

Senate Bill 356

By: Senator Meyer von Bremen of the 12th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To provide for a registry of offsetting reductions in greenhouse gases obtained by carbon
2 sequestration; to provide legislative findings and declarations; to amend Chapter 6 of Title
3 12 of the Official Code of Georgia Annotated, relating to forest resources and other plant life,
4 so as to enact the "Georgia Carbon Sequestration Registry Act"; to provide a short title; to
5 define certain terms; to establish the Georgia Carbon Sequestration Registry; to provide for
6 purposes of the registry; to provide for functions; to provide for procedures and protocols;
7 to provide for construction; to provide for voluntary participation; to provide for reporting
8 procedures; to provide for standardized forms and software; to provide for third-party
9 verification of accuracy of results; to provide for reports to the General Assembly and
10 Governor; to provide for related matters; to provide contingent effective dates; to repeal
11 conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 The General Assembly finds and declares the following:

- 15 (1) It is in the best interest of this state to monitor and encourage voluntary actions to
16 achieve all economically beneficial reductions of "greenhouse gas" emissions, including
17 without limitation carbon dioxide, from Georgia sources;
- 18 (2) Automobile emissions, primarily carbon dioxide, have been found to be a major
19 contributor to air pollution in the state;
- 20 (3) Carbon is removed from the air by healthy forests through the process of
21 photosynthesis and is sequestered in trees that grow in this state, and additional carbon
22 can also be sequestered through agricultural practices;
- 23 (4) This state's traditions of leadership in forestry and agriculture can be utilized to
24 monitor and encourage voluntary reductions in atmospheric carbon dioxide through
25 carbon sequestration in trees and agricultural crop management;

1 (5) Such voluntary offsetting of greenhouse gas emissions can be recognized and
 2 monitored through the establishment of a registry to provide documentation of offsets
 3 voluntarily achieved through carbon sequestration. Such a registry can provide
 4 participants an opportunity to register carbon sequestration information in a consistent
 5 format using publicly reviewed and adopted procedures and protocols;

6 (6) Markets for sequestered carbon credits are developing around the world, and a secure
 7 and reliable means for recording credits and credit transactions is necessary to facilitate
 8 the development of these markets in Georgia;

9 (7) The state should use its best efforts to ensure that persons who voluntarily inventory
 10 emissions offsets receive appropriate consideration for changes in emissions quantities
 11 made prior to the implementation of any mandatory greenhouse gas emissions reductions
 12 programs;

13 (8) The state hereby commits to use its best efforts to ensure that participants that register
 14 emissions offsets achieved through carbon sequestrations that are certified in accordance
 15 with this Act receive appropriate consideration under any future international, federal, or
 16 state regulatory scheme relating to greenhouse gas emissions. The state cannot guarantee
 17 that any regulatory regime relating to greenhouse gas emissions will recognize the results
 18 recorded in the registry; and

19 (9) The state hereby commits to review future international or federal programs related
 20 to greenhouse gas emissions and to make reasonable efforts to promote consistency
 21 between the state programs and such other programs and to reduce the reporting burden
 22 on participants, if changes to the state program are consistent with the goals and intent
 23 of this Act.

24 **SECTION 2.**

25 Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to forest resources
 26 and other plant life, is amended by inserting a new article to read as follows:

27 "ARTICLE 5

28 12-6-220.

29 This article shall be known and may be cited as the 'Georgia Carbon Sequestration Registry
 30 Act.'

31 12-6-221.

32 As used in this article, the term:

1 (1) 'Carbon sequestration results' means the participant's applicable data on the removal
2 of carbon dioxide from the atmosphere by sinks resulting from:

3 (A) Direct human-induced land use change or forestry activities in this state, to the
4 extent consistent with the provisions of Article 3.3 of the Kyoto Protocol to the United
5 Nations Framework Convention on Climate Change;

6 (B) Additional human-induced activities in this state related to removal by sinks in
7 land use change and forestry categories, to the extent consistent with the provisions of
8 Article 3.4 of the Kyoto Protocol to the United Nations Framework Convention on
9 Climate Change;

10 (C) Additional human-induced activities in this state related to removal by sinks in
11 agricultural soils, to the extent consistent with the provisions of Article 3.4 of the Kyoto
12 Protocol to the United Nations Framework Convention on Climate Change; and

13 (D) Such other human-induced activities in this state related to removals by sinks as
14 approved by rule or regulation of the commission.

