

CORRECTED

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1515

By: Morrissette and Renegar of
the House

and

Wyrick of the Senate

COMMITTEE SUBSTITUTE

[cedar trees - Oklahoma Resource Reclamation Act -
defining infested lands and abandoned property -
duty of absentee landowner - insurers to offer
incentives - directing the county assessor to
reclassify certain property - providing in lieu tax
treatment for certain property - setting filing
deadline - providing for in lieu tax treatment - ad
valorem taxes - expanding list of in lieu taxes -
purchasing preferences for products made from
Oklahoma-harvested trees - Purchasing Division of

1 the Office of Management and Enterprise Services to
2 register certain manufacturers - effective date]
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4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

14 1. Discourage the proliferation of wildfires;

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

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

22 B. For purposes of this section, unoccupied private lands shall
23 be considered infested and containing abandoned property if:
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1 1. There are alive and growing Eastern Red Cedar trees, other
2 tree species, vegetation and other fuel sources, excluding
3 endangered species of trees or vegetation and cross timber or
4 valuable hardwood, which are not less than five-feet tall and are at
5 a density of at least fifty trees per acre;

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

9 3. City or county officials have determined, based on
10 information regarding infestation published on the website of the
11 Oklahoma Department of Agriculture, Food, and Forestry, that the
12 infestation is harmful or threatening to adjacent private or public
13 property.

14 C. It shall be the duty of every private absentee landowner in
15 each county in the state to manage and control infestation in a
16 manner as shall be sufficient to prevent or reduce the threat of
17 wildfires and will comply with the purposes of the Oklahoma Forestry
18 Code. It shall also be the duty of every private absentee landowner
19 to remove Eastern Red Cedar trees on the property if it is
20 determined that the property is infested as set forth in subsection
21 B of this section.

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

4 2. By written complaint, the absentee landowner shall be
5 notified of the intent to remove the abandoned property and shall
6 have thirty (30) days to submit a response or to file a forest
7 management plan detailing actions to be taken and intent to comply
8 with fire safety recommendations. The city, county or state
9 officials shall approve or disapprove the response or forest
10 management plan.

11 3. If the absentee landowner fails to respond to the complaint
12 or to file a forest management plan, city, county or state officials
13 shall determine the most appropriate method for removal of the
14 infestation, based on information regarding infestation published on
15 the website of the Oklahoma Department of Agriculture, Food, and
16 Forestry, and take action to remove the infestation. The city,
17 county or state officials shall give preference to harvesters
18 registered with the Eastern Red Cedar Registry Board. Any costs
19 associated with the removal incurred by city, county or state
20 officials shall be the responsibility of, and shall be reimbursed
21 by, the absentee landowner.

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

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

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

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

15 A. The Oklahoma Legislature hereby finds that nineteen counties
16 in this state have reported a loss-of-use devaluation due to Eastern
17 Red Cedar encroachment in somewhere between eight million
18 (8,000,000) and ten million (10,000,000) acres thereby threatening
19 the twenty-eight-billion-dollar Oklahoma agricultural industry.

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

22 1. Either:
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- 1 a. classified as cropland, improved pasture, native
2 pasture or timber waste which does not have
3 improvements such as a homestead exemption filed on
4 the property and is infested with red cedar
5 encroachment of more than fifty trees per acre which
6 are at least five (5) feet tall, or
7 b. classified as nonagricultural and which is infested
8 with red cedar encroachment of more than fifty trees
9 per acre which are at least five (5) feet tall;

10 2. Registered pursuant to the Eastern Red Cedar Registry Board

11 Act; and

12 3. On which the owner is actively engaged in the removal of red
13 cedar.

14 C. An owner of qualifying Eastern Red Cedar property may apply
15 to the county assessor for the county in which the property is
16 located to have the property reclassified to timber waste or the
17 lowest classification category allowed in the county. If the county
18 assessor verifies that the property is qualifying Eastern Red Cedar
19 property, the county assessor shall reclassify the property outside
20 of the regular interval of reassessment, with or without visual
21 inspection. The qualifying Eastern Red Cedar property shall remain
22 at the reclassified category until the owner has removed the
23 infestation of Eastern Red Cedar, at which time the county assessor

1 may reassess the property and assign a different classification and
2 the property owner may apply for the in lieu tax treatment pursuant
3 to this section.

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

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

19 F. A total of not more than three hundred thousand (300,000)
20 acres of qualifying Eastern Red Cedar property statewide shall be
21 approved during any one tax year for the in lieu tax treatment,
22 which number represents approximately one-third (1/3) of the total
23 number of acres of property in the state which are classified by
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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

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

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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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
02/25/2013 - DO PASS, As Amended and Coauthored.

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