

House Bill 98 (AS PASSED HOUSE AND SENATE)

By: Representatives Golick of the 34<sup>th</sup>, Roberts of the 154<sup>th</sup>, Smith of the 70<sup>th</sup>, and Jones of the 46<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 22 of Title 36 of the Official Code of Georgia Annotated, relating to  
2 community greenspace preservation, so as to provide a short title; to provide for state and  
3 local government activities with respect to land conservation; to state legislative intent; to  
4 define terms; to create the Georgia Land Conservation Council and provide for its  
5 membership, powers, duties, and operations; to provide for a land conservation program; to  
6 create the Georgia Land Conservation Trust Fund and to create the Georgia Land  
7 Conservation Revolving Loan Fund and provide for sources of funding, as well as grants and  
8 other disbursements from said funds; to provide for eligibility for and award and  
9 disbursement of grants to counties, cities, and the Department of Natural Resources; to  
10 authorize the Department of Natural Resources to provide for management of property so  
11 acquired; to provide for promulgation of certain rules and regulations by the Georgia  
12 Environmental Facilities Authority; to encourage partnerships with the private sector; to  
13 provide for the transfer of funds from the Georgia Greenspace Trust Fund to the Georgia  
14 Land Conservation Trust Fund; to amend Code Section 50-13-2 of the Official Code of  
15 Georgia Annotated, relating to definitions relative to Chapter 13 of Title 50, the "Georgia  
16 Administrative Procedure Act," so as to redefine a term; to provide for related matters; to  
17 provide an effective date; to repeal conflicting laws; and for other purposes.

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

19 **SECTION 1.**

20 This Act shall be known and may be cited as the "Georgia Land Conservation Act."

21 **SECTION 2.**

22 Chapter 22 of Title 36 of the Official Code of Georgia Annotated, relating to community  
23 greenspace preservation, is amended by striking the chapter in its entirety and inserting in  
24 lieu thereof a new Chapter 22 to read as follows:

## "CHAPTER 22

36-22-1.

The intent of this chapter is to provide a flexible framework within which ~~populous and rapidly growing~~ cities and counties in this state, the Department of Natural Resources, other state and federal agencies, and private partners can develop a program of community greenspace preservation. The General Assembly recognizes that the unique characteristics of each region throughout the state preclude a mandated legislative outcome for the preservation of greenspace in every region protect the state's valuable natural resources. The General Assembly recognizes that the state-wide network of land and water resources, the state's prime agricultural and forestry lands and its natural, cultural, historic, and recreational areas are a priceless legacy that enhance the health of ecosystems, encourage working landscapes, foster natural resource stewardship, sustain a healthy economy, and promote a sustainable high quality of life for current and future generations of Georgians. The process provided by this chapter is intended to promote adoption in developed and rapidly developing areas of policies, rules, and regulations which will have the effect of preserving at least 20 percent of the land area as connected and open greenspace which can be utilized for informal recreational activities and protection of natural resources partnerships for the conservation of land resources that are identified by cities or counties as locally valuable or identified by the Department of Natural Resources as having state-wide significance. This chapter will also provide a resource of land conservation funding for preservation of such greenspace options, which will augment currently available local, state, and federal funding.

36-22-2.

As used in this chapter, the term:

- (1) ~~'Commission'~~ means the Georgia Greenspace Commission established by this chapter; 'Authority' means the Georgia Environmental Facilities Authority established in Code Section 50-23-3.
- (2) 'City' means a statutorily established municipal government.
- (3) 'Community land conservation project' means a conservation land project sponsored by cities and counties in this state to accomplish strategic investment in protection of locally identified land resources with high environmental values or conservation benefits.
- (4) 'Conservation easement' means a conservation easement established in accordance with Code Section 44-10-2.

1 (5) 'Conservation land' means permanently protected land and water, or interests therein,  
 2 that is in its undeveloped, natural state or that has been developed only to the extent  
 3 consistent with, or is restored to be consistent with, one or more of the following goals:

4 (A) Water quality protection for rivers, streams, and lakes;

5 (B) Flood protection;

6 (C) Wetlands protection;

7 (D) Reduction of erosion through protection of steep slopes, areas with erodible soils,  
 8 and stream banks;

9 (E) Protection of riparian buffers and other areas that serve as natural habitat and  
 10 corridors for native plant and animal species;

11 (F) Protection of prime agricultural and forestry lands;

12 (G) Protection of cultural sites, heritage corridors, and archaeological and historic  
 13 resources;

14 (H) Scenic protection;

15 (I) Provision of recreation in the form of boating, hiking, camping, fishing, hunting,  
 16 running, jogging, biking, walking, and similar outdoor activities; and

17 (J) Connection of existing or planned areas contributing to the goals set out in this  
 18 paragraph.

