

No. 459, S.]

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CHAPTER 454.

AN ACT to create chapter 77 and subsection (7) of section 20.05 of the statutes, relating to the taxation of forest crop lands, making an appropriation and providing a penalty.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. A new chapter is added to the statutes and a new subsection is added to section 20.05 of the statutes to read:

CHAPTER 77.

77.01 It is the intent of this chapter to encourage a policy of preserving from destruction or premature cutting the remaining forest growth in this state, and of reproducing and growing for the future adequate crops of forest products on lands not more useful for other purposes so that such lands shall continue to furnish recurring forest crops for commercial use, all in a manner which shall not hamper the towns in which such lands lie from receiving their just tax revenue from such lands.

77.02 (1) The owner of any tract of land of not less than one hundred sixty acres may file with the conservation commission a verified petition stating that he believes the lands therein described are more useful for growing timber and other forest crops than for any other purpose, that he intends to practice forestry thereon, that all persons holding encumbrances thereon have joined in the petition and requesting that such lands be approved as "Forest Crop Lands" under this chapter.

(2) Upon the filing of such petition the commission shall set such matter for public hearing at such time and place as it sees fit, but not later than six months from the date of such filing. Notice of the time and place of such hearing and a description of the property requested to be approved as "Forest Crop Lands" shall be given to the owner of such land and to the assessor of the town or towns in which it is situated, by mail at least thirty days before the day of hearing. In addition a copy of such notice shall be published at least once in at least one newspaper published in the county or counties in which such land is located, the first publication to be at least thirty days before the day of hearing. Such hearing may be adjourned from time to time and no notice of the time and place of such adjourned

hearing need be given excepting the announcement thereof by the presiding officer at the hearing at which the adjournment is had.

(3) After hearing all the evidence offered at such hearing and after making such independent investigation as it sees fit the commission shall make its findings of fact and make and enter an order accordingly. If it finds that the facts give reasonable assurance that a stand of merchantable timber will be developed on such lands within a reasonable time, and that such lands are then held permanently for the growing of timber, rather than for agricultural, mineral, recreational or other purposes, and that all persons holding encumbrances against such land have in writing agreed to the petition, the order entered shall grant the request of the petitioner on condition that all unpaid taxes against said lands be paid within thirty days thereafter; otherwise the commission shall deny the request of the petitioner. If the request of the petitioner, after thirty days, is granted a copy of such order shall be forwarded to the state tax commission and to the clerk of each town and to the register of deeds of each county in which any of the lands affected by said order are located.

(4) In making its findings, the commission shall separately determine whether there are on any such lands timber which has reached its full growth and suitable for cutting. If it so finds, regardless of other findings, it shall not order such lands to be forest crop lands until the owner shall have cut and removed such timber. The provisions of this subsection shall not apply after January 1, 1935.

(5) The commission may hold hearings on petitions relating to lands in units of less than one hundred sixty acres when such smaller tracts are suitable for farm woodlots or where such smaller tracts are contiguous to a larger unit of forest crop land. On such smaller tract the order of the commission shall be final.

77.03 From and after the filing of the order with the officers mentioned in subsection (3) the lands described therein shall be "Forest Crop Lands" on which taxes shall thereafter be payable only as hereinafter provided. The passage of this act, petition by the owner, the making and filing of the order hereinbefore mentioned shall constitute a contract between the state and the owner, running with said lands, for a period of fifty years, unless terminated as hereinafter provided, with privilege of renewal by

mutual agreement between the owner and the state, whereby the state as an inducement to owners and prospective purchasers of forest crop lands to come under this chapter agrees that until terminated as hereinafter provided, no change in or repeal of this chapter shall apply to any land then accepted as forest crop lands, except as the conservation commission and the owner may expressly agree in writing. If at the end of fifty years said contract is not renewed by mutual consent, the merchantable timber on said land shall be estimated by an estimator jointly agreed upon by the conservation commission and the owner, and in the event said conservation commission and said owner fail to agree, then and in that event, an estimator shall be appointed by the judge of the circuit court of the district in which said lands lie, whose estimate shall be final, and the cost thereof shall be borne jointly by the conservation commission and the owner; and the ten per cent severance tax paid on the stumpage thereon as agreed in the same manner as if said stumpage had been cut. The owners, excepting the owners of farm woodlots, by such contract consent that the public may hunt and fish on said lands, subject to such regulations as the conservation commission may from time to time prescribe.

77.04 (1) The clerk on thereafter making up the tax roll shall enter as to each forest crop land description in the column designating the name of the owner, or in a separate column, or some other appropriate place, the words "Forest Crop Land" or the initials "F. C. L.", which shall be a sufficient designation that such description is subject to this chapter. Such lands shall thenceforth not be assessed or tax levied thereon as provided in Chapter 70 of the statutes entitled "Assessment of Taxes" but shall be subject to annual specific taxes as hereinafter provided.

