



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3289

Introduced 2/19/2016, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

740 ILCS 185/1	from Ch. 96 1/2, par. 9401
740 ILCS 185/2	from Ch. 96 1/2, par. 9402
740 ILCS 185/2.5 new	
740 ILCS 185/2.6 new	
740 ILCS 185/3	from Ch. 96 1/2, par. 9403

Amends the Wrongful Tree Cutting Act. Defines "land with a primary purpose of preservation or conservation". Provides that any party found to have intentionally cut or knowingly caused to be cut any timber or tree on land with a primary purpose of preservation or conservation that he or she did not have the legal right to cut or caused to be cut must pay the owner of the timber or tree 3 times stumpage value plus all remediation costs. Provides that nothing in the Act limits the rights provided under other law of an owner of land with a primary purpose of preservation or conservation. Provides that the court may not use the diminution of market value in determining damages. Provides that the court shall allow a plaintiff who prevails to recover the cost of expenses incurred. Makes other changes. Effective immediately.

LRB099 19259 HEP 43651 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Wrongful Tree Cutting Act is amended by
5 changing Sections 1, 2, and 3 and by adding Sections 2.5 and
6 2.6 as follows:

7 (740 ILCS 185/1) (from Ch. 96 1/2, par. 9401)

8 Sec. 1. As used in this Act, unless the context otherwise
9 requires, the term:

10 (a) "Stumpage" means standing tree.

11 (b) "Department" means the Department of Natural
12 Resources.

13 (c) "Director" means the Director of Natural Resources.

14 (d) "Party" means any person, partnership, firm,
15 association, business trust or corporation.

16 (e) "Land with a primary purpose of preservation or
17 conservation" means land in public or private ownership which
18 is primarily used: (i) in a manner and under limitations
19 consistent with its continued preservation without impairment,
20 disturbance, or artificial development, and (ii) for
21 conservation purposes such as wildlife habitat, erosion
22 control, energy conservation, natural community restoration,
23 general reforestation, and research.

1 (Source: P.A. 89-445, eff. 2-7-96.)

2 (740 ILCS 185/2) (from Ch. 96 1/2, par. 9402)

3 Sec. 2. Except as provided in Section 2.5, any ~~Any~~ party
4 found to have intentionally cut or knowingly caused to be cut
5 any timber or tree which he or she did not have the ~~full~~ legal
6 right to cut or cause ~~caused~~ to be cut must ~~shall~~ pay the owner
7 of the timber or tree 3 times its stumpage value.

8 (Source: P.A. 84-138.)

9 (740 ILCS 185/2.5 new)

10 Sec. 2.5. Trees cut on land with a primary purpose of
11 preservation or conservation. Any party found to have
12 intentionally cut or knowingly caused to be cut any timber or
13 tree on land with a primary purpose of preservation or
14 conservation that he or she did not have the legal right to cut
15 or caused to be cut must pay the owner of the timber or tree 3
16 times stumpage value plus all remediation costs. Remediation
17 costs include, but are not limited to:

18 (1) cleanup;

19 (2) soil erosion and soil compaction remediation;

20 (3) remediation of damages to the native plant
21 understory;

22 (4) removal of discarded tree debris;

23 (5) invasive species control;

24 (6) restoration of the land to its conservation

1 condition;

2 (7) seeding or planting and land grading; and

3 (8) staff salaries, contractor fees, and materials.

4 (740 ILCS 185/2.6 new)

5 Sec. 2.6. Landowner rights.

6 (a) Nothing in this Act limits the rights provided under
7 other law of an owner of land with a primary purpose of
8 preservation or conservation.

9 (b) The court may not use the diminution of market value in
10 determining damages under this Act.

11 (740 ILCS 185/3) (from Ch. 96 1/2, par. 9403)

12 Sec. 3. The courts of this State may order the Director or
13 his representative to secure three independent value
14 appraisals to determine the stumpage value of wrongfully cut
15 timber or trees. Such order must ~~shall~~ state the reason the
16 value information is needed, the parties involved in the
17 action, the area to be examined and other information needed by
18 the Department to carry out its responsibilities. The court
19 must instruct all ~~All~~ parties to the court action ~~shall be~~
20 ~~instructed~~ to make themselves available to the Department at
21 reasonable times to assist in the location of areas and
22 material to be examined. Unless otherwise ordered by the court,
23 the parties shall bear equally the cost of expenses ~~Expenses~~
24 incurred, including but not limited to those for surveys,

1 consulting services, attorney's fees, and administrative
2 costs, ~~shall be borne equally by the parties unless otherwise~~
3 ~~ordered by the court.~~ The court shall allow a plaintiff who
4 prevails to recover the cost of expenses incurred.

5 (Source: P.A. 84-138.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.