

No. 137, S.]

[Published May 17, 1947.]

CHAPTER 109.

AN ACT to repeal 77.02 (5), 77.10 (3) and 77.13 (2); to amend 77.02 (1) and (3), 77.04 (1) and (2), 77.06 (1), (4) and (5), 77.08, 77.10 (1) (a) and (2) (a) and 77.13 (1); and to repeal and recreate 59.98 of the statutes, relating to forest crop lands and county forest lands.

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

SECTION 1. 59.98 of the statutes is repealed and recreated to read:

59.98 COUNTY FOREST LAW. (1) ESTABLISHING COUNTY FORESTS. The county board of any county may by resolution acquire land by tax deed or otherwise for the purpose of establishing county forests.

(2) ADMINISTRATION OF COUNTY FORESTS. The county board of any such county shall have power:

(a) To enact an ordinance designating a committee to have charge of county forests, specifying the powers and duties of such committee and of county officers, including entry of lands under the forest crop law, establishing regulations for use of county forests by the public and providing penalties for their enforcement.

(b) To appropriate funds for the purchase, development, protection and maintenance of such forests and to exchange other county owned lands for the purpose of consolidating and blocking county forest holdings.

(c) To enter into co-operative agreements with the conservation commission for protection of county forest from fire.

(d) To establish reserve strips along roads and waters and to enter into long-term co-operative leases and agreements with the conservation commission or the lakes states forest experiment station for the use of tracts of county forest for forest management research.

(e) To establish transplant nurseries for growing seedlings, from the state forest nurseries, to larger size for planting on county forests, but no ornamental or landscape stock shall be produced in such nurseries.

(f) To establish forest plantations and engage in silviculture and forest management.

(3) **WITHDRAWAL AND SALE OF COUNTY FOREST LANDS.** The county board by resolution may authorize withdrawal of county forest lands from entry under the forest crop law and sale to the state or to any local unit of government at an agreed price. In the case of sale to any other purchaser the following provisions shall govern:

(a) All applications for the purchase of county forest lands shall be addressed or referred to the committee designated by the county board to administer county forests.

(b) The committee shall advise the conservation commission, which shall provide for an examination and report on the character of the land, the volume of timber and any other special values, and shall set a minimum valuation based on such report. In transmitting its valuation, the commission shall give its recommendations for or against sale of the property.

(c) Any county board resolution authorizing withdrawal and sale of county forest lands to any purchaser other than the state or a local unit of government shall require a two-thirds vote of the membership of the board and shall instruct the county clerk to publish a notice of sale, listing the lands, the minimum bid, the amount of the payment accompanying the bid and the time and place for opening of bids by the committee designated to administer county forests. In case a successful bidder withdraws his bid the accompanying deposit shall be forfeited to the county.

(d) When forest crop lands are withdrawn and sold to any purchaser other than the state or a local unit of government, the county shall reimburse the state in the amount previously paid out on the withdrawn lands under section 20.20 (14) and any such receipts shall be credited to the same section.

(e) In cases of withdrawal of scattered county forest crop lands the conservation commission shall waive reimbursement where it finds that such withdrawal will result in county forest boundaries conforming with best use of the land.

(4) **TIMBER SALES.** Every timber sale shall be made only on the scale, measure or count of the cut products as reported by a scaler acceptable to the county board committee charged with the administration of county forests. Any timber sale in excess of \$250 shall be by sealed bid after publication of notice of sale in a newspaper having a general circulation

in the county. Timber sale contracts with an estimated value below \$500 may be authorized by the committee. Any sale with an estimated value of \$500 or more shall require endorsement of the county finance committee, and where such estimated value exceeds \$1,000, the endorsement of the conservation commission shall also be required.

(5) STATE AID. (a) Any county having established and maintaining a county forest under the provisions of this section and having entered the same under the forest crop law shall receive from the state an amount equal to 10 cents for each acre of land within the forest reserve, to be used for the purchase, development, preservation and maintenance of such forest reserve, provided, that if the total payment hereunder in any one year shall exceed the appropriation for that year then such payment of 10 cents per acre shall be proportionately reduced. The conservation commission shall pay to such county the amount due to it as a state aid on or before March 31, of each year, based on the acreage of such lands as of the preceding June 30. Any county accepting forestry aid funds paid pursuant hereto thereby consents that the conservation commission may construct and use forest fire lookout towers, telephone lines and firelanes or other forest protection structures on any county forest lands and the chairman or vice chairman of the county board or any authorized committee thereof, of such county shall execute any easements on or over such lands which the conservation commission may require for forest protection.

