

1 H.614

2 An act relating to land improvement fraud and timber trespass

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. 13 V.S.A. § 2029 is amended to read:

5 § 2029. HOME IMPROVEMENT AND LAND IMPROVEMENT FRAUD

6 (a) As used in this section, ~~“home:~~

7 (1) “Home improvement” ~~includes~~ means the fixing, replacing,
8 remodeling, removing, renovation, alteration, conversion, improvement,
9 demolition, or rehabilitation of or addition to any building ~~or land~~, or any
10 portion thereof, including roofs, that is used or designed to be used as a
11 residence or dwelling unit. ~~Home improvement shall include~~

12 (2)(A) “Land improvement” means:

13 (i) the construction, replacement, installation, paving, or
14 improvement of driveways, ~~roofs, and~~ sidewalks, ~~and~~ trails, roads, or other
15 landscape features;

16 (ii) site work, including grading, excavation, landscape irrigation,
17 site utility installation, site preparation, and other construction work that is not
18 part of a building on a parcel;

19 (iii) the limbing, pruning, ~~and~~ cutting, or removal of trees or
20 shrubbery ~~and other improvements to structures or upon land that is adjacent to~~
21 a dwelling house; and

1 (iv) forestry operations, as that term is defined in 10 V.S.A.
2 § 2602, including the construction of trails, roads, and structures associated
3 with forestry operations and the transportation off-site of trees, shrubs, or
4 timber.

5 (B) “Land improvement” includes activities made in connection with
6 a residence or dwelling or those activities not made in connection with a
7 residence or dwelling.

8 (b) A person commits the offense of home improvement or land
9 improvement fraud when ~~he or she~~ the person enters into a contract or
10 agreement, written or oral, for ~~\$500.00~~ \$1,000.00 or more, with an owner for
11 home improvement or land improvement, or into several contracts or
12 agreements for \$2,500.00 or more in the aggregate, with more than one owner
13 for home improvement or land improvement, and ~~he or she~~ the person
14 knowingly:

15 (1)(A) fails to perform the contract or agreement, in whole or in part;
16 and

17 (B) when the owner requests performance, payment, or a refund of
18 payment made, the person fails to either:

19 (i) refund the payment; ~~or~~

20 (ii) make and comply with a definite plan for completion of the
21 work that is agreed to by the owner; or

1 (iii) make the payment;

2 (2) misrepresents a material fact relating to the terms of the contract or
3 agreement or to the condition of any portion of the property involved;

4 (3) uses or employs any unfair or deceptive act or practice in order to
5 induce, encourage, or solicit such person to enter into any contract or
6 agreement or to modify the terms of the original contract or agreement; or

7 (4) when there is a declared state of emergency, charges for goods or
8 services related to the emergency a price that exceeds two times the average
9 price for the goods or services and the increase is not attributable to the
10 additional costs incurred in connection with providing those goods or services.

11 (c) Whenever a person is convicted of home improvement or land
12 improvement fraud or of fraudulent acts related to home improvement or land
13 improvement:

14 (1) the person shall notify the Office of the Attorney General;

15 (2) the court shall notify the Office of the Attorney General; and

16 (3) the Office of the Attorney General shall place the person's name on
17 the Home Improvement and Land Improvement Fraud Registry and shall
18 include on the Registry whether the person has notified the Office of Attorney
19 General under subdivision (e)(1) of this section that they have filed a surety
20 bond or an irrevocable letter of credit.

1 (d)(1) A person who violates subsection (b) of this section shall be
2 imprisoned not more than two years or fined not more than \$1,000.00, or both,
3 if the loss to a single consumer is less than ~~\$1,000.00~~ \$1,500.00.

4 (2) A person who is convicted of a second or subsequent violation of
5 ~~subdivision (1) of this subsection~~ (b) of this section shall be imprisoned not
6 more than three years or fined not more than \$5,000.00, or both.

7 (3) A person who violates subsection (b) of this section shall be
8 imprisoned not more than three years or fined not more than \$5,000.00, or
9 both, if:

10 (A) the loss to a single consumer is ~~\$1,000.00~~ \$1,500.00 or more; or

11 (B) the loss to more than one consumer is \$2,500.00 or more in the
12 aggregate.

