

House Bill 1321 (AS PASSED HOUSE AND SENATE)

By: Representatives Westmoreland of the 104th, Royal of the 164th, Buck of the 135th, Ehrhart of the 36th and Kaye of the 37th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding ad valorem taxation of property, so as to provide for
3 an additional case where a bona fide agricultural purposes or bona fide conservation use
4 renewal covenant may be terminated without certain penalties applying; to provide for
5 additional rules applicable to the qualification of certain conservation use property for current
6 use assessment; to amend Chapter 89 of Title 36 of the Official Code of Georgia Annotated,
7 relating to homeowner tax relief grants, so as to provide for such grants with respect to
8 municipal ad valorem taxes for municipal purposes and independent school district ad
9 valorem taxes for educational purposes; to change certain provisions regarding definitions;
10 to change certain provisions regarding purposes of certain appropriations; to change certain
11 provisions regarding appropriations for tax relief grants in the General Appropriations Act;
12 to change certain provisions regarding procedures and conditions for grant allotment; to
13 change certain provisions regarding administration and excess funds; to provide an effective
14 date; to provide for applicability; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to
18 general provisions regarding ad valorem taxation of property, is amended by adding a new
19 subsection immediately following subsection (r) of Code Section 48-5-7.1, relating to
20 preferential assessment of bona fide agricultural purposes property, to be designated
21 subsection (r.1) to read as follows:

22 "(r.1) In any case in which a covenant is breached solely as a result of an owner electing
23 to discontinue the property in its qualifying use, provided such owner has renewed without
24 an intervening lapse at least once the covenant under this Code section, has reached the age
25 of 65 or older, and has kept the property in a qualifying use under the renewal covenant for
26 at least three years the penalty specified by subsection (g) of this Code section shall not

1 apply and the penalty imposed shall be the amount by which preferential assessment has
 2 reduced taxes otherwise due for the year in which the covenant is breached. Such penalty
 3 shall bear interest at the rate specified in Code Section 48-2-40 from the date of the breach.
 4 Such election shall be in writing and shall not become effective until filed with the county
 5 board of tax assessors."

6 **SECTION 2.**

7 Said article is further amended by striking paragraph (1) of subsection (b) of Code Section
 8 48-5-7.4, relating to bona fide conservation use property, and inserting in its place a new
 9 paragraph (1) to read as follows:

10 "(1) When one-half or more of the area of a single tract of real property is used for a
 11 qualifying purpose, then such tract shall be considered as used for such qualifying
 12 purpose unless some other type of business is being operated on the unused portion;
 13 provided, however, that such unused portion must be minimally managed so that it does
 14 not contribute significantly to erosion or other environmental or conservation problems.
 15 The lease of hunting rights or the use of the property for hunting purposes shall not
 16 constitute another type of business;".

17 **SECTION 3.**

18 Said article is further amended by striking subsection (q) of Code Section 48-5-7.4, relating
 19 to bona fide conservation use property, and inserting in its place a new subsection (q) to read
 20 as follows:

21 "(q) In the following cases, the penalty specified by subsection (l) of this Code section
 22 shall not apply and the penalty imposed shall be the amount by which current use
 23 assessment has reduced taxes otherwise due for the year in which the covenant is breached,
 24 such penalty to bear interest at the rate specified in Code Section 48-2-40 from the date of
 25 the breach:

26 (1) Any case in which a covenant is breached solely as a result of the foreclosure of a
 27 deed to secure debt or the property is conveyed to the lienholder without compensation
 28 and in lieu of foreclosure, if:

29 (A) The ~~the~~ deed to secure debt was executed as a part of a bona fide commercial loan
 30 transaction in which the grantor of the deed to secure debt received consideration equal
 31 in value to the principal amount of the debt secured by the deed to secure debt;

32 (B) The ~~the~~ loan was made by a person or financial institution who or which is
 33 regularly engaged in the business of making loans; and

1 (C) ~~The~~ the deed to secure debt was intended by the parties as security for the loan and
 2 was not intended for the purpose of carrying out a transfer which would otherwise be
 3 subject to the penalty specified by subsection (l) of this Code section; or

4 (2) Any case in which a covenant is breached solely as a result of a medically
 5 demonstrable illness or disability which renders the owner of the real property physically
 6 unable to continue the property in the qualifying use, provided that the board of tax
 7 assessors shall require satisfactory evidence which clearly demonstrates that the breach
 8 is the result of a medically demonstrable illness or disability; or

9 (3) Any case in which a covenant is breached solely as a result of an owner electing to
 10 discontinue the property in its qualifying use, provided such owner has renewed without
 11 an intervening lapse at least once the covenant for bona fide conservation use, has
 12 reached the age of 65 or older, and has kept the property in a qualifying use under the
 13 renewal covenant for at least three years. Such election shall be in writing and shall not
 14 become effective until filed with the county board of tax assessors."

