

House Bill 897 (AS PASSED HOUSE AND SENATE)

By: Representatives Burchett of the 176th, Burns of the 159th, McCall of the 33rd, Corbett of the 174th, Rhodes of the 120th, and others

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 style="text-align:center">**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.