

- SUBJECT:** Penalty range for trustee failure to remit purchase price of timber
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 8 ayes — Ritter, T. King, Beck, Creighton, Hopson, Larson, D. Miller, Price
0 nays
3 absent — Keffer, Lucio, Martinez Fischer
- WITNESSES:** For — Ed Small, Texas Forestry Association; (*Registered, but did not testify*: Norman Garza, Texas Farm Bureau; Jim Reaves, Texas Nursery and Landscape Association)
Against — None
On — Kevin Pierce, Texas Forest Service
- BACKGROUND:** Under Natural Resources Code, sec. 151.105, failure by a trustee to pay the beneficiaries of a trust the purchase price for timber sold by the trustee is punishable as a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).
- DIGEST:** HB 612 would increase the penalty for failure by a trustee to pay the beneficiaries of a trust the purchase price for timber sold by the trustee based on the value of the timber sold, as follows:
- a state-jail felony if the value of the timber was \$500 to \$19,999;
 - a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the value of the timber was \$20,000 to \$99,999;
 - a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the value of the timber was \$100,000 to \$199,999;
 - A first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the value of the timber was at least \$200,000.

HB 612 would apply only to acts occurring on or after the bill's September 1, 2011, effective date.

**SUPPORTERS
SAY:**

HB 612 would help landowners who have been victimized by theft. Sometimes a landowner signs a contract with a logger to cut trees, but the logger does not return with the revenue from the sale of the trees to the mill. The bill would address these instances of timber theft.

HB 612 would clarify the existing statute because the theft penalties in the Natural Resources Code do not reflect the Penal Code theft penalties. HB 612 would align the Natural Resources Code with the Penal Code. The bill also would enable prosecutors to seek a range of criminal charges based on the value of the timber sold.

**OPPONENTS
SAY:**

HB 612 would strain the already limited resources of the criminal justice system. Failure by a trustee to pay the beneficiaries of a trust the purchase price for high-dollar timber sold by the trustee could mean life in prison. This would increase pressure on the state correctional system due to longer probation terms or longer confinement in state jail or prison.

NOTES:

The Senate companion bill, SB 583 by Nichols, was considered in a March 28 public hearing and left pending by the Senate Committee on Agriculture and Rural Affairs.