

House Bill 413 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 12-2-4 of the Official Code of Georgia Annotated, relating to powers and duties of the Department of Natural Resources, so as to provide for processing of applications for certification of certain conservation use property for ad valorem tax purposes; to amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to provide for preferential assessment of bona fide conservation use property consisting of certain constructed storm water wetlands; to provide for procedures, conditions, and limitations; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

SECTION 2.

Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, is amended by striking Code Section 48-5-7.4, relating to bona fide conservation use property and bona fide residential transitional property, and inserting in lieu thereof the following:

1 "48-5-7.4.

2 (a) For purposes of this article, the term 'bona fide conservation use property' means
3 property described in and meeting the requirements of paragraph (1) or (2) of this
4 subsection, as follows:

5 (1) Not more than 2,000 acres of tangible real property of a single owner, the primary
6 purpose of which is any good faith production, including, but not limited to, subsistence
7 farming or commercial production from or on the land of agricultural products or timber,
8 subject to the following qualifications:

9 (A) Such property includes the value of tangible property permanently affixed to the
10 real property which is directly connected to such owner's production of agricultural
11 products or timber and which is devoted to the storage and processing of such
12 agricultural products or timber from or on such real property;

13 (B) Such property excludes the entire value of any residence located on the property;

14 (C) ~~Such~~ Except as otherwise provided in division (vii) of this subparagraph, such
15 property must be owned by:

16 (i) One or more natural or naturalized citizens;

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

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

20 (iv) A family owned farm entity, such as a family corporation, a family partnership,
21 a family general partnership, a family limited partnership, a family limited
22 corporation, or a family limited liability company, all of the interest of which is
23 owned by one or more natural or naturalized citizens related to each other by blood
24 or marriage within the fourth degree of civil reckoning, except that, solely with
25 respect to a family limited partnership, a corporation, limited partnership, limited
26 corporation, or limited liability company may serve as a general partner of the family
27 limited partnership and hold no more than a 5 percent interest in such family limited
28 partnership, an estate of which the devisees or heirs are one or more natural or
29 naturalized citizens, or a trust of which the beneficiaries are one or more natural or
30 naturalized citizens and which family owned farm entity derived 80 percent or more
31 of its gross income from bona fide conservation uses, including earnings on
32 investments directly related to past or future bona fide conservation uses, within this
33 state within the year immediately preceding the year in which eligibility is sought;
34 provided, however, that in the case of a newly formed family farm entity, an estimate
35 of the income of such entity may be used to determine its eligibility;

36 (v) A bona fide nonprofit conservation organization designated under Section
37 501(c)(3) of the Internal Revenue Code;

(vi) A bona fide club organized for pleasure, recreation, and other nonprofitable purposes pursuant to Section 501(c)(7) of the Internal Revenue Code; or
(vii) In the case of constructed storm-water wetlands, any person may own such property.

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

- (i) The nature of the terrain;
- (ii) The density of the marketable product on the land;
- (iii) The past usage of the land;
- (iv) The economic merchantability of the agricultural product; and
- (v) The utilization or nonutilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof; and

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

- (i) Raising, harvesting, or storing crops;
- (ii) Feeding, breeding, or managing livestock or poultry;
- (iii) Producing plants, trees, fowl, or animals; or
- (iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products; or

(2) Not more than 2,000 acres of tangible real property, excluding the value of any improvements thereon, of a single owner of the types of environmentally sensitive property specified in this paragraph and certified as such by the Department of Natural Resources, if the primary use of such property is its maintenance in its natural condition or controlling or abating pollution of surface or ground waters of this state by storm-water runoff or otherwise enhancing the water quality of surface or ground waters of this state and if such owner meets the qualifications of subparagraph (C) of paragraph (1) of this subsection:

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

(B) Wetland areas that are determined by the United States Army Corps of Engineers to be wetlands under their jurisdiction pursuant to Section 404 of the federal Clean Water Act, as amended, or wetland areas that are depicted or delineated on maps

1 compiled by the Department of Natural Resources or the United States Fish and
2 Wildlife Service pursuant to its National Wetlands Inventory Program;

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

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

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

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

13 (G)(1) Constructed storm-water wetlands of the free-water surface type certified by the
14 Department of Natural Resources under subsection (k) of Code Section 12-2-4 and
15 approved for such use by the local governing authority.

16 (2) No property shall maintain its eligibility for current use assessment as a bona fide
17 conservation use property as defined in this subparagraph unless the owner of such
18 property files an annual inspection report from a licensed professional engineer certifying
19 that as of the date of such report the property is being maintained in a proper state of
20 repair so as to accomplish the objectives for which it was designed. Such inspection
21 report and certification shall be filed with the county board of tax assessors on or before
22 the last day for filing ad valorem tax returns in the county for each tax year for which
23 such assessment is sought.

