

House Bill 85 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 171st, England of the 116th, McCall of the 33rd, Williams of the 119th, and Greene of the 151st

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to revise definitions related to the value of property; to provide for the values
3 for assessments for forest land conservation use property and qualified timberland property;
4 to revise provisions related to covenants for forest land conservation use property; to provide
5 for the certification and appraisal of certain timberland property by the state revenue
6 commissioner; to provide for the return of such property to the commissioner; to provide for
7 appeals; to provide for definitions; to provide that the state revenue commissioner shall
8 deduct and retain an administrative fee from assistance grants related to forest land
9 conservation use property; to provide for related matters; to provide for a contingent effective
10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
14 amended in Chapter 5, relating to ad valorem taxation of property, by adding a new
15 subparagraph to paragraph (3) of Code Section 48-5-2, relating to definitions, as follows:

16 "(G) Fair market value of 'qualified timberland property' means the fair market value
17 determined in accordance with Article 13 of this chapter."

18 style="text-align:center">**SECTION 2.**

19 Said title is further amended in said chapter by revising paragraphs (5) and (6) of Code
20 Section 48-5-2, relating to definitions, as follows:

21 "(5) 'Forest land conservation use value' of forest land conservation use property means
22 the amount determined in accordance with the specifications and criteria provided for in
23 Code Section 48-5-271 and Article VII, Section I, Paragraph III(f) of the Constitution.

24 (6) 'Forest land fair market value' means the ~~2008~~ fair market value of the forest land
25 determined in accordance with Article VII, Section I, Paragraph III(f) of the Constitution;

~~provided, however, that when the 2008 fair market value of the forest land has been
 appealed by a property owner and the ultimate fair market value of the forest land is
 changed in the appeal process by either the board of assessors, the board of equalization,
 a hearing officer, an arbitrator, or a superior court judge, then the final fair market value
 of the forest land shall replace the 2008 fair market value of the forest land. This final
 fair market value of the forest land shall be used in the calculation of local assistance
 grants. If local assistance grants have been granted to either a county, a county board of
 education, or a municipality based on the 2008 fair market value of forest land and
 subsequently the fair market value of such forest land is reduced on an appeal, then the
 county or the municipality shall reimburse the state, within 12 months unless otherwise
 agreed to by the parties, the difference between local assistance grants paid to the county
 or municipality and the amount which would have been due based on the final fair market
 value of the forest land. Such 2008 valuation may increase from one taxable year to the
 next by a rate equal to the percentage change in the price index for gross output of state
 and local government from the prior year to the current year as defined by the National
 Income and Product Accounts and determined by the United States Bureau of Economic
 Analysis and indicated by the Price Index for Government Consumption Expenditures
 and General Government Gross Output (Table 3.10.4)."~~

44

SECTION 3.

Said title is further amended in said chapter by adding two new subsections to Code Section
 48-5-7, relating to assessment of tangible property, to read as follows:

~~"(c.5) Tangible real property which qualifies as forest land conservation use property
 pursuant to the provisions of Code Section 48-5-7.7 shall be assessed at 40 percent of its
 forest land conservation use value and shall be taxed on a levy made by each respective tax
 jurisdiction according to 40 percent of the property's forest land conservation use value.~~

~~(c.6) Tangible real property which qualifies as qualified timberland property in accordance
 with the provisions of Article 13 of this chapter shall be assessed at 40 percent of its fair
 market value of qualified timberland property and shall be taxed on a levy made by each
 respective tax jurisdiction according to 40 percent of its fair market value of qualified
 timberland property as such value is determined by the commissioner in accordance with
 Article 13 of this chapter."~~

57

SECTION 4.