(b) No lands may be purchased from state contributed funds unless they will improve blocking of lands already entered under the forest crop law. Should any such purchased lands be sold, the county shall restore the purchase price to the county forestry fund.

SECTION 2. 77.02 (1) of the statutes is amended to read:

77.02 (1) The owner of any tract of land of not less than 40 acres lying within the boundaries of any forest protection district established pursuant to section 26.12 (1) may file with the conservation commission a 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 incumbrances thereon have joined in the petition and

requesting that such lands be approved as "Forest Crop Lands" under this chapter. Whenever any such land is incumbered by a mortgage or other indenture securing any issue of bonds or notes, the trustee or trustees named in such mortgage or indenture or any amendment thereto may join in such petition, and such action shall for the purpose of this section be deemed the action of all holders of such bonds or notes.

SECTION 3. 77.02 (3) of the statutes is amended to read:

77.02 (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 incumbrances 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 30 days thereafter; otherwise the commission shall deny the request of the petitioner. If the request of the petitioner is granted, a copy of such order shall be forwarded to the state department of taxation, to the * * * *supervisor of assessments*, 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. The register of deeds shall record the entry, transfer or withdrawal of all forest crop lands in a suitable manner on the county records and shall be entitled to a fee to be paid by the owner of 10 cents for each such government description recorded, but the minimum fee shall be 50 cents and the maximum fee \$5. * * * Any order of the department relating to the entry of forest crop lands issued on or before March 20 of any year shall take effect in such year, but all orders issued after March 20 of any year shall take effect the year following.

SECTION 4. 77.02 (5) of the statutes is repealed.

SECTION 5. 77.04 (1) and (2) of the statutes is amended to read:

77.04 (1) The clerk on thereafter making up the tax roll shall enter as to each forest crop land description, in a special

column or some other appropriate place, in such tax roll headed by the words "Forest Crop Lands" or the initials "F.C.L.," which shall be a sufficient designation that such description is subject to this chapter * * *. Such lands shall thenceforth be assessed and be subject to review as provided in chapter 70 of the statutes, and such assessment may be used by the department of taxation in the determination of the tax upon withdrawal of such lands as forest crop lands as provided in section 77.10. No tax shall be levied on forest crop lands except the specific annual taxes as hereinafter provided.

(2) Any owner, other than a county, shall be liable for and pay to the town treasurer on or before January 31 of each year on each such description a sum herein called the "acreage share" computed at the rate of 10 cents per acre on all lands.

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* * * If such acreage share be not paid by January 31 to the town treasurer it shall be subject to interest at the rate of eight-tenths of one per cent per month or fraction thereof from January 1 preceding. The said lands shall be returned as delinquent and sold for delinquent taxes in the manner provided for the sale of lands for taxes but no bid shall be received on such sale except from the county, and the county shall not be liable to the town for any amount except the acreage share subsequently paid by the owner. At the expiration of 3 years from the date of sale of any tax certificate acquired by the county hereunder, the county clerk shall promptly take a tax deed under the provisions of section 75.36, except that county board authorization shall not be required. On taking such deed the county clerk shall certify that fact and specify the descriptions to the conservation commission.

SECTION 6. 77.06 (1) of the statutes is amended to read:
77.06 (1) No person shall cut any merchantable wood prod-

ucts on any forest crop lands where the forest crop taxes are delinquent nor until 30 days after the owner has filed with the conservation commission * * * a notice of intention to cut, specifying the descriptions and estimated amount of wood products to be removed, and also the volume to be left as growing stock. The * * * *conservation commission* may require a bond executed by some surety company licensed in this state or other surety * * * for such amount as * * * may reasonably * * * *be required* for the payment to the conservation commission of the severance tax hereinafter provided. The conservation commission, after examination of the lands specified, may limit the amount of forest products to be removed in order that adequate growing stock may be left to furnish recurring forest crops. Cutting in excess of such limitation shall render the operator liable to double the severance tax prescribed in section 77.06 (5). In cases of double severance tax one-half shall be distributed as provided in section 77.07 (3) and one-half shall be paid to the town treasurer for distribution under the provisions of section 77.04 (3). Merchantable wood products include all wood products except wood used for fuel by the owner.

