

House Bill 214 (AS PASSED HOUSE AND SENATE)

By: Representatives Barnard of the 166th, Smith of the 70th, Stephens of the 164th, Parsons of the 42nd, Lane of the 158th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 1 of Chapter 3 of Title 12 of the Official Code of Georgia
2 Annotated, relating to the Recreational Authorities Overview Committee, so as to remove
3 the Jekyll Island—State Park Authority from the committee’s review; to amend Part 1 of
4 Article 7 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to the
5 Jekyll Island—State Park Authority, so as to provide for a renewal of the property lease to
6 the authority; to extend the existence of the authority consistent with such lease renewal; to
7 provide for advisory members of the authority; to provide for legislative oversight of the
8 authority; to amend certain provisions relating to the master plan as to Jekyll Island; to
9 clarify that the authority is exempt from certain taxation; to change certain provisions
10 relating to Jekyll Island—State Park Authority powers, disposition of proceeds of sale,
11 creation of reserve fund, and signing conveyances; to change certain provisions relating to
12 conditions on sale of residential lots and commercial property, price, and payment into state
13 treasury; to provide for legislative intent; to provide for related matters; to provide an
14 effective date; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

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

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

8 **SECTION 2.**

9 Part 2 of Article 1 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated,
 10 relating to the Recreational Authorities Overview Committee, is amended by revising Code
 11 Section 12-3-20, relating to creation of the committee and duty to review designated
 12 authorities, as follows:

13 "12-3-20.

14 There is created as a joint committee of the General Assembly the Recreational Authorities
 15 Overview Committee to be composed of three members of the House of Representatives
 16 appointed by the Speaker of the House of Representatives and three members of the Senate
 17 appointed by the President of the Senate. The members of the committee shall serve
 18 two-year terms concurrent with their terms as members of the General Assembly. The
 19 chairperson of the committee shall be appointed by the Speaker of the House of
 20 Representatives from the membership of the committee, and the vice chairperson of the
 21 committee shall be appointed by the President of the Senate from the membership of the
 22 committee. The chairperson and vice chairperson shall serve terms of two years concurrent
 23 with their terms as members of the General Assembly. Vacancies in an appointed
 24 member's position or in the offices of chairperson or vice chairperson of the committee
 25 shall be filled for the unexpired term in the same manner as the original appointment. The
 26 committee shall periodically inquire into and review the operations of the Stone Mountain
 27 Memorial Association, ~~the Jekyll Island—State Park Authority~~, the North Georgia
 28 Mountains Authority, and the Lake Lanier Islands Development Authority and shall
 29 periodically review and evaluate the success with which each of the said authorities is
 30 accomplishing its statutory duties and functions as provided in this chapter."

31 **SECTION 3.**

32 Part 1 of Article 7 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated,
 33 relating to the ~~Jekyll Island—State Park Authority~~, is amended by revising Code Section
 34 12-3-232, relating to creation, delegation of powers and duties, and duration of the authority,
 35 as follows:

1 "12-3-232.

2 (a) There is created a body corporate and politic to be known as the Jekyll Island—State
3 Park Authority, which shall be deemed to be an instrumentality of the state and a public
4 corporation, and by that name, style, and title such body may contract and be contracted
5 with, sue and be sued, implead and be impleaded, and complain and defend in all courts.
6 The authority may delegate to one or more of its members, or to its officers, agents, and
7 employees, such powers and duties as it may deem proper. The authority shall exist for 99
8 years and, upon the expiration thereof, shall exist for an additional 40 years.

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

11 SECTION 4.

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

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

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

22 SECTION 5.

23 Said part is further amended by revising Code Section 12-3-234, relating to accountability
24 of members, as follows:

25 "12-3-234.

26 (a) The members of the authority shall be accountable in all respects as trustees. The
27 authority shall keep suitable and proper books and records of all receipts, income, and
28 expenditures of every kind and shall submit for inspection all of the books, together with
29 a proper statement of the authority's financial position, once a year on or about December
30 31 to the state auditor and to the Jekyll Island—State Park Authority Oversight Committee.
31 The books and records shall be inspected and audited by the state auditor at least once in
32 each year. The authority shall also submit a quarterly summary of each lease and contract
33 agreement involving an amount in excess of \$50,000.00 to the legislative oversight
34 committee. Upon request, a copy of the lease or contract agreement or other documents
35 so requested shall be provided to the members of the oversight committee.

