

Senate Bill 458

By: Senators Wilkinson of the 50th, Gooch of the 51st, Ginn of the 47th, Brass of the 28th and Mullis of the 53rd

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 the
3 conditions upon which family owned farmed entities may elect to discontinue a qualifying
4 use of bona fide conservation use property while incurring reduced penalties; to provide for
5 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 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to
10 general provisions regarding ad valorem taxation of property, is amended by revising
11 subsection (q) of Code Section 48-5-7.4, relating to bona fide conservation use property, as
12 follows:

13 "(q) In the following cases, the penalty specified by subsection (l) of this Code section
14 shall not apply and the penalty imposed shall be the amount by which current use
15 assessment has reduced taxes otherwise due for the year in which the covenant is breached,
16 such penalty to bear interest at the rate specified in Code Section 48-2-40 from the date of
17 the breach:

18 (1) Any case in which a covenant is breached solely as a result of the foreclosure of a
19 deed to secure debt or the property is conveyed to the lienholder without compensation
20 and in lieu of foreclosure, if:

21 (A) The deed to secure debt was executed as a part of a bona fide commercial loan
22 transaction in which the grantor of the deed to secure debt received consideration equal
23 in value to the principal amount of the debt secured by the deed to secure debt;

24 (B) The loan was made by a person or financial institution who or which is regularly
25 engaged in the business of making loans; and

26 (C) The deed to secure debt was intended by the parties as security for the loan and
 27 was not intended for the purpose of carrying out a transfer which would otherwise be
 28 subject to the penalty specified by subsection (1) of this Code section;

29 (2) Any case in which a covenant is breached solely as a result of a medically
 30 demonstrable illness or disability which renders the owner of the real property physically
 31 unable to continue the property in the qualifying use, provided that the board of tax
 32 assessors shall require satisfactory evidence which clearly demonstrates that the breach
 33 is the result of a medically demonstrable illness or disability;

34 (3) Any case in which a covenant is breached solely as a result of an owner electing to
 35 discontinue the property in its qualifying use, provided such owner has renewed without
 36 an intervening lapse at least once the covenant for bona fide conservation use, has
 37 reached the age of 65 or older, and has kept the property in a qualifying use under the
 38 renewal covenant for at least three years. Such election shall be in writing and shall not
 39 become effective until filed with the county board of tax assessors; ~~or~~

40 (4) Any case in which a covenant is breached solely as a result of an owner electing to
 41 discontinue the property in its qualifying use, provided such owner entered into the
 42 covenant for bona fide conservation use for the first time after reaching the age of 67 and
 43 has either owned the property for at least 15 years or inherited the property and has kept
 44 the property in a qualifying use under the covenant for at least three years. Such election
 45 shall be in writing and shall not become effective until filed with the county board of tax
 46 assessors; or

47 (5) Any case in which a covenant is breached solely as a result of an owner that is a
 48 family owned farm entity as described in division (a)(1)(C)(iv) of this Code section
 49 electing to discontinue the property in its qualifying use on or after the effective date of
 50 this paragraph, provided the owner has renewed without an intervening lapse at least once
 51 the covenant for bona fide conservation use, has kept the property in a qualifying use
 52 under the renewal covenant for at least three years, and any current shareholder, member,
 53 or partner of such family owned farm entity has reached the age of 65 and such
 54 shareholder, member, or partner held some beneficial interest, directly or indirectly
 55 through a family owned farm entity, in the property continuously since the time the
 56 covenant immediately preceding the current renewal covenant was entered. Such election
 57 shall be in writing and shall not become effective until filed with the county board of tax
 58 assessors."

59 **SECTION 2.**

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

62

SECTION 3.

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