TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER d: FORESTRY

PART 1535

TIMBER BUYER LICENSING AND HARVEST FEES

Section

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AUTHORITY: Implementing and authorized by the Timber Buyers Licensing Act [225 ILCS 735].

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**Section 1535.1 Definitions**

"Act" means the Timber Buyers Licensing Act [225 ILCS 735].

"Agent" *means any person acting on behalf of a timber buyer, employed by a timber buyer, or under an agreement, whether oral or written, with a timber buyer who buys timber, attempts to buy timber, procures contracts for the purchase or cutting of timber, or attempts to procure contracts for the purchase of cutting of timber.* [225 ILCS 735/2]

"Department" means the Illinois Department of Natural Resources.

"Fair market value" means the price that property would sell for on the open market. It is the price that would be agreed on between a willing buyer and a willing seller, with neither being required to act, and both having reasonable knowledge of the relevant facts.

"Good standing" *means any person who is not:*

*currently serving a sentence of probation, or conditional discharge, for a violation of this Act or administrative rules adopted under this Act;*

*owes any amount of money pursuant to a civil judgment regarding the sale, cutting, or transportation of timber;*

*owes the Department any required fee, payment, or money required under this Act; or*

*is currently serving a suspension or revocation of any privilege that is granted under this Act.* [225 ILCS 735/2]

"Harvest fee" means:

 an amount of money equal to 4% of the purchase price for timber between a timber buyer and a timber grower;

4% of the minimum fair market stumpage value, as determined by administrative rule, when the purchase price of timber between a timber buyer and a timber grower cannot otherwise be determined; or

4% of the minimum fair market stumpage value as determined by administrative rule utilized by a timber grower that was produced on land the timber grower owns or operates for sawing into lumber, for processing, or for resale and such timber or lumber is not the personal use of the timber grower.

"High value" means timber that is classified as sawtimber logs or veneer logs.

"Illinois Timber Prices Survey" means a survey published by the Illinois Department of Natural Resources that contains the lowest, highest and State average prices for stumpage and logs delivered to a mill.

"Liability insurance" *means no less than $500,000 in insurance covering a timber buyer's business and agents that shall insure against the liability of the insured for the death, injury, or disability of an employee or other person and insurance against the liability of the insured for damage to or destruction of another person's property.* [225 ILCS 735/2]

"Low value" means timber which is not classified as sawtimber logs or veneer logs.

"Sawtimber logs" means trees of commercial species at least 11.0 inches diameter breast height (dbh) containing at least a 8-foot sawlog or longer, up to a 6-inch top, that is free of major defects such as branches, forks, or diseased stem and can yield dimensional lumber.

"Stumpage value" *means the value of timber as it stands uncut in terms of an amount per unit of volume expressed as dollar value per board foot for that portion of a tree or timber deemed merchantable by Illinois forest products markets.* [740 ILCS 185/1]

"Timber" *means trees, standing or felled, and parts thereof which can be used for sawing or processing into lumber for building or structural purposes or for the manufacture of any article. "Timber" does not include firewood, Christmas trees, fruit or ornamental trees, or wood products not used or to be used for building, structural, manufacturing, or processing purposes.* [225 ILCS 735/2]

"Timber buyer" *means any person licensed or unlicensed, who is engaged in the business of buying timber from the timber growers thereof for sawing into lumber, for processing or for resale, but does not include any person who occasionally purchases timber for sawing or processing for the person's his own use and not for resale.* [225 ILCS 735/2]

"Timber grower" *means the owner, tenant, or operator of land in this State who has an interest in or is entitled to receive any part of the proceeds from the sale of timber grown in this State and includes persons exercising authority to sell timber.* [225 ILCS 735/2]

"Utilized" means timber harvested on the land a timber grower owns or operates for sawing into lumber, for processing, or for resale.