19 (6) 'Costs of acquisition' means all direct costs of activities which are required by  
 20 applicable state laws and local ordinances or policies in order to obtain fee simple or  
 21 lesser interests in real property or to convey a conservation easement to a holder who will  
 22 ensure the permanent protection of the property as conservation land. Said costs shall  
 23 include the purchase price, if any; the costs of due diligence investigation, such as  
 24 appraisals, surveys, phase 1 environmental reports, and title searches; title insurance; fees  
 25 for services related to the direct acquisition of the real property, such as holding costs,  
 26 overhead costs, finder's fees, and real estate commissions; attorney fees; pro rata ad  
 27 valorem taxes; resource stewardship; and other costs related to closing the transaction;  
 28 provided, however, that said costs shall not include any costs for services provided in  
 29 violation of Chapter 40 of Title 43.

30 (7) 'Council' means the Georgia Land Conservation Council established by this chapter.

31 (8) 'County' shall include consolidated county and municipal governments as well as a  
 32 county.

33 ~~(3) 'Greenspace' means permanently protected land and water, including agricultural and~~  
 34 ~~forestry land, that is in its undeveloped, natural state or that has been developed only to~~  
 35 ~~the extent consistent with, or is restored to be consistent with, one or more of the~~  
 36 ~~following goals:~~

37 ~~(A) Water quality protection for rivers, streams, and lakes;~~

1 ~~(B) Flood protection;~~

2 ~~(C) Wetlands protection;~~

3 ~~(D) Reduction of erosion through protection of steep slopes, areas with erodible soils,~~  
4 ~~and stream banks;~~

5 ~~(E) Protection of riparian buffers and other areas that serve as natural habitat and~~  
6 ~~corridors for native plant and animal species;~~

7 ~~(F) Scenic protection;~~

8 ~~(G) Protection of archaeological and historic resources;~~

9 ~~(H) Provision of recreation in the form of boating, hiking, camping, fishing, hunting,~~  
10 ~~running, jogging, biking, walking, and similar outdoor activities; and~~

11 ~~(I) Connection of existing or planned areas contributing to the goals set out in this~~  
12 ~~paragraph.~~

13 (9) 'Department' means the Georgia Department of Natural Resources established in  
14 Code Section 12-2-1.

15 (10) 'Permanently protected land and water' means those resources:

16 (A) Owned by the federal government and designated for recreation, conservation, or  
17 natural resource;

18 (B) Owned by the State of Georgia and dedicated as a heritage preserve;

19 (C) Owned by a state or local unit of government or authority and subject to:

20 (i) A conservation easement that ensures that the land will be maintained as  
21 conservation land;

22 (ii) Contractual arrangements that ensure that, if the protected status is discontinued  
23 on a parcel, such property will be replaced by other conservation land which at the  
24 time of such replacement is of equal or greater monetary and resource protection  
25 value;

26 (iii) A restrictive covenant in favor of a federal governmental entity; or

27 (iv) A permanent restrictive covenant as provided in subsection (c) of Code Section  
28 44-5-60;

29 (D) Owned by any person or not for profit or for profit entity, subject to a conservation  
30 easement that ensures that the land will be maintained as conservation land; or

31 (E) Permanently legally protected by any other method that ensures the conservation  
32 land will remain forever in uses which further the goals of this chapter.

33 (11) 'Revolving loan fund' means the Georgia Land Conservation Revolving Loan Fund  
34 established by this chapter.

35 (12) 'State land conservation project' means conservation land projects sponsored by the  
36 department to accomplish the strategic investment in protection of land resources

1 identified by the department as having high environmental values or conservation  
 2 benefits.

3 (13) 'Trust fund' means the Georgia Land Conservation Trust Fund established by this  
 4 chapter.

5 36-22-3.

6 (a) There is created the Georgia ~~Greenspace Commission~~ Land Conservation Council.  
 7 The ~~commission~~ council shall be composed of the state property officer, who shall serve  
 8 as chairperson, the commissioner of the ~~Department of Natural Resources~~ natural  
 9 resources, the director of the State Forestry Commission, the executive director of the State  
 10 Soil and Water Conservation Commission, the commissioner of the Department of  
 11 Community Affairs, and ~~three~~ four additional members to be appointed by and to serve at  
 12 the pleasure of the Governor.

13 (b) The members of the ~~commission~~ council shall receive no compensation for their  
 14 services on the ~~commission~~ council but shall be reimbursed for actual expenses incurred  
 15 while discharging the duties imposed upon them by this chapter.

