

House Bill 413

By: Representatives Burkhalter of the 36th and Graves of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 12-2-4 of the Official Code of Georgia Annotated, relating to
2 powers and duties of the Department of Natural Resources, so as to provide for processing
3 of applications for certification of certain conservation use property for ad valorem tax
4 purposes; to amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating
5 to ad valorem taxation of property, so as to provide for preferential assessment of bona fide
6 conservation use property consisting of certain constructed storm water wetlands; to change
7 certain provisions relating to assessment of tangible property; to change certain provisions
8 relating to bona fide conservation use property and bona fide residential transitional property;
9 to change certain provisions relating to authority to promulgate certain rules and regulations
10 and limits on change in current use value of conservation use property; to provide for
11 legislative declarations; to provide an effective date; to provide for applicability; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 The General Assembly declares that this Act is enacted pursuant to Article VII, Section I,
16 Paragraph III(e) of the Constitution.

17 style="text-align:center">**SECTION 2.**

18 Code Section 12-2-4 of the Official Code of Georgia Annotated, relating to powers and
19 duties of the Department of Natural Resources, is amended by striking subsection (k) and
20 inserting in lieu thereof the following:

21 "(k) The department shall without any fee therefor accept applications for certification of
22 environmentally sensitive conservation use property or constructed storm water wetland
23 conservation use property as provided for in Code Section 48-5-7.4 and shall certify
24 property to local boards of tax assessors as meeting or not meeting the criteria of such Code
25 section."

1 (ii) An estate of which the devisees or heirs are one or more natural or naturalized
2 citizens;

3 (iii) A trust of which the beneficiaries are one or more natural or naturalized citizens;

4 (iv) A family owned farm entity, such as a family corporation, a family partnership,
5 a family general partnership, a family limited partnership, a family limited
6 corporation, or a family limited liability company, all of the interest of which is
7 owned by one or more natural or naturalized citizens related to each other by blood
8 or marriage within the fourth degree of civil reckoning, except that, solely with
9 respect to a family limited partnership, a corporation, limited partnership, limited
10 corporation, or limited liability company may serve as a general partner of the family
11 limited partnership and hold no more than a 5 percent interest in such family limited
12 partnership, an estate of which the devisees or heirs are one or more natural or
13 naturalized citizens, or a trust of which the beneficiaries are one or more natural or
14 naturalized citizens and which family owned farm entity derived 80 percent or more
15 of its gross income from bona fide conservation uses, including earnings on
16 investments directly related to past or future bona fide conservation uses, within this
17 state within the year immediately preceding the year in which eligibility is sought;
18 provided, however, that in the case of a newly formed family farm entity, an estimate
19 of the income of such entity may be used to determine its eligibility;

20 (v) A bona fide nonprofit conservation organization designated under Section
21 501(c)(3) of the Internal Revenue Code; or

22 (vi) A bona fide club organized for pleasure, recreation, and other nonprofitable
23 purposes pursuant to Section 501(c)(7) of the Internal Revenue Code;

24 (D) Factors which may be considered in determining if such property is qualified may
25 include, but not be limited to:

26 (i) The nature of the terrain;

27 (ii) The density of the marketable product on the land;

28 (iii) The past usage of the land;

29 (iv) The economic merchantability of the agricultural product; and

30 (v) The utilization or nonutilization of recognized care, cultivation, harvesting, and
31 like practices applicable to the product involved and any implemented plans thereof;
32 and

33 (E) Such property shall, if otherwise qualified, include, but not be limited to, property
34 used for:

35 (i) Raising, harvesting, or storing crops;

36 (ii) Feeding, breeding, or managing livestock or poultry;

37 (iii) Producing plants, trees, fowl, or animals; or

1 (iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock,
2 poultry, and apiarian products; ~~or~~

3 (2) Not more than 2,000 acres of tangible real property, excluding the value of any
4 improvements thereon, of a single owner of the types of environmentally sensitive
5 property specified in this paragraph and certified as such by the Department of Natural
6 Resources, if the primary use of such property is its maintenance in its natural condition
7 and if such owner meets the qualifications of subparagraph (C) of paragraph (1) of this
8 subsection:

