Chapter 528

1955 REPLACEMENT PART

Reforestation Lands and Taxation Thereof

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528.010 Definitions. When used in this chapter:

(1) "Board" means the State Board of Forestry.

(2) "Commission" means the State Tax Commission.

(3) "Forest crop" means timber, chittam bark, Christmas trees and any other marketable growth from the forest soil, but does not include snags which are fallen or felled and destroyed or left lying upon the ground.

(4) "Forest fee" means that uniform annual charge made by the state as license for using land for forest crop production.

(5) "Harvesting" means cutting, severing or removing for use or sale.

(6) "Legal description" means United States Government legal description, or description by metes and bounds.

(7) "Person or owner" means any person, firm, association or corporation.

(8) "Reforestation lands" means lands suitable chiefly for forest crop production and meeting a standard equivalent to the requirements acceptable for release under the provisions of ORS 527.010 to 527.240.

(9) "Yield tax" means that percentage of the gross value, immediately prior to harvesting, of any forest crop in addition to all ad valorem taxes and forest fees previously paid on land and crop. [Amended by 1955 c.578 §1]

528.020 Purposes of chapter. The purposes of this chapter are:

(1) To encourage the growth and protection of forest crops on lands chiefly valuable therefor.

(2) To provide a fair, stable, continuous tax revenue from such lands.

528.030 Board of forestry to propose classification of certain lands as reforestation lands; listing of such lands. The board shall determine what lands within the state may be classified as reforestation lands, and, upon such determination, shall prepare a list of such lands, by counties, giving the legal description thereof and forward to the county assessor of each county wherein the lands are situated a list of the lands in that county which the board proposes to recommend for classification as reforestation lands.

528.040 Hearing on proposed classification; notice of hearing required. A hearing on the classification proposed under ORS 528.030 shall thereafter be held before the board, or one or more of its members designated by it, at the courthouse in the county seat in each county wherein any lands proposed for such classification are situated. The board shall give notice of such hearing by publication in at least two issues of one or more newspapers having general circulation in the county wherein the hearing is to be held, the last publication of the notice to be at least 30 days prior to the date of the hearing. The board shall also send by mail to each owner of land proposed for such classification in the county, at the address of the owner as shown on the records of the tax collector of the county, and to the commissioner and the assessor of the county a similar notice of the hearing. The notice shall be mailed at least 60 days prior to the date specified in the notice for the hearing and shall set forth the date when and the place where the hearing will be held. At the hearing the board or members holding the hearing shall hear all objections to, and suggestions, arguments and remonstrances for or against the proposed classification.

528.050 Recommendation and report as to classification made to State Tax Commission; commission to make final determination. (1) After the hearing, as provided in ORS 528.040, the board shall reconsider the proposed classifications and prepare a list of the lands which it recommends for classification as reforestation lands for each of the counties, giving the legal descriptions of the lands, and shall forward the lists to the commission, together with a report of the hearings held by the board or its committee, embodying the objections to and the arguments for the proposed classification with respect to each parcel or group of parcels of land.

(2) The commission shall consider the reports of the hearings and any matter bearing thereon, review the list of lands recommended by the board for classification as reforestation lands, and prepare an order finally determining the classification thereof.

(3) The commission shall forward certified copies of the order to the assessor and county clerk of the county wherein the lands are situated, one certified copy to the board, and one certified copy to the owner, referring to his lands only.

528.060 Limitations on classification. No land shall be classified as reforestation land which was valued and assessed for its

forest growth on the 1928 tax rolls of Oregon without the approval of the county court of the county in which the land is located, or until after the forest growth so valued and assessed has been cut and removed. Nothing contained in ORS 528.030 to 528.060 shall be construed as prohibiting the commission from classifying land as reforestation land where, after harvesting mature timber, an immature stand is left for a future forest crop.