13 (4) A person who is convicted of a second or subsequent violation of
14 subdivision (b)(3) of this subsection ~~section~~ shall be imprisoned not more than
15 five years or fined not more than \$10,000.00, or both.

16 (5) A person who violates subsection (c) or (e) of this section shall be
17 imprisoned for not more than two years or fined not more than \$1,000.00, or
18 both.

19 (e)(1) A person who is sentenced pursuant to subdivision (d)(2), (3), or (4)
20 of this section, or convicted of fraudulent acts related to home improvement or

1 land improvement, may engage in home improvement or land improvement
2 activities for compensation only if:

3 ~~(1)(A)~~ the work is for a company or individual engaged in home
4 improvement or land improvement activities; and the company or individual
5 has not previously committed a violation under this section; the person and the
6 management of the company or the individual are not a family member, a
7 household member, or a current or prior business associate; and the person first
8 notifies the company or individual of the conviction and notifies the Office of
9 the Attorney General of the person's current address and telephone number;
10 the name, address, and telephone number of the company or individual for
11 whom the person is going to work; and the date on which the person will start
12 working for the company or individual; or

13 ~~(2)(B)~~ the person notifies the Office of the Attorney General of the
14 intent to engage in home improvement or land improvement activities, and that
15 the person has filed a surety bond or an irrevocable letter of credit with the
16 Office in an amount of not less than ~~\$50,000.00~~, \$250,000.00 and pays on a
17 regular basis all fees associated with maintaining such bond or letter of credit.

18 (2) As used in this subsection:

19 (A) "Business associate" means a person joined together with another
20 person to achieve a common financial objective.

1 (B) “Family member” means a spouse, child, sibling, parent, next of
2 kin, domestic partner, or legal guardian.

3 (C) “Household member” means a person who, for any period of
4 time, is living or has lived together, is sharing or has shared occupancy of a
5 dwelling.

6 (f) The Office of the Attorney General shall release the letter of credit at
7 such time when:

8 (1) any claims against the person relating to home improvement or land
9 improvement fraud have been paid;

10 (2) there are no pending actions or claims against the person for home
11 improvement or land improvement fraud; and

12 (3) the person has not been engaged in home improvement or land
13 improvement activities for at least six years and has signed an affidavit so
14 attesting.

15 (g) A person convicted of home improvement or land improvement fraud is
16 prohibited from applying for or receiving State grants or from contracting,
17 directly or indirectly, with the State or any of its subdivisions for a period of up
18 to three years following the date of the conviction, as determined by the
19 Commissioner of Buildings and General Services.

20 (h) A person subject to the financial surety requirements of section 3605 of
21 this title for timber trespass shall not engage in land improvement activities

1 unless the person has satisfied the financial surety requirements for timber
2 trespass.

3 Sec. 2. 13 V.S.A. § 3605 is added to read:

4 § 3605. FINANCIAL SURETY REQUIRED FOR CONTINUED TIMBER

5 HARVESTING ACTIVITIES

6 (a) Under one or more of the following circumstances, a person shall not
7 engage in timber harvesting activities for compensation unless the person
8 satisfies the conditions of subsection (b) of this section:

9 (1) The person was convicted of a second or subsequent violation of
10 timber trespass under section 3606a of this title.

11 (2) The person is subject to two or more civil judgments under section
12 3606 of this title.

13 (3) The person is subject to the financial surety requirements of
14 subsection 2029(e) of this title for land improvement fraud.

15 (4) The person was convicted of a combination of one or more
16 violations of timber trespass and one or more occurrence of land improvement
17 fraud.

18 (b)(1) A person subject to prohibition under subsection (a) of this section
19 may engage in timber harvesting activities for compensation if:

20 (A) the work is for a company or individual engaged in timber
21 harvesting activities and the company or individual has not previously

1 committed a violation under this section; the person and the management of
2 the company or the individual are not a family member, a household member,
3 or a current or prior business associate; and the person first notifies the
4 company or individual of the conviction or civil judgment and notifies the
5 Office of the Attorney General of the person's current address and telephone
6 number; the name, address, and telephone number of the company or
7 individual for whom the person is going to work; and the date on which the
8 person will start working for the company or individual; or

9 (B) the person notifies the Office of the Attorney General of the
10 intent to engage in timber harvesting activities, has filed a surety bond or an
11 irrevocable letter of credit with the Office in an amount of not less than
12 \$250,000.00, and pays on a regular basis all fees associated with maintaining
13 such bond or letter of credit.