9 (A) Environmentally sensitive areas, including any otherwise qualified land area 1,000
10 feet or more above the lowest elevation of the county in which such area is located that
11 has a percentage slope, which is the difference in elevation between two points 500 feet
12 apart on the earth divided by the horizontal distance between those two points, of 25
13 percent or greater and shall include the crests, summits, and ridge tops which lie at
14 elevations higher than any such area;

15 (B) Wetland areas that are determined by the United States Army Corps of Engineers
16 to be wetlands under their jurisdiction pursuant to Section 404 of the federal Clean
17 Water Act, as amended, or wetland areas that are depicted or delineated on maps
18 compiled by the Department of Natural Resources or the United States Fish and
19 Wildlife Service pursuant to its National Wetlands Inventory Program;

20 (C) Significant ground-water recharge areas as identified on maps or data compiled by
21 the Department of Natural Resources;

22 (D) Undeveloped barrier islands or portions thereof as provided for in the federal
23 Coastal Barrier Resources Act, as amended;

24 (E) Habitats as certified by the Department of Natural Resources as containing species
25 that have been listed as either endangered or threatened under the federal Endangered
26 Species Act of 1973, as amended; and

27 (F) River corridors which shall be defined as those undeveloped lands adjacent to
28 rivers and perennial streams that are within the 100 year flood plain as depicted on
29 official maps prepared by the Federal Emergency Management Agency; or

30 (3)(A) Not more than 2,000 acres of tangible real property, including the value of any
31 improvements thereon, of a single owner of constructed storm water wetlands of the
32 free water surface type and of any of the designs specified in this subparagraph which
33 is suitable for such site if the primary use of such property is controlling or abating
34 pollution of surface or ground waters of this state by storm water runoff or otherwise
35 enhancing the water quality of surface or ground waters of this state and compliance
36 with such design and use requirements has been certified by the Environmental
37 Protection Division of the Department of Natural Resources in accordance with this

1 Code section. Such constructed storm water wetlands shall be of the shallow marsh,
2 extended detention wetland, pond/wetland system, or pocket wetland design, as such
3 designs are identified in United States Environmental Protection Agency, *Storm Water*
4 *Technology Factsheet: Storm Water Wetlands, EPA 832-F-99-025, September 1999,*
5 and further described as follows:

6 (i) Shallow marsh shall include a forebay deep enough to accept and hold anticipated
7 storm water runoff, a vegetated marsh area complete with redundant pollutant
8 removal pathways of adequate size to filter anticipated water volume, a micropool to
9 accept filtered water from the marsh area, and an approved outlet structure for outflow
10 of filtered water to nearby natural waterways;

11 (ii) Extended detention wetland shall be of the same design as a shallow marsh but
12 shall provide, by means of increased aquatic bench height (earthen embankment or
13 berm) surrounding the wetland, additional vertical water storage capability of at least
14 3 linear feet above the surface of the marsh;

15 (iii) Pond/wetland system shall include a forebay in the form of a pond of sufficient
16 size to accept and hold anticipated storm water runoff, a concrete spillway that will
17 release pond water to a plunge pool that will, in turn, release water to a vegetated
18 marsh zone with channels designed to slow the water flow to a level that will allow
19 adequate filtering of the water, and an approved outlet structure for outflow of filtered
20 water to nearby natural waterways; and

21 (iv) Pocket wetland shall include a reinforced swale that directs storm water runoff
22 to the vegetated marsh that will be of adequate size to accept anticipated storm water
23 runoff, a micropool that is of sufficient size to accept filtered water from the marsh
24 and that has been excavated to intercept groundwater to maintain a permanent pool,
25 and an approved outlet structure for outflow of filtered water to nearby natural
26 waterways.

27 (B) The Board of Natural Resources may adopt such rules or regulations as are
28 reasonable and necessary for purposes of this paragraph, including without limitation
29 additional specifications for any of the designs identified in subparagraph (A) of this
30 paragraph.

31 (a.1) For purposes of this article, the term 'conservation use assessment' means assessment
32 under subsection (c.2) of Code Section 48-5-7.

