GEORGIA DEPARTMENT OF REVENUE

LOCAL GOVERNMENT SERVICES DIVISION

SPECIALIZED ASSESSMENTS WORKSHOP

Course Manual

For Educational Purposes Only:
The material within is intended to give the course participant a solid understanding of general principles in the subject area. As such, the material may not necessarily reflect the official procedures and policies of the Georgia Department of Revenue or the Department's official interpretation of the laws of the State of Georgia. The application of applicability to specific situations of the theories, techniques, and approaches discussed herein must be determined on a case-by-case basis.

January 2025

Table of Contents

Contents

Chapter One

§48-5-2. Definitions.

As used in this chapter, the term:

"(.1) 'Arm's length, bona fide sale' means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, including but not limited to a distress sale, short sale, bank sale, or sale at public auction."

(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.

(2) "Current use value" of bona fide residential transitional 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.

"(3) 'Fair market value of property' means the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length, bona fide sale. The income approach, if data is available, shall be considered in determining the fair market value of income-producing property. Notwithstanding any other provision of this chapter to the contrary, the transaction amount of the most recent arm's length, bona fide sale in any year shall be the maximum allowable fair market value for the next taxable year. With respect to the valuation of equipment, machinery, and fixtures when no ready market exists for the sale of the equipment, machinery, and fixtures, fair market value may be determined by resorting to any reasonable, relevant, and useful information available, including, but not limited to, the original cost of the property, any depreciation or obsolescence, and any increase in value by reason of inflation. Each tax assessor shall have access to any public records of the taxpayer for the purpose of discovering such information."

(A) In determining the fair market value of a going business where its continued operation is reasonably anticipated, the tax assessor may value the equipment, machinery, and fixtures which are the property of the business as a whole where appropriate to reflect the accurate fair market value.

"(B) The tax assessor shall apply the following criteria in determining the fair market value of real property:

(i) Existing zoning of property;

(ii) Existing use of property, including any restrictions or limitations on the use of property resulting from state or federal law or rules or regulations adopted pursuant to the authority of state or federal law;

(iii) Existing covenants or restrictions in deed dedicating the property to a particular use;

(iv) Bank sales, other financial institution owned sales, or distressed sales, or any combination thereof, of comparable real property;

(v) Decreased value of the property based on limitations and restrictions resulting from the property being in a conservation easement;

(vi) Rent limitations, operational requirements, and any other restrictions imposed upon the property in connection with the property being eligible for any income tax credits described in subparagraph (B.1) of this paragraph or receiving any other state or federal subsidies provided with respect to the use of the property as residential rental property; provided, however, that such properties described in subparagraph (B.1) of this paragraph shall not be considered comparable real property for assessment or appeal of assessment of other properties; and

(vii) Any other existing factors provided by law or by rule and regulation of the commissioner deemed pertinent in arriving at fair market value.

(B.1) The tax assessor shall not consider any income tax credits with respect to real property which are claimed and granted pursuant to either Section 42 of the Internal Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair market value of real property.

"(B.2) In determining the fair market value of real property, the tax assessor shall not include the value of any intangible assets used by a business, wherever located, including patents, trademarks, trade names, customer agreements, and merchandising agreements."

(C) Fair market value of "historic property" as such term is defined in subsection (a) of Code Section 48-5-7.2 means:

(i) For the first eight years in which the property is classified as "rehabilitated historic property," the value equal to the greater of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time preliminary certification on such property was received by the county board of tax assessors pursuant to subsection (c) of Code Section 48-5-7.2;

(ii) For the ninth year in which the property is classified as "rehabilitated historic property," the value of the property as determined by division (i) of this subparagraph plus one-half of the difference between such value and the current fair market value exclusive of the provisions of this subparagraph; and

(iii) For the tenth and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(D) Fair market value of "landmark historic property" as such term is defined in subsection (a) of Code Section 48-5-7.3 means:

(i) For the first eight years in which the property is classified as "landmark historic property," the value equal to the greater of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time certification on such property was received by the county board of tax assessors pursuant to subsection (c) of Code Section 48-5-7.3;
(ii) For the ninth year in which the property is classified as "landmark historic property," the value of the property as determined by division (i) of this subparagraph plus one-half of the difference between such value and the current fair market value exclusive of the provisions of this subparagraph; and
(iii) For the tenth and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(E) Timber shall be valued at its fair market value at the time of its harvest or sale in the manner specified in Code Section 48-5-7.5.

(F) Fair market value of "brownfield property" as such term is defined in subsection (a) of Code Section 48-5-7.6 means:

(i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6, for the first ten years in which the property is classified as "brownfield property," the value equal to the lesser of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time application was made to the Environmental Protection Division of the Department of Natural Resources for participation under Article 9 of Chapter 8 of Title 12, the "Hazardous Sites Reuse and Redevelopment Act," as amended;
(ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6, for the eleventh and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(4) "Foreign merchandise in transit" means personal property of any description which has been or will be moved by waterborne commerce through any port located in this state and:

(A) Which has entered the export stream, although temporarily stored or warehoused in the county where the port of export is located; or

(B) Which was shipped from a point of origin located outside the customs territory of the United States and on which United States customs duties are paid at or through any customs district or port located in this state, although stored or warehoused in the county where the port of entry is located while in transit to a final destination.

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

(6) "Forest land fair market value" means the 2008 fair market value of the forest land. Such 2008 valuation may increase from one taxable year to the next by a rate equal to the percentage change in the price index for gross output of state and local government from the prior year to the current year as defined by the National Income and Product Accounts and determined by the United States Bureau of Economic Analysis and indicated by the Price Index for Government Consumption Expenditures and General Government Gross Output (Table 3.10.4).

Judicial Decisions

Constitutionality of utilizing other methods for determining fair market value. - Utilization of different methods for determining fair market value for purposes of taxation creates no infirmity under the United States Constitution or under the state constitution or laws. Dougherty County Bd. of Tax Assessors v. Burt Realty Co., 250 Ga. 467, 298 S.E.2d 475, cert. denied, 463 U.S. 1208, 103 S. Ct. 3540, 77 L. Ed. 2d 1390 (1983).

Statue is not unconstitutional for vagueness of the term "fair market value of property." Chilivis v. Backus, 236 Ga. 88, 222 S.E.2d 371 (1976) (decided under former Code 1933, 92-5702).

Definition of "fair market value of property" is not too vague and indefinite to be enforced. Chilivis v. Kell, 236 Ga. 226, 223 S.E.2d 117, cert. denied, 429 U.S. 891, 97 S. Ct. 249, 50 L. Ed. 2d 174 (1976) (decided under former Code 1933, 92-5702).

Constitutionality of the term "fair market value of property". - The term "fair market value of property" as defined in this section is not too vague and indefinite to be enforced, and there is no merit in the constitutional attacks on county ad valorem tax assessments statutes because of their use of this term. Butts County v. Briscoe, 236 Ga. 233, 223 S.E.2d 199 (1976) (decided under former Code 1933, 92-5702).

Highest and best use may be considered. - In assessing the fair market value of real property, tax assessors may, where appropriate, consider the "highest and best use" of real property under the statutory criterion allowing "[A] any other factors deemed pertinent in arriving at a fair market value." Sibley v. Cobb County Bd. of Tax Assessors, 171 Ga. App. 65, 318 S.E.2d 643 (1984).

Applicability of 1979 amendment. - The change made by Ga. L. 1979, p. 5, 17, is not to the tax year 1979 but to tax years 1980 and thereafter. Monroe County Bd. of Tax Assessors v. Remick, 165 Ga. App. 616, 300 S.E.2d 203 (1983).

"Foreign merchandise in transit." - Imported stone tile/slab, which was stored at taxpayer's pleasure for sale to anyone who might wish to purchase it, was not "in transit to a final destination" within the contemplation of subparagraph (4)(B) and was consequently not exempt from ad valorem taxation under 48-5-5. Seabrook Corp. v. Chatham County Bd. of Equalization, 195 Ga. App. 730, 394 S.E.2d 796 (1990).

Merchandise brought into the United States through the port of Charleston, South Carolina, and transported, via land freight carrier to a container freight station in Chatham County, was not "foreign

merchandise in transit" and was therefore not exempt from ad valorem taxation. Pier 1 Imports v. Chatham County Bd. of Tax Assessors, 199 Ga. App. 294, 404 S.E.2d 637 (1991).

Trial court is correct in disregarding valuation placed on property by board of tax assessors where the chairman concedes that he has no knowledge of the existing use of the property, that the existing zoning is not indicative of any use to which it might reasonably be put, and that he knows of no other factors, other than the property's general location, which might be pertinent in determining the amount it would bring at a cash sale. Evans v. Board of Tax Assessors, 168 Ga. App. 792, 310 S.E.2d 562 (1983).

No distinction between property owned by public utility corporations and individuals. Ogletree v. Woodward, 150 Ga. 691, 105 S.E. 243 (1920) (decided under former Civil Code 1910, 1004).

Duty to return all property at fair market value is a statutory mandate. - The provision requiring that all property be returned for taxation at its fair market value is, undeniably, a statutory mandate. McLennan v. Undercofler, 222 Ga. 302, 149 S.E.2d 705 (1966) (decided under former Code 1933, 92-5702).

Duty to return all property at fair market value is not supreme, but yields to the duty to avoid discrimination. McLennan v. Undercofler, 222 Ga. 302, 149 S.E.2d 705 (1966); Griggs v. Greene, 230 Ga. 257, 197 S.E.2d 116 (1973)(decided under former Code 1933, 92-5702) (decided under former Code 1933, 92-5702).

Construction of "existing use of property". - The term "existing use of property" as used in the definition of "fair market value of property" cannot be assigned any particular value since real property is unique and the extent to which existing use affects its value is dependent upon a great variety of other factors. Cobb County Bd. of Tax Assessors v. Sibley, 244 Ga. 404, 260 S.E.2d 313 (1979) (decided under former Code 1933, 92-5702).

Construction with other law. - Assessments lacked uniformity in failing to follow the mandates of this section regarding consideration of "existing use of the property" and "other factors deemed pertinent in arriving at fair market value" and in failing to exempt standing timber under the mandate of 48-5-7.1(a)(1) and 48-5-7.5 as set forth in Ga. Const. Art. VII, Sec. 1, Par. (3)(e)(2). Leverett v. Jasper County Bd. of Tax Assessors, 233 Ga. App. 470, 504 S.E.2d 559 (1998).

Discrepancies in tax evaluation assessment. - The bankruptcy court found that for the purposes of ad valorem tax on the debtors' equipment that: (1) for 1997, the value was the lowest of the tax assessors' value due to discrepancies in the tax assessors' values; (2) for 1998, the court accepted the value determined by the board of equalization which gave some weight to the debtors' appraiser who considered comparable sales; (3) for 1999, the court took the tax assessors' lowest value as the debtors' appraiser omitted a laser device; and (4) for 2000, the debtors did not challenge the tax assessors' value. In re R-P Packaging, Inc., 278 Bankr. 281 (Bankr. M.D. Ga. 2002).

Cited in Williamson v. DeKalb County Bd. of Tax Assessors, 168 Ga. App. 47, 308 S.E.2d 55 (1983); Hawkins v. Grady County Bd. of Tax Assessors, 180 Ga. App. 834, 350 S.E.2d 790 (1986); Hawkins v. Grady County Bd. of Tax Assessors, 192 Ga. App. 416, 385 S.E.2d 305 (1989); Coleman v. Montgomery County, 228 Ga. App. 276, 491 S.E.2d 495 (1997); Jones v. Chatham County Bd. of Tax Assessors, 270 Ga. App. 483, 606 S.E.2d 673 (2004).

Factors to Be Considered

EXISTING USE OF PROPERTY is not exclusive factor in determining fair market value; assessors are directed to consider also existing zoning of property, existing covenants or restrictions in the deed dedicating the property to a particular use, or any other factors deemed pertinent in arriving at fair market value. Cobb County Bd. of Tax Assessors v. Sibley, 244 Ga. 404, 260 S.E.2d 313 (1979).

Existing use must be employed as a yardstick with which to measure fair market value. Inland Container Corp. v. Paulding County Bd. of Tax Assessors, 220 Ga. App. 878, 470 S.E.2d 702 (1996), overruled on other grounds by Gilmer County Bd. of Tax Assessors v. Spence, 309 Ga. App. 482, 711 S.E.2d 51(2011).

SUFFICIENCY OF EVIDENCE THAT ASSESSORS FAILED TO CONSIDER EXISTING USE OF PROPERTY IN VALUATION. --Evidence is sufficient to support judgment of trial court that assessors failed to consider the existing use of land which is generally categorized as vacant land, not commercial, industrial, or residential subdivision, when assessors, relying on the property's highest and best use, assigned such land a base value according to the district in which the land was located, which value was determined by the sale price of other vacant lands purchased for development, which sales did not accurately reflect the value of other vacant land because such sales were often for special purposes such as schools or parks, or speculative development. Cobb County Bd. of Tax Assessors v. Sibley, 244 Ga. 404, 260 S.E.2d 313 (1979).

"OTHER PERTINENT FACTORS" SHOULD BE CONSIDERED ONLY AFTER FACTORS LISTED IN SECTION. --It is error for a court to approve a valuation which tilts market value in favor of an assumed highest and best use to appear from future speculation and development, rather than first determining the criteria for zoning, existing use, and deed restrictions, if any, at which time other pertinent factors may be considered. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980); Dotson v. Henry County Bd. of Tax Assessors, 161 Ga. App. 257, 287 S.E.2d 696 (1982).

INTENT AS TO USE OF "HIGHEST AND BEST USE" AS FACTOR IN VALUATION. --While under the criterion "any other factors deemed pertinent" the highest and best use may be considered, the General Assembly did not base market value on highest and best use, nor did the General Assembly list highest and best use as a specific criterion. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

"HIGHEST AND BEST USE" IS FACTOR ONLY IF IT REFLECTS AMOUNT REALIZED FROM CASH SALE OF THE PROPERTY. That valuation will not be confined to actual use alone, and all criteria added by the General Assembly are to be considered. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

"HIGHEST AND BEST USE" IS A MUCH MORE SPECULATIVE ASSIGNED VALUE THAN EXISTING USE. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

VALUATION OF INCOME-PRODUCING PROPERTY BY INCOME CAPITALIZATION METHOD. --In considering existing use, when the use is income producing, it would appear that the income capitalization method should at least be considered, this being a standard method of arriving at value. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

METHOD FOR FIXING FAIR MARKET VALUE OF LEASEHOLDS. --In fixing the fair market value of a leasehold for tax purposes, the rule of "fair market value of property" should always be applied. Delta Air Lines v. Coleman, 219 Ga. 12, 131 S.E.2d 768, cert. denied, 375 U.S. 904, 84 S. Ct. 195, 11 L. Ed. 2d 145 (1963).

VALUATION OF SEPARATE TAXABLE INTERESTS WHEN TAX LIABILITY DIVIDED AMONG OWNERS. --Existence of separate taxable interests and estates in the same property and determination of their respective fair market values for assessment purposes is necessary only when the tax liability is likewise divided among the owners. Martin v. Liberty County Bd. of Tax Assessors, 152 Ga. App. 340, 262 S.E.2d 609 (1979).

VALUATION OF LEASES. --Assessed value must consider, inter alia: existing zoning, existing use, and "any other factors deemed pertinent in arriving at fair market value." Therefore, a consideration of "existing use" (the current leases) must be employed as a ""yardstick' with which to measure fair market value" not hypothetical non-existing leases. Dougherty County Bd. of Equalization v. Castro Dev. Co., 228 Ga. App. 293, 491 S.E.2d 483 (1997).

VALUATION OF DAIRY FARM CANNOT BE BASED ON SALES FOR SPECULATIVE OR DEVELOPMENT PURPOSES. --When the assessed value of rural acreage used as a dairy farm is based primarily on sales of other property, and all the so-called comparable sales are for speculative or development purposes, with the exception of one which was intended for use as a private airport, the statutory formula has not been properly applied. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

CLUB MEMBERSHIP'S RELEVANCY TO VALUATION OF PROPERTY. --Although taxpayers' memberships in a club were not subject to taxation, if a taxpayer relinquished that membership upon sale of the taxpayer's real estate, the buyer could apply for immediate membership, and such an application would normally be granted. Therefore, a county board of tax assessors would have violated Ga. Const. 1983, Art. VII, Sec. I, Para. III and O.C.G.A. § 48-5-1 if the board excluded the enhanced value of the properties attributable to the right to apply for such memberships from ad valorem taxation because the membership was part of the properties' fair market value. Morton v. Glynn County Bd. of Tax Assessors, 294 Ga. App. 901, 670 S.E.2d 528 (2008).

USE OF A "VALUE IN USE IN PLACE" STANDARD was not an inappropriate method of determining the fair market value of machinery and equipment for taxation purposes. Flambeau Corp. v. Morgan County Bd. of Tax Assessors, 238 Ga. App. 812, 520 S.E.2d 275 (1999).

FEDERAL TAX CREDITS CONSIDERED. --Prior to the statutory amendment contained in O.C.G.A. § 48-5-2(3)(B.1), tax credits under 26 U.S.C. § 42 were properly considered in establishing the fair market value of real estate for property tax purposes. Pine Pointe Hous., L.P. v. Lowndes County Bd. of Tax Assessors, 254 Ga. App. 197, 561 S.E.2d 860 (2002).

HISTORIC PROPERTIES. --O.C.G.A. § 48-5-2(3)(C) defines "fair market value" of property classified as rehabilitated historic property under O.C.G.A. § 48-5-7.2 and sets forth the same test to be used when the county tax receiver or tax commissioner enters the basis or value of a parcel of rehabilitated historic property; thus, O.C.G.A. § 48-5-7.2 did not require that both the rehabilitation process and the Department of Natural Resources final certification process be completed within the two-year period before the owner may have applied for and obtained preferential assessment for the property and a tax board's argument that the board had no value upon which to base the preferential assessment whenever the owner allows the preliminary assessment to lapse upon expiration of the two-year rehabilitation period was without merit. Chatham County Bd. of Tax Assessors v. Emmoth, 278 Ga. 144, 598 S.E.2d 495 (2004).

Opinions of the Attorney General

Editor's notes. - In light of the similarity of the provisions, opinions under former Code 1933, 92-5702 are included in the annotations for this Code section.

Tax commissioner may legitimately inquire into the cost, depreciation, age, and use of property which is subject to taxation for purposes of investigating its fair market value. This does not mean that property is to be returned or assessed for taxation at other than its fair market value; nor does it mean property should be assessed at book value rather than fair market value, although in

many cases, fair market value may, in fact, be identical with book value. 1963-65 Op. Att'y Gen. p. 113 (rendered under former Code 1933, 92-5702).

Earnings as an element of fair market value of property. - A formula taking earnings into consideration may be used in arriving at the fair market value of property of a public service corporation; the formula used should not be considered conclusive but be used merely as a guide. 1965-66 Op. Att'y Gen. No. 66-12 (rendered under former Code 1933, 92-5702).

Duty of county tax assessors to periodically update property valuations. - If the fair market value of property increases every two years, then it is the duty of county tax assessors to increase the valuation of property for tax purposes every two years. 1969 Op. Att'y Gen. No. 69-504 (rendered under former Code 1933, 92-5702).

Applicability to 1990 and 1991 tax years. - Neither Subsection (1)(E) (now subparagraph (3)(E)) nor 48-5-33 (repealed) applies to the 1990 tax year. With respect to the 1991 tax year, absent further constitutional amendment or action by the General Assembly, 48-5-33 (repealed) governs over Subsection (1)(E) to the extent they are inconsistent. 1990 Op. Att'y Gen. No. 90-17.

Research References

ALR. - Taxes: valuing undeveloped mining property as prospect, 2 ALR 1550.

Assessment of corporate property at full value according to law when valuations generally are illegally fixed lower, 3 ALR 1370; 28 ALR 983; 55 ALR 503.

Prospective value as basis of valuation of land for purposes of property taxation, 24 ALR 649.

Method or rule for valuation of leasehold interest for purpose of property taxation, 84 ALR 1310.

Rights appurtenant, easements, restrictions, or charges in respect of land as factors in assessment of real property for property taxation, 108 ALR 829.

Valuation of property for purpose of taxation as affected by variation of tax rates for local or special purposes in different local taxing units, or inclusion of property within particular taxing unit, 119 ALR 1300.

Easement as factor in property taxation, 134 ALR 963.

Discretion of court or referee as to mode of valuation of real property for tax purposes, 152 ALR 611.

Application of "blockage rule" or "blockage discount theory" in determining stock valuation, for purposes of taxation of intangibles, 33 ALR2d 607.

Income or rental value as a factor in evaluation of real property for purposes of taxation, 96 ALR2d 666.

Separate assessment and taxation of air rights, 56 ALR3d 1300.

Situs of tangible personal property for purposes of property taxation, 2 ALR4th 432.

Chapter Two

§48-5-7 Assessment of tangible property

(a) Except as otherwise provided in this Code section, taxable tangible property shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value.

(b) Tangible real property which is devoted to bona fide agricultural purposes as defined in this chapter and which otherwise conforms to the conditions and limitations imposed in this chapter shall be assessed for ad valorem property tax purposes at 75 percent of the value which other tangible real property is assessed and shall be taxed on a levy made by each respective tax jurisdiction according to said assessment.

(c) Tangible real property which qualifies as rehabilitated historic property pursuant to the provisions of Code Section 48-5-7.2 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of rehabilitated historic property pursuant to the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2.

(c.1) Tangible real property which qualifies as landmark historic property pursuant to the provisions of Code Section 48-5-7.3 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of landmark historic property pursuant to the provisions of subparagraph (D) of paragraph (3) of Code Section 48-5-2.

(c.2) Tangible real property which is devoted to bona fide conservation uses as defined in this chapter and which otherwise conforms to the conditions and limitations imposed in this chapter shall be assessed for property tax purposes at 40 percent of its current use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's current use value.

(c.3) Tangible real property located in a transitional developing area which is devoted to bona fide residential uses and which otherwise conforms to the conditions and limitations imposed in this chapter for bona fide residential transitional property shall be assessed for property tax purposes at 40 percent of its current use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's current use value.

(c.4) Tangible real property which qualifies as brownfield property pursuant to the provisions of Code Section 48-5-7.6 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of brownfield property pursuant to the provisions of subparagraph (F) of paragraph (3) of Code Section 48-5-2.

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

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

(d) The requirement contained in this Code section that all tax jurisdictions assess taxable tangible property at 40 percent of fair market value shall not apply to any tax jurisdiction whose ratio of assessed value to fair market value exceeded 40 percent for the tax year 1971. No tax jurisdiction so exempted shall assess at a ratio of less than 40 percent except as necessary to effect the preferential assessment provided in subsection (b) of this Code section.

(e) Each notice of ad valorem taxes due sent to taxpayers of counties and municipalities shall include both the fair market value of the property of the taxpayer which is subject to taxation and the assessed value of the property after being reduced as provided by this Code section.

History

Ga. L. 1851-52, p. 288, § 14; Code 1863, § 734; Code 1868, § 801; Code 1873, § 804; Code 1882, § 804; Civil Code 1895, § 770; Ga. L. 1909, p. 36, § 1; Civil Code 1910, § 1010; Code 1933, § 92-5703; Ga. L. 1968, p. 358, § 2; Ga. L. 1972, p. 1102, § 1; Ga. L. 1975, p. 1083, § 1; Ga. L. 1976, p. 518, § 1; Code 1933, § 91A-1019, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1979, p. 5, § 26; Ga. L. 1983, p. 1850, § 2; Ga. L. 1989, p. 1585, § 2; Ga. L. 1990, p. 1122, § 2; Ga. L. 1991, p. 1903, § 4; Ga. L. 1992, p. 6, § 48; Ga. L. 2003, p. 170, § 2; Ga. L. 2018, p. 119, § 3/HB 85.

Ga. Code Ann. § 48-5-7 (Lexis Advance through the 2018 Extra Session of the General Assembly)

Editor's notes. - Section 1 of Ga. L. 1983, p. 1850, effective April 8, 1983, not codified by the General Assembly, provided that "It is the intent of this Act to implement certain changes imposed by Article VII, Section I, Paragraph III, subparagraph (c) of the Constitution of the State of Georgia."
Section 4 of Ga. L. 1983, p. 1850, effective April 8, 1983, not codified by the General Assembly, provided that that Act (2 of which amended this Code section) "shall apply to all tax years beginning on or after January 1, 1984."

Ga. L. 1991, p. 1903, 15, not codified by the General Assembly, provides that the amendment to this Code section shall be applicable beginning January 1, 1992, with respect to ad valorem taxation of timber and shall be applicable beginning January 1, 1992, for all other purposes. Taxation for prior periods shall continue to be governed by prior law.
The state-wide referendum (Ga. L. 2002, p. 1017, 2), which would have added a new subsection (c.4), relating to exemption from ad valorem taxation for commercial dockside facilities, was defeated at the November, 2002, general election.
Law reviews. - For note on 1989 amendment to this Code section, see 6 Ga. St. U.L. Rev. 173 (1989).

Judicial Decisions

STATUTE IS NOT UNCONSTITUTIONAL FOR VAGUENESS OF THE TERM "FAIR MARKET VALUE." Chilivis v. Backus, 236 Ga. 88, 222 S.E.2d 371 (1976).

CONSTITUTIONALITY. --Setting the assessed value of tangible property at 40 percent of fair market value is not in conflict with the Georgia Constitution. Salem v. Tattnall County, 250 Ga. 881, 302 S.E.2d 99 (1983).

DEPARTMENT OF NATURAL RESOURCES CERTIFICATION NOT REQUIRED WITHIN TWO-YEAR TIME FRAME. --Under O.C.G.A. § 48-5-7.2, an owner needed only to complete the rehabilitation of property within 24 months in order to be allowed to apply for and obtain certification of the property as rehabilitated historic property for purposes of preferential assessment under O.C.G.A. § 48-5-7(c) and there was no statutory basis that the owner obtain final certification from the Department of Natural Resources within that two year time frame. Chatham County Bd. of Tax Assessors v. Emmoth, 278 Ga. 144, 598 S.E.2d 495 (2004).

ASSESSMENT PROCEDURES UPHELD. --Assessment of property at 40% of value did not violate the constitutional requirement of uniformity, even though statistical evidence showed the average level of assessment of other property to be 38.84% of fair market value or lower. Bellsouth Telecommunications, Inc. v. Henry County Bd. of Assessors, 217 Ga. App. 699, 458 S.E.2d 705 (1995).

CONSTRUCTION WITH OTHER PROVISIONS. --Words "assessed value" in Ga. Const. 1945, Art. VIII, Sec. XII, Para. I (see now Ga. Const. 1983, Art. VIII, Sec. VI, Para. I) mean the correctly assessed value, that is, the assessed value approved by the commissioner, not an incorrectly assessed value. Board of Comm'rs v. Allgood, 234 Ga. 9, 214 S.E.2d 522 (1975).

Because a beneficial property owner only benefitted from a lower ad valorem tax in proportion to the interest owned in the property, the trial court did not err in granting summary judgment to a corporation, as approval of preferential ad valorem tax treatment for property co-owned by the shareholders of the corporation by a tenancy in common did not violate O.C.G.A. § 48-5-7.4(b)(3), as an individual's benefit was to be determined on a pro-rata basis; thus, if the interests of shareholders who were tenants in common of the property were so calculated, no single

shareholder would have benefitted from current use assessment as to more than 2,000 acres. Effingham County Bd. of Tax Assessors v. Samwilka, Inc., 278 Ga. App. 521, 629 S.E.2d 501 (2006).

Under O.C.G.A. § 48-5-7.4, the owners of "bona fide conservation use property," including property used for certain agricultural purposes and meeting other statutory criteria and conditions, may apply to the county board of tax assessors for "current use assessment" of their property for purposes of calculating ad valorem taxes. If the application is granted, the property is assessed for tax purposes at 40 percent of the property's "current use value" instead of 40 percent of the property's "fair market value," under O.C.G.A. § 48-5-7(a) and (c.2), thus resulting in tax savings. Morrison v. Claborn, 294 Ga. App. 508, 669 S.E.2d 492 (2008).

COURT ERRED BY FAILING TO MAKE NECESSARY FINDINGS AS TO BUSINESS OPERATED ON PROPERTY. --Trial court erred by holding that operating a commercial grain business on property designated conservation use property under O.C.G.A. § 48-5-7.4 did not constitute a breach of the conservation use covenant because the court failed to make any findings as to whether the grain business was incidental and not detrimental to the qualifying use of the property. Terrell County Bd. of Tax Assessors v. Goolsby, 324 Ga. App. 535, 751 S.E.2d 158 (2013).

RIGHT TO APPEAL PENALTY ASSESSMENT. --An assessment of a penalty for a breach of a conservation use covenant is an assessment for which a property owner has the right to appeal pursuant to O.C.G.A. § 48-5-311. Oconee County Bd. of Tax Assessors v. Thomas, 282 Ga. 422, 651 S.E.2d 45 (2007).

MANDAMUS RELIEF PROPERLY DENIED SINCE CERTIFICATION OF APPEALS OBTAINED. --Trial court did not err by denying a group of property owners their request for mandamus relief in the nature of finding that the county board of tax assessors certified their property tax appeals because it was undisputed that the tax appeals were physically delivered to the trial court and that it had ruled that such appeals were certified to it, thus, the property owners received the relief sought regarding certification. Newton Timber Co., L.L.L.P. v. Monroe County Bd. of Tax Assessors, 755 S.E.2d 770 (2014).

CITED in
Fulton County v. Strickland, 251 Ga. 473, 306 S.E.2d 299 (1983); Ga. Power Co. v. Monroe County, 284 Ga. App. 707, 644 S.E.2d 882 (2007).

Ga. Code Ann. § 48-5-7 (Lexis Advance through the 2018 Extra Session of the General Assembly)

Chapter Three

§48-5-7.6 Brownfield Property

(a)(1) For the purposes of this Code section, "brownfield property" means tangible real property where:

(A) There has been a release of hazardous waste, hazardous constituents, and hazardous substances into the environment; and

(B) The director of the Environmental Protection Division of the Department of Natural Resources, under Article 9 of Chapter 8 of Title 12, the "Georgia Hazardous Site Reuse and Redevelopment Act," as amended, has approved and not revoked said approval of the prospective purchaser's corrective action plan or compliance status report for such brownfield property; and

(C) The director of the Environmental Protection Division of the Department of Natural Resources, under Article 9 of Chapter 8 of Title 12, the "Georgia Hazardous Site Reuse and Redevelopment Act," as amended, has issued and not revoked a limitation of liability certificate for the prospective purchaser; and

(D) The Environmental Protection Division of the Department of Natural Resources has certified eligible costs of remediation pursuant to subsection (j) below.

(2) The preferential classification and assessment of brownfield property provided for in this Code section shall apply to all real property qualified by the Environmental Protection Division of the Department of Natural Resources under Article 9 of Chapter 8 of Title 12, the "Georgia Hazardous Site Reuse and Redevelopment Act," as amended, and any subsequent improvements to said property.

(3) "Eligible brownfield costs" means costs incurred after July 1, 2003, and directly related to the receipt of a limitation of liability pursuant to Article 9 of Chapter 8 of Title 12, the "Hazardous Sites Reuse and Redevelopment Act," as amended, that are not ineligible costs.

(4) "Ineligible costs" means expenses of the following types:

(A) Purchase or routine maintenance of equipment of a durable nature that is expected to have a period of service of one year or more after being put into use at the property without material impairment of its physical condition, unless the applicant can show that the purchase was directly related to the receipt of a limitation of liability, or the applicant can demonstrate that the equipment was a total loss and that the loss occurred during the activities required for receipt of applicant's limitation of liability pursuant to Article 9 of Chapter 8 of Title 12, the "Hazardous Sites Reuse and Redevelopment Act," as amended;

(B) Materials or supplies not purchased specifically for obtaining a limitation of liability

pursuant to Article 9 of Chapter 8 of Title 12, the "Hazardous Sites Reuse and Redevelopment Act," as amended;

(C) Employee salaries and out-of-pocket expenses normally provided for in the property owner's operating budget (i.e. meals, fuel) and employee fringe benefits;

(D) Medical expenses;

(E) Legal expenses;

(F) Other expenses not directly related to the receipt of a limitation of liability pursuant to Article 9 of Chapter 8 of Title 12, the "Hazardous Sites Reuse and Redevelopment Act," as amended;

(G) Costs arising as a result of claims for damages filed by third parties against the property owner or its agents should there be a new release at the property during or after the receipt of a limitation of liability;

(H) Costs resulting from releases after the purchase of qualified brownfield property that occur as a result of violation of state or federal laws, rules, or regulations;

(I) Purchases of property;

(J) Construction costs;

(K) Costs associated with maintaining institutional controls after the certification of costs by the Environmental Protection Division of the Department of Natural Resources; and

(L) Costs associated with establishing, maintaining or demonstrating financial assurance after the certification of costs by the Environmental Protection Division of the Department of Natural Resources.

(5) "Local taxing authority" means a county, municipal, school district, or any other local governing authority levying ad valorem taxes on a taxpayer's property. If a taxpayer's property is taxed by more than one such authority, the term "local taxing authority" shall mean every levying authority.

(6) "Taxable base" means a value assigned to the brownfield property pursuant to the provisions of subparagraph (F) of paragraph (3) of ***Code Section 48-5-2***.

(7) "Tax savings" means the difference between the amount of taxes paid on the taxable base and the taxes that would otherwise be due on the current fair market value of the qualified brownfield property. Tax savings run with the qualified brownfield property regardless of title transfer and shall be available until the brownfield property is disqualified pursuant to subsection

(e) below.

(b) In order for property to qualify under this Code section for preferential assessment as provided for in subsection (c.4) of ***Code Section 48-5-7***, the applicant must receive the certifications required for brownfield property as defined in paragraph (1) of subsection (a) of this Code section.

(c) Upon receipt of said certifications, a property owner desiring classification of any such contaminated property as brownfield property in order to receive the preferential assessment shall make application to the county board of tax assessors and include said certifications with such application. The county board of tax assessors shall determine if the provisions of this Code section have been complied with, and upon such determination, the county board of tax assessors shall be required to grant preferential assessment to such property. The county board of tax assessors shall make the determination within 90 days after receiving the application and shall notify the applicant in the same manner that notices of assessment are given pursuant to ***Code Section 48-5-306***. Failure to timely make such determination or so notify the applicant pursuant to this subsection shall be deemed an approval of the application. Appeals from the denial of an application for preferential assessment by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to ***Code Section 48-5-311***.

(d)(1) Property which has been classified by the county board of tax assessors as brownfield property shall be immediately eligible for the preferential assessment provided for in subsection (c.4) of ***Code Section 48-5-7***; provided, however, that, for the purposes of determining the years of eligibility for preferential assessment, the tax year following the year in which the certification was filed with the county board of tax assessors pursuant to subsection (c) of this Code section shall be considered and counted as the first year of eligibility.

(2) Property which is subject to preferential assessment 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 preferential assessment.

(3) The local taxing authority shall enter upon the tax digest as the basis or value of a parcel of brownfield property a value equal to the lesser of the acquisition cost of the property or the assessment of the fair market value of the property as recorded in the county tax digest at the time application for participation in the Hazardous Site Reuse and Redevelopment Program was submitted to the Environmental Protection Division of the Department of Natural Resources under Article 9 of Chapter 8 of Title 12, the "Georgia Hazardous Site Reuse and Redevelopment Act," as amended. Property classified as brownfield property shall be recorded upon the tax digest as provided in this Code section for ten consecutive assessment years, or as extended pursuant to subsection (o) of this Code section, unless sooner disqualified pursuant to subsection (e) of this Code section, and the notation "brownfield property" shall be entered on the tax digest adjacent to the valuation of such property to indicate that the property is being preferentially assessed. The local taxing authority shall also enter upon the tax digest an assessment of the fair market value of the property each year, excluding the provisions of subparagraph (F) of

paragraph (3) of ***Code Section 48-5-2***.

(e)(1) When property has once been classified and assessed as brownfield property, it shall remain so classified and be granted the preferential assessment until the property becomes disqualified by any one of the following:

(A) Written notice by the taxpayer to the local taxing authority to remove the preferential classification and assessment;

(B) Sale or transfer of ownership to a person not subject to property taxation or making the property exempt from property taxation except a sale or transfer to any authority created by or pursuant to the Constitution of Georgia, statute or local legislation, including a development authority created pursuant to ***Code Section 36-62-4***, constitutional amendment or local legislation, a downtown development authority created pursuant to ***Code Section 36-42-4***, an urban redevelopment agency created pursuant to ***Code Section 36-61-18***, a joint development authority created pursuant to ***Code Section 36-62-5.1*** or a housing authority created pursuant to ***Code Section 8-3-4***;

(C) Revocation of a limitation of liability by the Department of Natural Resources. The Department of Natural Resources has the authority to revoke a limitation of liability pursuant to Article 9 of Chapter 8 of Title 12, the "Georgia Hazardous Site Reuse and Redevelopment Act," as amended. The sale or transfer to a new owner shall not operate to disqualify the property from preferential classification and assessment so long as the property continues to qualify as brownfield property, except as specified in subparagraph (B) of this paragraph; or

(D) The later of the expiration of ten years during which the property was classified and assessed as brownfield property or the expiration of this preferential assessment period as extended pursuant to subsection (o) of this Code section; or

(E) The tax savings accrued on the property equal the eligible brownfield costs certified by the Environmental Protection Division of the Department of Natural Resources and submitted to the local taxing authority.

(2) Except as otherwise provided in this Code section, if a property becomes disqualified pursuant to subparagraph (C) of this subsection, the decertification shall be transmitted to the county board of tax assessors by the Environmental Protection Division of the Department of Natural Resources 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.

(f) After a qualified brownfield property begins to receive preferential tax treatment the property owner shall:

(1) In a sworn affidavit, report his or her tax savings realized for each year to the local taxing

authority. Such report shall include:

(A) The number of years preferential tax treatment pursuant to this Code section has been received;

(B) Total certified eligible brownfield costs;

(C) Tax savings realized to date;

(D) Transfers of eligible brownfield costs, if any;

(E) Eligible brownfield costs remaining;

(2) In the tax year in which the taxes otherwise due on the fair market value of the property exceed any remaining eligible brownfield costs, the taxpayer shall pay the taxes due on the fair market value of the property less any remaining eligible brownfield costs.

(g) A qualified brownfield property may be transferred or leased and continue to receive preferential tax treatment if:

(1) The transferee or lessee of the property is an entity required to pay ad valorem property tax on the qualified brownfield property or an interest therein;

(2) The transferee or lessee complies with all of the requirements of this Code section;

(3) The transferee or lessee meets the requirements of ***Code Section 12-8-206***;

(4) The transferee or lessee continues any and all activities, if any are required, for the continuation of a limitation of liability pursuant to Article 9 of Chapter 8 of Title 12, the "Georgia Hazardous Site Reuse and Redevelopment Act," as amended;

(5) The transferee or lessee and the transferor notify the local taxing authority with respect to the transfer of the qualified brownfield property by filing a separate copy of the transfer with the local taxing authority no later than 90 days following the date of the transfer;

(6) Failure to timely notify one local taxing authority shall not affect any timely notification to any other local taxing authority; and

(7) The transfer of property shall not restart, reset or otherwise lengthen the period of preferential tax treatment pursuant to this Code section.