16 (c) For administrative purposes, the ~~commission~~ council shall be attached to the  
 17 ~~Department of Natural Resources~~ authority. The ~~Department of Natural Resources~~  
 18 authority shall provide staff support to the ~~commission~~ council, utilizing personnel and  
 19 funds available to the ~~department~~ authority.

20 36-22-4.

21 (a) The Department of Natural Resources may establish a land conservation program  
 22 consistent with the purposes of this chapter.

23 (a.1) There is established the Georgia Greenspace Land Conservation Trust Fund and the  
 24 Georgia Land Conservation Revolving Loan Fund to consist of any moneys appropriated  
 25 to such fund paid to the authority under intergovernmental contract for purposes of this  
 26 chapter, voluntary contributions to such fund funds, any federal moneys deposited in such  
 27 fund and funds, other moneys acquired for the use of such fund funds by any fund raising  
 28 or other promotional techniques deemed appropriate by the Department of Natural  
 29 Resources authority, and all interest thereon. Moneys which are restricted as to their usage,  
 30 including, but not limited to, restrictions on the kinds of projects for which the moneys can  
 31 be expended or loaned, on the entity that can receive grants or loans of such moneys, on  
 32 the manner in which such moneys can be expended or loaned, and any other condition,  
 33 limitation, or restriction, may nevertheless be deposited in the funds so long as any such  
 34 restriction does not prevent the moneys so deposited from being expended, loaned, or  
 35 otherwise used in a manner that is consistent with the purposes of this chapter. All

1 balances in the ~~fund~~ funds shall be deposited in an interest-bearing ~~account~~ accounts and  
 2 shall be carried forward each year so that no part thereof may be deposited in the general  
 3 treasury. The Department of Natural Resources authority shall administer the ~~fund~~ funds,  
 4 shall ~~expend~~ grant or loan moneys held in the ~~fund~~ funds in furtherance of the purposes of  
 5 and pursuant to the provisions of this chapter, and shall prepare, by ~~February 1~~ June 30 of  
 6 each year, an accounting of the funds received and expended from the ~~fund~~ funds. The  
 7 report shall be made available to the ~~commission~~ council, to the members of the General  
 8 Assembly, and to members of the public on request.

9 (b) Within the ~~Georgia Greenspace Trust Fund~~ trust fund, moneys obtained by  
 10 appropriation by the General Assembly, and interest thereon, shall be segregated from all  
 11 other moneys. ~~Such appropriated funds shall be made available in each fiscal year for~~  
 12 ~~grants to counties having an approved greenspace program as follows:~~

13 (1) ~~The total amount of such funds shall be divided into grant amounts derived by:~~

14 (A) ~~Determining the amount of state funds obtained in the immediately prior fiscal~~  
 15 ~~year by the application of the state property tax levy on residential property in each~~  
 16 ~~county eligible to submit a greenspace program under Code Section 36-22-10;~~

17 (B) ~~Dividing that number by the amount of state funds obtained in the immediately~~  
 18 ~~prior fiscal year by the application of the state property tax levy on residential property~~  
 19 ~~in all counties eligible to submit a greenspace program under Code Section 36-22-10,~~  
 20 ~~such that a percentage of the aggregate number is obtained applicable to each such~~  
 21 ~~county; and~~

22 (C) ~~Applying the applicable percentage for each eligible county to the sum of~~  
 23 ~~appropriated moneys, such that a discrete amount is identified for each eligible county;~~

24 (2) ~~Upon approval of a greenspace program in an eligible county pursuant to the terms~~  
 25 ~~and conditions of this chapter, there shall be disbursed from the appropriated funds a~~  
 26 ~~grant in the amount resulting from the calculation in paragraph (1) of this subsection, to~~  
 27 ~~be deposited into the county's Community Greenspace Trust Fund;~~

28 (3) ~~For any county which is entitled to receive appropriated funds in excess of~~  
 29 ~~\$500,000.00 pursuant to paragraph (1) of this subsection and upon the approval of the~~  
 30 ~~commission as provided in this chapter, the Department of Natural Resources shall make~~  
 31 ~~disbursements as follows:~~

32 (A) ~~One or more grants totaling 90 percent of the amount the county is authorized to~~  
 33 ~~receive shall be allocated to the Community Greenspace Trust Funds created by the~~  
 34 ~~county and each municipality located in whole or in part within the county as provided~~  
 35 ~~in paragraph (3) of Code Section 36-22-6; and~~

36 (B) ~~Ten percent of the amount the county is authorized to receive shall be allocated to~~  
 37 ~~the participating municipalities located within the county as one or more matching~~

