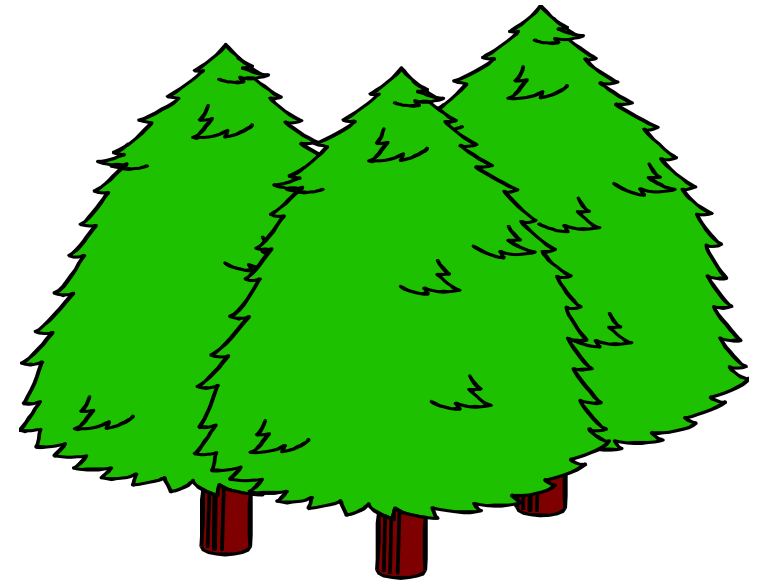


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# CLASSIFICATION AND TAXATION OF FOREST LAND IN MASSACHUSETTS CHAPTER 61



## INTRODUCTION

The forest land classification program under Massachusetts General Laws Chapter 61 is designed to encourage the preservation and enhancement of the Commonwealth's forests. It offers significant local tax benefits to property owners willing to make a long term commitment to forestry. In exchange for these benefits, the city or town in which the land is located is given the right to recover some of the tax benefits afforded the owner when the land is removed from classification and an option to purchase the property should the land be sold or used for non-forestry uses.

## QUALIFICATIONS

A parcel must consist of at least 10 contiguous acres of land under the same ownership (either person or persons or another legal entity holding title to a parcel) and be managed under a 10 year management plan approved and certified by the State Forester in order to qualify for and retain classification as forest land under Chapter 61.

Buildings and other structures located on the parcel, as well as the land on which they are located do not qualify for classification and will continue to be assessed a regular local property tax.

## APPLICATIONS

For a parcel to be classified as forest land under Chapter 61, the property owner must submit a written application to the State Forester prior to July 1 in any year. After certification the owner shall submit to the assessors prior to October 1 of the same year evidence of certification together with the approved management plan. Classification shall take effect on January 1 of the year following certification and taxation under this chapter and shall commence with the fiscal year\* beginning after said January 1.

(\*the fiscal year of cities and town begins July 1 and ends the following June 30)

## MUNICIPALITY'S RIGHT OF FIRST REFUSAL:

When a landowner decides to sell classified land for a residential, commercial or industrial use, or convert it to such a use, it extends the operation of the first refusal option for one full tax year after the property is removed from classification. This protects the municipality's opportunity for acquisition in the event the landowner removes the land from classification and immediately decides to develop the land. They now follow the definition of a bona fide offer and the appraisal procedures that apply in cases of conversion. The revised assignment provision authorizes a city or town to assign its option to a nonprofit conservation organization or to the Commonwealth or any of its political subdivisions under the terms or conditions that the mayor or board of selectmen may consider appropriate, provided that no less than 70% of the land is maintained in the forest, agricultural or horticultural, or recreational use.

## CONVERSIONS NOT INVOLVING A SALE

The town or its assignee will contract (at their expense) to conduct a first appraisal. If the landowner is dissatisfied with such appraisal, the landowner, at the landowner's expense, may contract for a second appraisal. If after the completion of the second appraisal the parties cannot agree on a price they may contract for third appraisal with a mutually agreed upon Appraiser, the cost to be born by both parties equally. The third appraisal is the final determination of price. It must be delivered to the parties within 90 days of the initial notice to convert. At any time in the process, the landowner may withdraw their notice to convert (and the subsequent ability of the town or its assignee to purchase the property) with no penalty, but they may not follow through with the conversion.

Landowners may now penalty tax free transfer land to another chapter if qualifies for under that statute (i.e. chapter 61 to chapter owner must pay all fees the Registry for releasing the lien.



