House Bill 90 (AS PASSED HOUSE AND SENATE)
By: Representatives Williamson of the 115th, Burns of the 159th, Dickey of the 140th, Hatchett of the 150th, Morris of the 156th, and others

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"51-12-50. (a) Except as provided in Code Section 51-12-51, when a plaintiff, other than a plaintiff under Code Section 51-12-51, recovers for timber cut or cut and carried away, the measure of damages shall be:
(1) Treble the fair market value of the trees cut as they stood;
(2) Treble the diminished fair market value of any trees incidentally harmed;
(3) Costs of reasonable reforestation activities related to the plaintiff's injury; and
(4) Attorney fees and expenses of litigation.

(b) When the defendant is a willful trespasser, the plaintiff may also recover punitive
damages.

(c) When the boundary lines of the property have been clearly and accurately marked, it
shall be presumed that the defendant was a willful trespasser."

SECTION 2.

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

"51-12-51.

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

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

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

SECTION 3.

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