

State of Wisconsin



2021 Assembly Bill 909

Date of enactment: April 8, 2022
Date of publication*: April 9, 2022

2021 WISCONSIN ACT 230

AN ACT *to repeal* 77.83 (2) (ar); *to renumber and amend* 77.82 (11), 77.88 (3k) and 77.88 (3L); *to amend* 77.82 (1) (a) (intro.), 77.82 (1) (a) 1., 77.82 (1) (b) 3., 77.82 (1) (bp) 1. (intro.), 77.82 (1) (bp) 1. a., 77.82 (1) (c), 77.82 (4), 77.88 (2) (ac) 1., 77.88 (2) (am), 77.88 (2) (b), 77.88 (2) (c), 77.88 (3) (am), 77.88 (3) (b) (intro.), 77.88 (3j) (title), 77.88 (3j) (a) 1., 77.88 (3j) (a) 4. and 77.88 (8) (b); and *to create* 77.82 (1) (ag), (am) and (ar), 77.82 (1) (b) 3m., 77.82 (1) (bp) 4., 77.82 (3) (h), 77.88 (2) (d), 77.88 (3k) (a) and (b), 77.88 (3L) (a) and (b) and 77.88 (8) (a) 4. of the statutes; **relating to:** the managed forest land program.

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

SECTION 1. 77.82 (1) (a) (intro.) of the statutes is amended to read:

77.82 (1) (a) (intro.) A parcel of land that is subject to a managed forest land order issued or renewed before April 16, 2016. is eligible for designation as managed forest land only if it fulfills the following requirements:

SECTION 2. 77.82 (1) (a) 1. of the statutes is amended to read:

77.82 (1) (a) 1. It consists of at least ~~20~~ 10 contiguous acres, except as provided in this subdivision. The fact that a lake, river, stream, or flowage, a public or private road, or a railroad or utility right-of-way separates any part of the land from any other part does not render a parcel of land noncontiguous. If a part of a parcel of at least ~~20~~ 10 contiguous acres is separated from another part of that parcel by a public road, that part of the parcel may be enrolled in the program, even if that part is less than ~~20~~ 10 acres, if that part meets the requirement under subd. 2. and is not ineligible under par. (b). ~~The owner of a parcel of less than 20 acres that is subject to a managed forest land order before April 16, 2016, may apply one time for~~

~~a renewal of the order under sub. (12) without meeting the 20-acre requirement.~~

SECTION 3. 77.82 (1) (ag), (am) and (ar) of the statutes are created to read:

77.82 (1) (ag) A parcel of land that is or will be subject to a managed forest land order issued or renewed on or after April 16, 2016, is eligible for designation as managed forest land only if it fulfills all of the following requirements:

1. Subject to par. (am), the parcel either consists of at least 20 contiguous acres or meets all of the following acreage requirements:

- The parcel consists of at least 10 contiguous acres.
- The parcel is located in a tract of land under the same ownership that contains at least one other parcel of at least 10 acres that meets the requirements under subd. 2. and for which designation under the same managed forest land order is sought.

2. At least 80 percent of the parcel is producing or capable of producing a minimum of 20 cubic feet of merchantable timber per acre per year.

(am) The fact that a lake, river, stream, or flowage, a public or private road, or a railroad or utility right-of-way separates any part of the land from any other part

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

does not render a parcel of land noncontiguous and does not render ownership of land noncontiguous.

(ar) The owner of a parcel that does not meet the acreage requirements in par. (ag) 1. and that is subject to a managed forest land order issued before April 16, 2016, may apply one time for a renewal of the order under sub. (12) on or after April 16, 2016, without meeting the acreage requirements under par. (ag) 1.