(h) A qualified brownfield property may be subdivided into smaller parcels and continue to receive preferential tax treatment if:

(1) All of the requirements of subsection (g) above are met; and

(2) The transferee and transferor agree and jointly submit to the local taxing authority a sworn affidavit stating the eligible brownfield costs being transferred to the subdivided property, to wit:

(A) A transferor's report to the local taxing authority shall include:

(i) The total certified eligible brownfield costs for the qualified brownfield property;

(ii) The tax savings realized to date;

(iii) The eligible brownfield costs being transferred;

(iv) The number of years of preferential tax treatment pursuant to this Code section has been received;

(v) The eligible brownfield costs remaining;

(vi) A request to establish the taxable base of the transferred property and reestablish the taxable base for the retained property pursuant to paragraph (3) below.

(B) Failure to file a sworn affidavit with one local taxing authority shall not affect any sworn affidavit submitted to any other local taxing authority.

(C) A transferee's first report to the local taxing authority shall include:

(i) A statement of the amount of the transferred eligible brownfield costs;

(ii) The number of years of preferential tax treatment the property received prior to transfer (carry over from transferor); and

(iii) A request to establish a taxable base for the property pursuant to paragraph (3) below.

(D) Subsequent reports made by a transferee shall include the same information provided by property owners in paragraph (1) of subsection (f) of this Code section.

(3) The taxable base for the subdivided property shall be established by the local taxing authority based on the ratio of acres purchased to total acres at the time of the establishment of the taxable base for the entire qualified brownfield property. Said ratio shall be applied to the taxable base as recorded in the county tax digest at the time the application was received by the Environmental Protection Division for participation in the Hazardous Site Reuse and Redevelopment Program. The taxable base on the retained qualified brownfield property shall be decreased by the amount of taxable base assigned to the subdivided portion of the property.

(4) The subdivision of property shall not restart, reset, or otherwise lengthen the period of

preferential tax treatment pursuant to this Code section.

(i) In the year in which preferential tax treatment ends, the taxpayer shall be liable for any and all ad valorem taxes due on the property for which a certified eligible brownfield cost is not claimed as an offset.

(j) The Environmental Protection Division of the Department of Natural Resources shall review the eligible costs submitted by the applicant/taxpayer and shall approve or deny those costs prior to those costs being submitted to the local tax authority. Eligible costs to be certified as accurate by the Environmental Protection Division shall be submitted by the applicant to the division at such time and in such form as is prescribed by the division. Eligible costs may be submitted for certification only once for each assessment or remediation undertaken pursuant to Article 9 of Chapter 8 of Title 12, the "Hazardous Sites Reuse and Redevelopment Act," as amended. The certification of costs shall be a decision of the director and may be appealed in accordance with subsection (c) of ***Code Section 12-2-2***.

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

(l) Taxpayers shall have the same rights to appeal from the determination of the taxable base and assessments and reassessments of qualified brownfield property as set out in ***Code Section 48-5-311***.

(m) A penalty shall be imposed under this subsection if during the special classification period the taxpayer fails to abide by the corrective action plan. The penalty shall be applicable to the entire tract which is the subject of the special classification and shall be twice the difference between the total amount of tax paid pursuant to preferential assessment under this Code section and the total amount of taxes which would otherwise have been due under this chapter for each completed or partially completed year of the special classification period. Any such penalty shall bear interest at the rate specified in ***Code Section 48-2-40*** from the date the special classification is breached.

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

(o) (1) Notwithstanding anything to the contrary in subsections (a) through (n) of this Code section, a qualified brownfield property may be eligible for preferential assessment in accordance with the provisions of subsection (c.4) of ***Code Section 48-5-7*** for a period not to exceed 15 years under the following circumstances:

(A) Construction of improvements on the property commenced but thereafter ceased for a period in excess of 180 days;

(B) After a delay in excess of 180 days, construction of improvements on the property resumed; and

(C) The owner of the qualified brownfield property submits a sworn certification to the county board of tax assessors stating the date on which construction first commenced, the date on which construction ceased, and the date on which construction resumed.

(2) Upon receipt of the certification required by subparagraph (C) of paragraph (1) of this subsection, the county board of tax assessors shall extend the period of preferential assessment for one year for each 365 days of construction inactivity for up to a maximum of five consecutive years. Under no circumstances shall the period of preferential assessment exceed 15 consecutive years.

Brownfield Explanation by: Arnall Golden Gregory LLP

Brownfield Cleanup – Georgia's Property Tax Freeze
Georgia House Bill 531
A Non-Technical Explanation

On May 14, 2003, Governor Sonny Perdue signed House Bill 531 (HB531) into law. HB531 provides a limited property tax freeze to encourage the assessment and cleanup of Brownfield properties. Brownfield properties may be on the Superfund list, have a pre-existing release of a hazardous substance, and are not associated with the person proposing to reuse it. A few years ago, the legislature adopted a provision granting limited liability to an innocent purchaser if a Brownfield property is cleaned up to the satisfaction of the Georgia Department of Natural Resources Environmental Protection Division (EPD).

HB531 freezes the fair market value of Brownfield property which is cleaned up to EPD standards to its pre-clean up fair market value (fmv). This designation remains until the tax savings from taxation at its pre-clean up fmv versus the taxes otherwise due on the after clean-up fmv of the property equal the cost of assessment and remediation as certified by the EPD. For example, assume a Brownfield property with a pre-clean up fmv of $1,000 and an after clean up and redevelopment fmv of $10,000. Assume also that the applicable property taxes on $1,000 would be $10, the property taxes on $10,000 would be $100, EPD certified assessment and cleanup costs totaled $270 and that the fmv of the redeveloped property does not increase above $10,000. Under HB531, the owner of the cleaned up Brownfield property would pay $10 of property tax for three years, thereby saving $270 ($90 x 3) of property tax which would have otherwise been paid. Thereafter, the normal property taxes would be due, that is, $100 per year on a fmv of $10,000.

Assume the same facts, except the total EPD certified assessment and cleanup costs were $325. The owner would pay $10 of property tax for three years, $45 for year four [$100 – ($325

- $270)] and $100 for each year thereafter on the after clean up and redevelopment fmv of $10,000.

Assume the same facts as the first example, except assume the EPD certified total assessment and cleanup costs were $1,200. The owner of the Brownfield property would pay $10 of property tax per year for ten years, saving a total of $900 (90 x 10). Thereafter, normal property taxes on the then fmv would be due. Because the tax reduction program includes a 10 year limitation, the owner would not recover $300 of assessment and remediation costs. Even if all the costs of EPD certified assessment and remediation are not recovered, the period for which the fair market value is frozen is limited to ten years.

In order to qualify for preferential tax assessment under HB531, an innocent prospective purchaser must submit a corrective action plan to the EPD. This plan must outline the purchaser's plans for bringing the property up to the EPD's standards. After being approved by the EPD for a limitation of liability, a purchaser can buy the property and begin to clean and redevelop it. While cleaning up the property, the owner pays taxes as usual on the increasing fair market value of the property. At a time specified by the EPD, the property owner must submit a certification of compliance with EPD standards to the EPD.

If this certification is approved, the property owner may then submit to the EPD an accounting of all the costs that the purchaser spent on cleaning up the property. HB531 will only allow a property owner to recover the costs required to clean the property up to the EPD's standards – it does not compensate for such costs as employee salaries, construction costs, or the price of the property itself. After these costs are certified, the property owner may go to the appropriate county board of tax assessors and request a freeze of the fair market value of the property.

If approved, the board will freeze the fair market value of the property at the lesser of either the price the purchaser actually paid for the property, or the fair market value of the property when the first application was made to the EPD prior to clean up. Thereafter, the property owner pays taxes based on the frozen pre-clean up fair market value until all of the cleanup costs are recovered through tax savings or until ten years elapse, whichever occurs first.

Please note that the freeze is actually of the fair market value of the Brownfield property – not the applicable property tax. The term and concept "property tax freeze" is used for simplicity. If a taxing authority changes its millage rate, then the EPD certified costs may be recovered more or less quickly than originally anticipated based upon the millage rates at the time of the cleanup.

A Brownfield property receiving preferential tax treatment can be sold, leased, transferred, or subdivided while still retaining the preferential assessment as long as the potential transferee is innocent with regard to the original pollution and as long as the purchaser continues to follow the activities required by the corrective action plan. If at any point, the owner of a Brownfield property stops following the corrective action plan approved by the EPD, a penalty

will be imposed that is calculated as twice the value of the total tax savings accrued by the property owner to date. While receiving preferential treatment, a property owner must submit yearly affidavits to the relevant taxing authorities that include the number of years preferential treatment has been received and the amount of eligible costs remaining.

Frequently Asked Questions and Answers

What is a Brownfield or Contaminated Property?

For the purposed of this property tax program, a Brownfield or contaminated property is a property that qualifies for participation in the State's Hazardous Site Reuse and Redevelopment Program. These properties have a pre-existing release of a hazardous substance which an innocent purchaser proposes to clean up.

Are there limits to who may apply?

Yes, only persons who are innocent with regard to the contamination on the Brownfield property can participate in the property tax program. If a potential purchaser contributed to the release or is in any way affiliated with one who did, the preferential tax program will not apply.

Are there limits on the preferential property tax treatment?

Yes, there are several. First, the EPD must certify that the costs of assessment and cleanup are "eligible costs" as described in the legislation. The taxpayer may recover no more than the eligible costs and is removed from the program at the time that those costs are recovered. Second, a taxpayer will be removed from the program after ten years of participation even if it has not recovered its costs. Finally, if the EPD finds that the taxpayer has not properly cleaned up the Brownfield property, the preferential property tax treatment is withdrawn.

At what amount is the fair market value of the property frozen?

The fair market value of the property is determined in one of two ways. It is either the price actually paid for the property by the owner of it is the property's value at the time of application to the EPD, whichever is lesser. The property owner pays taxes based on this fair market value until the costs of clean up are recovered.

Does the preferential property tax treatment include newly developed improvements (for example, buildings) on the property?

Yes. The Brownfield property's fair market value, including new improvements, is frozen. This means improvements made after cleanup are not taxed until the EPD certified cleanup costs are recovered, or ten years, whichever occurs first.

Does the preferential property tax treatment go into effect only after the property is cleaned up?

Yes. While the property is being cleaned up, the property owner pays taxes normally. After the property is up to the EPD's standards, the property owner can have the costs of clean up certified and begin paying taxes based on the lower of the fair market value at time of application to the EPD or the price actually paid for the property.

How does the local taxing authority know how much of the total EPD certified cleanup costs a property owner has recovered so far?

A qualified Brownfield property owner must submit yearly reports to the local taxing authorities which keep track of how much of the cleanup costs have been recovered, how much is still outstanding, and for how many years the property has been receiving preferential treatment.

What happens if in cleaning up the property, the property owner discovers that the corrective action plan submitted to the EPD cannot be followed as is and needs to be modified?

In order to modify the corrective action plan, a property owner needs to obtain approval from the director of the EPD. Moreover, despite the original approval of the corrective action plan, if the director determined that the corrective action plan needs to be modified, the property owner must alter it accordingly or risk losing both the preferential tax treatment and the limitation of liability.

Does a prospective purchaser have to first buy the property then apply for preferential tax treatment?

No. A prospective buyer can first apply for the limitation of liability certification and then buy the property after having the corrective action plan approved. The property owner must fully clean up the property, however, before receiving preferential tax treatment.

Are the cleanup and redevelopment costs certified by the EPD before or after the property owner spends the money to clean up the property?

The cleanup costs are certified by the EPD after the property owner has cleaned up the property.

Is the fair market value of the property certified frozen at the time of application to the EPD and not thereafter changed until the certified costs are recouped?

Not exactly. First, the property owner has to clean up the property to EPD approval. While that's going on, the property owner pays property taxes on the actual fair market value. Once the property is cleaned up to EPD standards, then the property owner applies for a certification of compliance from the EPD. After receiving EPD's certification, the property owner then applies to the appropriate county board of tax assessors. At this point, the board reviews the application and fixes the taxable base of the property at the lesser of its pre-clean up fair market value or purchase price. From this point on, the market value of the property is frozen, and does not change until the cleanup costs are recovered, or ten years elapse, whichever occurs first.

Are the $3,000 application fee and the EPD assessment costs recoverable under HB351?

This is not clear.

What happens if the property owner stops following the corrective action plan?

The property owner will be penalized. The penalty imposed for not abiding by the corrective action plan is twice the amount of tax savings recovered under the Brownfield preferential property tax program. The property owner may also lost the limitation of liability and become a responsible party for the entire cleanup of the site.

How often is the property assessed?

The property is assessed yearly so as to fix the correct tax savings. In order to recover the cleanup costs, the county board of tax assessors must determine the difference between the taxes due on the frozen fair market value and the taxes due on the actual fair market value. Therefore, the actual fair market value is assessed yearly. The higher the fair market value of the cleanup Brownfield property, the more quickly the EPD certified costs get recovered.

Does the preferential property tax treatment survive the transfer of the property?

Yes, provided that the new owner is also an innocent person with regard to the contamination being cleaned up, that the eligible cleanup costs associated with the Brownfield property have not yet been recovered by the freeze of fair market value, and that the new owner continued to comply with the terms of the corrective action plan, if any.

If the property is divided, does the preferential property tax treatment survive? How is it shared?

Yes. The property tax benefits are shared between the property owners based upon the ratio of acres owned by a particular taxpayer to the total acres of the Brownfield property. The EPD certified cleanup costs, however, can be split between the property owners in any way they wish.
Does the transfer of the property extend or increase the time that a property may receive preferential treatment?

No.

Why are we doing this?
The unknown costs and time required for cleanup of environmental contamination causes uncertainty and, in the past, unacceptable risk for developers and investors. By providing this property tax freeze, abandoned or under-used properties that have sat idle for years become more attractive. This spurs economic redevelopment in the areas that would otherwise have none.

Will this affect State, County, City, or School Board revenue?

By freezing the property tax at the current level on the cleaned up Brownfield property, state, county, city and school board revenues are protected. It is true that there will be a delay in the receipt of new property tax revenue based on the increased fair market value of the cleaned up property until the EPD certified cleanup costs have been recovered, but in no case will this delay be more than ten years. Redevelopment of Brownfield properties should almost immediately generate additional sales tax revenues for local taxing authorities.

Are there traps for the unwary?
Yes. For example, note that the initial application for the fair market value freeze is made to the appropriate county board of tax assessors. The annual sworn affidavit, however, is made to the "local taxing authority." There are often a number of local taxing authorities, for example, a city, a county, and a school board. The notification upon transfer must all also be made to the "local taxing authority."

John C. Spinrad
Arnall Golden Gregory, LLP
1201 West Peachtree Street
2800 One Atlantic Center
Atlanta, GA 30309-3450
Telephone: (404) 873-8666
Fax: (404) 873-8667
Email: john.spinrad@agg.com

John L. Gornall, Jr.
Arnall Golden Gregory, LLP
1201 West Peachtree Street
2800 One Atlantic Center
Atlanta, GA 30309-3450
Telephone: (404) 873-8650
Fax: (404) 873-8651
Email: john.gornall@agg.com

Macon Office:
201 Second Street Suite 1000
Macon, GA 31201
Telephone (478) 745-3344

Chapter Four Rehabilitated Historical Property

Eligibility Requirements for Rehabilitated Historic Property

A. Property must qualify for listing on the Georgia Register of Historic Places

B. Property must have been or is in the process of having been substantially rehabilitated.

1. For owner occupied residential property, rehabilitation must increase fair market value by not less than 50%

2. For income producing real property, rehabilitation must increase fair market value by not less than 100%

3. For property used partially as residential and partially as income producing, rehabilitation must increase the fair market value by not less than 75%

C. Rehabilitation must meet standards as provided for in Georgia Department of Natural Resources regulations.

D. Property be must certified by Georgia Department of Natural Resources as being eligible for preferential assessment . (see G. below)

E. Preferential assessment shall only apply to the structure being improved plus the real property under such building and no more than two acres surrounding the structure

F. Rehabilitation must have begun after January 1, 1989 and must have been certified by the Georgia Department of Natural Resources after July 1, 1989.

G. Owner must submit a copy of the Preliminary Certification Form from Department of Natural Resources to the board of assessors and must complete the rehabilitation of the property within 24 months of the date of receipt of certification

H. Upon completion of the rehabilitation, the owner must submit to Department of Natural Resources a written request for final certification (Part B of application). If the property meets all requirements, Department of Natural Resources will issue final certification.

§48-5-7.2. Certification as Rehabilitated Historic Property for Purposes of Preferential Assessment.

(a) (1) For the purposes of this article, "rehabilitated historic property" means tangible real property which:

(A) Qualifies for listing on the Georgia Register of Historic Places as provided in Part 1 of Article 3 of Chapter 3 of Title 12;

(B) Is in the process of or has been substantially rehabilitated, provided that in the case of owner occupied residential real property the rehabilitation has increased the fair market value of the building or structure by not less than 50 percent, or, in the case of income-producing real property, the rehabilitation has increased the fair market value of the building or structure by not less than 100 percent, or, in the case of real property used primarily as residential property but partially as income-producing property, the rehabilitation has increased the fair market value of the building or structure by not less than 75 percent, provided that the exact percentage of such increase in the fair market value to be required shall be determined by rules and regulations promulgated by the Board of Natural Resources. For the purposes of this subparagraph, the term "fair market value" shall mean the fair market value of the property, excluding the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2;

(C) The rehabilitation of which meets the rehabilitation standards as provided in regulations promulgated by the Department of Natural Resources; and

(D) Has been certified by the Department of Natural Resources as rehabilitated historic property eligible for preferential assessment.

(2) The preferential classification and assessment of rehabilitated historic property provided for in this Code section shall apply to the building or structure which is the subject of the rehabilitation, the real property on which the building or structure is located, and not more than two acres of real property surrounding the building or structure. The remaining property shall be assessed for tax purposes as otherwise provided by law.

(3) Property may qualify as historic property only if substantial rehabilitation of such property was initiated after January 1, 1989, and only property which has been certified as rehabilitated historic property by the Department of Natural Resources after July 1, 1989, may qualify for preferential assessment.

(b) In order for property to qualify for preferential assessment as provided for in subsection (c) of Code Section 48-5-7, the property must receive certification as rehabilitated historic property as defined in paragraph (1) of subsection (a) of this Code section and pursuant to regulations promulgated by the Department of Natural Resources. Applications for certification of such

property shall be accompanied by a fee specified by rules and regulations of the Board of Natural Resources. The Department of Natural Resources may, at its discretion, delegate its responsibilities conferred under subparagraph (a)(1)(C) of this Code section.
(c) Upon a property owner's receiving preliminary certification pursuant to the provisions of subsection (b) of this Code section, such property owner shall submit a copy of such preliminary certification to the county board of tax assessors. A property owner shall have 24 months from the date that preliminary certification is received pursuant to subsection (b) of this Code section in which to complete the rehabilitation of such property in conformity with the application approved by the Department of Natural Resources. After receiving the preliminary certification from the property owner, the county board of tax assessors shall not increase the assessed value of such property during the period of rehabilitation of such property, not to exceed two years. During such period of rehabilitation of the property, the county tax receiver or tax commissioner shall enter upon the tax digest a notation that the property is subject to preferential assessment and shall also enter an assessment of the fair market value of the property, excluding the preferential assessment authorized by this Code section. Any taxes not paid on the property as a result of the preliminary certification and frozen assessed value of the property shall be considered deferred until a final determination is made as to whether such property qualifies for preferential assessment as provided in this Code section.

(d) Upon the completion of the rehabilitation of such property, the property owner shall submit a request in writing for final certification to the Department of Natural Resources. The Department of Natural Resources shall determine whether such property as rehabilitated constitutes historic property which will be listed on the Georgia Register of Historic Places and which qualifies for preferential assessment. The Department of Natural Resources shall issue to the property owner a final certification if such property so qualifies.

(e) Upon receipt of final certification from the Department of Natural Resources, a property owner desiring classification of any such historic property as rehabilitated historic property in order to receive the preferential assessment shall make application to the county board of tax assessors and include the order of final certification with such application. The county board of tax assessors shall determine if the value of the building or structure has been increased in accordance with the provisions of subparagraph (a)(1)(B) of this Code section; provided, however, that, if the property owner can document expenditures on rehabilitation of owner occupied property of not less than 50 percent of the fair market value of the building or structure at the time of the preliminary certification of the property, or, in the case of income-producing property, expenditures on rehabilitation of such property of not less than 100 percent of the fair market value of the building or structure at the time of preliminary certification of the property, or, in the case of real property used primarily as residential property but partially as income-producing property, expenditures on rehabilitation of such property of not less than 75 percent of the fair market value of the building or structure at the time of preliminary certification of the property, the county board of tax assessors shall be required to grant preferential assessment to such property. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of the building or structure, excluding the provisions of subparagraph (C) of

paragraph (3) of Code Section 48-5-2; and such rehabilitation expenditures shall also include expenditures incurred in preserving specimen trees upon not more than two acres of real property surrounding the building or structure. As used in this Code section, the term "specimen tree" means any tree having a trunk diameter of 30 inches or more. The county board of tax assessors shall make the determination within 30 days after receiving the application and shall notify the applicant in the same manner that notices of assessment are given pursuant to Code Section 48-5-306. Appeals from the denial of an application for preferential assessment by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.

(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.

(g) (1) Property which has been classified by the county board of tax assessors as rehabilitated historic property shall be eligible for the preferential assessment provided for in subsection (c) of Code Section 48-5-7; provided, however, that, for the purposes of determining the years of eligibility for preferential assessment, the tax year following the year in which the preliminary certification was filed with the county board of tax assessors pursuant to subsection (c) of this Code section shall be considered and counted as the first year of eligibility.

(2) Property which is subject to preferential assessment 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 preferential assessment.

(3) The county tax receiver or tax commissioner shall enter upon the tax digest as the basis or value of a parcel of rehabilitated historic property a value equal to the greater of the acquisition cost of the property or the assessment of the fair market value of the property as recorded in the county tax digest at the time preliminary certification on such property was received by the county board of tax assessors pursuant to subsection (c) of this Code section. Property classified as rehabilitated historic property shall be recorded upon the tax digest as provided in this Code section for nine consecutive assessment years, and the notation "rehabilitated historic property" shall be entered on the tax digest adjacent to the valuation of such property to indicate that the property is being preferentially assessed. The tax commissioner or tax receiver shall also enter upon the tax digest an assessment of the fair market value of the property each year, excluding the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2.

(h) When property has once been classified and assessed as rehabilitated historic property, it shall remain so classified and be granted the special assessment until the property becomes disqualified by any one of the following:

(1) Written notice by the taxpayer to the county tax commissioner or receiver to remove the preferential classification and assessment;

(2) Sale or transfer of ownership making the property exempt from property taxation;

(3) Decertification of such property by the Department of Natural Resources. 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. The sale or transfer to a new owner shall not operate to disqualify the property from preferential classification and assessment so long as the property continues to qualify as rehabilitated historic property. When for any reason the property or any portion thereof ceases to qualify as rehabilitated historic property, the owner at the time of change shall notify the Department of Natural Resources and the county board of tax assessors prior to the next January; or

(4) The expiration of nine years during which the property was classified and assessed as rehabilitated historic property; provided, however, that any such property may qualify thereafter as rehabilitated historic property if such property is subject to subsequent rehabilitation and qualifies under the provisions of this Code section.

(i) Any person who is aggrieved or adversely affected by any order or action of the Department of Natural Resources pursuant to this Code section shall, upon petition within 30 days after the issuance of such order or taking of such action, have a right to a hearing before an administrative law judge appointed by the Board of Natural Resources. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the Department of Natural Resources, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(j) (1) The taxes and interest deferred pursuant to this Code section shall constitute a prior lien and shall attach as of the date and in the same manner and shall be collected as are other liens for taxes, as provided for under this title, but the deferred taxes and interest shall only be due, payable, and delinquent as provided in this Code section.
(2) Liens for taxes deferred under this Code section, except for any lien covering the then current tax year, shall not be divested by an award for year's support authorized pursuant

to Chapter 5 of Title 53 of the "Pre-1998 Probate Code," if applicable, or Chapter 3 of Title 53 of the "Revised Probate Code of 1998."

Code 1981, § 48-5-7.2, enacted by Ga. L. 1989, p. 1585, § 3; Ga. L. 1992, p. 6, § 48; Ga. L. 1998, p. 128, § 48; Ga. L. 2000, p. 775, § 1.

Annotations

The 1998 amendment, effective March 27, 1998, part of an Act to correct errors and omissions in the Code, inserted "of the 'Pre-1998 Probate Code,' if applicable, or Chapter 3 of Title 53 of the 'Revised Probate Code of 1998'" in paragraph (2) of subsection (j).

The 2000 amendment, effective July 1, 2000, in subsection (e), added "; and such rehabilitation expenditures shall also include expenditures incurred in preserving specimen trees upon not more than two acres of real property surrounding the building or structure." and added the fourth sentence.

Code Commission notes. - Pursuant to Code Section 28-9-5, in 1991, "owner's" was substituted for "owner" near the beginning of subsection (c), and "taxpayer" was substituted for "tax payer" in paragraph (1) of subsection (h).

Law reviews. - For article, "The Tax Abatement Program for Historic Properties in Georgia", see 28 Ga. St. B.J. 129 (1992).

For note on 1989 enactment of this Code section, see 6 Ga. St. U.L. Rev. 173 (1989). For note on 2000 amendment of O.C.G.A. § 48-5-7.2, see 17 Ga. St. U.L. Rev. 274 (2000).

Judicial Decisions

Final certification from Department of Natural Resources not required in two-year time frame.- Under O.C.G.A. § 48-5-7.2, an owner needed only to complete the rehabilitation of property within 24 months in order to be allowed to apply for and obtain certification of the property as rehabilitated historic property for purposes of preferential assessment under O.C.G.A. § 48-5-7(c) and there was no statutory basis that the owner obtain final certification for the Department of Natural Resources within that two year time frame. Chatham County Bd. of Tax Assessors v. Emmoth, 278 Ga. 144, 598 S.E.2d 495 (2004).

Typical application process if followed properly

1. Residential property built in 1910 is located on 2 acres of real property in Taylor County, Georgia.

2. The Property sells for $70,000 in 2018

3. New owners wish to completely rehabilitate their new home at a projected cost of $90,000, with the work to begin in 2019.

4. The current ad valorem valuation is $68,500.

5. The owners submit Part A of the Rehabilitated Historic Property Application to the Historic Preservation Section of the Georgia Department of Natural Resources

6. Department of Natural Resources determines that the property qualifies in all respects for preliminary certification and returns the approved Part A to the owner in 2019.

7. Owner files copy of preliminary certification (#5 above) with local board of tax assessors (sometime between Jan.1-April 1, 2019). This freezes the valuation at $68,500 for 2019 and 2020.

8. The work is completed in 2021 at a documented cost of $85,000 the owner notifies the board of assessors. The board of assessors establishes the new market value at $160,000. Department of Natural Resources receives application for and issues the approval for Final Certification.

9. The board of assessors determine that the sales price of $70,000 is the higher of the two (assessment at the time of submission of part a or the sales price). The frozen value will remain at $70,000 until 2026.

   Beginning 2027, the fair market value increases to $185,000.

   The taxable valuation for 2027 would rise to $127,500 ($70,000 + ½ ($185,000 - $70,000).

10. In 2028, the tax valuation would be increased to the full fair market value of $185,000.

Subject 110-37-3 Preliminary and Final Certification of Rehabilitated Historic Property

Rule 110-37-3-.01 Definitions

(1) "Building". A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

(2) "Department" means the Department of Community Affairs.

(3) "Georgia Register of Historic Places" or "Georgia Register" means the Georgia Register of districts, sites, buildings, structures, and objects significant in Georgia history, architecture, engineering, and culture.

(4) "Historic District" means a geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(5) "Historic Property" is defined in O.C.G.A. § 12-3-50.2 and means districts, sites, buildings, structures, or objects which possess integrity of location, design, setting, materials, workmanship, feeling, and association and which are determined to meet the criteria for listing in the Georgia Register of Historic Places according to the criteria outlined in these regulations.

(6) "National Historic Preservation Act" means the Act of Congress codified at 16 U.S.C.

(7) "National Register of Historic Places" means the national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture, maintained by the Secretary of the Interior under authority of the National Historic Preservation Act.

(8) "Rehabilitated Historic Property" means tangible real property which:

(a) qualifies for listing on the Georgia Register of Historic Places as provided in O.C.G.A. § 12-3-3.1;

(b) is in the process of or has been substantially rehabilitated and is owner occupied residential real property, income-producing real property, or real property used primarily as residential property but partially as income-producing property;

(c) has been rehabilitated and meets the DCA's rehabilitation standards; and

(d) has been certified by the DCA as rehabilitated historic property eligible for preferential assessment.

(9) "Rehabilitation" means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the building(s) which are significant to its historic, architectural and cultural values.

(10) "State Historic Preservation Office" means the office within state government which carries out the function of the state historic preservation program under the National Historic Preservation Act. In Georgia, this is the Historic Preservation Division, Department of Community Affairs.

(11) "State Historic Preservation Officer" means the official designated by the Governor of Georgia to administer the state's historic preservation program under the National Historic Preservation Act and O.C.G.A. § 12-3-50.1(c)(13).

(12) "Substantially Rehabilitated Property". A building shall be treated as having been substantially rehabilitated for a taxable year only if:

(a) rehabilitation began after January 1, 1989;

(b) rehabilitation is completed within 24 months from the date that preliminary certification is received pursuant to these rules; and

(c) the rehabilitation has increased the fair market value of the building by not less than:

1. 50 percent of fair market value of the building or structure at the time of preliminary certification for owner occupied residential real property; or

2. 100 percent of fair market value of the building or structure at the time of preliminary certification for income-producing real property; and/or

3. 75 percent of fair market value of the building or structure at the time of preliminary certification for mixed residential and income-producing property, as long as the property is primarily residential. The county tax board in which the property is located shall make this determination.

(d) If rehabilitation work was initiated after January 1, 1989, and before August 1, 1990, special consideration shall be granted. Rehabilitation work during this time period shall be considered made after the date preliminary certification is filed with the tax assessor.

(e) The County tax board in which the property is located shall make the determinations set forth in (c), 1., 2., 3 above.

Rule 110-37-3-.02 Requirements for Preliminary and Final Certification of Rehabilitated Historic Properties

(1) In order to be eligible for certification as rehabilitated historic property a property must:

(a) qualify for listing in the Georgia Register; and

(b) be substantially rehabilitated in accordance with the Department's Standards for Rehabilitation; and

(c) Matters of valuation are not the concern of the Department.

(2) Certification of rehabilitated historic property shall apply to the building or structure which is rehabilitated, the real property on which the building is located, and not more than two (2) acres of real property surrounding the building or structure. The remaining property may be assessed by local authorities for tax purposes as otherwise provided by law.

(3) To qualify for certification of rehabilitated historic property, the property owner must:

(a) submit an application for preliminary certification (Part A) and receive approval from the Department that the property qualifies as rehabilitated historic property. Specific requirements of the application are further defined in 110-37-3-.03 of these rules.

(b) upon completion of the rehabilitation, submit a request to the Department for final certification (Part B) and receive approval of the request.

Rule 110-37-3-.03 Standards for Rehabilitation

(1) The following "Standards for Rehabilitation" are used to determine if a rehabilitation project of a certified historic property qualifies as a certified rehabilitation for certification. The Standards shall be applied taking into consideration the economic and technical feasibility of each project; in the final analysis, however, to be certified, the rehabilitation project must be consistent with the historic character of the structure(s) and, where applicable, the district in which it is located.

(a) A property shall be used or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(d) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

(f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(j) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Rule 110-37-3-.04 Decertification as Rehabilitated Historic Property Conditions

(1) Certification may be revoked by the Department if it is determined that the property ceases to qualify as rehabilitated historic property. The Department 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 if a rehabilitation project was not undertaken as presented in the rehabilitated historic property application and supporting documentation, or where the owner, upon obtaining certification, undertook unapproved further alterations as part of the rehabilitation project inconsistent with the Standards for Rehabilitation, or if the owner failed to comply with any conditions of certification. Projects may be inspected by an authorized representative of the Department to determine if the work meets the Standards for Rehabilitation.

(2) A rehabilitated historic property not in conformance with the Standards for Rehabilitation and which is determined to have lost those qualities which cause it to be nominated to the Georgia Register, will be removed from the Georgia Register. Delisting or certification of non-significance is considered effective as of the date of issue and is not considered to be retroactive. The tax consequences of a decertification will be determined by the Georgia Department of Revenue.

Rule 110-37-3-.05 Certification Procedures

(1) A Rehabilitated Historic Property Application has two parts. Part A determines the preliminary historic significance and provides preliminary approval of proposed or ongoing rehabilitation work. Part B must be submitted and approved by the Department after the rehabilitation is completed and within 24 months of receiving a Preliminary Certification pursuant to these rules. Approval of this application certifies documented rehabilitation as meeting the Department's Standards for Rehabilitation. Part A is used to determine the preliminary historic significance and whether preliminary approval of proposed or ongoing rehabilitation work shall be granted. Part B must be submitted for approval to the Department after the rehabilitation is completed. Approval of Part B certifies that the documented rehabilitation meets the Department's Standards for Rehabilitation and constitutes certification of the property by the Department as rehabilitated Historic Property.

(2) A $50.00 application fee must accompany each application for the review process to begin. Fees are payable only by cashier's check. Check should be made payable to the Georgia Department of Community Affairs. All fees are non-refundable.

(3) The Department is responsible for receiving applications to determine eligibility as rehabilitated historic property. The State Historic Preservation Officer shall make the preliminary and final determination for certification of rehabilitated historic property.

(4) Applicants shall submit documentation on forms developed by the Department for certification. The Part A form shall be used for preliminary certification of rehabilitation work and for preliminary determination of historic significance. At a minimum, this application shall include property ownership, property location, property history, description of rehabilitation, photographs, and other such information as delineated in Department instructions that, shall be needed by the Department to determine rehabilitated historic certification.

(5) Once an application has been approved, substantive changes in the work as described in the application shall be brought to the attention of the Department by written statement using Department forms for such.

(6) The Part B - Final Certification form shall be used to certify the property as rehabilitated historic property as defined in these regulations.

Chapter Five

Landmark Historic Property

Eligibility requirements for Landmark Historic Property

Property must be registered on the National or Georgia Register of Historic Places and be certified by the Georgia Department of Natural Resources.

Property must have been certified by a local government as Landmark Historic property having exceptional historic, architectural, or cultural significance pursuant to a local preservation ordinance.

Preferential assessment applies only to the qualified building, the property on which it is located and no more than two acres of real property surrounding the building.

The required local ordinance may provide for inclusion of income-producing real property, non-income producing property or combination thereof.

The property owner must make application with the local board of assessors. Such application must include certifications of Georgia Department of Natural Resources and local government.

Preferential assessment shall begin in the year following the successful application.

Preferential assessment shall be computed using the same method as that used in computing rehabilitated historic property. In year ten, assessment returns to full fair market value.

§48-5-7.3. Landmark Historic Property.

(a) (1) For the purposes of this Code section, "landmark historic property" means tangible real property which:

(A) Has been listed on the National Register of Historic Places or on the Georgia Register of Historic Places as provided in Part 1 of Article 3 of Chapter 3 of Title 12 and has been so certified by the Department of Natural Resources; and

(B) Has been certified by a local government as landmark historic property having exceptional architectural, historic, or cultural significance pursuant to a comprehensive local historic preservation or landmark ordinance which is of

general application within such locality and has been approved as such by the state historic preservation officer.

(2) The preferential classification and assessment of landmark historic property provided for in this Code section shall apply to the building or structure which is listed on the National Register of Historic Places or on the Georgia Register of Historic Places, the real property on which the building or structure is located, and not more than two acres of real property surrounding the building or structure. The remaining property shall be assessed for tax purposes as otherwise provided by law.

(3) Property may qualify as landmark historic property and be eligible to receive the preferential assessment provided for in this Code section only if the local governing authority has adopted an ordinance authorizing such preferential assessments for landmark historic property under this Code section. Notwithstanding any other provision of this paragraph, said ordinances may extend the preferential assessment authorized by this Code section to tangible income-producing real property, tangible non-income producing real property, or combination thereof, so as to encourage the preservation of historic properties and assist in the revitalization of historic areas.

(b) In order for property to qualify under this Code section for preferential assessment as provided for in subsection (c.1) of Code Section 48-5-7, the property must receive the certifications required for landmark historic property as defined in paragraph (1) of subsection (a) of this Code section.

(c) Upon receipt of said certifications, a property owner desiring classification of any such historic property as landmark historic property in order to receive the preferential assessment shall make application to the county board of tax assessors and include said certifications with such application. The county board of tax assessors shall determine if the provisions of this Code section have been complied with and upon such determination, the county board of tax assessors shall be required to grant preferential assessment to such property. The county board of tax assessors shall make the determination within 30 days after receiving the application and shall notify the applicant in the same manner that notices of assessment are given pursuant to Code Section 48-5-306. Appeals from the denial of an application for preferential assessment by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.

(d) (1) Property which has been classified by the county board of tax assessors as landmark historic property shall be immediately eligible for the preferential assessment provided for in subsection (c.1) of Code Section 48-5-7; provided, however, that, for the purposes of determining the years of eligibility for preferential assessment, the tax year following the year in which the certification was filed with the county board of tax assessors pursuant to subsection (c) of this Code section shall be considered and counted as the first year of eligibility.

(2) Property which is subject to preferential assessment 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 preferential assessment.

(3) The county tax receiver or tax commissioner shall enter upon the tax digest as the basis or value of a parcel of landmark historic property a value equal to the greater of the acquisition cost of the property or the assessment of the fair market value of the property as recorded in the county tax digest at the time certification on such property was received by the county board of tax assessors pursuant to subsection (c) of this Code section. Property classified as landmark historic property shall be recorded upon the tax digest as provided in this Code section for nine consecutive assessment years, and the notation "landmark historic property" shall be entered on the tax digest adjacent to the valuation of such property to indicate that the property is being preferentially assessed. The tax commissioner or tax receiver shall also enter upon the tax digest an assessment of the fair market value of the property each year, excluding the provisions of subparagraph (D) of paragraph (3) of Code Section 48-5-2.

(e) (1) When property has once been classified and assessed as landmark historic property, it shall remain so classified and be granted the special assessment until the property becomes disqualified by any one of the following:

(A) Written notice by the taxpayer to the county tax commissioner or receiver to remove the preferential classification and assessment;

(B) Sale or transfer of ownership making the property exempt from property taxation;

(C) Decertification of such property by the Department of Natural Resources. 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. The sale or transfer to a new owner shall not operate to disqualify the property from preferential classification and assessment so long as the property continues to qualify as landmark historic property, except as specified in subparagraph (B) of this paragraph. When for any reason the property or any portion thereof ceases to qualify as landmark historic property, the owner at the time of change shall notify the Department of Natural Resources and the county board of tax assessors prior to the next January;

(D) Decertification of such property by the local governing authority for failure to maintain such property in a standard condition as specified in the local historic preservation or landmark ordinance or in local building codes; or

(E) The expiration of nine years during which the property was classified and assessed as landmark historic property; provided, however, that any such property may qualify thereafter as landmark historic property if such property is subject to subsequent rehabilitation and qualifies under other portions of the historic properties tax incentive program contained within the provisions of this Code section.

