

**Chapter 15.100 RCW**  
**FOREST PRODUCTS COMMISSION**

**Sections**

15.100.010	Finding.
15.100.020	Definitions.
15.100.030	Washington forest products commission—Created— Membership—Quorum—Terms.
15.100.040	Initial meeting—Nominations for initial election of members—Subsequent efforts when approval not given.
15.100.043	Costs of proceeding to form a commission—Reimbursement.
15.100.050	After initial election of members—Rules—Annual meetings —Public notice.
15.100.060	Vacancies—Compensation.
15.100.070	Obligations of commission—Limitations on liabilities or claims—State—Individual capacity.
15.100.080	Powers and duties of commission.
15.100.090	Research, promotional, and educational campaigns.
15.100.100	List of all Washington producers—Confidential—Reporting system for assessment purposes.
15.100.110	Assessment for permanent funding of commission— Adjustments—Referendum.
15.100.120	Establishment of commission and initial assessment— Statewide referendum among producers.
15.100.130	Deposit of moneys collected—Appropriation not required.
15.100.140	Assessment—Personal debt—Payable when called—Failure to pay—Civil action.
15.100.150	Enforcement of chapter.
15.100.160	Superior courts—Jurisdiction.
15.100.900	Construction.

**RCW 15.100.010 Finding.** The legislature finds that the creation of a forest products commission would assist in expanding the state's economy, because:

(1) Marketing is a dynamic and changing part of the Washington forest products industry and a vital element in expanding the state economy;

(2) The sale in the state and export to other states and abroad of forest products made in the state contribute substantial benefits to the economy of the state, provide a large number of jobs and sizeable tax revenues, and are key components of the health of many local communities because many secondary businesses are largely dependent on the health of the forest products industry; and

(3) Forest products are made from a renewable resource and are more environmentally sound than many alternative products. [2001 c 314 § 1.]

**RCW 15.100.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commission" means the forest products commission.

(2) "Department" means the department of agriculture.

(3) "Director" means the director of the department of agriculture or the director's authorized representative.

(4) "Forest products" or "timber" means trees of any species maintained for eventual harvest whether planted or of natural growth, standing or down, on privately or publicly owned land, and also includes wood products related thereto, but does not include Christmas trees or other trees on which the timber excise tax provided under chapter 84.33 RCW is not imposed.

(5) "Person" includes any individual, corporation, firm, partnership, trust, association, or any other organization of individuals.

(6) "Producer" means any person who harvests timber in Washington state and pays the timber excise tax imposed under chapter 84.33 RCW on at least two million board feet in a calendar year or in four consecutive calendar quarters.

(7) "Eastern Washington" means that portion of the state lying east of the Cascade mountain range.

(8) "Western Washington" means that portion of the state lying west of the Cascade mountain range. [2001 c 314 § 2.]

**RCW 15.100.030 Washington forest products commission—Created—Membership—Quorum—Terms.** (1) (a) There is created a commodity commission to be known and designated as the Washington forest products commission. The commission is composed of nine voting members. The commission may, in its sole discretion, add or remove nonvoting ex officio members to the commission. Of the members, six shall be from western Washington, and three shall be from eastern Washington. After the initial election of commission members, however, if a position cannot be filled by a member from eastern Washington within sixty days from the date on which nominations may first be received because of a lack of candidates, the position may be filled by a member from western Washington. Under no circumstances will there be less than two board members from eastern Washington. If a position was filled by a member from western Washington because of a lack of candidates from eastern Washington, and districts are not used for the nomination and election of members, then a person from eastern Washington must fill the next available vacancy or open position at the next election to bring the number of representatives from eastern Washington up to three members. All members shall be elected by the entire group of producers unless the commission creates districts for the members as authorized in RCW 15.100.050. If districts are used for the nomination and election of commission members, and it does not appear that one of the positions from eastern Washington will be filled because of a lack of candidates, then a commission member who resides in western Washington must be elected by the entire group of producers as an at large member. The position of the western Washington member who is elected as an at large member shall be filled by a member from eastern Washington at the expiration of the term of the at large member. If districts are not used for the nomination and election of members, the commission shall strive to achieve representation on the commission from the different geographic regions of the state.

(b) Of the six members from western Washington, three members must have annual harvests of more than seventy-five million board

feet, and three members must have annual harvests between two million board feet and seventy-five million board feet.

(c) Of the two members from eastern Washington, one member must have an annual harvest greater than forty million board feet, and one member must have an annual harvest between two million board feet and forty million board feet. If there is a third member from eastern Washington, the only harvest requirement is that the member have an annual harvest of at least two million board feet.

