

Sustainable Forest Incentive

It is reported that in the Minnesota legislative process, tax bills are heard in committee as stand-alone bills and then folded into an omnibus bill if the committee reports favorably on the bills. This SSL draft is excerpted from an omnibus tax bill that Minnesota enacted in 2001.

Referred to as the “Sustainable Forest Incentive Act,” this legislation substantially reduces the tax burden on managed forestland by creating a financial incentive for landowners that practice sustainable management on a long-term basis. To qualify, landowners must commit to keeping a minimum of 20 contiguous acres forested for eight years. They must also have a forest management plan approved by an “approved plan writer” who is certified by the state department of natural resources. Plans must include the landowner's goals for the property, a legal description, an inventory of the forest cover types, a map of the vegetation and boundaries, the proposed future conditions, an activity timetable and other pertinent forest management information. Landowners must also follow state “Forest Resources Council Timber Harvesting and Forest Management Guidelines” and agree to file certification forms annually.

Landowners enrolled in the program get an annual payment from the state department of revenue instead of a tax credit on their property tax bill.

Submitted as:

Minnesota

Statutes 2001, Chapter 290C

Status: Enacted into law in 2001 as part of an omnibus tax bill.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “The Sustainable Forest Incentive
2 Act.”

3
4 Section 2. [*Purpose.*] It is the policy of this state to promote sustainable forest resource
5 management on the state's public and private lands. Recognizing that private forests comprise
6 part of state forest land resources, that healthy and robust forest land provides significant
7 benefits to the, and that ad valorem property taxes represent a significant annual cost that can
8 discourage long-term forest management investments, this Act, hereafter referred to as the
9 "Sustainable Forest Incentive Act," is enacted to encourage the state's private forest landowners
10 to make a long-term commitment to sustainable forest management.

11
12 Section 3. [*Definitions.*] As used in this Act:

13 "Approved plan writers" are natural resource professionals who are self-employed,
14 employed by private companies or individuals, nonprofit organizations, local units of
15 government, or public agencies, and who are approved by the [commissioner of natural
16 resources]. People who are certified foresters by the Society of American Foresters shall be
17 deemed to meet the standards required under this subdivision. The [commissioner of natural
18 resources] shall issue a unique identification number to each approved planner.

19 “Capitalization rate.” By [July 1 of each year], the [commissioner] shall determine a
20 statewide capitalization rate for use under this Act. The rate shall be the average annual
21 effective interest rate for [a specified metropolitan area or statewide] on new loans under the

22 Farm Credit Bank system calculated under section 2032A(e)(7)(A) of the Internal Revenue
23 Code.

24 “Claimant” means a person, who owns forest land in this state and files an application
25 authorized by this Act. No more than one claimant is entitled to a payment under this Act with
26 respect to any tract, parcel, or piece of land enrolled under this Act. When enrolled forest land
27 is owned by two or more people, the owners must determine between them which person may
28 claim the payments provided under this Act.

29 “Commissioner” means the [commissioner of revenue].

30 “Current use value” means the statewide average annual income per acre, multiplied by
31 [90 percent] and divided by the capitalization rate determined under this section of this Act.
32 The statewide net annual income shall be a weighted average based on the most recent data as of
33 [July 1 of the computation year] on stumpage prices and annual tree growth rates and acreage by
34 cover type provided by the [department of natural resources] and the [United States Department
35 of Agriculture Forest Service North Central Research Station].

36 “Forest land” means land containing a minimum of [20 contiguous acres] for which the
37 owner has implemented a forest management plan that was prepared or updated within the past
38 [ten years] by an approved plan writer. At least [50 percent] of the contiguous acreage must be
39 at least [ten percent] stocked by trees of any size, and capable of producing timber or of exerting
40 an influence on the climate or on the water regime, or land from which the trees have been
41 removed to less than [ten percent] stocking and which has not been developed for other use; and
42 afforested areas. Acres are considered contiguous even if they are separated by a road,
43 waterway, railroad track, or other similar intervening property.