1 ~~grants for greenspace acquisition. The Board of Natural Resources shall promulgate~~  
 2 ~~rules necessary to implement such matching grant program in such a manner as to~~  
 3 ~~encourage municipalities to generate local funds for such purposes as greenspace~~  
 4 ~~planning, acquisition, and management. Any such matching funds not disbursed by the~~  
 5 ~~date determined pursuant to paragraph (4) of this subsection shall be disbursed to the~~  
 6 ~~county's Community Greenspace Trust Fund; and~~

7 ~~(4) Prior to the conclusion of each fiscal year, at a time to be determined by regulation~~  
 8 ~~of the Department of Natural Resources, any appropriated funds not previously disbursed~~  
 9 ~~pursuant to this subsection shall be divided among the counties having an approved~~  
 10 ~~greenspace program in proportion to the ratio of each county's grant under paragraph (2)~~  
 11 ~~of this subsection to the total amount of grants in the fiscal year under said paragraph (2)~~  
 12 ~~and granted to such counties in such amounts for deposit into the counties' Community~~  
 13 ~~Greenspace Trust Funds. The regulations implementing this paragraph shall provide for~~  
 14 ~~a date certain, as close as reasonably practicable to the end of the state's fiscal year, on~~  
 15 ~~and after which no further approval of greenspace programs applicable to that fiscal year~~  
 16 ~~will be granted. Any program approval on or after such date shall be deemed applicable~~  
 17 ~~to any funds appropriated for the next fiscal year shall be made available in each fiscal~~  
 18 ~~year for grants to cities and counties having an approved community land conservation~~  
 19 ~~project, having complied with state laws, regulations, contracts, and agreements, and~~  
 20 ~~having matching funds at a percentage of the total project cost as established by the~~  
 21 ~~authority or for grants to the department having an approved state land conservation~~  
 22 ~~project.~~

23 ~~(c) Any municipality electing to cooperate in a county's greenspace program pursuant to~~  
 24 ~~the provisions of Code Section 36-22-6 shall establish a Community Greenspace Trust~~  
 25 ~~Fund subject to the same terms and conditions applicable to a county's Community~~  
 26 ~~Greenspace Trust Fund Within the revolving loan fund, moneys shall be made available~~  
 27 ~~in each fiscal year for loans to cities and counties having approved community land~~  
 28 ~~conservation projects or for loans to state authorities specified by the department for~~  
 29 ~~purposes of approved state land conservation projects of the department. Any such loan~~  
 30 ~~shall bear interest at a rate established by the authority.~~

31 ~~(d) Moneys deposited into a Community Greenspace Trust Fund by grant from the~~  
 32 ~~Georgia Greenspace Trust Fund and any matching funds deposited into such a fund~~  
 33 ~~pursuant to subsection (e) of this Code section, together with interest thereon, granted from~~  
 34 ~~the trust fund or from the revolving loan fund shall be expended solely to defray the costs~~  
 35 ~~of acquisition of greenspace conservation land as defined in this chapter; or of~~  
 36 ~~conservation, scenic, and other easements which contribute to the goals set out for~~  
 37 ~~greenspace conservation land in Code Section 36-22-2.~~

1 (e) ~~The Department of Natural Resources is authorized to match, from funds appropriated~~  
 2 ~~to or otherwise available to the department, all or any part of an expenditure of moneys~~  
 3 ~~from a city or county's Community Greenspace Trust Fund which expenditure is made for~~  
 4 ~~the purpose of acquiring property adjacent to or within the watershed of the Chattahoochee~~  
 5 ~~River, the Flint River, the Altamaha River, or any other river which the department~~  
 6 ~~designates by regulation as eligible for a match pursuant to this subsection. The~~  
 7 ~~department may, by agreement with such city or county, accept and administer property~~  
 8 ~~acquired by a city or county pursuant to this chapter as a unit of the state parks system, or~~  
 9 ~~may make such other agreements for the ownership and operation of the property as are~~  
 10 ~~outlined by Code Sections 12-3-32 and 27-1-6~~ As a condition of project approval and  
 11 release of funds, cities, counties, and the department are required to record acquisitions of  
 12 real or partial interest in land purchased by grants or loans established in this chapter with  
 13 the Department of Natural Resources.

