Douglas J. MacGinnitie
Commissioner

State of Georgia
Department of Revenue
Suite 15300
1800 Century Boulevard
Atlanta, Georgia 30345
(404) 417-2218

Frank O' Connell
Director

NOTICE LGS 2013-001

RE: Amendment of Rules 560-11-6-.09 "Table of Conservation Use Land Values," 560-11-6-.01 "Application of Chapter," 560-11-6-.02 "Definitions," 560-11-6-.03 "Qualification Requirements," 560-11-6-.04 "Applications," 560-11-6-.05 "Change of Qualifying Use," 560-11-6-.06 "Breach of Covenant," 560-11-6-.07 "Valuation of Qualified Property," 560-11-6-.08 "Appeals," and 560-11-11-.12 "Table of Forest Land Protection Act Land Use Values."

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend the following Rules:

- 560-11-6-.09 "Table of Conservation Use Land Values"
- 560-11-6-.01 "Application of Chapter"
- 560-11-6-.02 "Definitions"
- 560-11-6-.03 "Qualification Requirements"
- 560-11-6-.04 "Applications"
- 560-11-6-.05 "Change of Qualifying Use"
- 560-11-6-.06 "Breach of Covenant"
- 560-11-6-.07 "Valuation of Qualified Property"
- 560-11-6-.08 "Appeals"
- 560-11-11-.12 "Table of Forest Land Protection Act Land Use Values."

Attached with this notice are an exact copy and synopsis of the proposed rule. The proposed rule is being amended under the authority of O.C.G.A. § 48-2-12.

The Department of Revenue shall consider the amendment of the abovementioned Rules at 10 a.m. on April 30, 2013 in Suite 15100 of the Department's headquarters at the below address.

The Department must receive all comments regarding the amendment of the above referenced rule from interested persons and parties no later than 10 a.m. on April 30,

2013. Written comments must be sent to: Commissioner, Georgia Department of Revenue, 1800 Century Blvd. N.E., Suite 15300, Atlanta, GA 30345-3205. Electronic comments must be sent to regcomments@dor.ga.gov. Facsimile comments must be sent to (404) 417-2293. Please reference "Notice Number LGS 2013-001" on all comments.

Dated: 3-28-13

Mack Chandler

Mack Chandler
Deputy Commissioner
Georgia Department of Revenue

SYNOPSES

GEORGIA DEPARTMENT OF REVENUE
LOCAL GOVERNMENT SERVICES DIVISION

CHAPTER 560-11-6
SUBSTANTIVE RULES AND REGULATIONS

560-11-6-.09 "Table of Conservation Use Land Values"
The Georgia Department of Revenue proposes to amend Rule 560-11-6-.09, entitled "Table of Conservation Use Land Values," in order provide the proper information pertaining to conservation use land.

560-11-6-.01 "Application of Chapter"
The Georgia Department of Revenue proposes to amend Rule 560-11-6-.09, entitled "Table of Conservation Use Land Values," to clarify which Code sections the regulations in Chapter 560-11-6 apply in consideration of current use valuation of property.

560-11-6-.02 "Definitions"
The Georgia Department of Revenue proposes to amend Rule 560-11-6-.02, entitled "Definitions," in order to ensure that promulgated regulations are consistent with definitions as provided for in the Official Code of Georgia.

560-11-6-.03 "Qualification Requirements"

The Georgia Department of Revenue proposes to amend Rule 560-11-6-.03, entitled "Qualification Requirements," to add further clarification as to the reading of O.C.G.A. 48-5-7.4.

560-11-6-.04 "Applications"

The Georgia Department of Revenue proposes to amend Rule 560-11-6-.04, entitled "Applications," to clarify existing language as to bona fide conservation use.

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

The Georgia Department of Revenue proposes to amend Rule 560-11-6-.05, entitled "Change of Qualifying Use," to clarify existing language as to changing the types of qualified uses available to a property.

560-11-6-.06 "Breach of Covenant"
The Georgia Department of Revenue proposes to amend Rule 560-11-6-.06, entitled "Breach of Covenant," to clarify existing language, consistent with parameters provided in the Official Code of Georgia.

560-11-6-.07 "Valuation of Qualified Property"

The Georgia Department of Revenue proposes to amend Rule 560-11-6-.07, entitled "Valuation of Qualified Property," to clarify existing language, consistent with parameters provided in the Official Code of Georgia.