1 (b) There is created as a joint committee of the General Assembly the Jekyll Island—State
 2 Park Authority Oversight Committee to be composed of three members of the House of
 3 Representatives appointed by the Speaker of the House, one of whom shall be from the
 4 House Committee on State Institutions and Property, and three members of the Senate
 5 appointed by the President of the Senate, one of whom shall be from the Senate Committee
 6 on State Institutions and Property. The members of the committee shall serve two-year
 7 terms concurrent with their terms as members of the General Assembly. The chairperson
 8 of the committee shall be appointed by the President of the Senate from the membership
 9 of the committee, and the vice chairperson of the committee shall be appointed by the
 10 Speaker of the House from the membership of the committee during odd-numbered years.
 11 The chairperson of the committee shall be appointed by the Speaker of the House from the
 12 membership of the committee, and the vice chairperson of the committee shall be
 13 appointed by the President of the Senate from the membership of the committee during
 14 even-numbered years. The chairperson and vice chairperson shall serve terms of one year
 15 beginning January 1, 2007. Vacancies in an appointed member’s position or in the offices
 16 of chairperson or vice chairperson of the committee shall be filled for the unexpired term
 17 in the same manner as the original appointment. The committee shall advise the General
 18 Assembly regarding the authority’s compliance with the provisions required by this part.
 19 The committee shall meet upon the call of the chairperson.”

20 SECTION 6.

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

23 “(a) To the authority is granted, for and on the part of the State of Georgia, a lease for a
 24 term of 99 years, beginning on February 13, 1950, ~~to~~ which term shall be automatically
 25 extended an additional 40 years upon the ending of the initial term. The lease shall be for
 26 all of that island of the State of Georgia, County of Glynn, being known as Jekyll Island
 27 and the marshes and marsh islands adjacent and adjoining the same owned by the State of
 28 Georgia; being that island of 11,000 acres, more or less, lying east of the mainland coast
 29 of Georgia, County of Glynn, bounded on its easterly shore by the Atlantic Ocean; bounded
 30 upon its northerly shore by Brunswick River, bounded on its westerly shore by Brunswick
 31 River, Jekyll Creek, Jekyll River, and Jekyll Sound; and bounded on its southerly shore by
 32 Jekyll Sound, together with the adjacent and adjoining marshes and marsh islands; which
 33 properties may also be described as all of the lands acquired by the State of Georgia in a
 34 certain condemnation proceeding, *State of Georgia vs. Jekyll Island Club, Inc., et al.*, filed
 35 June 6, 1947, in Glynn County Superior Court; which properties may also be described in
 36 all conveyances, conveying any and all parts of Jekyll Island and the adjacent and adjoining

1 marshes and marsh islands to the State of Georgia, recorded upon the official deed books
 2 of Glynn County as of February 13, 1950, all and each one of said conveyances being, by
 3 reference, expressly incorporated into this Code section and made in their entirety; a part
 4 hereof."

5 SECTION 7.

6 Said part is further amended by revising paragraph (2) of subsection (a) of Code Section
 7 12-3-243, relating to Jekyll Island—State Park Authority powers, disposition of proceeds of
 8 sale, creation of reserve fund, and signing conveyances, as follows:

9 "(2)(A) The authority shall not survey, subdivide, improve, lease, sell, develop, or
 10 otherwise cause a project to be constructed on the 65 percent of the land area of Jekyll
 11 Island which the authority is not empowered to survey, subdivide, improve, and lease
 12 or sell pursuant to paragraph (1) of this subsection; provided, however, that nothing in
 13 this paragraph shall be construed as to require the removal of any improvement on such
 14 land area which was completed on March 14, 1995.

15 (B) That portion of Jekyll Island lying south of 31 degrees, 1 minute, 34 seconds north
 16 latitude as such latitude is depicted on the 1993 USGS topographic survey 7.5 minute
 17 series quadrangle map shall always be included within the area of Jekyll Island
 18 protected by this paragraph, and the authority shall not enter into, renew, or extend any
 19 agreement or otherwise take any action regarding such southern portion of the island
 20 in violation of this paragraph on or after the effective date of this subparagraph, except
 21 as otherwise provided in this subparagraph. The removal of any improvement on such
 22 southern portion of the island which was completed prior to the effective date of this
 23 subparagraph shall not be required. Upon the expiration or termination of any lease of
 24 a lot for a single-family residence on such southern portion of the island, the authority
 25 may again lease such lot to the same or another lessee for a single-family residence or
 26 noncommercial purpose or the authority may set aside the lot for public use; but the lot
 27 shall not be further subdivided, and the authority shall not lease such lot for any
 28 multifamily residence or commercial purpose. Those properties used for the Jekyll
 29 Island 4-H center and soccer complex may continue to be used and improved for the
 30 same or similar purposes under an extension or renewal of an existing lease or under
 31 a new lease. This subparagraph shall not prohibit the construction and use of any
 32 public bicycle trails, public nature trails, or public picnic areas on such southern portion
 33 of the island by the authority. This subparagraph shall not be applied to impair the
 34 obligation of any valid contract entered into prior to the effective date of this
 35 subparagraph."

