

GEORGIA DEPARTMENT OF REVENUE

LOCAL GOVERNMENT SERVICES

DIVISION



(SPECIALIZED ASSESSMENTS WORKSHOP) Supplemental Handout

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Revised May 21, 2016



Georgia Department of Revenue

SPECIALIZED ASSESSMENTS

Workshop



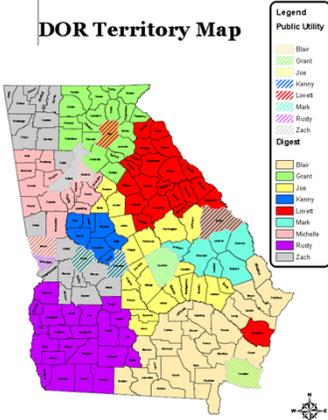
Georgia Department of Revenue

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DOR Territory Map





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- You can only miss 5% of this class
- $20 \text{ hours} \times 5\% = 1 \text{ Hour}$



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WHAT ARE YOU DOING OUT HERE NO, HUNGRY?
HUNGRY? THEN BUY IT FROM THE MACHINES!



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- Please place cell phones on silent or on vibrate! Guilty offenders may be subject to stand up & sing a solo of "America the Beautiful".



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Specialized Assessments Workshop

- Attendees introductions



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Outline

- Definitions & "The Assessment of Tangible Property"(48-5-7)
- Brownfield Property
- Rehabilitated Historic Property
- Landmark Historic Property
- Preferential Assessment for Agricultural Property
- Conservation Use and Residential Transitional Property
- Forest Land Protection Act
- Exam composed of 40 multiple choice and True/False Questions



GA Statutes

- 48-5-7.6 Brownfield Property
- 48-5-7.2 Rehabilitated Historic
- 48-5-7.3 Landmark Historic
- 48-5-7.1 Preferential Assessment
- 48-5-7.4 Conservation Use & Residential Transitional
- 48-5-7.7 Forest Land Protection Act of 2008





48-5-2 Definitions Pages 5-8

- Current use value of conservation use property
- Current use value of res. transitional property
- Fair market value of property
- Fair market value of historic property
- Fair market value of landmark historic property
- Fair market value of Brownfield property



48-5-2 Definitions Con't

- O.C.G.A. § 48-5-2 & 48-5-7.7
- Defines "forest land conservation use value"
- Defines "forest land fair market value"



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Brownfield Property

O.C.G.A. 48-5-7.6

Page 17



May 14, 2003



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Brownfield Property

Page 17

Defined as:

Tangible real property where

- There has been a release of hazardous waste, constituents and substances into the environment, and
- an approved corrective action plan or compliance status report for the prospective purchaser has been approved by EPD, and
- a limitation of liability certificate has been issued to the prospective purchaser, and
- EPD has certified eligible costs of remediation.

(Bottom of page 28)



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Brownfield Property

Property owner responsibilities:

Submit application (with required certifications) to Board of Tax Assessors **Page 19(c)**

Submit annual sworn affidavit with savings and costs **Page 21 (f)**



Brownfield Property

Responsibilities of Board of Tax Assessors:

- Approve (or deny) preferential assessment within 90 days (Page 19)(c)
- Establish preferential appraised value
 - Value is lesser of the acquisition cost or the fair market value from the tax assessor as of the date application is made to EPD.
 - Must be noted as "Brownfield Property" on digest Page 20 (d)(2)
 - (FMV X .40= Base value) Page 23 (3)
- BOA Continues to track annual FMV



Page 20 e(1) Brownfield Property

Property is disqualified when one of the following occur:

- Written notice from taxpayer requesting removal from the preferential classification & Assessment
- Sale or transfer of property to an exempt entity
- Revocation of limitation of liability by DNR
- Expiration of 10 years OR
- Tax savings accrued equals the eligible costs certified by EPD of DNR



Brownfield Property Pg. 20 & 21 (D)&(E)

- Preferential Assessment carries a net value of the difference between the fair market value & 'base' year value for a period of 10 Years, or
- The tax savings accrued equals certified eligible costs, or
- The owner fails to abide by the corrective action plan



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Brownfield Property

Pages 21-22

All or part of the property can be transferred(or leased) to another owner

New owners must jointly submit sworn affidavit stating the eligible Brownfield costs being transferred to the subdivided property

Notice to be given to county within 90 days after the date of the transfer Page 22 (g)(5)

Contents of notice is Pg. 22 (h)(2)(A)



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Brownfield Property Example

FMV at time of Contamination= \$2,500

"Base Value" = 1,000 (Assessed Value on Digest at time of Certification)

Fair Market Value = 500,000 (200,000 Assessed Value)

$200,000 - 1,000 = 199,000$ (Savings or SB Amount)

(AV) - (Base) = Savings or SB Amount

$199,000 * 30 \text{ mills} = \$5,970$ Savings

(Savings) * Millage Rate = Tax Savings



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Brownfield Property

????APPLICATION????

The taxing authority shall provide an appropriate form or forms or space on an existing form or forms to implement this Code section.

Page 23(k)

Each County must customize their own



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Brownfield Property

Pg. 23-24 (m)

Breach is applicable to entire tract
Twice the difference between the total amount of tax paid and the total amount of taxes which would otherwise have been due had the property not been in the program
Penalties & interest constitute a lien against the property



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Brownfield Property

Page24 (o)(1)

Property may be eligible for a period of up to 15 years if:

- Construction of improvements on the property commenced but thereafter ceased for a period in excess of 180 days



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Brownfield Property

Page24(o)(1)(A)(B)(C)

- After a delay in excess of 180 days, construction resumed, and
- The owner of the property submits a sworn certification to the BOA stating the date on which construction first commenced, the date construction ceased, the date construction resumed.



Brownfield Property

Page24(o)(2)

- Upon receipt of the certification required by subparagraph (C) of paragraph (1) the BOA shall extend the preferential assessment for one year for each 365 days of construction inactivity for a maximum of five consecutive years.



Brownfield Property

Page24(o)(2) (con't)

- Under no circumstances shall the period of preferential assessment exceed 15 consecutive years



Brownfield Property

- Non-technical Explanation on [Pages 25-6](#)
- F A Q's [Pages 27-30](#)

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QUESTIONS?????

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Rehabilitated Historic Property
and Landmark Historic

O.C.G.A. 48-5-7.2 & O.C.G.A. 48-5-7.3
Pages 33,46



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Rehabilitated Historic

O.C.G.A. 48-5-7.2
Page 33

391-5-11- Regulations
Page 39



Rehabilitated Historic Property

- Eligibility Requirements: Pg. 32
 - Property must qualify for listing on the Georgia Register of Historic Places
 - Structures must be Substantially Rehabilitated
 - Residential - 50%
 - Income Producing - 100%
 - Hybrid - 75%
- Meet DNR Standards Pg. 32 (C)
- Certified by DNR as eligible Pg. 32 (D)



Rehabilitated Historic Property Requirements continued

- Structure being improved and up to two acres
Page 33 (2)
- Preliminary certification (Part A) Pg. 34 (c)
- Must complete within 24 months- BOA freezes AV during rehabilitation up to two years
- Upon completion get final certification (Part B) from DNR and file with the Board of Assessors (Not a requirement anymore as per next slide)
- Pg. 34 (d & e)



*****Penalty*****

48-5-7.2 Page 35 (f)

(f) A property owner who fails to have property classified as rehabilitated historic property and listed on the Georgia Register of Historic Places for the preferential assessment shall be required to pay the difference between the amount of taxes on the property during the period that the assessment was frozen pursuant to the provisions of subsection (c) of this Code section and the amount of taxes which would have been due had the property been assessed at the regular fair market value, plus interest at the rate prescribed in Code Section 48-2-40.

(See Judicial Decision on page 37)



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Rehabilitated Historic Property
Frozen Value Pg. 34(c) & 35(3)

- Valuation is as of January 1st after receipt of Part A
- When taxpayer submits Part A the tax assessment shall not increase during the period of rehabilitation up to two years
- After rehabilitation the greater of the Assessor Value at the time of submission of Part A or the Sale Price is frozen for the next 6 years



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Rehabilitated Historic Property

- Purchase price or FMV (higher) Pg. 35 (g)(3)
 - Net Assessed Value is Frozen for eight years
 - Ninth year - half way between FMV and frozen value
 - Tenth year –Remove exemption and FMV X .40 is used.
- The Department of Natural Resources has the authority to decertify any property which no longer possesses the qualities and features which made it eligible for the Georgia Register of Historic Places or which has been altered through inappropriate rehabilitation as determined by the Department of Natural Resources Pg. 36 (h)(3)
- Sale or transfer to a new owner does not disqualify the property as long as it continues to qualify as rehabilitated historic property.



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Rehabilitated Historic Property

- Preferential treatment ends at end of year 9 UNLESS the owner performs further rehabilitation work and if so the application process must start over again. Page 36(h) (4)
- Typical example found on Pages 37-8
- INSTRUCTIONS Pages 131-157
- Actual Application on Pages 159-172

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QUESTIONS??????

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Landmark Historic Property

O.G.G.A. 48-5-7.3

Page 46

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Landmark Historic Property

- Eligibility Requirements Pgs. 45-6
 - Certified by DNR as on National or Georgia Register of Historic Places
 - Certified by Local Government as Landmark Historic Property pursuant to a local preservation committee and formed by Existing Local Ordinance (Usually local Historical Society)
 - Application to BTA must include certifications



Landmark Historic Property

- Guidelines **Pgs. 46-7 cont**
 - Applies only to the qualified building, the land under it, and up to 2 acres surrounding the building **Page 47(a) (2)**
 - The remaining property shall be assessed for tax purposes as otherwise provided by law. **Page 47(a) (2)**
 - It can be income producing property, non income producing, or a combination of both provided it conforms to local zoning as to the use. **Page 47(a) (3)**



Landmark Historic Property

- Valuation
 - Frozen at higher of Purchase Price or FMV for 1st eight years
 - Ninth year - half way between FMV and frozen value
 - FMV in 10th year
 - UNLESS it becomes disqualified pursuant to paragraph (e) (1) found on **page 48**



****Penalty**** **Pg. 48(E)(2)**

- Except as otherwise provided in this Code section, if a property becomes disqualified pursuant to any provision of this subsection, the decertification shall be transmitted to the county board of tax assessors and said assessors shall appropriately notate the property as decertified. Such property shall not be eligible to receive the preferential assessment provided for in this Code section during the taxable year in which such disqualification occurs. **48-5-7.3(e)(2)**
- * (Current year's savings plus interest is the penalty.)



?????Questions?????



Preferential Assessment for Agricultural Property

- O.C.G.A. 48-5-7.1 Page 53





Preferential Assessment for Agricultural Property

- As defined in the Constitution of the State of Georgia in Article VII. Section I. Paragraph III. (c)
 - Tangible real property, but no more than 2000 acres of any single property owner, which is devoted to bona fide agricultural purposes shall be assessed for ad valorem taxation purposes at 75% of the value which other tangible real property is assessed.
 - Assessed at 30% of Fair Market Value



Preferential Assessment for Agricultural Property

Pages 52 & 53

- Property devoted to bona fide agriculture usage
 - Primary use must be good faith commercial production of an agricultural product
 - Can include up to \$100,000 value for production or storage buildings used for ag. purposes only
 - Excludes all residences, residential storage bldgs. on the property & land under & around residences (typically one acre per residence)
 - Limited to 2000 acres
 - Owner may designate acreage to be excluded from covenant at time of application.



Preferential Assessment for Agricultural Property

Page 53 con't

• Ownership Requirements

- Property must be owned by
 - One or more natural or naturalized citizens
 - A family farm corporation with certain qualifications(see next slide)





Preferential Assessment for Agricultural Property

Ownership Requirements Con't Page 53(b)

(2) If it is owned by a family-farm corporation, the controlling interest of which is owned by individuals related to each other within the fourth degree by civil reckoning, and such corporation derived 80 percent or more of its gross income for the year immediately preceding the year in which application for preferential assessment is made from bona fide agricultural pursuits carried out on tangible real property located in this state, which property is devoted to bona fide agricultural purposes.



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Preferential Assessment for Agricultural Property

- (c) Tangible real property, but no more than 2,000 acres of any single property owner, which is devoted to bona fide agricultural purposes shall be assessed for ad valorem taxation purposes at 75 percent of the value which other tangible real property is assessed. No property shall be entitled to receive the preferential assessment provided for in this subparagraph if the property which would otherwise receive such assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving the benefit of such preferential assessment as to more than 2,000 acres. No property shall be entitled to receive the preferential assessment provided for in this subparagraph unless the conditions set out below are met:



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Georgia Constitution Article VII. Section I. Paragraph III. (c)

- (1) The property must be owned by:
 - (A) (i) One or more natural or naturalized citizens;
 - (ii) An estate of which the devisee or heirs are one or more natural or naturalized citizens; or
 - (iii) A trust of which the beneficiaries are one or more natural or naturalized citizens; or



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Georgia Constitution Article VII. Section I. Paragraph III. (c) Con't

- (B) A family-owned farm corporation, the controlling interest of which is owned by individuals related to each other within the fourth degree of civil reckoning, or which is owned by an estate of which the devisee or heirs are one or more natural or naturalized citizens, or which is owned by a trust of which the beneficiaries are one or more natural or naturalized citizens, and such corporation derived 80 percent or more of its gross income from bona fide agricultural pursuits within this state within the year immediately preceding the year in which eligibility is sought.



Preferential Assessment for Agricultural Property Page 53

- (c) No property shall qualify for said preferential assessment if such assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving in any tax year any benefit of preferential assessment as to more than 2,000 acres. If any taxpayer has any beneficial interest in more than 2,000 acres of tangible real property which is devoted to bona fide agricultural purposes, such taxpayer shall apply for preferential assessment only as to 2,000 acres of such land.



Preferential Assessment for Agricultural Property Page 54



- (e) No property shall maintain its eligibility for preferential assessment unless a valid covenant remains in effect and unless the property is continuously devoted to bona fide agricultural purposes during the entire period of the covenant.



Preferential Assessment for Agricultural Property Page 54

- (f) If any change in ownership of such qualified property occurs during the covenant period, all qualification requirements must be met again before the property shall be eligible to be continued for preferential assessment. If ownership of the property is acquired during a covenant period by a person qualified to enter into an original covenant, by a newly formed corporation the stock in which is owned by the original covenantor or others related to the original covenantor within the fourth degree by civil reckoning, or by the personal representative of an owner who was a party to the covenant, then the original covenant may be continued by such acquiring party for the remainder of the term, in which event no breach of the covenant shall be deemed to have occurred.



