

Senate Bill 210

By: Senators Tolleson of the 20th, Jeffares of the 17th, Miller of the 49th, Crosby of the 13th, Harper of the 7th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and
2 natural resources, so as to repeal Chapter 6A, relating to land conservation; to create the
3 Georgia Legacy Program; to provide for legislative intent; to create conservation funding
4 mechanisms and provide for their operation; to establish procedural requirements; to provide
5 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 12 of the Official Code of Georgia Annotated, relating to land conservation, is amended
10 by repealing in its entirety Chapter 6A, relating to land conservation, and enacting a new
11 Chapter 6A to read as follows:

12 "CHAPTER 6A

13 12-6A-1.

14 The intent of this chapter is to create the Georgia Legacy Program. The General Assembly
15 recognizes that as stewards of the state's natural resources, Georgians have a moral
16 imperative and economic incentive to conserve the state's land and water. Georgia's land
17 and water resources, the state's prime agricultural and forestry lands, and its natural,
18 cultural, historic, and recreational areas are a priceless legacy that enhances the health of
19 Georgia's ecosystems and its people, encourages working landscapes, fosters natural
20 resource stewardship, sustains a healthy economy, and promotes a sustainable high quality
21 of life for current and future generations of Georgians. This chapter shall provide funding
22 options to acquire critical areas for clean water, game, wildlife, or natural-resource-based
23 outdoor recreation; provide stewardship for state lands; conserve working farms and
24 forests; support local parks and trails; and promote places and programs for good health.

25 12-6A-2.

26 As used in this chapter, the term:

27 (1) 'Authority' means the Georgia Environmental Finance Authority established in Code
28 Section 50-23-3.

29 (2) 'City' means a statutorily established municipal government.

30 (3) 'Commission' means the State Forestry Commission established under Code Section
31 12-6-2.

32 (4) 'Conservation easement' means a conservation easement established in accordance
33 with Code Section 44-10-2.

34 (5) 'Conservation land' means land and water, or interests therein, that is in its
35 undeveloped, natural state or that has been developed only to the extent consistent with,
36 or is restored to be consistent with, at least one of the following environmental values or
37 conservation benefits:

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

39 (B) Flood protection;

40 (C) Wetlands protection;

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

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

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

46 (G) Protection of cultural sites, heritage corridors, and archeological and historic
47 resources;

48 (H) Scenic protection;

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

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

53 (6) 'Costs of acquisition' means all direct costs of activities which are required by
54 applicable state laws and local ordinances or policies in order to obtain fee simple or
55 lesser interests in real property or to convey a conservation easement to a holder who will
56 ensure the permanent protection of the property as conservation land. Said costs shall
57 include the purchase price, if any; the costs of due diligence investigation, such as
58 appraisals, surveys, phase 1 environmental reports, and title searches; title insurance; fees
59 for services related to the direct acquisition of the real property, such as holding costs,
60 overhead costs, finder's fees, and real estate commissions; attorney fees; pro rata ad
61 valorem taxes; resource stewardship; and other costs related to closing the transaction;

62 provided, however, that said costs shall not include any costs for services provided in
 63 violation of Chapter 40 of Title 43.

64 (7) 'Council' means the Georgia Legacy Council established by this chapter.

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

67 (9) 'Georgia Legacy funds' means the Georgia Legacy Trust Fund and the Georgia
 68 Legacy Revolving Fund.

69 (10) 'Land conservation project' means a project to accomplish strategic investment in
 70 permanent protection of conservation land.

71 (11) 'Nongovernmental entity' means a nonprofit organization primarily concerned with
 72 the permanent protection and conservation of land and natural resources, as evidenced
 73 by the organizational documents.

74 (12) 'Other state authority' means a state authority that is otherwise created and
 75 authorized by law to engage in projects that would qualify as Georgia Legacy projects,
 76 to accept grants or loans, and to incur debt and is recommended by the department to
 77 receive either grants or loans for such a project; provided, however, that such term shall
 78 not include the Georgia Building Authority.

79 (13) 'Permanently protected conservation areas' means those resources:

80 (A) Owned by the federal government and designated for recreation or conservation,
 81 or as a natural resource;

82 (B) Owned by the State of Georgia and dedicated for recreation or conservation, or as
 83 a natural resource;

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

85 (i) A conservation easement that ensures that the land will be maintained for
 86 conservation purposes;

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

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

92 (iv) A permanent restrictive covenant as provided in subsection (c) of Code Section
 93 44-5-60;

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

96 (E) Acquired with Georgia Legacy funds, owned by a nongovernmental entity, and
 97 subject to a contractual agreement that ensures that the land will not be disposed of
 98 except for conservation purposes during the period that the loan is outstanding.

99 (14) 'Project proposal' means any project proposal seeking moneys from the Georgia
100 Legacy Trust Fund or Georgia Legacy Revolving Loan Fund.

101 12-6A-3.

