

**2009 DRAFTING REQUEST**

**Bill**

Received: 10/22/2009

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Clark (608) 266-7746**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - parks and forestry**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Clark@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Managed forest land program changes, dates, terminology, stumpage value

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**Instructions:**

See attached, 07 AB 735 plus (-3442) penalties for failing to file cutting reports, real estate form disclosures, etc.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mglass 11/04/2009	wjackson 11/06/2009		_____			S&L
/1			mduchek 11/06/2009	_____	cduerst 11/06/2009	sbasford 11/11/2009	

FE Sent For:

*at  
intro*

<END>

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/?	mglass 11/04/2009	wjackson 11/06/2009	lrb_lps	1/5			

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*Handwritten notes:*  
11/5  
PH/MK  
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See attached, 07 AB 735 plus ~~penalties~~ for failing to file cutting reports, real estate form disclosures, etc.

see attached

(- 3442)

penalties

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/?	mglass	1/11/16	to 11/4	_____			

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

① penalty to file cutting report  
see ② attached

② eliminate March 31st deadline, ie distinction  
see ~~78~~. 77.82(7)(c) for large  
77.82(12) parcels

③ include info the land is in MFL program  
in real estate disclosure form

LRB - 3444/2

2 separate bills

① clean up

[LRB. 3444/2 no amendments

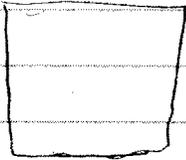
① prep w/ any assessed value not eligible <sup>for</sup> enrollment

4 of the 8 NR 46 § 15 (25)

new

may not have more 4 of 8 modernizing characteristics

"developed for" human residence"



rounded up to the nearest acre

② penalty for failing to file a cutting report same as filing a false report plus may still proceed w/ withdrawal vs. landowner

AB 735 order forester to evaluate it and based on volume shown in cutting notice bill the landowner <sup>tax</sup> penalty added to bill → penalty to be split same way as tax set

③ eliminate March 31st deadline for large accounts → June 1st

AB 735

Please fix request sheet.

Stays

2009 BILL

By Friday please

LPS: Please check auto-refs.

D-Note

Regen

1 AN ACT *to repeal* 77.82 (2) (i), 77.82 (2m) (a) 2. and 77.82 (7) (c) 2.; *to renumber*  
2 77.82 (2m) (a) 1.; *to renumber and amend* 77.82 (2m) (e) and 77.82 (3) (a); *to*  
3 *amend* 20.370 (1) (cx), 26.09 (1b) (j), 77.06 (5), 77.82 (title), 77.82 (1) (bn), 77.82  
4 (1) (c), 77.82 (2) (intro.), 77.82 (2) (cm), 77.82 (2) (e), 77.82 (2) (e), 77.82 (2) (f),  
5 77.82 (2) (i), 77.82 (2m) (title), 77.82 (2m) (a) 1., 77.82 (2m) (a) 2., 77.82 (2m)  
6 (am), 77.82 (2m) (c), 77.82 (2m) (d), 77.82 (2m) (dm) 1., 77.82 (2m) (e), 77.82 (3)  
7 (a), 77.82 (3) (c) (intro.), 77.82 (3) (g), 77.82 (4), 77.82 (4g) (a), 77.82 (4g) (b), 77.82  
8 (4m) (a), 77.82 (4m) (b), 77.82 (4m) (d), 77.82 (5) (title), 77.82 (5) (a), 77.82 (5)  
9 (b), 77.82 (6) (a), 77.82 (6) (b) 2., 77.82 (7) (a) (intro.), 77.82 (7) (a) 2., 77.82 (7)  
10 (b) (intro.), 77.82 (7) (b) 1., 77.82 (7) (c) 1., 77.82 (7) (c) 3., 77.82 (7) (d), 77.82 (8),  
11 77.82 (10), 77.82 (11), 77.82 (11g), 77.82 (12), 77.86 (1) (c), 77.86 (1) (d), 77.87  
12 (1g) (a), 77.87 (1g) (d), 77.87 (3), 77.88 (2) (b), 77.88 (2) (d) 1., 77.88 (2) (e), 77.88  
13 (4), 77.88 (5) (ab) 1., 77.88 (5) (am) (intro.), 77.88 (6), 77.90, 77.91 (1) and 170.12  
14 (5); *to repeal and recreate* 77.82 (3) (f); and *to create* 77.125, 77.82 (2) (dm),

**BILL**

1 77.82 (2m) (ac), 77.82 (3) (am) and 77.88 (5g) of the statutes; **relating to:**  
 2 petitions and management plans for the designation of managed forest land;  
 3 transferrals of ownership of managed forest land; establishing stumpage  
 4 values <sup>and filing cutting reports,</sup> and estimating withdrawal taxes under the managed forest land  
 5 program; signatures and authentication requirements for orders under the  
 6 forest croplands program; granting rule-making authority <sup>and</sup> making an  
 7 appropriation; <sup>and providing a penalty</sup>

***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Natural Resources (DNR) administers the managed forest land (MFL) program and a similar program called the forest croplands program. The MFL program exempts an owner of land that is designated MFL from payment of municipal property taxes on the land in exchange for a lower payment per acre. In exchange, the owner must comply with certain forestry practices and must allow the public on the land under certain circumstances unless the landowner elects to pay an extra amount per acre to keep a limited number of acres closed. In addition, an owner of MFL must pay a withdrawal tax when the owner withdraws the land from the program before the order designating the land as MFL expires. Orders are for 25 or 50 years. This bill makes various changes to the MFL program, including the following:

1. The words “applicant” and “application” are substituted for “petitioner” and “petition” in the subchapter related to the MFL program. This change is nonsubstantive.

2. The dates before which DNR must act on applications under the MFL program are changed, and the deadline for owners to file applications to renew MFL orders is changed.

3. A forestry management plan for the MFL must accompany the application, and the requirement that DNR prepare the plan upon the request of the applying landowner is eliminated. Under the bill, DNR must prepare the plan only if DNR determines that the applicant is unable to have a proposed management plan prepared by a certified independent plan writer. DNR must promulgate rules establishing the criteria for when DNR will prepare the plan.

4. The Department of Revenue, upon the request of an MFL landowner, with the assistance of DNR, must prepare an estimate of the withdrawal tax that would be due if the MFL is withdrawn.

