

1 AMENDMENT TO HOUSE BILL 1006

2 AMENDMENT NO. _____. Amend House Bill 1006 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Timber Buyers Licensing Act is amended
5 by changing Sections 4, 5, 7, 11, and 13 as follows:

6 (225 ILCS 735/4) (from Ch. 111, par. 704)

7 Sec. 4. Bond. Every person licensed as a timber buyer
8 shall ~~have-on~~ file with the Department, on a form prescribed
9 and furnished by the Department, a performance surety bond
10 payable to the State of Illinois by and through the
11 Department and conditioned on the faithful performance of and
12 compliance with all requirements of the license and this Act.
13 The bond shall be a surety bond signed by the person to be
14 licensed as principal and by a good and sufficient corporate
15 surety authorized to engage in the business of executing
16 surety bonds within the State of Illinois as surety thereon.
17 In lieu of a corporate surety bond an applicant for a timber
18 buyers license may, with the approval of the Department,
19 deposit with the Department as security a file-a-bond--signed
20 by--the--applicant--as-principal-and-accompanied-by-a-bank-or
21 savings--and--loan--association certificate of deposit or
22 irrevocable letter of credit of any bank organized or

1 transacting business in the United States in a form approved
2 by the Department, showing to the satisfaction of the
3 Department that funds in an amount equal to or greater than
4 the amount of the required bond are on deposit in a bank or
5 savings and loan association to be held by the bank or
6 savings and loan association for the period covered by the
7 license. Such deposits shall be made, held, and disposed of
8 as provided in this Act and by the Department by rule. A
9 bond or certificate of deposit The funds shall be made
10 payable upon demand to the Director, subject to the
11 provisions of this Act, and any rules adopted under this Act,
12 and shall be for the use and benefit of the people of the
13 State of Illinois, and for the use and benefit of any timber
14 grower from whom the applicant purchased timber and who is
15 not paid by the applicant or for the use and benefit of any
16 timber grower whose timber has been cut by the applicant or
17 licensee or his or her agents, and who has not been paid
18 therefor; and for the use and benefit of any person aggrieved
19 by the actions of the timber buyer. the Department may, in
20 its discretion, continue the existing bond of any applicant
21 who has previously been licensed and posted a good and
22 sufficient bond.

23 Except as otherwise provided, in this Section, such bond
24 shall be in the principal amount of \$500 for an applicant who
25 paid timber growers \$5,000 or less for timber during the
26 immediate preceding year, and an additional \$100 for each
27 additional \$1,000 or fraction thereof paid to timber growers
28 for timber purchased during the preceding year, but shall not
29 be more than \$10,000. In the case of an applicant not
30 previously engaged in business as a timber buyer, the amount
31 of such bond shall be based on the estimated dollar amount to
32 be paid by such timber buyer to timber growers for timber
33 purchased during the next succeeding year, as set forth in
34 the application; such bond shall, in no event, be in the

1 principal amount of less than \$500. In the case of a timber
2 buyer whose bond has previously been forfeited in Illinois or
3 in any other state, the Department shall double the
4 applicable minimum bond amounts under this Section.

5 A bond filed in accordance with this Act ~~Sueh-bond, -er~~
6 ~~surety-thereon,~~ shall not be cancelled or altered during the
7 period for which the timber buyer remains licensed by the
8 Department ~~license-to-the-applicant-was-issued~~ except upon at
9 least 60 days notice in writing to the Department; in the
10 event that the applicant has deposited certificates of
11 deposit in lieu of a corporate surety the Department may
12 retain possession of such certificates of deposit for a
13 period of 60 days following the expiration or revocation of
14 his or her license.

15 At any such time as a licensee fails to have the
16 necessary surety bonds, certificates of deposit, or
17 irrevocable letters of credit ~~er-both~~ on deposit with the
18 Department as required herein, the Department may
19 immediately, and without notice, suspend the privileges
20 ~~revoke--the--license~~ of such licensee. In the event of such
21 suspension ~~revocation~~, the Department shall give immediate
22 notice of the same to the licensee and shall further
23 reinstate such license upon the posting of the required
24 surety bond, or certificates of deposit, or irrevocable
25 letters of credit.

26 Bonds shall be in such form and contain such terms and
27 conditions as may be approved from time to time by the
28 Director, be conditioned to secure an honest cutting and
29 accounting for timber purchased by the licensee, secure
30 payment to the timber growers and to insure the timber
31 growers against all fraudulent acts of the licensee in the
32 purchase and cutting of the timber of this State.