(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.

(f) Any person who is aggrieved or adversely affected by any order or action of the Department of Natural Resources pursuant to this subsection shall, upon petition within 30 days after the issuance of such order or taking of such action, have a right to a hearing before an administrative law judge appointed by the Board of Natural Resources. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the Department of Natural Resources, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(g) No property shall be eligible to receive simultaneously more than one of the preferential assessments provided for in this Code section and Code Section 48-5-7.2.

(h) Any landmark historic property which lies within a locally designated landmark or historic preservation district which is predominantly a residential district as determined by the local governing authority shall not be eligible for the preferential assessment provided for in this subsection if such landmark historic property constitutes a nonconforming use pursuant to applicable local zoning ordinances or if such landmark historic property does not contribute to the architectural, historic, or cultural values for which said district is significant.

(i) (1) The difference between the preferential assessment granted by this Code section and the taxes which would otherwise be assessed and interest thereon shall constitute a prior lien and shall attach as of the date and in the same manner and shall be collected as are other liens for taxes, as provided for under this title, but shall only be due, payable, and delinquent as provided in this Code section.

(2) Such liens for taxes, except for any lien covering the then current tax year, shall not be divested by an award for year's support authorized pursuant to Chapter 5 of Title 53 of

the "Pre-1998 Probate Code," if applicable, or Chapter 3 of Title 53 of the "Revised Probate Code of 1998."

Code 1981, § 48-5-7.3, enacted by Ga. L. 1990, p. 1122, § 3; Ga. L. 1992, p. 6, § 48; Ga. L. 1992, p. 1502, § 1; Ga. L. 1998, p. 128, § 48.

Annotations

The 1998 amendment, effective March 27, 1998, part of an Act to correct errors and omissions in the Code, inserted "of the 'Pre-1998 Probate Code,' if applicable, or Chapter 3 of Title 53 of the 'Revised Probate Code of 1998'" in paragraph (2) of subsection (i).
Editor's notes. - Ga. L. 1998, p. 128, § 48(3), purported to amend paragraph (2) of subsection (j) of this Code section but, in fact, amended paragraph (2) of subsection (i); this Code section contains no subsection (j).

Law reviews. - For article, "The Tax Abatement Program for Historic Properties in Georgia", see 28 Ga. St. B.J. 129 (1992).

Chapter Six

Preferential Assessment for Agricultural Property

Eligibility Requirements for Preferential Tax Assessments for Agricultural Property

A. Property qualifications

1. Must be tangible real property devoted to bona fide agricultural purposes

   a. Primary use of land must be good faith commercial production of agricultural products i.e. horticultural, floricultural, forestry, dairy, livestock, poultry, and apiarian products and all other forms of farm products

   b. Includes only $100,000 or less of buildings used for processing or storing of products

   c. Excludes all residences on the property

   d. Limited to 2000 acres of a person.

B. Ownership requirements

1. Property must be owned by either:

   a. One or more naturalized citizens

   b. A family farm corporation with restrictions requiring the owners shall be kin within the fourth degree of civil reckoning.

C. Covenant requirement

1. Owner must agree to the same ten year covenant as required under conservation use statues

§48-5-7.1. Tangible Real Property Devoted to Agricultural Purposes

Definition; persons entitled to preferential tax assessment; covenant to maintain agricultural purposes; penalty for breach of covenant.

(a) For purposes of this article, "tangible real property which is devoted to 'bona fide agricultural purposes' ":

(1) Is tangible real property, the primary use of which is good faith commercial production from or on the land of agricultural products, including horticultural, floricultural, forestry, dairy, livestock, poultry, and apiarian products and all other forms of farm products; but

(2) Includes only the value which is $100,000.00 or less of the fair market value of tangible real property which is devoted to the storage or processing of agricultural products from or on the property; and

(3) Excludes the entire value of any residence located on the property.

(b) No property shall qualify for the preferential ad valorem property tax assessment provided for in subsection (b) of Code Section 48-5-7 unless:

(1) It is owned by one or more natural or naturalized citizens; or

(2) 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.

(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**.**

(d) No property shall qualify for preferential assessment unless and until the owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in bona fide agricultural purposes for a period of at least ten years beginning on the first day of January of the year in which such property qualifies for preferential assessment and ending on the last day of December of the tenth year of the covenant period. After the expiration of any ten-year covenant period, the property shall not qualify for further preferential assessment

until and unless the owner of the property enters into a renewal covenant for an additional period of ten years.

(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.

(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.

(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:

(1) A factor of five if the breach occurs in the first or second year of the covenant period;

(2) A factor of four if the breach occurs during the third or fourth year of the covenant period;

(3) A factor of three if the breach occurs during the fifth or sixth year of the covenant period; or

(4) A factor of two if the breach occurs in the seventh, eighth, ninth, or tenth year of the covenant period.

(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.

(i) 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 in question as provided in this Code section.

(j) The penalty imposed by subsection (g) of this Code section shall not apply in any case where a covenant is breached solely as a result of:

(1) The acquisition of part or all of the property under the power of eminent domain;

(2) The sale of part or 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 a party to the covenant.

(k) All applications for preferential assessment, including the covenant agreement required under this Code section, shall be filed on or before the last day for filing ad valorem tax returns in the county for the tax year for which such preferential assessment shall be first applicable. An application for continuation of preferential assessment upon a change in ownership 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 preferential assessment shall be filed with the county board of tax assessors who shall approve or deny the application. If the application is approved on or after July 1, 1998, the county board of tax assessors shall file a copy of the approved application in the office of the clerk of the superior court in the county in which the eligible property is located. The clerk of the superior court shall file and index such application in the real property records maintained in the clerk's office. Applications approved prior to July 1, 1998, shall be filed and indexed in like manner without payment of any fee. If the application is not so recorded in the real property records, a transferee of the property affected shall not be bound by the covenant or subject to any penalty for its breach. The fee of the clerk of the superior court for recording such applications approved on or after July 1, 1998, shall be paid by the owner of the eligible property with the application for preferential treatment and shall be paid to the clerk by the board of tax assessors when the application is filed with the clerk. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311. As to property approved for preferential assessment prior to July 1, 1998, the county board of tax assessors shall file copies of all approved applications in the office of the clerk of the superior court not later than August 14, 1998, and the clerk shall file, index, and record such approved applications, as provided for in this subsection, with the fee of the clerk of the superior court for filing, indexing, and recording to be paid out of the general funds of the county.

(l) The commissioner shall by regulation provide uniform application and covenant forms to be used in making application for preferential assessment. Such application shall include an oath or affirmation by the taxpayer that he has not at any time received, or made a pending application for, preferential assessment in the same or another county with respect to any property which taken together with property for which application is then being made exceeds 2,000 acres.

(m) The commissioner shall annually submit a report to the Governor and members of the General Assembly which shall show the fiscal impact of the preferential assessment provided for in this Code section. The report shall include the amount of assessed value eliminated from each county's digest as a result of the preferential assessment; approximate tax dollar losses, by county, to all local governments affected by such preferential assessment; and any recommendations regarding state and local administration of this Code section, with emphasis upon enforcement problems, if any, attendant with this Code section. The report shall also include any other data or facts which the commissioner deems relevant.

(n) (1) The transfer prior to July 1, 1988, of a part of the property subject to a covenant shall not constitute a breach of a covenant entered into before or after July 1, 1984, if:

(A) The part of the property so transferred is used for single-family residential purposes and the residence is occupied by a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and

(B) The part of the property so transferred, taken together with any other part of the property so transferred during the covenant period, does not exceed a total of three acres.

(2) The transfer on or after July 1, 1988, of a part of the property subject to a covenant shall not constitute a breach of a covenant entered into before or after July 1, 1988, if:

(A) The part of the property so transferred is transferred to a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and

(B) The part of the property so transferred, taken together with any other part of the property transferred to the same relative during the covenant period, does not exceed a total of five acres.

(o) The following shall not constitute a breach of a covenant entered into before or after July 1, 1984:

(1) Mineral exploration of the property subject to the covenant or the leasing of the property subject to the covenant for purposes of mineral exploration if the primary use of the property continues to be the good faith commercial production from or on the land of agricultural products; or

(2) Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any land conservation program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes.

(p) Property which is subject to preferential assessment 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 readily ascertain that the property is subject to preferential assessment. Covenants shall be public records and shall be indexed and maintained in such manner as will allow members of the public to readily locate the covenant affecting any particular property subject to preferential assessment.

(q) (1) In any case in which a covenant is breached solely as a result of the foreclosure of a deed to secure debt, or the property is conveyed to the lienholder without compensation and in lieu of foreclosure, the penalty specified by paragraph (2) of this subsection shall apply and the penalty specified by subsection (g) of this Code section shall not apply if:

(A) The deed to secure debt was executed as a part of a bona fide commercial loan transaction in which the grantor of the deed to secure debt received consideration equal in value to the principal amount of the debt secured by the deed to secure debt;

(B) The loan was made by a person or financial institution who or which is regularly engaged in the business of making loans; and

(C) The deed to secure debt was intended by the parties as security for the loan and was not intended for the purpose of carrying out a transfer which would otherwise be subject to the penalty specified by subsection (g) of this Code section.

(2) When a breach occurs solely as a result of a foreclosure which meets the qualifications of paragraph (1) of this subsection, the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year in which the covenant is breached.

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

(r) (1) In any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the owner of the real property physically unable to continue the property in agricultural use, the penalty specified by paragraph (2) of this subsection shall apply and the penalty specified by subsection (g) of this Code section shall not apply. The penalty specified by paragraph (2) of this subsection shall likewise be substituted for the penalty specified by subsection (g) of this Code section in

any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the operator of the real property physically unable to continue the property in agricultural use, provided that the alternative penalty shall apply in this case only if the operator of the real property is a member of the family owning a family-farm corporation which owns the real property.

(2) When a breach occurs which meets the qualifications of paragraph (1) of this subsection, the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year during which the covenant is breached.

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

(4) Prior to the imposition of the alternative penalty authorized by this subsection in lieu of the penalty specified by subsection (g) of this Code section, the board of tax assessors shall require satisfactory evidence which clearly demonstrates that the breach is the result of a medically demonstrable illness or disability which meets the qualifications of paragraph (1) of this subsection.

(r.1) In any case in which a covenant is breached solely as a result of an owner electing to discontinue the property in its qualifying use, provided such owner has renewed without an intervening lapse at least once the covenant under this Code section, has reached the age of 65 or older, and has kept the property in a qualifying use under the renewal covenant for at least three years the penalty specified by subsection (g) of this Code section shall not apply and the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year in which the covenant is breached. Such penalty shall bear interest at the rate specified in Code Section 48-2-40 from the date of the breach. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors.

(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.

(t) 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 who shall approve the release upon verification that all taxes and penalties with respect to the property have been satisfied. After the application for release has been approved by the board of tax assessors, the board shall file the release in the office of the clerk of the superior court in the county in which the original covenant was filed.

The clerk of the superior court shall file and index such release in the real property records maintained in the clerk's office. No fee shall be paid to the clerk of the superior court for recording such release. The commissioner shall by regulation provide uniform release forms.

JUDICIAL DECISIONS

Construction with other law. - Assessments lacked uniformity in failing to follow the mandates of § 48-5-2 regarding consideration of "existing use of the property" and "other factors deemed pertinent in arriving at fair market value" and in failing to exempt standing timber under the mandate of paragraph (a)(1) of this section and § 48-5-7.5 as set forth in Ga. Const. Art. VII, Sec. 1, Par. (3)(e)(2). Leverett v. Jasper County Bd. of Tax Assessors, 233 Ga. App. 470, 504 S.E.2d 559 (1998).

OPINIONS OF THE ATTORNEY GENERAL

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.
Subsections (f) and (n) may be implemented concurrently, which would allow the transfer of up to three acres of land to a relative for the purpose of building a residence, while also allowing the covenant to be continued by the same relative with respect to the remaining acreage transferred which is to be continued in agricultural usage as required by the statute. 1987 Op. Att'y Gen. No. U87-10.

Chapter 560-11-3-.19 Farm Property Preferential Assessment/ Application/ Covenant Form

(1) In order for tangible real property to qualify for the preferential assessment provided for in O.C.G.A. Sections 48-5-7 and 48-5-7.1, its primary use must be the good faith commercial production of agricultural products. Such land must be devoted to bona fide agricultural purposes, which as a general rule, contemplates both the usage of multiple acre tracts and an overall pursuit of profit. The mere ownership of multiple acres whose primary use is not the good faith commercial production of agricultural products but is only used in the limited, occasional or sporadic production of agricultural products would not qualify for the preferential assessment.

(2) For purposes of this regulation, the following terms are defined to mean:

> (a) "bona fide agricultural purposes" means the production, as a part of an overall business pursuit engaged in for profit of one or more types of agricultural products including horticultural products, floricultural products, forestry products, dairy products, livestock products, poultry products, apiarian products, and any other form of farm product.

(b) "Good faith commercial production" means an overall business pursuit factually and genuinely engaged in for the primary purpose of producing agricultural products for a profit.

(c) "Primary use" means that use which is the principal, chief and leading use or activity to which the property is devoted.

(d) "Storage or processing of agricultural products" means to put or set aside agricultural products for safekeeping or for use when needed or the act or series of acts performed upon agricultural products to transform such products into a different state of condition.

(3) O.C.G.A. Section 48-5-7.1 requires the State Revenue Commissioner to annually submit a report to the Governor and General Assembly which, among other things, shows the fiscal impact of preferential assessment and the assessed value eliminated from each county's digest as a result of such assessment. To aid in the collection of such data for statistical accounting purposes, tangible real property which receives the preferential assessment shall utilize an identification codes of P-3, P-4, or P-5 and improvements which are devoted to the storage or processing of agricultural products from or on such property shall utilize an identification code of P-6.

(4) All applications for the preferential assessment of tangible real property devoted to bona fide agricultural purposes as set forth in O.C.G.A. Section 48-5-7 and O.C.G.A. Section 48-5-7.1 as well as the covenant described therein shall be made upon the form adopted by the State Revenue Commissioner for that purpose. Form PT-230 set forth below has been adopted by the Commissioner for said purpose.

Chapter Seven

Conservation Use and Residential Transitional Property

Eligibility Requirements for Conservation Use Property

A. Property which is eligible

1. 2000 acres or less of personal interest.
2. Primary purpose must be good faith production of agricultural or timber products

    a. Includes subsistence farming

    b. Factors which may be considered

        (1) The nature of the terrain

        (2) The density of the marketable product on the land.

        (3) The past usage of the land

        (4) The merchantability of the agricultural product.

        (5) The use or non-use of proper care, cultivation and harvesting practices normally associated with the product involved.

3. Building affixed to property connected to productions of or storage of agricultural or timber products.

    a. Entire value of any residence excluded

4. Environmentally sensitive property

    a. If certified by Georgia Department of Natural Resources

    b. Primary use must maintain property in its natural condition.

    c. All improvements excluded.

B. Ownership requirements

1. Property must be owned by

a. One or more citizens

b. An estate of which heirs are citizens

c. A trust of which the beneficiaries are citizens

d. A family farm corporation with certain qualifications.

e. A bona fide nonprofit conservation organization – 501 (c)(3)

C. Qualifying uses of property

1. Raising, harvesting or storing crops

2. Feeding, breeding, or managing livestock or poultry

3. Producing plants, trees, fowl, or animals

4. Production of agricultural, horticulture, floriculture

5. Forestry, dairy, livestock, poultry and apiarian products

6. One of the following types of environmentally sensitive property:

a. Certain mountain areas

b. Certain wetlands

c. Significant ground–water recharge areas

d. Undeveloped barrier islands

e. Habitats of endangered species

f. River corridors

D. Additional rules applying to eligibility for conservation use

1. Only ½ or more of the area of a single tract must be in a qualifying use for entire tract to qualify

a. Unused portion cannot be used for any other type of business

(1) The lease of hunting rights is not considered another business

b. Unused portion must be managed so that it does not contribute to erosion or other conservation problems.

c. Corn Mazes, Agritourism, and wildlife habitat areas are allowable.

d. Cell Towers may be erected on up to 6 acres. The tract comes out of conservation use and is valued as a stand-alone tract.

2. Owner of tract less than ten acres must submit additional records showing proof of bona fide conservation use.

3. A single person shall be limited to 2000 acres.

4. If property is leased, lessee must meet ownership test.

5. If no soil map is available for the county where the property is located; the owner must submit a certified soil survey unless another method is authorized by the board of assessors

a. Application cannot be denied outright as a result of no published soil maps

Eligibility Requirements for Residential Transitional Property

A. Property must be owner occupied single family residential located in a transitional area

B. 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

Covenant Agreement

A. No otherwise qualified property shall be entitled to current use assessment unless the owner agrees by covenant to maintain the property in its qualifying use for a ten year period.

§48-5-7.4. Bona fide conservation use property; residential transitional property; application procedures; penalties for breach of covenant; classification on tax digest; annual report.

Current through the 2018 Regular Session of the General Assembly

- **O.C.G.A. § 48-5-7.4**
- **Official Code of Georgia Annotated**
- **TITLE 48. REVENUE AND TAXATION**
- **CHAPTER 5. AD VALOREM TAXATION OF PROPERTY**
- **ARTICLE 1. GENERAL PROVISIONS**

§ 48-5-7.4. Bona fide conservation use property; residential transitional property; application procedures; penalties for breach of covenant; classification on tax digest; annual report

(a) For purposes of this article, the term "bona fide conservation use property" means property described in and meeting the requirements of paragraph (1) or (2) of this subsection, as follows:

(1) Not more than 2,000 acres of tangible real property of a single person, 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, subject to the following qualifications:

(A) Such property includes the value of tangible property permanently affixed to the real property which is directly connected to such owner's production of agricultural products or timber and which is devoted to the storage and processing of such agricultural products or timber from or on such real property;

(A.1) In the application of the limitation contained in the introductory language of this paragraph, the following rules shall apply to determine beneficial interests in bona fide conservation use property held in a family owned farm entity as described in division (1)(C)(iv) of this subsection:

(i) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection shall be considered to own only the percent of the bona fide conservation use property held by such family owned farm entity that is equal to the percent interest owned by such person in such family owned farm entity; and

(ii) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection may elect to allocate the lesser of any unused portion of such person's 2,000 acre limitation or the product of such person's percent interest in the family owned farm entity times the total number of acres owned by the family owned farm entity subject to such bona fide conservation use assessment, with the result that the family owned farm entity may receive bona fide conservation use assessment on more than 2,000 acres;

(B) Such property excludes the entire value of any residence 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. The board of tax assessors shall not require a recorded plat or survey to set the boundaries of the underlying property. 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 May 1, 2012;
(C) Except as otherwise provided in division (vii) of this subparagraph, such property must be owned by:
(i) One or more natural or naturalized citizens;
(ii) An estate of which the devisees or heirs are one or more natural or naturalized citizens;
(iii) A trust of which the beneficiaries are one or more natural or naturalized citizens;
(iv) A family owned farm entity, such as a family 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, a trust of which the beneficiaries are one or more natural or naturalized citizens, or an entity created by the merger or consolidation of two or more entities which independently qualify as a family owned farm entity, 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;
(v) A bona fide nonprofit organization designated under Section 501(c)(3) of the Internal Revenue Code;
(vi) A bona fide club organized for pleasure, recreation, and other nonprofitable purposes; or
(vii) In the case of constructed storm-water wetlands, any person may own such property;
(D) Factors which may be considered in determining if such property is qualified may include, but not be limited to:
(i) The nature of the terrain;
(ii) The density of the marketable product on the land;
(iii) The past usage of the land;
(iv) The economic merchantability of the agricultural product; and
(v) The utilization or nonutilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof;
(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, that no form of commercial fishing or fish production shall be considered a type of agriculture; or
(iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products; and
(F) 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; or
(2) Not more than 2,000 acres of tangible real property, excluding the value of any improvements thereon, of a single owner of the types of environmentally sensitive property specified in this paragraph and certified as such by the Department of Natural Resources, if the primary use of such property is its maintenance in its natural condition or controlling or abating pollution of surface or ground waters of this state by storm-water runoff or otherwise enhancing the water quality of surface or ground waters of this state and if such owner meets the qualifications of subparagraph (C) of paragraph (1) of this subsection:
(A) Environmentally sensitive areas, including any otherwise qualified land area 1,000 feet or more above the lowest elevation of the county in which such area is located that has a percentage slope, which is the difference in elevation between two points 500 feet apart on the earth divided by the horizontal distance between those two points, of 25 percent or greater and shall include the crests, summits, and ridge tops which lie at elevations higher than any such area;
(B) Wetland areas that are determined by the United States Army Corps of Engineers to be wetlands under their jurisdiction pursuant to Section 404 of the federal Clean Water Act, as amended, or wetland areas that are depicted or delineated on maps compiled by the Department of Natural Resources or the United States Fish and Wildlife Service pursuant to its National Wetlands Inventory Program;
(C) Significant ground-water recharge areas as identified on maps or data compiled by the Department of Natural Resources;
(D) Undeveloped barrier islands or portions thereof as provided for in the federal Coastal Barrier Resources Act, as amended;
(E) Habitats as certified by the Department of Natural Resources as containing species that have been listed as either endangered or threatened under the federal Endangered Species Act of 1973, as amended;
(F) River or stream corridors or buffers which shall be defined as those undeveloped lands which are:
(i) Adjacent to rivers and perennial streams that are within the 100 year flood plain as depicted on official maps prepared by the Federal Emergency Management Agency; or
(ii) Within buffer zones adjacent to rivers or perennial streams, which buffer zones are established by law or local ordinance and within which land-disturbing activity is prohibited; or

(G)
(i) Constructed storm-water wetlands of the free-water surface type certified by the Department of Natural Resources under subsection (k) of Code Section 12-2-4 and approved for such use by the local governing authority.
(ii) No property shall maintain its eligibility for current use assessment as a bona fide conservation use property as defined in this subparagraph unless the owner of such property files an annual inspection report from a licensed professional engineer certifying that as of the date of such report the property is being maintained in a proper state of repair so as to accomplish the objectives for which it was designed. Such inspection report and certification shall be filed with the county board of tax assessors on or before the last day for filing ad valorem tax returns in the county for each tax year for which such assessment is sought.
(a.1) Notwithstanding any other provision of this Code section to the contrary, in the case of property which otherwise meets the requirements for current use assessment and the qualifying use is pursuant to division (1)(E)(iii) of subsection (a) of this Code section, when the owner seeks to renew the covenant or reenter a covenant subsequent to the termination of a previous covenant which met such requirements and the owner meets the qualifications under this Code section but the property is no longer being used for the qualified use for which the previous covenant was entered pursuant to division (1)(E)(iii) of subsection (a) of this Code section, the property is not environmentally sensitive property within the meaning of paragraph (2) of subsection (a) of this Code section, and the primary use of the property is maintenance of a wildlife habitat of not less than ten acres either by maintaining the property in its natural condition or under management, the county board of tax assessors shall be required to accept such use as a qualifying use for purposes of this Code section.
(b) Except in the case of the underlying portion of a tract of real property on which is actually located a constructed storm-water wetland, the following additional rules shall apply to the qualification of conservation use property for current use assessment:
(1) 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 or the use of the property for hunting purposes shall not constitute another type of business. The charging of admission for use of the property for fishing purposes shall not constitute another type of business;
(2) (A) 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 for qualified property that on or after May 1, 2012, is either first made subject to a covenant or is subject to a renewal of a previous covenant. The provisions of this paragraph relating to requiring additional relevant records regarding proof of bona fide conservation use shall not apply to such property if the owner of the subject property provides one or more of the following:

(i) 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;
(ii) Proof that such owner has incurred expenses for the qualifying use; or
(iii) Proof that such owner has generated income from the qualifying use.

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.

(B) The owner of a tract, lot, or parcel of land totaling ten acres or more shall not 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 May 1, 2012, is either first made subject to a covenant or is subject to a renewal of a previous covenant;
(3) 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 which is devoted to bona fide conservation uses, such taxpayer shall apply for current use assessment only as to 2,000 acres of such land;
(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;
(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; and
(6) No otherwise qualified property shall be denied current use assessment on the grounds that no soil map is available for the county in which such property is located; provided, however, that if no soil map is available for the county in which such property is located, the owner making an application for current use assessment shall provide the board of tax assessors with a certified soil survey of the subject property unless another method for determining the soil type of the subject property is authorized in writing by such board.
(c) For purposes of this article, the term "bona fide residential transitional property" means not more than five acres of tangible real property of a single owner which is private single-family residential owner occupied property located in a transitional developing area. Such classification shall apply to all otherwise qualified real property which is located in an area which is undergoing a change in use from single-family residential use to agricultural, commercial, industrial, office-institutional, multifamily, or utility use or a combination of such uses. Change in use may be evidenced by recent zoning changes, purchase by a developer, affidavits of intent, or close proximity to property which has undergone a change from single-family residential use. To qualify as residential transitional property, the valuation must reflect a change in value attributable to such property's proximity to or location in a transitional area.

(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. 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. Upon 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.
(e) A single owner shall be authorized to enter into more than one covenant under this Code section for bona fide conservation use property, provided that the aggregate number of acres of qualified property of such owner to be entered into such covenants does not exceed 2,000 acres. Any such qualified property may include a tract or tracts of land which are located in more than one county. A single owner shall be authorized to enter qualified property in a covenant for bona fide conservation use purposes and to enter simultaneously the residence located on such property in a covenant for bona fide residential transitional use if the qualifications for each such covenant are met. A single owner shall be authorized to enter qualified property in a covenant for bona fide conservation use purposes and to enter other qualified property of such owner in a covenant for bona fide residential transitional use.
(f) An owner shall not be authorized to make application for and receive current use assessment under this Code section for any property which at the time of such application is receiving preferential assessment under Code Section 48-5-7.1 except that such owner shall be authorized to change such preferential assessment covenant in the manner provided for in subsection (s) of Code Section 48-5-7.1.
(g) Except as otherwise provided in this subsection, no property shall maintain its eligibility for current use assessment under this Code section unless a valid covenant remains in effect and unless the property is continuously devoted to an applicable bona fide qualifying use during the entire period of the covenant. An owner shall be authorized to change the type of bona fide qualifying conservation use of the property to another bona fide qualifying conservation use and the penalty imposed by subsection (l) of this Code section shall not apply, but such owner shall give notice of any such change in use to the board of tax assessors.
(h) If any breach of a covenant occurs, the existing covenant shall be terminated and all qualification requirements must be met again before the property shall be eligible for current use assessment under this Code section.
(i) (1) If ownership of all or a part of the property is acquired during a covenant period by a person or entity qualified to enter into an original 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.
(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.
(j) (1) All applications for current use assessment under this Code section, including the covenant agreement required under this Code section, shall be filed on or before the last day for filing ad valorem tax returns in the county for the tax year for which such current use assessment is sought, except that in the case of property which is the subject of a reassessment by the board of tax assessors an application for current use assessment may be filed in conjunction with or in lieu of an appeal of the reassessment. An application for continuation of such current 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 current use assessment under this Code section shall be filed with the county board of tax assessors who shall approve or deny the application. If the application is approved on or after July 1, 1998, the county board of tax assessors shall file a copy of the approved application in the office of the clerk of the superior court in the county in which the eligible property is located. The clerk of the superior court shall file and index such application in the real property records maintained in the clerk's office. Applications approved prior to July 1, 1998, shall be filed and indexed in like manner without payment of any fee. If the application is not so recorded in the real property records, a transferee of the property affected shall not be bound by the covenant or subject to any penalty for its breach. The fee of the clerk of the superior court for recording such applications approved on or after July 1, 1998, shall be paid by the owner of the eligible property with the application for preferential treatment and shall be paid to the clerk by the board of tax assessors when the application is filed with the clerk. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.
(2) If the final determination on appeal to superior court is to approve the application for current use assessment, the taxpayer shall recover costs of litigation and reasonable attorney's fees incurred in the action.

(3) Any final determination on appeal that causes a reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to such taxpayer, entity, or transferee that paid the taxes within 60 days from the date of the final determination of value. Such refund shall include interest at the same rate specified in Code Section 48-2-35 which shall accrue from the due date of the taxable year in question or the date paid, whichever is later, through the date on which the final determination of value was made. In no event shall the amount of such interest exceed $5,000.00. Any refund paid after the sixtieth day shall accrue interest from the sixty-first day until paid with interest at the same rate specified in Code Section 48-2-35. The interest accrued after the sixtieth day shall not be subject to the limits imposed by this subsection. The tax commissioner shall pay the tax refund and any interest for the refund from current collections in the same proportion for each of the levying authorities for which the taxes were collected.

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

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

(k)

(1) The commissioner shall by regulation provide uniform application and covenant forms to be used in making application for current use assessment under this Code section. Such application shall include an oath or affirmation by the taxpayer that he or she is in compliance with the provisions of paragraphs (3) and (4) of subsection (b) of this Code section, if applicable.

(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.

(k.1) 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. If the final determination on appeal to superior court is to reverse the decision of the board of tax assessors to enforce the breach of the covenant, the taxpayer shall recover costs of litigation and reasonable attorney's fees incurred in the action.

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

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

(n) The penalty imposed by subsection (l) of this Code section shall not apply in any case where a covenant is breached solely as a result of:

(1) The acquisition of part or all of the property under the power of eminent domain;

(2) The sale of part or 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 a party to the covenant.

(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 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.

(p) The following shall not constitute a breach of a covenant:
(1) Mineral exploration of the property subject to the covenant or the leasing of the property subject to the covenant for purposes of mineral exploration if the primary use of the property continues to be the good faith production from or on the land of agricultural products;
(2) Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any land conservation program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes;
(3) Allowing all or part of the property subject to the covenant to lie fallow or idle due to economic or financial hardship if the owner notifies the board of tax assessors on or before the last day for filing a tax return in the county where the land lying fallow or idle is located and if such owner does not allow the land to lie fallow or idle for more than two years of any five-year period;
(4) (A) Any property which is subject to a covenant for bona fide conservation use being transferred to a place of religious worship or burial or an institution of purely public charity if such place or institution is qualified to receive the exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41. No person shall be entitled to transfer more than 25 acres of such person's property in the aggregate under this paragraph.
(B) Any property transferred under subparagraph (A) of this paragraph shall not be used by the transferee for any purpose other than for a purpose which would entitle such property to the applicable exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration of the term of the covenant period. Any such use or transfer shall constitute a breach of the covenant;
(5) Leasing a portion of the property subject to the covenant, but in no event more than six acres, for the purpose of placing thereon a cellular telephone transmission tower. Any such portion of such property shall cease to be subject to the covenant as of the date of execution of such lease and shall be subject to ad valorem taxation at fair market value;

(6) Allowing all or part of the property subject to the covenant on which a corn crop is grown to be used for the purpose of constructing and operating a maze so long as the remainder of such corn crop is harvested;
(7) (A) Allowing all or part of the property subject to the covenant to be used for agritourism purposes.
(B) As used in this paragraph, the term "agritourism" means charging admission for persons to visit, view, or participate in the operation of a farm or dairy or production of farm or dairy products for entertainment or educational purposes or selling farm or dairy products to persons who visit such farm or dairy;
(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;
(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;
(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;
(11) (A) Allowing part of the property subject to the covenant to be used for solar generation of energy and conversion of such energy into heat or electricity, and the sale of the same in accordance with applicable law.
(B) The provisions of subparagraph (A) of this paragraph shall not allow the portion of the property on which such solar energy generating equipment is located, as depicted by a boundary survey prepared by a licensed surveyor, and which is subject to an existing covenant to remain in the covenant. Such property shall be removed from the existing covenant at the time of the installation of the solar energy generating equipment and shall be subject to the penalty for breach of the covenant contained in subsection (q) of this Code section and shall be subject to ad valorem taxation at fair market value; or
(12) (A) Allowing part of the property subject to the covenant to be used for farm labor housing. As used in this paragraph, the term "farm labor housing" means all buildings or structures used as living quarters when such housing is provided free of charge to workers who provide labor on agricultural property.
(B) The provisions of subparagraph (A) of this paragraph shall not allow the portion of the property on which such farm labor housing is located and which is subject to an existing covenant to remain in the covenant. Such property shall be removed from the existing covenant at the time construction of the farm labor housing begins and shall be subject to ad valorem taxation at fair market value.
(q) In the following cases, the penalty specified by subsection (l) of this Code section shall not apply and the penalty imposed shall be the amount by which current use assessment has reduced taxes otherwise due for the year in which the covenant is breached, such penalty to bear interest at the rate specified in Code Section 48-2-40 from the date of the breach:
(1) Any case in which a covenant is breached solely as a result of the foreclosure of a deed to secure debt or the property is conveyed to the lienholder without compensation and in lieu of foreclosure, if:

(A) The deed to secure debt was executed as a part of a bona fide commercial loan transaction in which the grantor of the deed to secure debt received consideration equal in value to the principal amount of the debt secured by the deed to secure debt;
(B) The loan was made by a person or financial institution who or which is regularly engaged in the business of making loans; and
(C) The deed to secure debt was intended by the parties as security for the loan and was not intended for the purpose of carrying out a transfer which would otherwise be subject to the penalty specified by subsection (l) of this Code section;
(2) Any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the owner of the real property physically unable to continue the property in the qualifying use, provided that the board of tax assessors shall require satisfactory evidence which clearly demonstrates that the breach is the result of a medically demonstrable illness or disability;
(3) Any case in which a covenant is breached solely as a result of an owner electing to discontinue the property in its qualifying use, provided such owner has renewed without an intervening lapse at least once the covenant for bona fide conservation use, has reached the age of 65 or older, and has kept the property in a qualifying use under the renewal covenant for at least three years. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors;
(4) Any case in which a covenant is breached solely as a result of an owner electing to discontinue the property in its qualifying use, provided such owner entered into the covenant for bona fide conservation use for the first time after reaching the age of 67 and has either owned the property for at least 15 years or inherited the property and has kept the property in a qualifying use under the covenant for at least three years. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors; or
(5) Any case in which a covenant is breached solely as a result of an owner that is a family owned farm entity as described in division (a)(1)(C)(iv) of this Code section electing to discontinue the property in its qualifying use on or after July 1, 2018, provided the owner has renewed at least once, without an intervening lapse, the covenant for bona fide conservation use, has kept the property in a qualifying use under the renewal covenant for at least three years, and any current shareholder, member, or partner of such family owned farm entity has reached the age of 65 and such shareholder, member, or partner held some beneficial interest, directly or indirectly through a family owned farm entity, in the property continuously since the time the covenant immediately preceding the current renewal covenant was entered. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors.
(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. 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.

(s) The commissioner shall annually submit a report to the Governor, the Department of Agriculture, the Georgia Agricultural Statistical Service, the State Forestry Commission, the Department of Natural Resources, and the University of Georgia Cooperative Extension Service and the House Ways and Means, Natural Resources and Environment, and Agriculture and Consumer Affairs committees and the Senate Finance, Natural Resources and Environment, and Agriculture and Consumer Affairs committees and shall make such report available to other members of the General Assembly, which report shall show the fiscal impact of the assessments provided for in this Code section and Code Section 48-5-7.5. The report shall include the amount of assessed value eliminated from each county's digest as a result of such assessments; approximate tax dollar losses, by county, to all local governments affected by such assessments; and any recommendations regarding state and local administration of this Code section and Code Section 48-5-7.5, with emphasis upon enforcement problems, if any, attendant with this Code section and Code Section 48-5-7.5. The report shall also include any other data or facts which the commissioner deems relevant.

(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.

(u) Reserved.

(v) Reserved.

(w) At such time as the property ceases to be eligible for current use assessment or when any ten-year covenant period expires and the property does not qualify for further current use assessment, the owner of the property shall file an application for release of current use treatment with the county board of tax assessors who shall approve the release upon verification that all taxes and penalties with respect to the property have been satisfied. After the application for release has been approved by the board of tax assessors, the board shall file the release in the office of the clerk of the superior court in the county in which the original covenant was filed. The clerk of the superior court shall file and index such release in the real property records maintained in the clerk's office. No fee shall be paid to the clerk of the superior court for recording such release. The commissioner shall by regulation provide uniform release forms.

(x) 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.

(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.

History

Code 1981, § 48-5-7.4, enacted by Ga. L. 1991, p. 1903, § 6; Ga. L. 1992, p. 6, § 48; Ga. L. 1993, p. 947, §§ 1-6; Ga. L. 1994, p. 428, §§ 1, 2; Ga. L. 1996, p. 1021, § 1; Ga. L. 1998, p. 553, §§ 3, 4; Ga. L. 1998, p. 574, § 1; Ga. L. 1999, p. 589, § 2; Ga. L. 1999, p. 590, § 1; Ga. L. 1999, p. 656, § 1; Ga. L. 2000, p. 1338, § 1; Ga. L. 2002, p. 1031, §§ 2, 3; Ga. L. 2003, p. 271, § 2; Ga. L. 2003, p. 565, § 1; Ga. L. 2004, p. 360, § 1; Ga. L. 2004, p. 361, § 1; Ga. L. 2004, p. 362, §§ 1, 1A; Ga. L. 2005, p. 60, § 48/HB 95; Ga. L. 2005, p. 222, §§ 1, 2/HB 1; Ga. L. 2006, p. 685, § 1/HB 1293; Ga. L. 2006, p. 819, § 1/HB 1502; Ga. L. 2007, p. 90, § 1/HB 78; Ga. L. 2007, p. 608, § 1/HB 321; Ga. L. 2008, p. 1149, §§ 1, 2, 3/HB 1081; Ga. L. 2012, p. 763, § 1/HB 916; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2013, p. 655, § 1/HB 197; Ga. L. 2013, p. 683, § 1/SB 145; Ga. L. 2016, p. 583, § 1/HB 987; Ga. L. 2017, p. 9, § 1/HB 238; Ga. L. 2018, p. 910, § 1/SB 458.

Notes

THE 2016 AMENDMENT, effective July 1, 2016, inserted "within 24 months from the date of the start" in the middle of paragraph (o)(1); in subsection (p), deleted "or" at the end of paragraph (p)(8), substituted "; or" for a period at the end of paragraph (p)(9), and added paragraph (p)(10).

THE 2017 AMENDMENT, effective April 17, 2017, in division (a)(1)(C)(iv), in the middle, deleted "or" preceding "a trust of which the beneficiaries", and inserted ", or an entity created by the merger or consolidation of two or more entities which independently qualify as a family owned farm entity,"; and, in subsection (p), deleted "or" at the end of paragraph (p)(9), substituted a semicolon for a period at the end of paragraph (p)(10), and added paragraphs (p)(11) and (p)(12).