560-11-6-.08 "Appeals"

The Georgia Department of Revenue proposes to amend Rule 560-11-6-.08, entitled "Appeals," in order to clarify existing procedures for appeals, consistent with parameters provided in the Official Code of Georgia.

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

The Georgia Department of Revenue proposes to amend Rule 560-11-11-.12, entitled "Table of Forest Land Protection Act Land Use Values," in order provide the proper information pertaining to land use values under the Forest Protection Act.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

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

(1) For the purpose of prescribing the current use values for conservation use land, the state shall be divided into the following 9 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: ~~W1-716, W2-643, W3-584, W4-535, W5-491, W6-456, W7-428, W8-393, W9-358, A1-1,298, A2-1,228, A3-1,137, A4-1,042, A5-942, A6-842, A7-749, A8-658, A9-564;~~ W1-737, W2-662, W3-601, W4-551, W5-505, W6-469, W7-440, W8-404, W9-368, A1-1,336, A2-1,264, A3-1,171, A4-1,073, A5-970, A6-867, A7-771, A8-677, A9-580;

(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: ~~W1-970, W2-877, W3-792, W4-717, W5-661, W6-621, W7-585, W8-537, W9-489, A1-1,423, A2-1,267, A3-1,129, A4-999, A5-894, A6-799, A7-716, A8-650, A9-585;~~ W1-999, W2-903, W3-815, W4-738, W5-680, W6-639, W7-602, W8-553, W9-503, A1-1,465, A2-1,305, A3-1,162, A4-1,028, A5-920, A6-822, A7-737, A8-669, A9-602;

(c) CUVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: ~~W1-970, W2-877, W3-792, W4-717, W5-661, W6-605, W7-509, W8-415, W9-347, A1-1,083, A2-984, A3-882, A4-782, A5-682, A6-616, A7-505, A8-424, A9-358;~~ W1-999, W2-903, W3-815, W4-738, W5-680, W6-623, W7-524, W8-427, W9-357, A1-1,115, A2-1,013, A3-908, A4-805, A5-702, A6-634, A7-520, A8-436, A9-368;

(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: ~~W1-700, W2-627, W3-568, W4-521, W5-454, W6-424, W7-368, W8-319, W9-260, A1-889, A2-796, A3-730, A4-653, A5-573, A6-476, A7-413, W8-321, A9-232;~~ W1-721, W2-645, W3-585, W4-536, W5-467, W6-436, W7-379, W8-328, W9-267, A1-915, A2-819, A3-751, A4-672, A5-590, A6-490, A7-425, W8-330, A9-238;

(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: ~~W1-597, W2-552, W3-507, W4-465, W5-421, W6-378, W7-332, W8-288, W9-239, A1-660, A2-574, A3-534, A4-489, A5-436, A6-371, A7-305, A8-241, A9-177;~~ W1-614, W2-568, W3-522, W4-478, W5-433, W6-389, W7-341, W8-296, W9-246, A1-679, A2-591, A3-550, A4-503, A5-449, A6-382, A7-314, A8-248, A9-182;

(f) CUVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: ~~W1-590, W2-542, W3-495, W4-451, W5-403, W6-357, W7-310, W8-262, W9-215, A1-747, A2-656, A3-601, A4-552, A5-489, A6-407, A7-332, A8-255, A9-180;~~ W1-607, W2-558, W3-509, W4-464, W5-415, W6-367, W7-319, W8-269, W9-221, A1-769, A2-675, A3-619, A4-568, A5-503, A6-419, A7-341, A8-262, A9-185;

(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: ~~W1-632, W2-575, W3-524, W4-471, W5-416, W6-364, W7-310, W8-255, W9-202, A1-868, A2-787, A3-700, A4-609, A5-522, A6-438, A7-339, A8-259, A9-175;~~ W1-650, W2-592, W3-539, W4-485, W5-428, W6-374, W7-319, W8-262, W9-208, A1-894, A2-810, A3-721, A4-627, A5-537, A6-451, A7-349, A8-266, A9-180;

(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: ~~W1-687, W2-623, W3-558, W4-495, W5-431, W6-368, W7-304, W8-241, W9-197, A1-877, A2-830, A3-749, A4-668, A5-588, A6-507, A7-393, A8-319, A9-236;~~ W1-707, W2-641, W3-574, W4-509, W5-443, W6-379, W7-313, W8-248, W9-202, A1-903, A2-854, A3-771, A4-688, A5-605, A6-522, A7-404, A8-328, A9-243;

(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: ~~W1-695, W2-627, W3-568, W4-505, W5-440, W6-380, W7-316, W8-253, W9-197, A1-813, A2-784, A3-703, A4-627, A5-550, A6-471, A7-393, A8-314, A9-236.~~ W1-715, W2-645, W3-585, W4-520, W5-453, W6-391, W7-325, W8-260, W9-202, A1-837, A2-807, A3-724, A4-645, A5-566, A6-485, A7-404, A8-323, A9-243.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

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 ~~conservation use valuations of property included in covenants entered into for the tax year beginning January 1, 1993~~.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

560-11-6-.02 Definitions.