Said title is further amended in said chapter by revising subsections (b), (c), (d), and (v) of
 Code Section 48-5-7.7, relating to the Georgia Forest Land Protection Act of 2008, as
 follows:

61 "(b) As used in this Code section, the term:

62 (1) 'Contiguous' means real property within a county that abuts, joins, or touches and has
 63 the same undivided common ownership. If an applicant's tract is divided by a county
 64 boundary, public roadway, public easement, public right of way, natural boundary, land
 65 lot line, or railroad track, then the applicant has, at the time of the initial application, a
 66 one-time election to declare the tract as contiguous irrespective of a county boundary,
 67 public roadway, public easement, public right of way, natural boundary, land lot line, or
 68 railroad track.

69 (2) 'Forest land conservation use property' means real property that is forest land each
 70 tract of which consists of more than 200 acres of tangible real property of an owner of at
 71 least 200 acres in aggregate which lies within one or more counties, provided that such
 72 forest land is in parcels of at least 100 acres within any given county and that is subject
 73 to the following qualifications:

74 (A) Such property must be owned by an individual or individuals or by any entity
 75 registered to do business in this state;

76 (B) Such property excludes the entire value of any residence and its underlying land
 77 located on the property; as used in this subparagraph, the term 'underlying land' means
 78 the minimum lot size required for residential construction by local zoning ordinances
 79 or two acres, whichever is less. This provision for excluding the underlying land of a
 80 residence from eligibility in the conservation use covenant shall only apply to property
 81 that is first made subject to such a covenant, or is subject to a renewal of a previous
 82 conservation use covenant, on or after January 1, 2014;

83 (C) Such property has as its primary use the good faith subsistence or commercial
 84 production of trees, timber, or other wood and wood fiber products from or on the land.
 85 Such primary use includes land conservation and ecological forest management in
 86 which commercial production of wood and wood fiber products may be undertaken
 87 primarily for conservation and restoration purposes rather than financial gain. Such
 88 property may, in addition, have one or more of the following secondary uses:

89 (i) The promotion, preservation, or management of wildlife habitat;

90 (ii) Carbon sequestration in accordance with the Georgia Carbon Sequestration
 91 Registry;

92 (iii) Mitigation and conservation banking that results in restoration or conservation
 93 of wetlands and other natural resources; or

94 (iv) The production and maintenance of ecosystem products and services, such as,
 95 but not limited to, clean air and water.

96 Forest land conservation use property may include, but is not limited to, land that has
 97 been certified as environmentally sensitive property by the Department of Natural

98 Resources or which is managed in accordance with a recognized sustainable forestry
 99 certification program, such as the Sustainable Forestry Initiative, Forest Stewardship
 100 Council, American Tree Farm Program, or an equivalent sustainable forestry certification
 101 program approved by the State Forestry Commission.

102 (3) 'Qualified owner' means any individual or individuals or any entity registered to do
 103 business in this state.

104 (4) 'Qualified property' means forest land conservation use property as defined in this
 105 subsection.

106 (5) 'Qualifying purpose' means a use that meets the qualifications of subparagraph (C)
 107 of paragraph (2) of this subsection.

108 (c) The following additional rules shall apply to the qualification of forest land
 109 conservation use property for conservation use assessment:

110 (1) ~~All contiguous forest~~ Forest land conservation use property of an owner within a
 111 county for which forest land conservation use assessment is sought under this Code
 112 section shall be in ~~a single covenant~~ covenants, which shall include forest land of at least
 113 200 acres in aggregate which lies within one or more counties, provided that such forest
 114 land is in parcels of at least 100 acres within any given county, unless otherwise required
 115 under subsection (e) of this Code section;

116 (2) When one-half or more of the area of a single tract of real property is used for the
 117 qualifying purpose, then the entirety of such tract shall be considered as used for such
 118 qualifying purpose unless some other type of business is being operated on the portion
 119 of the tract that is not being used for a qualifying purpose; provided, however, that such
 120 other portion must be minimally managed so that it does not contribute significantly to
 121 erosion or other environmental or conservation problems or must be used for one or more
 122 secondary purposes specified in subparagraph (b)(2)(C) of this Code section. The
 123 following uses of real property shall not constitute using the property for another type of
 124 business:

125 (A) The lease of hunting rights or the use of the property for hunting purposes;

