

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1515

6 By: Morrissette

7 COMMITTEE SUBSTITUTE

8 [cedar trees - Oklahoma Resource Reclamation Act -
9 defining infested lands and abandoned property -
10 duty of absentee landowner - insurers to offer
11 incentives - directing the county assessor to
12 reclassify certain property - providing in lieu tax
13 treatment for certain property - setting filing
14 deadline - providing for in lieu tax treatment - ad
15 valorem taxes - expanding list of in lieu taxes -
16 purchasing preferences for products made from
17 Oklahoma-harvested trees - Purchasing Division of
18 the Office of Management and Enterprise Services to
19 register certain manufacturers - effective date]

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law not to be
22 codified in the Oklahoma Statutes reads as follows:

23 This act shall be known and may be cited as the "Oklahoma
24 Resource Reclamation Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 16-91 of Title 2, unless there
is created a duplication in numbering, reads as follows:

1 A. It is in the public interest that private unoccupied lands
2 within the state be managed to:

3 1. Discourage the proliferation of wildfires;

4 2. Reduce and control the infestation of Eastern Red Cedar
5 trees on lands; and

6 3. Modify the growth of all trees, vegetation and other fuel
7 sources from areas within one hundred (100) feet of homes or other
8 structures, so as to reduce the threat and severity of wildfires in
9 accordance with the Firewise Program guidelines adopted by the
10 National Fire Protection Association.

11 B. For purposes of this section, unoccupied private lands shall
12 be considered infested and containing abandoned property if:

13 1. There are alive and growing Eastern Red Cedar trees, other
14 tree species, vegetation and other fuel sources, excluding
15 endangered species of trees or vegetation and cross timber or
16 valuable hardwood, which are not less than five-feet tall and are at
17 a density of at least fifty trees per acre;

18 2. The ratio of vegetation and trees that are harmful to open
19 land constitutes a forest within definitions of the Oklahoma
20 Forestry Code; and

21 3. City or county officials have determined, based on
22 information regarding infestation published on the website of the
23 Oklahoma Department of Agriculture, Food, and Forestry, that the
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1 infestation is harmful or threatening to adjacent private or public
2 property.

3 C. It shall be the duty of every private absentee landowner in
4 each county in the state to manage and control infestation in a
5 manner as shall be sufficient to prevent or reduce the threat of
6 wildfires and will comply with the purposes of the Oklahoma Forestry
7 Code. It shall also be the duty of every private absentee landowner
8 to remove Eastern Red Cedar trees on the property if it is
9 determined that the property is infested as set forth in subsection
10 B of this section.

11 D. 1. Failure of an absentee landowner to manage, control and
12 remove infestation deemed to be a fire hazard shall cause those
13 trees, vegetation and other fuel sources declared by local
14 officials, in compliance with local nuisance ordinances, to be
15 abandoned property.

16 2. By written complaint, the absentee landowner shall be
17 notified of the intent to remove the abandoned property and shall
18 have thirty (30) days to submit a response or to file a forest
19 management plan detailing actions to be taken and intent to comply
20 with fire safety recommendations. The city, county or state
21 officials shall approve or disapprove the response or forest
22 management plan.

23 3. If the absentee landowner fails to respond to the complaint
24 or to file a forest management plan, city, county or state officials

1 shall determine the most appropriate method for removal of the
2 infestation, based on information regarding infestation published on
3 the website of the Oklahoma Department of Agriculture, Food, and
4 Forestry, and take action to remove the infestation. The city,
5 county or state officials shall give preference to harvesters
6 registered with the Eastern Red Cedar Registry Board. Any costs
7 associated with the removal incurred by city, county or state
8 officials shall be the responsibility of, and shall be reimbursed
9 by, the absentee landowner.

10 4. An agreement to reimburse removal costs shall be entered
11 into between the absentee landowner and the county or city whose
12 nuisance or abandoned property ordinance(s) was violated or the
13 state agency whose forest management practices were violated and
14 whose assets were expended to remove the infestation.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 16-92 of Title 2, unless there
17 is created a duplication in numbering, reads as follows:

18 Insurers duly licensed in the state writing property insurance
19 are hereby encouraged to provide incentives to policyholders who
20 implement and conform to Firewise Program guidelines adopted by the
21 National Fire Protection Association, including creating a fuel-free
22 defensible zone around homes and other structures.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2902.5 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Legislature hereby finds that nineteen counties
5 in this state have reported a loss-of-use devaluation due to Eastern
6 Red Cedar encroachment in somewhere between eight million
7 (8,000,000) and ten million (10,000,000) acres thereby threatening
8 the twenty-eight-billion-dollar Oklahoma agricultural industry.

