

## CHAPTER 658

### WASTE AND TRESPASS

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#### 658.1 Definitions.

As used in [this chapter](#), unless the context otherwise requires, “*book*”, “*list*”, “*record*”, or “*schedule*” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in [section 445.1](#).

[2000 Acts, ch 1148, §1](#)

#### 658.1A Treble damages.

If a guardian, tenant for life or years, joint tenant, or tenant in common of real property commit waste thereon, that person is liable to pay three times the damages which have resulted from such waste, to the person who is entitled to sue therefor.

[C51, §2134; R60, §3716; C73, §3332; C97, §4303; C24, 27, 31, 35, 39, §12402; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.1]

C2001, §658.1A

Referred to in [§217.13](#)

#### 658.2 Forfeiture and eviction.

Judgment of forfeiture and eviction may be rendered against the defendant whenever the amount of damages so recovered is more than two-thirds the value of the interest such defendant has in the property injured, when the action is brought by the person entitled to the reversion.

[C51, §2135; R60, §3717; C73, §3333; C97, §4304; C24, 27, 31, 35, 39, §12403; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.2]

#### 658.3 Who deemed to have committed.

Any person whose duty it is to prevent waste, and who fails to use reasonable and ordinary care to avert the same, shall be held to have committed it.

[C51, §2136; R60, §3718; C73, §3334; C97, §4305; C24, 27, 31, 35, 39, §12404; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.3]

Referred to in [§217.13](#)

#### 658.4 Treble damages for injury to trees.

For willfully injuring any timber, tree, or shrub on the land of another, or in the street or highway in front of another’s cultivated ground, yard, or city lot, or on the public grounds of any city, or any land held by the state for any purpose whatever, the perpetrator shall pay treble damages at the suit of any person entitled to protect or enjoy the property.

[C51, §2137; R60, §3719; C73, §3335; C97, §4306; C24, 27, 31, 35, 39, §12405; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.4]

#### 658.5 Estate of remainder or reversion.

The owner of an estate in remainder or reversion may maintain either of the aforesaid actions for injuries done to the inheritance, notwithstanding any intervening estate for life or years.

[C51, §2139; R60, §3721; C73, §3337; C97, §4307; C24, 27, 31, 35, 39, §12406; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.5]

**658.6 Action by heir.**

An heir, whether a minor or of full age, may maintain these actions for injuries done in the time of the heir's ancestor as well as in the heir's own time, unless barred by the statute of limitations.

[C51, §2140; R60, §3722; C73, §3338; C97, §4308; C24, 27, 31, 35, 39, §12407; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.6]

**658.7 Purchaser at execution sale.**

The purchaser of lands or tenements at execution sale may have and maintain an action against any person for either of the causes above mentioned, occurring or existing after such purchase; but this provision shall not be construed to forbid the person occupying the lands in the meantime from using them in the ordinary course of husbandry, or taking timber with which to make suitable repairs thereon, unless the timber so taken shall be of higher grade than required, in which case the person shall be held guilty of waste and liable accordingly.

[C51, §2141 – 2143; R60, §3723 – 3725; C73, §3339 – 3341; C97, §4309; C24, 27, 31, 35, 39, §12408; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.7]

Recovery of damages, §26.101

**658.8 Settlers on lands of state.**

Any person settled upon and occupying any portion of the public lands held by the state is not liable as a trespasser for improving or cultivating it in the ordinary course of husbandry, nor for taking and using timber or other materials necessary and proper to enable the person to do so, provided the timber and other materials are taken from land properly constituting a part of the "claim" or tract of land so settled upon and occupied by the person.

[C51, §2144; R60, §3726; C73, §3342; C97, §4310; C24, 27, 31, 35, 39, §12409; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.8]

**658.9 Holder of tax certificate.**

The owner of a treasurer's certificate of purchase of land sold for taxes may recover treble damages of any person willfully committing waste or trespass thereon.

[C73, §3343; C97, §4311; C24, 27, 31, 35, 39, §12410; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.9]

Referred to in §658.10

**658.10 Disposition of money.**

All money recovered in an action brought under [section 658.9](#) shall be paid by the officer collecting it to the auditor of the county in which the lands are situated, which shall be held by the auditor, and an entry thereof made in a book kept for that purpose, until the lands are redeemed, or a treasurer's deed therefor executed to the holder of said certificate. If redemption is made, the money shall be paid to the owner of the land, and if not, to the person to whom the deed is executed.

[C73, §3344; C97, §4312; C24, 27, 31, 35, 39, §12411; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §658.10]

Referred to in §331.502