

1 AMENDMENT TO HOUSE BILL 1006

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1006 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Timber Buyers Licensing Act is amended  
5 by changing Sections 4, 7, 11, and 13 as follows:

6 (225 ILCS 735/4) (from Ch. 111, par. 704)

7 Sec. 4. Bond. Every person licensed as a timber buyer  
8 shall ~~have-on~~ file with the Department, on a form prescribed  
9 and furnished by the Department, a performance surety bond  
10 payable to the State of Illinois by and through the  
11 Department and conditioned on the faithful performance of and  
12 compliance with all requirements of the license and this Act.  
13 The bond shall be a surety bond signed by the person to be  
14 licensed as principal and by a good and sufficient corporate  
15 surety authorized to engage in the business of executing  
16 surety bonds within the State of Illinois as surety thereon.  
17 In lieu of a corporate surety bond an applicant for a timber  
18 buyers license may, with the approval of the Department,  
19 deposit with the Department as security a file-a-bond--signed  
20 by--the--applicant--as-principal-and-accompanied-by-a-bank-or  
21 savings--and--loan--association certificate of deposit or  
22 irrevocable letter of credit of any bank organized or

1 transacting business in the United States in a form approved  
2 by the Department, showing to the satisfaction of the  
3 Department that funds in an amount equal to or greater than  
4 the amount of the required bond are on deposit in a bank or  
5 savings and loan association to be held by the bank or  
6 savings and loan association for the period covered by the  
7 license. Such deposits shall be made, held, and disposed of  
8 as provided in this Act and by the Department by rule. A  
9 bond or certificate of deposit The funds shall be made  
10 payable upon demand to the Director, subject to the  
11 provisions of this Act, and any rules adopted under this Act,  
12 and shall be for the use and benefit of the people of the  
13 State of Illinois, and for the use and benefit of any timber  
14 grower from whom the applicant purchased timber and who is  
15 not paid by the applicant or for the use and benefit of any  
16 timber grower whose timber has been cut by the applicant or  
17 licensee or his or her agents, and who has not been paid  
18 therefor; or for the use and benefit of any person aggrieved  
19 by the actions of the timber buyer. the Department may, in  
20 its discretion, continue the existing bond of any applicant  
21 who has previously been licensed and posted a good and  
22 sufficient bond.

23 Such bond shall be in the principal amount of \$500 for an  
24 applicant who paid timber growers \$5,000 or less for timber  
25 during the immediate preceding year, and an additional \$100  
26 for each additional \$1,000 or fraction thereof paid to timber  
27 growers for timber purchased during the preceding year, but  
28 shall not be more than \$10,000. In the case of an applicant  
29 not previously engaged in business as a timber buyer, the  
30 amount of such bond shall be based on the estimated dollar  
31 amount to be paid by such timber buyer to timber growers for  
32 timber purchased during the next succeeding year, as set  
33 forth in the application; such bond shall, in no event, be in  
34 the principal amount of less than \$500. In the case of a

1 timber buyer whose license has previously been suspended or  
 2 revoked in Illinois or in any other state, the Department may  
 3 double the applicable minimum bond amounts under this  
 4 Section.

5 A bond filed in accordance with this Act Such--bond,--or  
 6 surety--thereon, shall not be cancelled or altered during the  
 7 period for which the timber buyer remains licensed by the  
 8 Department license-to-the-applicant-was-issued except upon at  
 9 least 60 days notice in writing to the Department; in the  
 10 event that the applicant has deposited certificates of  
 11 deposit in lieu of a corporate surety the Department may  
 12 retain possession of such certificates of deposit for a  
 13 period of 60 days following the expiration or revocation of  
 14 his or her license.

15 At any such time as a licensee fails to have the  
 16 necessary surety bonds, certificates of deposit, or  
 17 irrevocable letters of credit or--both on deposit with the  
 18 Department as required herein, the Department may  
 19 immediately, and without notice, suspend the privileges  
 20 revoke-the-license of such licensee. In the event of such  
 21 suspension revocation, the Department shall give immediate  
 22 notice of the same to the licensee and shall further  
 23 reinstate such license upon the posting of the required  
 24 surety bond, or certificates of deposit, or irrevocable  
 25 letters of credit.

26 Bonds shall be in such form and contain such terms and  
 27 conditions as may be approved from time to time by the  
 28 Director, be conditioned to secure an honest cutting and  
 29 accounting for timber purchased by the licensee, secure  
 30 payment to the timber growers and to insure the timber  
 31 growers against all fraudulent acts of the licensee in the  
 32 purchase and cutting of the timber of this State.