33 (b) The following additional rules shall apply to the qualification of conservation use
34 property for ~~current~~ conservation use assessment:

35 (1) When one-half or more of the area of a single tract of real property is used for a
36 qualifying purpose, then such tract shall be considered as used for such qualifying
37 purpose unless some other type of business is being operated on the unused portion;

1 provided, however, that such unused portion must be minimally managed so that it does
2 not contribute significantly to erosion or other environmental or conservation problems.
3 The lease of hunting rights or the use of the property for hunting purposes shall not
4 constitute another type of business;

5 (2) The owner of a tract, lot, or parcel of land totaling less than ten acres shall be
6 required by the tax assessor to submit additional relevant records regarding proof of bona
7 fide conservation use;

8 (3) No property shall qualify as bona fide conservation use property if such ~~current~~
9 conservation use assessment would result in any person who has a beneficial interest in
10 such property, including any interest in the nature of stock ownership, receiving in any
11 tax year any benefit of ~~current~~ conservation use assessment as to more than 2,000 acres.
12 If any taxpayer has any beneficial interest in more than 2,000 acres of tangible real
13 property which is devoted to bona fide conservation uses, such taxpayer shall apply for
14 ~~current~~ conservation use assessment only as to 2,000 acres of such land;

15 (4) No property shall qualify as bona fide conservation use property if it is leased to a
16 person or entity which would not be entitled to conservation use assessment;

17 (5) No property shall qualify as bona fide conservation use property under paragraph (1)
18 or (2) of subsection (a) of this Code section if such property is at the time of application
19 for ~~current~~ conservation use assessment subject to a restrictive covenant which prohibits
20 the use of the property for any purpose described in subparagraph (a)(1)(E) of this Code
21 section; and

22 (6) No otherwise qualified property shall be denied ~~current~~ conservation use assessment
23 on the grounds that no soil map is available for the county in which such property is
24 located; provided, however, that if no soil map is available for the county in which such
25 property is located, the owner making an application for ~~current~~ conservation use
26 assessment shall provide the board of tax assessors with a certified soil survey of the
27 subject property unless another method for determining the soil type of the subject
28 property is authorized in writing by such board.

29 (c) For purposes of this article, the term 'bona fide residential transitional property' means
30 not more than five acres of tangible real property of a single owner which is private
31 single-family residential owner occupied property located in a transitional developing area.
32 Such classification shall apply to all otherwise qualified real property which is located in
33 an area which is undergoing a change in use from single-family residential use to
34 agricultural, commercial, industrial, office-institutional, multifamily, or utility use or a
35 combination of such uses. Change in use may be evidenced by recent zoning changes,
36 purchase by a developer, affidavits of intent, or close proximity to property which has
37 undergone a change from single-family residential use. To qualify as residential transitional

1 property, the valuation must reflect a change in value attributable to such property's
2 proximity to or location in a transitional area.

3 (c.1) For purposes of this article, the term 'residential transitional property assessment'
4 means assessment under subsection (c.3) of Code Section 48-5-7.

5 (d) No property shall qualify for ~~current~~ conservation use assessment ~~under this Code~~
6 ~~section~~ or residential transitional property assessment unless and until the owner of such
7 property agrees by covenant with the appropriate taxing authority to maintain the eligible
8 property in bona fide qualifying use for a period of ten years beginning on the first day of
9 January of the year in which such property qualifies for such ~~current use~~ assessment and
10 ending on the last day of December of the final year of the covenant period. After the
11 owner has applied for and has been allowed ~~current use~~ such assessment ~~provided for in~~
12 ~~this Code section~~, it shall not be necessary to make application thereafter for any year in
13 which the covenant period is in effect and ~~current use~~ such assessment shall continue to be
14 allowed such owner as specified in this Code section. Upon the expiration of any covenant
15 period, the property shall not qualify for further ~~current use~~ such assessment ~~under this~~
16 ~~Code section~~ unless and until the owner of the property has entered into a renewal covenant
17 for an additional period of ten years.

18 (e) A single owner shall be authorized to enter into more than one covenant under this
19 Code section for bona fide conservation use property, provided that the aggregate number
20 of acres of qualified property of such owner to be entered into such covenants does not
21 exceed 2,000 acres. Any such qualified property may include a tract or tracts of land which
22 are located in more than one county. A single owner shall be authorized to enter qualified
23 property in a covenant for bona fide conservation use purposes and to enter simultaneously
24 the residence located on such property in a covenant for bona fide residential transitional
25 use if the qualifications for each such covenant are met. A single owner shall be authorized
26 to enter qualified property in a covenant for bona fide conservation use purposes and to
27 enter other qualified property of such owner in a covenant for bona fide residential
28 transitional use.

