

House Bill 135

By: Representatives Black of the 174th, Burns of the 157th, Buckner of the 130th, Willard of the 49th, Powell of the 171st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 3 of Title 9, Chapter 4 of Title 44, and Title 51 of the Official
2 Code of Georgia Annotated, relating to specific periods of limitation, real estate boundary
3 determination, and torts, respectively, so as repeal provisions relating to processioning and
4 create and change provisions relating to the unauthorized cutting and carrying away of
5 timber; to provide for a six-year statute of limitations for actions involving the cutting and
6 carrying away of timber from the property of another; to create a duty for landowners
7 performing timber harvesting activities; to provide that a certain right of action shall not be
8 applicable in certain cases; to provide for an additional measure of damages for timber
9 conversion; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to
13 specific periods of limitations, is amended in Code Section 9-3-30, relating to trespass or
14 damage to realty, by adding a new subsection to read as follows:

15 "(a.1) Notwithstanding Code Section 9-3-32, all actions for trespass upon realty or
16 damage to realty involving the unauthorized cutting and carrying away of timber shall be
17 brought within six years after the removal of trees."

18 **SECTION 2.**

19 Said article is further amended in Code Section 9-3-32, relating to damages for conversion
20 or destruction, as follows:

21 "9-3-32.

22 Actions for the recovery of personal property, or for damages for the conversion or
23 destruction of the same, shall be brought within four years after the right of action accrues;
24 provided, however, that actions involving the unauthorized cutting and carrying away of

25 timber from the property of another shall be brought within six years after the removal of
 26 trees."

27 **SECTION 3.**

28 Chapter 4 of Title 44 of the Official Code of Georgia Annotated, relating to real estate
 29 boundary determinations, is amended by repealing Article 1, relating to processions, and
 30 designating said article as reserved.

31 **SECTION 4.**

32 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended in Chapter
 33 3, relating to the liability of owners and occupiers of land, by adding a new Code section to
 34 read as follows:

35 "51-3-3.

36 It shall be the duty of an owner of land who hires an agent or contracts with another to
 37 perform timber harvesting activities to clearly mark the accurate boundary lines of the
 38 property or area in which trees are to be harvested. An owner of land shall not be liable to
 39 neighboring landowners for damages caused during the harvesting of timber if the owner
 40 has clearly and accurately marked the boundary lines of the property or area in which trees
 41 are to be harvested."

42 **SECTION 5.**

43 Said title is further amended in Code Section 51-10-6, relating to a right of action for damage
 44 to or theft of personal property, by adding a new subsection to read as follows:

45 "(h) This Code section shall not be applicable in cases involving the unauthorized cutting
 46 and carrying away of timber from the property of another."

47 **SECTION 6.**

48 Said title is further amended in Code Section 51-12-50, relating to measure of damages for
 49 timber conversion, as follows:

50 "(a) A plaintiff who recovers for timber cut and carried away under Code Section 51-9-1
 51 shall be entitled to damages based on the difference in property value before and after the
 52 removal of trees. In addition to the diminished property value, a plaintiff prevailing under
 53 Code Section 51-9-1 may recover punitive damages or attorney's fees or both.

54 (b) Except as provided in Code Section 51-12-51, where a plaintiff who is entitled under
 55 Chapter 10 of Title 51 to recovery recovers for timber cut and carried away, the may elect
 56 one of the following as the measure of damage damages in addition to attorney's fees or
 57 expenses of litigation:

- 58 (1) ~~Where~~ When defendant is a willful trespasser, ~~is~~ the full value of the property at the
59 time and place of demand or when an action is brought without deduction for ~~his~~ the
60 defendant's labor or expense;
- 61 (2) ~~Where~~ When defendant is an unintentional or innocent trespasser or an innocent
62 purchaser from such trespasser, ~~is~~ the value at the time of conversion less the value ~~he~~ or
63 his vendor the defendant or the defendant's vendor added to the property; ~~and~~
- 64 (3) ~~Where~~ When defendant is a purchaser without notice from a willful trespasser, ~~is~~ the
65 value at the time of ~~his~~ the defendant's purchase; or
- 66 (4) Treble the fair market value of the trees removed as they stood and the costs of
67 reasonable reforestation activities related to the plaintiff's injury."

68

SECTION 7.

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