

~~house of representatives, who will in turn forward the statement to the majority and minority caucuses and to the appropriate legislative committees)) rules review committee.~~

Passed the Senate March 9, 1982.

Passed the House March 6, 1982.

Approved by the Governor April 3, 1982.

Filed in Office of Secretary of State April 3, 1982.

## CHAPTER 222

[Engrossed Substitute Senate Bill No. 4663]

### FOREST PRODUCTS INDUSTRY RECOVERY ACT

AN ACT Relating to timber sales; amending section 33, chapter 255, Laws of 1927 as last amended by section 1, chapter 52, Laws of 1975 1st ex. sess. and RCW 79.01.132; adding new sections to chapter 79.01 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. (1) The legislature finds as follows:

(a) A competitive, financially healthy forest products industry is important to the economic well-being of the state and the trust beneficiaries of the state forest lands administered by the department of natural resources. The forest products industry provides employment, tax revenues, and a long-term, continuous source of income for the state educational system and other trust beneficiaries. A reduction in the number of timber companies would increase unemployment, decrease tax revenues, and reduce competition and the levels of short-term and long-term income for the trust beneficiaries.

(b) The forest products industry is currently suffering an economic downturn. Current economic conditions will hinder certain purchasers from meeting timber contract obligations to the state and may lead to business failures.

(c) The United States forest service and the state of Oregon have provided certain relief to some timber sales purchasers. Action by this state is necessary to maintain a competitive timber sales program and to insure a regular and timely harvest of timber from state lands.

(d) The interests of the state and the trust beneficiaries will be best served by modifying current state law as it applies to the state's timber sales program.

(e) The measures provided for in this act balance the needs of the trust beneficiaries for short-term revenue and cash flow with the long-term need for a competitive forest products industry which will provide a sustained income to the trusts in the future.

(2) The legislature further finds that the department of natural resources should have authority to take certain steps to:

- (a) Help retain the values of existing sales of timber;
- (b) Promote harvesting and the production of income to the state;
- (c) Stimulate employment in the forest products industry; and
- (d) Assist the forest products industry to assure future diversity and competitiveness.

(3) The legislature further finds that the board of natural resources, as the designated trust land manager, is the appropriate body to establish annual sales levels of timber from state trust lands, and that a significant volume of short-term sales offered over the course of the next two years will aid in efforts to generate sufficient trust income and help meet the goals outlined in subsection (2) of this section.

NEW SECTION. Sec. 2. \*Sections 3 through 9[10] of this act shall be known as the forest products industry recovery act of 1982.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout \*sections 3 through 9[10] of this act.

- (1) "Commissioner" means the commissioner of public lands.
- (2) "Department" means the department of natural resources.
- (3) "Timber sale contract" means a contract for the purchase of state timber from the department which has a minimum appraisal value over twenty thousand dollars and has been purchased at public auction by voice or sealed bid.
- (4) The term "purchaser" shall include any affiliate, subsidiary or parent company thereof.

NEW SECTION. Sec. 4. Notwithstanding the provisions of RCW 79-.01.132, the department, upon application by the purchaser of an existing state timber sale contract entered into between January 1, 1978, and July 1, 1980, or any Lincoln day blowdown sales contracts purchased in 1980, is authorized to extend such contract without charge one day for every day the purchaser engages in or has agreed to engage in the removal of timber purchased by that purchaser under a timber sale contract: PROVIDED, That no more than sixty percent of the timber sales sold in calendar years 1982 and 1983 shall be designated by the department as sales on which a purchaser may earn extension time credits. Such extension shall be in accordance with and computed on the basis of rules adopted by the department, including specifying the minimum volume required to be removed on a daily basis to earn an extension time credit. The department's authority to grant the extensions under this section expires on December 31, 1983. The extension days earned as provided in this section may only be utilized to extend a state timber sale without charge up to and including December 31, 1984.

