



# Empire State Forest Products Association

*The people behind New York's healthy forests and quality wood products*

*www.esfpa.org*

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## **Memorandum of Opposition**

### **A 7550/S 5603**

Honorable Anna Kelles  
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Albany, NY 12248

Via email [kellesa@nyassembly.gov](mailto:kellesa@nyassembly.gov)

Honorable Rachel May  
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The Empire State Forest Products writes to convey concerns with **A. 7550/S. 5603** which would amend the Real Property Tax Law (RPTL) Section 480a to authorize private forest landowners who encumber their properties with a conservation easement and guarantee protection of a “wild forest” to be eligible for an 80% reduction in property tax assessment. This legislation would also establish a means for municipal taxing jurisdictions to appeal to the State for reimbursement of reduced property tax receivables because of enrollments on RPTL Sections 480 and 480a.

The Empire State Forest Products Association (ESFPA) represents over 350 member businesses, industries and landowners engaged in forest resource production and stewardship of New York's 19 million acres of forest, 75% or 14 million acres that are privately owned. In total, \$22.9 billion dollars in annual industry production and nearly 100,000 jobs are attributable to operations of various industries within the forest related sectors. Over 200,000 private forest landowners depend on wood product markets to provide a return of investment on their forests lands which in turn enable them to keep their forests as forest and steward their lands in ways that benefit all New Yorkers.

ESFPA has long supported public policy and laws that encourage forest landowners to keep their forests as forest and to provide forest landowners, New Yorkers, and our rural economy with the benefits of a robust and viable working landscape. This in turn generates a host of climate and ecosystem benefits unparalleled by any other landscape feature in New York.

Forests are the most powerful clean air technology on earth. By providing a continuing cycle of growing, harvesting, and regenerating, active forest management optimizes a forest's ability to sequester and store carbon and improves resiliency, maintaining the ability to sequester carbon in the future. At a landscape scale, forests are considered carbon sinks, meaning they reduce the net amount of CO<sub>2</sub> in the atmosphere as they grow. In addition, so long as we manage forests to maintain or increase carbon stocks, harvested wood products used for timber, fiber and energy can sequester additional carbon in harvested wood products and provide substitution benefits for products made from fossil fuels.

ESFPA has several comments on this legislation as well as some questions.

First, RPTL 480a has for over fifty years provided a means by which present and future private forest landowners can sustainably manage their forests and provide a renewable stock of fiber and timber in support of our wood products industry. Its historical foundation has been on supporting and sustaining the use and development of wood products to meet society's needs. Now, more than ever, faced with climate change and the need to reduce our consumption of fossil fuel intensive materials, we need our forests to yield wood products that can substitute for and reduce consumption of more fossil fuel intensive products.

When it comes to the role of forests and wood product manufacturing, The IPCC 2022 Special Report says this best:

“In the long term, a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of *timber, fibre, or energy* from the forest, will generate the largest sustained mitigation benefit.”

USDA data shows that NY forests' growth to mortality/harvest ratio for the past decade is greater than 2:1, meaning that forest landowners annually are growing twice the amount of forest stocks than are lost to mortality (fire, pests, diseases, etc.) For forest owners' a fundamental climate benefit goal should be to grow, harvest, and regenerate healthy trees in healthy forests, over and over again.

Amending RPTL 480a to encourage locking up forest resources in perpetuity is a cooption of the original intent of 480a and will likely result in less overall climate benefits to New York.

Second, while ESFPA does not support the use of RPTL 480a for purposes outside of its original scope and intent, we have and will continue to support tax policies that encourage private forest landowners to keep their forest as forest. In 2018, ESFPA supported the Empire Forest For the Future (EFFI) proposal in the Budget (A. 9508-A/S. 7508-A) which included a new RPTL 480b which would have enabled forest landowners to enroll in a tax abatement program for a number of forest management practices and stewardship objectives. In the 2023 Climate Scoping Plan, ESFPA supported proposals to amend RPTL to create a 480b proposal aimed at biodiversity and a 480c proposal to encourage carbon storage and sequestration in private forests. More recently we have encouraged the State to look at “current use tax” proposals used in several states to help private forest landowners. In supporting these we emphasized two important fundamental values.

ESFPA would welcome the opportunity to revisit amendments or new provisions to RPTL that encourage private forest landowners to keep their forests as forest and address the burden of tax

impacts. One thing we did insist on and would continue to insist on is including a means to reimburse taxing jurisdictions for the impacts such abatements would cost them. **A. 7550/S. 5603** does include such a mechanism, and we would like to learn more about just how that would work. As drafted it seems as if some taxing jurisdictions may not be included (e.g., school districts).