5. The requirement that the stumpage value used to determine the amount of yield taxes and withdrawal taxes under the MFL program be established by rule is eliminated.

**BILL**

6. The bill clarifies that when MFL is transferred to another owner, the person purchasing or otherwise receiving the land pays the transfer fee.

7. Under the forest croplands program, facsimile signatures are allowed and documents are exempted from register of deeds authentication requirements. These provisions exist for the MFL program under current law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

↓  
INSERT  
ANL

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

1           SECTION 1. 20.370 (1) (cx) of the statutes is amended to read:

2           20.370 (1) (cx) *Forestry — management plans.* All moneys as calculated  
3 received under s. 77.82 (2m) ~~(dm)~~ 1. (ag) for payment for management plans prepared  
4 or completed by plan writers who are under contract with the department under s.  
5 77.82 (3).

6           SECTION 2. 26.09 (1b) (j) of the statutes is amended to read:

7           26.09 (1b) (j) “Stumpage value” means the applicable stumpage rate value  
8 established ~~by rule~~ under s. 77.91 (1) or the fair market value of raw forest products  
9 less the cost of their harvesting, whichever is greater.

10          SECTION 3. 77.06 (5) of the statutes is amended to read:

11          77.06 (5) TAX LEVY ON RIGHT TO CUT TIMBER. The department of natural resources  
12 shall assess and levy against the owner a severance tax on the right to cut and remove  
13 wood products covered by reports under this section, at the rate of 10% of the value  
14 of the wood products based upon the stumpage value ~~then in force~~ established under  
15 s. 77.91 (1). Upon making the assessment, the department of natural resources shall  
16 mail a duplicate of the certificate by registered mail to the owner who made the  
17 report of cutting at the owner’s last-known post-office address. The tax assessed is  
18 due and payable to the department of natural resources on the last day of the next

**BILL****SECTION 3**

1 ~~calendar month after mailing~~ following the date the certificate is mailed to the owner.

2 The proceeds of the tax shall be paid into the forestry account of the conservation  
3 fund for distribution under s. 77.07 (3).

4 **SECTION 4.** 77.125 of the statutes is created to read:

5 **77.125 Signatures. (1)** The signature of an official or an employee of the  
6 department of natural resources may be stamped, printed, or otherwise reproduced  
7 on an order under ss. 77.01 to 77.14 after the official or employee adopts the stamped,  
8 printed, or otherwise reproduced signature as his or her facsimile signature.

9 **(2)** The signature or the facsimile signature under sub. (1) of an official or an  
10 employee of the department of natural resources meets the requirement under s.  
11 706.05 (2) (a).

12 **(3)** The requirement of s. 706.05 (2) (b) does not apply to orders issued under  
13 this subchapter.

14 **SECTION 5.** 77.82 (title) of the statutes is amended to read:

15 **77.82 (title) Managed forest land; petition application.**

16 **SECTION 6.** 77.82 (1) (bn) of the statutes is amended to read:

17 **77.82 (1) (bn)** For purposes of par. (b) 3., the department by rule shall define  
18 “human residence” to include a residence of the ~~petitioner~~ applicant regardless of  
19 whether it is the ~~petitioner’s~~ applicant’s primary residence. The definition may also  
20 include up to one acre surrounding the residence for a residence that is not the  
21 ~~petitioner’s~~ applicant’s primary residence.

22 **SECTION 7.** 77.82 (1) (c) of the statutes is amended to read:

23 **77.82 (1) (c)** In addition to the requirements under pars. (a) and (b), for land  
24 subject to ~~a petition~~ an application under sub. (4m), all forest croplands owned by  
25 the ~~petitioner~~ applicant on the date on which the ~~petition~~ application is submitted

**BILL**

1 filed that are located in the municipality or municipalities for which the ~~petition~~  
2 application is ~~submitted~~ filed shall be included in the ~~petition~~ application.

3 **SECTION 8.** 77.82 (2) (intro.) of the statutes is amended to read:

4 77.82 (2) ~~PETITION APPLICATION.~~ (intro.) Any owner of land may ~~petition~~ file an  
5 application with the department to designate any eligible parcel of land as managed  
6 forest land. ~~A petition~~ An application may include any number of eligible parcels  
7 under the same ownership. Each ~~petition~~ application shall include all of the  
8 following:

9 **SECTION 9.** 77.82 (2) (cm) of the statutes is amended to read:

10 77.82 (2) (cm) A copy of an instrument that has been recorded in the office of  
11 the register of deeds of each county in which the property is located that shows the  
12 ownership of the land subject to the ~~petition~~ application.

13 **SECTION 10.** 77.82 (2) (dm) of the statutes is created to read:

14 77.82 (2) (dm) A proposed management plan.

15 **SECTION 11.** 77.82 (2) (e) of the statutes is amended to read:

16 77.82 (2) (e) A statement of the owner's forest management objectives for the  
17 production of merchantable timber, in sufficient detail to provide direction for the  
18 development and approval of a management plan. The ~~petition~~ application may also  
19 state additional forest management objectives, which may include wildlife habitat  
20 management, aesthetic considerations, watershed management and recreational  
21 use.

22 **SECTION 12.** 77.82 (2) (e) <sup>✓</sup> of the statutes, as affected by 2009 Wisconsin Act ....  
23 (this act), is amended to read:

24 77.82 (2) (e) A statement of the owner's forest management objectives for the  
25 production of merchantable timber, in sufficient detail to provide direction for the

**BILL**

1 ~~development and approval of a~~ the proposed management plan. The application  
2 may also state additional forest management objectives, which may include wildlife  
3 habitat management, aesthetic considerations, watershed management and  
4 recreational use.

5 **SECTION 13.** 77.82 (2) (f) of the statutes is amended to read:

6 77.82 (2) (f) Proof that each person holding any encumbrance on the land  
7 agrees to the petition that the application may be filed.

8 **SECTION 14.** 77.82 (2) (i) of the statutes is amended to read:

9 77.82 (2) (i) If a proposed management plan is not ~~submitted~~ filed with the  
10 petition application, a request that the department prepare a management plan.  
11 The department may decline to prepare the plan.

12 **SECTION 15.** 77.82 (2) (i) of the statutes, as affected by 2009 Wisconsin Act ...  
13 (this act), is repealed.

