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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 109  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Reps. Patterson and LaTourette

Michael Hinel, Attorney

### SUMMARY

- Authorizes a property tax exemption for land used for commercial maple sap extraction.
- Imposes, under certain circumstances, a recoupment charge if the land ceases to qualify for the exemption.
- Reimburses, up to \$3 million per year, local taxing units for the resulting revenue losses and prohibits additional land from qualifying for the exemption if that \$3 million cap is reached.
- Waives a recoupment charge for converting land valued according to its current agricultural use (CAUV) if the reason for the conversion is to qualify for the exemption.

### DETAILED ANALYSIS

#### Maple forest land tax exemption

The bill authorizes a property tax exemption for “maple forest land” – land upon which is situated maple trees whose sap is harvested for the production of commercial maple products, such as syrup. Only land meeting certain requirements, as verified by the Division of Forestry in the Department of Natural Resources (DNR), may qualify for the exemption (see “**Qualifications of maple forest land**,” below).

#### Existing property tax incentives

Continuing law provides two property tax incentives that may apply to maple forest land. The first is a 50% property tax reduction available to forested land that meets certain

management and protective standards prescribed by DNR's Division of Forestry. This tax reduction program is often referred to as "Ohio Forest Tax Law" or OFTL.<sup>1</sup>

Alternatively, maple forest land may qualify to be valued according to its current agricultural use (CAUV). Land devoted to agriculture, including growing and harvesting crops or timber, may be valued according to its CAUV. Agricultural land's CAUV – the value of the land if sold for agricultural uses – is generally lower than if the land had been valued as other real property according to its fair market value – the value of the land if sold for its highest legal economic use – because CAUV is calculated without regard to other factors, e.g., development pressures, that may inflate land's market value.<sup>2</sup>

While being subject to the OFTL or CAUV program may reduce the property tax that would otherwise be assessed on maple forest land, neither incentive offers a complete exemption as would the exemption authorized by the bill.

## **Maple forest land qualifications**

### **Forest management standards**

To qualify for the bill's maple forest land exemption, land must meet several qualifications. First, the land must be managed according to the same standards of maintenance and protection that forest land qualifying for the OFTL program is required to adhere to.<sup>3</sup> Such standards require, for example, that the forest's owner use a master logger to perform commercial cuttings, take precautions to protect the forest from wildfires, submit plans before logging for how agricultural pollution is to be prevented or limited, and not allow domestic animals to graze in the forest.<sup>4</sup>

### **Tap density and sap production**

Second, to qualify for the exemption, the owner of maple forest land is required to drill at least an average of 30 taps to harvest sap in at least 15 maple trees per acre per year. Additionally, the owner must either use harvested sap in commercially sold maple products or sell the sap to another for that purpose.<sup>5</sup> Thus, maple trees tapped for the owner's personal use would not qualify for the exemption.

### **Area restrictions**

Third, the bill limits the acreage of maple forest land that may be included in a single exemption application (see "**Application process**," below). An application may include all qualifying maple forest land within a "contiguous area" – an area of land of 2,010 acres as

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<sup>1</sup> R.C. 5713.22 to 5713.26, not in the bill.

<sup>2</sup> R.C. 5713.30 to 5713.38.

<sup>3</sup> R.C. 5709.29(A)(1)(c); R.C. 5713.22 to 5713.26, not in the bill.

<sup>4</sup> Ohio Administrative Code (O.A.C.) 1501:3-10-04.

<sup>5</sup> R.C. 5709.29(A)(1)(a) and (b).

circumscribed by a circle. But less than ten acres of maple forest land in a contiguous area may qualify for the exemption if it generates at least \$2,500 of maple sap-related income – either averaged over the preceding three years or projected for the current year.<sup>6</sup> (This is the same income-per-acre threshold used to determine whether smaller plots of land qualify for the CAUV program.<sup>7</sup>)

### **Application process**

To obtain the exemption, the bill requires a landowner to submit an application to DNR's Division of Forestry in August or September of any year, beginning in 2020. As part of this application, the owner must remit a fee and certify that the land meets all the qualifications described above.<sup>8</sup> The Division's Chief, in consultation with the Director of Agriculture and the Tax Commissioner, must prescribe application materials and adopt rules setting the amount of the application fee and determining the manner in which maple forest land may be identified and mapped. Application fees are credited to the existing State Forest Fund, which is used to fund the state's forestry programs.<sup>9</sup>

The Chief is required to approve an application upon determining that the owner's land qualifies as maple forest land by filing a declaration to that effect with the appropriate county auditor by the end of that application year. Maple forest land is tax-exempt beginning with the application year and continuing for future tax years until the owner withdraws the land from the program or the land no longer qualifies as maple forest land (see, "**Loss of exemption**," below).