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## **MUNICIPAL OPTION TO PURCHASE**

**Land cannot be sold or converted for another use within one year of being taxed under the chapter without giving the town a notice to sell or convert.**

With the notice the landowner shall provide to the City or Town:

- a statement of intent to sell or convert, a statement of proposed use of the land, the location and acreage of land as shown on a map drawn at the scale of the assessor map in the city or town in which the land is situated, and the name, address and telephone number of the landowner.
- A certified copy of an executed purchase and sale agreement specifying the purchase price and terms and conditions of the proposed sale, which is limited to only the property classified under this chapter (for intent to sell.)

The Purchase and Sale Agreement may not be dependent upon potential changes to current zoning or conditions or contingencies relating to the potential for, or the potential extent of, subdivision of the property for residential use or the potential for, or the potential extent of development of the property for industrial or commercial use.

This provides to the town under their right of first refusal of their opportunity to buy the property. During the 120-day period, the city or town or its assignees shall have:

- The right, at reasonable times and upon reasonable notice, to enter upon said land for the purpose of surveying and inspecting said land, including but not limited to soil testing for the purposes of Title V and the taking of water samples.
- All rights assigned to the buyer in the purchase and sales agreement contained in the notice of intent.

The town or its assignee shall, prior to the end of the 120 decision period, provide “a proposed purchase and sale contract or other agreement between the assignee and landowner which, if executed, shall be fulfilled within a period of not more than 90 days” unless otherwise agreed to in writing by the landowner

## **BETTERMENTS**

A betterment may only be assessed to the extent that the betterment supports the forestry, farm or recreational use of the land.

## **LIEN**

Once an application for classification is approved, the local assessors record a statement at the Registry of Deeds indicating that the parcel has been classified as forest land under Chapter 61. That statement will constitute a lien on the parcel for all taxes due under Chapter 61. The owner must pay all fees charged by the Registry for recording or releasing the lien.

## **ANNUAL TAXATION**

Under Chapter 61, the owner still pays an annual property tax to the city or town in which the classified land is located. The tax is based on the valuations as determined by the Farmland Valuation Advisory Commission and their personal knowledge, but all factors shall be limited specifically to data specific to forest production similar to chapter 61A.

## **CONVEYANCE TAX**

A conveyance tax shall be issued if the property is sold for another use within ten years of its date of earliest uninterrupted use or its acquisition by a new owner. The tax shall be 10% (minus 1% for every year the property has been used or owned) of the value of the property.

There is no conveyance tax (but the restriction carries forward) if:

- The land is acquired for a natural resource purpose by the government or a non-profit conservation organization.
- Transaction between family where no consideration is given
- There is a foreclosure
- The land meets the definitions of forest, agricultural, horticultural or recreational land under §1 and 3 of 61A, or §2 and 3 of 61A, or §1 of 61B.

Any sale with an affidavit signed by the new landowner stating that the use of the land will not change within the next ten years removes the liability from the seller. If there is then a subsequent change in the following ten year period, the conveyance tax will be due and payable at that time by the new owner.

### ROLL BACK TAXES

Whenever land classified under Chapter 61 no longer meets the definition of forest land, it shall be subject to roll-back taxes for the tax year in which it is disqualified and in each of the 4 immediately preceding tax years that the land was so valued, assessed and taxed. For each tax year, the roll-back tax shall be an amount equal to the difference, if any, between the taxes paid or payable for that tax year and the taxes that would have been paid or payable in that tax year had the land been valued, assessed and taxed if the property was not enrolled in Chapter 61.

If, at the time during a tax year when a change in land use has occurred, the land is not valued, assessed and taxed under this chapter, then the land shall be subject to roll-back taxes only for those years of the 5 immediately preceding years in which the land was valued, assessed and taxed under this chapter.

In determining the amount of roll-back taxes on the land, the assessors shall ascertain the following for each of the roll-back tax years involved:

- The full and fair value of the land
- The amount of the land assessment for the particular tax year
- The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment of the land from the amount of the land assessment
- The amount of the roll-back tax for that tax year by multiplying the amount of the additional assessment by the property tax rate for that fiscal year.

Roll-back taxes will be subject to simple interest of 5% per annum.



### ABATEMENTS

The owner may contest the annual land or products tax by applying to the local assessors for an abatement. Applications for abatement must be made in writing on an approved form and must be filed with the assessors within 30 days of the date the owner is notified of the tax. If the owner disagrees with the assessors' decision or 3 months from the date the abatement application was filed, whichever is later. The assessors cannot grant any abatement if the owner does not comply with all application deadlines and procedures.