14 (f)(1) ~~Unless an earlier date is deemed feasible and established by the Governor, each~~  
 15 Each Georgia income tax return form for taxable years beginning on or after January 1,  
 16 ~~2004~~ 2005, shall contain appropriate language, to be determined by the state revenue  
 17 commissioner, offering the taxpayer the opportunity to contribute to the Georgia  
 18 ~~Greenspace~~ Land Conservation Trust Fund established in subsection (a) of this Code  
 19 section by either donating all or any part of any tax refund due, by authorizing a reduction  
 20 in the refund check otherwise payable, or by contributing any amount over and above any  
 21 amount of tax owed by adding that amount to the taxpayer's payment. The instructions  
 22 accompanying the income tax return form shall contain a description of the purposes for  
 23 which this fund was established and the intended use of moneys received from the  
 24 contributions. Each taxpayer required to file a state income tax return who desires to  
 25 contribute to the Georgia ~~Greenspace~~ Land Conservation Trust Fund may designate such  
 26 contribution as provided in this Code section on the appropriate income tax return form.

27 (2) The Department of Revenue shall determine annually the total amount so contributed,  
 28 shall withhold therefrom a reasonable amount for administering this voluntary  
 29 contribution program, and shall transmit the balance to the ~~department~~ authority for  
 30 deposit in the Georgia ~~Greenspace~~ Land Conservation Trust Fund established in  
 31 subsection (a) of this Code section; provided, however, that the amount retained for  
 32 administrative costs shall not exceed \$50,000.00 per year. If, in any tax year, the  
 33 administrative costs of the Department of Revenue for collecting contributions pursuant  
 34 to this Code section exceed the sum of such contributions, the administrative costs which  
 35 the Department of Revenue is authorized to withhold from such contributions shall not  
 36 exceed the sum of such contributions.

1 (g) The department may, by agreement with such city or county, accept and administer  
 2 property acquired by a city or county pursuant to this chapter or may make such other  
 3 agreements for the ownership and operation of the property as are outlined in Code  
 4 Sections 12-3-32 and 27-1-6.

5 (h) Cities, counties, and the department may, by agreement with tax-exempt organizations  
 6 under Section 501(c)(3) of the federal Internal Revenue Code as established in a  
 7 memorandum of understanding adopted by the council, enter into partnerships to assist  
 8 with the development of land conservation project proposals, to assist with the  
 9 establishment of a local funding match, and to accept and administer property acquired by  
 10 a city or county or the department pursuant to this chapter.

11 36-22-5.

12 ~~Each county becoming eligible to submit a greenspace program under Code Section~~  
 13 ~~36-22-10 may initiate the process of program development by the provision of a written~~  
 14 ~~notice from the county to the Georgia Greenspace Commission. Such notice shall state the~~  
 15 ~~date, time, and place for a public meeting at which designated representatives of all local~~  
 16 ~~governing bodies and other interested persons shall assemble for the purpose of~~  
 17 ~~commencing deliberations on the greenspace program development. The notice shall be~~  
 18 ~~sent not more than 45 days but not less than 15 days prior to the meeting date and~~  
 19 ~~published at those times in the legal organ of the county Reserved.~~

20 36-22-6.

21 ~~In the development of a greenspace program, the following criteria shall be met:~~

22 ~~(1) The program shall promote the permanent protection of greenspace constituting a~~  
 23 ~~minimum of 20 percent of the geographic area of the county;~~

24 ~~(2) The program shall: (A) identify legal and structural barriers to the achievement of a~~  
 25 ~~goal of preservation of a minimum of 20 percent of the geographic area of the county as~~  
 26 ~~permanently protected greenspace; (B) propose a ten-year strategy for the mitigation or~~  
 27 ~~elimination of such barriers by local action, including, but not limited to, zoning and land~~  
 28 ~~use ordinance changes, local legislation to be enacted by the General Assembly, and local~~  
 29 ~~conservation and preservation ordinances; and (C) identify, and commit to the~~  
 30 ~~employment of, existing local land use ordinances, policies, and regulations which will~~  
 31 ~~further the achievement of the preservation of permanently protected greenspace; and~~

32 ~~(3) The program shall specify a program and method for allocation of greenspace funds~~  
 33 ~~by the county to municipalities electing to participate in a cooperative greenspace~~  
 34 ~~program with the county and located wholly or partly within the county which provide~~

1 ~~for population based proportional sharing of greenspace funds allocated under this~~  
 2 ~~chapter and cooperative expenditure of resources Reserved.~~

3 36-22-7.

