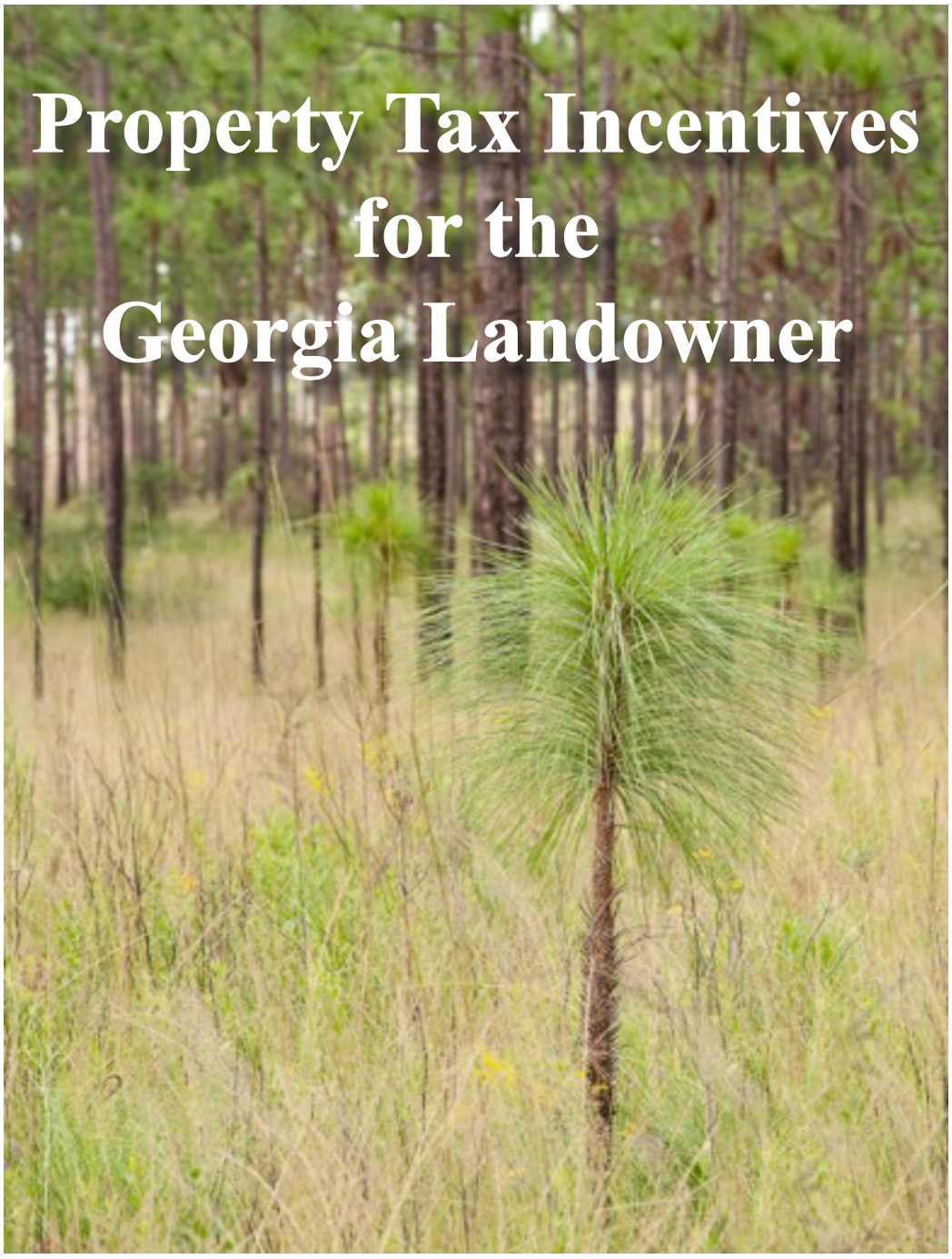
Property Tax Incentives for the Georgia Landowner



Harley Langdale, Jr. Center for Forest Business Research Note No. 3, Revised September 2020

Bob Izlar, Director, Harley Langdale Jr. Center for Forest Business
Yanshu Li, Assistant Professor
Tyler Smith, MFR Candidate

Harley Langdale Jr.
Center for Forest Business
UNIVERSITY OF GEORGIA

WSFNR-20-59A

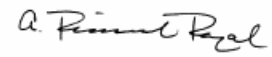
FOREWORD

Ad valorem taxes continue to be the most important source of revenue for financing local governments. With ever increasing demands for infrastructure, economic development and quality service delivery; local governments must rely heavily on property tax revenues. Even though local option and special purpose sales taxes have been important sources of local revenue, these taxes are sometimes unreliable due to fluctuations in the economy, as we are experiencing now, and the fact that special purpose sales taxes have expiration dates and must be renewed through public referenda with no guarantee of acceptance.

Property owners have become very concerned with increases in valuations on their properties. When higher valuations on property occur, higher tax bills are the end result. One of the most common complaints heard is the lack of uniformity from one taxing jurisdiction to another in terms of fair market value. To complicate the issue, many local legislative delegations are imposing local homestead exemptions which have the effect of freezing values on certain properties. There can be no uniformity with this type of tax incentive and the question of fairness also becomes an issue.

On the bright side, the Georgia General Assembly has been successful in offering property tax incentives which provide significant tax relief for agricultural lands, forest lands, environmentally sensitive areas and residential transitional properties which have saved landowners millions of dollars in tax relief. Additionally, these conservation incentives have benefitted the environment and welfare of all Georgians.

Property owners will continue to demand fair and equitable property tax administration and the General Assembly will be sympathetic to their call. Local governments will continue to be hard pressed for revenue to maintain growth and quality service delivery. It is my hope that Georgia lawmakers will continue in their efforts to bring about uniformity and equity in tax administration.



Honorable A. Richard Royal
Chairman Emeritus Ways and Means Committee
Georgia House of Representatives

PREFACE

This is the seventh revision of the popular ***Property Tax Incentives for the Georgia Landowner***, University of Georgia Harley Langdale, Jr. Center for Forest Business Research Note Number 3. It expands the 2017 revision to include an exhaustive treatment of all pertinent *ad valorem* taxation legislation, Department of Revenue rules and regulations and some court cases through the 2020 General Assembly legislative session. Each intervening year has seen some change to *ad valorem* tax law relating to farm and forest owners including the landmark 2008 Forest Land Protection Act (FLPA).

The 2018 General Assembly passed HR 51 and its enabling legislation (HB 85), the most significant update to the timberland *ad valorem* tax law since the passage of the FLPA. Approved by the voters later in November 2018, the legislation improves the uniformity of the timberland taxation by establishing a new property class of land titled "Qualified Timberland Property" and reducing the FLPA covenant length to 10 years. In addition to this critical legislation, many of the recent *ad valorem* tax changes aim to encourage enrollment of eligible lands by improving flexibility and broadening qualifications for CUVA or FLPA designations while still meeting the goal of land conservation.

We continue to use the format popularized in earlier versions of this book. Each page usually has a simplified "slide" summary of the law with a detailed explanation below so the reader can easily see if the section is of interest. The first version was issued in 1993 as Cooperative Extension Bulletin 1089 with Coleman Dangerfield, Jr., John Gunter, Warren Kriesel, Bob Ray, Jr., Bob Izlar, Dennis Martin and Hans Neuhaeuser as the original authors. It was revised and reissued under the same title in 2000 with Coleman Dangerfield, Jr., David Newman and Bob Izlar as authors. As Center for Forest Business Research Note Number 3, it was subsequently updated in 2001 and 2004 with the same authors, in 2005 with James Baxter, in 2011 with Jack Izard and Carter Coe, in 2017, and in 2020 with Tyler Smith.

We would like to especially thank Dr. John Gunter, Dr. Warren Kriesel, Bob Ray, Dennis Martin, Hans Neuhaeuser, Jim Baxter and Dr. David Newman for their efforts and support in bringing this much needed information to the Georgia landowner through their scholarly contributions in the previous editions.

Due to the time-sensitive nature of the subject, we will keep the online version updated regularly to reflect the most recent change. We welcome any suggestions to improve it.

Naturally, we take full responsibility for all errors.

Bob Izlar
Yanshu Li
Tyler Smith
Athens, Georgia
June 4, 2020

ACKNOWLEDGEMENTS

The Langdale Center for Forest Business is indebted to numerous cooperators and contributors who helped make this educational document possible. These entities include Georgia Farm Bureau Federation, Georgia Forestry Association, Georgia Forestry Commission, Georgia Department of Revenue, and Georgia Department of Agriculture among others.

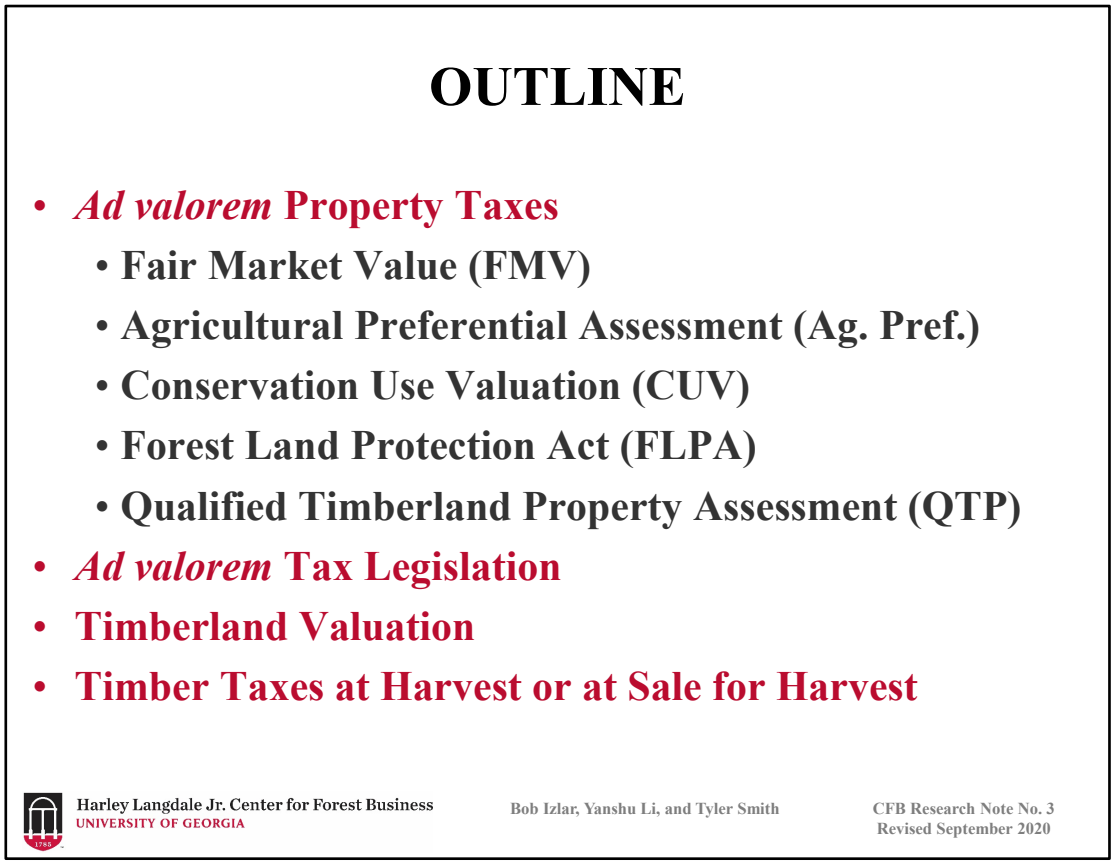
Cover photo credits: Jason Kinsey Photography.

TABLE OF CONTENTS

INTRODUCTION

All Georgia landowners have a real need to learn more about the property tax laws that affect their county *ad valorem* property taxes. For example, some can reduce the annual property taxes on their farm and forest land by enrolling in **Conservation Use Assessment** or **Forest Land Conservation Use.** Others can benefit similarly from **Agricultural Preferential Assessment**. For some, the newly introduced **Qualified Timberland Property Assessment** may give them a good balance of flexibility and property tax liability. For some landowners, **Fair Market Value assessment** is the preferable method. If you own rural land in Georgia, live in a house whose property taxes have been affected by commercial or industrial development, or are growing timber for harvest or sale for harvest, you need to learn more about property tax laws. This book will help you do just that.

Use of This Educational Material - This a general guide to property tax incentives in Georgia. As such, it contains the authors' interpretations of statutory law, Department of Revenue regulations, and judicial decisions. Please note, however, that this is **not a legal document** and opinions of the authors are not legally binding -- none of the authors are attorneys. Furthermore, many technical points are open to other interpretations. This book is not a substitute for the expert advice of a legal or tax professional regarding your individual situation.



OUTLINE

To make better, informed decisions about property tax alternatives, landowners should understand the basic details of *ad valorem* property taxes and requirements. Five assessment program options are listed here.

In addition to certain rights, landowners may also have alternatives for the manner in which value is determined. As of January 1, 2020, owners of eligible land have five options for determining bare land value.

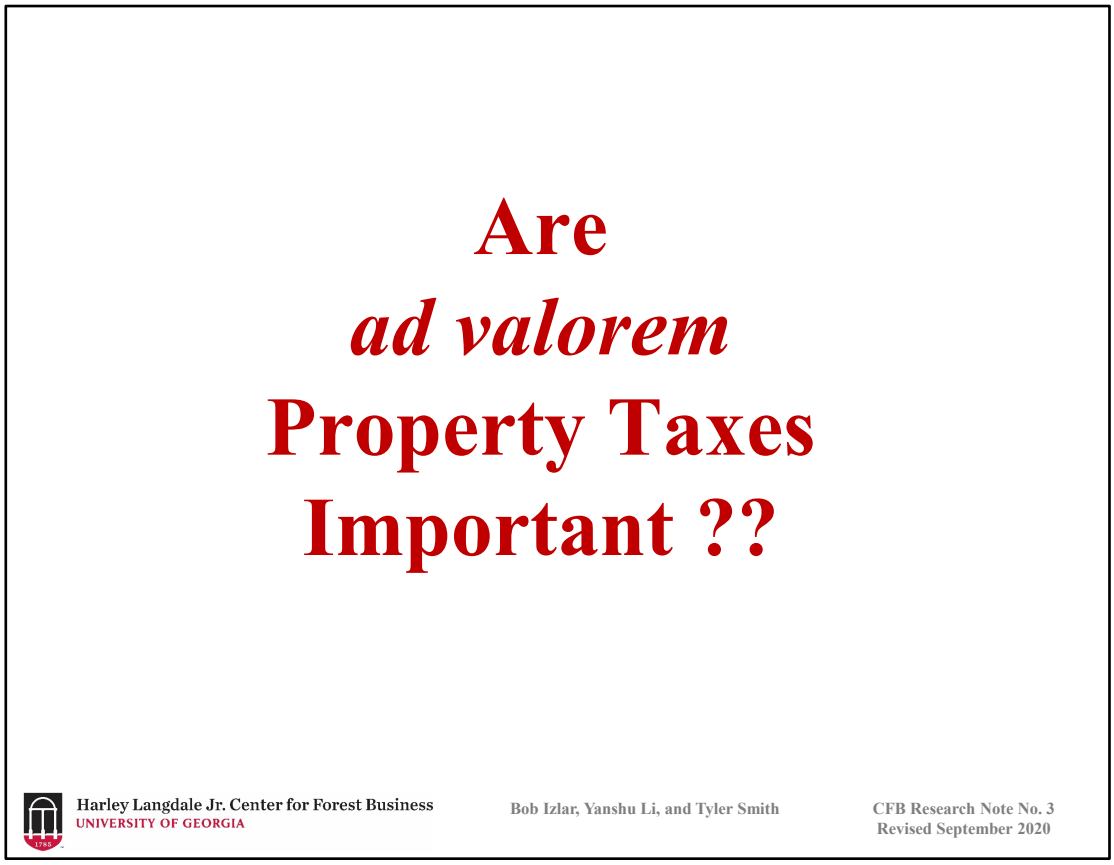
These alternatives, as discussed in this presentation, include:

- **Fair Market Value (FMV),** the primary property valuation method in use in Georgia;
- **Preferential Assessment for Agricultural and Forestry Property (Preferential Assessment);**
- **Current Use Valuations of Conservation Use Properties (Conservation Use Valuation);**
- **Forest Land Protection Act; and**
- **Qualified Timberland Property.**

Land may only be valued for *ad valorem* taxation under one of the above alternatives. No combination of programs is allowed on the same land. The Agricultural Preferential Assessment, Current Use Valuation, Forest Land Protection Act, and Qualified Timberland Property programs require certain commitments on behalf of landowners and are available to owners of qualifying properties only.

Each of these *ad valorem* property tax alternatives will be reviewed to cover: background of valuation method; participation requirements and eligibility; and determination of values.

Then, there will be a discussion of ***ad valorem* property taxes on timber at harvest or at sale for harvest**. Lump sum sales, unit price sales and owner harvests are covered here.

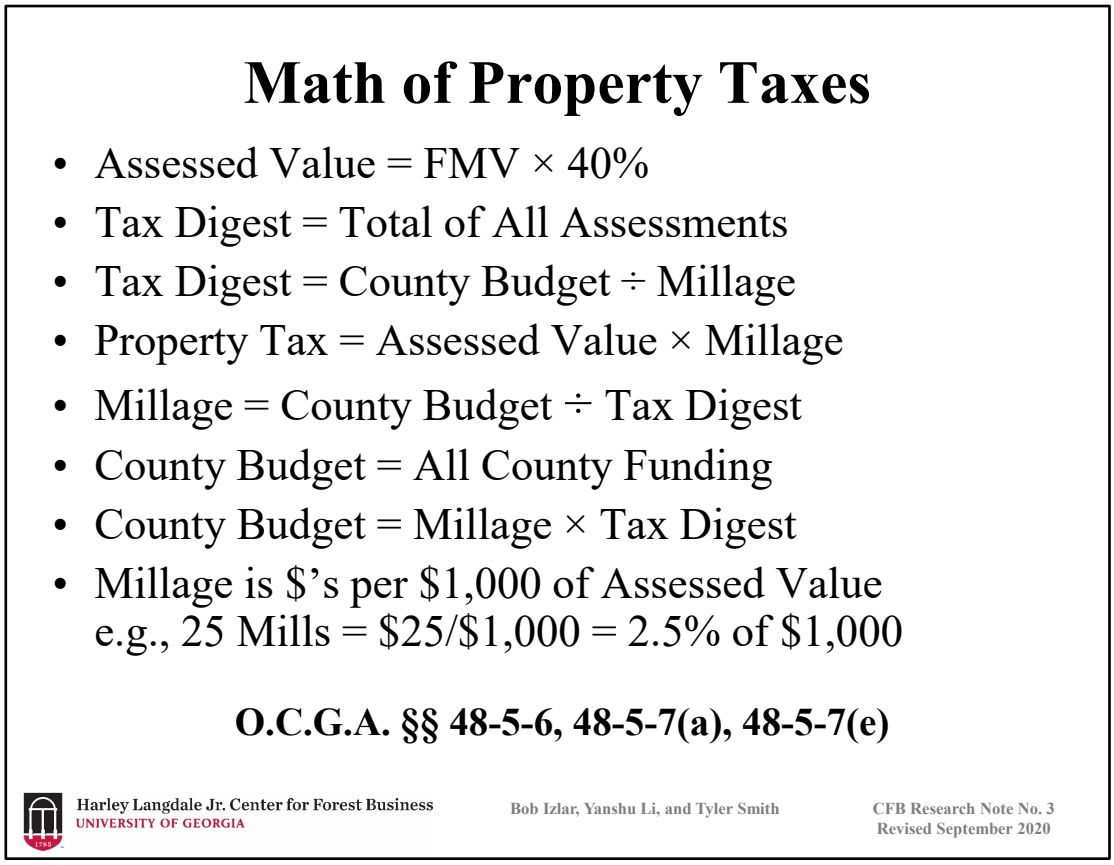


ARE *AD VALOREM* PROPERTY TAXES IMPORTANT?

In Georgia, property taxes play a major role in funding the operations of county and city governments and public school systems. These "*ad valorem*" taxes, meaning taxes levied "on the basis of value," are determined for tangible property – "real and personal property such as land, buildings, cars, aircraft, watercraft, mobile homes, etc."

The value assigned to individual property parcels provides a basis for distributing the burden of funding among all property owners. Therefore, major concerns of property owners are drawn from the assignment of value and procedures used to determine that value.

The tax assessor establishes values for taxable property. The tax commissioner (tax collector) sends out tax bills based on the values established by the tax assessor and collects those taxes. In most counties the tax assessor and the tax commissioner are separate tax officials. In some counties these two functions are combined.



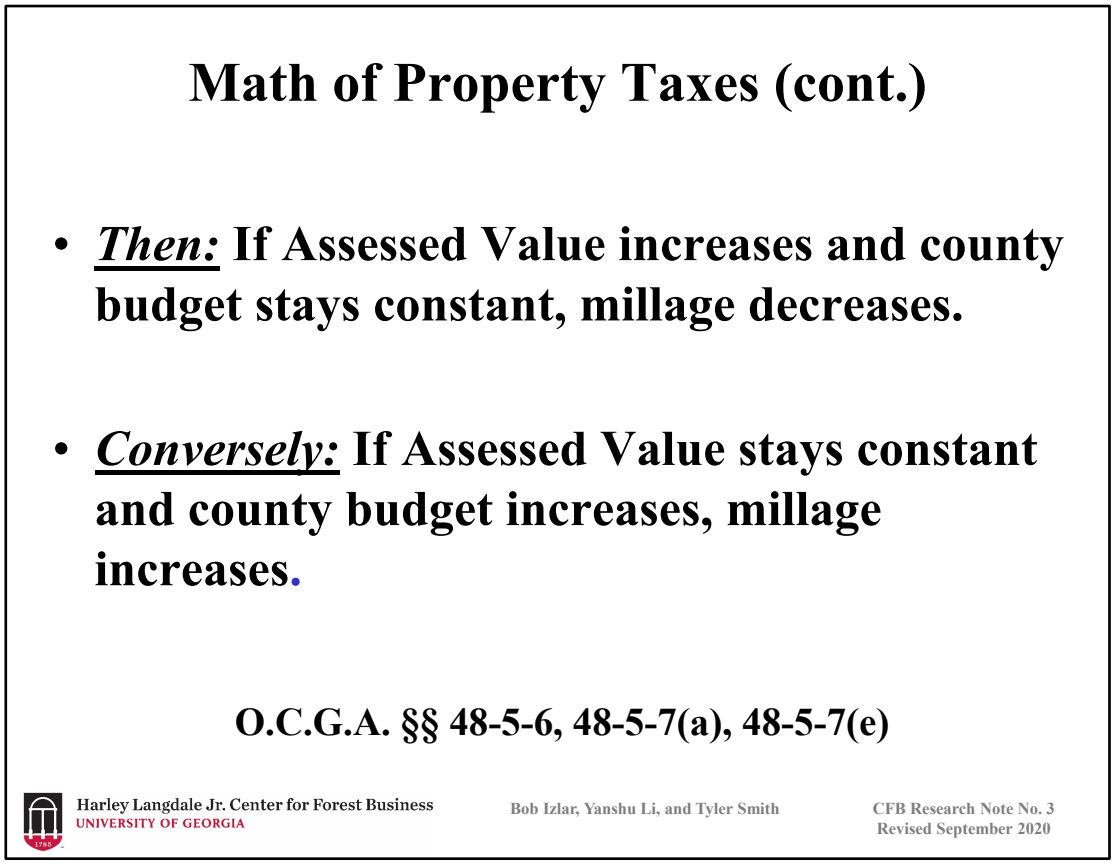
Mathematics of Property Taxes

Official Code of Georgia Annotated **(O.C.G.A.)** §§ **48-5-6, 48-5-7(a), 48-5-7(e)**

While analyzing the property valuation alternatives, keep in mind the basic purpose of each method is to determine a **representative** value for the property. As previously stated, value assigned to the land provides a basis for distributing the costs of running local government and supporting the county school system. Property tax bills for landowners, no matter which alternative is chosen, are based upon the following formula:

- Assessed Value = Property Fair Market Value (FMV) × 40%
- Tax Digest = Sum of all Assessments.
- Tax Digest = County Budget ÷ Millage
- County Budget = All county-level funding needs.
- Millage = County Budget ÷ Tax Digest
- County Budget = All County Funding
- County Budget = Millage × Tax Digest
- Millage is $'s per $1,000 of Assessed Value,

  e.g., 25 Mills = $25/$1,000 = 2.5% of $1,000



Mathematics of Property Taxes

O.C.G.A. §§ 48-5-6, 48-5-7(a), 48-5-7(e)

Then: **If Assessed Value increases and county budget stays constant, millage decreases.**

Conversely: **If Assessed Value stays constant and county budget increases, millage increases.**

The County Commissioners set the millage rate for the part of the budget going to operate county government and provide county-based services. The County Board of Education sets the millage rate for the school system. Almost all public school systems in Georgia are capped at 20 mills by the Georgia Constitution.

FMV

"The amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property in an arm's length, bona fide sale."

O.C.G.A. § 48-5-2(3)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Defining Fair Market Value [O.C.G.A. § 48-5-2(3)]

The system of taxing property, according to the current definition of "Fair Market Value" (FMV), has been in place in Georgia since 1968. The basis of FMV is **the belief** that the real estate market, combined with other factors, offers a gauge of property worth. The system functions well where a large number of comparable sales are available to value similar types of property. For example, homeowner to homeowner sales would be used to determine residential values in a primarily residential area. Likewise, farmer to farmer sales would be used to determine property values in a primarily agricultural area.

The more comparable sales of similar property available to a county tax assessor, the more reliable the valuation data generated. In practice, FMV is typically determined by actual property sales occurring in the county within the last 12 to 18 months. When "good" comparable sales are limited in a county, the assessor can extend the time period for usable sales beyond 18 months. Another acceptable strategy for a county tax assessor to increase the number of usable comparable sales is to collect sales data in adjacent counties through cooperation with assessors in other counties.

The sales are separated into their respective classes and then compiled to establish a range of values. An additional step is often added to include a "location influence factor." This factor takes into account access to roads, utilities, area development and other factors that may enhance the land's value. Finally, a table of values is set to appraise similar property based upon the acreage, as well as other chosen influence factors.

An important consideration for determining fair market value of farm and forest land is tract size. Typically, as tract size decreases, per acre value increases. This is true because of increased demand for smaller size acreage units of farm and forest land. In counties where comparable sales for farm and forest properties are dominated by sales of smaller size tracts, per acre dollar values for larger acreage tracts can be unfairly, and **unlawfully**, biased upward.

Once an area with predominately residential or agricultural land uses fails to generate a sufficient number of sales for those particular categories, the FMV method allows the use of any other market factors deemed pertinent to determine FMV. These other factors can include potential for development demonstrated by local sales other than the predominant residential or agricultural uses. Development sales can inflate values for that particular land class. For example, farmer to developer sales would show higher values for agricultural property than would farmer to farmer sales, as would forest land to developer sales.

"Arm's Length, Bona Fide Sale"

O.C.G.A. § 48-5-2 (.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."

FMV – Value Determination (cont.)

- Tax assessor will use comparable sales method to assign value to property
- For income-producing properties, will use income approach where data are available
- A record of sales must be kept and documented for the county each year
- If sales data is insufficient for accurate valuation, the assessor will go outside of the jurisdiction to obtain complete sales data
- Site analysis must be complete for a property, all factors taken into account including access and desirability of the land

Ga. Comp. R. & Regs. r. 560-11-10-.09(2)(d)

FMV – Value Determination (cont.)

FMV will be determined based on:
1) Comparable real properties (including foreclosures, bank sales, distressed sales, sales at public auction)
2) Decreased value due to conservation easement
3) Other existing factors affecting FMV

O.C.G.A. § 48-5-2(3)(B)

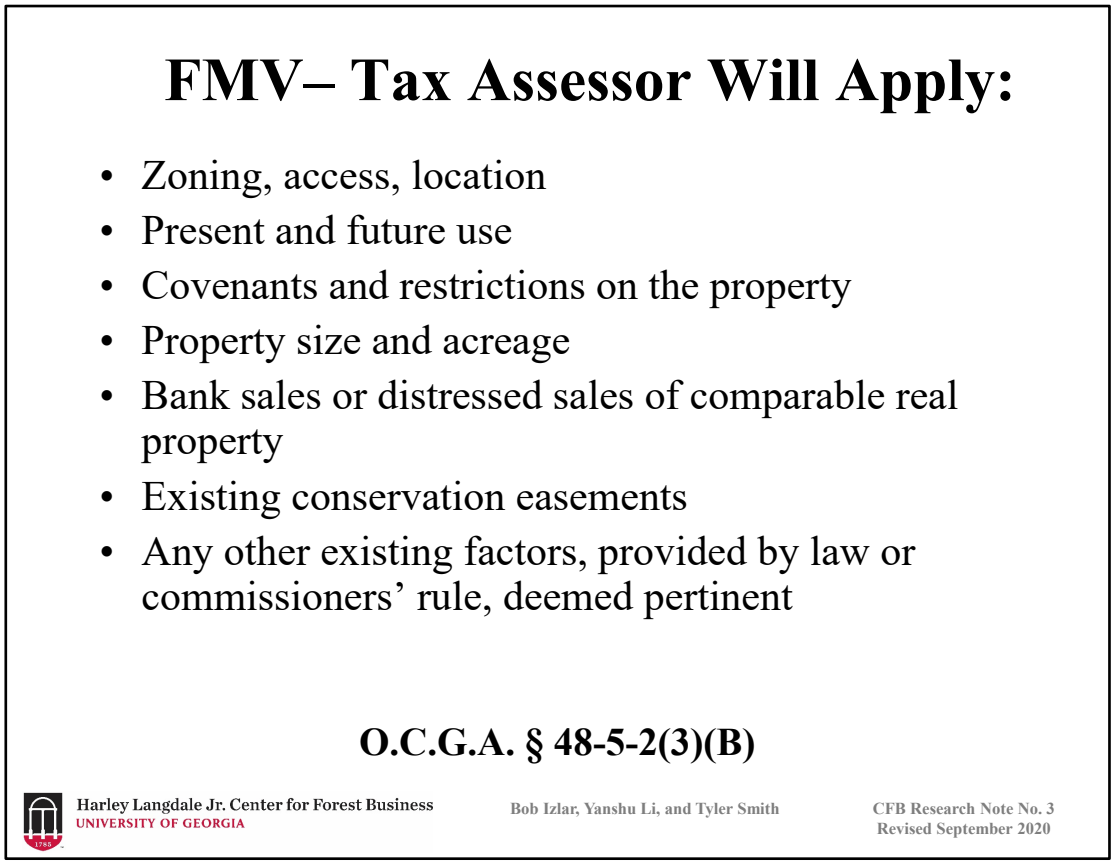
Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA
Bob Izlar, Yanshu Li, and Tyler Smith
CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5-2(3)(B)
The tax assessor shall consider 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;
(vii)

(I) In establishing the value of any property subject to rent restrictions under the sales comparison approach, any income tax credits described in division (vi) of this subparagraph that are attributable to a property may be considered in determining the fair market value of the property, provided that the tax assessor uses comparable sales of property which, at the time of the comparable sale, had unused income tax credits that were transferred in an arm's length, bona fide sale.

(II) In establishing the value of any property subject to rent restrictions under the income approach, any income tax credits described in division (vi) of this subparagraph that are attributable to property may be considered in determining the fair market value of the property, provided that such income tax credits generate actual income to the record holder of title to the property; and

(viii) Any other **existing** factors deemed pertinent in arriving at fair market value.



Determining Fair Market Value [O.C.G.A. § 48-5-2(3)(B)]
Local governments, through the county tax assessor, are charged with the responsibility of determining FMV. Georgia law and Department of Revenue regulations provide very broad and general guidelines for valuing land under this system.

Tax assessors are to consider: (1) zoning; (2) existing use; (3) covenants and restrictions on the property; and, (4) "any other existing factors deemed pertinent" to determine FMV. FMV of farm and forest land for *ad valorem* taxes is also required by Georgia law to be bare land value. This means that improvements are to be separated from the bare land value. The value of any standing timber is also required by state law to be completely separated from the underlying bare land value before any *ad valorem* property tax is applied.

FMV – Value Determination (cont.)

- *Leverett et al. v. Jasper County Board of Tax Assessors*

O.C.G.A. § 48-5-2(3)(B)

Leverett et al. v. Jasper County Board of Tax Assessors – Since a Constitutional amendment was passed by the people in the autumn of 1990 requiring the *ad valorem* taxation of standing timber only when it was harvested or sold for harvest, there has been considerable concern by forest landowners that their bare land values still inherently include some standing timber value. Another way of simply looking at the issue is that the Constitution was amended to take standing timber off the digest.

In 1998, the Georgia Court of Appeals decided a landmark case firmly resolving this issue (233 Ga. App. 470). Since the case was not appealed, the Appellate Court's ruling is the law in Georgia. In reversing the trial court's ruling in favor of the Board of Tax Assessors, the Appellate Court held , "...Thus, the Assessors, in not subtracting the value of growing timber from the fair market value of the land used in the sales ratio as comparables, refused to treat growing timber as tax-exempt and caused what is exempt from taxation until sold or harvested to be a part of the assessed value of the land." In other words, your forestland's valuation must have *no* timber value attributed to it. Timber value can not be "...reflected in the price of the land."

But the Court went even further. It said, "stump land" (land which has not been site prepared to plant in trees) has a lower value than cleared cultivatable land, pasture land or growing timberland. Stump land has a substantially different value than cleared land because there is a cost to get it to an improved state. The Court held, "...thus, improved land has a higher acreage fair market value which reflects the cost of clearing and replanting pines or of fencing. "

This case was a significant finding for all timberland owners because it undisputedly said ***all*** value attributable to timber must be removed from the value of the land for assessment.

FMV – Location and Size Adjustments

- When large acreage sale data is not available for valuation, the assessor will determine **adjustment factors** in homogeneous areas throughout the county to correctly account for size
- **These factors can be estimated in a number of ways:**
  - estimate a rate of absorption for smaller tracts
  - divide large tract into smaller, marketable tracts
  - develop a sales schedule with estimated income by year to reflect absorption rate and characteristics of small tracts
  - discount income schedule to the present, and
  - summing resulting values for an estimated property value.

Ga. Comp. R. & Regs. r. 560-11-10-.09.(3)(b)(iii) to (iv)

FMV
Bare Land Property Tax Example

Land FMV = $500/acre
Millage = 25 mills = .025 = 2.5%
Assessed Value = FMV×40%
= $500 ×.40
= $200/acre
Tax = Assessed Value × Millage
= $200/acre × .025
= $5.00/acre

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

FMV Property Tax Example:

FMV of bare land = $500/acre

Millage = 25 mills = .025

Assessed Value = FMV x 40%
= $500/acre x 40%
= $200/acre on bare land

Tax on Land = Assessed Value x County Millage Rate
= $200 x .025 = $5.00/acre for bare land.

Ad Valorem Notices

- Taxpayer shall receive annual assessment of taxable real property
- Written notice shall be received if any corrections or changes have been made to personal property tax returns

O.C.G.A. § 48-5-306(a)

O.C.G.A. § **48-5-306(a)**
The board shall give **annual notice** to the taxpayer of the current assessment of taxable real property. When any corrections or changes, including valuation increases or decreases, or equalizations have been made by the board to personal property tax returns, **the board shall give written notice to the taxpayer of any such changes made in such taxpayer's returns**.

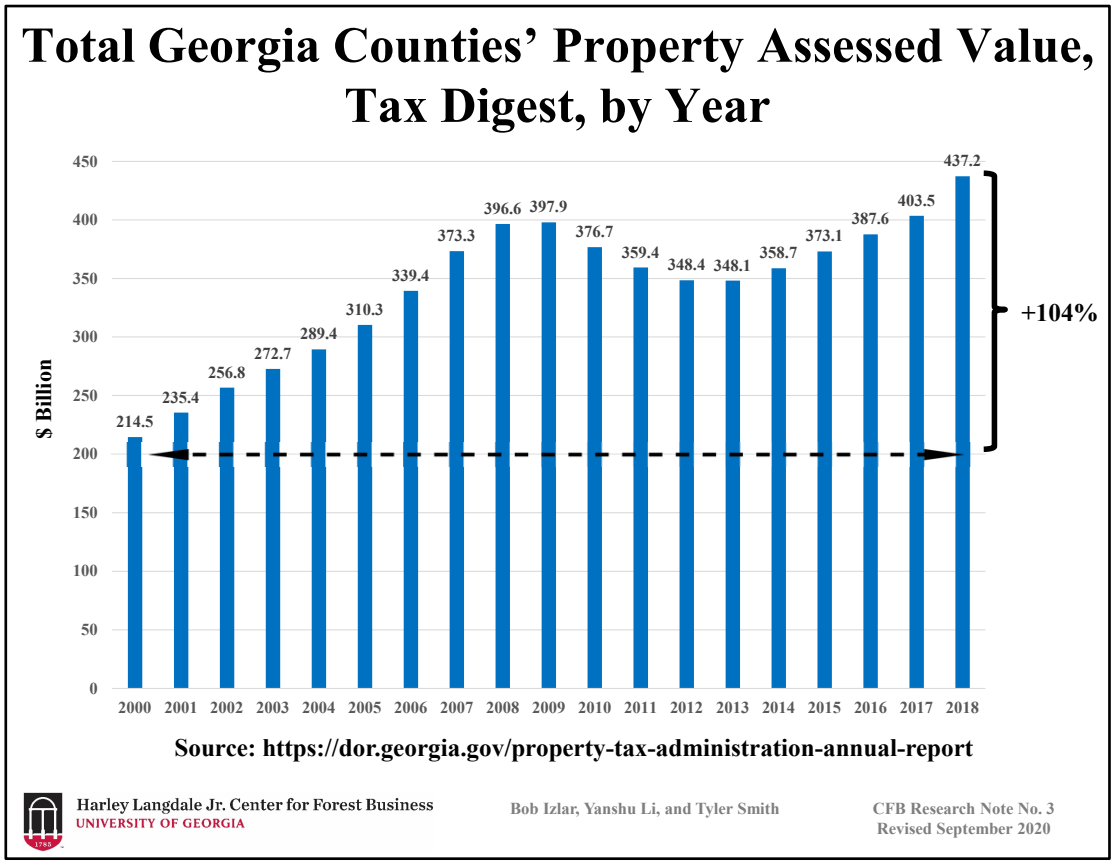
Ad Valorem Notices (cont.)

- Taxpayer may request copies of public records and information, including, but not limited to:
  - Documents used in making assessment
  - Address and parcel identification number of properties used as comparable properties
  - All factors used to establish new assessment.

O.C.G.A. § 48-5-306(d)(1)

O.C.G.A. § 48-5-306(d)

(1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, a description of the methodology used by the board of tax assessors in setting the property's fair market value, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25 cent(s) per page.

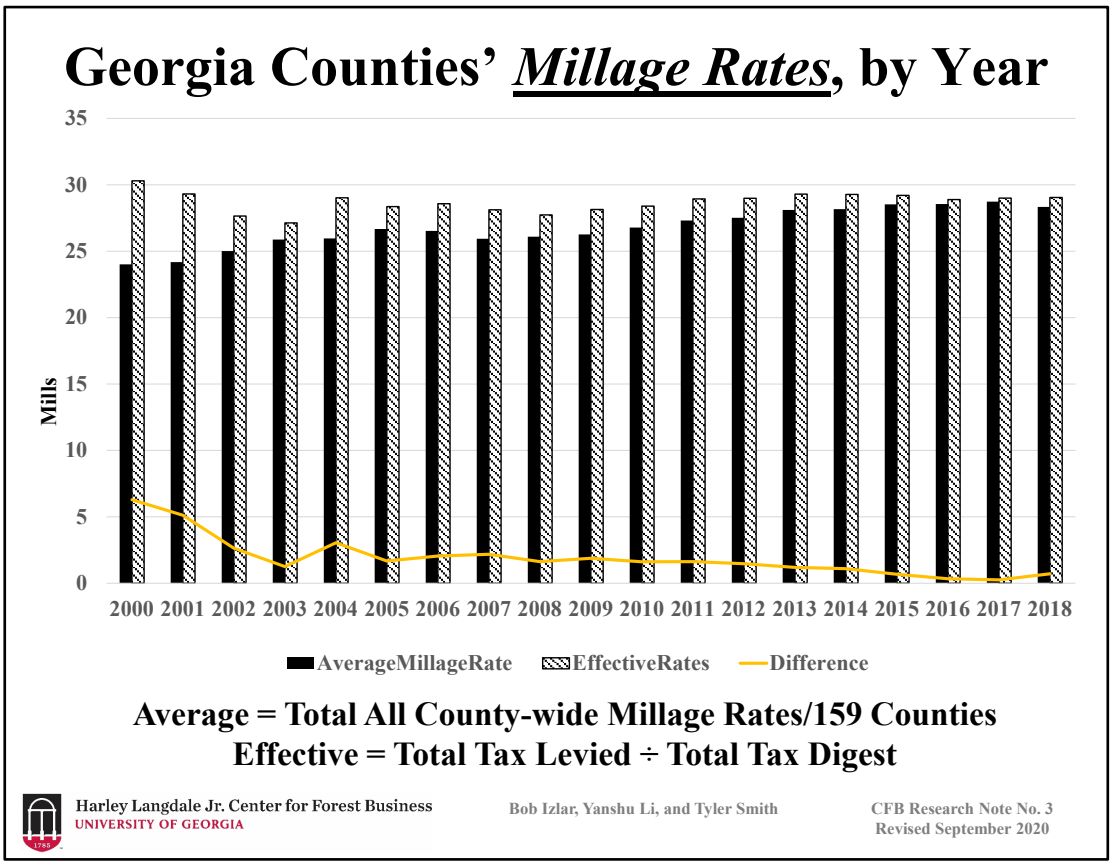


Total Georgia Counties' Property Assessed Value

Tax Digest = Sum of all Assessments

Property Tax Digest Changes

The sum of all Georgia county property tax digests increased from $214.5 billion in 2000, to $397.9 billion in 2009, an 81 percent increase over the nine-year period, an average of 9.5 percent per year. Total assessed value decreased 12.5% from 2009 to 2013, due to depressed real estate market. In 2017, the total assessed value had returned to its pre-crisis level due to the recovery in the real estate market. The 2018 assessed value is 8.0% above the reported value in 2017.



Average and Effective Georgia Millage Rates

The average millage rate was computed by the Georgia Department of Revenue by summing individual county millage rates and dividing by the number of Georgia counties (159). While this gives the average millage rate for the state, it does not account for the large differences across all the individual county budgets. Therefore, the average millage rate (as calculated) can misstate the effective millage at the state level. A more accurate millage rate, the effective millage rate, is calculated by dividing the total property tax revenue collected in Georgia by the total tax digest for the state. The effective millage rate accurately assesses millage changes.

For example, use the year 2002 and see the difference between average and effective millage rates. As reported by the DOR, the average state millage rate is 25.01 mills (or 0.02501 × $1,000 = $25.01 tax for each $1,000 assessed value), total assessed value is $256.80 billion, total property tax revenue is $7.690 billion.

The formula used in our calculation with the average millage rate is:

Average Millage Rate (25.01) × Total Tax Digest ($256.80 billion) = Total Property Tax Collected ($6.40 billion).

