

109TH CONGRESS  
1ST SESSION

# H. R. 3933

To amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban forest land and open space and contain suburban sprawl.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2005

Mr. FITZPATRICK of Pennsylvania (for himself, Mr. MICHAUD, Mr. SAXTON, and Mr. SIMMONS) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban forest land and open space and contain suburban sprawl.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Suburban and Commu-  
5       nity Forestry and Open Space Program Act of 2005”.

1 **SEC. 2. SUBURBAN AND COMMUNITY FORESTRY AND OPEN**  
 2 **SPACE PROGRAM.**

3 The Cooperative Forestry Assistance Act of 1978 (16  
 4 U.S.C. 2101 et seq.) is amended by adding at the end  
 5 the following new section:

6 **“SEC. 21. SUBURBAN AND COMMUNITY FORESTRY AND**  
 7 **OPEN SPACE PROGRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) COMMITTEE.—The term ‘Committee’  
 10 means a State Forest Stewardship Coordinating  
 11 Committee established under section 19(b).

12 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
 13 tity’ means a unit of local government or a nonprofit  
 14 organization that—

15 “(A) the Secretary determines, in accord-  
 16 ance with the criteria established under sub-  
 17 section (c)(2)(B) is eligible to receive a grant  
 18 under subsection (d); and

19 “(B) the State forester, in consultation  
 20 with the Committee, determines—

21 “(i) has the abilities necessary to ac-  
 22 quire and manage interests in real prop-  
 23 erty; and

24 “(ii) has the resources necessary to  
 25 monitor and enforce any terms applicable  
 26 to the eligible project.

1           “(3) ELIGIBLE PROJECT.—The term ‘eligible  
2           project’ means a fee purchase, easement, or donation  
3           of land to conserve private forest land identified for  
4           conservation under subsection (c)(2)(A).

5           “(4) INDIAN TRIBE.—The term ‘Indian tribe’  
6           has the meaning given the term in section 4 of the  
7           Indian Self-Determination and Education Assistance  
8           Act (25 U.S.C. 450b).

9           “(5) NONPROFIT ORGANIZATION.—The term  
10          ‘nonprofit organization’ means any organization that  
11          is—

12                 “(A) described in section 501(c) of the In-  
13                 ternal Revenue Code of 1986; and

14                 “(B) exempt from taxation under 501(a)  
15                 of the Internal Revenue Code of 1986.

16          “(6) PRIVATE FOREST LAND.—The term ‘pri-  
17          vate forest land’ means land that——

18                 “(A) consists of at least 50 percent forest  
19                 cover, with the remainder made up of—

20                         “(i) compatible non-forest uses, in-  
21                         cluding cultivated farmlands, pastures, or-  
22                         chards, shrub lands, grasslands, wetlands,  
23                         or open waters; or

24                         “(ii) preexisting structures that are  
25                         inseparable from the landholding and do

1 not have a detrimental effect on conserva-  
2 tion values;

3 “(B) is capable of producing commercial  
4 forest products; and

5 “(C) is owned by a private entity or an In-  
6 dian tribe.

7 “(7) PROGRAM.—The term ‘program’ means  
8 the Suburban and Community Forestry and Open  
9 Space Program established by subsection (b).

10 “(8) SECRETARY.—The term ‘Secretary’ means  
11 the Secretary of Agriculture, acting through the  
12 Chief of the Forest Service.

13 “(b) ESTABLISHMENT AND PURPOSE.—There is es-  
14 tablished within the Forest Service a program to be known  
15 as the ‘Suburban and Community Forestry and Open  
16 Space Program’. The purpose of the program is to provide  
17 assistance to eligible entities to carry out eligible projects  
18 in States in which less than 25 percent of the land is  
19 owned by the United States to—

20 “(1) conserve private forest land and maintain  
21 working forests in areas threatened by significant  
22 suburban sprawl or by conversion to nonforest uses;

23 “(2) provide communities a means by which to  
24 address significant suburban sprawl; and

1           “(3) support primary and secondary value-  
2           added forest products industries and employment in  
3           areas threatened by—

4                   “(A) significant suburban sprawl; or

5                   “(B) conversion to nonforest uses.

