

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 1515

6 By: Morrissette

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to cedar trees; creating the Oklahoma
9 Resource Reclamation Act; declaring the public
10 interest in managing private unoccupied lands in the
11 state for certain purpose; specifying certain goals;
12 defining infested lands and abandoned property;
13 stating duty of absentee landowners to manage and
14 control infestations of trees and other fuel sources;
15 stating duty of absentee landowner to remove Eastern
16 Red Cedar trees under certain conditions; causing
17 certain trees, vegetation and fuel sources to be
18 declared abandoned property under certain
19 circumstances; providing for certain notification to
20 and response by landowner; providing for approval or
21 disapproval of the landowner response or forest
22 management plan; authorizing state and local
23 officials to remove infestation upon failure of the
24 absentee landowner to respond; providing a preference
for certain harvesters; establishing liability for
removal costs; providing for an agreement for
reimbursement of costs for removal; encouraging
certain insurers to offer incentives for
policyholders who implement a certain program;
defining term; allowing an owner of certain property
to have the property reclassified; directing the
county assessor to reclassify certain property;
providing for reassessment upon certain conditions;
providing in lieu tax treatment for certain property;
requiring verification by the county assessor;
allowing the county assessor to request additional
information; providing for approval in writing;
setting limit on the number of acres that may be
approved; requiring the county assessor to verify
limit; directing the Oklahoma Tax Commission to keep

1 certain records; requiring filing of approval and
2 election with county assessor; setting in lieu tax
3 rate; setting filing deadline; providing for payment
4 to county treasurer; providing for apportionment
5 according to existing millage levies; providing for
6 in lieu tax treatment; disqualifying property for
7 certain exemption; providing penalty for nonpayment;
8 amending 68 O.S. 2011, Section 2805, which relates to
9 ad valorem taxes; expanding list of in lieu taxes;
10 amending 74 O.S. 2011, Section 85.44D, as amended by
11 Section 757, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
12 2012, Section 85.44D), which relates to purchasing
13 preferences for products made from Oklahoma-harvested
14 trees; modifying certain date; deleting purchasing
15 preference; requiring the Purchasing Division of the
16 Office of Management and Enterprise Services to
17 register certain manufacturers into the vendor
18 registration system; directing the Department to
19 waive certain fees; providing for codification;
20 providing for noncodification; and providing an
21 effective date.

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

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

This act shall be known and may be cited as the "Oklahoma
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:

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

1. Discourage the proliferation of wildfires;

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

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

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

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

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

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

23 C. It shall be the duty of every private absentee landowner in
24 each county in the state to manage and control infestation in a

1 manner as shall be sufficient to prevent or reduce the threat of
2 wildfires and will comply with the purposes of the Oklahoma Forestry
3 Code. It shall also be the duty of every private absentee landowner
4 to remove Eastern Red Cedar trees on the property if it is
5 determined that the property is infested as set forth in subsection
6 B of this section.

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

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

19 3. If the absentee landowner fails to respond to the complaint
20 or to file a forest management plan, city, county or state officials
21 shall determine the most appropriate method for removal of the
22 infestation, based on information regarding infestation published on
23 the website of the Oklahoma Department of Agriculture, Food, and
24 Forestry, and take action to remove the infestation. The city,

1 county or state officials shall give preference to harvesters
2 registered with the Eastern Red Cedar Registry Board. Any costs
3 associated with the removal incurred by city, county or state
4 officials shall be the responsibility of, and shall be reimbursed
5 by, the absentee landowner.

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

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

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

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

22 A. The Oklahoma Legislature hereby finds that nineteen counties
23 in this state have reported a loss-of-use devaluation due to Eastern
24 Red Cedar encroachment in somewhere between eight million

1 (8,000,000) and ten million (10,000,000) acres thereby threatening
2 the twenty-eight-billion-dollar Oklahoma agricultural industry.

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

5 1. Either:

6 a. classified as cropland, improved pasture, native
7 pasture or timber waste which does not have
8 improvements such as a homestead exemption filed on
9 the property and is infested with red cedar
10 encroachment of more than fifty trees per acre which
11 are at least five (5) feet tall, or

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

15 2. Registered pursuant to the Eastern Red Cedar Registry Board
16 Act; and

17 3. On which the owner is actively engaged in the removal of red
18 cedar.

