



Sen. Steve Stadelman

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LRB099 19259 HEP 47348 a

1 AMENDMENT TO SENATE BILL 3289

2 AMENDMENT NO. _____. Amend Senate Bill 3289 by replacing
3 everything after the enacting clause with the following:

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.

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

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

4 (e) "Protected land" means land in public or private
5 ownership that is:

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

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

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

14 (4) owned by a local, State, or federal agency and
15 primarily used for one or more conservation purposes, such
16 as wildlife habitat, erosion control, energy conservation,
17 natural community restoration, general reforestation,
18 timber production, or research.

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

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

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

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

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

10 (740 ILCS 185/2.5 new)

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

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

25 (2) soil erosion stabilization and remediation for

1 issues that were not pre-existing;

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

4 (4) remediation of damages to the native tree
5 understory through coppicing, planting of potted native
6 trees, planting of native tree seedlings as individual
7 practices or in combination as deemed appropriate under
8 Section 3.5 of this Act. Any work under this item (4) must
9 be done by a qualified professional forester or ecological
10 restoration professional;

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

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

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

24 (740 ILCS 185/2.6 new)

25 Sec. 2.6. Remediation plan. The court may order parties

1 that seek remediation costs for damage to protected land under
2 Section 2.5 to develop a remediation plan pursuant to Section
3 3.5 of this Act. The remediation plan shall delineate the steps
4 to address remediation costs identified under Section 2.5 of
5 this Act.

6 (740 ILCS 185/2.7 new)

7 Sec. 2.7. Trees intentionally cut or knowingly caused to be
8 cut or damaged in residential areas. Any party that, without
9 the legal right, intentionally cut or severely damaged, or
10 knowingly caused to be cut or damaged any live and standing
11 tree or woody plant in a residential yard must:

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

23 (2) pay the owner repair costs to remove all tree or
24 woody plant debris resulting from wrongful cutting or
25 damage; and

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

5 (740 ILCS 185/2.8 new)

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

14 (740 ILCS 185/3) (from Ch. 96 1/2, par. 9403)

15 Sec. 3. The courts of this State may order the Director or
16 his representative to secure 3 ~~three~~ independent value
17 appraisals to determine the stumpage value of wrongfully cut
18 timber or trees under Section 2 of this Act. Such order must
19 ~~shall~~ state the reason the value information is needed, the
20 parties involved in the action, the area to be examined and
21 other information needed by the Department to carry out its
22 responsibilities. The court must instruct all ~~All~~ parties to
23 the court action ~~shall be instructed~~ to make themselves
24 available to the Department at reasonable times to assist in

1 the location of areas and material to be examined. Unless
2 otherwise ordered by the court, the parties shall bear equally
3 the cost of expenses ~~Expenses~~ incurred, including but not
4 limited to those for surveys, consulting services, attorney's
5 fees, and administrative costs, ~~shall be borne equally by the~~
6 ~~parties unless otherwise ordered by the court.~~ The court shall
7 allow a plaintiff who prevails to recover the cost of expenses
8 incurred.

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

10 (740 ILCS 185/3.5 new)

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

1 will bear the expense of conducting the appraisals and
2 developing the remediation plan. The court may request that the
3 Director or his or her representative assist in securing
4 independent appraisals and advise the court as to adequacy of
5 costs and measures in the remediation plan. The court shall
6 allow a plaintiff who prevails to recover the cost of expenses
7 incurred.

8 (740 ILCS 185/4) (from Ch. 96 1/2, par. 9404)

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

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

18 (740 ILCS 185/4.5 new)

19 Sec. 4.5. Department assistance. If the court requests
20 assistance from the Department pursuant to Section 3.5 of this
21 Act, within 90 days after the Department is provided
22 independent appraisals and remediation plans for review, the
23 Department shall provide the appraisals or valuations,
24 remediation plan, and advice to the court. Otherwise, the

1 parties shall directly provide the court with any ordered
2 appraisals or valuations and a remediation plan pursuant to
3 Section 3.5 of this Act. The court shall then make a final
4 determination on the adequacy of the remediation plan and the
5 appraised value to address remediation costs under Section 2.5
6 of this Act. The court shall award triple the stumpage value
7 plus remediation costs and expenses in accordance with any
8 approved remediation plan.

9 (740 ILCS 185/4.7 new)

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

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