THE 2018 AMENDMENT,

effective July 1, 2018, added the second sentence in subparagraph (a)(1)(B); deleted "conservation" following "nonprofit" in division (a)(1)(C)(v); deleted "pursuant to Section 501(c)(7) of the Internal Revenue Code" following "purposes" in division (a)(1)(C)(vi); substituted "wetland" for "wetlands" in the middle of the introductory paragraph of subsection (b); substituted the present provisions of paragraph (b)(2) for the former provisions, which read: "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 for qualified property that on or after May 1, 2012, 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;"; added paragraphs (j)(2) through (j)(4); redesignated former paragraph (j)(2) as present paragraph (j)(5); added the last sentence in subsection (k.1); in subsection (l), deleted the former third sentence, which read: "Any such penalty shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.", and added the present third through sixth sentences; deleted "or" at the end of paragraph (q)(3); substituted "; or" for a period at the end of paragraph (q)(4); and added paragraph (q)(5).

JUDICIAL DECISIONS

VALUATION OF COMPARABLE PROPERTIES AS EVIDENCE. --Evidence of the valuations of conservation use properties was relevant in an action involving the assessment of comparable corporate properties. Georgia-Pacific Corp. v. Talbot County Bd. of Tax Assessors, 241 Ga. App. 444, 526 S.E.2d 914 (1999).

REQUIREMENT OF VALID COVENANT AND BONA FIDE QUALIFYING USE. --O.C.G.A. § 48-5-7.4(g) provides that no property shall maintain the property's eligibility for current use assessment under that Code section unless a valid covenant remains in effect and unless the property is continuously devoted to an applicable bona fide qualifying use during the entire period of the covenant. Terrell County Bd. of Tax Assessors v. Goolsby, 324 Ga. App. 535, 751 S.E.2d 158 (2013).

FAILURE TO CONDUCT ON-SITE INSPECTION. --Board of Tax Assessors was prohibited from applying O.C.G.A. § 48-5-7.4(b)(2), because the Board failed to show the Board conducted an on-site inspection. Cherokee County Bd. of Tax Assessors v. Mason, 340 Ga. App. 889, 798 S.E.2d 32 (2017).

OWNER ONLY BENEFITTED FROM A LOWER AD VALOREM TAX IN PROPORTION TO INTEREST OWNED. --Because a beneficial property owner only benefitted from a lower ad valorem tax in proportion to the interest owned in the property, the trial court did not err in granting summary judgment to a corporation, as approval of preferential ad valorem tax treatment for property co-owned by the shareholders of the corporation by a tenancy in common did not violate O.C.G.A. § 48-5-7.4(b)(3), as an individual's benefit was to be determined on a pro-rata basis; thus, if the interests of shareholders who were tenants in common of the property were so calculated, no single shareholder would have benefitted from the current use assessment as to more than 2,000 acres. Effingham County Bd. of Tax Assessors v. Samwilka, Inc., 278 Ga. App. 521, 629 S.E.2d 501 (2006).

PROPERTY PROPERLY DISQUALIFIED AS BONA FIDE CONSERVATION USE PROPERTY. --Board's determination that an owner's property did not qualify as a bona fide conservation use property due to restrictive covenants was proper because O.C.G.A. § 48-5-7.4(b)(5) was strictly construed in favor of the board, and disqualified property which was

restricted from any, but not necessarily all, of the activities described in O.C.G.A. § 48-5-7.4(a)(1)(E). Morrison v. Claborn, 294 Ga. App. 508, 669 S.E.2d 492 (2008).

PROPERTY NOT QUALIFIED FOR CURRENT USE ASSESSMENT. --Georgia Court of Appeals concludes that if the taxpayer is operating some other type of business, a business separate and apart from the commercial production from or on the land of agricultural products, and the business is not incidental, occasional, intermediate, or temporary but is detrimental to or in conflict with the property's primary purpose, then the land does not qualify for current use assessment under O.C.G.A. § 48-5-7.4. Terrell County Bd. of Tax Assessors v. Goolsby, 324 Ga. App. 535, 751 S.E.2d 158 (2013).

EVIDENCE OF USE FOR FARMING TIMBER. --Trial court did not err by finding that the land owner's actions constituted good faith production including, but limited to farming or commercial production, from or on the land of agricultural products or timber as it simply made a credibility determination, accepting the owner's account of the owner's past harvesting and intent to harvest poplar in the future. Cherokee County Bd. of Tax Assessors v. Mason, 340 Ga. App. 889, 798 S.E.2d 32 (2017).

ERROR IN FAILING TO MAKE NECESSARY FINDINGS AS TO BUSINESS OPERATED ON PROPERTY. --Trial court erred by holding that operating a commercial grain business on property designated conservation use property under O.C.G.A. § 48-5-7.4 did not constitute a breach of the conservation use covenant because the court failed to make any findings as to whether the grain business was incidental and not detrimental to the qualifying use of the property. Terrell County Bd. of Tax Assessors v. Goolsby, 324 Ga. App. 535, 751 S.E.2d 158 (2013).

RIGHT TO APPEAL PENALTY ASSESSMENT. --An assessment of a penalty for a breach of a conservation use covenant is an assessment for which a property owner has the right to appeal pursuant to O.C.G.A. § 48-5-311. Oconee County Bd. of Tax Assessors v. Thomas, 282 Ga. 422, 651 S.E.2d 45 (2007).

MANDAMUS RELIEF PROPERLY DENIED SINCE CERTIFICATION OF APPEALS OBTAINED. --Trial court did not err by denying a group of property owners their request for mandamus relief in the nature of finding that the county board of tax assessors certified their property tax appeals because it was undisputed that the tax appeals were physically delivered to the trial court and that it had ruled that such appeals were certified to it, thus, the property owners received the relief sought regarding certification. Newton Timber Co., L.L.L.P. v. Monroe County Bd. of Tax Assessors, 755 S.E.2d 770 (2014).

NOTICE AND OPPORTUNITY TO CURE NOT PROPERLY GIVEN. --Board of Tax Assessors failed to meet its threshold obligation to provide the property owner with notice of an opportunity to correct the alleged breach of a conservation covenant; therefore, the property owner was entitled to summary judgment in an action for breach of the covenant and assessment of a penalty against the property owner. Morgan County Bd. of Tax Assessors v. Ward, 318 Ga. App. 186, 733 S.E.2d 470 (2012).

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

Notwithstanding any provision of Code 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.

RULES AND REGULATIONS 560-11-6 CONSERVATION USE PROPERTY

Rule 560-11-6-.01 Application of Chapter

Regulations in this Chapter apply to the current use valuation of property provided for in Georgia Code 48-5-7.4.

Rule 560-11-6-.02 [Effective 1/5/2025] Definitions

For the purposes of implementing O.C.G.A. § 48-5-7.4, O.C.G.A. § 48-5-269 and these regulations, the following terms are defined to mean:
(a) "Beneficial Interest," in addition to legal ownership or control, means the right to derive any profit, benefit, or advantage by way of a contract, stock ownership or interest in an estate.
(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 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.
(c) "Primary Purpose or Primary Use" means the principal 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 Purpose, i.e., the devotion to and utilization of the property for the full time necessary and customary to accommodate the predominant use, e.g. the growing season, the crop cycle or planting to harvest cycle;
(d) "Qualifying Use" means the Primary Use to which the property is devoted that qualifies the property for current use valuation under O.C.G.A. § 48-5-7.4.
(e) "Renewal Covenant" means an additional ten (10) year covenant entered upon the expiration of a previous ten (10) year covenant; provided, however, that the owner may enter into a renewal contract in the ninth year of a covenant period.

(f) "Tract" means a parcel of property, less Underlying Property excluded from the covenants for residences, that is delineated by legal boundaries, levying authorities tax district boundaries, or other boundaries designated by the tax assessors to facilitate the proper identification of property on their maps and records.
(g) "Underlying Property" means the minimum lot size required for residential construction by local zoning ordinances or two (2) acres, whichever is less, for which the taxpayer has provided documents which delineate the legal boundaries so as to facilitate the proper identification of such property on the board of tax assessors maps and records.

Rule 560-11-6-.03 [Effective 1/5/2025] Qualification Requirements

In addition to those requirements of O.C.G.A. § 48-5-7.4, the following qualification requirements shall apply:
(a) Property that otherwise qualifies for current use valuation as bona fide agricultural property shall exclude the entire value of any residence and its Underlying Property. 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. Additionally, the taxpayer shall provide any one of the following types of legal descriptions regarding such Underlying Property:
1. A plat of the Underlying Property prepared by a licensed land surveyor, showing the location and measured area of the Underlying Property in question;
2. A written legal description of the Underlying Property delineating the legal metes and bounds and measured area of the Underlying Property in question; or
3. Such other alternative property boundary description as mutually agreed upon by the taxpayer and county assessor. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.

(b) The owner of a Tract, lot, or parcel of land totaling less than ten (10) acres, after the appropriate Underlying Property is excluded for residential use, shall be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that is either first made subject to a covenant or is subject to a renewal of a previous covenant and the following provisions shall apply:
1. 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 requiring additional relevant records regarding proof of bona fide conservation use shall not apply to such property;
2. Prior to a denial of eligibility for conservation use assessment, the tax assessor shall conduct and provide proof of a visual on-site inspection of the property; and
3. The tax assessors shall provide reasonable notice to the property owner before conducting such visual, on-site inspection of the property for the purposes of determining final eligibility.

(c) No property shall qualify for current use valuation as residential transitional property unless it is devoted to use by a single family and occupied more or less continually by the owner as the primary place of abode and for which the owner is eligible to claim a homestead exemption. The property that otherwise qualifies for current use valuation as residential transitional property shall be limited to the real property consisting of the residential improvement and no more than the contiguous five acres of land.
(d) In determining whether or not an applicant or the property in question qualifies for current use valuation provided for environmentally sensitive properties, the board of tax assessors shall require the applicant to submit a certification by the Department of Natural Resources as required by O.C.G.A. § 12-2-4(k) that the specific property is environmentally sensitive property as defined by O.C.G.A. § 48-5-7.4. Additionally, the board of tax assessors may require accompanying documentation or information including but not limited to:
1. Evidence of the legal ownership of the property;
2. Evidence that the past usage of the property demonstrates it has not been developed or significantly altered or otherwise rendered unfit for its natural environmental purpose; and
3. Evidence that the property has been and will continue to be maintained in its natural condition.

(e) In determining whether or not an applicant or the property in question qualifies for current use valuation provided for constructed storm-water wetland conservation use properties, the board of tax assessors shall require the applicant to submit a certification by the Department of Natural Resources as required by O.C.G.A. § 12-2-4 that the specific property is constructed storm-water wetlands of the free-water surface type property as defined by O.C.G.A. § 48-5-7.4. Additionally, the board of tax assessors may require accompanying documentation or information including but not limited to:
1. Evidence of the legal ownership of the property;
2. A plat of the Tract in question prepared by a licensed land surveyor, showing the location and measured area of the Tract;
3. 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
4. Information on the actual cost of constructing and an estimated cost of operating the storm-water wetland, including without limitation a description of all incorporated materials, machinery, and equipment.

(f) No property shall maintain current use valuation as constructed storm water wetland conservation use property unless the owner of such property files with the board of tax assessors on or before the last day for filing ad valorem tax returns for each tax year for which conservation use valuation is sought an annual inspection report from a licensed professional engineer certifying that as of the date of such report the property is being maintained in a proper state of repair so as to accomplish the objectives for which it was designed.
(g) No property shall qualify for current use valuation as conservation use property if such valuation would result in any person who has a Beneficial Interest in such property receiving any

benefit from current use valuation on more than 2,000 acres in this state in any tax year. Any person so affected shall be entitled to the benefits of current use valuation on no more than 2,000 acres of such land in this state.
(h) Except as necessary to effect the provisions of the 2,000 acre limitation, a taxing jurisdiction boundary, or to exclude any property which is under a separate covenant as residential transitional property, each covenant must encompass the entire Tract of property for which the conservation use valuation is sought. In those instances where inclusion of the total acreage of a Tract would cause the owner to exceed the 2,000 acre limitation, the owner shall be permitted to designate so much of a Contiguous area of the Tract that will equal but not exceed the 2,000 acre limitation.

Rule 560-11-6-.04 [Effective 1/5/2025] Applications

(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 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 and these regulations. However, the board of tax assessors must consider any additional information submitted by the applicant in support of their application for current use assessment.
(2) 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 using U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps.
(3) 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.
(4) Applications for current use valuation provided for constructed storm-water wetland conservation use properties shall not be certified as meeting the criteria of bona fide constructed storm-water wetlands of the free-water surface type unless 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 that the property is being used for controlling or abating pollution of surface or ground waters of this state by storm-water runoff or by otherwise enhancing the water quality of surface or ground waters of this state.
(5) Withdrawals of applications for current use valuation are not tied to a specific deadline date. Rather, an application for current use valuation may be withdrawn at any time prior to the respective county's issuance of the final tax bills for the digest year in which the application for current use valuation is either first made subject to a covenant, or is subject to a renewal of a previous covenant.

(6) 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 10-year period of the original covenant subject to the following provisions:
(a) The subsequently acquired qualified property shall be less than fifty (50) acres; and
(b) Such subsequently acquired qualified property may not be subject to another existing current use covenant or preferential assessment.
(c) For the purpose of establishing the entry date of the original covenant, the assessor shall use the January 1st assessment date of the first year for which the original covenant is in effect.
(d) The covenant application for the subsequently acquired qualified property to be added to an existing covenant shall be made for the subsequently acquired qualified property only and shall reference the existing original covenant by parcel number.
(e) The original property subject to the original bona fide conservation use covenant and the subsequently acquired qualified property shall be treated as separate parcels on the county tax digest until the expiration of the original bona fide conservation use covenant. Upon the expiration of the original bona fide conservation use covenant, the properties can be merged into a single parcel upon renewal.

(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 make application for the current use valuation 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. 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 to make application for the current use valuation of the current use assessment within thirty (30) days of the date of the postmark of the notice;
(b) the requirement of the new owner of the property to continuously devote the property to an applicable bona fide Qualifying Use for the duration of the covenant;
(c) the change to the assessment if the covenant is breached; and
(d) the amount of penalty if the covenant is breached.

(8) In the event the new owner fails to apply during the period provided for in paragraph (7) 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 new owner's 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 and assess a penalty.
(9) When property receiving current use assessment and subject to a conservation use covenant is transferred to an estate or heirs solely as a result of the death of an owner who was a party to the covenant, the death shall constitute a breach of the entire original covenant but shall not be

subject to penalty. The existing covenant shall be terminated and all qualification requirements must be met again before the property shall be eligible for current use assessment.
(10) All approved applications for current use assessment shall be filed with the clerk of the superior court in the county where the property is located.
(a) The fee of the clerk of the superior court for recording approved applications shall be paid by the owner of the property with the application for current use assessment.
(b) The board of tax assessors shall collect the recording fee from the applicant seeking current use assessment and such recording fee to be in the amount provided for in Article 2 of Chapter 6 of Title 15 and shall be paid to the clerk of the superior court when the application is filed with the clerk.
(c) If the application for current use assessment is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. § 48-5-306 and shall return any filing fee paid by the applicant.

(11) At such time as property ceases to be eligible for current use assessment, the owner of the property shall file an application for release of current use assessment with the county board of tax assessors.
(a) The board of tax assessors shall approve the release upon verification that all taxes and penalties have been satisfied.
(b) The board of tax assessors shall file the approved release in the office of the clerk of the superior court in the county in which the original covenant for current use assessment was filed. No fee shall be paid to the clerk of the superior court for recording such release.

Rule 560-11-6-.05 [Effective 1/5/2025] Change of Qualifying Use

(1) During the covenant period the owner may change, without penalty, the use of the property from one Qualifying Use to another Qualifying Use, such as from timber land to agricultural land, but such owner shall be required to give notice of any such change to the board of tax assessors on or before the last day for the filing of a tax return in the county for the tax year for which the change is sought. Failure to so notify the board of tax assessors of the change in use may constitute a breach of covenant effective upon the date of discovery of the breach.
(2) When the Qualifying Use of property receiving current use assessment and subject to a conservation use covenant is changed to another Qualifying Use and the owner fails to notify the board of tax assessors on or before the deadline for filing tax returns in the year following the year in which the change in use 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 the owner 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:

(a) the requirement of the owner of the property currently receiving current use assessment to notify the board of tax assessors of the current Qualifying Use of the property within thirty (30) days of the date of the postmark of the notice;
(b) the requirement of the 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 covenant;
(c) the change to the assessment if the covenant is breached; and
(d) the amount of penalty if the covenant is breached.

(3) In the event the owner fails to respond to the notice provided for in paragraph (2) of this regulation by providing information concerning the change in use of the property to the board of tax assessors, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the owner's lack of response. The board of tax assessors shall be authorized to declare the covenant in breach and assess a penalty.
(4) In those instances where the property owner has duly notified the tax assessors that the use of the property has been changed from one Qualifying Use to another Qualifying Use, the board of tax assessors shall re-calculate the current use valuation of the property for said tax year in accordance with the valuation standards and tables prescribed by these regulations for the new Qualifying Use. However, the limitation on valuation increases or decreases provided for by O.C.G.A. § 48-5-269 shall be applied to the recomputed valuation as if the owner had originally covenanted the property in the new Qualifying Use.
(5) In addition to the provisions for property subject to the covenant to lie fallow or idle pursuant to O.C.G.A. § 48-5-7.4(p)(2), allowing conservation use property to lie fallow due to economic or financial hardship shall not be considered a change of Qualifying Use nor a breach of the covenant provided the owner notifies the board of tax assessors on or before the last day for filing a tax return in the county of the land lying fallow and does not allow the land to lie fallow for more than two years within any five (5) year period.

Rule 560-11-6-.06 [Effective 1/5/2025] Breach of Covenant

(1) If a breach of covenant 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 a breach.
(2) If a breach occurs on all or part of the property that was the subject of an original covenant and was transferred in accordance with O.C.G.A. § 48-5-7.4(i), then the breach shall be deemed to have occurred on all of the property that was the subject of the original covenant. The penalty shall be assessed pro rata against each of the parties to the covenant in proportion to the tax benefit enjoyed by each during the life of the original covenant.
(3) 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. No penalty shall be

imposed until the appeal of the board of tax assessors' determination of breach is concluded. After the final determination on appeal, the taxpayer shall be afforded sixty (60) days from issuance of the bill to make full payment. Once the sixty (60) day payment period has expired, the bill shall be considered past due and interest shall accrue from the original billing due date.
(4) If a covenant is breached by the original covenantor or a transferee who is related to the original covenantor within 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 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 O.C.G.A. § 48-2-40.
(5) Before a penalty is assessed, notice shall be provided to the taxpayer by the board of tax assessors that the covenant has been breached. This notice shall include the specific grounds of the breach, provide to the taxpayer notice to cease and desist the alleged breach activity, and notify the taxpayer that they have thirty (30) days as of the date of the postmark of the notice to correct the breach.
(6) If the board of tax assessors determines that a breach has occurred and the taxpayer has not corrected the situation within the time limit specified, the taxpayer has the right to appeal the determination of the breach to the board of equalization as provided in O.C.G.A. § 48-5-311.

Rule 560-11-6-.07 [Effective 1/5/2025] Valuation of Qualified Property

Annually, and in accordance with the provisions and requirements of O.C.G.A. § 48-5-269, the Commissioner shall propose and promulgate by regulation as specified by the Georgia Administrative Procedure Act, tables and standards of value for current use valuation of properties whose Qualifying Use is as bona fide conservation use property. Once adopted by the Commissioner, these tables and standards of value shall be published and otherwise furnished to the boards of tax assessors and shall serve as the basis upon which current use valuation of such qualified properties shall be calculated for the applicable tax year.
(a) Conservation use land shall be divided into two use groups consisting of nine soil productivity classes each. These two use groups shall be agricultural land (crop land and pasture land) and timber land. The Commissioner shall determine the appropriate soil characteristics or site index factors for each of these eighteen soil productivity classes for use as a guide for the assessors. In those counties where the Soil Conservation Service of the U.S. Department of Agriculture has classified the soil according to its productivity, the Commissioner shall instead prepare and publish a table converting the Soil Conservation Service's codes into the eighteen soil productivity classes.
(b) The state shall be divided into the following areas for the purpose of accumulating the income and market information necessary to determine conservation use values:
1. For the purpose of determining the income of crop land and pasture land, the state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service and which shall be referred to as agricultural districts;

2. For the purpose of determining the income of timber land, the agricultural districts shall be combined into timber zones as follows: agricultural districts #1, #2 and #3 shall compose timber zone #1, agricultural districts #4, #5 and #6 shall compose timber zone #2, and agricultural districts #7, #8 and #9 shall compose timber zone #3; and
3. For the purpose of determining the market value of agricultural land and timber land, the state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service. Such areas shall be referred to as market regions.

(c) Sixty-five percent of the conservation use value shall be attributable to the capitalization of net income from the property and this component of total value shall be determined as follows:
1.For crop land, the income valuation increment of the conservation use valuation shall be based on the five-year weighted average of per-acre net income from those major predominant acreage crops harvested in at least 125 counties of Georgia ("base crops"). In making this calculation, the Commissioner, utilizing the latest information either published or about to be published in the Georgia Department of Agriculture's edition of Georgia Agricultural Facts and the United States Department of Agriculture Economic Research Service's Costs of Production-Major Field Crops, shall:
(i) For each year, determine for each of the nine agricultural districts the yield per acre for each of the base crops;
(ii) For each year, determine for each of the nine agricultural districts the acres harvested of each of the separate base crops and the total acres harvested of all the base crops;
(iii) For each year, determine a state-wide price received per unit of yield for each of the base crops;
(iv) For each year, determine a state-wide cost of production consisting of the typical costs incurred in the production of the base crops, including, but not limited to, the reasonable cost of planting, harvesting, overhead, interest on operating loans, insurance and management;
(v) For each year, using the determinations herein, compute for each of the nine agricultural districts, the weighted net income per acre by summing the results of the computation of each base crop's net income obtained by multiplying the yield per acre times the percentage of total acreage times the price received and then making a reduction to account for the cost of production; and
(vi) Compute for each of the nine agricultural districts, the per acre income valuation by capitalizing the average per acre weighted net income before property taxes, utilizing the rate of capitalization provided for in O.C.G.A. § 48-5-269 plus the effective ad valorem tax rate.

2. (i)For pasture land, the income valuation increment of the conservation use valuation shall be based on the five (5) year weighted average of per-acre rental rates of pasture property. In making this calculation, the Commissioner, utilizing the latest information available, shall:
(ii) Compute for each of the nine agricultural districts, the per acre income valuation by capitalizing the average per acre rental rates weighted by the acreage of hay harvested each year utilizing the rate of capitalization provided for in O.C.G.A. § 48-5-269.

3. (i)The income valuation derived for crop land and pasture land shall be combined into the income valuation for agricultural land by calculating and applying a weighted average of all crop and pasture acreage in each agricultural district.
(ii) Using soil productivity data from the Soil Conservation Service of the U.S. Department of Agriculture, determine productivity influence factors by calculating the relationships between the volumes of corn that will grow on the soils contained within each of the nine productivity classes. Apply these factors to the per acre income valuation of agricultural land to determine the income valuations for each of the nine soil productivity classes.

4. For timber land, the income valuation increment of the conservation use valuation shall be based on the five (5) year weighted average of per-acre net income from hardwood and softwood harvested in Georgia. In making this calculation the Commissioner shall:
(i) For each timber category and zone, determine for the immediately preceding five years for which information is available, the unit prices received by the sellers of standing timber in Georgia from reports received by the Commissioner of actual sales, from information furnished by the Georgia Forestry Commission, from commercially prepared publications of average sales prices, or from a combination of these sources;
(ii) For each timber category and zone, determine the average volumes of the various types of timber harvested annually in Georgia;
(iii) For each timber category and zone, compute the gross income each year from the harvests of timber by multiplying the unit price for each year times the annual average harvest volumes of each type of timber harvested;
(iv) For each timber zone, determine the acres of softwood timber land and hardwood timber land;
(v) For each timber zone, compute the weighted gross income per acre for each year by dividing the gross income from the harvest of softwoods each year by the acreage of softwood timberland; dividing the gross income from the harvest of hardwoods each year by the acreage of hardwood timberland and weighting the two resulting per acre gross incomes by the percentage of acres of softwood and hardwood timberland to total acres of timberland;
(vi) For each timber zone, determine the costs of production of timber for each year including, but not limited to, the cost of site preparation, planting, seedlings, prescribed burnings, management, marketing costs and ad valorem taxes due on the harvest or sale of timber;
(vii) For each timber zone, determine the acreages of timberland annually receiving production treatments, i.e. site preparation, planting and burning;
(viii) For each timber zone, compute the production expenses per acre incurred each year by multiplying the expense by the appropriate factor, i.e. multiply the cost of site preparation per acre by the percentage of acres annually receiving this treatment, multiply the harvest tax millage by the weighted gross income per acre;
(ix) For each timber zone, compute the net income per acre for each year by subtracting the production expenses incurred during the year from the weighted gross income per acre for that year;

(x) For each timber zone, calculate the per acre income valuation by capitalizing the average per acre net income before property taxes, utilizing the rate of capitalization provided for in O.C.G.A. § 48-5-269 plus the effective ad valorem tax rate; and
(xi) Determine productivity influence factors by calculating the relationships between the volumes of Loblolly Pine grown on each of the nine productivity classes of soil and apply these factors to the per acre income valuation for the benchmark land, to determine the income valuations for each of the nine soil productivity classes.

(d) Thirty-five percent of the conservation use value shall be attributable to values produced by a market study consisting of sales data from arms length bona fide sales of comparable real property with and for the same existing use. In determining this increment of total value, the Commissioner shall:
1. Gather a statistically valid sample of qualified sales of agricultural and timber properties;
2. Calculate a residual land value for each sale in the sample by adjusting the sales price to remove any portion representing value attributable to any component of the sale other than the land; and
3. Utilizing the residual land value sale prices, determine, as far as is practical, the relationships between the average sales price per acre for each of the nine soil productivity classes in each of the market regions.

(e) Environmentally sensitive properties and constructed storm water wetland conservation use properties shall be classified by the board of tax assessors as being within the timber land use group and shall be valued according to the current use value determined for timber land of the same or similar soil productivity class.
(f) The current use value for land lying under water, such as ponds, lakes or streams, shall be the value determined for the lowest productivity level of the predominate adjacent land use.
(g) Land utilized for an orchard or vineyard shall be classified as crop land. The trees, shrubs or vines shall be considered an improvement to the land and separately valued.
(h) Current use valuation for qualified bona fide residential transitional property shall be determined annually by the board of tax assessors by the consideration, as applicable, of the current use of such property, its annual productivity, if any, and sales data of comparable real property with and for the same existing use.
(i) Except as otherwise provided, the total current use valuation for any property, including qualified improvements, whose Qualifying Use is as bona fide conservation use property for any year during the covenant period shall not be increased or decreased by more than three percent from the current use valuation for the immediately preceding tax year or be increased or decreased during the entire covenant period by more than 34.39 percent from its current use valuation for the first year of the covenant period. The limitations imposed herein shall apply to the total value of all the conservation use property that is the subject of an individual covenant including any improvements that meet the qualifications set forth in O.C.G.A. § 48-5-7.4(a)(1); provided, however, that in the event the owner changes the use of any portion of the land, such as from timber land to agricultural land, or adds or removes therefrom any such qualified improvements, the limitations imposed by this subsection shall be recomputed as if the new uses

and improvements were in place at the time the covenant was originally entered. This limitation on increases or decreases shall not apply to the current use valuation of residential transitional property.

Rule 560-11-6-.08 [Effective 1/5/2025] Appeals

(1) Applications for current use valuation as conservation use property or residential transitional property provided by O.C.G.A. § 48-5-7.4 shall be approved or denied by the county board of tax assessors. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. § 48-5-306. Such notice shall include the following simple non-technical assessment reason in bold font "CONSERVATION USE COVENANT APPLICATION DENIED." Appeals from the denial of an application shall be made in the same manner, according to the same time requirements, and decided in the same manner that other ad valorem tax assessment appeals are made pursuant to O.C.G.A. § 48-5-311.
(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.
(3) 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. § 48-5-311.
(4) Appeals regarding the current use valuation of conservation use property under paragraphs (2) and (3) of this regulation may be made contesting the board of tax assessor's initial determination or subsequent change of the Qualifying Use of the property, the soil classification of any part or all of the qualified property, the valuation of any qualified improvements, the assessment ratio utilized with regard to the qualified property; as well as with regard to any alleged errors that may have been made by the assessors in the application of the tables and standards of value prescribed by the Commissioner. An appeal, however, may not be made to the local board of tax assessors concerning the tables or standards of value prescribed by the Commissioner pursuant to Regulation 560-11-6-.09.
(5) The tax assessors shall continue to notify the taxpayer of any changes to the fair market value of the covenanted property, and such notice shall conform to the provisions of O.C.G.A. § 48-5-306. A taxpayer desiring to appeal such changes shall do so in the same manner as other assessment appeals are made pursuant to O.C.G.A. § 48-5-311.

Rule 560-11-6-.09 Table of Conservation Use Land Values

(1) For the purpose of prescribing the 2024 current use values for conservation use land, the state shall be divided into the following nine Conservation Use Valuation Areas (CUVA 1 through

CUVA 9) and the following accompanying table of per acre land values shall be applied to each acre of qualified land within the CUVA for each soil productivity classification for timber land (W1 through W9) and agricultural land (A1 through A9):

(a) CUVA #1 counties: Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield. Table of per acre values: W1 1,014, W2 910, W3 827, W4 758, W5 695, W6 643, W7 603, W8 553, W9 504, A1 1,844, A2 1,743, A3 1,616, A4 1,481, A5 1,334, A6 1,193, A7 1,061, A8 931, A9 796;

(b) CUVA #2 counties: Barrow, Cherokee, Clarke, Cobb, Dawson, DeKalb, Fannin, Forsyth, Fulton, Gilmer, Gwinnett, Hall, Jackson, Lumpkin, Oconee, Pickens, Towns, Union, Walton, and White. Table of per acre values: W1 1,374, W2 1,245, W3 1,121, W4 1,015, W5 935, W6 878, W7 828, W8 760, W9 689, A1 2,020, A2 1,801, A3 1,602, A4 1,415, A5 1,266, A6 1,133, A7 1,014, A8 920, A9 828;

(c) CUVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: W1 1,348, W2 1,173, W3 1,057, W4 1,015, W5 935, W6 855, W7 719, W8 585, W9 489, A1 1,537, A2 1,398, A3 1,251, A4 1,108, A5 966, A6 871, A7 715, A8 597, A9 504;

(d) CUVA #4 counties: Carroll, Chattahoochee, Clayton, Coweta, Douglas, Fayette, Haralson, Harris, Heard, Henry, Lamar, Macon, Marion, Meriwether, Muscogee, Pike, Schley, Spalding, Talbot, Taylor, Troup, and Upson. Table of per acre values: W1 991, W2 887, W3 804, W4 737, W5 641, W6 597, W7 519, W8 449, W9 364, A1 1,259, A2 1,128, A3 1,034, A4 923, A5 810, A6 672, A7 582, A8 451, A9 323;

(e) CUVA #5 counties: Baldwin, Bibb, Bleckley, Butts, Crawford, Dodge, Greene, Hancock, Houston, Jasper, Johnson, Jones, Laurens, Monroe, Montgomery, Morgan, Newton, Peach, Pulaski, Putnam, Rockdale, Taliaferro, Treutlen, Twiggs, Washington, Wheeler, and Wilkinson. Table of per acre values: W1 843, W2 781, W3 717, W4 657, W5 592, W6 533, W7 466, W8 403, W9 334, A1 933, A2 811, A3 754, A4 689, A5 614, A6 522, A7 428, A8 337, A9 245;

(f) CUVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: W1 834, W2 766, W3 699, W4 637, W5 568, W6 503, W7 436, W8 367, W9 299, A1 1,058, A2 929, A3 851, A4 781, A5 689, A6 573, A7 466, A8 357, A9 250;

(g) CUVA #7 counties: Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Sumter, Terrell, Thomas, and Webster. Table of per acre values: W1 894, W2 813, W3 740, W4 664, W5 586, W6 511, W7 436, W8 357, W9 281, A1 1,230, A2 1,115, A3 991, A4 862, A5 738, A6 619, A7 477, A8 361, A9 243;

(h) CUVA #8 counties: Atkinson, Ben Hill, Berrien, Brooks, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Jeff Davis, Lanier, Lowndes, Telfair, Tift, Turner, Wilcox, and Worth. Table of per acre values: W1 972, W2 880, W3 788, W4 699, W5 607, W6 519, W7 427, W8 337, W9 273, A1 1,245, A2 1,176, A3 1,061, A4 946, A5 831, A6 717, A7 553, A8 449, A9 330;

(i) CUVA #9 counties: Appling, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Evans, Glynn, Liberty, Long, McIntosh, Pierce, Tattnall, Toombs, Ware, and Wayne. Table of per acre values: W1 984, W2 887, W3 804, W4 715, W5 621, W6 535, W7 443, W8 354, W9 273, A1 1,152, A2 1,110, A3 997, A4 887, A5 776, A6 664, A7 553, A8 440, A9 330.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.09
Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.
History. Original Rule entitled "Table of Conservation Use Land Values" adopted. F. May 28, 1993; eff. June 17, 1993.
Repealed: New Rule of same title adopted. F. May 13, 1994; eff. June 2, 1994.
Repealed: New Rule of same title adopted. F. Mar. 1, 1995; Mar. 21, 1995.
Repealed: New Rule of same title adopted. F. Jan. 28, 1996; eff. Feb. 18, 1996.
Repealed: New Rule of same title adopted. F. Feb. 24, 1997; eff. Mar. 16, 1997.
Repealed: New Rule of same title adopted. F. Jan. 27, 1998; eff. Feb. 16, 1998.
Repealed: New Rule of same title adopted. F. Mar. 10, 1999; eff. Mar. 30, 1999.
Amended: F. Feb. 2, 2000; eff. Feb. 22, 2000.
Amended: F. Apr. 20, 2001; eff. May 10, 2001.
Repealed: New Rule of same title adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Repealed: New Rule of same title adopted. F. May 19, 2003; eff. June 8, 2003.
Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004.
Amended: F. Mar. 29, 2005; eff. Apr. 18, 2005.
Repealed: New Rule of same title adopted. F. Mar. 1, 2006; eff. Mar. 21, 2006.
Amended: F. Feb. 21, 2007; eff. Mar. 13, 2007.
Amended: F. Apr. 21, 2008; eff. May 11, 2008.
Repealed: New Rule of same title adopted. F. Apr. 15, 2009; eff. May 5, 2009.
Repealed: New Rule of same title adopted. F. Mar. 15, 2010; eff. Apr. 4, 2010.
Repealed: New Rule of same title adopted. F. Mar. 3, 2011; eff. Mar. 23, 2011.
Amended: F. Apr. 24, 2012; eff. May 14, 2012.
Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.
Amended: F. Apr. 22, 2014; eff. May 12, 2014.
Amended: F. May 18, 2015; eff. June 7, 2015.
Amended: F. Feb. 23, 2016; eff. Mar. 14, 2016.
Amended: F. Mar. 24, 2017; eff. Apr. 13, 2017.
Amended: F. Mar. 6, 2018; eff. Mar. 26, 2018.
Amended: F. Feb. 1, 2019; eff. Feb. 21, 2019.
Amended: F. Mar. 6, 2020; eff. Mar. 26, 2020.
Amended: F. Mar. 4, 2021; eff. Mar. 24, 2021.
Amended: F. May 4, 2022; eff. May 24, 2022.
Amended: F. Mar. 13, 2023; eff. Apr. 2, 2023.

Chapter Eight

Georgia Forest Land Protection Act of 2008

§48-5-7.7.

(For effective date, see note.) Short title; definitions.

(a) This Code section shall be known and may be cited as the "Georgia Forest Land Protection Act of 2008."

(b) As used in this Code section, the term:
(1) "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.
(2) "Forest land conservation use property" means real property that is forest land of at least 200 acres in aggregate which lies within one or more counties, provided that such forest land is in parcels of at least 100 acres within any given county and that is subject to the following qualifications:
(A) Such property must be owned by an individual or individuals or by any entity registered to do business in this state;
(B) Such property excludes the entire value of any residence and its underlying land located on the property; as used in this subparagraph, the term "underlying land" 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 land of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to such a covenant, or is subject to a renewal of a previous conservation use covenant, on or after January 1, 2014;
(C) 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 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. Such property may, in addition, have one or more of the following secondary uses:
(i) The promotion, preservation, or management of wildlife habitat;
(ii) Carbon sequestration in accordance with the Georgia Carbon Sequestration Registry;
(iii) Mitigation and conservation banking that results in restoration or conservation of wetlands and other natural resources; or
(iv) The production and maintenance of ecosystem products and services, such as, but not limited to, clean air and water.

Forest land conservation use property may include, but is not limited to, land that has been certified as environmentally sensitive property by the Department of Natural Resources or which is managed in accordance with a recognized sustainable forestry certification program, such as the Sustainable Forestry Initiative, Forest Stewardship Council, American Tree Farm Program, or an equivalent sustainable forestry certification program approved by the State Forestry Commission.

(3) "Qualified owner" means any individual or individuals or any entity registered to do business in this state.
(4) "Qualified property" means forest land conservation use property as defined in this subsection.
(5) "Qualifying purpose" means a use that meets the qualifications of subparagraph (C) of paragraph (2) of this subsection.
(c) The following additional rules shall apply to the qualification of forest land conservation use property for conservation use assessment:
(1) Forest land conservation use property of an owner within a county for which forest land conservation use assessment is sought under this Code section shall be in covenants, which shall include forest land of at least 200 acres in aggregate which lies within one or more counties, provided that such forest land is in parcels of at least 100 acres within any given county, unless otherwise required under subsection (e) of this Code section;
(2) When one-half or more of the area of a single tract of real property is used for the qualifying purpose, then the entirety of such tract shall be considered as used for such qualifying purpose unless some other type of business is being operated on the portion of the tract that is not being used for a qualifying purpose; provided, however, that such other portion must be minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems or must be used for one or more secondary purposes specified in subparagraph (b)(2)(C) of this Code section. The following uses of real property shall not constitute using the property for another type of business:
(A) The lease of hunting rights or the use of the property for hunting purposes;
(B) The charging of admission for use of the property for fishing purposes;
(C) The production of pine straw or native grass seed;
(D) The granting of easements solely for ingress and egress; and
(E) Any type of business devoted to secondary uses listed under subparagraph (b)(2)(C) of this Code section; and
(3) No otherwise qualified forest land conservation use property shall be denied conservation use assessment on the grounds that no soil map is available for the county or counties, if applicable, in which such property is located; provided, however, that if no soil map is available for the county or counties, if applicable, in which such property is located, the board of tax assessors shall use the current soil classification applicable to such property.
(d) No property shall qualify for conservation use assessment under this Code section unless and until the qualified owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in forest land conservation use for a period of ten years beginning on the first day of January of the year in which such property qualifies for

such conservation use assessment and ending on the last day of December of the final year of the covenant period. After the qualified owner has applied for and has been allowed conservation 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 conservation use assessment shall continue to be allowed such qualified owner as specified in this Code section. At least 60 days prior to the expiration date of the covenant, the county board of tax assessors where the property is located shall send by first-class mail written notification of such impending expiration. Upon the expiration of any covenant period, the property shall not qualify for further conservation use assessment under this Code section unless and until the qualified owner of the property has entered into a renewal covenant for an additional period of ten years; provided, however, that the qualified 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.

