

The Senate Committee on Insurance and Labor offered the following substitute to SB 186:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 51 of the Official Code of Georgia Annotated,
2 relating to liability of owners and occupiers of land generally, so as to limit landowner
3 liability regarding invitees, licensees, and trespassers; to provide for no landowner liability
4 due to alleged constructive notice of prior crimes or violent nature; to provide for
5 apportionment of fault; to provide for definitions; to provide for a short title; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Georgia Landowners Protection Act."

10 **SECTION 2.**

11 Article 1 of Chapter 3 of Title 51 of the Official Code of Georgia Annotated, relating to
12 liability of owners and occupiers of land generally, is amended by adding a new Code section
13 to read as follows:

14 "51-3-4.

15 (a) As used in this Code section, the term:

16 (1) 'Landowner' means any person who owns, occupies, leases, operates, maintains, or
17 manages any residential, agricultural, commercial, or other real property in this state, any
18 director, officer, employee, or agent of any such person, and any independent contractor
19 acting on behalf of any such person.

20 (2) 'Premises liability action' means any civil action sounding in tort based upon the duty
21 owed to someone injured on a landowner's property as the result of conditions present,
22 or activities occurring upon, the property; provided, however, that such term shall not
23 include a cause of action under Code Section 51-1-56, and nothing in this Code section
24 shall apply to a cause of action under Code Section 51-1-56.

25 (3) 'Property' means residential, agricultural, commercial, or other real property whether
26 held in fee simple or under a leasehold, life estate, estate for years, usufruct, easement,
27 license, or other instrument of title and which is owned, operated, maintained, or
28 managed by a landowner.

29 (b) No landowner shall be liable in a premises liability action to any invitee who is injured
30 on the landowner's property as the result of the willful, wanton, or intentionally tortious
31 conduct of any third party who is not a director, officer, employee, or agent of the
32 landowner unless the invitee can prove by clear and convincing evidence that:

33 (1) The conduct of said third party occurred within the legal boundaries of the
34 landowner's property;

35 (2)(A) The conduct of the landowner actively and affirmatively, and with a degree of
36 conscious decision making, impelled the specific action of said third party; or

37 (B) The landowner had actual knowledge of the specific threat of imminent harm to
38 the invitee from said third party and, through reasonable action, the landowner could
39 have prevented that harm from occurring; and

40 (3) The landowner's conduct proximately caused the economic and noneconomic
41 damages suffered by the invitee.

42 (c) No landowner shall be held liable in a premises liability action to any licensee who is
43 injured on the landowner's property as the result of the willful, wanton, or intentionally
44 tortious conduct of any third party who is not a director, officer, employee, or agent of the
45 landowner unless the licensee can prove by clear and convincing evidence that:

46 (1) The conduct of said third party occurred within the legal boundaries of the
47 landowner's property;

48 (2) The landowner willfully and wantonly impelled the specific action of said third party;
49 and

50 (3) The landowner's conduct proximately caused the economic and noneconomic
51 damages suffered by the injured licensee.

52 (d) No landowner shall be held liable in a premises liability action to any trespasser who
53 is injured on the landowner's property as the result of the willful, wanton, or intentionally
54 tortious conduct of any third party who is not a director, officer, employee, or agent of the
55 landowner unless the trespasser can prove by clear and convincing evidence that:

56 (1) The conduct of said third party occurred within the legal boundaries of the
57 landowner's property;

58 (2) The landowner acted with the specific intent to harm the trespasser and impelled the
59 specific action of said third party; and

60 (3) The landowner's conduct proximately caused the economic and noneconomic
61 damages suffered by the injured trespasser.

62 (e) No liability may be imposed upon any landowner under subsections (b), (c), or (d) of
63 this Code section premised in whole or in part upon the landowner's alleged constructive
64 knowledge of prior crimes on or near the landowner's property or upon the landowner's
65 alleged constructive knowledge of the prior crimes or violent nature of said third party
66 whose acts or omissions proximately caused the claimed injury or damage.

67 (f) In any premises liability action brought against a landowner as described in
68 subsections (b), (c), or (d) of this Code section:

69 (1) The trier of fact, in making the apportionment of fault under Code Section 51-12-33,
70 shall:

71 (A) Only apportion fault to the landowner for the acts or omissions of the landowner;

72 (B) Fairly and accurately apportion fault to the third party for the willful, wanton, or
73 intentional conduct of such third party; and

74 (C) Not consider the pendency of criminal charges against such third party, the
75 financial resources of any of the parties, the impact of such a finding upon the court's
76 judgment in the case, or any other factors except the relative degrees of fault among the
77 parties.

78 (2) If the jury fails to apportion an appropriate degree of fault to the third party, the trial
79 court may, in the exercise of its sound discretion, set aside the verdict of the jury and
80 require a retrial of the case; and

81 (3) Notwithstanding any provision of law that might be construed to the contrary, the
82 injured party shall not be entitled to receive any damages if the plaintiff is fifty percent
83 or more responsible for the injury or damages claimed.

84 **SECTION 3.**

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