SECTION 4. 77.82 (1) (b) 3. of the statutes is amended to read:

77.82 (1) (b) 3. A parcel ~~on which a building or an improvement associated with a building is located. that is developed for a human residence. This subdivision applies only to a parcel of land subject to a managed forest land order issued or renewed before April 16, 2016.~~

SECTION 5. 77.82 (1) (b) 3m. of the statutes is created to read:

77.82 (1) (b) 3m. A parcel on which a building or an improvement associated with a building is located. This subdivision applies only to a parcel of land subject to a managed forest land order issued or renewed on or after April 16, 2016.

SECTION 6. 77.82 (1) (bp) 1. (intro.) of the statutes is amended to read:

77.82 (1) (bp) 1. (intro.) For purposes of par. (b) 3-3m., and except as provided in subd. 2., an improvement is any of the following:

SECTION 7. 77.82 (1) (bp) 1. a. of the statutes is amended to read:

77.82 (1) (bp) 1. a. Any ~~accessory building, structure, or fixture that is built or placed on the parcel for its benefit.~~

SECTION 8. 77.82 (1) (bp) 4. of the statutes is created to read:

77.82 (1) (bp) 4. Notwithstanding par. (b) 3., a building used exclusively for storage that is located on a parcel does not make that parcel ineligible for designation as managed forest land.

SECTION 9. 77.82 (1) (c) of the statutes is amended to read:

77.82 (1) (c) In addition to the requirements under pars. (a) ~~and (ag), and~~ (b), for land subject to an application under sub. (4m), all forest croplands owned by the applicant on the date on which the application is filed that are located in the municipality or municipalities for which the application is filed shall be included in the application.

SECTION 10. 77.82 (3) (h) of the statutes is created to read:

77.82 (3) (h) 1. Under this paragraph, "large ownership" means 1,000 or more acres of land designated as managed forest land that has the same owner.

2. The department may promulgate rules that subject large ownerships to management plan requirements that deviate from the requirements under pars. (ag) to (g).

SECTION 11. 77.82 (4) of the statutes is amended to read:

77.82 (4) ADDITIONS TO MANAGED FOREST LAND. An owner of land that is designated as managed forest land may file an application with the department to designate as managed forest land an additional parcel of land if the additional parcel is at least 3 acres in size and is contiguous to any of that designated land or is not contiguous to that designated land but meets the requirements under sub. (1) (ag). The application shall be accompanied by a nonrefundable \$20 application recording fee unless a different amount for the fee is established by the department by rule at an amount equal to the average expense to the department of recording an order issued under this subchapter. The fee shall be deposited in the conservation fund and credited to the appropriation under s. 20.370 (2) (cr). The application shall be filed on a department form and shall contain any additional information required by the department. The tax rate applicable to an addition under this subsection shall be the tax rate currently applicable to the ~~parcel managed forest land order to which the land is being added.~~ Except for the minimum acreage requirements under sub. (1) (ag) 1. b. that apply to a noncontiguous addition, the eligibility requirements applicable to an addition under this subsection are the eligibility requirements under the order that designated the parcel to which the land is being added.

SECTION 12. 77.82 (11) of the statutes is renumbered 77.82 (11) (a) and amended to read:

77.82 (11) (a) An order issued under this subchapter shall constitute a contract between the state and the owner and shall remain in effect for the period specified in the application unless the land is withdrawn under s. 77.84 (3) (b) or 77.88. Except as provided in subs. (3) (f) and (11m), the department may not amend or otherwise change the terms of an order or management plan to conform with changes made to any provision of this subchapter subsequent to the date on which the order was entered or the plan was approved.

(b) If a statute is enacted or a rule is promulgated during the period of the order that materially changes the terms of the order as provided under this paragraph, the landowner shall elect between acceptance of modifications to the contract consistent with the provisions of the statute or rule or voluntary withdrawal of the land without penalty. A statutory change does not constitute a material change to an order unless, in the act that makes the change, the legislature states that the act or a provision in the act makes a material change to orders entered into under prior law. A promulgated rule does not constitute a material change to an order unless the rule includes a statement that the rule constitutes a material change to orders entered into under prior rules and the department includes in its report to the legislature under s. 227.19 (2) a statement that the rule constitutes a material change to

orders entered into under prior rules and an analysis of this determination.

