

SENATE SUBSTITUTE TO HB 214

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 1 of Article 7 of Chapter 3 of Title 12 of the Official Code of Georgia
 2 Annotated, relating to the Jekyll Island—State Park Authority, so as to provide for a renewal
 3 of the property lease to the authority; to extend the existence of the authority consistent with
 4 such lease renewal; to provide for advisory members of the authority; to clarify that the
 5 authority is exempt from certain taxation; to change certain provisions relating to terms of
 6 leases, assignment, preservation, continuance, and survival of rights and privileges; to place
 7 certain restrictions on leases; to change certain provisions relating to Jekyll Island—State
 8 Park Authority powers, disposition of proceeds of sale, creation of reserve fund, and signing
 9 conveyances; to change certain provisions relating to creation, contents of a master plan as
 10 to Jekyll Island, notice and hearing on a preliminary plan, adherence to plan, and
 11 amendments; to change certain provisions relating to conditions on sale of residential lots
 12 and commercial property, price, and payment into state treasury; to provide for legislative
 13 intent; to provide for related matters; to provide an effective date; to repeal conflicting laws;
 14 and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

16 The Georgia General Assembly finds that Jekyll Island is home to some of the state's most
 17 treasured natural and cultural resources and it is the expressed intent of this body to ensure
 18 the preservation of these resources for the enjoyment of all Georgians now and for future
 19 generations to come. For this reason, the state shall continue its commitment that not less
 20 than 65 percent of the land area of Jekyll Island which lies above water at mean high tide
 21 shall remain undeveloped. Jekyll Island proudly displays one of Georgia's largest stretches
 22 of barrier island property. It is the expressed intent of this body that the beach areas of Jekyll
 23 Island will remain free and open for the use of the people of the state. Commercial
 24 improvement is intended to better existing and future development of the remaining 35
 25 percent of Jekyll Island while retaining public access to the beaches for the pleasure of all
 26 of Georgia's citizens. The General Assembly further finds that the deteriorating conditions
 27

1 of public and commercial facilities is of great interest to the legislature and to the public and
 2 that by significantly extending the existing lease authority for the island's property, the state
 3 will thereby help to secure and encourage future investments and provide a basis for
 4 long-term revitalization of the island. Jekyll Island is recognized by this body as "Georgia's
 5 Jewel," and its remarkable beauties are hereby preserved so that they may continue to shine
 6 for all citizens of Georgia.

7 SECTION 2.

8 Part 1 of Article 7 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated,
 9 relating to the Jekyll Island—State Park Authority, is amended by revising Code Section
 10 12-3-232 as follows:

11 "12-3-232.

12 (a) There is created a body corporate and politic to be known as the Jekyll Island—State
 13 Park Authority, which shall be deemed to be an instrumentality of the state and a public
 14 corporation, and by that name, style, and title such body may contract and be contracted
 15 with, sue and be sued, implead and be impleaded, and complain and defend in all courts.
 16 The authority may delegate to one or more of its members, or to its officers, agents, and
 17 employees, such powers and duties as it may deem proper. The authority shall exist for 99
 18 years and, upon the expiration thereof, shall exist for an additional 30 years.

19 (b) The authority is assigned to the Department of Natural Resources for administrative
 20 purposes only."

21 SECTION 3.

22 Said part is further amended by revising Code Section 12-3-233, relating to appointment of
 23 members to the Jekyll Island—State Park Authority, by redesignating subsections (d) and (e)
 24 as subsections (f) and (g) and inserting new subsections (d) and (e) as follows:

25 "(d) Two advisory members shall be appointed from the membership of the Recreational
 26 Authorities Overview Committee to serve on the authority in an advisory capacity only
 27 without voting privileges. One advisory member shall be appointed by the Speaker of the
 28 House and one advisory member shall be appointed by the President of the Senate. This
 29 subsection shall stand automatically repealed and reserved on December 31, 2009.

30 (e) Membership on the authority does not constitute public office and no member shall be
 31 disqualified from holding public office by reason of his or her membership."

