

[CHAPTER 195F]
FOREST STEWARDSHIP

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Note

L 2014, c 218, §8 purports to amend this chapter.

Cross References

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

" **§195F-1 Findings and purpose.** The legislature finds that:

- (1) Much of the forest land in Hawaii is privately owned;
- (2) The capacity to protect important watersheds and native Hawaiian plants and animals and to produce renewable forest resources is significantly dependent on these privately owned forest and formerly forested lands;
- (3) The factors essential to the quality of life in Hawaii, including our water and air quality, mild climate, and habitat available for plants and animals unique to these islands, can be maintained and improved through good stewardship of private forest lands;
- (4) To accomplish these purposes, the present system of state and federal financial and technical assistance programs needs to be expanded to promote the long-term management of additional privately owned forest and formerly forested lands throughout the State; and
- (5) A forest stewardship program should be established to supplement the natural area reserves system's programs under chapter 195 by encouraging private landowners of privately owned forest and formerly forested lands that cannot qualify as potential natural area reserves to make long-term commitments to protect, maintain, and restore important watersheds, timber resources, fish and wildlife habitats, isolated populations of rare and endangered plants, native vegetation, and other lands that provide significant public benefits.

The purpose of this chapter is to establish a program to financially assist landowners in managing, protecting, and restoring important natural resources in Hawaii's forested and formerly forested lands. [L 1991, c 327, pt of §2]

" **§195F-2 Definitions.** As used in this chapter:

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Fund" means the forest stewardship fund as established by section 195F-4.

"Landowner" means any person having an interest in or holding any encumbrance upon land in the State, including any person having a lease interest in the real property with an unexpired term of ten or more years.

"Native vegetation" means a diverse vegetation consisting mostly of plants endemic or indigenous to Hawaii.

"Potential natural area reserve" means land or water areas within the protective subzone of the conservation district established pursuant to chapter 183C, intact native natural communities identified by the heritage program under chapter 195, and other lands or waters meeting criteria established by the natural area reserves system commission.

"Program" means the forest stewardship program established in section 195F-3. [L 1991, c 327, pt of §2; am L 1995, c 11, §9 and c 69, §7]

" **§195F-3 Establishment of the forest stewardship program.**

(a) There is established a forest stewardship program to be administered by the board to assist private landowners in managing, protecting, and restoring important watersheds, native vegetation, timber resources, fish and wildlife habitats, isolated populations of rare and endangered plants, and other lands that are not recognized as potential natural area reserves.

(b) The program shall reimburse landowners for a portion of the landowners' total costs in developing and implementing approved forest stewardship management plans pursuant to this chapter.

(c) The program shall assist in the forest stewardship of public lands and in developing education and training programs for sustainable forestry pursuant to section 195F-4(a)(2). [L 1991, c 327, pt of §2; am L 1999, c 144, §3]

" **§195F-4 Forest stewardship fund.** (a) There is established a special fund within the state treasury known as the forest stewardship fund which shall be used as follows:

- (1) Payments shall be made by the board pursuant to agreements entered into with qualified landowners to further the purposes of this chapter; and
- (2) Moneys collected from:
 - (A) The harvest of non-native forest products from forest reserves;
 - (B) The harvest of native forest products from degraded forests as defined in section 186-5.5, within forest reserves;

- (C) The sale of forest products found dead and lying on the ground;
- (D) The sale of tree seedlings from state nurseries;
- (E) The sale of any other products or services, or anything of value derived from forest reserves not described above; or
- (F) The imposition of fines or penalties for violations of this chapter and chapters 183 and 185 or any rule adopted thereunder;

shall be used for: (i) replanting, managing, and maintaining designated timber management areas; (ii) enhancing the management of public forest reserves with an emphasis on restoring degraded koa forests; and (iii) developing environmental education and training programs pertaining to sustainable forestry; provided that the activities described in clauses (ii) and (iii) may not be funded unless the activities described in approved management plans pertaining to clause (i) are adequately funded.

(b) The fund shall consist of moneys received from any public or private sources. The fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury; provided that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received.

Investment earnings credited to the fund shall become a part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the next fiscal year. [L 1991, c 327, pt of §2; am L 1999, c 144, §4; am L 2001, c 152, §1; am L 2006, c 174, §5; am L 2007, c 9, §9; am L 2015, c 84, §2]

" **[\$195F-5] Forest stewardship management plans; approved activities.** (a) To participate in the forest stewardship program, the applicant landowner shall prepare and submit to the board a forest stewardship management plan that shall:

- (1) Identify and describe activities to be undertaken by the landowner to protect soil, water, aesthetic quality, recreation, timber, water, fish, wildlife, and native plant resources on the land in a manner that is compatible with the objectives of the program, is consistent with this chapter, and qualifies under the board's list of approved activities;
- (2) Be signed by all parties having an interest in or holding any encumbrance upon the property, and shall

state that the parties agree to comply with the plan upon its approval; and

- (3) Be approved by the board and available for public review.

