

**Chapter 79.155 RCW
COMMUNITY FOREST TRUSTS**

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RCW 79.155.010 Findings. (1) The legislature finds that since the 1980s, about seventeen percent of Washington's commercial forests have been converted to other land uses.

(2) The legislature further finds that as these forests vanish, so do the multiple benefits they provide to our communities such as local timber jobs, clean air and water, carbon storage, fish and wildlife habitat, recreation areas, and open space.

(3) The legislature further finds that it has provided policy direction to the department of natural resources to protect working forest and natural resource lands at risk of conversion, while maintaining the department's obligation to manage the state's fiduciary trust lands and financial assets in the interest of the beneficiaries of the respective trust lands and assets.

(4) The legislature further finds that there are numerous tools available to acquire open space and recreation lands, but limited tools to protect working forestlands.

(5) The legislature further finds that currently the department of natural resources lacks a full complement of policy and management tools necessary to protect or manage working forestlands at high risk of conversion.

(6) The legislature further finds that through modest enhancements to existing department of natural resources' programs and authorities, the legislature can expand Washington's ability to protect communities' working forestlands, while simultaneously improving the revenue generating performance of fiduciary trust lands managed by the department of natural resources.

(7) The legislature further finds that there has been past and present legislative intent to ensure continued public access for recreation compatible with the purposes of the lands involved.

(8) The legislature further finds that there exists an interest by local communities, governments, and conservation organizations in cooperating in the establishment of working community forests. [2011 c 216 § 1.]

RCW 79.155.020 Community forestland trust—Department authorized to create and manage. (1) If deemed practicable by the commissioner, the department is authorized to create and manage, consistent with the provisions of this chapter, a discrete category of natural resource lands in a nonfiduciary community forestland trust. The department is authorized to assemble, hold title to, and manage directly or through mutual agreement with other landowners land suitable for sustainable forest management, to be held in the community forest trust.

(2) All land held in the community forest trust must be held by the department and actively managed, consistent with a community working forest management plan developed under RCW 79.155.080, to generate financial support for the management of the community forest trust and to advance and sustain the working forest conservation objectives established in the management plan. [2011 c 216 § 2.]

RCW 79.155.030 Identification of lands—Minimum program management principles. (1) The department must identify lands for inclusion into the community forest trust, and manage the resulting community forest trust lands, in furtherance of goals that must be identified by the department prior to the creation of a community forest.

(2) In addition to any goals for a community forest identified by the department, the community forest trust program must satisfy the following minimum program management principles:

(a) Protecting in perpetuity working forestlands that are at a significant risk of conversion to another land use;

(b) Securing financial and social viability through sound management plans and objectives that are consistent with the values of the local community;

(c) Maintaining the land in a working status, through traditional forestry, management of specialized forest products harvest consistent with chapter 76.48 RCW, land leases, renewable energy opportunities, ecosystem services such as clean water protection or carbon storage, and other sources of revenue appropriate for the community forest to generate;

(d) Generating revenue at levels that are, at a minimum, capable of reimbursing the department for management costs and providing for some reinvestment into the management objectives of the community forest;

(e) Providing for ongoing, sustainable public recreational access, local timber jobs, clean air and water, carbon storage, fish and wildlife habitat, and open space in a manner that is compatible with management plans and objectives adopted for the community forest; and

(f) Providing educational opportunities for local communities regarding the benefits that working forests provide to Washington's

economy, communities, environment, and quality of life. [2011 c 216 § 3.]

RCW 79.155.040 Department's authority. (1)(a) Except as limited by RCW 79.155.070, the department is authorized to acquire by purchase, gift, donation, grant, transfer, or other means other than eminent domain fee interest or a partial interest, including conservation easements, in lands or other real property suitable for management as part of the community forest trust and that are appropriate to further the goals of the community forest trust.

(b) The fair market value of any real property, and the associated valuable materials, of any land transferred into the community forest trust from state lands must be provided to the beneficiaries of the transferee [transferor] trust or used for the furtherance of the transferee [transferor] trust.

(2) The department is authorized to receive funds for purposes of establishing the community forest trust from grants, gifts, bequests, or loans, whether public or private, as well as from legislative appropriation.

(3) All acquisitions of real property for the community forest trust must be approved by the board. [2011 c 216 § 4.]

RCW 79.155.050 Criteria for identification and prioritization of forestlands suitable for potential inclusion in the community forest trust.

(1) The department shall, if it establishes a community forest trust program, develop criteria to be used for the identification and prioritization of forestland that is suitable for potential inclusion in the community forest trust due to its ability to most closely satisfy the goals of the community forest trust outlined in RCW 79.155.030.