32 SECTION 4.

33 Said part is further amended by revising subsection (a) of Code Section 12-3-241, relating
 34 to the lease to the authority, as follows:

1 subparagraph shall not be required. Upon the expiration or termination of any lease of
 2 a lot for a single-family residence on such southern portion of the island, the authority
 3 may again lease such lot to the same or another lessee for a single-family residence or
 4 noncommercial purpose or the authority may set aside the lot for public use; but the lot
 5 shall not be further subdivided, and the authority shall not lease such lot for any
 6 multifamily residence or commercial purpose. Those properties used for the Jekyll
 7 Island 4-H center and soccer complex may continue to be used and improved for the
 8 same and no other purposes under an extension or renewal of an existing lease or under
 9 a new lease. This subparagraph shall not prohibit the construction and use of any
 10 public bicycle trails or nature trails on such southern portion of the island by the
 11 authority. This subparagraph shall not be applied to impair the obligation of any valid
 12 contract entered into prior to the effective date of this subparagraph."

13 SECTION 4AAA.

14 Said part is further amended in Code Section 12-3-243.1, relating to creation, contents of a
 15 master plan as to Jekyll Island, notice and hearing on a preliminary plan, adherence to plan,
 16 and amendments, by revising paragraph (4) of subsection (d) as follows:

17 "(4) In the event a standing committee to which the information has been assigned as
 18 provided in paragraph (3) of this subsection files an objection to a proposed amendment
 19 to the master plan with the chairperson of the authority prior to the authority's taking
 20 action on the proposed amendment ~~and the authority adopts the proposed amendment~~
 21 ~~over the objection, the authority shall notify the presiding officers of the Senate and~~
 22 ~~House of Representatives, the chairpersons of the standing committees to which the~~
 23 ~~information was referred, and the Office of Legislative Counsel within ten days after the~~
 24 ~~adoption of the amendment to the master plan, then the same shall be stayed.~~ Thereafter,
 25 by introduction of a resolution to ~~override the amendment~~ consider the committee's
 26 objection within the first 30 days of the next regular session of the General Assembly, the
 27 amendment objection may be considered for ratification by the ~~branch of the~~ General
 28 Assembly ~~whose committee objected to its adoption. In the event the resolution is~~
 29 ~~adopted by the members of the branch of the General Assembly in which it is introduced,~~
 30 ~~it shall be immediately transferred to the other branch of the General Assembly, which~~
 31 ~~branch shall consider the resolution within five days of its being received. In the event~~
 32 ~~the resolution to override the amendment to the master plan is adopted by a vote of~~
 33 ~~two-thirds of the members of each branch, the amendment to the master plan shall be~~
 34 ~~void on the day after the adoption of the resolution by the second branch of the General~~
 35 ~~Assembly~~ not be adopted by the authority. In the event the resolution is ratified by a vote
 36 of less than two-thirds of the members of either house, the resolution shall be submitted

1 to the Governor for approval or veto. In the event the resolution fails to pass both houses
 2 or is vetoed by the Governor, the amendment to the master plan ~~shall remain in effect~~
 3 may be adopted by the authority and the stay of the committee shall be lifted. In the
 4 event of the Governor's approval of the resolution, the amendment to the master plan
 5 shall be ~~void on the day after the date of the Governor's approval of the resolution~~
 6 prohibited;"

7 SECTION 4B.

8 Said part is further amended by revising Code Section 12-3-245, relating to terms of leases,
 9 assignment, preservation, continuance, and survival of rights and privileges, as follows:

10 "12-3-245.

11 (a) The leasing of the subdivided lots shall be for not more than 99 years. Such leases
 12 as the authority shall designate may be made freely assignable, subject to all the
 13 liabilities, obligations, and duties imposed upon the lessee by the authority in its original
 14 lease. In its leasehold conveyance or rental contracts, the authority may create and
 15 provide for the preservation of such rights and privileges in the present or future security
 16 grantees, mortgagees, or other lenders upon the security of the lessee's or tenant's rights,
 17 as the authority may deem wise. Such rights and privileges, when created, may also
 18 provide for their continuance or survival after termination or forfeiture of the original
 19 leasehold or rental contract.

20 (b)(1) No lot that was under lease for a single-family residential purpose as of the
 21 effective date of this subsection shall be used after such date for a multifamily
 22 residential purpose or further subdivided, whether under the same or another lease.