14 **SECTION 16.** 77.82 (2m) (title) of the statutes is amended to read:

15 77.82 (2m) (title) FEES FOR PETITIONS APPLICATIONS AND MANAGEMENT PLANS.

16 **SECTION 17.** 77.82 (2m) (a) 1. of the statutes is amended to read:

17 77.82 (2m) (a) 1. ~~A petition~~ An application under sub. (2), (4m), or (12) shall  
18 be accompanied by a nonrefundable application recording fee of \$20 unless a  
19 different amount for the ~~recording~~ fee is established by the department by rule at an  
20 amount equal to the average expense to the department for recording an order issued  
21 under this subchapter.

22 **SECTION 18.** 77.82 (2m) (a) 1. of the statutes, as affected by 2009 Wisconsin Act  
23 .... (this act), is renumbered 77.82 (2m) (a).

24 **SECTION 19.** 77.82 (2m) (a) 2. of the statutes is amended to read:

**BILL**

1           77.82 (2m) (a) 2. If ~~a petition~~ an application under sub. (2), (4m), or (12) is not  
2 accompanied by a proposed management plan that meets the requirements under  
3 par. (c), the department shall charge the plan preparation fee established under par.  
4 (am) if the department agrees to complete the plan.

5           **SECTION 20.** 77.82 (2m) (a) 2. of the statutes, as affected by 2009 Wisconsin Act  
6 .... (this act), is repealed.

7           **SECTION 21.** 77.82 (2m) (ac) of the statutes is created to read:

8           77.82 (2m) (ac) If the department prepares a management plan under sub. (3)  
9 (am), the department shall collect from the applicant the management plan fee  
10 established under par. (am).

11           **SECTION 22.** 77.82 (2m) (am) of the statutes is amended to read:

12           77.82 (2m) (am) The department shall by rule establish on an annual basis a  
13 nonrefundable fee that the department shall charge for a management plan  
14 prepared or completed by the department, ~~including any plan prepared by a certified~~  
15 ~~plan writer contracted by the department under sub. (3) (g).~~ The fee shall be based  
16 on the comparable commercial market rate that is charged for preparation of such  
17 management plans.

18           **SECTION 23.** 77.82 (2m) (c) of the statutes is amended to read:

19           77.82 (2m) (c) A proposed management plan is exempt from the management  
20 plan preparation fee under par. (a) 2. ~~(ag)~~ if it is prepared or completed by an  
21 independent certified plan writer instead of by the department.

22           **SECTION 24.** 77.82 (2m) (d) of the statutes is amended to read:

23           77.82 (2m) (d) All of the application recording fees collected under par. (a) 1-  
24 shall be credited to the appropriation under s. 20.370 (1) (cr).

25           **SECTION 25.** 77.82 (2m) (dm) 1. of the statutes is amended to read:

**BILL**

1           77.82 (2m) (dm) 1. Of each management plan fee, \$300 or the entire fee,  
2 whichever is less, that is collected under par. (a) or (e) ~~that is not credited to the~~  
3 ~~appropriation under s. 20.370 (1) (cr) (ag)~~ shall be credited to the appropriation under  
4 s. 20.370 (1) (cx).

5           **SECTION 26.** 77.82 (2m) (e) of the statutes is amended to read:

6           77.82 (2m) (e) If a proposed management plan accompanying ~~a petition~~ an  
7 application filed under sub. (2), (4m), or (12) is not approved by the department under  
8 its initial review under sub. (3) (a), and if the department agrees to complete the  
9 management plan under sub. (3) (a), the department shall collect from the ~~petitioner~~  
10 applicant the plan preparation fee established under par. (am), if the ~~petitioner~~  
11 applicant has not previously paid the fee.

12           **SECTION 27.** 77.82 (2m) (e) of the statutes, as affected by 2009 Wisconsin Act  
13 .... (this act), is renumbered 77.82 (2m) (ag) and amended to read:

14           77.82 (2m) (ag) If a proposed management plan accompanying an application  
15 filed under sub. (2), (4m), or (12) is not approved by the department under its initial  
16 review under sub. (3) (a) ~~(ar)~~ (ar), and if the department agrees to complete the proposed  
17 management plan under sub. (3) (a) ~~(ar)~~ (ar), the department shall collect from the  
18 applicant the management plan preparation fee established under par. (am), ~~if the~~  
19 ~~applicant has not previously paid the fee.~~

20           **SECTION 28.** 77.82 (3) (a) of the statutes is amended to read:

21           77.82 (3) (a) A proposed management plan ~~may~~ shall cover the entire acreage  
22 of each parcel subject to the ~~petition~~ application. The department, after considering  
23 the owner's forest management objectives as stated under sub. (2) (e), shall review  
24 and either approve or disapprove the proposed management plan. If the department  
25 disapproves the plan, it shall inform the ~~petitioner~~ applicant of the changes

**BILL**

1 necessary to qualify the plan for approval upon subsequent review. At the request  
2 of the ~~petitioner~~ applicant, the department may agree to complete the proposed  
3 management plan that has been prepared by an independent certified plan writer.  
4 The department shall complete any proposed management plan prepared by the  
5 department.

6 **SECTION 29.** 77.82 (3) (a) of the statutes, as affected by 2009 Wisconsin Act ....  
7 (this act), is renumbered 77.82 (3) (ag) and amended to read:

8 77.82 (3) (ag) A proposed management plan shall cover the entire acreage of  
9 each parcel subject to the application. ~~The and shall be prepared by an independent~~  
10 certified plan writer or by the department if par. (am) applies.

11 (ar) For a proposed management plan prepared by an independent certified  
12 plan writer, the department, after considering the owner's forest management  
13 objectives as stated under sub. (2) (e), shall review and either approve or disapprove  
14 the proposed management plan. If the department disapproves the proposed plan,  
15 it shall inform the applicant of the changes necessary to qualify the plan for approval  
16 upon subsequent review. At the request of the applicant, the department may agree  
17 to complete the proposed management plan ~~that has been prepared by an~~  
18 ~~independent certified plan writer. The department shall complete any proposed~~  
19 ~~management plan prepared by the department.~~

20 **SECTION 30.** 77.82 (3) (am) of the statutes is created to read:

21 77.82 (3) (am) If the department determines that an applicant is not able to  
22 have a proposed management plan prepared by a certified independent plan writer,  
23 the department shall prepare the plan. The department shall promulgate rules  
24 establishing the criteria that shall be met in order to determine that an applicant is  
25 unable to prepare such a plan.

