

House Bill 355

By: Representatives Wiedower of the 119th, Jones of the 25th, Smith of the 70th, Gaines of the 117th, Burns of the 159th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated,
2 relating to the Georgia Carbon Sequestration Registry, so as to provide for the inclusion of
3 building products in construction on the registry; to provide for definitions; to allow
4 participants in the registry to voluntarily report the utilization of carbon sequestration and
5 embodied carbon results; to provide for an advisory committee; to provide for certified
6 third-party organizations to measure the amount of carbon sequestered from building
7 materials that sequester carbon dioxide; to require the State Forestry Commission to publish
8 a list of certified organizations; to provide for related matters; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 5 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to the
13 Georgia Carbon Sequestration Registry, is amended as follows:

"ARTICLE 5

12-6-220.

This article shall be known and may be cited as the 'Georgia Carbon Sequestration Registry Act.'

12-6-221.

As used in this article, the term:

(1) 'Building embodied carbon' means the global warming potential results from a whole-building life cycle assessment covering all life cycle stages, such as extraction, transportation, manufacturing, construction, and end-of-life, except operational, as further explained in International Standards Organization 21930: 2017: Sustainability in buildings and civil engineering works- Core rules for environmental product declarations of construction products and services as in existence on January 1, 2021.

(2) 'Carbon sequestration results' means the participant's applicable data on the removal of carbon dioxide from the atmosphere by sinks resulting from:

(A) ~~Direct human-induced~~ human induced land use change or forestry activities in this state;

(B) Additional ~~human-induced~~ human induced activities in this state related to removal by sinks in land use change and forestry categories;

(C) Additional ~~human-induced~~ human induced activities in this state related to removal by sinks in agricultural soils;

(D) Additional ~~human-induced~~ human induced activities in this state related to removals by sinks in products in use from harvested timber or agricultural crops; ~~and~~

(E) Other ~~human-induced~~ human induced activities in this state related to removals by sinks; and

(F) Construction of buildings in this state that store additional carbon dioxide in building products relative to the building baseline established by the Sustainable Building Material Technical Advisory Committee pursuant to Code Section 12-6-224.1.

~~(2)~~ (3) 'Certification' means the determination of whether a given participant's carbon sequestration result or embodied carbon result has met a minimum quality standard and complied with an appropriate set of approved procedures and protocols for submitting carbon sequestration or embodied carbon information.

~~(3)~~ (4) 'Commission' means the State Forestry Commission.

~~(4)~~ (5) 'Director' means the director of the State Forestry Commission.

(6) 'Embodied carbon results' means the participant's applicable data on the reduction in building embodied carbon emissions resulting from the construction of buildings in this state that have less with lower building embodied carbon relative to the building baseline established by the Sustainable Building Material Technical Advisory Committee pursuant to Code Section 12-6-224.1.

~~(5)~~ (7) 'Forest' means lands that support, or can support, at least 10 percent tree canopy cover and that allow for management of one or more forest resources including but not limited to timber, fish and wildlife, biodiversity, water quality, air quality, soil conservation, recreation, aesthetics, or other benefits.

(8) 'Global warming potential' means a factor describing the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time, as described in International Standards Organization 14064-1:2006 Greenhouse gases- Part 1: Specification with guidance at the organization level for quantification and reporting of greenhouse gas emissions and removals in effect on January 1, 2021.

~~(6)~~ (9) 'Greenhouse gases' means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, ~~and~~ sulfur hexafluoride, and nitrogen trifluoride.

(7) (10) 'Native forest' means a forest type, natural or artificially regenerated, composed of any one or more tree species identified as native to this state in G. Norman Bishop, *Native Trees of Georgia* (Georgia State Forestry Commission 2000 revised edition), including without limitation improved stock of such tree species developed through breeding programs.

(8) (11) 'Participant' or 'registry participant' means a registrant of carbon sequestration results with the registry.

(9) (12) 'Registry' means the Georgia Carbon Sequestration Registry provided for by this article.

(10) (13) 'Sink' means an ecosystem or crop or product thereof, including building materials, that absorbs or has absorbed carbon, thereby removing it from the atmosphere and offsetting emissions of carbon dioxide.

(14) 'Whole building life cycle assessment' means life cycle assessment, compliant with International Standards Organization (ISO) 14040-14044 series methodology in effect on January 1, 2021, for a building or part of a building, including the foundation and structural skeleton, building envelope, including insulation, external walls, glazing, and roof. The purpose is to assess the environmental impacts of building-related materials and processes within an appropriate functional unit, scope, and boundary.

12-6-222.

(a)(1) The commission shall establish a Georgia Carbon Sequestration Registry, which shall be in operation not later than one year after the effective date of this article.

