

STATE OF CALIFORINA PUBLIC RESOURCES CODE
SECTION 12200-12292

12200. This division shall be known and may be cited as the California Forest Legacy Program Act of 2007.

12210. The Legislature hereby finds and declares all of the following:

(a) Privately owned forest lands comprise nearly half of California's 32.6 million acres of forest land, and include some of the state's most important and productive forest resources, including timber, fish and wildlife habitat, watersheds, and climate benefits. It is in the interest of the state to provide and maintain a favorable climate for long-term investment in forest resources.

(b) The importance of private forest lands to California's economy and environment has been recognized for many years, and more recently for almost three decades by the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4), the California Timber Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code), and other statutes and policies.

(c) California's private forest lands and woodlands are threatened by continued population growth and changes in land use patterns, including parcel size reductions, residential and commercial development, and by changes in forest cover.

(d) Heirs of forest landowners frequently find it necessary to harvest their timber prematurely and excessively, in order to pay estate taxes that can account for up to 55 percent of an estate's value.

(e) Continuing statewide population growth, existing land use and tax policies, regulations, and other factors create significant pressure for an increase in development conversions in forest lands of environmental and economic significance.

(f) Conservation easements have been successfully used around the United States to achieve voluntary protection of open space, historical sites, and natural and aquatic resources.

(g) Conservation easements enable landowners to receive financial benefits for voluntarily restricting specific development rights and land that, in turn, contributes to the conservation of natural resources for future generations. Financial benefits to landowners can be realized through a sale or donation, or a combination of both a sale or donation of a conservation easement.

(h) A program to encourage and make possible the long-term conservation of forest lands and all associated natural resources is a necessary part of the state's land protection policies and programs, and it is in the public interest to expend money for that purpose.

(i) Funding is a necessary component of this program.

(j) The federal Forest Legacy Program (16 U.S.C. Sec. 2103c) conserves forest land threatened with conversion and development by providing federal matching funds for the acquisition of conservation easements or other interests in land from willing landowners, subject to state guidelines.

(k) The state completed the "California Forest Legacy Program Assessment of Need" in 1995 following an extensive analysis and widespread public input. That assessment was submitted to and accepted by the United States Department of Agriculture.

(l) California's forests can play an important role in addressing global climate change and helping the state meet its emission reduction targets by removing and storing carbon dioxide, a key greenhouse gas.

(m) The California Forest Legacy Program Act of 2000, established pursuant to Senate Bill 1832 of the 1999-2000 Regular Session of the Legislature, which expired on January 1, 2007, was successful in helping to protect approximately 12,000 acres of California forests by facilitating the expenditure of almost four million dollars (\$4,000,000) in federal funds.

12211. It is the intent of the Legislature, in enacting this division and the California Forest Legacy Program, to protect forest lands and aquatic resources in California by focusing on all of the following priorities:

(a) Encouraging the long-term conservation of productive forest lands by providing an incentive to owners of private forest lands to prevent future conversions of forest land and forest resources.

(b) Protection of wildlife habitat, rare plants, and biodiversity.

(c) Maintenance of habitat connectivity and related values needed to ensure the viability of wildlife populations across landscapes and regions.

(d) Protection of riparian habitats, oak woodlands, ecological old growth forests, and other key forest types and seral stages that are poorly represented across landscapes and regions, and that play a key role in supporting biodiversity.

(e) Protection of water quality, fisheries, and water supplies.

(f) Maintenance and restoration of natural ecosystem functions.

(g) Encouraging improvements to enhance long-term sustainable forest uses while providing forest areas with increased protection against other land uses that conflict with forest uses.

12220. Unless the context otherwise requires, the definitions in this article govern the construction of this division.

(a) "Applicant" means a landowner who is eligible for cost-sharing grants pursuant to the federal Forest Legacy Program (16 U.S.C. Sec. 2103 et seq.) or who is eligible to participate in the California Forest Legacy Program and the operation of the program, with regard

to that applicant, does not rely on federal funding.