The effective millage rate calculation is:

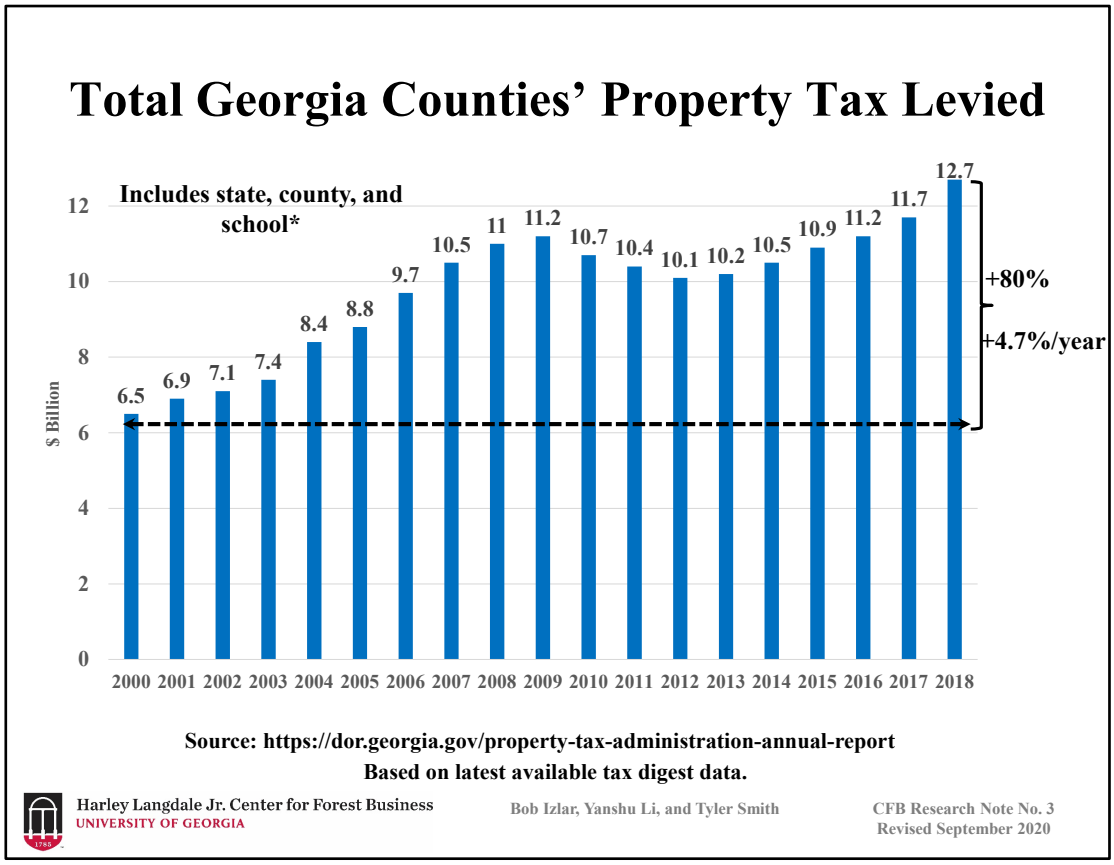
Total Property Tax Collected ($7.69 billion) / Total Tax Digest ($256.80 billion) = Effective Millage Rate (0.02994548).

Or, **Effective Millage Rate (0.02994548) × Total Tax Digest ($256.80 billion) = Total Property Tax Collected ($7.69 billion).**

($7.69 – $6.40 = $1.29 billion (16.78%) understatement)

Remember, one mill is .1 Penny, or $0.001. So, 29.94548 mills is 0.02994548 × $1,000 = $29.94548 tax for each $1,000 assessed value. And remember, Assessed Value = FMV × 40%.

Millage rates (both average and effective) have been increasing from 2008 to 2013 to offset the decrease in assessed values of properties on the tax roll. There has been a convergence between the average millage and effective millage rates since the recent recession.

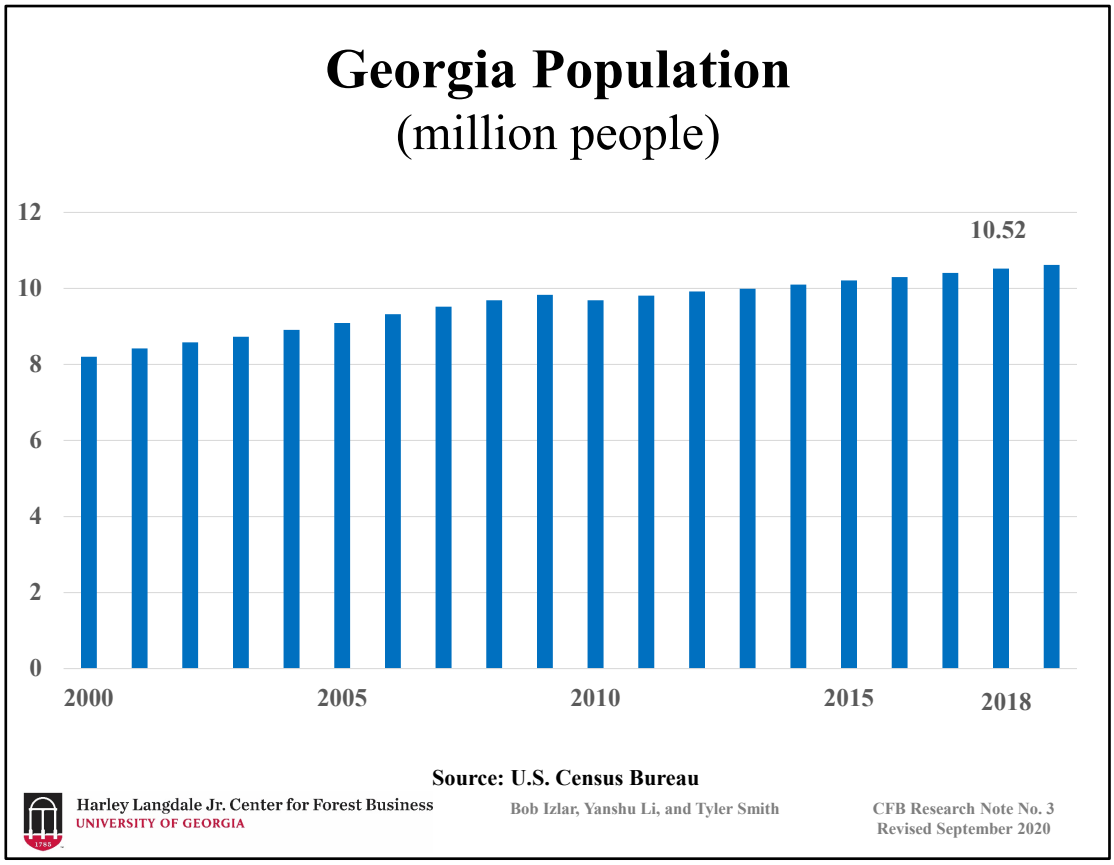


Total Georgia Counties' Property *Ad Valorem* Tax Revenue

Property Tax = Assessed Value × Millage

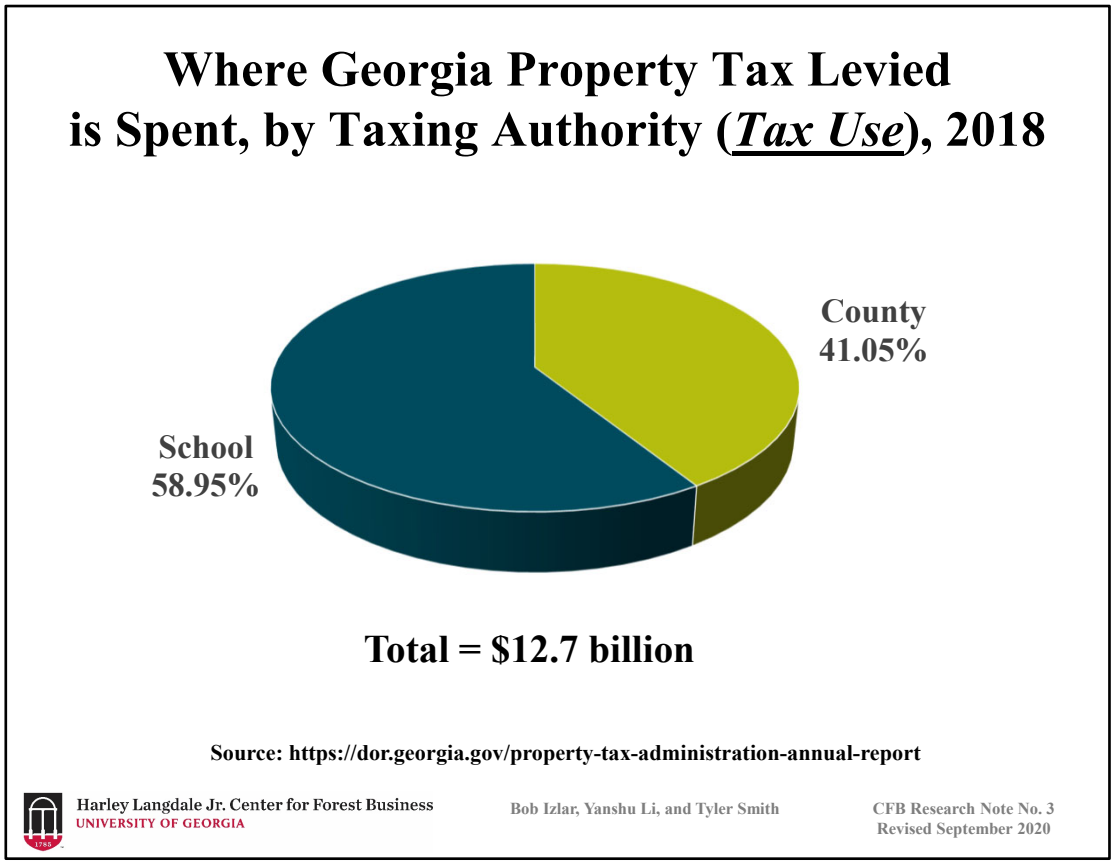
Total Georgia property tax revenues increased 72.3% from $6.5 billion in 2000 to $11.2 billion in 2009, an average 6.2% annual increase. Total property taxes have increased to $12.7 billion in 2018, 8.5% higher than the level in 2017. On average, the property tax in Georgia increased 3.8% annually during 2000–2018. Property tax continues to be the primary revenue source for local governments and county-level public school systems.

*Starting from 2016, there has been no state's portion of property tax revenues.



Georgia Population Changes

Population increase is a major contributing factor to increases in property tax levied. Population increases lead to increased demand for county-based services by residential property owners. Population increases also lead to greater demands being placed on the county school system. In this case, Georgia population had increased 28 percent from 2000 to 2018, or 1.3 percent per year. Property tax levied had doubled from 2000 to 2018, average 3.8 percent per year or about 3 times the population increase, over the same time period.



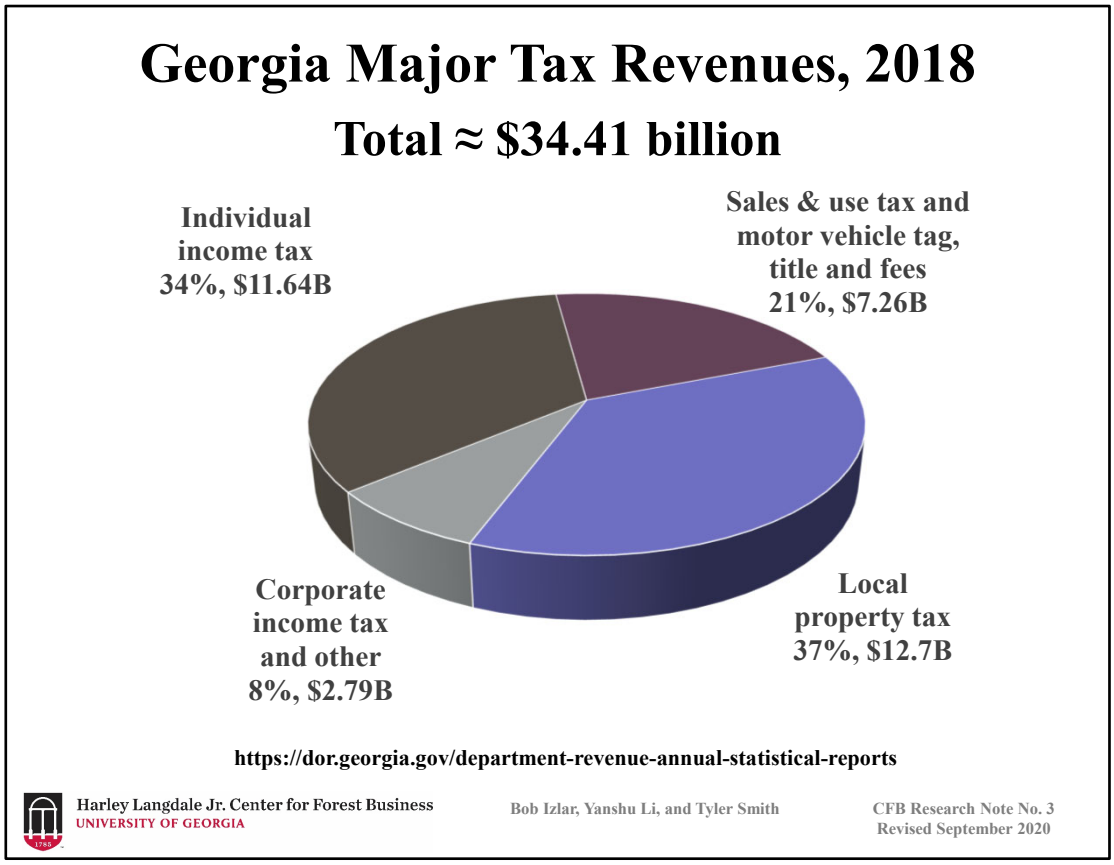
Property Tax Levied, by Taxing Authority, 2018

In 2018, 41.05 percent of the property tax levied went to support county government services. Fifty-nine percent of the property taxes were levied to support public schools at the county level. City property tax collections were not tracked by the state for 2018. Therefore, the majority of property taxes are levied by the County School System, not the County Government.

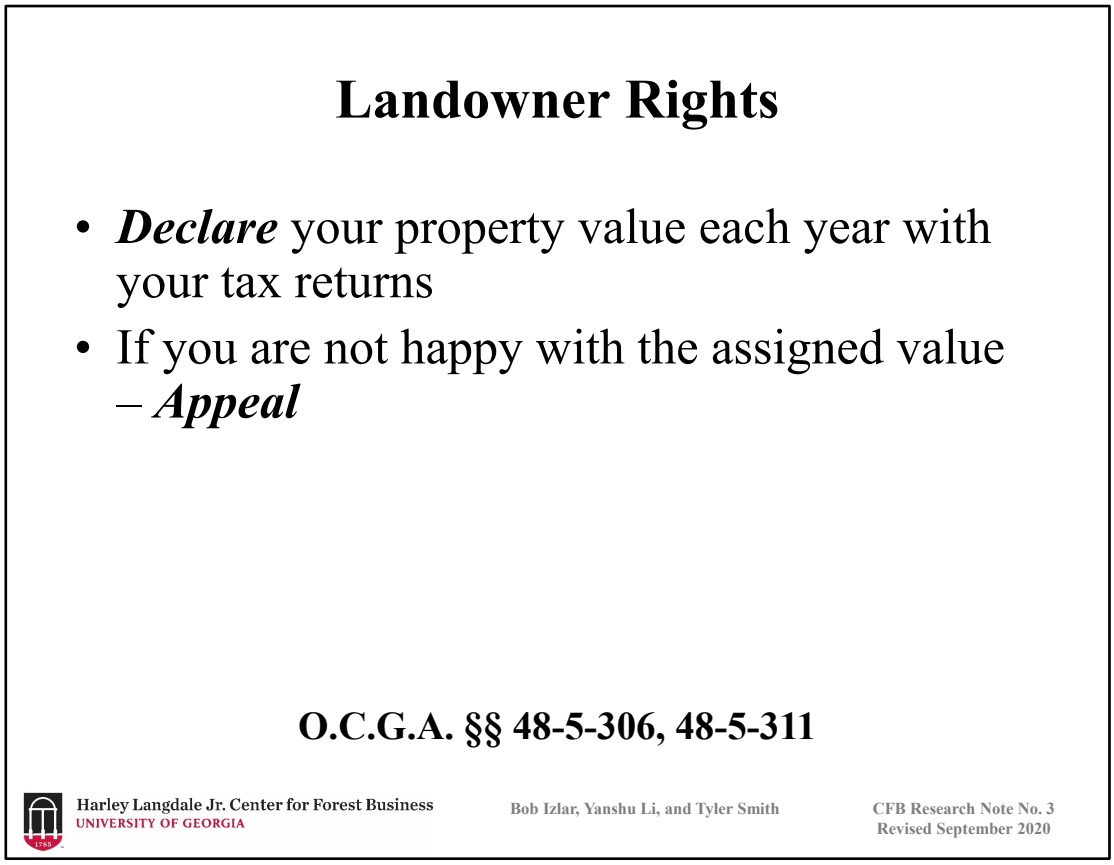
Much discussion is ongoing in the state concerning the most appropriate tax revenue source for funding public schools. Prominent funding options discussed are property taxes, income taxes, and sales taxes, or some combination of options.

Participation Requirements – As provided by the Georgia Constitution and general law, all property is subject to *ad valorem* taxes based upon Fair Market Value (FMV), unless the property is specifically exempted by the Constitution, or the property is identified as eligible for and entered into an alternative valuation program. Therefore, all land in Georgia will continue to receive annual property tax bills based upon FMV, unless the landowner chooses to apply for one of the alternatives discussed here.

*The state mill rate on real property has been phased out. Beginning January 1, 2016, there is no State levy for *ad valorem* taxation.



These are Georgia's major revenue sources. The property tax is locally used to support each county's maintenance and operation (M&O) budget and local school systems. The income and sales and use tax generally supports state operations. However, local governments may, with voter approval, levy additional sales taxes to support specific projects like schools and roads. Counties can enact local income taxes but none have.



Landowner Rights

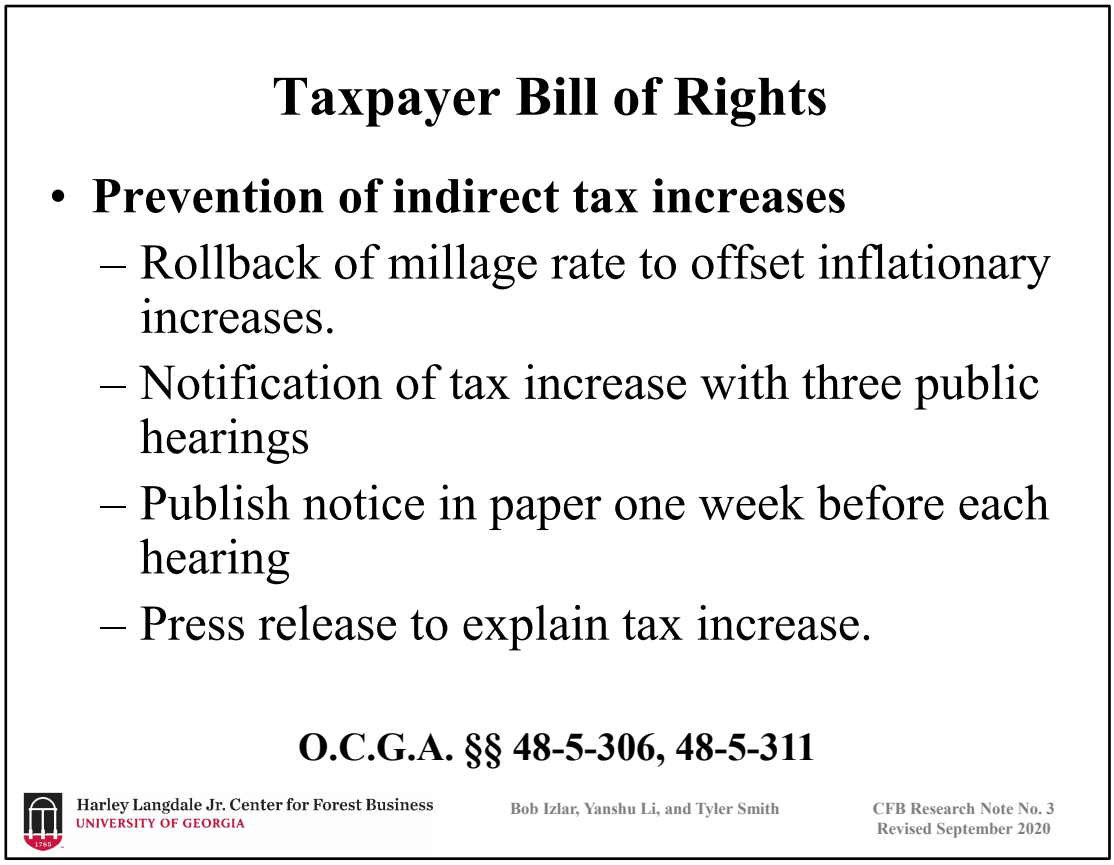
When focusing on real property values, specifically the "bare land" values of real property, (bare land meaning land exclusive of any improvements or attachments) **landowners should be aware of tax-related rights and valuation alternatives.**

For example, each year property owners have the right to **declare the value of property** when they enter a property tax return with the local Board of Tax Assessors. The return offers the owner's estimate of property value or changes in value, which the county is to consider when a property revaluation is conducted.

Property taxes are due on property that was owned on January 1 for the current tax year. The law provides that **property tax returns** are due to be filed with the county tax receiver or the county tax commissioner between **January 1 and April 1.**

A second landowner right exists with the opportunity to **challenge or appeal values assigned to property** by the local Board of Tax Assessors. Georgia law outlines the procedures and basis for filing appeals. This second landowner right is not limited to county-wide or state mandated reevaluations. It is available every time the tax value of a landowner's property is changed by the board.

O.C.G.A. §§ **48-5-306, 48-5-311**



Taxpayer Bill of Rights for the Georgia Taxpayer

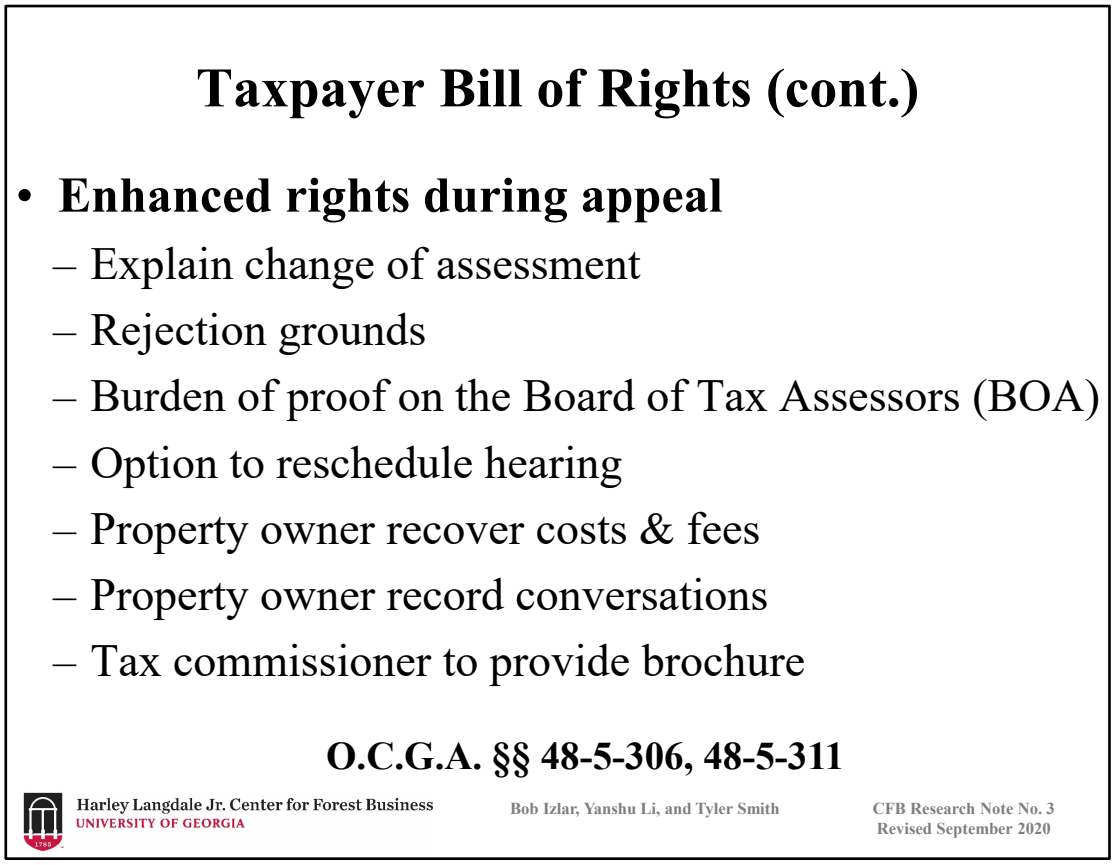
Revised sections of O.C.G.A. §§ **48-5-306, 48-5-311,** effective January 1, 2000. The bill has two main thrusts:

- prevention of indirect tax increases resulting from increases to existing property values in a county due to inflation; and
- enhancement of an individual property owner's rights when objecting to and appealing an increase made by a county board of tax assessors to the value of the owner's property.

1. Prevention of Indirect Tax Increases: Each year there are two types of value increases made to a county tax digest, increases due to inflation, and increases due to new or improved properties. The law now imposes no additional requirements if the levying authority rolls back the millage rate each year to offset any inflationary increases in the digest. If it does not, a local levying authority must notify the public that taxes are being increased. Local levying authorities would include the county governing authorities, school boards and municipal governing authorities. The Revenue Commissioner will not authorize the collection of taxes on any digest without a showing by the official submitting the digest that the local levying authorities have complied with the current law.

- **Rollback of Millage Rate to Offset Inflationary Increases.** If the county elects to set their millage rate higher than the rollback rate, then the law imposes some requirements. These requirements are to hold three public hearings, place notices of the increase in the paper, and issue press releases.
- **Notification of Tax Increase With Three Public Hearings.** Two of these public hearings may coincide with other required hearings associated with the millage rate process, such as the public hearing required when the budget is advertised, and the public hearing required when the millage rate is finalized. One of the three public hearings must begin between 6:00 PM and 7:00 PM in the evening.
- **Publish Notice in Paper One Week Before Each Hearing**
- **Press Release to Explain Tax Increase**

To learn more, go to http://dor.georgia.gov/property-taxpayers-bill-rights

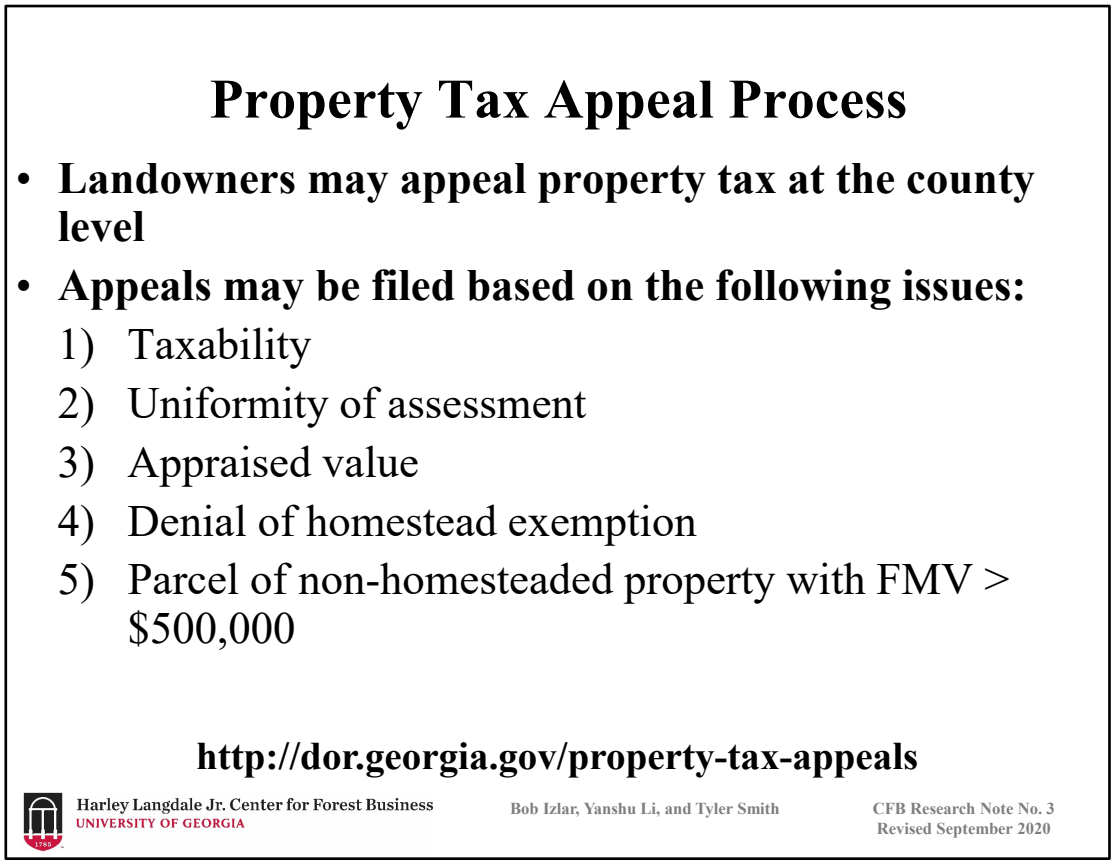


Taxpayer Bill of Rights (cont.)

2. Enhanced taxpayer rights during appeal

- **Explanation with change of assessment notice**
  The change of assessment notice must give the property owner a name and telephone number to call if they have questions. If the increase exceeds 15%, the notice must include a simple, non-technical explanation.
- **Assessors must provide grounds for rejection of property owner's appeal**
  The board must include in their rejection notice the grounds for the rejection. Thereafter, the Board of Tax Assessors must stick to those grounds and not assert new grounds later in the appeal process. If the property owner asserts a new position, the Board of Tax Assessors may assert new grounds for rejecting the new position.
- **Burden of proof on the board of tax assessors**
  When the board changes the value returned by a property owner, the new law places on the board the burden of proving, by a preponderance of the evidence, the validity of the change.
- **One-time option to reschedule hearing and superior court proceeding**
  The property owner has a one-time option to request a different and more convenient hearing time, even one occurring as early as 8:00 AM or as late as 7:00 PM.
- **Property owner could recover court costs and fees**
  If the court finds the final value to be 85% or less than the Board of Equalization's determination of value.
- **Property owner can record conversations**
  The property owner can make an audio recording of any conversations with assessors or appraisers when such recordings are relative to the owner's assessment, appeal, arbitration or related proceedings.
- **Tax commissioner to provide brochure about property tax laws and procedures**
  This brochure will contain information about exemptions and preferential assessment programs available in the county along with instructions on how to apply.

http://dor.georgia.gov/property-taxpayers-bill-rights



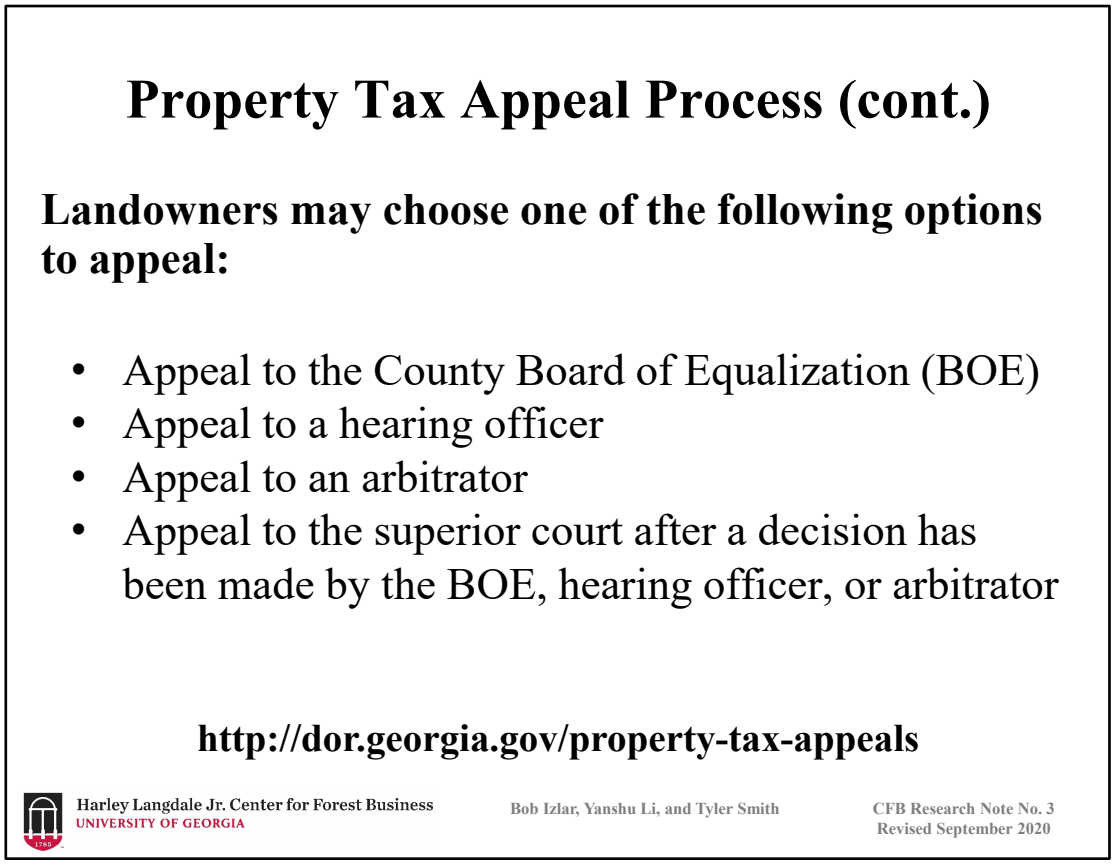
How to Appeal Property Taxes

The information presented here covers laws passed by the Georgia General Assembly up to and including the 2019 legislative session. This information is being paraphrased. Please refer to O.C.G.A. § 48-5-311 for specific inclusions and limitations.

Georgia law provides a procedure for filing property tax appeals at the county level. Upon receipt of the annual assessment notice from the County Board of Tax Assessors, the property owner that wants to appeal their assessment may do so within 45 days of the date the Assessment Notice was mailed. The taxpayer's appeal may be based on:

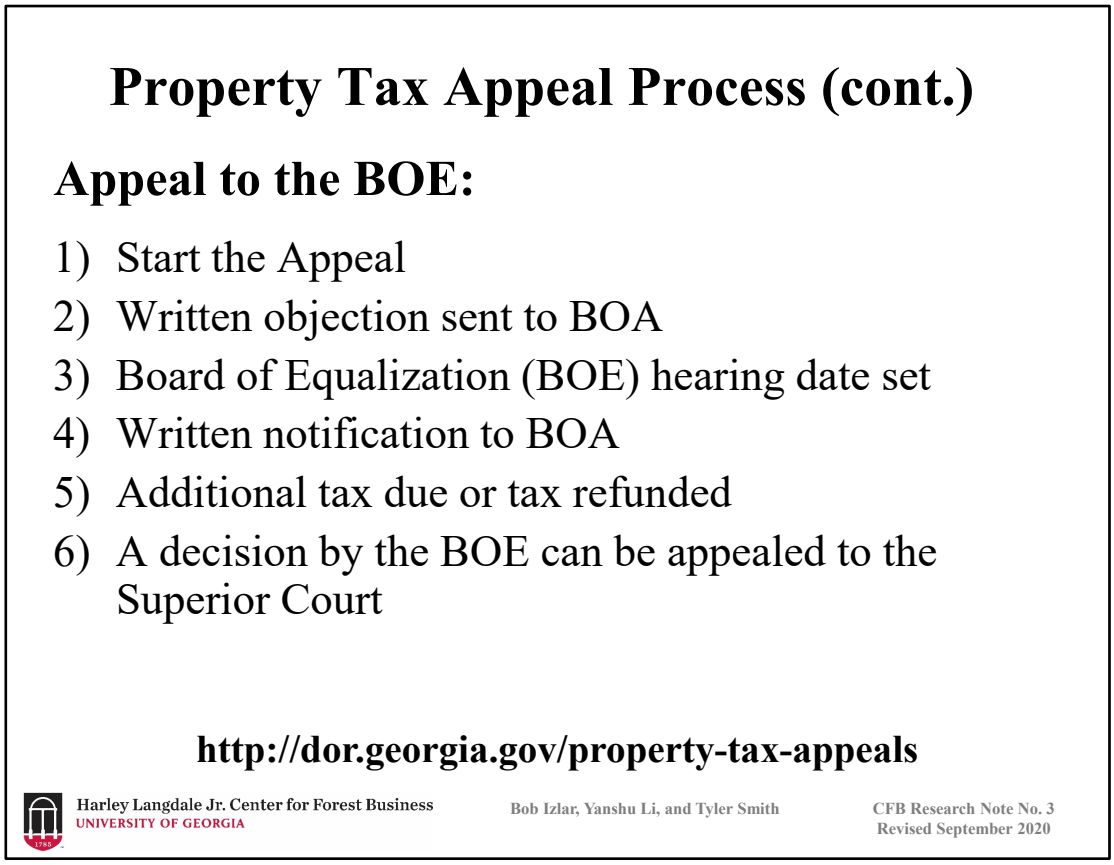
- taxability, value, uniformity,
- and/or the denial of an exemption.

The written appeal is filed with the County Board of Tax Assessors. The State of Georgia provides a uniform appeal form (PT-311A) for use by property owners. If the Board has adopted a written policy to accept electronic service, property owners may email an appeal to the BOA.



How to Appeal – Each year property owners in Georgia receive tax notices from their local county Tax Commissioner. Any resident or nonresident taxpayer must select one of the following options when filing an appeal:

- Appeal to the County Board of Equalization (BOE)
- Appeal to a hearing officer
- Appeal to an arbitrator
- Appeal to the superior court after a decision has been made by the county BOE, hearing officer, or an arbitrator(s). The written notice of appeal should be mailed or filed within 30 days from which the decision was mailed or hand delivered.



How to Appeal

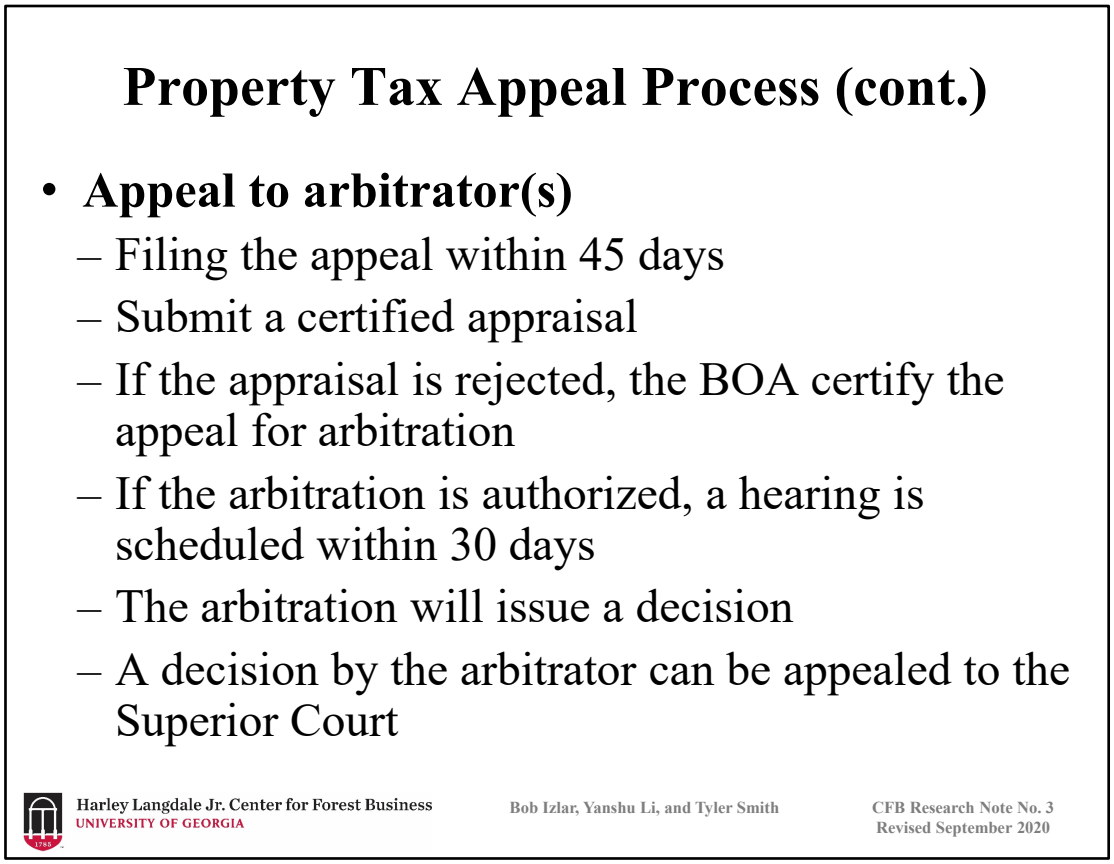
Starting the appeal – The taxpayer can start the appeals process by sending a written objection to an assessment of real property received by the BOA stating a *returned value* (the value the taxpayer puts on the property), the location of the real property and the identification number, if any, contained in the tax notice, under the grounds listed above. The taxpayer can file this initial notice of appeal to an assessment within 45 days from the date on which the notice was mailed to the taxpayer by mailing a notice of appeal to the BOA. If the BOA disagrees with the taxpayer's returned value, they will change the value and a written change of assessment notice will be sent to the taxpayer. The written notice shall contain a statement of the grounds for rejection by the BOA of any position the taxpayer has asserted with regard to the valuation of the property. The BOA shall have the burden of proving their opinions of value and the validity of their proposed assessment by a preponderance of evidence. No change in reasons for rejection of the taxpayer's *returned value* by the BOA shall be allowed when the appeal goes before the BOE or in any arbitration proceedings. The notice will also state that if the taxpayer is still not satisfied after these changes or corrections, they may now appeal to the BOE by mailing or filing with the BOA a written notice of appeal within 30 days of the date on which the change or correction in the *returned value* was mailed. The BOA shall send or deliver the notice of appeal and all necessary papers to the BOE. If no corrections or changes are made a written notice is sent to the taxpayer and BOE. The taxpayer does not need to take any further action if the BOA does not make any corrections or changes to their appeal.

BOE hearing date set – The BOE will set a hearing date for the appeal within 15 days of receipt of the notice of appeal and will notify the taxpayer and the BOA in writing. A hearing will be held no earlier than 20 days and no later than 30 days after notification. Such appeal proceedings shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a business day. The taxpayer is authorized to exercise a one-time option of changing the date and time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer.

Written notification by BOE – The three members of the county BOE will specifically decide and vote upon all questions presented by the appeal. The BOE will notify the taxpayer and the BOA in writing by sending a copy of the decision by registered or certified mail. A decision by the BOE can be appealed to the Superior Court.

