

Legislative Analysis



QUALIFIED FOREST PROPERTY RECAPTURE TAX

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House Bill 4302 (Substitute H-3)

Sponsor: Rep. Ed McBroom

Committee: Natural Resources, Tourism, and Outdoor Recreation

First Analysis (2-20-12)

BRIEF SUMMARY: The bill would amend the Qualified Forest Property Recapture Tax Act to change the formula used to determine the amount of the recapture tax.

The bill is tie-barred to House Bills 4969 & 4970, which make substantial changes to the Commercial and Qualified Forest programs. Those bills are discussed in detail in a separate analysis.

FISCAL IMPACT: House Bill 4302 (H-3) changes the recapture tax formula used when property is removed from the Qualified Forest program. The bill's provisions would significantly reduce the amount of recapture tax assessed on properties that are removed. Revenue from the Qualified Forest recapture tax is collected by the State Treasurer and deposited into the state's General Fund account. For a detailed description, see *Fiscal Information*, later in the analysis.

THE APPARENT PROBLEM:

The Qualified Forest Property Tax Exemption program was created through 2006 PA 378 with the intent of providing a tax incentive to private forest land owners to keep and manage their land for timber production. Land enrolled in this program is exempt from local school operating taxes (18 mills). When land is taken out of the Qualified Forest program the landowner must pay a recapture tax as required under 2006 PA 379 (see below for how the recapture tax is calculated).

As enacted, the recapture tax formula is very punitive and results in a high tax rate. It could be several decades before a land owner would receive a net tax benefit for having enrolled in the program. The high recapture tax has prevented many private land owners from enrolling their land into the program. For the fiscal year ending September 30, 2011, the statewide acreage cap was set at 1.2 million acres. As of September 30, 2011, approximately 70,000 acres were enrolled in the program.

This bill would adjust the recapture tax formula to require a landowner to pay back only the benefit he or she received while enrolled in the program. This bill, along with House Bills 4969 and 4970, are intended to encourage more participation in the program.

THE CONTENT OF THE BILL:

Currently, the statute requires as the first step in the calculation of the recapture tax, multiplying the property's state equalized valuation (SEV) at the time the property is

converted by a change in use, by the total millage rate levied by all taxing units in the local tax collecting area where the property is located. The calculation is then multiplied by 7. The recapture tax is doubled if no harvest has taken place consistent with the approved forest management plan.

House Bill 4302 would change the first step in the calculation so that it would require multiplying the property's taxable value at the time the property is converted by a change in use by the number of operating mills levied by the local school district in which the property is located under Section 1211 of the Revised School Code (MCL 380.1211).

The product of that calculation would then be multiplied by the number of years the land received an exemption as qualified forest property (under Section 7JJ of the General Property Tax Act) or commercial forest property (under Section 51105 of the Natural Resources and Environmental Protection Act), not to exceed 7 years. If there had not been a harvest of forest products on the property consistent with the approved forest management plan, the recapture tax would then be doubled.

The bill is tie-barred to House Bills 4969 and 4970, which make changes to the operation of the Qualified Forest Property Program and the Commercial Forest Program. Those bills are described in a separate summary.

MCL 211.1034

FISCAL INFORMATION:

House Bill 4302 (H-3) changes the recapture tax formula used when property is removed from the Qualified Forest program. The bill's provisions would significantly reduce the amount of recapture tax assessed on properties that are removed. Revenue from the Qualified Forest recapture tax is collected by the State Treasurer and deposited into the state's General Fund account. According to the DNR, in FY 2011 there were approximately 70,000 acres in the Qualified Forest Program and 2.2 million acres in the Commercial Forest Program.

Under current law, the recapture tax is determined by multiplying the property's State Equalized Value (SEV) at entry into the program by the entire local millage rate and, then, multiplying that amount by seven. If there has been no timber harvest, then that amount is also multiplied by two.