4 ~~Each greenspace program shall include the following components:~~

5 ~~(1) An identification of all greenspace presently permanently protected within the~~  
 6 ~~county;~~

7 ~~(2) An identification of any specific parcels of land or water which have been designated~~  
 8 ~~for acquisition or protection under the greenspace program;~~

9 ~~(3) An identification of any changes made in the comprehensive plan prepared pursuant~~  
 10 ~~to Code Section 36-70-3 to assure that such plan is consistent with the greenspace~~  
 11 ~~program;~~

12 ~~(4) An assignment of which division, branch, or other subdivision of county government~~  
 13 ~~will be responsible for identifying and preserving future greenspace;~~

14 ~~(5) A certified copy of a resolution adopted by any municipality electing to cooperate~~  
 15 ~~with the county in a greenspace program pursuant to Code Section 36-22-6 approving~~  
 16 ~~such cooperation, authorizing a Community Greenspace Trust Fund for such municipality~~  
 17 ~~and providing a description of the sources of funding for greenspace available to the~~  
 18 ~~municipality, other than funds provided pursuant to this chapter; and~~

19 ~~(6) A certification of the authorization of a Community Greenspace Trust Fund for the~~  
 20 ~~county and a description of the sources of funding for greenspace available to the county,~~  
 21 ~~other than funds provided pursuant to this chapter Reserved.~~

22 36-22-8.

23 ~~(a) Approval of the county greenspace program shall be accomplished as provided for in~~  
 24 ~~this Code section Approval of a community land conservation project proposal for~~  
 25 ~~purposes of this chapter or a state land conservation project proposal for purposes of this~~  
 26 ~~chapter shall be accomplished as provided for in this Code section. Cities or counties and~~  
 27 ~~the department shall develop and submit community and state land conservation projects~~  
 28 ~~using rules and regulations established by the authority. Cities, counties, and the~~  
 29 ~~department may develop community and state land conservation proposals in partnership~~  
 30 ~~with nonprofit environmental and conservation organizations and organizations that are~~  
 31 ~~tax-exempt under Section 501(c)(3) of the federal Internal Revenue Code. The department~~  
 32 ~~shall make available its geographic information systems data as described in Code Section~~  
 33 ~~36-22-13 to cities and counties to assist them in the development of community land~~  
 34 ~~conservation proposals.~~

1 ~~(b) Upon adoption of a resolution embodying a greenspace program by the county~~  
 2 ~~governing authority, the resolution shall be submitted to the Georgia Greenspace~~  
 3 ~~Commission between July 1 and December 1 of any year in which the county is eligible~~  
 4 ~~for and wishes to obtain a grant pursuant to Code Section 36-22-4 The authority shall~~  
 5 ~~review each land conservation project for fiscal merit, for the capacity of the applicant to~~  
 6 ~~fulfill its matching fund or loan repayment commitments, for the fiscal solvency of the~~  
 7 ~~entity identified as responsible for protecting and managing the conservation land or~~  
 8 ~~conservation easement, and for compliance with all applicable terms and conditions of this~~  
 9 ~~chapter. The authority shall make a recommendation based on its review of each land~~  
 10 ~~conservation project to the council, including recommended funding sources, funding~~  
 11 ~~levels, and the terms and conditions of those funds.~~

12 (c)(1) The department shall review each land conservation project proposal for its  
 13 strategic investment in land resources with high environmental values or conservation  
 14 benefits; for consistency with the land conservation goals set forth in this chapter and the  
 15 land conservation priorities set forth by the Governor; for the merit of a plan for  
 16 long-term management of the conservation land or conservation easement; and for  
 17 compliance with all applicable terms and conditions of this chapter.

18 (2) The department shall make a recommendation based on its review of each land  
 19 conservation project to the council, including any terms and conditions of those funds.

20 (d) The council shall review each land conservation project proposal and shall consider the  
 21 recommendations of the authority and the department, as well as the procedures,  
 22 conditions, components, priorities, and criteria set forth in subsections (c) and (e) of this  
 23 Code section, and any rules and regulations promulgated by the authority. The decision  
 24 of the council that a land conservation project complies with all of the required terms and  
 25 conditions and is approved shall cause the city, county, or department to become eligible  
 26 for funding pursuant to the terms of this chapter and of the project approval. The authority  
 27 shall then be responsible for the execution of each such project approval decision of the  
 28 council.

29 ~~(c)(e) The Georgia Greenspace Commission shall review each county greenspace program~~  
 30 ~~for compliance with all applicable terms and conditions of this chapter. The decision of~~  
 31 ~~the commission that a county greenspace program complies with those terms and~~  
 32 ~~conditions shall cause the county to become eligible for and to receive a greenspace grant~~  
 33 ~~pursuant to the terms of this chapter. The decision of the commission that a county~~  
 34 ~~greenspace program does not comply with all of those terms and conditions shall cause the~~  
 35 ~~county to be ineligible for such grants; provided, however:~~

36 ~~(1) The commission shall forward to the county a written explanation of the deficiencies~~  
 37 ~~found in its program, together with suggestions for their correction, and~~