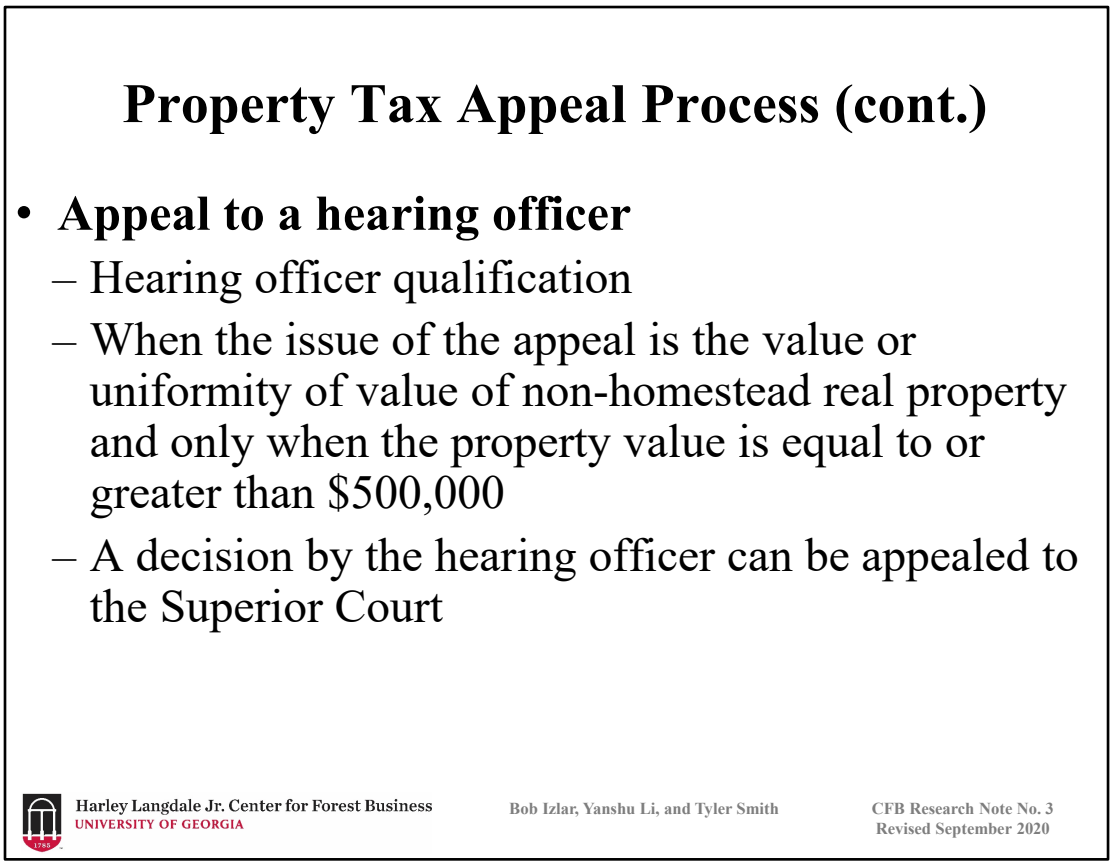
Additional tax due or tax refunded – If the county's tax bills are issued before the BOE has made a decision on the appeal, the county Tax Commissioner will issue a temporary tax bill based on the return valuation or 85 percent of the valuation set by the county Board of Tax Assessors that year– whichever amount is higher. Upon resolution of the appeal, there may be additional tax due or tax refunded.

http://dor.georgia.gov/property-tax-appeals



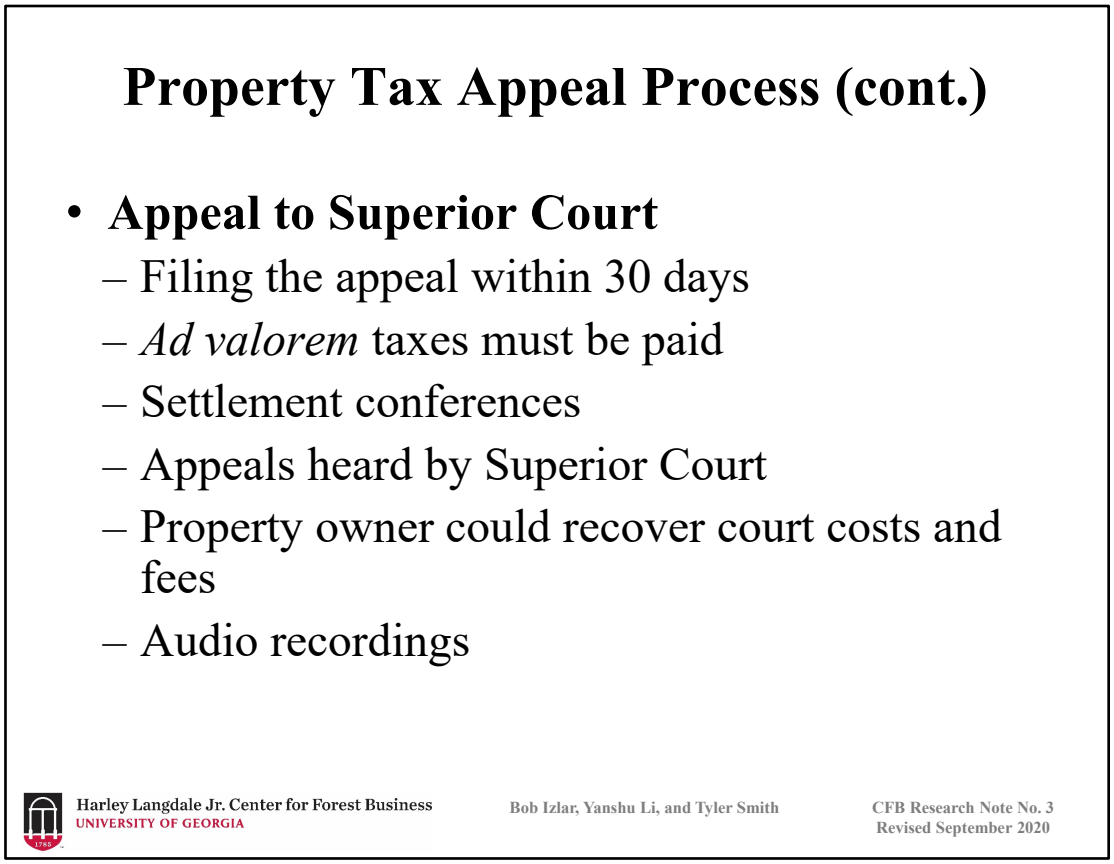
Appeal to an Arbitrator

An appeal of value may be filed to Arbitration by filing an appeal specifying Arbitration with the BOA within 45 days of the date of the notice. The BOA must notify the taxpayer of the receipt of the arbitration appeal within 10 days. The taxpayer must submit a certified appraisal of the subject property within 45 days of the date of transmittal of the acknowledgment of receipt of the appeal which the BOA may accept or reject. If the taxpayer's appraisal is rejected the BOA must certify the appeal to the appeal administrator for arbitration. The arbitration is authorized by the presiding or chief judge of superior court and a hearing is scheduled within 30 days. The arbitrator will issue a decision at the conclusion of the hearing, which may be further appealed to superior court. If the taxpayer's value is closest to the fair market value determined by the arbitrator, the county shall be responsible for the fees and costs of such arbitrator. If the value of the board of tax assessors is closest to the fair market value determined by the arbitrator, the taxpayer shall be responsible for the fees and costs of such arbitrator.



Appeal to a Hearing Officer

The taxpayer may appeal to a Hearing Officer, who is a state certified general real property or state certified residential real property appraiser and is approved as a hearing officer by the Georgia Real Estate Commission and the Georgia Real Estate Appraiser Board, when the issue of the appeal is the value or uniformity of value of non-homestead real property, but only when the value is greater than $500,000. If the taxpayer is still dissatisfied with the decision of the hearing officer, an appeal to Superior Court may be made.



Appeal to the Superior Court

Written Notice of Appeal must be Filed within 30 days to the County Board of Tax Assessors Once a decision has been made by the county board of equalization, hearing officer, or arbitrator the taxpayer may appeal their decision to the superior court of the county by mailing or filing with the county board of tax assessors a written notice of appeal. The written notice of appeal should be mailed or filed within 30 days from which the decision of the county board of equalization, hearing officer, or arbitrator was mailed or hand delivered.

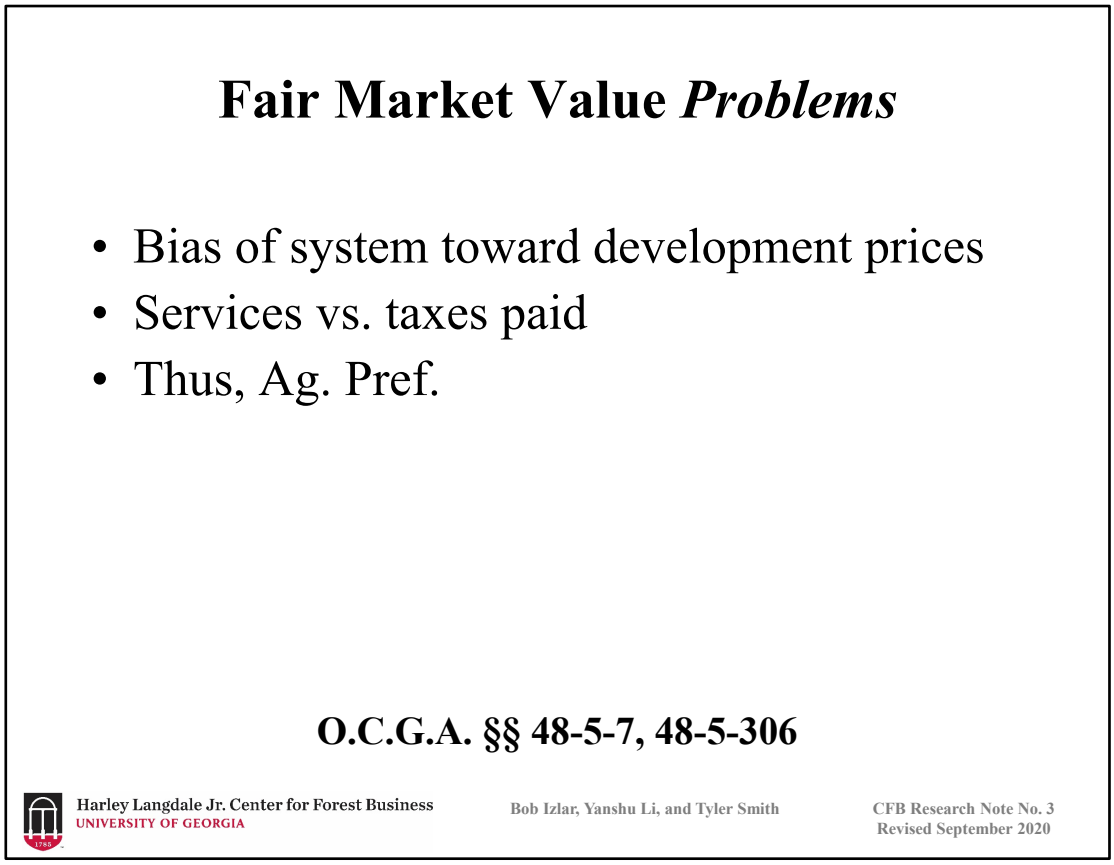
***Ad valorem* Taxes must be Paid** Before the superior court can hear an appeal, the *ad valorem* taxes must be paid in an amount equal to the last year in which taxes were determined to be due.

Settlement Conference Within 45 days of receipt of a taxpayer's notice of appeal the county board of tax assessors shall send to the taxpayer notice that a settlement conference, in which the county board of tax assessors and the taxpayer shall confer in good faith, shall be held no later than 30 days from the notice of the settlement conference. If at the conclusion of the settlement conference the parties fail to agree on a fair market value, the county BOA shall provide written notice to the taxpayer that the filing fees must be paid by the taxpayer to the clerk of the superior court within 20 days of the date of the conference.

Notification of Certification of Notice of Appeal to Clerk of Superior Court Within 30 days of receipt of proof of payment to the clerk of the superior court, the county board of tax assessors shall certify to the clerk of the superior court the notice of appeal and any other papers specified by the person appealing.

Appeal Heard by Superior Court In most cases the appeal will be heard before a jury at the first term of court unless questions of law are at issue in the appeal.

Property Owner Could Recover Court Costs and Fees If the final determination of value on appeal is 85 percent or less of the valuation set by the county board of equalization, hearing officer, or arbitrator as to any real property, the taxpayer, in addition to the interest provided for in subsection (m) of Code section 48-5-311, shall recover costs of litigation and reasonable attorney's fees incurred in the action. Any appeal of an award of attorney's fees by the county shall be specifically approved by the governing authority of the county.



Fair Market Value Problems

In the early 1980s, attention was called to the bias of the FMV system whereby sales of property for development purposes in an area formerly devoted to agricultural or forestry uses would inflate general land values above the level supported by farming or forestry. The problem was particularly noted in farm and forest land categories of North Georgia. Further consideration was given to the fact that farm and forest owners typically hold large acreage tracts that require little or no services from the county.

Therefore, a system was devised to give a reduced property assessment to landowners willing to dedicate their land to farming or forestry. This new system was named Agricultural Preferential Assessment.

Preferential Assessment for Agricultural and Forestry Property

House Bill 230, Rep. Collins, effective January 1, 1983, Act 568, Georgia Laws 1983, Vol. 1, p. 586.

***Ad valorem* taxation of real property devoted to bona fide agricultural purposes.**

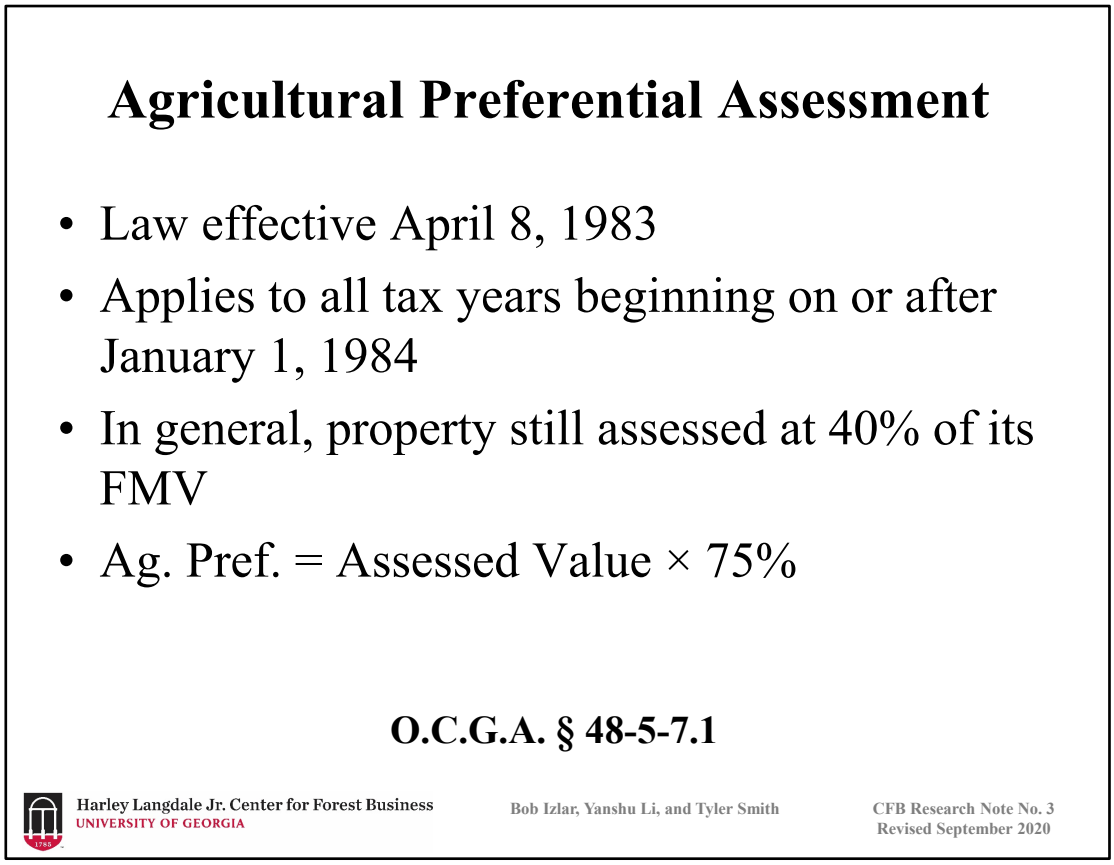
This legislation amended **O.C.G.A.** §§ **48-5-7, 48-5-306.**

Agricultural Preferential Assessment

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



Ag. Pref. Background

In 1983, following passage of a constitutional amendment, House Bill 230 outlined provisions for the "Preferential Assessment Program for Agricultural Properties" (Ga. Laws 1983, p. 1850, Section 3).

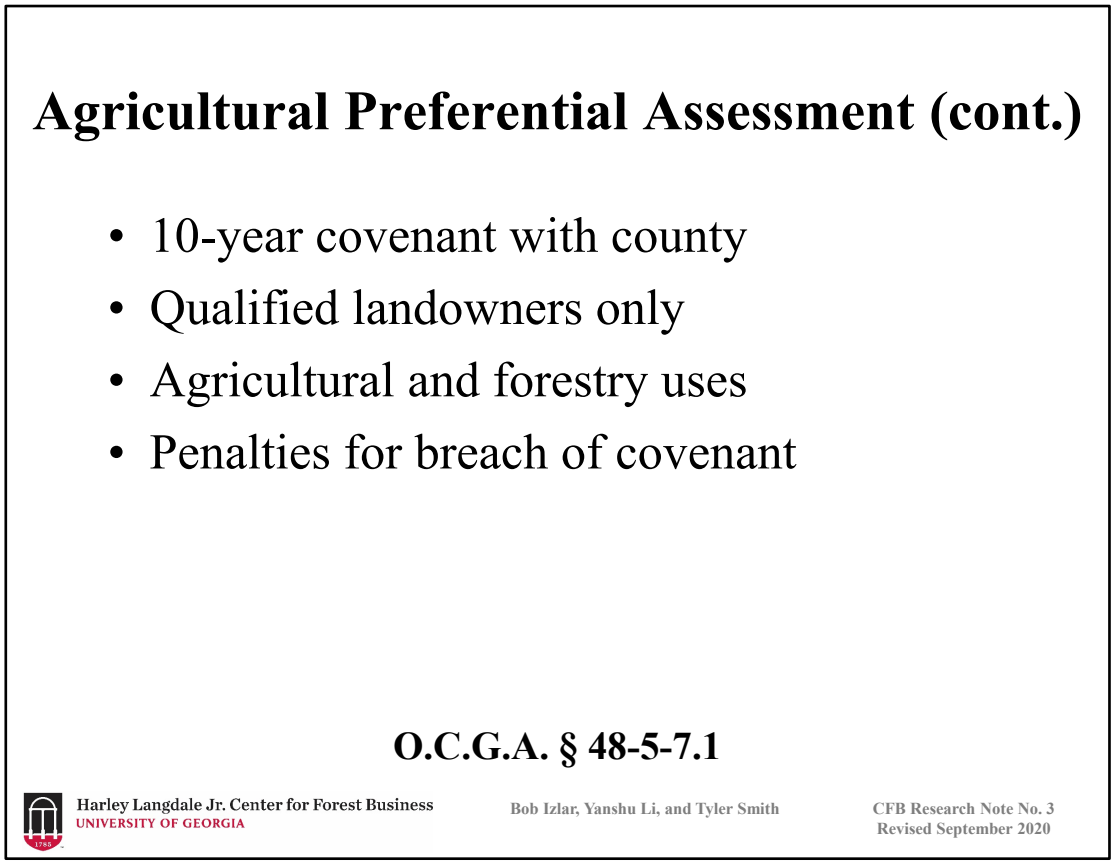
By statute, all real property is assessed at 40% of fair market value, however, House Bill 230 provided for a 30% level of assessment or 75% of the value at which other taxable real property is assessed. The owner's actual tax bill is calculated as follows:

Preferential Appraised Value = FMV × 75%

Preferential Assessed Value = Preferential Appraised Value × 40%

Tax Owed = Preferential Assessed Value × County Millage Rate.

Since adopted, the program has been amended to lessen the penalty, to improve the application process and to encourage participation.



Ag. Pref. Assessment

Determination of Value – Land value under the Ag. Pref. Assessment Program is based upon calculations of the FMV system. As required by law, 75% of the FMV equals the appraised value for Ag. Pref. Assessment.

Participation Requirements and Eligibility

Participation in the Ag. Pref. Program requires the landowner to make application to the local BOA for enrollment. The owner must:

- Dedicate the land to an eligible use for 10 years by signing a covenant;
- Meet certain requirements relating to property use and sale; and
- Pay penalties if a change in land use occurs to a non-qualifying use.

Ag. Pref. – To Qualify

- Owned by one or more citizens
- Or Family farm corp. w/80% or more gross income from Georgia Ag
- No minimum acreage
- Maximum is 2,000 acres
- Residence and surrounding lot not in Ag. Pref.
- Storage & processing bld. on property included up to FMV of $100,000

O.C.G.A. § 48-5-7.1

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Ag. Pref. Requirements

O.C.G.A. § 48-5-7.1

(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

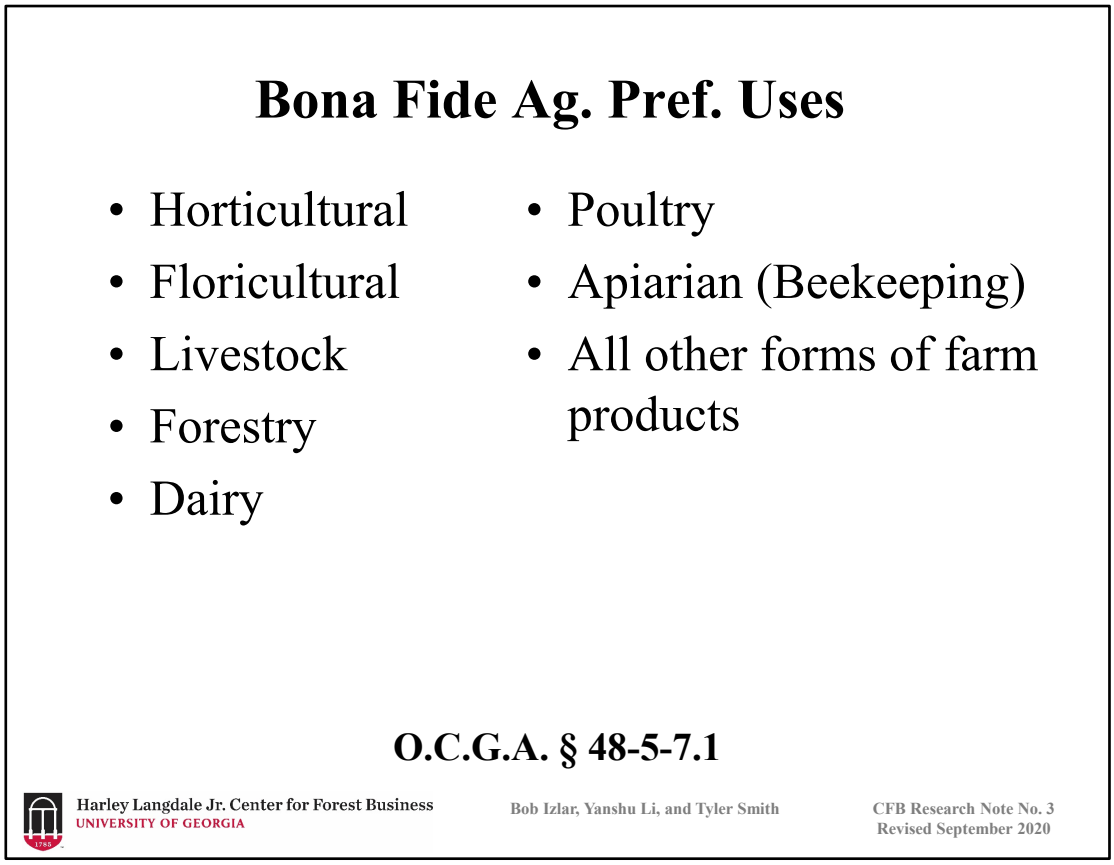
(3) Excludes the entire value of any residence located on the property.

(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.

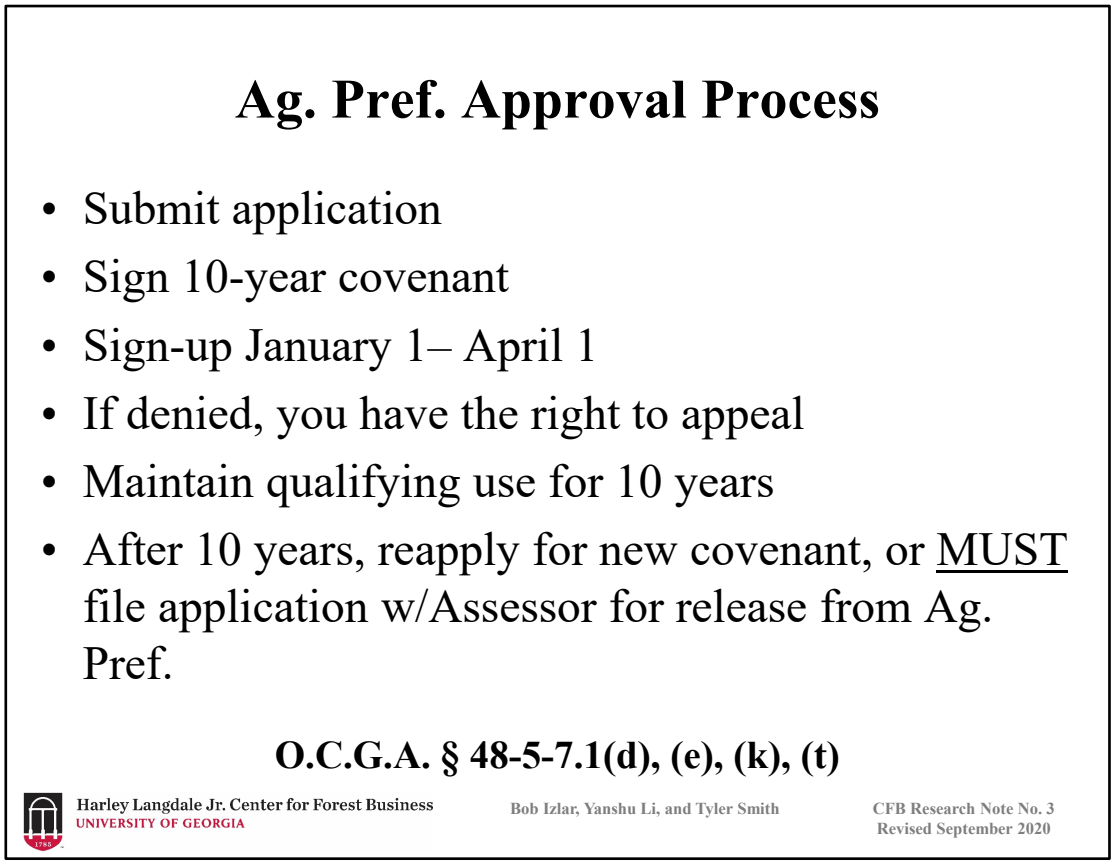
(c) No property shall qualify for said preferential assessment if such assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving in any tax year any benefit of preferential assessment as to more than 2,000 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.



Bona Fide Ag. Pref. Uses

With regard to eligible property uses, Georgia law states that the primary use of property must be:

"...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." (O.C.G.A. § 48-5-7.1)



Ag. Pref. Approval Process

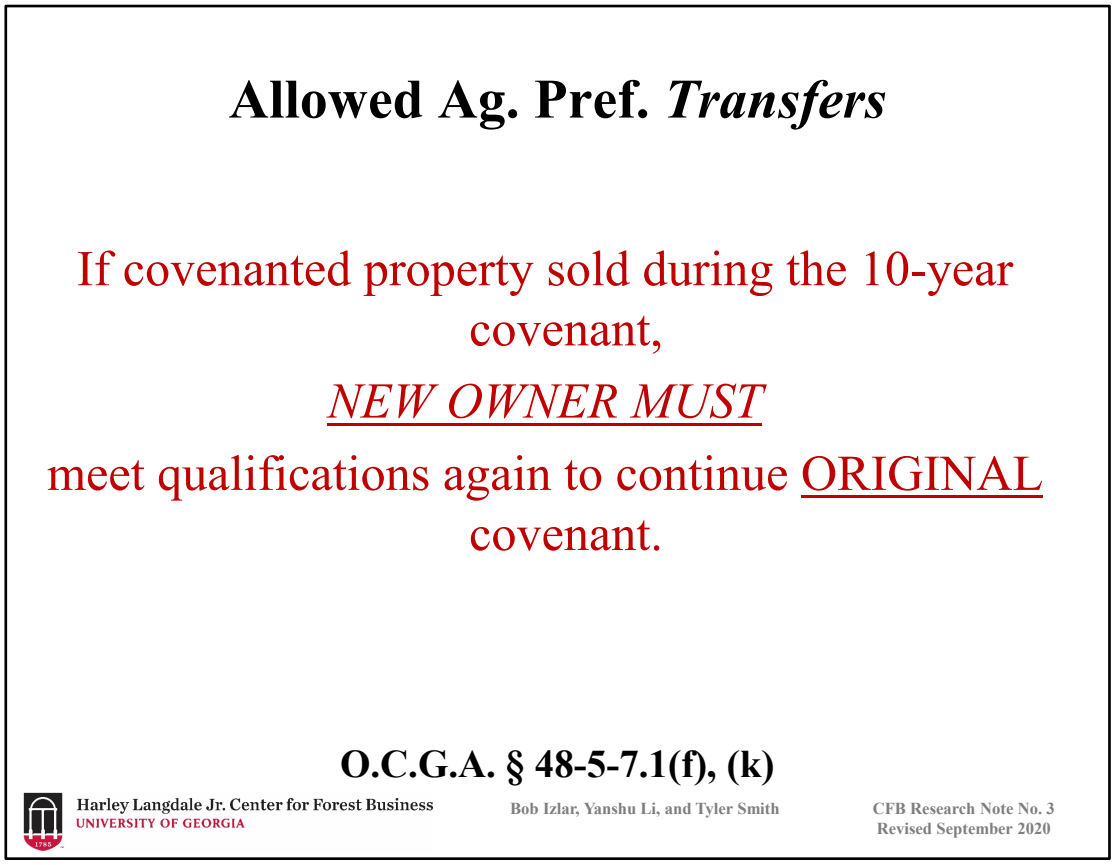
O.C.G.A. § **48-5-7.1**

(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.

(k) 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 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. 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. 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.

(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.

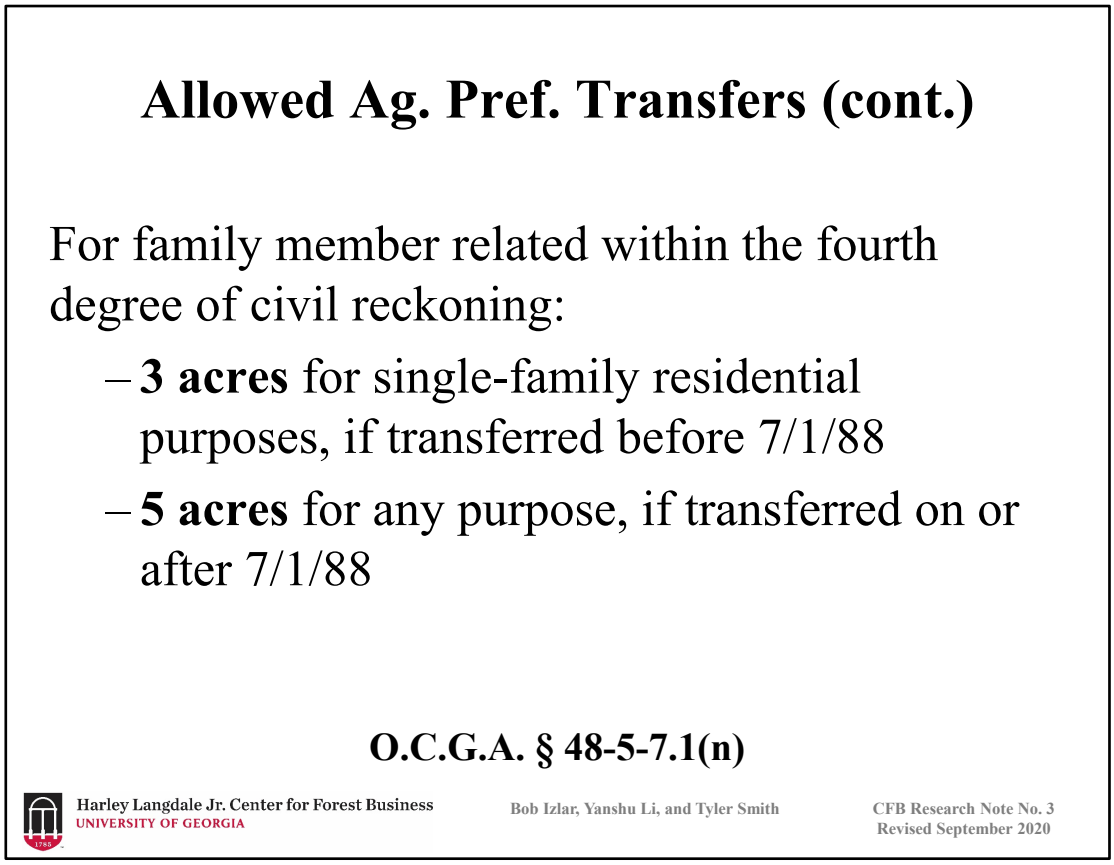


Allowable Ag. Pref. Land Transfers

O.C.G.A. § 48-5-7.1

(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 covenanter or others related to the original covenanter 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.

(k) 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.



Allowable Ag. Pref. Land Transfers

O.C.G.A. § 48-5-7.1(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

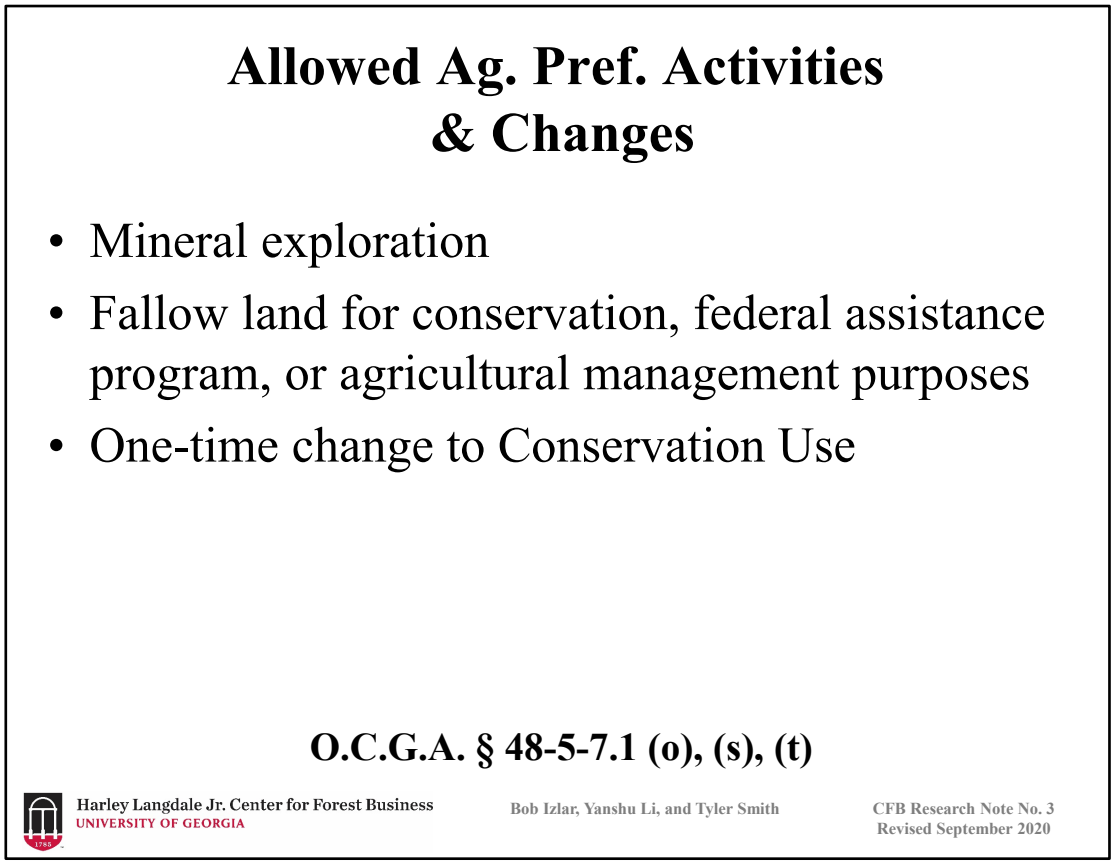
(B) The part of the property so transferred, taken together with any other part of the property so transferred during the covenant period, does not exceed a total of three acres.

(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.

Note: The fourth degree of civil reckoning is defined for these purposes as related to the covenant holder as: child, grandchild, parent, grandparent.



Allowable Ag. Pref. Activities and Changes

In general, the Preferential Assessment Program aims to benefit small family farmers and tree growers with long range plans to continue the property's existing use.

O.C.G.A. § **48-5-7.1**

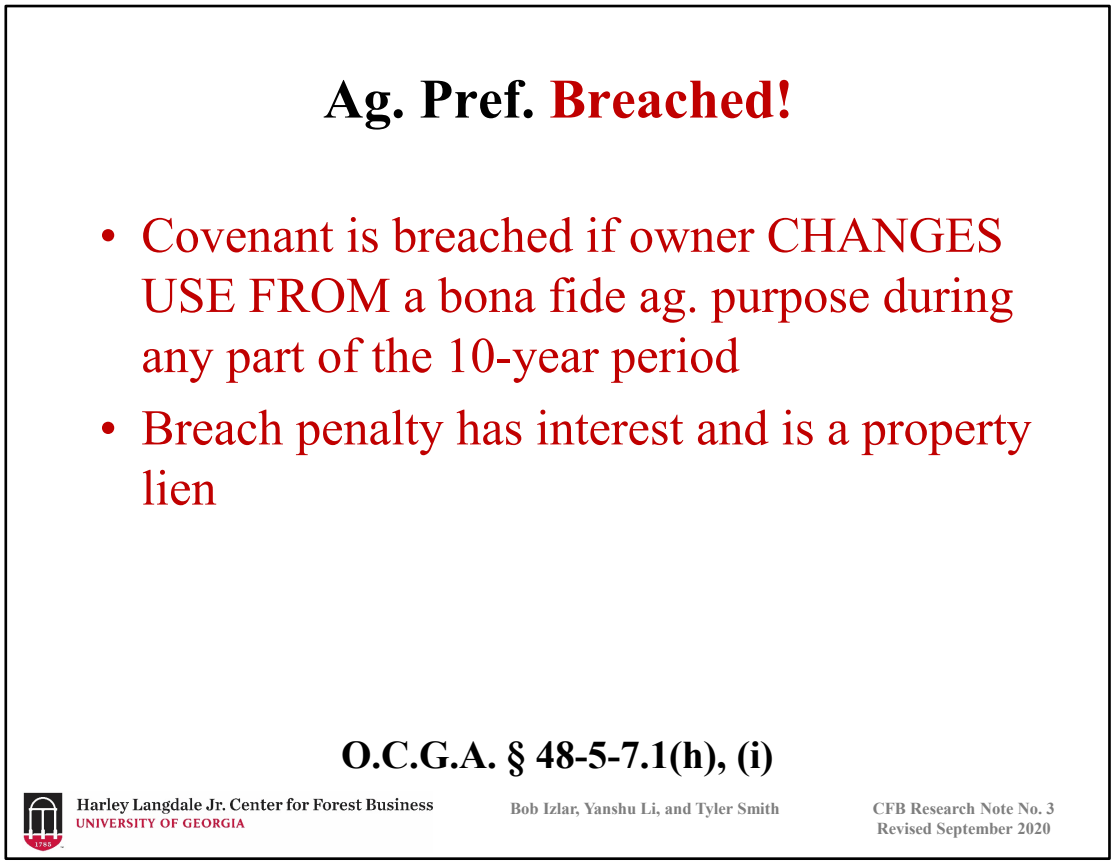
(o) The following shall not constitute a breach of a covenant entered into before or after July 1, 1984:

(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 l**ie fallow or idle for purposes of any land conservation** program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes.

(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.



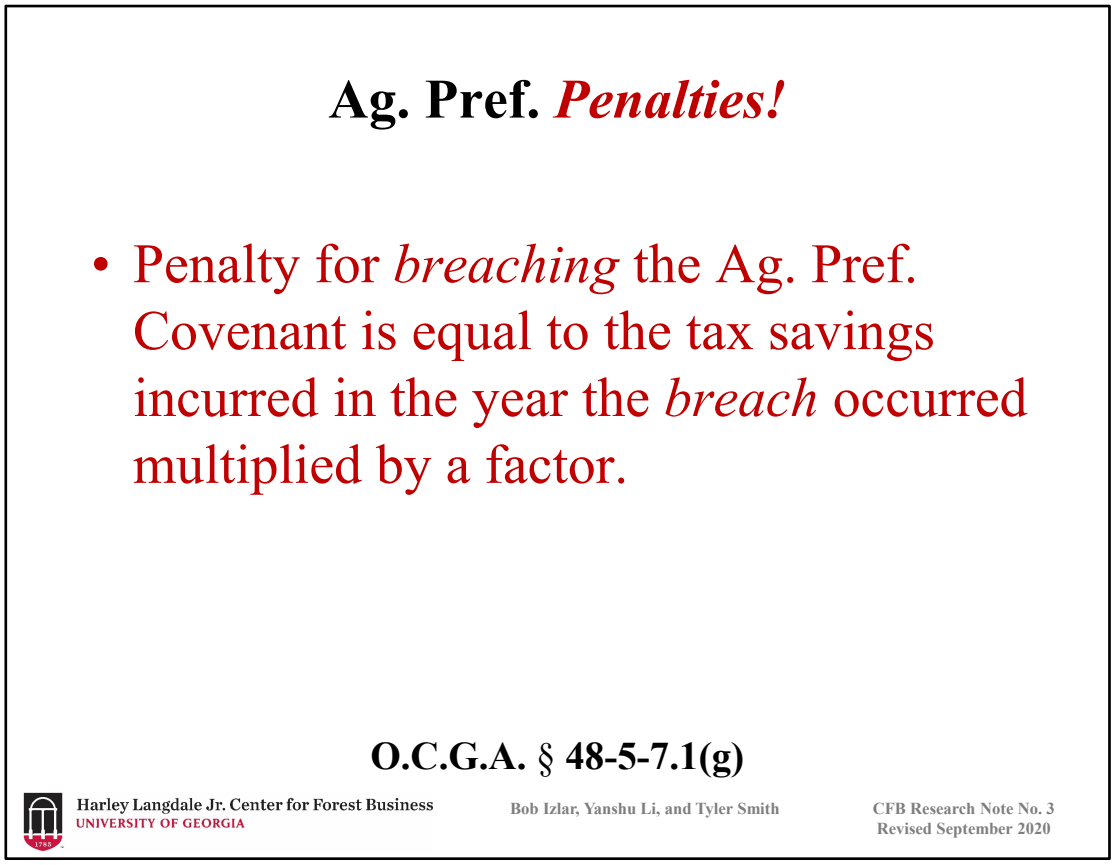
Determining Breach of Ag. Pref. Covenant

The Preferential Assessment Program aims to benefit those owners of property dedicated to a specific use. In an effort to discourage speculators or developers from entering the program, **penalties and interest are established in the event the covenant is broken and a change in property use to a non-qualifying activity occurs.**

O.C.G.A. § 48-5-7.1

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

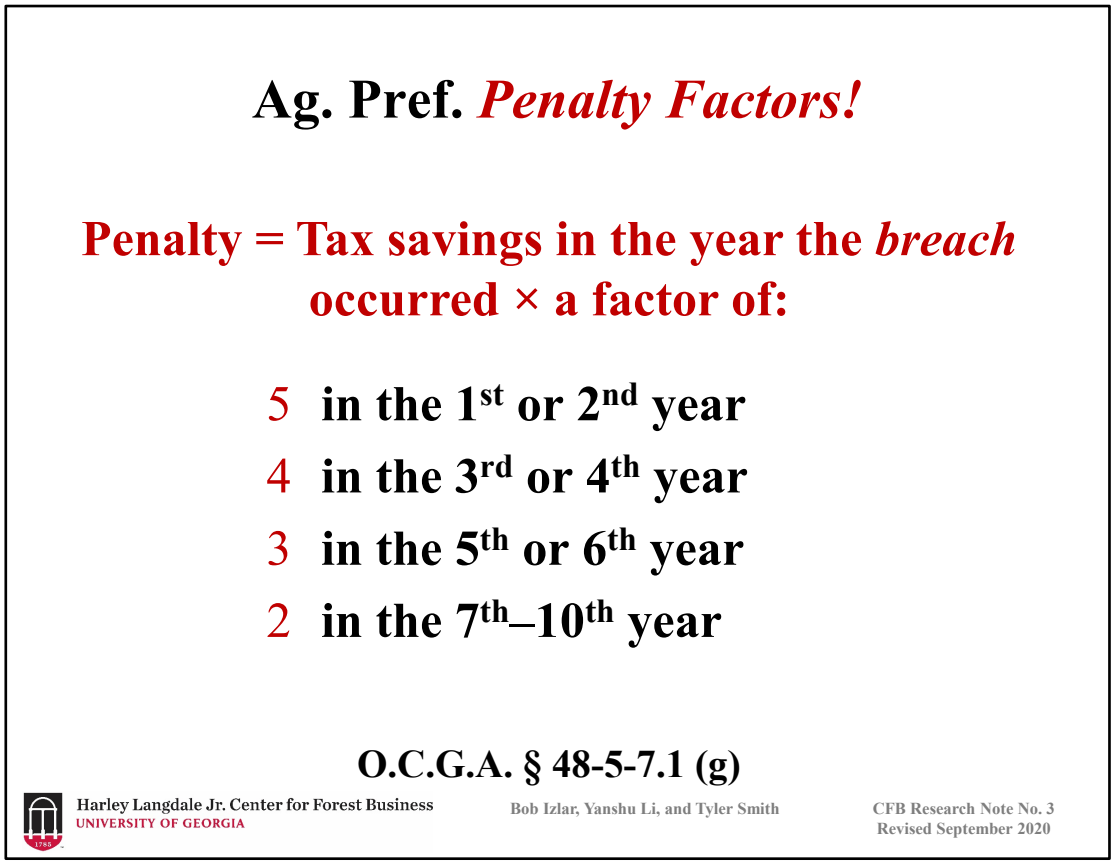
(i) Penalties and interest imposed under this Code section shall constitute a lien against the property and shall be collected as other unpaid *ad valorem* taxes are collected. Such penalties and interest shall be distributed pro rata to each taxing jurisdiction wherein the preferential assessment has 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.