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Preferential Assessment for Agricultural Property Penalties Page 54



O.C.G.A. 48-5-7.1(g)

A penalty shall be imposed under this subsection if during the period of the covenant entered into by a taxpayer the covenant is breached. The penalty shall be computed by multiplying the amount by which the preferential assessment has reduced taxes otherwise due for the year in which the breach occurs times:

Horizontal lines for notes



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Preferential Assessment for Agricultural Property Penalties Con't Page 54



Penalties Con't

- A factor of five if the breach occurs in the first or second year of the covenant period;
A factor of four if the breach occurs in the third or fourth year of the covenant period;
A factor of three if the breach occurs in the fifth or sixth year of the covenant period;
A factor of two if the breach occurs in the seventh, eighth, ninth, or tenth year of the covenant period;

Horizontal lines for notes



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Preferential Assessment for Agricultural Property Penalty Calculation Example if Breach Occurs in Year 4:

Year 1 Tax Savings = \$ 5,000
Year 2 Tax Savings = \$ 5,000
Year 3 Tax Savings = \$ 5,000
Year 4 Tax Savings = \$ 6,000
\$6,000 * 4 = \$24,000 Penalty

Horizontal lines for notes



Georgia Department of Revenue

Preferential Assessment for Agricultural Property

Tax Savings:

Difference between 40% assessment & 30% assessment = SA exemption amount

40% AV - 30% Preferential Assessment = SA Exemption

Or

(FMV X .40) - (FMV X .30) = SA Exemption

Horizontal lines for notes



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30% Assessment Rule

- 100 acres with FMV of \$100,000
- $100,000 \times .75 = \$75,000$ $\times .40 = \$30,000$ AV

OR

- $100,000 \times .30 = \$30,000$ AV
- $100,000 \times .40 = \$40,000$ Gross AV
- $100,000 \times .30 = \$30,000$ Net AV
- $\$40,000 - \$30,000 = \$10,000$ SA Exemption amount on digest

Horizontal lines for notes



Georgia Department of Revenue

Preferential Assessment for Agricultural Property

Page 54



O.C.G.A. 48-5-7.1(h)

A penalty imposed under subsection (g) of this Code section shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.

Day after due date = 1% of Tax per month (minimum \$1.00)

Horizontal lines for notes



Georgia Department of Revenue

Preferential Assessment for Agricultural Property

O.C.G.A. 48-5-7.1(i) **Page 54**

Penalties and interest imposed under this Code section shall constitute a lien against the property and shall be collected as other unpaid ad valorem taxes are collected. Such penalties and interest shall be distributed pro rata to each taxing jurisdiction wherein the preferential assessment has been granted based upon the total amount by which such preferential assessment has reduced taxes for each such taxing jurisdiction on the property on the property in question as provided in this Code section.



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Preferential Assessment for Agricultural Property

Page 55 (J)

Penalties not imposed in the following cases:

- (1) The acquisition of all or part of the property under the power of eminent domain;
- (2) The sale of part of all of the property to a public or private entity which would have had the authority to acquire the property under the power of eminent domain; or
- (3) The death of an owner who was party to the covenant



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Preferential Assessment for Agricultural Property

Covenant Requirements- 10 year period

Application must be recorded **Page 55 (k)**

If not recorded, a transferee shall not be bound by the covenant or subject to any penalty as a result of a breach.



Preferential Assessment for Agricultural Property

Page 55(k)

- Covenant can be continued by new owner
 - Apply to continue during the return period in the year following the year the transfer occurred. BOA responsibility to file covenant with Clerk of Court. Taxpayer pays the filing fee.

Page 56(n)

- Can transfer up to 5 acres for use as any purpose to a person related within the 4th degree of civil reckoning (No dedicated use requirement)
 - Prior to 1988 there was a requirement for residential use only on the conveyance of up to 3 ac. It is not a requirement now.



Preferential Assessment for Agricultural Property

Page 57 (q)(2) Penalties imposed in these situations:

Foreclosure

Medically demonstrable illness or disability

Page 58 (r.1)

Penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year in which the covenant is breached. Penalty shall bear interest at 1% per month from the date the covenant is breached. (O.C.G.A. 48-2-40).



Preferential Assessment for Agricultural Property

Page 58 (s) Property which is subject to preferential assessment and which is subject to a covenant under this Code section may be changed from such covenant and placed in a covenant for bona fide conservation use under Code Section 48-5-7.4 if such property meets all of the requirements and conditions specified in Code Section 48-5-7.4. Any such change shall terminate the covenant under this Code section, shall not constitute a breach of the covenant under this Code section, and shall require the establishment of a new covenant period under Code Section 48-5-7.4. No property may be changed under this subsection more than once.



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Preferential Assessment for Agricultural Property Page 58 (t)

Release of Preferential Covenant:

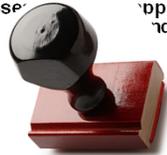
- At such time as the property ceases to be eligible for preferential assessment or when any ten-year covenant period expires and the property does not qualify for further preferential assessment, the owner of the property shall file an application for release of preferential treatment with the county board of tax assessors.



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Preferential Assessment for Agricultural Property Release of Preferential Covenant: (Con't)

- The Board of Assessors shall approve the release upon verification and penalties with respect to the application satisfied. After the board of assessors has approved by the release, the applicant shall file the application in the county superior court where the applicant was filed. The clerk of the court shall file and index such application in the county records maintained in the county records. A fee shall be paid to the clerk of the court for recording such release.





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AG Opinion Pg. 59

- Transfer of portion of property. - Subsection (f) of this section does not require that all property subject to a covenant be transferred before the covenant can be continued pursuant to that provision. 1987 Op. Att'y Gen. No. U87-14.



Chapter 560-11-3-.19

Farm Property Preferential Assessment/
Application/

The preferential regulations are found
beginning on **Page 59**.

- Definitions, Digest Class and Strats, etc.
- Covenant Form PT 230 **Page 121**





Conservation Use (O.C.G.A. 48-5-7.4)

Includes Residential Transitional
and Environmentally Sensitive

Page 61





Conservation Use

Definition of Current Use Value of bona fide conservation use O.C.G.A. 48-5-2 (1) **Page 5 (1)**

“Current use value” of bona fide conservation use property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm’s length bona fide sale and shall be determined in accordance with the specifications and criteria provided for in subsection (b) of Code Section 48-5-269.

Application must be recorded **Page 71 (j)(1)**



If not recorded, a transferee shall not be bound by the covenant or subject to any penalty for a breach.



Conservation Use-Residential Trans.

Page 5(3)

Definition of Current Use Value of bona fide Residential Transitional Property - O.C.G.A. 48-5-2(2)

- “Current use value” of bona fide residential property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm’s length, bona fide sale. The tax assessor shall consider the following criteria, as applicable, in determining the current use value of bona fide residential transitional property
- (A) The current use of such property;
- (B) Annual productivity; and
- (C) Sales data of comparable real property with and for the same existing use.



Conservation Use

Page 69-70 (c)

RESIDENTIAL TRANSITIONAL PROPERTY

- Limited to 5 acres
- Single family owner occupied property
- Located in a transitional developing area experiencing a change in use
- Value must have been changed to a level higher than that of residential property in the area as a result of its location in a transitional area



QUESTION

- Can a property owner have a tract in conservation use for the farm land and also have a residential transitional covenant on the residence at the same time??



ANSWER

Yes, they can!



Conservation Use

2000 acres of a single person Page 65 (1)

Primary purpose must be good faith production of agricultural or timber products

- Includes subsistence farming

Buildings on the property that are connected to the farming or timber operation are to be included in the covenant

- Residential home and relevant improvements are excluded Page 65(a)(1)(B)

Factors which may be considered Page 66(A)(D)

- Nature of terrain
- Density of marketable product
- Past usage
- Merchantability of the agricultural product
- Use or non-use of proper care, cultivation & harvesting practices normally associated with the product being produced



Conservation Use Pg65(B)

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



Conservation Use

Ownership Requirements page 66(C)

- Property must be owned by
- One or more citizens
 - An estate of which heirs are citizens
 - A trust of which the beneficiaries are citizens
 - A family farm corporation with certain qualifications
 - A bona fide nonprofit conservation organization [IRS 501(c)(3)]
 - A bona fide club organized for pleasure, recreation & other non-profitable purposes pursuant to Section 501(c)(7) IRS code
 - No ownership requirements for constructed storm water wetlands



Conservation Use

Page 68(b) (1) (2)

Additional Rules Applying to Eligibility for Conservation Use

- Only 1/2 of a tract must be in a qualifying use for entire tract to qualify 68-9
- Unused portion cannot be used for other type business 69
- Lease of hunting rights is not considered another business
- Unused portion must be managed so that it does not contribute to erosion or other conservation problems.69
- Corn Mazes 73
- Agri-tourism "Play farmer for a day" Page 75(p)(7)(A)
- Wildlife habitat Page 67(a)(E)(iv) Renewals Pg. 68(a.1
- <10 ac must submit additional information regarding proof of bona fide conservation use 69
- May lease up to 6 ac for cell tower site.



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Conservation Use 48-5-7.4 (b)(2) Pg 67

(2) The owner of a tract, lot, or parcel of land totaling less than ten 10 acres shall be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that on or after the effective date of this paragraph is either first made subject to a covenant or is subject to a renewal of a previous covenant. If the owner of the subject property provides proof that such owner has filed with the Internal Revenue Service a Schedule E, reporting farm related income or loss, or a Schedule F, with Form 1040, or, if applicable, a Form 4835, pertaining to such property, the provisions of this paragraph, requiring additional relevant records regarding proof of bona fide conservation use, shall not apply to such property. Prior to a denial of eligibility under this paragraph, the tax assessor shall conduct and provide proof of a visual on-site inspection of the property; Reasonable notice shall be provided to the property owner before being allowed a visual, on-site inspection of the property by the tax assessor;



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48-5-7.4 (b)(4) Pg. 69 (b)(4)

- (4) No property shall qualify as bona fide conservation use property if it is leased to a person or entity which would not be entitled to conservation use assessment;



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48-5-7.4 (b)(5) Pg. 69 (b)(5)

- (5) No property shall qualify as bona fide conservation use property if such property is at the time of application for current use assessment subject to a restrictive covenant which prohibits the use of the property for the specific purpose described in subparagraph (a)(1)(E) of this Code section for which bona fide conservation use qualification is sought



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48-5-7.4 (a)(1)(E) Pg. 67

- (E) Such property shall, if otherwise qualified, include, but not be limited to, property used for:
 - (i) Raising, harvesting, or storing crops;
 - (ii) Feeding, breeding, or managing livestock or poultry;
 - (iii) Producing plants, trees, fowl, or animals, including without limitation the production of fish or wildlife by maintaining not less than ten acres of wildlife habitat either in its natural state or under management, which shall be deemed a type of agriculture; provided, however,



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48-5-7.4 (a)(1)(E) Con't

- that no form of commercial fishing or fish production shall be considered a type of agriculture;
- (iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products





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48-5-7.4 (a)(1)(F) Page 67

- The primary purpose described in this paragraph includes land conservation and ecological forest management in which commercial production of wood and wood fiber products may be undertaken primarily for conservation and restoration purposes rather than financial gain.





Expiration and Renewal 70 (d)

- 48-5-7.4 (d) No property shall qualify for current use assessment under this Code section unless and until the owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in bona fide qualifying use for a period of ten years beginning on the first day of January of the year in which such property qualifies for such current use assessment and ending on the last day of December of the final year of the covenant period. After the owner has applied for and has been allowed current use assessment provided for in this Code section, it shall not be necessary to make application thereafter for any year in which the covenant period is in effect and current use assessment shall continue to be allowed such owner as specified in this Code section.



Expiration and Renewal 68 (d)

- At least 60 days prior to the expiration date of the covenant, the county board of tax assessors shall send by first-class mail written notification of such impending expiration. On the expiration of any covenant period, the property shall not qualify for further current use assessment under this Code section unless and until the owner of the property has entered into a renewal covenant for an additional period of ten years; provided, however, that the owner may enter into a renewal contract in the ninth year of a covenant period so that the contract is continued without a lapse for an additional ten years.



Conservation Use Pg. 71(2)(a)

- (2)(A) As used in this paragraph, the term 'contiguous' means real property within a county that abuts, joins, or touches and has the same undivided common ownership. If an applicant's tract is divided by a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track, then the applicant has, at the time of the initial application, a one-time election to declare the tract as contiguous irrespective of a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track.
- (B) If a qualified owner has entered into an original bona fide conservation use covenant and subsequently acquires additional qualified property contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified property into the original covenant for the remainder of the ten-year period of the original covenant, provided, however, that such subsequently acquired qualified property shall be less than 50 acres.
- (1)(A) The governing authority of a county shall not publish or promulgate any information which is inconsistent with the provisions of this Chapter.



Georgia Department of Revenue

Conservation Use

- *New* language added in 2012 from HB916 which allows for contiguous acres to be added to the original covenant for the remainder of the covenant life 48-5-7.4(i)(2)(A)
 - Acquire the property after entering into the original covenant
 - Property added must be less than 50 acres and CAN'T be in an existing covenant





Georgia Department of Revenue

Conservation Use 48-5-7.4(j)(1) Pg. 70

- Applications...When to apply
 - During the annual return period
 - (During the original 45 day period that NOA's are out and option to file appeal is open)
 - AG opinion states that CUVA may be applied for during initial return period is that is the ONLY time and BOE does not have authority to grant if not during such period.
 - [Presentations\CUVA - BOE.PDF](#)





Georgia Department of Revenue

48-5-311(e)(1)(A)

- Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment by the county board of tax assessors.
- Department has issued a Position policy concerning applying for CUVA if purchased after January 1. See page 84 in Supplement
- [Presentations\2011-05-Conservation Use Application Policy.doc](#)



Conservation Use

Page 66

Qualifying Uses of Environmentally Sensitive Property

- Certain mountain areas (See slope data in Manual)
- Certain wetlands
- Significant ground-water recharge areas
- Undeveloped barrier islands
- Habitats of endangered species
- River corridors
- Constructed storm-water wetlands



Conservation Use

Environmentally sensitive property, if qualified, may include:

Pages 66-67

- crests, summits, and ridge tops;
- wetland areas as determined by the United States Army Corps of Engineers in accordance with Section 404 of the federal Clean Water Act, as amended, or wetlands that are shown as such on maps compiled by the Department of Natural Resources of the United States Fish and Wildlife Service;
- significant ground-water recharge areas shown as such on maps or data compiled by the Department of Natural Resources;
- undeveloped barrier islands or portions of undeveloped barrier islands as provided for in the federal Coastal Barrier Resources Act, as amended;
- habitats certified by the Department of Natural Resources that contain endangered or threatened species as listed under the federal Endangered Species Act of 1973, as amended; and
- river corridors that are within the 100 year flood plain as shown on official maps prepared by the Federal Emergency Management Agency.



Conservation Use

- Environmentally Sensitive Property
 - 560-11-6-.03 Qualification Requirements Page 82 (b)
 - In most cases it must be determined as Environmentally sensitive by the appropriate agency
 - Excludes any improvements
 - Primary use must maintain property in its natural condition



Conservation Use Page 84
560-11-6-.04

- (4) Applications for current use valuation provided for environmentally sensitive properties may be filed without certification by the Department of Natural Resources; provided, however, that the specific property is stipulated to be environmentally sensitive. Failure to file such certification with the board of tax assessors within thirty (30) days of the last day for filing the application for current use assessment may result in the application being denied by the board of tax assessors.



Constructed Storm Water-Page 71 (K-2)

- 2) The applicable local governing authority shall accept applications for approval of property for purposes of subparagraph (a)(2)(G) of this Code section and shall certify property to the local board of tax assessors as meeting or not meeting the criteria of such paragraph. The local governing authority shall not certify any property as meeting the criteria of subparagraph (a)(2)(G) of this Code section unless:
 - (A) The owner has submitted to the local governing authority:
 - (i) A plat of the tract in question prepared by a licensed land surveyor, showing the location and measured area of such tract;
 - (ii) A certification by a licensed professional engineer that the specific design used for the constructed storm-water wetland was recommended by the engineer as suitable for such site after inspection and investigation; and
 - (iii) Information on the actual cost of constructing and estimated cost of operating the storm-water wetland, including without limitation a description of all incorporated materials, machinery, and equipment; and
 - (B) An authorized employee or agent of the local governing authority has inspected the site before, during, and after construction of the storm-water wetland to determine compliance with the requirements of subparagraph (a)(2)(G) of this Code section.






