

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-352
HOUSE BILL 457

AN ACT TO ALLOW RECOVERY OF FUNDS PAID AS FOREST DEVELOPMENT COST-SHARING PAYMENTS WHEN TREES ARE NOT MAINTAINED AT LEAST TEN YEARS AND TO CONVERT THE FOREST DEVELOPMENT FUND TO ONE THAT ACCRUES INTEREST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-178 reads as rewritten:

"§ 113A-178. Definitions.

As used in this Article:

- (1) 'Approved forest management plan' ~~shall mean~~ means the forest management plan submitted by the eligible landowner and approved by the Secretary. Such plan shall include forest management practices to insure both maximum forest productivity and environmental protection of the lands to be treated under the management plan.
- (2) 'Approved practices' ~~shall mean~~ mean those silvicultural practices approved by the Secretary for the purpose of commercially growing timber through the establishment of forest stands, or of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, and cultivation of established young growth of desirable trees. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such practices as are developed in the future to insure both maximum forest productivity and environmental protection.
- (3) 'Department' ~~shall mean~~ means the Department of Environment, Health, and Natural Resources.
- (4) 'Eligible landowner' ~~shall mean~~ means a private individual, group, association or corporation owning land suitable for forestry purposes. Where forest land is owned jointly by more than one individual, group, association or corporation, as tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purpose of this Article, as one eligible landowner and entitled to

receive cost-sharing payments as provided herein only once during each fiscal year.

- (5) 'Eligible ~~lands~~' ~~shall mean~~ land means land owned by an eligible landowner.
- (6) 'Forest development assessment' ~~shall mean~~ means an assessment on primary forest products from timber severed in North Carolina for the funding of the provisions of this Article, as authorized by the General Assembly.
- (7) 'Forest development ~~cost-sharing~~ cost-sharing payment' ~~shall mean~~ means financial assistance to partially cover the costs of implementing approved practices in such amounts as the Secretary shall determine, subject to the limitations of this Article.
- (8) 'Forest development fund' ~~shall mean~~ means the ~~special nonlapsing fund established in the Department of Environment, Health, and Natural Resources, designated as the Forest Development Fund, Fund~~ created by G.S. 113A-183.
- (9) 'Secretary' ~~shall mean~~ means the Secretary of Environment, Health, and Natural Resources.
- (10) 'Maintain' means to retain the reforested area as forestland for a 10-year period and to comply with the provisions in the approved forest management plan."

Section 2. Article 11 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ 113A-180.1. Cost-share agreements.

(a) In order to receive forest development cost-share payments, an eligible landowner shall enter into a written agreement with the Department describing the eligible land, setting forth the approved practices implemented for the area and covered by the approved forest management plan, and agreeing to maintain those practices for a 10-year period.

(b) In the absence of Vis major or Act of God or other factors beyond the landowner's control, a landowner who fails to maintain the practice or practices for a 10-year period in accordance with the agreement set forth in subsection (a) of this section shall repay to the Fund all cost-sharing funds received for that area.

(c) If the landowner voluntarily relinquishes control or title to the land on which the approved practices have been established, the landowner shall:

- (1) Obtain a written statement, or a form approved by the Department, from the new owner or transferee in which the new owner or transferee agrees to maintain the approved practices for the remainder of the 10-year period; or
- (2) Repay to the Fund all cost-sharing funds received for implementing the approved practices on the land.

If a written statement is obtained from the new owner or transferee, the original landowner will no longer be responsible for maintaining the approved practices or

repaying the cost-sharing funds. The responsibility for maintaining those practices for the remainder of the 10 years shall devolve to the new owner or transferee."

Section 3. G.S. 113A-183 reads as rewritten:

"§ 113A-183. Forest Development Fund.

(a) ~~There is hereby~~ The Forest Development Fund is created in the Department of Environment, Health, and Natural Resources as a fund to be designated the Forest Development Fund, for which fiscal management and responsibility are hereby vested in the Secretary. special fund. Revenue in the Fund does not revert at the end of a fiscal year, and interest and other investment income earned by the Fund accrues to it. The Fund is created to provide revenue to implement this Article. The Fund consists of the following revenue:

- (1) Assessments on primary forest products collected under Article 12 of Chapter 113A of the General Statutes.
- (2) General Fund appropriations.
- (3) Gifts and grants made to the Fund.

(b) ~~This fund shall be the depository for all revenue derived from the forest development assessment on primary forest product processors as authorized by the General Assembly, and for any funds appropriated specifically for the forest development program from the general fund. Those funds appropriated from the general fund remaining in the Forest Development Fund at the end of any fiscal year shall revert to the general fund, but revenues derived from the forest development assessment shall not revert but shall remain in the Forest Development Fund until expended under the provisions of this Article.~~

(c) ~~In any fiscal year, expenditures from the Forest Development Fund shall be limited to four times the amount of the general fund appropriation for that year.~~

(d) In any fiscal year, no more than five percent (5%) of the available funds generated by the Primary Forest Product Processor Assessment Act ~~shall~~ may be used for program support under the provisions of G.S. 113A-179(c).

(e) Funds used for the purchase of equipment under the provisions of G.S. 113A-179(d) shall be limited to appropriations from the ~~general fund~~ General Fund to the Forest Development Fund designated specifically for equipment purchase."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:05 p.m. this 1st day of August, 1997