SECTION 13. 77.83 (2) (ar) of the statutes is repealed.

SECTION 15. 77.88 (2) (ac) 1. of the statutes is amended to read:

77.88 (2) (ac) 1. If the land transferred under par. (a) meets the eligibility requirements under s. 77.82 (1) (a) ~~and (ag), and~~ (b), the land shall continue to be designated as managed forest land if the transferee, within 30 days after a transfer of ownership, files a form provided by the department signed by the transferee. By signing the form, the transferee certifies to the department an intent to comply with the existing management plan for the land and any amendments to the plan. The transferee shall provide proof that each person holding any encumbrance on the land agrees to the designation. The transferee may designate an area of the transferred land closed to public access as provided under s. 77.83. The department shall issue an order continuing the designation of the land as managed forest land under the new ownership. The transferee shall pay a \$100 fee that will accompany the report. The fee shall be deposited in the conservation fund. Twenty dollars of the fee or a different amount of the fee as may be established under subd. 2. shall be credited to the appropriation under s. 20.370 (2) (cr). The department shall immediately notify each person entitled to notice under s. 77.82 (8).

SECTION 16. 77.88 (2) (am) of the statutes is amended to read:

77.88 (2) (am) *Transferred land; requirements not met.* If the land transferred under par. (a) does not meet the eligibility requirements under s. 77.82 (1) (a) ~~and (ag), and~~ (b), the department shall issue an order withdrawing the land from managed forest land designation and ~~shall~~ may assess against the owner a withdrawal tax under sub. (5) and the withdrawal fee under sub. (5m).

SECTION 17. 77.88 (2) (b) of the statutes is amended to read:

77.88 (2) (b) *Remaining land; requirements met.* If the land remaining after a transfer under par. (a) meets the eligibility requirements under s. 77.82 (1) (a) ~~and (ag), and~~ (b), the remaining land shall continue to be designated as managed forest land.

SECTION 18. 77.88 (2) (c) of the statutes is amended to read:

77.88 (2) (c) *Remaining land; requirements not met.* If the land remaining after a transfer under par. (a) does not meet the eligibility requirements under s. 77.82 (1) (a) ~~and (ag), and~~ (b), the department shall issue an order withdrawing the land and ~~shall~~ may assess against the owner the withdrawal tax under sub. (5) and the withdrawal fee under sub. (5m). Notwithstanding s. 77.90, the owner is not entitled to a hearing on an order withdrawing land under this paragraph.

SECTION 19. 77.88 (2) (d) of the statutes is created to read:

77.88 (2) (d) *Transfer of unenrolled land.* If the owner of a tract of land under s. 77.82 (1) (ag) 1. b. sells or otherwise transfers land within the tract that is not subject to a managed forest land order, the transferee shall notify the department of the transfer.

SECTION 20. 77.88 (3) (am) of the statutes is amended to read:

77.88 (3) (am) *Entire parcels.* Upon request of an owner of managed forest land to withdraw an entire parcel of managed forest land, the department shall issue an order withdrawing the land ~~and shall assess against the owner the withdrawal tax under sub. (5) and the withdrawal fee under sub. (5m).~~

SECTION 21. 77.88 (3) (b) (intro.) of the statutes is amended to read:

77.88 (3) (b) *Parts of parcels.* (intro.) Upon request of an owner of managed forest land to withdraw part of a parcel of managed forest land, the department shall issue an order withdrawing the land subject to the request ~~and shall assess against the owner the withdrawal tax under sub. (5) and the withdrawal fee under sub. (5m)~~ if all of the following apply:

SECTION 22. 77.88 (3j) (title) of the statutes is amended to read:

77.88 (3j) (title) VOLUNTARY WITHDRAWAL; OTHER CONSTRUCTION; SMALL LAND SALES.