(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. In the event a single contiguous tract is required to have separate covenants under this subsection, the total acreage of that single contiguous tract shall be utilized for purposes of determining the 200 acre requirement of this Code section.

(f) (1) A qualified owner shall not be authorized to make application for and receive conservation use assessment under this Code section for any property which at the time of such application is receiving preferential assessment under Code Section 48-5-7.1 or current use assessment under Code Section 48-5-7.4; provided, however, that if any property is subject to a covenant under either of those Code sections, it may be changed from such covenant and placed under a covenant under this Code section if it is otherwise qualified. Any such change shall terminate the existing covenant and shall not constitute a breach thereof. No property may be changed more than once under this paragraph.

(2) Any property that is subject to a covenant under this Code section 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 under this Code section and placed under a covenant provided for in Code Section 48-5-7.4 if the property otherwise qualifies under the provisions of that Code section. In such a case, the existing covenant under this Code section shall be terminated, and the change shall not constitute a breach thereof. No property may be changed more than once under this paragraph.

(g) Except as otherwise provided in this Code section, no property shall maintain its eligibility for conservation use assessment under this Code section unless a valid covenant or covenants, if applicable, remain in effect and unless the property is continuously devoted to forest land conservation use during the entire period of the covenant or covenants, if applicable.

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

(i) (1) If ownership of all or a part of a forest land conservation use property is acquired during a covenant period by another qualified owner, then the original covenant may be continued

only by both such acquiring owner and the transferor for the remainder of the term, in which event, no breach of the covenant shall be deemed to have occurred if the total size of a tract from which the transfer was made is reduced below 200 acres or the size of the tract transferred is less than 200 acres. Following the expiration of the original covenant, no new covenant shall be entered with respect to either tract unless such tract exceeds 200 acres. If a qualified owner has entered into an original forest land 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 15 year period of the original covenant; provided, however, that such subsequently acquired qualified property shall be less than 200 acres.

(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.

(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.

(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. 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. Such county board of tax assessors shall file a copy of the approved covenant in the office of the clerk of the superior court in the county in which the eligible property is located. The clerk of the superior court shall file and index such covenant in the real property records maintained in the clerk's office. If the covenant is not so recorded in the real property records, a transferee of the property affected shall not be bound by the covenant or subject to any penalty for its breach. The fee of the clerk of the superior court for recording such covenants shall be paid by the qualified owner of the eligible property with the application for forest land conservation use assessment under this Code section and shall be paid to the clerk by the board of tax assessors when the application is filed with the clerk. If the application is denied, the board of tax assessors shall notify the applicant in the

same manner that notices of assessment are given pursuant to Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application or covenant by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.
(2) In the event such application is approved, the qualified owner shall continue to receive annual notification of any change in the forest land fair market value of such property, and any appeals with respect to such valuation shall be made in the same manner as other property tax appeals are made pursuant to Code Section 48-5-311.
(k) The commissioner shall by regulation provide uniform application and covenant forms to be used in making application for conservation use assessment under this Code section.
(l) In the case of an alleged breach of the covenant, the qualified owner shall be notified in writing by the board of tax assessors. The qualified 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 qualified 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 qualified 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.

(m) (1) A penalty shall be imposed under this subsection if during the period of the covenant entered into by a qualified owner the covenant is breached.
(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.
(3) The penalty shall be twice the difference between the total amount of the tax paid pursuant to the conservation use assessment under this Code section and the total amount of taxes which would otherwise have been due under this chapter for each completed or partially completed year of the covenant period. Any such penalty shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.
(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 (3) 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.
(n) In any case of a breach of the covenant where a penalty under subsection (m) of this Code section is imposed, an amount equal to the amount of reimbursement to each county, municipality, and board of education in each year of the covenant shall be collected under

subsection (o) of this Code section and paid over to the commissioner who shall deposit such amount in the general fund.

(o) Penalties and interest imposed under this Code section shall constitute a lien against that portion of the property to which the penalty has been applied under subsection (m) of this Code section and shall be collected in the same manner as unpaid ad valorem taxes are collected. Except as provided in subsection (n) of this Code section, such penalties and interest shall be distributed pro rata to each taxing jurisdiction wherein conservation use assessment under this Code section has been granted based upon the total amount by which such conservation use assessment has reduced taxes for each such taxing jurisdiction on the property in question as provided in this Code section.

(p) The penalty imposed by subsection (m) of this Code section shall not apply in any case where a covenant is breached solely as a result of:

(1) The acquisition of part or all of the property under the power of eminent domain;

(2) The sale of part or 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 individual qualified owner who was a party to the covenant.

(q) The following shall not constitute a breach of a covenant:

(1) Mineral exploration of the property subject to the covenant or the leasing of the property subject to the covenant for purposes of mineral exploration if the primary use of the property continues to be the good faith production from or on the land of timber;

(2) Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any forestry conservation program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes;

(3) Allowing all or part of the property subject to the covenant to lie fallow or idle due to economic or financial hardship if the qualified owner notifies the board of tax assessors on or before the last day for filing a tax return in the county where the land lying fallow or idle is located and if such qualified owner does not allow the land to lie fallow or idle for more than two years of any five-year period;

(4) (A) Any property which is subject to a covenant for forest land conservation use being transferred to a place of religious worship or burial or an institution of purely public charity if such place or institution is qualified to receive the exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41. No qualified owner shall be entitled to transfer more than 25 acres of such person's property in the aggregate under this paragraph.

(B) Any property transferred under subparagraph (A) of this paragraph shall not be used by the transferee for any purpose other than for a purpose which would entitle such property to the applicable exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration of the term of the covenant period. Any such use or transfer shall constitute a breach of the covenant;

(5) Leasing a portion of the property subject to the covenant, but in no event more than six acres of every unit of 2,000 acres, for the purpose of placing thereon a cellular telephone transmission tower. Any such portion of such property shall cease to be subject to the covenant as of the date of execution of such lease and shall be subject to ad valorem taxation at fair market value;

(6) **(A)** Allowing part of the property subject to the covenant to be used for solar generation of energy and conversion of such energy into heat or electricity, and the sale of the same in accordance with applicable law.

(B) The provisions of subparagraph (A) of this paragraph shall not allow the portion of the property on which such solar energy generating equipment is located, as depicted by a boundary survey prepared by a licensed surveyor, and which is subject to an existing covenant to remain in the covenant. Such property shall be removed from the existing covenant at the time of the installation of the solar energy generating equipment and shall be subject to the penalty for breach of the covenant contained in subsection (r) of this Code section and shall be subject to ad valorem taxation at fair market value; or

(7) **(A)** Allowing part of the property subject to the covenant to be used for farm labor housing. As used in this paragraph, the term "farm labor housing" means all buildings or structures used as living quarters when such housing is provided free of charge to workers who provide labor on agricultural property.

(B) The provisions of subparagraph (A) of this paragraph shall not allow the portion of the property on which such farm labor housing is located and which is subject to an existing covenant to remain in the covenant. Such property shall be removed from the existing covenant at the time construction of the farm labor housing begins and shall be subject to ad valorem taxation at fair market value.

(r) In the following cases, the penalty specified by subsection (m) of this Code section shall not apply and the penalty imposed shall be the amount by which conservation use assessment has reduced taxes otherwise due for the year in which the covenant is breached, such penalty to bear interest at the rate specified in Code Section 48-2-40 from the date of the breach:

(1) Any case in which a covenant is breached solely as a result of the foreclosure of a deed to secure debt or the property is conveyed to the lienholder without compensation and in lieu of foreclosure, if:

(A) The deed to secure debt was executed as a part of a bona fide commercial loan transaction in which the grantor of the deed to secure debt received consideration equal in value to the principal amount of the debt secured by the deed to secure debt;

(B) The loan was made by a person or financial institution who or which is regularly engaged in the business of making loans; and

(C) The deed to secure debt was intended by the parties as security for the loan and was not intended for the purpose of carrying out a transfer which would otherwise be subject to the penalty specified by subsection (m) of this Code section;

(2) Any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the qualified owner of the real property physically unable to continue the property in the qualifying use, provided that the board of tax assessors or boards of assessors, if applicable, shall require satisfactory evidence which clearly demonstrates that the breach is the result of a medically demonstrable illness or disability;

(3) Any case in which a covenant is breached solely as a result of a qualified owner electing to discontinue the property in its qualifying use, provided such qualified owner has renewed without an intervening lapse at least once the covenant for land conservation use, has reached the age of 65 or older, and has kept the property in the qualifying use under the renewal covenant for at least three years. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors or boards of assessors, if applicable; or

(4) Any case in which a covenant is breached solely as a result of a qualified owner electing to discontinue the property in its qualifying use, provided such qualified owner entered into the covenant for forest land conservation use for the first time after reaching the age of 67 and has either owned the property for at least 15 years or inherited the property and has kept the property in the qualifying use under the covenant for at least three years. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors where the property is located.

(s) Property which is subject to forest land conservation 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 conservation use assessment under this Code section. 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 conservation 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 qualified owners.

(t) The commissioner shall annually submit a report to the Governor, the Department of Agriculture, the Georgia Agricultural Statistical Service, the State Forestry Commission, the Department of Natural Resources, and the University of Georgia Cooperative Extension Service and the House Ways and Means, Natural Resources and Environment, and Agriculture and Consumer Affairs committees and the Senate Finance, Natural Resources and the Environment, and Agriculture and Consumer Affairs committees and shall make such report available to other members of the General Assembly, which report shall show the fiscal impact of the assessments provided for in this Code section. The report shall include the amount of assessed value eliminated from each county's digest as a result of such assessments; approximate tax dollar losses, by county, to all local governments affected by such assessments; and any recommendations regarding state and local administration of this Code section, with emphasis upon enforcement problems, if any, attendant with this Code section. The report shall also include any other data or facts which the commissioner deems relevant.

(u) 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.

(v) At such time as the property ceases to be eligible for forest land conservation use assessment or when any ten-year covenant period expires and the property does not qualify for further forest land conservation use assessment, the qualified owner of the property shall file an application for release of forest land conservation use treatment with the county board of tax

assessors where the property is located who shall approve the release upon verification that all taxes and penalties with respect to the property have been satisfied. After the application for release has been approved by such board of tax assessors, the board shall file the release in the office of the clerk of the superior court in the county in which the original covenant was filed. The clerk of the superior court shall file and index such release in the real property records maintained in the clerk's office. No fee shall be paid to the clerk of the superior court for recording such release. The commissioner shall by regulation provide uniform release forms.
(w) 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 forest land conservation use property. The commissioner also may provide that advance notice be given to a qualified owner of the intent of a board of tax assessors to deem a change in use as a breach of a covenant.

History

Code 1981, § 48-5-7.7, enacted by Ga. L. 2008, p. 297, § 2/HB 1211; Ga. L. 2009, p. 27, § 2/SB 55; Ga. L. 2009, p. 216, § 2A/SB 240; Ga. L. 2011, p. 285, § 1/HB 95; Ga. L. 2013, p. 655, § 2/HB 197; Ga. L. 2017, p. 9, § 2/HB 238; Ga. L. 2018, p. 119, § 4/HB 85.

Notes

THE 2017 AMENDMENT, effective April 17, 2017, deleted "or" at the end of subparagraph (q)(4)(B), substituted a semicolon for a period at the end of paragraph (q)(5), and added paragraphs (q)(6) and (q)(7).

THE 2018 AMENDMENT rewrote the introductory paragraph of paragraph (b)(2); rewrote the introductory paragraph of paragraph (c)(1); in subsection (d), substituted "ten years" for "15 years" in the first sentence and twice in the last sentence, and substituted "ninth year" for "fourteenth year" in the middle of the last sentence; and substituted "ten-year covenant" for "15 year covenant" in the first sentence of subsection (v). For effective date of this amendment, see the delayed effective date note.

CODE COMMISSION NOTES. --

Pursuant to Code Section 28-9-5, in 2008, "subparagraph (b)(1)(C)" was substituted for "subparagraph (b)(1)(2)" in paragraph (c)(2).

Pursuant to Code Section 28-9-5, in 2010, "Code Section 48-5-7.4" was substituted for "Code Section 48-7-7.4" in the first sentence of subsection (f).

EDITOR'S NOTES. --

Ga. L. 2008, p. 297, § 5/HB, 1211 not codified by the General Assembly, provides that this Code section becomes effective on January 1, 2009, upon the ratification of a resolution at the November 2008, state-wide general election, which resolution amends the Constitution so as to provide for the special assessment and taxation of forest land conservation use property and for local government assistance grants. The constitutional amendment (Ga. L. 2008, p. 1209) was ratified at the general election held on November 4, 2008.

Ga. L. 2009, p. 27, § 5/SB 55, not codified by the General Assembly, provides, in part, that the amendment to this Code section shall be applicable to all taxable years beginning on or after January 1, 2009.

ADMINISTRATIVE RULES AND REGULATIONS. --

Forest land protection, Official Compilation of the Rules and Regulations of the State of Georgia, Department of Revenue, Local Government Services Division, Chapter 560-11-11.

OPINIONS OF THE ATTORNEY GENERAL

ADMINISTRATIVE CAPS ON ASSISTANCE GRANTS PROHIBITED. --Because neither Ga. Const. 1983, Art. VII, Sec. I, Para. III nor the Forest Land Protection Act, O.C.G.A. § 48-5-7.7, authorize or contemplate a cap on assistance grants based on the total exemption value of forest land conservation use property, the Department of Revenue would not be authorized to impose an administrative cap on assistance grants issued pursuant to the Forest Land Protection Act of 2008 in the manner proposed. 2016 Op. Att'y Gen. No. 16-5.

§48-5-271. (For effective date, see note.) Table of values for conservation use value of forest land.

(a) The commissioner shall promulgate and county tax officials shall follow uniform rules and regulations establishing a table of values for the conservation use value of forest land conservation use property. Such values shall be the same as provided for forest land values under Code Section 48-5-269.

(b) In no event may the forest land conservation use value of any forest land conservation use property in the table of values established by the commissioner under this Code section for the taxable year beginning January 1, 2010, or any subsequent taxable year increase or decrease by more than 3 percent from its forest land conservation use value as set forth in the table of values established by the commissioner under this Code section. The limitations imposed by this subsection shall apply to the total value of all the forest land conservation use property that is the subject of an individual covenant.

(Code 1981, 48-5-271, as enacted by Ga. L. 2008, p. 297, 3/HB 1211.)

O.C.G.A. §48-5A-1 thru 4 SPECIAL ASSESSMENT OF FOREST LAND

Delayed effective date. - Ga. L. 2008, p. 297, 5, provides that this chapter shall only become effective on January 1, 2009, upon the ratification of a resolution at the November, 2008, state-wide general election, which resolution amends the Constitution so as to provide for the special assessment and taxation of forest land conservation use property and for local government assistance grants.

§48-5A-1. (For effective date, see note.) Definitions.

As used in this chapter, the term:

(1) "Applicable rollback" means a:

(A) Rollback of an ad valorem tax millage rate pursuant to subsection (a) of Code Section 48-8-91 in a county or municipality that levies a local option sales tax;

(B) Rollback of an ad valorem tax millage rate pursuant to subparagraph (c)(2)(C) of Code Section 48-8-104 in a county or municipality that levies a homestead option sales tax;

(C) Subtraction from an ad valorem millage rate pursuant to Code Section 20-2-334 in a local school system that receives a state school tax credit;

(D) Reduction of an ad valorem tax millage rate pursuant to the development of a service delivery strategy under Code Section 36-70-24; and

(E) Reduction of an ad valorem tax millage rate pursuant to paragraph (2) of subsection (a) of Code Section 33-8-8.3 in a county that collects insurance premium tax.

(2) "County millage rate" means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by a county for county purposes and applying to forest land conservation use properties in the county, including any millage levied for those special districts reported on the 2004 ad valorem tax digest certified to and received by the commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not including any millage levied on behalf of a county school district for educational purposes.

(3) "Fiscal authority" means the individual authorized to collect ad valorem taxes for a county or municipality which levies ad valorem taxes.

(4) "Forest land conservation use property" means a forest land conservation use property qualified for special assessment and taxation under Code Section 48-5-7.7 and Article VII, Section I, Paragraph III(f) of the Constitution.

(5) "Forest land conservation use value" means the same as such term is defined in paragraph (5) of Code Section 48-5-2 and shall not include the value of standing timber on such property.

(6) "Forest land fair market value" means the same as such term is defined in paragraph (6) of Code Section 48-5-2.

(7) "Municipal millage rate" means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by a municipality for municipal purposes and applying to forest land conservation use properties in the municipality, including any millage levied for those special tax districts reported on the 2004 City and Independent School Millage Rate Certification certified to and received by the commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not including any millage levied on behalf of an independent school district for educational purposes.

(8) "School millage rate" means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied on behalf of a county or independent school district for educational purposes and applying to forest land conservation use properties in the county or independent school district, not including any millage levied for purposes of bonded indebtedness and not including any millage levied for county or municipal purposes.

(9) "State millage rate" means the state millage levy.

§48-5A-2. (For effective date, see note.) Funds for forest land conservation.

In each year the General Assembly shall appropriate to the department funds for forest land conservation use assistance grants to counties, municipalities, and county or independent school districts pursuant to Article VII, Section I, Paragraph III(f) of the Constitution. The General Appropriations Act shall specify the amount appropriated subject to the limitations of this chapter.

(Code 1981, 48-5A-2, enacted by Ga. L. 2008, p. 297, 4/HB 1211.)

Code Commission notes. - Pursuant to Code Section 28-9-5, in 2008, "department" was substituted for "Department of Revenue" in the first sentence.

Editor's notes. - For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

§48-5A-3. (For effective date, see note.) Local assistance grants.

(a) Pursuant to the appropriation of funds as provided in Code Section 48-5A-2, such grants shall be allotted to each county, municipality, and county or independent school district in the state as provided in this Code section.

(b) 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.

(c) (1) (A) Immediately following the actual preparation of ad valorem property tax bills, each county fiscal authority shall notify the department of the amount of the reduction pursuant to the implementation of Article VII, Section I, Paragraph III(f) of the Constitution.

(B) If the forest land conservation use property is located in a county where forest land conservation use value causes an ad valorem tax revenue reduction of 3 percent or less pursuant to Article VII, Section I, Paragraph III(f) of the Constitution, in each taxable year in which such reduction occurs, the assistance grant to the county shall be in an amount equal to 50 percent of the amount of such reduction.

(C) If the forest land conservation use property is located in a county where forest land conservation use value causes an ad valorem tax revenue reduction of more than 3 percent pursuant to Article VII, Section I, Paragraph III(f) of the Constitution, in each taxable year in which such reduction occurs, the assistance grants to the county shall be as follows:

(i) For the first 3 percent of such reduction amount, in an amount equal to 50 percent of the amount of such reduction; and

(ii) For the remainder of such reduction amount, in an amount equal to 100 percent of the amount of such remaining reduction amount.

(2) (A) Immediately following the actual preparation of ad valorem property tax bills, each county or independent school district's fiscal authority shall notify the department of the amount of the reduction pursuant to the implementation of Article VII, Section I, Paragraph III(f) of the Constitution.

(B) If the forest land conservation use property is located in a county or independent school district where forest land conservation use value causes an ad valorem tax revenue reduction of 3 percent or less pursuant to Article VII, Section I, Paragraph III(f) of the Constitution, in each taxable year in which such reduction occurs, the assistance grant to the county or independent school district shall be in an amount equal to 50 percent of the amount of such reduction.

(C) If the forest land conservation use property is located in a county or independent school district where forest land conservation use value causes an ad valorem tax revenue reduction of more than 3 percent pursuant to Article VII, Section I, Paragraph III(f) of the Constitution, in each taxable year in which such reduction occurs, the assistance grant to the county or independent school district shall be as follows:

(i) For the first 3 percent of such reduction amount, in an amount equal to 50 percent of the amount of such reduction; and

(ii) For the remainder of such reduction amount, in an amount equal to 100 percent of the amount of such remaining reduction amount.

(3) (A) Immediately following the actual preparation of ad valorem property tax bills, each municipality's fiscal authority shall notify the department of the amount of the reduction pursuant Article VII, Section I, Paragraph III(f) of the Constitution.

(B) If the forest land conservation use property is located in a municipality where forest land conservation use value causes an ad valorem tax revenue reduction of 3 percent or less to Article VII, Section I, Paragraph III(f) of the Constitution, in each taxable year in which such reduction occurs, the assistance grant to the municipality shall be in an amount equal to 50 percent of the amount of such reduction.

(C) If the forest land conservation use property is located in a municipality where forest land conservation use value causes an ad valorem tax revenue reduction of more than 3 percent pursuant to Article VII, Section I, Paragraph III(f) of the Constitution, in each taxable year in which such reduction occurs, the assistance grant to the municipality shall be as follows:

(i) For the first 3 percent of such reduction amount, in an amount equal to 50 percent of the amount of such reduction; and

(ii) For the remainder of such reduction amount, in an amount equal to 100 percent of the amount of such remaining reduction amount.

(Code 1981, 48-5A-3, enacted by Ga. L. 2008, p. 297, 4/HB 1211.)

Code Commission notes. - Pursuant to Code Section 28-9-5, in 2008, "department" was substituted for "Department of Revenue" and "of the Constitution" was inserted following "Paragraph III(f)" throughout this Code section.

Editor's notes. - For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

§48-5A-4. (For effective date, see note.) Administration.

The commissioner shall administer this chapter and shall adopt rules and regulations for the administration of this chapter, including specific instructions to local governments procedures. (Code 1981, 48-5A-4, enacted by Ga. L. 2008, p. 297, 4/HB 1211.)

Code Commission notes. - Pursuant to Code Section 28-9-5, in 2008, "state revenue" was deleted preceding "commissioner".

Editor's notes. - For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

RULES AND REGULATIONS 560-11-11 FOREST LAND PROTECTION

Rule 560-11-11-.01 [Effective 1/5/2025] Definitions

(1) As used in this Regulatory Chapter, the term:

(a) "Application" shall mean the application for QFLP designation, which includes a three part form consisting of: Section A - Application; Section B - Questionnaire; and Section C - Covenant. All three parts of the application shall be completed by the applicant seeking the QFLP designation and recorded by the Local Board of Tax Assessors upon approval.

(b) "Contiguous" shall mean real property within a county that abuts, joins, or touches and has the same undivided common ownership.

1. 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.

(c) "Department" shall mean the Georgia Department of Revenue.

(d) "Entity Registered to Do Business in This State" shall mean any firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public that is registered to do business with the Secretary of the State of Georgia or that has been created by a court.

(e) "FLPA" shall mean the Georgia Forest Land Protection Act of 2008 as codified in O.C.G.A. § 48-5-7.7.

(f) "Forest Land" shall mean the timbered area of a tract of land as determined by the Local Board of Tax Assessors.

(g) "Local Board of Tax Assessors" shall mean the local board of tax assessors in any county where the Application is filed and the real property is located.

(h) "Notice of Breach" shall mean the notice sent by the Local Board of Tax Assessors in the county where the breach has occurred.

(i) "Permissible Breach" shall mean a breach enumerated in O.C.G.A. § 48-5-7.7(p), which will serve to terminate the QFLP Covenant. However, the breaching party is not subject to penalties and interest.

(j) "Plat" shall mean a legible drawing done on, at a minimum, 8 ½ x 11 20lb paper sufficiently delineating the boundaries of the tract of real property for which QFLP designation is sought.

1. All Plats shall be drawn with the top of the page being north.

(k) "QFLP" shall mean Qualified Forest Land Property that shall consist of 200 acres or more in aggregate which lies within one or more counties, provided such Forest Land is in parcels of at least 100 acres within any given county, of which one-half or more of the area of each parcel is used for a qualifying purpose and

1. That meets the qualifications set forth in FLPA;

2. That has been approved by the Local Board of Tax Assessors; and
3. For which a QFLP Covenant has:
(i) Been signed on behalf, or by all parties owning an undivided interest in the fee simple tract; and
(ii) Had all pages recorded in any appropriate county's real property index.
(l) "QFLP Covenant" shall mean fifteen (15) years for all covenants approved which began prior to January 1, 2019, and ten (10) years for all covenants which began January 1, 2019, or later, as required by O.C.G.A. § 48-5-7.7. The form of the covenant shall be in the manner prescribed by the Commissioner.
(m) "Qualified Owner" means any individual or individuals or any Entity Registered to Do Business in This State.
(n) "Secondary Use" shall mean secondary uses of the tract as specified in FLPA as determined by the Local Board of Tax Assessors.
(o) "Underlying Property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less, for which the taxpayer has provided documents which delineate the property boundaries so as to facilitate the proper identification of such property on the Application and the Local Board of Tax Assessors maps and records.

Rule 560-11-11-.02 [Effective 1/5/2025] Withdrawing a QFLP Application

(1) Withdrawals for QFLP are not tied to a specific deadline date. Rather, an Application may be withdrawn at any time prior to the respective county's issuance of the final tax bills for the digest year in which the Application is either first made subject to a covenant, or is subject to a renewal of a previous covenant.
(2) The notification for withdrawing the Application shall be considered received by the Local Board of Tax Assessors when hand delivered or when date stamped by the United States Postal Service.

Rule 560-11-11-.03 [Effective 1/5/2025] QFLP Qualifications

(1) The Local Board of Tax Assessors shall be responsible for approving all Applications. Applications made by applicants that do not constitute Qualified Owners will be denied.
(2) Real property for which QFLP designation is sought shall meet all requirements as set forth in O.C.G.A. § 48-5-7.7 and:
(a) At least one-half of area of the applicant's tract of real property for which QFLP designation is sought must be used for a Qualifying Purpose as set forth in O.C.G.A. § 48-5-7.7, and Department regulations;
(b) The portion of the tract not being used for a Qualifying Purpose must not be used for any other type of business other than as set forth in O.C.G.A. § 48-5-7.7; and

(c) Uses of any portion of the tract not being used for a Qualifying Purpose may be deemed acceptable uses by the Local Board of Tax Assessors, and therefore not in breach of the QFLP Covenant, provided that:
1. The Local Board of Tax Assessors determines that such portion is:
(i) Minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems; or
(ii) Being used for any Secondary Uses.
(3) Tracts that include cellular phone tower pad areas may qualify, subject to the limitation set forth at the end of this Section (3). Specifically, the 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.
Any portion of each six (6) acre area described in Sections 3(a) - 3(c) above shall cease to be subject to the covenant as of the date of the execution of the applicable lease and shall be split into a separate parcel. The newly created parcel shall be subject to ad valorem taxation at fair market value.
(4) To obtain QFLP designation for a Contiguous tract of real property located in multiple counties, the applicant must enter into a single QFLP Covenant for the entire Contiguous tract. This QFLP Covenant must be approved and recorded in each county where the Contiguous tracts are located.
(a) If one or more counties deny an Application, any portions of the Contiguous tract which are approved may still be eligible for QFLP designation provided that
1.Any remaining tract or tracts meets the minimum qualifications as set forth in O.C.G.A. § 48-5-7.7, and Department regulations;
2. The QFLP Covenant is signed by all owners and the appropriate Local Board(s) of Tax Assessors; and
3. All pages are recorded in the appropriate county's real property index.
(5) The QFLP Covenant shall be effective upon the county signing and recording the QFLP Covenant in the real property index.
(a)Any appeals to the denial of QFLP designation or failure by the Local Board of Tax Assessors to sign the Covenant, shall be made in the manner provided for in O.C.G.A. § 48-5-311.
1. If an appeal is not resolved until the subsequent year after the filing of the Application and the applicant receives a favorable decision on the appeal, then the applicant shall be entitled to the benefits derived from the QFLP Covenant beginning in the year for which the Application was filed.
(6)Property that otherwise qualifies for a QFLP Covenant shall exclude the entire value of any residence and its Underlying Property. 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. Additionally, in conjunction with the Application, the taxpayer shall provide any one of the following types of property boundary descriptions regarding such Underlying Property:

(a) A Plat of the Underlying Property prepared by a licensed land surveyor, showing the location and measured area of the Underlying Property in question;
(b) A written legal description of the Underlying Property delineating the legal metes and bounds and measured area of the Underlying Property in question; or
(c) Such other alternative property boundary description as mutually agreed upon by the taxpayer and the Local Board of Tax Assessors. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.

Rule 560-11-11-.04 [Effective 1/5/2025] QFLP Application

(1) The Commissioner hereby adopts the form in Regulation 560-11-11-.11 Exhibit (A), as the form to be used by all counties as the QFLP Application.
(2) All applicants for QFLP designation shall include with their Application:
(a) A Plat of the tract for which QFLP designation is sought; or
(b) A written legal description of the tract.
(3) If a legal description or Plat is contested by the county, then the county shall have the burden to prove its assertion that the Plat or legal description as provided by the applicant is deficient.

Rule 560-11-11-.05 [Effective 1/5/2025] Period for Local Board of Tax Assessors to Approve or Deny QFLP Applications

(1) A Local Board of Tax Assessors shall have one hundred twenty (120) days from receipt of an Application for QFLP designation to approve or deny such Application.
(2) The Application must be filed with the Local Board of Tax Assessors no later than 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 O.C.G.A. § 48-5-311, an Application may be filed at any time while such appeal is pending.
(3) Upon approval or denial of an Application, the Local Board of Tax Assessors must notify the applicant in the manner provided for in O.C.G.A. § 48-5-306.
(4) If an Application is denied by the Local Board of Tax Assessors, any fees advanced by the applicant shall be returned to the applicant within thirty (30) days of the denial by the Local Board of Tax Assessors.

Rule 560-11-11-.06 [Effective 1/5/2025] QFLP Covenant

(1) The QFLP Covenant shall:

(a) Be signed and recorded in any county where the tract is located and owner(s) have made application and received approval for QFLP designation.
1. The QFLP Covenant shall be signed by all owner(s) of record of the tract.
2. An individual may sign on behalf of the owner(s) of record by providing that such person has established that individual has sufficient legal authority satisfactory to the Local Board of Tax Assessors, to act on behalf of the owner(s).
(b) Have an effective date of January 1 of the year for which the Application was filed and the QFLP Covenant is signed by all required parties.
(2) An applicant receiving a favorable ruling for an appeal shall receive all benefits derived from the QFLP Covenant beginning in the year for which the Application was filed, irrespective of if the appeal is not resolved until subsequent year(s).
(3) The QFLP Covenant and benefits derived therefrom shall not extend to any portion of the tract for which the QFLP Covenant has not yet been signed and recorded in that county's real property index.

Rule 560-11-11-.07 [Effective 1/5/2025] Notice of Breach

(1) Within forty-five (45) days from the day that a breach is reported to or discovered by the Local Board of Tax Assessors, the Notice of Breach shall be sent via certified mail to:
(a) The owner(s) of record of the real property in breach; and
(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 appropriate remedy is either to remediate or cease and desist the breach;
(e) The date by which the remedy must be completed; and
(f) The penalty for not remedying the breach.
(3)The thirty (30) day period for the owner to remedy the breach shall not begin until the date of the postmark of the Notice of Breach.

Rule 560-11-11-.08 [Effective 1/5/2025] Notification and Inspection Concerning QFLP in Breach of Covenant

(1) The owner(s) of record of the tract of real property in breach shall have thirty (30) days from the date of the postmark of the Notice of Breach by any owner of record to remedy the breach as specified in the Notice of Breach.
(2) Beginning on the first day after the thirty (30) day period for an owner(s) of record of the tract of real property to remedy the breach, the Local Board of Tax Assessors shall have forty-

five (45) days in which to conduct a physical inspection of the real property to determine if the prescribed remedy has been completed.
(3) The Local Board of Tax Assessors shall have fifteen (15) days from the date of the physical inspection or the end of the inspection period, whichever is later, to send a written notice to the owner(s) of record of the tract, and any counties that encompass the tract subject to the breached QFLP Covenant, to inform the owner(s) whether the tract of real property is in compliance with the QFLP Covenant.
(a) Failure to inspect the tract of real property shall be deemed a determination that the tract is in compliance with the QFLP Covenant.
(4) If a QFLP Covenant covers multiple counties then the Local Board of Tax Assessors in the county where the breach has occurred shall send the same written notifications to the Local Board of Tax Assessors in all affected counties where the QFLP Covenant is in force and effect.
(a) Such written notifications shall be sent within the same time period, and in the same manner, as the written notification sent to the owner(s) of record notifying them of the breach and the determination of whether or not the tract is in compliance with the QFLP Covenant.
(5) Appeals concerning notice, inspection, or any other issue, must be made in the manner provided for in O.C.G.A. § 48-5-311.
(6) Notifications required by this Regulation that are sent by the Local Board of Tax Assessors to owner(s) of record of the tract subject to QFLP Covenant, and to any other counties where the tract is located and subject to the QFLP Covenant, shall be sent via certified mail by the United States Postal Service, commercial delivery service, commercial courier, or personal service to the last known address of the owner(s) of record.

Rule 560-11-11-.09 [Effective 1/5/2025] Release of Covenant

(1) When a tract of real property is no longer eligible as a QFLP due to a non-remedied breach, or at the expiration of the QFLP Covenant, the owner of such tract of real property shall file an application for release with the Local Board of Tax Assessors for release of the tract of real property from the QFLP Covenant:
(a) Within sixty (60) days of the last day the tract was eligible as QFLP; or
(b) Within sixty (60) days of the last day of the QFLP Covenant.

(2) The Local Board of Tax Assessors must within thirty (30) days from receipt of an application for release, determine if all taxes and penalties, if applicable, have been paid and satisfied on the tract of real property.
(a) Upon approval of the application for release of the tract real property from the QFLP Covenant, the Local Board of Tax Assessors shall have fifteen (15) days to
1. Provide written notification to the applicant that the release has been approved.
2. File the release with the office of the clerk of superior court in the county where the original QFLP Covenant was filed, and provide a copy to the applicant.

(b) If an application for release is denied, the Local Board of Tax Assessors shall send written notification to the applicant within fifteen (15) days of receipt of such application and it shall include the reason(s) for denial. Appeals resulting from denial of release shall be made in the manner provided for in O.C.G.A. § 48-5-311.

Rule 560-11-11-.10 [Effective 1/5/2025] Penalty for Breach

(1) If a breach should occur during the QFLP Covenant period then a penalty shall be imposed by the Local Board of Tax Assessors.
(a) The method for calculating the amount of the penalty owed is set forth in O.C.G.A § 48-5-7.7(m).
(b) Penalties and interest imposed pursuant to O.C.G.A. § 48-5-7.7, shall constitute a lien against that portion of the property which is subject of the original covenant, and shall be collected in the same manner as unpaid ad valorem taxes.
(2) If all or part of the tract subject of the original QFLP Covenant is transferred during the covenant period to another qualified owner, and following such transfer the acquiring owner and/or transferring owner cause a breach of the covenant, then:
(a) Any county affected by the breach must seek recovery of penalties and interest from the breaching party by any judicial means including, but not limited to, foreclosure of the breaching party's property.
(3) Activities listed in O.C.G.A. § 48-5-7.7(q) shall not constitute a breach of the QFLP Covenant.
(4) If a Contiguous tract is subject to a QFLP Covenant in multiple counties then a breach occurring in any of the counties where the Contiguous tract is located shall constitute a breach of the entire Contiguous tract. The owner of the Contiguous tract shall be assessed all penalties and interest resulting from the breach of the QFLP Covenant.
(5) If a breach occurs solely as the result of a Permissible Breach then no penalty shall be assessed but the QFLP Covenant will be terminated at the end of the digest year.

Rule 560-11-11-.11 Forms

(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.

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

(1) For the purpose of prescribing the 2024 current use values for conservation use land, the state shall be divided into the following nine Forest Land Protection Act Valuation Areas (FLPAVA 1 through FLPAVA 9) and the following accompanying table of per acre land values shall be applied to each acre of qualified land within the FLPAVA for each soil productivity classification for timber land (W1 through W9):

(a) FLPAVA #1 counties: Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield. Table of per acre values: W1 1,014, W2 910, W3 827, W4 758, W5 695, W6 643, W7 603, W8 553, W9 504;

(b) FLPAVA #2 counties: Barrow, Cherokee, Clarke, Cobb, Dawson, DeKalb, Fannin, Forsyth, Fulton, Gilmer, Gwinnett, Hall, Jackson, Lumpkin, Oconee, Pickens, Towns, Union, Walton, and White. Table of per acre values: W1 1,374, W2 1,245, W3 1,121, W4 1,015, W5 935, W6 878, W7 828, W8 760, W9 689;

(c) FLPAVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: W1 1,348, W2 1,173, W3 1,057, W4 1,015, W5 935, W6 855, W7 719, W8 585, W9 489;

(d) FLPAVA #4 counties: Carroll, Chattahoochee, Clayton, Coweta, Douglas, Fayette, Haralson, Harris, Heard, Henry, Lamar, Macon, Marion, Meriwether, Muscogee, Pike, Schley, Spalding, Talbot, Taylor, Troup, and Upson. Table of per acre values: W1 991, W2 887, W3 804, W4 737, W5 641, W6 597, W7 519, W8 449, W9 364;

(e) FLPAVA #5 counties: Baldwin, Bibb, Bleckley, Butts, Crawford, Dodge, Greene, Hancock, Houston, Jasper, Johnson, Jones, Laurens, Monroe, Montgomery, Morgan, Newton, Peach, Pulaski, Putnam, Rockdale, Taliaferro, Treutlen, Twiggs, Washington, Wheeler, and Wilkinson. Table of per acre values: W1 843, W2 781, W3 717, W4 657, W5 592, W6 533, W7 466, W8 403, W9 334;

(f) FLPAVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: W1 834, W2 766, W3 699, W4 637, W5 568, W6 503, W7 436, W8 367, W9 299;

(g) FLPAVA #7 counties: Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Sumter, Terrell, Thomas, and Webster. Table of per acre values: W1 894, W2 813, W3 740, W4 664, W5 586, W6 511, W7 436, W8 357, W9 281;

(h) FLPAVA #8 counties: Atkinson, Ben Hill, Berrien, Brooks, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Jeff Davis, Lanier, Lowndes, Telfair, Tift, Turner, Wilcox, and Worth. Table of per acre values: W1 972, W2 880, W3 788, W4 699, W5 607, W6 519, W7 427, W8 337, W9 273;

(i) FLPAVA #9 counties: Appling, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Evans, Glynn, Liberty, Long, McIntosh, Pierce, Tattnall, Toombs, Ware, and Wayne. Table of per acre values: W1 984, W2 887, W3 804, W4 715, W5 621, W6 535, W7 443, W8 354, W9 273.