"Veneer logs" means a roundwood product from which veneer is sliced or sawn and that meets industry standards of minimum diameter, typically between 12 and 30 inches diameter breast height (dbh), that is straight, free of bow and crook, with four clear faces with minimal defect from knots, seams, peck, gum, ring shake, insect damage, color and mineral that can yield sheets of peeled veneer wood.

"Yearly quarter" means and are as follows:

Quarter 1 – January 1 through March 31

Quarter 2 – April 1 through June 30

Quarter 3 – July 1 through September 30

Quarter 4 – October 1 through December 31

(Source: Section 1535.1 renumbered to Section 1535.3; new Section 1535.1 added at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.3 Timber Buyer Application and Department Verification**

a) All timber buyers shall obtain a license from the Department before engaging in the business of timber buying. Application for such license shall be filed on forms provided by the Department and shall contain the following minimum information:

1) Name, date of birth and address of the applicant;

2) Business name, if any, including if the business is a corporation, partnership or limited liability company;

3) Principal officers if applicant is a corporation or the partners if applicant is a partnership;

4) Location of the principal office or place of business of the applicant;

5) The counties in the State of Illinois which the applicant proposes to engage in the business of timber buyer;

6) Name, date of birth, and address of all agents of the applicant;

7) A certificate of liability insurance issued by an insurance company or surety company that is authorized to do business in the State of Illinois in the principal amount of not less than $500,000 and shall include the expiration date of the policy; and

8) Any other information as required by the Department in the application.

b) The Department shall approve the issuance of a timber buyer's license if all of the following criteria are met:

1) The applicant has provided all documentation required in the application to the Department's satisfaction.

2) The applicant has paid the application fee pursuant to Section 8 of the Act. The fee is:

A) $125 for residents

B) $300 for non-residents

3) The applicant has provided proof of liability insurance as required by the Act and this Part.

4) The applicant and all agents listed in the application are in good standing with the Department.

5) The applicant and all agents listed in the application are 18 years of age or older.

(Source: Section renumbered from 1535.1 to Section 1535.3 and amended at 48 Ill. Reg. 8643, effective May 3, 2024)

**Section 1535.4 License and Timber Buyer Identification Cards**

 a) License. If a timber buyer's application is approved by the Department, then a license shall be issued by the Department and shall contain the following information:

1) name of the licensee and license number;

2) business name of the licensee, if any;

3) address of the licensee;

4) names of all agents listed in the licensee's application that are in good standing with the Department; and

5) expiration date of the timber buyer license.

 b) Timber Buyer Identification Cards. All timber buyer identification cards shall be issued by the Department to all timber buyers and the timber buyer's agents that are in good standing with the Department. A timber buyer identification card shall contain the following information:

1) name of the timber buyer or agent that the card is issued to;

2) name and license number of the licensed timber buyer that the timber buyer identification card is being issued under;

3) address and telephone number of the licensed timber buyer that the timber buyer identification card is being issued under; and

4) the expiration date of the timber buyer identification card.

(Source: Added at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.5 Records** **and Reporting**

a) Records of the Timber Buyer.

 *A timber buyer shall retain the books, accounts, records, proof of ownership, or other documentation required under this Act or administrative rule used in the conduct of the buyer's business for a period of 3 years after any purchase, cutting, or transportation of timber made by the timber buyer or buyer's employee.* [225 ILCS 735/9]

b) Harvest Fee – Reporting.

1) *When a timber buyer buys timber in this State, the timber buyer shall file a report to the Department on a report form provided by the Department*. [225 ILCS 735/9a(b)] Each timber purchase shall be fully reported by the timber buyer no later than 30 days from the end of each yearly quarter that the timber purchase occurred. Such report shall be on the Department provided reporting form and shall include the following information:

A) date of purchase. For all purposes, except the payment of harvest fees, the date of purchase shall be the date the purchase agreement was made;

B) date of payments;

C) amount of payments;

D) amount of harvest fee;

E) date harvest fee sent to Illinois Department of Natural Resources;

F) name, address and telephone number of timber grower;

G) quantity of board feet and species of high value timber that is being reported;

H) estimated quantity of board feet and species of low value timber that is being reported, and

I) any other information as required by the Department.