SECTION 7. 77.06 (4) and (5) of the statutes are amended to read:

77.06 (4) * * * *Within 30 days after completion of cutting on any land description, but not more than one year after filing of the notice of intention to cut, the owner shall transmit to the conservation commission a written statement of the products so cut * * *, 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. * * ** 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 * * * *conservation commission * * ** shall assess and levy against such owner a severance tax on the right to cut and remove such wood products as were * * * covered by the * * * reports above provided for, at the

rate of 10 per cent of the value of such wood products based upon the stumpage value then in force as hereinbefore provided.

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* * * Upon making such assessment, * * * the conservation commission * * * shall 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 conservation commission on the last day of the next calendar month after the mailing to the owner of such certificate of assessment. On timber cut from forest crop lands on which the state has paid forestry aid pursuant to section 59.98 (5), the county shall pay a severance tax of 50 per cent, of which one-fifth shall be distributed as prescribed by section 77.07 (3) and four-fifths restored to the forestry fund provided by section 20.20 (14).

SECTION 8. 77.08 of the statutes is amended to read:

77.08 At any time within one year after * * * 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 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.

SECTION 9. 77.10 (1) (a) of the statutes is amended to read:

77.10 (1) (a) The conservation commission shall once in 5 years, or on the application of the department of taxation 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 chapter. If on such hearing after due notice to and opportunity to be heard by the department of taxation, 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, the entry of such lands shall be canceled and copies of the order of withdrawal specifying the descriptions shall be filed with the conservation commission, the department of taxation, the * * * * *supervisor of assessments*, the clerk of the town, and the register of deeds of the county in which such lands lie, 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 cancellation is accomplished within 5 years from the date that said land became forest crop lands hereunder, the owners shall thereupon repay to the conservation commission the amounts of all moneys thereon paid by the state with interest at 5 per cent per annum less any severance tax paid thereon. If at any time after 5 years the owner shall make use of the land for anything other than forestry, excepting grazing on farm wood lots, the conservation commission shall issue an order of withdrawal and the owner shall be liable for the tax and penalty provided in subsection (2) * * *. In either case, if the owner shall not repay said amounts on or before the January 31 next succeeding the return of such lands to the general property tax roll as provided in subsection (4) * * *, the conservation commission shall certify to the county treasurer the descriptions and the amounts due, and the county treasurer shall sell such lands as delinquent according to the procedure prescribed in section 77.04 (2). Whenever any county clerk shall have certified to the taking of tax deed pursuant to section 77.04 (2) the conservation commission shall issue an order of withdrawal as to the lands covered in such tax deed. *Such order may also be issued when examination of tax records reveals prolonged delinquency and noncompliance with the requirements of section 77.04 (2).*

SECTION 10. 77.10 (2) (a) of the statutes is amended to read:

77.10 (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 payment by such owner, other than a county, to the conservation commission within 30 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 5 per cent per annum, less any severance tax and supplemental severance tax or acreage share paid thereon, with interest computed according to the rule of partial payments at the rate of 5 per cent per annum. The exact amount of such tax shall be determined by the department of taxation after hearing and upon due notice to all parties interested, provided that when the tax rate of the current year has not been determined the rate of the preceding tax year may be used. On receiving such payment the conservation commission shall issue an order of withdrawal and file copies thereof with the department of taxation, the * * * *supervisor of assessments*, the clerk of the town and the register of deeds of the county in which such land lies. Such land shall then cease to be forest crop lands.

SECTION 11. 77.10 (3) of the statutes is repealed.

SECTION 12. 77.13 (1) of the statutes is amended to read:

77.13 (1) Any county which has title to any lands eligible to registration as forest crop lands shall be deemed an owner as this term is used in this chapter and may register *and withdraw* such lands under the provisions of this chapter in the same manner and on the same basis as other owners, except that any such county shall not be required to pay the acreage share prescribed in section 77.04 and the real estate tax prescribed in section 77.10 (2) on any of its lands registered as forest crop lands.

SECTION 13. 77.13 (2) of the statutes is repealed.

Approved May 14, 1947.