44 “Forest land” does not include:

- 45 1. Land used for residential or agricultural purposes;
- 46 2. A state or federal conservation reserve or easement reserve program under
47 [insert citation];
- 48 3. The state agricultural property tax under [insert citation];
- 49 4. Land subject to agricultural land reservation controls or restrictions as defined
50 in [insert citation], or
- 51 5. Land improved with a structure, pavement, sewer, campsite, or any road, other
52 than a township road, used for purposes not prescribed in the forest management plan.

53 “Forest management plan” means a written document providing a framework for site-
54 specific healthy, productive, and sustainable forest resources. A forest management plan must
55 include at least the following:

- 56 1. Owner-specific forest management goals for the property;
- 57 2. A reliable field inventory of the individual forest cover types, their age, and
58 density;
- 59 3. A description of the soil type and quality;
- 60 4. An aerial photo and/or map of the vegetation and other natural features of the
61 property clearly indicating the boundaries of the property and of the forest land;
- 62 5. The proposed future conditions of the property;
- 63 6. Prescriptions to meet proposed future conditions of the property;
- 64 7. A recommended timetable for implementing the prescribed activities; and
- 65 8. A legal description of the parcels encompassing the parcels included in the
66 plan. All management activities prescribed in a plan must be in accordance with the
67 recommended timber harvesting and forest management guidelines. The [commissioner of
68 natural resources] shall provide a framework for plan content and updating and revising plans.

69 “Timber harvesting and forest management guidelines” means guidelines developed by
70 the [state forest resources council] as defined in [insert citation].

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Section 4. *[Eligibility Requirements.]*

(a) Property may be enrolled in the Sustainable Forest Incentive Program under this Act if all of the following conditions are met during the enrollment:

(1) The property consists of at least [20 contiguous acres] and at least [50 percent] of the land must contain at least [ten percent] stocked by trees of any size and capable of producing timber, or of exerting an influence on the climate or on the water regime; land from which the trees described above have been removed to less than [ten percent] stocking and which has not been developed for other use; and afforested areas;

(2) A forest management plan for the property must be prepared by an approved plan writer and implemented during the period in which the land is enrolled;

(3) Timber harvesting and forest management guidelines must be used in conjunction with any timber harvesting or forest management activities conducted on the land during the period in which the land is enrolled;

(4) The property must be enrolled for a minimum of [eight years];

(5) There are no delinquent property taxes on the property; and

(6) Claimants enrolling more than [1,920 acres] in the sustainable forest incentive program must allow year-round, nonmotorized access to fish and wildlife resources on enrolled land except within [one-fourth mile] of a permanent dwelling or during periods of high fire hazard as determined by the [commissioner of natural resources].

(b) Claimants required to allow access under paragraph (a), clause (6), do not by that action:

(1) Extend any assurance that the land is safe for any purpose;

(2) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed; or

(3) Assume responsibility for or incur liability for any injury to the person or property caused by an act or omission of the person.

Section 5. *[Applications.]*

(a) A landowner may apply to enroll forest land for the Sustainable Forest Incentive Program under this Act. The claimant must complete, sign, and submit an application to the [commissioner] by [September 30] in order for the land to become eligible beginning in the next year. The application shall be on a form prescribed by the [commissioner] and must include the information the [commissioner] deems necessary. At a minimum, the application must show the following information for the land and the claimant:

(1) The claimant's social security number or state or federal business tax registration number and date of birth,

(2) The claimant's address,

(3) The claimant's signature,

(4) The county's parcel identification numbers for the tax parcels that completely contain the claimant's forest land that is sought to be enrolled,

(5) The number of acres eligible for enrollment in the program,

(6) The approved plan writer's signature and identification number, and

(7) Proof, in a form specified by the [commissioner], that the claimant has executed and acknowledged in the manner required by law for a deed, and recorded, a covenant that the land is not and shall not be developed in a manner inconsistent with the requirements and conditions of this Act. The covenant shall state in writing that the covenant is binding on the claimant and the claimant's successor or assignee, and that it runs with the land for a period of not less than [eight years]. The [commissioner] shall specify the form of the covenant and

120 provide copies upon request. The covenant must include a legal description that encompasses
121 all the forest land that the claimant wishes to enroll under this section or the certificate of title
122 number for that land if it is registered land.

