

House Bill 1457

By: Representatives Lim of the 98th, Lupton of the 83rd, Wilkerson of the 38th, and Carpenter of the 4th

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 for
3 preferential assessment of affordable home use property; to provide for procedures,
4 conditions, and limitations; to provide for powers, duties, and authority of county tax
5 commissioners and the Department of Community Affairs with respect to the foregoing; to
6 provide for definitions; to provide for contingent effectiveness and automatic repeal; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to
11 general provisions regarding ad valorem taxation of property, is amended by adding a new
12 Code section to read as follows:

13 "48-5-7.8.

14 (a) As used in this Code section, the term 'affordable home use property' means property
15 intended to be used for private single-family residential occupancy not to exceed five acres
16 and to be sold to a single low-income family owner.

17 (b) No property shall qualify for current use assessment as affordable home use property
18 under this Code section unless and until the owner of such property agrees by covenant
19 with the appropriate taxing authority to maintain the eligible property in bona fide
20 qualifying use for a period of ten years beginning on the first day of January of the year in
21 which such property qualifies for such current use assessment and ending on the last day
22 of December of the final year of the covenant period. After the owner has applied for and
23 has been allowed current use assessment provided for in this Code section, it shall not be
24 necessary to make application thereafter for any year in which the covenant period is in
25 effect and current use assessment shall continue to be allowed such owner as specified in
26 this Code section. At least 60 days prior to the expiration date of the covenant, the county
27 board of tax assessors shall send by first-class mail written notification of such impending
28 expiration. Upon the expiration of any covenant period, the property shall not qualify for
29 further current use assessment under this Code section unless and until the owner of the
30 property has entered into a renewal covenant for an additional period of ten years;
31 provided, however, that the owner may enter into a renewal contract in the ninth year of
32 a covenant period so that the contract is continued without a lapse for an additional ten
33 years.

34 (c) An owner shall not be authorized to make application for and receive current use
35 assessment under this Code section for any property which at the time of such application
36 is receiving preferential assessment under Code Section 48-5-7.1, except that such owner
37 shall be authorized to change such preferential assessment covenant in the manner provided
38 for in subsection (s) of Code Section 48-5-7.1.

39 (d) Except as otherwise provided in this subsection, no property shall maintain its
40 eligibility for current use assessment under this Code section unless a valid covenant
41 remains in effect and unless the property is continuously devoted to an applicable bona fide
42 qualifying use during the entire period of the covenant.

43 (e) If any breach of a covenant occurs, the existing covenant shall be terminated and all
44 qualification requirements must be met again before the property shall be eligible for
45 current use assessment under this Code section.

46 (f)(1) If ownership of all or a part of the property is acquired during a covenant period
47 by a person or entity qualified to enter into an original covenant, then the original
48 covenant may be continued by such acquiring party for the remainder of the term, in
49 which event no breach of the covenant shall be deemed to have occurred.

50 (2)(A) As used in this paragraph, the term 'contiguous' means real property within a
51 county that abuts, joins, or touches and has the same undivided common ownership.
52 If an applicant's tract is divided by a county boundary, public roadway, public
53 easement, public right of way, natural boundary, land lot line, or railroad track, then the
54 applicant has, at the time of the initial application, a one-time election to declare the
55 tract as contiguous irrespective of a county boundary, public roadway, public easement,
56 public right of way, natural boundary, land lot line, or railroad track.

57 (B) If a qualified owner has entered into an original covenant and subsequently
58 acquires additional qualified property contiguous to the property in the original
59 covenant, the qualified owner may elect to enter the subsequently acquired qualified
60 property into the original covenant for the remainder of the ten-year period of the
61 original covenant; provided, however, that such subsequently acquired qualified
62 property shall be less than 50 acres.

63 (g)(1) All applications for current use assessment under this Code section, including the
64 covenant agreement required under this Code section, shall be filed on or before the last
65 day for filing ad valorem tax returns in the county for the tax year for which such current
66 use assessment is sought, except that in the case of property which is the subject of a
67 reassessment by the board of tax assessors an application for current use assessment may
68 be filed in conjunction with or in lieu of an appeal of the reassessment. An application
69 for continuation of such current use assessment upon a change in ownership of all or a

70 part of the qualified property shall be filed on or before the last date for filing tax returns
71 in the year following the year in which the change in ownership occurred. Applications
72 for current use assessment under this Code section shall be filed with the county board
73 of tax assessors who shall approve or deny the application. The county board of tax
74 assessors shall file a copy of the approved application in the office of the clerk of the
75 superior court in the county in which the eligible property is located. The clerk of the
76 superior court shall file and index such application in the real property records maintained
77 in the clerk's office. If the application is not so recorded in the real property records, a
78 transferee of the property affected shall not be bound by the covenant or subject to any
79 penalty for its breach. The fee of the clerk of the superior court for recording such
80 application shall be paid by the owner of the eligible property with the application for
81 preferential treatment and shall be paid to the clerk by the board of tax assessors when
82 the application is filed with the clerk. If the application is denied, the board of tax
83 assessors shall notify the applicant in the same manner that notices of assessment are
84 given pursuant to Code Section 48-5-306 and shall return any filing fees advanced by the
85 owner. Appeals from the denial of an application by the board of tax assessors shall be
86 made in the same manner that other property tax appeals are made pursuant to Code
87 Section 48-5-311.