**BILL**

1           **SECTION 31.** 77.82 (3) (c) (intro.)<sup>↓</sup> of the statutes is amended to read:

2           77.82 (3) (c) (intro.) To qualify for approval, a management plan shall be  
3 prepared by an independent certified plan writer or prepared by the department and  
4 shall include all of the following:

5           **SECTION 32.** 77.82 (3) (f) of the statutes is repealed and recreated to read:

6           77.82 (3) (f) A management plan may be amended either by an agreement  
7 entered into by the owner and the department or by the department to ensure the  
8 practice of sound forestry.

9           **SECTION 33.** 77.82 (3) (g)<sup>↓</sup> of the statutes is amended to read:

10           77.82 (3) (g) The department shall certify plan writers and shall promulgate  
11 rules specifying the qualifications that a person must satisfy to become a certified  
12 plan writer. For management plans prepared or completed by the department under  
13 this subsection, the department may contract with plan writers certified by the  
14 department to prepare and complete these plans.

15           **SECTION 34.** 77.82 (4) of the statutes is amended to read:

16           77.82 (4) ADDITIONS TO MANAGED FOREST LAND. An owner of land that is  
17 designated as managed forest land under an order that takes effect on or after April  
18 28, 2004, may ~~petition~~ file an application with the department to designate as  
19 managed forest land an additional parcel of land if the additional parcel is at least  
20 3 acres in size and is contiguous to any of that designated land. The ~~petition~~  
21 application shall be accompanied by a nonrefundable \$20 application recording fee  
22 unless a different amount for the fee is established by the department by rule at an  
23 amount equal to the average expense to the department of recording an order issued  
24 under this subchapter. The fee shall be deposited in the conservation fund and  
25 credited to the appropriation under s. 20.370 (1) (cr). The ~~petition~~ application shall

**BILL**

1 be filed on a department form and shall contain any additional information required  
2 by the department.

3 **SECTION 35.** 77.82 (4g) (a) of the statutes is amended to read:

4 77.82 **(4g)** (a) If an owner of land that is designated as managed forest land  
5 under an order that takes effect before April 28, 2004, wishes to have an additional  
6 parcel of land that is at least 10 acres in size and that satisfies the other requirements  
7 in sub. (1) designated as managed forest land, the owner may ~~petition~~ file an  
8 application with the department under sub. (2) for a new order covering the  
9 additional land.

10 **SECTION 36.** 77.82 (4g) (b) of the statutes is amended to read:

11 77.82 **(4g)** (b) If an owner of land that is designated as managed forest land  
12 under an order that takes effect before April 28, 2004, wishes to have designated as  
13 managed forest land an additional parcel of land that is at least 3 acres in size, that  
14 does not satisfy the requirements in sub. (1), and that is contiguous to any of that  
15 designated land, the owner may withdraw the designated land from the original  
16 order and may ~~petition~~ file an application with the department under sub. (2) for a  
17 new order covering both the withdrawn land and the additional land. The  
18 withdrawal tax and the withdrawal fee under s. 77.88 (5) and (5m) do not apply to  
19 a withdrawal under this paragraph.

20 **SECTION 37.** 77.82 (4m) (a) of the statutes is amended to read:

21 77.82 **(4m)** (a) An owner of land that is entered as forest croplands under s.  
22 77.02 may ~~petition~~ file an application with the department under sub. (2) to convert  
23 all or a portion of the land to managed forest land, subject to sub. (1) (c).

24 **SECTION 38.** 77.82 (4m) (b) of the statutes is amended to read:

**BILL**

1           77.82 (4m) (b) ~~A petition~~ An application under this subsection shall specify  
2 whether the order designating the land as managed forest land will remain in effect  
3 for 25 years or 50 years, as elected by the owner.

4           **SECTION 39.** 77.82 (4m) (d) of the statutes is amended to read:

5           77.82 (4m) (d) An owner of land who has filed a conversion ~~petition~~ application  
6 under this subsection and for whom the department is preparing or completing a  
7 management plan may withdraw the request and have it prepared by an  
8 independent certified plan writer if the owner determines that the department is not  
9 preparing or completing the management plan in a timely manner.

10          **SECTION 40.** 77.82 (5) (title) of the statutes is amended to read:

11          77.82 (5) (title) NOTICE OF ~~PETITION~~ APPLICATION; REQUEST FOR DENIAL.

12          **SECTION 41.** 77.82 (5) (a) of the statutes is amended to read:

13          77.82 (5) (a) Upon receipt of ~~a petition~~ an application under sub. (2), (4) or (4m),  
14 the department shall provide written notice of the ~~petition~~ application to each clerk  
15 of each municipality in which the land is located.

16          **SECTION 42.** 77.82 (5) (b) of the statutes is amended to read:

17          77.82 (5) (b) The governing body of any municipality in which the proposed  
18 managed forest land is located or a resident or property tax payer of such a  
19 municipality may, within 15 days after the notice under par. (a) is provided, request  
20 the department to deny the ~~petition~~ application on the grounds that the land fails to  
21 meet the eligibility requirements under sub. (1) or that, if the addition is approved,  
22 the entire parcel will fail to meet those eligibility requirements. The request shall  
23 be in writing and shall specify the reason for believing that the land is or would be  
24 ineligible.

25          **SECTION 43.** 77.82 (6) (a) of the statutes is amended to read:

**BILL**

1           77.82 (6) (a) The department shall conduct any investigation necessary to  
2 reach a decision on ~~a petition~~ an application.

3           **SECTION 44.** 77.82 (6) (b) 2. of the statutes is amended to read:

4           77.82 (6) (b) 2. At least 10 days before the date of the hearing, the department  
5 shall mail written notice of the date, time, and place of the hearing to the ~~petitioner,~~  
6 applicant, to each person who submitted a request under sub. (5) (b), and to the clerk  
7 of each municipality in which the land is located.