Georgia Department of Revenue

Conservation Use
(O.C.G.A. 48-5-7.4 (k.1) Page 71)

- In the case of an alleged breach of the covenant, the owner shall be notified in writing by the board of tax assessors. The owner shall have a period of 30 days from the date of such notice to cease and desist the activity alleged in the notice to be in breach of the covenant or to remediate or correct the condition or conditions alleged in the notice to be in breach of the covenant. Following a physical inspection of property, the board of tax assessors shall notify the owner that such activity or activities have or have not properly ceased or that the condition or conditions have or have not been remediated or corrected. The owner shall be entitled to appeal the decision of the board of tax assessors and file an appeal disputing the findings of the board of tax assessors. Such appeal shall be conducted in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.


Georgia Department of Revenue

Conservation Use
(O.C.G.A. 48-5-7.4 (l))

Page 71-2 (L)

Breach with Penalty of Twice the Tax Savings:

- Sale of all or part of the property to an owner that does not continue the covenant, or is not a qualified owner
- Changing use of property to a non-qualifying use

Penalty applicable to entire tract which was subject to original covenant and shall be twice the difference between the total amount of tax paid and the amount that would have been due if assessed at fair market value for each year or part of a year of the covenant period. Interest begins accruing on the date the breach.

$(FMV \cdot 40) - (CUV \cdot 40) = SV \cdot 2 \cdot \text{millage rate for each year in the covenant}$



Penalties

No penalty imposed if breach due to:

- The property being acquired under eminent domain
- The sale to an entity that has the power of eminent domain
- The death of an owner who was a party to the covenant
- Sale of 5 ac or less to relative within 4th degree for residential purposes only.....



*2016 Change As Per HB 987

- Amended 48-5-7.4
- (o) The transfer of a part of the property subject to a covenant for a bona fide conservation use shall not constitute a breach of a covenant if:
 - (1) The part of the property so transferred is used for single-family residential purposes, starting within one year of the date of transfer and continuing for the remainder of the covenant period, and the residence is occupied within 24 months from the date of the start by a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and
 - (2) The part of the property so transferred, taken together with any other part of the property so transferred to the same relative during the covenant period, does not exceed a total of five acres; and in any such case the property so



Penalties

No penalty imposed Con't

- (o)(2 con't) transferred shall not be eligible for a covenant for bona fide conservation use, but shall, if otherwise qualified, be eligible for current use assessment as residential transitional property and the remainder of the property from which such transfer was made shall continue under the existing covenant until a terminating breach occurs or until the end of the specified covenant period.



Georgia Department of Revenue

Conservation Use

Page 73

O.C.G.A. 48-5-7.4 (p)

- The following shall not constitute a breach of a covenant:



- Mineral exploration of possible mines
- Allowing all or part of the property to lie fallow for conservation purposes or for hardship not to exceed 2 of 5 years
- Transferring up to 25 acres to a place of religious worship, burial, or purely charitable entity



Georgia Department of Revenue

Conservation Use
O.C.G.A. 48-5-7.4 (p)

- Cell tower installation(<=6 acres) Lease only
- Growing a corn maze as long as crop is harvested
- Agritourism





Georgia Department of Revenue

Conservation Use

Page 73

O.C.G.A. 48-5-7.4(p)(8)

- The following shall not constitute a breach of a covenant:
 - (8) Allowing all or part of the property which has been subject to a covenant for at least one year to be used as a site for farm weddings; or
 - (9) Allowing all or part of the property which has been subject to a covenant for at least one year to be used to host not for profit equestrian performance events to which spectator admission is not contingent upon an admission fee but which may charge an entry fee from each participant.



Georgia Department of Revenue

*2016 Change As Per HB 987

- "(10) Allowing all or part of the property subject to the covenant to be used to host a not for profit rodeo event to which spectator admission and participant entry fees are charged in an amount that in aggregate does not exceed the cost of hosting such event."



Georgia Department of Revenue

Penalty Calculation

- (q) Penalty imposed of tax savings for current year in the following circumstances:
 - Foreclosure with certain conditions Page 74 (q) (1)
 - Medically demonstrable illness or disability of one of the parties to the covenant Page 74 (q) (2)
 - Breach of renewal covenant of >=65 years old owner who has completed 3 years of the renewal covenant Page 74 (q) (3)
 - Breach of covenant of >=67 years old and he has either owned or inherited the property for at least 15 years and in the covenant at least 3 years. Page 74 (q) (4)
 - ~~Breach of renewal covenant after year 6 if property still owned by original owner, or someone related to him within the 4th degree of civil reckoning~~ Page 76 (x)



Georgia Department of Revenue

Penalty Calculation 48-5-7.4(x)

- Penalty imposed of tax savings for each year in the following circumstances:
 - Notwithstanding any other provision of this Code section to the contrary, in any case where a renewal covenant is breached by the original covenantor or a transferee who is related to that original covenantor within the fourth degree by civil reckoning, the penalty otherwise imposed by subsection (l) of this Code section shall not apply if the breach occurs during the sixth through tenth years of such renewal covenant, and the only penalty imposed shall be the amount by which current use assessment has reduced taxes otherwise due for each year in which such renewal covenant was in effect, plus interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.



Penalty Calculation Pg75

- (r) Property which is subject to current use assessment under this Code section shall be separately classified from all other property on the tax digest; and such separate classification shall be such as will enable any person examining the tax digest to ascertain readily that the property is subject to current use assessment under this Code section.

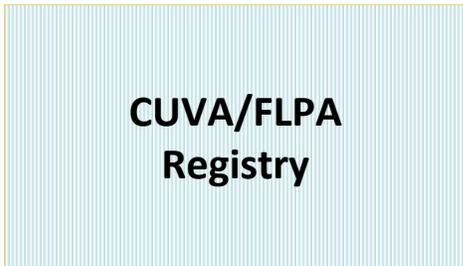


Penalty Calculation

- (r) Con't.
- Covenants shall be public records and shall be indexed and maintained in such manner as will allow members of the public to locate readily the covenant affecting any particular property subject to current use assessment under this Code section. Based on information submitted by the county boards of tax assessors, the commissioner shall maintain a central registry of conservation use property, indexed by owners, so as to ensure that the 2,000 acre limitations of this Code section are complied with on a state-wide basis.



CUVA/FLPA Registry





Georgia Department of Revenue

Covenant Registry

Statewide Listing of All CUV and
FLPA Covenants



Georgia Department of Revenue

Statutory Authority

- 48-5-7.4(r) **pg 75**
- 48-5-7.7 (s) **pg 103** Requires DOR to maintain a statewide registry



Georgia Department of Revenue

Statutory Requirements

- Registry assists measuring acre compliance for conservation use
 - Each owner of conservation use is allowed up to 2000 acres in conservation use statewide
 - FLPA has no acre limitations.



Georgia Department of Revenue

Covenant Registry

- Standardized layout for all 159 counties.
- Data must be included with annual Digest Submission
- DOR emailed each county an addendum to the 2014 digest submission package alerting you of this requirement



Georgia Department of Revenue

Covenant Registry

- Data layouts in 2013 had some inconsistency (some asked for Class/Strat and shouldn't have) ... layouts made uniform for 2014
- Data submitted by county is presented in registry as-is (no edits other than removal of commas in names and addresses and multiple owner fields)



Georgia Department of Revenue

Covenant Registry

- | | |
|------------------|-------------------|
| • County Name | • Address1 |
| • Digest Year | • Address2 |
| • Parcel Number | • Address3 |
| • Total Acres | • City |
| • Covenant Acres | • State |
| • Lastname | • Zip |
| • Firstname | • Multiple Owners |
| • Middle | • CCY |
| | • FLCY |



Covenant Registry

- The impact and usefulness of the registry will be greatly enhanced when the county takes the extra step to include the owner names and percentage ownership in each covenant where owned by multiple owners.



Covenant Registry

- Some CAMA systems do not separate names into three columns (Last, First, Middle), in those instances, the entire name will be found in the LASTNAME column
- Some CAMA systems contain commas (they should not per USPS regulations), those have been removed from the registry
- File is too large to email, must be downloaded



Covenant Registry

- Full Version (confidential)
 - <http://www.wingap.net/>
 - Links Page
 - Password protec

Links

Related Links

- <http://www.gscca.org>
- Georgia Superior Court Clerks' Cooperative Authority
- <http://www.dor.ga.gov>
- Georgia Department of Revenue
- GAP Group Bulk License Winzip (password required)
- PT61 Raw Data Layout: PDF
- TeamViewer
- GOVREG (password required)



 Georgia Department of Revenue

Covenant Registry

- Some of the multiple owner columns appear to be pulled from CAMA comment fields, some include DOB and SSN information – therefore data should remain **strictly confidential**



 Georgia Department of Revenue

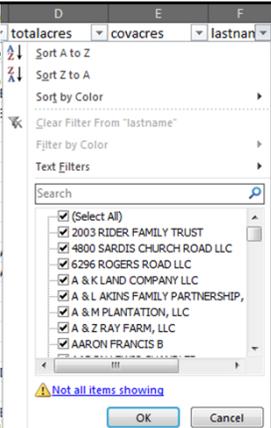
Covenant Registry

D	E	F
totalacres	covacres	lastname
210.65	210.65	LINDSEY FARMS LLLP
197	197	BALKCOM RALPH JR
209	209	CATHRALL YATES GEORGE JR
10	10	WATTS CAROL ELIZABETH
297.75	297.75	CATHRALL YATES GEORGE JR
144.7	144.7	CATHRALL YATES GEORGE JR
85	79	LINDSEY FARMS LLLP
62.4	62.4	THORNTON FAMILY FARMS LLC
195.41	195.41	PARHAM SALLIE EST
46	46	J & J ADVENTURES LLC
69.53	69.53	LITTLETON JAMES ALVIN

 Georgia Department of Revenue

Searching and Filters

- Click the Arrow beside a column name to reveal filter options
- Sample is LASTNAME



Georgia Department of Revenue

Searching and Filters

- Select TEXT FILTERS

Georgia Department of Revenue

Searching and Filters

- Select CONTAINS
- Enter desired text: SAYER

lastname
10 SAYER MITCHELL & DOROTHY
71.5 SAYER WAYNE
2.46 SAYER WAYNE
7.32 SAYER WAYNE
5.85 SAYER WAYNE
3.35 SAYER JIMMY
1.04 SAYER JIMMY
3.33 SAYER CHARLOTTE DAY
87 SAYER WAYNE & WILLENE W
35.6 SAYER WAYNE
4.91 SAYER WAYNE
9.6 SAYER WAYNE
3.63 SAYER WAYNE



Details

- 185,170 total rows
- Covenants represent 18,773,570.10 acres



Public Notice to be Posted

Page 75 (t)

A public notice containing a brief, factual summary of the provisions of this Code section shall be posted in a prominent location readily viewable by the public in the office of the board of tax assessors and in the office of the tax commissioner of each county in this state. See page 174 of course manual for sample notice.



Rules and Regulations Additional Rules

Page 76 (y)(z)

- (y) The commissioner shall have the power to make and publish reasonable rules and regulations for the implementation and enforcement of this Code section. Without limiting the commissioner's authority with respect to any other such matters, the commissioner may prescribe soil maps and other appropriate sources of information for documenting eligibility as a bona fide conservation use property. The commissioner also may provide that advance notice be given to taxpayers of the intent of a board of tax assessors to deem a change in use as a breach of a covenant.
- (z) The governing authority of a county shall not publish or promulgate any information which is inconsistent with the provisions of this Chapter.



48-5-30. Filing extension for Member of the Armed Forces serving abroad.

- Notwithstanding any provision of Code **Pg. 79** Section 48-5-7.1 or 48-5-7.4 to the contrary, a member of the armed forces of the United States serving outside the continental United States may file such member's initial or renewal application for special assessment at any time within a period of six months following the return of such member to the continental United States.



560-11-6-.04 Applications Pg. 83-4

- (1) All applications for current use assessment shall be made using forms adopted by the Commissioner for that purpose. Forms PT-283A, PT-283E, PT-283R, PT- 283S (Rev. 09/06) and applicable questionnaires are hereby adopted and prescribed for use by the applicant seeking current use assessment. The application shall be filed with the board of tax assessors of the county in which the property is located. A board of tax assessors may not require additional information from an applicant for purposes of determining eligibility of property for current use assessment except as otherwise provided in O.C.G.A. § 48-5-7.4. .



560-11-6-.04 Applications Pg. 83-4

- (2) In those counties where U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps are available, it shall be the responsibility of the board of tax assessors to delineate the soil types on the tax records of the applicant's property.
- (3) In those counties where the board of tax assessors has not been able to obtain U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps, the board of tax assessors shall determine the soil types of the applicant's property using the best information available.



560-11-6-.04 Applications Pg 84

- (6) Application for conservation use value assessment may be withdrawn prior to the current year's "final assessment" as defined in these regulations.

??????



560-11-10-.02 Definitions

- ~~(i) Final assessment.~~ "Final assessment" means the final assessed value that is determined for the property for the applicable tax year after the following events have occurred: the time period for filing appeals has expired and any appeals that have been filed have been resolved; the authorities authorized to levy taxes on property in the county have approved the final tax levy; the Revenue Commissioner has authorized that the digest may be used as the basis for collecting taxes; the tax commissioner has mailed the final tax bills based on the authorized digest; and in the case of personal property, the appraisal staff has completed its audit of the personal property pursuant to Rule 560-11-10-.08(4)(d) within the statute of limitations.



560-11-10-.02 Definitions

- (i) Final assessment. "Final assessment" means the assessed value of real property as stated on the Annual Notice of Assessment as approved by the Board of Assessors. Amendments to "Final assessment" for real property are prohibited absent a clerical error or some other lawful basis; and in the case of personal property, the appraisal staff has completed its audit of the personal property pursuant to Rule 560-11-10-.08(4)(d) within the three year statute of limitations.



Georgia Department of Revenue

Notice of Intent of Breach

Pg. 84 (7)

- When property receiving current use assessment and subject to a conservation use covenant is transferred to a new owner and the new owner fails to apply for continuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the transfer occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event the board of tax assessors shall send to both the transferor and the transferee a notice of the board's intent to assess a penalty for breach of the covenant.



Georgia Department of Revenue

Notice of Intent of Breach Con't

Pg. 84 (7)

The notice shall be entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant" and shall set forth the following information:

- (a) the requirement of the new owner of the property currently receiving current use assessment to apply for a continuation of the current use assessment within 30 days of the date of postmark of the notice;
- (b) the requirement of the new owner of the property currently receiving current use assessment to continuously devote the property to an applicable bona fide qualifying use of the duration of the covenant;
- (c) the change to the assessment if the covenant is breached; and
- (d) the amount of the penalty if the covenant is breached.



Georgia Department of Revenue

Notice of Intent to Terminate a Conservation Use Covenant

Page 84 (9)

When property receiving current use assessment and subject to a conservation use covenant is transferred to an estate or heirs by virtue of the death of a covenant owner, and the estate or heirs fail to apply for a continuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the death occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event in which case the board of tax assessors shall send to any remaining parties to the covenant, whether the estate or the heirs a notice entitled "Notice of Intent to Terminate a Conservation Use Covenant."