Rule 560-11-11-.13 [Effective 1/5/2025] Valuation of Additional Qualified Property which is Contiguous to the Property in the Original Covenant

(1) If a qualified owner has entered into an original QFLP 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 fifteen (15) year period of the original covenant; provided, however, that such subsequently acquired qualified property shall be less than two hundred (200) acres.
(2) If the qualified owner makes such an election, then the subsequently acquired qualified property shall be valued in accordance with O.C.G.A. § 48-5-269.
(a) When calculating the subsequently acquired qualified property's initial value, this initial value shall not be subject to the three percent (3%) limitation provided for in O.C.G.A. § 48-5-271(b).
(b) The original property subject to the original QFLP Covenant and the subsequently acquired qualified property shall be treated as separate parcels on the county tax digest until the expiration of the original QFLP Covenant. Upon the expiration of the QFLP Covenant, the properties can be merged into a single parcel upon renewal.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.12
Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.7, 48-5-269.
History. Original Rule entitled "Table of Forest Land Protection Act Land Use Values" adopted as ER. 560-11-11-0.40-.12. F. and eff. May 22, 2009, the date of adoption.
Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.
Repealed: New Rule of same title adopted. F. Mar. 15, 2010; eff. Apr. 4, 2010.
Repealed: New Rule of same title adopted. F. Mar. 3, 2011; eff. Mar. 23, 2011.
Amended: F. Apr. 24, 2012; eff. May 14, 2012.
Amended: F. June 25, 2013; eff. July 15, 2013.
Amended: F. Apr. 22, 2014; eff. May 12, 2014.
Amended: F. May 18, 2015; eff. June 7, 2015.
Amended: F. Feb. 23, 2016; eff. Mar. 14, 2016.
Amended: F. Mar. 24, 2017; eff. Apr. 13, 2017.
Amended: F. Mar. 6, 2018; eff. Mar. 26, 2018.
Amended: F. Feb. 1, 2019; eff. Feb. 21, 2019.
Amended: F. Mar. 6, 2020; eff. Mar. 26, 2020.
Note: Correction of non-substantive typographical error in paragraph (d), "316 W1 882" corrected to "W1 882", as requested by the Agency. Effective March 26, 2020.
Amended: F. Mar. 4, 2021 ; eff. Mar. 24, 2021.
Amended: F. May 4, 2022; eff. May 24, 2022.
Amended: F. Mar. 13, 2023; eff. Apr. 2, 2023.

560-11-11-.13 Valuation of Additional Qualified Property which is Contiguous to the Property in the Original Covenant.

(1) If a qualified owner has entered into an original forest land 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 fifteen (15) year period of the original covenant; provided, however, that such subsequently acquired qualified property shall be less than two hundred (200) acres.

(2) If the qualified owner makes such an election, then additional qualified property shall be valued in accordance with O.C.G.A. § 48-5-269.

(a) When calculating the additional qualified property's initial value, this initial value shall not be subject to the three percent (3%) limitation provided for in O.C.G.A. 48-5-271(b).

Authority: O.C.G.A. § 48-2-12, 48-5-7, 48-5-7.7, and 48-5-271.

Qualified Timber Property

§ 48-5-600. Definitions

As used in this article, the term:

(1) "Bona fide production of trees" means the good faith, real, actual, and genuine production of trees for commercial uses.

(2) "Qualified owner" means an individual or entity that meets the conditions of Code Section 48-5-603.

(3) "Qualified timberland property" means timberland property that meets the conditions of Code Section 48-5-604.

(4) "Timberland property" means tangible real property that has as its primary use the bona fide product.

§ 48-5-600.1. Classification of qualified timberland property; exclusive

In accordance with Article VII, Section I, Paragraph III(f.1) of the Constitution of Georgia, qualified timberland property shall be classified as a separate and distinct class of tangible property. The procedures prescribed by this article for appraisal and valuation of such property and for appeals of the assessed value of such property shall be exclusive.

§ 48-5-601. Determination of fair market value; access to property; delivery to county tax officials

(a) Qualified timberland property shall be returned to the commissioner between January 1 and April 1 each year.

(b) The fair market value of qualified timberland property shall be determined through an annual appraisal conducted by the commissioner in accordance with the qualified timberland property appraisal manual provided for in Code Section 48-5-602.

(c) The commissioner shall have access to qualified timberland property for the purpose of conducting appraisals, provided that prior notice has been given to the qualified owner of such property.

(d) The commissioner shall ensure that the appraisal values of qualified timberland property are delivered to county tax officials by July 1 of each year.

(e) Notwithstanding anything in this chapter to the contrary, pursuant to Article VII, Section I, Paragraph III(f.1) of the Constitution, the value of qualified timberland property shall be at least 175 percent of such property's forest land conservation value determined pursuant to this chapter.

History

Code 1981, § 48-5-601, enacted by Ga. L. 2018, p. 119, § 5/HB 85.

§ 48-5-602. Adoption and maintenance of qualified timberland property manual

(a) The commissioner shall adopt by rule, subject to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and maintain a qualified timberland property appraisal manual

that shall be used by the commissioner in the appraisal of qualified timberland property for ad valorem tax purposes.

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

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

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

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

(d) Such manual shall contain:
(1) Complete parameters for the appraisal of qualified timberland property;

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

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

History

Code 1981, § 48-5-602, enacted by Ga. L. 2018, p. 119, § 5/HB 85.

§ 48-5-603. Certification as qualified owner; requirements

The commissioner shall certify as a qualified owner any individual or entity registered to do business in this state that is engaged in the bona fide production of trees for the primary purpose of producing timber for commercial uses, provided that such individual or entity:
(1) Registers with the commissioner; and

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

History

Code 1981, § 48-5-603, enacted by Ga. L. 2018, p. 119, § 5/HB 85.

§ 48-5-604. Certification as qualified timberland property; requirements; annual updating; audit; filing with county tax officials

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

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

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

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

(4) Such qualified owner:

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

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

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

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

(b)

(1) The qualified owner's submission provided for in paragraph (4) of subsection (a) of this Code section shall be certified by the qualified owner and shall be updated annually filed together with such qualified owner's return required by subsection (a) of Code Section 48-5-601. If such conditions are not met annually, the real property at issue shall be decertified as qualified

timberland property and the commissioner shall notify the respective county tax officials of such decertification by April 15 of the respective year.

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

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

History

Code 1981, § 48-5-604, enacted by Ga. L. 2018, p. 119, § 5/HB 85.

§ 48-5-605. Appeal of commissioner's decisions by taxpayer or county board

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

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

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

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

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

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

History

Code 1981, § 48-5-605, enacted by Ga. L. 2018, p. 119, § 5/HB 85.

§ 48-5-606. Appeal of commissioner's decisions by taxpayers or groups

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

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

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

History

Code 1981, § 48-5-606, enacted by Ga. L. 2018, p. 119, § 5/HB 85.

§ 48-5-607. Adoption of forms and regulations

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

History

Code 1981, § 48-5-607, enacted by Ga. L. 2018, p. 119, § 5/HB 85

Chapter Nine Appendix

Various Covenant Forms & Documents

PRINT CLEAR

PT-48-5-7.7 (Aug 2011)

FOREST LAND CONSERVATION USE ASSESSMENT COVENANT
Section A: Application

To the Board of Tax Assessors of _____County: In accordance with the provisions of O.C.G.A. § 48-5-7.7, I submit this application and the completed questionnaire on the back of this application for consideration of Forest Land Conservation Use value assessment on the property described herein.

OWNERSHIP INFORMATION

Name of owner(s):	
Owner's mailing address	City, State, Zip

PROPERTY IDENTIFICATION

Property physical location	Total number of acres included in this application:

County Parcel ID #	District	Land Lot	Deed Book/Page	Plat Book/Page	Acres

AUTHORIZED SIGNATURE

I, the undersigned, do hereby solemnly swear, covenant and agree that all the information contained above, as well as the information provided on the questionnaire, is true and correct to the best of my knowledge and that the above described property qualifies under the ownership and land use provisions of O.C.G.A. § 48-5-7.7. I further swear that I am authorized to sign this application on behalf of the owner(s) making application. I am aware that certain penalty provisions are applicable if this covenant is breached pursuant to O.C.G.A. § 16-10-20.

_____ _____
Signature of Owner or Owner's Authorized Representative — Date Application Filed

_____
Signature of Owner or Owner's Authorized Representative — *Additional owners may sign on back of form

Sworn to and subscribed before me this_____day of_____,_____ _____
Notary Public

FOR TAX ASSESSORS USE ONLY

Covenant: Begins: Jan. 1 _____ Ends: Dec. 31 _____ Covenant # _____ _____ _____
(Year) (County Code) (Covenant #)

Based on the information submitted and provided on the questionnaire, the _____ County Board of Tax Assessors has considered such information and has made the following final determination of this application:

Approved: ____ Date: _____ _____ _____
Board of Tax Assessors **Date**

Denied: ____ Date: _____ If denied, O.C.G.A. § 48-5-7.7 provides that the County Board of Tax Assessors shall issue a notice to the owner(s) in the same manner as all other notices are issued pursuant to O.C.G.A. § 48-5-306 which can be appealed pursuant to O.C.G.A. § 48-5-311.

FOREST LAND CONSERVATION USE ASSESSMENT COVENANT
Section B: Questionnaire

Check Appropriate Ownership Type:

☐ One or more individuals (includes executors, administrators and trustees)

☐ Entity registered to do business in the State of Georgia (county tax official may request verification of registration: such verification may include sales tax number, FEI number, etc.)

Additional Owner Signatures (if needed)	
Print Name	**Signature/Date**

OTHER COUNTIES AND ACREAGE included in this application for FOREST LAND PROTECTION COVENANT	
County Name/Application #	**Property Description/Other County Parcel #/Acreage**

In addition to the primary use of the property as specified in the application, specific secondary uses are permitted. Please indicate if any of the following are applicable to the property covered by this application and the total amount of acreage used:

☐ Promotion, preservation, or management of wildlife habitat. _____

☐ Carbon sequestration. Is the property listed on the Georgia Carbon Sequestration Registry ☐ Yes ☐ No #: _____

☐ Mitigation or conservation use banking to restore or conserve wetlands and other natural resources. _____

☐ Production or maintenance of ecosystem products and services such as, but not limited to, clean air and water. _____

☐ Yes ☐ No Is this property or any portion thereof currently being leased? If yes, briefly explain how the property is being used by the lessee, as well as the amount of acreage of the property leased. _

☐ Yes ☐ No Is the property or any portion thereof currently being used for fishing purposes where admission is charged? If yes, please indicate amount of acreage so used.

☐ Yes ☐ No Is the property or any portion thereof being used for production of pine straw? If yes, indicate amount of acreage so used.

☐ Yes ☐ No Is there a residence on the property? If yes, provide the street address.

☐ Yes ☐ No Are there other real property improvements located on this property? If yes, briefly list and describe these real property improvements on a separate sheet and attach to this application.

☐ Yes ☐ No Is there any type of business operated on this property? If yes, indicate business name, type of business, and amount of acreage so used.

FOREST LAND CONSERVATION USE ASSESSMENT COVENANT
Section C: Covenant

In consideration of my receiving the preferential assessment of forest land provided in O.C.G.A. § 48-5-7.7, I (We), the undersigned do hereby solemnly swear, and covenant that:

1. I (we) have personal knowledge of the property described herein, and the primary use is good faith subsistence or commercial production of trees, timber, or other wood and wood fiber products.
2. I (we) will maintain this property as forest land conservation use property, as defined by O.C.G.A. § 48-5-7.7, for a period of 15 years to begin on January 1st of the first year for which conservation use assessment is approved, and to continue through the last day of December of the final year of the Covenant period.
3. I (we) will notify the Board of Tax Assessors, in writing, in the event there is a change in the "qualifying use" of said property.
4. I (we) understand that if this Covenant is breached, penalties and interest will be assessed as provided for by law and such penalties and interest levied against myself and against the property will constitute a lien against the property subject of this Covenant.
5. I (we) understand that a breach occurring in one or more counties shall be considered a breach of the entire tract subject to this Covenant, regardless of the nature or the location of the breach.
6. I (we) understand that if the tract is located in more than one county, each county where the tract is located must enter into a Covenant. If a county denies the application, then the land in that county shall not receive Forest Land Protection Act of 2008 designation and the other remaining tract or tracts must meet all the requirements and qualifications set forth in O.C.G.A. § 48-5-7.7, and all applicable regulations.
7. All information set forth on this document is true, correct, and complete.

The following information is for the portion of the tract located in **THIS COUNTY** with Covenant Number _____.

Parcel Identification Number	County	Physical Address

Detailed description of the use of the property in this County:

_____

_____

_____

We hereby adopt and ratify the Covenant for the tract of real property located in _____ County and described herein, and adopt the ratification of this Covenant for tracts located in any other counties, if applicable.

_____ _____
Date Signature for the County Board of Assessors

I hereby certify, adopt, and affirm the Covenant for the tract or tracts of real property described herein.

_____
Date Signature of Owner #1 Printed Name of Owner

Sworn to and subscribed before me
This _____ day of _____, _____. _____
Notary Public

I hereby certify, adopt and affirm the Covenant for the tract or tracts of real property described herein.

_____
Date Signature of Owner #2 Printed Name of Owner

Sworn to and subscribed before me
This _____ day of _____, _____. _____
Notary Public

The following information pertains to **ANY OTHER COUNTY** where the tract is located and for which an application and this Covenant may be filed.

Parcel Identification Number	County #1	Physical Address

Detailed description of the use of the property in the county:

_____
_____
_____

We hereby adopt and ratify the Covenant for the tract of real property located in _____ County and described herein, and adopt the ratification of this Covenant for tracts located in any other counties.

_____ _____
Date Signature for the County Board of Assessors

Parcel Identification Number	County #2	Physical Address

Detailed description of the use of the property in the county:

_____
_____
_____

We hereby adopt and ratify the Covenant for the tract of real property located in _____ County and described herein, and adopt the ratification of this Covenant for tracts located in any other counties.

_____ _____
Date Signature for the County Board of Assessors

NOTE: If additional space is needed for signatures and ratifications, you may attach another covenant section to this form.

Pursuant to O.C.G.A. 48-5-7.7(b)(1), if your tract is divided by a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track then you may, at the time of the initial application, make a one-time election to divide such tract for the purpose of entering such tract in a Forest Land Conservation Use Covenant.

Additional Parcel Identification Numbers		Additional Parcel Identification Numbers

PTR 48-5-7.7	

APPLICATION FOR RELEASE OF COVENANT
FOREST LAND CONSERVATION USE PROPERTY

To the Board of Tax Assessors of _____County: I, the owner, or authorized representative, of the below described property, having satisfied all applicable taxes and penalties associated with the covenant filed in this County, do hereby file this application for release of current use assessment. Pursuant to O.C.G.A. § 48-5-7.7, no fee is required for the clerk of superior court to file and index this release in the real property records of the clerk's office.

Name of owner (if more than one individual, or entity, enter names and addresses on a separate sheet and attach to this application):					
Owner's mailing address				City, State, Zip	Number of acres included in this application. _____
Property location (Street, Route, Hwy, Land Lots, Metes & Bounds description, etc.)				City, State, Zip	
District	Land Lot	Sublot & Block	Recorded Deed Books/Pages	What is the primary reason for seeking release of the property?	

AUTHORIZED SIGNATURE

I, the undersigned, do hereby solemnly swear, covenant and agree that all the information contained above, is true and correct to the best of my knowledge and that the above described property qualifies for release under the ownership and land use provisions of O.C.G.A. § 48-5-7.7. I further swear that I am authorized to sign this application for release on behalf of the owner(s) making application.

_____ _____
Signature of Owner or Owner's Authorized Representative — Date Application for Release Filed

_____
Signature of Owner or Owner's Authorized Representative
(Please have additional owners sign on reverse side of application)

FOR TAX ASSESSORS USE ONLY

Map(s) and Parcel ID Numbers:	Tax District(s)	Taxpayer Account Number	Total Number of Acres	Covenant # _____ _____ (County Code) (Covenant #)

Based on the information submitted above, as well as the information provided on the questionnaire, the _____ County Board of Tax Assessors has considered such information and has made the following final determination of this application for release:

Approved: ____ Date: _____ _____ _____
Board of Tax Assessors — Date

Denied: ____ Date: _____ If denied, O.C.G.A. § 48-5-7.7 provides that the County Board of Tax Assessors shall issue a notice to the taxpayer in the same manner as all other notices are issued pursuant to O.C.G.A. § 48-5-306 and can be appealed pursuant to O.C.G.A. § 48-5-311.

NOTICE OF BREACH OF COVENANT
FOREST LAND PROTECTION ACT OF 2008

Name and Mailing Address for Owner of Record:

_____

_____

_____

_____

Property in Breach:

Parcel Identification Number	County	Physical Address

Description of location on the tract of real property where the breach was discovered:

_____

_____

_____

_____

_____

This is to notify you that the above mentioned property is in breach of the covenant entered into under the Forest Land Protection Act of 2008.
On, _____ _____, 200___, this County learned, or was notified that the property was in breach of the covenant in the following manner:

_____

_____

_____

_____

_____

The breach may be remedied by:

_____

_____

_____

_____

_____

PLEASE NOTE:

- Remediation of the breach must occur within thirty (30) days of receipt of this Notice.
- Failure to remedy the breach may result in penalties and interest and lien on the property, as provided for in O.C.G.A. § 48-5-7.7.

Should you have any questions please contact: _____

Phone: _____ E-mail: _____

Date: _____ Signature: _____

PT-230 Rev. 6/00

APPLICATION FOR PREFERENTIAL AGRICULTURAL ASSESSMENT

To the Board of Tax Assessors of _____ County: In accordance with the provisions of the State Constitution and laws authorizing preferential assessment of bona fide agricultural property at 75% of the value which other tangible real property is assessed, I hereby make application for preferential assessment on the following described property. Along with this application, I am submitting the fee of the clerk of superior court for recording such application if approved.

Name of owner (individual(s) or family owned corporation)			
Owner's mailing address			City, State and Zip
Property location (Street, Route, HWY, etc.)		City, State and Zip	No. of acres included in this application
District	Land Lot	Sublot and Block	Recorded Deed Book and Page
Types of storage and processing buildings located on the property:			
List of other counties where preferential assessment applications have been made:			
Please state the number of acres used for the following purposes:			

AGRICULTURAL PURPOSE	ACRES	AGRICULTURAL PURPOSE	ACRES	AGRICULTURAL PURPOSE	ACRES
HORTICULTURAL		DAIRY		APIARIAN PRODUCTS	
FLORICULTURAL		LIVESTOCK		AGRICULTURAL PRODUCTS	
FORESTRY		POULTRY		LIVESTOCK	

FOR TAX ASSESSORS USE ONLY		
Map and Parcel Number:	Date Approved:	Date Notified:
Tax District:	Date Denied:	Date Appealed:
Taxpayer Account Number:	Yr. Covenant Begins: Jan. 1,	Yr. Covenant Ends: Dec. 31,

PREFERENTIAL AGRICULTURAL ASSESSMENT COVENANT AGREEMENT

In consideration of my receiving preferential assessment of agricultural or timberland provided for in O.C.G.A. Section 48-5-7.1, I, the undersigned, do hereby solemnly swear, covenant and agree that: (EACH POINT BELOW MUST BE INITIALED BY APPLICANT)

1. I am a natural or naturalized citizen and the lawful owner of the property described on this document or if said property is owned by a family-farm corporation, I am authorized to execute this document on behalf of said corporation. _____
2. I have personal knowledge of the property described and the primary use of said property is good faith commercial production of agricultural products with a sincere intention to produce products for profit. _____
3. I have not received or made a pending application for preferential assessment in this county or any other county with respect to any property, which taken together with this property, would exceed 2,000 acres. _____
4. No person who has a beneficial interest in this property, including any interest in the nature of stock ownership, will receive any benefit of preferential assessment as to more than 2,000 acres in any tax year. _____
5. I agree to maintain this property in bona fide agricultural purposes as defined by O.C.G.A. 48-5-7.1(a) for a period of 10 years to begin on January 1st of the year in which said property first qualifies for preferential assessment and to continue through the last day of December of the final year of the covenant period. _____
6. I hereby agree to notify the Board of Tax Assessors, in writing, in the event there is a change in the qualifying use or ownership of said property. _____
7. I understand that, if this covenant is breached by either me or any person or entity to whom I may transfer all or part of this property, a penalty shall be provided for by law. I further understand that the penalty shall bear interest and that said penalties and interest shall constitute a lien against the property under this covenant.
8. If said property is owned by a family farm corporation, 80% or more of its gross income for the year immediately preceding the year for which this covenant will begin was derived from bona fide agricultural pursuits carried out on tangible real property located in this state, which property is devoted to bona fide agricultural purposes. _____
9. All information given on this document is true, correct and complete. _____

Sworn to and subscribed before me
this ____day of _____,_____.

_____ Authorized Signature

_____ Approved By: Board of Tax Assessors

_____ Notary Public

_____ Date Filed

_____ Date

Georgia law, O.C.G.A. Section 48-5-7.1 provides that, if this application is denied, the applicant may appeal. Such appeal shall be made in the same manner that other property tax appeals are made pursuant to O.C.G.A. Section 48-5-311.

APPLICATION FOR RELEASE OF AGRICULTURAL ASSESSMENT

I, the owner of the above described property, having satisfied all applicable taxes and penalties associated with the covenant above, do hereby file this application for release of preferential assessment with the county board of tax assessors. Pursuant to O.C.G.A. Section 48-5-7.1(t) no fee is required for the clerk of superior court to file and index this release in the real property records of the clerk's office.

Sworn to and subscribed before me
this ____day of _____,_____.

_____ Authorized Signature

_____ Approved By: Board of Tax Assessors

_____ Notary Public

_____ Date Filed

_____ Date

PT283A Rev. 2/15

APPLICATION AND QUESTIONNAIRE FOR CURRENT USE ASSESSMENT OF BONA FIDE AGRICULTURAL PROPERTY

To the Board of Tax Assessors of Laurens County: In accordance with the provisions of O.C.G.A. § 48-5-7.4, I submit this application and the completed questionnaire on the back of this application for consideration of current use assessment on the property described herein. Along with this application, I am submitting the fee of the Clerk of Superior Court for recording such application if approved.

Name of owner (individual(s), family owned farm entity, trust, estate, non-profit conservation organization or club) – **The name of each individual and the percentage interest of each must be listed on the back of this application. For special rules concerning Family Farm Entities and the maximum amount of property that may be entered into a covenant, please consult the County Board of Tax Assessors**

Owner's mailing address	City, State, Zip	Number of acres included in this application.
COLSON KENNY 40 BUMBLEBEE TRAIL	JUNCTION CITY, GA 31812	Agricultural Land: _____ Timber Land: _____
Property location (Street, Route, Hwy, etc.)	City, State, Zip of Property:	Covenant Acres 40.69 Total Acres 40.69
0 DAVID MULLIS RD	,	

District	Land Lot	Sublot & Block	Recorded Deed Book/Page	List types of storage and processing buildings:
17	174		382 0721	

AUTHORIZED SIGNATURE

I, the undersigned, do hereby solemnly swear, covenant and agree that all the information contained above, as well as the information provided on the questionnaire, is true and correct to the best of my knowledge and that the above described property qualifies under the ownership and land use provisions of O.C.G.A. § 48-5-7.4. I further swear that I am authorized to sign this application on behalf of the owner(s) making application and that I have shown the percentage interest for each of the individuals having an ownership right to this property on the back of this application form. I am also aware that certain penalty provisions are applicable if this covenant is breached.

_____ _____
Signature of Taxpayer or Taxpayer's Authorized Representative — Date Application Filed

_____ Sworn to and subscribed before me this _____ day of _____, _____
Signature of Taxpayer or Taxpayer's Authorized Representative
(Please have additional taxpayers sign on reverse side of application) _____ Notary Public

If denied, Georgia law O.C.G.A. § 48-5-7.4 provides that the applicant may appeal in the same manner as other property appeals are made pursuant to O.C.G.A. § 48-5-311.

FOR TAX ASSESSORS USE ONLY

MAP & PARCEL NUMBER	TAX DISTRICT	TAXPAYER ACCOUNT NUMBER	YEAR COVENANT:
133 051	01	6855	Begin: Jan 1, 2015 Ends: Dec 31, 2024

If transferred from Preferential Agricultural Assessment, provide date of transfer:	If applicable, covenant is a renewal for tax year: Begin: Jan 1, _____ Ends: Dec 31, _____	If applicable, covenant is a continuation for tax year: Begin: Jan 1, _____ Ends: Dec 31, _____
_____	Pursuant to O.C.G.A. § 48-5-7.4(d) a taxpayer may enter into a renewal contract in the 9th year of a covenant period so that the contract is continued without a lapse for an additional 10 years.	If continuing a covenant where part of the property has been transferred, list Original Covenant Map and Parcel Number: _____

Approved: _____ Date: _____ _____ _____
Board of Tax Assessors — Date

Denied: _____ Date: _____ If denied, the County Board of Tax Assessors shall issue a notice to the taxpayer in the same manner as all other notices are issued pursuant to O.C.G.A. Section 48-5-306.

CURRENT USE ASSESSMENT QUESTIONNAIRE – PT283A 133 051

ALL APPLICANTS, other than single titled owners, must list below each individual's name that owns a beneficial interest in the property described in this application, the percentage interest of each, the relationship of each (if the applicant is a family farm entity), and all other information applicable to this application.

Each Person's Name having any beneficial interest in the property described in this application. (If this form does not contain sufficient lines to list all owners, please attach list providing all information requested for each individual.)	Relationship (complete only if application is for a family farm entity)	Percent interest owned in property in this application only	Counties where you own interest in property under other covenants and total acres in other conservation use covenants		Each owner's percent interest owned and number of acres owned by each under other covenants
Name / Relationship			County	Total Acres	% Interest / No of Acres

Check Appropriate Ownership Type:

[ ] One or more natural or naturalized citizens.

[ ] An estate of which the devisees or heirs are one or more natural or naturalized citizens.

[ ] A trust of which the beneficiaries are one or more natural or naturalized citizens.

[ ] A family owned farm entity (e.g., a family corporation, family partnership, family general partnership, family limited partnership, family limited corporation or family limited liability company. Percent (%) of 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 (include supporting tax records); 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 (include supporting estimate records.)

[ ] Nonprofit conservation organization designated as a 501(c)(3) organization under the Internal Revenue Code. (Provide copy of IRS determination letter/charter with application.)

[ ] Bona fide club organized for pleasure, recreation, and other nonprofitable purposes pursuant to Section 501(c)(7) of the Internal Revenue Code. (Provide copy of IRS determination letter/charter with application.)

Check All Bona fide uses that apply and the percentage use, as they relate to the property described in this application.

[ ] Raising, harvesting, or storing crops %_____

[ ] Feeding, breeding, or managing livestock or poultry %_____

[ ] Producing plants, trees, fowl, or animals (including the production of fish or wildlife) %_____

[ ] Wildlife habitat of not less than ten (10) acres of wildlife habitat (either in its natural state or under management; no form of commercial fishing or fish production shall be considered a type of agriculture); %_____ (see board of tax assessors for appropriate documentation in accordance with O.C.G.A. Section 48-5-7.4(b)(2)

[ ] Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products %_____

[ ] Other

[ ] Yes [ ] No Is this property or any portion thereof, currently being leased? (If yes, list the name of the person or entity and briefly explain how the property is being used by the lessee, as well as the percentage of the property leased.)

[ ] Yes [ ] No Are there other real property improvements located on this property other than the storage and processing buildings listed on the front of this application? If yes, briefly list and describe these real property improvements.

[ ] Yes [ ] No Are there any restrictive covenants currently affecting the property described in this application? If yes, please explain.

[ ] Yes [ ] No Are there any deed restrictions on this property? If yes, please list the restrictions.

[ ] Yes [ ] No Does the current zoning on this property allow agricultural use? If no, please explain.

[ ] Yes [ ] No Is there any type business operated on this property? If yes please indicate business name & type of business.

• If this application is for property that is less than 10 acres in size, a taxpayer must submit additional relevant records providing proof of bona fide agricultural use.
• Although not required, the applicant(s) for a property having more than 10 acres may wish to provide additional information to assist the board of assessors in making their determination. This information may include:
(1) Plans or programs for the production of agricultural and timber products, (2) Evidence of participation in a government subsidy program for crops or timber. (3) Receipts that substantiate a bona fide conservation use, such as receipts for feed, equipment, etc. (4) Income tax records, such as copies of a previously filed Federal Schedule F or the appropriate entity return (e.g., Federal Form 1065, 1120, etc.)
• The Board of Tax Assessors can only deny an application if the use of the property does not meet the definition of bona fide agricultural property or if the ownership of the property is not in compliance with O.C.G.A. § 48-5-7.4.

APPLICATION FOR RELEASE OF CURRENT USE ASSESSMENT OF BONA FIDE AGRICULTURAL PROPERTY

I, the owner of the above described property, having satisfied all applicable taxes and penalties associated with the covenant above, do hereby file this application for release of current use assessment with the county board of tax assessors. Pursuant to O.C.G.A. § 48-5-7.4(w), no fee is required for the clerk of superior court to file and index this release in the real property records of the clerk's office.

Sworn to and subscribed before me
This ___ day of _____, _____ _____ Taxpayer's Authorized Signature _____ Approved by: Board of Tax Assessors

_____ _____ _____
Notary Public Date Filed Date Approved

PT-283E Rev. 8/07

APPLICATION AND QUESTIONNAIRE FOR CURRENT USE ASSESSMENT OF ENVIRONMENTALLY SENSITIVE PROPERTY

To the Board of Tax Assessors of _____County: In accordance with the provisions of O.C.G.A. § 48-5-7.4, I submit this application and the completed questionnaire on the back of this application for consideration of current use assessment on the property described herein. Along with this application, I am submitting the fee of the Clerk of Superior Court for recording such application if approved.

Name of owner (individual(s), family owned farm entity, trust, estate, non-profit conservation organization or club)					
Owner's mailing address				City, State, Zip	Number of acres included in this application.
Property location (Street, Route, Hwy, etc.)				City, State, Zip	
District	Land Lot	Sublot & Block	Recorded Deed Book/Page	Has property been certified by the Department of Natural Resources as environmentally sensitive? [ ] No [ ] Yes, attach certification	

AUTHORIZED SIGNATURE

I, the undersigned, do hereby solemnly swear, covenant and agree that all the information contained above, as well as the information provided on the questionnaire, is true and correct to the best of my knowledge and that the above described property qualifies under the ownership and land use provisions of O.C.G.A. § 48-5-7.4. I further swear that I am authorized to sign this application on behalf of the owner(s) making application that that no individual associated with the ownership of this property has any beneficial interest in more than 2,000 acres in this or any other conservation use property in Georgia, and that certain penalty provisions are applicable if this covenant is breached.

_____ _____ Sworn to and subscribed before me this _____ day of _____, _____

Signature of Taxpayer or Taxpayer's Authorized Representative Date Filed

_____ Notary Public

If denied, Georgia law O.C.G.A. § 48-5-7.4 provides that the applicant may appeal in the same manner as other property appeals are made pursuant to O.C.G.A. § 48-5-311.

FOR TAX ASSESSORS USE ONLY

Map and Parcel Number	Tax District	Taxpayer Account Number	Yr Covenant: Begins: Jan 1 _____ Ends: Dec 31 _____
If initial application, date transferred from Preferential Agricultural Assessment: _____	If applicable, covenant is a renewal for tax year : Beginning Jan 1, _____ Ending: Dec 31, _____		If applicable, covenant is a continuation for tax year Beginning Jan 1, _____ Ending: Dec 31, _____

Based on the information submitted above, as well as the information provided on the questionnaire, the _____ County Board of Tax Assessors has considered such information and has made the following final determination of this application:

Approved: ____ Date: _____ _____ _____

Board of Tax Assessors Date

Denied: ____ Date: _____

If denied, the County Board of Tax Assessors shall issue a notice to the taxpayer in the same manner as all other notices are issued pursuant to O.C.G.A. § 48-5-306.

APPLICATION FOR RELEASE OF CURRENT USE ASSESSMENT OF ENVIRONMENTALLY SENSITIVE PROPERTY

I, the owner of the above described property, having satisfied all applicable taxes and penalties associated with the covenant above; do hereby file this application for release of current use assessment with the county board of tax assessors. Pursuant to O.C.G.A. § 48-5-7.4(w), no fee is required for the clerk of superior court to file and index this release in the real property records of the clerk's office.

Sworn to and subscribed before me This ___ day of _____, _____ _____ _____

Taxpayer's Authorized Signature Approved by: Board of Tax Assessors

_____ _____ _____

Notary Public Date Filed Date Approved

CURRENT USE ASSESSMENT QUESTIONNAIRE – PT283E

ALL APPLICANTS, other than single titled owners, must list below each individual's name that owns a beneficial interest in the property described in this application, the percentage interest of each, the relationship of each (if the applicant is a family farm entity), and all other information applicable to this application.

Each Individual's Name having any beneficial interest in the property described in this application	Percent interest for each owner of property in this application	Counties where you own interest in property under other covenants and total acres included in each covenant		Each owner's percent interest owned and number of acres owned by each under other covenants	
		County	Total Acres	Percent Interest	Number of Acres

Check Appropriate Ownership Type:

[ ] One or more natural or naturalized citizens.
[ ] An estate of which the devisees or heirs are one or more natural or naturalized citizens.
[ ] A trust of which the beneficiaries are one or more natural or naturalized citizens.
[ ] A family owned farm entity (e.g., a family corporation, family partnership, family general partnership, family limited partnership, family limited corporation or family limited liability company. Percent (%) of 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 (include supporting tax records); 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 (include supporting estimate records*.)
[ ] Nonprofit conservation organization designated as a 501(c)(3) organization under the Internal Revenue Code. (*Provide copy of IRS determination letter/charter with application*.)
[ ] Bona fide club organized for pleasure, recreation, and other nonprofitable purposes pursuant to Section 501(c)(7) of the Internal Revenue Code. (*Provide copy of IRS determination letter/charter with application.*)

Check All Bona fide uses that apply and the percentage use, as they relate to the property described in this application.

[ ] Significant groundwater recharge area identified on maps or data compiled by the Department of Natural Resources %_____
[ ] Habitats for endangered or threatened species certified by the Department of Natural Resources %_____
[ ] Mountainous Terrain %_____
[ ] Undeveloped Barrier Islands %_____
[ ] Wetlands as determined by the US Army Corps of Engineers, or depicted or delineated on maps compiled by the Department of Natural Resources of the US Fish & Wildlife Service %_____
[ ] River Corridors adjacent to rivers & perennial streams within the 100 year flood plain developed by FEMA or those buffer zones established by law or local ordinance %_____

1. Is this property or any portion thereof, currently being leased? (If yes, list the name of the person or entity and briefly explain how the property is being used by the lessee, as well as the percentage of the property leased.)

The board of tax assessors may not approve an application without the following document:
Certification from the Department of Natural Resources pursuant to O.C.G.A. § 48-5-7.4(a)(2) that the property meets the criteria for current use assessment of environmentally sensitive property.

PT-283R - Rev. 8/07

APPLICATION FOR CURRENT USE ASSESSMENT OF RESIDENTIAL TRANSITIONAL PROPERTY

To the Board of Tax Assessors of _____County: In accordance with the provisions of O.C.G.A. § 48-5-7.4, I submit this application for consideration of current use assessment on the property described herein. Along with this application, I am submitting the fee of the Clerk of Superior Court for recording such application if approved.

Name of owner (individual(s))					
Owner's mailing address				City, State, Zip	If within city limits, provide city name
Property location (Street, Route, Hwy, etc.)				City, State, Zip	Total number of acres – but no more than 5
District	Land Lot	Sublot & Block	Recorded Deed Book/Page	Enter name under which a homestead exemption has been approved on this property	

AUTHORIZED SIGNATURE

I, the undersigned, do hereby solemnly swear, covenant and agree that all the information contained above is true and correct to the best of my knowledge and that the above described property qualifies under the ownership and land use provisions of O.C.G.A. § 48-5-7.4. I further swear that I am authorized to sign this application on behalf of the owner(s) making application that no individual associated with the ownership of this property has any beneficial interest in more than 2,000 acres in this or any other conservation use property in Georgia, and that certain penalty provisions are applicable if this covenant is breached.

_____ _____ Sworn to and subscribed before me this _____ day of _____, _____

Signature of Taxpayer or Taxpayer's Authorized Representative Date Filed

_____ Notary Public

If denied, Georgia law O.C.G.A. § 48-5-7.4 provides that the applicant may appeal in the same manner as other property appeals are made pursuant to O.C.G.A. § 48-5-311.

FOR TAX ASSESSORS USE ONLY

Map and Parcel Number	Tax District	Taxpayer Account Number	Yr Covenant: Begins: Jan 1 _____ Ends: Dec 31 _____
Date property split from a conservation use covenant of bona fide agricultural property: _____	If applicable, covenant is a renewal for tax year: Beginning Jan 1, _____ Ending: Dec 31, _____		If applicable, covenant is a continuation for tax year Beginning Jan 1, _____ Ending: Dec 31, _____

Based on the information submitted above, the _____ County Board of Tax Assessors has considered such information and has made the following final determination of this application:

Approved: ____ Date: _____ _____ _____

Board of Tax Assessors Date

Denied: ____ Date: _____

If denied, the County Board of Tax Assessors shall issue a notice to the taxpayer in the same manner as all other notices are issued pursuant to O.C.G.A. § 48-5-306.

APPLICATION FOR RELEASE OF CONSERVATION USE ASSESSMENT OF RESIDENTIAL TRANSITIONAL PROPERTY

I, the owner of the above described property, having satisfied all applicable taxes and penalties associated with the covenant above, do hereby file this application for release of conservation use assessment with the county board of tax assessors. Pursuant to O.C.G.A. § 48-5-7.4(w), no fee is required for the clerk of superior court to file and index this release in the real property records of the clerk's office.

Sworn to and subscribed before me
This ___ day of _____, _____

_____ _____

Taxpayer's Authorized Signature Approved by: Board of Tax Assessors

_____ _____ _____

Notary Public Date Filed Date Approved

PT-283S Rev.8/07

APPLICATION AND QUESTIONNAIRE FOR CURRENT USE ASSESSMENT OF CONSTRUCTED STORM-WATER WETLANDS PROPERTY

To the Governing Authority of _____County: In accordance with the provisions of O.C.G.A. § 48-5-7.4, I submit this application and the completed questionnaire on the back of this application for consideration of current use assessment on the property described herein. Along with this application, I am submitting the fee of the Clerk of Superior Court for recording such application if approved.

Name of Owner					
Owner's mailing address				City, State, Zip	Number of acres included In this application.
Property location (Street, Route, Hwy, etc.)				City, State, Zip	
District	Land Lot	Sublot & Block	Recorded Deed Book/Page	List other counties where similar applications have been approved	

AUTHORIZED OWNERS SIGNATURE

I, the undersigned, do hereby solemnly swear, covenant and agree that all the information contained above, as well as the information provided on the questionnaire, is true and correct to the best of my knowledge and that the above described property qualifies under the land use provisions of O.C.G.A. § 48-5-7.4. I further swear that I have submitted the necessary certification from the Department of Natural Resources, and am aware that an annual certification from a licensed professional engineer must be submitted annually. I am authorized to sign this application on behalf of the owner making application and that no individual associated with the ownership of this property has any beneficial interest in more than 2,000 acres in this or any other conservation use property in Georgia, and that certain penalty provisions are applicable if this covenant is breached.