126 (B) The charging of admission for use of the property for fishing purposes;

127 (C) The production of pine straw or native grass seed;

128 (D) The granting of easements solely for ingress and egress; and

129 (E) Any type of business devoted to secondary uses listed under subparagraph
 130 (b)(2)(C) of this Code section; and

131 (3) No otherwise qualified forest land conservation use property shall be denied
 132 conservation use assessment on the grounds that no soil map is available for the county
 133 or counties, if applicable, in which such property is located; provided, however, that if
 134 no soil map is available for the county or counties, if applicable, in which such property

135 is located, the board of tax assessors shall use the current soil classification applicable to
 136 such property.

137 (d) No property shall qualify for conservation use assessment under this Code section
 138 unless and until the qualified owner of such property agrees by covenant with the
 139 appropriate taxing authority to maintain the eligible property in forest land conservation
 140 use for a period of ~~15~~ ten years beginning on the first day of January of the year in which
 141 such property qualifies for such conservation use assessment and ending on the last day of
 142 December of the final year of the covenant period. After the qualified owner has applied
 143 for and has been allowed conservation use assessment provided for in this Code section,
 144 it shall not be necessary to make application thereafter for any year in which the covenant
 145 period is in effect and conservation use assessment shall continue to be allowed such
 146 qualified owner as specified in this Code section. At least 60 days prior to the expiration
 147 date of the covenant, the county board of tax assessors where the property is located shall
 148 send by first-class mail written notification of such impending expiration. Upon the
 149 expiration of any covenant period, the property shall not qualify for further conservation
 150 use assessment under this Code section unless and until the qualified owner of the property
 151 has entered into a renewal covenant for an additional period of ~~15~~ ten years; provided,
 152 however, that the qualified owner may enter into a renewal contract in the ~~fourteenth~~ ninth
 153 year of a covenant period so that the contract is continued without a lapse for an additional
 154 ~~15~~ ten years."

155 "(v) At such time as the property ceases to be eligible for forest land conservation use
 156 assessment or when any ~~15-year~~ ten-year covenant period expires and the property does not
 157 qualify for further forest land conservation use assessment, the qualified owner of the
 158 property shall file an application for release of forest land conservation use treatment with
 159 the county board of tax assessors where the property is located who shall approve the
 160 release upon verification that all taxes and penalties with respect to the property have been
 161 satisfied. After the application for release has been approved by such board of tax
 162 assessors, the board shall file the release in the office of the clerk of the superior court in
 163 the county in which the original covenant was filed. The clerk of the superior court shall
 164 file and index such release in the real property records maintained in the clerk's office. No
 165 fee shall be paid to the clerk of the superior court for recording such release. The
 166 commissioner shall by regulation provide uniform release forms."

167 **SECTION 5.**

168 Said title is further amended in said chapter by adding a new article to read as follows:

169 "ARTICLE 13170 48-5-600.171 As used in this article, the term:172 (1) 'Bona fide production of trees' means the good faith, real, actual, and genuine
173 production of trees for commercial uses.174 (2) 'Qualified owner' means an individual or entity that meets the conditions of Code
175 Section 48-5-603.176 (3) 'Qualified timberland property' means timberland property that meets the conditions
177 of Code Section 48-5-604.178 (4) 'Timberland property' means tangible real property that has as its primary use the
179 bona fide production of trees for the primary purpose of producing timber for commercial
180 uses.181 48-5-600.1.182 In accordance with Article VII, Section I, Paragraph III(f.1) of the Constitution of Georgia,
183 qualified timberland property shall be classified as a separate and distinct class of tangible
184 property. The procedures prescribed by this article for appraisal and valuation of such
185 property and for appeals of the assessed value of such property shall be exclusive.186 48-5-601.187 (a) Qualified timberland property shall be returned to the commissioner between January
188 1 and April 1 each year.189 (b) The fair market value of qualified timberland property shall be determined through an
190 annual appraisal conducted by the commissioner in accordance with the qualified
191 timberland property appraisal manual provided for in Code Section 48-5-602.192 (c) The commissioner shall have access to qualified timberland property for the purpose
193 of conducting appraisals, provided that prior notice has been given to the qualified owner
194 of such property.195 (d) The commissioner shall ensure that the appraisal values of qualified timberland
196 property are delivered to county tax officials by July 1 of each year.197 (e) Notwithstanding anything in this chapter to the contrary, pursuant to Article VII,
198 Section I, Paragraph III(f.1) of the Constitution, the value of qualified timberland property
199 shall be at least 175 percent of such property's forest land conservation value determined
200 pursuant to this chapter.