NEW SECTION. Sec. 5. (1) The department of natural resources is authorized for existing sales of timber purchased at auction between January 1, 1978, and July 1, 1980, or any Lincoln day blowdown sales contracts

purchased in 1980, which sales had a minimum appraised price of more than twenty thousand dollars, to enter into agreements with a purchaser authorizing the credit of the extension fee to the purchase of timber if the extension fee is paid prior to the expiration date of the existing contract or an extension thereof. The credit shall be applied to payments for the removal, processing, or cutting of timber or other forest products conveyed. The department of natural resources may enter into agreements under this section upon application by a purchaser of a qualifying sale in accordance with rules adopted by the department.

(2) Any person extending a timber sale contract on which that person has paid extension fees prior to the effective date of this act is entitled to an equivalent extension of time without payment on that contract up to a maximum of one year per contract.

NEW SECTION. Sec. 6. (1) Subsections (2), (3) and (4) of this section shall only apply to defaults by purchasers of any state timber sale contract entered into between January 1, 1978, and July 1, 1980, or any Lincoln day blowdown sales contracts purchased in 1980:

(a) If the default is after the effective date of this act; and

(b) If the department receives notification from the purchaser in writing prior to July 15, 1982; and

(c) Limited to a total number of sales having a cumulative volume remaining under contract of not more than fifteen million board feet of timber. Such volume of each sale shall be determined by utilizing the original cruise estimates.

(2) Any purchaser defaulting on a contract under subsection (1) of this section shall not be refunded any cash moneys paid to the department or any other moneys expended as a result of the contract, including, but not limited to, cash deposits, extension fees, bond deposits, or interest charges. That purchaser shall also be charged a fee of twenty-five hundred dollars for the administrative costs of reselling the timber.

(3) The purchaser shall receive a credit from the department for the value of any road work completed. The value of the road work shall be the value of the percentage of road work completed based on the original appraisal for the entire road work on the sale as determined by the department of natural resources. Additional credits shall not be allowed on the defaulted contract and additional damages, fees, or penalties shall not be assessed by the department against the purchaser.

(4) The credit for road work completed shall be used, at the choice of the purchaser of state timber, as an off-setting dollar amount of up to one-half of the price of stumpage being purchased, or as an off-setting dollar amount of up to one-half of any cash security deposits required on a contract for the purchase of state timber, or as an off-setting dollar amount of up to one-half for any extension fee due on a contract for the purchase of state timber.

(5) Defaults by a purchaser on sales not falling within the provisions of subsection (1) of this section shall be governed by the applicable provisions of state law, rules, and timber sale contracts in existence prior to the effective date of this act.

NEW SECTION. Sec. 7. If a timber sale contract otherwise eligible for extension or default under sections 3 through 6 of this act is in default, it may be extended by paying the extension fee at the rate provided under the contract of sale from the date of the expiration of the contract, or from the date of the last extension, to the date of application for extension or default under sections 3 through 6 of this act.

NEW SECTION. Sec. 8. The commissioner shall adopt rules as necessary for the administration of \*sections 2 through 9[10] of this act. However, the failure to adopt such rules shall not prevent the immediate implementation of \*sections 2 through 9[10] of this act.

NEW SECTION. Sec. 9. The interest rate on extensions granted after the effective date of this act on existing state timber sale contracts purchased prior to December 31, 1980, shall not exceed thirteen percent per year.

NEW SECTION. Sec. 10. \*Sections 2 through 9[10] of this act do not apply to any sales of timber damaged by the eruption of Mount St. Helens.

Sec. 11. Section 33, chapter 255, Laws of 1927 as last amended by section 1, chapter 52, Laws of 1975 1st ex. sess. and RCW 79.01.132 are each amended to read as follows:

When any timber, fallen timber, stone, gravel, or other valuable material on state lands is sold separate from the land, it may be sold as a lump sum sale or as a scale sale: PROVIDED, That upon the request of the purchaser, any lump sum sale over five thousand dollars appraised value shall be on the installment plan. Lump sum sales under five thousand dollars appraised value shall be paid for in cash. The initial deposits required in RCW 79.01.204, not to exceed twenty-five percent of the actual or projected purchase price, but in the case of lump sum sales over five thousand dollars not less than five thousand dollars, shall be made on the day of the sale. The purchaser shall notify the department of natural resources before any timber is cut and before removal or processing of any valuable materials on the sale area, at which time the department of natural resources may require, in the amount determined by the department, advance payment for the removal, processing, and/or cutting of timber or other valuable materials, or payment bonds or assignments of savings accounts acceptable to the department as adequate security. The amount of such advance payments and/or security shall at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for. The initial deposit shall be maintained until all contract obligations of the purchaser are satisfied: PROVIDED HOWEVER, That all or a portion of said initial

deposit may be applied as the final payment for said materials in the event the department of natural resources determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

In all cases where timber, fallen timber, stone, gravel, or other valuable material is sold separate from the land, the same shall revert to the state if not removed from the land within the period specified in the sale contract. Said specified period shall not exceed five years from the date of the purchase thereof: PROVIDED, That the specified periods in the sale contract for stone, sand, fill material, or building stone shall not exceed twenty years: PROVIDED FURTHER, That in all cases where, in the judgment of the department of natural resources, the purchaser is acting in good faith and endeavoring to remove such materials, the department of natural resources may extend the time for the removal thereof for any period not exceeding twenty years from the date of purchase for the stone, sand, fill material or building stone or for a total of ten years beyond the normal termination date specified in the original sale contract for all other material, upon payment to the state of a sum to be fixed by the department of natural resources, based on the estimated loss of income per acre to the state resulting from the granting of the extension but in no event less than fifty dollars per extension, plus interest on the unpaid portion of the contract. The interest rate shall be fixed, from time to time, by rule adopted by the board of natural resources and shall not be less than six percent per annum. The applicable rate of interest as fixed at the date of sale and the maximum extension payment shall be set forth in the contract. The method for calculating the unpaid portion of the contract upon which such interest shall be paid by the purchaser shall be set forth in the contract. The department of natural resources shall pay into the state treasury all sums received for such extension and the same shall be credited to the fund to which was credited the original purchase price of the material so sold: AND PROVIDED FURTHER, That any sale of timber, fallen timber, stone, gravel, sand, fill material, or building stone of an appraised value of five hundred dollars or less may be sold directly to the applicant for cash at full appraised value without notice or advertising.

The provisions of this section apply unless otherwise provided by statute.

NEW SECTION. Sec. 12. \*Sections 2 through 9[10] of this act shall expire December 31, 1984. Such expiration shall not, however, modify or terminate any rights created by this act prior to its expiration.

NEW SECTION. Sec. 13. \*Sections 2 through 9[10] of this act are each added to chapter 79.01 RCW.

NEW SECTION. Sec. 14. There is added to chapter 79.01 RCW a new section to read as follows:

(1) When timber situated on state lands is sold separately from the land, the sale contract shall include provisions for adjustments in the sale price to reflect changes in the market index subsequent to the time of sale. The price to be paid by a purchaser for timber removed during a calendar quarter shall equal the sum of the contract bid price and the market index change amount for that quarter.

(2) As used in this section:

(a) "Market index" means a composite index established by the department of natural resources. Each index shall consist of either the current market prices of various species and grades of logs harvested in this state, or the current market price of wood products made from logs harvested in this state. The department shall establish as many distinct indexes as it finds necessary to accurately reflect changes in market prices of various species and grades of logs or wood products made from logs.

(b) "Market index change amount" means an amount calculated by:

(i) Subtracting the market index for the calendar quarter during which the timber was sold from the market index for the calendar quarter in which the timber was removed; and

(ii) Dividing the remainder calculated under (b)(i) of this subsection by two.

NEW SECTION. Sec. 15. \*Sections 2 through 9[10] of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. \*Section 13[14] of this act shall take effect April 1, 1983.

NEW SECTION. Sec. 16. An advisory committee on timber contract price indexing is hereby created. The committee shall have eleven members. The speaker of the house of representatives shall appoint two representatives, one from each party, to be members of the committee. The president of the senate shall appoint two senators, one from each party, to be members of the committee. The commissioner of public lands shall appoint seven members of the committee representing the department of natural resources, the timber products industry, the beneficiaries of the trusts, and the public. The committee shall study \*section 13[14] of this act and make recommendations to the department of natural resources regarding the implementation of the section. The department of natural resources shall provide such assistance as may be required by the committee. The department shall report its proposed rules for timber contract price indexing to the legislature prior to January 15, 1983.

