



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3105

by Rep. Mary Edly-Allen

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 185/2.8 new	
740 ILCS 185/3	from Ch. 96 1/2, par. 9403
740 ILCS 185/3.5 new	
740 ILCS 185/4	from Ch. 96 1/2, par. 9404
740 ILCS 185/4.5 new	
740 ILCS 185/4.7 new	

Amends the Wrongful Tree Cutting Act. Changes the definition of "stumpage". Defines "protected land" and "qualified professional forester or ecological restoration professional". Provides that 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, and the party did not have the legal right to so cut or cause to be cut, must pay the person or entity that owns or holds a conservation right to the land 3 times stumpage value plus remediation costs. Provides that nothing in the Act limits the rights of a party to pursue causes of action under other laws, including any available common law remedies for damages. Limits the relief available under the Act. Provides that the court shall allow a plaintiff who prevails to recover the cost of expenses incurred. Makes changes in provisions concerning appraisals and findings of value and expenses. Adds provisions concerning: remediation plans; court-ordered determinations of costs; assistance by the Department of Natural Resources; and use of awards under the Act. Makes other changes. Effective immediately.

LRB101 05305 LNS 50319 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, 3, and 4 and by adding Sections 2.5,
6 2.6, 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 real property that is:

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

23 (2) registered or designated as a Nature Preserve,

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

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

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

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

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

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

20 (740 ILCS 185/2) (from Ch. 96 1/2, par. 9402)

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

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

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

4 (740 ILCS 185/2.5 new)

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

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

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

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

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

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

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

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

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

18 (740 ILCS 185/2.6 new)

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

1 (740 ILCS 185/2.8 new)

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

10 (740 ILCS 185/3) (from Ch. 96 1/2, par. 9403)

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

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

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

5 (740 ILCS 185/3.5 new)

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

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

3 (740 ILCS 185/4) (from Ch. 96 1/2, par. 9404)

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

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

13 (740 ILCS 185/4.5 new)

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

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

4 (740 ILCS 185/4.7 new)

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

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