(b) "Biodiversity" is a component and measure of ecosystem health and function. It is the number and genetic richness of different individuals found within the population of a species, of populations found within a species range, of different species found within a natural community or ecosystem, and of different communities and ecosystems found within a region.

(c) "Board" means the State Board of Forestry and Fire Protection.

(d) "Conservation easement" has the same meaning as found in Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code.

(e) "Conversions" is a generic term for situations in which forest lands become used for nonforest uses, particularly those uses that alter the landscape in a relatively permanent fashion.

(f) "Department" means the Department of Forestry and Fire Protection and "director" means the Director of Forestry and Fire Protection.

(g) "Forest land" is land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits.

(h) "Landowner" means an individual, partnership, private, public, or municipal corporation, Indian tribe, state agency, county, or local government entity, educational institution, or association of individuals of whatever nature that own private forest lands or woodlands.

(i) "Local government" means a city, county, district, or city and county.

(j) "Nonprofit organization" means any qualified land trust organization, as defined in Section 170(h)(3) of Title 26 of the United States Code, that is organized for one of the purposes of Section 170(b)(1)(A)(vi) or 170(h)(3) of Title 26 of the United States Code, and that has, among its purposes, the conservation of forest lands.

(k) "Program" means the California Forest Legacy Program established under this division.

(l) "Woodlands" are forest lands composed mostly of hardwood species such as oak.

12230. The department shall carry out the California Forest Legacy Program. Nothing in this division alters the department's responsibility for the administration of state, federal, or private funds that are allocated for the purpose of protecting private forest lands and all associated natural resources.

12231. Nothing in this chapter grants any new authority to the department to affect local policy or land use decision making.

12240. The California Forest Legacy Program is hereby established. The department may acquire conservation easements by entering into a contract with the Wildlife Conservation Board to administer the purchase of conservation easements. The California Forest Legacy Program may also include those activities eligible for funding under the federal Forest Legacy Program (16 U.S.C. Sec. 2103c), and the state program shall be coordinated with the federal program to the maximum amount possible.

12241. Money to fund the California Forest Legacy Program shall be obtained from gifts, donations, federal grants and loans, other appropriate funding sources, and through the allocations for the California Wildlife Conservation Board, including those provided from the sale of general obligation bonds pursuant to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001)) and made available by the board pursuant to subdivision (a) of Section 75055 and pursuant to the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act) (Chapter 1.692 (commencing with Section 5096.300) of Division 5) and made available for appropriation pursuant to paragraph (4) of subdivision (a) of Section 5096.350.

12242. The implementation of the program includes the costs associated with the purchase or facilitated donation of conservation easements, technical assistance provided by the department, technology transfer activities of the department, and administrative costs incurred by the department in administering the program.

12244. Easements acquired under this program may be held by federal, state, or local government entities or by nonprofit land trust organizations. The director shall find that any recipient of a conservation easement is qualified to monitor and enforce the terms of the easement.

12245. The director shall not disburse any funds until the applicant agrees to both of the following:

(a) That any conservation easement acquired shall be used by the applicant only for the purpose for which the funds were requested.

(b) That the director shall find that any disposition of the easement is consistent with, and in furtherance of, the purposes of this division, that the recipient of the easement is qualified to monitor and enforce the easement, and that the conservation provisions of the easement remain in effect following the transfer.

12246. If a local, state, or national government agency or nonprofit land trust organization holding the easement is dissolved, the easement shall be transferred to an appropriate public or nonprofit land trust organization that is qualified to monitor and enforce the easement.

12247. The easement, or any of its terms, may only be amended with the consent of all of the necessary parties to the easement. The department shall determine that the amendment is consistent with this division.

12248. The director shall not disburse any funds unless the applicant agrees to restrict the use of the land in perpetuity.