(2) The commission may contract with the Georgia Superior Court Clerks' Cooperative Authority to develop and implement a state-wide uniform automated electronic information system for purposes of the registry.

(b) After its establishment, the state-wide uniform automated electronic information system for purposes of the registry shall be maintained by the Georgia Superior Court

90 Clerks' Cooperative Authority or its designated agent in accordance with Code
91 Section 15-6-97.2.

92 12-6-223.

93 The purpose of the Georgia Carbon Sequestration Registry shall be to do all of the
94 following:

95 (1) Encourage voluntary actions to reduce greenhouse gas emissions, including, but not
96 limited to, the construction of buildings made out of materials that sequester carbon
97 dioxide;

98 (2) Enable participants to voluntarily record carbon sequestrations made after
99 January 1, 1990, or such other beginning date as may be established by rule or regulation
100 of the commission, in a consistent format that is certified;

101 (3) Ensure that sources in the state receive appropriate consideration for certified carbon
102 sequestration results under any future federal or international regulatory regime relating
103 to greenhouse gas emissions;

104 (4) Recognize, publicize, and promote participants in the registry; and

105 (5) Recruit broad participation in the process from all economic sectors and regions of
106 the state.

107 12-6-224.

108 For purposes of the registry, the commission shall:

109 (1)(A) Adopt rules or regulations specifying acceptable types of carbon sequestration
110 results consistent with paragraph (1) of Code Section 12-6-221 and this paragraph and
111 providing procedures and protocols for the monitoring, estimating, calculating,
112 reporting, and certification of carbon sequestration results for purposes of participation
113 in the registry.

(B) Procedures and protocols relative to forestry activities that are reported as a participant's carbon sequestration results under subparagraph (A) of paragraph (1) of Code Section 12-6-221 shall require, at a minimum, that those forestry activities meet the following criteria in order to be reported as any part of a participant's carbon sequestration results:

(i) Forestry activities shall be based on forest management practices within a defined project area that meet or exceed *Georgia's Best Management Practices for Forestry* as published by the commission and that are not the subject of any ongoing remediation or penalty pursuant to judicial or administrative judgment or order for violation of any applicable requirements of federal, state, or local land use laws, regulations, or ordinances. Best management practices and federal, state, or local land use laws, regulations, or ordinances shall be those in effect each time a participant registers a defined project area in the registry;

(ii) Forestry activities reported as carbon sequestration results shall reflect the amount of time that net carbon gains are stored; and

(iii) Forestry activities shall maintain and promote native forests.

(C) Procedures and protocols relative to sinks in agricultural soils that are reported as a participant's carbon sequestration results under subparagraph (C) of paragraph (1) of Code Section 12-6-221 shall be adopted by the commission in accordance with the recommendation of the Commissioner of Agriculture.

(D) The commission shall consider the availability and suitability of simplified techniques and tools when adopting procedures and protocols for the certification of carbon sequestration results.

(E) The procedures and protocols adopted by the commission shall include a uniform format for reporting carbon sequestration results to facilitate their recognition in any future regulatory regime;

(2) Qualify third-party organizations that have the capability to certify reported baseline carbon sequestration results and that are capable of certifying the participant reported results as provided in this article; and

(3) Encourage organizations and individuals from various sectors of the state's economy, and those from various geographic regions of the state, to report carbon sequestration results.

12-6-224.1.

(a) The director shall establish the Sustainable Building Material Technical Advisory Committee. The advisory committee shall consist of:

(1) One representative from the Georgia Institute of Technology with expertise in engineering and architecture;

(2) One representative with extensive knowledge of and expertise in the Georgia State Minimum Standard Codes;

(3) One representative who is a real estate developer or builder;

(4) One representative who works in the field of or has expertise in carbon offset protocol development, including carbon accounting rules such as additionality, baseline, leakage, and permanence, and requirements for monitoring and reporting;

(5) One representative who has whole building life cycle assessment expertise; and

(6) Up to three at-large representatives.

(b) The director shall determine the chairperson of the committee.

(c) Prior to the first meeting of the advisory committee, the director shall hold a listening session open to members of the public for the purpose of seeking external input on the rules for the Georgia Carbon Sequestration Registry for building materials.

(d) The advisory committee shall serve the director in an advisory capacity in the rule-making process for the establishment of two baselines: 1) one from which carbon sequestration of building materials shall be measured; and 2) one from which the building

embodied carbon shall be measured. The committee shall use the United States Department of Energy's Commercial Prototype Building Models in effect on January 1, 2021, to establish baseline categories using prototype building occupancies and structural systems.