NEW SECTION. Sec. 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 11, 1982.

Passed the House March 10, 1982.

Approved by the Governor April 3, 1982.

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\*Reviser's note: The bracketed references in this chapter correct erroneous internal references which occurred during the engrossing process after a new section was added by amendment.

## CHAPTER 223

[Substitute House Bill No. 875]

### STATE AGENCIES—SUNSET REVIEW

AN ACT Relating to state government; amending section 2, chapter 285, Laws of 1977 ex. sess. and RCW 43.60A.081; amending section 40, chapter 99, Laws of 1979 and RCW 43.131.227; amending section 82, chapter 99, Laws of 1979 and RCW 43.131.228; amending section 16, chapter 289, Laws of 1977 ex. sess. as amended by section 3, chapter 22, Laws of 1979 and RCW 43.131.900; adding new sections to chapter 43.131 RCW; repealing section 1, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.010; repealing section 2, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.020; repealing section 3, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.030; repealing section 4, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.040; repealing section 5, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.050; repealing section 6, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.060; repealing section 8, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.070; repealing section 1, chapter 226, Laws of 1949 and RCW 18.04.020; repealing section 2, chapter 226, Laws of 1949 and RCW 18.04.030; repealing section 3, chapter 226, Laws of 1949 and RCW 18.04.040; repealing section 4, chapter 226, Laws of 1949 and RCW 18.04.050; repealing section 5, chapter 226, Laws of 1949 and RCW 18.04.060; repealing section 6, chapter 226, Laws of 1949, section 1, chapter 294, Laws of 1961 and RCW 18.04.070; repealing section 7, chapter 226, Laws of 1949, section 25, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 18.04.080; repealing section 8, chapter 226, Laws of 1949 and RCW 18.04.090; repealing section 9, chapter 226, Laws of 1949, section 8, chapter 75, Laws of 1977 and RCW 18.04.100; repealing section 1, chapter 98, Laws of 1935, section 16, chapter 38, Laws of 1963, section 1, chapter 18, Laws of 1973 1st ex. sess., section 17, chapter 338, Laws of 1981 and RCW 18.64.001; repealing section 2, chapter 98, Laws of 1935, section 17, chapter 38, Laws of 1963, section 40, chapter 34, Laws of 1975-'76 2nd ex. sess., section 1, chapter 90, Laws of 1979 and RCW 18.64.003; repealing section 3, chapter 98, Laws of 1935, section 18, chapter 38, Laws of 1963, section 2, chapter 18, Laws of 1973 1st ex. sess., section 2, chapter 90, Laws of 1979, section 21, chapter 67, Laws of 1981 and RCW 18.64.005; repealing section 19, chapter 38, Laws of 1963, section 3, chapter 90, Laws of 1979 and RCW 18.64.007; repealing section 1, chapter 82, Laws of 1969 ex. sess., section 4, chapter 90, Laws of 1979 and RCW 18.64.009; repealing section 1, chapter 6, Laws of 1972 ex. sess. and RCW 38.52.005; repealing section 2, chapter 6, Laws of 1972 ex. sess. and RCW 38.52.006; repealing section 4, chapter 178, Laws of 1951, section 3, chapter 203, Laws of 1967, section 58, chapter 154, Laws of 1973 1st ex. sess., section 3, chapter 113, Laws of 1975 1st ex. sess. and RCW 38.52.030; repealing section 2, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.010; repealing section 3, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.020; repealing section 4, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.030; repealing section 5, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 36, Laws of 1977 and RCW 70.39.040; repealing section 6, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.050; repealing section 7, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 35, Laws of 1977 and RCW 70.39.060; repealing section 8, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.070; repealing section 9, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.080; repealing section 10, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.090; repealing section 11, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.100; repealing section 12, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.110; repealing section