SECTION 23. 77.88 (3j) (a) 1. of the statutes is amended to read:

77.88 (3j) (a) 1. The purpose for which the owner requests that the department withdraw the land is for the ~~sale of the land or for~~ a construction site.

SECTION 24. 77.88 (3j) (a) 4. of the statutes is amended to read:

77.88 (3j) (a) 4. The land remaining after withdrawal meets the eligibility requirements under s. 77.82 (1) (a) ~~and (ag), and~~ (b).

SECTION 25. 77.88 (3k) of the statutes is renumbered 77.88 (3k) (intro.) and amended to read:

77.88 (3k) VOLUNTARY WITHDRAWAL; PRODUCTIVITY. (intro.) Upon the request of an owner of managed forest land to withdraw part of a parcel of the owner's land, the department shall issue an order of withdrawal if the department determines that the parcel is unable to produce merchantable timber in the amount required under s. 77.82 (1) (a) 2. ~~The order shall withdraw only the number of acres that is necessary for the parcel to resume its ability to produce the required amount. or (ag) 2.~~ No withdrawal tax under sub. (5) or withdrawal fee under sub. (5m) may be assessed. The order shall withdraw only the number of acres that is necessary for the parcel to resume its ability to produce the required amount, except that all of the following apply:

SECTION 26. 77.88 (3k) (a) and (b) of the statutes are created to read:

77.88 (3k) (a) If the land remaining in the parcel after the requested withdrawal does not meet the eligibility

requirements under the order designating the managed forest land, the withdrawal order shall withdraw the entire parcel.

(b) If the land subject to a managed forest land order after the requested withdrawal does not meet the eligibility requirements under that managed forest land order, the withdrawal order shall withdraw all land under that managed forest land order.

SECTION 27. 77.88 (3L) of the statutes is renumbered 77.88 (3L) (intro.) and amended to read:

77.88 (3L) VOLUNTARY WITHDRAWAL; SUSTAINABILITY. (intro.) Upon the request of an owner of managed forest land to withdraw part of a parcel of the owner's land, the department shall issue an order of withdrawal if the department determines that the parcel is unsuitable, due to environmental, ecological, or economic concerns or factors, for the production of merchantable timber. ~~The order shall withdraw only the number of acres that is necessary for the parcel to resume its sustainability to produce merchantable timber.~~ No withdrawal tax under sub. (5) or withdrawal fee under sub. (5m) may be assessed. The order shall withdraw only the number of acres that is necessary for the parcel to resume its sustainability to produce merchantable timber, except that all of the following apply:

SECTION 28. 77.88 (3L) (a) and (b) of the statutes are created to read:

77.88 (3L) (a) If the land remaining in the parcel after the requested withdrawal does not meet the eligibility

requirements under the order designating the managed forest land, the withdrawal order shall withdraw the entire parcel.

(b) If the land subject to a managed forest land order after the requested withdrawal does not meet the eligibility requirements under that managed forest land order, the withdrawal order shall withdraw all land under that managed forest land order.

SECTION 29. 77.88 (8) (a) 4. of the statutes is created to read:

77.88 (8) (a) 4. Transfers ownership of managed forest land for a public purpose to a city, village, town, or county that is a taxing jurisdiction, as defined under s. 70.114 (1) (f), for the land.

SECTION 30. 77.88 (8) (b) of the statutes is amended to read:

77.88 (8) (b) The department may not order withdrawal of land remaining after a transfer of ownership is made under par. (a) 1., 2., or 3. or after a lease is entered into under par. (a) 3. unless the remainder fails to meet the eligibility requirements under s. 77.82 (1).

SECTION 31. Initial applicability.

(1) BUILDINGS ON PARCELS. The treatment of s. 77.82 (1) (bp) 1. a. and 4. first applies to land designated as managed forest land under an order issued or renewed on April 16, 2016.

(2) MATERIAL CHANGE. The treatment of s. 77.82 (11) first applies to a statutory change or a rule change that takes effect on the effective date of this subsection.