9 B. As used in this section, "qualifying Eastern Red Cedar
10 property" means property:

11 1. Either:

12 a. classified as cropland, improved pasture, native
13 pasture or timber waste which does not have
14 improvements such as a homestead exemption filed on
15 the property and is infested with red cedar
16 encroachment of more than fifty trees per acre which
17 are at least five (5) feet tall, or

18 b. classified as nonagricultural and which is infested
19 with red cedar encroachment of more than fifty trees
20 per acre which are at least five (5) feet tall;

21 2. Registered pursuant to the Eastern Red Cedar Registry Board
22 Act; and

23 3. On which the owner is actively engaged in the removal of red
24 cedar.

1 C. An owner of qualifying Eastern Red Cedar property may apply
2 to the county assessor for the county in which the property is
3 located to have the property reclassified to timber waste or the
4 lowest classification category allowed in the county. If the county
5 assessor verifies that the property is qualifying Eastern Red Cedar
6 property, the county assessor shall reclassify the property outside
7 of the regular interval of reassessment, with or without visual
8 inspection. The qualifying Eastern Red Cedar property shall remain
9 at the reclassified category until the owner has removed the
10 infestation of Eastern Red Cedar, at which time the county assessor
11 may reassess the property and assign a different classification and
12 the property owner may apply for the in lieu tax treatment pursuant
13 to this section.

14 D. An owner of qualifying Eastern Red Cedar property who has
15 removed the infestation may apply for in lieu tax treatment for a
16 single tax year pursuant to this section. The owner must reapply
17 and be approved pursuant to this section for each additional tax
18 year.

19 E. Upon application by a property owner for the in lieu tax
20 treatment, the county assessor for the county in which the property
21 is located shall verify that the applicant satisfies the provisions
22 of subsection B of this section for the applicable tax year and has
23 removed the infestation. The county assessor may request such
24 additional information as may be necessary in order to complete the

1 verification required by this subsection. If approved, the county
2 assessor shall provide the approval to qualifying property owners in
3 writing specifying the tax year for which the property qualifies
4 pursuant to this section.

5 F. A total of not more than three hundred thousand (300,000)
6 acres of qualifying Eastern Red Cedar property statewide shall be
7 approved during any one tax year for the in lieu tax treatment,
8 which number represents approximately one-third (1/3) of the total
9 number of acres of property in the state which are classified by
10 county assessors as timber waste. Prior to approval of an
11 application by an owner of qualifying Eastern Red Cedar property for
12 the in lieu tax treatment, the county assessor shall report the
13 number of acres seeking the in lieu tax treatment to the Oklahoma
14 Tax Commission and verify with the Commission that the statewide cap
15 of three hundred thousand (300,000) acres has not been met. The
16 Oklahoma Tax Commission shall keep a record of the total number of
17 acres approved statewide during each tax year.

18 G. Beginning January 1, 2014, an owner of qualifying Eastern
19 Red Cedar property that has been approved pursuant to subsection E
20 of this section who then files an election with the county assessor
21 of the county in which the property is located to be subject to the
22 in lieu tax payment requirements imposed by this section shall be
23 subject to an in lieu tax which shall be levied at the rate of One
24 Dollar (\$1.00) per acre of qualifying Eastern Red Cedar property for

1 the applicable tax year. An election authorized by this subsection
2 shall be filed not later than March 15 of the applicable tax year.
3 Once the election to be subject to the in lieu tax treatment
4 provided by this section has been filed, it shall be irrevocable and
5 the in lieu tax treatment for the applicable tax year shall not be
6 subject to modification.

7 H. The in lieu tax payment required by this section shall be
8 paid to the county treasurer of the county or counties in which
9 qualifying Eastern Red Cedar property is located not later than
10 December 1 of the applicable tax year.

11 I. The revenue derived from the in lieu tax required by this
12 section shall be apportioned by the county treasurer each year based
13 upon the ratio that the millage levy of each local taxing
14 jurisdiction in which the qualifying Eastern Red Cedar property is
15 located bears to the total amount of all millage levies imposed by
16 all local taxing jurisdictions in which the qualifying eastern red
17 cedar property is located. The provisions of this subsection shall
18 be applicable to general fund millage levies, building fund millage
19 levies and sinking fund millage levies imposed each year.

20 J. The payment of the tax imposed pursuant to the provisions of
21 this section shall be in lieu of any and all ad valorem taxes that
22 would otherwise be imposed as a result of the millage levied against
23 the taxable value of the qualifying Eastern Red Cedar property for
24 the applicable tax year.