Third, while ESFPA has supported the use of conservation easements for conserving forest lands, we do not support the use of government funding or tax abatements to permanently restrict forest management practices, including the harvesting of timber. While we would never presume telling any forest owner that they must harvest timber on their property, we cannot support provisions that would restrict timber harvesting options for subsequent forest landowners. One of the drawbacks to easements is that they largely benefit landowner #1 in the chain of title. That landowner gets the benefits of tax right-offs for donating easements, the financial benefit of revenue from a purchased easement, and the real property tax benefits of decreasing their assessments due to the loss of highest and best use (e.g., development rights). All subsequent landowners are bound by the easement but do not receive the same benefits. Eliminating their option for revenue from timber sales just further diminishes value to these subsequent owners.

Fourth, New York State is the epicenter of invasive species and forest pests/pathogens in eastern North America, plus largely unchecked deer populations. New threats to forest health and productivity (and climate benefits) will continue to emerge regularly, interacting with current problems and legacy issues. This leaves landowners (including the State of New York) in a 'forever wild' situation as 'sitting ducks' with few or no options to mitigate or respond. Generally, to build adaptive capacity and resilience to change, we need more (not fewer) options/approaches in dealing with uncertainty.

Fifth, this proposal for "wild forests" rests on presumption that that older trees keep more carbon locked up for longer and are a better strategy for climate mitigation. Carbon science has lately become more weaponized depending on one's agenda. Carbon sequestration (the trees' rate of uptake from the atmosphere, also known as flux) and carbon storage (its containment in trees and soil) are often conflated, yet they are not the same thing. We need both, for many reasons. To keep carbon out of the atmosphere, forests need both large stocks of older trees that store carbon and younger ones "sucking up" carbon at high rates. As noted above, so long as we maintain or increase carbon stocks, which we do in New York forests and more so on private lands than public lands, the use of wood for products that society depends on and as a substitute for otherwise more carbon/fossil fuel intensive products will yield the largest climate benefit.

To balance the imperatives of storage and annual sequestration, ESFPA concurs with prevailing science on the concept of "carbon stewardship" — an approach that factors in sequestration, storage, substitution, and adaptation to future climate impacts. Disturbances such as windstorms, wildfires, beech leaf disease and invasive pests can damage a forest's ability to hold on to carbon. Sustainable forest management including harvesting and regeneration can nurture species that counterbalance that carbon loss. That does not mean we should not have mature and even old growth forests. New York has plenty of "wild forest" in the Forest Preserve (Catskills and Adirondacks), our state parks which operate under a "forever wild" policy and in some privately protected old growth forests. We need a balance and a mix of forest types and management objectives. What we do not need is to lock up more forest which can result in only one outcome, old growth.

Sixth, ESFPA points out that the amendments to lower eligible acreage from 50 acres to 10 acres as proposed in the bill would apply to both the proposed changes to 480a and the current intent of 480a for forest stocking and fiber and timber resources. Ten acres is an extremely low threshold, and while we could justify lowering the existing acreage for 480A from 50 acres down to 25 acres based on known market demands, we cannot justify lowering down to 10 acres for any reason.

Finally, we need to ensure in our forest tax policy and broader forest policy, that we are not “greenwashing” private forest stewardship. Individual private forest landowners who only want to leave their forests alone (i.e., business as usual) are not going to do anything with their forest to begin with and they do not bring any additionality to the challenge. New York’s Climate Scoping Plan calls for 60 million metric tons (mmt) of annual carbon sequestration. Annual sequestration, or removals, as determined in the state emissions inventory, were 28.04 mmt CO<sub>2</sub>e in 2020, and the report notes that “net emission removals of CO<sub>2</sub> declined 15% 1990 to 2019, or down from -33.11mmt to -28.12mmt CO<sub>2</sub>e.” Said another way, without these net removals, the state’s emission inventory would be that much greater, adding to total emission reductions required by 2030 and 2050. Yet to achieve net-zero emissions by 2050, we need to offset or remove 60 mmt of CO<sub>2</sub>e per year of emissions. Much of that already does and will need to come from forests in New York State.

We need policy, real property tax and otherwise, that incents private forest landowners to do more, not leave it alone. Maintaining and increasing removals is an essential component of the CLCPA and the Scoping Plan. For now, these removals occur in large measures from our forests and for the foreseeable future the private forest will be the largest source of removals.

We look forward to working with the Legislature on a real property tax benefit that keeps our forests as forest, preserves the climate, ecological and economic benefits of our private forests, and recognizes the need to bring additionality to private forest lands to meet our climate targets. We would welcome the opportunity to discuss these comments and other ideas in the near future.

Should you have any questions or need additional information, please do not hesitate to contact us.

### **For Further Information Contact:**

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