Notice of Intent to Terminate a Conservation Use Covenant Con't Page 85

- The notice shall set forth the following:
 - (a) the requirement of the estate or heirs to the property currently receiving current use assessment to apply for a continuation of the current use assessment within thirty (30) days of the date of postmark of the notice;
 - (b) the requirement of the estate or heirs to the property currently receiving current use assessment to continuously devote the property to an applicable bona fide qualifying use for the duration of the covenant; and
 - (c) the change to the assessment if the covenant is breached.
- (10) In the event the estate or heirs fail to apply during the period provided for in paragraph (9) of this regulation, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the estate or heirs' lack of qualification or intent not to continuously devote the property to an applicable bona fide qualifying use. In such event the board of tax assessors shall be authorized to declare the covenant in breach without penalty.



??? QUESTION ???

- What if owner dies and the heirs convey the property before the end of the year?



560-11-6-.05 Change of Qualifying Use

- See Pages 85-6
- Reg will be corrected next promulgation process.



Breach of Covenant 560-11-6-.06

Page 87

Penalty prorated and distributed to each taxing jurisdiction
Interest prorated and disbursed to each taxing jurisdiction

If a breach occurs during a tax year but before the tax rate is established for that year, the penalty for that partially completed year shall be calculated based upon the tax rate in effect for the immediately preceding tax year. However, the tax due for the partially completed year shall be the same as would have been due absent the breach[560-11-6-.06(1)]

If a breach occurs on all or part of the property that was subject to the original covenant, then the breach shall be deemed to have occurred on all the property and the penalty shall be pro rata assessed against each of the parties....in proportion to the tax benefit enjoyed by each during the life of the original covenant. [560-11-6-.06(2)]



Breach Penalties 560-11-6-.06 Con't

Page 87

The breach shall be deemed to occur upon the occasion of any event which would otherwise disqualify the property from receiving the benefit of current use valuation and the lien against the property for penalties and interest shall attach as of the date of that qualifying event. [560-11-6-.06(3)]

If a covenant is breached by the original covenantor or a transferee who is related to the original covenantor by the fourth degree of civil reckoning, and where such breach occurs during the sixth through tenth years of a renewal covenant, the penalty imposed shall be only the amount by which current use assessment has reduced taxes otherwise due for each year in which such renewal was in effect, plus interest at the rate specified in O.C.G.A. Section 48-2-40 from the date the covenant was breached. [560-11-6-.06(4)]



560-11-6-.07

- Valuation of Qualified Property Page 87-92
- Value is limited to 3% increase per year for a total of 34.29% for the life of the covenant.
- 65% of CUV value derived using income approach
- 35% of CUV value derived from sales market



Georgia Department of Revenue

Taxpayer to receive notice during first year of Covenant

560-11-6-.08(2) For the first year of the covenant period the taxpayer shall be notified by the board of assessors of the current use valuation placed on the property for that year. Appeals shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. 48-5-311. (Page 92)



Georgia Department of Revenue

560-11-6-.08 (3) Page 92

- During the covenant period the taxpayer shall be given notification of any change in the current use valuation made by the board of tax assessors for the then current tax year. Appeals shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. Section 48-5-311.



Georgia Department of Revenue

560-11-6-.09 (1) Page 93

- Table of Conservation Use Land Values



Georgia Department of Revenue

Changes in Use

An owner of a 100 acre parcel in CUV decides to build 5 new poultry houses.

What happens to the covenant?

Does CUVA value increase more than 3%?

Does Covenant Period start over?

Can the owner change to Preferential?



Georgia Department of Revenue

Changes in Use

An owner of a 100 acre parcel in CUV decides to build 5 new poultry houses.

What happens to the covenant?

Does CUVA value increase more than 3%?

Does Covenant Period start over?

Can the owner change to Preferential?



Georgia Department of Revenue

Does CUVA have you on the Fence?



 Georgia Department of Revenue

QUESTIONS??????



 Georgia Department of Revenue

Forest Land Protection Act

Page 95



 Georgia Department of Revenue

What is Forest Land?

- Forest land means a tract of land covered with trees and one usually of considerable extent. (Black's Law)





Forest Land Protection Act

- BOA has 3 separate values to track for properties entered into this covenant
- Each will be discussed later
 - **Forest Land Fair Market Value**
 - Legislated FMV based on 2008 FMV adjusted by indexes
 - **True Fair Market Value**
 - True-Blue old fashioned FMV (based on CAMA schedules)
 - **Forest Land Conservation Use Value**
 - Woodland values of the old trusty conservation use values



Forest Land Protection Act

- Defines “Forest Land Fair Market Value”
 - Digest class “F”
- Used in the calculation of the amount of assistance grants the state will pay to reimburse revenue lost.



FLPA

- Digest code “J” is used to identify the **true-blue fair market value**.
- Used in the calculation of any penalties resulting from a breach



Forest Land Conservation Value

- 'Forest land conservation value' of forest land conservation use property means the amount determined in accordance with the specifications and criteria provided for in 48-5-271



What does 48-5-271 tell us?

- Commissioner has promulgated regs establishing table of values
- Such values shall be the same as provided for **forest land** in 48-5-269
- Table of values limited to 3% change per year



Forest Land Fair Market Value: Verbatim

- 'Forest land fair market value' means the 2008 fair market value of the forest land for TY 2009.
- 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 US Bureau of Economic Analysis and indicated by the Price Index for Government Consumption Expenditures and General Government Gross Output (Table 3.10.4)



Georgia Department of Revenue

FL Fair Market Value Simplified

- 2008 Fair Market value
- Value *may* increase the amount of the index
 - 2009 FL FMV is = 2008 FMV (Base Value)
 - 2010 FL FMV is either
 - 2009 FL FMV * index
 - 2009 FL FMV no adjustment



Georgia Department of Revenue

FL Fair Market Value Simplified

- 2008 Fair Market value
- Value *may* increase the amount of the index
 - 2016 FL FMV is = 2008 FMV (Base Value)
 - 2017 FL FMV is either
 - 2016 FL FMV * index
 - 2016 FL FMV no adjustment



Georgia Department of Revenue

FL FMV Examples

- Covenant begins in digest year 2016
- FL FMV is 2008 Base FMV

2008 Base Value = 150,000

Year	Index	FLP Value	Formula
2012	N/A	150,000	No adjustment in year 1



Georgia Department of Revenue

Value Examples

- 2016 True FMV ('J') = 200,000
- 2016 FL FMV('F') = 154,770
 - (2008 base value the first year and then indexed thereafter if BOA approves)
- 2016 CU value = 48,500
 - 48-5-271 (limited to 3% annually)
- Penalty calcs between 200,000 vs 48,500
- Grant calcs between 154,770 vs 48,500



Georgia Department of Revenue

FL FMV Examples

2008 Base Value = 150,000

Year	Index	FL FMV	Formula
2009	N/A	150,000	No adjustment to base value
2010	.999	150,000 149,850	No adjustment to base value $150,000 * .999$
2011	1.026	150,000 149,850 153,746 153,900	No adjustment made 149,850 with no adjustment $149,850 * 1.026$ $150,000 * 1.026$
2012	1.063	150,000 149,850 153,746 153,900 159,450 159,291 163,432 163,596	No adjustment made 149,850 with no adjustment $149,850 * 1.026$ $150,000 * 1.026$ $150,000 * 1.063$ $149,850 * 1.063$ $153,746 * 1.063$ $153,900 * 1.063$



Georgia Department of Revenue

FL FMV Examples

2008 Base Value = 150,000

Year	Index	FL FMV	Formula
2013	1.085	150,000 149,850 153,746 153,900 159,450 159,291 163,432 163,596 162,587 166,814 166,981 173,003 172,830 177,323 177,501	No adjustment made 149,850 with no adjustment $149,850 * 1.026$ $150,000 * 1.026$ $150,000 * 1.063$ $149,850 * 1.063$ $153,746 * 1.063$ $153,900 * 1.063$ $149,850 * 1.085$ $153,746 * 1.085$ $153,900 * 1.085$ $159,450 * 1.085$ $159,291 * 1.085$ $163,432 * 1.085$ $163,596 * 1.085$



Georgia Department of Revenue

48-5-7.7(b)(2)

- Must be owned by an individual or individuals or by any entity registered to do business in this state;
- Property excludes the entire value of any residence located on the property
- Excludes the value of any improvement located on property



Georgia Department of Revenue

48-5-7.7(b)(2) (continued)

- Such property has as its primary use the good faith subsistence or commercial production of trees, timber, or other wood and wood fiber products from or on the land.
- Such property may, in addition, have one or more of the following secondary uses:



Georgia Department of Revenue

48-5-7.7(b)(2) Pg. 95

- 'Forest land conservation use property' means forest land each tract of which consists of more than 200 acres of tangible real property of an owner subject to the following qualifications:



Georgia Department of Revenue

48-5-7.7(b)(1) (continued) Pg. 96

- Promotion, preservation, or management of wildlife habitat
- Carbon sequestration in accordance with the Georgia Carbon Sequestration Registry
 - <http://www.gfc.state.ga.us/utilization/forest-carbon/index.cfm>



Georgia Department of Revenue

Forest Land Protection Act





Georgia Department of Revenue

48-5-7.7(b)(1) (continued)

- Mitigation and conservation banking that results in restoration or conservation of wetlands and other natural resources; or
- The production and maintenance of ecosystem products and services such as, but not limited to, clean air and water



Georgia Department of Revenue

48-5-7.7(b) (continued)

- 'Forest land conservation use property' may include, but not be limited to, land that has been certified as environmentally sensitive property by DNR; or
- Which is managed in accordance with a recognized sustainable forestry certification program such as
 - Sustainable Forestry Initiative, Forest Stewardship Council, American Tree Farm Program, or an equivalent program approved by GFC.



Georgia Department of Revenue

48-5-7.7(b)(2)(B)

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



Georgia Department of Revenue

FLPA –The following shall not constitute another type of business Pg. 96-7

- The granting of easements for ingress and egress
- Any type of business devoted to secondary uses listed under subparagraph (b)(2)(C) of this code section



Georgia Department of Revenue

48-5-7.7(b)(2)(C)

Such primary use includes land conservation and ecological forest management in which commercial production of wood and wood fiber products may be undertaken primarily for conservation and restoration purposes rather than financial gain.



Georgia Department of Revenue

Summary thus far :

Must be more than 200 acres

- Contiguous tracts of forest land exceeding 200 acres
- Single tract of more than 200 acres





Georgia Department of Revenue

Summary thus far (continued)

- (b)(1) "Forest land **conservation use** property" means forest land ...
 - Excludes any residence located on property
 - Excludes the value of any improvement located on property
 - Includes ONLY LAND
 - All land will be categorized as woodland



Georgia Department of Revenue

Summary thus far: Primary Uses

- Good faith subsistence or commercial production from or on the land of
 - Trees
 - Timber
 - Other wood and wood fiber products





Georgia Department of Revenue

Summary thus far: Secondary Uses

- May include one or more:
 - Wildlife habitat
 - Carbon sequestration
 - Mitigation and conservation banking
 - Ecosystem products and services





Georgia Department of Revenue

Summary thus far: Other Primary Uses

- Certified Environmentally Sensitive
- May be managed in accordance with a sustainable forestry certification program



SUSTAINABLE FORESTRY INITIATIVE





Question?

If an owner has two contiguous 500 acre tracts, can the owner enter tract 1 into FLPA in 2013 and wait until 2015 to enter tract 2?



Contiguous Land Pg 94

- “All contiguous land of an owner within a county for **which forest land conservation use assessment is sought** shall be in a single covenant”
- Two tracts: each 500 acres – total of 1000 acres
 - Tract 1 can enter in 2014
 - Tract 2 can enter in 2015



FLPA – Additional Rules Pg 108

560-11-11-.01 Definitions

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



“Primary Use”

- Primary Use means:
 - Good faith subsistence production of trees, timber, or wood/wood-fiber products
 - Commercial production of trees, timber, or wood/wood-fiber products
 - DNR Certified Environmentally Sensitive
 - Managed according to a recognized forestry certification program



FLPA – Additional Rules

- When one-half or more of the area of a single tract is used for the qualifying purpose, then the entirety of such tract shall be considered as qualified – UNLESS – some other type of business is operated on the tract ... and provided the rest of the tract is managed to avoid erosion



FLPA – Additional Rules

- The lease of hunting rights or the use of property for hunting purposes shall not constitute another type of business





FLPA – Additional Rules

- The charging of admission for use of property for fishing purposes shall not constitute another type of business.





FLPA – Additional Rules

- The production of pine straw or native grass seed shall not constitute another type of business.





FLPA – Additional Rules Pg. 97

- (e) Subject to the limitations of paragraph (1) of subsection (c) of this Code section, a qualified owner shall be authorized to enter into more than one covenant under this Code section for forest land conservation use property. Any such qualified property may include a tract or tracts of land which are located in more than one county in which event the owner shall enter into a covenant with each county.



Georgia Department of Revenue

FLPA – Additional Rules

– Final Assessment could determine what year change commences

- Owners allowed a one-time opportunity to change property from a preferential or conservation use covenants



“One time – Any Time”



Georgia Department of Revenue

FLPA – Additional Rules

- Any property that is subject to a covenant and subsequently fails to adhere to the qualifying purpose, as defined in paragraph (5) of subsection (b) of this code section, may be changed from the covenant and placed under a covenant provided for in 48-5-7.4. If such case, the existing covenant shall be terminated, and the change shall not constitute a breach thereof. No property may be changed more than once under this paragraph.



Georgia Department of Revenue

All or None

- Original CUVA Covenant = 500 acres
- Year 3, 230 acres sold and continued
- New Owner wants to roll to FLPA
- Both 230 acre & 270 acre tract must both go or none go





Georgia Department of Revenue

FLPA – Additional Rules 48-5-7.7(m)(4)

- All or part of the property may be transferred to a new owner *qualified to enter into an original forest land conservation use covenant*
 - ~~Transfers out of an existing covenant must be at least 200 acres. A transfer of less than 200 acres will be considered a breach of entire covenant~~
 - If the transfer or transfers leave the original tract with less than 200 acres, the tract can continue until the end of the original covenant period but cannot be renewed unless additional acreage is added to increase the tract size to 200+ acres Pg 97



Georgia Department of Revenue

FLPA – Additional Rules



- (2) If, following such transfer, a breach of the covenant occurs by the acquiring owner, the penalty and interest shall apply to the entire transferred tract and shall be paid by the acquiring owner who breached the covenant. In such case, the covenant shall terminate on such entire transferred tract but shall continue on such entire remaining tract from which the transfer was made and on which the breach did not occur for the remainder of the original covenant.
 - Owner A transfers 250 acres of a 1000 tract to Taxpayer B, and Taxpayer B continues the covenant until he receives an offer he "can't refuse" and sells his 250 acres for a subdivision – *breaching and terminating* his covenant on this transferred portion.
 - Taxpayer B is now responsible for paying the breach penalty and interest on the 250 acres.
 - The covenant on the 750 acres belonging to Owner A continues until the end of the 15-year period



Georgia Department of Revenue

FLPA – Additional Rules



- (3) If, following such transfer, a breach of the covenant occurs by the transferring owner, the penalty and interest shall apply to the entire remaining tract from which the transfer was made and shall be paid by the transferring owner who breached the covenant. In such case, the covenant shall terminate on such entire remaining tract from which the transfer was made but shall continue on such entire transferred tract and on which the breach did not occur for the remainder of the original covenant.
- Owner A transfers 250 acres of a 1000 tract to Taxpayer B, and Taxpayer B continues the covenant. Owner A sells his remaining 750 acres for purposes of developing an industrial park – *breaching and terminating* the covenant on the 750 acres.
 - Owner A owes the breach penalty and interest on the 750 acres not transferred to Taxpayer B.
 - The covenant on the 250 acres transferred to Taxpayer B continues until the end of the 15-year period.