12249. The board shall adopt rules and regulations for the implementation of this division, including the standards, criteria, and requirements necessary for acquiring conservation easements.

12249.5. Rules or regulations adopted by the board pursuant to Section 12249 shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

12249.6. The department shall review, and approve or disapprove, applications from landowners for the acquisition of conservation easements on forest lands or woodlands.

12250. Every application for the acquisition of a conservation easement shall provide sufficient information to enable the department to verify the parcel's eligibility for the program and to understand the conservation objectives and the parcel's environmental value or potential to protect forest and aquatic resources.

12250.5. In reviewing applications pursuant to this division, the department shall determine whether the proposed conservation easement meets the eligibility and selection criteria set forth in this chapter and conforms with any rules or regulations adopted by the department pursuant to this chapter.

12251. Proposed conservation easements shall meet the eligibility criteria set forth in this section prior to review pursuant to the

selection criteria set forth in Section 12260. To be eligible for participation, private forest land parcels proposed for protection under the program shall comply with all of the following:

- (a) Be subject to potential conversion.
- (b) Be owned by landowners who are willing and interested in selling or donating conservation easements.
- (c) Be forested with at least 10-percent canopy cover by conifer or hardwood species, or be capable of being so forested under natural conditions.
- (d) Possession of one or more environmental values of great concern to the public and the state:
 - (1) Important fish and wildlife habitat.
 - (2) Areas that can help maintain habitat connectivity across landscapes.
 - (3) Rare plants.
 - (4) Biodiversity.
 - (5) Riparian habitats.
 - (6) Oak woodlands.
 - (7) Ecological old growth forests.
 - (8) Other key forest types and seral stages that are poorly represented across California.
 - (9) Lands that directly affect water quality and other watershed values.
- (e) Provision for continuity of one or more traditional forest uses, such as commodities production or habitat maintenance.
- (f) Possession of environmental values that can be protected and managed effectively through conservation easements at reasonable costs.

12252. The easement shall not be required as a condition of any lease, permit, license, certificate, or other entitlement for use issued by one or more public agencies, including, but not limited to, mitigating the significant effects on the environment of a project pursuant to an approved environmental impact report or mitigated negative declaration pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)), the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or pursuant to an approved environmental impact statement or a finding of no significant impact under the National Environmental Policy Act of 1969 (42 U.S.C.A. Sec. 4321 et seq.) or the federal Endangered Species Act of 1973 (16 U.S.C.A. Sec. 1531 et seq.).

12260. If the department determines that the proposed conservation easement meets the eligibility criteria set forth in Section 12251, the application shall be reviewed based upon the extent to which it

satisfies the following selection criteria:

(a) The nature of the environmental values proposed for protection, and whether they can be monitored efficiently and effectively.

(b) Whether the parcels are likely to become isolated from other areas maintained for key forest resources by development on adjacent parcels.

(c) Whether the landowner's management goal for his or her parcel is compatible with the resource protections he or she is proposing.

(d) Whether the landowner has developed, or commits to developing by the time the easement is finalized, a management plan equivalent to, or better than, a forest stewardship plan that governs management on the parcel.

(e) Whether a nonprofit land trust organization, public agency, or other suitable organization has expressed an interest in working with the department and the landowner to establish, hold, and monitor the easement.

(f) Whether other sources of funding for easement acquisition, closing costs, monitoring and other costs are available.

(g) Other relevant considerations established by the director.

12262. An applicant shall select and retain an independent real estate appraiser to determine the value of the conservation easement, which shall be calculated by determining the difference between the fair market value and the restricted value of the property.

12263. The department shall act on an application for the acquisition of a conservation easement within 180 days of its receipt, and shall notify the applicant in writing of approval or disapproval of the application within 10 days of the decision of the department. The written notice regarding a disapproval decision shall state the reason for the disapproval of the application.

12264. The department may disapprove the application for the acquisition of a conservation easement in any of the following circumstances:

(a) The application does not satisfy the eligibility criteria set forth in Section 12251 or selection criteria set forth in Section 12260.