SECTION 8.

Said part is further amended by revising Code Section 12-3-243.1, relating to the master plan as to Jekyll Island, as follows:

"12-3-243.1.

(a) The authority shall, on or before July 1, 1996, cause to be created a master plan for the management, preservation, protection, and development of Jekyll Island. The master plan shall delineate, based upon aerial survey, the present and permitted future uses of the land area of Jekyll Island which lies above water at mean high tide and shall designate areas to be managed as environmentally sensitive, historically sensitive, and active use areas. The master plan shall also delineate the boundaries of the area or areas delineated on the master plan as the 65 percent of the land area of Jekyll Island which lies above water at mean high tide and over which the authority has no power to improve, lease, or sell pursuant to subsection (a) of Code Section 12-3-243. If the aerial survey demonstrates that the percentage of undeveloped land on Jekyll Island is presently less than 65 percent, then no further development of undeveloped land shall be permitted in the master plan.

(b) In the creation of the master plan, the authority shall, after preparation of a preliminary plan, give notice of the existence of the preliminary plan in the legal organs of Glynn and Fulton counties and in at least two newspapers of state-wide general circulation not less than 60 days prior to the meeting of the authority at which the preliminary plan is to be considered for final adoption. After giving this notice, the authority shall hold a public hearing at a convenient location on Jekyll Island and receive and consider such oral and written comments on the preliminary plan as may be presented.

(c) The authority, in the exercise of its authority to develop, manage, preserve, and protect Jekyll Island, shall be guided by and shall adhere to the master plan as the same may from time to time be amended as provided in subsection (d) of this Code section.

(d) The authority may, from time to time, amend the master plan but only in compliance with the following procedure:

(1) Any proposed amendment to the master plan shall be described in written form and, if capable of such description, in visual form and presented publicly at a regular meeting of the authority;

(2) After the proposed amendment is presented publicly at a regular meeting of the authority, a brief summary of the proposed amendment shall be advertised in the legal organs of Glynn and Fulton counties, distributed to the media by news release, and published in appropriate publications of the authority. Each such advertisement, news release, and publication shall also contain:

(A) The time and place of the public hearing on the proposed amendment, which public hearing shall be held no earlier than 15 days after the latest publication of the

1 advertisement in the legal organ of Glynn or Fulton County as required by this
2 paragraph;

3 (B) Directions as to the manner of receiving comments from the public regarding the
4 proposed amendment; and

5 (C) The date on which the meeting of the authority at which the proposed amendment
6 will be considered for approval or rejection, which meeting shall not be held any sooner
7 than 30 days after the meeting of the authority at which the proposed amendment was
8 announced pursuant to paragraph (1) of this subsection;

9 (3) The authority shall transmit ~~three~~ by certified mail or personal service copies of the
10 information required by paragraph (2) of this subsection and a complete copy of the
11 proposed amendment to the Speaker of the House, President of the Senate, members of
12 the Jekyll Island—State Park Authority Oversight Committee, and Office of Legislative
13 Counsel at least 30 60 days prior to the date of the meeting at which the proposed
14 amendment will be considered. The Office of Legislative Counsel shall immediately
15 furnish the presiding officers of each house with a copy of the information received. The
16 presiding officers of each house, or the Office of Legislative Counsel if the a presiding
17 officer is unavailable, shall then assign the information to the chairperson of the
18 appropriate standing committee in each house for review and provide copies to any
19 member of that house the General Assembly who makes, or has made, a standing written
20 request;

21 (4) In the event ~~a standing committee to which the information has been assigned as~~
22 ~~provided in paragraph (3) of this subsection~~ the Jekyll Island—State Park Authority
23 Oversight Committee files an objection to a proposed amendment to the master plan with
24 the chairperson of the authority prior to the authority's taking action on the proposed
25 amendment and the authority adopts the proposed amendment over the objection, the
26 authority shall notify the presiding officers of the Senate and House of Representatives,
27 the chairpersons of the standing committees to which the information was referred, and
28 the Office of Legislative Counsel within ten days after the adoption of the amendment to
29 the master plan, then the same shall be stayed. Thereafter, by introduction of a resolution
30 to ~~override the amendment~~ consider the committee's objection within the first 30 days
31 of the next regular session of the General Assembly, the amendment objection may be
32 considered for ratification by the ~~branch of the~~ General Assembly whose committee
33 objected to its adoption. ~~In the event the resolution is adopted by the members of the~~
34 ~~branch of the General Assembly in which it is introduced, it shall be immediately~~
35 ~~transferred to the other branch of the General Assembly, which branch shall consider the~~
36 ~~resolution within five days of its being received. In the event the resolution to override~~
37 ~~the amendment to the master plan is adopted by a vote of two-thirds of the members of~~

