

House Bill 1338

By: Representatives Westmoreland of the 86th, Butler of the 88th, Post 1, Burmeister of the 96th, Rice of the 64th, Smith of the 87th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to
2 damages in tort actions, so as to change certain provisions regarding joint trespassers; to
3 change certain provisions regarding apportionment of damages; to provide for related
4 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to damages in tort
8 actions, is amended by striking Code Section 51-12-31, relating to recovery against joint
9 trespassers, and inserting in its place a new Code Section 51-12-31 to read as follows:

10 "51-12-31.

11 Except as provided in Code Section 51-12-33, where an action is brought jointly against
12 several trespassers, the plaintiff may recover damages for ~~the greatest injury done~~ an injury
13 caused by any of the defendants against ~~all of them~~ only the defendant or defendants liable
14 for the injury pursuant to subsection (b) of Code Section 51-12-33. In its verdict, the jury
15 may specify the particular damages to be recovered of each defendant. Judgment in such
16 a case must be entered severally."

17 style="text-align:center">**SECTION 2.**

18 Said chapter is further amended by striking Code Section 51-12-33, relating to apportionment
19 of damages according to fault, and inserting in its place a new Code Section 51-12-33 to read
20 as follows:

21 "51-12-33.

22 (a) ~~Where an action is brought against more than one person for injury to person or~~
23 ~~property and the plaintiff is himself to some degree responsible for the injury or damages~~
24 ~~claimed, the trier of fact, in its determination of the total amount of damages to be awarded,~~
25 ~~if any, may apportion its award of damages among the persons who are liable and whose~~

1 ~~degree of fault is greater than that of the injured party according to the degree of fault of~~
 2 ~~each person. Damages, if apportioned by the trier of fact as provided in this Code section,~~
 3 ~~shall be the liability of each person against whom they are awarded, shall not be a joint~~
 4 ~~liability among the persons liable, and shall not be subject to any right of contribution.~~

5 Where an action is brought against one or more persons for injury to person or property and
 6 the plaintiff is to some degree responsible for the injury or damages claimed, the trier of
 7 fact, in its determination of the total amount of damages to be awarded, if any, shall
 8 determine the percentage of negligence of the plaintiff and shall reduce the amount of
 9 damages otherwise awarded to the plaintiff in proportion to his or her negligence compared
 10 with that of the person or persons liable for the injury or damages claimed.

11 (b) ~~Subsection (a) of this Code section shall not affect venue provisions regarding joint~~
 12 ~~actions. Where an action is brought against more than one person for injury to person or~~
 13 ~~property, the trier of fact, in its determination of the total amount of damages to be~~
 14 ~~awarded, if any, shall after a reduction of damages pursuant to subsection (a) of this Code~~
 15 ~~section, if any, apportion its award of damages among the persons who are liable according~~
 16 ~~to the degree of fault of each person. Damages apportioned by the trier of fact as provided~~
 17 ~~in this Code section shall be the liability of each person against whom they are awarded,~~
 18 ~~shall not be a joint liability among the persons liable, and shall not be subject to any right~~
 19 ~~of contribution.~~

20 (c) ~~This Code section shall apply only to causes of action arising on or after July 1, 1987.~~
 21 ~~Notwithstanding the provisions of this Code section and any other provisions of law which~~
 22 ~~might be construed to the contrary, the plaintiff shall not be entitled to receive any damages~~
 23 ~~if the plaintiff is 50 percent or more responsible for the injury or damages claimed.~~

24 (d) This Code section shall not affect venue provisions regarding joint actions."

25 SECTION 2.

26 This Act shall become effective upon its approval by the Governor or upon its becoming law
 27 without such approval. This Act shall apply only to causes of action arising on or after the
 28 effective date of this Act. Any cause of action arising prior to that date shall continue to be
 29 governed by the law in effect at the time such cause of action arose.

30 SECTION 3.

31 All laws and parts of laws in conflict with this Act are repealed.