Penalties for Breach of Ag. Pref. Covenant

The penalty is based upon the amount of tax savings realized during the year in which the covenant is broken. The amount of savings is then multiplied by a factor which is determined by the year of covenant breach.

O.C.G.A. § 48-5-7.1(g) A penalty shall be imposed under this subsection if during the period of the covenant entered into by a taxpayer the covenant is breached. The penalty shall be computed by multiplying the amount by which the preferential assessment has reduced taxes otherwise due for the year in which the breach occurs times a factor, as follows on the next page.



Ag. Pref. Penalty Factors

O.C.G.A. § **48-5-7.1 (g)** 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.

Example

Suppose Ag. Pref. tax savings for a landowner are $5,000 for Year 1, $4,500 for Year 2, $ 6,000 for Year 3, and $7,000 for Year 4.

f a breach occurs in Year 2, the penalty would be $22,500 (5×$4,500). If the breach occurs in Year 4, the penalty would be $28,000 (4×$7,000).

Ag. Pref. – Breach w/*Reduced Penalty!*

Penalty in current year tax saving plus interest:

- Bank foreclosure on property
- Owner physical disability
- Owner 65-year or older and in a renewal covenant for at least 3 years

O.C.G.A. § 48-5-7.1(q), (r)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Ag. Pref. Breach W/Reduced Penalty
O.C.G.A. § 48-5-7.1

(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 lien holder 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, 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 from the date the covenant is breached.

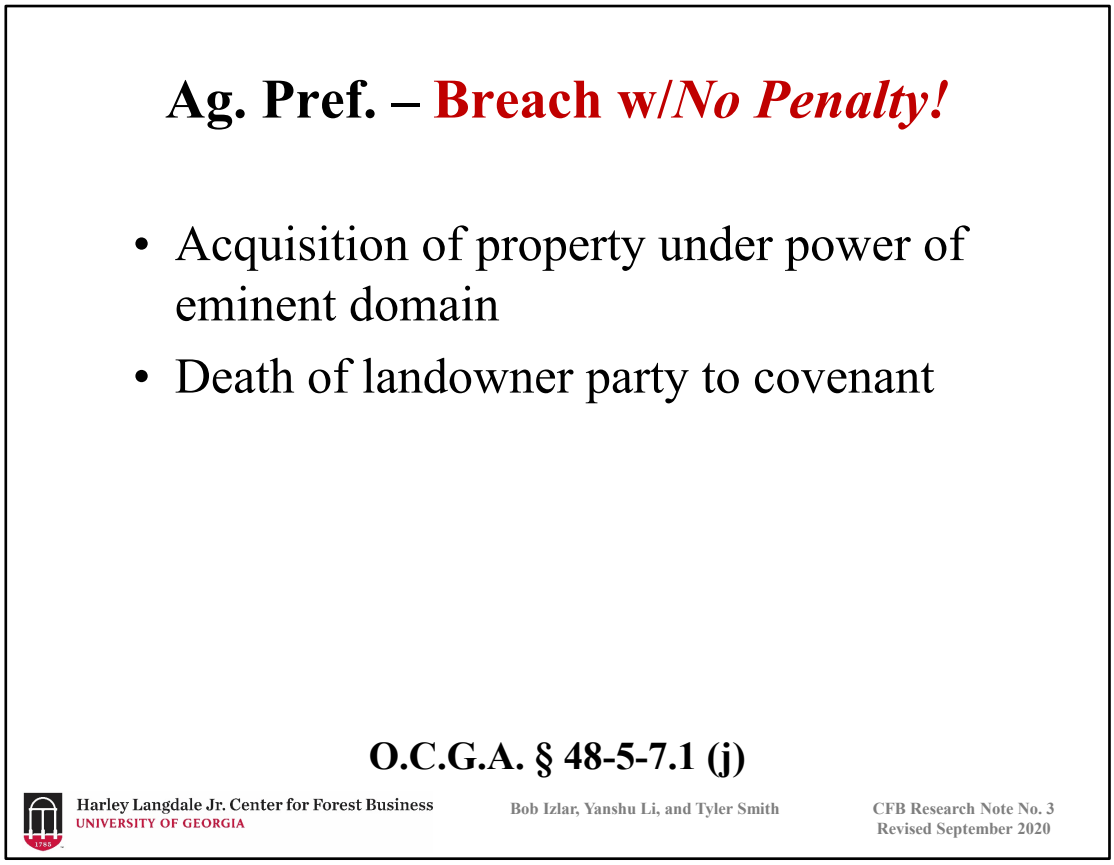
(r) (1) In any case in which a covenant is breached solely as a result of a **medically demonstrable illness or disability** which renders the owner of the real property physically unable to continue the property in agricultural use, the penalty specified by paragraph (2) of this subsection shall apply 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, 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 from the date the covenant is breached.

(4) Prior to the imposition of the alternative penalty, 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.



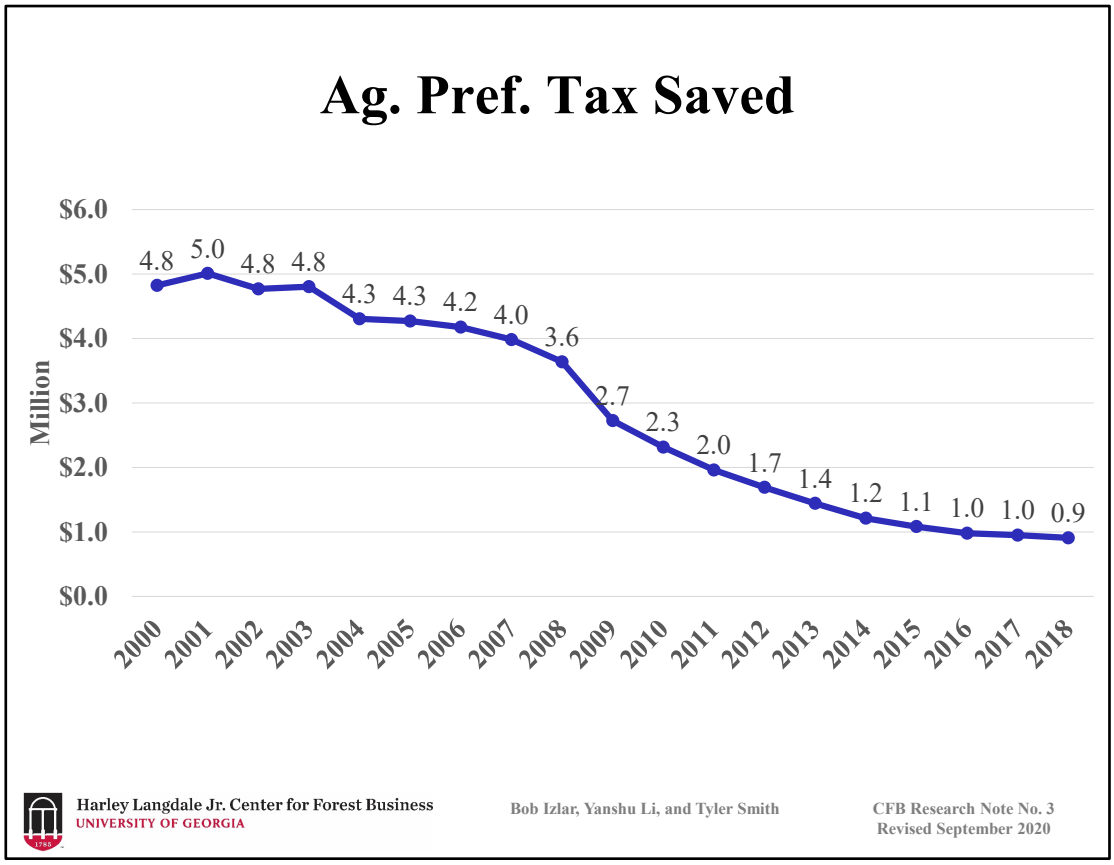
Ag. Pref. Reduced or No Penalty

O.C.G.A. § **48-5-7.1(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.

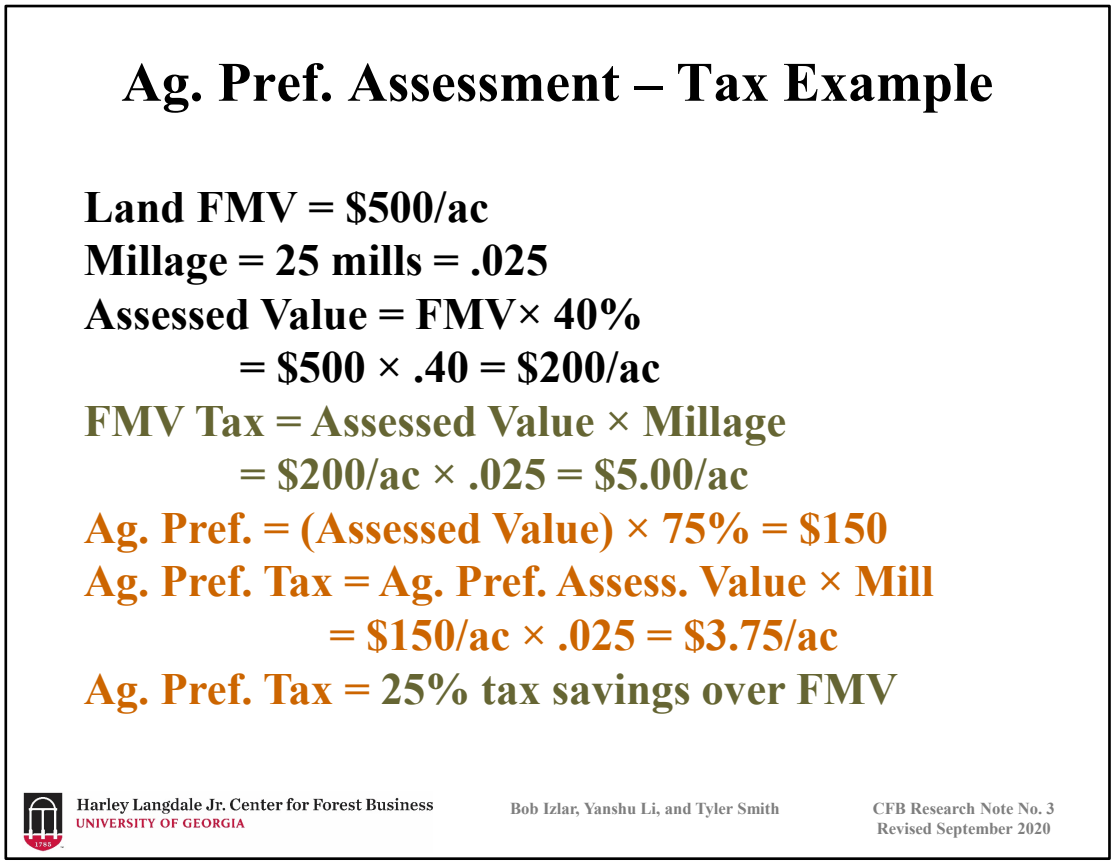


Ag. Pref. Assessment

Ag. Pref. grew in its early years from 1984 to 1991. After 1991, Conservation Use Assessment (covered in the next section) claimed more protective covenants.

Landowners participating in the Preferential Assessment Program realize a benefit from the 25 percent savings. These tax savings started at $1.6 million in 1984 and totaled $4.8 million in 1999, were back down to $1.2 million in 2014, and are now below $1 million in 2018.

To learn more, go to https://dor.georgia.gov/property-tax-administration-annual-report



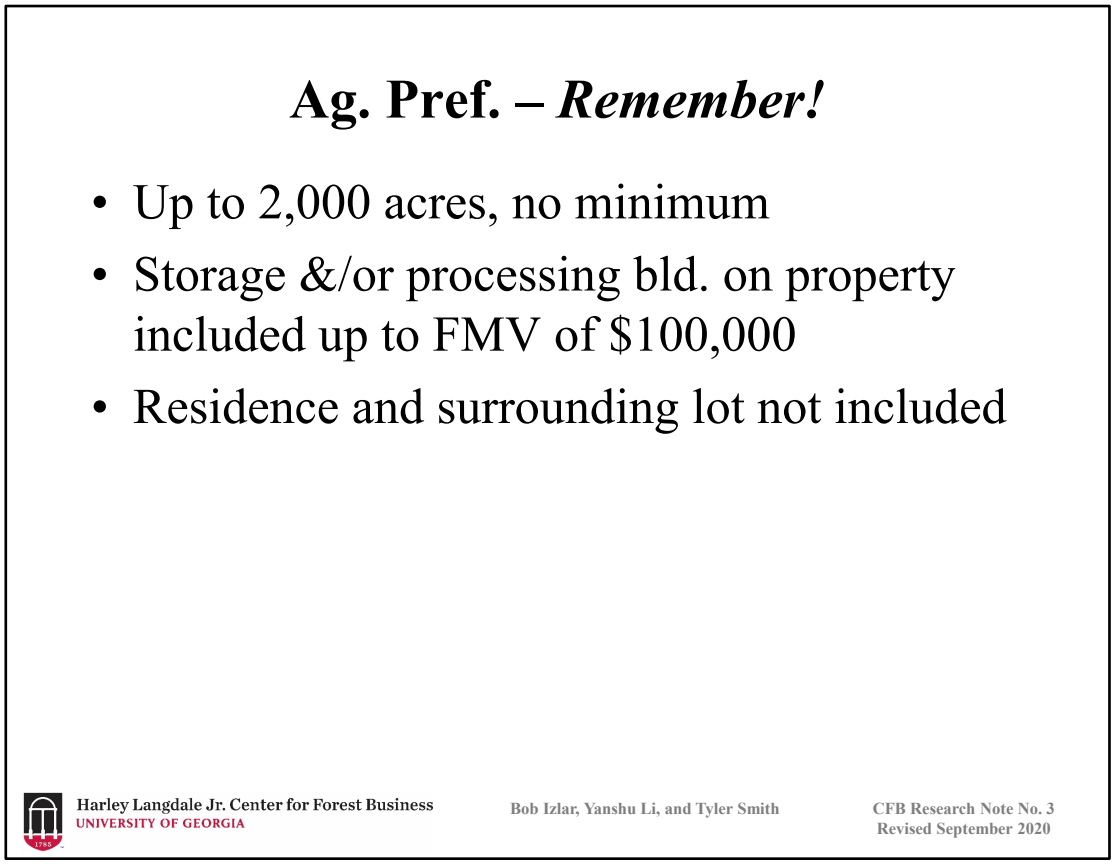
Ag. Pref. Assessment Tax Example

Preferential Appraised Value = FMV ×75%

Preferential Assessed Value = Preferential Appraised Value × 40%

Tax Owed = Preferential Assessed Value × County Millage Rate

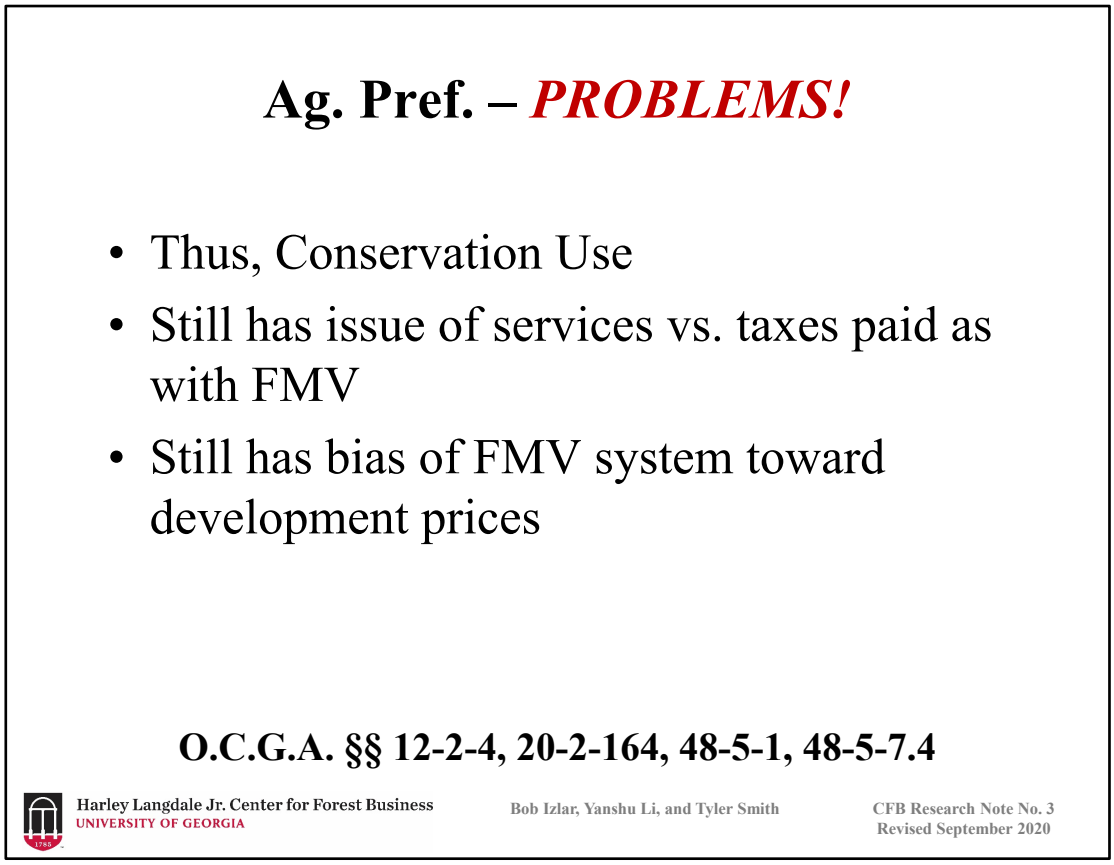
Under current law, a short-cut calculation to determine Preferential Assessed Value under the Preferential Assessment Program may also be done by taking the assigned Fair Market Value multiplied by 30 percent (Preferential Assessed Value = FMV × 30 percent). The amount of tax owed would then be determined by multiplying the Preferential Assessed Value with the county millage rate (Tax Owed = Preferential Assessed Value × Millage Rate). The bottom line result of entering the Preferential Assessment Program is a 25 percent savings from the FMV system of taxing the bare land.



Ag. Pref. Requirements

Eligible landowners may enter up to 2,000 acres into the program (no minimum tract size). However, Preferential Assessment does not apply to a residence located on the property. The program does allow that up to $100,000 (based on FMV) of buildings, dedicated to storage and/or processing may be included in Ag. Pref. Assessment. Any building value greater than $100,000 is assessed according to FMV.

For example, a farmer enrolling 15 acres of land (FMV = $10,000), on which there are 3 chicken houses with a total FMV of $125,000, would see the Preferential Assessed value apply on all of the land value, but only on the first $100,000 of the buildings' value. Then, FMV would apply on the remaining $25,000 of chicken house value.



Ag. Pref. Fails to Address FMV Valuation Problems

Landowners participating in the Preferential Assessment Program realize a benefit from the 25 percent savings. However, determination of value continues to rely on the FMV system which displays bias in favor of highest value use in certain areas of the state. Increased values established by tax assessors in certain areas, because of the land's development potential, effectively reduce the intended tax benefit for landowners who qualified for the reduced property assessment covenant. Nevertheless, landowners should give due consideration to the possible bare land and limited building property tax savings that could be realized under the Preferential Assessment Program. The Georgia General Assembly created Conservation Use Valuation to remedy problems still found with FMV under Ag. Pref.

Conservation (Current) Use Valuation. **House Resolution 836, Rep. Coleman and others, Effective January 1, 1991, Act 95**, Georgia Laws 1990, Vol. 1, p. 2437. ***Ad valorem*** **taxation of conservation use property, agricultural and timber lands, environmentally sensitive property, residential transitional property, and standing timber. Amendment Resolution —** In 1990, the Georgia General Assembly passed House Resolution 836 (H.R. 836, Georgia Laws 1990, p. 2437, et seq.). This resolution proposed a **constitutional amendment to allow revision of the taxation of rural land and residential transitional property. It also proposed to defer the taxation of standing timber until owners sell or cut the trees.**

Legislators placed the resolution on the November 1990 ballot as Amendment # 3. After much debate, **62 percent** of Georgia's citizens passed the Amendment. This was the culmination of a 25-year effort by farm, forest and conservation interests. These interests labored to have land valued for tax purposes based on its productivity.

House Bill 283, Rep. Dover, Effective January 1, 1992, Act 592, Georgia Laws 1991, Vol. 1, p. 1903. **Conservation use property; Residential transitional property; Timber; Appraisal, valuation, and assessment; Millage rates; Equalized adjusted school property tax digest, local fair share funds.** This bill amended **O.C.G.A.** §§ **48-5-1, 12-2-4, and 20-2-164** as the **Enabling Legislation for House Resolution 836.**

Conservation Use Assessment

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Conservation Use

- Current Use Valuation (CUV)*
- 10-Year covenant with County
- Qualified landowners only
- No property qualifies if separate restrictive covenants are in place
- Ag. and forestry uses (plus environ. sensitive and residential transitional properties)
- Penalties for breach of covenant

O.C.G.A. §§ 48-5-2, 48-5-7.4(b)(3), 48-5-7.4(b)(5)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Conservation Use Background

The state of Georgia introduced a current use taxation program for qualified properties in 1992, called **Conservation Use Valuation (CUV)**. On the one hand, it was initiated in response to concerns regarding urban sprawl, land use transition, and the resulting environmental impacts from these changes. On the other hand, it was also instituted to provide tax relief for a broad class of Georgia property owners. Under CUV, a landowner signs a **10-year covenant** with the county to receive current use, as opposed to fair market valuation of property for taxation purposes.

The details of Current Use Valuation of **Conservation Use Properties and Residential Transitional Properties** were spelled out by the 1991 General Assembly in HB 283 and in 1993 by HB 66. As defined, Conservation Use Properties include: **Agricultural and Forestry Property; and Environmentally Sensitive Property.**

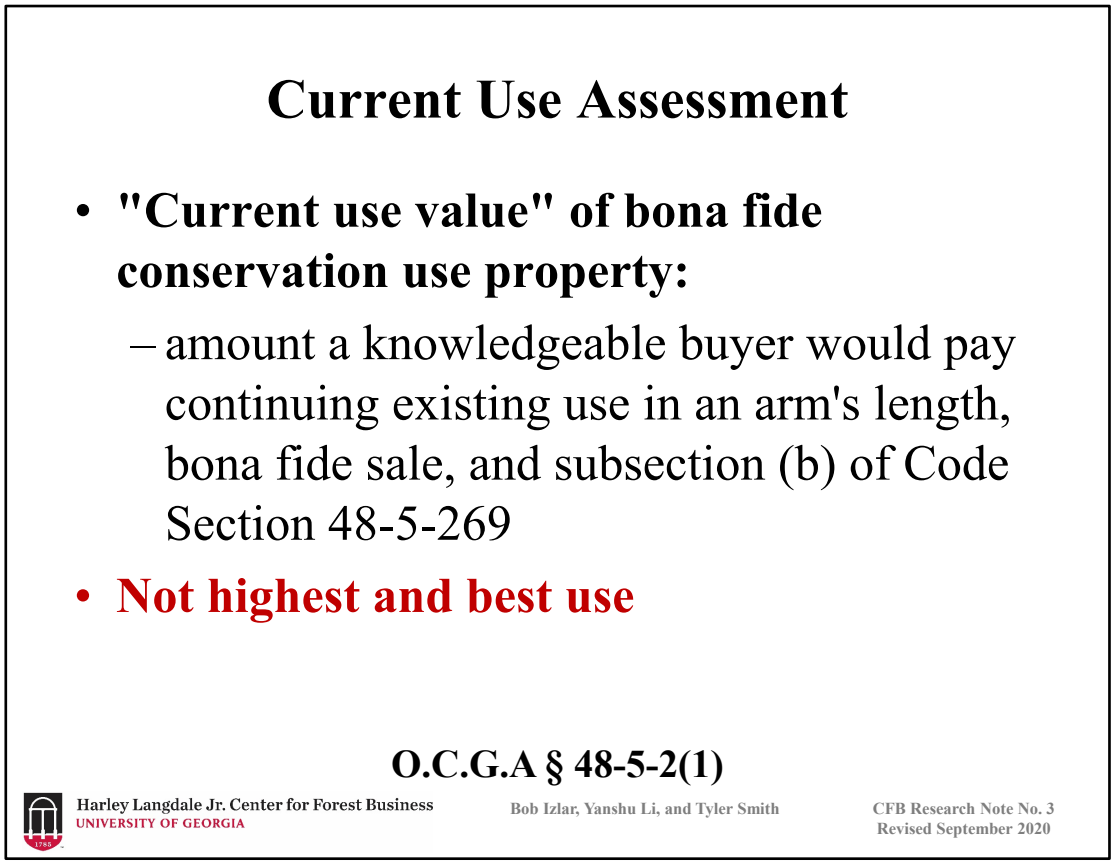
Residential Transitional Property is also defined for Current Use Valuation, but is not classified as Conservation Use Property.

In reviewing details of the Conservation Use Program, please note that values determined under the program are bare land values only, except residential transitional property. The value of any residence located on the property will receive a separate fair market value, except residential transitional property. Also, farm and forest related structures will receive a separate FMV too, but will be subject to other increase/decrease limitations (discussed below). Orchard trees, vineyards, etc. are considered improvements to the bare land and separately valued.

O.C.G.A. § 48-5-7.4(b)(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 any the specific purpose described** in subparagraph (a)(1)(E) of this Code section for which bona fide conservation use qualification is sought.

*Also widely known as CUVA (Conservation Use Valuation Assessment).

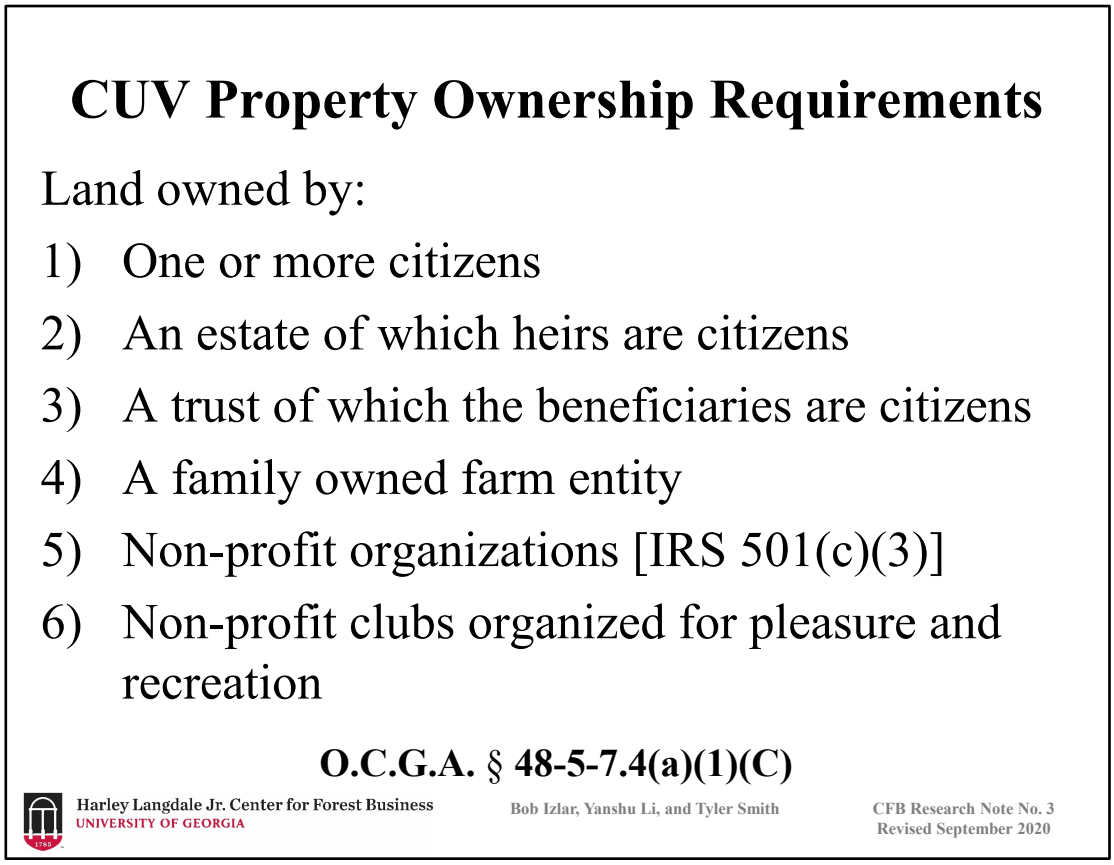


Eligible CUV Property Uses

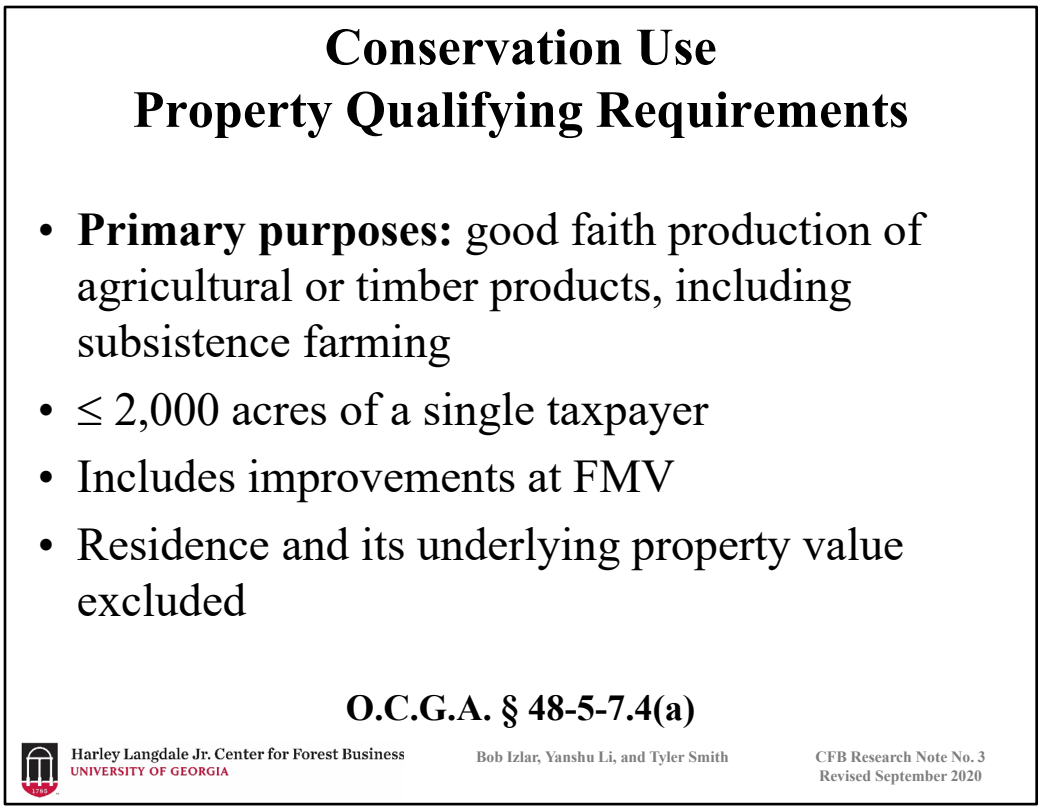
The decision of eligibility by local tax assessors is intended to be more heavily weighted upon the existing use of property. Whether the property is entered as agricultural or forestry, environmentally sensitive, or residential transitional, the owner must be able to support the property's "good faith use" in the specified area.

O.C.G.A § **48-5-2** As used in this chapter, the term:

(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.



Eligible Landowners (O.C.G.A. § 48-5-7.4)
(a)(1)(C) 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, or 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 (HB 238, 2017), 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; or
(vi) A bona fide club organized for pleasure, recreation, and other nonprofitable purposes.



CUV Agriculture and Forest Property

Qualifying elements of agricultural or forest property depend on the "good faith production" of the land, including **subsistence farming and commercial production of agricultural products or timber.**

O.C.G.A. § **48-5-7.4**

(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 owner, the primary purpose of which is any good faith production, including, but not limited to, subsistence farming or commercial production from or on the land of agricultural products or timber, subject to the following qualifications:

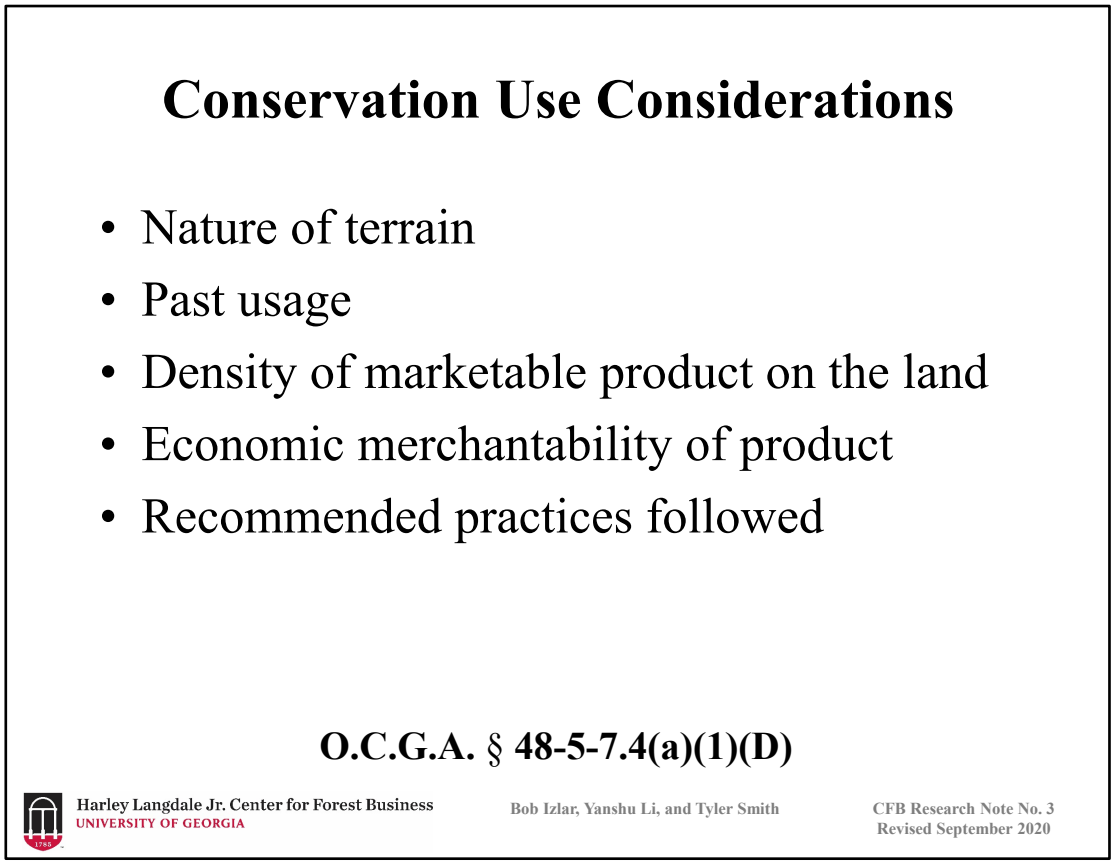
(A) Such property **includes the value of tangible property permanently affixed to the real property** which is directly connected to such owner's production of agricultural products or timber and which is devoted to the storage and processing of such agricultural products or timber from or on such real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

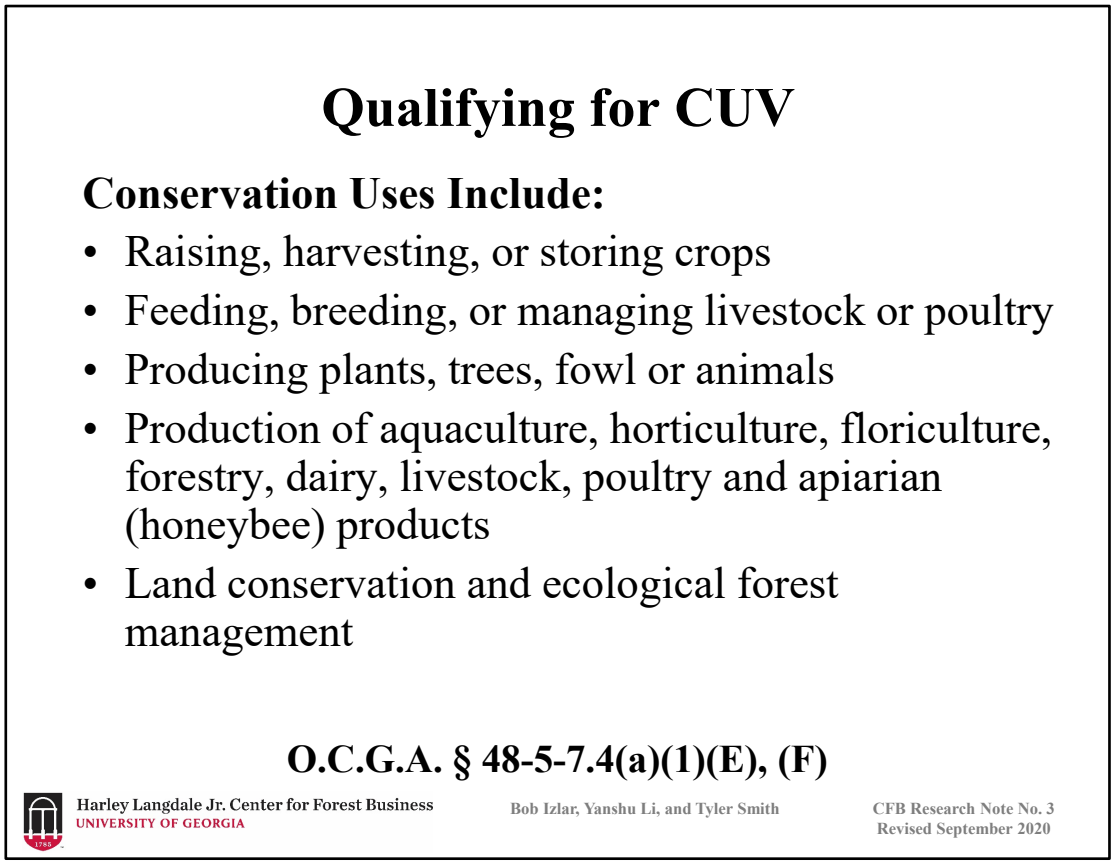
(B) Such property excludes the entire value of any residence and its underlying property; as used in this subparagraph, the term "underlying property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less. This provision for excluding 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.



Conservation Use Considerations

O.C.G.A. § **48-5-7.4(a)(1)(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 non-utilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof.



Qualifying Uses

O.C.G.A. § 48-5-7.4(a)(1)(E) Such property shall, if otherwise qualified, include, but not be limited to, property used for:

(i) Raising, harvesting, or storing crops;

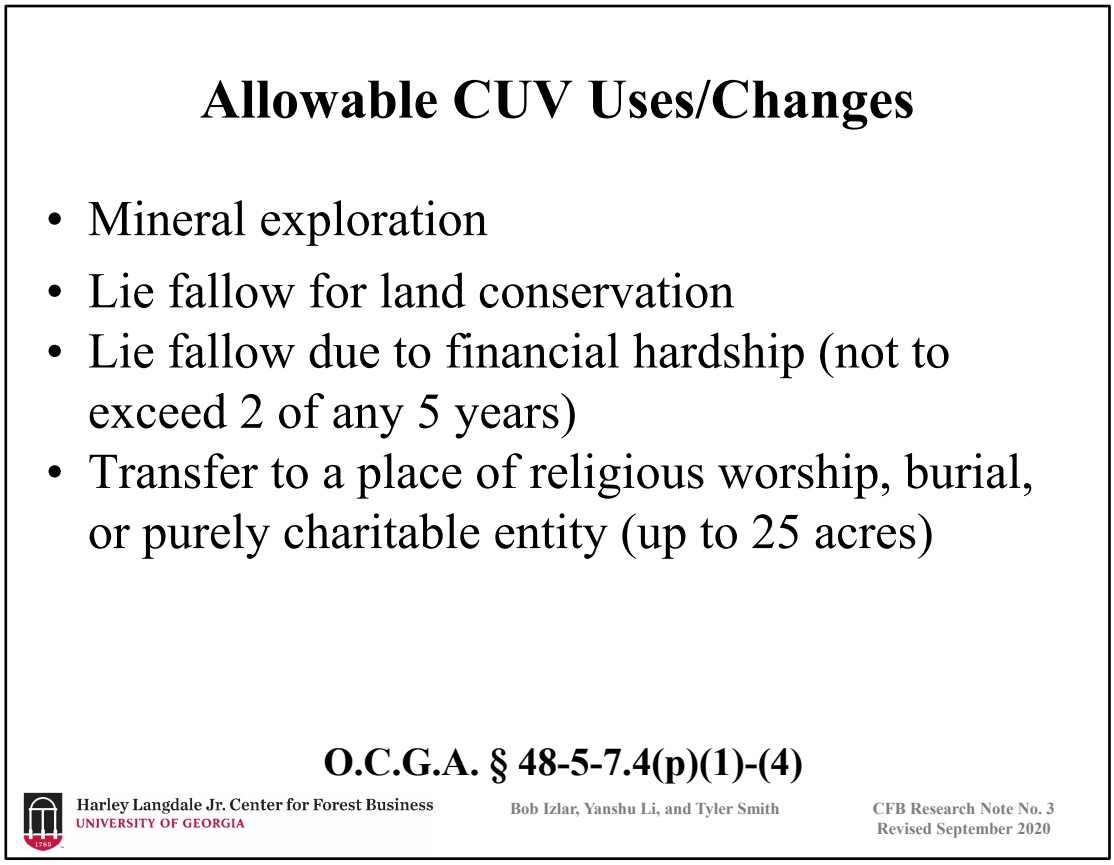
(ii) Feeding, breeding, or managing livestock or poultry;

(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;

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

O.C.G.A. § 48-5-7.4(a)(1)(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.