24 (b) The Except in the case of the underlying portion of a tract of real property on which
25 is actually located a constructed storm-water wetlands, the following additional rules shall
26 apply to the qualification of conservation use property for current use assessment:

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

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

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

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

10 (5) No property shall qualify as bona fide conservation use property if such property is
11 at the time of application for current use assessment subject to a restrictive covenant
12 which prohibits the use of the property for any purpose described in subparagraph
13 (a)(1)(E) of this Code section; and

14 (6) No otherwise qualified property shall be denied current use assessment on the
15 grounds that no soil map is available for the county in which such property is located;
16 provided, however, that if no soil map is available for the county in which such property
17 is located, the owner making an application for current use assessment shall provide the
18 board of tax assessors with a certified soil survey of the subject property unless another
19 method for determining the soil type of the subject property is authorized in writing by
20 such board.

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

32 (d) No property shall qualify for current use assessment under this Code section unless and
33 until the owner of such property agrees by covenant with the appropriate taxing authority
34 to maintain the eligible property in bona fide qualifying use for a period of ten years
35 beginning on the first day of January of the year in which such property qualifies for such
36 current use assessment and ending on the last day of December of the final year of the
37 covenant period. After the owner has applied for and has been allowed current use

1 assessment provided for in this Code section, it shall not be necessary to make application
2 thereafter for any year in which the covenant period is in effect and current use assessment
3 shall continue to be allowed such owner as specified in this Code section. Upon the
4 expiration of any covenant period, the property shall not qualify for further current use
5 assessment under this Code section unless and until the owner of the property has entered
6 into a renewal covenant for an additional period of ten years.

7 (e) A single owner shall be authorized to enter into more than one covenant under this
8 Code section for bona fide conservation use property, provided that the aggregate number
9 of acres of qualified property of such owner to be entered into such covenants does not
10 exceed 2,000 acres. Any such qualified property may include a tract or tracts of land which
11 are located in more than one county. A single owner shall be authorized to enter qualified
12 property in a covenant for bona fide conservation use purposes and to enter simultaneously
13 the residence located on such property in a covenant for bona fide residential transitional
14 use if the qualifications for each such covenant are met. A single owner shall be authorized
15 to enter qualified property in a covenant for bona fide conservation use purposes and to
16 enter other qualified property of such owner in a covenant for bona fide residential
17 transitional use.

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

23 (g) Except as otherwise provided in this subsection, no property shall maintain its
24 eligibility for current use assessment under this Code section unless a valid covenant
25 remains in effect and unless the property is continuously devoted to an applicable bona fide
26 qualifying use during the entire period of the covenant. An owner shall be authorized to
27 change the type of bona fide qualifying conservation use of the property to another bona
28 fide qualifying conservation use and the penalty imposed by subsection (l) of this Code
29 section shall not apply, but such owner shall give notice of any such change in use to the
30 board of tax assessors.

31 (h) If any breach of a covenant occurs, the existing covenant shall be terminated and all
32 qualification requirements must be met again before the property shall be eligible for
33 current use assessment under this Code section.

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

(j)(1) All applications for current use assessment under this Code section, including the covenant agreement required under this Code section, shall be filed on or before the last day for filing ad valorem tax returns in the county for the tax year for which such current use assessment is sought, except that in the case of property which is the subject of a reassessment by the board of tax assessors an application for current use assessment may be filed in conjunction with or in lieu of an appeal of the reassessment. An application for continuation of such current use assessment upon a change in ownership of all or a part of the qualified property shall be filed on or before the last date for filing tax returns in the year following the year in which the change in ownership occurred. Applications for current use assessment under this Code section shall be filed with the county board of tax assessors who shall approve or deny the application. If the application is approved on or after July 1, 1998, the county board of tax assessors shall file a copy of the approved application in the office of the clerk of the superior court in the county in which the eligible property is located. The clerk of the superior court shall file and index such application in the real property records maintained in the clerk's office. Applications approved prior to July 1, 1998, shall be filed and indexed in like manner without payment of any fee. If the application is not so recorded in the real property records, a transferee of the property affected shall not be bound by the covenant or subject to any penalty for its breach. The fee of the clerk of the superior court for recording such applications approved on or after July 1, 1998, shall be paid by the owner of the eligible property with the application for preferential treatment and shall be paid to the clerk by the board of tax assessors when the application is filed with the clerk. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.

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

(k)(1) The commissioner shall by regulation provide uniform application and covenant forms to be used in making application for current use assessment under this Code section. Such application shall include an oath or affirmation by the taxpayer that he or she is in compliance with the provisions of paragraphs (3) and (4) of subsection (b) of this Code section, if applicable.

(2) The applicable local governing authority shall accept applications for approval of property for purposes of subparagraph (a)(2)(G) of this Code section and shall certify property to the local board of tax assessors as meeting or not meeting the criteria of such paragraph. The local governing authority shall not certify any property as meeting the criteria of subparagraph (a)(2)(G) of this Code section unless:

(A) The owner has submitted to the local governing authority:

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

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

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

(B) An authorized employee or agent of the local governing authority has inspected the site before, during, and after construction of the storm-water wetland to determine compliance with the requirements of subparagraph (a)(2)(G) of this Code section.

