

AN ACT concerning civil law.

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

Section 5. The Wrongful Tree Cutting Act is amended by changing Sections 1, 2, 3, and 4 and by adding Sections 2.5, 2.6, 2.8, 3.5, 4.5, and 4.7 as follows:

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

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

(a) "Stumpage value" means the value of timber as it stands uncut in terms of an amount per unit of volume expressed as dollar value per board foot for that portion of a tree or timber deemed merchantable by Illinois forest products markets standing tree.

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

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

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

(e) "Protected land" means real property that is:

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

(2) registered or designated as a Nature Preserve,

buffer or Land and Water Reserve under the Illinois Natural Areas Preservation Act;

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

(4) owned by a local, State, or federal agency with a mission that includes the conservation of natural resources or a related function for one or more conservation purposes, but not including parkways; and

(5) not inclusive of residential, commercial, or other areas that are not subject to the aforementioned protections.

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

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

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

Sec. 2. Except as provided in Sections 2.5, 2.7, and 7, any ~~Any~~ party found to have intentionally cut or knowingly caused to be cut any timber or tree, other than a tree or woody plant referenced in the Illinois Exotic Weed Act, which he or she did not have the ~~full~~ legal right to cut or cause ~~caused~~ to be cut

shall pay the owner of the timber or tree 3 times its stumpage value.

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

(740 ILCS 185/2.5 new)

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

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

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

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

(4) remediation of damages to the native tree understory through coppicing, planting of potted native trees, planting of native tree seedlings as individual

practices or in combination as deemed appropriate under Section 3.5 of this Act. Any work under this item (4) must be done by a qualified professional forester or ecological restoration professional;

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

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

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

(740 ILCS 185/2.6 new)

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

(740 ILCS 185/2.8 new)

Sec. 2.8. Remedies. Nothing in this Act limits the rights of a party to pursue causes of action under other laws, including any available common law remedies for damages. A plaintiff may bring an action and recover damages under any applicable Section of this Act; however, if more than one Section applies to a given wrongfully cut tree, the plaintiff may bring an action and recover damages under only one applicable Section of this Act.

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

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

~~parties unless otherwise ordered by the court.~~ The court shall allow a plaintiff who prevails to recover the cost of expenses incurred.

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

(740 ILCS 185/3.5 new)

Sec. 3.5. Court-ordered determination of costs. The court, upon evaluating whether independent appraisals are necessary and appropriate in matters arising under Section 2.5 of this Act, may order up to 3 independent appraisals of stumpage value, and further order the development of a plan detailing remediation strategies and their estimated cost, in conformance with Section 2.6 of this Act. Appraisals of stumpage value must be conducted by a professional consulting forester, who is and has been practicing his or her profession for a minimum of 50% of his or her working hours for the previous 3 years. Remediation plans must be prepared in consultation with a professional forester or biologist experienced in ecosystem restoration following a timber harvest, and may be implemented by the landowner or the landowner's designee. The court shall determine which party will bear the expense of conducting the appraisals and developing the remediation plan. The court may request that the Director or his or her representative assist in securing independent appraisals and advise the court as to adequacy of costs and measures in the remediation plan. The court shall

allow a plaintiff who prevails to recover the cost of expenses incurred.

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

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

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

(740 ILCS 185/4.5 new)

Sec. 4.5. Department assistance. If the court requests assistance from the Department pursuant to Section 3.5 of this Act, within 90 days after the Department is provided independent appraisals and remediation plans for review, the Department shall provide the appraisals or valuations, remediation plan, and advice to the court. Otherwise, the parties shall directly provide the court with any ordered appraisals or valuations and a remediation plan pursuant to Section 3.5 of this Act. The court shall then make a final determination on the adequacy of the remediation plan and the appraised value to address remediation costs under Section 2.5

of this Act. The court shall award triple the stumpage value plus remediation costs and expenses in accordance with any approved remediation plan.

(740 ILCS 185/4.7 new)

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

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