15 (2) 'Certification' means the determination of whether a given participant's carbon
16 sequestration result has met a minimum quality standard and complied with an
17 appropriate set of approved procedures and protocols for submitting carbon sequestration
18 information.

19 (3) 'Commission' means the State Forestry Commission.

20 (4) 'Director' means the director of the State Forestry Commission.

21 (5) 'Forest' means lands that support, or can support, at least 10 percent tree canopy cover
22 and that allow for management of one or more forest resources including but not limited
23 to timber, fish and wildlife, biodiversity, water quality, air quality, soil conservation,
24 recreation, aesthetics, or other benefits.

25 (6) 'Greenhouse gases' means carbon dioxide, methane, nitrous oxide,
26 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

27 (7) 'Native forest' means a forest type, natural or artificially regenerated, composed of
28 any one or more tree species identified as native to this state in G. Norman Bishop, *Native*
29 *Trees of Georgia* (Georgia Forestry Commission 2000 revised edition), including without
30 limitation improved stock of such tree species developed through breeding programs.

31 (8) 'Participant' or 'registry participant' means a registrant of carbon sequestration results
32 with the Georgia Carbon Sequestration Registry provided for by this article.

33 (9) 'Sink' means an ecosystem or crop or product thereof that absorbs or has absorbed
34 carbon, thereby removing it from the atmosphere and offsetting emissions of carbon
35 dioxide.

1 12-6-222.

2 The commission shall establish and maintain a Georgia Carbon Sequestration Registry.

3 12-6-223.

4 The purpose of the Georgia Carbon Sequestration Registry shall be to do all of the
5 following:

6 (1) Encourage voluntary actions to reduce greenhouse gas emissions;

7 (2) Enable participants to voluntarily record carbon sequestrations made after January
8 1, 1990, in a consistent format that is certified;

9 (3) Ensure that sources in the state receive appropriate consideration for certified carbon
10 sequestration results under any future federal or international regulatory regime relating
11 to greenhouse gas emissions;

12 (4) Recognize, publicize, and promote participants in the registry; and

13 (5) Recruit broad participation in the process from all economic sectors and regions of
14 the state.

15 12-6-224.

16 For purposes of the registry, the commission shall:

17 (1)(A) Adopt rules or regulations providing procedures and protocols for the
18 monitoring, estimating, calculating, reporting, and certification of carbon sequestration
19 results for purposes of participation in the registry.

20 (B) Procedures and protocols relative to forestry activities that are reported as a
21 participant's carbon sequestration results under subparagraph (A) of paragraph (1) of
22 Code Section 12-6-221 shall require, at a minimum, that those forestry activities meet
23 the following criteria in order to be reported as any part of a participant's carbon
24 sequestration results:

25 (i) Forestry activities shall be based on forest management practices within a defined
26 project area that meet or exceed *Georgia's Best Management Practices for Forestry*
27 as published by the commission and that are not the subject of any ongoing
28 remediation or penalty pursuant to judicial or administrative judgment or order for
29 violation of any applicable requirements of federal, state, or local land use laws,
30 regulations, or ordinances. Best management practices and federal, state, or local land
31 use laws, regulations, or ordinances shall be those in effect each time a participant
32 registers a defined project area in the registry;

33 (ii) Forestry activities reported as carbon sequestration results shall reflect the amount
34 of time that net carbon gains are stored; and

35 (iii) Forestry activities shall maintain and promote native forests.

1 (C) Procedures and protocols relative to sinks in agricultural soils that are reported as
2 a participant's carbon sequestration results under subparagraph (C) of paragraph (1) of
3 Code Section 12-6-221 shall be adopted by the commission in accordance with the
4 recommendation of the Commissioner of Agriculture.

5 (D) The commission shall consider the availability and suitability of simplified
6 techniques and tools when adopting procedures and protocols for the certification of
7 carbon sequestration results.

