

The Senate Committee on Agriculture and Consumer Affairs offered the following substitute to HB 897:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 12-6-24 of the Official Code of Georgia Annotated, relating to  
2 notice of timber harvesting operations, so as to require the State Forestry Commission to  
3 create a standing timber notification website; to provide for promulgation of rules and  
4 regulations; to change surety bond and letter of credit requirements; to provide for claims  
5 against bonds; to provide for appeals of such claims; to provide for replacement bonds; to  
6 provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Code Section 12-6-24 of the Official Code of Georgia Annotated, relating to notice of timber  
11 harvesting operations, is amended by revising subsection (b) as follows:

12 "(b) Any ordinance or resolution adopted pursuant to subsection (a) of this Code section  
13 shall conform to and shall not exceed the following requirements:

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

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

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

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

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

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

32 (3)(A) Effective October 1, 2020, the State Forestry Commission shall commence  
 33 construction of a website to provide a state-wide notification platform for persons or  
 34 firms harvesting standing timber to utilize as a uniform system of notification to local  
 35 governing authorities.

36 (B) Following an initial notification by the State Forestry Commission that the website  
 37 is operational, utilization of the website by local governing authorities and persons or  
 38 firms harvesting standing timber will be optional.

39 (C) No later than the first day of the nineteenth month following such initial  
 40 notification, the State Forestry Commission shall provide a subsequent notification of  
 41 a date upon which utilization of such website shall be mandatory for local governing  
 42 authorities and persons or firms harvesting standing timber. On and after that date,  
 43 notification procedures under paragraph (2) of this subsection shall cease and  
 44 notification of harvesting of standing timber shall be conducted solely through such  
 45 website.

46 (D) The director of the State Forestry Commission shall promulgate such rules and  
 47 regulations as are reasonable and necessary for purposes of designing, implementing,  
 48 and enforcing utilization of such website;

49 ~~(3)~~(4)(A) The governing authority may require persons or firms subject to such notice  
 50 requirement to deliver a bond or letter of credit as provided by this ~~paragraph~~  
 51 subparagraph, in which case notice shall not be or remain effective for such harvesting  
 52 operations unless and until the person or firm providing such notice has delivered to the  
 53 governing authority or its designated agent a valid surety bond, executed by a surety  
 54 corporation authorized to transact business in this state, protecting the county or  
 55 municipality, as applicable, against any damage caused by such person or firm in an  
 56 amount specified by the governing authority not exceeding \$5,000.00 or, at the option  
 57 of the person or firm harvesting timber, a valid irrevocable letter of credit issued by a  
 58 bank or savings and loan association, as defined in Code Section 7-1-4, in the amount  
 59 of and in lieu of such bond. Such bonds or letters of credit shall be subject to the  
 60 conditions set forth in subparagraph (D) of this paragraph. Each county or municipality  
 61 shall require no more than one bond from each person or firm harvesting timber  
 62 regardless of the number of tracts harvested in such county or municipality by each  
 63 such person or firm so long as the bond remains in effect. ~~Otherwise, a valid~~

64 ~~replacement bond must be obtained and delivered to the governing authority of such~~  
65 ~~county or municipality or its designated agent no later than the close of business on the~~  
66 ~~fifth business day following the day that such governing authority filed a claim to~~  
67 ~~recover damages against the then-existing bond. Upon filing such claim, such~~  
68 ~~governing authority shall immediately provide notice thereof, including the date such~~  
69 ~~claim was filed, to the person or firm causing the damage. Such notice may be given~~  
70 ~~in person, by transmission of an electronic record via telefacsimile, or by e-mail. For~~  
71 ~~purposes of this paragraph subparagraph, any such surety bond or letter of credit shall~~  
72 ~~be valid only for the calendar year in which delivered;.~~

73 (B) Such bond or letter of credit shall protect the county or municipality against any  
74 damage requiring re-ditching or repair of existing ditch structure or the removal of any  
75 harvesting residue, including tree tops, debris logs, pulpwood, and other materials,  
76 placed in or around rights of way caused by such person or firm tendering the bond or  
77 letter of credit, and the proceeds of such bond or letter of credit shall be available to  
78 reimburse the county or municipality for any cost incurred to repair such damages in  
79 or around county or municipal rights of way. The proceeds of such bond or letter of  
80 credit shall also be available to reimburse the county or municipality for any cost  
81 incurred to maintain or repair county or municipal roads damaged by the ingress or  
82 egress of motor vehicles engaged in harvest operations located within 500 feet of any  
83 point of ingress or egress of the timber harvesting operation. The right of a county or  
84 municipality to call such bond or letter of credit in accordance with the provisions of  
85 this Code section shall be in addition to any other remedies available to such county or  
86 municipality at law or in equity for damage to county or municipal roads or rights of  
87 way.

