

1 AN ACT in relation to timber.

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

4 Section 5. The Timber Buyers Licensing Act is amended by
5 changing Sections 4, 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
23 transacting business in the United States in-a-form--approved
24 by--the--Department,--showing--to--the--satisfaction--of--the
25 Department--that--funds in an amount equal to or greater than
26 the amount of the required bond are-on-deposit-in-a--bank--or
27 savings--and--loan--association--to--be--held--by-the-bank-or
28 savings-and-loan-association-for-the-period--covered--by--the
29 license. Such deposits shall be made, held, and disposed of
30 as provided in this Act and by the Department by rule. A
31 bond or certificate of deposit ~~The--funds~~ shall be made

1 payable upon demand to the Director, subject to the
 2 provisions of this Act, and any rules adopted under this Act,
 3 and shall be for the use and benefit of the people of the
 4 State of Illinois, and for the use and benefit of any timber
 5 grower from whom the applicant purchased timber and who is
 6 not paid by the applicant or for the use and benefit of any
 7 timber grower whose timber has been cut by the applicant or
 8 licensee or his or her agents, and who has not been paid
 9 therefor; or for the use and benefit of any person aggrieved
 10 by the actions of the timber buyer. ~~the Department may, in~~
 11 ~~its discretion, continue the existing bond of any applicant~~
 12 ~~who has previously been licensed and posted a good and~~
 13 ~~sufficient bond.~~

14 Such bond shall be in the principal amount of \$500 for an
 15 applicant who paid timber growers \$5,000 or less for timber
 16 during the immediate preceding year, and an additional \$100
 17 for each additional \$1,000 or fraction thereof paid to timber
 18 growers for timber purchased during the preceding year, but
 19 shall not be more than \$10,000. In the case of an applicant
 20 not previously engaged in business as a timber buyer, the
 21 amount of such bond shall be based on the estimated dollar
 22 amount to be paid by such timber buyer to timber growers for
 23 timber purchased during the next succeeding year, as set
 24 forth in the application; such bond shall, in no event, be in
 25 the principal amount of less than \$500. In the case of a
 26 timber buyer whose license has previously been suspended or
 27 revoked in Illinois or in any other state, the Department may
 28 double the applicable minimum bond amounts under this
 29 Section.

30 A bond filed in accordance with this Act ~~Such bond, or~~
 31 ~~surety thereon,~~ shall not be cancelled or altered during the
 32 period for which the timber buyer remains licensed by the
 33 Department ~~license to the applicant was issued~~ except upon at
 34 least 60 days notice in writing to the Department; in the

1 event that the applicant has deposited certificates of
2 deposit in lieu of a corporate surety the Department may
3 retain possession of such certificates of deposit for a
4 period of 60 days following the expiration or revocation of
5 his or her license.

6 At any such time as a licensee fails to have the
7 necessary surety bonds, certificates of deposit, or
8 irrevocable letters of credit ~~or~~ on deposit with the
9 Department as required herein, the Department may
10 immediately, and without notice, suspend the privileges
11 ~~revoke the license~~ of such licensee. In the event of such
12 suspension ~~revocation~~, the Department shall give immediate
13 notice of the same to the licensee and shall further
14 reinstate such license upon the posting of the required
15 surety bond, ~~or~~ certificates of deposit, or irrevocable
16 letters of credit.

17 Bonds shall be in such form and contain such terms and
18 conditions as may be approved from time to time by the
19 Director, be conditioned to secure an honest cutting and
20 accounting for timber purchased by the licensee, secure
21 payment to the timber growers and to insure the timber
22 growers against all fraudulent acts of the licensee in the
23 purchase and cutting of the timber of this State.

24 In the event the timber buyer fails to pay when owing due
25 any amount due a timber grower for timber purchased, or fails
26 to pay judicially determined damages for timber wrongfully
27 cut by a timber buyer or his agent, whether such wrongful
28 cutting has occurred on or adjacent to the land which was the
29 subject of timber purchase from a timber grower, or commits
30 any violation of this Act, then an action on the bond or
31 deposit for forfeiture may be commenced. Such action is not
32 exclusive and is in addition to any other judicial remedies
33 available.

34 In the event that the timber grower or owner of timber

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

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

22 Upon such request from the timber buyer, the Department
23 shall schedule a hearing, designating the time and place
24 thereof. At such hearing the timber buyer may present for
25 consideration of the Department any evidence, statements,
26 documents or other information relevant to the alleged
27 violation. The hearing shall be presided over by the Director
28 or by any hearing officer he or she may designate. The
29 hearing officer shall take evidence offered by the timber
30 buyer or the Department and shall, if requested by the
31 Department, submit his or her conclusions and findings which
32 shall be advisory to the Director. Any hearings provided for
33 in this Section shall be commenced within 30 days from the
34 request therefor.