29 (f) An owner shall not be authorized to make application for and receive ~~current~~
30 conservation use assessment ~~under this Code section~~ for any property which at the time of
31 such application is receiving preferential assessment under Code Section 48-5-7.1 except
32 that such owner shall be authorized to change such preferential assessment covenant in the
33 manner provided for in subsection (s) of Code Section 48-5-7.1.

34 (g)(1) Except as otherwise provided in this subsection, no property shall maintain its
35 eligibility for ~~current~~ conservation use assessment ~~under this Code section~~ or residential
36 transitional property assessment unless a valid covenant remains in effect and unless the

1 property is continuously devoted to an applicable bona fide qualifying use during the
2 entire period of the covenant.

3 (2) No property shall maintain its eligibility for conservation use assessment as a bona
4 fide conservation use property as defined in paragraph (3) of subsection (a) of this Code
5 section unless the owner of such property files an annual inspection report from a
6 licensed professional engineer certifying that as of the date of such report the property is
7 being maintained in a proper state of repair so as to accomplish the objectives for which
8 it was designed. Such inspection report and certification shall be filed with the county
9 board of tax assessors on or before the last day for filing ad valorem tax returns in the
10 county for each tax year for which such assessment is sought.

11 (3) An owner shall be authorized to change the type of bona fide qualifying conservation
12 use of the property to another bona fide qualifying conservation use and the penalty
13 imposed by subsection (1) of this Code section shall not apply, but such owner shall give
14 notice of any such change in use to the board of tax assessors.

15 (h) If any breach of a covenant occurs, the existing covenant shall be terminated and all
16 qualification requirements must be met again before the property shall be eligible for
17 ~~current~~ conservation use assessment ~~under this Code section~~ or residential transitional
18 property assessment.

19 (i) If ownership of all or a part of the property is acquired during a covenant period by a
20 person or entity qualified to enter into an original covenant, then the original covenant may
21 be continued by such acquiring party for the remainder of the term, in which event no
22 breach of the covenant shall be deemed to have occurred.

23 (j)(1) All applications for ~~current~~ conservation use assessment ~~under this Code section~~
24 or residential transitional property assessment, including the covenant agreement required
25 under this Code section, shall be filed on or before the last day for filing ad valorem tax
26 returns in the county for the tax year for which such ~~current use~~ assessment is sought,
27 except that in the case of property which is the subject of a reassessment by the board of
28 tax assessors an application for ~~current~~ conservation use assessment or residential
29 transitional property assessment may be filed in conjunction with or in lieu of an appeal
30 of the reassessment. An application for continuation of such ~~current~~ conservation use
31 assessment or residential transitional property assessment upon a change in ownership
32 of all or a part of the qualified property shall be filed on or before the last date for filing
33 tax returns in the year following the year in which the change in ownership occurred.
34 Applications for ~~current~~ conservation use assessment ~~under this Code section~~ or
35 residential transitional property assessment shall be filed with the county board of tax
36 assessors who shall approve or deny the application. If the application is approved on or
37 after July 1, 1998, the county board of tax assessors shall file a copy of the approved

1 application in the office of the clerk of the superior court in the county in which the
 2 eligible property is located. The clerk of the superior court shall file and index such
 3 application in the real property records maintained in the clerk's office. Applications
 4 approved prior to July 1, 1998, shall be filed and indexed in like manner without payment
 5 of any fee. If the application is not so recorded in the real property records, a transferee
 6 of the property affected shall not be bound by the covenant or subject to any penalty for
 7 its breach. The fee of the clerk of the superior court for recording such applications
 8 approved on or after July 1, 1998, shall be paid by the owner of the eligible property with
 9 the application for preferential treatment and shall be paid to the clerk by the board of tax
 10 assessors when the application is filed with the clerk. If the application is denied, the
 11 board of tax assessors shall notify the applicant in the same manner that notices of
 12 assessment are given pursuant to Code Section 48-5-306 and shall return any filing fees
 13 advanced by the owner. Appeals from the denial of an application by the board of tax
 14 assessors shall be made in the same manner that other property tax appeals are made
 15 pursuant to Code Section 48-5-311.

16 (2) In the event such application is approved, the taxpayer shall continue to receive
 17 annual notification of any change in the fair market value of such property and any
 18 appeals with respect to such valuation shall be made in the same manner as other property
 19 tax appeals are made pursuant to Code Section 48-5-311.