(2) As soon after the twentieth day of February of each year as feasible the treasurer of each town in which any forest crop lands lie, shall certify to the state treasurer and also to the tax commission a list of such lands and the acreage upon which the owner has paid the taxes as hereinafter provided. A specific sum per acre as hereinafter provided shall then be paid by the state treasurer to such town treasurer from the appropriation made by subsection (7) of section 20.05.

77.05 Any owner shall be liable for and pay to the town treasurer on or before February twentieth of each year the sum of ten cents per acre on each such description hereinafter called

the "acreage share", and on or before the twenty-fifth day of February of each year the state treasurer shall pay to each town treasurer the sum of ten cents on each acre so certified to him on which the owner has so paid said acreage share, and also on acreage share previously returned delinquent and subsequently paid, provided, that if the total amount of payments so authorized in any one year shall exceed the appropriation for that year made in subsection (7) of section 20.05 then such payment of ten cents per acre shall be proportionately reduced. If such acreage share be not paid by the twentieth day of February to the town treasurer it shall be subject to a two per cent penalty plus one per cent per month until paid and if such land remain delinquent beyond the period of three years shall become the property of the state.

77.06 (1) No person shall cut any merchantable wood products on any forest crop lands until thirty days after the owner has filed with the conservation commission and also with the tax commission a notice of intention to cut specifying the descriptions and estimated amount of wood products thereon, and with the tax commission, unless it shall find and certify that because of the financial standing of the owner a bond may properly be waived, a bond executed by some surety company licensed in this state or other surety or sureties approved by the tax commission for such amount as such tax commission may reasonably require for the payment to the state treasurer of the severance tax herein-after provided. Merchantable wood products include all wood products having any commercial value when severed other than products personally used by the owner for the maintenance or improvement of his own premises, and fuel wood.

(2) During the month of July in each year the conservation commission, at such time and place as it shall fix and after such public notice thereof as it deems reasonable, shall hold a public hearing and not later than September first thereafter shall make and file, open to public inspection, a determination of the reasonable stumpage values of the wood products usually grown in the several towns in which any forest crop lands lie. If the conservation commission finds there is a material variance in such stumpage values in the different localities, it may fix separate zones and determine such values for each zone.

(3) As to any locality or zone in which the conservation commission deems there has been no material variance from the preceding year in stumpage values, it may omit to make any new

valuation in any year, in which event the last preceding valuation shall continue in force until changed in a succeeding year.

(4) On or before the fifteenth day of May and also of November succeeding any time in which any merchantable wood products were cut on any forest crop lands, the owner shall transmit to the conservation commission a written statement of the products so cut for the six months preceding the first day of that calendar month, specifying the variety of wood, kind of product, and quantity of each variety and kind as shown by the scale or measurement thereof made on the ground as cut, skidded or loaded as the case may be. If no such scale or measurement is made on the ground, an estimate thereof shall be made and such estimate corrected by the first scale or measurement made in the due course of business and such correction at once transmitted to the conservation commission. The conservation commission may accept such reports as sufficient evidence of the facts or may either with or without hearing and notice of time and place thereof to such owner, investigate and determine the fact of the quantity of each variety and kind of product so cut during said periods preceding such reports.

(5) The tax commission, upon certification by the conservation commission during January of each year, shall assess and levy against such owner a severance tax on the right to cut and remove such wood products as were removed during the periods covered by the preceding May and November reports above provided for, at the rate of ten per cent of the value of such wood products based upon the stumpage value then in force as hereinbefore provided. Upon making such assessment, the tax commission shall promptly certify the same to the state treasurer and mail a duplicate of such certificate by registered mail to the owner who made the report of cutting at his last known post-office address. The tax thereby assessed shall become due and payable to the state treasurer on the last day of the next calendar month after the mailing to the owner of such certificate of assessment.

77.07 (1) The owner of the land shall be personally liable for any severance tax because of any wood products cut therefrom, which tax shall also be a lien on such wood products wherever situated and in whatever form, or if mingled with other products, then on the common mass, until paid, while in the possession

of such owner or of any other person than a purchaser for value without notice in the usual course of business.

(2) If any severance tax remain unpaid for thirty days after it becomes due, there shall then be added a penalty of ten per cent and such tax and penalty shall thereafter draw interest at the rate of one per cent per month until paid. At the expiration of said thirty days the state treasurer shall report to the attorney-general any unpaid severance tax, adding said penalty, and the attorney-general shall thereupon proceed to collect the same with penalty and interest by suit against the owner and by attachment or other legal means to enforce the lien and by action on the bond mentioned in subsection (1) of section 77.06 preceding, or by any or all such means.