1 Should the timber buyer fail to make timely request for a
2 hearing after receipt of the notice from the Department as
3 provided herein, or after a hearing is concluded, the
4 Department may either withdraw the notice of violation or
5 request the Attorney General to institute proceedings to have
6 the bond of the timber buyer forfeited. The Attorney General,
7 upon such request from the Department, shall institute
8 proceedings to have the bond of the timber buyer forfeited
9 for violation of any of the provisions of this Act or for
10 noncompliance with any Department regulation.

11 In the event that the licensee's bond is forfeited, the
12 proceeds thereof shall first be applied to any sums
13 determined to be owed to the timber grower or owner of timber
14 cut and then to the Department to defray expenses incurred by
15 the Department in converting the security into money.
16 Thereafter, the Department shall pay such excess to the
17 timber buyer who furnished such security.

18 In the event the Department realizes less than the amount
19 of liability from the security, after deducting expenses
20 incurred by the Department in converting the security into
21 money, it shall be grounds for the revocation of the timber
22 buyer's license.

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

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.

7 Upon request for a license and payment of the fee, the
 8 Department shall issue to the licensee a certificate that a
 9 license has been granted and a bond filed as required by this
 10 Act.

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

12 (225 ILCS 735/11) (from Ch. 111, par. 711)

13 Sec. 11. Penalties.

14 (a) Except as otherwise provided in this Section any
 15 person in violation of any of the provisions of this Act, or
 16 administrative rules thereunder, shall be guilty of a Class A
 17 misdemeanor.

18 (a-5) Any person convicted of violating Section 3 of this
 19 Act shall be guilty of a Class A misdemeanor and fined at
 20 least \$500 but no more than \$5,000 for a first offense and
 21 guilty of a Class A misdemeanor and fined at least \$1,000 but
 22 no more than \$5,000 for a second or subsequent offense.

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

27 (c) A person convicted of violating subsection (f) of
 28 Section 5 of this Act is guilty of a Class A misdemeanor. A
 29 person convicted of a second or subsequent violation is
 30 guilty of a Class 4 felony.

31 (c-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 (c-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 (d) All amounts collected as fines imposed as penalties
8 for violation of this Act shall be deposited in the Illinois
9 Forestry Development Fund for the purposes of the "Illinois
10 Forestry Development Act".

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

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

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

26 (225 ILCS 735/13) (from Ch. 111, par. 713)

27 Sec. 13. License revocation.

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

32 License revocation procedures shall be established by
33 administrative rule.

1 (b) Whenever the holder of a license issued under this
 2 Act is found guilty of any misrepresentation in obtaining his
 3 or her license or of a violation of any of the provisions of
 4 this Act or rules adopted pursuant to this Act, the
 5 Department may:

- 6 (1) revoke his or her license;
- 7 (2) refuse to issue a license to that person; and
- 8 (3) suspend the person from engaging in the
 9 activity requiring the license for up to 5 years
 10 following the revocation.

11 (c) Whenever the holder of a license issued under this
 12 Act is found guilty of any misrepresentation in obtaining his
 13 or her license or of a violation of any of the provisions of
 14 this Act or rules adopted pursuant to this Act, and his or
 15 her license has been previously revoked or his or her ability
 16 to engage in the activity requiring the license has been
 17 previously suspended, the Department may:

- 18 (1) revoke his or her license;
- 19 (2) refuse to issue any license to that person; and
- 20 (3) suspend the person from engaging in the
 21 activity requiring the license for at least 5 years but
 22 not more than 10 years following the revocation or
 23 suspension.

24 (d) Whenever the holder of a license issued under this
 25 Act is found guilty of any misrepresentation in obtaining
 26 that license or of a violation of any of the provisions of
 27 this Act or rules adopted under this Act, and his or her
 28 license has been previously revoked or his or her ability to
 29 engage in the activity requiring the license has been
 30 suspended on 2 or more occasions, the Department may:

- 31 (1) revoke his or her license;
- 32 (2) refuse to issue any license to that person; and
- 33 (3) suspend the person from engaging in the
 34 activity requiring the license for at least 10 years

1 following the revocation or suspension. Department
2 revocation procedures shall be established by
3 administrative rule.

4 If the holder of a license is found negligent with
5 respect to any duty required under this Act, the Department
6 may suspend or revoke his or her privilege to engage in the
7 activity for which the license is required, his or her
8 license, or both.

9 (e) Whenever a person who has not been issued a license
10 under this Act is found guilty of a violation of the
11 provisions of this Act or rules adopted under this Act, the
12 Department may:

13 (1) refuse to issue any license to that person; and
14 (2) suspend that person from engaging in the
15 activity requiring the license for up to 5 years
16 following the revocation.

17 (f) Whenever a person who has not been issued a license
18 under this Act is found guilty of a violation of this Act or
19 rules adopted under this Act and his or her license has been
20 previously revoked or his or her ability to engage in the
21 activity requiring the license has been previously suspended,
22 the Department may:

23 (1) refuse to issue any license to that person; and
24 (2) suspend that person from engaging in the
25 activity requiring the license for at least 5 years but
26 not more than 10 years following the revocation or
27 suspension.