1 K. If qualifying Eastern Red Cedar property is subject to the
2 in lieu tax payment required by the provisions of this section, the
3 qualifying Eastern Red Cedar property owner shall not be eligible
4 for the exemption for qualifying manufacturing concerns otherwise
5 authorized pursuant to Section 2902 of Title 68 of the Oklahoma
6 Statutes.

7 L. If the in lieu tax payment required by this section is not
8 paid by December 31 of the applicable tax year, the principal amount
9 of the in lieu tax payment shall bear interest at the rate of
10 fifteen percent (15%) per annum and there shall be imposed an
11 additional penalty of Five Hundred Dollars (\$500.00) for each month
12 after December that the in lieu tax is not paid. The penalty shall
13 accrue at the end of each month if the in lieu tax has not been paid
14 as of that date. Interest and penalty shall be apportioned in the
15 same manner as prescribed by this section for the principal amount
16 of the in lieu tax payment.

17 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2805, is
18 amended to read as follows:

19 Section 2805. The following fees or taxes levied by the
20 provisions of the Oklahoma Statutes shall be in lieu of ad valorem
21 tax, whether in lieu of real property tax, personal property tax, or
22 both as provided by law:

23 1. The registration fees and taxes imposed upon aircraft by
24 Section 251 et seq. of Title 3 of the Oklahoma Statutes;

1 2. Registration fees for motor vehicles as provided in Section
2 1103 of Title 47 of the Oklahoma Statutes, except as otherwise
3 specifically provided;

4 3. The fee imposed upon transfers of used vehicles in lieu of
5 the ad valorem tax upon inventories of used motor vehicles by
6 Section 1137.1 of Title 47 of the Oklahoma Statutes;

7 4. The registration and license fees imposed upon vessels and
8 motors pursuant to the Oklahoma Vessel and Motor Registration Act,
9 Section 4001 et seq. of Title 63 of the Oklahoma Statutes;

10 5. The taxes levied upon the gross production of substances
11 pursuant to Section 1001 of this title;

12 6. The taxes levied upon the gross production of substances
13 pursuant to Section 1020 of this title;

14 7. The tax imposed upon gross receipts pursuant to Section 1803
15 of this title;

16 8. The tax imposed upon certain textile products pursuant to
17 Section 2001 of this title;

18 9. The tax imposed upon certain freight cars pursuant to
19 Section 2202 of this title;

20 10. The tax imposed on certain parts of the inventories, both
21 new and used items, owned and/or possessed for sale by retailers of
22 farm tractors and other equipment pursuant to Sections ~~4~~ 5401
23 through ~~4~~ 5404 of this ~~act~~ title;

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1 11. The tax imposed upon inventories of new vehicles and
2 certain vessels pursuant to Section 5301 of this title; and

3 12. The tax imposed on qualifying Eastern Red Cedar property
4 pursuant to Section 4 of this act; and

5 13. Such other fees or taxes as may be expressly provided by
6 law to be in lieu of ad valorem taxation.

7 SECTION 6. AMENDATORY 74 O.S. 2011, Section 85.44D, as
8 amended by Section 757, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
9 2012, Section 85.44D), is amended to read as follows:

10 Section 85.44D A. It is the intent of the Legislature that all
11 state agencies procure and use products or materials made from or
12 utilizing materials from trees harvested in Oklahoma when such
13 products or materials are available.

14 B. By ~~July 1, 2011~~ November 1, 2013, the Purchasing Division of
15 the Office of Management and Enterprise Services ~~when accepting bids~~
16 ~~for state purchases of products and materials~~ shall give preference
17 ~~to the suppliers of wood products made from or products manufactured~~
18 ~~utilizing materials from trees harvested in Oklahoma if the price~~
19 ~~for the products and materials is not substantially higher than the~~
20 ~~price for other wood products and materials and the quality and~~
21 ~~grade requirements are otherwise comparable~~ register any
22 manufacturer of products made from trees harvested in Oklahoma which
23 is registered with the Eastern Red Cedar Registry Board pursuant to
24 Section 18-404 of Title 2 of the Oklahoma Statutes on the central

1 purchasing vendor registration system for state agency purchasing,
2 in the appropriate category or categories of commodities. The
3 Department shall waive any registration fee for the manufacturer for
4 the first year of registration.

5 C. By July 1, 2011, the Purchasing Division of the Office of
6 Management and Enterprise Services shall promulgate rules and
7 implement a program for extending state procurement specifications
8 to products made from or manufactured utilizing materials from trees
9 harvested in Oklahoma and identifying the products.

10 SECTION 7. This act shall become effective November 1, 2013.

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