528.070 Changes of classification to be considered annually by board. The board each year, on or before October 1, shall determine what lands, not already classified as reforestation lands, should be so classified, and thereafter the procedure required of the agencies named in this chapter and described in ORS 528.030 to 528.060 shall be followed. The board shall ascertain periodically if lands classified as reforestation lands are being protected as provided by law and are being used primarily for forest crop production; and, if they are not being so used or, in its judgment, such lands are erroneously classified under the provisions of ORS 528.010 and 528.030 to 528.060, the board shall recommend to the commission that they be removed from this classification, as provided in ORS 528.080.

528.080 Tax commission may change classification of reforestation lands; effect on taxation of land; transfers to tax-exempt owners, effect on classification and taxation. (1) The commission may, upon the basis of facts submitted to it by the board, change in whole or in part the classification of any reforestation lands, when, in its judgment, such lands were erroneously classified under the provisions of ORS 528.010 and 528.030 to 528.060, or are not being used so as to accomplish the purposes of this chapter and when, in its judgment, such change in classification is in the public interest.

(2) Whenever any parcel of land is removed from the classification of reforestation land, it shall thereafter be subject to the ad valorem property tax of this state and there shall be due and owing to the county in which the parcel of land is situated a sum of money equal to the excess, if any, of the ad valorem property tax for comparable land in that county, exclusive of the value of forest crops thereon, over the amount of the forest fee, as provided in ORS 528.090, paid upon the land for each year while so classified. The excess, if any, shall be due and payable 30 days after the date of the order of removal, and unless so paid shall be subject to the same interest, penalty and cost charges as apply to delinquent ad valorem property taxes, and the procedure for its collection shall be the same as provided for by law.

(3) The owner of any parcel of land classified as reforestation land or the owner of any forest crop thereon shall, not less than 10 days prior to the transfer of either the land or the forest crop or any part thereof to an owner in whose hands the property is exempt from ad valorem taxation, give notice of such transfer by registered mail to the tax collector of each county wherein the land or crop is situated, to the State Board of Forestry, and to the State Tax Commission. The commission, immediately upon receipt of such notice, shall order the land removed from classification effective upon the date of the proposed transfer. As of the date of such transfer there shall be due and owing to each county in which such lands are situated a sum of money equal to all the ad valorem property taxes for comparable land, including the value of forest crops thereon, for all years of classification, which would have been paid to that county had the lands not been so classified, less the sum of the forest fees paid upon such land plus the yield taxes paid for crops harvested from such land, prior to the date of transfer. Such sum shall be a debt due and owing to such county from the owner of the lands as of the date of transfer and shall be payable on or before 30 days after the date of transfer. Unless so paid, the sum shall be delinquent and, together with any accrued penalty, may be charged by the tax collector against the real property of the owner as delinquent taxes in the same manner and with the same force and effect as delinquent personal property taxes are charged against real property under ORS 311.645. Unless the notice provided for herein is given, there shall be added to the sum due a penalty of 100 percent thereof, except that if it is shown that the failure to give the notice is due to reasonable cause and not to wilful neglect or fraud, there shall be added to the sum an amount equal to one-half of one percent thereof for each day or fraction of a day during which such failure continues, not exceeding 25 percent in the aggregate.

(4) Except as provided in subsection

(3), no order of removal from classification as reforestation lands shall become effective until June 30 following the date thereof.

(5) All collections under this section shall be deposited with the county treasurer who shall apportion them among the various taxing districts at the same time and in the same manner as is provided in ORS 528.140 with respect to forest fees and yield taxes. [Amended by 1955 c.578 §2]

528.090 Reforestation lands to be removed from assessment roll; forest fee in lieu of ad valorem tax; collection of fee. (1) No order of classification as reforestation lands shall become effective until July 1 following the date thereof. After classification of any lands as reforestation lands and after notice thereof, given as in this chapter provided, the county assessor shall remove such lands from the current assessment roll and enter them on a separate roll. Lands classified by the commission as reforestation lands are not, while so classified, subject to ad valorem property taxes, except as to such taxes which prior to the time of classification have become a lien against the premises or any portion thereof.