8 (E) The procedures and protocols adopted by the commission shall include a uniform
9 format for reporting carbon sequestration results to facilitate their recognition in any
10 future regulatory regime;

11 (2) Qualify third-party organizations that have the capability to certify reported baseline
12 carbon sequestration results and that are capable of certifying the participant-reported
13 results as provided in this article;

14 (3) Maintain a record of all certified carbon sequestration results reported by registry
15 participants. The public shall have access to such record, except for any portion of the
16 data or information that is required to be kept confidential pursuant to Code Section
17 50-18-72; and

18 (4) Encourage organizations and individuals from various sectors of the state's economy,
19 and those from various geographic regions of the state, to report carbon sequestration
20 results.

21 12-6-225.

22 (a) The procedures and protocols for monitoring, estimating, calculating, reporting, and
23 certifying carbon sequestration results established by, or approved pursuant to, this article
24 shall be the only procedures and protocols recognized by the state for the purposes of the
25 registry as described in Code Section 12-6-223.

26 (b) The commission shall by rule or regulation establish a schedule of fees for participants
27 in the registry, in such amounts as are sufficient to cover the reasonable and necessary costs
28 of operation of the registry.

29 12-6-226.

30 Procedures and protocols adopted pursuant to subparagraph (B) of paragraph (1) of Code
31 Section 12-6-224 shall not be interpreted or construed as a condition for any lease, permit,
32 license, certificate, or other entitlement for an ongoing use of forest land.

33 12-6-227.

34 Participation in the registry shall be voluntary, and participants may withdraw at any time.

1 12-6-228.

2 (a) Participants shall initially report their certified carbon sequestration results for the most
3 recent year for which they have complete data as specified in this article. Participants that
4 have complete data for earlier years that can be certified may establish their baseline as any
5 year beginning on or after January 1, 1990. After establishing baseline results, participants
6 shall report their certified carbon sequestration results in each subsequent year in order to
7 show changes with respect to their baseline year. Participants may report carbon
8 sequestration results without establishing a baseline. Certified carbon sequestration results
9 reported to the registry by a participant shall be credited in carbon mass units to an account
10 established for the participant in the registry.

11 (b)(1) Registry credits for certified carbon sequestration results may be sold, purchased,
12 or otherwise transferred in whole or in part without any regard to or effect on or being
13 affected by ownership of other personal property or any real property, and such credits
14 may be retained in whole or in part without any regard to or effect on or being affected
15 by any sale, purchase, or other transfer of other personal property or any real property.

16 (2) In addition to annual reports submitted pursuant to subsection (a) of this Code
17 section, participants shall report to the registry any sales, purchases, or other transfers of
18 registry credits for certified carbon sequestration results, in whole or in part, within ten
19 days after the completion of such transaction, and participants' registry accounts shall be
20 updated to reflect such transfers.

21 (c) The basic unit of participation in the registry shall be a natural person or a legal entity
22 in its entirety such as a corporation or other legally constituted body, a city or county, or
23 a state government agency.

24 12-6-229.

25 To support the estimation, calculation, reporting, and certification of carbon sequestration
26 results in a consistent format, the commission shall adopt standardized forms that all
27 participants shall use to calculate, report, and certify emissions results, unless an alternative
28 format is:

29 (1) Reviewed and recommended by the director; and

30 (2) Adopted by the commission and deemed to be consistent with the goals and intent
31 of this article.

32 12-6-230.

33 (a) Participants registering baseline carbon sequestration results in the registry shall
34 provide certification of their methodologies and results. The commission may, upon
35 recommendation of the director, following a public process, adopt simplified procedures

1 to certify carbon sequestration results as appropriate. Participants shall follow
2 commission-approved procedures and protocols in determining carbon sequestration results
3 and supply the quantity and quality of information necessary to allow an independent ex
4 post certification of the baseline results reported under this program.

5 (b) The commission shall provide a list of approved third-party organizations recognized
6 as competent to certify carbon sequestration results as provided in this article. The
7 commission shall reopen the qualification process periodically in order for new
8 organizations to be added to the approved list.