HB 197, passed during the 2013 session of the General Assembly, amended a paragraph [O.C.G.A. § 48-5-7.4(a)(1)(F)] to the chapter, extend conservation uses to properties with primary purpose of conservation and restoration.



Allowable Conservation Use and Changes

O.C.G.A. § 48-5-7.4(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; or

(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.

Allowable CUV Uses/Changes (cont.)

- Cell tower installation (≤6 ac), lease only (underlying land removed from the original covenant and assessed at FMV)
- Growing a corn maze as long as crop is harvested

O.C.G.A. § 48-5-7.4(p)(5)-(6)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Allowable Conservation Use and Changes

O.C.G.A. § 48-5-7.4(p)

(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;

Allowable CUV Uses/Changes (cont.)

- Agritourism
  - Agritourism means charging admission for people to visit, view, or participate in farm or dairy operations for entertainment or educational purposes
  - Selling farm or dairy products to visitors is allowed

O.C.G.A. § 48-5-7.4(p)(7)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Additional CUV Rules – Agritourism
O.C.G.A. § 48-5-7.4(p)(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.

Allowable CUV Uses/Changes (cont.)

- Farm wedding
- Non-profit equestrian performance events
- Non-profit rodeo event
- Solar power generation (not a breach but subject to penalty)
- Farm labor housing

O.C.G.A § 48-5-7.4(p)(8)-(12)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA
Bob Izlar, Yanshu Li, and Tyler Smith
CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5-7.4(p)

(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. (per HB 987, 2015-2016 regular session).

(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; (per HB 238, 2017-2018 regular session).

(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. (per HB 238, 2017-2018 regular session).

Additional Rules for CUV

- At least 1/2 of property in qualifying use, w/ remainder minimally managed
- May lease for hunting
- <10 acres must submit additional proof of conservation use unless filing with the IRS a 1040 Schedule E or Schedule F (or Form 4835, if applicable)
- Up to 2,000 acres with beneficial interest
- Restrictive-use covenant prohibits CUV
- Published soil map not required
- Lessee must qualify also

O.C.G.A. §§ 48-5-7(e), 48-5-7.4(b)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA
Bob Izlar, Yanshu Li, and Tyler Smith
CFB Research Note No. 3
Revised September 2020

Additional Rules for Conservation Use

O.C.G.A. § **48-5-7.4(b)** 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 and charging of admission for use of the property for fishing purposes shall not constitute another type of business;

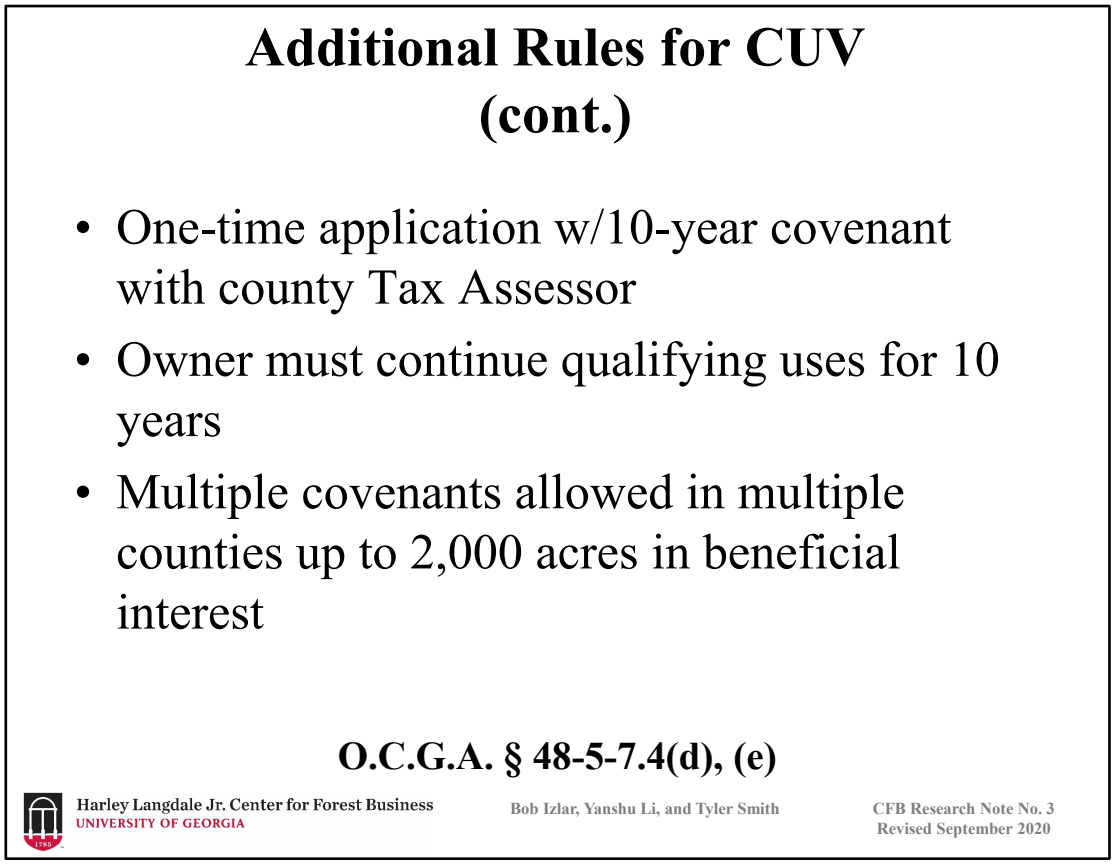
(2) The owner of a tract, lot, or parcel of land totaling less than 10 acres shall be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that on or after the effective date of this paragraph is either first made subject to a covenant or is subject to a renewal of a previous covenant. If the owner of the subject property provides proof that such owner has filed with the IRS 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.

(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 any purpose described in subparagraph (a)(1)(E) of this Code section; 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.

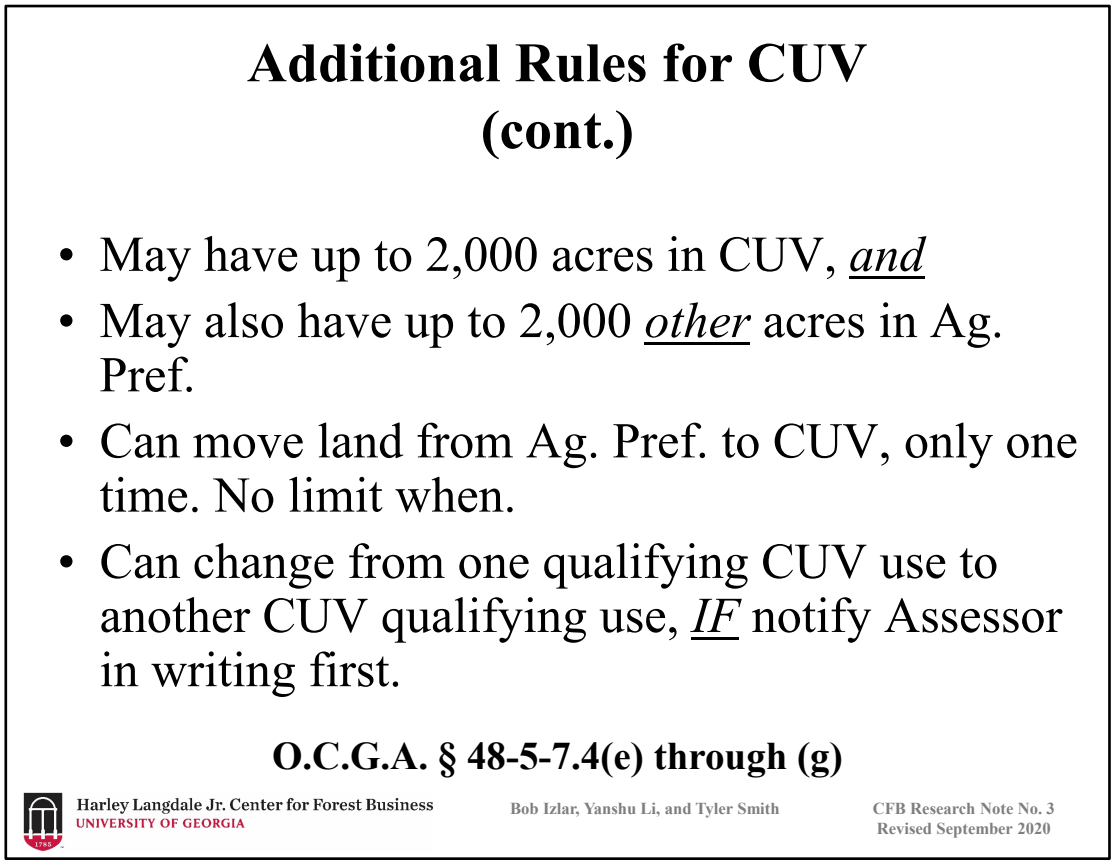


Additional Rules for Conservation Use

Landowners desiring to be considered for CUV may do so by submitting an application to the local Board of Tax Assessors. There should be no prerequisites or documents required to simply file an application requesting participation in the CUV Program. In reality, any property owner in Georgia could apply for the program. However, those properties not falling within the bounds of qualified uses will be denied by the local Board of Tax Assessors. Landowners are encouraged to help supply all relevant information to the tax assessors upon making application, but Georgia law does not mandate specific documentation.

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

O.C.G.A. § **48-5-7.4(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.



Additional Rules for Conservation Use

The Conservation Use Program is very similar to Preferential Assessment in participation requirements. Landowners may enter up to 2,000 acres into a land use covenant, thereby dedicating the land to a specific qualifying use for a period of 10 years. While no minimum size tract is specified, uses of the property are restricted and tracts of less than 10 acres shall require "additional relevant records." Also, any event that causes the covenant to be broken will trigger a significant penalty based upon the property tax savings.

Documentation Providing Evidence of the Property's Use – When applying for the program, the landowner should provide evidence of the property's use. As stated above, Georgia law does not require specific documents. However, owners can consider presenting information such as:

• Evidence of farm or forest income;

• Evidence of participation in a USDA farm program;

• Copy of a lease to an eligible party;

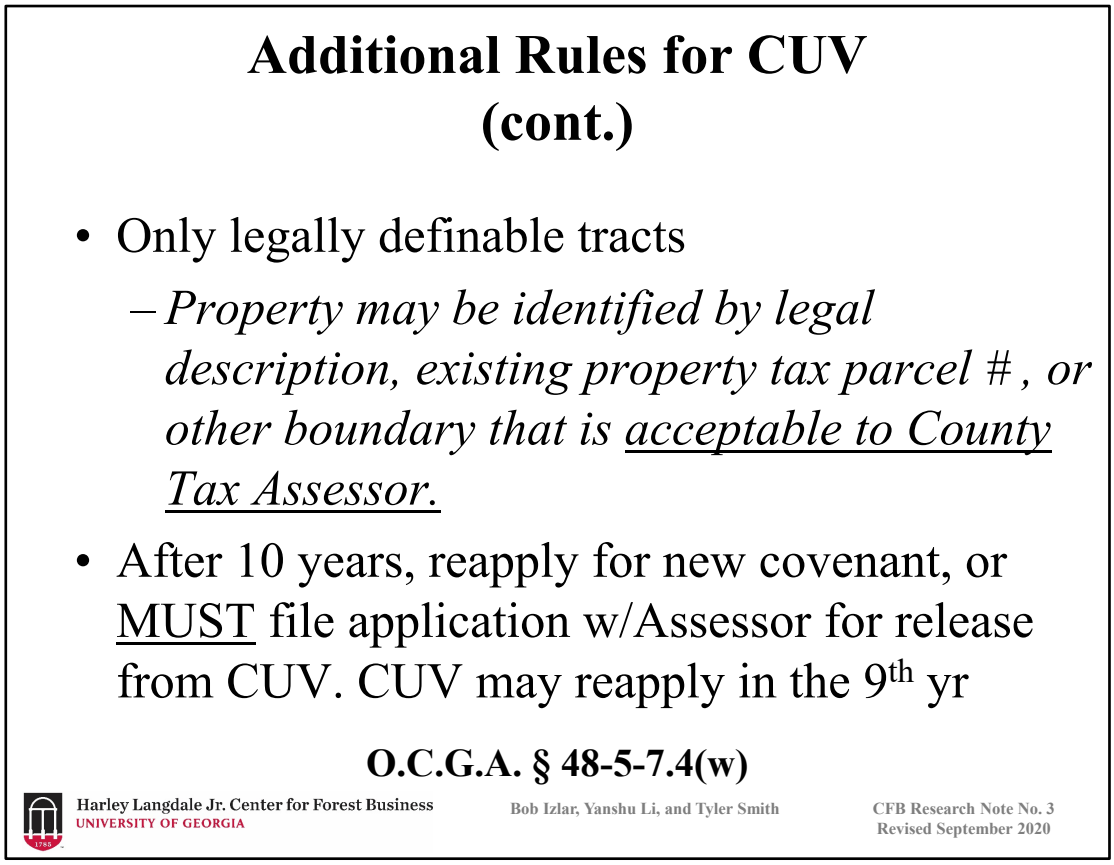
• Farm or forest management plan;

• Farm conservation plan; or,

• Any proof of property use that is reasonable to indicate the property's use.

O.C.G.A. § **48-5-7.4 (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.

O.C.G.A. § **48-5-7.4 (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.



The application forms require:

- Identification of the property tract;
- Certification of intended property use; and,
- Documentation providing evidence of the property's use is always helpful.

Identification of the Property Tract – To make a proper valuation of enrolled property, tax assessors must be able to identify the property on county tax maps, as well as soil maps, when available, that identify the various soil types. Counties without soil maps may utilize alternative means of determining soil productivity class, as agreeable to the tax assessor and the landowner. The property may be identified by a legal description, existing property tax parcel or other boundary that is acceptable to the tax assessor.

Conservation Use rules and regulations allow landowners to "survey-out" portions of a larger tract and create separate tracts. Each tract may be entered into a separate covenant, but any one entire tract must be enrolled. This example leads to the conclusion that if there are acres that the owner considers will be converted to a non-qualifying use within the 10-year covenant period, those acres should be surveyed into a separate tract and left out of the protective covenant.

O.C.G.A. § 48-5-7.4(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.

Additional Rules for CUV (cont.)

- **Amended by HB 916 (2012)**
- **Allows for contiguous acres to be added to the original covenant for the rest of the covenant life:**
  - added property less than 50 acres
  - can not be in existing covenant

O.C.G.A. § 48-5-7.4(i)(2)(B)

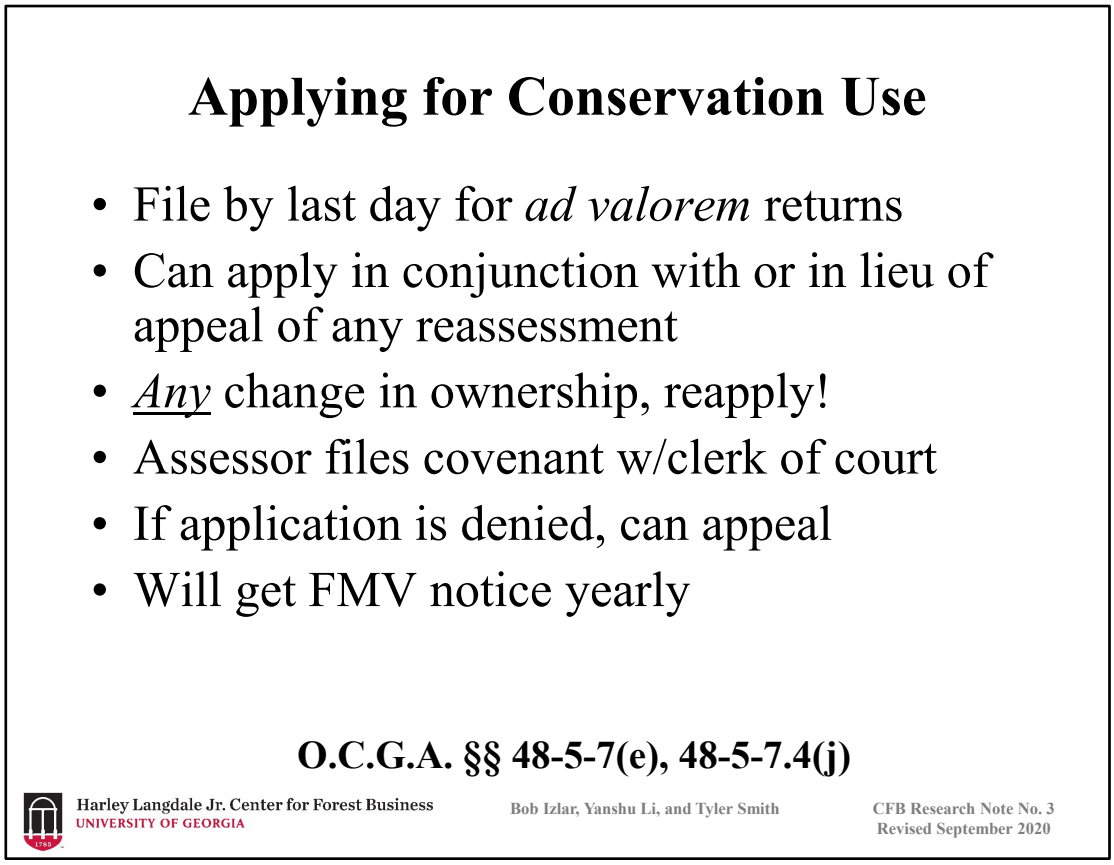
Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Additional Rules for Conservation Use

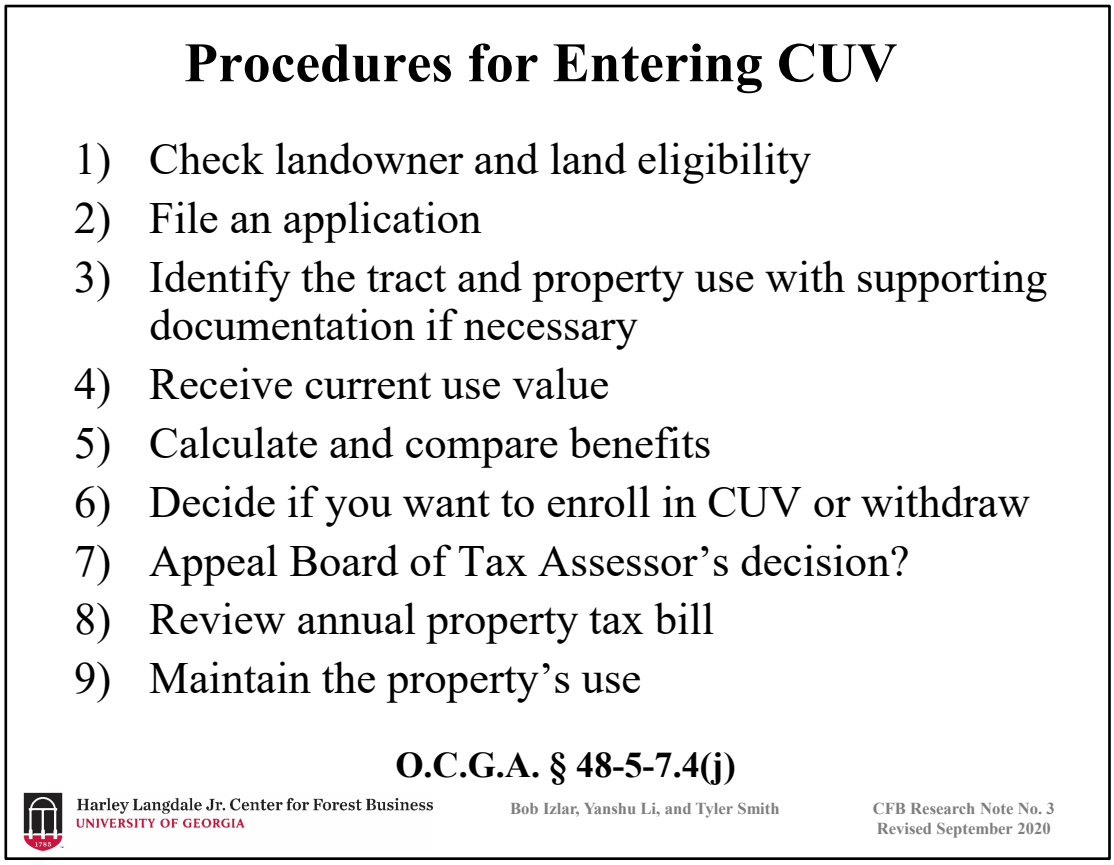
O.C.G.A. § **48-5-7.4(i)(2)(B)** If a qualified owner has entered into an original bona fide conservation use covenant and subsequently acquires additional qualified property contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified 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.



Applying for Conservation Use
O.C.G.A. § 48-5-7.4(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.

(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.



Procedures for Entering CUV Program

1. Decide if you are eligible to participate in the program

2. Determine if your land qualifies for CUV:

   a) Agricultural or Forestry uses;

   b) Environmentally Sensitive; or,

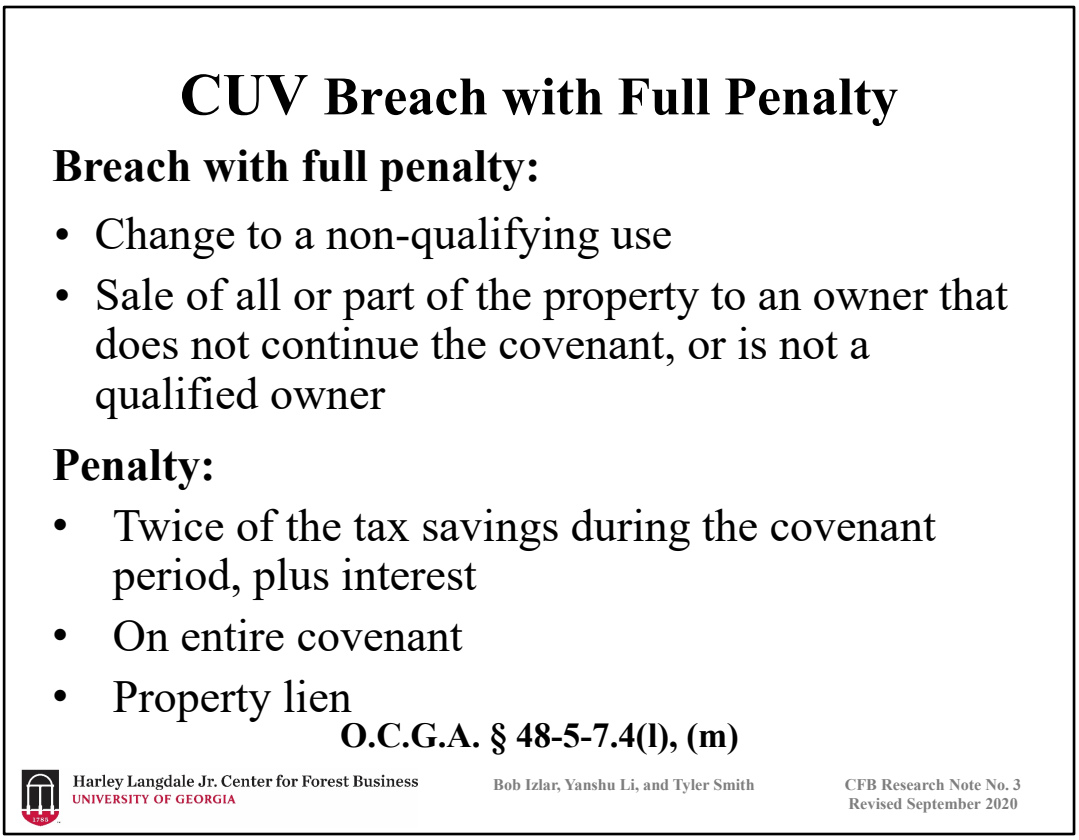
   c) Residential Transitional.

3. File application with Board of Tax Assessors - the appropriate form (PT-283A, E, or R) is available at the tax assessor office and may be filed:

   a) Prior to the property tax return filing deadline (April 1 or earlier);

   b) During an appeal of property reassessment; or,

   c) For property currently in Ag. Pref.



Penalties for Breaking Covenant

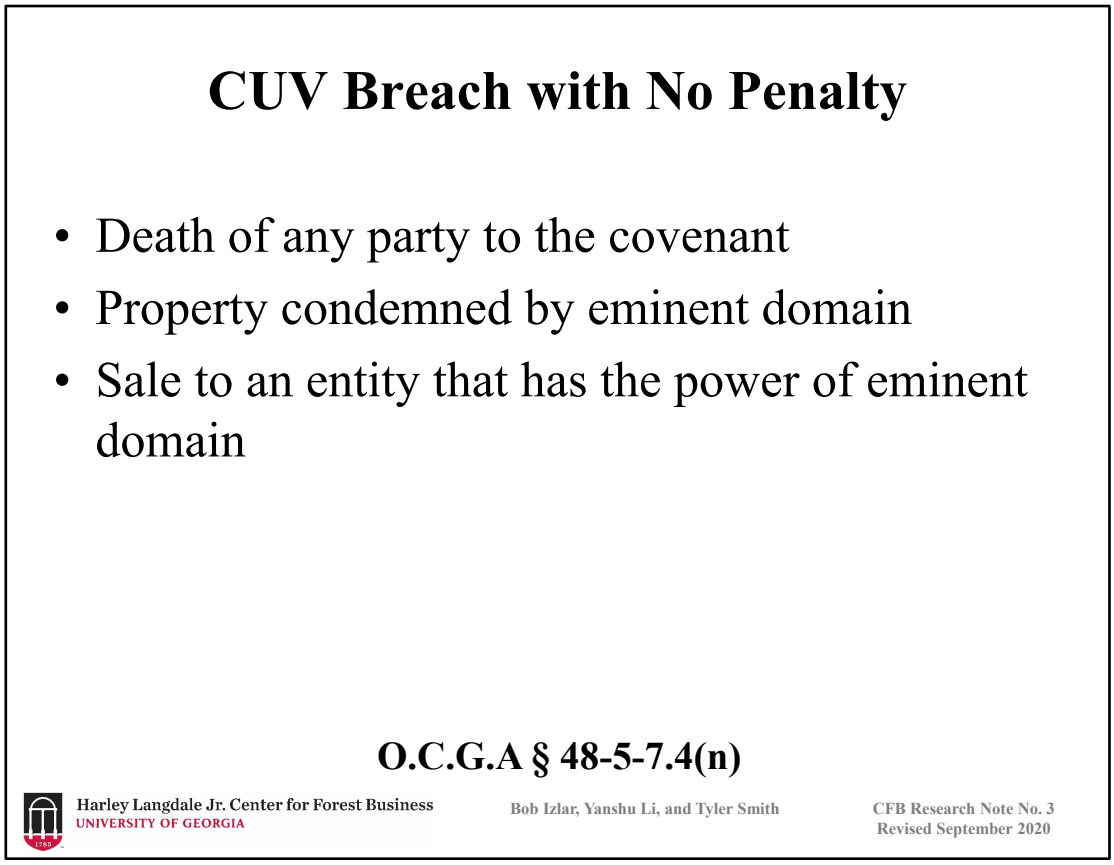
As provided by law, the penalty for breaking the Current Use Valuation covenant is equal to **two times the amount** of tax savings realized while under the program, plus interest which begins on the date of breach. In other words, once the covenant is broken, the tax assessor will determine the total taxes that would have been paid under the FMV system and subtract the taxes actually paid under Current Use. The difference will be multiplied by 2, and interest will be added after the date of breach.

Penalty Applies to Entire Tract – Several factors should be noted. First, the penalty applies to the entire tract subject to the same covenant. Therefore, even if 1 acre out of 100 acres experiences a change in use, then the penalty applies to the entire 100 acres if enrolled under a single covenant. Other covenants are not affected.

Penalty Paid According to Pro Rata Share of Benefit - A second factor to note is that even if the property is sold or transferred, the original parties to the covenant may continue to be liable for a breach of covenant during the 10-year period. The Conservation Use rules and regulations require that all parties enjoying benefit of a covenant are responsible for their pro rata share of any penalty. The effect of this provision is to discourage land sales after entering the program. A possible solution for owners selling land is to make special provisions in the sales contract so that: (1) the property is dedicated to a specific use and must be maintained for the 10 year period; and, (2) any change in use resulting in a breach and penalties must be entirely paid by the new landowner. This is not an iron clad solution, but does provide a basis for legal action.

O.C.G.A. § **48-5-7.4**(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. Any such penalty **shall bear interest** at the rate specified in Code Section 48-2-40 from the date the covenant is breached.

(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.



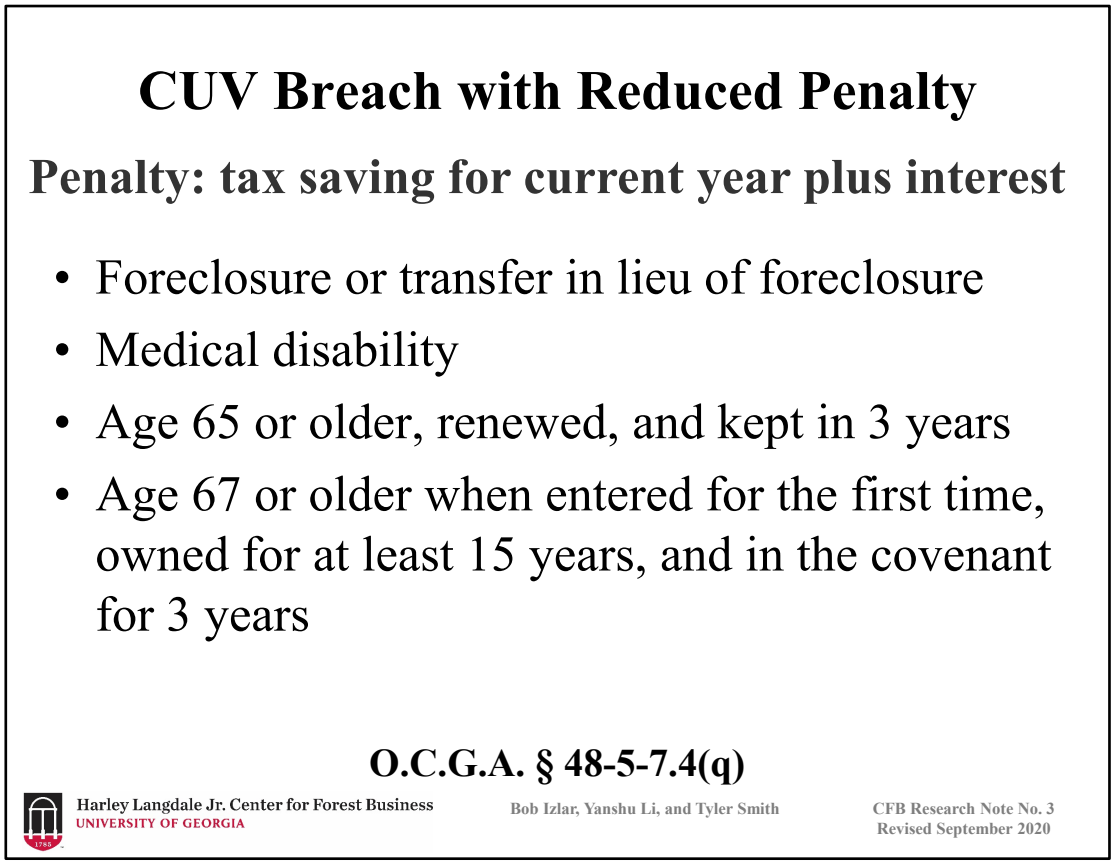
Conservation Use Breach with No Penalty

O.C.G.A. § **48-5-7.4(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.



Conservation Use Breach with Reduced Penalty

O.C.G.A. § **48-5-7.4(q)** In the following cases, 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 lien holder 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; or

(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.

CUV Breach with Reduced Penalty (cont.)

Penalty– tax saving for each year of renewal covenant in effect, plus interest

- Breach of a renewal covenant after Year 6, if owned by the original covenantor or someone related to him within 4th degree

O.C.G.A § 48-5-7.4(x)

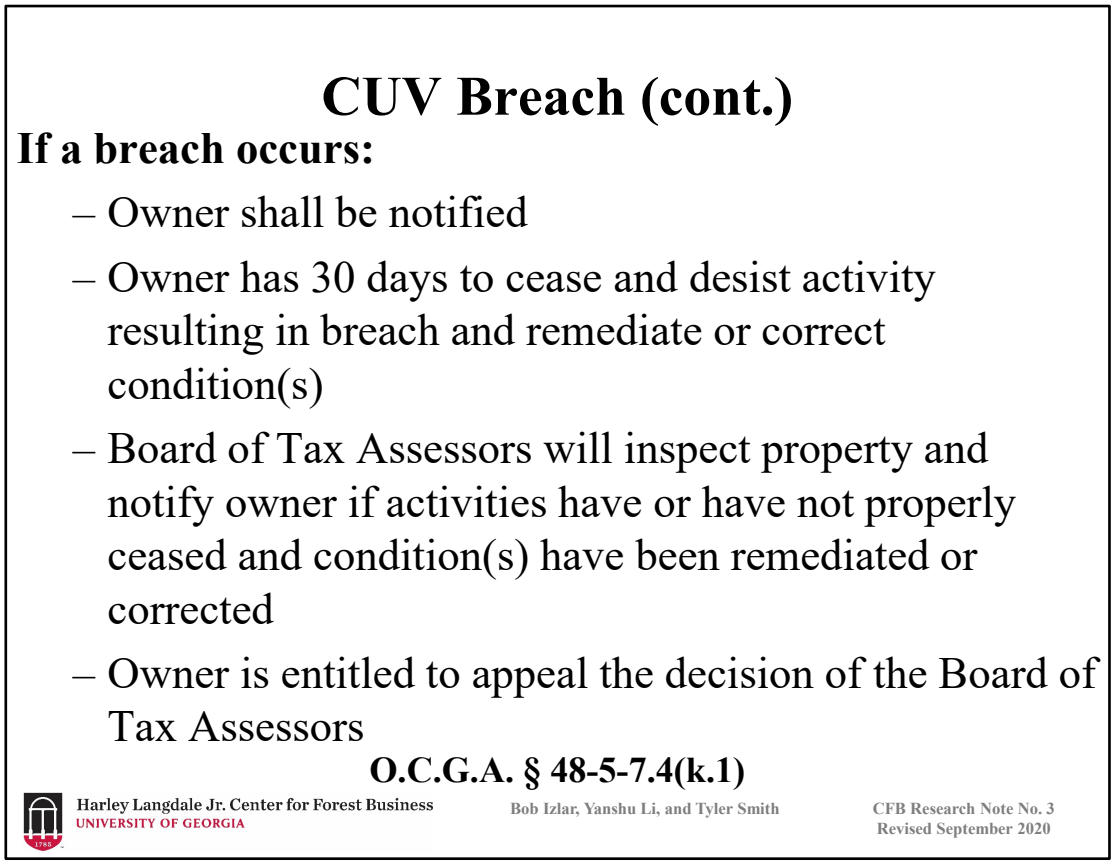
Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

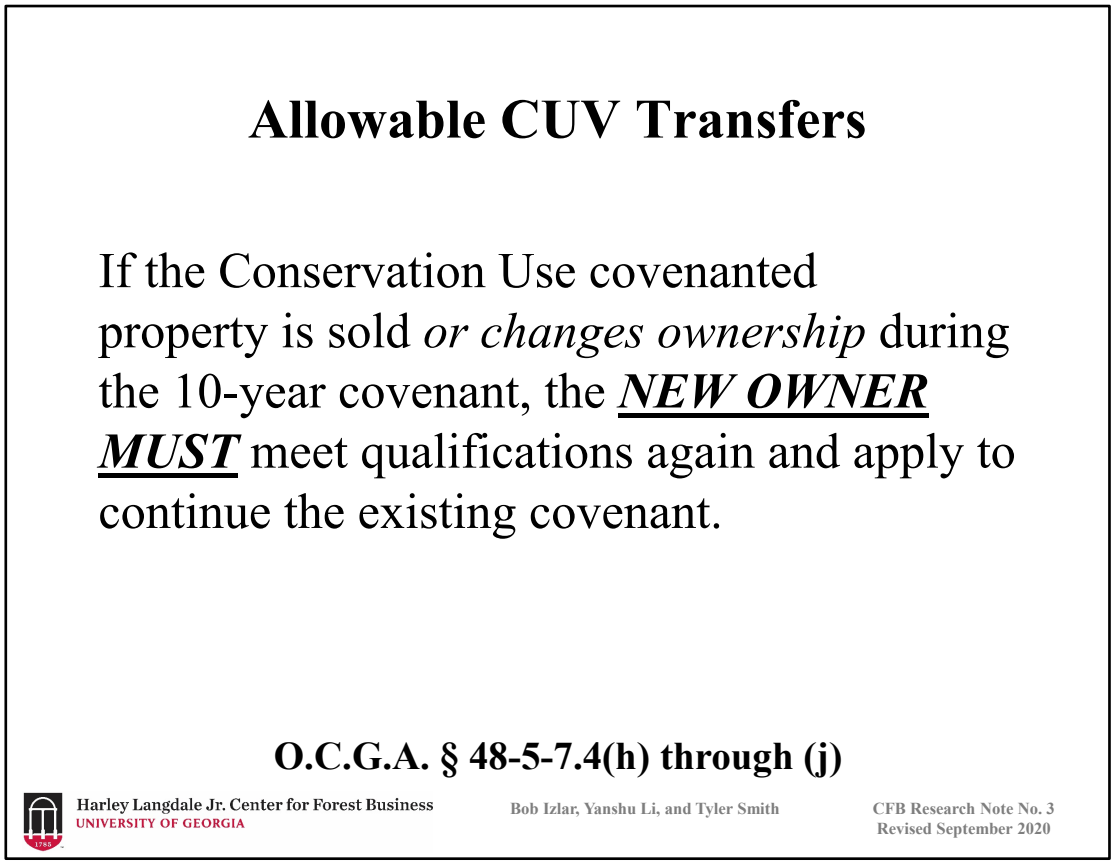
Conservation Use Breach with Reduced Penalty

O.C.G.A. § **48-5-7.4(x)** Notwithstanding any other provision of this Code section to the contrary, in any case where a **renewal covenant is breached** by the original covenanter or a transferee who is related to that original covenanter 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.



Breach of CUV Covenant
O.C.G.A. § **48-5-7.4**

(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.



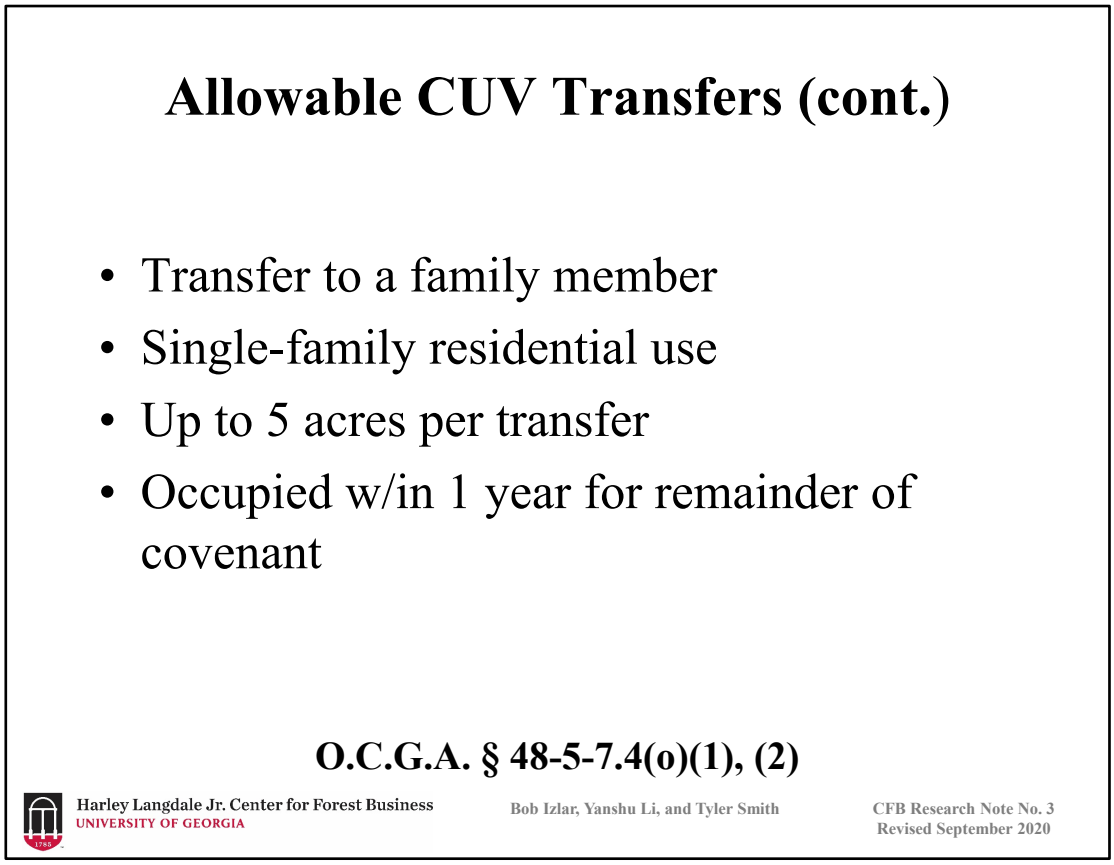
Allowable Conservation Use Land Transfers

If any part or all of the Conservation Use covenanted property is sold or there are any changes in ownership during the 10-year covenant, to avoid breaching the existing covenant, the NEW OWNER (or new ownership pattern) MUST meet qualifications again and apply to continue the original ten-year covenant. Changes in ownership pattern can include changes in partnerships, or even divorce from a spouse, among other possible changes. Such a change in ownership does not break the existing covenant, provided the new owner qualifies for the program, and there is no penalty provided the qualified new landowner then applies to continue the existing covenant. Upon such change in ownership pattern, the qualified new landowner must make application to continue the existing covenant during the first sign-up period following the ownership change.

O.C.G.A. § **48-5-7.4(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.

O.C.G.A. § **48-5-7.4(i)** 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.

