

House Bill 321 (AS PASSED HOUSE AND SENATE)

By: Representatives Royal of the 171st and Roberts of the 154th

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 change certain eligibility requirements with respect
3 to conservation use assessment; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide
7 conservation use property, is amended by revising paragraph (1) of subsection (a) as follows:

8 "(1) Not more than 2,000 acres of tangible real property of a single ~~owner~~ person, the
9 primary purpose of which is any good faith production, including but not limited to
10 subsistence farming or commercial production, from or on the land of agricultural
11 products or timber, subject to the following qualifications:

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

16 (A.1) In the application of the limitation contained in the introductory language of this
17 paragraph, the following rules shall apply to determine beneficial interests in bona fide
18 conservation use property held in a family owned farm entity as described in division
19 (1)(C)(iv) of this subsection:

20 (i) A person who owns an interest in a family owned farm entity as described in
21 division (1)(C)(iv) of this subsection shall be considered to own only the percent of
22 the bona fide conservation use property held by such family owned farm entity that
23 is equal to the percent interest owned by such person in such family owned farm
24 entity; and

25 (ii) A person who owns an interest in a family owned farm entity as described in
26 division (1)(C)(iv) of this subsection may elect to allocate the lesser of any unused

1 portion of such person's 2,000 acre limitation or the product of such person's percent
 2 interest in the family owned farm entity times the total number of acres owned by the
 3 family owned farm entity subject to such bona fide conservation use assessment, with
 4 the result that the family owned farm entity may receive bona fide conservation use
 5 assessment on more than 2,000 acres;

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

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

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

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

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

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

29 (v) A bona fide nonprofit conservation organization designated under Section
 30 501(c)(3) of the Internal Revenue Code;

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

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

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

37 (i) The nature of the terrain;

- 1 (ii) The density of the marketable product on the land;
2 (iii) The past usage of the land;
3 (iv) The economic merchantability of the agricultural product; and
4 (v) The utilization or nonutilization of recognized care, cultivation, harvesting, and
5 like practices applicable to the product involved and any implemented plans thereof;
6 and
7 (E) Such property shall, if otherwise qualified, include, but not be limited to, property
8 used for:
9 (i) Raising, harvesting, or storing crops;
10 (ii) Feeding, breeding, or managing livestock or poultry;
11 (iii) Producing plants, trees, fowl, or animals, including without limitation the
12 production of fish or wildlife by maintaining not less than ten acres of wildlife habitat
13 either in its natural state or under management, which shall be deemed a type of
14 agriculture; provided, however, that no form of commercial fishing or fish production
15 shall be considered a type of agriculture; or
16 (iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock,
17 poultry, and apiarian products; or"

18 **SECTION 2.**

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