102 (a) There is created the Georgia Legacy Council. The council shall be composed of the
103 commissioner of natural resources, who shall serve as chairperson; the state property
104 officer, who shall serve as vice chairperson; the director of the State Forestry Commission;
105 the executive director of the State Soil and Water Conservation Commission; the
106 Commissioner of Agriculture; four members to be appointed by and to serve at the pleasure
107 of the Governor; one member to be appointed by the Speaker of the House of
108 Representatives; and one member to be appointed by the Lieutenant Governor. All
109 appointed members shall have significant experience in conservation, agriculture, forestry,
110 recreation, real estate, or natural resources.

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

114 (c) For administrative purposes, the council shall be attached to the authority. The
115 authority shall provide staff support to the council, utilizing personnel and funds available
116 to the authority.

117 12-6A-4.

118 There is established the Georgia Legacy Trust Fund and the Georgia Legacy Revolving
119 Loan Fund to consist of any state appropriations, moneys paid to the authority under
120 intergovernmental contract for purposes of this chapter, voluntary contributions or
121 donations, any federal moneys deposited in such funds, other moneys acquired for the use
122 of such funds by any fund raising or other promotional techniques deemed appropriate by
123 the authority, and all interest thereon. Moneys which are restricted as to their usage,
124 including, but not limited to, restrictions on the kinds of projects for which the moneys can
125 be expended or loaned, on the entity that can receive grants or loans of such moneys, on
126 the manner in which such moneys can be expended or loaned, and any other condition,
127 limitation, or restriction, may nevertheless be deposited into the Georgia Legacy funds so
128 long as any such restriction does not prevent the moneys so deposited from being used in
129 a manner that is consistent with the purposes of this chapter. All balances in the Georgia
130 Legacy funds shall be deposited in interest-bearing accounts. The authority shall
131 administer the Georgia Legacy funds, shall grant or loan moneys held in the Georgia
132 Legacy funds in furtherance of the purposes of and pursuant to the provisions of this
133 chapter, and shall prepare, by June 30 of each year, an accounting of moneys received into

134 and expended from the Georgia Legacy funds. The report shall be made available to the
135 council, to the members of the General Assembly, and to members of the public on request.

136 12-6A-5.

137 (a) Within the Georgia Legacy Trust Fund, moneys shall be made available in each fiscal
138 year for grants to any city, county, department, agency, other state authority, or
139 nongovernmental entity of this state having a Georgia Legacy project approved by the
140 council. Each Georgia Legacy project shall, as a condition of eligibility for any such grant,
141 have as its primary purpose one of the following conservation objectives:

142 (1) To acquire critical areas for clean water, game, wildlife, or natural-resource-based
143 outdoor recreation as part of a land conservation project. Funds disbursed for purposes
144 of this paragraph shall be used solely to defray the costs of acquisition of conservation
145 land or of conservation easements placed upon conservation land;

146 (2) To preserve working farms and forests as part of a land conservation project. Funds
147 disbursed for purposes of this paragraph shall be grants to state agencies or local
148 governments to defray the costs of acquisition of conservation land or conservation
149 easements on farms or forests that qualify as conservation land;

150 (3) To support local parks and trails as part of a land conservation project. Funds
151 disbursed for purposes of this paragraph shall be grants to local governments to aid in the
152 acquisition and improvement of parks and trails within the jurisdiction of such local
153 governments;

154 (4) To provide stewardship of conservation land. Funds disbursed for purposes of this
155 paragraph shall be used for maintenance or restoration projects conducted by the
156 department, the State Forestry Commission, the State Soil and Water Conservation
157 Commission, or the Department of Agriculture to enhance public access, use, or safe
158 enjoyment of permanently protected conservation areas, whether or not such areas were
159 acquired through this chapter; or

160 (5) To promote land usage for vital environmental and wellness education programs.
161 Disbursements for purposes of this paragraph shall be as grants to the Department of
162 Public Health or any other state department or agency to carry out environmental and
163 wellness education programs associated with public parks.

164 (b) Within the Georgia Legacy Revolving Loan Fund, moneys shall be made available in
165 each fiscal year for loans to any city, county, or nongovernmental entity having a land
166 conservation project approved by the council. Loans from the Georgia Legacy Revolving
167 Loan Fund shall be expended solely to defray the costs of acquisition of conservation land
168 or of conservation easements placed upon conservation land. Any such loan shall bear
169 interest at a rate established by the authority.

170 12-6A-6.

171 (a) Approval of any project proposal shall be accomplished as provided for in this Code
172 section.

173 (b) The council shall adopt procedures to review and determine the disposition of project
174 proposals including, but not limited to, a schedule of meetings on an as needed basis, at
175 which project proposals will be considered; the components required to comprise a project
176 proposal; the format in which project proposals will be submitted for consideration; the
177 conditions which provide priority ranking to be used in reviewing the merits of project
178 proposals; and the means, such as a memorandum of understanding, by which
179 nongovernmental entities may enter into partnerships to assist with the development and
180 implementation of project proposals.

181 (c)(1) The authority shall review each project proposal for fiscal merit, for the capacity
182 of the applicant to fulfill any matching fund requirements, for the fiscal solvency of the
183 entity identified as responsible for implementing the project, and for compliance with all
184 applicable terms and conditions of this chapter.

