Georgia Department of Revenue

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.

Georgia Department of Revenue

Kenny Colson

Specialized Assessments Program Manager

Local Government Services Division

Georgia Department of Revenue

Georgia Department of Revenue

House Bill 987

Status History

Jul/01/2016 - Effective Date
Apr/28/2016 - Act 493
Apr/28/2016 - House Date Signed by Governor

HB 987

- Amended 48-5-7.4
- (o) The transfer of a part of the property subject to a covenant for a bona fide conservation use shall not constitute a breach of a covenant if:
  - (1) The part of the property so transferred is used for single-family residential purposes, starting within one year of the date of transfer and continuing for the remainder of the covenant period, and the residence is occupied <u>within 24 months from the date of the start</u> 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;

"Golden Rule" - Georgia Court of Appeals

- *'golden rule' of statutory construction, which requires us to follow the literal language of the statute unless it produces contradiction, absurdity or such an inconvenience as to insure that the legislature meant something else.*

"Golden Rule" - Georgia Court of Appeals

- *When literal reading of the statute produces such an absurdity, the [court] must then seek to make sense out of the statute, while being faithful to the legislative intent.*
- *To define the legislative intent, the court considers the purpose of the statute and its impact on the body of law as a whole*

"Golden Rule" - Georgia Court of Appeals

- *The court also considers the law as it existed before the statute was passed and identifies the mischief sought to be corrected.*
- *Finally, when a taxing statute has doubtful meaning, it must be construed liberally in favor of the taxpayer and against the State.*

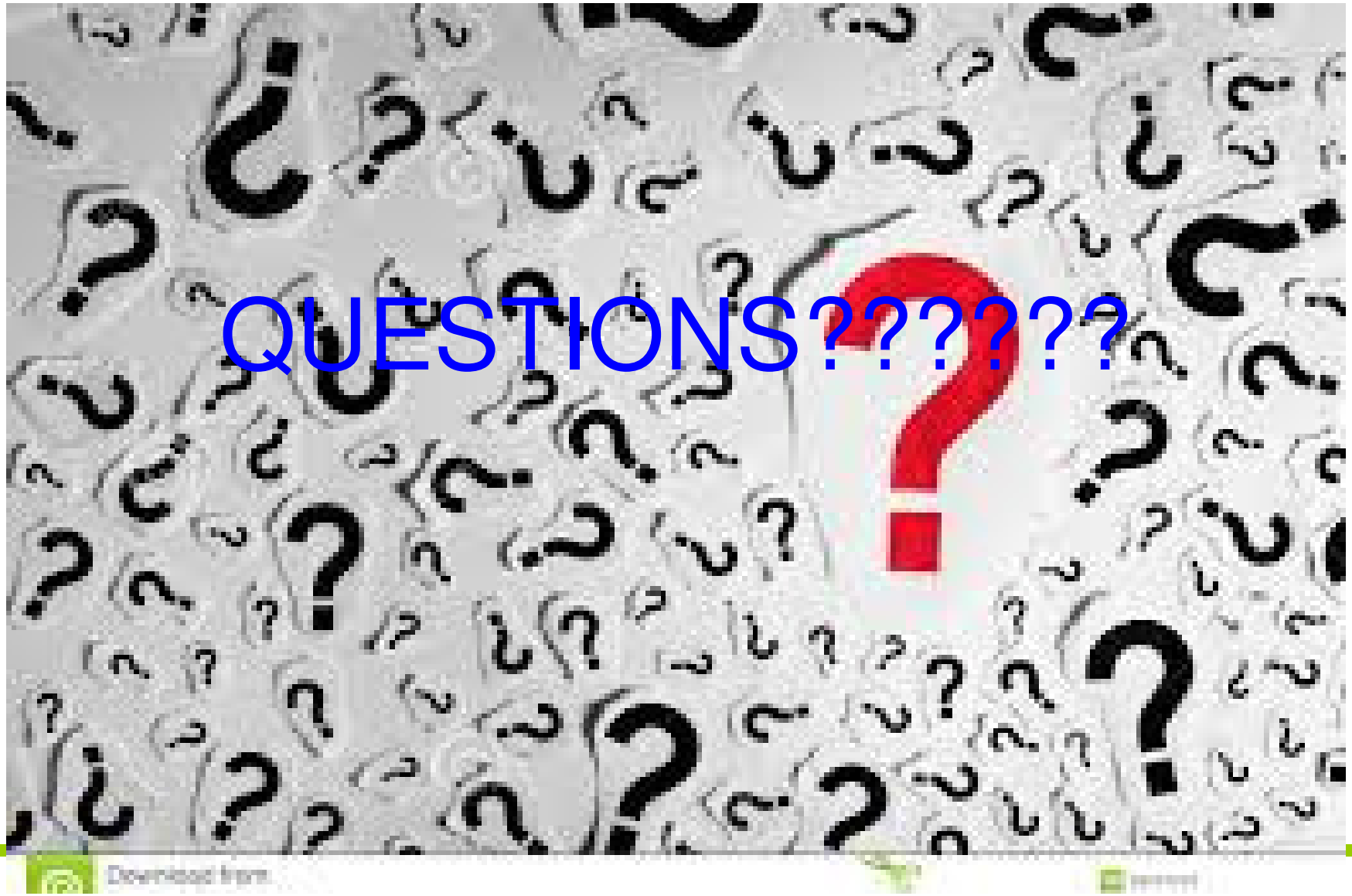
HB 987

- 48-5-7.4 (p) The following shall not constitute a breach of a covenant:
  - (8) Allowing all or part of the property which has been subject to a covenant for at least one year to be used as a site for farm weddings; or
  - (9) Allowing all or part of the property which has been subject to a covenant for at least one year to be used to host not for profit equestrian performance events to which spectator admission is not contingent upon an admission fee but which may charge an entry fee from each participant.