201 48-5-602.

202 (a) The commissioner shall adopt by rule, subject to Chapter 13 of Title 50, the 'Georgia
 203 Administrative Procedure Act,' and maintain a qualified timberland property appraisal
 204 manual that shall be used by the commissioner in the appraisal of qualified timberland
 205 property for ad valorem tax purposes.

206 (b) The commissioner shall provide for a period of consultation with the Georgia
 207 Agricultural Statistical Service, Cooperative Extension Service, Georgia Forestry
 208 Association, and State Forestry Commission prior to the adoption of the qualified
 209 timberland property appraisal manual.

210 (c)(1) Such manual shall be proposed and published on or before June 1, 2019, and
 211 annually thereafter.

212 (2) Published manuals shall apply to the tax year following the tax year in which they
 213 are published.

214 (3) This annual publication requirement shall not be construed to require annual
 215 adjustments, revisions, or modifications to the appraisal methodology.

216 (d) Such manual shall contain:

217 (1) Complete parameters for the appraisal of qualified timberland property;

218 (2) A table of regional values for qualified timberland property based on the geographic
 219 locations and productivity levels within the state; and

220 (3) A prescription of methods and procedures by which identification data, appraisal and
 221 assessment data, sales data, and any other information relating to the appraisal and
 222 assessment of property shall be furnished to the department using electronic data
 223 processing systems and equipment.

224 48-5-603.

225 The commissioner shall certify as a qualified owner any individual or entity registered to
 226 do business in this state that is engaged in the bona fide production of trees for the primary
 227 purpose of producing timber for commercial uses, provided that such individual or entity:

228 (1) Registers with the commissioner; and

229 (2) Certifies to the commissioner that such individual or entity is engaged in the bona
 230 fide production of trees.

231 48-5-604.

232 (a) Upon application by a qualified owner, the commissioner shall certify as qualified
 233 timberland property any timberland property that is titled to a qualified owner, provided
 234 that:

235 (1) The timberland property is at least 50 contiguous acres;

236 (2) The production of trees on the timberland property is being done for the purpose of
 237 making a profit and is the primary activity taking place on the property;

238 (3) A consistent effort has been clearly demonstrated in land management in accordance
 239 with accepted commercial forestry practices, which may include reforestation, periodic
 240 thinning, undergrowth control of unwanted vegetation, fertilization, prescribed burning,
 241 sales of timber, and maintenance of firebreaks; and

242 (4) Such qualified owner:

243 (A) Submits a list of all parcels to the commissioner that contain timberland property
 244 and that identify the specific portions of such parcels that such owner certifies are
 245 timberland property; and

246 (B) Certifies that such timberland property is used for the bona fide production of trees
 247 and that:

248 (i) There is a reasonable attainable economic salability of the timber products within
 249 a reasonable future time; and

250 (ii) The production of trees is being done for the purpose of making a profit and is the
 251 primary activity taking place on the property.

252 (b)(1) The qualified owner's submission provided for in paragraph (4) of subsection (a)
 253 of this Code section shall be certified by the qualified owner and shall be updated
 254 annually filed together with such qualified owner's return required by subsection (a) of
 255 Code Section 48-5-601. If such conditions are not met annually, the real property at issue
 256 shall be decertified as qualified timberland property and the commissioner shall notify
 257 the respective county tax officials of such decertification by April 15 of the respective
 258 year.