Georgia Department of Revenue

FLPA – Additional Rules



- Any forest land covenant agreement required under this Code section shall be filed on or before the last day for filing ad valorem tax appeals of the annual notice of assessment except that in the case of property which is the subject of a tax appeal of the annual notice of assessment under Code Section 48-5-311, an application for forest land conservation use assessment may be filed at any time while such appeal is pending.





Georgia Department of Revenue

FLPA – Additional Rules

- (2) Except as provided in subsection (i) of this Code section and paragraph (4) of this subsection, the penalty shall be applicable to the entire tract which is the subject of the covenant:
- (4) If ownership of a portion of the land subject to the original covenant ~~constituting at least 200 acres~~ is transferred to another owner qualified to enter into an original forest land conservation use covenant in a bona fide arm's length transaction and breach subsequently occurs, then the penalty shall either be assessed against the entire remaining tract from which the transfer was made or the entire transferred tract, on whichever the breach occurred. The calculation of penalties in paragraph (2) of this subsection shall be used except that the penalty amount resulting from such calculation shall be multiplied by the percentage which represents the acreage of such tract on which the breach occurs to the original covenant acreage. The resulting amount shall be the penalty amount owed by the owner of such tract of land on which the breach occurred.
 - Penalty will be calculated by the ratio of the acreage of the "breached" tract to the total of the original covenant



Georgia Department of Revenue

FLPA – Additional Rules

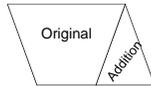
- Example
 - Owner A originally put 1000 in covenant
 - Sold 250 acres to Taxpayer B who breaches the covenant
 - Calculate the penalty that would be the result of a breach on the entire tract
 - Calculate the ratio of breaching tract acreage to acreage in original tract
 - Breach /25% = penalty due





FLPA

- Language added which allows for contiguous acres to be added to the original covenant for the remainder of the covenant life
 - Acquire the property after entering into the original covenant
 - Property added must be less than 200 acres





FLPA Filing Deadline Pg. 100

- (j)(1) For each taxable year beginning on or after January 1, 2014, all applications for conservation use assessment under this Code section, including any forest land covenant required under this Code section, shall be filed on or before the last day for filing ad valorem tax appeals of the annual notice of assessment except that in the case of property which is the subject of a tax appeal of the annual notice of assessment under Code Section 48-5-311, an application for forest land conservation use assessment may be filed at any time while such appeal is pending.
- "After Jan 1" buyers cannot apply for FLPA anytime during the year of purchase.



FLPA Filing Deadline Pg. 100

- (j)(1) (Con't). An application for continuation of such forest land conservation use assessment upon a change in ownership of all or a part of the qualified property shall be filed on or before the last date for filing tax returns in the year following the year in which the change in ownership occurred. Applications for forest land conservation use assessment under this Code section shall be filed with the county board of tax assessors in which the property is located who shall approve or deny the application



Georgia Department of Revenue

FLPA

- Deadline for filing applications
 - Deadline for filing returns
 - May also be filed in conjunction with or in lieu of an appeal (During the original 45 day period).
 - OR anytime the appeal is active





Georgia Department of Revenue

FLPA

- Denial of applications require notice per 48-5-306
- Owners may file Appeals per 48-5-311





Georgia Department of Revenue

FLPA Approvals

- Annual Notification of any change in forest land fair market value or True-Blue FMV (48-5-306)
- Appeals of changes pursuant to 48-5-311





Georgia Department of Revenue

Forest Land Protection Act

- Penalty for Breach of Covenant
 - Savings x factor
 - Savings = difference between [true blue] FMV taxes and FL CUV taxes
- 30 days to 'cure'
- Penalty paid by party causing the breach





Georgia Department of Revenue

Forest Land Protection Act

- Penalty for Breach of Covenant **Page 101**
 - ~~Year 1 – 5~~ (m)(3)
 - 3 x total savings (True FMV vs CUV)
 - ~~Year 6 – 10~~
 - 2.5 x total savings (True FMV vs CUV)
 - ~~Year 11 – 15~~
 - 2 x total savings (True FMV vs CUV)
- Interest of 1% per month accrues from the date of the breach



Georgia Department of Revenue

FLPA – Allowed w/o Breach **Pg 102**

- Up to 25 acres sold or given to Church or Charitable entity under 48-5-41
 - Property must be used for church or charitable purpose
 - Entity cannot transfer until end of covenant period





FLPA – Allowed w/o Breach

- Lease up to 6 acres of every 2,000 acres for a cellular telephone transmission tower
 - Acreage used is removed from covenant and appraised at FMV according to its use.





FLPA – Allowed w/o Breach

- Mineral Exploration
- Property lying fallow or idle due to:
 - Conservation programs
 - Federal Ag assistance programs
 - Health / Economic hardships (requires owner notice to BOA)
 - Economic: 2 out of any 5 yrs





FLPA – Allowed w/o Breach Pg. 103

- Mineral Exploration
- Property lying fallow or idle due to:
 - Conservation programs
 - Federal Ag assistance programs
 - Health / Economic hardships (requires owner notice to BOA)
 - Economic: 2 out of any 5 yrs.





FLPA – Breach w/ 1 Year Recapture

- Foreclosure Pg. 103
- Transfer in lieu of foreclosure
- Medically demonstrable illness of owner which renders the qualified owner of the property physically unable to continue the property in the qualifying use
 - BOA Policy advised to define “demonstrable”



FLPA – Breach w/ 1 Year Recapture

- Owner is 65 years old or older Pg. 103
- Has completed 3 years of renewal contract
- *DOR opinion: non-individual owners are considered ‘ageless’*



FLPA – Breach w/ 1 Year Recapture

- Owner is 67 or older when entered Pg. 103 covenant for the first time
- Has completed 3 years of covenant
- Has owned property for 15 years or inherited property



Georgia Department of Revenue

FLPA – New Digest Codes

- F – Forest Land Assistance Grant Value
 - 2008 base value + any index adjustments
- J – Forest Land Conservation Use Value
 - BOA Fair Market Value
- SJ – Exemption Amount: difference of the 40% Assessment (J property) and the Current Use Assessment



Georgia Department of Revenue

Forest Land Protection Act

- Public notice to be posted in prominent location in tax commissioner and board of assessors' offices
- Rules & Regulations will be issued by Revenue Commissioner
- Update Taxpayer Brochure



Georgia Department of Revenue

Forest Land Protection Act

- New Code Section O.C.G.A. § 48-5-271 provides method for establishing annual table of value
 - Values for forest land conservation use property will be the same values that are applied to conservation use property for timber land
 - Limited to 3% change annually



Georgia Department of Revenue

Conservation Use Soil Conversion Table

Soil TYPE	Cnty No	Soil Composition	Soil Description	Agri. Prod	Wood Prod
CoB		COWARTS	LOAMY SAND, 2 TO 5	5	2
CoB		CHEWACLA		4	2
CoB	010	CARNEGIE	SANDY LOAM, 2 TO 5	5	2
CoB	023	CONASAUGA	SILT LOAM, 1 TO 6	6	7
CoB	086	CARNEGIE	SANDY LOAM, 2 TO 5	5	2



Georgia Department of Revenue

- 75 acres open land
 - CoB soils (Cowarts)
- 1000 acres wood land
 - CoB soils (Cowarts)
- What is productivity rating selected for open portion and wooded portion?



Georgia Department of Revenue

Conservation Use Soil Conversion Table

Soil TYPE	Cnty No	Soil Composition	Soil Description	Agri. Prod	Wood Prod
CoB		COWARTS	LOAMY SAND, 2 TO 5	5	2
CoB		CHEWACLA		4	2
CoB	010	CARNEGIE	SANDY LOAM, 2 TO 5	5	2
CoB	023	CONASAUGA	SILT LOAM, 1 TO 6	6	7
CoB	086	CARNEGIE	SANDY LOAM, 2 TO 5	5	2



Forest Land Protection Act

Pg 104

- New chapter to Title 48 now known as “Chapter 5A”
 - Provisions to implement the forest land conservation use assistance grants to counties, municipalities, and school districts
 - 48-5A-1 provides definitions
 - 48-5A-2 provides for General Assembly to fund the program



FLPA

- If property entered into this program causes a reduction in the ad valorem tax revenue, assistance grants will be paid to the taxing jurisdiction as follows:
 - Reimbursement of 50% of the first 3%
 - 100% of the amount over 3%



48-5A-3(b)

Pg 107

- The revenue reduction to each county, municipality, and county or independent school district shall be calculated by subtracting the aggregate forest land conservation use value of qualified properties from the aggregate forest land fair market value of qualified properties for the applicable tax year and the resulting amount shall be multiplied by the millage rate of the county, municipality, or county or independent school district.
- OR...Simple language...The grant will be paid to counties and schools based on difference between the forest land fair market value and the forest land conservation use value.



48-5A-3 Pg. 107

- In order to ensure that the county is 'revenue neutral' a calculation procedure has been implemented to allow the county to include in the levy of the millage rate sufficient funds to meet the budget to include the 1.5% that the grant will not reimburse



48-5A-3 Pg. 107

- To facilitate the taxing authorities in determining the revenue loss and the amount of reimbursement, DOR provides to the county a calculation formula to be used as part of the process for setting the millage rate and advertising the proposed levy.



560-11-11-.03 QFLP Qualifications Pages 111-112

- (3) Area around cellular phone tower pads used or maintained as part of the pad, shall not constitute a breach of the QFLP Covenant if:
 - (a) The tract is less than 2,000 acres the total area of the pads does not exceed six (6) acres or,
 - (b) For tracts larger than 2,000 acres, the total area of cellular phone tower pads does not exceed six (6) acres for every 2,000 acres.
 - (c) Any roadway to the cellular phone tower pads shall not be included in the determination of the six (6) acre maximum.



560-11-11-.05 Period for Local Board of Assessors to Approve or Deny QFLP Applications Page 113



- (1) A Local Board of Tax Assessors shall have **one hundred twenty** days from receipt of an application for QFLP designation to approve or deny such application.
- (3) Upon approval, the Local Board of Tax Assessors must notify the applicant within thirty (30) days of its decision and provide the QFLP Covenant to the applicant for signatures.



560-11-11-.06 QFLP Covenant. Page 113

- (a) If the QFLP Covenant is not signed by all required parties in the same year in which the application was approved, then such application will expire on December 31 of that year and the owner(s) must submit a new application for QFLP designation.
- 1. Notwithstanding the above, if an applicant receives approval in the month of December then such applicant shall have until January 31 of the following calendar year to have all owners sign the QFLP Covenant.



560-11-11-.07 Notice of Breach Page 114

- (1) The Notice of Breach shall be sent within thirty (30) days from the day that the breach is reported to or discovered by the Local Board of Tax Assessors to:
 - (a) The owner(s) of record of the real property in breach.
 - (b) The Local Board of Tax Assessors in every other county where the QFLP is located.
- (2) The Notice of Breach shall include the following:
 - (a) The location of the breach;
 - (b) The date the breach was reported or discovered;
 - (c) An explanation of the breach;
 - (d) Whether the remedy is remediation or cease and desist of the breach;
 - (e) The date by which the remedy must be completed; and
 - (f) The penalty for not remedying or ceasing or desisting the breach.



**560-11-11-.07 Notice of Breach
Con't**

Page 114

- (3) The thirty (30) day period for the owner to remedy the breach shall not begin until the owner has received a Notice of Breach that complies with the requirements set forth in this Regulation.



**560-11-11-.08 Notification and Inspection
Concerning QFLP in Breach of Covenant**

- Turn to pages 114-115



560-11-11-.09 Release of Covenant

- Turn to page 175



560-11-11-.10 Penalty for Breach

- Turn to page 115



560-11-11-.11 Forms

Page 116

- (1) The Commissioner hereby adopts:
- (a) Exhibit (A) as the Form for QFLP Application:
- (b) Exhibit (B) as the Form for the QFLP Covenant:
- (c) Exhibit (C) as the Form for the Notice of Breach:
- and
- (d) Exhibit (D) as the Form for the Application for Release.

NOTE: The Application and Covenant are now one 4 page document



560-11-11-.12 Table of Forest Land Protection Act Land Use Values.

- See Pages 116-117



Georgia Department of Revenue





Georgia Department of Revenue

Forest Land Protection Act

Qualifying Examples



Georgia Department of Revenue

Qualifying Use Example

- 350 contiguous acres under same ownership. All acreage is clear cut.
 - Qualified?
 - Not Qualified?



Qualifying Use Example

- 350 contiguous acres under same ownership. 200 acres are row-cropped. Remaining acreage in 30 year old pines
 - Qualified?
 - Not Qualified?



Qualifying Use Example

- 2000 acres of marsh land under same ownership
 - Qualified?
 - Not Qualified?



Qualifying Use Example

- 3 contiguous parcels totaling 400 acres under same ownership. Parcel 1 is adj to 2 and 2 is adj to 3
- Parcel 1 – 150 acres of pines
- Parcel 2 – 50 acres of Vidalia onions
- Parcel 3 – 200 acres of pines
 - Qualified?
 - Not Qualified?



Qualifying Use Example

- 475 contiguous acres under same ownership. Fronts on Interstate 75 containing 1 mile frontage on interstate, and measures ~ 3920 ft. deep.
- Entire tract consists of planted pine
 - Qualified?
 - Not Qualified?



Qualifying Use Example

- Same as previous tract: 475 contiguous acres under same ownership. Fronts on Interstate 75 containing 1 mile frontage on interstate, and measures ~ 3920 ft. deep
- Track consists of:
 - 470 acres of plantation pine
 - 5 acres of land holding Flying J truck stop
- Qualified? Not Qualified?



Qualifying Use Example

- 300 acre tract
 - contains 250 acres of natural regeneration timber, mixed hardwood and pine
 - Contains 50 acres of pasture and Quarter Horse boarding and Cutting horse training facilities
- Qualified? Not Qualified?



Georgia Department of Revenue

Qualifying Use Example

- 200 acres total contiguous acres
 - 20 tracts, 10 acres each
 - Each tract is owned by Grandpa Walton and occupied by 20 of his children and grandchildren.
 - Each tract contains 9.0 acres of 90 year old plantation pine maintained pursuant to certification program by GA Forestry Commission
 - Each tract contains 5500 sq. ft. foot house, with pool and tennis court



Georgia Department of Revenue

Qualifying Use Example

- 220 acres total contiguous acres
 - 20 tracts, 11 acres each
 - Each tract is owned by Grandpa Walton and believed held for his children and grandchildren.
 - Each tract contains 11 acres of 90 year old plantation pine maintained pursuant to certification program by GA Forestry Commission
 - Master plat has been recorded reflecting survey of each of the 20 tracts into 11 acre lots
- Qualified? Not Qualified?



Georgia Department of Revenue

Qualifying Use Example

- 400 acre tract
- 250 acres in county A – 100% timber
- 150 acres in county B – 100% ag land
- Qualified? Not Qualified?
 - County A?
 - County B?



