

2007 DRAFTING REQUEST

Bill

Received: 12/20/2007

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Julie Lassa (608) 266-3123**

By/Representing: **Ryan Supple**

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

Drafter: **rkite**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lassa@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Managed forest land designation for land affected by catastrophic event

Instructions:

See Attached

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 01/08/2008			_____			
/P1	rkite 01/11/2008	jdyer 01/15/2008	pgreensl 01/15/2008	_____	cduerst 01/15/2008		S&L
/1	rkite 02/12/2008	jdyer 02/13/2008	rschluet 02/13/2008	_____	cduerst 02/13/2008		S&L
/2	rkite	jdyer	pgreensl	_____	sbasford	sbasford	

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	02/19/2008	02/19/2008	02/19/2008	_____	02/19/2008	02/26/2008	

FE Sent For: "1/2" @ intro. 2-29-08.
<END>

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2/19/08
P8/15

FE Sent For:

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/?	mglass 01/08/2008 rkite	1/15 jld	1/15 p8	1/15 p8/nw			

FE Sent For:

<END>

Gibson-Glass, Mary

From: Supple, Ryan
Sent: Thursday, December 20, 2007 2:17 PM
To: Gibson-Glass, Mary
Subject: Draft Request - Senator Lassa

Mary,

Here is the proposal our constituent sent to us. I'm not sure that the DNR will be very happy about this, but my boss would like it drafted anyways.

From constituent Nancy Livingston

Draft legislation regarding MFL changes

For private, non-industrial landowners affected by catastrophic events (fire, tornado, flood), create a process available whereby an affected landowner could file an application for an extension of the MFL contract by 10 years, provided:

- ✓ 1.) The landowner has fulfilled the contractual requirements of their MFL contract prior to the application for extension.
- ✓ 2.) The landowner accurately fills out the extension application.
- ✓ 3.) The application for extension must be signed by the DNR field forester and Tax Chief forester.
7
/ 0
- 4.) The landowner's management plan is updated to cover the extension period.
- ✓ 5.) Application for extension would only be available to landowners if the catastrophic event happened within 15 years of the end of their current MFL contract.

Some additional options:

- Have the extension apply only to fire (as some changes in the recent catastrophic statutes did ...30% up to 80% in severance calculations after fire)
- Landowner is responsible for extension application and should complete with the assistance from their forester (DNR or Consultant)

Hopefully this is enough information and clear enough to get a draft started. Please contact me with any questions.

Thank You,

Ryan Supple

Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
(608) 266-3123



State of Wisconsin
2007 - 2008 LEGISLATURE

Rm run

FI

LRB-3709/3

RNK:.....

Jld

D-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ...; relating to: extensions of managed forest land orders. ✓

Analysis by the Legislative Reference Bureau

anal:
prelim

This is a preliminary draft. An analysis will be provided in a later version of the draft. ✓

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

2 SECTION 1. 77.82 (11r) of the statutes is created to read:
3 77.82 (11r) EXTENSION. ✓ An owner of managed forest land may apply to the
4 department ✓ to extend a managed forest land order ✓ by an additional ✓ 10 years from the
5 date of the expiration of the original order if all or a portion of the land was adversely
6 affected by a storm, a fire, or a flood within 15 ✓ years before the date of the expiration
7 of the original order. The application shall be signed by the owner and by a
8 department field forester. ✓ The department may deny the application only if the
9 owner has failed to comply with the management plan that is in effect on the date

1 that the owner files the application for extension or if there are delinquent taxes on
2 the land. ✓ If the application is denied, the department shall state the reason for the
3 denial in writing. ✓ If the application is approved, the department shall amend the
4 original managed forest land order ✓ to reflect the extended period of the order. The
5 department shall provide the applicant with a copy of the ✓ amended order, shall file
6 a copy with the department of revenue ✓ and with the assessor and the clerk of each
7 municipality in which the land is located, and shall record the order with the register
8 of deeds in each county in which the land is located. ✓

9

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

P1
LRB-3709/dn
RNK:.....

date

Jld

I have prepared this draft in preliminary form to give you an opportunity to consider the questions below. Please note the following:

1. The instructions for this drafting request specified that a managed forest land order could be extended if the land was affected by a fire or ~~a~~ by a catastrophic event such as a tornado or flood. I have not used the term "catastrophic" because the term is not defined or described. Instead, the draft requires that the land be adversely affected by a storm, fire, or flood. I think that this distinction is important because it is possible that a "catastrophic event" might have a relatively minor impact on the land. I am assuming, instead, that it is the actual adverse ~~effect~~ ^{effect} on the land that you want to use as a means for determining whether the land qualifies for an extended order. ✓

2. Even though the draft requires that the land be "adversely affected" to qualify for an extended order, as explained above, I think that additional requirements are still needed. For example, how much of the land must have been affected? And what must the adverse affect be? ✓ Must a certain amount of merchantable timber be destroyed? Or should some other measure be used? And who should decide whether the land meets these requirements? Should it be DNR? ✓ Or should it be an independent appraiser or other professional?

