

No. 892, A.]

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**CHAPTER 258**

AN ACT to renumber 286.32 (10); to renumber and amend 286.32 (11); and to create 70.335 and 286.32 (10) of the statutes, relating to providing a new method of taxation of forest lands required by federal law to be operated on a sustained-yield basis and the regulation of such land.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 70.335 of the statutes is created to read:

**70.335 VALUATION AND ASSESSMENT OF SUSTAINED-YIELD FOREST LANDS.** (1) Definitions for this section:

(a) "Sustained-yield management" means that the lands taxed under this section shall be operated in a manner which will provide for a continuous annual harvest of high quality forest products on a permanent basis. Cutting practices used shall be such as to improve the quality of the residual stand and increase the productive capacity of the lands on a permanent basis. The average annual cut shall be determined on the basis of studies of present volume, growth, degree of maturity of the forest, and it will include normal mortality, which is that timber which normally dies or is damaged each year as a result of natural causes. Catastrophic losses due to fire, flood, storm, insect or disease epidemics will be reported to the conservation commission immediately and salvaged without delay. Necessary changes in the forest management plan resulting from such losses will be made as soon as possible. It is recognized that under sustained-yield management the amount of timber cut will vary from year to year, but it shall not exceed the average annual allowable cut as specified in the forest management plan by more than 7 per cent for any one year, or by more than 3 per cent for any 5-year period, or by more than 2 per cent for the cutting cycle.

(b) "Sound forestry practices" mean those timber cutting, transporting, and forest cultural methods which will best propagate and improve

the various forest types. Such practices shall be those which are recommended by the conservation commission for the various timber types common to Wisconsin and which are used by the conservation commission on lands under its jurisdiction.

(2) The economic value of forest lands which are required to be operated on a sustained-yield basis is substantially less than the value of those same properties without such restriction and where forest lands are required by law to be operated on a sustained-yield basis, the effect of such restriction on full market value should be recognized for tax purposes. To be eligible for taxation under this section, lands must be forest lands which are directed by congress and required by federal law to be operated on a sustained-yield basis as a condition to termination of federal trusteeship over such lands. An owner who files for taxation under this section agrees that he will operate the lands entered under this section on a sustained-yield basis consistent with sound forestry practices in compliance with this section, subject, however, to the privilege of withdrawal and sale as provided in this section until congress shall release him from the sustained-yield requirement, whereupon he shall be released from all provisions of this section.

(3) Before any lands shall be taxed under this section, the owner of lands defined in sub. (2) shall submit to the commissioner of taxation an application requesting that said lands be taxed under this section. Such application shall include a legal description of said lands. The owner shall include in his initial application all forest lands which were in federal trusteeship at the time of termination of federal trusteeship. The owner shall file with the commissioner of taxation and also with the conservation commission a forest management plan which shall provide for sustained-yield management of the lands consistent with sound forestry practices. If the conservation commission finds that the forest management plan as filed is adequate to insure continued management of the forest lands on a sustained-yield basis, consistent with sound forestry practices, it shall so inform the commissioner of taxation and furnish the owner with a copy of the notice to the commissioner of taxation. If the conservation commission finds that the plan does not provide for sustained-yield management of the lands consistent with sound forestry practices, it shall so notify the commissioner of taxation and furnish the owner with a copy of the notice to the commissioner of taxation. The plan shall include, without limitation because of enumeration, the following:

- (a) A copy of the application filed with the commissioner of taxation.
- (b) A forest cover type map of the area.
- (c) A timber inventory to include the amount of timber present by species and size class and the acreage of each forest type and condition class.
- (d) The estimated annual volume growth by species, based on growth studies.
- (e) The allowable average annual cut by species and product for the current cutting cycle.
- (f) The number of years in the current cutting cycle and the starting and completion date of the current cutting cycle.
- (g) The silvicultural systems to be used in harvesting the forest types present on the lands.
- (h) Such other information as may be required by the conservation commission.