_____ _____ Sworn to and subscribed before me this _____ day of _____, _____

Signature of Taxpayer or Taxpayer's Authorized Representative Date Filed

_____ Notary Public

FOR COUNTY GOVERNING AUTHORITY'S USE ONLY

Based on the information submitted above, the information provided on the questionnaire, and the inspection of the site before, during and after construction in accordance with O.C.G.A. *§ 48-5-7.4(k)(2)(B)*, the _____ County Governing Authority has made the following final determination of this application:

Approved: ____ Date: _____ _____ _____

Chairman, County Governing Authority Date

Denied: ____ Date: _____

The County Governing Authority shall forward the application to the Board of Tax Assessors. If denied, the Board of Tax Assessors shall issue a notice to the taxpayer in the same manner as all other notices are issued pursuant to O.C.G.A. § 48-5-306. Georgia law O.C.G.A. § 48-5-7.4 provides that the applicant may appeal the denial in the same manner as other property appeals are made pursuant to O.C.G.A. § 48-5-311.

FOR TAX ASSESSORS USE ONLY

Map and Parcel Number	Tax District	Taxpayer Account Number	Yr Covenant: Begins: Jan 1 _____ Ends: Dec 31 _____
If applicable, covenant is a renewal for tax year : Beginning January 1, _____ Ending December 31, _____		If applicable, covenant is a continuation for tax year Beginning January 1, _____ Ending December 31, _____	

Date of receipt of annual inspection report, but before the last day for filing ad valorem tax returns, from a licensed professional engineer certifying that the storm-water wetland property above is being maintained in a proper state of repair and operating in a manner for which it was designed.

Year	Date Annual Inspection Filed	Year	Date Annual Inspection Filed	Year	Date Annual Inspection Filed
2nd		5th		8th	
3rd		6th		9th	
4th		7th		10th	

APPLICATION FOR RELEASE OF CURRENT USE ASSESSMENT OF CONSTRUCTED STORM-WATER WETLANDS PROPERTY

I, the owner of the above described property, having satisfied all applicable taxes and penalties associated with the covenant above; do hereby file this application for release of current use assessment with the county board of tax assessors. Pursuant to O.C.G.A. § 48-5-7.4(w), no fee is required for the clerk of superior court to file and index this release in the real property records of the clerk's office.

Sworn to and subscribed before me _____ _____

This ___ day of _____, _____ Taxpayer's Authorized Signature Approved by: Board of Tax Assessors

_____ _____ _____

Notary Public Date Filed Date Approved

CURRENT USE ASSESSMENT QUESTIONNAIRE – PT283S

Check the documents below submitted in support of approval of application as required by O.C.G.A. § 48-5-7.4(k)(2)(B). The county governing authority may not approve an application without these documents:

[ ] Certification from the Department of Natural Resources pursuant to O.C.G.A. § 12-2-4(k) that the property meets the criteria for current use assessment of constructed storm-water wetland property.

[ ] A plat of the tract prepared by a licensed land surveyor, showing the location and measured area of the tract;

[ ] A report from a licensed professional engineer attesting that after inspection and investigation, the specific design used for the constructed storm-water wetland was found to be suitable for such site

[ ] Information on the actual cost of construction the storm water wetland and an estimate of the cost of operating the storm water wetland, including, without limitation, a description of all incorporated materials, machinery, and equipment.

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	2,000	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	2,000	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 (Before 2019) 10 Years (After 2018)	More than 200 (Before 2019) 200 or More (After 2018)	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)	

FLPA Notes: Beginning in 2019, 100 acre per parcel minimum. Parcels do not have to be contiguous anymore and can be in multiple counties. Must have at least 200 acres on the FLPA application.

PUBLIC NOTICE TO OWNERS OF PROPERTY THAT MAY QUALIFY FOR THE TAX BENEFITS OF CURRENT USE ASSESSMENT

WHAT?

Your tax bill may be lowered if you devote your property to a current use and sign a 10-year promise to keep it in that use.

WHO IS QUALIFIED?

Certain individuals, estates, trusts and family farm corporations.

WHAT TYPE PROPERTY MUST I HAVE?

There are specific qualifications but generally any of the following types of property may be eligible:

- Property devoted to bona fide agricultural or forest production;
- Homes located in an area where land prices are rising because of nearby commercial development;
- Property classified as "Environmentally Sensitive" by the Department of Natural Resources

WHAT MUST I DO?

You must sign a covenant application promising to keep using your property in the qualifying use for the next 10 years. Your ability to sell or develop it will be restricted during that time. You can sign up any time between January 1st and April 1st or within the county's time period for filing property assessment appeals. If you currently have your property in a "Preferential Assessment Covenant", you may switch to a "Current Use Covenant" if it offers you a better tax advantage.

HOW DO I FIND OUT MORE?

Please contact your county Board of Tax Assessors office for official information about current use assessment or if you have general questions concerning this program, you may contact the State of Georgia, Department of Revenue, Local Government Services at 404-724-7000 or online at https://dor.georgia.gov.

PUBLIC NOTICE

TAX BENEFITS OF FOREST LAND PROTECTION ACT CURRENT USE ASSESSMENT:

Your tax bill may be lowered if you devote your property to a current use and sign a 10-year promise to keep it in that use.

WHO IS QUALIFIED?

Certain individuals and entities licensed to do business in the state of Georgia.

WHAT TYPE PROPERTY MUST I HAVE?

A tract of land consisting of 200 acres or more primarily used for one or more the purposes listed below:

- Subsistence production of trees, timber, wood or wood fiber products;
- Commercial production of trees, timber, wood or wood fiber products;
- Property classified as "Environmentally Sensitive" by the Department of Natural Resources
- Property managed according to a recognized forestry certification program

WHAT MUST I DO?

You must sign a covenant application promising to keep using your property in the qualifying use for the next 10 years. Your ability to sell or develop it will be restricted during that time. You can sign up any time between January 1st through the county's time period during property assessment appeals. If you currently have your property in a "Preferential Assessment Covenant" or "Conservation Use Covenant", you may switch to a "Forest Land Protection Act Covenant" if it offers you a better tax advantage.

HOW DO I FIND OUT MORE?

Please contact your county Board of Tax Assessors office for official information about current use assessment or if you have general questions concerning this program, you may contact the State of Georgia, Department of Revenue, Local Government Services at 404-724-7000 or online at https://dor.georgia.gov.

Brian P. Kemp
Governor

Christopher Nunn
Commissioner

Georgia® Department of Community Affairs

State Preferential Property Tax Assessment Program for Rehabilitated Historic Property

During its 1989 session, the Georgia General Assembly passed a statewide preferential property tax assessment (PPTA) program for rehabilitated historic property (Ga. Code Annotated Vol. 36, 48-5-2 – 48-5-7.2). This incentive program is designed to encourage rehabilitation of both residential and commercial historic buildings by freezing property tax assessments for eight and one-half years. The assessment of rehabilitated property is based on the rehabilitated structure, the property on which the structure is located, and not more than two acres of real property surrounding the structure. This program requires action by the Historic Preservation Division (HPD) of the Department of Community Affairs (DCA) through Rules 110-37-3 and by the appropriate local county tax commission.

What properties are eligible?
The property must be listed or eligible for listing in the Georgia Register of Historic Places either individually, or as a contributing building within a historic district. To find out if a property qualifies, please contact the Historic Preservation Division's National Register Specialist, Donald Rooney, at Donald.Rooney@dca.ga.gov.

Requirements to Participate

- The cost of rehabilitation must meet the substantial rehabilitation test. This test is met by increasing the fair market value of the building by the following percentages. The county tax assessor is the official who makes this determination.
    - **Residential** (owner-occupied residential property): rehabilitation must increase the fair market value of the building by at least 50%
    - **Mixed-Use** (primarily owner-occupied residential and partially income-producing property): rehabilitation must increase the fair market value of the building by at least 75%
    - **Commercial and Professional Use (income-producing property**): rehabilitation must increase the fair market value of the building by at least 100%
- The property owner must obtain preliminary and final certification of the project from HPD.
- Rehabilitation must be in accordance with the Department of Community Affair's *Standards for Rehabilitation* and must be completed within two years.

Application Process

The Rehabilitated Historic Property Application is a two-part process: Part A and Part B, with supplemental information and amendments when necessary. The program is designed to review projects before work begins; therefore, the earlier application materials are submitted to HPD for review, the better.

Part A – Preliminary Certification

Part A is submitted to HPD to determine if the property is listed or eligible for listing in the Georgia Register of Historic Places, and to determine if the proposed work meets the *Standards for Rehabilitation*. Ideally this is submitted to HPD before rehabilitation begins. Once all application materials are submitted and the review fee is paid, HPD generally takes 30 days to review and comment on the rehabilitation project. After HPD completes its review, the signed Part A form is emailed to the applicant. The applicant is then responsible for filing the Part A certified form with the county tax assessor to initiate the assessment freeze period beginning the following tax year for two years.

Please be aware that any work done prior to HPD review is done at owner's own risk. The review may determine that any rehabilitation work undertaken prior to approval that does not meet the Standards either may need remediation or may make the project eligible for a denial.

Part B – Final Certification

Part B is submitted to HPD after the project is completed and must be certified by HPD and submitted to the tax assessor within two years of filing the Part A preliminary certification form. Once all application materials are submitted, HPD generally takes 30 days to review and certify the rehabilitation project. HPD is the final certification authority concerning all state rehabilitation applications. After HPD completes its review and approves the rehabilitation, the certified Part B form is emailed to the applicant. The applicant is then responsible for filing the Part B certified form with the county tax assessor in order to maintain the assessment freeze for an additional 6 ½ years. In the ninth year, the assessment will increase 50% of the difference between the value of the property at the time the freeze was initiated and the current assessment value. In the 10th year, the property tax assessment will increase to the 100% current assessment value. Be advised that work that does not conform to the Standards may require remediation or may lead to denial of the application.

Amendments

Amendments are submitted to HPD when there is a change in the scope of work or contact information as submitted in the Part A application. This allows a certain amount of flexibility as the project continues to be developed. Upon request, HPD will offer technical assistance to rehabilitation tax projects by meeting with individuals at HPD's office or on-site of the project to discuss specific rehab issues. HPD encourages early communication with our office.

Fees

Upon receipt of your Part A PPTA (Preliminary Certification) application, we will send an invoice for our review fee of $50.00. A cashier's check, money order, or official bank check, made payable to the Georgia Department of Community Affairs, are the only acceptable forms of payment. Personal checks are not accepted. The fee is non-refundable.

Brian P. Kemp
Governor

Christopher Nunn
Commissioner

Georgia® Department of Community Affairs

State Income Tax Credit Program for Rehabilitated Historic Property

In May 2002, the Georgia State Income Tax Credit for Rehabilitated Historic Property was signed into law (Ref. O.C.G.A. Section 48-7-29.8). The credit is a dollar for dollar reduction of State of Georgia income taxes and is meant to serve as an incentive to those who own and want to improve their historic properties by completing a rehabilitation project. The tax credit program is administered by the Georgia Department of Community Affairs' Historic Preservation Division (DCA-HPD) and the Georgia Department of Revenue. Owners of historic residential and commercial properties who plan to start a substantial rehabilitation on or after January 1, 2004 are eligible to apply for the credit. As amended, forcalendar years 2023 and 2024, the program provides owners of historic residential (principal residence) properties who complete a DCA-approved rehabilitation the opportunity to take 25% of the qualified rehabilitation expenditures as a state income tax credit, capped at $100,000 per project (if the home is located in a target area, as defined in O.C.G.A Section 48-7-29.8, the credit may be equal to 30% of rehabilitation expenditures, also capped at $100,000) with a $5 million annual program cap. For any other certified historic structure, the credit is 25% of qualified rehabilitation expenditures, capped at $5 million or $10 million per project with a $30 million annual program cap (the $10 million cap category has annual employment and/or wage requirements) for calendar years 2023-2027.

What properties are eligible?
The property must be listed or eligible for listing in the Georgia Register of Historic Places, either individually or as a contributing building within a historic district. To find out if a property qualifies,please contact the Historic Preservation Division's National Register Specialist, Donald Rooney, at Donald.Rooney@dca.ga.gov.

Requirements to Participate

- The cost of rehabilitation must meet the substantial rehabilitation test. The substantial rehabilitation test is met when the qualified rehabilitation expenses exceed the following amounts:
    - For a historic home used as a principal residence, the lesser of $25,000 or 50% of the adjusted basis of the building.
    - For a historic home used as a principal residence in a target area, $5,000.
    - For any other certified historic structure, the greater of $5,000 or the adjusted basis of the building.
- **At least 5% of the qualified rehabilitation expenditures must be allocated to work completedto the exterior of the structure**. Acquisition costs and costs associated with new construction are not qualified rehabilitation expenses. For more information about Qualified Expenditures see the National Park Service - Technical Preservation Services definitions (https://www.nps.gov/tps/tax-incentives/before-apply/qualified-expenses.htm)
- The property owner must obtain preliminary and final certification of the project from HPD.
- Rehabilitation must be in accordance with the Department of Community Affairs' *Standards for Rehabilitation* and must be completed within two years.

How is the Credit Awarded?
Questions about the Georgia Tax Center, DOR forms, and allocation of tax credits should be directed to taxcredits.inquiries@dor.ga.gov.

Application Process
The application is a two-part process: Part A and Part B, with supplemental information and amendments when necessary. The program is designed to review projects before work begins; therefore, the earlier application materials are submitted to HPD for review, the better.
A digital application is available. Please find instructions for the digital application on the HPD website, linked here.

Part A – Preliminary Certification
Part A is submitted to HPD to determine if the property is listed or eligible for listing in the Georgia Register of Historic Places, and to determine if the proposed work meets the *Standards for Rehabilitation*. Ideally this is submitted to HPD before rehabilitation begins. Once all application materials are submitted and the review fee is paid, HPD generally takes 30 days to review and comment on the rehabilitation project. After HPD completes its review, the signed Part A form is emailed to the applicant. Project applicants are then responsible for electronicallysubmitting the approved Part A to the Georgia Tax Center to receive an allocation.

Please be aware that any work done prior to HPD review is done at owner's own risk. The review may determine that any rehabilitation work undertaken prior to approval that does not meet the Standards either may need remediation or may make the project eligible for a denial.

Part B – Final Certification
Part B is submitted to HPD after the project is completed. Once all application materials are submitted and the review fee is paid, HPD generally takes 30 days to review and certify the rehabilitation project. HPD is the final certification authority concerning all state rehabilitation applications. After HPD completes its review and approves the rehabilitation, the certified Part B form is emailed to the applicant. The applicant is then responsible for submitting the Part B –Final Certification form either electronically to the Georgia Tax Center with their annual tax return or with their annual tax return as directed by Department of Revenue Rules. Be advised that work that does not conform to the Standards may require remediation or may lead to denial of the application.

Amendments
Amendments are submitted to HPD when there is a change in the scope of work or contact information as submitted in the Part A application. This allows a certain amount of flexibility as the project continues to be developed. Upon request, HPD will offer technical assistance to rehabilitation tax projects by meeting with individuals at HPD's office or on-site of the project to discuss specific rehab issues. HPD encourages early communication with our office.

Fees
Fees are charged for reviewing the Part A and Part B applications. See table on next page for breakdown of fees. A cashier's check, money order, or official bank check, made payable to the Georgia Department of Community Affairs, are the only acceptable forms of payment. Personal checks are not accepted. The fees are non-refundable.

Fee Schedule

Project Qualified Rehabilitation Expenditures (QRE)	Part A – Preliminary Certification Review Fee	Part B – Final Certification Review Fee
$100,000 or under	$250	None
Over $100,000 up to $500,000	0.375% of estimated QRE	0.125% of actual QRE
Over $500,000	$1875 plus 0.75% of estimated QRE exceeding $500,000	$625 plus 0.25% of actualQRE exceeding $500,000
Maximum Total Fee for any single project shall not exceed $25,000 All projects over $100,000: 75% of the total review fee will be collected at Part A and theremainder (25%) will be collected at Part B		

Updated 08/2022

Brian P. Kemp
Governor

Christopher Nunn
Commissioner

Georgia® Department of Community Affairs

Georgia DCA Standards for Rehabilitation

The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

A. A property shall be used for its historic purpose, or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

B. The historic character of a property shall be retained and preserved. The removal of historic materials or alterations of features and spaces that characterize a property shall be avoided.

C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

H. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

I. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Brian P. Kemp
Governor

Christopher Nunn
Commissioner

Georgia® Department of Community Affairs

Welcome to the DCA – HPD Tax Incentives Online Database!

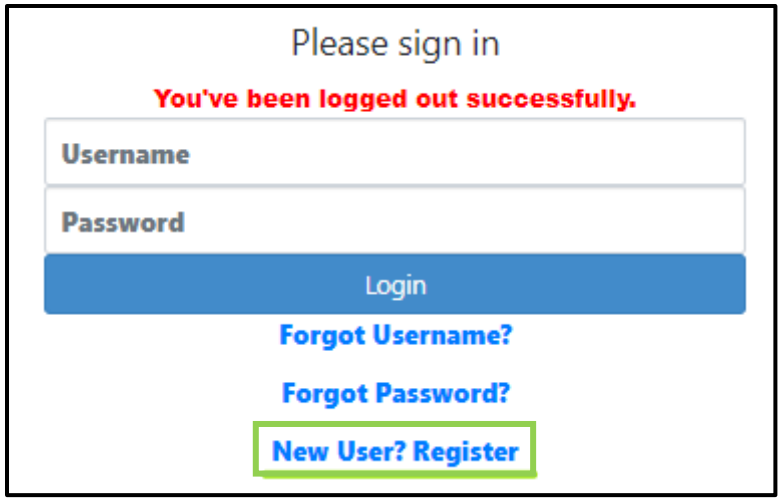
It is our hope that going online will make the Tax Incentives Application accessible to more people. For now, you can still submit a hard-copy of applications to our office (see instructions on the HPD website at this link).

LINK TO DATABASE

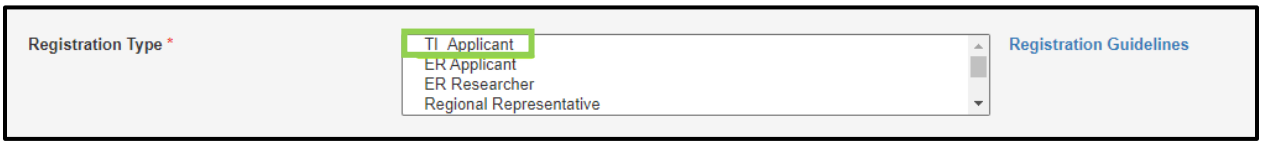
https://hpd.ga.gov/nrtigers/login

Step 1: Create profile

To access the database, you will need a user profile. On the home screen, select *New User? Register*



The first box on the Registration page asks for Registration Type. Select *TI Applicant*.



From there, please fill in your information in the Registrant Application. All items with an asterisk* are required. At this time, we do not need documents in the registration page. While there is an asterisk* in the Documents section, you can still submit the registration without uploading documents.

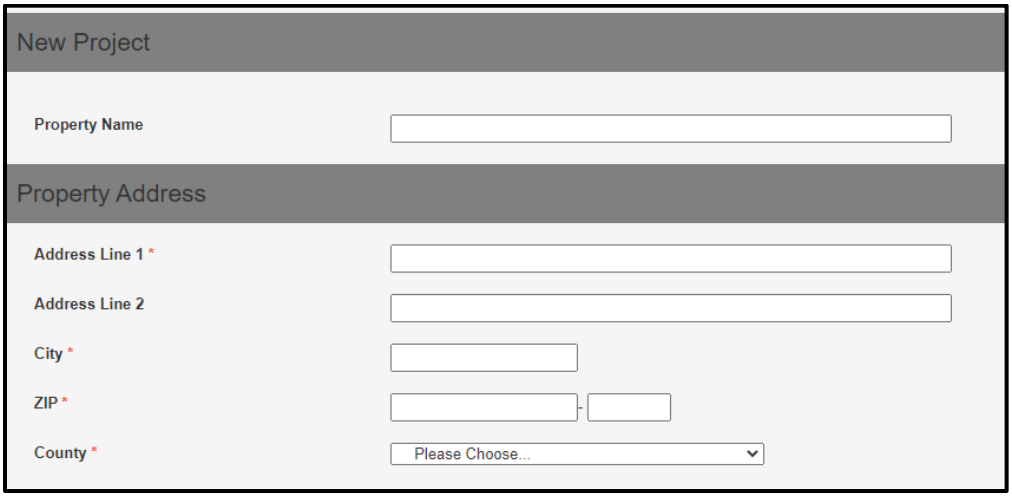
Your registration must be approved before you can create projects and submit applications in the database. We review registrations daily and should get back with you shortly regarding the status of your registration. You will receive an email confirming approval by our office of your registration.

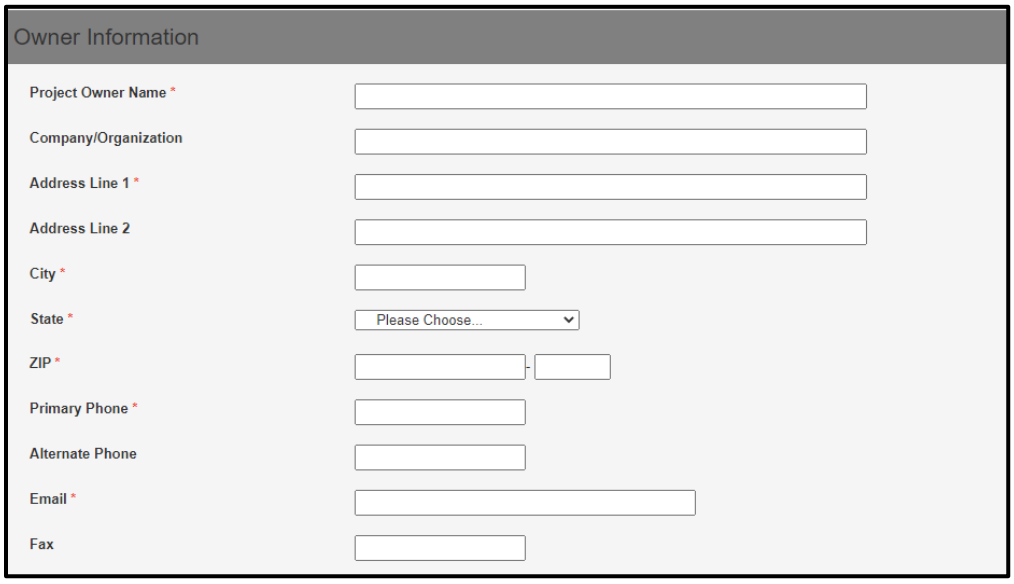
Step 2: Create Project

An initial project profile must first be created before the application and supporting documentation can be added and submitted. This project profile will house all applications, which you will not be able to edit once submitted. You will, however, be able to see that an application has been submitted, the date submitted, and the date payment is received.

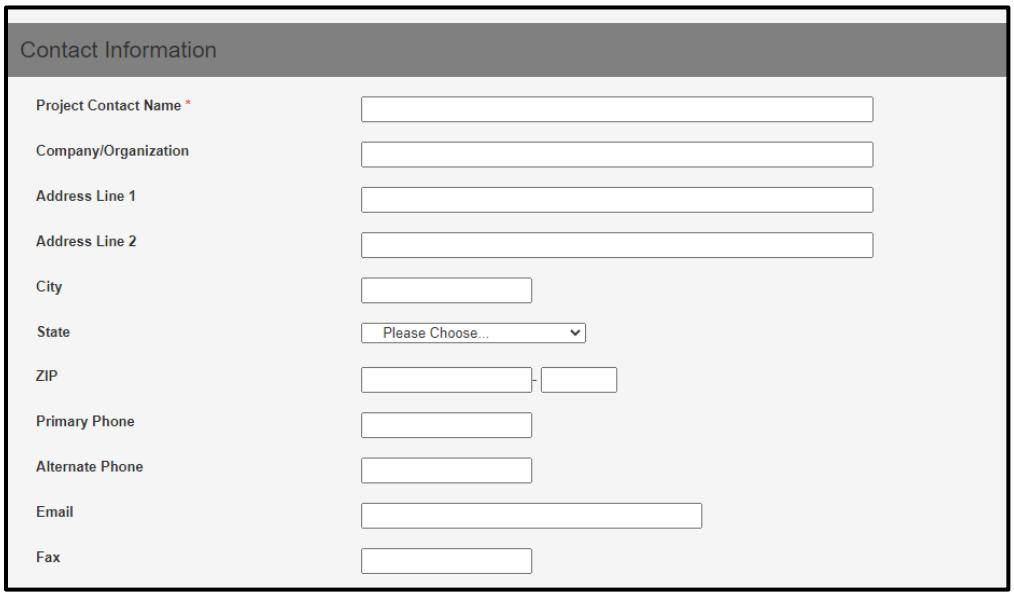
To create the project profile, navigate to the Tax Incentives tab on the Ribbon bar at the top of the screen. To create a project click *Create Project*.

The *Create Project* submission will ask basic questions about the property and project contacts. Once submitted, the information in this section CANNOT be changed. Please ensure that it is correct before submitting. All items with an asterisk* are required. It is possible to save the Project as a draft, but the system will only let you do so if all the asterisk*required items are filled in. They can be changed later within the saved draft, prior to submission. Sections of the *Create Project* page are shown below with notes.

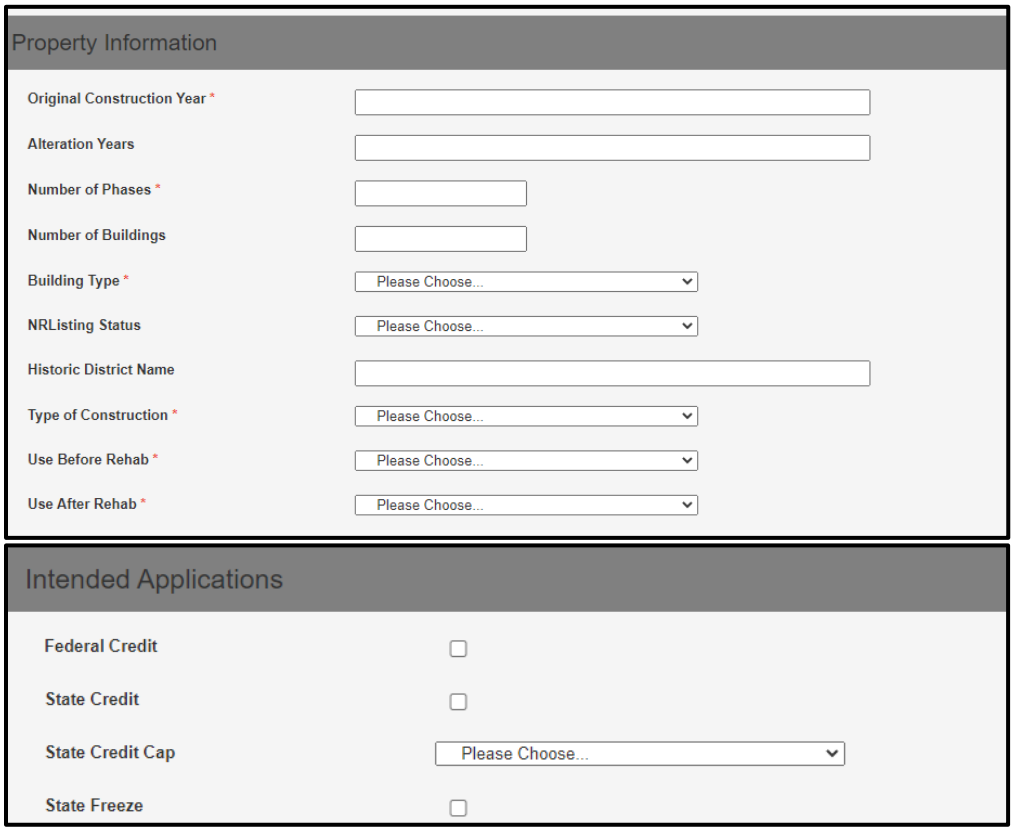




If you are a consultant for a project, please enter your information in the *Contact Information* section. While the information is not *required by the system, it is necessary for our records that any consultant information is submitted, particularly your email and phone number to contact you.



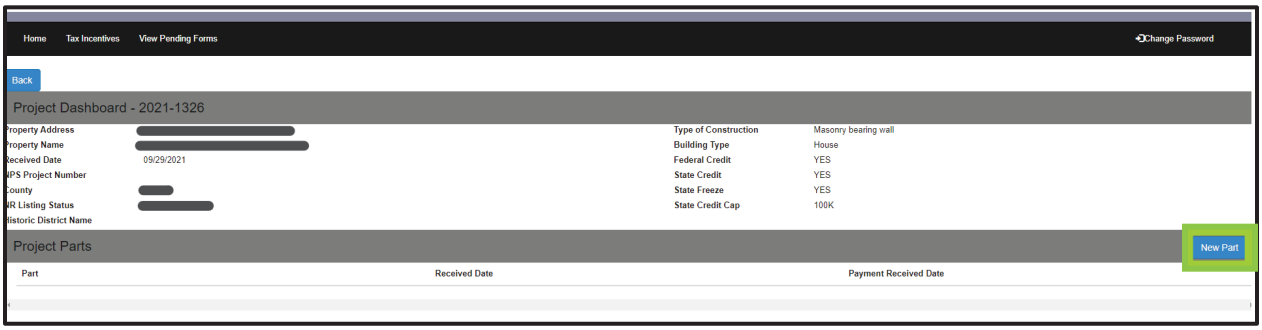
Property Information and *Intended Applications* provide basic information about the project, and will be displayed in the Dashboard for the property. The *Intended Applications* box signifies which tax incentives you intend to apply for.



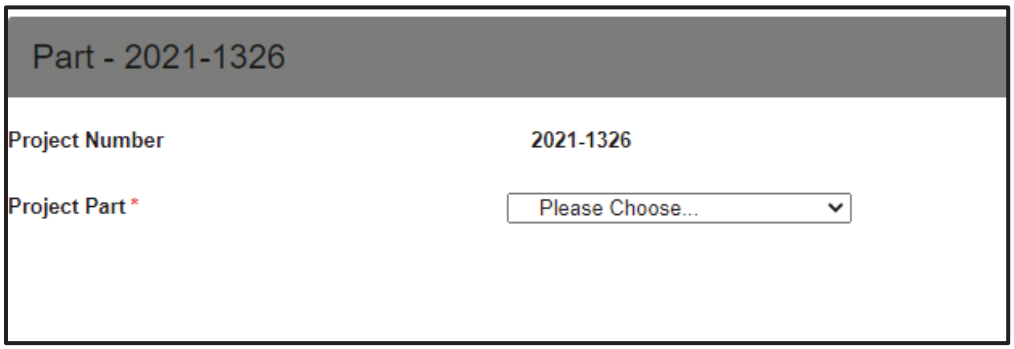
Like the Registration Page, this page also allows you to upload documents, though that is not required. Documents required for the Part A application should be submitted in the Part A application, see Step 3.

Step 3: Create Part A Application

Search for your property using the Property Search function in the Tax Incentives tab. Select your property by clicking on the Project Number to the far left, which is in a clickable blue font. Once you have navigated to the property dashboard, select the *New Part* Button on the far right of the screen, shown below.



The *New Part* Button will lead you to the screen below, where you will select "Part A" from the drop-down menu, then click *Submit*.



Once you click *Submit*, the screen will change to the Part A Application page. This page is long and there are many questions to answer, so you may prefer to prepare your answers separately in a word processor, then copy and paste them into the application page. The system will time out after 30 minutes of inactivity and your work will not be saved. All questions are included in the photos below to help you prepare.

It is possible to save the application as a draft, but the system will only let you do so if all the *required items are filled in. They can be changed later within the saved draft.

Please note, all large text boxes have a 2,000-character limit. If you need to submit more information, please submit it as an attachment to the Application.

Part - 2021-1967

Project Number 2021-1967

Project Part * Part A

Received Date * mm/dd/yyyy

Please select one of the following four options related to the Georgia Register of Historic Places (GRHP):

- ☐ Preliminary Determination of Individual Listing for listing in GRHP as individual property (National Register packet, including draft 10-900 Form must be attached in Document Upload section below)
- ☐ Preliminary Determination of Historic District for listing in GRHP as part of a historic district (National Register packet including draft 10-900 Form must be attached in Document Upload section below)
- ☐ Property listed individually in Georgia Register of Historic Places (GRHP)
- ☐ Property located within GRHP-listed historic district (name of district)

Estimated total cost of project (including any new construction or site work) * $

Estimated amount of Qualified Rehabilitation Expenditures * $

Estimated Project Start Date * mm/dd/yyyy

Estimated Project Completion Date * mm/dd/yyyy

Does the project involve the preservation of Georgia specimen trees?(The term "specimen tree" means any tree having a trunk diameter of 30 inches or more.) * Please Choose..

If this property is a Historic Home, is it located within a target area? Please Choose.. (Target Area Guidelines)

List major alterations or additions that occurred prior to the submittal of this application (both historic and non-historic) including estimated construction dates

Estimated floor area before rehab * sqft

Estimated floor area after rehab * sqft

Fair Market Value Before Rehab * $

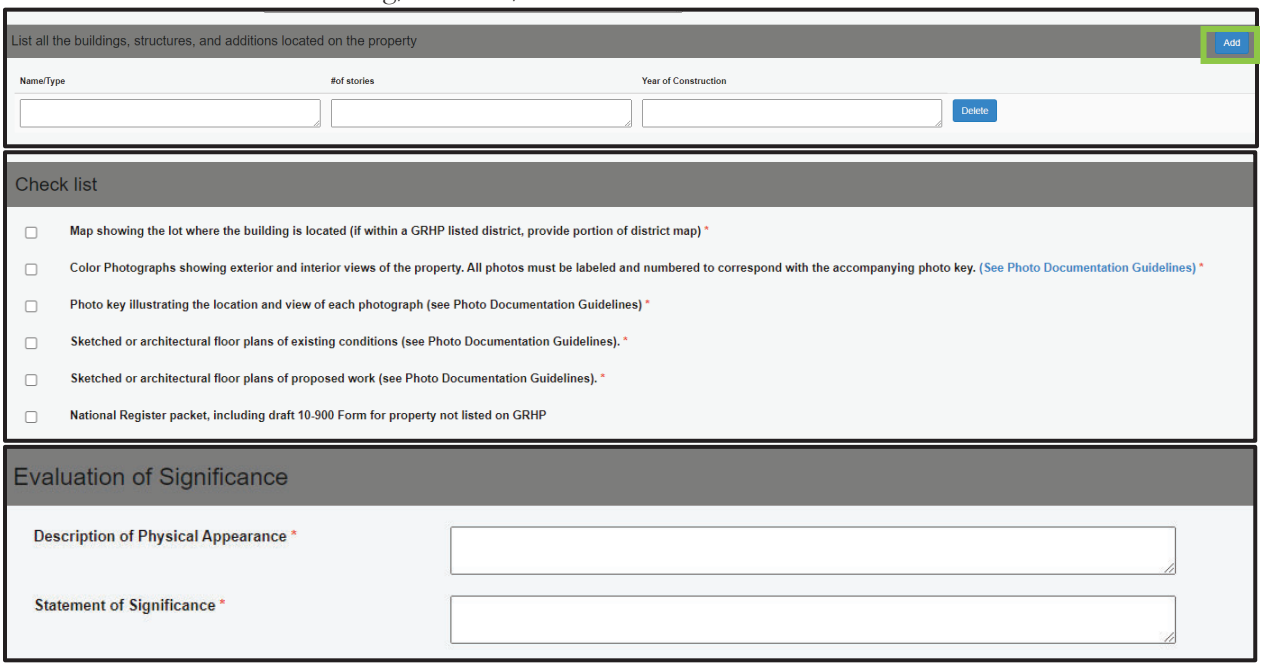
Adjusted Basis Before Rehab * $

Is more than one building being rehabilitated within two acres of the property? * Please Choose..

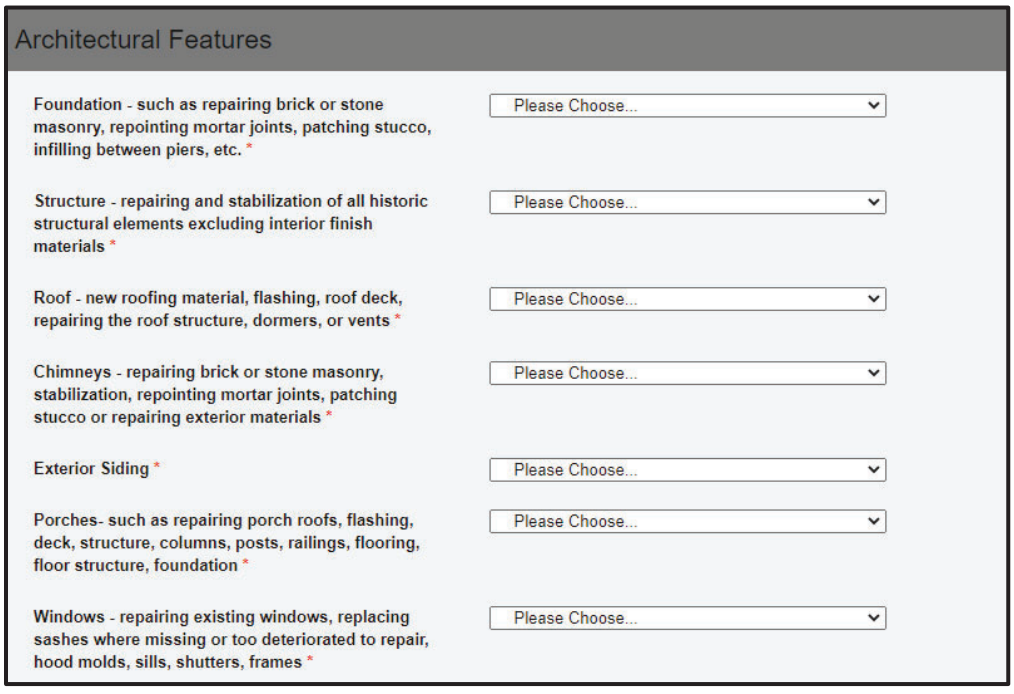
Is this project associated with other projects or buildings through physical connections, parcel or lot lines, or common ownership? * Please Choose..

If yes, list the addresses of the associated properties

Shown below: List of buildings, structures, and additions located on the property - if there is more than one building, structure, or addition to the property, please click the blue *Add* button in the right corner of the header to add a new line for each building/structure/addition.



For the Architectural Features section, please select Yes, if the property has that feature and work is proposed for it; No, if the property has that feature but work is not proposed for it; or N/A, if the project does not have that feature.

