

# EXAMINING LAND FOR CLASSIFICATION AS FOREST LAND

(UNDER CGS SECTION 12-107D)



## GUIDANCE FOR ASSESSORS & FORESTERS

*... in plain English*

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## Introduction

Most modern day foresters probably have the impression that the use of taxation as a tool to encourage the retention of forest land across Connecticut began with the passage of Public Act 490 in 1963. (After all, everyone knows about “490”, right?)

In fact, the first meaningful attempt came in 1877, as the Connecticut legislature passed Chapter 49, “*An Act Concerning the Planting of Trees and Tax Thereon.*” That was followed by refinements and new tax strategies adopted in 1886, 1911, 1913, 1918, 1930, 1949, 1955, 1963 (*two* acts, including PA 490), 1971, 1972, 1973, 1974, and 1976. Until 1976, substantive change to tax laws affecting Connecticut’s forested lands occurred about every six and a half years. Today, 28 years after the last significant change to property tax laws affecting our state’s forested lands, one more change has occurred.

With the signing of Public Act 04-115 into law by Governor Rowland on May 21, 2004, a shift occurred in the role of the State Forester in the administration of the provisions of what most people refer to as, “490.” The basic elements of section 12-107b and 12-107d of the Connecticut General Statutes have not changed – but the administrative roles have shifted.

In 1963, when PA490 was signed into law, there were very few professional foresters in private practice. Accordingly, PA490 was designed to rely upon the primary source of skilled and knowledgeable foresters at the time, the Office of the State Forester, for inspecting lands proposed for Forest Land tax classification.

The professional landscape in forestry has changed dramatically in over four decades. Today, Connecticut hosts over 100 professional foresters whose skills and knowledge have been examined by the Office of the State Forester and certified for practicing forestry in Connecticut. The provisions of Public Act 04-115, (the “New 490”), take advantage of that reservoir of professional forestry skill and knowledge, directing the State Forester to set the standards for Forest Land classification while relying on certified, private sector foresters trained by the State Forester to examine lands proposed for Forest Land classification.

This publication is intended to provide guidance to those foresters as they examine lands proposed for Forest Land classification under the “New 490” and to inform Connecticut’s municipal Assessors, as well.

## The “New 490”: How It Works

*(Please refer to the actual text of [CGS sections 12-107b and 12-107d](#), together with the text of the Regulations ([12-107d-1 through 12-107d-5](#), inclusive) for specific details of the provisions of the law and the standards and policies.)*

There are four players in the classification of land as “Forest Land” under the New 490:

- 1 The **Owner**, whose goal is to lower his or her tax burden and make it easier to hold onto the land for as long as possible;
- 2 The **Forester**, who is hired by the Owner to examine the land and report how much of the land, if any, he or she believes meets the standards for classification as Forest Land;
- 3 The **Assessor**, whose goal is to fairly and equitably assess the value of the Owner’s land within the requirements of law, classifying the land as “Forest Land”, as appropriate. The Forester’s report becomes a part of the Owner’s application to the Assessor and provides crucial advice to the Assessor during the assessment process; and
- 4 The **State Forester**, who establishes the standards and policies by which forest land is evaluated, trains the Forester in applying those standards and policies, and acts as an unbiased “second opinion” available to either the Owner or the Assessor if they disagree with the Forester’s findings.

## The Role of the Owner

As in the past, it is the owner of the land who applies to the local assessor for classification of their land as Forest Land, using a standard application form available from the assessor's office. The act of actually submitting the application must take place no later than October 1st, although the "deadline" may shift during a revaluation year.

Under the "New 490", an owner who wants land to be classified as Forest Land is now required to hire a Forester to examine their land and prepare a report on the forest conditions found there. That report is attached to, and becomes a part of, the owner's application to the assessor for classification of the portion of the land that meets the State Forester's standards for classification as Forest Land.

*Note: While the usual "window" for submitting applications to the assessor lasts for just one month, there is no limitation on when the forester's examination of the land and report can be done. **A word to the wise: don't wait until August or September to contact a forester!***

*Also Note: According to section [12-504h](#) of the Connecticut General Statutes, the classification of land as "Forest Land" is cancelled when either a change in use of the land occurs or the land is sold or transferred. Each new owner of the land must, therefore, hire a Forester to re-examine the land and prepare a new report for their application for classification.*

If the owner disagrees with the forester's findings with respect to either the number of total acres of forest, the location of the forest within their land, or any changes in land previously classified as forest land, stating the reason(s) for and facts of the appeal, the owner may write to the State Forester, including a copy of the report, and ask for a review of the forester's findings. The State Forester will advise the forester and the assessor of the appeal and will render his advice within 60 days of receiving the owner's appeal.

## The Role of the Forester

In order to "qualify" to evaluate land proposed for Forest Land classification and prepare a report for the owner, a forester must:

- 1 Be certified to practice in Connecticut, as per CGS section 23-65h of the Connecticut General Statutes (the [Forest Practices Act](#));
- 2 Satisfactorily complete training in applying the standards and policies of the "New 490" provided by the State Forester; and
- 3 Comply with those standards and policies.

If you are not certified under the Forest Practices Act, you should contact the State Forester's Office and apply to be certified. Information about certification is available upon request.

If you are certified under the Forest Practices Act, you should contact the State Forester's Office and apply to be trained and qualified for evaluating land for Forest Land classification under the "New 490." You will be assigned to the next available training date. At the completion of the training, you will be required to complete a short, written examination intended to determine how well you understand the "New 490" standards and policies. All questions on the exam must be answered correctly for you to be judged as "qualified."