O.C.G.A. § **48-5-7.4(j)(1)** 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 *ad valorem* tax returns in the year following the year in which the change in ownership occurred**.**

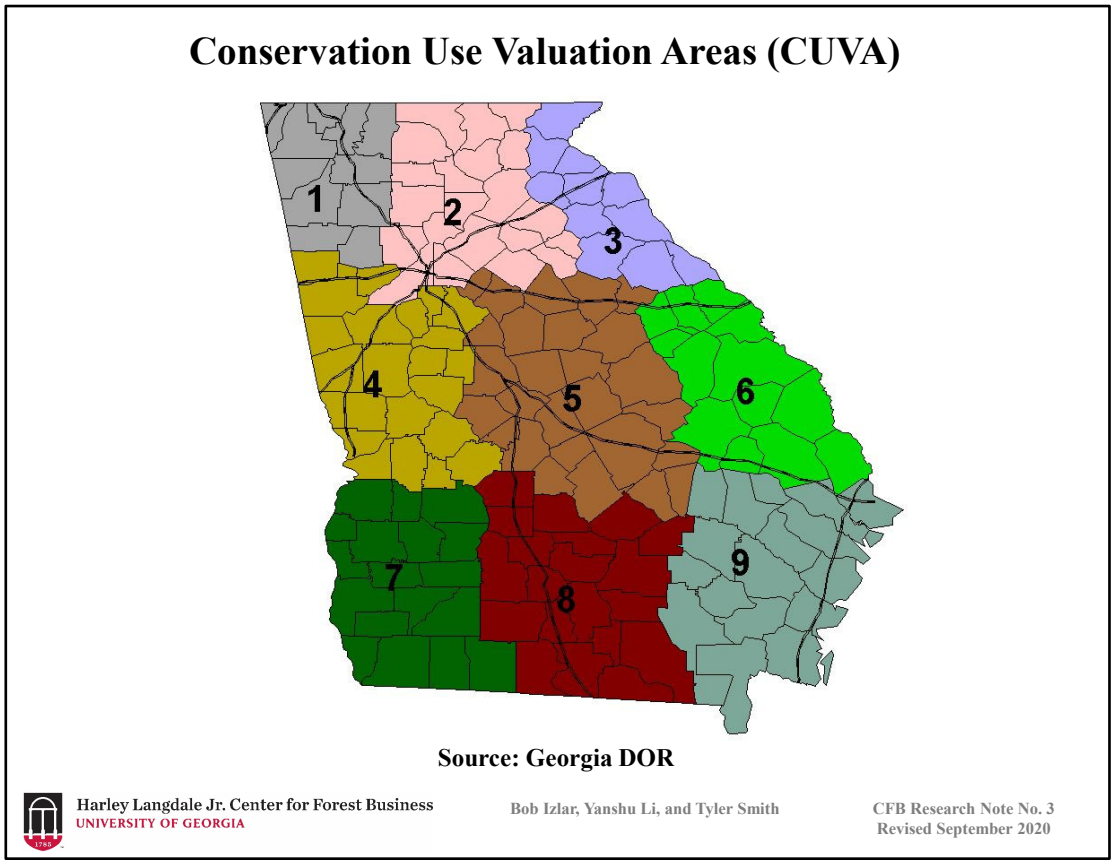


Allowable Conservation Use Land Transfers

O.C.G.A. § **48-5-7.4(o)** The transfer of a part of the property subject to a covenant for a bona fide conservation use **shall not constitute a breach of a covenant if:**

(1) The part of the property so transferred is used for **single-family residential purposes**, **starting within one year** of the date of transfer and **continuing for the remainder of the covenant period**, and the residence is **occupied within 24 months from the date of the start by a person who is related within the fourth degree of civil reckoning** to an owner of the property subject to the covenant; and

(2) The part of the property so transferred, taken together with any other part of the property so transferred to the same relative during the covenant period, does **not exceed a total of five acres**; and in any such case the property so 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.



Conservation Use Valuation Areas (CUVA)

The above map shows the 9 Conservation Use Valuation Areas (CUVA's) by county with a table containing values to be used for the more than 65,000 Conservation Use covenants in Georgia. All new CUV covenants entered by qualified landowners after January 1, 2002 are no longer called "1993-Style". They are simply "Conservation Use" covenants. Qualified landowners with these Conservation Use covenants earn almost $260 million annually in *ad valorem* property tax savings.

The "Conservation Use" Georgia map with an accompanying value table that gives the Conservation Use land values are available, by year, on the website of the Daniel B. Warnell School of Forestry and Natural Resources.

Maps and tables are available also in your County Tax Assessor office along with program details and sign-up procedures. These tables show $/acre for class 1-9 land (1 is most- and 9 is least-productive land).

The commissioner shall continue to compute a table of values established under subsection (a) of Code Section 48-5-269, in accordance with the law applicable to the tax year beginning on January 1, 1992, to be used to value property entered into a covenant during that tax year.

2020 CUVA VALUES

Region	Land Class	Productivity								
		1	2	3	4	5	6	7	8	9
1	Ag.	1640	1551	1437	1318	1188	1063	944	829	709
	Tbr.	903	810	736	675	619	573	537	493	450
2	Ag.	1797	1602	1425	1259	1128	1007	903	819	737
	Tbr.	1223	1107	999	904	833	782	737	677	614
3	Ag.	1367	1244	1113	986	860	776	637	533	450
	Tbr.	1199	1043	941	904	833	762	641	521	436
4	Ag.	1121	1004	920	822	722	599	519	402	289
	Tbr.	882	790	716	657	571	533	463	400	325
5	Ag.	831	723	672	614	548	466	382	301	220
	Tbr.	751	696	639	585	528	475	416	360	299
6	Ag.	942	827	758	696	614	511	416	319	224
	Tbr.	743	682	623	567	506	449	389	328	267
7	Ag.	1096	993	882	767	658	551	426	323	218
	Tbr.	796	724	660	592	522	456	389	319	252
8	Ag.	1107	1046	944	842	740	639	493	400	295
	Tbr.	866	784	702	623	541	463	381	301	245
9	Ag.	1026	988	887	790	692	592	493	393	295
	Tbr.	876	790	716	637	553	477	396	316	245

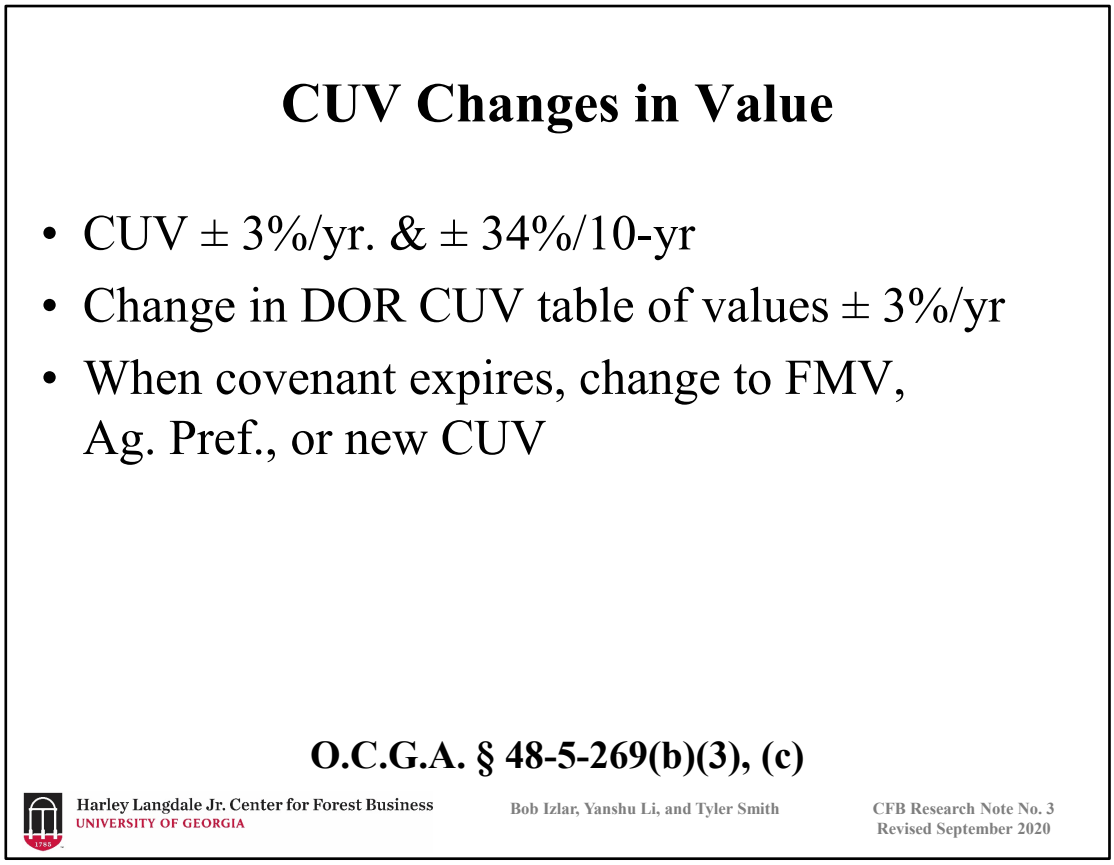
Source: https://dor.georgia.gov/table-conservation-use-land-values

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

These values are calculated each year using the capitalization of net income formula prescribed by law and using data from Georgia Department of Revenue sales comparisons, USDA Forest Service forest inventory data, Timber Mart-South timber product prices, and forest management costs.

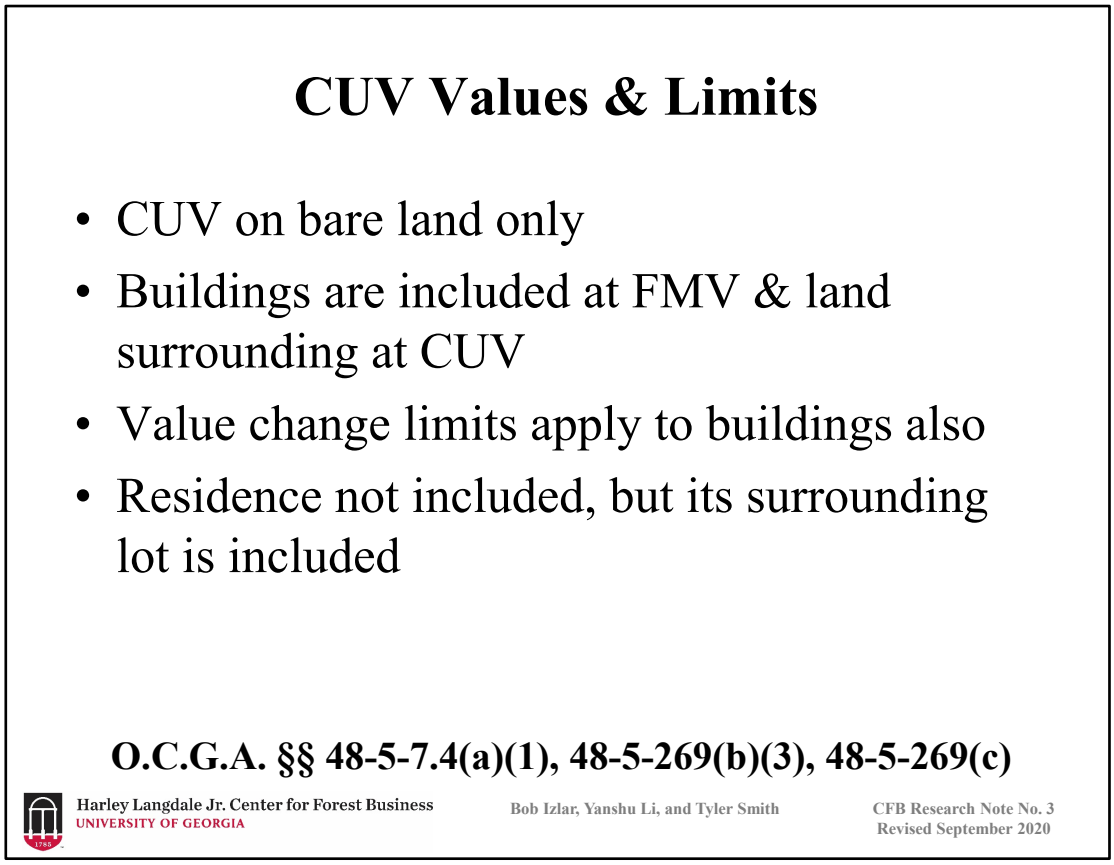


Changes in Value for Conservation Use Covenants

O.C.G.A. § 48-5-269(b)(3), (c)

The Georgia law limits the Conservation Use tables of values, and the total value under the covenant, to increases or decreases of a maximum of 3% per year, to a maximum change of 34.39% during the 10-year covenant. Additional questions about how much your CUV changes each year can be addressed to your local County Tax Assessor.

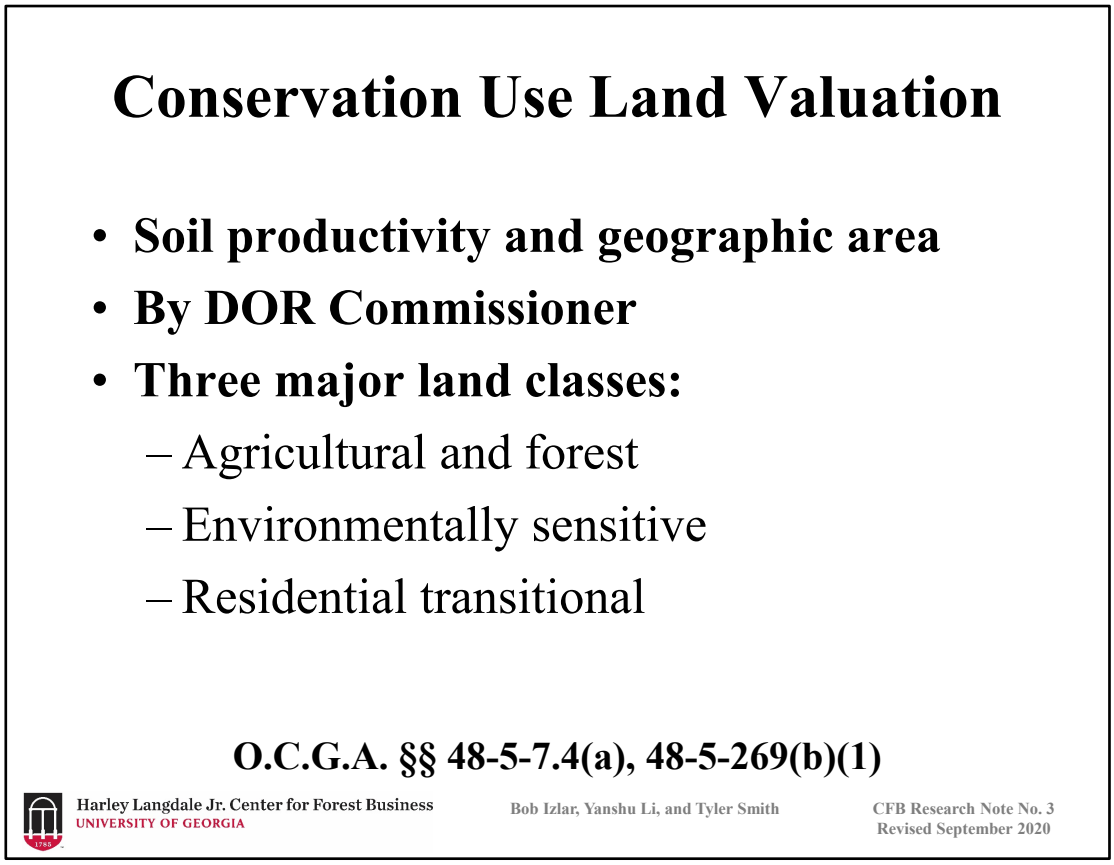
When your present CUV covenant expires, your land valuation will automatically revert to FMV if you do nothing. Alternatively, if you still qualify, you may choose Agricultural Preferential Assessment or Conservation Use Valuations (under a new 10-year covenant). Your local County Tax Assessor will help you make change-over choices.



Value Change Limitations on Buildings

O.C.G.A. § **48-5-7.4(a)** (See Page 54)

O.C.G.A. § **48-5-269(c)** In no event may the current use value of any conservation use property increase or decrease during a covenant period by more than 3 percent from its current use value for the previous taxable year or increase or decrease during a covenant period by more than 34.39 percent from the first year of the covenant period. The limitations imposed by this subsection 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 paragraph (1) of subsection (a) of Code Section 48-5-7.4; provided, however, that in the event the owner changes the use of any portion of the 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.



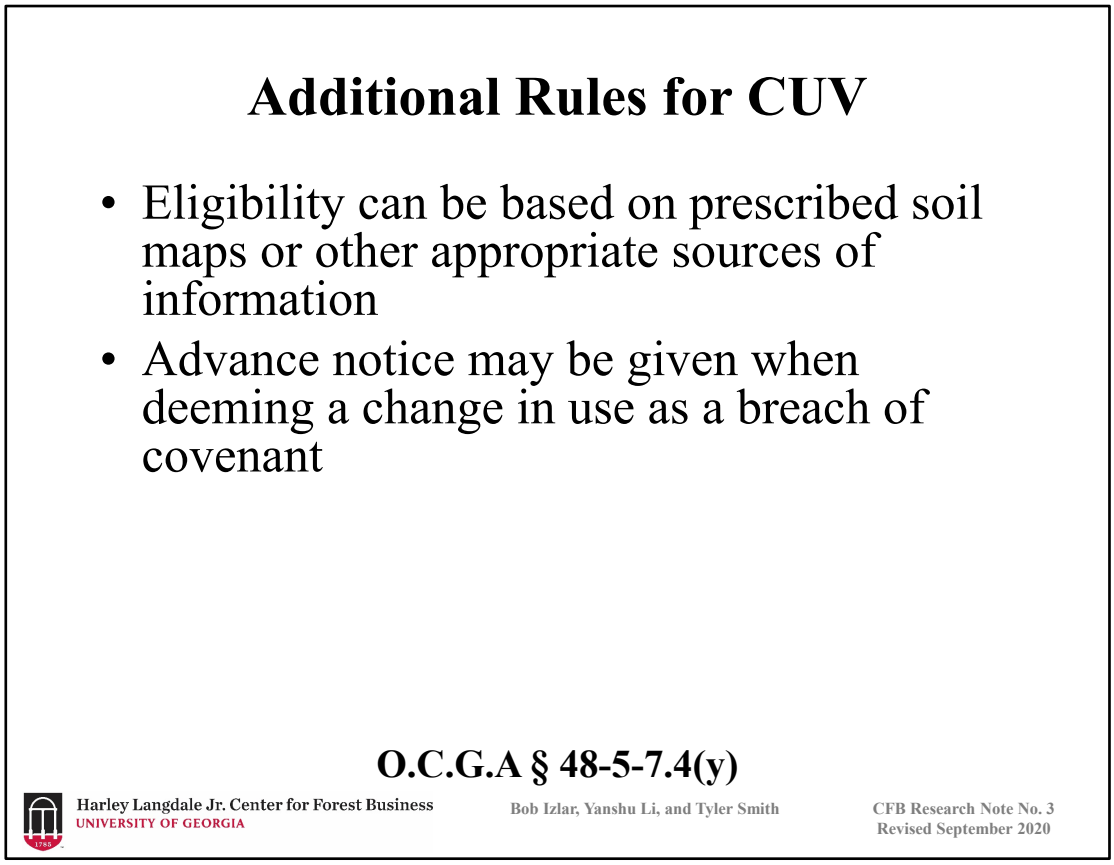
CUV Land Valuation

Georgia law goes further to distinguish Current Use Values from FMV or Preferential by requiring:

- The Current Use Value to be determined by a formula which considers income capitalization based on **soil productivity and market sales for different regions of the state**; and,
- The actual Current Use bare land values are to be calculated centrally by the **Department of Revenue**, which in turn distributes a table of values to each county in the state annually.

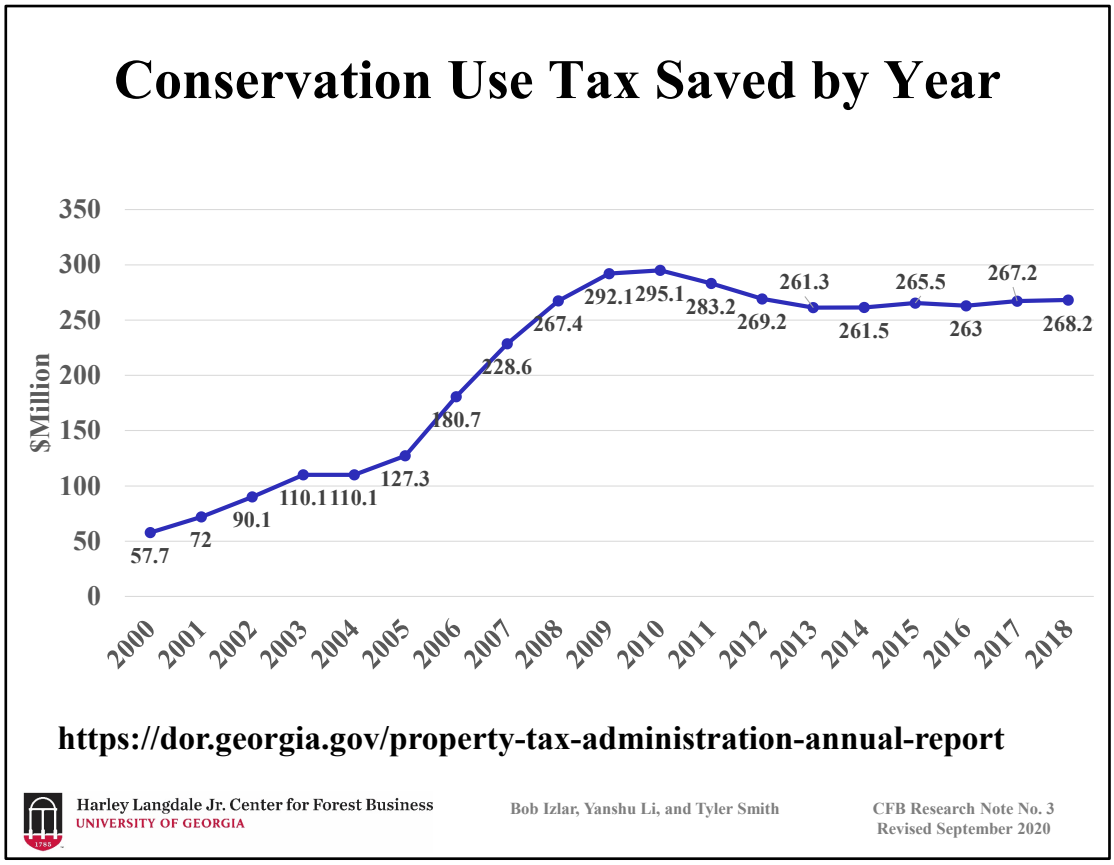
The mandate of law is applied to the respective Current Use Property classes as follows:

- **Agricultural and forest property** – Current Use Values for these Conservation Use Properties are calculated annually by the Department of Revenue for agricultural land and woodland and distributed to the counties;
- **Environmentally sensitive property** – Presently, Current Use Values for environmentally sensitive Conservation Use Properties are determined by using the forest table of values. Local assessors will take the forest property description for the lowest productivity class, and use the same value; and,
- **Residential transitional** – This Current Use Property class is unique. The Current Use Value is determined by the local tax assessors. The primary goal of valuing residential transitional properties is to remove the influence of location and development from the value.



Additional Rules for CUV, cont.
O.C.G.A. § 48-5-7.4(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**.

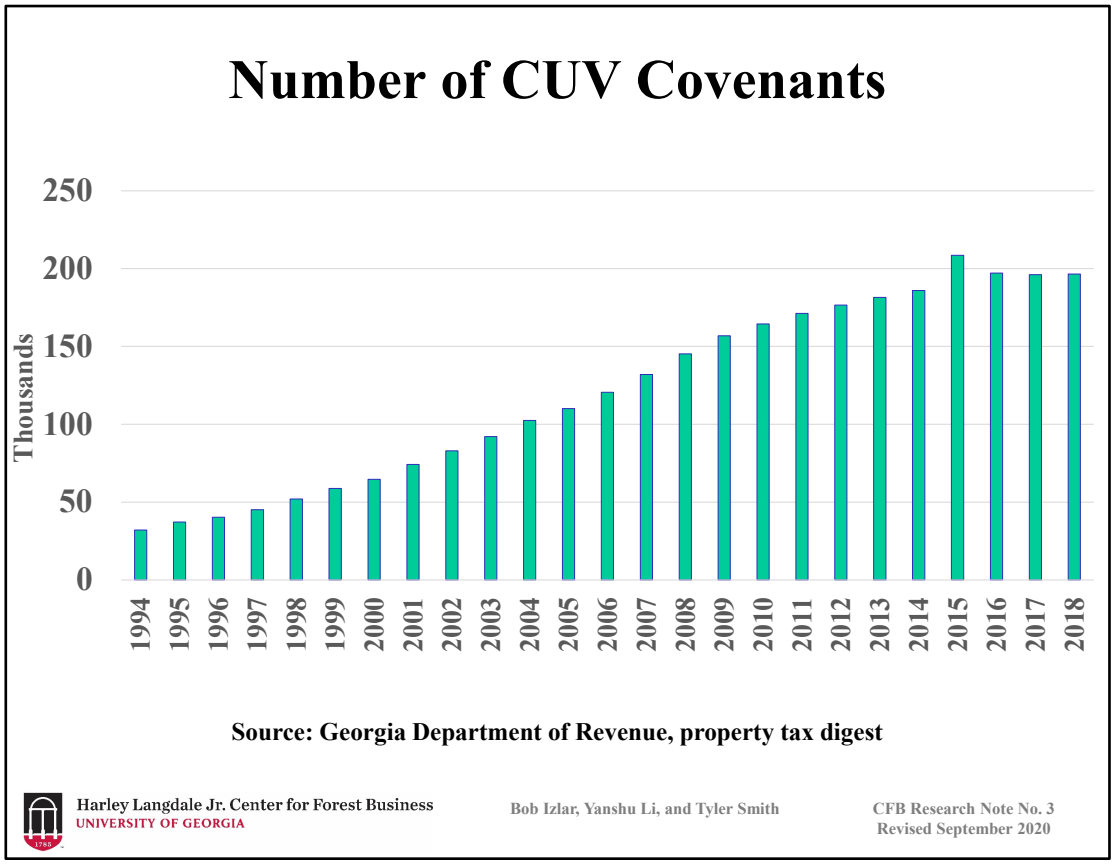


Conservation Use Tax Saved by Year

Considering Conservation Use fiscal impact, the above graph illustrates the trend of an overall increasing amount of property taxes saved by holders of conservation use covenants.

The total annual tax dollars saved has increased from $8.9 million in 1992 to $268.2 million in 2018. The Conservation Use Valuation tax savings equals 2.11% of the $12.7 billion in property taxes collected in the state in 2018.

Data source: Georgia DOR (https://dor.georgia.gov/property-tax-administration-annual-report).



Number of CUV Covenants

The number of parcels in this program has risen from approximately 16,000 in 1992 to 196,551 in 2018 (Georgia Department of Revenue, 2020).

Data source: Georgia DOR (https://dor.georgia.gov/property-tax-administration-annual-report).

<u>Example:</u> Pulaski County. Farm with 90 acres of forest land and 110 acres of agricultural land

1. Consider: FMV, Ag. Pref., CUV
2. Check your County Property Record Card
3. Examine your *ad valorem* tax notice.

FMV & Ag. Pref. Tax Comparisons for Expensive Farmland – How Much Can be Saved?

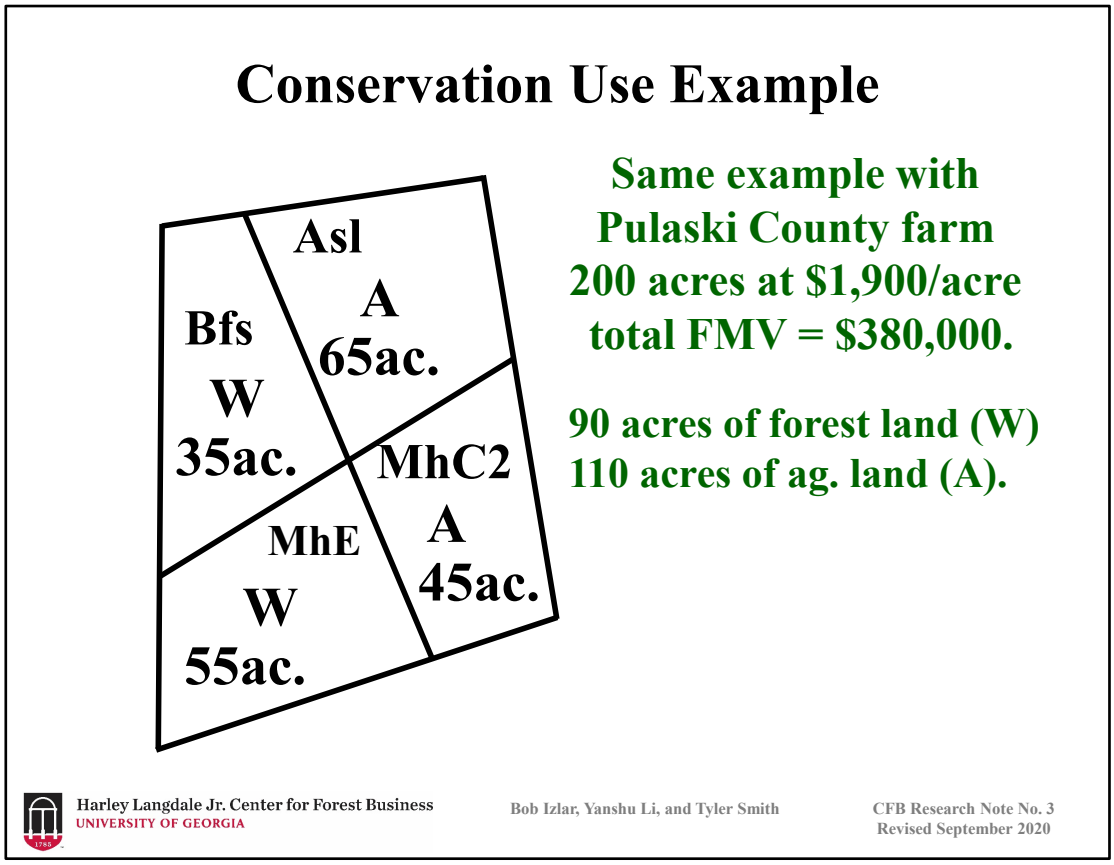
Pulaski Co. 200-Acre Farm, FMV = $1,900 per Acre					
Type Tax	FMV	.75 = Ag. Pref. Assessed Value	.40 = Assessed Value	County Millage Rate	Property Tax
FMV	$380,000	N/A	$152,000	.02432	$3,696.64
Ag. Pref.	$380,000	$285,000	$114,000	.02432	$2,772.48
Ag. Pref. Tax Savings over FMV = 25% =					$924.16

25% of $3,696

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



CUV Example

A check of the status of Soil Surveys for Georgia map shows that Pulaski County has a modern published soil survey (1966 or newer) (see next slide). Next, locate the tract of land on the published soil survey map and the soil types (symbols) and acres for each type are noted. See the attached map tracing with this example above. The acres for each soil type can be estimated by using a dot-grid template. The published soil survey maps and dot-grid templates are available either at the Natural Resource and Conservation Service or County Tax Assessor office. The soil types (symbols) are cross-matched with the list of soil types and Dept. of Revenue productivity codes (1-9, with 1 being the most productive and 9 being the least productive) for agricultural land (A) and forest land (W). The list of soil types cross-matched with productivity codes is available in the County Tax Assessor's Office. See the following sample page of soil types and productivity codes. The Pulaski County Conservation Use Values used in this example are from the DOR 2000 table of values in District 4.

Georgia Major Land Regions

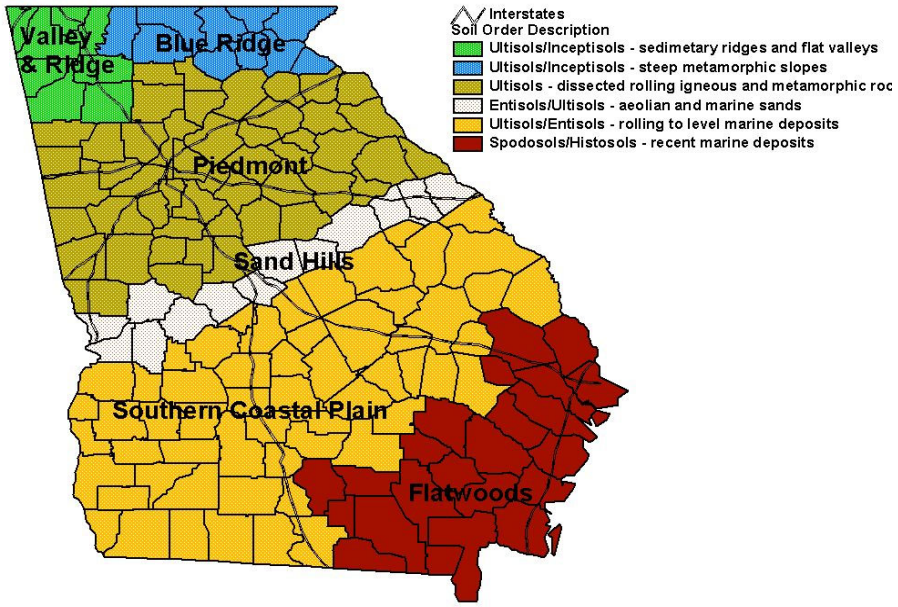
- **Atlantic Coastal Flatwoods** – poorly drained marine soil, can be favorable for vegetable, tobacco, corn, and soybean production
- **Southern Coastal Plain** – diverse soils with deep loamy and sandy layers, high acidity, respond well to management practices such as fertilization, the Georgia state soil, Tifton, comprises this region
- **Sand Hills** – narrow belt of deep sandy soils, infertile due to a low water-holding capacity, mostly scrub and pine forest, not much good for crops
- **Southern Piedmont** – very clayey soils with high acidity and low nitrogen, high erosion rate due to sloping topography, mostly woodland, some row cropping has been effective
- **Southern Appalachian (Valley and Ridge)** – Well drained, highly acidic soils, hilly steep ridges with broad valleys, good agriculture in valleys if fertilized correctly

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Georgia Region and Soil Order Map



Source: Natural Resource Conservation Service

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Example page of NRCS soil type and Georgia DOR Conservation Use productivity class cross-reference (A=Agricultural Land, W=Woodland)

Symbol	Name	A	W	Description
Brs	Bladen	8	8	Bladen soil & swamp
BsE	Bodine	8	7	Bodine very stony silt loam, 10–25% slopes
BsF	Bodine	9	8	Bodine very stony silt loam, 25–60% slopes
BuB2	Binnsville	8	8	Binnsville clay, 2–8% slopes
BvF	Burton	9	8	Burton loam, 15–50% slopes

Pulaski County Example (cont.)

Soil Type	DOR Classification	Acreage
Asl	A4	65
Bfs	W5	35
MhC2	A5	45
MhE	W6	55
Total		200

Pulaski County Example (cont.)

Soil	Acres	Code	CUV /ac	Total	Ratio	Mills	Tax
Asl	65	A4	$490	$31,850	.4	.02432	$309.83
Bfs	35	W5	$342	$11,970	.4	.02432	$116.44
MhC2	45	A5	$431	$19,395	.4	.02432	$188.67
MhE	55	W6	$319	$17,545	.4	.02432	$170.67
Total	**200**			**80,760**			**$785.61**

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Pulaski County Example (cont.)

Method	Tax	Savings Over FMV	% Saved
FMV	$3,696.64	0	0
Ag. Pref.	$2,772.48	$924.16	25%
CUV	$785.61	$2,911.03	79%

Big Picture Overview of CUV Program

- **Program has growing impact and use**
  - 196,5511 covenants, 15.0 million acres in 2018
  - $268.2 million in taxpayer benefits in 2018
  - Initially popular in North Georgia, now the whole state
- **Legislative intent of environmental benefits and property tax relief**
- **Fiscal impacts are of some concern but appear to be minor and/or isolated**

CUV Summary and Discussions

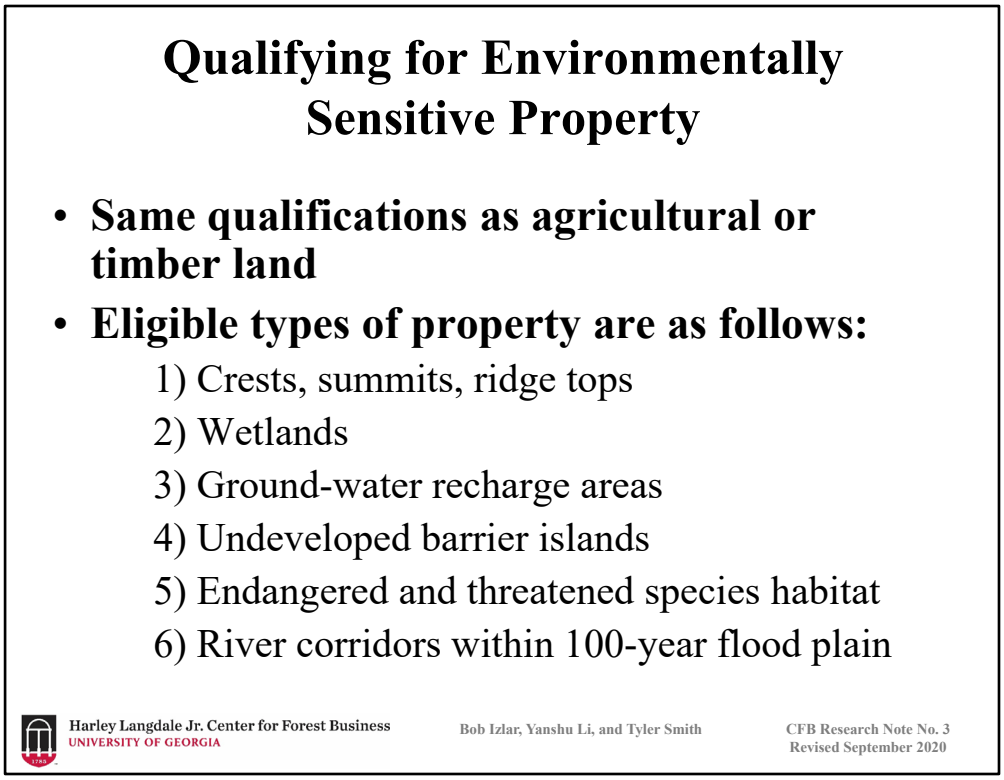
- Small acreage covenants are minor portion of total CUV covenants
- CUV tax savings are small part of the total tax collected (2.11% in 2018)
- Rapid growth in total property taxes collected through 2009, average 8%/year pushed up taxpayers' demand for tax relief
- CUV law relatively open to applicants through language of including subsistence farming and commercial production of agricultural products or timber
- Where to put the limited resources of tax assessor to collect the most taxes, fairly; i.e., residential, commercial, industrial, vehicle, utility, agriculture?

Environmentally Sensitive Property and Residential Transitional Property

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



ENVIRONMENTALLY SENSITIVE COVENANT
O.C.G.A. § 48-5-7.4(a)(2)

(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;

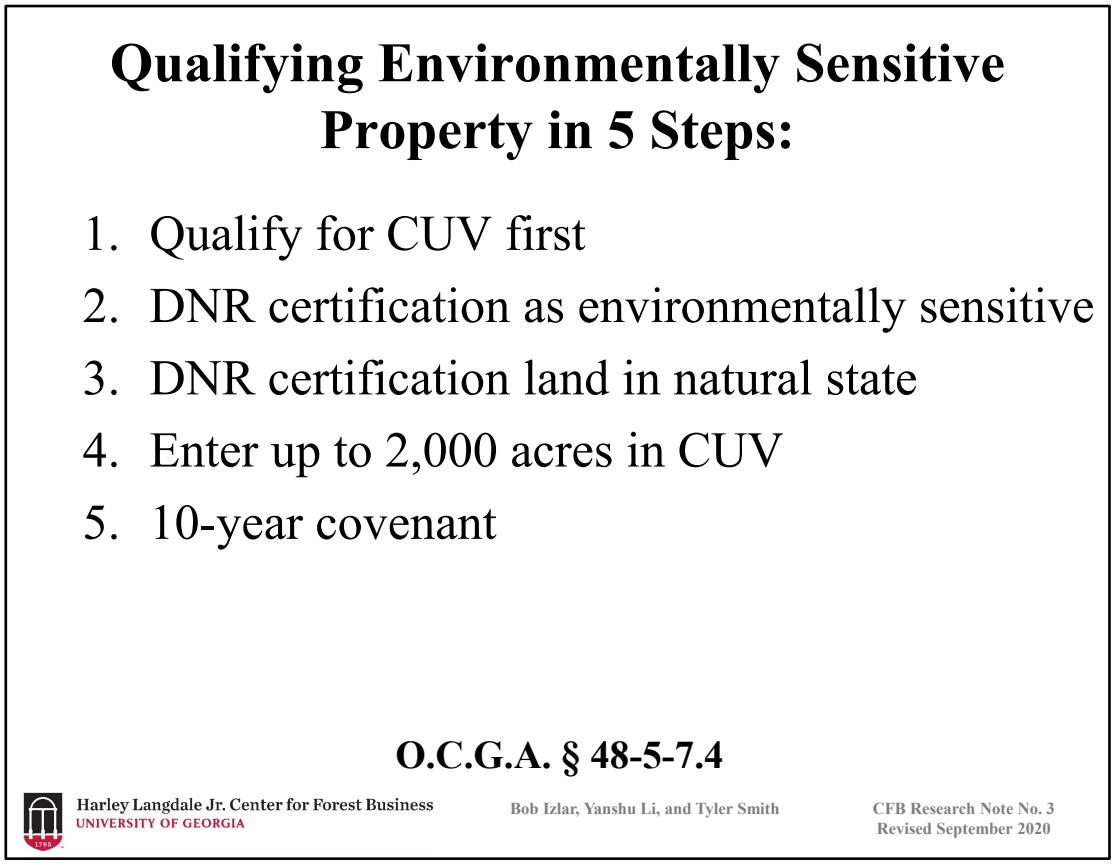
(C) Significant ground-water recharge areas as identified on maps or data compiled by the Department of Natural Resources;

(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.