1 each branch, the amendment to the master plan shall ~~be void on the day after the adoption~~
 2 ~~of the resolution by the second branch of the General Assembly~~ not be adopted by the
 3 authority. In the event the resolution is ratified by a vote of less than two-thirds of the
 4 members of either house, the resolution shall be submitted to the Governor for approval
 5 or veto. In the event the resolution fails to pass both houses or is vetoed by the Governor,
 6 the amendment to the master plan ~~shall remain in effect~~ may be adopted by the authority
 7 and the stay of the committee shall be lifted. In the event of the Governor's approval of
 8 the resolution, the amendment to the master plan shall be ~~void on the day after the date~~
 9 ~~of the Governor's approval of the resolution~~ prohibited;

10 (5) Any proposed changes to the boundaries of the area or areas delineated on the master
 11 plan as the 65 percent of the land area of Jekyll Island which lies above water at mean
 12 high tide and over which the authority has no power to improve, lease, or sell pursuant
 13 to subsection (a) of Code Section 12-3-243 shall be surveyed and marked at least seven
 14 days prior to the public hearing required by paragraph (2) of this subsection in such a
 15 fashion as to be readily discernible on the ground by members of the public; and

16 (6) At the meeting of the authority which has been identified in the advertisement
 17 required by paragraph (2) of this subsection as the meeting to consider the approval or
 18 rejection of the proposed amendment, the authority shall consider in an open and public
 19 meeting the proposed amendment to the master plan which, if approved, shall become a
 20 part of the master plan, subject, however, to the provisions of paragraph (4) of this
 21 subsection."

22 SECTION 9.

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

26 "(a) The authority shall ~~sell only those residential lots which have theretofore been leased~~
 27 ~~by it~~ not sell any residential lot unless obligated to do so under the terms of a valid lease
 28 agreement entered into prior to the effective date of this Code section, and such a sale shall
 29 be made only to the person who shall hold such lease, his or her assignee, or assigns. No
 30 conveyance of the fee simple title to any residential lot shall be made until the lessee of
 31 such lot has performed all the obligations regarding the improvement and erection of
 32 structures on the lot as are imposed by the lease.

33 (b) The authority shall ~~sell no~~ not sell any commercial property on which improvements
 34 were erected prior to March 1, 1957, ~~but the authority may sell other commercial property;~~
 35 and the authority shall not sell any other commercial property unless obligated to do so
 36 under the terms of a valid lease agreement entered into prior to the effective date of this

1 Code section, in which event the commercial property may be sold in the same manner as
 2 provided by this part for the sale of leased residential lots. ~~Alternatively, if such~~
 3 ~~commercial property has not previously been leased, it may be sold directly by the~~
 4 ~~authority, provided that the deeds for such direct sales must provide that unless all~~
 5 ~~obligations contained in the conveyance as to improvements and erection of structures on~~
 6 ~~such property are fulfilled, the property shall revert to the authority and the state, as their~~
 7 ~~interest may appear.~~

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

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

23 SECTION 10.

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

26 "12-3-274.

27 It is found, determined, and declared that the creation of the authority and the carrying out
 28 of its corporate purpose are in all respects for the benefit of the people of this state and
 29 constitute a public purpose and that the authority will be performing an essential
 30 governmental function in the exercise of the power conferred upon it by this part. This state
 31 covenants with the holders of the bonds that the authority shall be required to pay no taxes
 32 or assessments upon any of the property acquired or leased by it, or under its jurisdiction,
 33 control, possession, or supervision, or upon its activities in the operation or maintenance
 34 of the buildings erected or acquired by it, or upon any fees, rentals, or other charges
 35 received by the authority for the use of such buildings, or upon other income received by
 36 the authority and that the authority shall be exempt from all sales and use taxes. Further,

1 this state covenants that the bonds of the authority, their transfer, and the income therefrom
2 shall at all times be exempt from all taxation within the state."

3 **SECTION 11.**

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

6 **SECTION 12.**

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