2) Timber Grower Report of Utilization

A) *Every timber grower who utilizes timber produced on land the timber grower owns or operates for sawing into lumber for processing or for resale, shall report periodically, as required by this Act or administrative rule of the Department, the quantity, value, and species of timber produced and utilized by the owner or operator during the reporting period.* [225 ILCS 735/9a(d)]

B) Each Timber Grower Report of Utilization shall be fully reported by the timber grower no later than 30 days from the end of each yearly quarter that the timber utilization occurred. Such report shall be on the Department provided reporting form and shall include the following information:

i) quantity of board feet and species of the timber produced and utilized by the timber grower;

ii) the minimum fair market stumpage value of the timber that was produced on the timber grower's land and utilized by the timber grower;

iii) parcel identification number of where the timber was grown;

iv) amount of harvest fee;

v) date harvest fee sent to Illinois Department of Natural Resources;

vi) name, address and telephone number of timber grower; and

vii) any other information as required by the Department.

3) Liability Insurance Changes or Cancellation

A) Any licensed timber buyer that cancels or alters their liability insurance shall inform the Department in writing within 14 days of the cancellation or alteration of such policy.

B) Unless the timber buyer is cancelling or surrendering their license to the Department, a notification to the Department of a cancellation or alteration of liability insurance shall also include a new certificate of insurance showing the new or altered insurance policy that has been issued to the timber buyer. Such new or altered insurance policy must conform to all requirements of the Act and this Part.

C) *At any such time as a licensee fails to have the necessary liability insurance, as required herein, the Department may immediately, and without notice, suspend the privileges of such licensee. In the event of such suspension, the Department shall give immediate notice of the same to the licensee and shall further reinstate such license upon filing with the Department a certificate of liability insurance that conforms to the requirements of this Act.* [225 ILCS 735/4]

(Source: Amended at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.10 Payment of 4% Fee to Department**

a) All 4% harvest fees required to be paid to the Department by timber buyers pursuant to Section 9a(a) of the Act and timber growers pursuant to Section 9a(c) of the Act shall be sent to the Department, along with the Department provided fee reporting form, no later than 30 days from the end of each yearly quarter.

b) Any timber buyer purchasing timber from the federal government shall not be required to deduct the 4% harvest fee from the purchase price, report such purchases or make payment to the Department of an amount that equals 4% of the purchase price.

c) Payments are to be made payable to the Department of Natural Resources and must be in the exact amount shown due on the Department provided fee reporting form. When any payment is returned to the Department by the Office of the State Treasurer as non-negotiable, the person issuing the check or order will be given written demand delivered by certified mail for payment equal to the original amount by certified instrument, such as a cashier's check or money order, to the person's last known address.

d) Payments to the Department may be made on an individual sales or quarterly basis.

e) All timber transactions for which monies are due to the Department shall be submitted no later than 30 days from the end of the quarter in which the timber transaction occurred.

(Source: Amended at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.15 Bonding Definitions (Repealed)**

 (Source: Repealed at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.16 Bonding Requirements (Repealed)**

 (Source: Repealed at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.20 4% Harvest Fee Determination**

a) *When a timber buyer buys timber in this State, the timber buyer and timber grower shall determine the amount to be paid for such timber, or the value of items to be bartered for such timber, and the timber buyer shall deduct from the payment to the timber grower an amount which equals 4% of the purchase price or 4% of the minimum fair market value, as determined pursuant to administrative rule, when purchase price cannot otherwise be determined and shall forward such amount to the Department of Natural Resources.* [225 ILCS 735/9a(a)]

EXAMPLE 1:

Harry Harvester, an Illinois Licensed Timber Buyer, recently won a bid to purchase $100,000 worth of timber from Larry Landowner, a Timber Grower. Harry would report the sale to the Department and submit a payment of $4,000 for the Harvest Fee ($100,000 \* 0.04 = $4,000). Larry Landowner would receive a payment from Harry Harvester of $96,000 for his timber ($100,000 - $4,000 = $96,000).

