



Empire State Forest Products Association

The people behind New York's healthy forests and quality wood products

www.esfpa.org

Below is a summary of the Empire Forest for the Future proposal prepared by the Empire State Forest Products Association (ESFPA) presented by Governor Andrew M. Cuomo in his SFY 2018-19 Executive Budget on January 16, 2018. The actual bill text can be found at the NYS Division of Budget web page at:

<https://www.budget.ny.gov/pubs/archive/fy19/exec/fy19artVII/TEDArticleVII.pdf> or as A. ____/S. ____ at ____.

Empire Forests for the Future Initiative (EFFI)

Summary

RPTL Section 480:

Real Property Tax Law (RPTL) section 480 (also referred to as the Fisher Act) would be amended to allow any existing property enrolled in RPTL 480 to make application to RPTL Section 480-a until March 1, 2019 or at any time to make application to the new RPTL Section 480-b without penalty.

Note that RPTL enrollments under Section 480 were ended September 1, 1974 with the enactment of RPTL Section 480-a. In addition, assessments under RPTL section 480 will continue to run with the property going forward if the owner so chooses.

RPTL Section 480-a:

The definition of "Approved management plan" would be amended to state that the "plan must be prepared by or under the direction of a Department approved forester who may be the owner or agent of the owner, including an industrial forester or a cooperating forester;"

Language enacted several years ago to recognize "participation in a forest certification program (such as Forest Stewardship Council, Sustainable Forest Initiative; American Tree Farm Program, etc.) recognized in the regulations of the Department" would be stricken.

The definition of "eligible tract" under Section 480-remains 50 contiguous acres, exclusive of any portion not devoted to the production of forest crops.

Stumpage value and the 6% severance tax regarding payment of stumpage value has would be deleted.

New definitions regarding a "Certificate of eligibility" and "Verification of continued eligibility" would be included to certify that the landowner satisfies all the requirements of an "approved management plan" certified by the Department.

Sale or transfer of eligible RPTL 480-a property to "one or more family members" may continue in perpetuity for such family owners who elect to remain in the program. Family member transfers will have to complete compliance agreements. Sale to a non-family member will end the eligibility and assessment benefit upon expiration of the nine remaining years as required under the law. A non-family owner (or for that fact a family owner) may at any time, without penalty, apply for eligibility and enrollment into the new RPTL section 480-b.

No new or additional tract shall be eligible for certification under an approved management plan after March 1, 2019. There would also be changes to subsequent year's commitments reflecting the use of "commitment forms".

There would be a number of changes to the penalty provisions for getting out of RPTL 480-a:

- For a parcel enrolled less than 10 years; 2 ½ times the amount of taxes that would have been levied on the forest land exempted.
- 10-less than 20 years; 1 ½ times the amount of taxes that would have been levied on the forest land exempted.
- 20 or more years; the amount of taxes that would have been levied on the forest land exempted.

As of March 1, 2019 and for one year (until February 28, 2020), the owners of a 480-a enrolled property may opt out of the enrollment without any penalty or obligation to follow the approved management plan for the remaining commitment term. The owner of any 480-a enrolled property may also switch to a commitment under the new Section 480-b enrollment at any time without any penalty.

Creates in State Finance Law a formula for reimbursement to local taxing jurisdictions (i.e. town, county and school districts) where a tax shift of greater than 1 % may occur. Any county, town or school district in which the total assessed value exempted under RPTL Sections 480-a or 480-b represents 1% or more of the total assessed value on the final tax roll is eligible to receive forestry exemption assistance from the state to make them whole to the 1%. This formula will take into consideration the current funding that is received annually by some taxing jurisdictions which received reimbursements from SFY 2004-05 appropriations. Funds for the forest exemption assistance are not appropriated for SFY 2019 as the impact of the new RPTL section 480-b will not be encumbered by taxing jurisdictions until SFY 2019-20. Funding for the forestry exemption assistance would be subject to annual appropriation by the Legislature and Governor.

RPTL Section 480-b:

Establishes a new Section 480-b under RPTL which defines eligible tracts and 2 paths to obtain property tax assessment reductions.

Defines an “Eligible tract” as a tract of at least 25 contiguous acres, exclusive of any portion of that not devoted to forest or other open space (i.e. no buildings), of which at least ½ of the acres is forested land (see definition below). Agricultural land receiving an agricultural assessment pursuant to section 305 or 306 of the Agriculture and Markets Law is not eligible for a 480-b exemption.

Defines “Forest land” as land suitable for forest crop production through natural regeneration or through forestation stocked with a stand of trees sufficient to produce a merchantable forest crop in the future.

