

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.

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

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

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

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

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

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

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

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

20           ~~(A)~~ (A) the work is for a company or individual engaged in home  
21 improvement or land improvement activities; and the company or individual

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

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

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 (f) 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 home improvement or land  
4 improvement fraud have been paid;

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

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

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

15 (h) A person subject to the financial surety requirements of section 3605 of  
16 this title for timber trespass shall not engage in land improvement activities  
17 unless the person has satisfied the financial surety requirements for timber  
18 trespass.

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

20 § 3605. FINANCIAL SURETY REQUIRED FOR CONTINUED TIMBER  
21 HARVESTING ACTIVITIES

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

4           (1) The person was convicted of a second or subsequent violation of  
5       timber trespass under section 3606a of this title and has not paid all required  
6       finest or restitution.

7           (2) The person is subject to two or more civil judgements under section  
8       3606 of this title and has not paid all required damages or restitution.

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

11          (4) The person was convicted of a combination of one or more  
12       violations of timber trespass and one or more occurrence of land improvement  
13       fraud and has not paid the required fines, damages, or restitution.

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

16           (A) the work is for a company or individual engaged in timber  
17       harvesting activities and the company or individual has not previously  
18       committed a violation under this section; the person and the management of  
19       the company or the individual are not a family member, a household member,  
20       or a current or prior business associate; and the person first notifies the  
21       company or individual of the conviction or civil judgment and notifies the

1 Office of the Attorney General of the person’s current address and telephone  
2 number; the name, address, and telephone number of the company or  
3 individual for whom the person is going to work; and the date on which the  
4 person will start working for the company or individual; or

5 (B) the person notifies the Office of the Attorney General of the  
6 intent to engage in timber harvesting activities, has filed a surety bond or an  
7 irrevocable letter of credit with the Office in an amount of not less than  
8 \$250,000.00, and pays on a regular basis all fees associated with maintaining  
9 such bond or letter of credit.

10 (2) As used in this subsection:

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

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

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

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

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



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

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

5           Sec. 3. IMPLEMENTATION; CONDITION OF OPERATION

6           (a) The requirement under 13 V.S.A. § 3605 that a person convicted of  
7           criminal timber trespass or assessed a civil penalty for timber trespass shall file  
8           a surety bond or letter of credit with the Office of the Attorney General shall,  
9           as a condition of continued or future operation, apply to all persons convicted  
10           of a criminal fine under 13 V.S.A. § 3606a or assessed civil liability under  
11           13 V.S.A. § 3606 prior to July 1, 2024 and for which the criminal fine or civil  
12           liability remains unpaid as of July 1, 2024.

13           (b) The Attorney General shall send notice of the requirement for a surety  
14           bond or letter of credit under subsection (a) of this section as a condition of  
15           continued operation to all persons in the State who, as of the effective date of  
16           this act, have failed to pay criminal fines or civil damages assessed for timber  
17           trespass under 13 V.S.A. §§ 3606 and 3606a.

18           Sec. 4. OFFICE OF THE ATTORNEY GENERAL; REPORT ON TIMBER  
19           TRESPASS ENFORCEMENT

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

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

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

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

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

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

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

1      Sec. 5. EFFECTIVE DATE

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