(2) In lieu of the ad valorem property tax, there shall annually be due and payable by the owner of such reforestation lands a forest fee. The premises, during the period of classification as reforestation lands, shall be subject only to an annual forest fee of five cents per acre on lands west of the summit of the Cascade Mountains or two and one-half cents per acre on lands east of the summit of the Cascade Mountains and, in addition, irrespective of any subsequent removal from classification other than that provided in subsection (3) of ORS 528.080, to a yield tax on all forest crops harvested from such land, as in this chapter provided.

(3) The forest fee shall become effective as of the effective date of classification, July 1, and on such date become a lien against the premises and shall become due and payable at the same time and in the same manner, with the same interest, penalty and cost charges as apply to the ad valorem property taxes in this state, and, in case of delinquency, shall be subject to the same procedure for foreclosure as are property tax liens. [Amended by 1955 c.578 §3]

528.095 Defects in notice and other defects, when cured. The removal of any lands from the assessment roll by the county assessor, and the listing by him upon a separate roll of such lands as reforestation lands as provided by ORS 528.090, when done each year for a period of five consecutive years, shall constitute sufficient notice of the classification of such lands as reforestation lands so as to cure any defect in the notice provided for in ORS 528.040 or such other defect as would otherwise void the classification. [1955 c.578 §6]

528.100 Permit required before harvesting forest crop from reforestation lands; tax commission to fix unit value of crop. (1) No person shall harvest or cause to be harvested any forest crop, or remove or cause to be removed any forest growth, from privately owned lands which have theretofore been classified as reforestation lands, without first having obtained a written permit so to do from the commission.

(2) The permit shall set forth the unit value, by units of proper measurement, of the respective kinds of forest crops on the premises, the unit value to be determined by the commission, from all evidence it commands, to be the true unit market value of the respective products, immediately prior to harvesting. The unit values shall be filed and open to public inspection. [Amended by 1953 c.326 §10]

528.110 Forest crops harvested from reforestation lands subject to yield tax; report of crop harvested. All forest crops harvested from lands classified as reforestation lands shall be subject to a yield tax of 12.5 percent of the value, as determined by the commission, of every unit thereof. In the harvesting of forest crops on such lands the owner shall keep an exact record of the number and kinds of units of all forest products harvested from the lands described in the written permit required by ORS 528.100. Within 30 days after June 30, and within 30 days after December 31 of each year, the owner shall submit a report to the commission and to the tax collector of the county wherein the lands are situated listing the number and kinds of units of all forest products harvested from the lands during the preceding six months. The reports shall be made on forms prepared and approved by the commission. The report to the tax collector shall be accompanied by the owner's remittance, in legal tender, of the yield tax due hereunder. [Amended by 1953 c.326 §10]

528.120 Penalty for failure to obtain harvesting permit or to pay tax; collection of penalty, procedure. (1) Any person or owner harvesting forest crops from lands which have been classified as reforestation lands who fails first to obtain a permit from the commission, or to make his remittance of yield taxes due under ORS 528.110 within the 30-day period, shall be subject to a penalty of an additional yield tax of 10 percent of the tax due. The amount of the yield tax and penalty shall be a first lien against the forest crops and land and a debt due and owing to the county from the owner of the lands at the time the forest crops are harvested.

(2) The tax collector of the county wherein the lands are situated shall, in addition to the remedies provided by statute for the collection of taxes against real and personal property, maintain an action against the owner of the land for its collection with the penalty and with interest thereon from the 30-day period at the rate of 10 percent per annum until paid. The action shall be maintained in the name of the county in which the taxes are due.

(3) At the time of commencement of the action for the collection of said taxes, penalty and interest, the county shall have the benefit of all laws of this state pertaining to provisional remedies against real and personal property of the party against whom the taxes have been levied, without the necessity of filing an affidavit, as otherwise provided by statute. The county clerk of the county wherein the action is commenced shall immediately issue a writ of attachment upon application therefor by the plaintiff. The writ shall be directed to the sheriff of as many counties as the district attorney may direct. [Amended by 1953 c.326 §10; 1955 c.578 §4]

528.130 [Repealed by 1953 c.326 §10]

528.140 Disposition of forest fees and yield taxes. All forest fees and yield taxes collected under the provisions of this chapter shall be deposited by the tax collecting officer with the county treasurer in the same manner and at the same time that other taxes are remitted to the treasurer. The county treasurer shall apportion the same to the various taxing districts in which the lands are situated in the proportion that the tax levy of each taxing agency or district bears to the total tax levy against the property within such taxing district for the year in which the levy is made.