(2) The members must be citizens and residents of this state, and over the age of twenty-one years. Each member must currently, and for the five years last preceding his or her election, be actually engaged in producing forest products within the state of Washington, either individually or as an officer of a corporation, firm, partnership, trust, association, or business organization at the level of production required to qualify as a producer. Each member must also derive a substantial amount of his or her income from the production of forest products. The qualifications set forth in this section apply throughout each member's term of office.

(3) No more than one member of the commission may be employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, trust, association, or business organization.

(4) Five voting members of the commission constitute a quorum for the transaction of all business and the carrying out of the duties of the commission.

(5) The regular term of office of the members is four years from November 1st following their election and until their successors are elected and qualified. However, the first terms of the members elected in the initial November 1st election is as follows: Positions one, four, and seven terminate on November 1st, two years after the initial election is held; positions two, five, and eight terminate on November 1st, three years after the initial election is held; and positions three, six, and nine terminate on November 1st, four years after the initial election is held. [2002 c 251 § 2; 2001 c 314 § 3.]

**RCW 15.100.040 Initial meeting—Nominations for initial election of members—Subsequent efforts when approval not given.**

(1) The director shall call the initial meeting of producers of forest products for the purpose of nominating their respective members of the commission after receiving notice from an association representing producers of forest products that substantial interest exists in forming a forest products commission. Public notice of the meeting shall be given by the director in the manner the director determines is appropriate. A producer may on his or her own motion file his or her name with the director for the purpose of receiving notice of the meeting. The nonreceipt of the notice by any interested person does not invalidate the proceedings.

(2) Prior to the nomination of commission members, the department of revenue shall provide the director with a list of all qualified producers within the state based upon tax records of the department.

(3) For the initial election of commission members, any qualified producer may be nominated orally for a commissioner position at the meeting convened by the director. Nominations may also be made within five days prior to the meeting by a written petition filed with the department, signed by at least five producers who reside in the state. If the director determines that one of the positions from eastern

Washington will go unfilled because of a lack of candidates, the director shall announce that this position shall be filled by a member from western Washington. If the position designated for eastern Washington is filled by a member from western Washington because of a lack of candidates from eastern Washington, this position shall be designated as position number seven by the director for purposes of RCW 15.100.030(5). Under no circumstances will there be less than two board members from eastern Washington.

(4) The initial members of the commission shall be elected by secret mail ballot under the supervision of the director at the same time the referendum is submitted under RCW 15.100.120 calling for the creation of the commission and the imposition of the initial assessment. If a nominee does not receive a majority of the votes on the first ballot, a runoff election shall be held by mail in a similar manner between the two candidates for the position receiving the largest number of votes.

(5) If the director determines under RCW 15.100.120(3) that the requisite approval for the establishment of a commission has not been given, any subsequent efforts to create a commission must follow the procedures established under this chapter for the initial nomination and election of members. [2002 c 251 § 3; 2001 c 314 § 4.]

**RCW 15.100.043 Costs of proceeding to form a commission—Reimbursement.** The association responsible for giving the director notice under RCW 15.100.040 that substantial interest exists in forming a forest products commission shall reimburse the department for its costs associated with conducting a proceeding to initiate a commission under RCW 15.100.040 and 15.100.120. If the necessary approval is received for the creation of a commission, the commission shall reimburse the association for the costs paid to the department when funds become available. [2002 c 251 § 4.]

**RCW 15.100.050 After initial election of members—Rules—Annual meetings—Public notice.** (1) After the initial election of commission members, the commission shall establish rules for electing commission members, including the method used for notification, nominating, and voting. The commission may create commission districts and boundaries, and may also establish a weighted voting procedure for election of commission members. The commission shall hold its annual meeting during the month of October each year for the purpose of nominating commission members and the transaction of other business. Public notice of the meeting shall be given by the commission in the manner it determines is appropriate. A producer may on his or her own motion file his or her name with the commission for the purpose of receiving notice of the meeting. The nonreceipt of the notice by any interested person does not invalidate the proceedings.

(2) Prior to the nomination of commission members, the department of revenue shall provide the commission with a list of all qualified producers within the state based upon tax records of the department. [2001 c 314 § 5.]

**RCW 15.100.060 Vacancies—Compensation.** (1) In the event a position becomes vacant due to resignation, disqualification, death,

or for any other reason, the position until the next annual meeting shall be filled by vote of the remaining members of the commission. At the annual meeting a commissioner shall be elected to fill the balance of the unexpired term.

(2) Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter. Employees of the commission may also be reimbursed for actual travel expenses when on official commission business. [2001 c 314 § 6.]