77.08 At any time within one year after May fifteenth or November fifteenth when any cutting should have been reported, the conservation commission after due notice to the owner and opportunity to be heard, and on evidence duly made a matter of record, may determine whether the quantity of wood products cut from any such land, did in fact substantially exceed the amount on which the severance tax theretofore levied was based, and if so shall so notify the tax commission and thereupon the tax commission shall assess a supplemental severance tax which, in all respects, shall have the same force and effect as the former severance tax, except only it shall not be a lien on any property the title of which has passed to a purchaser for value without notice.

77.09 Any person who fails to report or shall intentionally make any false statement or report to the conservation commission required by section 77.06 shall be guilty of a misdemeanor and punishable on conviction thereof by imprisonment in the county jail for not exceeding one year or by fine not exceeding one thousand dollars, or both.

77.10 (1) The conservation commission shall once in five years, or on the application of the tax commission or the owner of any forest crop lands or the town board of the town in which said lands lie and may on its own motion at any time cause an investigation to be made and hearing to be had as to whether any forest crop lands shall continue under this act. If on such hearing after due notice to and opportunity to be heard by the tax commission, the town and the owner, the conservation commission shall find that any such lands are not meeting the requirements set forth in section 77.02 of this act, such lands shall

from the date of such finding cease to be forest crop lands, and none of the provisions of this chapter shall thereafter apply to them, except section 77.07 so far as it may be needed to collect any previously levied severance or supplemental severance tax. However, in case said withdrawal is accomplished by act of the conservation commission within five years from the date that said land became forest crop lands hereunder, the owners shall thereupon repay to the state treasurer the amounts of all moneys with interest at five per cent per annum thereon paid by the state as specified in subsection (2) hereof. In case the owner shall not repay said amounts within the time specified the land shall at the expiration of three years, become the property of the state. If at any time after five years the owner shall make use of the land for anything other than forestry, excepting grazing on farm wood lots, such acts shall constitute a withdrawal of lands, within the meaning of subsection (2) of this section and subject the owner to the tax and penalties therein provided.

(2) (a) Any owner of any forest crop lands may elect to withdraw all or any of such lands from this chapter, by filing with the conservation commission a declaration withdrawing from this chapter any description owned by him which he specified and by paying to the state treasurer within ninety days the amount of all real estate tax that would ordinarily have been charged against such lands had they not been subject to the provisions of this chapter with simple interest thereon at five per cent per annum less any severance tax and supplemental severance tax or acreage share paid to the state thereon, with interest computed according to the rule of partial payments at the rate of five per cent per annum. The exact amount of such tax shall be determined by the tax commission after hearing and upon due notice to all parties interested. On receiving such payment the state treasurer shall certify that fact to the conservation commission. Such land shall then cease to be forest crop lands as of the date of such payment to the state treasurer and the conservation commission shall certify that fact to the tax commission and to the clerk of the town and to the register of deeds of the county in which such land lies. If such tax and penalties be not paid into the state treasury on or before the time specified the land shall at the expiration of three years become the property of the state.

(b) Upon receipt of any such taxes by the state the state treasurer shall first deduct all moneys paid by the state on account of such lands under the provisions of subsection (7) of section 20.05, with interest thereon computed according to the rule of partial payments at the rate of five per cent per annum. The balance he shall within twenty days remit to the treasurers of the respective units of government that would have been entitled to such tax had it been originally levied, and in the same proportion.

(3) When any description ceases to be a part of the forest crop lands, taxes thereafter levied thereon shall be payable and collectible as if such description had never been under this chapter.

77.11 The state treasurer shall keep a set of forest crop lands books in which shall always appear as to each description in each town containing any such lands, the amount of taxes paid by the state to the town and received by the state from the owner. All such payments shall be paid out of and receipts credited to the general fund.

77.12 Any finding of fact made under this chapter after due notice and hearing shall be final and conclusive, except and unless set aside or modified by the judgment of the circuit court for either Dane county, or of the county in which the land lies in either of which action may be brought for that purpose, within thirty days after the making of the finding sought to be reviewed.

(20.05) (7) On July 1, 1927, thirty thousand dollars; on July 1, 1928, forty thousand dollars; on July 1, 1929, fifty thousand dollars; on July 1, 1930, sixty thousand dollars; on July 1, 1931, seventy thousand dollars; on July 1, 1932, eighty thousand dollars; on July 1, 1933, ninety thousand dollars; on July 1, 1934, and annually thereafter one hundred thousand dollars to carry out the provisions of chapter 77.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 28, 1927.