

## **BILL ANALYSIS**

C.S.H.B. 3395

By: Christian

Local Government Ways and Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas has about 12 million acres of commercial timberland. Independent, non-industrial landowners own about 60 percent of Texas timberland (roughly 7.2 million acres). Timber companies own about 3 million acres. However, the prolonged economic slump, plummeting timber prices, and increasing production costs have had dramatic adverse effects on the timber industry, resulting in increasing numbers of mill closures and loss of jobs. At the same time, due to a quirk in the way the productive value of timberland is determined for property tax purposes, timberland tax values are steadily increasing. The primary factor in this increase in values is the artificially low capitalization rate (the interest rate used to derive the productivity value of timber). In 2002, the cap rate dropped to 6.9 percent, facing landowners with a staggering 60 percent increase in taxes. This year the rate has fallen even further, to a historic low of 6.4 percent. Consequently, many school districts in East Texas' 44 timber-growing counties have lost and will continue to lose state aid as timber values skyrocket.

Part of the rapid increase in timber values caused by the capitalization rate drop has been offset by administrative changes initiated by the Comptroller and Texas Forest Service. These include the consideration of different types of timber sales in calculating the price of timber and using sales of all types of timber products. However, stability in timber values can only be achieved by statutory changes in timber productivity values that codify these administrative changes and establish a statutory floor on the cap rate, similar to that already in place for agricultural productivity value.

HB 3365 will stabilize timber values by:

1. assuring that the price of timber used in the productivity formula includes sales from all products in the timber market (including small pine sawlogs) and all types of timber sales (including cutting contract, timber deed, and gatewood sales);
2. valuing timber lands in northern and southern regions of East Texas using the same growth factors (a 50-year old federal land survey has been used arbitrarily to apply different factors to the two regions).
3. specifying the components of the management cost calculation; and
4. phasing-in an increase in the capitalization rate until it reaches a statutory floor of 10 percent.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Section 1. Amends Section 23.71(2), Tax Code, the definition of "net-to-land" to:

Include small pine saw timber in the types of products to be used in determining stumpage value;

Conform the statute to current practice by requiring reporting in tons rather than cords or board-feet;

Combine East Texas into a single timber-growing region for purposes of applying growth rates;

Specify that management costs are determined using a "prudent manager" test according to an annual cost model developed by the Texas Forest Service.

Require that all types of timber sales be used to determine stumpage value, including timber deed, gateway, and cutting contract sales.

Section 2. Amends Section 23.74, Tax Code, to establish a statutory floor to the capitalization rate of 10 percent. Provides that the 10 percent floor will be phased-in over the time required for market rates to raise the rate back to 10 percent.

Section 3. Effective date January 1, 2004.

#### **EFFECTIVE DATE**

January 1, 2004.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

SECTION 1. Amends Section 23.71(2), Tax Code, to redefine “net to land.”

SECTION 2. Amends Section 23.74, Tax Code, as follows:

(a) Provides that the capitalization rate to be used in determining the appraised value of qualified timber land as provided by this subchapter is the greater of a certain interest rate or the capitalization rate used in determining the appraised value of qualified timber land as provided by this subchapter for the preceding tax year.

(b) Provides exceptions to Subsection (a).

SECTION 3.

(a) Effective date: January 1, 2004.

(b) Makes application of the change in law made by this Act prospective.