

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
9.11.08

BILL 11

LLS NO. 09-0131.01 Duane Gall

INTERIM COMMITTEE BILL

**Interim Committee on Wildfire Issues
in Wild Land-Urban Interface Areas**

SHORT TITLE: "Incentives To Harvest Bark Beetle Timber"

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ENCOURAGE THE RESTORATION OF**
102 **FOREST AREAS AFFECTED BY BARK BEETLE INFESTATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Wildfire Issues in Wild Land-Urban Interface Areas. Provides a 5-year exemption from business personal property taxes for qualified businesses that remove trees killed by bark beetles if such businesses assist in forest restoration efforts on the affected land after the beetle-killed timber is removed. Establishes a revolving fund to provide start-up revenues for new Colorado businesses that process and sell beetle-killed timber for beneficial uses.

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Directs the state forester to:

- Publish a list of affected lands, designating those areas where the need for clearing of beetle-killed timber is most urgent; and
- Offer the services of an ombudsman to assist property owners and businesses in applying for any necessary federal and state permits or other authorization to go onto forest lands to harvest beetle-killed timber.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 39-3-118.5, Colorado Revised Statutes, is amended
3 to read:

4 **39-3-118.5. Business personal property - exemption - removal**
5 **of beetle-killed timber - definitions - conditions - recapture.** (1) For
6 property tax years commencing on and after January 1, 1996, business
7 personal property shall be exempt from the levy and collection of property
8 tax until such business personal property is first used in the business after
9 acquisition.

10 (2) (a) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY
11 1, 2009, AND FOR THE SUBSEQUENT PROPERTY TAX YEARS THROUGH THE
12 PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2013, ALL BUSINESS
13 PERSONAL PROPERTY THAT IS USED TO HARVEST, TRANSPORT, PROCESS,
14 AND MARKET BEETLE-KILLED TIMBER AND IS FIRST USED IN A BUSINESS
15 DURING SUCH YEAR, BUT ONLY TO THE EXTENT THAT IT IS USED TO
16 HARVEST, TRANSPORT, PROCESS, AND MARKET BEETLE-KILLED TIMBER,
17 SHALL BE EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX.
18 THE EXEMPTION PROVIDED IN THIS PARAGRAPH (a) SHALL BE AVAILABLE
19 DURING ALL YEARS THAT SUCH PROPERTY IS SUBJECT TO PROPERTY
20 TAXATION.

21 (b) THE VALUE OF THE BUSINESS PERSONAL PROPERTY AFTER THE

1 EXEMPTION IS APPLIED AS SPECIFIED IN PARAGRAPH (a) OF THIS
2 SUBSECTION (2) SHALL BE THE ACTUAL VALUE OF THE PROPERTY USED TO
3 DETERMINE WHETHER THE PROPERTY ALSO QUALIFIES FOR AN EXEMPTION
4 PURSUANT TO SECTION 39-3-119.5.

5 (c) AS USED IN THIS SUBSECTION (2), "BEETLE-KILLED TIMBER"
6 MEANS DEAD PINE OR SPRUCE TREES, OR PARTS THEREOF, TAKEN FROM
7 LAND DESIGNATED BY THE COLORADO STATE FOREST SERVICE AS LAND
8 AFFECTED BY THE BARK BEETLE INFESTATION.

9 (3) (a) TO CLAIM THE EXEMPTION PROVIDED IN SUBSECTION (2) OF
10 THIS SECTION, THE TAXPAYER MUST MEET ALL OF THE FOLLOWING
11 CONDITIONS:

12 (I) BE A SOLE PROPRIETOR WHOSE PRIMARY RESIDENCE IS IN
13 COLORADO OR A CORPORATION WHOSE PRINCIPAL PLACE OF BUSINESS IS
14 IN COLORADO;

15 (II) EARN A PROFIT ON THE PORTION OF ITS BUSINESS CONSISTING
16 OF HARVESTING, TRANSPORTING, PROCESSING, AND MARKETING OF
17 BEETLE-KILLED TIMBER DURING AT LEAST TWO OF THE FIVE PROPERTY TAX
18 YEARS BETWEEN JANUARY 1, 2009, AND DECEMBER 31, 2014; AND

19 (III) UNDERTAKE, AND SUBSTANTIALLY COMPLETE AS AGREED,
20 RESEEDING OR OTHER FOREST RESTORATION EFFORTS, AS DESCRIBED IN A
21 FOREST STEWARDSHIP PLAN APPROVED BY THE COLORADO STATE FOREST
22 SERVICE, WITHIN THE TIME PERIOD SPECIFIED IN SUCH PLAN.

23 (b) TAXES THAT WOULD HAVE BEEN PAYABLE BUT FOR THE
24 EXEMPTION PROVIDED IN SUBSECTION (2) OF THIS SECTION SHALL BE
25 IMMEDIATELY PAYABLE AND SUBJECT TO RECAPTURE IF THE TAXPAYER
26 INITIALLY MET THE CONDITIONS SET FORTH IN PARAGRAPH (a) OF THIS
27 SUBSECTION (3) AND, ON OR BEFORE DECEMBER 31, 2014, FAILS TO MEET

1 ONE OR MORE OF THE CONDITIONS.

2 **SECTION 2.** Part 3 of article 31 of title 23, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **23-31-312. Bark-beetle mitigation loans - definitions -**
6 **revolving fund - repeal.** (1) **Short title.** THIS SECTION SHALL BE
7 KNOWN AND MAY BE CITED AS THE "COLORADO BARK-BEETLE
8 MITIGATION ACT".

9 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
10 OTHERWISE REQUIRES:

11 (a) "FOREST SERVICE" MEANS THE COLORADO STATE FOREST
12 SERVICE IDENTIFIED IN SECTION 23-31-302 AND THE DIVISION OF
13 FORESTRY CREATED IN SECTION 24-33-104 (1) (k), C.R.S.