20 (k)(1) The commissioner shall by regulation provide uniform application and covenant
 21 forms to be used in making application for current conservation use assessment ~~under this~~
 22 Code section or residential transitional property assessment.

23 (2) Such application shall include an oath or affirmation by the taxpayer that he or she
 24 is in compliance with the provisions of paragraphs (3) and (4) of subsection (b) of this
 25 Code section, if applicable.

26 (3) The Environmental Protection Division of the Department of Natural Resources shall
 27 not certify any property for purposes of paragraph (3) of subsection (a) of this Code
 28 section unless:

29 (A) The owner has submitted to the division:

30 (i) A plat of the tract in question prepared by a licensed land surveyor, showing the
 31 location and measured area of such tract;

32 (ii) A certification by a licensed professional engineer that the specific design used
 33 for the constructed storm water wetland was recommended by the engineer as suitable
 34 for such site after inspection and investigation; and

35 (iii) Information on the actual cost of constructing and estimated cost of operating the
 36 storm water wetland, including without limitation a description of all incorporated
 37 materials, machinery, and equipment; and

1 (B) An authorized employee or agent of the division has inspected the site before,
 2 during, and after construction of the storm water wetland to determine compliance with
 3 the requirements of paragraph (3) of subsection (a) of this Code section.

4 (l) A penalty shall be imposed under this subsection if during the period of the covenant
 5 entered into by a taxpayer the covenant is breached. The penalty shall be applicable to the
 6 entire tract which is the subject of the covenant and shall be twice the difference between
 7 the total amount of tax paid pursuant to ~~current~~ conservation use assessment ~~under this~~
 8 ~~Code section~~ or residential transitional property assessment and the total amount of taxes
 9 which would otherwise have been due under this chapter for each completed or partially
 10 completed year of the covenant period. Any such penalty shall bear interest at the rate
 11 specified in Code Section 48-2-40 from the date the covenant is breached.

12 (m) Penalties and interest imposed under this Code section shall constitute a lien against
 13 the property and shall be collected in the same manner as unpaid ad valorem taxes are
 14 collected. Such penalties and interest shall be distributed pro rata to each taxing jurisdiction
 15 wherein ~~current~~ conservation use assessment ~~under this Code section~~ or residential
 16 transitional property assessment has been granted based upon the total amount by which
 17 such ~~current-use~~ assessment has reduced taxes for each such taxing jurisdiction on the
 18 property in question as provided in this Code section.

19 (n) The penalty imposed by subsection (l) of this Code section shall not apply in any case
 20 where a covenant is breached solely as a result of:

- 21 (1) The acquisition of part or all of the property under the power of eminent domain;
- 22 (2) The sale of part or all of the property to a public or private entity which would have
 23 had the authority to acquire the property under the power of eminent domain; or
- 24 (3) The death of an owner who was a party to the covenant.

25 (o) The transfer of a part of the property subject to a covenant for a bona fide conservation
 26 use shall not constitute a breach of a covenant if:

- 27 (1) The part of the property so transferred is used for single-family residential purposes,
 28 starting within one year of the date of transfer and continuing for the remainder of the
 29 covenant period, and the residence is occupied by a person who is related within the
 30 fourth degree of civil reckoning to an owner of the property subject to the covenant; and
- 31 (2) The part of the property so transferred, taken together with any other part of the
 32 property so transferred to the same relative during the covenant period, does not exceed
 33 a total of five acres;

34 and in any such case the property so transferred shall not be eligible for a covenant for bona
 35 fide conservation use, but shall, if otherwise qualified, be eligible for ~~current-use~~
 36 ~~assessment~~ as residential transitional property assessment and the remainder of the property

1 from which such transfer was made shall continue under the existing covenant until a
2 terminating breach occurs or until the end of the specified covenant period.

3 (p) The following shall not constitute a breach of a covenant:

4 (1) Mineral exploration of the property subject to the covenant or the leasing of the
5 property subject to the covenant for purposes of mineral exploration if the primary use
6 of the property continues to be the good faith production from or on the land of
7 agricultural products;

8 (2) Allowing all or part of the property subject to the covenant to lie fallow or idle for
9 purposes of any land conservation program, for purposes of any federal agricultural
10 assistance program, or for other agricultural management purposes;

11 (3) Allowing all or part of the property subject to the covenant to lie fallow or idle due
12 to economic or financial hardship if the owner notifies the board of tax assessors on or
13 before the last day for filing a tax return in the county where the land lying fallow or idle
14 is located and if such owner does not allow the land to lie fallow or idle for more than
15 two years of any five-year period; or

16 (4)(A) Any property which is subject to a covenant for bona fide conservation use
17 being transferred to a place of religious worship or burial or an institution of purely
18 public charity if such place or institution is qualified to receive the exemption from ad
19 valorem taxation provided for under subsection (a) of Code Section 48-5-41. No person
20 shall be entitled to transfer more than 25 acres of such person's property in the
21 aggregate under this paragraph.