For the purposes of implementing O.C.G.A. Section 48-5-7.4, O.C.G.A. Section 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 public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track.

(c) "Continued Covenant" means a covenant entered and carried forward, for the remainder of the original or renewal covenant term, by a qualified subsequent owner who has acquired all or a part of a property that was subject to an original or renewal covenant;

~~(b)~~ (d) "Good Faith Production" means:

1. A viable utilization of the property for the primary purpose of any good faith production, including, but not limited to, subsistence farming or commercial production, from or on the land of agricultural products or timber;

2. The primary use of the property shall include, but not be limited to:

(i) Raising, harvesting, or storing crops;

(ii) Feeding, breeding, or managing livestock or poultry;

(iii) Producing plants, trees, fowl, or animals; or

(iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products;

3. Factors which may be considered in determining if such property is primarily used for good faith production of agricultural products or timber may include, but are not 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 non-utilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof;

~~(c)~~ (e) "Maintenance in its natural condition" means to manage the land in such a manner that would not ruin, erode, harm, damage, or spoil the nature, distinctiveness, identity, appearance, utility or function that originally characterized the property as environmentally sensitive under O.C.G.A. Section 48-5-7.4(a)(2);

~~(d)~~ (f) "Mineral exploration" means the examination and investigation of land by drilling, boring, sinking shafts, driving tunnels, or other means, for the purpose of discovering the presence and extent of valuable minerals. Such term does not include the excavation of any such minerals after discovery;

~~(e)~~ (g) "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;

~~(f)~~ (h) "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. Section 48-5-7.4;

(i) "Renewal Covenant" means an additional ten year covenant entered upon the expiration or termination of a previous ten year covenant; provided, however, that the owner may enter into a renewal contract in the ninth year of a covenant period;

~~(g)~~ (j) "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.

(k) "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 covenant application and the board of tax assessors maps and records.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

560-11-6-.03 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, in conjuction with the covenant application, the taxpayer shall provide any one of the following types of property boundary 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; or

2. A written legal description of the 'underlying property' delineating the legal metes and bounds and measured area of the 'underlying property' in question;

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 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.

~~(a)~~ (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;

~~(b)~~ (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;

~~(c)~~ (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.

~~(d)~~ (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.

~~(e)~~ (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;

~~(f)~~ (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.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

560-11-6-.04 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 (Rev. 09/06) and applicable questionnaires are hereby adopted and prescribed for use by the applicant seeking current use assessment. The application shall be filed with the board of tax assessors of the county in which the property is located. A board of tax assessors may not require additional information from an applicant for purposes of determining eligibility of property for current use assessment except as otherwise provided in O.C.G.A. § 48-5-7.4 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) In those counties where U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps are available, it shall be the responsibility of the board of tax assessors to delineate the soil types on the tax records of the applicant's property.

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

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

(5) 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.

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

(7) 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 subject to the following provisions:

(a) The subsequently acquired qualified property shall be less than 50 acres;

(b) Such subsequently acquired property may not be subject to another existing current use covenant or preferential assessment; and

(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 contiguous acreage to be added to an existing covenant shall be made for the add-on acreage only and shall reference the existing original covenant by parcel number.

~~(7)~~ (8) When property receiving current use assessment and subject to a conservation use covenant is transferred to a new owner and the new owner fails to apply for continuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the transfer occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event the board of tax assessors shall send to both the transferor and the transferee a notice of the board's intent to assess a penalty for breach of the covenant. 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 apply for continuation of the current use assessment within thirty (30) days of the date of 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)~~ (9) 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)~~ (10) When property receiving current use assessment and subject to a conservation use covenant is transferred to an estate or heirs by virtue of the death of a covenant owner, and the estate or heirs fail to apply for a continuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the death occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event in which case the board of tax assessors shall send to any remaining parties to the covenant, whether the estate or the heirs a notice entitled "Notice of Intent to Terminate a Conservation Use Covenant." The notice shall set forth the following:

(a) the requirement of the estate or heirs to the property currently receiving current use assessment to apply for a continuation of the current use assessment within thirty (30) days of the date of postmark of the notice;

(b) the requirement of the estate or heirs to the property currently receiving current use assessment to continuously devote the property to an applicable bona fide qualifying use for the duration of the covenant; and

(c) the change to the assessment if the covenant is breached.