(e) A primary objective of the advisory committee shall be to ensure the interoperability, general alignment, and compatibility of credits derived from the carbon sequestration results of building materials and embodied carbon results with global carbon credit and offset markets, including establishing guidelines for establishing a carbon baseline, additionality, validation, verification, permanence, and co-benefits.

(f) The chairperson shall be responsible for calling all meetings of the advisory committee. The committee may conduct such meetings at such places and at such times as it may deem necessary and convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this article.

(g) A majority of the voting members of the advisory committee shall constitute a quorum. The committee shall take no action except by affirmative vote of the majority of those present and voting.

(h) Any vacancies on the advisory committee shall be filled in the same manner as the original appointment.

(i) Any member of the committee who, during his or her term of appointment, ceases to meet the qualifications required for the original appointment shall be immediately removed from his or her office.

(j) The advisory committee shall stand abolished no later than one year from the date upon which the first meeting of the committee takes place. The committee may be reestablished, at the calling of the director, within five years of its creation in order to make recommendations to the director for updating or amending the rules and regulations of the commission. The director shall appoint new members to the reestablished committee in accordance with subsection (a) of this Code section.

193 (k) Appointed members of the advisory committee shall receive a daily expense allowance
194 in an amount the same as that specified in subsection (b) of Code Section 45-7-21, as well
195 as the mileage or transportation allowance authorized for state employees.

196 12-6-225.

197 The procedures and protocols for monitoring, estimating, calculating, reporting, and
198 certifying carbon sequestration results established by, or approved pursuant to, this article
199 shall be the only procedures and protocols recognized by the state for the purposes of the
200 registry as described in Code Section 12-6-223.

201 12-6-226.

202 Procedures and protocols adopted pursuant to subparagraph (B) of paragraph (1) of Code
203 Section 12-6-224 shall not be interpreted or construed as a condition for any lease, permit,
204 license, certificate, or other entitlement for an ongoing use of forest land.

205 12-6-227.

206 Participation in the registry shall be voluntary, and participants may withdraw at any time.

207 12-6-228.

208 (a)(1) Participants shall initially report their certified carbon sequestration results for the
209 most recent year for which they have complete data as specified in this article. This shall
210 include sequestration of carbon dioxide from standing trees. ~~Participants that have~~
211 ~~complete data for earlier years that can be certified may establish their baseline as any~~
212 ~~year beginning on or after January 1, 1990, or such other beginning date as may be~~
213 ~~established by rule or regulation of the commission.~~ After establishing baseline results,
214 participants shall report their certified carbon sequestration results in each subsequent
215 year in order to show changes with respect to their baseline year. Participants may report

carbon sequestration results without establishing a baseline for such results or for emissions. Certified carbon sequestration results reported to the registry by a participant shall be credited in carbon mass units to an account established for the participant in the registry.

(2) For the reporting of embodied carbon results arising from construction of buildings in this state, upon completion of the project, developers shall seek the review of a certified third-party organization that will verify the building embodied carbon from a baseline of standard buildings established by the advisory committee. The commission shall publish and maintain a list of approved certified third-party organizations. Only projects that have been completed after January 1, 2019, shall be considered. After such projects have been verified and validated by a certified third-party organization, the director shall be authorized to determine, charge, and retain an administrative fee from developers for awarding carbon credits to provide for the cost of administering the provisions of this article.

(b)(1) Registry credits for certified carbon sequestration results may be sold, purchased, or otherwise transferred in whole or in part without any regard to or effect on or being affected by ownership of other personal property or any real property, and such credits may be retained in whole or in part without any regard to or effect on or being affected by any sale, purchase, or other transfer of other personal property or any real property.

(2) In addition to annual reports submitted pursuant to subsection (a) of this Code section, participants shall report to the registry any sales, purchases, or other transfers of registry credits for certified carbon sequestration results, in whole or in part, within ten days after the completion of such transaction, and participants' registry accounts shall be updated to reflect such transfers.

(c) The basic unit of participation in the registry shall be a natural person or a legal entity in its entirety such as a corporation or other legally constituted body, a city or county, or a state government agency.

243 (d) Reports to the registry by participants may be filed in the office of the clerk of the
244 superior court in any county of this state.

245 12-6-229.

246 To support the estimation, calculation, reporting, and certification of carbon sequestration
247 results in a consistent format, the commission, in consultation with the Georgia Superior
248 Court Clerks' Cooperative Authority, shall adopt standardized forms that all participants
249 shall use to calculate, report, and certify emissions results.

250 12-6-230.