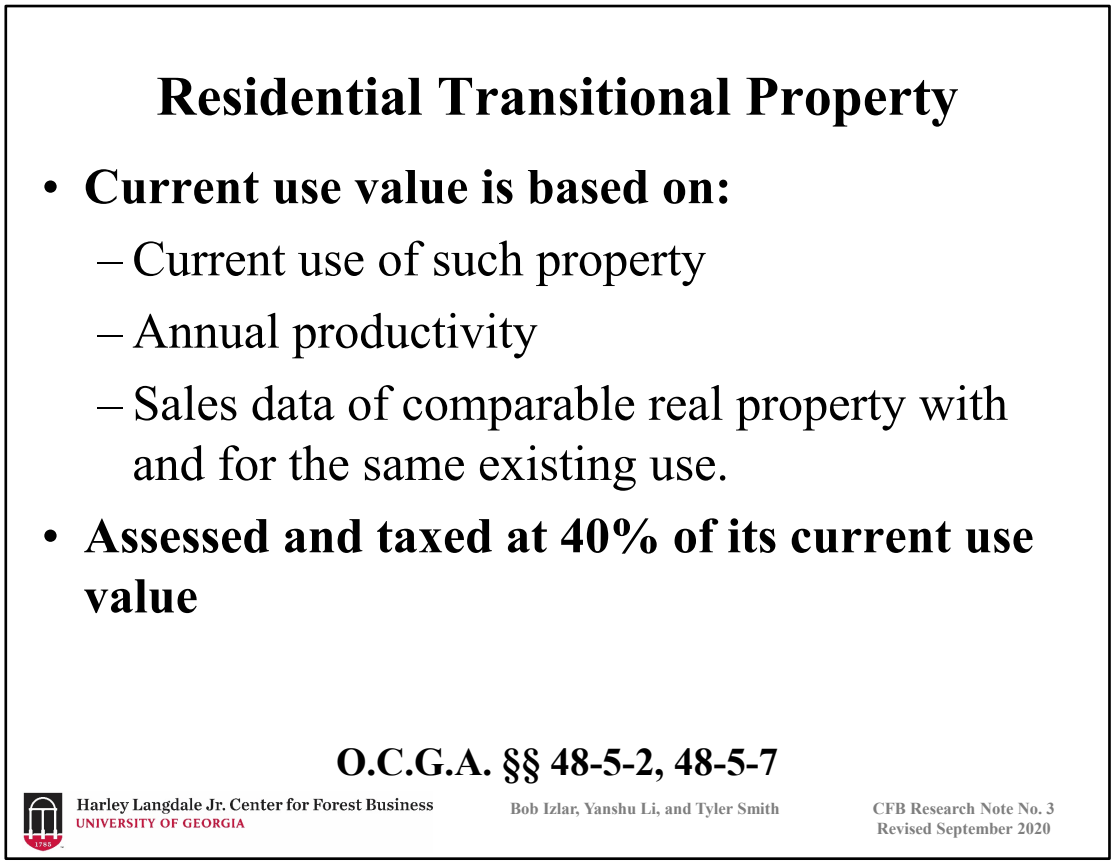


Environmentally Sensitive Property

Georgia law provides property tax incentives to qualified landowners to keep **environmentally sensitive land** in its natural condition for 10 years. Incentives include a property tax assessment based on the land's existing or current use (conservation use assessment). Normally, assessment is based on the highest and best use. Environmentally sensitive provisions are similar to those available for agricultural and forest land under conservation use assessment, but the qualification procedures are different.

You must meet five conditions to qualify for a current use assessment for environmentally sensitive land. These conditions are:

1. **The landowner must qualify** to participate in the conservation use program;
2. **The Georgia Department of Natural Resources (DNR)** must certify that the land is environmentally sensitive as defined by HB 283. Lands that may qualify are steep mountain slopes, wetlands, flood plains, river corridors, habitats containing endangered species, significant ground water recharge areas and undeveloped barrier islands;
3. **The DNR** must also certify that the environmentally sensitive land be in its natural condition;
4. **Each landowner can place up to 2,000 acres** of land in the current use assessment program; and,
5. **The landowner must enter a legally binding agreement** with the local taxing authority to maintain the land in its natural condition. This agreement remains in effect for 10 years.



RESIDENTIAL TRANSITIONAL PROPERTY

O.C.G.A. § 48-5-2

"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:** The current use of such property; Annual productivity; and, Sales data of comparable real property with and for the same existing use.

O.C.G.A. § 48-5-7

(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.

Qualifying Residential Transitional Property
O.C.G.A. § **48-5-7.4**

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.

Qualifying Residential Transitional Property (cont.)

- Must maintain property in qualifying use for 10 years
- May enter into a renewal contract in the 9th year of a covenant period without a lapse
- Part of CUV property can be transferred if several conditions are met

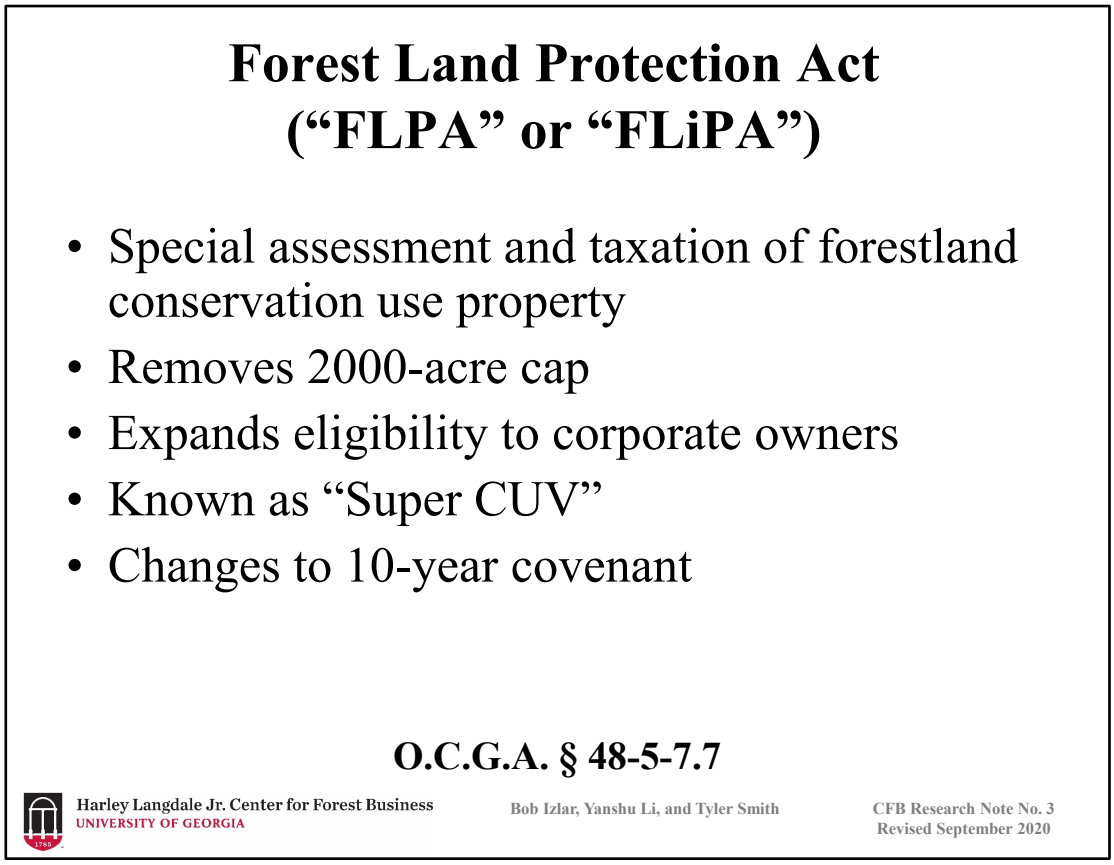
O.C.G.A. § 48-5-7.4

Forest Land Protection Act

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

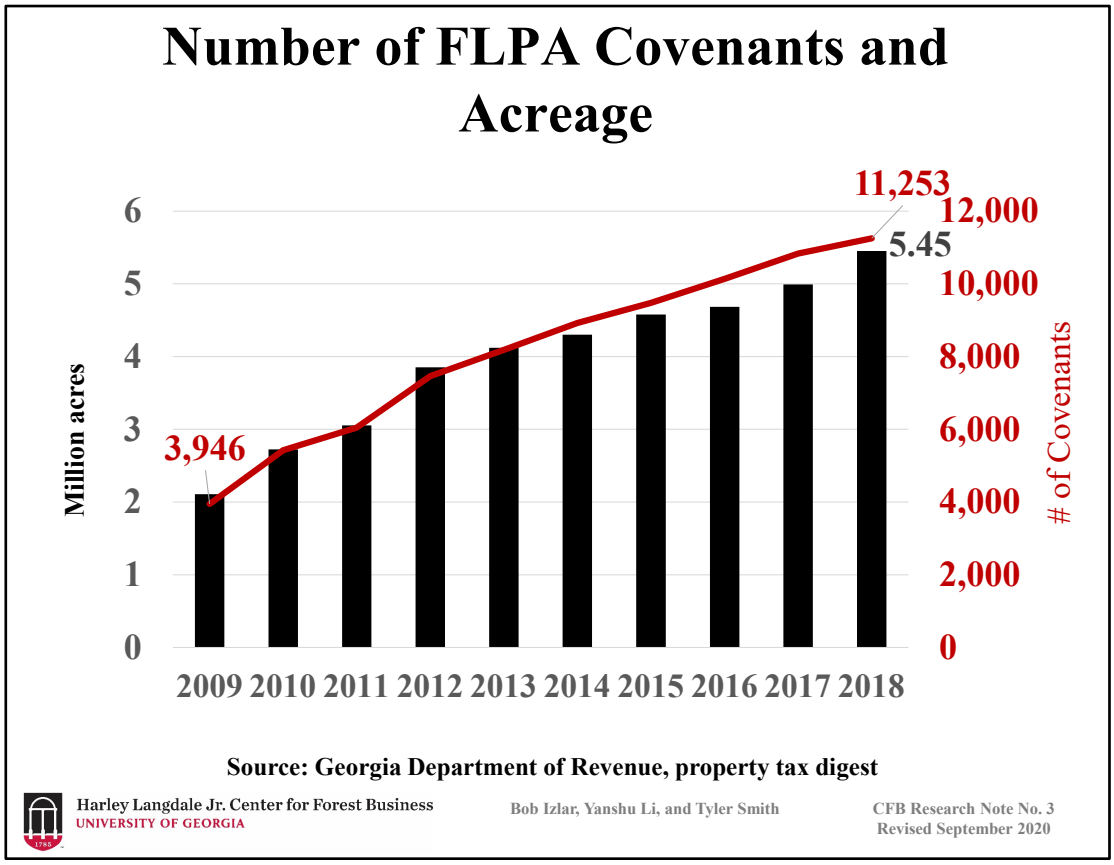


FOREST LAND PROTECTION ACT

Following adoption of the conservation use valuation assessment method in 1990 and its subsequent enabling acts and DOR regulations for small landowners, it became increasingly clear that large landowners, both private and corporate, needed similar tax relief. Many publicly held, vertically integrated forest products companies left the state beginning with Weyerhaeuser's 300,000+ acres sale of all timberlands in 2005. By January 1, 2008, there were no vertically integrated, publicly held forest products companies who owned forestland in Georgia. They **voted with their feet**. The remaining very large landowners faced similar onerous tax burdens. However, many were long-time family-held entities without the option of selling and going to tax favorable surrounding states like Alabama or Florida.

Members of the General Assembly, led by Ways and Means Chairman Representative Richard Royal, became greatly alarmed at the loss of companies and the jobs they brought. The Georgia Forestry Association led a very strong coalition of concerned conservation organizations to support Rep. Royal in his efforts to bring much needed *ad valorem* tax relief to Georgia's large private forest owners. The University of Georgia Center for Forest Business provided a detailed economic analysis of the sought-after tax relief and that became the Legislative Fiscal Note on a constitutional amendment and concurrent enabling legislation championed by Rep. Royal in 2008.

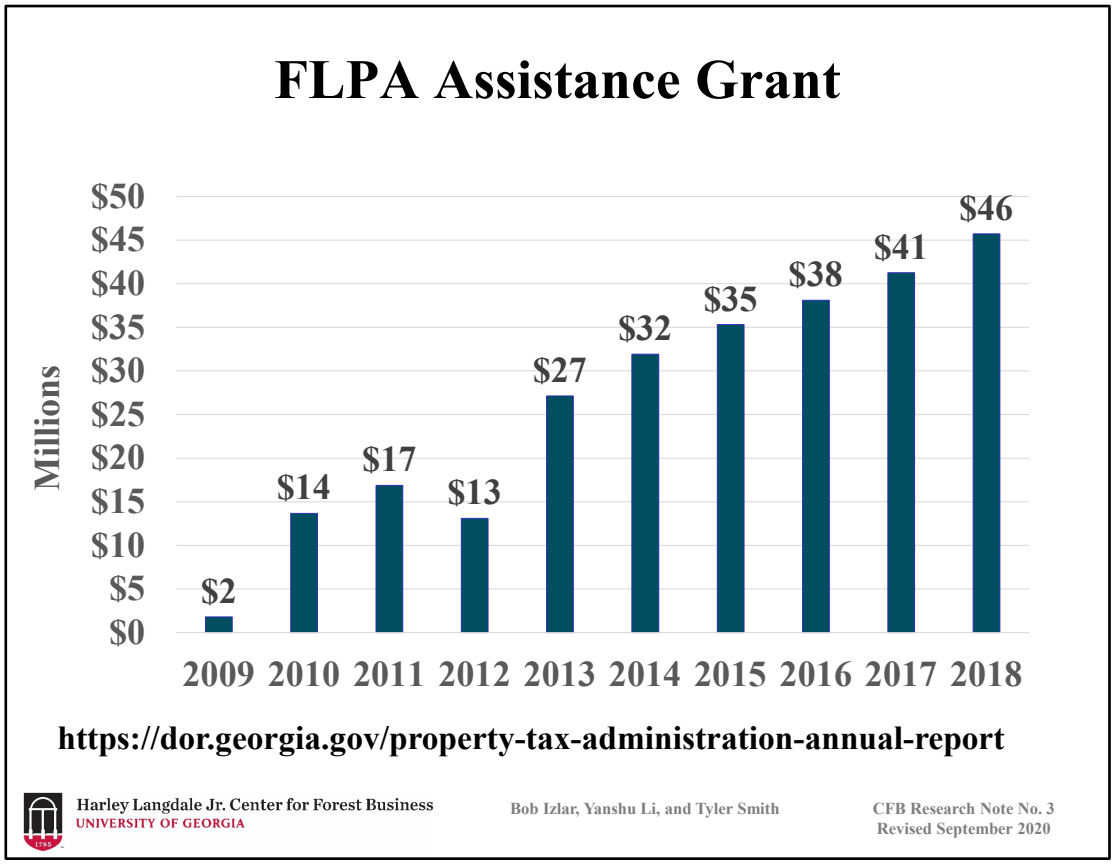
The proposed constitutional amendment sailed through the Georgia General Assembly with only one dissenting vote (a very rare accomplishment indeed). The voters of Georgia overwhelmingly approved the constitutional amendment authorizing the Forest Land Protection Act by the widest majority ever for a constitutional amendment—68% in favor. Following voter approval, the Forest Land Protection Act (FLPA) became law in 2009. It is also known as "Super CUV," because it expands eligibility for CUV, removes the acreage cap of 2,000 acres, and institutes a 15-year covenant option. In 2018, the Georgia General Assembly passed House Resolution 51, a constitutional amendment, and its enabling legislation, House Bill 85. The amendment was included as a referendum on the November 2018 ballot and was approved by voters with 62% in favor. The amendment reduced the FLPA covenant length to 10 years.



FLPA Program Enrollment

Since the implementation of FLPA, the number of parcels in this program has risen from approximately 4,000 in 2009 to about 11,253 in 2018 (Georgia Department of Revenue, 2020). Total acreage of timberland enrolled in the FLPA program has increased from 2.1 million acres in 2009 to more than 5.45 million acres in 2018.

To learn more, go to https://dor.georgia.gov/property-tax-administration-annual-report



FLPA Assistance Grants

The FLPA grants have increased from about $2 million in 2009 to $46 million in 2018. Due to the compensation from the FLPA grants, the net tax shift to local taxing units was moderate statewide. However, the fiscal impacts varied greatly by county. A review of the FLPA assistance grants was conducted at the request of the House Appropriations Committee in 2013. The review found that the assistance grants were not reflective of the revenue lost by the taxing authorities. HR 51 was introduced to address the issue by revising the calculation formula of the FLPA assistance grants.

To learn more, go to https://dor.georgia.gov/property-tax-administration-annual-report

Applying for FLPA

- File by last day for *ad valorem* returns
- File in *each* county in which the property is located
- Can apply in conjunction with or in lieu of appeal of any reassessment
- *Any* change in ownership, reapply
- Assessor files covenant w/clerk of court
- If application is denied, can appeal
- Get FMV notice yearly

O.C.G.A. § 48-5-7.7(j)(1), (2)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5.7.7(j)

(1) For each taxable year beginning on or after January 1, 2010, 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 returns in each county in which the property is located for the tax year for which such forest land conservation 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 forest land conservation use assessment may be filed in conjunction with or in lieu of an appeal of the reassessment. 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.

FLPA – Enrollment Requirements

- 2018 – prior: > 200-acre contiguous
- 2019 – future: forestland ≥200 acres in aggregate statewide, and ≥100 acres in any county
  - Partial ownership transfer may permit less than 200 acres
- Owned by an individual or individuals or by any entity registered to do business in Georgia
- Residence value excluded
- <200 subsequently acquired **contiguous** acres can be added to the original covenant

O.C.G.A. § 48-5-7.7(b)(2), (i)(1)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5-7.7(b)

(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:

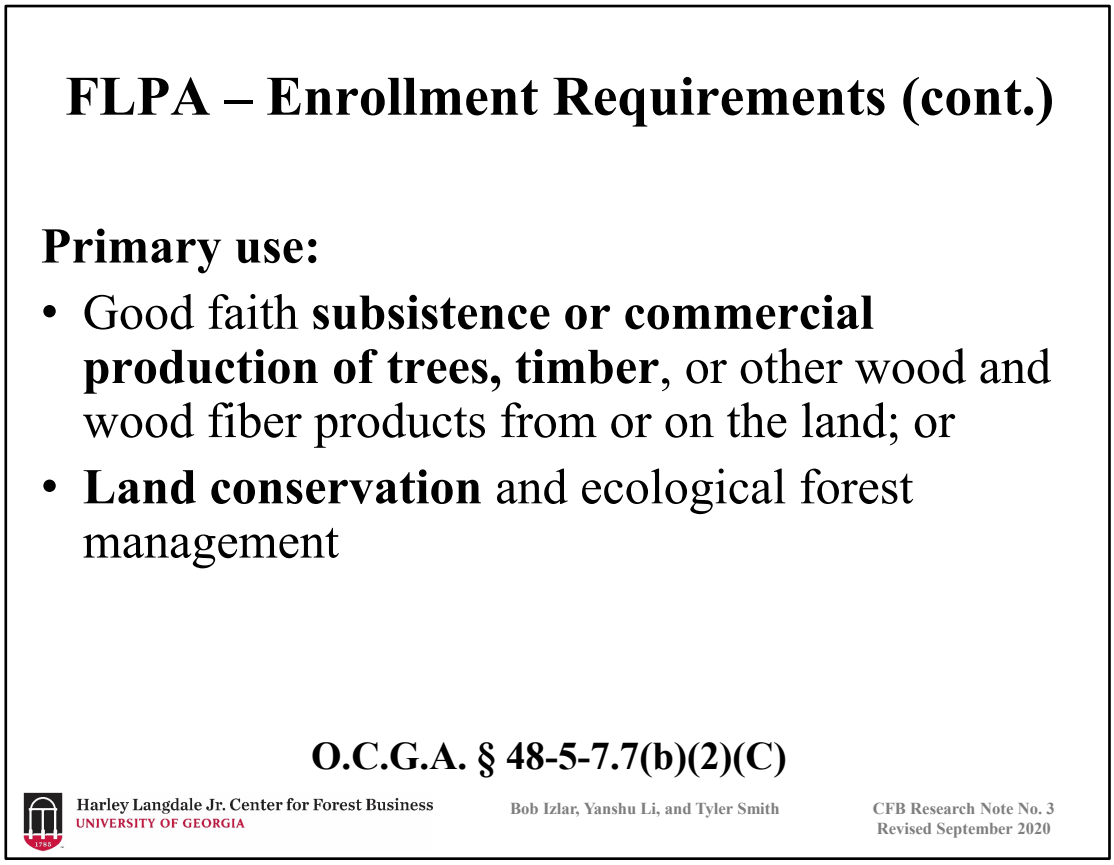
(A) Such property must be owned by an individual or individuals or by any entity registered to do business in this state;

(B) Such property excludes the entire value of any residence located on the property;

(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.

O.C.G.A. § 48-5-7.7(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.



O.C.G.A. § 48-5-7.7(b)(2)(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.

FLPA – Enrollment Requirements (cont.)

Allowable secondary uses:

- Management of wildlife habitat
- Carbon sequestration
- Mitigation and conservation banking
- Production of ecosystem products and services

O.C.G.A. § 48-5-7.7(b)(2)(C)

O.C.G.A. § 48-5-7.7(b)(2)(C) (See Page 106)

FLPA – Enrollment Requirements (cont.)

May include:

- Land certified as environmental sensitive property by DNR; or
- Forest managed under a recognized sustainable forestry certification program (e.g., SFI, FSC, ATFS, or an equivalent program approved by GFC)

O.C.G.A. § 48-5-7.7(b)(2)(C)

FLPA – Additional Rules

When **one-half or more** of a single tract is used for qualifying purposes, then the entire tract should be qualified, *unless other type of business is operated on the other portion of the tract*

O.C.G.A. § 48-5-7.7(c)(2)

O.C.G.A. § 48-5-7.7(c)(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.

FLPA – Additional Rules (cont.)

The following uses shall not constitute other type of business:

- Hunting lease
- Charging of admission for fishing
- Production of pine straw or native grass seed
- Granting of easement for ingress and egress*
- The qualifying secondary uses

O.C.G.A. § 48-5-7.7(c)(2)

O.C.G.A. § **48-5-7.7(c)(2)** (See Page 109)

* Per HB 197 passed in 2013.

FLPA – Additional Rules

Owners are allowed to make a <u>one-time</u> selection to change property:

- from CUV or Ag. Pref. to FLPA; or
- from FLPA to CUV*

O.C.G.A. § 48-5-7.7(f)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5-7.7(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.

* Per HB 197 passed in 2013, owners are allowed a one-time opportunity to change property from CUV or Ag. Preferential to FLPA, or from FLPA to CUV.

FLPA –Breach w/o penalty

- Death of a covenant party
- Property condemned by eminent domain
- Sale of the property to an entity that has the power of eminent domain

O.C.G.A. § 48-5-7.7(p)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Breach without Penalty

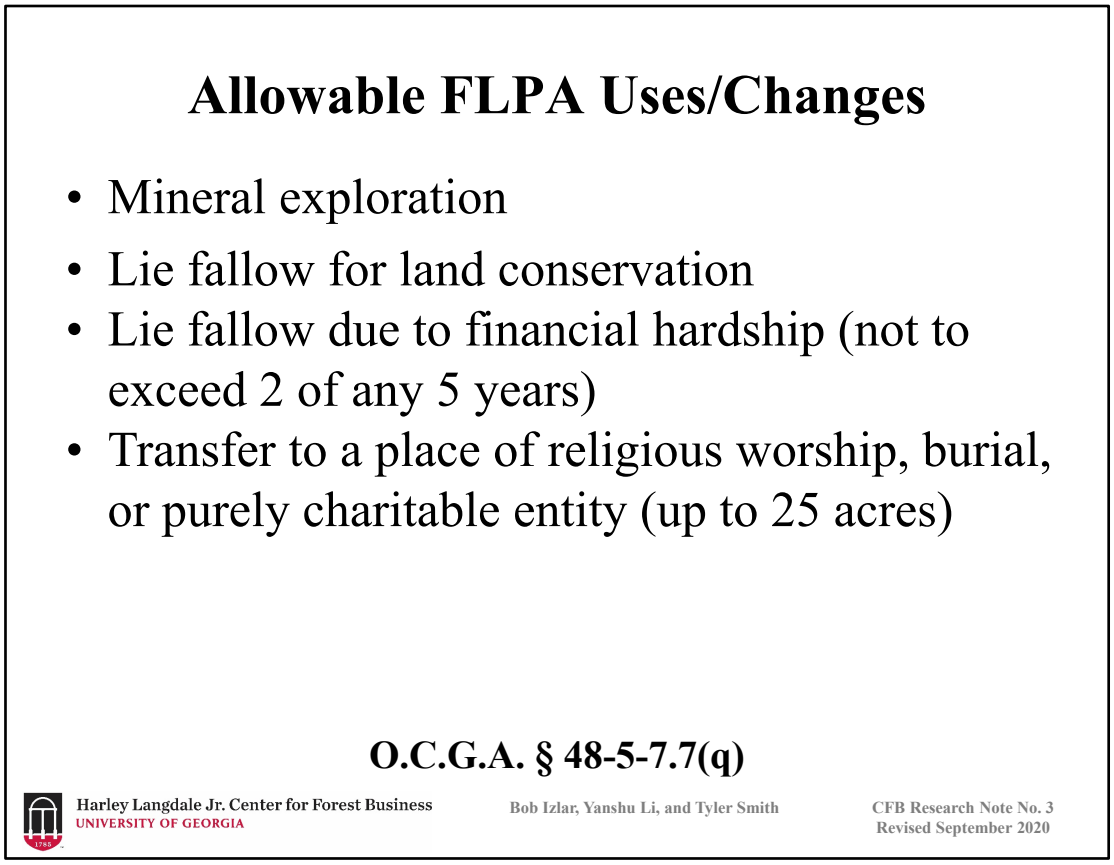
O.C.G.A. § 48-5-7.7(p)

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.



Allowable FLPA Uses/Changes (O.C.G.A. § 48-5-7.7(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.

Allowable FLPA Uses/Changes (cont.)

- Cell tower installation (≤6 acres), lease only (underlying land removed from the original covenant and assessed at FMV)
- Solar power generation (not a breach but subject to penalty)
- Farm labor housing (underlying land removed from the original covenant and assessed at FMV)

O.C.G.A. § 48-5-7.7(q)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA
Bob Izlar, Yanshu Li, and Tyler Smith
CFB Research Note No. 3
Revised September 2020

Additional Allowable FLPA Uses/Changes

O.C.G.A. § 48-5-7.7(q)

(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.

FLPA Breach w/ Reduced Penalty

Penalty: 1-year tax saving recapture, plus interest:

- Foreclosure or transfer in lieu of foreclosure
- Medical disability
- Age 65 or older, renewed, and kept in 3 years
- Age 67 or older when entered for the first time, owned for at least 15 years, and in the covenant for 3 years

O.C.G.A. § 48-5-7.7(r)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5-7.7(r)

In the following cases, 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.

FLPA – Breach due to Partial Sale

- Breach of contract on partially sold* land does not constitute a breach on the full acreage originally enrolled
- Penalty and interest does not apply to the transferring owner if breach occurs due to actions taken by acquiring owner

O.C.G.A. § 48-5-7.7(g) through (i)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA
Bob Izlar, Yanshu Li, and Tyler Smith
CFB Research Note No. 3
Revised September 2020

FLPA Breach (O.C.G.A. § 48-5-7.7)

(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.

FLPA – Breach Penalties

- Twice of total tax savings for each completed and partially complete covenant year*
- Plus interest (1% per month accrues from the date of the breach)
- If a part is breached, the penalty should be adjusted by the percentage
- Penalty paid by party causing the breach

Tax saving = millage rate × (FMV − CUV) × 40%

O.C.G.A. § 48-5-7.7(m)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5-7.7(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.

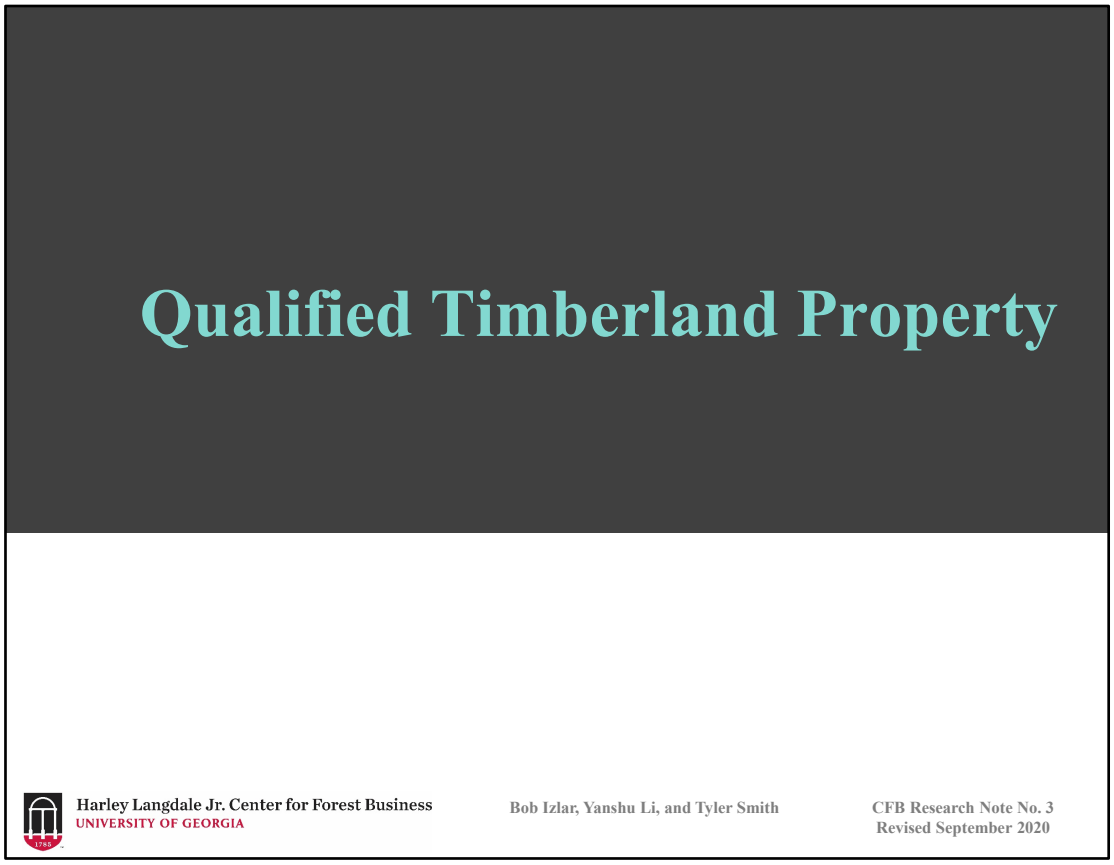
(3) The penalty shall be twice the difference between the total amount of the tax paid pursuant to the conservation use assessment under this Code section and the total amount of taxes which would otherwise have been due under this chapter for each completed or partially completed year of the covenant 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.

* Per HB 197 passed in 2013.

CUV vs FLPA

- Both 10-year covenant now
- CUV has no minimum acreage limit but has upper limit (2000 acres); FLPA has to be more than 200 acres.
- CUV— land and farm building included in the covenant; FLPA — only land included
- FLPA allows partial conveyance and any breach on the partial conveyance tract or the remaining tract does not trigger breach of the whole tract. CUV does.

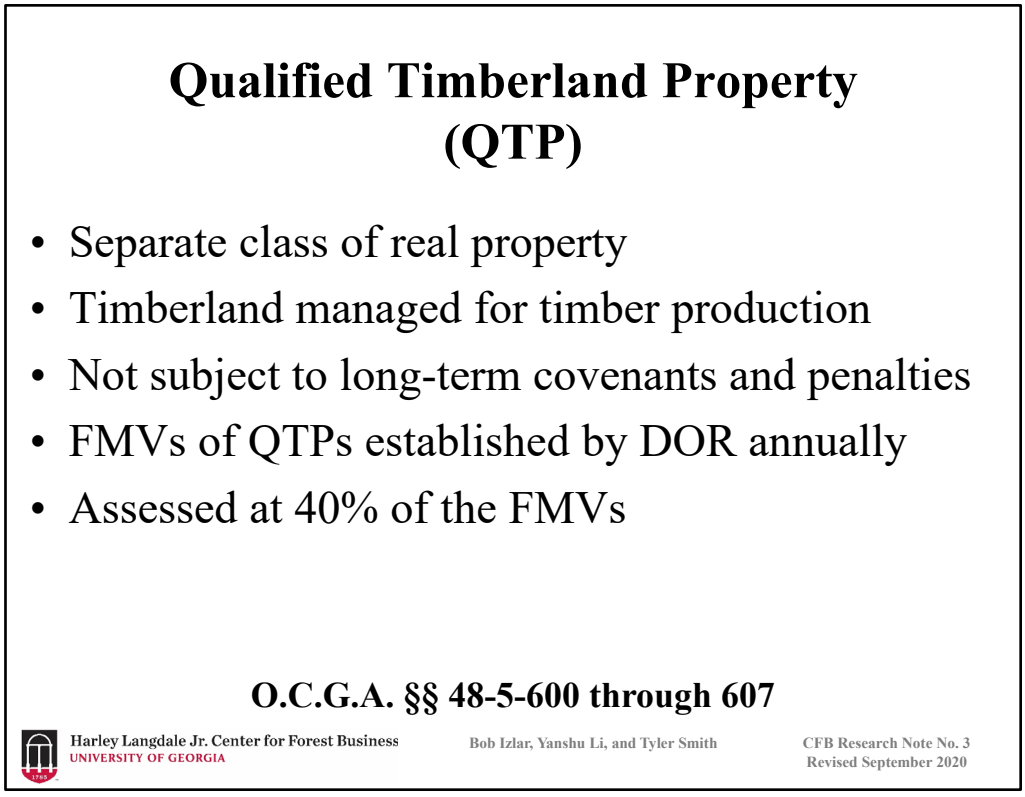


QUALIFIED TIMBERLAND PROPERTY

Preferential property tax programs provide tax relief to private forest landowners and encourage them to keep their lands in trees. These preferential tax incentives have been widely used in the state. There were 18.4 million acres of forestland on the local property tax rolls in Georgia in 2017: about half of them (9.4 million acres) under CUV, 28% (5.2 million acres) under FLPA, and less than 1% (162,000 acres) under Ag. Pref.

However, these programs do not work for every forest landowner. Land enrolled in CUV or Ag. Pref. must be owned by an individual or a family farm entity – corporate ownerships or non-family partnerships do not qualify. Corporate and non-family owners can apply for FLPA, but if the land is less than 200 acres, they can not qualify. Some landowners are concerned about the commitment of signing a 10-year covenant and the penalty for breaches. As a result, about 3.7 million acres of forestland in Georgia are taxed as Rural Woodland not under any one of the property tax incentive programs for forestland in 2017. These landowners pay annual timberland property taxes up to $15.42 per acre on average. These forest lands are also under extreme pressure to be divided into smaller parcels or converted to other uses.

Meanwhile, local county assessors are also under the pressure of conducting proper assessment of rural woodland for property tax purposes. O.C.G.A. § 48-5-7.5 mandates that standing timber shall be assessed for *ad valorem* taxation only once upon its sale or harvest. Therefore, the value of standing timber should be excluded from the assessed value of timberland for property tax purposes. However, timberland properties vary greatly by forest type, stand age, accessibility, terrain, and soil productivity, it remains a challenge for county assessors to separate timber values from timberland values, especially when the sales comparison approach is used. This results in the great variations of assessed values of rural woodland among counties and raises the uniformity issue in timberland taxation.



In 2018, the Georgia General Assembly passed HR 51, a constitutional amendment (Forest Land Conservation and Timberland Properties Amendment), and its enabling legislation, House Bill 85. Following voter approval, the amendment became law in 2019. One of the major components of the legislation is to create a separate class of real property – qualified timberland property (QTP). The Georgia Department of Revenue will establish FMVs for the QTPs and publish the values annually for county assessors to adopt. This legislation change improves uniformity of timberland valuation for *ad valorem* tax purposes in Georgia.

What a QTP Is

- Timberland of at least 50 contiguous acres
- For-profit timber production as primary activity
- Consistent effort of forest management shown
- Application and certification submitted by a qualified owner
- Certified by the DOR commissioner

O.C.G.A. § 48-5-604(a)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5-604

(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.

Who a Qualified Owner Is

- Any individual or entity registered to do business in Georgia
- Engaged in bona fide timber production for commercial uses as the primary purpose
- Registers with the DOR commissioner

O.C.G.A. § 48-5-603

What a QTP Owner Should Do

- Files a timely return and application by Mar. 1 annually
- Certifies that:
  - reasonable attainable economic salability of timber products within a reasonable future time
  - timber production for profit as the primary activity

O.C.G.A. § 48-5-604(a)(4)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

O.C.G.A. § 48-5-604(a)

(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.

QTP Certification and Application

- Application and certification done via the Georgia Tax Center (GTC)
- QTP affidavit required for each parcel
- Documentation required

Ga. Comp. R. & Regs. r. 560-11-16-.03

QTP Affidavit

State of Georgia

David M. Curry
Commissioner

Department of Revenue
Local Government Services Division
4125 Welcome All Road
Atlanta, Georgia 30349
Telephone (404) 724-7015
Fax (404) 724-7011

Ellen Mills
Director

Qualified Timberland Property Affidavit

(Note: Applicant must submit Affidavit for Each Parcel Sought)

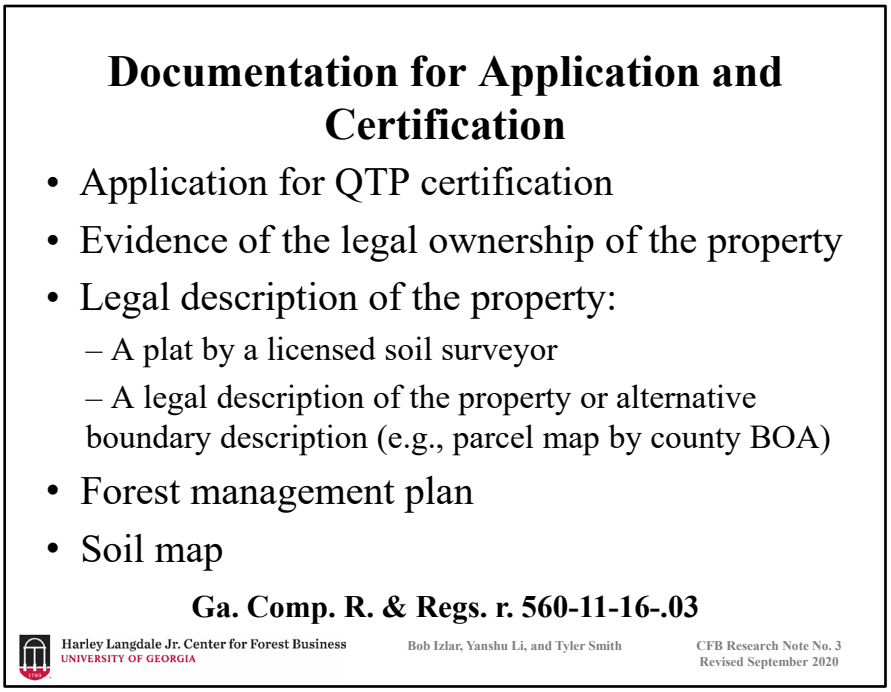
Owner (Individual or Entity): _____

Parcel Number: _____

Qualifications:

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

1. Is the individual or entity registered to do business in this state and engaged in the bona fide production of trees for the primary purpose of producing timber for commercial uses? Yes ☐ No ☐ If Yes, Federal Employer Identification Number (FEIN): _____
2. Does such qualified owner attest through this affidavit (in lieu of submitting a Forest Management Plan) that the property has as its primary use the Bona Fide Production of Trees for commercial uses? Yes ☐ No ☐
3. Has such qualified owner performed best practices consistent with those objectives relating to a



Ga. Comp. R. & Regs. r. 560-11-16-.03 APPLICATIONS

(1) All applications for certification as a Qualified Owner and for QTP certification shall be submitted electronically through the Georgia Tax Center (GTC). No other filing method shall be permitted.

(2) Applications for certification as a Qualified Owner and for QTP certification must be filed annually with the Revenue Commissioner between January 1 and March 1 of the applicable tax year. No extension to file shall be granted by the Department.

(3) The applicant shall submit the following documentation to the Revenue Commissioner through GTC:

1. Application for QTP certification;
2. Evidence of the legal ownership of the property;
3. A legal description of the property for which QTP certification is sought, which must include parcel number and:
   - A plat of the property prepared by a licensed land surveyor, showing the location and measured area of the parcel;
   - A written legal description of the property delineating the metes and bounds and measured area; or
   - Such other alternative property boundary description as mutually agreed upon by the taxpayer and the Revenue Commissioner that may accurately represent the parcel which is the subject of the QTP application. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician and signed by the county BOA and taxpayer; and
4. Evidence that the property has as its primary use the Bona Fide Production of Trees for commercial uses, which must include a Forest Management Plan. If it appears that the Forest Management Plan is not being followed, the Revenue Commissioner may reject it, require an updated plan, or require additional evidence that the plan is being followed.

(4) The applicant may also submit a soil map delineating the soil types on the property.

DOR Role and Responsibilities

- Adopt and maintain a QTP appraisal manual
- Publish the manual by Jun. 1 every year
- Produce a table of values for QTP appraisals
- Certify or decertify a QTP property
- Send assessment notice to QTP owners
- File certifications of QTPs with county tax officials via GTC

QTP Appraisal Methodology

- **Combination of the market and income approach**

  – Market approach: based on real property sale data with adjustment

  – Income approach: present value of perpetual net income from timber production

- **Table of per acre values by ecoregion and soil productivity**
- **No less than 175% of the FLPA value (property level)**

2020 QTP Table of Values

Ecoregion	Soil productivity rating								
	1	2	3	4	5	6	7	8	9
1	1,057	913	791	717	653	601	506	465	425
2	890	762	651	580	519	475	400	353	339
3	870	765	672	606	545	521	468	436	400
4	975	872	788	731	666	618	557	528	486

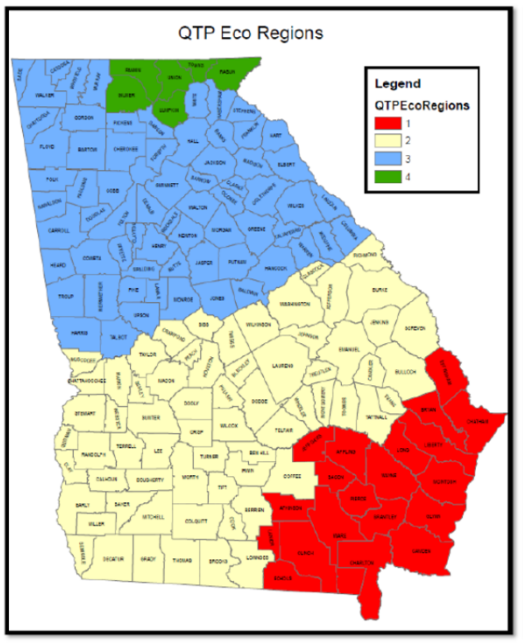
Source: Qualified Timberland Property Appraisal Manual (Proposed), Georgia Department of Revenue , March 2020.

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

QTP Ecoregions



1. Lower Coastal Plain
2. Upper Coastal Plain
3. Piedmont and Ridge-Valley
4. Blue Ridge Mountains

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Example

- A 200-acre QTP in Ware County (QTP Ecoregion 1)
- 100 acres with soil productivity #2, 100 acres with soil productivity #6

100 ac	**×**	**$913/ac**	**=**	**$91,300**
100 ac	**×**	**$601/ac**	**=**	**$60,100**
		Total value	**=**	**$151,400**

Example (cont.)

- Ware county (CUVA region #9)
- FLPA use value:

100 ac	**×**	**$790/ac**	**=**	**$79,000**
100 ac	**×**	**$477/ac**	**=**	**$47,700**
Total value			**=**	**$126,700**

- 175% FLPA use value:

  $126,700 × 175%= $221,725

- Final QTP value: **$221,725**

  (the greater of $221,725 or $151,400)

QTP Appeal

- **A taxpayer or county BOA may appeal the commissioner's decisions related to:**
  - Status as a qualified owner
  - Certification or noncertification of a QTP
  - Appraised value of a QTP
    - → soil classification
    - → application of the table values
    - → calculation of the minimum values
- **Appeal to the Georgia Tax Tribunal within 30 days of the decision**

O.C.G.A. § 48-5-605

O.C.G.A. § 48-5-605

(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.