**RCW 15.100.070 Obligations of commission—Limitations on liabilities or claims—State—Individual capacity.** Obligations incurred by the commission and liabilities or claims against the commission may be enforced only against the assets of the commission in the same manner as if it were a corporation and no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof or against any member, officer, employee, or agent of the commission in his or her individual capacity. The members of the commission, including employees of the commission, may not be held responsible individually or any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employees, except for their own individual acts of dishonesty or crime. A person or employee may not be held responsible individually for any act or omission of any other members of the commission. [2001 c 314 § 7.]

**RCW 15.100.080 Powers and duties of commission.** The powers and duties of the commission include:

(1) To elect a chair and such officers as the commission deems advisable. The commission shall adopt rules for its own governance, which provide for the holding of an annual meeting for the election of officers and transaction of other business and for such other meetings as the commission may direct;

(2) To adopt any rules necessary to carry out the purposes of this chapter, in conformance with chapter 34.05 RCW;

(3) To administer and do all things reasonably necessary to carry out the purposes of this chapter;

(4) At the pleasure of the commission, to employ a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission;

(5) At the pleasure of the commission, to employ and discharge managers, secretaries, agents, attorneys, and employees and to engage the services of independent contractors as the commission deems necessary, to prescribe their duties, and to fix their compensation;

(6) To engage directly or indirectly in the promotion of Washington forest products and managed forests, and shall in the good faith judgment of the commission be in aid of the marketing, advertising, or sale of forest products, or of research related to such marketing, advertising, or sale of forest products, or of research related to managed forests;

- (7) To enforce the provisions of this chapter, including investigating and prosecuting violations of this chapter;
- (8) To acquire and transfer personal and real property, establish offices, incur expense, and enter into contracts. Contracts for creation and printing of promotional literature are not subject to chapter 43.19 RCW, but such contracts may be canceled by the commission unless performed under conditions of employment which substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create such debt and other liabilities as may be reasonable for proper discharge of its duties under this chapter;
- (9) To maintain such account or accounts with one or more qualified public depositories as the commission may direct, to cause moneys to be deposited therein, and to expend moneys for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;
- (10) To cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;
- (11) To create and maintain a list of producers and to disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;
- (12) To employ, designate as agent, act in concert with, and enter into contracts with any person, council, commission, or other entity for the purpose of promoting the general welfare of the forest products industry and particularly for the purpose of assisting in the sale and distribution of Washington forest products in domestic and foreign commerce, expending moneys as it may deem necessary or advisable for such purpose and for the purpose of paying its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington forest products in domestic or foreign commerce, and employing and paying for vendors of professional services of all kinds;
- (13) To sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter;
- (14) To propose assessment levels for producers subject to referendum approval under RCW 15.100.110; and
- (15) To participate in federal and state agency hearings, meetings, and other proceedings relating to the regulation, production, manufacture, distribution, sale, or use of forest products. [2015 c 225 § 14; 2010 c 8 § 6115; 2001 c 314 § 8.]

**RCW 15.100.090 Research, promotional, and educational campaigns.**

The commission shall create, provide for, and conduct a research, promotional, and educational campaign as sales and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of markets, and degree of public awareness of products, and take into account the information obtained in the discharge of its duties under this chapter. [2001 c 314 § 9.]

**RCW 15.100.100 List of all Washington producers—Confidential—Reporting system for assessment purposes.** (1) The commission shall cause a list to be prepared of all Washington producers of forest products from any information available from the commission, producers' association, or producers, including tax records from the department of revenue. This list shall contain the names and addresses of all persons who produce forest products within this state, the amount of forest products produced during the period designated by the commission, and the assessment amount for each member. The list is considered confidential and may be reviewed only by the employees of the commission, except for information that may be disclosed to the public and commission members under subsection (4) of this section. A qualified person may, at any time, have his or her name placed upon the list by delivering or mailing the information to the commission. This list shall be corrected and brought up-to-date in accordance with evidence and information available to the commission on or before December 31st of each year, or as soon thereafter as possible. For all purposes of giving notice and holding referendums, the list on hand, corrected up to the day next preceding the date for issuing notices or ballots as the case may be, is, for purposes of this chapter, the list of all producers entitled to notice or to assent or dissent or to vote.

(2) The commission shall develop a reporting system to document that the producers of forest products in this state are reporting quantities of forest products produced and subject to the assessment as provided in RCW 15.100.110.

(3) The department of revenue may charge the commission for the reasonable costs of providing reports of harvest activity on a quarterly basis.

(4) Any taxpayer information received by the commission from the department of revenue may only be used for the limited purposes of establishing lists of producers necessary to determine eligibility for voting, eligibility for serving as a commission member, the amount of assessments owed, or other necessary purposes as established by law. Any return or tax information received from the department of revenue may be reviewed only by the employees of the commission. Employees may disclose to the public and commission members a list of commission members, groupings of at least three commission members by the amount of forest products harvested over any time period designated by the commission of at least one quarter, and the members who are eligible for the various positions on the commission. [2001 c 314 § 10.]