14 (2) As used in this subsection:

15 (A) "Business associate" means a person joined together with another
16 person to achieve a common financial objective.

17 (B) "Family member" means a spouse, child, sibling, parent, next of
18 kin, domestic partner, or legal guardian of a person.

19 (C) "Household member" means a person who, for any period of
20 time, is living or has lived together, is sharing or has shared occupancy of a
21 dwelling.

1 (c) The Office of the Attorney General shall release the letter of credit at
2 such time when:

3 (1) any claims against the person relating to timber harvesting activities
4 or land improvement fraud have been paid;

5 (2) there are no pending actions or claims against the person from the
6 person's timber harvesting activities or land improvement fraud; and

7 (3) the person has not been engaged in timber harvesting activities for at
8 least six years and has signed an affidavit so attesting.

9 (d) A person who violates subsection (b) of this section or subdivision
10 3606a(c)(1) of this title shall be imprisoned for not more than two years or
11 fined not more than \$1,000.00, or both.

12 Sec. 3. 13 V.S.A. § 3606a is amended to read:

13 § 3606a. TRESPASS; CRIMINAL PENALTY

14 (a) No person shall knowingly or recklessly:

15 (1) cut down, fell, destroy, remove, injure, damage, or carry away any
16 timber or forest product placed or growing for any use or purpose whatsoever,
17 or timber or forest product lying or growing belonging to another person,
18 without permission from the owner of the timber or forest product; or

19 (2) deface the mark of a log, forest product, or other valuable timber in a
20 river or other place.

21 (b) Any person who violates subsection (a) of this section shall:

1 (1) for a first offense, be imprisoned not more than one year or fined not
2 more than \$20,000.00, or both; or

3 (2) for a second or subsequent offense, be imprisoned not more than ~~two~~
4 three years or fined not more than \$50,000.00, or both.

5 (c) Whenever a person is convicted of timber trespass under this section:

6 (1) the person shall notify the Office of the Attorney General;

7 (2) the court shall notify the Office of the Attorney General; and

8 (3) the Office of the Attorney General shall place the person's name on
9 the Home Improvement and Land Improvement Fraud Registry and shall
10 include on the Registry whether the person has notified the Office of Attorney
11 General under subdivision 3605(b)(1)(B) of this title that they have filed a
12 surety bond or an irrevocable letter of credit.

13 Sec. 4. IMPLEMENTATION

14 The financial surety requirements established by 13 V.S.A. § 3605 shall
15 apply prospectively and shall not apply to convictions or civil judgments that
16 occurred prior to the effective date of this act.

17 Sec. 5. OFFICE OF THE ATTORNEY GENERAL; REPORT ON TIMBER
18 TRESPASS ENFORCEMENT

19 (a) On or before January 15, 2025, the Office of the Attorney General shall
20 submit to the House Committees on Agriculture, Food Resiliency, and Forestry
21 and on Judiciary and the Senate Committees on Natural Resources and Energy

1 and on Judiciary a report regarding the current enforcement of timber trespass
2 within the State and potential methods of improving enforcement. The report
3 shall include:

4 (1) a summary of the current issues pertaining to enforcement of timber
5 trespass statutes;

6 (2) a summary of mechanisms or alternatives utilized in other states to
7 effectively enforce or prevent timber theft or similar crimes;

8 (3) recommendations for programs, policy changes, staffing, and budget
9 estimates to improve enforcement and prevention; ensure consumer protection;
10 and reduce the illegal harvesting, theft, and transporting of timber in the State,
11 including proposed statutory changes to implement the recommendations; and

12 (4) a recommendation of whether and how property used in the
13 commission of land improvement fraud or timber trespass should be subject to
14 seizure and forfeiture by law enforcement.

15 (b) The Office of the Attorney General shall consult with the Department
16 of Forests, Parks and Recreation; the Department of Public Safety; the Office
17 of the State Treasurer; the Department of State's Attorneys and Sheriffs; the
18 Professional Logging Contractors of the Northeast; the Vermont Forest
19 Products Association; and other interested parties in the preparation of the
20 report required under this section.

1 Sec. 6. EFFECTIVE DATE

2 This act shall take effect on July 1, 2024.