Defines “forest certification program” as participation in a forest certification program, selected by the owner, and which is administered by a qualified third party (including independent auditing) to ensure sustainable forest management is practiced on the land, as specified in regulation.

Defines a “Qualifying forest management practice” as any cutting of trees related to commercial harvesting (6 NYCRR Part 199 e); timber stand improvement including weeding, thinning or crop tree release; site preparation for planting; invasive and/or competing vegetation control; riparian buffer establishment or enhancement; or other activities as specified in regulation.

Defines “Forest management practice plan” as a plan approved by the Department for one or more qualifying forest management practices to be conducted on at least 10 acres of forest land of an eligible tract. Such plan must be prepared by or under the direct supervision of a “Department approved forester”.

Proposal would provide for “certificates of eligibility” for initial enrollment and “commitment forms” for continued enrollment which only need to be filed with the County Clerk.

Establishes the 2 means of enrollment:

1. 70% exemption for tracts enrolled under a recognized forest certification program (including audited group certification).
2. 40% exemption enrolled under a forest management practice plan (practice must be completed within 2 years of enrollment).

Penalty provisions for getting out of RPTL 480-b would be the same as revised for 480-a.

Amendments to the Right To Practice Forestry Law:

The Right To Practice Forestry Law would be amended requiring any municipality proposing an ordinance, regulation or permit requirement which may restrict the practice of forestry, including but not limited to, timber harvesting, other forest management practices, and temporary storage or transport of logs or other wood products from harvest sites, shall submit such proposals to the Department for review, comment and input, to ensure they do not adversely impact the landowners right to practice forestry.

At a minimum the municipality must submit the full text of the proposed local law or ordinance to the Commissioner. The Commissioner shall have 45 days to review such proposal and to provide comments. Should the Department recommend modifications or disapproval the referring municipal body may not act contrary to such recommendation except by a vote of a majority plus one.

Timber Harvest Notification

Establishes a Timber Harvest notification and authorize the Department to promulgate regulations to implement it. Landowners, or their agents, would be required to provide notification to the Department prior to engaging in any commercial timber harvest (6 NYCRR Part 199 e) of a merchantable forest crop from 10 or more acres of privately-owned forest land in any given year.

Such notice shall be in a manner and format prescribed by the Department and, at a minimum, shall include:

- i. Name and address of the landowner;
- ii. Name and address of any authorized agent of the landowner conducting forestry related activities, such as a forester, land manager or logger;
- iii. Location and acreage of the area to be harvested and planned points of access to public road or roads;
- iv. Approximate start and end dates of the harvest;
- v. Approximate volume to be harvested;
- vi. Products and species to be harvested;
- vii. Whether the harvest is being conducted pursuant to a written forest management plan under section 480-a or a program under 480-b of the Real Property Tax Law and, if applicable, the name and address of the individual or entity that prepared the plan;
- viii. whether the harvest is being conducted pursuant to a harvesting contract; and
- ix. other information as deemed necessary and beneficial.

The Department shall share timber harvest notifications with any municipality that requests such notifications, in writing, for harvests in such municipality.

The bill would also preempt any local law or ordinance governing timber harvest notification.

Community Forest Grant Program

Proposal would add a new Title 23 under Article 9 of the ECL establishing a Community Forest Grant Program. The program would provide competitive matching (50 percent non-state match) grants to municipalities and non-government organizations (e.g. land trusts) for the purchase of lands, to establish forest plantations or for the care and management of forests. The purpose of the program is to establish community forests (of at least 25 acres) and to protect forests from conversion to non-forest uses and provide community benefits. The Governor has recommended funding at \$500,000 in the 2019 EPF Open Space Land Acquisition Account.

Empire Forest Incentive Program

Proposal would add a new Title 25 under article 9 of the ECL to provide matching grants for stewardship of private forest lands. Defines eligible land as private forest land that is at least 25 acres in size and identifies the following projects that could qualify under this program to include, but not limited to:

- a) forest stewardship planning projects;

- b) forest stand improvement projects;
- c) invasive species control projects;
- d) afforestation and reforestation projects for the purpose of timber or fiber production or carbon sequestration;
- e) water quality improvement projects;
- f) fish and wildlife improvement projects;
- g) forest health projects (excluding chemical or biological agents for control of forest pests);
- h) Wildfire and catastrophic event rehabilitation projects.

The Governor has recommended funding at \$500,000 in the 2019 EPF under the Parks and Recreation Public Access and Stewardship Account.

State Agency Procurement Preference for NYS Wood Products

Would amend the State Finance Law increasing the discretionary thresholds for purchasing and encourage state agencies to purchase wood products made from wood and fiber, grown and manufactured in New York State.

For More Information Contact:

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