33 In the event the timber buyer fails to pay when owing due
34 any amount due a timber grower for timber purchased, or fails

1 to pay judicially determined damages for timber wrongfully
2 cut by a timber buyer or his agent, whether such wrongful
3 cutting has occurred on or adjacent to the land which was the
4 subject of timber purchase from a timber grower, or commits
5 any violation of this Act, then an action on the bond or
6 deposit for forfeiture may be commenced. Such action is not
7 exclusive and is in addition to any other judicial remedies
8 available.

9 In the event that the timber grower or owner of timber
10 cut considers himself or herself aggrieved by a timber buyer,
11 he or she shall notify the Department in writing of such
12 grievance and thereafter the Department shall within 10 days
13 give written notice to the timber buyer of the alleged
14 violation of this Act or of any violation or noncompliance
15 with the regulations hereunder of which the timber grower or
16 owner of timber complains. The written notice to the timber
17 buyer shall be from the Department by registered or certified
18 mail to the licensee and his or her sureties stating in
19 general terms the nature of the violation and that an action
20 seeking forfeiture of the bond may be commenced at any time
21 after the 10 days from the date of said notice if at the end
22 of that period the violation still remains. In the event the
23 Department shall fail to give notice to the timber buyer as
24 provided herein, the timber grower or owner of timber cut may
25 commence his or her own action for forfeiture of the
26 licensee's bond.

27 The timber buyer, after receiving notice from the
28 Department as provided herein, may within 10 days from the
29 date of such notice, request in writing to appear and be
30 heard regarding the alleged violation.

31 Upon such request from the timber buyer, the Department
32 shall schedule a hearing, designating the time and place
33 thereof. At such hearing the timber buyer may present for
34 consideration of the Department any evidence, statements,

1 documents or other information relevant to the alleged
2 violation. The hearing shall be presided over by the Director
3 or by any hearing officer he or she may designate. The
4 hearing officer shall take evidence offered by the timber
5 buyer or the Department and shall, if requested by the
6 Department, submit his or her conclusions and findings which
7 shall be advisory to the Director. Any hearings provided for
8 in this Section shall be commenced within 30 days from the
9 request therefor.

10 Should the timber buyer fail to make timely request for a
11 hearing after receipt of the notice from the Department as
12 provided herein, or after a hearing is concluded, the
13 Department may either withdraw the notice of violation or
14 request the Attorney General to institute proceedings to have
15 the bond of the timber buyer forfeited. The Attorney General,
16 upon such request from the Department, shall institute
17 proceedings to have the bond of the timber buyer forfeited
18 for violation of any of the provisions of this Act or for
19 noncompliance with any Department regulation.

20 In the event that the licensee's bond is forfeited, the
21 proceeds thereof shall first be applied to any sums
22 determined to be owed to the timber grower or owner of timber
23 cut and then to the Department to defray expenses incurred by
24 the Department in converting the security into money.
25 Thereafter, the Department shall pay such excess to the
26 timber buyer who furnished such security.

27 In the event the Department realizes less than the amount
28 of liability from the security, after deducting expenses
29 incurred by the Department in converting the security into
30 money, it shall be grounds for the revocation of the timber
31 buyer's license.

32 (Source: P.A. 83-1362.)

33 (225 ILCS 735/5) (from Ch. 111, par. 705)

1 Sec. 5. Violations of Act. It shall be unlawful and a
2 violation of this Act:

3 (a) For any timber buyer to knowingly and willfully fail
4 to pay, as agreed, for any timber purchased,

5 (b) For any timber buyer to negligently knowingly-and
6 willfully cut or cause to be cut or appropriate any timber
7 without the consent of the timber grower,

8 (c) For a timber buyer to willfully make any false
9 statement in connection with the application, bond or other
10 information required to be given to the Department or a
11 timber grower,

12 (d) To fail to honestly account to the timber grower or
13 the Department for timber purchased or cut if the buyer is
14 under a duty to do so,

15 (e) For a timber buyer to commit any fraudulent act in
16 connection with the purchase or cutting of timber,

17 (f) For a timber buyer or land owner or operator to fail
18 to file the report or pay the fees required in Section 9a of
19 this Act, and

20 (g) For any person to resist or obstruct any officer,
21 employee or agent of the Department in the discharge of his
22 duties under the provisions hereof.

23 (Source: P.A. 86-208.)

24 (225 ILCS 735/7) (from Ch. 111, par. 707)

25 Sec. 7. License; issuance, validity, and renewal;
26 certificate. If the Department is satisfied that the
27 applicant has fulfilled the requirements and if the bond and
28 sureties or bank certificate of deposit filed by the
29 applicant is approved, the Department may shall issue a
30 license to the applicant. The licenses issued shall be valid
31 for a calendar year and may be renewed annually. A copy of
32 the license certificate issued by the Department shall be
33 posted in the principal office of the licensee in this State.

