

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

A Bill

HOUSE BILL 1103

For An Act To Be Entitled

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

Subtitle

"AN ACT RELATIVE TO TIMBER SALES"

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

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

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

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

(B) he has filed with the Circuit Clerk of the county in which the property is located a record of his diligent search and inquiry together

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

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

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

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

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

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

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

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

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

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

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

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

1 consenting co-owners or co-heirs shall agree to indemnify and hold harmless
2 the nonconsenting co-owners or co-heirs for any damage or injury claims which
3 may result from such operations.

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

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

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

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

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

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/s/Rep. Dawson

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

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