(4) (a) The commissioner of taxation shall determine whether the lands described in the application are eligible for and qualify for taxation under this section. If he finds that the lands do qualify, under this

section, he shall order the lands taxed under this section and shall transmit notice of entry, together with the descriptions, to the assessor and clerk of each town and to the register of deeds of each county in which the lands are located. The register of deeds shall record the entry of all such lands under this section in a suitable manner in county records, and shall be entitled to a fee of 10 cents for each government description recorded, but not more than \$500.

(b) An application shall not be denied without a hearing as provided in ss. 227.07 to 227.14. If the commissioner of taxation, after such hearing, finds that the lands do not qualify, he shall issue an order denying the application.

(5) For purposes of assessment and taxation, the value of forest lands defined in sub. (2) shall upon approval by the commissioner of taxation as provided by sub. (4), first be determined by the assessor on the same basis as in the case of forest lands not so defined, and he shall then assess the lands at 40 per cent of such value.

(6) The valuation of forest lands defined in sub. (2) shall be computed by the assessor pursuant to sub. (5), and entered in the assessment roll accordingly, and after examination and review under s. 70.47, such lands shall be taxed as other property in the same district is taxed.

(7) Thereafter in each year before December 31, the owner shall file with the conservation commission a report under oath or affirmation of forestry operations during the prior fiscal year, which without limitation because of enumeration, shall include:

(a) A report of the volume of timber cut during the previous year by species and product;

(b) A map showing the area from which said timber was cut;

(c) Proposed changes to the management plan;

(d) Any proposed withdrawals from or addition of lands to lands subject to this section;

(e) Such other information as the commission may require.

(8) The owner may revise the forest management plan at any time. He shall, however, submit a new or revised forest management plan to the conservation commission not later than 6 months prior to the end of each cutting cycle. New forest management plans or revisions to currently approved forest management plans shall be submitted to the conservation commission for approval. If the conservation commission finds that such a forest management plan is adequate to insure continued management of the forest lands on a sustained-yield basis consistent with sound forestry practices, it shall enter an order approving such plan. Approval of such a forest management plan shall not be denied without a hearing as provided by ss. 227.07 to 227.14. If the conservation commission finds after such hearing that such forest management plan is not adequate to insure continued management of the forest lands on a sustained-yield basis consistent with sound forestry practices, it shall enter an order denying approval of such plan. Any such new or revised forest management plan shall not be put into operation until approved by the conservation commission.

(9) Any cutting in excess of the amounts specified in the approved management plan not specifically authorized by the conservation commission, or any other deviation from the approved management plan, not authorized herein, shall be considered a violation of this section.

(10) If unauthorized cutting in excess of amounts specified in the approved management plan occurs at any time, or if the owner otherwise violates the provisions of this section, or regulations of the conservation commission, the commission may certify that fact to the attorney general,

who shall commence an action in the name of the state to compel operation of the forest on a sustained-yield basis consistent with sound forestry practices, in compliance with this section. The court, after 2 days' notice to the defendant, and upon good cause shown, shall allow a temporary injunction restraining some or all cutting of timber on the lands of the owner taxed under this section, or any other violation of this section, until further order of the court. A bond shall not be required of the state, and the state shall not be liable for damages by reason of any temporary or permanent injunction issued pursuant to this section. In addition to other penalties provided by law, the court may impose a penalty of \$40 per thousand board feet on the amount of timber cut in excess of the cut allowed by any temporary or permanent injunction issued pursuant to this section. For the purpose of computing the amount of timber cut, the scale or measure of products other than saw timber shall be converted to board feet.

(11) The owner may, without approval of any state agency, withdraw from taxation under this section, any parcel of land not more than 10 acres in size. Such withdrawals shall not total more than 250 acres in any calendar year. The owner shall give notice of such withdrawal to the commissioner of taxation and to the conservation commission. If such withdrawal qualifies under this subsection, the commissioner of taxation shall forthwith order the lands removed from taxation under this section, and instruct the assessor and other town and county officials accordingly.