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

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

1 (2) suspend that person from engaging in the
2 activity requiring the license for at least 10 years
3 following the revocation or suspension.

4 (h) Licenses authorized under this Act shall be prepared
5 by the Department and be in such form as prescribed by the
6 Department. The information required on each license shall
7 be completed thereon by the issuing agent at the time of
8 issuance and each license shall be signed by the licensee.
9 All such licenses shall be supplied by the Department,
10 subject to such rules as the Department may prescribe. Any
11 license that is not properly prepared, obtained, and signed
12 as required by this Act shall be void.

13 (i) Any person whose license to engage in an activity
14 regulated by this Act has been revoked or whose ability to
15 engage in the activity requiring the license has been
16 suspended may not, during the period of suspension or
17 revocation:

- 18 (1) hold any license authorized by this Act;
- 19 (2) perform directly or indirectly any privileges
20 authorized by any license issued in accordance with this
21 Act; or

22 (3) buy, sell, barter, trade, or take possession of
23 any timber as defined in this Act, regardless of any
24 contractual agreements entered into prior to the
25 revocation or suspension.

26 (j) No person may be issued a license or engage in any
27 activity regulated by this Act for which a license is
28 required during the time that the person's privilege to
29 engage in the same or similar activities is suspended or
30 revoked by another state, by a federal agency, or by a
31 province of Canada.

32 Any person who knowingly or intentionally violates any of
33 the provisions of this Act, or administrative rules
34 thereunder, when his or her license ~~or~~ permit has been

1 revoked or denied or his or her ability to engage in the
2 activity requiring the license has been suspended under this
3 Section, is guilty of a Class 4 felony.

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

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

8 (225 ILCS 740/2.06) (from Ch. 96 1/2, par. 6908)

9 Sec. 2.06. "Proof of ownership" means a printed document
10 provided by the Department that serves as a written bill of
11 sale and bill of lading. The information required in this
12 document shall be established by administrative rule.
13 ~~includes a written bill of sale, a written bill of lading, or~~
14 ~~a written or printed document containing the minimum~~
15 ~~information required by the Department by rule.~~

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

17 (225 ILCS 740/6) (from Ch. 96 1/2, par. 6913)

18 Sec. 6. Any person hauling or transporting 2 or more
19 trees and forest products, or either of them, on any highway
20 in this State shall be required to show proof of ownership as
21 defined in Section 2.06 of this Act, except that interstate
22 transporters originating outside of this State and traveling
23 to destinations within or outside of this State may show
24 documents in accordance with Illinois Commerce Commission
25 rules in lieu of such proof of ownership.

26 If that person is unable to show proof of ownership, the
27 timber and forest products so hauled or transported, and the
28 vehicle or conveyance used as the means of transportation may
29 be held by the Department for disposition subject to court
30 order.

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

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

2 Sec. 10. The Department of Natural Resources may
3 promulgate such rules and regulations as may be necessary or
4 desirable to effectuate the purposes of this Act. The
5 Department may make available at a reasonable cost the
6 decals, logs and tags authorized to be used by licensed
7 timber growers under Section 8.

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

9 (225 ILCS 740/14 new)

10 Sec. 14. Any timber, forestry, or wood cutting device or
11 equipment, including vehicles and conveyances used or
12 operated in violation of this Act or rules adopted under this
13 Act or attempted to be used in violation of this Act or rules
14 adopted under this Act shall be deemed a public nuisance and
15 subject to seizure and confiscation by any authorized
16 employee of the Department. Upon the seizure of such an item
17 the Department shall take and hold the item until disposed of
18 as provided in this Section.

19 Upon the seizure of any property pursuant to this
20 Section, the authorized employee of the Department making the
21 seizure shall forthwith cause a complaint to be filed before
22 the circuit court and a summons to be issued requiring the
23 person who illegally used or operated or attempted to use or
24 operate the property and the owner and person in possession
25 of the property to appear in court and show cause why the
26 seized property should not be forfeited to the State. Upon
27 the return of the summons duly served or other notice as
28 provided in this Section, the court shall proceed to
29 determine the question of the illegality of the use of the
30 seized property and upon judgment being entered to the effect
31 that the property was illegally used, an order may be entered
32 providing for the forfeiture of the seized property to the
33 Department, which shall thereupon become the property of the

1 Department. However, the owner of the property may have a
2 jury determine the illegality of its use and shall have the
3 right of an appeal as in other cases. Such a confiscation or
4 forfeiture shall not preclude or mitigate against prosecution
5 and assessment of penalties otherwise provided in this Act.

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

30 Any property forfeited to the State by court order
31 pursuant to this Section may be disposed of by public
32 auction, except that any property that is the subject of such
33 a court order shall not be disposed of pending appeal of the
34 order. The proceeds of the sale at auction shall be

1 deposited in the Illinois Forestry Development Fund.

2 The Department shall pay all costs of notices required by
3 this Section.

4 (225 ILCS 740/4 rep.)

5 (225 ILCS 740/7 rep.)

6 (225 ILCS 740/8 rep.)

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