

House Bill 1416 (AS PASSED HOUSE AND SENATE)

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 provide for additional circumstances where a covenant may be renewed or
8 reentered where certain qualifying uses have been discontinued and the property's primary
9 use is maintenance of a wildlife habitat; to provide for conditions and limitations; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

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

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

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

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

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

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

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

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

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

28 (v) A bona fide nonprofit conservation organization designated under Section
29 501(c)(3) of the Internal Revenue Code;

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

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

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

36 (i) The nature of the terrain;

37 (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, including without limitation the production of fish or wildlife by maintaining not less than ten acres of wildlife habitat either in its natural state or under management, which shall be deemed a type of agriculture; provided, however, that no form of commercial fishing or fish production shall be considered a type of agriculture;

or

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

SECTION 1A.

Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, is amended by adding a new paragraph immediately following paragraph (2) of subsection (a), to be designated paragraph (2.1), to read as follows:

"(2.1) Notwithstanding any other provision of this Code section to the contrary, in the case of property which otherwise meets the requirements for current use assessment and the qualifying use is pursuant to division (1)(E)(iii) of this subsection, when the owner seeks to renew the covenant or reenter a covenant subsequent to the termination of a previous covenant which met such requirements and the owner meets the qualifications under this Code section but the property is no longer being used for the qualified use for which the previous covenant was entered pursuant to division (1)(E)(iii) of this subsection, the property is not environmentally sensitive property within the meaning of paragraph (2) of this subsection, and the primary use of the property is maintenance of a wildlife habitat of not less than ten acres either by maintaining the property in its natural condition or under management, the county board of tax assessors shall be required to accept such use as a qualifying use for purposes of this Code section."

SECTION 2.

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