**RCW 15.100.110 Assessment for permanent funding of commission—Adjustments—Referendum.** (1) To provide for permanent funding of the forest products commission, an assessment shall be levied by the commission on producers of each species of forest products. The initial rate of assessment that shall be submitted for approval by referendum pursuant to RCW 15.100.120 is fifty-seven cents per thousand board feet. The initial assessment is not effective until approved by a majority of producers as required by RCW 15.100.120.

(2) After the initial assessment rate is approved, the commission may adjust the amount of the assessment within a range of forty-five cents up to ninety cents per thousand board feet. The commission shall submit any proposed increase in the assessment to producers pursuant to the referendum process established in this section, and shall

supply all known producers with a ballot for the referendum. The commission shall establish the assessment for the marketing year by January 1st of each year, or as soon thereafter as possible. Assessments may only be used for the purposes and objects of this chapter.

(3) The forest products commission may raise the assessment on forest products in excess of the fiscal growth factor under chapter 43.135 RCW. The assessment limits established by this section are solely to provide prior legislative authority for the purposes of RCW 43.135.055 and are not a limit on the authority of the forest products commission to alter assessments in any manner not limited by RCW 43.135.055. However, any alteration in assessments made under this section must be made with the procedural requirements established by this chapter for altering such assessments.

(4) The requirement for approval of an assessment is met if: (a) At least fifty-one percent by numbers of producers replying in the referendum vote affirmatively, and these producers represent at least sixty-one percent of the volume of the producers replying in the referendum; or (b) sixty-five percent by numbers of producers replying in the referendum vote affirmatively, and these producers represent at least fifty-one percent of the volume of the producers replying in the referendum. An assessment shall only be approved if at least forty percent of the eligible producers participate in the vote. [2001 c 314 § 11.]

**RCW 15.100.120 Establishment of commission and initial assessment—Statewide referendum among producers.** (1) For purposes of determining producer participation in the commission, the initial election of commissioners, and for imposition of the original assessment specified in RCW 15.100.110, the director shall conduct a referendum among all producers of forest products within the state.

(2) The requirement for approval of the assessment and creation of the commission is met if: (a) At least fifty-one percent by numbers of producers replying in the referendum vote affirmatively, and these producers represent at least sixty-one percent of the volume of the producers replying in the referendum; or (b) sixty-five percent by numbers of producers replying in the referendum vote affirmatively, and these producers represent at least fifty-one percent of the volume of the producers replying in the referendum. The referendum shall only be approved if at least forty percent of the eligible producers participate in the vote.

(3) If the director determines that the requisite approval has been given, the director shall declare the establishment of the commission and direct it to put into force the assessment authorized in RCW 15.100.110. If the director finds that the requisite approval has not been given, then this chapter is not operative. [2001 c 314 § 12.]

**RCW 15.100.130 Deposit of moneys collected—Appropriation not required.** The commission shall deposit moneys collected under RCW 15.100.110 in a separate account in the name of the commission in any bank that is a state depository. All expenditures and disbursements made from this account under this chapter may be made without the necessity of a specific legislative appropriation. RCW 43.01.050 does

not apply to this account or to the moneys received, collected, or expended under this chapter. [2001 c 314 § 13.]

**RCW 15.100.140 Assessment—Personal debt—Payable when called—Failure to pay—Civil action.** A due and payable assessment levied in the amount determined by the commission under RCW 15.100.110 constitutes a personal debt of every person so assessed, or who otherwise owes the assessment, and the assessment is due and payable to the commission when payment is called for by the commission. If a person fails to pay the commission the full amount of the assessment by the date due, the commission may add to the unpaid assessment an amount not exceeding ten percent of the assessment to defray the cost of enforcing its collection. If the person fails to pay any due and payable assessment or other such sum, the commission may bring a civil action for collection against the person or persons in a court of competent jurisdiction. The action shall be tried and judgment rendered as in any other cause of action for a debt due and payable. [2001 c 314 § 14.]

**RCW 15.100.150 Enforcement of chapter.** All county and state law enforcement officers shall assist in the enforcement of this chapter. [2001 c 314 § 15.]

**RCW 15.100.160 Superior courts—Jurisdiction.** The superior courts are hereby vested with jurisdiction to enforce this chapter and the rules of the commission, and to prevent and restrain violations thereof. [2001 c 314 § 16.]

**RCW 15.100.900 Construction.** This chapter shall be liberally construed to effectuate its purposes. [2001 c 314 § 17.]