(b) Clear title to the conservation easement cannot be conveyed.

(c) There is insufficient money in the fund to carry out the acquisition.

(d) Other acquisitions have a higher priority.

(e) Other relevant considerations established by the director.

12275. The department, local government entity, or nonprofit land trust organization acquiring an easement pursuant to this division shall monitor that easement in order to assess the condition of the resources being protected and to ensure that the terms of the easement are being followed. Entities acquiring easements may also enter into a cooperative agreement with another qualified entity to monitor the easement.

12276. The department shall ensure that any entity acquiring a conservation easement acquired pursuant to this division has adequate funding for, or otherwise adequately provides for, easement monitoring pursuant to this division, and is able to enforce the easement if its provisions are not satisfied.

12290. Commencing on January 1, 2009, and each January 1 thereafter, the department shall report to the Governor and the Legislature on its implementation of this division during the preceding calendar year. The report shall include, but not be limited to, information concerning applications made pursuant to this division, participating landowners, easement holders under Section 12244, and a description of all easements purchased.

12291. The department shall make available to the public on its Internet Web site a list of conservation easements acquired through the program. The list shall include information specified in paragraphs (2) to (6), inclusive, of subdivision (c) of Section 5096.520. The list shall be updated biennially.

12292. This division shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

US Code: Title 16, Sec. 2113. Federal, State, and local coordination and cooperation

(b) State Coordinating Committees

- (1) Establishment
 - (A) In general

The Secretary, in consultation with the State forester or equivalent State official of each State, shall establish a State Forest Stewardship Coordinating Committee (hereafter referred to in this section as the "State Coordinating Committee") for each such State.
 - (B) Composition

The State Coordinating Committee shall be chaired and administered by the State forester, or equivalent State official, or the designee thereof, and shall be composed, to the extent practicable, of -

 - (i) representatives from the Forest Service, Soil Conservation Service, Agricultural Stabilization and Conservation Service, and Extension Service;
 - (ii) representatives, to be appointed by the State forester or equivalent State official, representative of -
 - (I) local government;
 - (II) consulting foresters;
 - (III) environmental organizations;
 - (IV) forest products industry;
 - (V) forest land owners;
 - (VI) land-trust organizations, if applicable in the State;
 - (VII) conservation organizations; and (VIII) the State fish and wildlife agency; and (iii) any other individuals determined appropriate by the Secretary.
 - (C) Terms

The members of the State Coordinating Committee appointed under subparagraph (B)(ii) shall serve 3-year terms, with the initial members serving staggered terms as determined by the State forester or equivalent State official, and may be reappointed for consecutive terms.
 - (D) Existing committees

Existing State forestry committees may be used to complement, formulate, or replace the State Coordinating Committees to avoid duplication of efforts if such existing committees are made up of membership that is similar to that described in subparagraph (B)(ii), and if such existing committees include landowners and the general public in their memberships.
- (2) Duties

A State Coordinating Committee shall -

 - (A) consult with other Department of Agriculture and State committees that address State and private forestry issues;
 - (B) make recommendations to the Secretary concerning the assignment of priorities and the coordination of responsibilities for the implementation of this chapter by the various Federal and State forest management agencies that take into consideration the mandates of each such agency;
 - (C) make recommendations to the State forester or equivalent State official concerning the development of a Forest Stewardship Plan under paragraph (3);

and

(D) make recommendations to the Secretary concerning those forest lands that should be given priority for inclusion in the Forest Legacy Program established pursuant to section 2103c of this title.

- (3) Forest Stewardship Plan

The State forester or equivalent State official of each State, in consultation with the State Coordinating Committee of such State, shall develop a Forest Stewardship Plan that shall:

- (A) provide baseline data on the forest resources of the State;
- (B) outline threats to the forest resources of the State;
- (C) describe economic and environmental opportunities that are linked with the forest resources of the State;
- (D) address management problems, opportunities, and objectives associated with intermingled Federal, State, and private land ownership patterns within the State;

and

(E) make planning recommendations for Federal, State, and local implementation of this chapter.