Georgia Department of Revenue

Qualifying Use Example

- Tract falls in two counties
 - Total acreage of tract determines whether or not property meets 200 acres eligibility requirement
 - Tract I
 - 175 Acres in County A
 - 50 Acres in County B
 - Tract qualifies
 - Tract II
 - 50 acres in County A
 - 149 acres in County B
 - Tract does not qualify



Georgia Department of Revenue

State Officials Contact Info

Eric Darracq - Fish and Wildlife Resource (Social Circle)
770-761-1697 (Wildlife habitat)

DNR - State Income Tax Credit - would be primary contact for certifying property with endangered plants or animals
770-761-3043

Jennifer H. Welte - EPD Watershed Protection Branch - contact for certifying wetlands **(404) 675-1752**
Fax: (404) 675-6244

Steve Friedman - Chief of DNR Real Estate Division
Curt Soper - Director of Land Conservation Program (Governors new program)



Georgia Department of Revenue





Georgia Department of Revenue

Kenny Colson

Property Tax Appraiser
Specialized Assessments Program Manager
Compliance Specialist 2
Georgia Department of Revenue
Office: 404.724.7000
Cell: 678-201-8427
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Douglas J. MacSinnittie
Commissioner

State of Georgia
Department of Revenue
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Atlanta, Georgia 30345-3205

Vicki Lambert
Director

Please note: The purpose of a policy statement is to provide interpretive guidance to county tax assessors and real property appraisers, and governmental employees. A policy statement is a position statement, which provides interpretation, details, or supplementary information concerning the application of the law. Relevant statute, case law, or rules and regulations, as well as subsequent policy statements may modify or negate any or all of the provisions of any policy statements.

Issue Date: May 10, 2011

This is the policy of the Department and is applicable to all open tax years.

RE: Application for Conservation Use Valuation Assessment by a Person who did not have Possession of the Property as of January 1 of that Year.

Issue: A taxpayer acquires ownership (purchases, inherits, etc.) of property after January 1, 2011 (“new owner”). Upon receiving the annual notice of assessment for said property, the new owner files an appeal regarding the property’s assessed value and applies for Conservation Use Valuation Assessment (“conservation use”). The property meets the qualifications for “bona fide conservation use property,” as provided for in O.C.G.A. § 48-5-7.4. Should the new owner’s appeal and conservation use application be granted?

Answer: The new owner’s appeal of the property’s assessment will be granted so long as the appeal was filed with the county board of tax assessors before the last day for filing such appeals.

The new owner's application for conservation use shall be denied for 2011 because the taxpayer did not have legal ownership of the property on January 1.

Discussion:

Taxpayer's Appeal Regarding the Property's Assessed Value

- O.C.G.A. § 48-5-10 states that "all property shall be returned by the taxpayers for taxation to the tax commissioner or tax receiver as provided by law. Each return by a taxpayer shall be for property held and subject to taxation on January 1 next preceding each return."
- "Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment by the county board of tax assessors..." O.C.G.A. 48-5-311(e)(1)(A).
- Based upon O.C.G.A. §§ 48-5-10 and 48-5-311 a property owner, including property owner's who come into possession of the property after January 1, may file an appeal and their appeal of their property's assessment will be granted so long as the appeal was filed with the county board of tax assessors before the last day of filing such appeals.
- Therefore, a taxpayer, who acquires legal ownership of the property after January 1 but before the last day to file an appeal, is afforded the right to appeal the property's assessment/valuation because new owner is liable for some portion of the property taxes for that year.

Taxpayer's Application for Conservation Use

- "No property shall qualify for current use assessment under this Code section unless and until the owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in bona fide qualifying use for a period of ten years beginning on the first day of January of the year in which such property qualifies for such current use assessment and ending on the last day of December of the final year of the covenant period." O.C.G.A. § 48-5-7.4(d).
- When a taxpayer applies to for a conservation use on property he did not have ownership of on January 1 of that year, the taxpayer is trying to encumber said property under a 10 year covenant for a period of time he did not have ownership rights of (i.e. January 1 until the time the property was acquired).
- Therefore, a taxpayer may not enter into a conservation use covenant for any tax year that the taxpayer did not have the right to encumber the property as of January 1 of that tax year.

Authority:

- O.C.G.A. § 48-5-7.4
- O.C.G.A. § 48-5-10
- O.C.G.A. § 48-5-311

**Department of Revenue
Local Government Services Division
2016 FLPA Index**

Forest Land Protection Act Index:

This informational bulletin sets forth the 2016 Forest Land Protection Act (FLPA) **index** used to update the 2008 fair market value of forest land, from one year to the next, as provided for in O.C.G.A. § 48-5-2(3)(6).

Such indexed Forest Land Fair Market Value is represented on the annual tax digest as Class 'F'. Digest Class 'F' is established for the single purpose of calculating the statutory revenue reduction amount and FLPA Reimbursement Grant distributed to each county, municipal, and school district as a result of the implementation of Forest Land Conservation Use Assessment.

For 2016 the FLPA index is 1.015

	2,000 Acre Limitation	Acres owned in other covenants	Unused Portion of 2,000 acre limitation	Each Owner's % Benefit in FFE	Each Owner's acres Benefit in FFE	Lesser of unused portion or % interest
6,800						
Owner 1	2,000	2,000	0	20%	1,360	0
Owner 2	2,000	0	2,000	50%	3,400	2,000
Owner 3	2,000	0	2,000	30%	2,040	2,000
Total						4,000

	2,000 Acre Limitation	Acres owned in other covenants	Unused Portion of 2,000 acre limitation	Each Owner's % Benefit in FFE	Each Owner's acres Benefit in FFE	Lesser of unused portion or % interest
6,800						
Owner 1	2,000	500	1,500	20%	1,360	1,360
Owner 2	2,000	1000	1,000	50%	3,400	1,000
Owner 3	2,000	0	2,000	30%	2,040	2,000
Total						4,360

	2,000 Acre Limitation	Acres owned in other covenants	Unused Portion of 2,000 acre limitation	Each Owner's % Benefit in FFE	Each Owner's acres Benefit in FFE	Lesser of unused portion or % interest
2,500						
Owner 1	2,000	0	2,000	50%	1,250	1,250
Owner 2	2,000	1000	1,000	40%	1,000	1,000
Owner 3	2,000	0	2,000	10%	250	250
Total						2,500

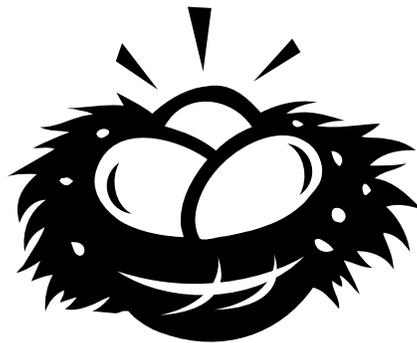
	2,000 Acre Limitation	Acres owned in other covenants	Unused Portion of 2,000 acre limitation	Each Owner's % Benefit in FFE	Each Owner's acres Benefit in FFE	Lesser of unused portion or % interest
2,500						
Owner 1	2,000	0	2,000	10%	250	250
Owner 2	2,000	1000	1,000	10%	250	250
Owner 3	2,000	0	2,000	10%	250	250
Owner 4	2,000	2000	0	10%	250	0
Owner 5	2,000	1800	200	10%	250	200
Owner 6	2,000	0	2,000	10%	250	250
Owner 7	2,000	200	1,800	10%	250	250
Owner 8	2,000	0	2,000	10%	250	250
Owner 9	2,000	0	2,000	10%	250	250
Owner 10	2,000	500	1,500	10%	250	250
Total						2,200

60,000	2,000 Acre Limitation	Acres owned in other covenants	Unused Portion of 2,000 acre limitation	Each Owner's % Benefit in FFE	Each Owner's acres Benefit in FFE	Lesser of unused portion or % interest
Owner 1	2,000	0	2,000	10%	6,000	2,000
Owner 2	2,000	1000	1,000	10%	6,000	1,000
Owner 3	2,000	2000	0	10%	6,000	0
Owner 4	2,000	0	2,000	10%	6,000	2,000
Owner 5	2,000	0	2,000	10%	6,000	2,000
Owner 6	2,000	0	2,000	10%	6,000	2,000
Owner 7	2,000	0	2,000	10%	6,000	2,000
Owner 8	2,000	0	2,000	10%	6,000	2,000
Owner 9	2,000	0	2,000	10%	6,000	2,000
Owner 10	2,000	0	2,000	10%	6,000	2,000
					Total	17,000

**Answers to Frequently Asked Questions about Conservation Use
Valuation and
Preferential Agricultural Assessment**



**A presentation of the most frequently asked questions and answers collected
over the past several years for ad valorem tax issues in Georgia**



**Bibb County Board of Tax Assessors
653 Second Street
Macon, GA 31201
(478) 621-6701**

Answers to Frequently Asked Questions about Conservation Use Valuation and Agricultural Preferential Assessment

December 2010

Andrea Crutchfield, Chief Appraiser
Bibb County Board of Tax Assessors

INTRODUCTION

Presently in Bibb County there are approximately 388 Conservation Use covenants, Preferential Agricultural Assessment covenants and Forest Land Protection Act covenants in use by agricultural and forestry landowners. These landowners earn almost \$504,389 annually in property tax benefits from these three tax programs as an alternative to fair market value (FMV). This value is based on the 2008 mill rate.

Georgia Code Section 48-5-7.4 allows for up to 2,000 acres of real property of a single owner, the *primary purpose* of which is any good faith production, including but not limited to, subsistence farming or commercial production from or on the land of agricultural products or timber who meet certain criteria of ownership to enter into a ten year covenant agreement.

Primary purpose is defined as "the principle use to which the property is devoted, as distinct from an incidental, occasional, intermediate or temporary use for some other purpose not detrimental to, or in conflict with its primary use.

This booklet contains a listing of questions and answers collected over the past several years dealing with these ad valorem tax issues. A careful reading of these contents will foster a better understanding among taxpayers of how these property tax programs works.

CONSERVATION USE VALUATION AND AGRICULTURAL PREFERENTIAL ASSESSMENT

Which is better for me as a Bibb County landowner: fair market value (FMV), Agricultural Preferential Assessment, or Conservation Use Valuation of my land?

It really depends on your planned use for the land over the life of the covenant. For qualified landowners planning to continue the land use in agricultural or forest production, either program can earn tax benefits and serve as an incentive for continued agricultural and forest production.

Agricultural Preferential Assessment generally provides a 25 percent tax advantage over the Fair Market Value. (FMV)

Conservation Use Valuation can offer significant savings, in some cases greater than 50% from FMV.

Alternatively, to maintain a greater flexibility over the use of your land, accept a FMV basis for your ad valorem taxes.

Why should I be interested in Conservation Use Valuation for ad valorem taxation?

All landowners who qualify for Conservation Use Valuation are entitled to have their land valued according to its current use (agriculture, forestry, or environmentally sensitive) instead of the Fair Market Value for ad valorem taxation. This can reap large tax benefits. Another benefit of CUVA is that the value changes are limited to +/- 3 percent a year and a total of +/- 34.39 percent over the life of the 10-year covenant.

Why should I be interested in Agricultural Preferential Assessment?

All land owners who qualify for Agricultural Preferential Assessment are entitled to have their property valued for assessment at 75 percent of FMV for ad valorem taxation. In most cases, 25 percent tax savings will be realized with Agricultural Preferential Assessment. However, Agricultural Preferential Assessment values change as fast as FMV changes and offer no degree of certainty on the property tax burden.

If Conservation Use Valuation offers large savings and appears to be more stable, why would I consider Agricultural Preferential Assessment?

Agricultural Preferential Assessment applies to all land and up to \$100,000 dollars in building value on agricultural production and storage buildings. Conservation Use Valuation applies only to land values and has no effect on building values. A taxpayer that has a small amount of land with a good number of agricultural buildings, such as chicken farming, *may* receive greater benefits under Agricultural Preferential Assessment.

How does the value of my land under the Conservation Use covenant change: per year, per 10 years?

Conservation Use values for land cannot change more than 3 percent per year or more than 34.39 percent over the life of the covenant.

But remember your land will be taxed according to Fair Market Value at the end of the covenant unless you renew the covenant.

Who is eligible for Conservation Use Valuation and/or Agricultural Preferential Assessment?

U. S. Citizens

Family Farm Corporations who earns at least 80% of their income from farming

Non profit conservation organizations, estates and trust may be eligible

How do I sign up for one of these programs?

Forms and details are available at the Bibb County Tax Assessors office or on the Bibb County Tax Assessors website. The Board of Assessors requires the following when submitting your application:

Application must be signed by all landowners

Application must be notarized

Applicant must designate on tax map the exact parcel and acreage being placed in covenant

Applications for less than 10 acres, must be accompanied by additional proof of agricultural or forestry use to be considered

\$12.00 Recording fee should be paid at the time the application is filed (only cash, cashier's check or money orders made out to the Bibb County Clerk of Superior Court will be accepted. **NO PERSONAL CHECKS WILL BE ACCEPTED**)

You enter a 10-year covenant with the County whereby you agree to continue your property in agricultural or forestry production.

When I sign up for one of these covenants, is it some way recorded with the deed to my land?

Once your application is approved, the covenant agreement will be placed on record in the Clerk of Superior Court Office of Bibb County. A title search of your property should show that your property is under a covenant. This is for the protection of both the potential seller and/or buyer who may not be aware of the covenant, and any penalties that may occur due to a transaction.

What are considered the allowable uses for a property in order to be eligible for conservation use valuation?

The land uses required for Conservation Use Valuation are good faith agricultural/forest production and environmentally sensitive land including:

- Raising, harvesting or storing crops
- Feeding, breeding or managing livestock or poultry
- Producing plants, trees, fowl or animals
- Production of aquaculture, horticulture, floriculture, dairy, livestock, poultry and apiarian products

When can I sign up for either of these programs?

The earliest anyone may sign up for Conservation Use Valuation or Agricultural Preferential Assessment is January 2 of each year. *The filing time runs from January 2 until April 1.*

In addition, if the county re-assesses your property, you will receive a change in assessment notice. You may make application along with, or in lieu of an appeal, during the 30-day appeal period.

How much land can I enter into Conservation Use Valuation and/or Agricultural Preferential Assessment?

Up to 2,000 acres in Georgia can be entered in Conservation Use covenants. At the same time, up to 2,000 other acres in Georgia may be entered into Agricultural Preferential Assessment. Presently there is a minimum of 10 acres for Conservation Use Valuation.

But, landowners with less than 10 acres **must** give additional proof that the "*primary use*" of the property is for bona fide agricultural production purposes.

In addition, for tracts that range in size from 10.01 to 25.00 acres, and are improved with a house, the Bibb County Board of Assessors requires additional information to enable them to determine if the "*primary use*" is agricultural or residential.

For vacant parcels over 25 acres, there are no requirements for documentation. The eligibility will be determined from on-site inspection of the property.

How many Conservation Use Covenants can I have? Does all of my land have to be in the same county?

You may have a separate covenant for each legally definable tract of land you own. No one covenant can cross county lines or state boundaries. Separate covenants can be held in separate Georgia counties. Tract means a parcel of property with boundaries designated by the Board of Assessors to facilitate proper identification of the property on their maps and records.

What happens if I want to get out of the covenant before the 10-year period is up?

You are bound by legal agreement with Bibb County for the duration of the 10-year covenant to maintain the Conservation Use. There are four conditions under which you can end a covenant with no penalty, or a one-year penalty. These are:

If you or any party to the covenant dies during the period of the covenant, the covenant ends. This is considered a *no penalty* breach.