~~(10)~~ (11) In the event the estate or heirs fail to apply during the period provided for in paragraph (9) of this regulation, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the estate or heirs' lack of qualification or intent not to continuously devote the property to an applicable bona fide qualifying use. In such event the board of tax assessors shall be authorized to declare the covenant in breach without penalty.

~~(11)~~ (12) 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.

~~(12)~~ (13) 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.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

560-11-6-.05 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 ~~shall~~ 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 postmark of the notice;

(b) the requirement of the new owner of the property currently receiving current use assessment to continuously devote the property to an applicable bona fide qualifying use 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 new 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-year period.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

560-11-6-.06 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. The lien against the property for penalties and interest shall attach as of the date of such disqualifying event.

(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 from the date the covenant was breached.

(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 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 ~~limited~~ 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.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

560-11-6-.07 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 properties. 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;

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;

(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-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-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;

(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;

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.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-6 CONSERVATION USE PROPERTY

560-11-6-.08 Appeals.

(1) Applications for current use valuation as conservation use property or residential transitional property provided by O.C.G.A. Section 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. Section 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. Section 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. Section 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. Section 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. Section 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. Section 48-5-311.

AUTHORITY: O.C.G.A. Secs. 48-2-12, 48-5-7.4, 48-5-269.

TITLE 560: DEPARTMENT OF REVENUE
PROPERTY TAX DIVISION
CHAPTER 560-11-11 FOREST LAND PROTECTION

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

(1) For the purpose of prescribing the current use values for conservation use land, the state shall be divided into the following 9 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: ~~W1-716, W2-643, W3-584, W4-535, W5-491, W6-456, W7-428, W8-393, W9-358;~~ W1-737, W2-662, W3-601, W4-551, W5-505, W6-469, W7-440, W8-404, W9-368;

(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: ~~W1-970, W2-877, W3-792, W4-717, W5-661, W6-621, W7-585, W8-537, W9-489;~~ W1-999, W2-903, W3-815, W4-738, W5-680, W6-639, W7-602, W8-553, W9-503;

(c) FLPAVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: ~~W1-970, W2-877, W3-792, W4-717, W5-661, W6-605, W7-509, W8-415, W9-347;~~ W1-999, W2-903, W3-815, W4-738, W5-680, W6-623, W7-524, W8-427, W9-357;

(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: ~~W1-700, W2-627, W3-568, W4-521, W5-454, W6-424, W7-368, W8-319, W9-260;~~ W1-721, W2-645, W3-585, W4-536, W5-467, W6-436, W7-379, W8-328, W9-267;

(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: ~~W1-597, W2-552, W3-507, W4-465, W5-421, W6-378, W7-332, W8-288, W9-239;~~ W1-614, W2-568, W3-522, W4-478, W5-433, W6-389, W7-341, W8-296, W9-246;

(f) FLPAVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: ~~W1-590, W2-542, W3-495, W4-451, W5-403, W6-357, W7-310, W8-262, W9-215;~~ W1-607, W2-558, W3-509, W4-464, W5-415, W6-367, W7-319, W8-269, W9-221;

(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: ~~W1-632, W2-575, W3-524, W4-471, W5-416, W6-364, W7-310, W8-255, W9-202;~~ W1-650, W2-592, W3-539, W4-485, W5-428, W6-374, W7-319, W8-262, W9-208;

(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: ~~W1-687, W2-623, W3-558, W4-495, W5-431, W6-368, W7-304, W8-241, W9-197;~~ W1-707, W2-641, W3-574, W4-509, W5-443, W6-379, W7-313, W8-248, W9-202;

(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: ~~W1-695, W2-627, W3-568, W4-505, W5-440, W6-380, W7-316, W8-253, W9-197.~~ W1-715, W2-645, W3-585, W4-520, W5-453, W6-391, W7-325, W8-260, W9-202.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.7, 48-5-271.