- (4) Other plans

Other State forest management plans may be used as the basis for or in lieu of establishing a plan for the State under paragraph (3) if such plans fully conform to the objectives of this section.

- (5) Termination

The State Coordinating Committees shall not terminate.

- (6) Rule of construction

Nothing in this section shall be construed to compel action by any State official.

16 U.S.C. § 2103c : US Code - Section 2103C: Forest Legacy Program

Release date: 2005-08-01

(a) Establishment and purpose

The Secretary shall establish a program, to be known as the Forest Legacy Program, in cooperation with appropriate State, regional, and other units of government for the purposes of ascertaining and protecting environmentally important forest areas that are threatened by conversion to nonforest uses and, through the use of conservation easements and other mechanisms, for promoting forest land protection and other conservation opportunities. Such purposes shall also include the protection of important scenic, cultural, fish, wildlife, and recreational resources, riparian areas, and other ecological values.

(b) State and regional forest legacy programs

The Secretary shall exercise the authority under subsection (a) of this section in conjunction with State or regional programs that the Secretary deems consistent with this section.

(c) Interests in land

In addition to the authorities granted under section 515 of this title and section 428a (a) of title 7, the Secretary may acquire from willing landowners lands and interests therein, including conservation easements and rights of public access, for Forest Legacy Program purposes. The Secretary shall not acquire conservation easements with title held in common ownership with any other entity.

(d) Implementation

(1) In general

Lands and interests therein acquired under subsection (c) of this section may be held in perpetuity for program and easement administration purposes as the Secretary may provide. In administering lands and interests therein under the program, the Secretary shall identify the environmental values to be protected by entry of the lands into the program, management activities which are planned and the manner in which they may affect the values identified, and obtain from the landowner other information determined appropriate for administration and management purposes.

(2) Initial programs

Not later than November 28, 1991, the Secretary shall establish a regional program in furtherance of the Northern Forest Lands Study in the States of New York, New Hampshire, Vermont, and Maine under Public Law 100-446. The Secretary shall establish additional programs in each of the Northeast, Midwest, South, and Western regions of the United States, and the Pacific Northwest (including the State of Washington), on the preparation of an assessment of the need for such programs.

(e) Eligibility

Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 2113 (b) of this title and similar regional organizations, the Secretary shall establish eligibility

criteria for the designation of forest areas from which lands may be entered into the Forest Legacy Program and subsequently select such appropriate areas. To be eligible, such areas shall have significant environmental values or shall be threatened by present or future conversion to nonforest uses. Of land proposed to be included in the Forest Legacy Program, the Secretary shall give priority to lands which can be effectively protected and managed, and which have important scenic or recreational values; riparian areas; fish and wildlife values, including threatened and endangered species; or other ecological values.

(f) Application

For areas included in the Forest Legacy Program, an owner of lands or interests in lands who wishes to participate may prepare and submit an application at such time in such form and containing such information as the Secretary may prescribe. The Secretary shall give reasonable advance notice for the submission of all applications to the State forester, equivalent State official, or other appropriate State or regional natural resource management agency. If applications exceed the ability of the Secretary to fund them, priority shall be given to those forest areas having the greatest need for protection pursuant to the criteria described in subsection (e) of this section.

(g) State consent

Where a State has not approved the acquisition of land under section 515 of this title, the Secretary shall not acquire lands or interests therein under authority granted by this section outside an area of that State designated as a part of a program established under subsection (b) of this section.

(h) Forest management activities

(1) In general

Conservation easements or deed reservations acquired or reserved pursuant to this section may allow forest management activities, including timber management, on areas entered in the Forest Legacy Program insofar as the Secretary deems such activities consistent with the purposes of this section.