(2) In prioritizing forestland for inclusion in the community forest trust, the department shall give priority consideration to lands that are:

(a) The subject of established management and revenue production objectives of potential local community partners;

(b) At greatest risk of conversion;

(c) Helping buffer commercial public or private forestlands from encroaching development;

(d) Helping to block up other community forest assets to be managed consistently with the community forest trust acquisition;

(e) Able to be managed, considering surrounding current or expected future land use, as economically sustainable working forestland either alone or in combination with adjacent and nearby working forestland, including other lands incorporated into a community forest by the department, a local governmental entity, or a not-for-profit conservation organization managing forestlands;

(f) Eligible for trust land transfer capital appropriations;

(g) Available for acquisition through existing or new programs or funding;

(h) Supporting existing or expanded forest product manufacturing infrastructure;

(i) Useful in leveraging funds to match available acquisition moneys;

(j) Positioned to have their development rights extinguished through transfer, purchase, conservation easement, lease, or by some other comparable mechanism; or

(k) Enhancing state fiduciary trust land revenues by repositioning underperforming state trust lands to provide short and long-term revenues to that trust. [2011 c 216 § 5.]

RCW 79.155.060 Prioritized list identifying nominated parcels of state land or state forestland. (1) The department shall, if it establishes a community forest trust program, submit biennially to the office of financial management and the appropriate committees of the legislature a prioritized list that identifies nominated parcels of state land or state forestland that are suitable for transfer into the community forest trust, where such a transfer is also in the best interest of the respective trust. The department shall solicit and consider input from the board on a draft list before submitting a final prioritized list.

(2) The list of nominated parcels must reflect consideration of local nominations and the priorities outlined in RCW 79.155.050 and be delivered to the required recipients by November 1st of each even-numbered year. [2011 c 216 § 6.]

RCW 79.155.070 Local community must commit to preserving land as a working forest—Financial contribution. (1) The department must, prior to using the authority provided in RCW 79.155.040 to acquire land for inclusion in a community forest, obtain from the local community a commitment to preserving the land as a working forest.

(2) Following initial agreement between potential local community partners and the department regarding management and revenue production objectives for the lands in question, the local commitment to preserving the land as a working forest must be demonstrated by the county, city, or other local entity providing a financial contribution to the specific community forest of at least fifty percent of the difference between the parcel's appraised fair market value and the parcel's timber and forestland value. The local community contribution may be provided through any means deemed acceptable by the department and the local contributor, including:

- (a) Traditional financing or bonding;
- (b) The purchase of conservation easements; or
- (c) The purchase or transfer of development rights.

(3) The local financial contribution must be deposited into the parkland trust revolving fund created in RCW 43.30.385 and used solely for acquisition of the community forest trust land parcel or parcels for which it is intended. [2011 c 216 § 7.]

RCW 79.155.080 Postacquisition management plan. (1) All lands transferred into community forest trust status must be managed in accordance with a postacquisition management plan developed by the department consistent with this section.

(2) After exercising the authority provided in RCW 79.155.040 to acquire land for inclusion in a community forest, the department must establish a local advisory committee in cooperation with any interested and affected local government.

(3) The department must use the local advisory committee as a source of advice and comment on a postacquisition management plan. Comments and advice should, at a minimum, include plans for how the department will maintain the land's working status and economic viability objectives through revenue-generating activities that are sufficient to generate ongoing revenue at a level that reimburses administrative costs, while satisfying, or contributing to, identified community conservation and recreation objectives.

(4) (a) If, after a good faith effort by all parties, the department and the local advisory committee fail to reach a consensus on a conceptual postacquisition management plan for the parcel in question, the department may either adopt a management plan informed by the community or recommend to the board that the parcel be divested through the existing authority of the department and the board. If the parcel is divested, then, except as otherwise provided in this subsection, proceeds must return to the parkland trust revolving fund created in RCW 43.30.385.

(b) Prior to depositing the proceeds of a land divestiture under this subsection to the parkland trust revolving fund, the department must first reimburse local entities that have made financial contributions to the parcel's acquisition as provided in RCW 79.155.070(2). However, local entities are only eligible for reimbursement upon divestiture under this subsection if the board determines that:

(i) The subsequent parcel use is likely to remain a working forest, the department secures full fair market value for the parcel, and the local entity's contribution was not provided by a state or federal grant; or

(ii) The funds used as part of the local contribution were originally provided through a grant that requires, as a condition of the grant, the repayment of granted dollars if the purposes of the grant are not or cannot be fulfilled and the decision to divest the land creates an inability for the purposes of the grant to be fulfilled. [2011 c 216 § 8.]

RCW 79.155.090 Use of revenue produced on community forest trust lands. (1) Any revenue produced on community forest trust lands must be allocated as follows:

(a) All costs incurred by the department in managing the parcel must be fully reimbursed; and

(b) After the department's management costs are reimbursed, any remaining revenue must then be prioritized to fulfill the management objectives for the specific parcel as identified in the postacquisition management plan developed under RCW 79.155.080 consistent with the management principles outlined in RCW 79.155.030.