259 (2) The commissioner shall be authorized to conduct an audit of any list submitted
 260 pursuant to this Code section.

261 (c) The commissioner shall file certifications of qualified timberland property with the
 262 respective county tax officials in which any of such real property exists by April 15 each
 263 year.

264 48-5-605.

265 (a) A taxpayer or county board of tax assessors may appeal the commissioner's decisions
 266 related to:

267 (1) Such taxpayer's status as a qualified owner;

268 (2) The certification or noncertification of such taxpayer's timberland as qualified
 269 timberland property; or

270 (3) The appraised value of such taxpayer's qualified timberland property.

271 (b)(1) Such appeals shall be made as an appeal to the Georgia Tax Tribunal in
 272 accordance with Chapter 13A of Title 50 within 30 days of the commissioner's
 273 publication of such decision.

274 (2) The Georgia Tax Tribunal shall issue a final decision on such appeals on or before
 275 September 1 of the year in which an appeal is filed.

276 48-5-606.

277 (a) A taxpayer, group of taxpayers, county board of tax assessors, or association
 278 representing taxpayers may appeal the commissioner's decisions related to the
 279 commissioner's complete parameters for the appraisal of qualified timberland property
 280 required by paragraph (1) of subsection (d) of Code section 48-5-602.

281 (b)(1) Such appeals shall be made as an appeal to the Georgia Tax Tribunal in
 282 accordance with Chapter 13A of Title 50 within 60 days of the commissioner's
 283 publication of such manual.

284 (2) The Georgia Tax Tribunal shall issue a final decision on such appeals on or before
 285 September 1 of the year in which an appeal is filed.

286 48-5-607.

287 The commissioner shall be authorized to prescribe such forms and promulgate such rules
 288 and regulations as are necessary to implement this article."

289 **SECTION 6.**

290 Said title is further amended in Chapter 5A, relating to special assessment of forest land
 291 conservation use property, by adding two new Code sections to read as follows:

292 "48-5A-5.

293 Pursuant to Article VII, Section I, Paragraph III(f) of the Constitution, the commissioner
 294 shall deduct and retain an amount equal to 3 percent of an assistance grant upon
 295 distribution of such assistance grant to a county, municipality, or county or independent
 296 school district as an administrative fee to provide for the costs of administering Article 13
 297 of Chapter 5 of this title.

298 48-5A-6.

299 (a) For 2019, the value of the local assistance grant to any county shall be increased by an
 300 amount equal to 80 percent of the difference between the value of the local assistance grant
 301 such county received for 2018 and the amount for which such county is eligible to receive
 302 in 2019.

303 (b) For 2020, the value of the local assistance grant to any county shall be increased by an
304 amount equal to 60 percent of the difference between the value of the local assistance grant
305 such county received for 2018 and the amount for which such county is eligible to receive
306 in 2020.

307 (c) For 2021, the value of the local assistance grant to any county shall be increased by an
308 amount equal to 40 percent of the difference between the value of the local assistance grant
309 such county received for 2018 and the amount for which such county is eligible to receive
310 in 2021.

311 (d) For 2022, the value of the local assistance grant to any county shall be increased by an
312 amount equal to 20 percent of the difference between the value of the local assistance grant
313 such county received for 2018 and the amount for which such county is eligible to receive
314 in 2022."

315 **SECTION 7.**

316 (a) This Act shall become effective on January 1, 2019, only if an amendment to the
317 Constitution of Georgia is ratified at the November, 2018, general election modifying
318 constitutional prescriptions for forest land conservation use property and related assistance
319 grants, permitting the withholding of a portion of assistance grants to provide for certain
320 state administrative costs, and establishing qualified timberland property as a
321 subclassification of tangible property for purposes of ad valorem taxation.

322 (b) If such an amendment to the Constitution is not so ratified, then this Act shall not
323 become effective and shall stand repealed by operation of law on January 1, 2019.

324 **SECTION 8.**

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