33 In the event the timber buyer fails to pay when owing due  
 34 any amount due a timber grower for timber purchased, or fails

1 to pay judicially determined damages for timber wrongfully  
2 cut by a timber buyer or his agent, whether such wrongful  
3 cutting has occurred on or adjacent to the land which was the  
4 subject of timber purchase from a timber grower, or commits  
5 any violation of this Act, then an action on the bond or  
6 deposit for forfeiture may be commenced. Such action is not  
7 exclusive and is in addition to any other judicial remedies  
8 available.

9 In the event that the timber grower or owner of timber  
10 cut considers himself or herself aggrieved by a timber buyer,  
11 he or she shall notify the Department in writing of such  
12 grievance and thereafter the Department shall within 10 days  
13 give written notice to the timber buyer of the alleged  
14 violation of this Act or of any violation or noncompliance  
15 with the regulations hereunder of which the timber grower or  
16 owner of timber complains. The written notice to the timber  
17 buyer shall be from the Department by registered or certified  
18 mail to the licensee and his or her sureties stating in  
19 general terms the nature of the violation and that an action  
20 seeking forfeiture of the bond may be commenced at any time  
21 after the 10 days from the date of said notice if at the end  
22 of that period the violation still remains. In the event the  
23 Department shall fail to give notice to the timber buyer as  
24 provided herein, the timber grower or owner of timber cut may  
25 commence his or her own action for forfeiture of the  
26 licensee's bond.

27 The timber buyer, after receiving notice from the  
28 Department as provided herein, may within 10 days from the  
29 date of such notice, request in writing to appear and be  
30 heard regarding the alleged violation.

31 Upon such request from the timber buyer, the Department  
32 shall schedule a hearing, designating the time and place  
33 thereof. At such hearing the timber buyer may present for  
34 consideration of the Department any evidence, statements,

1 documents or other information relevant to the alleged  
2 violation. The hearing shall be presided over by the Director  
3 or by any hearing officer he or she may designate. The  
4 hearing officer shall take evidence offered by the timber  
5 buyer or the Department and shall, if requested by the  
6 Department, submit his or her conclusions and findings which  
7 shall be advisory to the Director. Any hearings provided for  
8 in this Section shall be commenced within 30 days from the  
9 request therefor.

10 Should the timber buyer fail to make timely request for a  
11 hearing after receipt of the notice from the Department as  
12 provided herein, or after a hearing is concluded, the  
13 Department may either withdraw the notice of violation or  
14 request the Attorney General to institute proceedings to have  
15 the bond of the timber buyer forfeited. The Attorney General,  
16 upon such request from the Department, shall institute  
17 proceedings to have the bond of the timber buyer forfeited  
18 for violation of any of the provisions of this Act or for  
19 noncompliance with any Department regulation.

20 In the event that the licensee's bond is forfeited, the  
21 proceeds thereof shall first be applied to any sums  
22 determined to be owed to the timber grower or owner of timber  
23 cut and then to the Department to defray expenses incurred by  
24 the Department in converting the security into money.  
25 Thereafter, the Department shall pay such excess to the  
26 timber buyer who furnished such security.

27 In the event the Department realizes less than the amount  
28 of liability from the security, after deducting expenses  
29 incurred by the Department in converting the security into  
30 money, it shall be grounds for the revocation of the timber  
31 buyer's license.

32 (Source: P.A. 83-1362.)

33 (225 ILCS 735/7) (from Ch. 111, par. 707)

1       Sec. 7. License; issuance, validity, and renewal;  
2 certificate. If the Department is satisfied that the  
3 applicant has fulfilled the requirements and if the bond and  
4 sureties or bank certificate of deposit filed by the  
5 applicant is approved, the Department ~~may~~ shall issue a  
6 license to the applicant. The licenses issued shall be valid  
7 for a calendar year and may be renewed annually. A copy of  
8 the license certificate issued by the Department shall be  
9 posted in the principal office of the licensee in this State.  
10 The timber buyer identification card issued by the Department  
11 shall be carried upon the person of the timber buyer when  
12 conducting activities covered under this Act for immediate  
13 presentation for inspection to the officers and authorized  
14 employees of the Department, any sheriff, deputy sheriff, or  
15 any other peace officer making demand for it.