(12) Withdrawal of any parcel of land larger than 10 acres in size, or any withdrawal which results in a cumulative total of more than 250 acres withdrawn in any one calendar year, shall require the approval of the commissioner of taxation. If the owner wishes to withdraw any lands from the provisions of this section, not covered by sub. (11), he shall submit an application for such withdrawal to the commissioner of taxation. The application shall include a legal description of the lands to be withdrawn and the reason for such withdrawal. Any withdrawals under this subsection may be made only for the purpose of dedicating the lands to a higher beneficial use. The commissioner of taxation shall, after consultation with the conservation commission and such other persons as he deems necessary, determine whether reasonable assurance has been given that the lands listed in the application for withdrawal will be devoted to a higher beneficial use. The commissioner of taxation may require such assurances from the owner as he deems necessary to guarantee that the lands will be dedicated to a higher beneficial use. If the commissioner of taxation finds that the lands listed in the application qualify for withdrawal, he shall order said lands removed from taxation under this section, and will instruct the assessor and other town and county officials accordingly. If the commissioner of taxation finds that the lands listed in the application do not qualify for withdrawal, he shall issue an order denying the application.

(13) If the owner at any time wishes to re-enter lands previously entered under this section, he shall submit an application to the commissioner of taxation. Such application shall include a legal description of the land and a statement certifying that the land will be managed on a sustained-yield basis consistent with sound forestry practices, and will be included in the current forest management plan. The commissioner of taxation shall consult with the conservation commission; and if he finds that the lands are capable of producing a crop of merchantable timber within a reasonable time, and that they otherwise qualify for taxation under this section, he shall order the lands taxed under this section and instruct the assessor and other town and county officials accordingly.

(14) Sale and foreclosure: Whenever the owner of lands taxed under this section conveys such land he shall, not later than 60 days prior to the date of the conveyance, notify the commissioner of taxation and the conservation commission of the proposed conveyance. Acceptance of a transfer of ownership of lands taxed under this section shall constitute an agreement by the new owner that he will manage the lands in compliance with this section. The new owner shall, within 10 days of the date of the conveyance, file with the commissioner of taxation a certification that he will manage the lands in compliance with this section under the obligations and for the same period as the original owner. The commissioner of taxation shall forthwith issue a notice of transfer to all officers designated to receive copies of orders of entry or withdrawal. A mortgage foreclosure shall be deemed a conveyance within the meaning of this section.

(15) The commissioner of taxation and the conservation commission shall have the power from time to time to conduct hearings pursuant to ss. 227.07 to 227.14 and to examine any books, papers, records or memoranda of the owners relating to forestry, sawmill or related operations, and to enter upon such lands to make investigations and surveys as they deem necessary. Orders, rules, regulations, or findings of the commissioner of taxation and the conservation commission entered after hearing shall be subject to review as provided by ss. 227.15 to 227.20.

(16) (a) It is unlawful for any person to fail to make any report required by this section.

(b) It is unlawful for any person, individually, or as officer, trustee, agent or employe of any corporation to intentionally make any false statement or report to the commissioner of taxation or conservation commission, required by this section.

(17) Rule making: The commissioner of taxation and the conservation commission shall each have the power to make such reasonable orders and rules consistent with law which are necessary to the discharge of their powers, duties and functions to carry out the provisions of this section.

(18) Any person, individually or as an officer, trustee, agent or employe of any corporation, or any corporation which violates any of the provisions of this section or any of the orders or rules of the commissioner of taxation or conservation commission shall forfeit not less than \$10 nor more than \$500 for each violation and for each day of the violation at the discretion of the court provided that any person who fails to file any required report on time shall forfeit \$10 for each day that the report is not filed.

SECTION 2. 286.32 (10) and (11) of the statutes are renumbered 286.32 (11) and 286.325, respectively, and 286.325, as renumbered, is amended to read:

286.325 The jurisdiction conferred by \* \* \* s. 286.32 shall be exercised in an action prosecuted by the attorney general in the name of the state, or by any creditor or stockholder of the corporation, or by any director, trustee or officer thereof having a general superintendence of its concerns.

SECTION 3. 286.32 (10) of the statutes is created to read:

286.32 (10) To require management and classification of lands according to the articles of incorporation of such corporation.

Approved July 30, 1959.