3. Also, the draft requires a field forester ✓ to sign the owner's application for an extension of the managed forest land order. Does this mean that the field forester must make some kind of determination about the effect of the storm, fire, or flood on the land? Or must the field forester always sign the application if the owner requests the forester's signature?

* 4. The draft provides that if the Department of Natural Resources ^{DNR} amends the managed forest land order, ~~the department~~ ^(DNR) must file and record copies of the order with certain officials. Is this consistent with your intent?

If you have any questions with regard to this draft, please feel free to contact me. ✓

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3709/P1dn
RNK:jld:pg

January 15, 2008

I have prepared this draft in preliminary form to give you an opportunity to consider the questions below. Please note the following:

1. The instructions for this drafting request specified that a managed forest land order could be extended if the land was affected by a fire or by a catastrophic event such as a tornado or flood. I have not used the term "catastrophic" because the term is not defined or described. Instead, the draft requires that the land be adversely affected by a storm, fire, or flood. I think that this distinction is important because it is possible that a "catastrophic event" might have a relatively minor impact on the land. I am assuming, instead, that it is the actual adverse effect on the land that you want to use as a means for determining whether the land qualifies for an extended order.
2. Even though the draft requires that the land be "adversely affected" to qualify for an extended order, as explained above, I think that additional requirements are still needed. For example, how much of the land must have been affected? And what must the adverse affect be? Must a certain amount of merchantable timber be destroyed? Or should some other measure be used? And who should decide whether the land meets these requirements? Should it be DNR? Or should it be an independent appraiser or other professional?
3. The draft requires a field forester to sign the owner's application for an extension of the managed forest land order. Does this mean that the field forester must make some kind of determination about the effect of the storm, fire, or flood on the land? Or must the field forester always sign the application if the owner requests the forester's signature?
4. The draft provides that, if the Department of Natural Resources (DNR) amends the managed forest land order, DNR must file and record copies of the order with certain officials. Is this consistent with your intent?

If you have any questions with regard to this draft, please feel free to contact me.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Kite, Robin

From: Supple, Ryan
Sent: Wednesday, February 06, 2008 9:50 AM
To: Kite, Robin
Subject: RE: LRB-3709/P1

Yes please.

Thank You

From: Kite, Robin
Sent: Wednesday, February 06, 2008 9:23 AM
To: Supple, Ryan
Subject: LRB-3709/P1

Ryan:

Do you want me to redraft the referenced draft to reflect the suggestions from your constituent?

Robin

From: Supple, Ryan
Sent: Thursday, January 24, 2008 2:35 PM
To: Kite, Robin
Subject: LRB-3709/P1dn

Robin,

Attached are the answers our constituent gave us to the questions you posed in the drafter's note on LRB-3709/P1. I hope this is helpful. Please let me know if you have more questions.

Thank you,

Ryan Supple

Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
(608) 266-3123

<< File: Response to DrafterQues.doc >>

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

LRB-3709/P1dn

RNK:jld:pg

January 15, 2008

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The term "catastrophic loss" is currently defined in Wisconsin Administrative Code NR 46.30 (1)(a) and "means severe loss caused by fire mortality. Ice, snow, insects, disease, wind or flooding"

I would encourage the use of this definition because with EAB (Emerald Ash Borer) on the horizon this could have severe impacts on MFL (Managed Forest Law) landowners. The impact is on the land and the timber --- not just the land.

2. Even though the draft requires that the land be "adversely affected" to qualify for an extended order, as explained above, I think that additional requirements are still needed. For example, how much of the land must have been affected? And what must the adverse affect be? Must a certain amount of merchantable timber be destroyed? Or should some other measure be used? And who should decide whether the land meets these requirements? Should it be DNR? Or should it be an independent appraiser or other professional?

Please refer to Admin. Code NR 46.30 (e) & (f) to be consistent

3. The draft requires a field forester to sign the owner's application for an extension of the managed forest land order. Does this mean that the field forester must make some kind of determination about the effect of the storm, fire, or flood on the land? Or must the field forester always sign the application if the owner requests the forester's signature?

The forester would have to determine eligibility and would only have to sign if the land is eligible for the extension. (Similar to NR 46.30 (e) & (f))

4. The draft provides that, if the Department of Natural Resources (DNR) amends the managed forest land order, DNR must file and record copies of the order with certain officials. Is this consistent with your intent?