16       Upon request for a license and payment of the fee, the  
17 Department shall issue to the licensee a certificate that a  
18 license has been granted and a bond filed as required by this  
19 Act.

20       (Source: P.A. 76-1307.)

21       (225 ILCS 735/11) (from Ch. 111, par. 711)

22       Sec. 11. Penalties.

23       (a) Except as otherwise provided in this Section any  
24 person in violation of any of the provisions of this Act, or  
25 administrative rules thereunder, shall be guilty of a Class A  
26 misdemeanor.

27       (a-5) Any person convicted of violating Section 3 of this  
28 Act shall be guilty of a Class A misdemeanor and fined at  
29 least \$500 but no more than \$5,000 for a first offense and  
30 guilty of a Class A misdemeanor and fined at least \$1,000 but  
31 no more than \$5,000 for a second or subsequent offense.

32       (b) Any person convicted of violating subsections (a) or  
33 (b) of Section 5 of this Act is guilty of a Class 4 felony if

1 the aggregate value of the timber purchased, cut, caused to  
2 be cut or appropriated is over \$300 but not more than \$2,500.

3 (c) A person convicted of violating subsection (f) of  
4 Section 5 of this Act is guilty of a Class A misdemeanor. A  
5 person convicted of a second or subsequent violation is  
6 guilty of a Class 4 felony.

7 (c-5) Any person convicted of violating subsection (a)  
8 or (b) of Section 5 of this Act is guilty of a Class 3 felony  
9 if the aggregate value of the timber purchased, cut, caused  
10 to be cut or appropriated is over \$2,500 but not more than  
11 \$10,000.

12 (c-10) Any person convicted of violating subsection (a)  
13 or (b) of Section 5 of this Act is guilty of a Class 2 felony  
14 if the aggregate value of the timber purchased, cut, caused  
15 to be cut or appropriated is over \$10,000.

16 (d) All amounts collected as fines imposed as penalties  
17 for violation of this Act shall be deposited in the Illinois  
18 Forestry Development Fund for the purposes of the "Illinois  
19 Forestry Development Act".

20 (e) In case of a failure to pay any harvest fee required  
21 under Section 9a of this Act on the date as required by  
22 regulation of the Department, there shall be added as a  
23 penalty an amount equal to 7.5% of the harvest fee due the  
24 Department for each month or fraction thereof during which  
25 such failure continues, not to exceed 37.5% in the aggregate.  
26 This penalty shall be in addition to any other penalty  
27 determined under this Act.

28 (f) In case of failure to file the appropriate report of  
29 the purchase harvest fee form stipulated under Section 9a of  
30 this Act on the date prescribed therefore, a penalty in the  
31 amount of \$25 for each individual report shall be added to  
32 the amount due the Department. This penalty shall be in  
33 addition to any other penalty determined under this Act.

34 (Source: P.A. 86-208.)

1 (225 ILCS 735/13) (from Ch. 111, par. 713)

2 Sec. 13. License revocation.

3 (a) The Department may revoke the license of any person  
4 who violates the provisions of this Act, and may refuse to  
5 issue any permit or license to such person for a period not  
6 to exceed 5 years following such revocation.

7 License revocation procedures shall be established by  
8 administrative rule.

9 (b) Whenever the holder of a license issued under this  
10 Act is found guilty of any misrepresentation in obtaining his  
11 or her license or of a violation of any of the provisions of  
12 this Act or rules adopted pursuant to this Act, the  
13 Department may:

14 (1) revoke his or her license;

15 (2) refuse to issue a license to that person; and

16 (3) suspend the person from engaging in the  
17 activity requiring the license for up to 5 years  
18 following the revocation.

19 (c) Whenever the holder of a license issued under this  
20 Act is found guilty of any misrepresentation in obtaining his  
21 or her license or of a violation of any of the provisions of  
22 this Act or rules adopted pursuant to this Act, and his or  
23 her license has been previously revoked or his or her ability  
24 to engage in the activity requiring the license has been  
25 previously suspended, the Department may:

26 (1) revoke his or her license;

27 (2) refuse to issue any license to that person; and

28 (3) suspend the person from engaging in the  
29 activity requiring the license for at least 5 years but  
30 not more than 10 years following the revocation or  
31 suspension.