If any part of your property is taken, or is conveyed, to a party with the power of eminent domain, the covenant may end. If this occurs, this is a *no penalty* breach.

If you become medically unable to continue the land in its qualifying use, the covenant ends. The Board of Assessors requires letters from two (2) doctors stating the medical reason that a landowner cannot continue to farm. If tax savings have been enjoyed during the year this occurs, then a *one-year penalty* is applied.

If your land is taken from you through foreclosure, the covenant ends. If tax savings have been enjoyed during the year this occurs, then a *one-year penalty* is applied.

Otherwise to get out of the covenant early you must pay a tax penalty equal to twice the tax savings enjoyed to date, plus interest.

What are the penalties for breach of the Conservation Use Valuation and Agricultural Preferential Assessment covenant?

Breaching a *Conservation Use* covenant results in a penalty that applies to the entire tract that is placed under an original covenant, even if the breach occurred on only a small portion of the tract under covenant. The penalty paid by the original covenant holder will be an amount equal to twice the property tax savings incurred from the year the covenant was entered until it was breached, plus interest.

In the event that a portion of the land under a Conservation Use covenant is sold to a qualifying landowner, who later breaks to covenant, penalties also apply to the entire tract under the original covenant. Under this condition, there will be a pro-rata assessment of the penalty against each of the parties of the covenant in proportion to the tax benefit enjoyed by each. This means that the original covenant holder will pay a fine based on the tax savings enjoyed on all of the acreage, from the beginning of the covenant up to the time of sale of land, and of the breach. The subsequent covenant holder would pay a fine based on the tax benefits enjoyed from the time of covenant land purchase up to the time of the breach. Please be aware that the penalty plus interest constitutes a lien against the property.

Penalties for the *Agricultural Preferential* covenant are assessed as the tax benefits enjoyed during only the year of the breach, times a factor of:

- 5 if breached during the 1st or 2nd year
- 4 if breached during the 3rd or 4th year
- 3 if breached during the 5th or 6th year
- 2 if breached during the 7th, 8th, 9th or 10th year

The landowner in the original covenant pays the penalty.

Exactly how is a Conservation Use breach penalty calculated?

The Property evaluation office maintains the FMV of the property for each year of the covenant. They also calculate the CUVA value for the property. The difference between the actual FMV and the CUVA value becomes an annual exemption for the taxpayer. The tax savings benefit is calculated from the amount of the exemption.

The following is an example of how a penalty might be calculated if a covenant was breached in the 6th year of the agreement, and the parcel is vacant with no homestead exemptions.

FAIR MARKET VALUE	CURRENT USE VALUE	EXEMPT AMOUNT *	MILLAGE RATE	TAX SAVINGS	PENALTY	\$ AMOUNT PENALTY
195,000	92,000	41,200	.02150	\$ 885.80	X 2	\$1,771.60
195,000	94,760	40,096	.02120	850.04	X 2	1,700.08
260,000	97,600	64,960	.02280	1,481.09	X 2	2,962.18
260,000	100,500	63,800	.02075	1,323.85	X 2	2,647.70
260,000	103,500	62,600	.02170	1,358.42	X 2	2,716.84
288,000	106,600	72,560	.02058	1,439.28	X 2	2,986.56
TOTAL PENALTY DUE AT BREACH						\$14,784.96

*Exempt amount is the difference between the FMV and the CUVA value multiplied times the assessment level of 40 percent.

$$(195,000 - 92,000) \times .40 = 41,200$$

The penalty amount will vary from covenant to covenant due to the fact that the FMV and the CUVA value will be different for each parcel.

As shown above, the FMV changed between the second and third year. Thus the penalty amount increased between the second and third year. This demonstrates the importance of keeping up with the FMV, even though you are not being taxed on that amount.

In fact the tax amount due under Conservation Use for the first year would be \$791.20. Without the Conservation Use covenant, the tax due would be \$1,677.00. So as you can see this covenant can offer substantial tax savings.

Looking at the previous chart, what would be the penalty if I breached the covenant due to foreclosure or a medically demonstrated illness during the 6th year?

If the covenant is breached due to foreclosure or a medically demonstrated illness, *and* tax benefits have been received for that year, then only the penalty amount due for the year in which you breach is due. So, under one of these circumstances, the penalty due would be \$2,986.56.

Can I change agricultural/forestry uses of the Conservation Use covenant land during the 10-year period?

Yes, you can change among good faith production of agriculture or forestry crops provided that you notify the Bibb County Board of Assessors in writing of the intended use change. Failure to notify constitutes a breach of the covenant with penalties as described.

Can I sell land that is under the Conservation Use Covenant?

Yes. But to avoid a penalty, the buyer must continue the terms of the original covenant and enter a new continuance Conservation Use covenant for the land purchased. The sign-up period for the new owner is during the next year's regular sign-up period, January 2 through April 1. The landowner under the original covenant remains in that covenant, unless all land under covenant was sold. But the original covenant holder still remains legally responsible for any penalty assessed against benefits earned before the sale.

When selling land under covenant, it may be wise to have your attorney include language with the property deed requiring the new owner to continue land use under provisions of the original covenant.

What happens if my spouse and I jointly own property entered in a Conservation Use Covenant and we divorce during the covenant period with one of us gaining the deed to the property?

Department of Revenue Regulations state that when there is a change in ownership of property receiving current use assessment, the new owner must apply for a continuation of the covenant. This application must be made on or before the deadline for filing returns, which is April 1.

In the event of a divorce, the original parties to the covenant remain liable for any breach of the covenant. Responsibility for penalties due to a covenant breach should be specified in divorce decrees, contracts, etc.

Can members of my family build a home and live on Conservation Use Covenant land?

Yes, any family member which is related to the original covenant holder, at least to the fourth degree of civil reckoning, can build a home and live on the land (up to 5 acres) enrolled in a Conservation Use Covenant, without penalty during the life of the original covenant.

The fourth degree of civil reckoning is defined as:

Brother/sister
Mother/father
Grandmother/grandfather
Son/daughter
Grandson/granddaughter

After the transfer of property under covenant to the family member, the home must be built and occupied by the family member within one year, and must remain so for the duration of the original covenant.

This property will not receive the exemption, but does still remain subject to the conditions of the original covenant.

What happens if the original covenant holder dies during the life of the covenant or cannot carry out the requirements of the covenant?

If the original covenant holder dies before the Conservation Use or Agricultural Preferential covenant expires, the agreement is nullified, and the covenant ends without penalty, or the heirs have the option to continue the covenant without penalty.

If the property owner ends the covenant because of a foreclosure or medically documented illness, the covenant is breached. But only the tax savings incurred in that particular year will be forfeited.

What happens if the County or State wants some of my land for right-of-way?

When a public body (government) acquires the land through eminent domain, the covenant ends. You may be entitled to sign up again, if you choose.

Property that is either given or sold to schools and power companies would also include in this group.

What do I do if I want to enter my land in a Current Use Covenant but feel that I may want to develop some of the land before the 10 years is up?

The best approach would be to enroll only the land that you intend to keep in the qualifying uses for the life of the covenant. This means to create a new legal description for separate tracts.

For example, if you own 100 acres and feel you may want to develop or sell a portion during the 10 year covenant period, you will be required to submit a legal description to the Board of any property that will not be included in the covenant. This legal description can be by deed or by survey.

Can I lease or rent my covenant land out for hunting, pine straw harvest, agricultural or tree crop production, or other qualifying uses without penalty?

Yes, these rights are specifically spelled out in the law. However, the person with whom you lease or rent land must otherwise qualify for the program.

Can I lease or rent my covenant land for other purposes, such as cell towers?

Placing a cell tower on your property is allowed. As noted above, anyone who leases land must otherwise qualify for the program. Renting or leasing to companies and corporations who would not qualify for the program is considered a breach of the covenant. Caution should be taken if you are considering leasing for any purpose other than cell towers, hunting or agricultural purposes.

The law for Current Use Valuation says something about at least 50 percent of the property has to be in the qualifying use. What does this mean about the other one-half of the property? Can smaller portions be in other uses as long as at least 50 percent is maintained in the qualifying use?

The law states that no *other type of business may be operated on the unused portion.*

In addition, the unused portion must be minimally managed to prevent significant erosion or other environmental problems. If you have questions about your specific case, check with the Property Evaluation Office before you change use on any portions of your covenant lands.

What is the status of my house and yard if I currently enrolled in an Agricultural Preferential or Conservation Use covenant and also live on the property?

For *Agricultural Preferential* and *Conservation Use*, Georgia law states that the land underlying the house is a part of the covenant and is valued according to the Current Use table of values. The house in which you live is not part of the covenant, but is valued according to FMV. More importantly, total value changes under a Conservation Use covenant (including the eligible Miscellaneous Improvements) are limited to +/- 3 percent per year up to +/- 34.39 percent over the 10-year life of the covenant.

It should be noted that physical changes to the house, such as additions, are valued according to FMV.

Can I sell my house and yard that is located on Conservation Use covenant land, or rent it out, without breaking my covenant agreement, even when the remaining land stays in the qualifying use?

Conservation Use and *Agricultural Preferential* valuation does not apply to a residence but does apply to the lot on which the house is located on the agricultural or forest property under covenant. Therefore, the house and yard may not be considered for sale separately from the Conservation Use covenant. Renting the residence or any other house or mobile home located on the parcel is not allowed. Be sure to check with The Bibb County Board of Tax Assessors before making any changes in ownership, or renting, of the house and/or any part of the property.

What if I want to change between Agricultural Preferential Assessment and Conservation Use Valuation?

There is no apparent time limit set by Georgia law on when you can change from an existing Agricultural Preferential Assessment covenant to a Conservation Use covenant. However, you can change from Preferential Assessment to Conservation Use, for a particular covenant, only once.

You cannot change from an existing Conservation Use covenant to a new Agricultural Preferential Assessment covenant except at the end of the Conservation Use agreement.

How much is my land worth under the Conservation Use covenant? Who decides what it is worth? How is a particular piece of land given a value?

Conservation Use land value is based on its use, location and soil productivity. Annually the Georgia Department of Revenue publishes a table of values for all Conservation Use land in

Georgia. The table of values is available at the Bibb County Property Evaluation Office, University of Georgia Cooperative Extension Service County Office, the Georgia Forestry Association, Georgia Farm Bureau Federation and the Georgia Forestry Commission.

Once your application has been approved, the acreage of your parcel is broken down by soil classification. Then the soil types are costed against the above table and totaled for a new Conservation Use value.

While my land is in a Conservation Use covenant, how do I keep up with its Fair Market Value (FMV)?

The Property Evaluation Office will continue to notify the taxpayer of any changes to the FMV of the covenanted property. Remember the difference between FMV and Conservation Use value is the basis for calculating any penalty. So, pay careful attention each year to the FMV of your land, even while in a protective covenant.

What happens if I want to divide my property for estate planning purposes and deed off portions while I am in the covenant?

If you do not change the use of the property, each party may be eligible to file for continuance of the original covenant. It would be wise to discuss this with the property evaluation office to make sure that the division will be done in a manner that would not breach the covenant.

The Board of Assessors should be consulted before building any improvements on property divided for estate planning purposes.

If I choose to place my property into a LC, LLC, LP, Family Farm Corporation etc., for estate planning purposes or other income tax purposes, how will this effect my covenant?

If property is placed in any of the above, there are specific requirements under the law. The partnership or family farm corporation **MUST** derive 80% of its income from bona fide agricultural production purposes within this state. It may **NOT** receive more than 20% of it's income from other non-related agricultural purposes, such as dividends on stocks and bonds other non-agricultural investments, rental income, etc.

All parties of the partnership or corporation must be related to each other within the fourth degree of civil reckoning, except that there is an allowance for a non-related 5% ownership for management purposes.

The Bibb County Board of Assessors will require the following along with your application under these circumstances:

- Copy of your certificate of corporation filed with the Secretary of State
- Copy of the income tax return for the partnership or corporation, and
- An affidavit that the parties are related to each other in accordance with the law.

What happens if I divide my property or sell it, and the new owners do not come in and file for a continuance covenant?

The Board of Assessors will send both the transferee and the transferor a notice of the Board's intent to assess a penalty for the breach of the covenant. The notice shall be entitled *Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant* and shall set forth the following information:

The requirements of the new owner or the owner of the property currently receiving current use assessment to apply for a continuation of the current use assessment within 15 days of the date of postmark of the notice;

The requirement of the new owner of the property currently receiving current use assessment to continuously devote the property to an applicable bona fide qualifying use for the duration of the notice;

The change to the assessment if the covenant is breached, and;

The amount of the penalty if breached.

If I make application, what will the Board of Assessors look at to determine if I qualify?

The Board will review the current use of the property. An appraiser from the Property Evaluation Office will perform an on-site inspection of the property and prepare a report for the Board of Assessors.

You should submit any documentation you have regarding the bona fide conservation use of the property. Examples would be:

- Federal Income Tax Schedule "F"
- Timber Management Plans
- Receipts of sale of hay, livestock, produce, etc.
- Receipts for purchase of feed, fertilizers, seed, equipment, etc.
- Any documentation that will assist the Board in determining the qualifying use.

If I have property that has been under a conservation use or preferential agricultural covenant for 10 years, will my covenant automatically be renewed at the end of the 10 years?

No. You must sign a release of the first 10-year covenant and the exemption ends. At the end of October, the Property Evaluation office will send you notification that your covenant is about to expire.

You must make application for a new 10-year covenant, if you desire the exemption to continue.

If you apply for your second 10-year period, it is considered a **RENEWAL COVENANT**.

If I had the exemption before, I should automatically qualify again, right?

Not necessarily. Ten years is a long period, and many changes can occur.

During the first 10 years since the covenant was originally placed into law in 1992, there have been changes made to the law, changes to the state regulations, and changes due to court cases that clarify the law. These changes included making it more difficult for smaller tracts to enter into these covenants, clarification of the type of income allowed (no, non-agricultural related rental income) and clarification of the definition of *primary use* of the property.

There may have been changes in ownership, changes in use and other factors that need to be reviewed.

Were there any changes that benefit the taxpayer?

Yes, the law now states that if you enter into a second ten-year covenant, it is considered a *renewal covenant*.

If you decide to sell your property or change the use during the 6th through the 10th year of your *renewal* covenant, you only have to pay the taxes that would have been due if you were not in the covenant.

There is no penalty amount, but you do have to pay taxes at the fair market basis for years you have been in the *renewal* covenant.

There is also a change that allows for an early out provision, if any one of the parties of the covenant turns 65 years of age also included a new option for anyone who turns 65 during a *renewal* covenant.

What do I do if I am turned down for a Current Use covenant?

If your application is turned down, you may appeal the decision of the Board of Tax Assessors. This must be done, in writing, within 30 days of the date of the letter of notification. Your appeal will be forwarded to the Board of Equalization for a hearing.

If I have questions, who and where do I call for answers?

Any time you have questions regarding making application, or changing the use of your property, you can contact one of the following persons at the Bibb County Property Evaluation Office:

Helen Rutledge
Assistant Chief Appraiser
Mapping/Records & Standards
(478) 621-6706

Andrea Crutchfield, Chief Appraiser
(478) 621-6701

Answers to Frequently Asked Questions about Conservation Use Valuation and Agricultural Preferential Assessment

**For Further Information Contact:
the
Bibb County Tax Assessors Office**

Monday – Friday

7:00 a.m. – 5:30 p.m.