8           **SECTION 45.** 77.82 (7) (a) (intro.) of the statutes is amended to read:

9           77.82 (7) (a) (intro.) After considering the testimony presented at the public  
10 hearing, if any, the facts discovered by its investigation and the land use in the area  
11 in which the land is located, the department shall approve ~~a petition~~ an application  
12 under sub. (2) or (4m) if it determines all of the following:

13           **SECTION 46.** 77.82 (7) (a) 2. of the statutes is amended to read:

14           77.82 (7) (a) 2. That all facts stated in the ~~petition~~ application are correct.

15           **SECTION 47.** 77.82 (7) (b) (intro.) of the statutes is amended to read:

16           77.82 (7) (b) (intro.) After considering the testimony presented at the public  
17 hearing, if any, and the facts discovered by its investigation, the department shall  
18 approve ~~a petition~~ an application under sub. (4) if it determines all of the following:

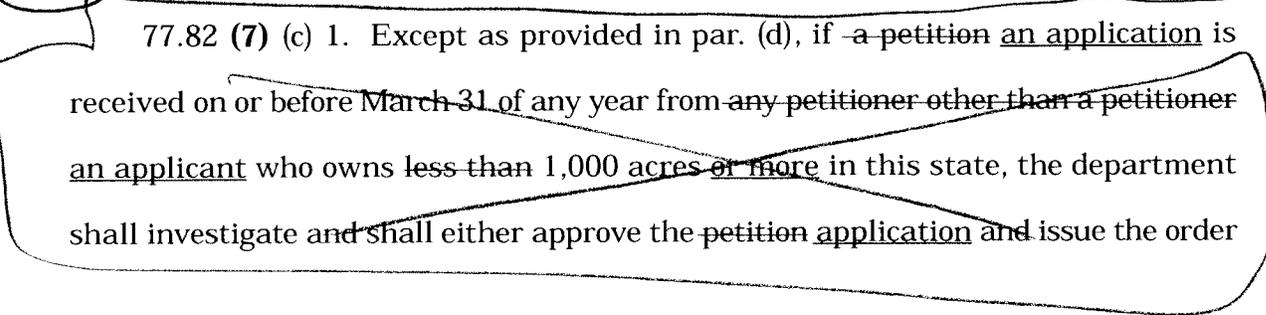
19           **SECTION 48.** 77.82 (7) (b) 1. of the statutes is amended to read:

20           77.82 (7) (b) 1. That all facts stated in the ~~petition~~ application are correct.

21           **SECTION 49.** 77.82 (7) (c) 1. of the statutes is ~~amended to read:~~ repealed

22           77.82 (7) (c) 1. Except as provided in par. (d), if ~~a petition~~ an application is  
23 received on or before March 31 of any year from ~~any petitioner other than a petitioner~~  
24 an applicant who owns ~~less than 1,000 acres or more~~ in this state, the department  
25 shall investigate and shall either approve the ~~petition~~ application and issue the order

Please  
fix comp.



**BILL**

1 under sub. (8) or deny the ~~petition application~~ before the following November 21. An  
 2 application received after March 31 from an applicant who owns 1,000 acres or more  
 3 in this state shall be acted on by the department as provided in this subdivision  
 4 before the November 21 of the year following the year in which the application is  
 5 received.

6 SECTION 50. 77.82 (7) (c) 2. of the statutes is repealed.

7 SECTION 51. 77.82 (7) (c) 3. of the statutes is amended to read:

8 77.82 (7) (c) 3. Except as provided in par. (d), if ~~a petition~~ an application is  
 9 received on or before ~~May 15~~ June 1 of any year from ~~a petitioner~~ an applicant who  
 10 ~~owns less than 1,000 acres in this state,~~ owns less than 1,000 acres in this state, who, before the deadline established by the  
 11 department by rule, ~~submitted a draft management plan prepared by an~~  
 12 ~~independent certified plan writer, and who submits a completed plan, as defined by~~  
 13 ~~the department by rule, with the petition,~~ the department shall investigate and shall  
 14 ~~either approve the petition application and issue the order under sub. (8) or deny the~~  
 15 ~~petition application~~ before the following November 21. An application received after  
 16 June 1 from an applicant who owns less than 1,000 acres in this state shall be acted  
 17 on by the department as provided in this subdivision before the November 21 of the  
 18 year following the year in which the application is received.

19 SECTION 52. 77.82 (7) (d) of the statutes is amended to read:

20 77.82 (7) (d) The department shall approve or disapprove ~~a petition~~ an  
 21 application under par. (a) that is ~~submitted~~ filed under sub. (4m) within 3 years after  
 22 the date on which the ~~petition is submitted to~~ application is filed with the  
 23 department.

24 SECTION 53. 77.82 (8) of the statutes is amended to read:

**BILL**

1           77.82 (8) ORDER. If ~~a petition~~ an application under sub. (2), (4m), or (12) is  
2 approved, the department shall issue an order designating the land as managed  
3 forest land for the time period specified in the ~~petition~~ application. If ~~a petition~~ an  
4 application under sub. (4) is approved, the department shall amend the original  
5 order to include the additional parcel. The department shall provide the ~~petitioner~~  
6 applicant with a copy of the order or amended order and shall also file a copy with  
7 the department of revenue, the supervisor of assessments, and the clerk of each  
8 municipality in which the land is located, and shall record the order with the register  
9 of deeds in each county in which the land is located.

10           **SECTION 54.** 77.82 (10) of the statutes is amended to read:

11           77.82 (10) DENIAL. If the department denies ~~a petition~~ an application, it shall  
12 notify the ~~petitioner~~ applicant in writing, stating the reason for the denial.

13           **SECTION 55.** 77.82 (11) of the statutes is amended to read:

14           77.82 (11) DURATION. An order under this subchapter remains in effect for the  
15 period specified in the ~~petition~~ application unless the land is withdrawn under s.  
16 77.84 (3) (b) or 77.88. An amendment to or repeal of this subchapter does not affect  
17 the terms of an order or management plan, except as expressly agreed to in writing  
18 by the owner and the department and except as provided in sub. (11m).

19           **SECTION 56.** 77.82 (11g) of the statutes is amended to read:

20           77.82 (11g) WITHDRAWAL TAX ON CONVERTED FOREST CROPLANDS PROHIBITED. No  
21 tax or interest may be assessed under s. 77.10 (2) (a) on land converted to managed  
22 forest land pursuant to ~~a petition~~ an application approved under sub. (7) (d).