32 (d) Whenever the holder of a license issued under this  
33 Act is found guilty of any misrepresentation in obtaining  
34 that license or of a violation of any of the provisions of



1 this Act or rules adopted under this Act, and his or her  
2 license has been previously revoked or his or her ability to  
3 engage in the activity requiring the license has been  
4 suspended on 2 or more occasions, the Department may:

5 (1) revoke his or her license;

6 (2) refuse to issue any license to that person; and

7 (3) suspend the person from engaging in the  
8 activity requiring the license for at least 10 years  
9 following the revocation or suspension. Department  
10 revocation procedures shall be established by  
11 administrative rule.

12 If the holder of a license is found negligent with  
13 respect to any duty required under this Act, the Department  
14 may suspend or revoke his or her privilege to engage in the  
15 activity for which the license is required, his or her  
16 license, or both.

17 (e) Whenever a person who has not been issued a license  
18 under this Act is found guilty of a violation of the  
19 provisions of this Act or rules adopted under this Act, the  
20 Department may:

21 (1) refuse to issue any license to that person; and

22 (2) suspend that person from engaging in the  
23 activity requiring the license for up to 5 years  
24 following the revocation.

25 (f) Whenever a person who has not been issued a license  
26 under this Act is found guilty of a violation of this Act or  
27 rules adopted under this Act and his or her license has been  
28 previously revoked or his or her ability to engage in the  
29 activity requiring the license has been previously suspended,  
30 the Department may:

31 (1) refuse to issue any license to that person; and

32 (2) suspend that person from engaging in the  
33 activity requiring the license for at least 5 years but  
34 not more than 10 years following the revocation or

1 suspension.

2 (g) Whenever a person who has not been issued a license  
3 under this Act is found guilty of a violation of this Act or  
4 rules adopted under this Act and his or her license has been  
5 previously revoked or his or her ability to engage in the  
6 activity requiring the license has been suspended on 2 or  
7 more occasions, the Department may:

8 (1) refuse to issue any license to that person; and

9 (2) suspend that person from engaging in the  
10 activity requiring the license for at least 10 years  
11 following the revocation or suspension.

12 (h) Licenses authorized under this Act shall be prepared  
13 by the Department and be in such form as prescribed by the  
14 Department. The information required on each license shall  
15 be completed thereon by the issuing agent at the time of  
16 issuance and each license shall be signed by the licensee.  
17 All such licenses shall be supplied by the Department,  
18 subject to such rules as the Department may prescribe. Any  
19 license that is not properly prepared, obtained, and signed  
20 as required by this Act shall be void.

21 (i) Any person whose license to engage in an activity  
22 regulated by this Act has been revoked or whose ability to  
23 engage in the activity requiring the license has been  
24 suspended may not, during the period of suspension or  
25 revocation:

26 (1) hold any license authorized by this Act;

27 (2) perform directly or indirectly any privileges  
28 authorized by any license issued in accordance with this  
29 Act; or

30 (3) buy, sell, barter, trade, or take possession of  
31 any timber as defined in this Act, regardless of any  
32 contractual agreements entered into prior to the  
33 revocation or suspension.

34 (j) No person may be issued a license or engage in any

1 activity regulated by this Act for which a license is  
 2 required during the time that the person's privilege to  
 3 engage in the same or similar activities is suspended or  
 4 revoked by another state, by a federal agency, or by a  
 5 province of Canada.

6 Any person who knowingly or intentionally violates any of  
 7 the provisions of this Act, or administrative rules  
 8 thereunder, when his or her license ~~or~~ permit has been  
 9 revoked or denied or his or her ability to engage in the  
 10 activity requiring the license has been suspended under this  
 11 Section, is guilty of a Class 4 felony.

12 (Source: P.A. 85-287.)

13 Section 10. The Forest Products Transportation Act is  
 14 amended by changing Sections 2.06, 6, and 10 and adding  
 15 Section 14 as follows:

16 (225 ILCS 740/2.06) (from Ch. 96 1/2, par. 6908)

17 Sec. 2.06. "Proof of ownership" means a printed document  
 18 provided by the Department that serves as a written bill of  
 19 sale and bill of lading. The information required in this  
 20 document shall be established by administrative rule.  
 21 ~~includes a written bill of sale, a written bill of lading, or~~  
 22 ~~a written or printed document containing the minimum~~  
 23 ~~information required by the Department by rule.~~

24 (Source: P.A. 86-208.)