9 (c) Where required for certification, organizations approved pursuant to subsection (b) of
10 this Code section shall do all of the following:

11 (1) Evaluate whether the participant has a program, consistent with commission-approved
12 procedures and protocols, in place for preparation and submittal of the information
13 reported under this article;

14 (2) Check, during certification, the reasonableness of the carbon sequestration
15 information being reported for a random sample of estimates or calculations; and

16 (3) Summarize its review in a report to the board of directors, or equivalent governing
17 body, of the participating legal entity or to the participating natural person, attesting to
18 the existence of a program that is consistent with commission-approved procedures and
19 protocols and the reasonableness of the reported carbon sequestration results and noting
20 any exceptions, omissions, limitations, or other qualifications to their representations.

21 (d) In conducting certification for a participant under this program, the approved
22 organization shall schedule any meeting or meetings with the participant with a minimum
23 of one week's notice at one or more representative locations and allow the participant to
24 control property access. The meetings shall be conducted in accordance with a protocol that
25 is agreed upon in advance by the participant and the approved organization. The approved
26 organization shall not perform property inspection, direct measurement, monitoring, or
27 testing unless authorized by the participant.

28 (e) To ensure the integrity and constant improvement of the registry program, the
29 commission shall perform on a random basis an occasional review and evaluation of
30 participants' carbon sequestration reporting, certifications, and the reasonableness of the
31 information being reported for analysis of estimates or calculations. The director shall
32 report any findings in writing. The director shall include a summary of these findings in
33 the biennial report to the Governor and the General Assembly required by Code Section
34 12-6-231.

1 12-6-231.

2 Not later than July 1, 2006, and biennially thereafter, the director shall report to the
3 Governor and the General Assembly on the number of participants in the registry, the
4 amounts of carbon sequestered by those participants, and ways to make the registry more
5 workable for participants that are consistent with the goals and intent of this article.

6 12-6-232.

7 The commission shall do all of the following:

8 (1) Develop a process for qualifying third-party organizations recognized by the state as
9 competent to certify the carbon sequestration results of the types of natural persons or
10 legal entities that may choose to participate in this registry, by doing all of the following:

11 (A) Developing a list of the minimum technical and organizational capabilities and
12 other qualification standards that approved third-party organizations shall meet. Those
13 qualifications shall include the ability to sign an opinion letter, for which they may be
14 held financially at risk, and certifying the participant-reported carbon sequestration
15 results as provided in this article. Such capabilities and standards for third-party
16 organizations related to certification of carbon sequestration results achieved by sinks
17 in agricultural soils under subparagraph (C) of paragraph (1) of Code Section 12-6-221
18 shall be adopted by the commission in accordance with the recommendation of the
19 Commissioner of Agriculture;

20 (B) Publicizing an applications process or otherwise encouraging interested
21 organizations to submit their qualifications for review;

22 (C) Evaluating applicant organizations according to the list of qualifications described
23 in subparagraph (A) of this paragraph;

24 (D) Determining specific third-party organizations as qualified to certify participants'
25 actual carbon sequestration results in accordance with this article; and

26 (E) Periodically updating the list of approved third-party organizations by doing any
27 of the following:

28 (i) Reviewing the capabilities of approved organizations;

29 (ii) Reviewing applications of organizations seeking to become approved; and

30 (iii) Determining specific organizations to be added to the approved list and specific
31 organizations no longer qualified to perform the duties of this article;

32 (2) Occasionally, and on a random basis, provide for commission employees to
33 accompany third-party organizations on scheduled visits to observe and evaluate, during
34 any certification visit, both the following:

- 1 (A) Whether the participant has a program, consistent with commission-approved
2 procedures and protocols, in place for the preparation and submittal of the information
3 required under this article; and
- 4 (B) The reasonableness of the carbon sequestration information being reported for a
5 sample of estimates or calculations; and
- 6 (3) Review future international or federal programs related to greenhouse gas emissions
7 and make reasonable efforts to promote consistency between the state program and these
8 programs and to reduce the reporting burden on participants."

9 **SECTION 3.**

10 This Act shall become effective only upon the specific appropriation of funds for purposes
11 of this Act as expressed in a line item of an appropriations Act enacted by the General
12 Assembly as follows:

- 13 (1) This Act shall become effective for purposes of promulgating rules and regulations
14 on the effective date of such appropriation; and
- 15 (2) This Act shall become effective for all other purposes one year thereafter.

16 **SECTION 4.**

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