Despite the contiguous area limitation described above, the bill does not limit the number of applications a single owner may submit or receive approval for. In addition, unlike most other property tax exemptions, landowners are not required to submit annual applications to the Tax Commissioner as a condition of continuing to receive the maple forest land exemption.<sup>10</sup>

### **Loss of exemption**

#### **Voluntary withdrawal**

The bill provides two mechanisms by which tax-exempt maple forest land may again become taxable. First, a landowner may voluntarily withdraw the owner's land by notifying the Chief of the owner's intent to do so. The Chief must forward the notice to the county auditor, who discontinues the exemption beginning with the tax year in which the auditor receives the notice. However, if the Chief finds that the withdrawal resulted from damage caused by an

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<sup>6</sup> R.C. 5709.29(A)(1)(d) and (2).

<sup>7</sup> R.C. 5713.30(A)(1) and (2).

<sup>8</sup> R.C. 5709.29(B); Section 3 of the bill.

<sup>9</sup> R.C. 1503.05, not in the bill, and 5709.29(C).

<sup>10</sup> R.C. 5709.29(B)(1) and (2).

event or circumstance, i.e., a casualty, beyond the owner's control that rendered the land unable to qualify as maple forest land, the exemption is instead discontinued beginning with the next tax year.<sup>11</sup>

### **Removal for violation**

Alternatively, the exemption is forfeited if the Chief finds that the land no longer qualifies as maple forest land. The owner may request six months to cure any discovered violation. If the violation is not timely corrected, the exemption is discontinued beginning with the tax year in which the county auditor receives notice of the violation. However, similar to the case of a voluntary withdrawal, if the violation resulted from a casualty beyond the owner's control, the exemption is instead discontinued beginning with the next tax year.<sup>12</sup>

### **Recoupment charge**

The bill, with certain exceptions, imposes a penalty recoupment charge on any land disqualified as maple forest land by the Chief. The charge equals the amount of property tax the former maple forest land would have been subject to in the two preceding years if it had been valued according to its CAUV rather than subject to the bill's exemption. This charge is levied on the disqualified property and collected as property tax. The recoupment charge is paid to the General Revenue Fund (GRF), from which local taxing units are reimbursed for forgone revenue (see "**Taxing authority reimbursement**," below).

No recoupment charge is assessed under any of the following circumstances:

1. The land is disqualified as maple forest land because of a casualty beyond the owner's control;
2. The land becomes subject to the OFTL reduction on the first day of the tax year in which it disqualified as maple forest land;
3. The land becomes valued according to its CAUV on the first day of that tax year.<sup>13</sup>

### **Taxing authority reimbursement**

The bill provides reimbursement to local taxing units for the property tax revenue forgone because of tax-exempt maple forest land within their territory. The Tax Commissioner must provide semiannual payments from the GRF to county auditors equal to the property tax revenue forgone in each county, up to a total of \$3 million per year for all counties. If the \$3 million cap is met, the payment to each county is reduced proportionately so that the total payment to all counties equals \$3 million. The payments – made in April and October – would then be disbursed to taxing units in the amount of each unit's tax revenue losses, unless the \$3 million cap is met, in which case the amount paid to each unit would be reduced in

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<sup>11</sup> R.C. 5709.29(D).

<sup>12</sup> R.C. 5709.29(E).

<sup>13</sup> R.C. 5709.29(F).

proportion to each taxing unit's forgone revenue. The amount of the payments would be computed on the basis of exemptions awarded in the preceding tax year.<sup>14</sup> The reimbursement procedure prescribed by the bill is similar to one that exists under continuing law for the 10% and 2.5% property tax reductions and the homestead exemption except that the existing reimbursements are not subject to a dollar cap.

### **Program moratorium**

If the \$3 million reimbursement cap is met for a tax year, the Chief may not approve new applications for the maple forest land exemption, though land exempted in the preceding year continues to qualify. This moratorium continues until the year that reimbursements fall below the \$3 million cap.<sup>15</sup>

### **Report**

The bill requires the Chief to annually issue a report to the Governor, Speaker of the House, and President of the Senate evaluating the effectiveness of the maple forest lands exemption. The report is required to include the acreage subject to the exemption, the number of applications filed, the number of owners applying, and the economic, environmental, and water quality impact of the exemption. The first report is due in 2023.

For the report due in 2025, the Chief must include in the report a recommendation of whether the exemption should continue or be terminated. The Chief must base this recommendation on the data and other information in the preceding reports.<sup>16</sup>

### **CAUV recoupment charge**

The bill precludes land subject to the maple forest land exemption from simultaneously qualifying for CAUV.<sup>17</sup> It also waives the CAUV recoupment charge for any land that loses its CAUV status because it receives the maple forest land exemption.<sup>18</sup> Under continuing law, CAUV land that is converted from an agricultural use, and that therefore becomes ineligible for CAUV, is assessed a recoupment charge equal to the last three years of the land's CAUV tax savings.

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<sup>14</sup> R.C. 321.24(G).

<sup>15</sup> R.C. 5709.29(B)(3).

<sup>16</sup> R.C. 5709.29(G).

<sup>17</sup> R.C. 929.01 and 5713.30.

<sup>18</sup> R.C. 5713.34.

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## HISTORY

Action	Date
Introduced	02-27-19

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