1 The timber buyer identification card issued by the Department
2 shall be carried upon the person of the timber buyer when
3 conducting activities covered under this Act for immediate
4 presentation for inspection to the officers and authorized
5 employees of the Department, any sheriff, deputy sheriff, or
6 any other peace officer making demand for it. No person
7 charged with violating this Section, however, shall be
8 convicted if he or she produces in court satisfactory
9 evidence that a timber buyer identification card that was
10 valid at the time of the offense had been issued to the
11 timber buyer.

12 Upon request for a license and payment of the fee, the
13 Department shall issue to the licensee a certificate that a
14 license has been granted and a bond filed as required by this
15 Act.

16 (Source: P.A. 76-1307.)

17 (225 ILCS 735/11) (from Ch. 111, par. 711)

18 Sec. 11. Penalties.

19 (a) Except as otherwise provided in this Section any
20 person in violation of any of the provisions of this Act, or
21 administrative rules thereunder, shall be guilty of a Class A
22 misdemeanor.

23 (a-5) Any person convicted of violating Section 3 of this
24 Act shall be guilty of a Class A misdemeanor and fined at
25 least \$500 for a first offense and guilty of a Class 4 felony
26 and fined at least \$1,000 for a second or subsequent offense.

27 (b) Any person convicted of violating subsections (a) or
28 (b) of Section 5 of this Act is guilty of a Class 4 felony if
29 the aggregate value of the timber purchased, cut, caused to
30 be cut or appropriated is over \$300 but not more than \$2,500.

31 (b-5) Any person convicted of violating subsection (a)
32 or (b) of Section 5 of this Act is guilty of a Class 3 felony
33 if the aggregate value of the timber purchased, cut, caused

1 to be cut, or appropriated is over \$2,500 but not more than
2 \$10,000.

3 (b-10) Any person convicted of violating subsection (a)
4 or (b) of Section 5 of this Act is guilty of a Class 2 felony
5 if the aggregate value of the timber purchased, cut, caused
6 to be cut, or appropriated is over \$10,000.

7 (b-15) The aggregate value of the timber purchased, cut,
8 caused to be cut, or appropriated shall be determined as
9 provided by administrative rule.

10 (c) A person convicted of violating subsection (f) of
11 Section 5 of this Act is guilty of a Class A misdemeanor. A
12 person convicted of a second or subsequent violation is
13 guilty of a Class 4 felony.

14 (d) All amounts collected as fines imposed as penalties
15 for violation of this Act shall be deposited in the Illinois
16 Forestry Development Fund for the purposes of the "Illinois
17 Forestry Development Act".

18 (e) In case of a failure to pay any harvest fee required
19 under Section 9a of this Act on the date as required by
20 regulation of the Department, there shall be added as a
21 penalty an amount equal to 7.5% of the harvest fee due the
22 Department for each month or fraction thereof during which
23 such failure continues, not to exceed 37.5% in the aggregate.
24 This penalty shall be in addition to any other penalty
25 determined under this Act.

26 (f) In case of failure to file the appropriate report of
27 the purchase harvest fee form stipulated under Section 9a of
28 this Act on the date prescribed therefore, a penalty in the
29 amount of \$25 for each individual report shall be added to
30 the amount due the Department. This penalty shall be in
31 addition to any other penalty determined under this Act.

32 (Source: P.A. 86-208.)

33 (225 ILCS 735/13) (from Ch. 111, par. 713)

1 Sec. 13. License revocation.

2 (a) The Department may revoke the license of any person
3 who violates the provisions of this Act, and may refuse to
4 issue any permit or license to such person for a period not
5 to exceed 5 years following such revocation.

6 License revocation procedures shall be established by
7 administrative rule.

8 (b) Whenever the holder of a license issued under this
9 Act is found guilty of any misrepresentation in obtaining his
10 or her license or of a violation of any of the provisions of
11 this Act or rules adopted pursuant to this Act, the
12 Department may:

- 13 (1) revoke his or her license;
- 14 (2) refuse to issue a license to that person; and
- 15 (3) suspend the person from engaging in the
16 activity requiring the license for up to 5 years
17 following the revocation.