6           “(c) IDENTIFICATION OF ELIGIBLE PRIVATE FOREST  
7           LAND AND ENTITIES.—

8                   “(1) NATIONAL CRITERIA.—The Secretary shall  
9           establish national eligibility criteria for the identi-  
10          fication of private forest land that may be conserved  
11          under this section.

12                   “(2) STATE CRITERIA.—Based on the criteria  
13          established under paragraph (1), the State forester  
14          shall establish—

15                   “(A) criteria for the identification, subject  
16          to paragraph (4), of private forest land in each  
17          State that may be conserved under this section;  
18          and

19                   “(B) criteria for the identification of eligi-  
20          ble entities.

21                   “(3) CONSULTATION AND APPROVAL.—The  
22          State criteria required under paragraph (2) shall be  
23          established in consultation with the Committee and  
24          shall be subject to the approval of the Secretary.

1           “(4) CONDITIONS FOR ELIGIBLE PRIVATE FOR-  
2       EST LAND.—Private forest land identified for con-  
3       servation using the criteria established under para-  
4       graph (2)(A) shall be land that—

5           “(A) is located in a State in which less  
6       than 25 percent of the land is owned by the  
7       United States; and

8           “(B) as determined by the State forester,  
9       in consultation with the Committee and subject  
10      to the approval of the Secretary—

11          “(i) is located in an area that is af-  
12       fected, or threatened to be affected, by sig-  
13       nificant suburban sprawl, taking into ac-  
14       count housing needs in the area; and

15          “(ii) is threatened by present or fu-  
16       ture conversion to nonforest use.

17      “(d) GRANT PROGRAM.—

18          “(1) GRANTS FOR ELIGIBLE PROJECTS.—In  
19       carrying out the program, the Secretary shall award  
20       competitive grants to eligible entities to carry out el-  
21       igible projects.

22          “(2) PUBLIC ACCESS.—Eligible entities are en-  
23       couraged to provide public access to land on which  
24       an eligible project is carried out, consistent with  
25       State law and preexisting access agreements.

1 “(e) APPLICATION AND STEWARDSHIP PLAN.—

2 “(1) SUBMISSION.—An eligible entity that seeks  
3 to receive a grant under the program shall submit  
4 to the State forester—

5 “(A) at such time and in such form as the  
6 Secretary shall prescribe, an application for the  
7 grant (including a description of any private  
8 forest land to be conserved using funds from  
9 the grant and a description of the extent of the  
10 threat of conversion to nonforest use); and

11 “(B) a stewardship plan that describes—

12 “(i) the manner in which any private  
13 forest land to be conserved using funds  
14 from the grant will be managed in accord-  
15 ance with this section;

16 “(ii) the manner in which the stew-  
17 ardship plan will be implemented; and

18 “(iii) the public benefits, including  
19 economic and noneconomic benefits, to be  
20 achieved from implementation of the stew-  
21 ardship plan.

22 “(2) ASSESSMENT OF NEED.—With respect to  
23 an application submitted under paragraph (1)(A),  
24 the State forester shall—

1           “(A) assess the need for preserving work-  
2           ing suburban forest land and open space and  
3           containing suburban sprawl in the State, taking  
4           into account the housing needs of the area in  
5           which the eligible project is to be carried out;  
6           and

7           “(B) submit the application and the as-  
8           sessment of need to the Secretary.

9           “(f) REVIEW OF APPLICATIONS.—

10           “(1) IN GENERAL.—As soon as practicable  
11           after the date on which the Secretary receives an ap-  
12           plication under subsection (e), or a resubmission of  
13           an application under subparagraph (B), the Sec-  
14           retary shall review the application and—

15           “(A) award a grant to the applicant; or

16           “(B) disapprove the application and pro-  
17           vide the applicant with a statement that de-  
18           scribes the reasons why the application was dis-  
19           approved and specifies a deadline by which the  
20           applicant may resubmit the application under  
21           this subsection.

