

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, 3, and 4 and by adding Sections 2.5,
6 2.6, 2.7, 2.8, 3.5, 4.5, and 4.7 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 value" means the value of timber as it stands
11 uncut in terms of an amount per unit of volume expressed as
12 dollar value per board foot for that portion of a tree or
13 timber deemed merchantable by Illinois forest products markets
14 ~~standing tree.~~

15 (b) "Department" means the Department of Natural
16 Resources.

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

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

20 (e) "Protected land" means land in public or private
21 ownership that is:

22 (1) subject to a permanent conservation right
23 consistent with the Real Property Conservation Rights Act;

1 (2) registered or designated as a Nature Preserve,
2 buffer or Land and Water Reserve under the Illinois Natural
3 Areas Preservation Act;

4 (3) owned by a conservation land trust meeting
5 requirements as set forth in Section 501(c) of the United
6 States Internal Revenue Code; or

7 (4) owned by a local, State, or federal agency and
8 primarily used for one or more conservation purposes, such
9 as wildlife habitat, erosion control, energy conservation,
10 natural community restoration, general reforestation,
11 timber production, or research.

12 (f) "Qualified professional forester or ecological
13 restoration professional" means a person who holds any
14 necessary licenses and has performed the type of remediation
15 work necessary as part of the person's profession for greater
16 than 30% of his or her working hours during each of the
17 preceding 3 years.

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

19 (740 ILCS 185/2) (from Ch. 96 1/2, par. 9402)

20 Sec. 2. Except as provided in Sections 2.5, 2.7, and 7, any
21 ~~Any~~ party found to have intentionally cut or knowingly caused
22 to be cut any timber or tree, other than a tree or woody plant
23 referenced in the Illinois Exotic Weed Act, which he or she did
24 not have the ~~full~~ legal right to cut or cause ~~caused~~ to be cut
25 shall pay the owner of the timber or tree 3 times its stumpage

1 value.

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

3 (740 ILCS 185/2.5 new)

4 Sec. 2.5. Trees intentionally cut or knowingly caused to be
5 cut on protected land. Any party found to have intentionally
6 cut or knowingly caused to be cut any standing timber or tree,
7 other than a tree or woody plant referenced in the Illinois
8 Exotic Weed Act, on protected land, which he or she did not
9 have the legal right to so cut or cause to be cut, must pay 3
10 times stumpage value plus remediation costs to the party that
11 owns an interest in the land, including but not limited to
12 holding a conservation right to the land. Remediation costs
13 include one or more of the following:

14 (1) cleanup to remove trees, portions of trees, or
15 debris from trees cut, damaged, moved, placed, or left as a
16 result of tree cutting from perennial drainage ways or
17 water holding basins;

18 (2) soil erosion stabilization and remediation for
19 issues that were not pre-existing;

20 (3) remediation of damages to the native standing trees
21 and other native woody or herbaceous plant understory;

22 (4) remediation of damages to the native tree
23 understory through coppicing, planting of potted native
24 trees, planting of native tree seedlings as individual
25 practices or in combination as deemed appropriate under

1 Section 3.5 of this Act. Any work under this item (4) must
2 be done by a qualified professional forester or ecological
3 restoration professional;

4 (5) associated exotic invasive plant species control
5 for a period of 3 years with one treatment per year on
6 those portions of the property where trees were wrongfully
7 cut if prior to the encroachment there had been an active
8 and ongoing effort made to control the plants, and due to
9 the disturbance, advantage was given to pre-existing or new
10 exotic invasive plant growth. Exotic plant control must be
11 done by a qualified professional forester or ecological
12 restoration professional;

13 (6) seeding of annual grass to skid trails; or

14 (7) staff salaries, contractor fees, and materials as
15 directly related, documented, and required to address
16 remediation costs under this Section.

17 (740 ILCS 185/2.6 new)

18 Sec. 2.6. Remediation plan. The court may order parties
19 that seek remediation costs for damage to protected land under
20 Section 2.5 to develop a remediation plan pursuant to Section
21 3.5 of this Act. The remediation plan shall delineate the steps
22 to address remediation costs identified under Section 2.5 of
23 this Act.

24 (740 ILCS 185/2.7 new)

1 Sec. 2.7. Trees intentionally cut or knowingly caused to be
2 cut or damaged in residential areas. Any party that, without
3 the legal right, intentionally cut or severely damaged, or
4 knowingly caused to be cut or damaged any live and standing
5 tree or woody plant in a residential yard must:

6 (1) pay the owner of the property 2 times the value of
7 the cut or severely damaged tree or woody plant or 2 times
8 the reduced value resulting from light to moderate damage
9 to the tree or woody plant, which at a minimum is based on
10 value consistent with the current International Society of
11 Arboriculture (ISA) Guide for Plant Appraisal. Appraisals
12 utilizing the ISA Guide must be calculated and established
13 by a certified arborist or professional consulting
14 forester, either of which is and has been practicing his or
15 her profession for a minimum of 50% of his or her working
16 hours for the previous 3 years;

17 (2) pay the owner repair costs to remove all tree or
18 woody plant debris resulting from wrongful cutting or
19 damage; and

20 (3) pay the owner the cost to repair landscaping
21 plants, materials, and vegetation if the items were damaged
22 in the process or as a result of wrongful cutting or
23 damage.

