

House Bill 129 (AS PASSED HOUSE AND SENATE)

By: Representatives Cannon of the 172nd, Burchett of the 176th, Dickey of the 134th, Corbett of the 174th, Huddleston of the 72nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to
2 preferential assessment for bona fide conservation use property and bona fide residential
3 transitional property, so as to remove a limitation on leased property as to certain entities; to
4 amend Code Section 48-7-40.26A of the Official Code of Georgia Annotated, relating to tax
5 credits for postproduction expenditures, so as to renew a tax credit for postproduction
6 expenditures; to provide for related matters; to provide for an effective date and applicability;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to preferential
11 assessment for bona fide conservation use property and bona fide residential transitional
12 property, is amended by revising subsection (b) as follows:

13 "(b) Except in the case of the underlying portion of a tract of real property on which is
14 actually located a constructed storm-water wetland, the following additional rules shall
15 apply to the qualification of conservation use property for current use assessment:

16 (1) When one-half or more of the area of a single tract of real property is used for a
17 qualifying purpose, then such tract shall be considered as used for such qualifying
18 purpose unless some other type of business is being operated on the unused portion;
19 provided, however, that such unused portion must be minimally managed so that it does
20 not contribute significantly to erosion or other environmental or conservation problems.
21 The lease of hunting rights or the use of the property for hunting purposes shall not
22 constitute another type of business. The charging of admission for use of the property for
23 fishing purposes shall not constitute another type of business;

24 (2)(A)(i) The owner of a tract, lot, or parcel of land totaling less than ten acres shall
25 be required by the tax assessor to submit additional relevant records regarding proof
26 of bona fide conservation use for qualified property that on or after May 1, 2012, is
27 either first made subject to a covenant or is subject to a renewal of a previous
28 covenant. The provisions of this paragraph relating to requiring additional relevant
29 records regarding proof of bona fide conservation use shall not apply to such property
30 if the owner of the subject property provides one or more of the following:

31 (i)(I) Proof that such owner has filed with the Internal Revenue Service a
32 Schedule E, reporting farm related income or loss, or a Schedule F, with Form 1040,
33 or, if applicable, a Form 4835, pertaining to such property;

34 (ii)(II) Proof that such owner has incurred expenses for the qualifying use; or

35 (iii)(III) Proof that such owner has generated income from the qualifying use.

36 (ii) Prior to a denial of eligibility under this paragraph, the tax assessor shall conduct
37 and provide proof of a visual, on-site inspection of the property. Reasonable notice
38 shall be provided to the property owner before being allowed a visual, on-site
39 inspection of the property by the tax assessor.

40 (B) The owner of a tract, lot, or parcel of land totaling ten acres or more shall not be
41 required by the tax assessor to submit additional relevant records regarding proof of

42 bona fide conservation use for qualified property that on or after May 1, 2012, is either
43 first made subject to a covenant or is subject to a renewal of a previous covenant;

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

51 (4) No property shall qualify as bona fide conservation use property if it is leased to a
52 person or entity which would not be entitled to conservation use assessment;. This
53 paragraph shall not apply to a corporation, a partnership, a general partnership, a limited
54 partnership, a limited corporation, or a limited liability company registered with the
55 Secretary of State that meets the following conditions:

56 (A)(i) Its ownership includes only natural or naturalized citizens;

57 (ii) It has as its primary purpose the production of agricultural products or timber
58 from or on the land, including, but not limited to, subsistence farming or commercial
59 production; and

60 (iii) It derives 80 percent or more of its gross income from bona fide conservation
61 uses, including earnings on investments directly related to past or future bona fide
62 conservation uses, within this state; or

63 (B) At least one of its members has no less than a 25 percent ownership interest in the
64 property being leased and would be entitled to conservation use assessment;

65 (5) No property shall qualify as bona fide conservation use property if such property is
66 at the time of application for current use assessment subject to a restrictive covenant
67 which prohibits the use of the property for the specific purpose described in

68 subparagraph (a)(1)(E) of this Code section for which bona fide conservation use
69 qualification is sought; and

70 (6) No otherwise qualified property shall be denied current use assessment on the
71 grounds that no soil map is available for the county in which such property is located;
72 provided, however, that, if no soil map is available for the county in which such property
73 is located, the owner making an application for current use assessment shall provide the
74 board of tax assessors with a certified soil survey of the subject property unless another
75 method for determining the soil type of the subject property is authorized in writing by
76 such board."

77 **SECTION 2.**

78 Code Section 48-7-40.26A of the Official Code of Georgia Annotated, relating to tax credits
79 for postproduction expenditures, is amended by revising subsections (d) and (f) as follows:

80 "(d) The tax credits allowed under this Code section for all postproduction companies shall
81 be subject to the following aggregate annual caps:

82 (1) For taxable years beginning on or after January 1, ~~2018~~ 2026, and before January 1,
83 ~~2019~~ 2031, the aggregate amount of tax credits allowed under this Code section shall not
84 exceed \$10 million; and

85 (2) ~~For taxable years beginning on or after January 1, 2019, and before January 1, 2020,~~
86 ~~the aggregate amount of tax credits allowed under this Code section shall not exceed \$10~~
87 ~~million;~~

88 (3) ~~For taxable years beginning on or after January 1, 2020, and before January 1, 2023,~~
89 ~~the aggregate amount of tax credits allowed under this Code section shall not exceed \$10~~
90 ~~million per year;~~

91 (4) ~~The tax credits allowed under this Code section shall not be available for taxable~~
92 ~~years beginning on or after January 1, 2023; and~~

93 (5) If the aggregate amount of tax credits claimed by taxpayers under this Code section
94 during a year is less than the aggregate annual cap applicable to such year, the unclaimed
95 portion of the aggregate annual cap shall be added to the aggregate annual cap applicable
96 to the next succeeding year or years until it is fully claimed.”
97 (f) For taxable years beginning on or after January 1, ~~2018~~ 2026, and before January 1,
98 ~~2023~~ 2031, the postproduction company shall report to the Department of Revenue on its
99 Georgia income tax return the monthly average number of full-time employees subject to
100 Georgia income tax withholding for the taxable year. For purposes of this subsection, the
101 term 'full-time employee' shall mean a person who performs a job that requires a minimum
102 of 35 hours a per week, and pays at or above the average wage earned in the county with
103 the lowest average wage earned in this state, as reported in the most recently available
104 annual issue of the Georgia Employment and Wages Averages Report of the Department
105 of Labor. Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable
106 years, the commissioner shall annually report to the House Committee on Ways and Means
107 and the Senate Finance Committee. The report shall include the name, tax year beginning,
108 and monthly average number of full-time employees for each postproduction company.
109 The first report shall be submitted by June 30, 2018, and each year thereafter by June 30.”

110

SECTION 3.

111 This Act shall become effective upon its approval by the Governor or upon its becoming law
112 without such approval and shall be applicable to all taxable years beginning on or after
113 January 1, 2026.

114

SECTION 4.

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