14 (b) "STATE FORESTER" MEANS THE STATE FORESTER APPOINTED
15 PURSUANT TO SECTION 23-31-207.

16 (3) **Bark-beetle mitigation loan program.** THE FOREST SERVICE
17 SHALL ISSUE A STATEWIDE REQUEST FOR PROPOSALS FOR LOANS TO
18 BUSINESSES TO PROVIDE START-UP CAPITAL FOR NEW FACILITIES OR
19 EQUIPMENT TO HARVEST, REMOVE, USE, AND MARKET BEETLE-KILLED
20 TIMBER TAKEN FROM PRIVATE, FEDERAL, STATE, COUNTY, OR MUNICIPAL
21 FOREST LANDS.

22 (4) **Eligibility requirements - applications.** THE FOREST
23 SERVICE SHALL SOLICIT APPLICATIONS FOR, AND SHALL MAKE, LOANS
24 UNDER THIS SECTION. IN DECIDING WHETHER TO MAKE A LOAN, THE
25 FOREST SERVICE SHALL CONSIDER THE EXTENT TO WHICH THE APPLICANT:

26 (a) HELPS RETAIN OR EXPAND OTHER LOCAL BUSINESSES;

27 (b) HELPS MAINTAIN OR INCREASE THE NUMBER OF JOBS IN THE

1 AREA;

2 (c) CONTRIBUTES TO THE STABILITY OF RURAL COMMUNITIES;

3 (d) DEMONSTRATES OPERATIONAL EXPERIENCE AND A GOOD
4 REPUTATION;

5 (e) PROMOTES AND PUBLICIZES THE EFFORTS UNDERTAKEN
6 PURSUANT TO THIS SECTION; AND

7 (f) HELPS RECRUIT NEW BUSINESS ACTIVITY IN THE AREA, UNDER
8 THIS SECTION AND OTHERWISE.

9 (5) **Report.** NO LATER THAN JULY 1, 2010, THE STATE FORESTER
10 SHALL SUBMIT A REPORT TO THE GOVERNOR, WHICH REPORT SHALL
11 INCLUDE AN ASSESSMENT OF WHETHER, AND TO WHAT EXTENT, PROJECTS
12 FUNDED BY LOANS UNDER THIS SECTION HAVE ACHIEVED THE PURPOSES
13 IDENTIFIED IN THIS SECTION.

14 (6) **Administrative costs.** THE FOREST SERVICE MAY UTILIZE NO
15 MORE THAN TWENTY PERCENT OF ANY AMOUNTS APPROPRIATED IN ANY
16 FISCAL YEAR FOR ITS DIRECT AND INDIRECT COSTS IN ADMINISTERING THE
17 LOAN PROGRAM.

18 (7) **Bark-beetle mitigation revolving fund.** THERE IS HEREBY
19 CREATED IN THE STATE TREASURY THE BARK-BEETLE MITIGATION
20 REVOLVING FUND, WHICH SHALL BE ADMINISTERED BY THE DEPARTMENT
21 OF HIGHER EDUCATION. ALL MONEYS IN THE FUND ARE CONTINUOUSLY
22 APPROPRIATED TO THE DEPARTMENT OF HIGHER EDUCATION FOR
23 ALLOCATION TO THE BOARD OF GOVERNORS OF THE COLORADO STATE
24 UNIVERSITY SYSTEM FOR LOANS SPECIFIED IN THIS SECTION. ALL MONEYS
25 IN THE FUND AT THE END OF EACH FISCAL YEAR SHALL BE RETAINED IN THE
26 FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER
27 FUND.

1 (8) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014.

2 **SECTION 3.** 23-31-304, Colorado Revised Statutes, is amended
3 to read:

4 **23-31-304. State responsibility determined.** (1) The state
5 forester shall:

6 (a) Determine, in consultation with local authorities and with the
7 approval of the governor, geographic areas of the state, including wild
8 land-urban interface areas, in which the state has a financial responsibility
9 for managing forest fires. The management of fires in all other areas is
10 primarily the responsibility of local or federal agencies, as the case may
11 be. The state forester may exclude all lands owned or controlled by the
12 federal government or any agency thereof, and the state forester shall
13 exclude all lands within the exterior boundaries of incorporated cities or
14 towns.

15 (b) DETERMINE, IN CONSULTATION WITH LOCAL AUTHORITIES AND
16 WITH THE APPROVAL OF THE GOVERNOR, GEOGRAPHIC AREAS OF THE
17 STATE, INCLUDING WILD LAND-URBAN INTERFACE AREAS, IN WHICH
18 INFESTATION BY BARK BEETLES HAS CREATED AN IMMINENT DANGER OF
19 FIRE AND IN WHICH THE REMOVAL OF BEETLE-KILLED TIMBER SHOULD BE
20 ENCOURAGED, WHETHER THROUGH FINANCIAL INCENTIVES OR LOANS
21 UNDER SECTIONS 39-3-118.5, C.R.S., AND 23-31-312, RESPECTIVELY, OR
22 OTHERWISE; AND

23 (c) PROVIDE A DESIGNATED STAFF MEMBER TO ACT AS AN
24 OMBUDSMAN TO ASSIST PROPERTY OWNERS AND BUSINESSES IN APPLYING
25 FOR ANY NECESSARY FEDERAL, STATE, OR LOCAL PERMITS, PRIVATE
26 LICENSES OR EASEMENTS, OR OTHER AUTHORIZATION TO GO ONTO PUBLIC
27 OR PRIVATE FOREST LANDS TO HARVEST BEETLE-KILLED TIMBER.

1 **SECTION 4. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.