(478) 621-6701

**Part of data copied from
Forsyth County Board of Tax Assessors**

Conservation Use Checklist (Agricultural Use)

Instructions

Georgia law provides for the conservation use valuation assessment (CUVA) of property for ad valorem taxation. In order to receive this preferential treatment the owner of the property must enter into a ten-year covenant with the county board of tax assessors agreeing to keep the property in a qualifying use for the period of the covenant. The county board of tax assessors must review all applications filed for CUVA and approve and then record all qualifying covenants with the Clerk of Superior Court. In order to qualify for this preferential treatment the following requirements must be met: The owner of the property must be one of the following: a U.S. citizen; an estate where the devisees are U.S. citizens; a trust which beneficiaries must be U.S. citizens; a family owned farm corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, except that, solely with respect to a family limited partnership, a corporation, limited partnership, limited corporation, or limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5 percent interest in such family limited partnership, an estate of which the devisees or heirs are one or more natural or naturalized citizens, or a trust of which the beneficiaries are one or more natural or naturalized citizens and which family owned farm entity derived 80 percent or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility; a bona fide nonprofit conservation organization designated under Section 501(c)(3) of the Internal Revenue Code; a bona fide club organized for pleasure, recreation, and other nonprofit purposes pursuant to Section 501(c)(7) of the Internal Revenue Code.

The property must be used for one of the following bona fide agricultural purposes; raising, harvesting, or storing crops; feeding, breeding, or managing livestock or poultry; producing plants, trees, fowl, or animals; production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products.

Factors which may be considered in determining if such property is qualified may include, but not be limited to: the density of the marketable product on the land; the past usage of the land; the economic merchantability of the agricultural product; and the utilization or non-utilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof.

The following additional rules shall apply to the qualification of conservation use property for current use assessment:

When one-half or more of the area of a single tract of real property is used for a qualifying purpose, then such tract shall be considered as used for such qualifying purpose unless some other type of business is being operated on the unused portion; provided, however, that such unused portion must be minimally managed so that it does

not contribute significantly to erosion or other environmental or conservation problems. The lease of hunting rights shall not constitute another type of business.

The owner of a tract, lot, or parcel of land totaling less than ten acres shall be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use.

No property shall qualify as bona fide conservation use property if such current use assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving in any tax year any benefit of current use assessment as to more than 2,000 acres. If any taxpayer has any beneficial interest in more than 2,000 acres of tangible real property that is devoted to bona fide conservation uses, such taxpayer shall apply for current use assessment only as to 2,000 acres of such land.

No property shall qualify as bona fide conservation use property if it is leased to a person or entity which would not be entitled to conservation use assessment.

No property shall qualify as bona fide conservation use property if such property is at the time of application for current use assessment subject to a restrictive covenant which prohibits the use of the property for any purpose described in subparagraph (a)(1)(E) of O.C.G.A. § 48-5-7.4.

★★★IMPORTANT ★★★ *Prior to completing this questionnaire it is advisable to make a field inspection of the property in order to gather as much as possible information pertaining to the use and physical characteristics of the property. The reviewer should be especially mindful to investigate for other businesses that may exist on the property.*

This questionnaire is designed to assist those individuals (county appraisers, members county board of tax assessors) who are attempting to determine whether or not a specific application can be approved. To use the questionnaire answer each question and then based on the yes or no answer follow the instructions.

Pre-qualifiers

1. Would the approval of the application result in the owner having an interest in more than 2000 acres receiving CUVA? Yes No (If yes, then the application cannot be approved and a notice should be mailed to the property owner. If no then go to question 2).
2. Is the property larger than 10 acres? Yes No (If yes, go on to the first question in the ownership section. If no, the property owner must submit additional relevant records regarding proof of bona fide conservation use. Such records may include:
 - Any financial records such as original books of accounting showing income and expenses associated with the agricultural business or as a substitute the appropriate I.R.S. Form: 1040 (Schedule F) for individuals, 1065 for partnerships, 990-C for cooperatives, 1120, 1120-A or 1120S for corporations.
 - Any management plan prepared by the U.S. Department of Agriculture, Georgia Department of Agriculture, Georgia Department of Natural Resources, private consultant or farm manager.

- Any other documentation deemed reasonable or relevant.

After 15 working days or upon submission of the necessary documentation go on to question 3.)

3. Has the property owner complied with this requirement of Georgia law? Yes No (If yes, then go to the next question. If no, then the application cannot be approved and a notice should be mailed to the property owner.)

Ownership

4. Is the owner a natural or naturalized citizen? Yes No (If yes, then go to question 10. If no, then go to question 5.)
5. Is the owner an estate where the devisees are natural or naturalized citizens? Yes No (If yes, then go to question 10. If no, then go to question 6.)
6. Is the owner a trust which beneficiaries are natural or naturalized citizens? Yes No (If yes, then go to question 10. If no, then go to question 7.)
7. Is the owner a family owned farm corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, except that, solely with respect to a family limited partnership, a corporation, limited partnership, limited corporation, or limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5 percent interest in such family limited partnership, an estate of which the devisees or heirs are one or more natural or naturalized citizens, or a trust of which the beneficiaries are one or more natural or naturalized citizens and which family owned farm entity derived 80 percent or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility? Yes No (If yes, then go to question 10. If no, then go to question 8.)
8. Is the owner a bona fide nonprofit conservation organization designated under Section 501(c)(3) of the Internal Revenue Code? Yes No (If yes, then go to question 10. If no, then go to question 9.)
9. Is the owner a bona fide club organized for pleasure, recreation, and other nonprofit purposes pursuant to Section 501(c)(7) of the Internal Revenue Code? Yes No (If yes, then go to question 10. If no, then the application cannot be approved and a notice should be mailed to the property owner.)

Use of the property

10. Is the property leased to someone who would not otherwise be eligible to enter into a conservation use covenant? Yes No (If yes, then the application cannot be approved and a notice should be mailed to the property owner. If no, then go to the next question.)
11. Is the use stated on the application for the property to grow crops, livestock, timber or other qualified agricultural product? Yes No (If yes, then go to the next question. If no, then the application cannot be approved and a notice should be mailed to the property owner.)
12. Is the use stated on the application consistent with the past usage of the land? Yes No (If yes, then go to the next question. If no, and the reviewer feels that a non-qualifying use such as residential or commercial is the primary use of the land then the application cannot be approved and a notice should be mailed to the property owner, otherwise go to the next question.)
13. Is the density of the marketable product on the land sufficient to cause one to believe that the property is being used for bona fide agricultural purposes? Yes No (If yes, then go to the next question. If no, then the application cannot be approved and a notice should be mailed to the property owner.)
14. Is there an economically viable market for agricultural product being grown? Yes No (If yes, then go to the next question. If no, then the application cannot be approved and a notice should be mailed to the property owner.)
15. Is there a management plan utilizing recognized care, cultivation, harvesting, and like practices applicable to the product involved? Yes No (If yes, then go to the next question. If no, and if the reviewer feels that one is necessary or if a policy has been adopted by the board of tax assessors in regards to the lack of a written plan then the application cannot be approved and a notice should be mailed to the property owner, otherwise go to the next question.)
16. Is more than one half of the area of the property used for a qualifying use? Yes No (If yes, then go to the next question. If no, then the application cannot be approved and a notice should be mailed to the property owner.)
17. Are there any other business enterprises being conducted on the property besides the one(s) stated on the application? Yes No (If yes, then the reviewer must determine if the other business constitutes a qualifying use of the property. If it does not, then the application cannot be approved and a notice should be mailed to the property owner. If no, then the application **can** be approved and the notice required by law should be mailed to the property owner.)



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Please note: The purpose of a policy statement is to provide interpretive guidance to county tax assessors, county clerks, and governmental employees. A policy statement is a position statement, which provides interpretation, details, or supplementary information concerning the application of the law. Relevant statute, case law, or rules and regulations, as well as subsequent policy statements may modify or negate any or all of the provisions of any policy statements.

Issue Date: August 8, 2011

This is the policy of the Department and is applicable to all open tax years.

RE: Recording of Forest Land Conservation Use Covenants.

Issue: Is a taxpayer required to record both the Forest Land Protection Act (“FLPA”) application and Covenant as two separate documents with county clerk of each county in which the property is located?

Answer: No. HB 95 amended the language of O.C.G.A. 48-5-7.7(j)(1) **and the Department has combined the application and Covenant form into one document.**

Discussion: Prior to the enactment of HB 95, O.C.G.A. 48-5-7.7(j)(1) required that the FLPA “application” be recorded with the county clerk of each county in which the property is located. Therefore, FLPA application and Covenant were recorded with the county clerk.

With the enactment of HB 95, the word “application” was stricken from the O.C.G.A. 48-5-7.7(j)(1) and replaced with word “covenant(s).” **Therefore, the Code does not require the recording of the FLPA application and Covenant as two separate documents.**

Because, the FLPA application becomes a Covenant upon full acceptance and approval of the County Board of Tax Assessors, approval is evidenced by the Board’s signature. Therefore, the Department has combined the application and Covenant into one document, known as “Forest Land Conservation Use Assessment Covenant.”

This Forest Land Conservation Use Assessment Covenant document shall be recorded with the clerk of each county in which the property is located.

Authority:

- O.C.G.A. § 48-5-7.7

**Department of Revenue
Local Government Services Division
2016 FLPA Index**

Forest Land Protection Act Index:

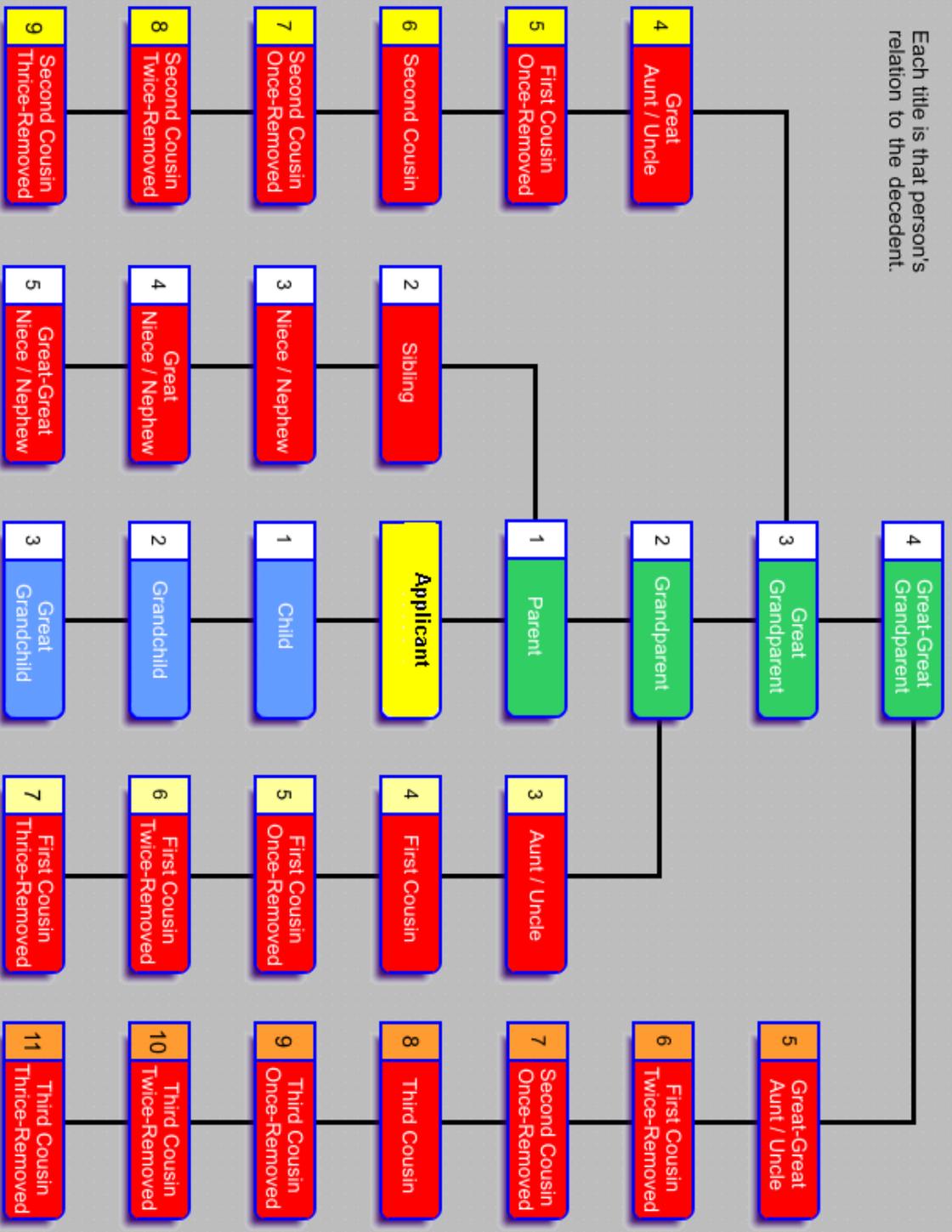
This informational bulletin sets forth the 2016 Forest Land Protection Act (FLPA) **index** used to update the 2008 fair market value of forest land, from one year to the next, as provided for in O.C.G.A. § 48-5-2(3)(6).

Such indexed Forest Land Fair Market Value is represented on the annual tax digest as Class 'F'. Digest Class 'F' is established for the single purpose of calculating the statutory revenue reduction amount and FLPA Reimbursement Grant distributed to each county, municipal, and school district as a result of the implementation of Forest Land Conservation Use Assessment.

For 2016 the FLPA index is 1.015

Degrees of Kinship By the Rules of Civil Law

Each title is that person's relation to the decedent.

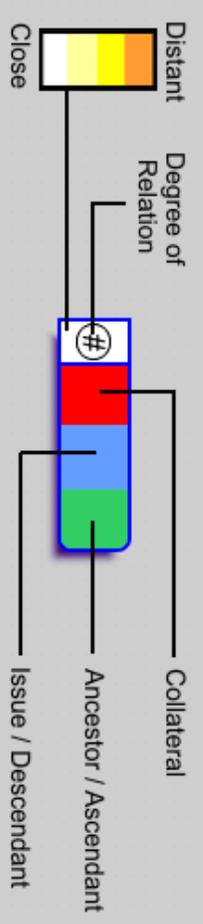


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Of multiple relations with the same degree, those connecting through a nearer ancestor are more closely related to the decedent.

For example, great aunts and first cousins are fourth degree relations. First cousins connect through the grandparents, which makes first cousins more closely related to the decedent than great aunts.



Covenant Type	Code Section	Covenant Term	Minimum Acreage	Maximum Acreage	Breach Penalty	Savings	Application Period	Notes
Preferential	48-5-7.1	10 Years	No Minimum	2000	Tax savings for the year the breach occurs X 5 - (Years 1 and 2) 4 - (Years 3 and 4) 3 - (Years 5 and 6) 2 - (Years 7,8,9,10)	Fair Market Value of land and up to \$100,000 of agricultural buildings assessed at .30	January 1-April 1	
Conservation Use (CUVA)	48-5-7.4	10 Years	No Minimum	2000	Total savings up to the time the breach occurs X 2	Land Valued Using State Values Agricultural buildings limited to 3% change per year	January 1 - April 1 and 45 day appeal period of Notice of Assessment	
Forest Land Protection Act (FLPA)	48-5-7.7	15 Years	More than 200	Unlimited	Total savings up to the time the breach occurs X 2	Land Valued Using State Values	January 1 - To End of 45 day appeal period or until appeal of property settled (whichever comes last)	