123 (b) In all cases, the [commissioner] shall notify the claimant within [90 days] after
124 receipt of a completed application that either the land has or has not been approved for
125 enrollment. A claimant whose application is denied may appeal the denial as provided in
126 Section 12 of this Act.

127 (c) Within [90 days] after the denial of an application, or within [90 days] after the final
128 resolution of any appeal related to the denial, the [commissioner] shall execute and
129 acknowledge a document releasing the land from the covenant required under this chapter. The
130 document must be mailed to the claimant and is entitled to be recorded.

131 (d) The social security numbers collected from people under this section are private data
132 as provided in [insert citation]. The state or federal business tax registration number and date of
133 birth data collected under this section are also private data but may be shared with county
134 assessors for purposes of tax administration and with county treasurers for purposes of the
135 revenue recapture as defined in [insert citation].

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137 Section 6. [*Annual Certification.*] On or before [July 1 of each year], beginning with the
138 year after the claimant has received an approved application, the [commissioner] shall send each
139 claimant enrolled under the Sustainable Forest Incentive Program a certification form. The
140 claimant must sign the certification, attesting that the requirements and conditions for continued
141 enrollment in the program are currently being met, and must return the signed certification form
142 to the [commissioner] by [August 15 of that same year]. Failure to return an annual certification
143 form by the due date shall result in removal of the lands from the provisions of the Sustainable
144 Forest Incentive Program, and the imposition of any applicable removal penalty. The claimant
145 may appeal the removal and any associated penalty according to the procedures and within the
146 time allowed under this Act.

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148 Section 7. [*Calculation of Average Estimated Market Value; Timberland.*]

149 (a) The [commissioner] shall annually calculate a statewide average estimated market
150 value per acre for class 2b timberland. Class 2b property is:

151 (1) Real estate, rural in character and used exclusively for growing trees for
152 timber, lumber, and wood and wood products;

153 (2) Real estate that is not improved with a structure and is used exclusively for
154 growing trees for timber, lumber, and wood and wood products, if the owner has participated or
155 is participating in a cost-sharing program for a forestation, reforestation, or timber stand
156 improvement on that particular property, administered or coordinated by the [commissioner of
157 natural resources];

158 (3) Real estate that is nonhomestead agricultural land; or

159 (4) A landing area or public access area of a privately owned public use airport.

160 (b) Class 2b property has a net class rate of [one percent of market value].

161
162 Section 8. [*Calculation of Incentive Payment.*] An approved claimant under the
163 Sustainable Forest Incentive Program is eligible to receive an annual payment. The payment
164 shall equal the greater of:

165 (1) The difference between the property tax that would be paid on the property
166 using the previous year's statewide average total township tax rate and the class rate for class 2b
167 timberland if the property were valued at:

168 (i) The average statewide timberland market value per acre calculated
169 under Section 7 of this Act, and

170 (ii) The average statewide timberland current use value per acre
171 calculated under Section 3 of this Act.

172 (2) [Two-thirds] of the property tax amount determined by using the previous
173 year's statewide average total township tax rate, the estimated market value per acre as
174 calculated in Section 7 of this Act, and the class rate for 2b timberland under Section 3 of this
175 Act or

176 (3) [\$1.50 per acre] for each acre enrolled in the Sustainable Forest Incentive
177 Program.

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179 Section 9. [*Annual Incentive Payment; Appropriation.*]

180 (1) An incentive payment for each acre of enrolled land will be made annually to each
181 claimant in the amount determined under Section 8 of this Act. The incentive payment shall be
182 paid on or before [October 1 each year] based on the certifications due [August 15 of that year].
183 Interest at the annual rate determined under [insert citation] shall be included with any incentive
184 payment not paid by the later of [October 1] of the year the certification was due, or [45 days]
185 after the completed certification was returned or filed if the [commissioner] accepts a
186 certification filed after [August 15] of the taxes payable year as the resolution of an appeal.