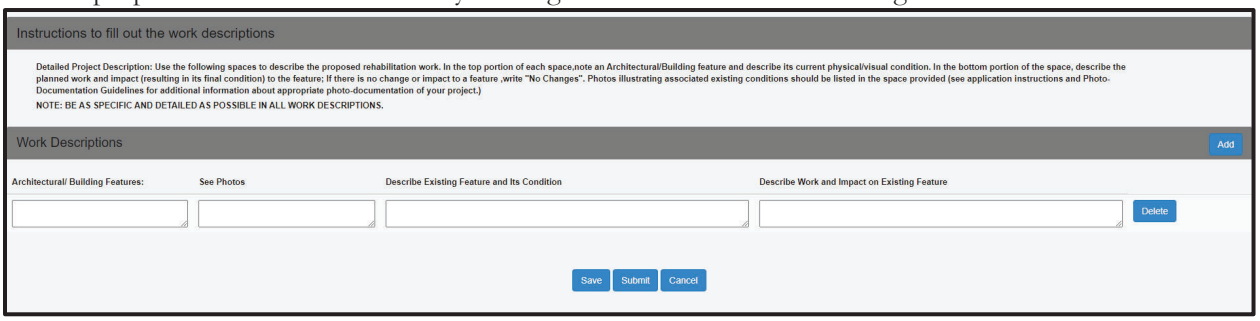


Exterior Doors - repairing doors, frames, sidelights, transoms, hardware *	Please Choose...
Replacement of Missing Features - removing later features and/or replacing with new work duplicating missing features *	Please Choose...
Stairs - interior and exterior, repairing existing railings, balusters and newel posts, repairing or replacing of treads, structural stabilization *	Please Choose...
Ceilings and Walls (including, but not limited to: repairing historic plaster, new plaster where it was a documented historic finish, using wood and metal lath, documented decorative or flat plaster features, brick, tile, etc.) *	Please Choose...
Interior Trim- such as baseboards, crown molding, window frames, picture rails, chair rails, wainscoting, beaded board *	Please Choose...
Flooring - repairing, patching or replacing historic wood tile, masonry or other flooring material *	Please Choose...
Fireplaces - repairing masonry, repointing mortar joints, repairing grout and tile and wood surrounds, mantels, hearths, removal of later coal burning inset *	Please Choose...

Floor Plan Alterations - within historic buildings such as adding walls to partition spaces, removing walls to create larger spaces, adding or removing door openings *	Please Choose...
Energy Efficiency Measures - such as insulating an attic or crawlspace, interior or exterior storm windows, storm doors, weather-stripping *	Please Choose...
HVAC Systems - repairing existing or installing a new HVAC system, installing flue liners on historic chimneys *	Please Choose...
Electrical and Plumbing systems - repairing existing or installing new electrical systems, repairing existing or installing new plumbing systems, repairs to existing historic electrical and plumbing fixtures *	Please Choose...
Lighting - repairing any historic lighting fixtures *	Please Choose...
Kitchen - fixtures, finishes, flooring *	Please Choose...
Bathrooms/ Toilet Rooms - fixtures, finishes, flooring *	Please Choose...

Additions - work done on non-historic additions, construction of a new addition *	Please Choose...
Landscaping - such as plantings, grading, restoring historical landscape features *	Please Choose...
Outbuildings - work on any historic outbuildings *	Please Choose...
Other Descriptions	

For proposed work descriptions, please add a new line for each feature listed in the previous section for which work is proposed. Lines can be added by clicking the blue *Add* button to the right in the header.



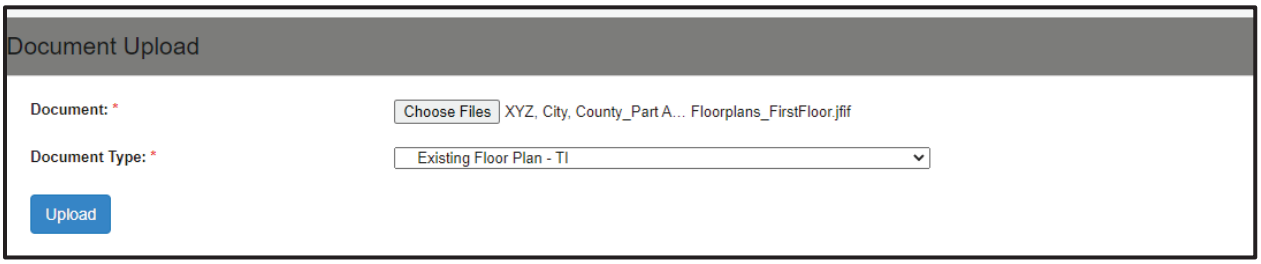
Finally, all documents to be uploaded from the checklist can be uploaded in the Document Upload section. Please name your files according to the naming protocol.

File naming protocol:
Street Address, City, County - Part A/Part B/Amendment - Item Type (photographs, floorplans, etc) - Description (First floor pre-rehab floorplans; Second floor photo key, post-rehab photos, etc)
Example file name: 123 1st Avenue, Atlanta, Fulton County - Part A – Floorplans - First floor pre-rehab floorplans

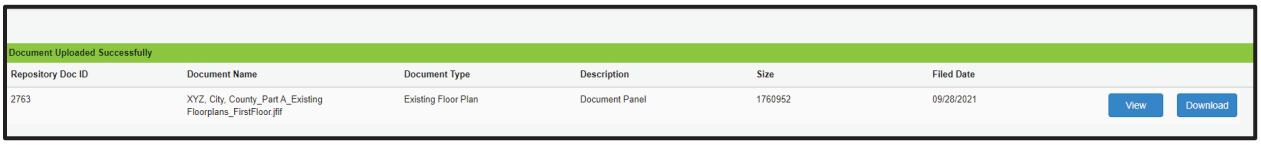
The system cannot support files with names that include periods (.) **If you receive an error message while attempting to upload a file, double check that there are no periods (.)**

FOR PHOTOS: Please upload all photos in a single PDF file. If a single file is too large to upload (exceeding 50 MB), photos may be split into multiple files to accommodate. To create the PDF file, please add all photos to a Word or Pages document, with no more than two photos per page, and all relevant photo information including the photo number below each photo. Please include information in the text of the document noting the project address, city, and state; date of photographs; and pre- or post-rehab status. Utilize the "Save As" function and select .pdf as the file type. Please see the Photo Documentation Guide for instructions on how to properly document your historic property.

Click the *Choose Files* button to add a document to upload, and select the proper corresponding Document Type. Please submit all documents as PDF files. See FAQ for list of Document Type categories.



Once you successfully upload your document, the green band will appear above the list saying "Document Uploaded Successfully" and the document will appear in the list. **REMINDER: you cannot update the application once it has been submitted.** Please ensure all documents are uploaded correctly and information is correct before submitting the application.



After you have uploaded all documents, click the blue *Submit* button. Once your application is submitted, the owner and consultant listed will receive an email confirmation. The owner will later receive an invoice via email for a Part A application review fee from our office soon after. You will be able to see the Part A as submitted in the project dashboard, but will not have access to the application itself. Once the review fee is paid, the project will enter our review queue and you will be able to see the payment date in the dashboard as well.

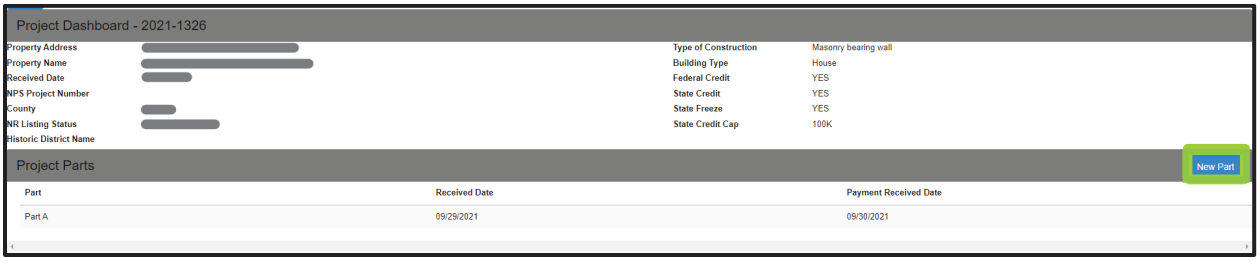
To submit an Amendment for changes to work descriptions, please see Step 4 below. If there are any changes to the project owner, timeline, QREs, or other information, excluding work descriptions, please contact our office to discuss the process for submitting these changes.

When your project is completed, you will need to submit a Part B application. Please see Step 5 for instructions.

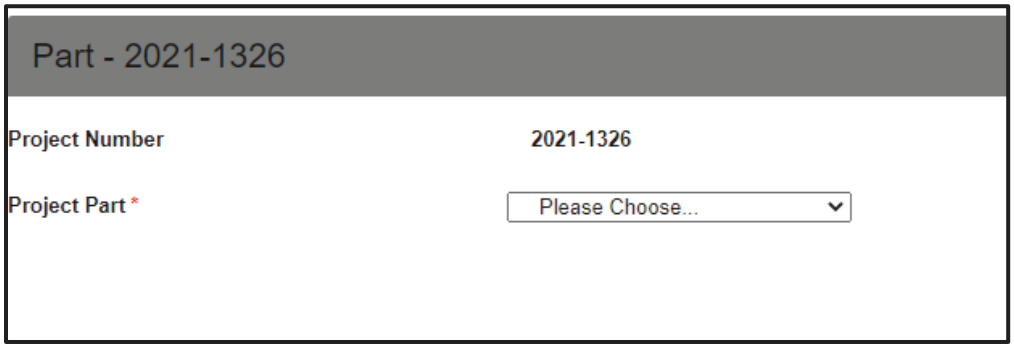
Step 4: Submitting an Amendment (if needed)

If you need to submit an Amendment to your application, the process is very similar to submitting a Part A Application.

Search for your property using the Property Search function in the Tax Incentives tab. Select your property by clicking on the Project Number to the far left, which is in a clickable blue font. Once you have navigated to the property dashboard, select the *New Part* Button on the far right of the screen, as you did with the Part A application, shown below.

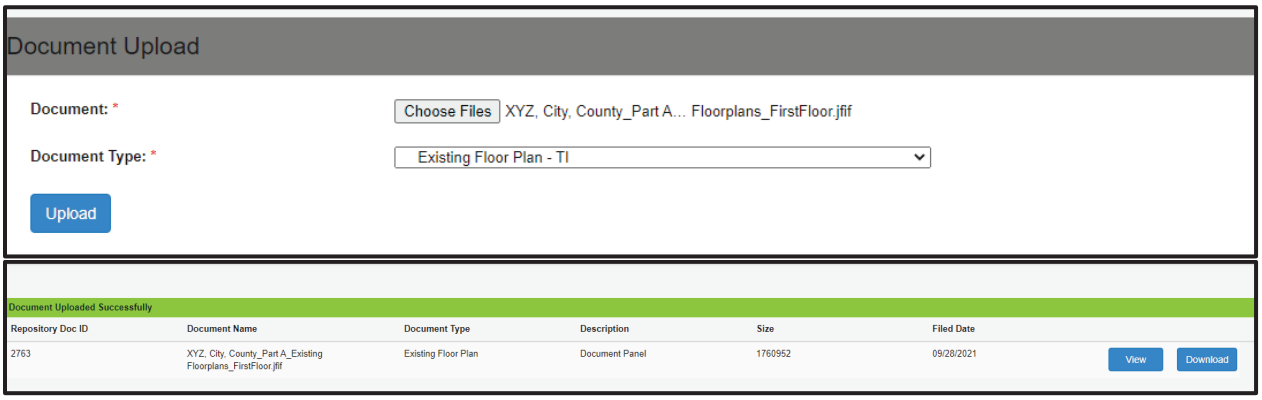


The *New Part* button will take you to the same Project Part selection page. Select "Amendment" from the list.



There is only one question for the Project Amendment page. Please use this box (2000-character limit) to briefly describe the proposed changed, and then upload supporting documentation in the Document upload section, utilizing the document naming protocol. REMINDER: you cannot update the application once it has been submitted, so please ensure all documents are uploaded correctly and information is correct before submitting the application.

Please follow the file naming protocol for any documents submitted for an Amendment. Click the *Choose Files* button to add a document to upload, and select the proper corresponding Document Type. Please submit all documents as PDF files. See FAQ for list of Document Type categories.

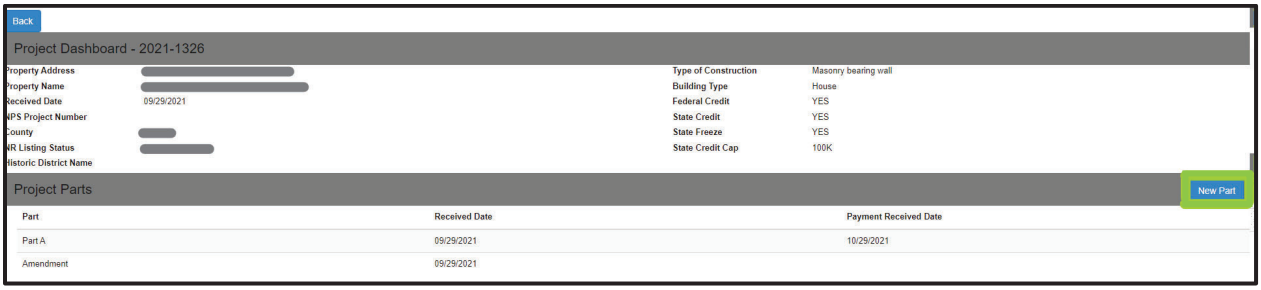


After you have uploaded all of your documents, click the blue *Submit* button. Once your application is submitted, the owner and consultant listed will receive an email confirmation. There is no review fee for Amendments, so your amendment will enter the review queue based on the date of submission. You will be able to see the Amendment as submitted in the project dashboard.

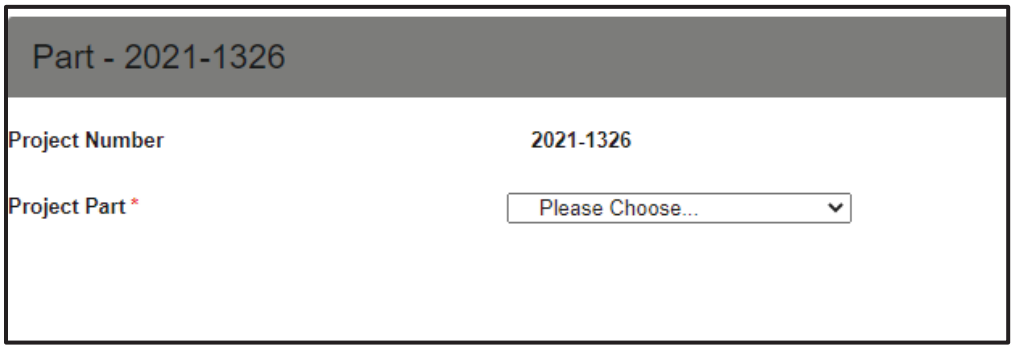
Step 5: Submitting a Part B Application

Congratulations! You have finished your project and are ready to submit your Part B Application for your project. The process is similar to the other applications.

Search for your property using the Property Search function in the Tax Incentives tab. Select your property by clicking on the Project Number to the far left, which is in a clickable blue font. Once you have navigated to the property dashboard, select the *New Part* Button on the far right of the screen, shown below.



The *New Part* Button will lead you to this screen, where you should select Part B from the drop-down menu, then click *Submit*.



Once you click *Submit*, the screen will change to the Part B Application page. The system will time you out after 30 minutes of inactivity and your work will not be saved. All questions are included in the photos below to help you prepare. It is possible to save the application as a draft, but the system will only let you do so if all the *required items are filled in. They can be changed later with the saved draft.

Part - 2021-1326

Project Number 2021-1326

Project Part * Part B

Please select which program/s you are applying for:

☐ State Preferential Property Tax Assessment Program

☐ State Income Tax Credit Program for Rehabilitated Historic Property

Adjusted basis of building (refer to Dept. of Revenue Substantial Rehabilitation Worksheet) * (Substantial Rehabilitation Worksheet)

Fair market value of the building *

After rehab floor area *

Project start date * mm/dd/yyyy

Project completion date * mm/dd/yyyy

Total project cost (rehab work and any new construction site work) * $

Cost solely attributed to new construction and site work * $

Cost solely attributed to historic rehab: (Should be mapped to Actual QRE) * $

Cost of interior rehab work $

Cost of exterior rehab work * $

The following questions pertain only to historic homes:

Is the home located within a target area? Please Choose..

Date the home was first owned by the applicant mm/dd/yyyy

Date the home was first used as principal residence mm/dd/yyyy

If home is not yet used as a principal residence, give the date that it will be mm/dd/yyyy

Certify

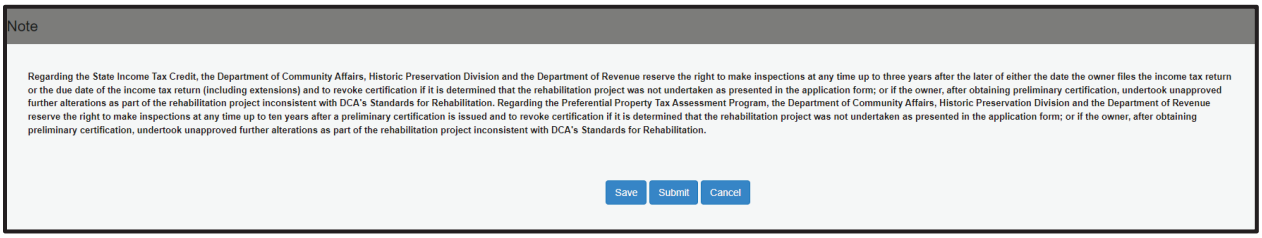
☐ BY CHECKING THIS BOX, I CERTIFY THAT THIS PROJECT IS A SUBSTANTIAL REHABILITATION AS DEFINED IN O.C.G.A. SECTION 48-7-29.8 AND RELATED DCA REGULATIONS (The Department of Revenue Worksheet must be completed to document that the project qualifies as a "substantial rehabilitation". Do NOT submit the worksheet to HPD with this Part B application; retain it for your records. The worksheet will be necessary when filing your state of Georgia Income Tax Forms.) (Substantial Rehabilitation Worksheet) *

The application will not be reviewed unless it is complete with the following attachments:

☐ Color photographs showing exterior and interior completed work. All photos must be labeled and numbered to correspond with the accompanying photo key. (See Photo Documentation Guidelines) *

☐ After rehabilitation, a photo key illustrating the location and view of each photograph. *

☐ After rehabilitation floor plan. *



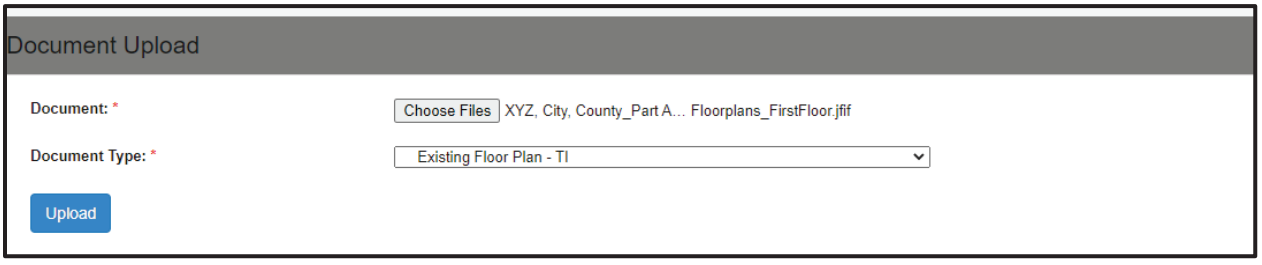
Finally, all documents to be uploaded from the checklist can be uploaded in the Document Upload section. Please name your files according to the naming protocol, shown below.

File naming protocol:
Street Address, City, County - Part A/Part B/Amendment - Item Type (photographs, floorplans, etc) - Description (First floor pre-rehab floorplans; Second Floor photo key, post-rehab photos, etc)
Example file name: 123 1st Avenue, Atlanta, Fulton County - Part A – Floorplans - First floor pre-rehab floorplans

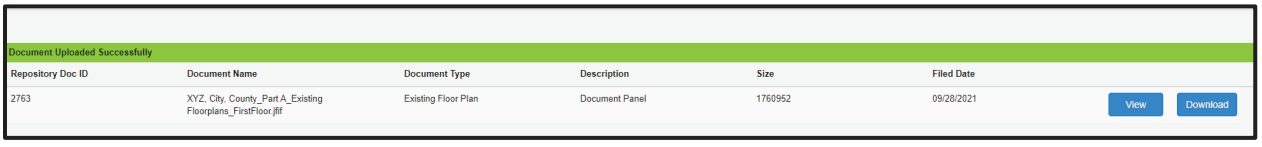
Remember, the system cannot support files with names that include periods (.). **If you receive an error message while attempting to upload a file, double check that there are no periods (.).**

FOR PHOTOS: Please upload all photos in a single PDF file. If a single file is too large to upload (exceeding 50 MB), photos may be split into multiple files to accommodate. To create the PDF file, please add all photos to a Word or Pages document, with no more than two photos per page, and all relevant photo information including the photo number below each photo. Please include information in the text of the document noting the project address, city, and state; date of photographs; and pre- or post-rehab status. Utilize the "Save As" function and select .pdf as the file type. Please see the Photo Documentation Guide for instructions on how to properly document your historic property.

Click the *Choose Files* button to add a document to upload, and select the proper corresponding Document Type. Please submit all documents as PDF files. See FAQ for list of Document Type categories.



Once you successfully upload your document, the green band will appear above the list saying "Document Uploaded Successfully" and the document will appear in the list. REMINDER: you cannot update the application once it has been submitted, so please ensure all documents are uploaded correctly and information is correct before submitting the application.



After you have uploaded all your documents, click the blue *Submit* button. Once your application is submitted, the owner and consultant listed will receive an email confirmation. The owner will later receive an invoice for a Part B application review fee from our office. You will be able to see the Part B as submitted in the project dashboard. Once the review fee is paid, the project will enter our review queue and you will be able to see the payment date in the dashboard as well.

Additional Information

Once your application has been reviewed, you will receive a letter by email indicating the HPD's decision on your application. These will serve as your submissions to the Department of Revenue.

Frequently Asked Questions

Are there word limits for Statement of Significance and Property Description Text Boxes?
The character limit is 2000. You can also attach these two items as documents, should you prefer.

Can I save my Part A/B application before I submit it?
Yes, but all *required fields must be completed first. They can be changed at any time prior to submitting the application

Where can I find my saved Part A/B/Amendment Applications?
Look under View Pending Forms. Saved Projects will be under "New Projects" and saved Application Parts will be under "New Parts/Amendments." Be sure to note your project's number as that will be the way to identify which application is yours.

Can I submit my federal application on this website?
Not at this time. Please submit 2 hard copies of the Federal Applications, accompanying documents, and photo sets to our office. Instructions can be found here https://www.dca.ga.gov/georgia-historic-preservation-division/tax-incentives-grants/federal-tax-incentives

Your federal application will receive a preliminary review from the state office before being mailed to the National Park Service. The National Park Service will then send you an invoice for a federal review fee. Your federal application will then receive a final review from the Park Service in a minimum of 30 days after the National Park Service receives your federal review fee.

Is there an application fee?
Yes. Part A and Part B applications are charged a review fee based on a percentage of the Qualified Rehabilitation Expenses. You will be invoiced by this office via email after your application is submitted. There is no review fee for any amendments. For federal application, the National Park Service handles invoicing separately through their system.

When will my project be reviewed?
After submitting your Part A or Part B application, you will receive an email invoice for your project review fee. Projects will enter the review queue based on the date that the review fee is paid, not the date of the application.. Amendments are not charged a review fee, and are automatically entered into the project review queue upon receipt.

Will I receive a sheet to turn into the Department of Revenue?
Yes, once the project has been reviewed, a signed letter will be sent to you by email which you will turn into the DOR.

If I submit a paper copy of my Part 1 Federal Application before a Part A Application, can I still submit the Part A on the database?
Excellent Question! You can still submit the Part A in the database. Create a profile, if you don't already have one, and then look for the property in the list of projects on the main Tax Incentives page. Click into property project then Add New Part.

Is there a minimum or maximum size for photographs?
Yes. Photos must be of a sufficiently high resolution, at least 300 dpi (dots per image).

How should I title my files for upload?
Please title them "Property Address, City, County - Part A or Part B - Item type (floorplan, photograph, etc.) - Description (First floor post-rehab floorplans, Photo 2, etc.)" Remember, the system cannot support files with names that include periods (.). **If you receive an error message while attempting to upload a file, double check that there are no periods (.).**

Example File Names:
123 1st Avenue, Atlanta, Fulton County - Part B – Floorplans - First Floor Post-Rehab Floorplans (if the floorplans are submitted as separate documents)
123 1st Avenue, Atlanta, Fulton County - Part A - Photo Keys (if they are all combined as one document)
123 1st Avenue, Atlanta, Fulton County - Part A - Before Rehab Photos - Photos 1-75

How should I save and upload my photos?
Please upload all photos in a single PDF file. If a single file is too large to upload (exceeds 50 MB), photos may be split into multiple files to accommodate. To create the PDF file, please add all photos to a Word or Pages document, with no more than two photos per page, and all relevant photo information including the photo number below each photo. Please include information in the text of the document noting the project address, city, and state; date of photographs; and pre- or post-rehab status. Utilize the "Save As" function and select .pdf as the file type.

What file types can I upload?
Please submit all documents as PDF files (.pdf). For photos, please utilize .jpg or .jpeg formats within the PDF files. To create the PDF file from a Word or Pages document, utilize the "Save As" function and select .pdf as the file type. Most architectural drafting programs for floorplans permit files to be exported as a PDF. Remember the system's maximum file size is 50 MB.

What are the Document Type categories?
When uploading a file to your application, you must select one of the following Document Type Categories:

- Existing Floorplan
- Map
- Miscellaneous
- Photo Key
- Photographs
- Proposed Floorplan

Additional Questions?
If you have further questions about the digital application process, please contact Rose Mayo, Architectural Reviewer, at rose.mayo@dca.ga.gov

Terminology

Specimen Tree: As used in this Code section, the term "specimen tree" means any tree having a trunk diameter of 30 inches or more. § 48-5-7.2 Such rehabilitation expenditures shall also include expenditures incurred in preserving specimen trees upon not more than two acres of real property surrounding the building or structure. Work on specimen trees only qualifies towards the total expenses for the preferential property tax assessment but are not considered to be qualified rehabilitation expenses for the state property tax freeze.

Phased Project: The rules governing the State Income Tax Credit program allow rehabilitation projects to be "phased," which means work may extend over a period of up to 60 months instead of the usual 24 months. If a project is going to be phased, it MUST be designated as such on the Part A form. Projects may NOT become phased later on in the application process unless work has not yet begun. Once construction has started, a project cannot be phased.

Photo-Documentation for Rehabilitation of Historic Properties

Photo-documentation of a historic property is one of the most important aspects of applying to the Historic Preservation Tax Incentive Programs. It consists of a series of photographs, their numbering/labeling, and a photo-key drawing. These photographs are one of two primary resources used to evaluate a project to determine if it qualifies for the tax incentives, the other being the rehabilitation work descriptions. Pre-rehabilitation photographs are used to put the project within the context of the entire historic property and for comparison with the finished work. To achieve this, sufficient photo-documentation is necessary. The entirety of the historic property must be photo-documented, which also includes areas or spaces of the property that are not part of the proposed rehab work so that unchanged areas are confirmed as such upon project completion.

Any application with insufficient, inadequate, or otherwise unacceptable photo- documentation will be put on hold, concurrent with a Request For Information (RFI) to the applicant, until the necessary photography is furnished. Should the information not be forthcoming in a reasonable period of time, the application will be returned without review.

Photo Documentation Requirements:

1. Digital photos must have an image resolution of at least 300 dpi (dots-per-inch).
2. Please follow the naming conditions previously outlined in the application submittal instructions.
3. **ANY** photographs submitted with an application **MUST** provide obvious and comprehendible information. They must clearly show the areas or features being documented. Photographs that are out-of-focus, blurry, fuzzy, too dark, over-exposed (too light), photocopied, or low-resolution digital are unacceptable as adequate documentation. Photographs should be examined prior to submission to determine that they adequately provide the view that is intended.
4. Photographs must be taken in sufficient quantity and clarity to adequately document the pre-rehabilitation existing conditions and subsequently, the finished project. Enough photographs of all spaces, building elevations, and specific features must be provided as the visual description of the project's scope-of-work. At a minimum, typically, this would include photos of all exposed building elevations, 2 photos of each room, which should be oriented corner-to-corner from opposite corners, and additional photos of features and finishes being impacted by the rehabilitation work. Features and finishes may include, but are not limited to: masonry, plaster, windows, doors, trim and other millwork, stairs, ceilings, and fireplaces. If areas are too large or at a difficult angle, multiple photos need to be taken to ensure full and clear coverage of the entire area.
5. Photo-documentation of large projects with multiple, near identical spaces may not need photos of every room. In such cases, interior photographs of significant areas along with representative photos of the typical spaces may be acceptable.
6. Photographs must be labeled and keyed to a floor plan of the rehabilitation project. The position of the photographer, the direction toward which the picture was taken, and the photo number must be labeled on the drawing (a number within a circle with a directional arrow). The photographs themselves must be labeled with corresponding identification/information on their back.

To submit photos using the online database, photos must be uploaded in a single PDF file. If a single file is too large to upload (exceeds 50 MB), photos may be split into multiple files to accommodate. To create the PDF file, please add all photos to a Word or Pages document, with no more than two photos per page, and all relevant photo information including the photo number below each photo. Utilize the "Save As" function and select .pdf as the file type

Photos for Federal Applications

Please note that the federal applications still require hard copies of photographs rather than a digital submission. For the Federal Application: Color prints, sized at 4 X 6 inches are the *preferred format*, although other photographic formats and sizes can be acceptable. Avoid sizes smaller than 3 X 5 inches. Avoid Polaroid photographs; they are not acceptable for Federal applications and rarely provide enough level of detail and clarity to be acceptable for State Applications. All photographic formats need to be submitted as **individual, loose prints** that are printed on glossy, matte, or photo stock paper. Please **do not** submit photos printed on plain paper. Please **do not** submit photos printed together on 8 X 11 (or other sized) sheets, or mounted, sleeved, or otherwise bound.

For the federal application, please follow the labeling information below and place on the back of each photograph:

Required Photo Label Information

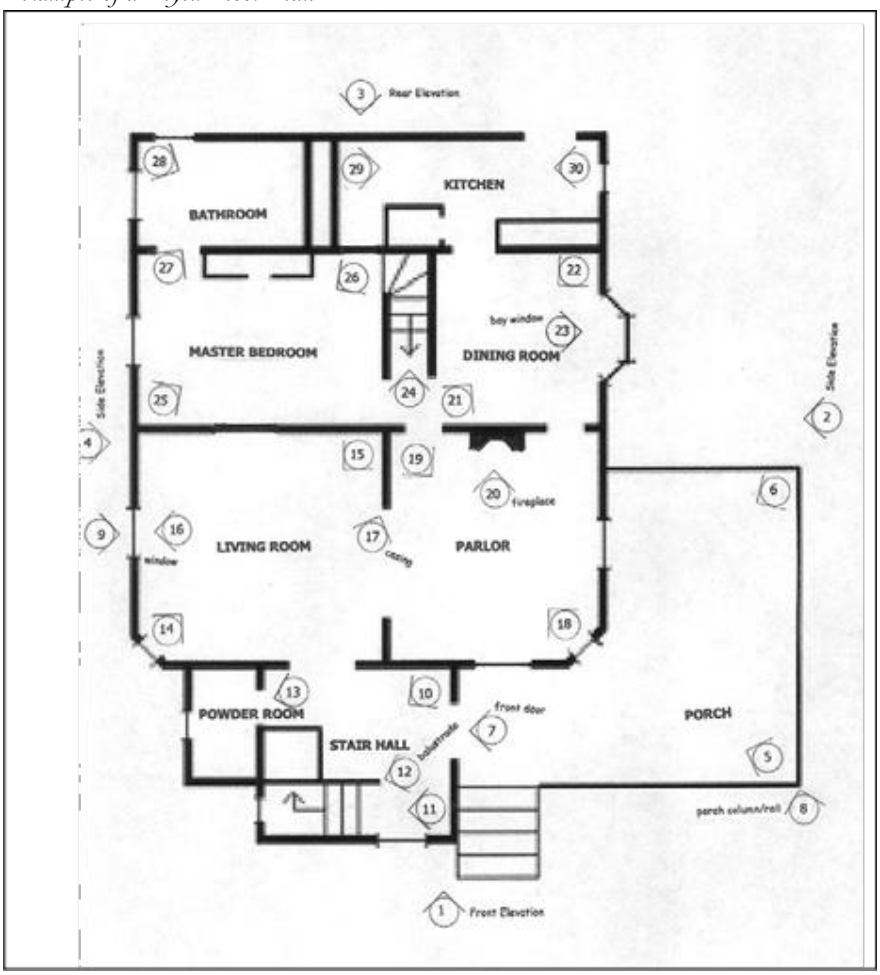
- Project Street Address (and name if applicable) City, County, Georgia
- Date
- Photo #
- Drawing Reference or Detailed description

Any application with insufficient, inadequate, or otherwise unacceptable photo- documentation will be put on hold, concurrent with a Request For Information (RFI) to the applicant, until the necessary photography is furnished. Should the information not be forthcoming in a reasonable period of time, the application will be returned without review.

Tips for Photographing Projects and Creating a Photo Key

1. Exterior photographs must document all facades of the building. Interior photographs must record architectural features and finishes, such as: windows, doors, fireplace mantels and surrounds, floors, walls, ceilings, stairs, mouldings, etc., as well as provide an overview of rooms throughout the building. Pay special attention to areas, which will be impacted by the proposed rehabilitation work.
2. Photo-key floor plans should be on 8 X 11 or 11 X 17 copies of the construction plans. If such is not available, floor plans can be hand drawn on blank or graph paper, but need to note all windows, doors, wall openings, fireplaces, stairs, etc.
3. All interior and exterior photographs should be numbered and identified with property address as well as the date the photo was taken.
4. A circle with the number of each photograph should denote on the floor plan the location of the photographer. The arrow identifies the direction of the photograph.
5. Please send individual 4 X 6 inch color photographs for NPS as they cannot accept color copied, scanned, or digital images or photos that have been mounted on paper or in plastic sleeves.
6. Keep a copy of the before-rehabilitation photo-key for reference when photo- documenting the completed project. For comparison, views of the completed work should be of and from the same locations.

Example of a Keyed Floor Plan



GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) - HISTORIC PRESERVATION DIVISION (HPD)

PART A - PRELIMINARY CERTIFICATION

Section I – Property and Owner Information

STATE PREFERENTIAL PROPERTY TAX ASSESSMENT PROGRAM FOR REHABILITATED HISTORIC PROPERTY

SPECIAL INSTRUCTIONS: The first 2 pages of the application bearing the owner's original signatures must be *one-sided* (additional pages and/or copies may be double-sided).

1. Historic name of property (if known): _____
Address: _____City: _____County: _____Zip:_____
___ Property listed individually in Georgia Register of Historic Places (GRHP)
___ Property located within GRHP-listed historic district (name of district):_____
___ Property not listed in GRHP; determination of historic property eligibility is requested:
___ For listing in GRHP as individual property. (National Register packet, including draft 10-900 Form must be attached.)
___ For listing in GRHP as part of a historic district. (National Register packet, including draft 10-900 Form must be attached.)

2. Project Contact (the person who prepared this form if other than the property owner):
Name: _____ Company/Organization: _____
Address: _____City: _____ State: _____ Zip: _____
Daytime phone number: _____Cell phone number: _____ E-mail: _____

3. Property Owner: I hereby authorize this application for the above noted tax incentive, attest that the information I have provided is, to the best of my knowledge, correct, and that I own the property described above.

Owner's Signature: _____ Date: _____
Name: _____ Company/Organization: _____
Address: _____City: _____ State: _____ Zip: _____
Daytime phone number: _____Cell phone number: _____ E-mail: _____

4. Project Information:
a.) Estimated total cost of project (including any new construction or site work): $ _____
b.) Estimated amount of Qualified Rehabilitations Expenditures: $ _____
c.) Estimated project start date: _____ d.) Estimated project completion date: _____
e.) Has an application for federal preservation tax credits for this property been filed with HPD?
f.) Does the project involve the preservation of Georgia specimen trees? _

PART A APPLICATION CONTINUED ON NEXT PAGE

DCA OFFICIAL USE ONLY

___ This property is approved for preliminary certification as historic property. The property is listed, either individually or as a property contributing to the significance of a historic district, in the Georgia Register of Historic Places AND rehabilitation work described in the application meets DCA's *Standards for Rehabilitation*.

___ This property is approved for preliminary certification as historic property; however final certification is contingent on satisfying assigned conditions to:
___ allow designation as a certified structure / registered historic property. (*see attached for explanation*)
___ allow designation as a certified rehabilitation. (*see attached for explanation*)

___ This property is denied preliminary certification. (*see attached for explanation*)

_____

DATE **DEPARTMENT OF COMMUNITY AFFAIRS AUTHORIZED SIGNATURE**

GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) - HISTORIC PRESERVATION DIVISION (HPD)

PART B – FINAL CERTIFICATION

STATE PREFERENTIAL PROPERTY TAX ASSESSMENT PROGRAM FOR REHABILITATED HISTORIC PROPERTY

1. **Historic name of property (if known):** _____

   Address: _____ **City:** _____ **County:** _____ **Zip:** _____

2. **Project information:**

   a.) **Total project cost (rehab work and any new construction or site work): $**_____

   b.) **After rehab floor area:** _____ **square feet**

   c.) **Project start date:** _____ d.) **Project completion date:** _____

   e.) **Has a Part A application been submitted for this project?** ☐ **Yes** ☐ **No (If no, Parts A and B must be submitted together.)**

3. **Send the following items and this application to TAX INCENTIVES PROGRAM, GEORGIA DCA - HPD, 60 EXECUTIVE PARK SOUTH, NE, ATLANTA, GA 30329. See attached instructions for further details regarding application materials.**
   This application will not be reviewed unless it is complete with the following (please check):

   ☐ **One set of color photographs showing exterior and interior completed work. All photos must be labeled and numbered on the back to correspond to the accompanying photo key. (see *Photo-Documentation Guidelines*)**
   ☐ **One copy of after rehabilitation photo key illustrating the location and view of each photograph.**
   ☐ **One copy of after rehabilitation floor plan.**

4. **Project contact (the person who prepared this form if other than the property owner):**
   Name: _____ **Company/Organization:** _____

   Address: _____ **City:** _____ **State:** _____ **Zip:** _____

   Daytime phone number: _____ **Cell phone number:** _____ **E-mail:** _____

5. **Property owner:**
   Name: _____ **Company/Organization:** _____

   Address: _____ **City:** _____ **State:** _____ **Zip:** _____

   Daytime phone number: _____ **Cell phone number:** _____ **E-mail:** _____

   Owner's Signature: _____ **Date:** _____

Note: The Department of Community Affairs, Historic Preservation Division, reserves the right to make inspections at any time up to ten years after a preliminary certification is issued and to revoke certification, if it is determined that the rehabilitation project was not undertaken as presented by the owner in the application form; or if the owner, after obtaining preliminary certification, undertook unapproved further alterations as part of the rehabilitation project inconsistent with DCA's Standards for Rehabilitation.

DCA OFFICIAL USE ONLY

☐ **This property qualifies for final certification as historic property. Rehabilitation work in this application meets DCA's Standards for Rehabilitation. (*Questions concerning specific tax consequences or interpretations should be addressed to the appropriate local tax assessor's office.*)**

☐ **The property is denied final certification. (*see attached for explanation*)**

_____

DATE **DEPARTMENT OF COMMUNITY AFFAIRS AUTHORIZED SIGNATURE**