185 (2) The department shall review each project proposal for its strategic investment in land
186 resources with high environmental values or conservation benefits; for consistency with
187 the conservation goals set forth in this chapter and the conservation priorities set forth by
188 the Governor; for the merit of a plan for long-term management of the conservation land
189 or conservation easement; and for compliance with all applicable terms and conditions
190 of this chapter.

191 (3) The Department of Agriculture or the State Forestry Commission shall review project
192 proposals to preserve working farms and forests. The Department of Public Health shall
193 review project proposals to promote land usage for vital environmental and public health
194 wellness programs.

195 (d) Reviews conducted pursuant to subsection (c) of this Code section shall be submitted
196 to the council. The council shall review each project proposal and shall consider the
197 recommendations of the authority and the various departments as applicable.

198 (e) Upon the council's approval of a project proposal, such approved project shall become
199 eligible for funding consistent with this chapter. The authority shall be responsible for the
200 execution of each project following approval by the council and shall administer such
201 projects consistent with the purposes of this chapter, all applicable regulations promulgated
202 pursuant thereto, and the specific terms and conditions of any such project.

203 (f) The minimum percentage of funds disbursed during a fiscal year from the Georgia
204 Legacy Trust Fund for each conservation objective, as such percentage relates to the total
205 outlay of funds from the Georgia Legacy Trust Fund during such fiscal year, shall be as
206 follows:

207	<u>(1) Acquisition of areas for clean water, game, wildlife, or</u>	<u>25 percent</u>
208	<u>natural-resource-based outdoor recreation</u>	
209	<u>(2) Preservation of working farms and forests</u>	<u>20 percent</u>
210	<u>(3) Support of local parks and trails</u>	<u>20 percent</u>
211	<u>(4) Stewardship of permanently protected conservation areas</u>	<u>6 percent</u>
212	<u>(5) Promotion of environmental wellness</u>	<u>4 percent</u>

213 12-6A-7.

214 (a) Grants may in appropriate cases be made for the acquisition of land, and the grantee
 215 shall be permitted to place the needed and appropriate conservation easements on such land
 216 to ensure its permanent protection as contemplated in this chapter and the grantee would
 217 then be entitled to resell the land to private parties at the highest obtainable price and return
 218 the proceeds to the trust fund for reuse for additional grants.

219 (b) Any project proposed by any nongovernmental entity involving the acquisition of land
 220 shall be submitted by means of co-application with the city or county having jurisdiction
 221 over the area in question, but such city or county shall not be liable for any debt of the
 222 nongovernmental entity.

223 12-6A-8.

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

228 (b) Cities, counties, the department, the commission, other state departments or agencies,
 229 and other state authorities may, by agreement with nongovernmental entities as established
 230 in a memorandum of understanding adopted by the council, enter into partnerships to assist
 231 with the development of project proposals, to assist with the establishment of a local
 232 funding match, and to accept and administer property acquired by a city, county, the
 233 department, the commission, other state department or agency, or other state authority
 234 pursuant to this chapter.

235 12-6A-9.

236 (a) The authority is authorized to promulgate rules and regulations to implement the terms
 237 of this chapter; provided, however, that for purposes of this chapter the authority shall be
 238 an agency subject to the provisions of Chapter 13 of Title 50, the 'Georgia Administrative
 239 Procedure Act.' The authority may audit, or have audited, the use of moneys from the

240 Georgia Legacy Trust Fund or Georgia Legacy Revolving Loan Fund or the use of
241 properties obtained pursuant to this chapter.

242 (b) The council, the authority, and the department may enter into contracts or agreements,
243 consistent with the intent and provisions of this chapter, setting forth the details of how
244 each will discharge, in cooperation with the others, their respective responsibilities under
245 this chapter.

246 12-6A-10.

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

251 (b) The department shall make its geographic information system data and maps available
252 to cities, counties, the commission, other state departments or agencies, and other state
253 authorities to assist them in furthering the purposes of this chapter.

254 (c) The department shall cooperate with the commission, the State Soil and Water
255 Conservation Commission, the Cooperative Extension Service of the University of Georgia
256 and other institutions and organizations with outreach programs designed for landowners
257 to provide technical support on land conservation. The department shall assist with the
258 development of project proposals including, but not limited to, providing information
259 regarding program requirements and technical assistance with real estate transactions.

260 (d) The department may establish a land conservation program consistent with the
261 purposes of this chapter.

262 12-6A-11.

263 (a) The Georgia Legacy Trust Fund established by this chapter shall be a successor to the
264 former Georgia Land Conservation Trust Fund and, on July 1, 2014, all funds in the
265 Georgia Land Conservation Trust Fund shall be transferred into the Georgia Legacy Trust
266 Fund.

267 (b) The Georgia Legacy Revolving Loan Fund established by this chapter shall be a
268 successor to the former Georgia Land Conservation Revolving Loan Fund and, on July 1,
269 2014, all funds in the Georgia Land Conservation Revolving Loan Fund shall be
270 transferred into the Georgia Legacy Revolving Loan Fund."

271 **SECTION 2.**

272 This Act shall become effective on July 1, 2014.

273

SECTION 3.

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