22 (B) Any property transferred under subparagraph (A) of this paragraph shall not be
23 used by the transferee for any purpose other than for a purpose which would entitle
24 such property to the applicable exemption from ad valorem taxation provided for under
25 subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration
26 of the term of the covenant period. Any such use or transfer shall constitute a breach
27 of the covenant.

28 (q) In the following cases, the penalty specified by subsection (l) of this Code section shall
29 not apply and the penalty imposed shall be the amount by which ~~current~~ conservation use
30 assessment or residential transitional property assessment has reduced taxes otherwise due
31 for the year in which the covenant is breached, such penalty to bear interest at the rate
32 specified in Code Section 48-2-40 from the date of the breach:

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

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

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

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

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

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

20 (r) Property which is subject to ~~current~~ conservation use assessment ~~under this Code~~
 21 ~~section~~ or residential transitional property assessment shall be separately classified from
 22 all other property on the tax digest; and such separate classification shall be such as will
 23 enable any person examining the tax digest to ascertain readily that the property is subject
 24 to ~~current use~~ such assessment ~~under this Code section~~. Covenants shall be public records
 25 and shall be indexed and maintained in such manner as will allow members of the public
 26 to locate readily the covenant affecting any particular property subject to ~~current~~
 27 conservation use assessment ~~under this Code section~~ or residential transitional property
 28 assessment. Based on information submitted by the county boards of tax assessors, the
 29 commissioner shall maintain a central registry of conservation use property, indexed by
 30 owners, so as to ensure that the 2,000 acre limitations of this Code section are complied
 31 with on a state-wide basis.

32 (s) The commissioner shall annually submit a report to the Governor, the Department of
 33 Agriculture, the Georgia Agricultural Statistical Service, the Georgia Forestry Commission,
 34 the Department of Natural Resources, and the University of Georgia Cooperative Extension
 35 Service and the House Ways and Means, Natural Resources and Environment, and
 36 Agriculture and Consumer Affairs committees and the Senate Finance and Public Utilities,
 37 Natural Resources, and Agriculture committees and shall make such report available to

1 other members of the General Assembly, which report shall show the fiscal impact of the
2 assessments provided for in this Code section and Code Section 48-5-7.5. The report shall
3 include the amount of assessed value eliminated from each county's digest as a result of
4 such assessments; approximate tax dollar losses, by county, to all local governments
5 affected by such assessments; and any recommendations regarding state and local
6 administration of this Code section and Code Section 48-5-7.5, with emphasis upon
7 enforcement problems, if any, attendant with this Code section and Code Section 48-5-7.5.
8 The report shall also include any other data or facts which the commissioner deems
9 relevant.

10 (t) A public notice containing a brief, factual summary of the provisions of this Code
11 section shall be posted in a prominent location readily viewable by the public in the office
12 of the board of tax assessors and in the office of the tax commissioner of each county in
13 this state.

14 (u) Property which is subject to a covenant under this Code section which was entered into
15 during the taxable year beginning January 1, 1992, may be changed from such covenant
16 and placed in a new covenant for bona fide conservation use under this Code section if
17 such property meets all of the requirements and conditions otherwise specified under this
18 Code section and if the owner files a written request with the board of tax assessors
19 indicating such owner's desire to exercise this termination option on or before the last day
20 for the payment of ad valorem taxes in such county for the taxable year beginning January
21 1, 1993, but not later than December 31, 1993. Any such change shall terminate the
22 covenant under this Code section, shall not constitute a breach of the covenant under this
23 Code section, and shall require the establishment of a new covenant period under this Code
24 section. No property may be changed under this subsection more than once.