19 C. An owner of qualifying Eastern Red Cedar property may apply
20 to the county assessor for the county in which the property is
21 located to have the property reclassified to timber waste or the
22 lowest classification category allowed in the county. If the county
23 assessor verifies that the property is qualifying Eastern Red Cedar
24 property, the county assessor shall reclassify the property outside

1 of the regular interval of reassessment, with or without visual
2 inspection. The qualifying Eastern Red Cedar property shall remain
3 at the reclassified category until the owner has removed the
4 infestation of Eastern Red Cedar, at which time the county assessor
5 may reassess the property and assign a different classification and
6 the property owner may apply for the in lieu tax treatment pursuant
7 to this section.

8 D. An owner of qualifying Eastern Red Cedar property who has
9 removed the infestation may apply for in lieu tax treatment for a
10 single tax year pursuant to this section. The owner must reapply
11 and be approved pursuant to this section for each additional tax
12 year.

13 E. Upon application by a property owner for the in lieu tax
14 treatment, the county assessor for the county in which the property
15 is located shall verify that the applicant satisfies the provisions
16 of subsection B of this section for the applicable tax year and has
17 removed the infestation. The county assessor may request such
18 additional information as may be necessary in order to complete the
19 verification required by this subsection. If approved, the county
20 assessor shall provide the approval to qualifying property owners in
21 writing specifying the tax year for which the property qualifies
22 pursuant to this section.

23 F. A total of not more than three hundred thousand (300,000)
24 acres of qualifying Eastern Red Cedar property statewide shall be

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

12 G. Beginning January 1, 2014, an owner of qualifying Eastern
13 Red Cedar property that has been approved pursuant to subsection E
14 of this section who then files an election with the county assessor
15 of the county in which the property is located to be subject to the
16 in lieu tax payment requirements imposed by this section shall be
17 subject to an in lieu tax which shall be levied at the rate of One
18 Dollar (\$1.00) per acre of qualifying Eastern Red Cedar property for
19 the applicable tax year. An election authorized by this subsection
20 shall be filed not later than March 15 of the applicable tax year.
21 Once the election to be subject to the in lieu tax treatment
22 provided by this section has been filed, it shall be irrevocable and
23 the in lieu tax treatment for the applicable tax year shall not be
24 subject to modification.

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

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

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

19 K. If qualifying Eastern Red Cedar property is subject to the
20 in lieu tax payment required by the provisions of this section, the
21 qualifying Eastern Red Cedar property owner shall not be eligible
22 for the exemption for qualifying manufacturing concerns otherwise
23 authorized pursuant to Section 2902 of Title 68 of the Oklahoma
24 Statutes.

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

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

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

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

19 2. Registration fees for motor vehicles as provided in Section
20 1103 of Title 47 of the Oklahoma Statutes, except as otherwise
21 specifically provided;

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

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

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

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

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

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

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

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

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

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

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

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1 SECTION 6. AMENDATORY 74 O.S. 2011, Section 85.44D, as
2 amended by Section 757, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
3 2012, Section 85.44D), is amended to read as follows:

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

8 B. By ~~July 1, 2011~~ November 1, 2013, the Purchasing Division of
9 the Office of Management and Enterprise Services ~~when accepting bids~~
10 ~~for state purchases of products and materials~~ shall give preference
11 ~~to the suppliers of wood products made from or products manufactured~~
12 ~~utilizing materials from trees harvested in Oklahoma if the price~~
13 ~~for the products and materials is not substantially higher than the~~
14 ~~price for other wood products and materials and the quality and~~
15 ~~grade requirements are otherwise comparable~~ register any
16 manufacturer of products made from trees harvested in Oklahoma which
17 is registered with the Eastern Red Cedar Registry Board pursuant to
18 Section 18-404 of Title 2 of the Oklahoma Statutes on the central
19 purchasing vendor registration system for state agency purchasing,
20 in the appropriate category or categories of commodities. The
21 Department shall waive any registration fee for the manufacturer for
22 the first year of registration.

23 C. By July 1, 2011, the Purchasing Division of the Office of
24 Management and Enterprise Services shall promulgate rules and

1 implement a program for extending state procurement specifications
2 to products made from or manufactured utilizing materials from trees
3 harvested in Oklahoma and identifying the products.

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

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