23           **SECTION 57.** 77.82 (12) of the statutes is amended to read:

24           77.82 (12) RENEWAL. An owner of managed forest land may ~~petition~~ file an  
25 application with the department under sub. (2) for renewal of the order. ~~A petition~~

## BILL

1 An application filed by an owner of 1,000 acres or more in this state shall be filed no  
2 later than the March 31 before the expiration date of the order. ~~A petition~~ An  
3 application filed by an owner of less than 1,000 acres in this state shall be filed no  
4 later than the ~~2nd July 1~~ June 1 before the expiration date of the order, ~~except that~~  
5 ~~if the owner satisfies the requirement in sub. (7) (c) 3., the petition shall be filed no~~  
6 ~~later than the May 15 before the expiration date of the order.~~ The ~~petition~~ application  
7 shall specify whether the owner wants the order renewed for 25 or 50 years. The  
8 provisions under subs. (5), (6), and (7) do not apply to ~~a petition~~ an application under  
9 this subsection. The department may deny the ~~petition~~ application only if the land  
10 fails to meet the eligibility requirements under sub. (1), if the owner has failed to  
11 comply with the management plan that is in effect on the date that the ~~petition~~  
12 application for renewal is filed, or if there are delinquent taxes on the land. If the  
13 ~~petition~~ application is denied, the department shall state the reason for the denial  
14 in writing.

15 **SECTION 58.** 77.86 (1) (c) of the statutes is amended to read:

16 77.86 (1) (c) If the proposed cutting conforms to the management plan and is  
17 consistent with sound forestry practices, the department shall approve the request.

18 **SECTION 59.** 77.86 (1) (d) of the statutes is amended to read:

19 77.86 (1) (d) If the proposed cutting does not conform to the management plan  
20 or is not consistent with sound forestry practices, the department shall assist the  
21 owner in developing an acceptable proposal before approving the request.

22 **SECTION 60.** 77.87 (1g) (a) of the statutes is amended to read:

23 77.87 (1g) (a) An order converting forest cropland to managed forest land  
24 pursuant to ~~a petition~~ an application approved under s. 77.82 (7) (d).

25 **SECTION 61.** 77.87 (1g) (d) of the statutes is amended to read:

↓  
INSERT  
16-21

**BILL**

1           77.87 (1g) (d) ~~A~~ An order petitioned for for which an application is filed under  
2 s. 77.82 (4g) (b). ↓  
\_\_\_\_\_ INSERT 17-2

3           **SECTION 62.** 77.87 (3) of the statutes is amended to read:

4           77.87 (3) PAYMENT. A tax assessed under sub. (1) or (2) is due and payable to  
5 the department on the last day of the next month following the date the certificate  
6 is mailed to the owner. The department shall collect interest at the rate of 12% per  
7 year on any tax that is paid later than the due date. Amounts received shall be  
8 credited to the conservation fund.

9           **SECTION 63.** 77.88 (2) (b) of the statutes is amended to read:

10          77.88 (2) (b) If the land remaining after a transfer under par. (a) is contiguous  
11 and meets the eligibility requirements under s. 77.82 (1) (a) 2. and (b), it shall  
12 continue to be designated as managed forest land until the expiration of the existing  
13 order, even if the parcel contains less than 10 acres. Notwithstanding s. 77.82 (12),  
14 an owner may not ~~petition~~ file an application with the department for renewal of the  
15 order if the parcel contains less than 10 acres. No withdrawal tax under sub. (5) or  
16 withdrawal fee under sub. (5m) may be assessed when the remaining land is  
17 withdrawn at the expiration of the order.

18          **SECTION 64.** 77.88 (2) (d) 1. of the statutes is amended to read:

19          77.88 (2) (d) 1. Within ~~10~~ 30 days after a transfer of ownership, the ~~former~~  
20 ~~owner~~ transferee shall, on a form provided by the department, file with the  
21 department a report of the transfer signed by ~~the former owner and~~ the transferee.  
22 ~~The report shall be accompanied by a \$100 fee which~~ transferee shall pay a \$100 fee  
23 that will accompany the report. ~~The fee~~ shall be deposited in the conservation fund.  
24 Twenty dollars of the fee or a different amount of the fee as may be established under

**BILL**

1 subd. 2. shall be credited to the appropriation under s. 20.370 (1) (cr). The  
2 department shall immediately notify each person entitled to notice under s. 77.82 (8).

3 **SECTION 65.** 77.88 (2) (e) of the statutes is amended to read:

4 77.88 (2) (e) The transferred land shall remain managed forest land if the  
5 transferee, within 30 days after the transfer, certifies to the department an intent  
6 to comply with the existing management plan for the land and with any amendments  
7 ~~agreed to by the department and the transferee~~ to the plan, and provides proof that  
8 each person holding any encumbrance on the land agrees to the designation. The  
9 transferee may designate an area of the transferred land closed to public access as  
10 provided under s. 77.83. The department shall issue an order continuing the  
11 designation of the land as managed forest land under the new ownership.

12 **SECTION 66.** 77.88 (4) of the statutes is amended to read:

13 77.88 (4) NONRENEWAL. If an owner does not ~~petition~~ file with the department  
14 an application to renew a managed forest land order, the department shall order the  
15 land withdrawn at the expiration of the order. No withdrawal tax under sub. (5) or  
16 withdrawal fee under sub. (5m) may be assessed.

17 **SECTION 67.** 77.88 (5) (ab) 1. of the statutes is amended to read:

18 77.88 (5) (ab) 1. “Expanded order” means an order approved under s. 77.82 (8)  
19 ~~that is petitioned for~~ for which an application is filed under s. 77.82 (4g) (b).

20 **SECTION 68.** 77.88 (5) (am) (intro.) of the statutes is amended to read:

21 77.88 (5) (am) (intro.) For land that is withdrawn within 10 years after the date  
22 on which an initial managed forest land order was issued under s. 77.82 (8) for ~~a~~  
23 ~~petition~~ an application approved under s. 77.82 (7) (d), the withdrawal tax shall be  
24 the higher of the following:

25 **SECTION 69.** 77.88 (5g) of the statutes is created to read:

**BILL**

1           **77.88 (5g) ESTIMATES OF WITHDRAWAL TAX.** (a) Upon the request of an owner of  
2 managed forest land, the department of revenue, with the assistance of the  
3 department, shall prepare an estimate of the amount of withdrawal tax that would  
4 be assessed under sub. (5) if the department were to issue an order to withdraw the  
5 land under this section.