Yes

If you have any questions with regard to this draft, please feel free to contact me.

Robin N. Kite

Legislative Attorney

Phone: (608) 266-7291

E-mail: robin.kite@legis.wisconsin.gov

Kite, Robin

From: Kite, Robin
Sent: Wednesday, February 06, 2008 11:04 AM
To: Supple, Ryan
Subject: RE: LRB-3709/P1

Ryan:

After looking more closely at the redraft instructions, I have another question. My understanding of the instructions is that a managed forest land owner is eligible for an extension of an MFL order if a catastrophic loss affecting 30% of the merchantable timber on 5 or more contiguous acres of land results in a reduction of 30% or more in stumpage value as verified by a DNR appraisal. This loss must take place within 15 years before the date of the expiration of the original order. Does this mean that the reduced stumpage value may occur in any one year within that 15 year period? What if the catastrophic loss results in reduced stumpage value of 15% one year and then 15% the next year? Can the totals be combined for purposes of eligibility for the extension? I'm just not sure I understand when the loss must occur during the 15 year period for purposes of determining eligibility.

Give me a call if you want to discuss this issue.

Thanks.

Robin

*per Ryan -
loss is from a
single event*

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Yes please.

Thank You

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Robin,

Attached are the answers our constituent gave us to the questions you posed in the drafter's note on LRB-3709/P1. I hope this is helpful. Please let me know if you have more questions.

Thank you,

Ryan Supple
Office of Senator Julie Lassa



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 AN ACT *to create* 77.82 (11r) of the statutes; **relating to:** extensions of managed
2 forest land orders. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

insert analysis ✓

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

3 SECTION 1. 77.82 (11r) [✓] of the statutes is created to read: 9

4 77.82 (11r) EXTENSION. An owner of managed forest land may apply to the
5 department to extend a managed forest land order by an additional 10 years from the
6 date of the expiration of the original order if ~~all~~ or a portion of the land was adversely
7 affected by a storm, a fire, or a flood within 15 years before the date of the expiration
8 of the original order. The application shall be signed by the owner and by a
9 department field forester. The department may deny ~~the~~ ^{an} application only if the
10 owner has failed to comply with the management plan that is in effect on the date

insert 1-9

that meets the requirements under par. (b) ✓

1 that the owner files the application for extension or if there are delinquent taxes on
2 the land. If the application is denied, the department shall state the reason for the
3 denial in writing. If the application is approved, the department shall amend the
4 original managed forest land order to reflect the extended period of the order. The
5 department shall provide the applicant with a copy of the amended order, shall file
6 a copy with the department of revenue and with the assessor and the clerk of each
7 municipality in which the land is located, and shall record the order with the register
8 of deeds in each county in which the land is located.

9 (END)

INSERT ANALYSIS

Under current law, the Department of Natural Resources (DNR) administers the managed forest land program that exempts a landowner from payment of municipal property taxes on land in the program in exchange for the landowner's payment of an acreage share, which is lower than the municipal property tax, and for the landowner's compliance with approved forestry and other conservation practices. The duration of a managed forest land order may be either 25 or 50 years.

This bill allows the owner of managed forest land to apply to DNR for an extension of a managed forest land order by an additional 10 years from the date of the expiration of the original order under certain circumstances. An owner may apply for an extension of the order if 30% or more of the merchantable timber on 5 or more contiguous acres of the managed forest land was adversely affected a catastrophic loss. The bill defines a catastrophic loss as a severe loss caused by fire mortality, ice, snow, insects, disease, wind, or flooding. The bill requires that the catastrophic loss must have occurred within 15 years before the date of the expiration of the original order and must have resulted in a reduction of 30% or more in stumpage value to the owner. "Stumpage value" is the value of timber before it is cut as established in rules promulgated by DNR. The application must be signed by the owner of the managed forest land and the owner's eligibility for the extension must be certified by a DNR field forester. The bill provides that if the owner meets the requirements for the extension, DNR may deny the application only if there are delinquent taxes on the land.

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

INSERT WA 1-9

(a) In this subsection, "catastrophic loss" means severe loss caused by fire mortality, ice, snow, insects, disease, wind, or flooding.

(b) An owner of managed forest land may apply to the department to extend a managed forest land order by an additional 10 years from the date of the expiration of the original order if all of the following apply:

1. Thirty percent or more of the merchantable timber on 5 or more contiguous acres of the managed forest land was adversely affected by a catastrophic loss.

2. The catastrophic loss occurred within 15 years before the date of the expiration of the original order.



3. The catastrophic loss resulted in a reduction of 30^{percent} or more in stumpage value to the owner as verified by an appraisal conducted by the department.