15 SECTION 4.

16 Chapter 89 of Title 36 of the Official Code of Georgia Annotated, relating to homeowner tax
 17 relief grants, is amended by striking Code Section 36-89-1, relating to definitions, and
 18 inserting in its place a new Code Section 36-89-1 to read as follows:

19 "36-89-1.

20 As used in this chapter, the term:

21 (1) 'Applicable rollback' means a:

22 (A) Rollback of an ad valorem tax millage rate pursuant to subsection (a) of Code
 23 Section 48-8-91 in a county or municipality that levies a local option sales tax;

24 (B) Rollback of an ad valorem tax millage rate pursuant to subparagraph (c)(2)(C) of
 25 Code Section 48-8-104 in a county or municipality that levies a homestead option sales
 26 tax;

27 (C) Subtraction from an ad valorem millage rate pursuant to Code Section 20-2-334
 28 in a local school system that receives a state school tax credit;

29 (D) Reduction of an ad valorem tax millage rate pursuant to the development of a
 30 service delivery strategy under Code Section 36-70-24; and

31 (E) Reduction of an ad valorem tax millage rate pursuant to paragraph (2) of
 32 subsection (a) of Code Section 33-8-8.3 in a county that collects insurance premium
 33 tax.

34 ~~(1)~~(2) 'County millage rate' means the net ad valorem tax millage rate, after deducting
 35 applicable rollbacks, levied by a county for county purposes and applying to all qualified
 36 homesteads in the county, including any millage levied for special district purposes but

1 not including any millage levied for purposes of bonded indebtedness and not including
 2 any millage levied for school on behalf of a county school district for educational
 3 purposes.

4 ~~(2)~~(3) 'Eligible assessed value' means a certain stated amount of the assessed value of
 5 each qualified homestead in the state. The amount of the eligible assessed value for any
 6 given year shall be fixed in that year's General Appropriations Act.

7 ~~(3)~~(4) 'Fiscal authority' means the ~~political subdivision which levies and collects~~
 8 individual authorized to collect ad valorem taxes ~~on behalf of a local school district and~~
 9 may, if appropriate, include a local school district itself but will generally refer to for a
 10 county or municipality which levies and collects ad valorem taxes ~~on behalf of a local~~
 11 ~~school district.~~

12 (5) 'Municipal millage rate' means the net ad valorem tax millage rate, after deducting
 13 applicable rollbacks, levied by a municipality for municipal purposes and applying to
 14 qualified homesteads in the municipality, including any millage levied for special tax
 15 district purposes but not including any millage levied for purposes of bonded
 16 indebtedness and not including any millage levied on behalf of an independent school
 17 district for educational purposes.

18 ~~(4)~~(6) 'Qualified homestead' means a homestead qualified for any exemption, state,
 19 county, or school, authorized under Code Section 48-5-44.

20 ~~(5)~~(7) 'School millage rate' means the net ad valorem tax millage rate, after deducting
 21 applicable rollbacks, levied ~~by or~~ on behalf of a local county or independent school
 22 district for educational purposes and applying to all qualified homesteads in the ~~local~~
 23 county or independent school district, not including any millage levied for purposes of
 24 bonded indebtedness and not including any millage levied for county or municipal
 25 purposes.

26 ~~(6)~~(8) 'State millage rate' means the state millage levy."

27 SECTION 5.

28 Said chapter is further amended by striking Code Section 36-89-2, relating to purposes of
 29 certain appropriations, and inserting in its place a new Code Section 36-89-2 to read as
 30 follows:

31 "36-89-2.

32 In any year the General Assembly may appropriate funds for homeowner tax relief grants
 33 to counties, municipalities, and ~~local~~ county or independent school districts, in order to
 34 provide for more effective regulation and management of the finance and fiscal
 35 administration of the state and pursuant to and in furtherance of the provisions of Article
 36 III, Section IX, Paragraph II(c) of the Constitution; Article VII, Section III, Paragraph III

1 of the Constitution; Article VIII, Section I, Paragraph I of the Constitution; and other
2 provisions of the Constitution."

3 **SECTION 6.**

4 Said chapter is further amended by striking Code Section 36-89-3, relating to appropriations
5 for tax relief grants in the General Appropriations Act, and inserting in its place a new Code
6 Section 36-89-3 to read as follows:

7 "36-89-3.

8 In any year the General Assembly may appropriate to the Department of Revenue funds
9 to provide homeowner tax relief grants to counties, municipalities, and ~~local~~ county or
10 independent school districts. When funds are so appropriated, the General Appropriations
11 Act shall specify the amount appropriated and the eligible assessed value of each qualified
12 homestead in the state for the specified tax year. If for any reason the amount appropriated
13 in the General Appropriations Act is insufficient to fund the eligible assessed value stated
14 in the General Appropriations Act, the amount appropriated may be adjusted in
15 amendments to the General Appropriations Act."