(2) Assignment of responsibilities

For Forest Legacy Program areas, the Secretary may delegate or assign management and enforcement responsibilities over federally owned lands and interests in lands only to another governmental entity.

(i) Duties of owners

Under the terms of a conservation easement or other property interest acquired under subsection (b) [1] of this section, the landowner shall be required to manage property in a manner that is consistent with the purposes for which the land was entered in the Forest Legacy Program and shall not convert such property to other uses. Hunting, fishing, hiking, and similar recreational uses shall not be considered inconsistent with the purposes of this program.

(j) Compensation and cost sharing

(1) Compensation

The Secretary shall pay the fair market value of any property interest acquired under this section. Payments under this section shall be in accordance with Federal appraisal and acquisition standards and procedures.

(2) Cost sharing

In accordance with terms and conditions that the Secretary shall prescribe, costs for the acquisition of lands or interests therein or project costs shall be shared among participating entities including regional organizations, State and other governmental units, landowners, corporations, or private organizations. Such costs may include, but are not limited to, those associated with planning, administration, property acquisition, and property management. To the extent practicable, the Federal share of total program costs shall not exceed 75 percent, including any in-kind contribution.

(k) Easements

(1) Reserved interest deeds

As used in this section, the term “conservation easement” includes an easement utilizing a reserved interest deed where the grantee acquires all rights, title, and interests in a property, except those rights, title, and interests that may run with the land that are expressly reserved by a grantor.

(2) Prohibitions on limitations

Notwithstanding any provision of State law, no conservation easement held by the United States or its successors or assigns under this section shall be limited in duration or scope or be defeasible by—

(A) the conservation easement being in gross or appurtenant;

(B) the management of the conservation easement having been delegated or assigned to a non-Federal entity;

(C) any requirement under State law for re-recording or renewal of the easement; or

(D) any future disestablishment of a Forest Legacy Program area or other Federal project for which the conservation easement was originally acquired.

(3) Construction

Notwithstanding any provision of State law, conservation easements shall be construed to effect the Federal purposes for which they were acquired and, in interpreting their terms, there shall be no presumption favoring the conservation easement holder or fee owner.

(l) Optional State grants

(1) In general

The Secretary shall, at the request of a participating State, provide a grant to the State to carry out the Forest Legacy Program in the State.

(2) Administration

If a State elects to receive a grant under this subsection—

(A) the Secretary shall use a portion of the funds made available under subsection (m) of this section, as determined by the Secretary, to provide a grant to the State; and

(B) the State shall use the grant to carry out the Forest Legacy Program in the State, including the acquisition by the State of lands and interests in lands.

(3) Transfer of Forest Legacy Program land—

(A) In general

Subject to any terms and conditions that the Secretary may require (including the requirements described in subparagraph (B)), the Secretary may, at the request of the State of Vermont, convey to the State, by quitclaim deed, without

consideration, any land or interest in land acquired in the State under the Forest Legacy Program.

(B) Requirements

In conveying land or an interest in land under subparagraph (A), the Secretary may require that—

(i) the deed conveying the land or interest in land include requirements for the management of the land in a manner that—

(I) conserves the land or interest in land; and

(II) is consistent with any other Forest Legacy Program purposes for which the land or interest in land was acquired;

(ii) if the land or interest in land is subsequently sold, exchanged, or otherwise disposed of by the State of Vermont, the State shall—

(I) reimburse the Secretary in an amount that is based on the current market value of the land or interest in land in proportion to the amount of consideration paid by the United States for the land or interest in land; or

(II) convey to the Secretary land or an interest in land that is equal in value to the land or interest in land conveyed.

(C) Disposition of funds

Amounts received by the Secretary under subparagraph (B)(ii) shall be credited to the Wildland Fire Management account, to remain available until expended.

(m) Appropriation

There are authorized to be appropriated such sums as may be necessary to carry out this section.
