

House Bill 238

By: Representatives Hatchett of the 150th, Abrams of the 89th, England of the 116th, LaRiccia of the 169th, Epps of the 144th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding ad valorem taxation of property, so as to provide an
3 exception to a breach of the covenants for use of the property for solar power generation; to
4 provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to
8 general provisions regarding ad valorem taxation of property, is amended by revising
9 subsection (p) of Code Section 48-5-7.4, relating to bona fide conservation use property, as
10 follows:

11 "(p) The following shall not constitute a breach of a covenant:

12 (1) Mineral exploration of the property subject to the covenant or the leasing of the
13 property subject to the covenant for purposes of mineral exploration if the primary use
14 of the property continues to be the good faith production from or on the land of
15 agricultural products;

16 (2) Allowing all or part of the property subject to the covenant to lie fallow or idle for
17 purposes of any land conservation program, for purposes of any federal agricultural
18 assistance program, or for other agricultural management purposes;

19 (3) Allowing all or part of the property subject to the covenant to lie fallow or idle due
20 to economic or financial hardship if the owner notifies the board of tax assessors on or
21 before the last day for filing a tax return in the county where the land lying fallow or idle
22 is located and if such owner does not allow the land to lie fallow or idle for more than
23 two years of any five-year period;

24 (4)(A) Any property which is subject to a covenant for bona fide conservation use
25 being transferred to a place of religious worship or burial or an institution of purely
26 public charity if such place or institution is qualified to receive the exemption from ad

27 valorem taxation provided for under subsection (a) of Code Section 48-5-41. No
 28 person shall be entitled to transfer more than 25 acres of such person's property in the
 29 aggregate under this paragraph.

30 (B) Any property transferred under subparagraph (A) of this paragraph shall not be
 31 used by the transferee for any purpose other than for a purpose which would entitle
 32 such property to the applicable exemption from ad valorem taxation provided for under
 33 subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration
 34 of the term of the covenant period. Any such use or transfer shall constitute a breach
 35 of the covenant;

36 (5) Leasing a portion of the property subject to the covenant, but in no event more than
 37 six acres, for the purpose of placing thereon a cellular telephone transmission tower. Any
 38 such portion of such property shall cease to be subject to the covenant as of the date of
 39 execution of such lease and shall be subject to ad valorem taxation at fair market value;

40 (6) Allowing all or part of the property subject to the covenant on which a corn crop is
 41 grown to be used for the purpose of constructing and operating a maze so long as the
 42 remainder of such corn crop is harvested;

43 (7)(A) Allowing all or part of the property subject to the covenant to be used for
 44 agritourism purposes.

45 (B) As used in this paragraph, the term 'agritourism' means charging admission for
 46 persons to visit, view, or participate in the operation of a farm or dairy or production
 47 of farm or dairy products for entertainment or educational purposes or selling farm or
 48 dairy products to persons who visit such farm or dairy;

49 (8) Allowing all or part of the property which has been subject to a covenant for at least
 50 one year to be used as a site for farm weddings;

51 (9) Allowing all or part of the property which has been subject to a covenant for at least
 52 one year to be used to host not for profit equestrian performance events to which
 53 spectator admission is not contingent upon an admission fee but which may charge an
 54 entry fee from each participant; ~~or~~

55 (10) Allowing all or part of the property subject to the covenant to be used to host a not
 56 for profit rodeo event to which spectator admission and participant entry fees are charged
 57 in an amount that in aggregate does not exceed the cost of hosting such event; or

58 (11)(A) Allowing part of the property subject to the covenant to be used for solar
 59 generation of energy and conversion of such energy into heat or electricity, and the sale
 60 of the same in accordance with applicable law.

61 (B) The provisions of subparagraph (A) of this paragraph shall not allow the portion
 62 of the property on which such solar energy generating equipment is located, as depicted
 63 by a boundary survey prepared by a licensed surveyor, and which is subject to an

64 existing covenant to remain in the covenant. Such property shall be removed from the
 65 existing covenant at the time of the installation of the solar energy generating
 66 equipment and shall be subject to ad valorem taxation at fair market value."

67 **SECTION 2.**

68 Said article is further amended by revising subsection (q) of Code Section 48-5-7.7, relating
 69 to the forest land protection act, as follows:

70 "(q) The following shall not constitute a breach of a covenant:

71 (1) Mineral exploration of the property subject to the covenant or the leasing of the
 72 property subject to the covenant for purposes of mineral exploration if the primary use
 73 of the property continues to be the good faith production from or on the land of timber;

74 (2) Allowing all or part of the property subject to the covenant to lie fallow or idle for
 75 purposes of any forestry conservation program, for purposes of any federal agricultural
 76 assistance program, or for other agricultural management purposes;

77 (3) Allowing all or part of the property subject to the covenant to lie fallow or idle due
 78 to economic or financial hardship if the qualified owner notifies the board of tax assessors
 79 on or before the last day for filing a tax return in the county where the land lying fallow
 80 or idle is located and if such qualified owner does not allow the land to lie fallow or idle
 81 for more than two years of any five-year period;

82 (4)(A) Any property which is subject to a covenant for forest land conservation use
 83 being transferred to a place of religious worship or burial or an institution of purely
 84 public charity if such place or institution is qualified to receive the exemption from ad
 85 valorem taxation provided for under subsection (a) of Code Section 48-5-41. No
 86 qualified owner shall be entitled to transfer more than 25 acres of such person's
 87 property in the aggregate under this paragraph.

88 (B) Any property transferred under subparagraph (A) of this paragraph shall not be
 89 used by the transferee for any purpose other than for a purpose which would entitle
 90 such property to the applicable exemption from ad valorem taxation provided for under
 91 subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration
 92 of the term of the covenant period. Any such use or transfer shall constitute a breach
 93 of the covenant; ~~or~~

94 (5) Leasing a portion of the property subject to the covenant, but in no event more than
 95 six acres of every unit of 2,000 acres, for the purpose of placing thereon a cellular
 96 telephone transmission tower. Any such portion of such property shall cease to be
 97 subject to the covenant as of the date of execution of such lease and shall be subject to
 98 ad valorem taxation at fair market value; or

99 (6)(A) Allowing part of the property subject to the covenant to be used for solar
100 generation of energy and conversion of such energy into heat or electricity, and the sale
101 of the same in accordance with applicable law.

102 (B) The provisions of subparagraph (A) of this paragraph shall not allow the portion
103 of the property on which such solar energy generating equipment is located, as depicted
104 by a boundary survey prepared by a licensed surveyor, and which is subject to an
105 existing covenant to remain in the covenant. Such property shall be removed from the
106 existing covenant at the time of the installation of the solar energy generating
107 equipment and shall be subject to ad valorem taxation at fair market value."

108 **SECTION 3.**

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