88 (C) When damage results from a person or firm's harvesting activities, the governing  
89 authority shall make a written claim to the person or firm causing the damage within  
90 30 business days after the governing authority becomes aware of the damage. Such  
91 claim may be given in person, by transmission of an electronic record via telefacsimile  
92 or email, or by mail. Such claim shall describe the damage in detail and give the person  
93 or firm the opportunity to repair such damage within 30 days of the notification. The  
94 county or municipality shall be authorized to repair the damage immediately if the  
95 governing authority determines the conditions present a threat to public safety, health,  
96 or welfare and, upon making such repairs, shall present to the person or firm an  
97 itemized list of expenses incurred as a claim against the responsible party and the issuer  
98 of its bond or letter of credit. If the damage in question has not been repaired by or on  
99 behalf of the person or firm, then the governing authority shall be authorized to call  
100 such bond or letter of credit for payment of any cost the county or municipality incurs

101 or will incur to repair such damages, and additional remedies set forth in this paragraph  
 102 shall remain available. Within 30 days of the receipt of the written notification from  
 103 the county or municipality required by this subparagraph, the person or firm may:

104 (i) Repair such damage at their own expense with the approval and supervision of the  
 105 governing authority. When repairs are completed to the satisfaction of the governing  
 106 authority, the governing authority shall provide the person or firm with written  
 107 notification of such satisfactory completion within five business days;

108 (ii) In the event of inclement weather or other factors preventing repair of the  
 109 damage, request a 30 day extension to repair the damage from the governing  
 110 authority, provided that no such extension shall exceed 90 days. Approval of such  
 111 extensions shall be in the discretion of the governing authority; or

112 (iii) Appeal any adverse decision of the governing authority to the magistrate court  
 113 of the county in which the damage occurred. The magistrate court will hear  
 114 arguments within 30 days of the written appeal and render a ruling within ten days of  
 115 such hearing. Any such appeal shall toll the 30 day period, or any extension thereof,  
 116 provided for in subparagraph (C) of this paragraph. Should the person or firm receive  
 117 a favorable ruling from the magistrate court, the governing authority shall have no  
 118 claim against the bond or letter of credit. Should the person or firm in question  
 119 receive an unfavorable ruling from the magistrate court, the governing authority shall  
 120 be authorized to call the bond or letter of credit for reimbursement, not to exceed the  
 121 bond or letter of credit amount, of costs incurred in repairing the damage.

122 (D) If a person or firm tendering the bond or letter of credit, or any agent, employee,  
 123 or contractor of such person or firm, causes a bond or letter of credit to be revoked, then  
 124 a valid replacement bond or letter of credit shall be obtained by the person or firm and  
 125 delivered to the governing authority, or the designated agent thereof, no later than the  
 126 close of business five business days after the date of revocation of the prior bond or  
 127 letter of credit. The governing authority shall be authorized to increase such bond or  
 128 letter of credit by \$2,500.00 after each instance of revocation of a bond or letter of  
 129 credit, provided that the total bond amount shall not exceed \$10,000.00 as to any  
 130 original bond or letter of credit;

131 ~~(4)~~(5) Notice shall be effective for such harvesting operation on such tract within such  
 132 unincorporated area of the county or incorporated area of the municipality upon receipt  
 133 of the same by the applicable governing authority or its designated agent and, if  
 134 applicable, compliance with the requirements of paragraph ~~(3)~~(4) of this subsection and  
 135 until such time as the person or firm giving such notice has completed the harvesting  
 136 operation for such tract; provided, however, that any subsequent change in the facts

137 required to be provided for purposes of such notice shall be reported to the governing  
138 authority or its designated agent within three business days after such change;  
139 ~~(5)~~(6) Notice requirements shall be applicable to any such timber harvested on or after  
140 the effective date of the ordinance or resolution adopted pursuant to this Code section;  
141 and  
142 ~~(6)~~(7) Violation of the notice requirements of any ordinance or resolution adopted  
143 pursuant to this Code section shall be punishable by a fine not exceeding ~~\$500.00~~  
144 \$1,500.00 for each violation."

145 **SECTION 2.**

146 This Act shall become effective upon its approval by the Governor or upon its becoming law  
147 without such approval.

148 **SECTION 3.**

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