251 (a) Participants registering baseline carbon sequestration results in the registry shall
252 provide certification of their methodologies and results. The commission may, upon
253 recommendation of the director, following a public process, adopt simplified procedures
254 to certify carbon sequestration results as appropriate. Participants shall follow commission
255 approved procedures and protocols in determining carbon sequestration results and supply
256 the quantity and quality of information necessary to allow an independent ex post
257 certification of the baseline results reported under this program.

258 (b) The commission shall provide a list of approved third-party organizations recognized
259 as competent to certify carbon sequestration results as provided in this article. The
260 commission shall reopen the qualification process periodically in order for new
261 organizations to be added to the approved list.

262 (c) Where required for certification, organizations approved pursuant to subsection (b) of
263 this Code section shall do all of the following:

264 (1) Evaluate whether the participant has a program, consistent with commission
265 approved procedures and protocols, in place for preparation and submittal of the
266 information reported under this article;

(2) Check, during certification, the reasonableness of the carbon sequestration information being reported for a random sample of estimates or calculations; and

(3) Summarize its review in a report to the board of directors, or equivalent governing body, of the participating legal entity or to the participating natural person, attesting to the existence of a program that is consistent with commission approved procedures and protocols and the reasonableness of the reported carbon sequestration results and noting any exceptions, omissions, limitations, or other qualifications to their representations.

(d) In conducting certification for a participant under this program, the approved organization shall schedule any meeting or meetings with the participant with a minimum of one week's notice at one or more representative locations and allow the participant to control property access. The meetings shall be conducted in accordance with a protocol that is agreed upon in advance by the participant and the approved organization. The approved organization shall not perform property inspection, direct measurement, monitoring, or testing unless authorized by the participant.

(e) To ensure the integrity and constant improvement of the registry program and for the sequestration of carbon dioxide from standing trees, the commission shall perform on a random basis an occasional review and evaluation of participants' carbon sequestration reporting, certifications, and the reasonableness of the information being reported for analysis of estimates or calculations. The director shall report any findings in writing. The director shall include a summary of these findings in the biennial report to the Governor and the General Assembly required by Code Section 12-6-231.

(f) As it relates to the registry program for building products that sequester carbon dioxide, the commission shall engage in a review of the standards two years and five years after such registry is established.

(g) As is related to the registry program for building embodied carbon, the commission shall engage in a review of the standards two years and five years after such registry is established.

294 12-6-231.

295 Not later than two years after the effective date of this article and biennially thereafter, the
296 director shall report to the Governor and the General Assembly on the number of
297 participants in the registry, the amounts of carbon sequestered by those participants, and
298 ways to make the registry more workable for participants that are consistent with the goals
299 and intent of this article.

300 12-6-232.

301 The commission shall do all of the following:

302 (1) Develop a process for qualifying third-party organizations recognized by the state as
303 competent to certify the carbon sequestration results of the types of natural persons or
304 legal entities that may choose to participate in this registry, by doing all of the following:

305 (A) Developing a list of the minimum technical and organizational capabilities and
306 other qualification standards that approved third-party organizations shall meet. Those
307 qualifications shall include the ability to sign an opinion letter, for which they may be
308 held financially at risk, and certifying the participant-reported carbon sequestration
309 results as provided in this article. Such capabilities and standards for third-party
310 organizations related to certification of carbon sequestration results achieved by sinks
311 in agricultural soils under subparagraph (C) of paragraph (1) of Code Section 12-6-221
312 shall be adopted by the commission in accordance with the recommendation of the
313 Commissioner of Agriculture;

314 (B) Publicizing an applications process or otherwise encouraging interested
315 organizations to submit their qualifications for review;

316 (C) Evaluating applicant organizations according to the list of qualifications described
317 in subparagraph (A) of this paragraph;

318 (D) Determining specific third-party organizations as qualified to certify participants'
319 actual carbon sequestration results in accordance with this article; and

(E) Periodically updating the list of approved third-party organizations by doing any of the following:

(i) Reviewing the capabilities of approved organizations;

(ii) Reviewing applications of organizations seeking to become approved; and

(iii) Determining specific organizations to be added to the approved list and specific organizations no longer qualified to perform the duties of this article;

(2) Occasionally, and on a random basis, provide for commission employees to accompany third-party organizations on scheduled visits to observe and evaluate, during any certification visit, both the following:

(A) Whether the participant has a program, consistent with commission approved procedures and protocols, in place for the preparation and submittal of the information required under this article; and

(B) The reasonableness of the carbon sequestration information being reported for a sample of estimates or calculations; and

(3) Review future international or federal programs related to greenhouse gas emissions and make reasonable efforts to promote consistency between the state program and these programs and to reduce the reporting burden on participants."

SECTION 2.

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