

House Bill 728 (AS PASSED HOUSE AND SENATE)

By: Representative Jasperse of the 12th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 44-5-60 of the Official Code of Georgia Annotated, relating to
2 covenants running with the land, the effect of zoning laws, covenants and scenic easements
3 for use of the public, and the renewal of certain covenants, so as to clarify provisions relating
4 to covenants; to provide for legislative findings; to provide for covenants adopted prior to the
5 adoption of zoning laws; to provide for related matters; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly finds that current law, Code Section 44-5-60, relating to covenants
10 running with the land, is vague and is in fact silent as to the treatment of covenants which
11 were created prior to a county or municipality adopting zoning laws. The General Assembly
12 finds that during its 1935 session it provided for covenants running with the land terminating
13 at a point certain when municipalities had adopted zoning laws and that in its 1962 session
14 it further provided for covenants running with the land terminating at a point certain in those
15 areas of counties for which zoning laws had been adopted. However, the General Assembly
16 finds that at no point has this body pronounced how covenants running with the land which
17 were created prior to the existence of zoning laws should be treated, and therefore it is the
18 intent of the General Assembly to clarify and correct the current vagaries in the law.

19 **SECTION 2.**

20 Code Section 44-5-60 of the Official Code of Georgia Annotated, relating to covenants
21 running with the land, the effect of zoning laws, covenants and scenic easements for use of
22 the public, and the renewal of certain covenants, is amended by revising subsection (b) as
23 follows:

24 "(b) Notwithstanding subsection (a) of this Code section, covenants restricting lands to
25 certain uses shall not run for more than 20 years in municipalities which have adopted

26 zoning laws nor in those areas in counties for which zoning laws have been adopted;
27 provided, however, that whenever a zoning ordinance, upon its initial enactment by a
28 county or municipality, expressly acknowledges the continuing application of a covenant
29 restricting lands to certain uses within that jurisdiction, any such covenant, if created prior
30 to zoning laws being adopted by that county or municipality, shall continue to be effective
31 in such jurisdiction until the expiration of such covenant in accordance with its terms."

32 **SECTION 3.**

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