(b) The board and other cooperating natural resource management agencies shall develop a list of approved management activities and practices that shall be eligible for cost-share assistance under the program in the following areas:

- (1) Enhanced management and maintenance of vegetation on vital watershed lands;
- (2) Sustainable growth and management of forests for timber and other forest products on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (3) Protection, restoration, and enhancement of native plants and animals;
- (4) Management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (5) Agroforestry management on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (6) Management and maintenance of native fish and wildlife habitats;
- (7) Management of outdoor recreational opportunities; and
- (8) Other activities approved by the board, which are consistent with this chapter.

(c) The board shall encourage the use of private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest stewardship management plans and implementation of approved activities. [L 1991, c 327, pt of §2]

" **§195F-6 Qualifications and conditions.** (a) Payments from the forest stewardship fund shall not exceed fifty per cent of the total cost of the landowner in developing and implementing an approved management plan. Total payments to any one landowner shall be determined by the board, and the reasonable value of material, goods, and services contributed toward the plan by the landowner shall be included in determining the amount of the landowner's cost. The landowner shall be required to spend private funds before reimbursements are made. In-kind services such as heavy equipment and existing sources of labor may be utilized as a portion of the landowner's contribution in

implementing the management plan that is consistent with this chapter.

(b) The board shall determine the appropriate reimbursement rate for making cost-share payments and the schedule of the payments after determining consistency with this chapter and giving appropriate consideration to:

- (1) Protecting and enhancing key watershed areas in the public interest;
- (2) Developing or adapting new forestry and conservation techniques for Hawaii;
- (3) Providing rural employment and economic diversification opportunities; and
- (4) Preserving or restoring especially valuable natural resources, including native plants, animals, and ecosystems.

(c) To receive funds under the forest stewardship program, an applicant shall:

- (1) Be a landowner of private forest that is not managed under existing federal, state, or private sector financial and technical assistance programs and that is not recognized as a potential natural area reserve. Private forest lands managed under existing federal, state, or private sector financial and technical assistance programs may be eligible for assistance under this program if the landowner agrees to comply with the requirements of the program or if forest management activities are expanded or enhanced to meet the requirements of this chapter;
- (2) Prepare and submit a forest stewardship management plan as set forth in section 195F-5; and
- (3) Enter into an agreement with the board to do the following:
 - (A) Undertake and maintain the approved activities under the management plan for not fewer than ten years, unless the board approves modifications in the plan;
 - (B) Complete all approved activities under the management plan within the timetable agreed upon by the board and the landowner consistent with the intent of this chapter;
 - (C) Submit an annual progress report to be reviewed by the board for each year in which the landowner receives support under the program. This report shall detail accomplishments, areas requiring technical advice, and any proposed modifications of the plan; and

(D) Other conditions deemed necessary by the board to implement the purposes of this chapter.

(d) The board shall review the annual progress report and shall determine whether the landowner has met the objectives of the plan. To facilitate the review, the department shall have the right to make inspections of the forest land after prior landowner notification. The board may approve alteration of the plan to adapt to current conditions. Amendments to the plan shall be available for public review.

(e) The board shall submit annually a detailed report to the governor and legislature that shall:

- (1) Identify management objectives that have been completed on private lands resulting from payments made pursuant to section 195F-4(a)(1) and provide an analysis of problems and issues encountered in meeting or failing to meet objectives as set forth in the management plans;
- (2) Identify all reforestation, forest management, education, and training objectives that have been completed as a result of any expenditures made pursuant to section 195F-4(a)(2);
- (3) Describe the financial condition of the fund, including receipts and expenditures from the previous fiscal year; and
- (4) Set forth plans and management objectives for the next fiscal year. [L 1991, c 327, pt of §2; am L 1992, c 180, §4; am L 1999, c 144, §5]

" **[§195F-7] Penalty payback provisions.** The board shall establish and implement a penalty payback provision to be applied in the event that a landowner terminates any approved practice required under the forest stewardship management plan, as agreed to by the board and the landowner. [L 1991, c 327, pt of §2]

" **[§195F-8] Rules.** The department shall adopt rules pursuant to chapter 91 to carry out the purposes of this chapter. [L 1991, c 327, pt of §2]