18 (c) Whenever the holder of a license issued under this
19 Act is found guilty of any misrepresentation in obtaining his
20 or her license or of a violation of any of the provisions of
21 this Act or rules adopted pursuant to this Act, and his or
22 her license has been previously revoked or his or her ability
23 to engage in the activity requiring the license has been
24 previously suspended, the Department may:

- 25 (1) revoke his or her license;
- 26 (2) refuse to issue any license to that person; and
- 27 (3) suspend the person from engaging in the
28 activity requiring the license for at least 5 years but
29 not more than 10 years following the revocation or
30 suspension.

31 (d) Whenever the holder of a license issued under this
32 Act is found guilty of any misrepresentation in obtaining
33 that license or of a violation of any of the provisions of
34 this Act or rules adopted under this Act, and his or her

1 license has been previously revoked or his or her ability to
2 engage in the activity requiring the license has been
3 suspended on 2 or more occasions, the Department may:

4 (1) revoke his or her license;

5 (2) refuse to issue any license to that person; and

6 (3) suspend the person from engaging in the
7 activity requiring the license for at least 10 years but
8 not more than 75 years following the revocation or
9 suspension. Department revocation procedures shall be
10 established by administrative rule.

11 If the holder of a license is found negligent with
12 respect to any duty required under this Act, the Department
13 may suspend or revoke his or her privilege to engage in the
14 activity for which the license is required, his or her
15 license, or both.

16 (e) Whenever a person who has not been issued a license
17 under this Act is found guilty of a violation of the
18 provisions of this Act or rules adopted under this Act, the
19 Department may:

20 (1) refuse to issue any license to that person; and

21 (2) suspend that person from engaging in the
22 activity requiring the license for up to 5 years
23 following the revocation.

24 (f) Whenever a person who has not been issued a license
25 under this Act is found guilty of a violation of this Act or
26 rules adopted under this Act and his or her license has been
27 previously revoked or his or her ability to engage in the
28 activity requiring the license has been previously suspended,
29 the Department may:

30 (1) refuse to issue any license to that person; and

31 (2) suspend that person from engaging in the
32 activity requiring the license for at least 5 years but
33 not more than 10 years following the revocation or
34 suspension.

1 (g) Whenever a person who has not been issued a license
2 under this Act is found guilty of a violation of this Act or
3 rules adopted under this Act and his or her license has been
4 previously revoked or his or her ability to engage in the
5 activity requiring the license has been suspended on 2 or
6 more occasions, the Department may:

7 (1) refuse to issue any license to that person; and

8 (2) suspend that person from engaging in the
9 activity requiring the license for at least 10 years but
10 not more than 75 years following the revocation or
11 suspension.

12 (h) Licenses authorized under this Act shall be prepared
13 by the Department and be in such form as prescribed by the
14 Department. The information required on each license shall
15 be completed thereon by the issuing agent at the time of
16 issuance and each license shall be signed by the licensee.
17 All such licenses shall be supplied by the Department,
18 subject to such rules as the Department may prescribe. Any
19 license that is not properly prepared, obtained, and signed
20 as required by this Act shall be void.

21 (i) Any person whose license to engage in an activity
22 regulated by this Act has been revoked or whose ability to
23 engage in the activity requiring the license has been
24 suspended may not, during the period of suspension or
25 revocation:

26 (1) hold any license authorized by this Act;

27 (2) perform directly or indirectly any privileges
28 authorized by any license issued in accordance with this
29 Act; or

30 (3) buy, sell, barter, trade, or take possession of
31 any timber as defined in this Act, regardless of any
32 contractual agreements entered into prior to the
33 revocation or suspension.

34 (j) No person may be issued a license or engage in any

1 activity regulated by this Act for which a license is
 2 required during the time that the person's privilege to
 3 engage in the same or similar activities is suspended or
 4 revoked by another state, by a federal agency, or by a
 5 province of Canada.

6 Any person who knowingly or intentionally violates any of
 7 the provisions of this Act, or administrative rules
 8 thereunder, when his or her license ~~or permit~~ has been
 9 revoked or denied or his or her ability to engage in the
 10 activity requiring the license has been suspended under this
 11 Section, is guilty of a Class 4 felony.

12 (Source: P.A. 85-287.)

13 Section 10. The Forest Products Transportation Act is
 14 amended by changing Sections 2.06, 6, and 10 and adding
 15 Section 14 as follows:

16 (225 ILCS 740/2.06) (from Ch. 96 1/2, par. 6908)

17 Sec. 2.06. "Proof of ownership" means a printed document
 18 provided by the Department that serves as a written bill of
 19 sale and bill of lading. The information required in this
 20 document shall be established by administrative rule.
 21 ~~includes--a-written-bill-of-sale,-a-written-bill-of-lading-or~~
 22 ~~a--written--or--printed--document--containing---the---minimum~~
 23 ~~information-required-by-the-Department-by-rule.~~

24 (Source: P.A. 86-208.)