HB 987

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

Georgia Department of Revenue



Georgia Department of Revenue

FLPA Audits

Overview

Agent Review Process

Major Findings

Overview

FLPA Audit Process

- Agents will be visiting counties and obtaining 2008 thru 2015 data files or covenant information

- Spreadsheet is created from the data or manually keyed.

Georgia Department of Revenue

FLPA Audit Process

- Continuing Process

Forest Land Fair Market Value

Digest class “F”

Used in the calculation of the amount of assistance grants the state will pay to reimburse revenue lost.

Georgia Department of Revenue

48-5A-3

Grant will be paid based on difference between the forest land fair market value (F-code) and the forest land conservation use value (J-code minus SJ exemption code)

Finding #1:

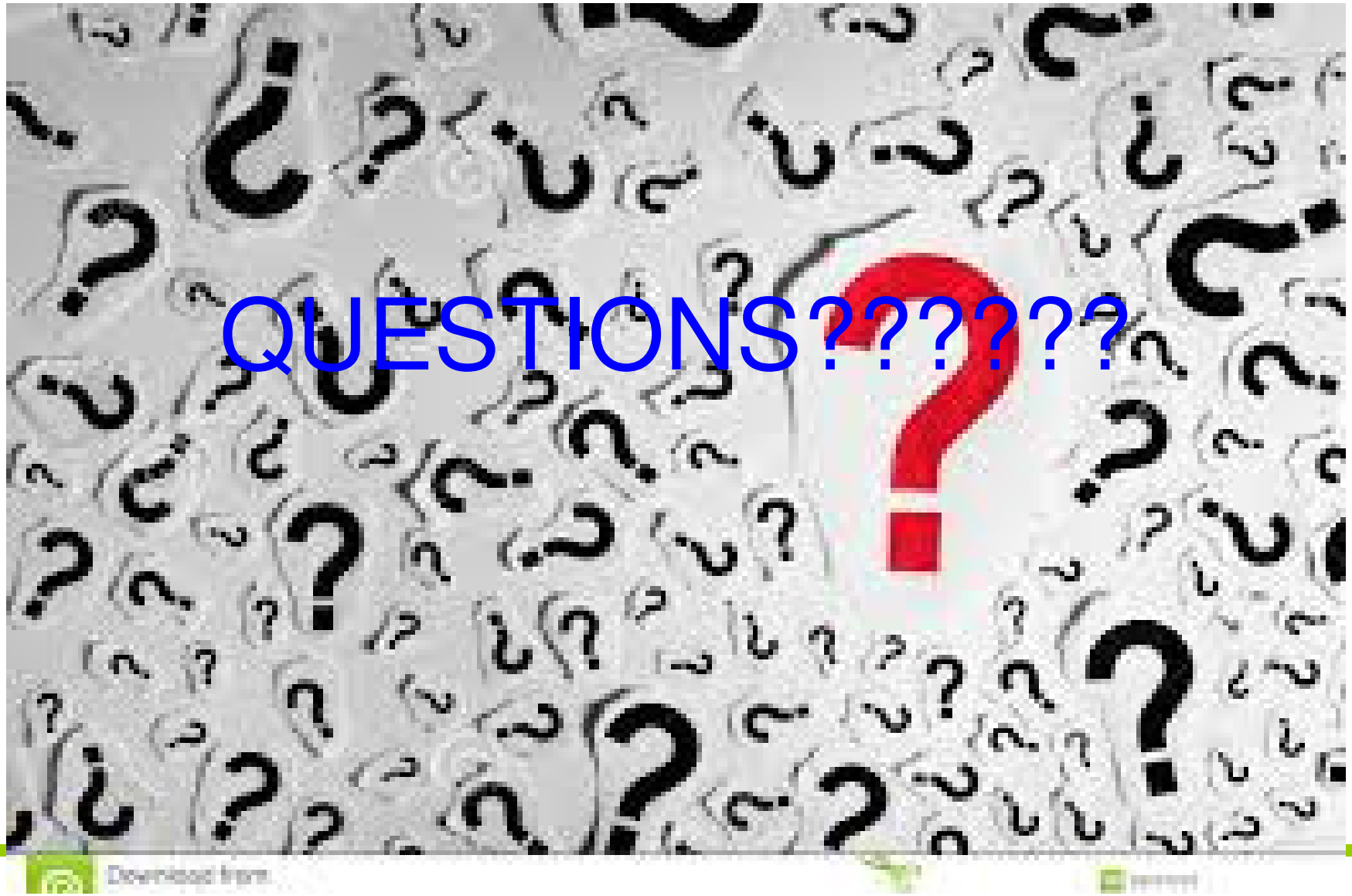
Non compliance with proper recording of FLPA covenants.

Finding #2:

Parcels that have split or been combined with other parcels since 2008 are of a major concern. A majority of fl08 values are not carrying the correct value.

Georgia Department of Revenue

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

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

Georgia Department of Revenue