

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S1/29/01 H3/27/01

A Bill

Act 1247 of 2001
SENATE BILL 23

5 By: Senators Beebe, Faris
6 By: Representatives Shoffner, French, Adams, Rankin, J. Taylor, Scrimshire, Teague
7

For An Act To Be Entitled

AN ACT TO CREATE THE OFFENSE OF TIMBER THEFT.

Subtitle

AN ACT TO CREATE THE OFFENSE OF TIMBER
THEFT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. For purposes of this act:

(a) "Owner" means any person, partnership, corporation, unincorporated association, or other legal entity having any interest in any timber, any land upon which timber grows, or any land from which timber has been removed.

(b) "Secondary purchaser" means any person, partnership, corporation, unincorporated association, or other legal entity buying timber from a "timber purchaser".

(c) "Timber purchaser" means a person who purchases standing timber for harvest.

SECTION 2. (a) Money a timber purchaser collects for harvested timber is trust money.

(b) A timber purchaser and each officer, director, partner, or agent of a timber purchaser are trustees of trust money.

(c) Each seller of standing timber is a beneficiary of trust money to the extent of the beneficiary's share of the purchase price for the timber.

SECTION 3. (a) A trustee commits the offense of timber theft if the

1 trustee, knowingly or with intent to defraud, directly or indirectly retains,
2 uses, disperses, or otherwise diverts trust money without first fully paying
3 all of the beneficiaries the purchase price for the timber.

4 (b) A trustee acts with intent to defraud if the trustee retains, uses,
5 disperses, or diverts trust money with the intent to deprive a beneficiary of
6 trust money.

7 (c) A trustee is presumed to have acted with intent to defraud if the
8 trustee does not pay all of the beneficiaries the purchase price for the
9 timber not later than the forty-fifth (45th) calendar day after the date the
10 trustee collects money for the timber.

11 (d) The offense of timber theft is a class D felony if the amount of
12 trust money retained, used, dispersed, or diverted before paying the
13 beneficiaries is five hundred dollars (\$500) or more, and a class A
14 misdemeanor if under five hundred dollars (\$500).

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16 SECTION 4. It is an affirmative defense to prosecution under this act
17 that:

18 (1) The trustee paid the beneficiaries all trust money to which the
19 beneficiaries were entitled not later than the fifteenth (15th) calendar day
20 after the date written notice was given to the trustee, at the trustee's most
21 recent address known, that a criminal complaint has been filed against the
22 trustee or that a criminal investigation of the trustee is pending; or

23 (2) Two or more persons claim to be beneficiaries of the same trust
24 money, and the trustee has deposited the amount of the disputed trust money
25 into the registry of the circuit court of the county in which the standing
26 timber was located by action in interpleader or other appropriate legal
27 proceeding for the benefit of persons the circuit court determines to be
28 entitled to the trust money; or

29 (3) The trustee paid to the beneficiaries all trust money to which the
30 beneficiaries were entitled not later than thirty (30) days after the date
31 contractually agreed upon in writing.

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33 SECTION 5. Secondary purchasers shall not be civilly or criminally
34 liable for any act or omission of a timber purchaser which becomes timber
35 theft by operation of this act.

36 /s/ Beebe, et al.

APPROVED: 4/3/2001