

CHAPTER 57-57 FOREST STEWARDSHIP

57-57-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "County designee" means a person or agent under the control of local or state governmental entities who is willing and able to cooperate with the state forester as provided in this chapter.
2. "Forest" means an area of land normally supporting a growth of planted tree cover, woodlands, or windbreaks.
3. "Forest stewardship" means the application of environmental and economic resource management principles to benefit current and future landowners, the public, and the forest resource.
4. "State forester" means the state forester appointed under section 4-19-01 and, when reasonable, the agents and personnel under the state forester's control.

57-57-02. Eligibility for forest stewardship tax - Application.

This chapter applies in any county in which the county commission has approved by resolution the application of this chapter to all qualifying property within the county. The owner or agent of the owner, having any tract of contiguous forest which consists of:

1. Natural forest cover ten acres [4.05 hectares] or larger in size;
2. Planted forest cover five acres [2.02 hectares] or larger in size and not less than sixty feet [18.29 meters] in width; or
3. Any combination of natural and planted forest cover ten acres [4.05 hectares] or larger in size,

may file an application with the county commission of the county in which the property is located setting forth a description of property that the owner desires to place under the forest stewardship tax and on which land the owner will practice forestry. If the county commission has approved application of this chapter within the county, the county commission shall forward each application received to the state forester for a determination of whether the property qualifies under this chapter. The state forester shall prescribe the form for application blanks and make them available to all interested persons.

57-57-03. Duties of the state forester.

Upon the receipt of the application provided for in section 57-57-02, the state forester shall examine the land and report to the county commission whether the property qualifies for taxation under this chapter. A copy of the state forester's report must be forwarded to the owner or the agent of the owner, to the local assessor of any township or district in which the land is located, to the clerk of the township if the township is organized, and to the county auditor. The state forester may appoint a local county designee to assist in the performance of the duties of the state forester under this chapter.

57-57-04. Application and acceptance to constitute a contract.

The application of the owner or agent of the owner and the acceptance of the application by the board of county commissioners constitutes a contract, running with the land, for a period of five years, unless terminated as provided in this chapter. Any order issued on or before February first of any year takes effect in that year, but all orders issued after February first of any year take effect the following year. If at the end of five years the contract is not renewed by mutual consent of the owner or agent of the owner and the board of county commissioners, the land is declassified and removed from the provisions of this chapter.

57-57-05. Duty of local assessor.

The local assessor in preparing the tax roll shall show the acreage [hectarage] for each owner covered by the provisions of this chapter in a column designated by the words "Forest Tax Law" or the initials "F.T.L.".

57-57-06. Liability, rate, and collection of the tax - Lieu tax.

The owner shall pay to the county treasurer, at the time taxes on other real property are due, a forest stewardship tax computed at a rate of fifty cents per acre. The tax is a part of the total real property taxes on the land of the owner and subject to collection in the same manner as any other real property taxes. The payment of taxes under this chapter is in lieu of all ad valorem taxes by the state, counties, towns, townships, school districts, and other municipalities upon any property rights attached to the forest. It is expressly provided that the forest stewardship tax is not in lieu of income taxes nor excise taxes upon the sale of forest products or services that may be derived from the forest.

57-57-07. Destructive practices prohibited - Declassification - Management and assistance of the state forester.

If a forest is cleared, grazed, burned, cut, or otherwise dealt with in a destructive manner as determined by the state forester, it may be subject to declassification and return to the regular tax rolls. At the request of the owner or the agent of the owner, the state forester or the county designee of the state forester may assist in preparing and carrying out a forest management plan for the orderly development of each forest. The plan must cover a five-year period and must recognize the individual management objectives of the landowner. The plan must contain written recommendations for managing timber and other associated forest resources. Approval and implementation of the forest management plan must be by mutual consent of the landowner and the state forester.

57-57-08. Report of the state forester - Declassification orders.

The state forester shall make an annual written report as to the forest practices of each forest owner or the agent of the owner covering lands enrolled under this chapter. The report may be based on spot field inspections, landowner questionnaires, or documented observations from local assessors. The report must list the landowners, legal descriptions, and acreages which are eligible to receive continued tax benefits. A copy of the report must be forwarded to the county auditor by March first of each year. If the state forester finds that the owner or the agent of the owner has not complied with the law, or if the land is no longer used for forestry purposes, the state forester shall issue an order removing the land from the forest stewardship tax law classification. Any declassification order issued on or before February first of any year takes effect in that year. A copy of the declassification order must be sent to the owner or the agent of the owner, to the local assessor of the township or district in which the land is located, to the clerk of the township if the township is organized, and to the county auditor. Any order issued under this section is final unless set aside pursuant to the provisions of section 57-57-09.

57-57-09. Public hearing by petition - Hearing board - Presiding officer.

The owner or agent of the owner, board of township supervisors, or board of county commissioners may petition the state forester for a public hearing to take testimony and hear evidence on whether lands shall be entered or continued under this chapter. Upon filing of the petition, the state forester shall set the matter for public hearing at a time as the state forester sees fit in the county in which the land is located, but not later than ninety days from the date of the filing of the petition. The state forester, the county auditor, and the local assessor of the township in which the lands are located constitute the hearing board. The state forester is the presiding officer of the hearing and shall give thirty days' written notice of the hearing to the owner or agent of the owner, board of township supervisors, and the board of county commissioners. The hearing may be deferred not more than sixty days after notice to the parties involved.

57-57-10. Procedural rules for hearing - Decision - Appeal.

A written record must be made of all testimony offered at any hearing before the hearing board. A transcript of the testimony taken by or before the hearing board must be furnished to any party upon written request. After hearing all the testimony and after making any independent investigations it deems necessary, the hearing board shall make its findings of fact

and the decision of the majority will rule. The state forester as the presiding officer of the hearing board shall make and enter this order accordingly within thirty days after the final adjournment of the hearing. An appeal may be taken to the district court of the county in which the land in question is located within thirty days after notice is given to each of the parties to the proceeding. Only final orders or decisions substantially affecting the rights of parties are appealable. A procedural order made by the state forester or the hearing board during the hearing is not a final order nor an order affecting a substantial right. An appeal may be taken pursuant to the provisions of section 28-32-42. An appeal from a determination or decision of the hearing board does not stay the enforcement of the determination or decision unless the court to which the appeal is taken, upon application and after a hearing, orders a stay. The court may impose such terms and conditions for a stay of the enforcement of the determination or decision appealed as it deems proper.

57-57-11. Forest stewardship recognition.

Recognition is appropriate for landowners and organizations demonstrating special forest stewardship efforts. The state forester may establish stewardship requirements, standards, and awards for such a recognition program.