6           (b) A request from an owner under this subsection shall be accompanied by a  
7 nonrefundable fee payable to the department of revenue of either \$100 or the  
8 alternative nonrefundable fee calculated under par. (c), whichever is greater.

9           (c) The alternative nonrefundable fee shall be calculated by multiplying the  
10 total number of whole and partial acres by \$5.

11           **SECTION 70.** 77.88 (6) of the statutes is amended to read:

12           **77.88 (6) DETERMINATION OF STUMPAGE VALUE.** In determining the stumpage  
13 value of merchantable timber for purposes of this section, an estimator agreed upon  
14 by the parties or, if they cannot agree, a forester appointed by a judge of the circuit  
15 court in the county in which the land is located shall estimate the volume of  
16 merchantable timber on the land. The estimate obtained shall be final. The  
17 department shall determine the current stumpage value of the merchantable timber,  
18 based on the ~~rule promulgated~~ applicable stumpage value established under s. 77.91  
19 (1). The owner shall pay the entire cost of obtaining the estimate.

20           **SECTION 71.** 77.90 of the statutes is amended to read:

21           **77.90 Right to hearing.** ~~A petitioner~~ An applicant under s. 77.82 or an owner  
22 of managed forest land who is adversely affected by a decision of the department  
23 under this subchapter is entitled to a contested case hearing under ch. 227.

24           **SECTION 72.** 77.91 (1) of the statutes is amended to read:

**BILL**

1            77.91 (1) ~~RULE MAKING; STUMPAGE VALUE~~ STUMPAGE VALUES. Each year the  
 2 department shall promulgate a rule establishing a establish reasonable stumpage  
 3 value values for the merchantable timber grown in the municipalities in which  
 4 managed forest land is located. If the department finds that stumpage values vary  
 5 in different parts of the state, it may establish different zones and specify the  
 6 stumpage value for each zone. The rule stumpage value shall take effect on  
 7 November 1 of each year. Notwithstanding s. 227.11, the department may not  
 8 promulgate or have in effect rules that established stumpage values.

9            **SECTION 73.** 170.12 (5) of the statutes is amended to read:

10            170.12 (5) RESERVATION OF VALUE. The state reserves to itself 30% of the  
 11 stumpage value, as established by ~~the department of natural resources by rule~~  
 12 ~~promulgated~~ under s. 77.91 (1), of any log raised pursuant to a permit issued under  
 13 this section.

← INSERT 20-13

Create A.R. X

14            **SECTION 74. Initial applicability.**

15            (1) MANAGED FOREST LAND APPLICATIONS AND MANAGEMENT PLANS. The treatment  
 16 of sections 20.370 (1) (cx) and 77.82 (2) (dm) and (e) (by SECTION 12), (2m) (ac), (am),  
 17 (c), (d), and (dm) 1., and (3) (am), (c) (intro.), and (g) of the statutes, the repeal of  
 18 section 77.82 (2) (i) and (2m) (a) 2. of the statutes, the renumbering of section 77.82  
 19 (2m) (a) 1. of the statutes, and the renumbering and amendment of section 77.82 (2m)  
 20 (e) and (3) (a) of the statutes first apply to applications filed on the effective date of  
 21 this subsection.

22            (2) INVESTIGATIONS ON APPLICATIONS. The treatment of section 77.82 (7) (c) 1., 2.,  
 23 and 3. of the statutes first applies to applications filed on the effective date of this  
 24 subsection.

← INS 20-21

**BILL**

1 (4) ~~(3)~~ TRANSFERS OF MANAGED FOREST LAND OWNERSHIP. The treatment of section  
2 77.88 (2) (d) 1. of the statutes first applies to transfers of ownership that occur on the  
3 effective date of this subsection.

4 (5) ~~(4)~~ ESTIMATES OF WITHDRAWAL TAX. The treatment of section 77.88 (5g) of the  
5 statutes first applies to notifications of investigations for withdrawing managed  
6 forest land that are issued on the effective date of this subsection.

INS 21-6

7 **SECTION 75. Effective dates.** This act takes effect on the day of publication,  
8 except as follows:

9 (1) MANAGED FOREST LAND APPLICATIONS AND MANAGEMENT PLANS. The treatment  
10 of sections 20.370 (1) (cx) and 77.82 (2) (dm) and (e) (by SECTION 12), (2m) (ac), (am),  
11 (c), (d), and (dm) 1., and (3) (am), (c) (intro.), and (g) of the statutes, the repeal of  
12 section 77.82 (2) (i) and (2m) (a) 2. of the statutes, the renumbering of section 77.82  
13 (2m) (a) 1. of the statutes, and the renumbering and amendment of section 77.82 (2m)  
14 (e) and (3) (a) of the statutes and SECTION 74 (1) of this act take effect on the 2nd June  
15 1 after publication.

16 (2) ESTIMATES OF WITHDRAWAL TAX. The treatment of section 77.88 (5g) of the  
17 statutes and SECTION 74 (4) of this act take effect on the first day of the 4th month  
18 beginning after publication.

19 ~~(3)~~

(END) ← INS 21-18

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3735/?dn  
MGG:.....

Wlj

Date

DNR requested that the concept ~~that the future must be~~ <sup>of</sup> intentional <sup>(I)</sup> be taken out of ss. 77.86 (5) (a) and (b) and 77.88 (1) (b) 3. because proving specific intent can make it more difficult to enforce the cutting requirements under the managed forest law. OK?

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**EXAMPLE** - Please toss.

1 on, shall be verified by the oath of one or more of the board members, and shall  
2 contain:

3 **SECTION 10.** 88.24 (4) of the statutes is created to read:

4 88.24 (4) A statement of the district's practices and policies.

5 **SECTION 11.** 88.32 (3m) of the statutes is amended to read:

6 88.32 (3m) If the area of the proposed district exceeds 200 acres, the report  
7 shall be submitted to the department of agriculture, trade and consumer protection  
8 before it is filed with the court. Within 45 days after receipt of the report, the  
9 department shall return it with a copy of the report prepared under s. 88.11 (3) and  
10 (5) with its recommendation for approval or disapproval for the creation of the  
11 district.

