

The House Committee on Judiciary offers the following substitute to HB 90:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 12 of Title 51 of the Official Code of Georgia Annotated,
2 relating to damages for conversion of timber, so as to provide that certain persons, firms, or
3 corporations who are buyers of land for conversion of timber shall be exempt from certain
4 liabilities; to clarify as to whom a person holding a security interest in land has a right to
5 recover from and the measure of damages for such recovery; to limit damages for certain
6 causes of action brought for conversion of timber; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 3 of Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to
11 damages for conversion of timber, is amended by revising Code Section 51-12-50, relating
12 to measure of damages for converted timber and presumption, as follows:

13 "51-12-50.

14 (a) ~~Except as provided in Code Section 51-12-51, when~~ When a plaintiff, other than a
15 plaintiff under Code Section 51-12-51, recovers for timber cut or cut and carried away, the
16 measure of damages shall be:

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- 17 (1) Treble the fair market value of the trees cut as they stood;
 18 (2) Treble the diminished fair market value of any trees incidentally harmed;
 19 (3) Costs of reasonable reforestation activities related to the plaintiff's injury; and
 20 (4) Attorney fees and expenses of litigation.
- 21 (b) When the defendant is a willful trespasser, the plaintiff may also recover punitive
 22 damages.
- 23 (c) When the boundary lines of the property have been clearly and accurately marked, it
 24 shall be presumed that the defendant was a willful trespasser."

25 **SECTION 2.**

26 Said article is further amended by revising Code Section 51-12-51, relating to recovery by
 27 person holding security interest in land for conversion of timber and use of converted timber
 28 by owner, as follows:

29 "51-12-51.

30 (a) Every person, firm, or corporation who, without the written consent of the person
 31 holding legal title to land or to an interest in land as security for debt, as shown by the
 32 public records of the county where such land is located, buys, sells, cuts, removes, holds,
 33 disposes of, changes the form of, or otherwise converts to the use of ~~himself, itself, or~~
 34 ~~another~~ such person, firm, corporation, or another any trees growing or grown on such land
 35 shall be liable to the holder of the legal title for such trees, in any form, bought, sold, cut,
 36 removed, held, disposed of, changed in form, or otherwise converted by ~~him or it~~ such
 37 person, firm, or corporation, or for the value of such trees, provided that recovery may not
 38 be for more than the unpaid portion of the secured indebtedness, interest thereon, and a
 39 reasonable attorney's fee. Recovery may be had by action at law from one who purchases,
 40 without the consent of the holder of the legal title, such interest in the trees, mineral or
 41 other rights, or interest in the encumbered real estate, either jointly or severally, with the
 42 holder of the equitable title. Notwithstanding any other provision of law, any such person,

43 firm, or corporation who is a buyer in the ordinary course of business pursuant to Title 11,
44 the 'Uniform Commercial Code,' including, but not limited to, Code Section 11-9-320, shall
45 have no liability under this Code section.

46 (b) The equitable owner of the land shall be allowed to use the timber for his such
47 equitable owner's own use, such as for firewood or other necessary uses of timber in and
48 around his such equitable owner's farm."

49 **SECTION 3.**

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