1 ~~(2) The county may resubmit its timely submitted program at any time for approval,~~  
 2 ~~subject, however, to the time limitations on approval set forth in paragraph (3) of~~  
 3 ~~subsection (b) of Code Section 36-22-4. The council shall adopt procedures to review~~  
 4 ~~and determine the disposition of project proposals including, but not limited to, a~~  
 5 ~~schedule of meetings on an as needed basis, but not less than quarterly, at which project~~  
 6 ~~proposals will be considered; the components required to comprise a project proposal; the~~  
 7 ~~format in which project proposals will be presented for consideration by the council; the~~  
 8 ~~conditions which provide priority ranking to be used in reviewing the merits of project~~  
 9 ~~proposals; and the means, such as a memorandum of understanding, by which~~  
 10 ~~organizations that are tax-exempt under Section 501(c)(3) of the federal Internal Revenue~~  
 11 ~~Code may enter into partnerships with cities or counties or the department to assist with~~  
 12 ~~the development and implementation of project proposals.~~

13 (f) The council shall use, at a minimum, the following criteria in granting project approval:

14 (1) The project shall promote the permanent protection of conservation land;

15 (2) The identification and commitment to the employment of local land use ordinances  
 16 and local conservation and preservation ordinances, policies, and regulations which  
 17 further the achievement of the permanent protection of conservation land; and

18 (3) Project proposals which are multijurisdictional in scope or regional in impact will  
 19 receive additional ranking points.

20 (g) The council, the authority, the department, and the Georgia Building Authority shall  
 21 enter into contracts or memorandums of understanding, as appropriate and consistent with  
 22 the intent and provisions of this chapter, setting forth the details of how they will each  
 23 discharge, in cooperation with the others, their respective responsibilities under this  
 24 chapter.

25 36-22-9.

26 Each county having an approved greenspace program shall review, and revise if necessary,  
 27 its approved greenspace program not less often than once every two years, and resubmit  
 28 the program for approval by the commission under the terms and conditions of Code  
 29 Section 36-22-8, together with a report of progress toward achievement of the goal of the  
 30 county's program Grants for state land conservation projects sponsored by the department  
 31 may be made by the authority to the Georgia Building Authority at the request of the  
 32 department. It is also contemplated that grants may in appropriate cases be made for the  
 33 acquisition of land and that the grantee shall be permitted to place the needed and  
 34 appropriate conservation easements on such land to ensure its permanent protection as  
 35 contemplated in this chapter and that the grantee would then be entitled to resell the land

1 to private parties at the highest obtainable price and return the proceeds to the trust fund  
 2 for reuse for additional grants.

3 36-22-10.

4 Any city or county of this state shall be eligible to submit a greenspace program land  
 5 conservation project for approval pursuant to the terms of this chapter. Code Section  
 6 ~~36-22-8 if such county:~~

7 (1) ~~Has a population of not less than 60,000 pursuant to the United States decennial~~  
 8 ~~census of 1990 or any future such census; or~~

9 (2) ~~Has experienced average population growth of at least 800 persons per year as~~  
 10 ~~measured by the population change between the United States decennial census of 1990~~  
 11 ~~or any future such census and the most recent year for which the United States Bureau~~  
 12 ~~of the Census has prepared official estimates of population.~~

13 ~~The Department of Natural Resources shall provide by regulation for the determination and~~  
 14 ~~notification of eligible counties consistent with the terms of this Code section.~~

15 36-22-11.

16 Moneys in the ~~Georgia Greenspace Trust Fund other than moneys appropriated to the fund~~  
 17 ~~by the General Assembly~~ trust fund or revolving loan fund shall be made available to all  
 18 cities and counties in the state and to the department for ~~discretionary grants for~~  
 19 ~~preservation of greenspace land or conservation easements on land.~~ The ~~commission~~  
 20 ~~authority~~ is authorized and directed to accept and review applications project proposals for  
 21 such ~~grants; moneys~~ under terms, conditions, and procedures to be established by  
 22 regulation of the ~~Department of Natural Resources~~ authority and is authorized to make such  
 23 grants or loans in such amounts as it deems appropriate ~~from time to time~~. Any such grant  
 24 or loan shall be ~~deposited into a Community Greenspace Trust Fund which shall be~~  
 25 ~~established by a city or county as a condition of receipt of such grant unless otherwise~~  
 26 ~~previously established, and such trust fund and such grant shall be administered in a~~  
 27 ~~manner consistent with purposes of this chapter and any regulations promulgated by the~~  
 28 ~~Department of Natural Resources~~ authority and the council applicable to such ~~trust funds~~  
 29 ~~and grants~~ and loans, together with the terms and conditions of any such grant or loan.

30 36-22-12.