187 (2) The amount necessary to make the payments under this section is annually
188 appropriated to the [commissioner] from the [general fund].

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190 Section 10. [*Removal for Property Tax Delinquency.*] The [commissioner] shall
191 immediately remove any property enrolled in the Sustainable Forest Incentive Program for
192 which taxes are determined to be delinquent and shall notify the claimant of such action. Lands
193 terminated from the Sustainable Forest Incentive Program under this section are not entitled to
194 any payments provided in this Act and are subject to removal penalties prescribed in Section 11
195 of this Act. The claimant has [60 days] from the receipt of notice from the [commissioner] under
196 this section to pay the delinquent taxes. If the delinquent taxes are paid within this [60-day
197 period], the lands shall be reinstated in the program as if they had not been withdrawn and
198 without the payment of a penalty.

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200 Section 11. [*Withdrawal Procedures.*] An approved claimant under the Sustainable
201 Forest Incentive Program for a minimum of [four years] may notify the commissioner of the
202 intent to terminate enrollment. Within [90 days] of receipt of notice to terminate enrollment, the
203 commissioner shall inform the claimant in writing, acknowledging receipt of this notice and
204 indicating the effective date of termination from the sustainable forest incentive program.
205 Termination of enrollment in the Sustainable Forest Incentive Program occurs on [January 1 of
206 the fifth calendar year] that begins after receipt by the [commissioner] of the termination notice.
207 After the [commissioner] issues an effective date of termination, a claimant wishing to continue
208 the property's enrollment in the sustainable forest incentive program beyond the termination
209 date must apply for enrollment as prescribed in Section 5 of this Act. A claimant who
210 withdraws a parcel of land from this program may not reenroll the parcel for a period of [three
211 years]. Within [90 days] after the termination date, the [commissioner] shall execute and
212 acknowledge a document releasing the land from the covenant required under this Act. The
213 document must be mailed to the claimant and is entitled to be recorded. The [commissioner]
214 may allow early withdrawal from the Sustainable Forest Incentive Program without penalty in
215 cases of condemnation for a public purpose notwithstanding the provisions of this section.

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217 Section 12. [*Penalties for Removal.*]

218 (a) If the [commissioner] determines that property enrolled in the Sustainable Forest
219 Incentive Program is in violation of the conditions for enrollment as specified in Section 4 of
220 this Act, the [commissioner] shall notify the claimant of the intent to remove all enrolled land
221 from the Sustainable Forest Incentive Program. The claimant has [60 days] to appeal this
222 determination. The appeal must be made in writing to the [commissioner], who shall, within [60
223 days], notify the claimant as to the outcome of the appeal. Within [60 days] after the
224 [commissioner] denies an appeal, or within [120 days] after the [commissioner] received a
225 written appeal if the [commissioner] has not made a determination in that time, the owner may
226 appeal to a [tax court] if the appeal is from an order of the [commissioner].

227 (b) If the [commissioner] determines the property is to be removed from the Sustainable
228 Forest Incentive Program, the claimant is liable for payment to the [commissioner] in the
229 amount equal to the payments received under this Act for the previous [four-year period], plus
230 interest. The claimant has [90 days] to satisfy the payment for removal of land from the
231 Sustainable Forest Incentive Program under this section. If the penalty is not paid within the
232 [90-day] period under this paragraph, the [commissioner] shall certify the amount to the county
233 auditor for collection as a part of the general ad valorem real property taxes on the land in the
234 following taxes payable year.

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236 Section 13. [*Severability.*] [Insert severability clause.]

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238 Section 14. [*Repealer.*] [Insert repealer clause.]

239

240 Section 15. [*Effective Date.*] [Insert effective date.]