

House Bill 231

By: Representatives Rice of the 51st, Keen of the 179th, Stephenson of the 92nd, Fleming of the 117th, Channell of the 116th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to
2 change provisions relating to award and apportionment of damages against joint tort-feasors;
3 to provide for apportionment of liability according to degree of responsibility; to deny
4 recovery to certain plaintiffs responsible for the injury or damages claimed; to eliminate
5 provisions relating to right of contribution; to eliminate provisions relating to former
6 apportionment of damages under certain circumstances; to provide for related matters; to
7 provide for an effective date and applicability; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by striking
12 Article 2 of Chapter 12, relating to damages against joint tort-feasors, and inserting in its
13 place a new Article 2 to read as follows:

14 style="text-align:center">"ARTICLE 2

15 51-12-30.

16 In all cases, a person who maliciously procures an injury to be done to another, whether an
17 actionable wrong or a breach of contract, is a joint wrongdoer and may be subject to an
18 action either alone or jointly with the person who actually committed the injury.

19 51-12-31.

20 ~~Except as provided in Code Section 51-12-33, where an action is brought jointly against~~
21 ~~several trespassers, the plaintiff may recover damages for the greatest injury done by any~~
22 ~~of the defendants against all of them. In its verdict, the jury may specify the particular~~

1 ~~damages to be recovered of each defendant. Judgment in such a case must be entered~~
 2 ~~severally.~~

3 (a) The judge or jury in every tort action, as to each cause of action asserted, shall
 4 determine the percentage of responsibility, stated in whole numbers, for the following
 5 persons with respect to each person's causing or contributing to cause in any way the harm
 6 for which recovery of damages is sought, whether by negligent act or omission, by any
 7 defective or unreasonably dangerous product, by other conduct or activity that violates an
 8 applicable legal standard, or by any combination of these:

9 (1) Each plaintiff;

10 (2) Each defendant; and

11 (3) Each settling person.

12 (b) Damages apportioned by the trier of fact as provided in this Code section shall be the
 13 sole liability of each person against whom they are awarded, shall not be a joint liability
 14 among the persons liable, and shall not be subject to any right of contribution.

15 (c) Notwithstanding the provisions of this Code section and any other provisions of law
 16 which might be construed to the contrary, a plaintiff shall not be entitled to receive any
 17 damages if the plaintiff is 50 percent or more responsible for the injury or damages
 18 claimed.

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

20 ~~51-12-32.~~

21 ~~(a) Except as provided in Code Section 51-12-33, where a tortious act does not involve~~
 22 ~~moral turpitude, contribution among several trespassers may be enforced just as if an action~~
 23 ~~had been brought against them jointly. Without the necessity of being charged by action~~
 24 ~~or judgment, the right of a joint trespasser to contribution from another or others shall~~
 25 ~~continue unabated and shall not be lost or prejudiced by compromise and settlement of a~~
 26 ~~claim or claims for injury to person or property or for wrongful death and release~~
 27 ~~therefrom.~~

28 ~~(b) If judgment is entered jointly against several trespassers and is paid off by one of them,~~
 29 ~~the others shall be liable to him for contribution.~~

30 ~~(c) Without the necessity of being charged by an action or judgment, the right of~~
 31 ~~indemnity, express or implied, from another or others shall continue unabated and shall not~~
 32 ~~be lost or prejudiced by compromise and settlement of a claim or claims for injury to~~
 33 ~~person or property or for wrongful death and release therefrom.~~

1 ~~51-12-33.~~

2 ~~(a) Where an action is brought against more than one person for injury to person or~~
3 ~~property and the plaintiff is himself to some degree responsible for the injury or damages~~
4 ~~claimed, the trier of fact, in its determination of the total amount of damages to be awarded,~~
5 ~~if any, may apportion its award of damages among the persons who are liable and whose~~
6 ~~degree of fault is greater than that of the injured party according to the degree of fault of~~
7 ~~each person. Damages, if apportioned by the trier of fact as provided in this Code section,~~
8 ~~shall be the liability of each person against whom they are awarded, shall not be a joint~~
9 ~~liability among the persons liable, and shall not be subject to any right of contribution.~~

10 ~~(b) Subsection (a) of this Code section shall not affect venue provisions regarding joint~~
11 ~~actions.~~

12 ~~(c) This Code section shall apply only to causes of action arising on or after July 1, 1987."~~

13 **SECTION 2.**

14 This Act shall become effective July 1, 2005, and shall apply with respect to causes of action
15 arising on or after that date. Prior causes of action shall be governed by prior law.

16 **SECTION 3.**

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