House Bill 199 (AS PASSED HOUSE AND SENATE)

By: Representatives Corbett of the 174th, Nimmer of the 178th, Shaw of the 176th, Epps of the 144th, Carter of the 175th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 1A of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to timber harvesting and removal requirements, so as to require notice of timber harvesting only in an approved form; to provide that one bond shall be required for each county or municipality; to provide that no county may require an administrative fee for receiving a notice of timber harvesting; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1A of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to timber harvesting and removal requirements, is amended by revising Code Section 12-6-24, relating to notice of timber harvesting operations, as follows:

"12-6-24.

(a)(1) A county governing authority may by ordinance or resolution require all persons or firms harvesting standing timber in any unincorporated area of such county for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to provide notice of such harvesting operations to the county governing authority or the designated agent thereof prior to ~~cutting any such timber~~ entering onto the property if possible, but in no event later than 24 hours after entering onto the property. Further, such persons shall give notice of cessation of cutting within 24 hours after the job is completed.

(2) A municipal governing authority may by ordinance or resolution require all persons or firms harvesting standing timber in any incorporated area of such municipality for delivery as pulpwood, logs, poles, or wood chips to any woodyard or processing plant located inside or outside this state to provide notice of such harvesting operations to the municipal governing authority or the designated agent thereof prior to ~~cutting any such timber~~ entering onto the property if possible, but in no event later than 24 hours after

entering onto the property. Further, such persons shall give notice of cessation of cutting within 24 hours after the job is completed.

(b) Any ordinance or resolution adopted pursuant to subsection (a) of this Code section shall conform to the following requirements:

(1) Prior written notice shall be required of any person or firm harvesting such timber for each separate tract to be harvested thereby, shall be made only in such form as prescribed by rule or regulation of the director, and shall ~~consist of~~ be limited to the following:

(A) A map of the area which identifies the location of the tract to be harvested and, as to those trucks which will be traveling to and from such tract for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road;

(B) A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation under Code Section 48-5-7.5;

(C) The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and

(D) The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber;

(2) Notice may be submitted in person, by transmission of an electronic record via telefacsimile, e-mail, or such other means as approved by the governing authority, or by mail;

(3) The governing authority may require persons or firms subject to such notice requirement to deliver a bond or letter of credit as provided by this paragraph, in which case notice shall not be or remain effective for such harvesting operations unless and until the person or firm providing such notice has delivered to the governing authority or its designated agent a valid surety bond, executed by a surety corporation authorized to transact business in this state, protecting the county or municipality, as applicable, against any damage caused by such person or firm in an amount specified by the governing authority not exceeding $5,000.00 or, at the option of the person or firm harvesting timber, a valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in Code Section 7-1-4, in the amount of and in lieu of such bond. Each county or municipality shall require no more than one bond from each person or firm harvesting timber regardless of the number of tracts harvested in such county or municipality by each such person or firm so long as the bond remains in effect. Otherwise, a valid replacement bond must be obtained and delivered to the governing authority of such county or municipality or its designated agent no later than the close of

business on the fifth business day following the day that such governing authority filed a claim to recover damages against the then-existing bond. Upon filing such claim, such governing authority shall immediately provide notice thereof, including the date such claim was filed, to the person or firm causing the damage. Such notice may be given in person, by transmission of an electronic record via telefacsimile, or by e-mail. For purposes of this paragraph, any such surety bond or letter of credit shall be valid only for the calendar year in which delivered;

(4) Notice shall be effective for such harvesting operation on such tract within such unincorporated area of the county or incorporated area of the municipality upon receipt of the same by the applicable governing authority or its designated agent and, if applicable, compliance with the requirements of paragraph (3) of this subsection and until such time as the person or firm giving such notice has completed the harvesting operation for such tract; provided, however, that any subsequent change in the facts required to be provided for purposes of such notice shall be reported to the governing authority or its designated agent within three business days after such change;

(5) Notice requirements shall be applicable to any such timber harvested on or after the effective date of the ordinance or resolution adopted pursuant to this Code section; and

(6) Violation of the notice requirements of any ordinance or resolution adopted pursuant to this Code section shall be punishable by a fine not exceeding $500.00.

(c) The director shall promulgate such rules and regulations as are reasonable and necessary for purposes of the standard form required by paragraph (1) of subsection (b) of this Code section.

(d) Any municipal governing authority or designated agent thereof which receives a notice required by ordinance or resolution adopted pursuant to this Code section regarding timber harvesting operations to be conducted in whole or in part within the corporate limits of such municipality shall transmit a copy of such notice to the governing authority of the county or the designated agent thereof.

(e)(1) No county, municipality, or other political subdivision in this state shall require any person or firm harvesting standing timber therein for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to provide any notice of or plan or security for such harvesting or hauling of forest products except as provided by this Code section.

(2) No county, municipality, or other political subdivision in this state shall require any person or firm harvesting standing timber therein for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to obtain any permit for such harvesting or hauling of forest products, including without limitation any permit for any new driveway in connection with timber harvesting

operations; provided, however, that this paragraph shall not otherwise limit the authority of a county or municipality to regulate roads or streets under its jurisdiction in accordance with Title 32.

(3) The provisions of paragraphs (1) and (2) of this subsection shall not preclude counties, municipalities, and other political subdivisions from enacting and enforcing tree ordinances, landscape ordinances, or streamside buffer ordinances; provided, however, such ordinances shall not apply to timber harvesting as described in subparagraph (A) of paragraph (4) of this subsection or in unzoned tracts as described in subparagraph (B) of paragraph (4) of this subsection.

(4)(A) The limitations on the regulatory authority of counties, municipalities, or other political subdivisions provided by paragraphs (1), (2), and (3) of this subsection shall apply only to timber harvesting operations which qualify as forestry land management practices or agricultural operations under Code Section 12-7-17, not incidental to development, on tracts which are zoned for or used for forestry, silvicultural, or agricultural purposes.

(B) The limitations on the regulatory authority of counties, municipalities, or other political subdivisions provided by paragraphs (1), (2), and (3) of this subsection shall also apply to tracts which are unzoned.

(5) No county or municipality shall require a fee of any kind for receiving a notification of a timber harvest.″

SECTION 2.

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