EXAMPLE 2:

Harry Harvester, an Illinois Licensed Timber Buyer, is cutting timber on shares for Larry Landowner, a Timber Grower. Harry paid Larry $50,000 for the timber removed from Larry's property. Harry would report the sale to the Department and submit a payment of $2,000 for the Harvest Fee ($50,000 \* 0.04 = $2,000). Larry Landowner would receive a payment from Harry Harvester of $48,000 for his timber ($50,000 - $2,000 = $48,000).

EXAMPLE 3:

Larry Landowner, a Timber Grower, brings a small trailer of logs to Harry Harvester's sawmill, an Illinois Licensed Timber Buyer. Harry pays Larry $300 for the logs. Harry would report the sale to the Department and submit a payment of $12 for the Harvest Fee ($300 \* 0.04 = $12). Larry Landowner would receive a payment from Harry Harvester of $288 for his timber ($300 - $12 = $288).

EXAMPLE 4:

Harry Harvester, an Illinois Licensed Timber Buyer, sells $5,000 worth of logs he has purchased from multiple landowners to Sammy Sawmill, who is not an Illinois Licensed Timber Buyer. Harry Harvester reported the sale to the Department and paid the harvest fee when he purchased the logs from the landowners and should not report the sale to Sammy Sawmill as this would result in duplicated reporting.

EXAMPLE 5:

Larry Landowner, a Timber Grower, is wanting to sell 20 walnut logs he recently cut from his property to Sammy Sawmill, who is not an Illinois Licensed Timber Buyer. Sammy Sawmill should not purchase these logs from Larry Landowner because he is not an Illinois Licensed Timber Byer. However, Sammy may purchase these logs if Larry Landowner has already reported the sale and paid the harvest fee to the Department.

b) The value of timber purchased shall be the gross amount received by the timber grower and paid by the timber buyer for any interests involved in the timber purchase.

c) When timber is purchased in whole or in part by barter, the fair market value of the bartered item or service used as payment for stumpage or logs to the timber grower shall be used in determining the harvest fee due the Department of Natural Resources. Any payment made from any source shall require a 4% harvest fee payment to the Department. The following formula shall be used: Aggregate Value of Timber x 0.04 = 4% fee to be paid to the Department.

EXAMPLE:

Larry Landowner, a Timber Grower, has requested that Harry Harvester, an Illinois Licensed Timber Buyer, repair his gravel road on his property. In lieu of payment for this service Larry will allow Harry to remove 20 mature poplar trees from his property. Estimated stumpage value of the trees removed is $2,000. Harry would report the sale to the Department and submit a payment of $80 for the Harvest Fee ($2,000 \* 0.04 = $80).

d) If timber is cut from an owner's land without establishing the amount to be paid or the bartered value of the stumpage or logs, such timber or logs shall be valued at stumpage value.

e) For timber cut on lands owned by a timber grower or mill and used by that timber grower or mill in its production process, value will be the minimum fair market value. The Illinois Timber Prices Survey, for the quarter when the timber was harvested, may, but is not required to, be used as a guide for determining value.

EXAMPLE:

Larry Landowner, a Timber Grower, decides to harvest 100 trees from his property. He is planning on milling these trees into lumber and selling the lumber to local purchasers. Larry estimates the stumpage value of these trees to be $12,500. Larry is required to report this to the Department along with submitting a payment of $500 for the Harvest Fee ($12,500 \* .04 = $500). This report and payment must be made no later than 30 days from the end of the quarter in which the timber was harvested. Note, if Larry uses the lumber for personal use he is not required to submit a report or payment to the Department. Additionally, if after submitting a report and payment to the Department, Larry later decides to sell his logs to a sawmill, the sawmill should not report the sale to the Department nor submit a Harvest Fee as this would result in duplicated reporting.

