

## **VIRGINIA STATUTORY LAW**

### **§ 55-331. Damages recoverable for timber cutting.**

If any person, firm or corporation, encroaches and cuts timber, except when acting prudently and under bona fide claim of right, the owner thereof shall, in addition to all other remedies afforded by law, have the benefit of a right to, and a summary remedy for recovery of, damages in an amount as hereinafter specified and recovered as hereinafter provided.

If the trespass is proven, the defendant shall have the burden of proving that he acted prudently and under a bona fide claim of right.

(Code 1950, § 8-906; 1952, c. 658; 1968, c. 251; 1977, c. 624; 1993, c. 580; 2004, cc. 604, 615.)

### **§ 55-332. Procedure for determination of damage.**

A. The owner of the land on which such trespass was committed shall have the right, within 30 days after the discovery of such trespass and the identity of the trespasser, to notify the trespasser and to appoint an experienced timber estimator to determine the amount of damages. For the purposes of determining damages the value of the timber cut shall be calculated by first determining the value of the timber on the stump. Within 30 days after receiving notice of the alleged trespass and of the appointment of such estimator, the alleged trespasser, if he does not deny the fact of trespass, shall appoint an experienced timber estimator to participate with the one already so appointed in the estimation of damages. If the two estimators cannot agree they shall select a third person, experienced and disinterested, and the decision thereafter made shall be final and conclusive and not subject to appeal. The estimation of damages and the rendition of statement must be effected within 30 days from the receipt of notice of appointment, by the trespasser, of an estimator.

If the alleged trespasser fails to appoint an estimator within the prescribed time, or to notify, within such time, that the allegation of the fact of trespass is disputed, the estimator appointed by the injured party may make an estimate, and collection or recovery may be had accordingly.

**B. Any person who (i) severs or removes any timber from the land of another without legal right or permission or (ii) authorizes or directs the severing or removal of timber or trees from the land of another without legal right or permission shall be liable to pay to the rightful owner of the timber three times the value of the timber on the stump and shall pay to the rightful owner of the property the reforestation costs incurred not to exceed \$450 per acre, the costs of ascertaining the value of the timber, and any directly associated legal costs incurred by the owner of the timber as a result of the trespass.**

(Code 1950, § 8-907; 1977, c. 624; 1987, c. 105; 2004, cc. 604, 615.)

§ 55-334. When person damaged may proceed in court.

If the amount specified in subsection B of § **55-332** is not paid within 30 days after rendition of statement, the person upon whose land the trespass occurred may proceed for judgment in the amount of payment as specified in § **55-332**.

If, upon receiving notice of the alleged trespass and of the appointment of an estimator, the person so receiving notice does not admit the fact of trespass, he may decline to appoint an estimator and notify the other party to such effect, together with his reason for refusing to appoint an estimator, and in such case the aggrieved party may proceed in the appropriate court.

(Code 1950, § 8-909; 1968, c. 251; 1977, c. 624; 2004, cc. 604, 615.)

§ 55-334.1. Larceny of timber; penalty.

A. Any person who knowingly and willfully takes, steals, and removes from the lands of another any timber growing, standing or lying on the lands shall be guilty of larceny. Any person so convicted shall be ordered to pay restitution calculated pursuant to § **55-332**.

B. In a criminal prosecution pursuant to subsection A, it shall be prima facie evidence of the intent to steal the timber if the timber was harvested or removed from property marked with readily visible paint marks not more than 100 feet apart on trees or posts along the property line, where the paint marks were vertical lines at least two inches in width and at least eight inches in length and the center of the mark was no less than three feet or more than six feet from the ground or normal water surface.

(2004, cc. 604, 615.)

§ **55-335**. Effect of article.

Nothing in this article shall have the effect of precluding any compromise or agreed settlement that the parties in dispute may effect as to the civil remedies provided by this article, nor of barring any other remedy provided for by law.

(Code 1950, § 8-910; 1977, c. 624.)