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

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

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

(1) The acquisition of part or all of the property under the power of eminent domain;

(2) The sale of part or all of the property to a public or private entity which would have had the authority to acquire the property under the power of eminent domain; or

(3) The death of an owner who was a party to the covenant.

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

(1) The part of the property so transferred is used for single-family residential purposes, starting within one year of the date of transfer and continuing for the remainder of the covenant period, and the residence is occupied by a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and

(2) The part of the property so transferred, taken together with any other part of the property so transferred to the same relative during the covenant period, does not exceed a total of five acres;

and in any such case the property so transferred shall not be eligible for a covenant for bona fide conservation use, but shall, if otherwise qualified, be eligible for current use assessment as residential transitional property and the remainder of the property from which such transfer was made shall continue under the existing covenant until a terminating breach occurs or until the end of the specified covenant period.

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

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

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

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

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

(B) Any property transferred under subparagraph (A) of this paragraph shall not be used by the transferee for any purpose other than for a purpose which would entitle such property to the applicable exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration

1 of the term of the covenant period. Any such use or transfer shall constitute a breach
2 of the covenant.

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

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

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

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

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

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

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

29 (r) Property which is subject to current use assessment under this Code section shall be
30 separately classified from all other property on the tax digest; and such separate
31 classification shall be such as will enable any person examining the tax digest to ascertain
32 readily that the property is subject to current use assessment under this Code section.
33 Covenants shall be public records and shall be indexed and maintained in such manner as
34 will allow members of the public to locate readily the covenant affecting any particular
35 property subject to current use assessment under this Code section. Based on information
36 submitted by the county boards of tax assessors, the commissioner shall maintain a central

1 registry of conservation use property, indexed by owners, so as to ensure that the 2,000
2 acre limitations of this Code section are complied with on a state-wide basis.

3 (s) The commissioner shall annually submit a report to the Governor, the Department of
4 Agriculture, the Georgia Agricultural Statistical Service, the Georgia Forestry Commission,
5 the Department of Natural Resources, and the University of Georgia Cooperative Extension
6 Service and the House Ways and Means, Natural Resources and Environment, and
7 Agriculture and Consumer Affairs committees and the Senate Finance and Public Utilities,
8 Natural Resources and Environment, and Agriculture and Consumer Affairs committees
9 and shall make such report available to other members of the General Assembly, which
10 report shall show the fiscal impact of the assessments provided for in this Code section and
11 Code Section 48-5-7.5. The report shall include the amount of assessed value eliminated
12 from each county's digest as a result of such assessments; approximate tax dollar losses,
13 by county, to all local governments affected by such assessments; and any
14 recommendations regarding state and local administration of this Code section and Code
15 Section 48-5-7.5, with emphasis upon enforcement problems, if any, attendant with this
16 Code section and Code Section 48-5-7.5. The report shall also include any other data or
17 facts which the commissioner deems relevant.

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

22 (u) ~~Property which is subject to a covenant under this Code section which was entered into~~
23 ~~during the taxable year beginning January 1, 1992, may be changed from such covenant~~
24 ~~and placed in a new covenant for bona fide conservation use under this Code section if~~
25 ~~such property meets all of the requirements and conditions otherwise specified under this~~
26 ~~Code section and if the owner files a written request with the board of tax assessors~~
27 ~~indicating such owner's desire to exercise this termination option on or before the last day~~
28 ~~for the payment of ad valorem taxes in such county for the taxable year beginning January~~
29 ~~1, 1993, but not later than December 31, 1993. Any such change shall terminate the~~
30 ~~covenant under this Code section, shall not constitute a breach of the covenant under this~~
31 ~~Code section, and shall require the establishment of a new covenant period under this Code~~
32 ~~section. No property may be changed under this subsection more than once. Reserved.~~

33 (v) ~~The commissioner shall continue to compute a table of values established under~~
34 ~~subsection (a) of Code Section 48-5-269, in accordance with the law applicable to the tax~~
35 ~~year beginning on January 1, 1992, to be used to value property entered into a covenant~~
36 ~~during that tax year and the covenants valued thereunder for the remainder of the covenant~~
37 ~~period applicable to such persons shall be known as '92-Style' conservation use covenants.~~

~~Such duty shall terminate with the tax year beginning January 1, 2001. With respect to any county for which the 'A2' benchmark value for agricultural land in the table of values established by the commissioner for the tax year beginning on January 1, 1993, exceeds by 50 percent or more the 'C2' benchmark value for cropland in the table of values established by the commissioner for the tax year beginning on January 1, 1992, a person within such county desiring to enter into a conservation use covenant for any taxable year beginning on or after January 1, 1994, shall be authorized, at such person's option, to enter a 92-Style conservation use covenant. A person entering such covenant shall be governed by the prior law applicable to such covenants and the applicable table of values and such covenant shall expire on December 31, 2001. Reserved.~~

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

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

SECTION 3.

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

SECTION 4.

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