24 (740 ILCS 185/2.8 new)

25 Sec. 2.8. Remedies. Nothing in this Act limits the rights

1 of a party to pursue causes of action under other laws,
2 including any available common law remedies for damages. A
3 plaintiff may bring an action and recover damages under any
4 applicable Section of this Act; however, if more than one
5 Section applies to a given wrongfully cut tree, the plaintiff
6 may bring an action and recover damages under only one
7 applicable Section of this Act.

8 (740 ILCS 185/3) (from Ch. 96 1/2, par. 9403)

9 Sec. 3. The courts of this State may order the Director or
10 his representative to secure 3 ~~three~~ independent value
11 appraisals to determine the stumpage value of wrongfully cut
12 timber or trees under Section 2 of this Act. Such order must
13 ~~shall~~ state the reason the value information is needed, the
14 parties involved in the action, the area to be examined and
15 other information needed by the Department to carry out its
16 responsibilities. The court must instruct all ~~All~~ parties to
17 the court action ~~shall be instructed~~ to make themselves
18 available to the Department at reasonable times to assist in
19 the location of areas and material to be examined. Unless
20 otherwise ordered by the court, the parties shall bear equally
21 the cost of expenses ~~Expenses~~ incurred, including but not
22 limited to those for surveys, consulting services, attorney's
23 fees, and administrative costs, ~~shall be borne equally by the~~
24 ~~parties unless otherwise ordered by the court.~~ The court shall
25 allow a plaintiff who prevails to recover the cost of expenses

1 incurred.

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

3 (740 ILCS 185/3.5 new)

4 Sec. 3.5. Court-ordered determination of costs. The court,
5 upon evaluating whether independent appraisals are necessary
6 and appropriate in matters arising under Section 2.5 of this
7 Act, may order up to 3 independent appraisals of stumpage
8 value, and further order the development of a plan detailing
9 remediation strategies and their estimated cost, in
10 conformance with Section 2.6 of this Act. Appraisals of
11 stumpage value must be conducted by a professional consulting
12 forester, who is and has been practicing his or her profession
13 for a minimum of 50% of his or her working hours for the
14 previous 3 years. Remediation plans must be prepared in
15 consultation with a professional forester or biologist
16 experienced in ecosystem restoration following a timber
17 harvest, and may be implemented by the landowner or the
18 landowner's designee. The court shall determine which party
19 will bear the expense of conducting the appraisals and
20 developing the remediation plan. The court may request that the
21 Director or his or her representative assist in securing
22 independent appraisals and advise the court as to adequacy of
23 costs and measures in the remediation plan. The court shall
24 allow a plaintiff who prevails to recover the cost of expenses
25 incurred.

1 (740 ILCS 185/4) (from Ch. 96 1/2, par. 9404)

2 Sec. 4. Within 90 ~~30~~ days after the Department is ordered
3 to establish value appraisals under Section 3, it shall notify
4 the court of its findings of value and expenses. The court
5 shall then average the appraisals and award triple the average
6 value and make final determination as to which party or parties
7 shall pay expenses. The failure of any party to make full
8 payment within the time limits set by the court or to cooperate
9 with the Department shall be considered contempt of court.

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

11 (740 ILCS 185/4.5 new)

12 Sec. 4.5. Department assistance. If the court requests
13 assistance from the Department pursuant to Section 3.5 of this
14 Act, within 90 days after the Department is provided
15 independent appraisals and remediation plans for review, the
16 Department shall provide the appraisals or valuations,
17 remediation plan, and advice to the court. Otherwise, the
18 parties shall directly provide the court with any ordered
19 appraisals or valuations and a remediation plan pursuant to
20 Section 3.5 of this Act. The court shall then make a final
21 determination on the adequacy of the remediation plan and the
22 appraised value to address remediation costs under Section 2.5
23 of this Act. The court shall award triple the stumpage value
24 plus remediation costs and expenses in accordance with any

1 approved remediation plan.

2 (740 ILCS 185/4.7 new)

3 Sec. 4.7. Use of award. Monetary awards for remediation
4 costs of wrongfully cut trees under Section 2.5 of this Act
5 must be used for costs related to remediation, restoration, or
6 enhancement of the conservation value of the impacted property
7 for protection, restoration, or enhancement. This Section does
8 not apply to the use of awards for the stumpage value of trees
9 wrongfully cut.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.