To help owners find a "qualified forester" to examine their land, the State Forester will place a "490" notation next to the name of each qualified forester's listing in the statewide [Directory of Certified Foresters](#). The listing is available for review or download and is also available in print form from the State Forester's Office, upon request.

Once contacted and hired by an owner, the forester will familiarize himself or herself with the land, developing both a forest stand map and sufficient inventory data to reliably describe species composition, stand size and stand density for each forest stand. The forester should make note of both the owner's goals for the land, as well as the wide variety of factors that may influence the ability of the land to serve the landowner's interests.

With the necessary data and supporting information collected, the forester then creates the report, using only the standard [Qualified Forester's Report](#) forms that are available for reproduction from the State Forester's Office in either

print or electronic format. The forester also creates the maps that must be incorporated into the report.

The forester should always keep in mind that the report is not meant to be a detailed, comprehensive, forest management plan. It is merely intended to capture information concerning the land, to compare that information to the standards for classification of the land as "Forest Land", and to provide some simple, general guidance to the owner with regard to maintaining proper forest condition.

*Note: In many cases it will not be necessary to re-inventory the forest and re-draft the entire report. The report must be based on data that is not more than ten years old. If the data is fresh enough, the forester will only need to discuss the owner's goals for the land, "reconnoiter" the land to uncover any changes from the previous inspection of the land, and then re-draft the report to suit the new owner's goals and to address any physical changes.*

When completed, the original report is submitted to the owner. The owner is responsible to see that a copy of the Qualified Forester's Report is attached to their completed application to the assessor for classification of their land as Forest Land (Form M-39 ). The owner and the assessor each have 30 days from the day they each receive the report to appeal, in writing, to the State Forester for a review of the forester's report. The forester must keep a copy of the report and all of the data and information used to develop it in his or her files for at least five years from the date the report was delivered to the owner(s) and municipal assessor(s) . Should either the owner or the assessor appeal to the State Forester for a review of the forester's findings, the State Forester may seek to discuss the details of the data with the forester.

### **The Role of the Assessor**

Owners and foresters should be mindful that consulting and working with the local assessor, *from the beginning*, can greatly ease the process of securing Forest Land classification for the land. The assessor's office and the municipal land records may hold valuable information about the subject land that will make the forester's job much easier. Visiting the assessor's office to seek that information can open an important line of communication that will eliminate questions and confusion that might otherwise arise when the assessor receives the application in September or October. Many times, those last minute problems keep a classification from happening.

When the assessor receives the landowner's completed application for classification of the land as Forest Land (including the Qualified Forester's Report), the assessor will review the application materials, including the forester's report. If the assessor determines that the use of the land as forest land has not changed, the assessor can classify the land as forest land and include it as such on the grand list.

If the assessor disagrees with the forester's findings with respect to either the number of acres of forest or the location of the forest within the land, the assessor may write to the State Forester, including a copy of the report, and ask for a review of the forester's findings. The State Forester will advise the forester and the owner of the appeal and will render his advice within 60 days of receiving the assessor's appeal.

When a change in ownership causes the classification to terminate and the new owner seeks to continue the classification as "Forest Land", the new owner(s) of record must hire a Qualified Forester and submit an application for a new classification. If the change in ownership is strictly administrative (name change by marriage, for example) and the classification doesn't terminate, the assessor may simply amend his or her records.

When classified land is sold or voluntarily withdrawn from classification by the owner, the assessor may simply amend his or her records and compute whatever penalty may be appropriate.

When the assessor determines that a change to non-forest use has occurred on the land, he or she may terminate the classification and require the owner to re-apply for classification of any remaining lands that may qualify. The owner will, again, be required to employ a Qualified Forester to prepare a report on the land proposed for classification. If the total acreage of the remaining tracts totals less than 25 acres, the entire classification must remain terminated. (It should be noted that timber harvesting and other forest management activities are permitted forest uses.) If an assessor has any question regarding a change of use, the assessor may consult the State Forester.

## **The Role of the State Forester**

The State Forester has established and maintains the standards and policies by which forest land is evaluated by private, professional foresters. The State Forester or his or her designee is to offer training, at least once per year, to any forester seeking to become qualified to apply those standards and policies and to certify that the forester is so qualified, upon the forester correctly answering all examination questions at the conclusion of the training.

In the event that either the owner or assessor disagrees with the forester's findings relative to either the number of acres of forest or the location of the forest within the land, the State Forester will receive their appeal, review the forester's findings and records and provide an unbiased "second opinion."

## **Need Help or Advice?**

The State Forester is a valuable source of information, advice and counsel for owners, foresters, and assessors, alike. Any questions regarding the standards and policies for examining land for classification as Forest Land, or their interpretation and application, should be directed to the State Forester.

## **Contact Information:**

The State Forester:

Connecticut DEEP Forestry  
79 Elm Street, 6<sup>th</sup> Floor  
Hartford, CT 06106  
Phone: 860-424-3630 Fax: 860-424-4070 Email: [dep.forestry@ct.gov](mailto:dep.forestry@ct.gov)

## **[The Directory of Certified Foresters](http://www.ct.gov/dep/lib/dep/forestry/forest_practitioner_certification/directry.pdf)**

([www.ct.gov/dep/lib/dep/forestry/forest\\_practitioner\\_certification/directry.pdf](http://www.ct.gov/dep/lib/dep/forestry/forest_practitioner_certification/directry.pdf))

## **[The Connecticut Association of Assessing Officers](http://www.caaao.com)**

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## **[The Text of Regulations Concerning Classification of Forestland](http://www.ct.gov/dep/lib/dep/regulations/12/12-107d-1through5.pdf)**

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