22           “(2) CONSIDERATIONS; PRIORITY.—In award-  
23           ing grants under the program, the Secretary shall—

24           “(A) consider the need for the eligible  
25           project based on the assessment of need sub-



mitted under subsection (e)(2) and subject to  
the criteria established under subsection (c);  
and

“(B) give priority to applicants that pro-  
pose to fund eligible projects that promote—

“(i) the preservation of suburban for-  
est land and open space;

“(ii) the containment of suburban  
sprawl;

“(iii) the sustainable management of  
private forest land;

“(iv) community involvement in deter-  
mining the objectives for eligible projects  
that are funded under this section;

“(v) primary and secondary value-  
added forest products industries and em-  
ployment;

“(vi) the protection of water, wildlife,  
scenic and recreational resources; and

“(vii) the protection of forestlands  
recognized as conservation priorities within  
Federal, regional, State, or local water-  
shed, open space, or other resource protec-  
tion plans.

“(g) COST SHARING.—

1           “(1) IN GENERAL.—The amount of a grant  
2           awarded under the program to carry out an eligible  
3           project shall not exceed 50 percent of the total cost  
4           of the eligible project.

5           “(2) ASSURANCES.—As a condition of receipt of  
6           a grant under the program, an eligible entity shall  
7           provide to the Secretary such assurances as the Sec-  
8           retary determines are sufficient to demonstrate that  
9           the share of the cost of each eligible project that is  
10          not funded by the grant awarded under this section  
11          has been secured.

12          “(3) FORM.—The share of the cost of carrying  
13          out any eligible project that is not funded by a grant  
14          awarded under the program may be provided in cash  
15          or in kind (including a donation of land).

16          “(h) USE OF GRANT FUNDS FOR PURCHASES OF  
17          LAND OR EASEMENTS.—

18                 “(1) PURCHASES.—

19                         “(A) PURCHASE AT FAIR MARKET  
20                         VALUE.—Except as provided in subparagraph  
21                         (B), funds made available, and grants awarded,  
22                         under the program may be used to purchase  
23                         private forest land or interests in private forest  
24                         land (including conservation easements) only  
25                         from willing sellers at fair market value.

1           “(B) PURCHASE AT LESS THAN FAIR MAR-  
2           KET VALUE.—A sale of private forest land or  
3           an interest in private forest land at less than  
4           fair market value shall be permitted only on  
5           certification by the landowner that the sale is  
6           being entered into willingly and without coer-  
7           cion.

8           “(2) TITLE.—Title to private forest land or an  
9           interest in private forest land purchased under para-  
10          graph (1) may be held, as determined appropriate by  
11          the Secretary, in consultation with the State, by—

12                   “(A) a State;

13                   “(B) a unit of local government; or

14                   “(C) a nonprofit organization.

15          “(3) TERMINATION OF EASEMENT.—Except as  
16          provided in paragraph (4), all right, title, and inter-  
17          est of a unit of local government or nonprofit organi-  
18          zation in and to a conservation easement purchased  
19          under paragraph (1) shall terminate and vest in the  
20          State if the State determines that—

21                   “(A) the unit of local government or non-  
22                   profit organization is unable or unwilling to en-  
23                   force the terms of the conservation easement; or

1           “(B) the conservation easement has been  
2           modified in a way that is inconsistent with the  
3           purposes of the program.

4           “(4) CONVEYANCE TO ANOTHER UNIT OF  
5           LOCAL GOVERNMENT OR NONPROFIT ORGANIZA-  
6           TION.—If a State makes a determination under  
7           paragraph (3), the State may convey or authorize  
8           the unit of local government or nonprofit organiza-  
9           tion to convey the conservation easement to another  
10          unit of local government or nonprofit organization.

11          “(i) ADMINISTRATIVE COSTS.—The State, on ap-  
12         proval of the Secretary and subject to any regulations pro-  
13         mulgated by the Secretary, may use amounts made avail-  
14         able under subsection (k) to pay the administrative costs  
15         of the State relating to the program.

16          “(j) REPORT.—The Secretary shall submit to Con-  
17         gress a report on the eligible projects carried out under  
18         this section in accordance with section 8(c) of the Forest  
19         and Rangeland Renewable Resources Planning Act of  
20         1974 (16 U.S.C. 1606(c)).

21          “(k) AUTHORIZATION OF APPROPRIATIONS.—There  
22         are authorized to be appropriated to carry out this sec-  
23         tion—

24                 “(1) \$50,000,000 for fiscal year 2006; and

- 1           “(2) such sums as are necessary for each fiscal
- 2       year thereafter.”.