528.150 Double taxation forbidden; ad valorem taxation of values other than forest values. Any land and forest crop taxed under the provisions of this chapter shall not be otherwise assessed and taxed under the laws of this state; but nothing contained in this chapter shall prevent the assessment and taxation under the ad valorem property tax laws of all buildings, improvements, water and power rights, mineral or other values, other than forest values, as in this chapter defined, upon any lands taxed under the provisions of this chapter.

528.160 Powers of commission. The commission may issue permits for harvesting forest crops from reforestation lands, fix unit values of forest crops immediately prior to harvesting and make orders, rules and regulations necessary to carry out and accomplish the purposes of this chapter. [Amended by 1953 c.326 §10]

528.170 Right of entry of commission and board; examination of books and records; taking testimony. Members of the commission or of the board, or authorized representatives of either the commission or board may go upon any lands classified under this chapter. The commission or board, for the purpose of ascertaining the correctness of any return or report made pursuant to this chapter by any owner or agent, may examine or cause to be examined, by any agent or representative designated by it for that purpose, any books, papers, records or memoranda bearing upon the matter, and may require the attendance of the owner or of any person having knowledge of the premises, and may take testimony and require proof material for its information, with power to administer oaths to such persons. [Amended by 1953 c.326 §10]

528.180 Oaths and acknowledgments; false return or representation prohibited. (1) All officers empowered by law to administer oaths, members of the board or commission and such officers as they may designate may administer an oath to any person or take the acknowledgment of any person in respect to any return or report required by this chapter or by the rules and regulations of the board or commission under this chapter.

(2) No person shall knowingly make any false return or false representation under

the provisions of this chapter. [Amended by 1953 c.326 §10]

528.190 Review of acts of board or commission and appeal from commission's determinations; bond required before harvesting crop which is subject of proceedings; bond to secure payment of yield tax. (1) Any person aggrieved by any act of the board or commission affecting his property or interest as a taxpayer under the reforestation law may appeal to the commission by filing a petition with the commission in the form and manner prescribed for appeals thereto under the ad valorem property tax laws from county boards of equalization, to the extent that they may be properly deemed to apply; provided, that such petition must be filed within 30 days after the order complained of is mailed to the petitioner or the act complained of is made known to him. All petitions shall be heard in the manner prescribed by such laws, and appeals to the circuit court and Supreme Court may be taken as therein provided.

(2) Before harvesting any forest crop which is the subject of proceedings before the commission or the courts, the owner thereof shall furnish good and sufficient bond in such amount as the commission shall deem adequate and proper, indemnifying the county against any loss of taxes pending adjudication of the issues.

(3) Whenever the commission has any doubt as to the financial responsibility of a permittee, it shall require of said permittee a good and sufficient bond in such an amount as the commission shall deem adequate and proper, indemnifying the county against any loss of yield tax revenue. [Amended by 1953 c.326 §10]

528.990 Penalties. (1) In addition to the penalties provided in ORS 528.120, violation of subsection (1) of ORS 528.100 is punishable, upon conviction, by a fine of not more than $1,000 or by imprisonment in the county jail for not more than six months, or both. Each day's harvesting of such forest products without a permit shall constitute a separate and distinct violation.

(2) Violation of subsection (2) of ORS 528.180 is punishable, upon conviction, by a fine of not less than $100 nor more than $1,000 or by imprisonment in the county jail for not less than 30 days nor more than one year, or both. Such fine and imprisonment shall not relieve any person from full payment, with penalty and interest, of any amount due under this chapter.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

CHAPTER 529

[Reserved for expansion]