

House Bill 1416

By: Representatives Lane of the 101st, Royal of the 140th, Porter of the 119th, Ray of the 108th, Jenkins of the 93rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to ad valorem taxation of property, so as to change
3 certain provisions relating to bona fide conservation use property, residential transitional
4 property, application procedures, penalties for breach of covenant, classification on tax
5 digest, and annual report; to expressly include certain property devoted to production of
6 wildlife by maintaining wildlife habitat within the meaning of bona fide conservation use
7 property; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to
11 general provisions relative to ad valorem taxation of property, is amended in Code Section
12 48-5-7.4, relating to bona fide conservation use property, residential transitional property,
13 application procedures, penalties for breach of covenant, classification on tax digest, and
14 annual report, by striking the undesignated introductory paragraph and paragraph (1) of
15 subsection (a) and inserting in lieu thereof the following:

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

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

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

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

2 (C) Except as otherwise provided in division (vii) of this subparagraph, such property
3 must be owned by:

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

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

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

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

24 (v) A bona fide nonprofit conservation organization designated under Section
25 501(c)(3) of the Internal Revenue Code;

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

28 (vii) In the case of constructed storm-water wetlands, any person may own such
29 property;

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

32 (i) The nature of the terrain;

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

34 (iii) The past usage of the land;

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

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

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

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

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

8 (iii) Producing plants, trees, fowl, or animals, including without limitation the
9 production of wildlife by maintaining wildlife habitat either in its natural state or
10 under management, which shall be deemed a type of agriculture; or

11 (iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock,
12 poultry, and apiarian products; or"

13 **SECTION 2.**

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