(2) (a) If, by the determination of the board, there is revenue remaining in any given biennium after fulfilling the requirements of subsection (1) of this section, then the board has the discretion to reimburse any local entities' eligible financial contributions for acquisition of the parcel under RCW 79.155.070(2) and any state contribution to the acquisition of the parcel up to an amount that represents fifty percent of the difference between the parcel's original appraised fair market value and the parcel's timber and forestland value. However, any funds used as part of the local contribution may not be reimbursed if the funds were originally provided through a state or federal grant, provided through a fully

compensated transfer of development rights at fair market value, or provided by a donation of funds or property.

(b) If the board decides to reimburse the state and local contribution, then it must allocate the reimbursement so that fifty percent is provided to the state general fund and fifty percent is provided to any eligible partnering local entities.

(c) Nothing in this section creates an expectation, requirement, or fiduciary duty for the board or the associated community forest trust lands to generate revenue in excess of amounts as provided in subsection (1)(a) of this section. [2014 c 32 § 5; 2011 c 216 § 9.]

RCW 79.155.100 Periodic review and update of community forest trust program. By September 1, 2014, and periodically, but at least once every ten years thereafter, the department shall provide to the board a review and update of the community forest trust program. The review must include updates on the performance of the community forest trust statewide and notification of any community forest trust parcels not performing according to their management plan. The department is authorized to, consistent with this chapter, recommend to the board action to divest itself of nonperforming community forest trust parcels using existing policies and mechanisms available to the department and the board. [2011 c 216 § 10.]

RCW 79.155.110 Statewide advisory committee. (1) The commissioner may establish and maintain a statewide advisory committee to assist the department in the implementation of this chapter.

(2) If a statewide advisory committee is established, the commissioner shall appoint a balanced representation of interests on the committee, including representatives of state fiduciary trust land beneficiaries, tribal governments, local governments, relevant state agencies, commercial forestland owners, land trusts, and conservation organizations.

(3) The statewide advisory committee shall provide consultation on issues and questions presented by the commissioner and may be dissolved by the commissioner at any time.

(4) Participation on the statewide advisory committee is voluntary and members are not eligible for any form of compensation nor for reimbursement for expenses incurred due to service on the committee. [2011 c 216 § 11.]

RCW 79.155.120 Establishing community forest districts/local working forest districts—Technical assistance grants. (1) The commissioner may, if deemed practicable and beneficial by the commissioner, cooperate with interested local governments in establishing community forest districts or local working forest districts that are compatible with the goals identified in this chapter for the community forest trust. Cooperative districts would attempt to voluntarily synchronize the management of community forest trust lands, other public lands, and private lands located within a certain geographic area to further a common set of community goals. If a working forest district encompasses state lands or state forestlands, then their voluntary management to further a common set of community goals must be consistent with the department's fiduciary

and other legal obligations to the trust, including the multiple use act in chapter 79.10 RCW.

(2) (a) The department may, in its sole discretion and if it deems sufficient funding to be available, provide technical assistance grants to local communities for the purpose of enabling or furthering the development of community forest management plans consistent with this chapter.

(b) This subsection does not create a private right of action.
[2011 c 216 § 12.]

RCW 79.155.130 Authority to manage state lands—Authority to develop management procedures. The authorities granted under Title 79 RCW for the management of state lands apply to the community forest trust to the extent consistent with the purposes of chapter 216, Laws of 2011. The department may develop management procedures deemed necessary by the department to implement chapter 216, Laws of 2011.
[2011 c 216 § 18.]

RCW 79.155.140 Distribution of an amount in lieu of real property taxes. The state treasurer, on behalf of the department, must distribute to counties for all lands acquired from private landowners for the purposes of this chapter an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount equal to the amount of weed control assessment that would be due if such lands were privately owned. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due. The county shall distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county shall distribute the amount received under this section for weed control to the appropriate weed district.
[2013 2nd sp.s. c 11 § 14.]

RCW 79.155.150 Community forest trust account. The community forest trust account is created in the state treasury. All moneys received for the acquisition, sale, management, and administration of the department's duties under this chapter for community forest trust lands including, but not limited to, proceeds from the sale of valuable materials from community forest trust lands, interest earned on investments in the account, and all other revenue related to community forest trust lands created or acquired pursuant to this chapter must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, as well as gifts, grants, and endowments from public or private sources as may be made from time to time. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the commissioner to reimburse management costs incurred by the department on community forest trust lands, for the acquisition of interests in land or other real property to be managed as community forest trust lands, for technical assistance grants pursuant to RCW

79.155.120, and for all other purposes consistent with this chapter. However, the board may authorize any expenditures made to: (1) Reimburse state and local governmental entities' eligible financial contributions for the acquisition of community forest trust lands under RCW 79.155.090; or (2) acquire real property for the community forest trust under RCW 79.155.040(3). [2014 c 32 § 1.]