25 (225 ILCS 740/6) (from Ch. 96 1/2, par. 6913)

26 Sec. 6. Any person hauling or transporting 2 or more
 27 trees and forest products, or either of them, on any highway
 28 in this State shall be required to show proof of ownership as
 29 defined in Section 2.06 of this Act, except that interstate
 30 transporters originating outside of this State and traveling
 31 to destinations within or outside of this State may show

1 documents in accordance with federal Motor Carrier Safety
2 Administration rules in lieu of such proof of ownership.

3 If that person is unable to show proof of ownership, the
4 timber and forest products so hauled or transported, and the
5 vehicle or conveyance used as the means of transportation may
6 be held by the Department for disposition subject to court
7 order.

8 (Source: P.A. 86-208.)

9 (225 ILCS 740/10) (from Ch. 96 1/2, par. 6917)

10 Sec. 10. The Department of Natural Resources may
11 promulgate such rules and regulations as may be necessary or
12 desirable to effectuate the purposes of this Act. The
13 Department--may--make--available--at--a--reasonable--cost--the
14 ~~deals, logs and tags authorized to be used by licensed~~
15 ~~timber growers under Section 8.~~

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

17 (225 ILCS 740/14 new)

18 Sec. 14. Any timber, forestry, or wood cutting device or
19 equipment, including vehicles and conveyances used or
20 operated in violation of this Act or rules adopted under this
21 Act or attempted to be used in violation of this Act or rules
22 adopted under this Act shall be deemed a public nuisance and
23 subject to seizure and confiscation by any authorized
24 employee of the Department. Upon the seizure of such an item
25 the Department shall take and hold the item until disposed of
26 as provided in this Section.

27 Upon the seizure of any property pursuant to this
28 Section, the authorized employee of the Department making the
29 seizure shall forthwith cause a complaint to be filed before
30 the circuit court and a summons to be issued requiring the
31 person who illegally used or operated or attempted to use or
32 operate the property and the owner and person in possession

1 of the property to appear in court and show cause why the
2 seized property should not be forfeited to the State. Upon
3 the return of the summons duly served or other notice as
4 provided in this Section, the court shall proceed to
5 determine the question of the illegality of the use of the
6 seized property and upon judgment being entered to the effect
7 that the property was illegally used, an order may be entered
8 providing for the forfeiture of the seized property to the
9 Department, which shall thereupon become the property of the
10 Department. However, the owner of the property may have a
11 jury determine the illegality of its use and shall have the
12 right of an appeal as in other cases. Such a confiscation or
13 forfeiture shall not preclude or mitigate against prosecution
14 and assessment of penalties otherwise provided in this Act.

15 Upon seizure of any property under circumstances
16 supporting a reasonable belief that the property was
17 abandoned, lost, stolen, or otherwise illegally possessed or
18 used contrary to the provisions of this Act, except property
19 seized during a search or arrest and ultimately returned,
20 destroyed, or otherwise disposed of pursuant to a court order
21 in accordance with this Act, the authorized employee of the
22 Department shall make reasonable inquiry and efforts to
23 identify and notify the owner or other person entitled to
24 possession thereof and shall return the property after that
25 person provides reasonable and satisfactory proof of his or
26 her ownership or right to possession and reimburses the
27 Department for all reasonable expenses of such custody. If
28 the identity or location of the owner or other person
29 entitled to possession of the property has not been
30 ascertained within 6 months after the Department obtains
31 possession, the Department shall effectuate the sale of the
32 property for cash to the highest bidder at a public auction.
33 The owner or other person entitled to possession of the
34 property may claim and recover possession of the property at

1 any time before its sale at public auction upon providing
2 reasonable and satisfactory proof of ownership or right of
3 possession and after reimbursing the Department for all
4 reasonable expenses of custody thereof.

5 Any property forfeited to the State by court order
6 pursuant to this Section may be disposed of by public
7 auction, except that any property that is the subject of such
8 a court order shall not be disposed of pending appeal of the
9 order. The proceeds of the sale at auction shall be
10 deposited in the Illinois Forestry Development Fund.

11 The Department shall pay all costs of notices required by
12 this Section.

13 (225 ILCS 740/4 rep.)

14 (225 ILCS 740/7 rep.)

15 (225 ILCS 740/8 rep.)

16 Section 15. The Forest Products Transportation Act is
17 amended by repealing Sections 4, 7, and 8.

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