

House Bill 1293 (AS PASSED HOUSE AND SENATE)

By: Representatives Royal of the 171st, Floyd of the 147th, Roberts of the 154th, Channell of the 116th, and O'Neal of the 146th

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona
2 fide conservation use property, so as to provide for additional acts which constitute a breach
3 of a conservation use covenant but incur a reduced penalty; to repeal conflicting laws; and
4 for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide
8 conservation use property, is amended by striking subsection (q) and inserting in its place a
9 new subsection (q) to read as follows:

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

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

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

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

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

26 (2) Any case in which a covenant is breached solely as a result of a medically
27 demonstrable illness or disability which renders the owner of the real property physically
28 unable to continue the property in the qualifying use, provided that the board of tax

1 assessors shall require satisfactory evidence which clearly demonstrates that the breach
2 is the result of a medically demonstrable illness or disability; ~~or~~

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

9 (4) Any case in which a covenant is breached solely as a result of an owner electing to
10 discontinue the property in its qualifying use, provided such owner entered into the
11 covenant for bona fide conservation use for the first time after reaching the age of 67 and
12 has either owned the property for at least 15 years or inherited the property and has kept
13 the property in a qualifying use under the covenant for at least three years. Such election
14 shall be in writing and shall not become effective until filed with the county board of tax
15 assessors."

16 **SECTION 2.**

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