(c) An application under par. (a) shall be signed by the owner and a department field forester who certifies that the owner is eligible to apply for the extension.

↑
check
Δ

(END)

NO
H

Kite, Robin

From: Supple, Ryan
Sent: Tuesday, February 19, 2008 11:04 AM
To: Kite, Robin
Subject: FW: Bill Draft LRB-3709/1

Robin,

Our constituent would like a couple small changes made to the LRB Analysis to LRB-3709. See below. If your think these changes are appropriate, than please send us a redraft.

Thank you,

Ryan Supple
Office of Senator Julie Lassa
State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
(608) 266-3123

From: Nancy Livingston [mailto:nancyl@palacenet.net]
Sent: Saturday, February 16, 2008 9:48 PM
To: Supple, Ryan
Subject: Re: Bill Draft

Ryan;

Just two suggestions:

1) Under Analysis... 2nd paragraph; 6th line...
"...affected (add by) a catastrophic loss."

2) Under Analysis...last sentence..."...DNR may deny the application only if (add the MFL management plan is not being followed or, if) there are delinquent taxes on the land. (This will make the analysis consistent with the body of the bill)

Hope this helps

Thanks for all your help expediting this, Ryan! Thanks to Sen. Lassa as well!

Regards,

Nancy Livingston

----- Original Message -----
From: Supple, Ryan
To: Nancy Livingston
Sent: Friday, February 15, 2008 4:22 PM
Subject: Bill Draft

Nancy,

I don't think I have sent this to you yet. Take a look at this bill draft to see if you think it is ready for introduction. Let me know if we need to make any changes.

Have a good weekend,

Ryan Supple

Office of Senator Julie Lassa

State Capitol, Room 323 - South
P.O. Box 7882
Madison, WI 53707-7882
(608) 266-3123

<<07-37091.pdf>>



2007 BILL

X

Regen

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2 forest land orders.

Analysis by the Legislative Reference Bureau

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This bill allows the owner of managed forest land to apply to DNR for an extension of a managed forest land order by an additional ten years from the date of the expiration of the original order under certain circumstances. An owner may apply for an extension of the order if 30 percent or more of the merchantable timber on five or more contiguous acres of the managed forest land was adversely affected by a catastrophic loss. The bill defines a "catastrophic loss" as a severe loss caused by fire mortality, ice, snow, insects, disease, wind, or flooding. The bill requires that the catastrophic loss must have occurred within 15 years before the date of the expiration of the original order and must have resulted in a reduction of 30 percent or more in stumpage value to the owner. "Stumpage value" is the value of timber before it is cut as established in rules promulgated by DNR. The application must be signed by the owner of the managed forest land and the owner's eligibility for the extension must be certified by a DNR field forester. The bill provides that, if the owner meets the requirements for the extension, DNR may deny the application only if there are delinquent taxes on the land.

by

if the owner has failed to comply with the management plan for the managed forest land or

BILL

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

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

1 **SECTION 1.** 77.82 (11r) of the statutes is created to read:

2 77.82 (11r) EXTENSION. (a) In this subsection, "catastrophic loss" means severe
3 loss caused by fire mortality, ice, snow, insects, disease, wind, or flooding.

4 (b) An owner of managed forest land may apply to the department to extend
5 a managed forest land order by an additional 10 years from the date of the expiration
6 of the original order if all of the following apply:

7 1. Thirty percent or more of the merchantable timber on 5 or more contiguous
8 acres of the managed forest land was adversely affected by a catastrophic loss.

9 2. The catastrophic loss occurred within 15 years before the date of the
10 expiration of the original order.

11 3. The catastrophic loss resulted in a reduction of 30 percent or more in
12 stumpage value to the owner as verified by an appraisal conducted by the
13 department.

14 (c) An application under par. (b) shall be signed by the owner and a department
15 field forester who certifies that the owner is eligible to apply for the extension. The
16 department may deny an application that meets the requirements under par. (b) only
17 if the owner has failed to comply with the management plan[✓] that is in effect on the
18 date that the owner files the application for extension or if there are delinquent taxes
19 on the land. If the application is denied, the department shall state the reason for
20 the denial in writing. If the application is approved, the department shall amend the
21 original managed forest land order to reflect the extended period of the order. The

BILL

1 department shall provide the applicant with a copy of the amended order, shall file
2 a copy with the department of revenue and with the assessor and the clerk of each
3 municipality in which the land is located, and shall record the order with the register
4 of deeds in each county in which the land is located.

5 (END)

Barman, Mike

From: Supple, Ryan
Sent: Tuesday, February 26, 2008 8:40 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-3709/2 Topic: Managed forest land designation for land affected by catastrophic event

Please Jacket LRB 07-3709/2 for the SENATE.