SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 3906

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 2025

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 3906.

As amended, this bill revises the "Tree Experts and Tree Care Operators Licensing Act" to provide enforcement and penalty provisions. The bill provides that the New Jersey Board of Tree Experts or the Department of Environmental Protection, upon a violation of the "Tree Experts and Tree Care Operators Licensing Act," may:

(1) issue an order requiring any person in violation of the law to comply;

(2) bring a civil action in accordance with the provisions of the bill;

(3) levy a civil administrative penalty in accordance with the provisions of the bill; or

(4) bring an action for a civil penalty in accordance with the provisions of the bill.

Recourse to one remedy available under the bill will not preclude recourse to any of the other remedies prescribed in the bill or by any other applicable law.

The bill provides that whenever the board finds a person in violation of any provision of the "Tree Experts and Tree Care Operators Licensing Act," or any rule or regulation adopted pursuant hereto, the board may issue an order:

(1) specifying the provision or provisions of the law, rule, regulation, permit, approval, or authorization of which the person is in violation;

(2) citing the action which constituted the violation;

(3) requiring compliance with the provision or provisions violated;

(4) denying, suspending, or revoking a license or business registration; and

(5) providing notice to the person of the right to a hearing on the matters contained in the order.

The bill provides that the board or the Commissioner of Environmental Protection is authorized to institute a civil action in the Superior Court or municipal court for appropriate relief from

any violation of the “Tree Experts and Tree Care Operators Licensing Act," or any rule or regulation adopted pursuant thereto. The relief may include, singly or in combination:

(1) a temporary or permanent injunction;

(2) assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing the legal action under the provisions of the bill;

(3) assessment of the violator for any costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any unauthorized regulated activity for which legal action under the provisions of the bill may have been brought;

(4) assessment against the violator for compensatory damages for any loss or destruction of natural resources and for any other actual damages caused by an unauthorized regulated activity; or

(5) a requirement that the violator restore the site of the violation to the maximum extent practicable and feasible.

The bill authorizes the board to assess a civil administrative penalty of $1,000 for each violation of the “Tree Experts and Tree Care Operators Licensing Act,” or any rule or regulation adopted pursuant hereto, or $2,500 for a second or subsequent violation. No assessment will be levied pursuant to the bill until after the alleged violator has been notified by certified mail or personal service.

The bill requires that the notice:

(1) identify the section of the law, rule, regulation, license, or registration violated;

(2) recite the facts alleged to constitute a violation;

(3) state the amount of the civil administrative penalties to be imposed; and

(4) affirm the rights of the alleged violator to a hearing.

The bill provides that the ordered party will have 20 days from receipt of the notice within which to deliver to the board a written request for a hearing. After the hearing and upon finding that a violation has occurred, the board may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice will become a final order after the expiration of the 20-day period. Payment of the civil administrative penalty will be due when a final order is issued or the notice becomes a final order.

A person who violates any provision of the “Tree Experts and Tree Care Operators Licensing Act,” will be subject, upon order of a court, to a civil penalty not to exceed $1,000 for a first violation and not to exceed $2,500 for a second or subsequent violation.

The bill repeals a separate section of “Tree Experts and Tree Care Operators Licensing Act” that provides for the levying of fines for violations.

COMMITTEE AMENDMENTS:

The committee amended the bill to remove provisions that deemed each day that a violation of the bill occurs an additional violation of the "Tree Experts and Tree Care Operators Licensing Act."