25 (225 ILCS 740/6) (from Ch. 96 1/2, par. 6913)

26 Sec. 6. Any person hauling or transporting 2 or more  
 27 trees and forest products, or either of them, on any highway  
 28 in this State shall be required to show proof of ownership as  
 29 defined in Section 2.06 of this Act, except that interstate  
 30 transporters originating outside of this State and traveling  
 31 to destinations within or outside of this State may show

1 documents in accordance with Illinois Commerce Commission  
2 rules in lieu of such proof of ownership.

3 If that person is unable to show proof of ownership, the  
4 timber and forest products so hauled or transported, and the  
5 vehicle or conveyance used as the means of transportation may  
6 be held by the Department for disposition subject to court  
7 order.

8 (Source: P.A. 86-208.)

9 (225 ILCS 740/10) (from Ch. 96 1/2, par. 6917)

10 Sec. 10. The Department of Natural Resources may  
11 promulgate such rules and regulations as may be necessary or  
12 desirable to effectuate the purposes of this Act. The  
13 ~~Department may make available at a reasonable cost the~~  
14 ~~decals, logs and tags authorized to be used by licensed~~  
15 ~~timber growers under Section 8.~~

16 (Source: P.A. 89-445, eff. 2-7-96.)

17 (225 ILCS 740/14 new)

18 Sec. 14. Any timber, forestry, or wood cutting device or  
19 equipment, including vehicles and conveyances used or  
20 operated in violation of this Act or rules adopted under this  
21 Act or attempted to be used in violation of this Act or rules  
22 adopted under this Act shall be deemed a public nuisance and  
23 subject to seizure and confiscation by any authorized  
24 employee of the Department. Upon the seizure of such an item  
25 the Department shall take and hold the item until disposed of  
26 as provided in this Section.

27 Upon the seizure of any property pursuant to this  
28 Section, the authorized employee of the Department making the  
29 seizure shall forthwith cause a complaint to be filed before  
30 the circuit court and a summons to be issued requiring the  
31 person who illegally used or operated or attempted to use or  
32 operate the property and the owner and person in possession

1 of the property to appear in court and show cause why the  
2 seized property should not be forfeited to the State. Upon  
3 the return of the summons duly served or other notice as  
4 provided in this Section, the court shall proceed to  
5 determine the question of the illegality of the use of the  
6 seized property and upon judgment being entered to the effect  
7 that the property was illegally used, an order may be entered  
8 providing for the forfeiture of the seized property to the  
9 Department, which shall thereupon become the property of the  
10 Department. However, the owner of the property may have a  
11 jury determine the illegality of its use and shall have the  
12 right of an appeal as in other cases. Such a confiscation or  
13 forfeiture shall not preclude or mitigate against prosecution  
14 and assessment of penalties otherwise provided in this Act.

15 Upon seizure of any property under circumstances  
16 supporting a reasonable belief that the property was  
17 abandoned, lost, stolen, or otherwise illegally possessed or  
18 used contrary to the provisions of this Act, except property  
19 seized during a search or arrest and ultimately returned,  
20 destroyed, or otherwise disposed of pursuant to a court order  
21 in accordance with this Act, the authorized employee of the  
22 Department shall make reasonable inquiry and efforts to  
23 identify and notify the owner or other person entitled to  
24 possession thereof and shall return the property after that  
25 person provides reasonable and satisfactory proof of his or  
26 her ownership or right to possession and reimburses the  
27 Department for all reasonable expenses of such custody. If  
28 the identity or location of the owner or other person  
29 entitled to possession of the property has not been  
30 ascertained within 6 months after the Department obtains  
31 possession, the Department shall effectuate the sale of the  
32 property for cash to the highest bidder at a public auction.  
33 The owner or other person entitled to possession of the  
34 property may claim and recover possession of the property at

1 any time before its sale at public auction upon providing  
2 reasonable and satisfactory proof of ownership or right of  
3 possession and after reimbursing the Department for all  
4 reasonable expenses of custody thereof.

5 Any property forfeited to the State by court order  
6 pursuant to this Section may be disposed of by public  
7 auction, except that any property that is the subject of such  
8 a court order shall not be disposed of pending appeal of the  
9 order. The proceeds of the sale at auction shall be  
10 deposited in the Illinois Forestry Development Fund.

11 The Department shall pay all costs of notices required by  
12 this Section.

13 (225 ILCS 740/4 rep.)

14 (225 ILCS 740/7 rep.)

15 (225 ILCS 740/8 rep.)

16 Section 15. The Forest Products Transportation Act is  
17 amended by repealing Sections 4, 7, and 8."