If there has been a timber harvest, then the calculation would be depicted as follows:

$$\text{Current recapture tax} = \text{SEV} \times \text{entire local millage rate} \times 7$$

House Bill 4302 (H-3) provides that the recapture tax would be determined by multiplying the property's **taxable value**, rather than the property's SEV. In addition, that value would be multiplied by only the number of the **local school district's operating mills**, rather than all the local millages levied in a community. That amount would then be multiplied by the sum of the **number of years the property received an exemption** as qualified forest property and as commercial forest property, up to seven years. If there has been no timber harvest, then that amount is also multiplied by two.

If there has been a timber harvest, then the calculation would be depicted as follows:

$$\text{Proposed recapture tax} = \text{Taxable Value} \times \text{local school millage rate} \times \text{years in QF and CF programs (up to 7)}$$

Under the provisions of the bill, land owners removing property from the Qualified Forest Program would be assessed significantly lower recapture tax. The amount would be lower because the proposed formula would use a property's taxable value, which is a lower property value than the SEV, would only multiply that value by the local school district millage (rather than all local millages), and would multiply that value by the number of years the land was in the programs (up to 7), rather than the current requirement of 7.

The following table illustrates the change in recapture tax that would be assessed for the same piece of property under current law and under the provisions of House Bill 4302 if that property had a SEV of \$27,000, a taxable value of \$10,000, and was in only the Qualified Forest Program 7 or more years. Under the provisions of the bill, if this piece of property was withdrawn from the Qualified Forest Program, the recapture tax would only be \$1,260 instead of the \$7,655 that would be due under current law. (The information in the table below was provided by the DNR.)

Recapture Tax Comparison: Current Law and House Bill 4302

<i>Current Qualified Forest Program (2006 PA 379)</i>	<i>Property SEV</i>	<i>Total millage rate of all taxing units</i>	<i>Factor of 7</i>	<i>Recapture Tax Due</i>	<i>Doubled if no harvest</i>
<i>Example:</i>	<i>\$27,000</i>	<i>40.5</i>	<i>7</i>	<i>\$7,655.00</i>	<i>\$15,310.00</i>

<i>House Bill 4302</i>	<i>Taxable Value</i>	<i>18 mills</i>	<i>No. Years in QF</i>	<i>Recapture Tax Due</i>	<i>Doubled if no harvest</i>
<i>Example:</i>	<i>\$10,000</i>	<i>18</i>	<i>7*</i>	<i>\$1,260.00</i>	<i>\$2,520.00</i>

**Note: Example assumes property has been in program 7 years or more. If less than 7 years, then amount would be multiplied by a lower number of years and the recapture tax under HB 4302 would be a lower amount than shown.*

As written, the bill would reduce local school operating revenue by an unknown amount, depending on the taxable values of the parcels converted into qualified forest property. As a result, the School Aid Fund (SAF) would be required to make up for the reduction to maintain the foundation allowance. In the event that there is inadequate SAF revenue to make up for the shortfall, the foundation allowance would be reduced on a pro rata basis.

Under current law, recapture taxes levied under the Qualified Forest Program are to be deposited into the State's General Fund. According to the Department, very little land has been removed from the Qualified Forest program as of yet, thus, there has been no significant amount of recapture tax deposited into the General Fund to date. However, the bill may potentially reduce future General Fund revenues based upon possible lower recapture taxes in the future.

ARGUMENTS:

For:

The punitive nature of the recapture tax is thought to be discouraging enrollment in the Qualified Forest program because it would require land owners to stay in the program for several decades to realize any net property tax reduction. The bill would make the recapture tax fairer and would make the Qualified Forest program more attractive to private landowners. It makes the penalty more consistent with the benefit received, as both will now be based only on local school operating mills and taxable value.

Against:

There was no written or spoken testimony in opposition.

POSITIONS:

The Department of Natural Resources supports the bill. (2-7-12)

Plum Creek supports the bill. (2-7-12)

Michigan Forest Association supports the bill. (10-18-11)

Michigan Biomass supports the bill. (2-7-12)

Michigan Association of Timbermen supports the bill. (2-7-12)

Michigan Forest Products Council supports the bill. (2-7-12)

Great Lakes Timber Professionals Association supports the bill. (2-7-12)

Michigan United Conservation Clubs supports the bill. (2-7-12)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.