

## H.614. An Act Relating to Land Improvement Fraud and Timber Trespass

### Section by Section Summary

#### Sec. 1. 13 V.S.A. § 2029. Home Improvement and Land Improvement Fraud

- Currently, home improvement fraud is a crime. Home improvement fraud occurs when a contractor knowingly fails to perform a contract or fails to complete terms of a contract for certain home services.
- Some of these home services relate to cutting trees, removal of trees, and similar activities, but statute currently is incomplete as to the type and kinds of services that can lead to fraud.
- In § 2029(a)(2)(A), H.614 expands the scope of these home services that are not related to a structure and defines them as “land improvement,”--“land improvement” means:
  - i. the construction, replacement, installation, paving, or improvement of driveways, roofs, and sidewalks, and trails, roads, or other landscape features;
  - ii. site work, including grading, excavation, landscape irrigation, site utility installation, site preparation, and other construction work that is not part of a building on a parcel;
  - iii. the limbing, pruning, and cutting, or removal of trees or shrubbery and other improvements to structures or upon land that is adjacent to a dwelling house; and
  - iv. forestry operations, as defined in 10 V.S.A. § 2602, including construction of trails, roads, and structures associated with forestry operations and transport off-site of trees, shrubs, or timber.
- Under § 2029(b), a person commits land improvement fraud when they enter into a contract and knowingly fail to perform the contract, fail to perform the contract when requested, do not refund payment, or do not comply with a plan for completion of work.
  - H.614 also adds that land improvement or home improvement fraud can occur when a contractor fails to pay a property owner under the contract, such as, when a harvester fails to pay an owner the value of harvested trees.
- In § 2029(b), H.614 also increases to \$1,000 the value of a contract with an individual that triggers home improvement fraud or land improvement fraud. Currently, the contract threshold is \$500, but that amount has not been changed in several years.
- Under § 2029(c), if a person is convicted of home improvement or land improvement fraud, the Attorney General lists the person’s name on a registry now called the Home Improvement and Land Improvement Fraud Registry.
- H.614 does not amend the penalties under § 2029(d) for violation of the section.
- Under current law, in § 2029(e), a person convicted of home improvement fraud is prohibited in engaging in future home improvement activities, unless: 1) they are working for a company or individual, the person notifies the company or individual of the conviction, and the person notifies the Attorney General; or 2) the person posts a \$50,000 bond or surety with the Attorney General.
- H.614, amends § 2029(e) by adding land improvement conviction to the prohibition. It also clarifies that the person convicted of home improvement or land improvement fraud cannot have a personal relationship with the company or individual it goes to work for. In addition, H.614 would increase the financial bond or surety requirement from \$50,000 to \$250,000.
  - § 2029(f) provides the conditions for when the AG shall release the bond.
- § 2029(g), authorizes the Attorney General to seize property used in the commission of home improvement or land improvement fraud. House Judiciary will propose removal of this subsection.
- Under § 2029(h) a person convicted of home improvement or land improvement fraud is prohibited from receiving State grants or from contracting with the State for a period of up to three years following conviction.
- § 2029(i) provides that a person subject to the financial surety requirements of 13 V.S.A. § 3605 for timber trespass shall not engage in land improvement activities unless the person has satisfied the financial surety requirements for timber trespass.

## **Sec. 2. 13 V.S.A. §§ 3605 and 3605a. Timber Trespass Financial Surety and Seizure**

- Section 2 adds two new sections to 13 V.S.A. chapter 77, which is the chapter that prohibits timber trespass.
- Timber trespass occurs when a person knowingly or recklessly:
  1. cuts down, fells, destroys, removes, injures, damages, or carries away any timber or forest product placed or growing for any use or purpose whatsoever, or timber or forest product lying or growing belonging to another person, without permission from the owner of the timber or forest product; or
  2. defaces the mark of a log, forest product, or other valuable timber in a river or other place.
- The new 13 V.S.A. § 3605(a) requires financial surety for a person convicted of two or more violations of timber trespass or subject to two or more civil judgements for timber trespass or a combination of timber trespass and land improvement fraud and the person has not paid all of their fines or civil damages.
- § 3605(b) provides that a person convicted of timber trespass may engage in future timber harvesting activities for compensation in a manner similar to those convicted of home improvement or land improvement fraud—i.e. they go to work for an individual or company that they do not have a personal relationship with or they post financial surety of not less than \$250,000 with the Attorney General.
- The new § 3605a would have authorized the AG, a State’s Attorney, or a law enforcement officer to seize equipment used in the commission of timber fraud and ultimately have that equipment sold in forfeiture proceedings.
  - The House Committee on Judiciary proposes to delete all seizure authority from the bill, which that committee will report to you in its amendment.

## **Secs. 3, 4, 5, 6, and 7. Seizure of Equipment; Land Improvement Fraud; Timber Trespass**

- Secs. 3 through 7 authorize the use of the current seizure and forfeiture statutory authority that is used for drug and other offenses for land improvement fraud and timber trespass.
- As previously stated, House Judiciary will propose striking this authority.

## **Sec. 8. Implementation; Condition of Operation**

- Sec. 8 provides that the requirement under 13 V.S.A. § 3605 that a person convicted of criminal timber trespass or assessed a civil penalty for timber trespass shall file a surety bond or letter of credit with the Office of the Attorney General shall, as a condition of continued or future operation, apply to all persons convicted of a criminal fine under 13 V.S.A. § 3606a or assessed civil liability under 13 V.S.A. § 3606 prior to July 1, 2024 and for which the criminal fine or civil liability remains unpaid as of July 1, 2024.
  - The AG is required to send notice to all those who would be subject to this requirement.

## **Sec. 9. Attorney General; Report On Timber Trespass Enforcement**

- Sec. 9 requires the Attorney General to submit to the General Assembly a report regarding the current enforcement of timber trespass within the State and potential methods of improving enforcement. The report shall include:
  1. a summary of the current issues pertaining to enforcement of timber trespass statutes;
  2. a summary of mechanisms or alternatives utilized in other states to effectively enforce or prevent timber theft or similar crimes; and
  3. recommendations for programs, policy changes, staffing, and budget estimates to improve enforcement and prevention; ensure consumer protection; and reduce the illegal harvesting, theft, and transporting of timber in the State, including proposed statutory changes to implement the recommendations.

## **Sec. 10. Effective Dates**

- Except for a section to be deleted by House Judiciary, the bill takes effect July 1, 2024.