 1 of the year the certification was due, or 45 days after the completed certification was returned or filed if the commissioner accepts a certification filed after August 15 of the taxes payable year as the resolution of an appeal.

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

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

Sec. 10. Minnesota Statutes 2014, section 290C.09, is amended to read:

290C.09 REMOVAL FOR PROPERTY TAX DELINQUENCY.

The commissioner of revenue shall immediately remove any land enrolled in the sustainable forest incentive program for which taxes are determined to be delinquent as provided in chapter 279 and shall notify the claimant and the commissioner of such action.

Lands terminated from the sustainable forest incentive program under this section are not entitled to any payments provided in this chapter and are subject to removal penalties prescribed in section 290C.11. The claimant has 60 days from the receipt of notice from the commissioner of revenue under this section to pay the delinquent taxes. If the delinquent taxes are paid within this 60-day period, the lands shall be reinstated in the program as if they had not been withdrawn and without the payment of a penalty and the commissioner of revenue shall notify the commissioner of reinstatement.

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

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

290C.10 WITHDRAWAL PROCEDURES.

An approved claimant or current owner of lands enrolled under the sustainable forest incentive program for a minimum of four years may notify the commissioner of the intent to terminate enrollment. Within 90 days of receipt of notice to terminate enrollment, the commissioner shall inform the claimant in writing, acknowledging receipt of this notice and indicating the effective date of termination from the sustainable forest incentive program. Termination of enrollment in the sustainable forest incentive program occurs on January 1 of the fifth calendar year that begins after receipt by the commissioner of the termination notice. After the commissioner issues an effective date of termination, a claimant wishing to continue the land's enrollment in the sustainable forest incentive program beyond the termination date must apply for enrollment as prescribed in section 290C.04. A claimant who withdraws a parcel of land from this program may not reenroll the parcel for a period of three years. Within 90 days after the termination date, the commissioner shall execute and acknowledge a document releasing the land from the covenant required under this chapter. The document must be mailed to the claimant and is entitled to be recorded. The commissioner may allow early withdrawal from the Sustainable Forest Incentive Act without penalty when the state of Minnesota, any local government unit, or any other entity which has the power of eminent domain acquires title or possession to the land for a public purpose notwithstanding the provisions of this section. In the case of such acquisition, the commissioner shall execute and acknowledge a document releasing the land acquired by the state, local government unit, or other entity from the covenant. All other enrolled land must remain in the program.

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

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

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

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

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

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

7.8 (2) obtain the signature of the new owner on a statement acknowledging the
7.9 disclosures.

7.10 Subd. 3. **Notification to commissioner.** (a) An owner must notify a new owner
7.11 if the owner transfers all of the owner's land enrolled in the sustainable forest incentive
7.12 program to the new owner. A new owner must notify the commissioner within 60 days
7.13 of the transfer of title to the property if the owner has notified the new owner that the
7.14 owner has transferred all of the owner's land enrolled in the sustainable forest incentive
7.15 program to the new owner.

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

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

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

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

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

7.32 **290C.11 PENALTIES FOR REMOVAL.**

7.33 (a) If the commissioner determines that land enrolled in the sustainable forest
7.34 incentive program is in violation of the conditions for enrollment as specified in section

290C.03, the commissioner shall notify the ~~claimant~~ current owner of the enrolled land of the intent to remove ~~all~~ that tax parcel of the enrolled land where the violation has occurred from the sustainable forest incentive program. The ~~claimant~~ current owner of the affected tax parcel has 60 days to appeal this determination under the provisions of section 290C.13.

(b) If the commissioner determines the land is to be removed from the sustainable forest incentive program due to the construction of a building, the ~~claimant~~ current owner of the tax parcel that is in violation is liable for payment to the commissioner of revenue in the amount equal to the payments received under this chapter for the previous four-year period, plus interest 25 percent of the estimated market value as property reclassified under section 273.13, due to the structure being on the taxed parcel, as determined by the assessor.

(c) If the commissioner determines that the land is to be removed due to changes in the use of the land for uses other than forestry purposes, the current owner of the tax parcel that is in violation shall be liable to the commissioner of revenue in an amount equal to 30 percent of the estimated market value as property reclassified under section 273.13, due to the change in use, as determined by the assessor.

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

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

Sec. 14. **REPEALER.**

Minnesota Statutes 2014, sections 290C.02, subdivisions 5 and 9; and 290C.06, are repealed.

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

APPENDIX
Repealed Minnesota Statutes: 15-2851

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.

**290C.06 CALCULATION OF AVERAGE ESTIMATED MARKET VALUE;
MANAGED FOREST LAND.**

The commissioner shall annually calculate a statewide average estimated market value per acre for class 2c managed forest land under section 273.13, subdivision 23.