Regular Session, 2011

HOUSE BILL NO. 184

BY REPRESENTATIVE HILL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FORESTRY: Clarifies relationship between co-owners relative to timber theft

AN ACT

To amend and reenact R.S. 3:4278.1(A), (B), (C), and (D), relative to timber theft; to provide for the recovery of treble damages by co-owners or co-heirs of timber; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:4278.1 (A), (B), (C), and (D) are hereby amended and reenacted to read as follows:

§4278.1. Trees, cutting without consent; co-owners and co-heirs; penalty

A.(1) It shall be unlawful for any person to cut, fell, destroy, remove, or to divert for sale or use, any trees, or to authorize or direct his agent or employee to cut, fell, destroy, remove, or to divert for sale or use, any trees, growing or lying on the land of another, without the consent of, or in accordance with the direction of, the owner or legal possessor, or in accordance with specific terms of a legal contract or agreement.

(2) It shall be unlawful for any co-owner or co-heir to cut, fell, destroy, remove, or to divert for sale or use, any trees, or to authorize or direct his agent or employee to cut, fell, destroy, remove, or to divert for sale or use, any trees, growing or lying on co-owned land, without the consent of, or in accordance with the direction of, the co-owner or co-heir, or in accordance with specific terms of a legal contract or agreement.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

B. Whoever willfully and intentionally violates the provisions of Subsection A of this Section shall be liable to the owner, co-owner, co-heir, or legal possessor of the trees for civil damages in the amount of three times the fair market value of the trees cut, felled, destroyed, removed, or diverted, plus reasonable ~~attorney's~~ attorney fees.

C. Whoever violates the provisions of Subsection A of this Section in good faith shall be liable to the owner, co-owner, co-heir, or legal possessor of the trees for three times the fair market value of the trees cut, felled, destroyed, removed, or diverted, if circumstances prove that the violator should have been aware that his actions were without the consent or direction of the owner, co-owner, co-heir, or legal possessor of the trees.

D. If a good faith violator of Subsection A of this Section fails to make payment under the requirements of this Section within thirty days after notification and demand by the owner, co-owner, co-heir, or legal possessor, the violator shall also be responsible for the reasonable attorney fees of the owner, co-owner, co-heir, or legal possessor.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hill HB No. 184

Abstract: Clarifies the relationship between co-owners relative to timber theft.

Present law provides that without the consent of the owner or legal possessor, it shall be unlawful for any person to cut or remove timber from the land of another.

Proposed law retains present law and adds the necessary consent from a co-owner or co-heir in order to cut or remove timber on co-owned land.

Present law provides for civil damages to the owner or legal possessor in the amount of three times the fair market value of the trees cut or removed in the event of the willful or intentional violation of timber theft.

Proposed law retains present law and adds co-owners or co-heirs as recipients of civil damages in the amount of three times the fair market value of the trees cut or removed from co-owned land.

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Present law provides that any person who cuts or removes trees in good faith on the property of another shall be liable to the owner or legal possessor for three times the fair market value of the cut or removed trees, if circumstances prove that the violator should have been aware that his actions were without the consent of the owner or legal possessor.

Proposed law retains present law and adds co-owners or co-heirs as recipients of damages in the amount of three times the fair market value of trees cut or removed from co-owned property by a good faith violator.

Present law provides that if a good faith violator fails to make payment of the required damages within 30 days after notification by the owner or legal possessor, the violator must also pay reasonable attorney fees of the owner or legal possessor.

Proposed law retains present law and adds co-owners and co-heirs as recipients of payment of reasonable attorney fees by a violator who fails to make payment of required damages within 30 days of notification.

(Amends R.S. 3:4278.1(A), (B), (C), and (D))

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