

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Representative Dawson**

# **A Bill**

**ACT 775 OF 1995**  
**HOUSE BILL 1103**

## **For An Act To Be Entitled**

8 "AN ACT RELATIVE TO TIMBER SALES; TO PROVIDE FOR SALE OF  
9 AN UNDIVIDED INTEREST; TO PROVIDE FOR REMOVAL WITH THE  
10 CONSENT OF EIGHTY PERCENT OF THE OWNERSHIP INTEREST; TO  
11 PROVIDE FOR CO-OWNERS LIABILITY FOR COST; TO PROVIDE FOR  
12 FAILURE OR REFUSAL TO CLAIM CO-OWNER PORTION; TO PROVIDE  
13 FOR EVIDENCE OF THEFT; AND FOR OTHER PURPOSES."

## **Subtitle**

16 "AN ACT RELATIVE TO TIMBER SALES"

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

20 SECTION 1. (a) A co-owner or co-heir of land may execute an act of  
21 timber sale whereby he sells his undivided interest in the timber, and any  
22 condition imposing a time period within which to remove the timber shall  
23 commence from the date of its execution.

24 (b) (1) A buyer may purchase the timber from unknown or unlocatable co-  
25 owners or co-heirs of land and may remove the timber without the consent of  
26 the unknown or unlocatable co-owners or co-heirs when at least eighty percent  
27 (80%) of the ownership interest in the land have consented; and

28 (A) he has made a diligent search and inquiry for any unknown or  
29 unlocatable co-owners or co-heirs including publishing a notice in a newspaper  
30 of general circulation in the county in which the property is located in  
31 accordance with subdivision (b) (2) of this section, and after diligent search  
32 and inquiry he is unable to ascertain and locate any other co-owners or co-  
33 heirs; and

34 (B) he has filed with the Circuit Clerk of the county in which  
35 the property is located a record of his diligent search and inquiry together  
36 with a certificate of affirmation under the penalties of perjury that the

1 facts stated therein are within his personal knowledge and are true for which  
2 the clerk my charge the same fees as are allowed by law for similar services.  
3 The circuit clerk shall maintain these records for a period of five (5)  
4 years.

5 (2) The notice required by this section shall be published weekly for  
6 two (2) consecutive weeks in a newspaper having general circulation in the  
7 county in which the land is located, the last date of publication being not  
8 more than forty (40) nor less than twenty (20) days from the date on which  
9 timber may be removed from the property pursuant to a proposed contract. The  
10 notice shall contain:

11 (A) a description of the real property on which the timber is  
12 located;

13 (B) the names and addresses of the known owners;

14 (C) the names and addresses of the potential buyers;

15 (D) a statement that the potential buyers and the known owners of  
16 the property intend to enter into a contract for the removal of timber from  
17 the land described;

18 (E) the date on which timber may, pursuant to the intended  
19 contract, be removed from the land;

20 (F) the name and address of the person to whom an unknown owner  
21 may make his interest known; and

22 (G) a statement that any unknown owner must make his interest  
23 known before the date that timber may be removed from the land pursuant to the  
24 intended contract.

25 (3) A buyer who does not conduct a diligent search and inquiry shall be  
26 liable in treble damages to any alleged unknown or unlocatable owners or  
27 heirs.

28 (4) A buyer who knows and locates but does not contract with a co-owner  
29 or co-heir shall be liable in treble damages to the alleged unknown and  
30 unlocatable co-owner or co-heir.

31 (c) A co-owner or co-heir of the land who does not consent to the  
32 exercise of such rights has no liability for the cost of timber operations  
33 resulting from the sale of the timber, and shall receive from the buyer the  
34 same price which the buyer paid to the other co-owners or co-heirs. The  
35 consenting co-owners or co-heirs shall agree to indemnify and hold harmless

1 the nonconsenting co-owners or co-heirs for any damage or injury claims which  
2 may result from such operations.

3       (d) *If the nonconsenting co-owner or co-heir fails or refuses to claim*  
4 *his portion of the sale price of the timber, the buyer shall transmit to the*  
5 *clerk of the circuit or chancery court for deposit into the registry of the*  
6 *court that portion of the sales price there to be held in escrow for and on*  
7 *behalf of the nonconsenting co-owner or co-heir and any interest or other*  
8 *income earned by the funds shall inure to the benefit of the co-owner or*  
9 *co-heir. Any of the funds not claimed within seven (7) years after deposit*  
10 *into the registry of the court shall escheat to the county from which the*  
11 *timber was severed.*

12       (e) Failure to comply with the provisions of this section shall  
13 constitute prima facie evidence of the intent to commit theft of the timber by  
14 such buyer.

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16       SECTION 2. All provisions of this act of a general and permanent nature  
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
18 Revision Commission shall incorporate the same in the Code.

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20       SECTION 3. If any provision of this act or the application thereof to  
21 any person or circumstance is held invalid, such invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provision or application, and to this end the provisions of this  
24 act are declared to be severable.

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26       SECTION 4. All laws and parts of laws in conflict with this act are  
27 hereby repealed.

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*/s/Rep. Dawson*

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APPROVED: 3-24-95

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***.As Engrossed: 1/24/95 1/26/95 3/17/95***

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