12 **SECTION 12.** 88.35 (7) of the statutes is amended to read:

13 88.35 (7) If the area of the district exceeds 200 acres, the report shall be  
14 submitted to the department of agriculture, trade and consumer protection. Within  
15 45 days after its receipt, the department shall return it with a copy of the report  
16 prepared under s. 88.11 (3) and (5) and the department's approval or disapproval of  
17 the report prepared under sub. (6).

18 **SECTION 13.** 88.77 (2) of the statutes is amended to read:

19 88.77 (2) If the undrained portion of the area proposed to be annexed to the  
20 district exceeds 200 acres, the drainage board shall request the report described  
21 under s. 88.11 (3) and (5) from the department of agriculture, trade and consumer  
22 protection on the annexation. Within 60 days after the request, the department shall  
23 prepare and return a copy of the report and its approval or disapproval, as provided  
24 under s. 88.35 (7).

25 **SECTION 14.** 709.03 (form) C. 24m. of the statutes is created to read:

**709.03 (form)**

C.24m. I am aware that the property is located within ....  
a special purpose district, such as a drainage  
district, that has the authority to impose  
assessments against the real property located  
within the district.

**SECTION 15. Nonstatutory provisions.****(1) DRAINAGE BOARD REQUIREMENTS.**

(a) Not later than the first day of the 3rd month beginning after the effective date of this subsection, a drainage board that is in existence on the effective date of this subsection, shall meet to develop a plan to notify in writing every person who owns land that is located within the drainage district that such land is in the district.

(b) Not later than the first day of the 2nd month beginning after the meeting under paragraph (a) is held, the drainage board shall send to every person who owns land that is located in the drainage district all of the following:

1. Written notification that the person owns land in the drainage district.
2. Contact information for every member of the drainage board.
3. Contact information for the state drainage engineer.
4. General information about drainage districts.

(2) **REAL ESTATE CONDITION REPORT.** Notwithstanding section 709.035 of the statutes, the creation of section 709.03 (form) C. 24m. of the statutes does not require a property owner who has furnished to a prospective buyer of the property an original or amended real estate condition report before the effective date of this subsection to submit an amended real estate condition report with respect to the information required by section 709.03 (form) C. 24m. of the statutes, as created by this act.

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3735/?ins  
MGG:.....

LPS: Please  
check spacing,

The penalties and procedures that apply to persons who file false reports also apply for assessing the yield tax to persons who fail to file cutting reports

Insert ANL

~~So by inserting the~~ penalties and procedures for assessing the yield tax to person who fail to file cutting reports ~~that are applied to persons who~~ file false reports ~~also apply~~

~~By inserting~~ an owner selling MFL ~~must~~ to disclose to prospective buyers that the land is designated as such under a MFL order. ~~apply~~ **must**

Insert 16-21

1 SECTION ~~#~~ 77.86 (5) (a) of the statutes is amended to read:

2 77.86 (5) (a) Any person who fails to file the notice required under sub. (1) (b)  
3 or, who intentionally fails to file a report as required under sub. (4), or who files a false  
4 report under sub. (4) shall forfeit not more than \$1,000.

5 History: 1985 a. 29.

SECTION ~~#~~ 77.86 (5) (b) of the statutes is amended to read:

6 77.86 (5) (b) Any owner who intentionally cuts merchantable timber in  
7 violation of this section is subject to a forfeiture equal to 20% of the current value of  
8 the merchantable timber cut, based on the stumpage value established under s.  
9 77.91 (1).

10 History: 1985 a. 29.

SECTION ~~#~~ 77.87 (1) of the statutes is amended to read:

11 77.87 (1) TAXATION. The department shall assess a yield tax against each owner  
12 who cuts merchantable timber and files a report under s. 77.86. If the owner fails  
13 to timely file a report under ~~sub.~~ <sup>s. 77.86</sup> (4), the department shall determine the value of the  
14 merchantable timber cut for the assessment of the yield tax. The yield tax shall equal  
15 5% of the value of the merchantable timber cut, based on the stumpage value  
16 established under s. 77.91 (1). The department shall mail a copy of the certificate of  
17 assessment to the owner at the owner's last-known address.

18 History: 1985 a. 29; 1991 a. 39; 2003 a. 228; 2005 a. 64.

Insert 17-2

19 SECTION ~~#~~ 77.87 (2) of the statutes is amended to read:



1 **Insert 21-8 20-21**

2 **INIT. APP.** → (3) CUTTING REPORTS. The treatment of sections 77.86 (5) (a) and (b), 77.87 (1)  
3 and (2) and 77.88 (1) (b) 3. of the statutes first applies to cutting of merchantable  
4 timber for which a cutting report is required on the effective date of this subsection.

5 **Create A.R. 6**

6 **Insert 21-6**

7 **INIT. APP.** → (6) REAL ESTATE DISCLOSURE. The treatment of sections ~~709.03 and 710.12~~ (form)  
8 D. 1m. of the statutes first applies to written disclosures and real estate condition  
9 reports that are furnished after a contract of sale or option contract acceptance that  
10 occurs on the effective date of this subsection.

~~709.03~~ 709.03

11 **SECTION 8. Effective dates.** This act takes effect on the day after publication,  
12 except as follows:

13 (3) ~~of this act~~ The treatment of section ~~709.03 and 710.12~~ 709.03 (form) D. 1m. of the statutes and  
14 SECTION ~~709.03 and 710.12~~ take effect on the first day of the 7th month beginning after  
15 publication.

INS  
21-18

INS  
21-18

**Eff. Date**

**Use a.R. X (a.r. 6)**

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3735/1dn  
MGG:wljf

November 6, 2009

DNR requested that the concept of *intentional* cutting be taken out of ss. 77.86 (5) (a) and (b) and 77.88 (1) (b) 3. because proving specific intent can make it more difficult to enforce the cutting requirements under the managed forest law. OK?

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**Duerst, Christina**

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**From:** Rep.Clark  
**Sent:** Wednesday, November 11, 2009 10:20 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-3735/1 Topic: Managed forest land program changes, dates, terminology, stumpage value

Please Jacket LRB 09-3735/1 for the ASSEMBLY.