25 (v) The commissioner shall continue to compute a table of values established under
26 subsection (a) of Code Section 48-5-269, in accordance with the law applicable to the tax
27 year beginning on January 1, 1992, to be used to value property entered into a covenant
28 during that tax year and the covenants valued thereunder for the remainder of the covenant
29 period applicable to such persons shall be known as '92-Style' conservation use covenants.
30 Such duty shall terminate with the tax year beginning January 1, 2001. With respect to any
31 county for which the 'A2' benchmark value for agricultural land in the table of values
32 established by the commissioner for the tax year beginning on January 1, 1993, exceeds by
33 50 percent or more the 'C2' benchmark value for cropland in the table of values established
34 by the commissioner for the tax year beginning on January 1, 1992, a person within such
35 county desiring to enter into a conservation use covenant for any taxable year beginning
36 on or after January 1, 1994, shall be authorized, at such person's option, to enter a 92-Style
37 conservation use covenant. A person entering such covenant shall be governed by the prior

1 law applicable to such covenants and the applicable table of values and such covenant shall
2 expire on December 31, 2001.

3 (w) At such time as the property ceases to be eligible for ~~current~~ conservation use
4 assessment or residential transitional property assessment or when any ten-year covenant
5 period expires and the property does not qualify for further ~~current use~~ such assessment,
6 the owner of the property shall file an application for release of ~~current use~~ such treatment
7 with the county board of tax assessors who shall approve the release upon verification that
8 all taxes and penalties with respect to the property have been satisfied. After the application
9 for release has been approved by the board of tax assessors, the board shall file the release
10 in the office of the clerk of the superior court in the county in which the original covenant
11 was filed. The clerk of the superior court shall file and index such release in the real
12 property records maintained in the clerk's office. No fee shall be paid to the clerk of the
13 superior court for recording such release. The commissioner shall by regulation provide
14 uniform release forms.

15 (x) Notwithstanding any other provision of this Code section to the contrary, in any case
16 where a renewal covenant is breached by the original covenantor or a transferee who is
17 related to that original covenantor within the fourth degree by civil reckoning, the penalty
18 otherwise imposed by subsection (l) of this Code section shall not apply if the breach
19 occurs during the sixth through tenth years of such renewal covenant, and the only penalty
20 imposed shall be the amount by which ~~current~~ conservation use assessment or residential
21 transitional property assessment has reduced taxes otherwise due for each year in which
22 such renewal covenant was in effect, plus interest at the rate specified in Code Section
23 48-2-40 from the date the covenant is breached."

24 SECTION 5.

25 Said chapter is further amended by striking Code Section 48-5-269, relating to authority to
26 promulgate certain rules and regulations and limits on change in current use value of
27 conservation use property, and inserting in lieu thereof the following:

28 "48-5-269.

29 (a) Subject to the limitations contained in Chapter 2 of this title, the commissioner may
30 promulgate rules and regulations specifically regarding this part, including, but not limited
31 to, the following:

32 (1) Prescription of the forms, books, and records to be used for standard property tax
33 reporting for all taxing units, including, but not limited to, the forms, books, and records
34 to be used in the listing, appraisal, and assessment of property and how the forms, books,
35 and records shall be compiled and kept;

1 (2) Prescription of the form and content of state-wide, uniform appraisal and assessment
2 forms, books, and manuals;

3 (3) Development and prescription of procedures under which property sales ratio surveys
4 shall be conducted; and

5 (4) Prescription of methods and procedures by which identification data, appraisal and
6 assessment data, sales data, and any other information relating to the appraisal and
7 assessment of property shall be furnished to the department using electronic data
8 processing systems and equipment.

9 (b) The commissioner shall promulgate after consultation with the Department of
10 Agriculture, the Georgia Agricultural Statistical Service, the Georgia Forestry Commission,
11 the Department of Natural Resources, and the Cooperative Extension Service, and county
12 tax officials shall follow uniform rules and regulations establishing a table of values for the
13 current use value of bona fide conservation use property as defined under paragraph (1) or
14 (2) of subsection (a) of Code Section 48-5-7.4. Such rules and regulations shall apply to
15 the evaluation of bona fide conservation use property, exclusive of any improvements
16 thereon, which improvements shall have their current use value determined as otherwise
17 provided by law. Such rules and regulations shall include, but not be limited to, the
18 following provisions and criteria:

19 (1) Sales data for arm's length, bona fide sales of comparable real property with and for
20 the same existing use and per-acre property values determined by the capitalization of net
21 income before property taxes, with sales data to be weighted 35 percent and income
22 capitalization values to be weighted 65 percent. All sales data shall be adjusted to remove
23 the influence of the size of the tract on the sales price of tracts below 50 acres in size.
24 Income capitalization values shall be derived from the respective conservation use
25 property classifications, with consideration given to productivity of the respective major
26 geological or geographical regions, and for this purpose:

27 (A) Net income before property taxes shall be determined for:

28 (i) Agricultural land by calculating a weighted average of all crop and pasture
29 acreage in each district as designated by paragraph (2) of this subsection in the
30 following manner:

31 (I) Crop land by calculating the five-year weighted average of per-acre net income
32 before property taxes from the major predominant acreage crops harvested in
33 Georgia, and as used in this subdivision, the term 'predominant acreage crops'
34 means the top acreage crops with production in no less than 125 counties of the
35 state; and

36 (II) Pasture property by calculating a five-year weighted average of per-acre rental
37 rates from pasture land; and

1 (ii) Forest property by calculating a five-year weighted average of per-acre net
2 income before property taxes from hardwood and softwood harvested in Georgia. For
3 purposes of this division, the term 'property taxes' shall not include the tax under Code
4 Section 48-5-7.5 which tax shall be considered in calculating net income; and

5 (B) The capitalization rate shall be based upon:

6 (i) The long-term financing rate available on January 1 from the Regional Federal
7 Land Bank located in Columbia, South Carolina, and published pursuant to 26 U.S.C.
8 Section 2032A(e)(7)(A)(ii), further referenced by regulations 26 C.F.R.
9 20.2032A-4(e);

10 (ii) The arithmetic mean of Federal Farm Credit bond yields, whose maturity is no
11 less than five years in the future, as published in the *Wall Street Journal* on January
12 1 or the most recent business day of the current year, rounded to the nearest
13 hundredth;

14 (iii) For the purpose of determining the income capitalization rate, divisions (i) and
15 (ii) of this subparagraph shall be given weighted influences of 80 percent and 20
16 percent, respectively; and

17 (iv) A property tax component which shall be the five-year average true tax rate for
18 the unincorporated area of each county located within the regions established by
19 paragraph (2) of this subsection;

20 (2) The state shall be divided into an appropriate grouping of the nine crop-reporting
21 districts as delineated by the Georgia Agricultural Statistical Service for the purpose of
22 determining any calculation under this subsection;

23 (3) In no event may the current use value of any conservation use property in the table
24 of values established by the commissioner under this subsection for the taxable year
25 beginning January 1, 1993, increase or decrease by more than 15 percent from its current
26 use value as set forth in the table of values established by the commissioner under this
27 subsection for the taxable year beginning January 1, 1992. In no event may the current
28 use value of any conservation use property in the table of values established by the
29 commissioner under this subsection for the taxable year beginning January 1, 1994, or
30 any subsequent taxable year increase or decrease by more than 3 percent from its current
31 use value as set forth in the table of values established by the commissioner under this
32 subsection for the immediately preceding taxable year; and

33 (4) Environmentally sensitive properties as certified by the Department of Natural
34 Resources shall be valued according to the average value determined for property of the
35 same or similar soil type, as determined under paragraphs (1) and (2) of this subsection.

36 (c) In no event may the current use value of any bona fide conservation use property as
37 defined under paragraph (1) or (2) of subsection (a) of Code Section 48-5-7.4 increase or

1 decrease during a covenant period by more than 3 percent from its current use value for the
2 previous taxable year or increase or decrease during a covenant period by more than 34.39
3 percent from the first year of the covenant period. The limitations imposed by this
4 subsection shall apply to the total value of all the bona fide conservation use property as
5 defined under paragraph (1) or (2) of subsection (a) of Code Section 48-5-7.4 that is the
6 subject of an individual covenant, including any improvements that meet the qualifications
7 set forth in paragraph (1) of subsection (a) of Code Section 48-5-7.4; provided, however,
8 that in the event the owner changes the use of any portion of the land or adds or removes
9 therefrom any such qualified improvements, the limitations imposed by this subsection
10 shall be recomputed as if the new uses and improvements were in place at the time the
11 covenant was originally entered."

12 **SECTION 6.**

13 This Act shall become effective on January 1, 2004, and shall apply to all taxable years
14 beginning on or after such date.

15 **SECTION 7.**

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