

1

H.614

2

An act relating to land improvement fraud and timber trespass

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The Senate proposes to the House to amend the bill by striking out all after

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the enacting clause and inserting in lieu thereof the following:

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

6

§ 2029. HOME IMPROVEMENT AND LAND IMPROVEMENT FRAUD

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

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(1) “Home improvement” includes means the fixing, replacing,

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remodeling, removing, renovation, alteration, conversion, improvement,

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demolition, or rehabilitation of or addition to any building ~~or land~~, or any

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portion thereof, including roofs, that is used or designed to be used as a

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residence or dwelling unit. ~~Home improvement shall include~~

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(2)(A) “Land improvement” means:

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(i) the construction, replacement, installation, paving, or

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improvement of driveways, ~~roofs, and sidewalks, and~~ trails, roads, or other

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landscape features;

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(ii) site work, including grading, excavation, landscape irrigation,

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site utility installation, site preparation, and other construction work that is not

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part of a building on a parcel;

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

4 (iv) forestry operations, as that term is defined in 10 V.S.A.
5 § 2602, including the construction of trails, roads, and structures associated
6 with forestry operations and the transportation off-site of trees, shrubs, or
7 timber.

8 (B) “Land improvement” includes activities made in connection with
9 a residence or dwelling or those activities not made in connection with a
10 residence or dwelling.

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

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

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

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

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

4 (iii) make the payment;

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

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

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

14 (c) Whenever a person is convicted of home improvement or land
15 improvement fraud or of fraudulent acts related to home improvement or land
16 improvement:

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

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

19 (3) the Office of the Attorney General shall place the person's name on
20 the Home Improvement and Land Improvement Fraud Registry and shall
21 include on the Registry whether the person has notified the Office of Attorney

1 General under subdivision (e)(1) of this section that they have filed a surety
2 bond or an irrevocable letter of credit.

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

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

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

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

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

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

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

1 (e)(1) A person who is sentenced pursuant to subdivision (d)(2), (3), or (4)
2 of this section, or convicted of fraudulent acts related to home improvement or
3 land improvement, may engage in home improvement or land improvement
4 activities for compensation only if:

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

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

20 (2) As used in this subsection:

1 (A) “Business associate” means a person joined together with another
2 person to achieve a common financial objective.

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

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

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

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

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

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

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

1 (h) A person subject to the financial surety requirements of section 3605 of
2 this title for timber trespass shall not engage in land improvement activities
3 unless the person has satisfied the financial surety requirements for timber
4 trespass.

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

6 § 3605. FINANCIAL SURETY REQUIRED FOR CONTINUED TIMBER

7 HARVESTING ACTIVITIES

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

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

13 (2) The person is subject to two or more civil judgements under section
14 3606 of this title.

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

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

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

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

11 (B) the person notifies the Office of the Attorney General of the
12 intent to engage in timber harvesting activities, has filed a surety bond or an
13 irrevocable letter of credit with the Office in an amount of not less than
14 \$250,000.00, and pays on a regular basis all fees associated with maintaining
15 such bond or letter of credit.

16 (2) As used in this subsection:

17 (A) “Business associate” means a person joined together with another
18 person to achieve a common financial objective.

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

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

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

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

8 (2) there are no pending actions or claims against the person from the
9 person’s timber harvesting activities or land improvement fraud; and

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

12 (d) A person who violates subsection (b) of this section or subdivision
13 3606a(c)(1) of this title shall be imprisoned for not more than two years or
14 fined not more than \$1,000.00, or both.

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

16 § 3606a. TRESPASS; CRIMINAL PENALTY

17 (a) No person shall knowingly or recklessly:

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

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

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

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

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

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

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

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

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

16 Sec. 4. IMPLEMENTATION

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

1 Sec. 5. OFFICE OF THE ATTORNEY GENERAL; REPORT ON TIMBER
2 TRESPASS ENFORCEMENT

3 (a) On or before January 15, 2025, the Office of the Attorney General shall
4 submit to the House Committees on Agriculture, Food Resiliency, and Forestry
5 and on Judiciary and the Senate Committees on Natural Resources and Energy
6 and on Judiciary a report regarding the current enforcement of timber trespass
7 within the State and potential methods of improving enforcement. The report
8 shall include:

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

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

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

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

20 (b) The Office of the Attorney General shall consult with the Department
21 of Forests, Parks and Recreation; the Department of Public Safety; the Office

1 of the State Treasurer; the Department of State's Attorneys and Sheriffs; the
2 Professional Logging Contractors of the Northeast; the Vermont Forest
3 Products Association; and other interested parties in the preparation of the
4 report required under this section.

5 Sec. 6. EFFECTIVE DATE

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