

The House Committee on Judiciary offers the following substitute to HB 135:

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 or cutting and carrying  
5 away of timber; to provide for a four-year statute of limitations for actions involving the  
6 cutting or cutting and carrying away of timber from the property of another; to create a duty  
7 for landowners performing timber harvesting activities; to provide a definition; to provide  
8 that a certain right of action shall not be applicable in certain cases; to provide for measures  
9 of damages for timber conversion; to provide for related matters; to repeal conflicting laws;  
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Article 2 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to  
14 specific periods of limitations, is amended by revising Code Section 9-3-32, relating to  
15 damages for conversion or destruction, as follows:

16 "9-3-32.

17 Actions for the recovery of personal property, or for damages for the conversion or  
18 destruction of the same, shall be brought within four years after the right of action accrues,  
19 and actions involving the unauthorized cutting or cutting and carrying away of timber from  
20 the property of another shall be brought within four years after the cutting or cutting and  
21 carrying away of trees."

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

23 Chapter 4 of Title 44 of the Official Code of Georgia Annotated, relating to real estate  
24 boundary determinations, is amended by repealing Article 1, relating to processioning, and  
25 designating said article as reserved.

26 **SECTION 3.**

27 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended in Chapter  
28 3, relating to the liability of owners and occupiers of land, by adding a new Code section to  
29 read as follows:

30 "51-3-3.

31 It shall be the duty of an owner of land who hires an agent or contracts with another party  
32 to perform timber harvesting activities to clearly mark the accurate boundary lines of the  
33 property or area in which trees are to be harvested. An owner of land shall not be liable to  
34 neighboring landowners for damages caused during the harvesting of timber if the owner  
35 has clearly, accurately, and visibly marked the boundary lines of the property or area in  
36 which trees are to be harvested."

37 **SECTION 4.**

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

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

42 **SECTION 5.**

43 Said title is further amended by revising Code Section 51-12-50, relating to measure of  
44 damages for timber conversion, as follows:

45 "51-12-50.

46 (a) A plaintiff who recovers for injuries to real estate for timber cut or cut and carried  
47 away under Chapter 9 of this title shall be entitled to attorney's fees, expenses of litigation,  
48 and:

49 (1) Damages based on the difference in the property value before and after the cutting  
50 of the trees; or

51 (2) Treble the fair market value of the trees cut as they stood and the costs of reasonable  
52 reforestation activities related to the plaintiff's injury.

53 (b) Except as provided in Code Section 51-12-51, ~~where~~ when a plaintiff recovers  
54 damages under Chapter 10 of this title for timber cut or cut and carried away, the measure  
55 of ~~damage:~~ damages shall be treble the fair market value of the trees cut as they stood and  
56 the costs of reasonable reforestation activities related to the plaintiff's injury, attorney's  
57 fees, and expenses of litigation and

58 (1) ~~Where when the~~ 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 labor or  
60 expense; ~~the plaintiff may also recover punitive damages.~~

61 ~~(2) Where defendant is an unintentional or innocent trespasser or an innocent purchaser~~  
62 ~~from such trespasser, is the value at the time of conversion less the value he or his venter~~  
63 ~~added to the property; and~~

64 ~~(3) Where defendant is a purchaser without notice from a willful trespasser, is the value~~  
65 ~~at the time of his purchase.~~

66 (c) When boundary lines are clearly, accurately, and visibly marked, the court shall  
67 presume the defendant was a willful trespasser."

68 **SECTION 6.**

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