31 The ~~Department of Natural Resources~~ authority is authorized to promulgate such rules and  
 32 regulations as it may deem advisable to implement the terms of this chapter; provided,  
 33 however, that for purposes of this chapter the authority shall be an agency subject to the  
 34 provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The

1 ~~department authority~~ is authorized to audit, or have audited, ~~any city or county Community~~  
 2 ~~Greenspace Trust Fund which receives moneys pursuant to the terms of this chapter, and~~  
 3 ~~to investigate the use of such moneys from the trust fund or revolving loan fund or the use~~  
 4 ~~of properties obtained in whole or in part by the use of such moneys.~~

5 36-22-13.

6 (a) The department shall establish the State Land Conservation Geographic Information  
 7 System by maintaining its current geographic information system data and maps related to  
 8 land conservation; annually updating its land conservation data and maps based on the  
 9 acquisitions of community and state conservation projects; and monitoring progress in  
 10 protecting the state's land resources.

11 (b) The department shall make its geographic information system data and maps available  
 12 to cities and counties to assist them in the strategic investment of community conservation  
 13 projects in land resources with high environmental values or conservation benefits as based  
 14 on the conservation goals set forth in this chapter.

15 (c) The department shall cooperate with the State Forestry Commission, the State Soil and  
 16 Water Conservation Commission, The University System of Georgia Cooperative  
 17 Extension Service and other institutions and organizations with outreach programs  
 18 designed for landowners to provide technical support on land conservation. The  
 19 department shall assist cities and counties with the development of community land  
 20 conservation project proposals including, but not limited to, program requirements and  
 21 technical assistance with real estate transactions.

22 36-22-14.

23 The General Assembly recognizes the critical role nonprofit conservation organizations and  
 24 organizations that are tax-exempt under Section 501(c)(3) of the federal Internal Revenue  
 25 Code have in partnering with cities, counties, and the state in accomplishing the land  
 26 conservation goals as set forth in this chapter. Therefore, the state looks to these  
 27 organizations to provide program education to the public and private sector; to partner with  
 28 cities, counties, and the department in the identification and development of land  
 29 conservation project proposals; to promote existing and new partnership enhancement  
 30 tools; to promote transferable partnership models, including demonstration projects to  
 31 assist cities and counties with securing the local funding match; and to take an active role  
 32 in the permanent protection of conservation lands by holding fee simple title or easements  
 33 to lands.

1 36-22-15.

2 The Georgia Land Conservation Trust Fund established pursuant to Code Section 36-22-4  
 3 shall be a successor to the former Georgia Greenspace Trust Fund and, on the effective date  
 4 of this Act, all funds in the Georgia Greenspace Trust Fund shall be transferred into the  
 5 Georgia Land Conservation Trust Fund."

6 **SECTION 3.**

7 Code Section 50-13-2 of the Official Code of Georgia Annotated, relating to definitions  
 8 relative to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," is amended  
 9 by striking paragraph (1) and inserting in lieu thereof the following:

10 "(1) 'Agency' means each state board, bureau, commission, department, activity, or  
 11 officer authorized by law expressly to make rules and regulations or to determine  
 12 contested cases, except the General Assembly; the judiciary; the Governor; the State  
 13 Board of Pardons and Paroles; the State Financing and Investment Commission; the State  
 14 Properties Commission; the Board of Bar Examiners; the Board of Corrections and its  
 15 penal institutions; the State Board of Workers' Compensation; all public authorities  
 16 except as otherwise expressly provided by law; the State Personnel Board (Merit  
 17 System); the Department of Administrative Services or commissioner of administrative  
 18 services; the Department of Technical and Adult Education; the Department of Revenue  
 19 when conducting hearings relating to alcoholic beverages; the Georgia Tobacco  
 20 Community Development Board; the Georgia Higher Education Savings Plan; any  
 21 school, college, hospital, or other such educational, eleemosynary, or charitable  
 22 institution; or any agency when its action is concerned with the military or naval affairs  
 23 of this state. The term 'agency' shall include the State Board of Education and  
 24 Department of Education, subject to the following qualifications:

25 (A) Subject to the limitations of subparagraph (B) of this paragraph, all otherwise valid  
 26 rules adopted by the State Board of Education and Department of Education prior to  
 27 January 1, 1990, are ratified and validated and shall be effective until January 1, 1991,  
 28 whether or not such rules were adopted in compliance with the requirements of this  
 29 chapter; and

30 (B) Effective January 1, 1991, any rule of the State Board of Education or Department  
 31 of Education which has not been proposed, submitted, and adopted in accordance with  
 32 the requirements of this chapter shall be void and of no effect."

33 **SECTION 4.**

34 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 35 without such approval.

1

**SECTION 5.**

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