 (Source: Amended at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.25 Aggregate Value Determinations of Timber**

a) Primary determination of the aggregate value of timber shall be the total dollar value paid at the first point of sale or change of ownership.

b) Secondary determination of the aggregate value of timber shall be calculated using the Doyle Log Rule, as published in the Forestry Handbook Second Edition (1984) edited for the Society of American Foresters by Karl F. Wenger and published by John Wiley and Sons, to determine volume. The average dollar amount of the commercial timber for tree species had it been offered for sale on the open market will be used for the price. The Illinois Timber Prices Survey for the time frame of the timber harvest, shall be used to determine the commercial timber value.

 (Source: Amended at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.30 Volume Estimates**

 a) When volume estimates are used in the determination of value, the following scales and measurements will be used:

 1) Lumber, cooperage, & veneer - Board feet taken from the Doyle Log Rule as published in the Forestry Handbook Second Edition (1984) edited for the Society of American Foresters by Karl F. Wenger and published by John Wiley and Sons.

 2) Pulpwood, ton or cord--As established by local market specifications in use at the time of cutting or delivery to the pulpwood mill.

 3) Piling--Linear feet by grade within established specifications and dimensions in use by the buyer. If such specifications cannot be determined, the Doyle Log Rule will be used.

 4) Other specialized forest products - Established local market specification or custom in use at the time of harvest as described by the buyer in a written communication to the Department.

 b) Standard forest mensuration procedures shall be used whenever estimates are substituted for actual measurements provided that the procedure has a probability of error of less than ten percent.

 c) In the establishment of volume-price values, such published price guides as the Illinois Timber Prices Survey may be used as a guide when published by a government agency, accredited school of forestry or trade association.

**Section 1535.40 Arbitration** (Repealed)

 (Source: Repealed at 27 Ill. Reg. 7761, effective April 21, 2003)

**Section 1535.50 Information**

Anyone wishing additional information concerning this Part, or a supply of Department approved form, may contact the Department of Natural Resources at the following address:

Department of Natural Resources

Division of Forestry

One Natural Resources Way

Springfield, IL 62702-1271

DNR.timber@illinois.gov

 (Source: Amended at 48 Ill. Reg. 8643, effective May 30, 2024)

**Section 1535.60 Suspension or Revocation of Timber Buyer's License**

a) Any person violating the provisions of this Part shall, upon finding of guilt by a court of law, be subject to revocation of license and suspension of privileges. Any person found to not be in good standing shall have their timber buyer license and any timber identification card issued to that person shall be cancelled by the Department pursuant to Section 7 of the Act. [225 ILCS 735/7] Any person's timber buyer's license or timber identification card may appeal such decision of the Department.

b) Any such revocation, suspension, or appeal of cancellation procedures shall be governed by the Timber Buyers Licensing Act and by Department Revocation Procedures (17 Ill. Adm. Code 2530). Any conflict between this Part and 17 Ill. Adm. Code 2530, this Part shall control.

c) Those persons convicted of a violation of the Act or this Part, or those found to not be in good standing shall be suspended from obtaining or renewing a timber buyers license and any such license that has been issued at the time of the suspension shall be revoked by the Department. The suspension and revocation timeframes shall be as set in 17 Ill. Adm. Code 2530 for those convicted of a violation of the Act.

d) For purposes of the Department cancelling a timber buyer license or timber identification card pursuant to Section 7 of the Act due to an individual that *owes any amount pursuant to a civil judgment regarding the sale, cutting, or transportation of timber* [225 ILCS 735/2], such determination by the Department must include a final judgement by a court of the State of Illinois regarding the sale, cutting, or transportation of timber and that there is any amount of money still owed to an Illinois timber grower.

 (Source: Amended at 48 Ill. Reg. 8643, effective May 30, 2024)