88 (2) If the final determination on appeal to superior court is to approve the application for
89 current use assessment, the taxpayer shall recover costs of litigation and reasonable
90 attorney's fees incurred in the action.

91 (3) Any final determination on appeal that causes a reduction in taxes and creates a
92 refund that is owed to the taxpayer shall be paid by the tax commissioner to such
93 taxpayer, entity, or transferee that paid the taxes within 60 days from the date of the final
94 determination of value. Such refund shall include interest at the same rate specified in
95 Code Section 48-2-35 which shall accrue from the due date of the taxable year in
96 question or the date paid, whichever is later, through the date on which the final

97 determination of value was made. In no event shall the amount of such interest exceed
98 \$5,000.00. Any refund paid after the sixtieth day shall accrue interest from the sixty-first
99 day until paid with interest at the same rate specified in Code Section 48-2-35. The
100 interest accrued after the sixtieth day shall not be subject to the limits imposed by this
101 subsection. The tax commissioner shall pay the tax refund and any interest for the refund
102 from current collections in the same proportion for each of the levying authorities for
103 which the taxes were collected.

104 (4) For the purposes of this Code section, any final determination on appeal that causes
105 an increase in taxes and creates an additional billing shall be paid to the tax commissioner
106 as any other tax due. After the tax bill notice has been mailed, the taxpayer shall be
107 afforded 60 days from the date of the postmark to make full payment of the adjusted bill.
108 Once the 60 day payment period has expired, the bill shall be considered past due and
109 interest shall accrue from the original billing due date as specified in Code Section
110 48-2-40 without limit until the bill is paid in full. Once past due, all other fees, penalties,
111 and late and collection notices shall apply as prescribed in this chapter for the collection
112 of delinquent taxes.

113 (5) In the event such application is approved, the taxpayer shall continue to receive
114 annual notification of any change in the fair market value of such property and any
115 appeals with respect to such valuation shall be made in the same manner as other property
116 tax appeals are made pursuant to Code Section 48-5-311.

117 (h) The Department of Community Affairs shall by regulation provide uniform application
118 and covenant forms to be used in making application for current use assessment under this
119 Code section.

120 (i) In the case of an alleged breach of the covenant, the owner shall be notified in writing
121 by the board of tax assessors. The owner shall have a period of 30 days from the date of
122 such notice to cease and desist the activity alleged in the notice to be in breach of the
123 covenant or to remediate or correct the condition or conditions alleged in the notice to be

124 in breach of the covenant. Following a physical inspection of property, the board of tax
125 assessors shall notify the owner that such activity or activities have or have not properly
126 ceased or that the condition or conditions have or have not been remediated or corrected.
127 The owner shall be entitled to appeal the decision of the board of tax assessors and file an
128 appeal disputing the findings of the board of tax assessors. Such appeal shall be conducted
129 in the same manner that other property tax appeals are made pursuant to Code Section
130 48-5-311. If the final determination on appeal to superior court is to reverse the decision
131 of the board of tax assessors to enforce the breach of the covenant, the taxpayer shall
132 recover costs of litigation and reasonable attorney's fees incurred in the action.

133 (j) A penalty shall be imposed under this subsection if the covenant is breached during the
134 period of the covenant entered into by a taxpayer. The penalty shall be applicable to the
135 entire tract which is the subject of the covenant and shall be twice the difference between
136 the total amount of tax paid pursuant to current use assessment under this Code section and
137 the total amount of taxes which would otherwise have been due under this chapter for each
138 completed or partially completed year of the covenant period. No penalty shall be imposed
139 until the appeal of the board of tax assessors' determination of breach is concluded. After
140 the final determination on appeal, the taxpayer shall be afforded 60 days from issuance of
141 the bill to make full payment. Once the 60 day payment period has expired, the bill shall
142 be considered past due and interest shall accrue from the original billing due date as
143 specified in Code Section 48-2-40 without limit until the bill is paid in full. Once past due,
144 all other fees, penalties, and late and collection notices shall apply as prescribed in this
145 chapter for the collection of delinquent taxes.

146 (k) Penalties and interest imposed under this Code section shall constitute a lien against
147 the property and shall be collected in the same manner as unpaid ad valorem taxes are
148 collected. Such penalties and interest shall be distributed pro rata to each taxing
149 jurisdiction wherein current use assessment under this Code section has been granted based

150 upon the total amount by which such current use assessment has reduced taxes for each
151 such taxing jurisdiction on the property in question as provided in this Code section.
152 (l) Property which is subject to current use assessment under this Code section shall be
153 separately classified from all other property on the tax digest; and such separate
154 classification shall be such as will enable any person examining the tax digest to ascertain
155 readily that the property is subject to current use assessment under this Code section.
156 Covenants shall be public records and shall be indexed and maintained in such manner as
157 will allow members of the public to locate readily the covenant affecting any particular
158 property subject to current use assessment under this Code section. Based on information
159 submitted by the county boards of tax assessors, the Department of Community Affairs
160 shall maintain a central registry of property, indexed by owners, so as to ensure that the
161 2,000 acre limitations of this Code section are complied with on a state-wide basis."

162 **SECTION 2.**

163 This Act shall become effective on January 1, 2027, only if an amendment to the
164 Constitution is ratified by the electors at the November, 2026, state-wide general election
165 authorizing the General Assembly to provide for the special assessment and taxation of
166 affordable home use property. If such an amendment is not so ratified, this Act shall not
167 become effective and shall stand repealed on January 1, 2027.

168 **SECTION 3.**

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