16 **SECTION 7.**

17 Said chapter is further amended by striking Code Section 36-89-4, relating to procedures and
18 conditions for grant allotment, and inserting in its place a new Code Section 36-89-4 to read
19 as follows:

20 "36-89-4.

21 (a)(1) When funds are appropriated as provided in Code Section 36-89-3, such grants
22 shall be allotted to each county, municipality, and ~~local~~ county or independent school
23 district in the state as follows:

24 ~~(1)~~(A) Immediately following the actual preparation of ad valorem property tax bills,
25 each county ~~tax commissioner~~ fiscal authority shall notify the Department of Revenue
26 of the total amount of tax revenue which would be generated by applying the sum of
27 the state and county millage rates to the eligible assessed value of each qualified
28 homestead in the county. The total amount of actual tax credits, so calculated, given
29 to all qualified homesteads in the county shall be the amount of the grant to that county;
30 and

31 ~~(2)~~(B) Immediately following the actual preparation of ad valorem property tax bills,
32 each ~~local~~ county or independent school district's fiscal authority shall notify the
33 Department of Revenue of the total amount of tax revenue which would be generated
34 by applying the school millage rate to the eligible assessed value of each qualified
35 homestead in the ~~local~~ county or independent school district. The total amount of

1 actual tax credits, so calculated, given to all qualified homesteads in the ~~local~~ county
 2 or independent school district shall be the amount of the grant to that ~~local~~ county or
 3 independent school district; and

4 (C) Immediately following the actual preparation of ad valorem property tax bills, each
 5 municipality's fiscal authority shall notify the Department of Revenue of the total
 6 amount of tax revenue which would be generated by applying the municipal millage
 7 rate to the eligible assessed value of each qualified homestead in the municipality. The
 8 total amount of actual tax credits, so calculated, given to all qualified homesteads in the
 9 municipality shall be the amount of the grant to that municipality.

10 ~~(3)(2)~~ Credit amounts computed under ~~paragraphs (1) and (2)~~ paragraph (1) of this
 11 subsection shall be applied to reduce the otherwise applicable tax liability on a
 12 dollar-for-dollar basis, but the credit granted shall not in any case exceed the amount of
 13 the otherwise applicable tax liability after the granting of all applicable homestead
 14 exemptions except for any homestead exemption under Article 2A of Chapter 8 of
 15 Title 48, the 'Homestead Option Sales and Use Tax Act,' as amended, and after the
 16 granting of all applicable millage rollbacks.

17 (b) The grant of funds to each county shall be conditioned on the ~~county~~ county's fiscal
 18 authority reducing each qualified homestead's otherwise applicable liability for county
 19 taxes for county purposes by a credit amount calculated in ~~paragraph (1) of subsection (a)~~
 20 subparagraph (a)(1)(A) of this Code section.

21 (c) The grant of funds to each ~~local~~ county or independent school district shall be
 22 conditioned on the ~~local school district and its~~ county or independent school district's fiscal
 23 authority reducing each qualified homestead's otherwise applicable liability for school
 24 taxes by a credit amount calculated in ~~paragraph (2) of subsection (a)~~ subparagraph
 25 (a)(1)(B) of this Code section.

26 (d) The grant of funds to each municipality shall be conditioned on the municipality's
 27 fiscal authority reducing each qualified homestead's otherwise applicable liability for
 28 municipal taxes by a credit amount calculated in subparagraph (a)(1)(C) of this Code
 29 section.

30 ~~(d)(e)~~ Each ~~county and each~~ fiscal authority shall show the credit amount on the tax bill,
 31 together with a prominent notice in substantially the following form: "This reduction in
 32 your bill is the result of homeowner's tax relief enacted by the Governor and the General
 33 Assembly of the State of Georgia."

34 SECTION 8.

35 Said chapter is further amended by striking Code Section 36-89-5, relating to administration
 36 and excess funds, and inserting in its place a new Code Section 36-89-5 to read as follows:

1 "36-89-5.

2 (a) The state revenue commissioner shall administer this chapter and shall adopt rules and
3 regulations for the administration of this chapter, including specific instructions to local
4 governments. The state revenue commissioner may adopt procedures for partial or
5 installment distribution of grants when the commissioner determines that a full distribution
6 will only result in the necessity of return of funds under subsection (b) of this Code section.

7 (b) If any excess funds remain from the funds granted to any county, municipality, or ~~local~~
8 county or independent school district under this chapter, after the county, municipality, or
9 ~~local~~ county or independent school district complies with the credit requirements of Code
10 Section 38-89-4, such excess funds shall be returned by the county, municipality, or ~~local~~
11 county or independent school district to the Department of Revenue."

12

SECTION 9.

13 This Act shall become effective upon its approval by the Governor or upon its becoming law
14 without such approval and shall be applicable to all taxable years beginning on or after
15 January 1, 2002.

16

SECTION 10.

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