23 (2) No lot that was under lease for a commercial purpose as of the effective date of this
 24 subsection shall be used after such date for any residential purpose, whether under the
 25 same or another lease.

26 (3) This subsection shall not be applied to impair an obligation under any valid contract
 27 entered into prior to the effective date of this subsection."

28 SECTION 4C.

29 Said part is further amended by revising subsections (a), (b), and (c) and adding a new
 30 subsection (c.1) in Code Section 12-3-247, relating to conditions on sale of residential lots
 31 and commercial property, price, and payment into state treasury, as follows:

32 "(a) The authority shall ~~sell only those residential lots which have theretofore been leased~~
 33 ~~by it~~ not sell any residential lot unless obligated to do so under the terms of a valid lease
 34 agreement entered into prior to the effective date of this Code section, and such a sale shall
 35 be made only to the person who shall hold such lease, his or her assignee, or assigns. No

1 conveyance of the fee simple title to any residential lot shall be made until the lessee of
 2 such lot has performed all the obligations regarding the improvement and erection of
 3 structures on the lot as are imposed by the lease.

4 (b) The authority shall ~~sell no~~ not sell any commercial property on which improvements
 5 were erected prior to March 1, 1957, ~~but the authority may sell other commercial property;~~
 6 and the authority shall not sell any other commercial property unless obligated to do so
 7 under the terms of a valid lease agreement entered into prior to the effective date of this
 8 Code section, in which event the commercial property may be sold in the same manner as
 9 provided by this part for the sale of leased residential lots. ~~Alternatively, if such~~
 10 ~~commercial property has not previously been leased, it may be sold directly by the~~
 11 ~~authority, provided that the deeds for such direct sales must provide that unless all~~
 12 ~~obligations contained in the conveyance as to improvements and erection of structures on~~
 13 ~~such property are fulfilled, the property shall revert to the authority and the state, as their~~
 14 ~~interest may appear.~~

15 (c) All sales of residential lots and commercial property, ~~except for direct sales of~~
 16 ~~commercial property provided in this Code section,~~ shall be made at the conversion price
 17 set by the authority in accordance with Code Section 12-3-250, provided that any person
 18 who purchases any residential lot sold by the authority shall be entitled to credit on the
 19 purchase price to the extent of all payments made by him or his assignors or predecessors
 20 in interest on such lease, provided that such credit shall not exceed the purchase price of
 21 such lot. If such credit shall equal the purchase price for such lot, the lessee shall be
 22 entitled to a conveyance of the fee simple title to such lot, and the authority shall thereupon
 23 pay into the state treasury an amount equal to the value of the state's interest in such
 24 property as determined as provided in Code Section 12-3-249. The authority shall establish
 25 proper reserves to ensure that funds will be available for such purpose.

26 (c.1) On and after the effective date of this Code section, the authority shall not enter into,
 27 extend, or renew any agreement providing for the sale of any residential or commercial lot
 28 on Jekyll Island, and Code Section 12-3-250 shall not apply to any new, extended, or
 29 renewed agreement."

30 SECTION 5.

31 Said part is further amended by revising Code Section 12-3-274, relating to the exemption
 32 from taxation of authority property, activities, income, and bonds, as follows:

33 "12-3-274.

34 It is found, determined, and declared that the creation of the authority and the carrying out
 35 of its corporate purpose are in all respects for the benefit of the people of this state and
 36 constitute a public purpose and that the authority will be performing an essential

1 governmental function in the exercise of the power conferred upon it by this part. This state
2 covenants with the holders of the bonds that the authority shall be required to pay no taxes
3 or assessments upon any of the property acquired or leased by it, or under its jurisdiction,
4 control, possession, or supervision, or upon its activities in the operation or maintenance
5 of the buildings erected or acquired by it, or upon any fees, rentals, or other charges
6 received by the authority for the use of such buildings, or upon other income received by
7 the authority and that the authority shall be exempt from all sales and use taxes. Further,
8 this state covenants that the bonds of the authority, their transfer, and the income therefrom
9 shall at all times be exempt from all taxation within the state."

10

SECTION 6.

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

13

SECTION 7.

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