QTP Appeal (cont.)

- A taxpayer, county BOA, or taxpayer association may appeal the decisions related to the complete parameters for the QTP appraisal
- Such appeal should be made to the Georgia Tax Tribunal within 60 days of the manual effective date

Ga. Comp. R. & Regs. r. 560-11-16-.04 Appeals

(1) A taxpayer or county board of tax assessors may appeal the Revenue Commissioner's decisions related to such taxpayer's status as a Qualified Owner; the certification or non-certification of such taxpayer's timberland as QTP; or the appraised value of such taxpayer's QTP. 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 Revenue Commissioner's publication of such decision.

(2) If the appraised value is disputed, an appeal may be made contesting the Revenue Commissioner's determination of the soil classification of any part or all of the QTP, as well as with regard to any alleged errors made by the Revenue Commissioner in the application of the table of values or calculation of the minimum threshold of value prescribed in the Constitution.

(3) 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 QTP required by O.C.G.A. Section 48-5-602(d)(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 Revenue Commissioner's publication of such manual.

(4) The county board of tax assessors shall continue to notify the taxpayer of any changes to the fair market value of the property, and such notice shall conform to the relevant provisions of O.C.G.A. Section 48-5-306. A taxpayer or county board of tax assessors desiring to appeal such changes shall do so according to the procedures in O.C.G.A. Section 48-5-605.

Summary of QTP

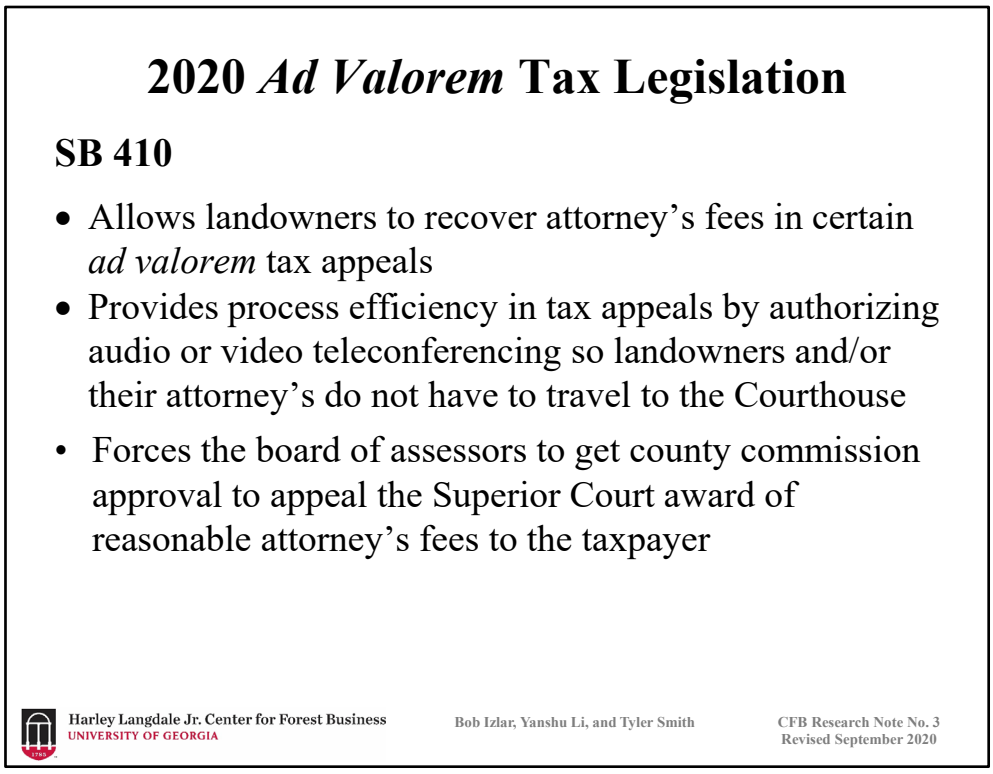
- Improves uniformity of timberland property taxation
- Provides another option for private forest landowners to keep lands in forests
- Provides relief to county assessors on timberland assessment
- Attractive to property owners in areas under development pressure
- Administrative procedures may discourage some landowners

Recent *Ad Valorem* Legislation

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



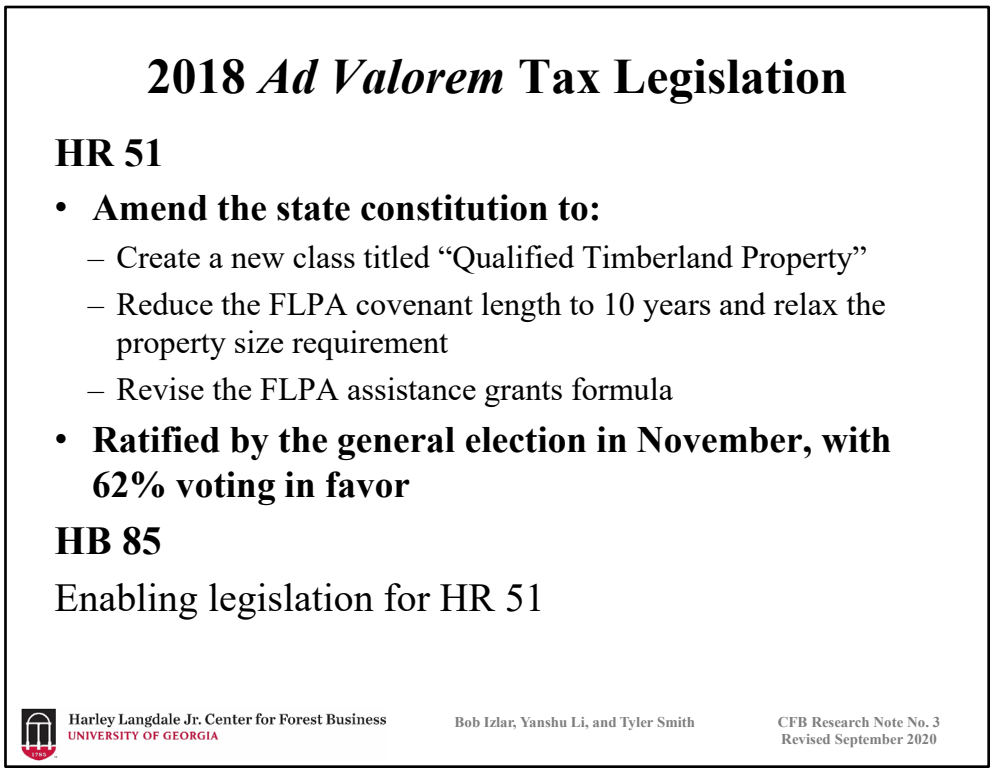
2020 *Ad Valorem* Tax Legislation

SB 410

SB 410 amends O.C.G.A. § 48-5-311(e)(6)(A) by authorizing the appeal administrator, at his or her discretion, to conduct the hearing by audio or video teleconference or "any other remote communication medium." All parties to the tax appeal **must** agree to this alternative method.

This legislation further amends O.C.G.A. § 48-5-11(g)(4)(B)(ii)(III) so that upon appeal to Superior Court by the taxpayer and if the final determination of value is 85% or less of the valuation set by the county, the taxpayer may recover interest, litigation costs and reasonable attorney's fees.

A new Code Section O.C.G.A. § 48-5-11(g)(4)(B)(ii)(IV) provides that if the board of assessors "…appeals to the superior court pursuant to this code section and the final determination of value is 85 percent or less of the valuation set by the board of assessors as to any real property, the taxpayer, in addition to the interest provided for in this Code section (m), [O.C.G.A. § 48-5-11(m)] shall recover costs of litigation and reasonable attorney's fees incurred in the action. Any appeal of an award of attorney's fees by the county shall be specifically approved by the governing authority of the county." This means the board of assessors may not unilaterally decide to appeal.



2018 *Ad Valorem* Tax Legislation
House Resolution 51 (HR 51) and House Bill 85 (HB 85)
HR 51 and HB 85, both sponsored by Representatives Jay Powell, Terry England, Tom McCall, Chuck Williams, and Gerald Greene, were passed in the 2018 session of the Georgia General Assembly and signed by Governor Deal on May 2, 2018. The legislation is intended to create a more uniform valuation of timberland for *ad valorem* taxation purposes. The constitutional amendment was on the ballot on November 6, 2018 as Amendment 3 and approved by voters (62% favorable).

HR 51 amends the state constitution to:

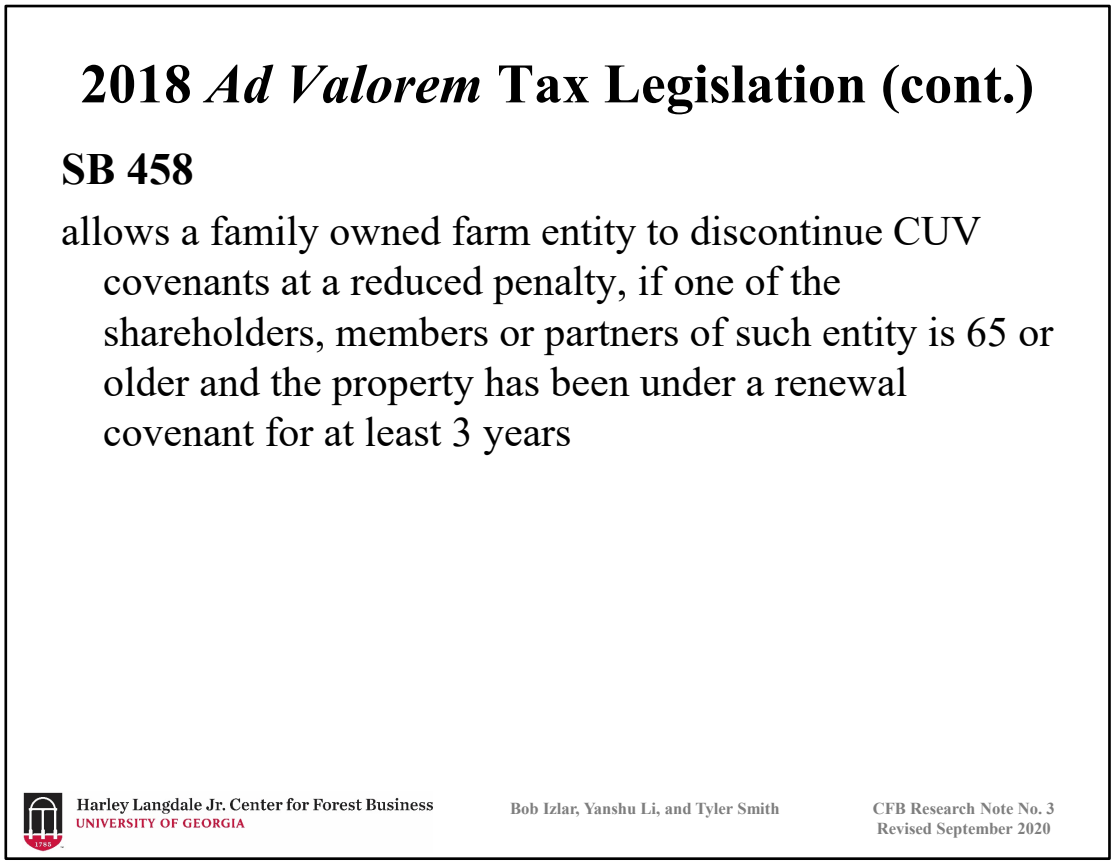
- create a new class of property called "Qualified Timberland Property" (QTP) for *ad valorem* taxation purposes;
- revise provisions regarding the FLPA property;
- revise the methodology for establishing the FMVs of FLPA property in the FLPA assistance grants formula;
- permit increases to assistance grants by general law up to a five-ear period; and
- permit deduction and retention of a portion of the FLPA assistance grants to provide for the costs of establishing the FMVs.

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20172018/HR/51

HB 85 is the enabling legislation for HR 51. The bill has the following major components:

- It amends O.C.G.A. § 48-5-2 by adding a new subparagraph to paragraph (3) to define fair market value of QTP and provides for this value to be determined in accordance with Article 13 of Chapter 5, Title 48 of the O.C.G.A.;
- It revises paragraphs (5) and (6) of O.C.G.A. § 48-5-2 relating to definition of the FLPA FMV;
- It removes the previous wording about 2008 fair market value, appeal settlement, and price index used by local taxing units to adjust the 2008 valuation. The FMV of FLPA property is the FMV as determined in 2016, provided that such value shall change in 2019 and every 3 years thereafter to the FMV of FLPA property as determined in such year.
- It adds two new subsections to O.C.G.A. § 48-5-7 relating to assessment of the FLPA and QTP properties.
- It reduces the FLPA covenant length to 10 years (O.C.G.A. § 48-5-7.7 (d), (v)).
- It revises the 200-acre contiguous requirement for FLPA property. Under the new law, qualifying FLPA property includes forest land of at least 200 acres in aggregate in one or more counties, provided that such forest land is in parcels of at least 100 acres within any given county (O.C.G.A. § 48-5-7.7 (b), (c)).
- It amends the chapter by adding a new article (Article 13) to provide procedures for appraisal and valuation of the QTPs and for appeals of the assessed values of the QTPs (O.C.G.A. § 48-5-600 7.7 (b), (c)).

The legislation became effective January 1, 2019.



2018 *Ad Valorem* Tax Legislation

SB 458

This legislation is intended to broaden qualifications for CUV designation. It amends O.C.G.A. § 48-5-7.4 by revising subsections (a), (b), (j), (k.1), (l), and (q). The bill has the following major components:

- It allows a family owned farm entity to discontinue CUV covenants at a reduced penalty, if one of the shareholders, members or partners of such entity is 65 or older and the property has been under a renewal covenant for at least 3 years;
- The owner of a tract less than 10 acres should not be required by the tax assessor to submit additional records in support of the CUV application or renewal, if the owner provides proof of any expenditure or income from the property for an agricultural or timber use.
- The owner would recover attorneys' fees and expenses from the county if the applicant is successful in court litigation regarding denial of an application for CUV or a breach of CUV requirements if alleged by the board of tax assessors.

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20172018/SB/458

2017 *Ad Valorem* Tax Legislation

HB 238

- **Changes in CUV and FLPA**

Allows part of the covenant property to be used for

  – solar power generation (but subject to penalty)

  – farm labor housing

- **Changes in CUV**

Eligibility extends to "an entity created by consolidation of two or more entities which independently qualify as a family owned farm entity".

O.C.G.A. §§ 48-5-7.4 (a)(1)C(iv), (p)(11) to (12); 48-5-7.7(q)(6), (7)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

2017 *Ad Valorem* Tax Legislation

HB 238

O.C.G.A. § 48-5-7.4(p)

(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.

O.C.G.A. 48-5-7.7 (q)

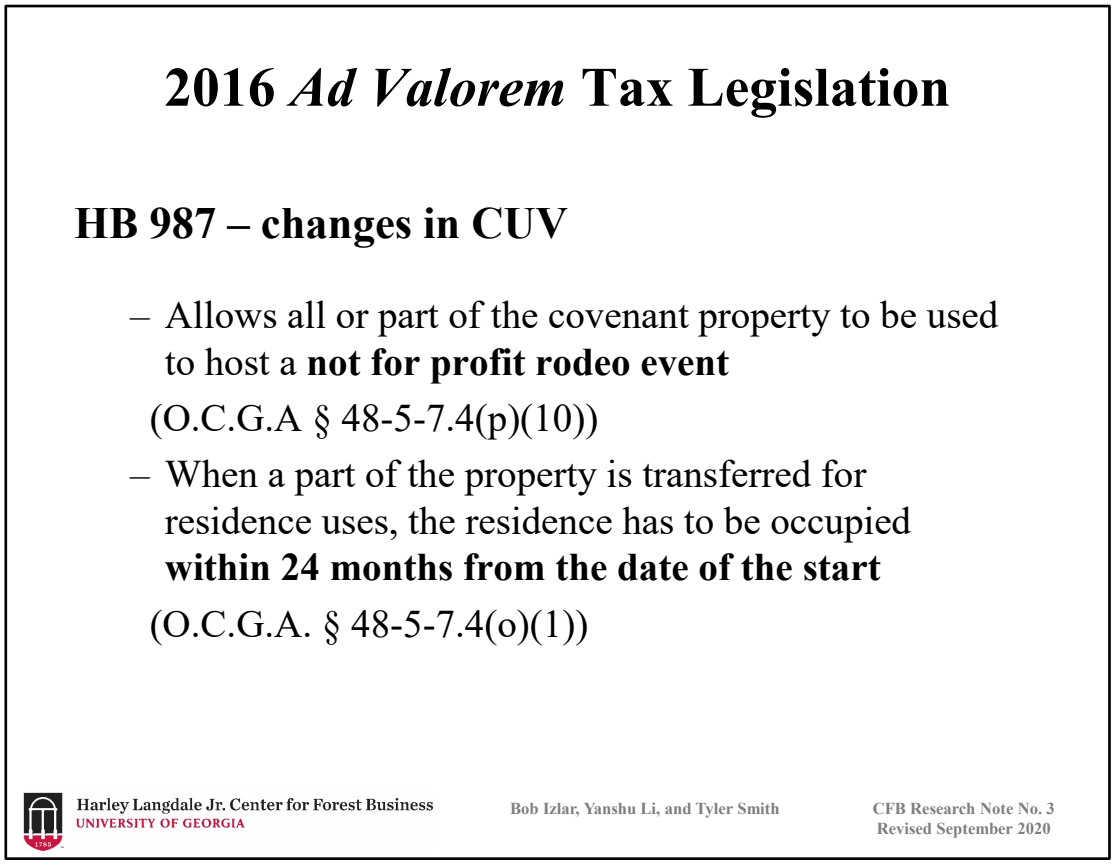
(6)(A) Allowing part of the property subject to the covenant to be used for solar generation of energy and conversion of such energy into heat or electricity, and the sale of the same in accordance with applicable law.

(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.

O.C.G.A. §48-5-7.4 (a)(1)C(iv) …or an entity created by the merger or consolidation of two or more entities which independently qualify as a family owned farm entity…



2016 *Ad Valorem* Tax Legislation

HB 987

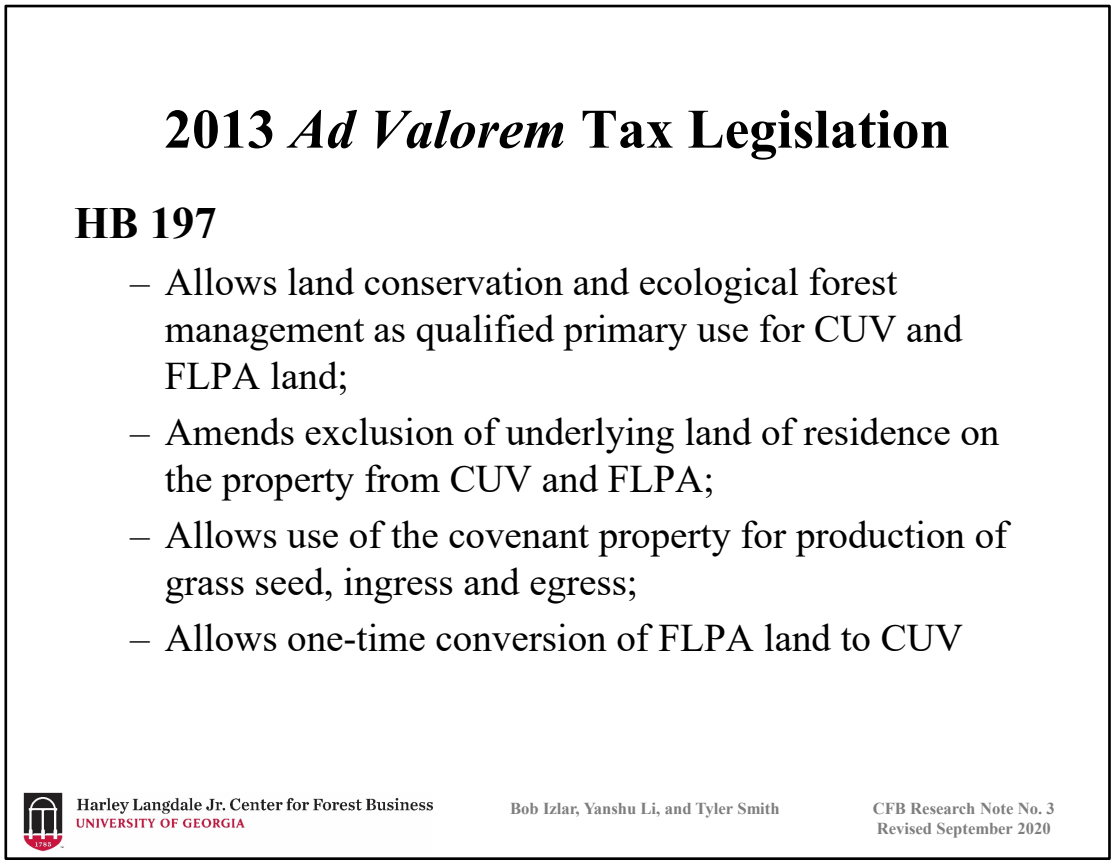
The legislation revised subsection (o) and (p) of O.C.G.A § 48-5-7.4.

O.C.G.A § 48-5-7.4

(o)(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;

(p)(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."

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20152016/HB/987



2013 *Ad Valorem* Tax Legislation

HB 197 amended O.C.G.A. § 48-5-7.7 and O.C.G.A. § 48-5-7.4 to provide for a revision of the requirements for land that is classified as bona fide conservation use property; to provide for changes to requirements for land subject to a forest land conservation use covenant; to provide for a performance review board to be appointed by the revenue commissioner; to change certain criteria relating to current use of conservation use property; to provide for penalties for violations; to provide for valuation of property while an appeal of the assessment is in process; to provide for related matters; to repeal conflicting laws; and for other purposes.

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20132014/HB/197

2013 *Ad Valorem* Tax Legislation (cont.)

HB 197 (for FLPA)

- No breach occurs when the property size dropped below 200 acres due to partial sale until the expiration of existing covenant
- Revised the way to calculate breach penalty (twice tax savings enjoyed so far)

2013 *Ad Valorem* Tax Legislation (cont.)

HB 197

- Eliminates assessors that are not chief appraisers from serving on a DOR Performance Review Board
- Adds a responsibility for the Performance Review Board to check for compliance with the Property Tax Appraisal Manual and report its findings to the DOR Commissioner and the county governing authority
- Authorizes the DOR Commissioner to use the Performance Review Board to determine if a county is complying with the FLPA law and to withhold FLPA Grants if it is determined that the law was knowingly violated

2013 *Ad Valorem* Tax Legislation (cont.)

SB 145 (relating to CUV)

Allows covenant property to be subject to a contract for at least a year:

- used as a site for farm wedding; or
- host not for profit equestrian performance events

O.C.G.A. § 48-5-7.4(p)(8), (9)

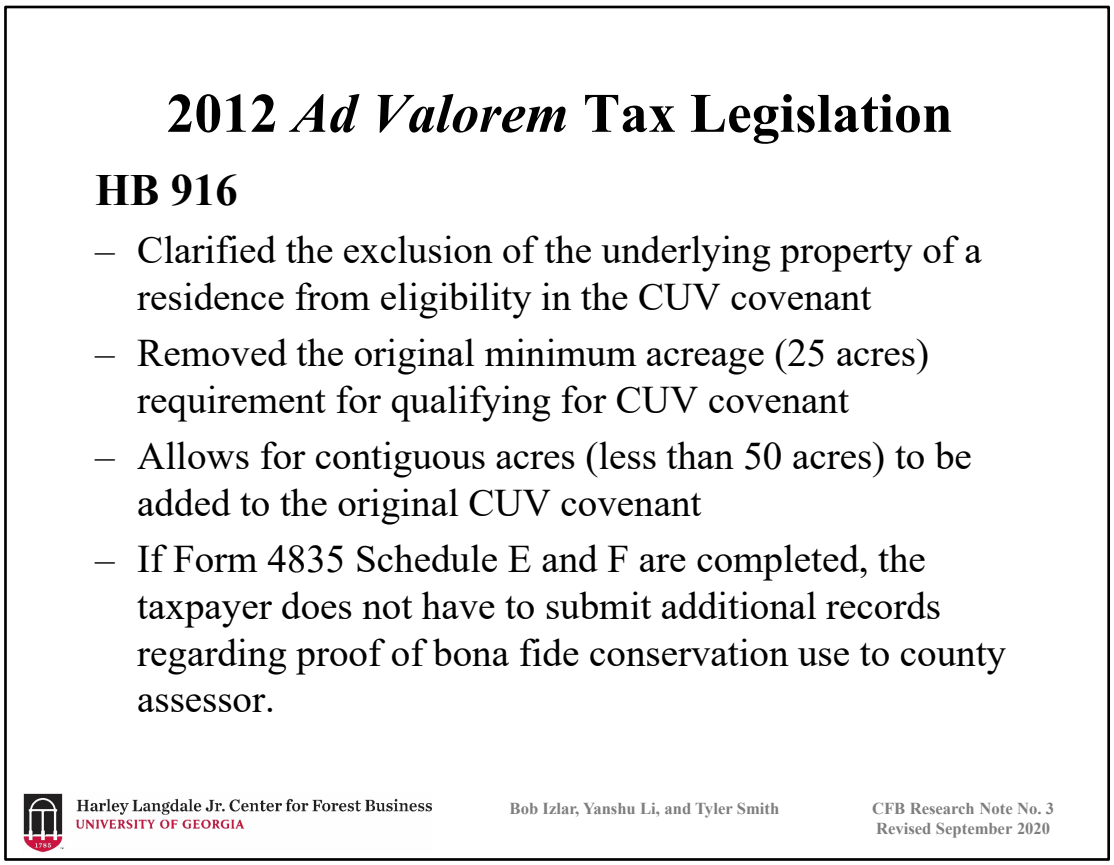
Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

SB 145 expends the definition of "agritourism" under CUV to specifically allow farm weddings and equestrian events on CUV property which has been so designated for at least one year.

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20132014/SB/145



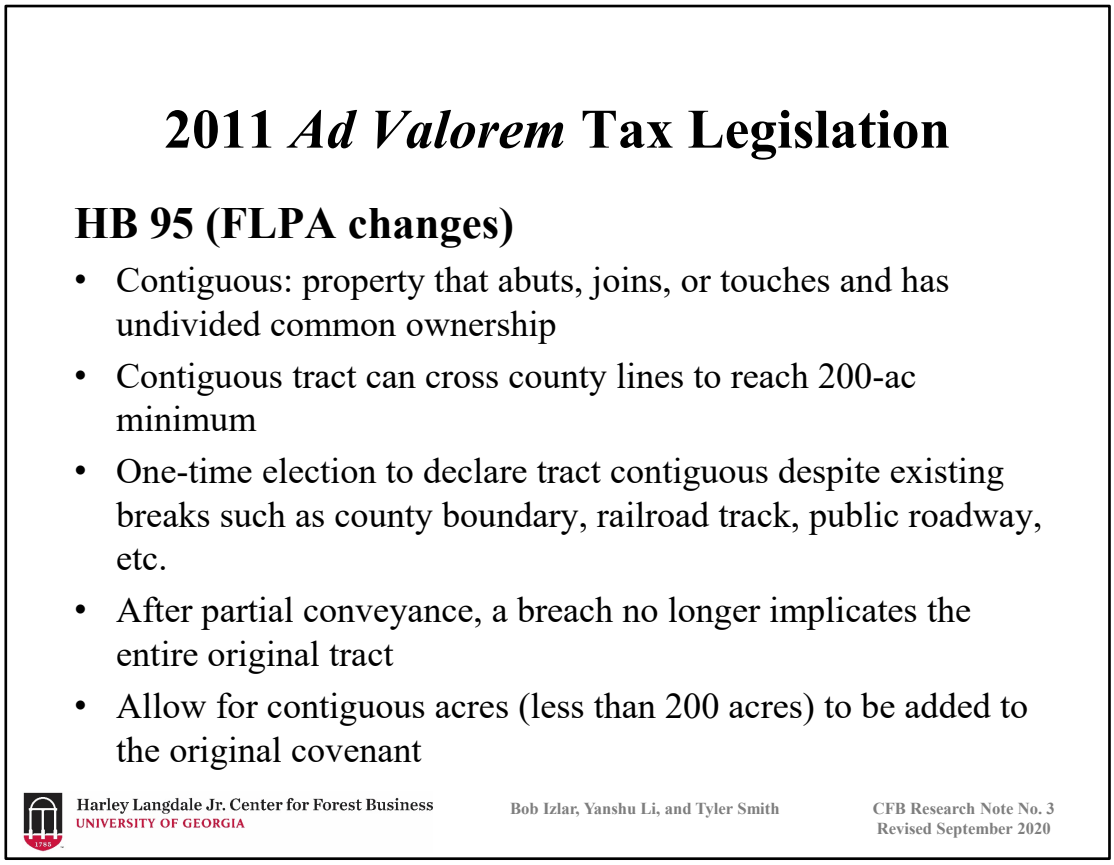
2012 *Ad Valorem* Tax Legislation

HB 916 makes exclusions for determining the value of the conservation use property to include the "underlying property" on which the residence is located whereby its minimum lot size is governed by local zoning ordinances or two acres—whichever is less; however, this exclusion will not apply for existing covenants until they come up for renewal.

Further, this legislation strikes the 25 minimum acreage that was adopted under HB 1081 (2008), but requires the property owner of less than 25 acres seeking qualification to submit additional proof, and an IRS Schedule E farm-related income loss form will serve as proof of such use and no other records are required.

A tax assessor must conduct a visual onsite visit of the property seeking qualification. This legislation also defines the term "contiguous" to mean land within a county that has undivided common ownership or a property that is divided by a boundary or easement or railroad, but the conservation use applicant must elect its contiguous nature at the time of application. Additional and subsequently purchased property may be added to a conservation use property at the time of its purchase, but it cannot exceed 50 additional acres.

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20112012/HB/916

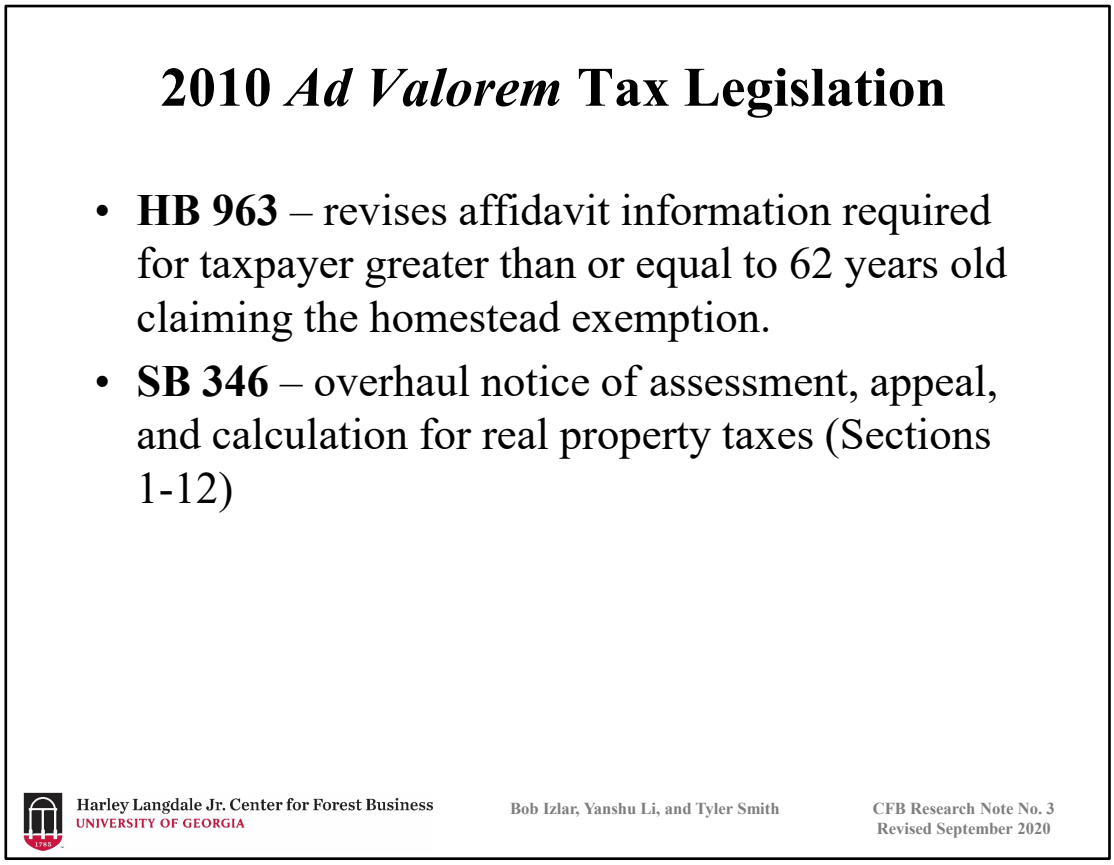


2011 *Ad Valorem* Tax legislation

HB 95 amends provisions relating to *ad valorem* taxation of forest land conservation use property by first adding the definition for "contiguous," which means real property within a county that abuts, joins, or touches and has the same undivided common ownership. The bill also prohibits new covenants from being entered into after the original covenant expires with respect to the tract from which a transfer was made unless the tract is greater than 200 acres.

- If a single tract is required to have more than one covenant because the tract crosses county lines, the total acreage of the single tract can be combined to meet the 200-acre minimum requirement for the FLPA covenant in each of the counties. If an applicant's tract is divided by a county line, public roadway, public easements, public right-of-way, or railroad tracks 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 line, public roadway, public easement, public right-of-way, or railroad track, as the boundary.
- After partial conveyance of a tract under a FLPA covenant, if either the owner of the retained portion or the transferred portion breaches the covenant, only the owner of the portion in breach is liable for the penalty and interest; the portion not in breach continues under the original covenant. A breach no longer implicates the entire original tract.
- Effective May 11, 2011.

To learn more, go to http://www.legis.ga.gov/Legislation/20112012/116470.pdf

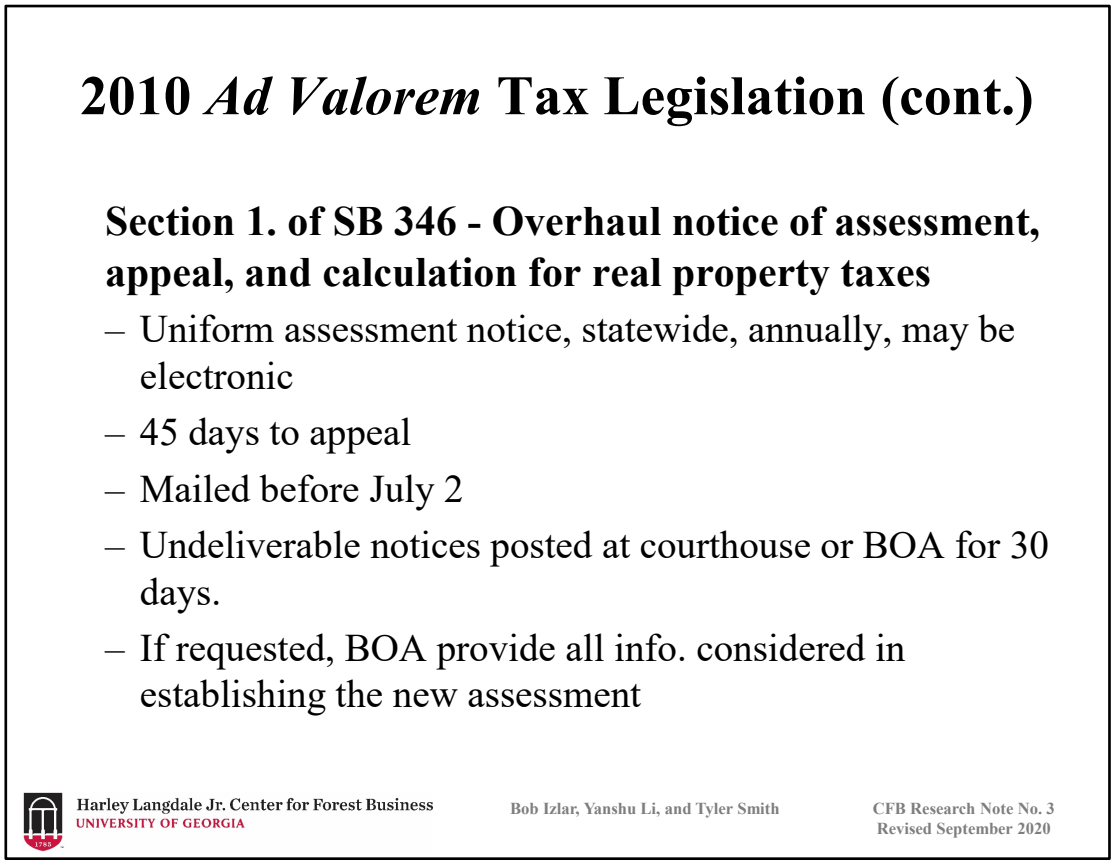


2010 *Ad Valorem* Tax legislation

HB 963 (O.C.G.A. §§ 48-5-15, 48-5-52) This bill revises information that is required on an affidavit for a taxpayer that is 62 years old, or older claiming the homestead exemption. Effective May 27, 2010.

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20092010/HB/963

SB 346 (O.C.G.A. §§ 48-2-18, 48-5-2, 48-5-9.1, 48-5-18, 48-5-23, 48-5-32.1, 48-5-291, 48-5-303, 48-5-304, 48-5-306, 48-5-311, 48-5-380 and 45-5B-1) This bill provides for an overhaul of the notice, assessment, appeal, and calculation for real property taxes. **To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20092010/SB/346**



2010 *Ad Valorem* Tax legislation

Section 1. of SB 346 - Overhaul notice of assessment, appeal, and calculation for real property taxes

- Amends O.C.G.A. § 48-5-306 and adds new procedures regarding the assessment change notices sent to taxpayers:
    - Use of a *uniform* assessment notice (created by Revenue Commissioner)
    - Send notices annually to all owners of real property regardless of it being higher, lower, or value same as prior year
    - Taxpayer can choose to receive notices electronically – if electronic transmission is made available by county.
- All taxpayers now have 45 days to file an appeal. This applies to all counties.
- Notices will be mailed no later than July 1 except in the case of corrections or mapping changes.
- Undeliverable notices posted on the front of the courthouse –or – posted on the BOA website – in either case for 30 days.
- BOA must provide, upon taxpayer's request:
    - Copies of all documents reviewed in making the assessment,
    - The address and parcel identification number of all real property utilized as qualified comparables,
    - All factors considered in establishing the new assessment.

2010 *Ad Valorem* Tax Legislation (cont.)

Section 2 of SB 346

- Regional Board of Equalization
- Clerk of Superior Court oversee BOE hearing officer
- County provide resources
- Appeal must specify hearing options.
- If BOE & appealing taxpayer agree, appeal ended.
- Hearing officer is required to verbally render decision.
- Notices regarding hearing times, dates, certifications, or official actions shall be provided to the taxpayer attorney, if one is used.

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

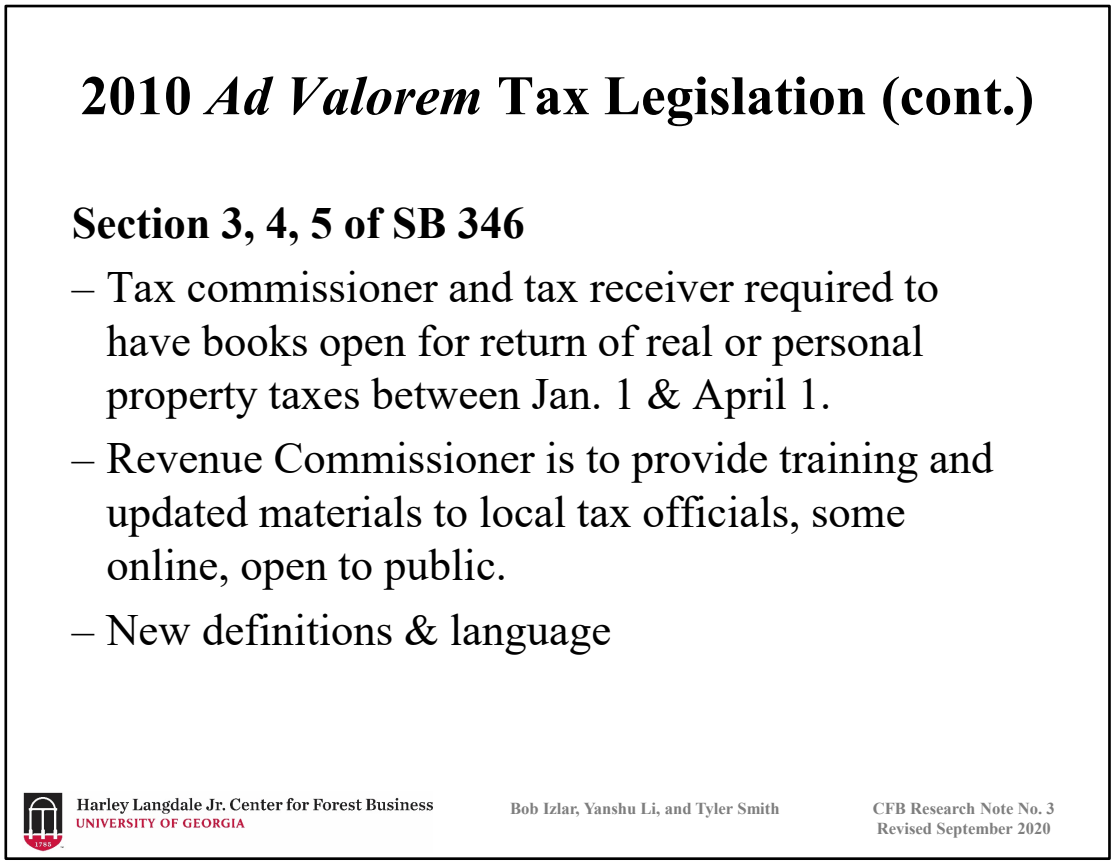
Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

2010 *Ad Valorem* Tax legislation

Section 2 of SB 346 – Overhaul notice of assessment, appeal, and calculation for real property taxes

- Amends O.C.G.A. § 48-5-311 by adding a new provision for the governing authorities of two or more counties to establish a regional Board of Equalization.
- Clerk of Superior Court has responsibility to oversee and supervise the Board of Equalization and hearing officers.
- County governing authority must provide the:
    - resources required for supervision and appointment of hearing officers, and
    - facilities, secretarial, and clerical help to clerk for handling appeals.
- When a property owner files an appeal, he must specify one of the following options:
    - County Board of Equalization and Superior Court
    - Arbitrator
        - Binding and decision cannot be appeal to Superior Court
    - Hearing officer and Superior Court
        - Property must be non-homesteaded and valued > $1,000,000.
- If BOA and the taxpayer mutually agree on a value, the appeal can be terminated upon execution of a written agreement between the parties and is effective as of the date the agreement is signed.
    - The 3-year freeze provision in O.C.G.A. § 48-5-299(c) applies unless waived by both parties
- Hearing officer is required to verbally render a decision at the conclusion of the hearing and is required to notify the taxpayer in writing.
- When an attorney is acting as the taxpayer's agent, all notices regarding hearing times, dates, certifications, or official actions shall be provided to the attorney.



2010 *Ad Valorem* Tax legislation (cont.)

SB 346 - Section 3, 4, 5 of SB 346 – Overhaul notice of assessment, appeal, and calculation for real property taxes.

Section 3

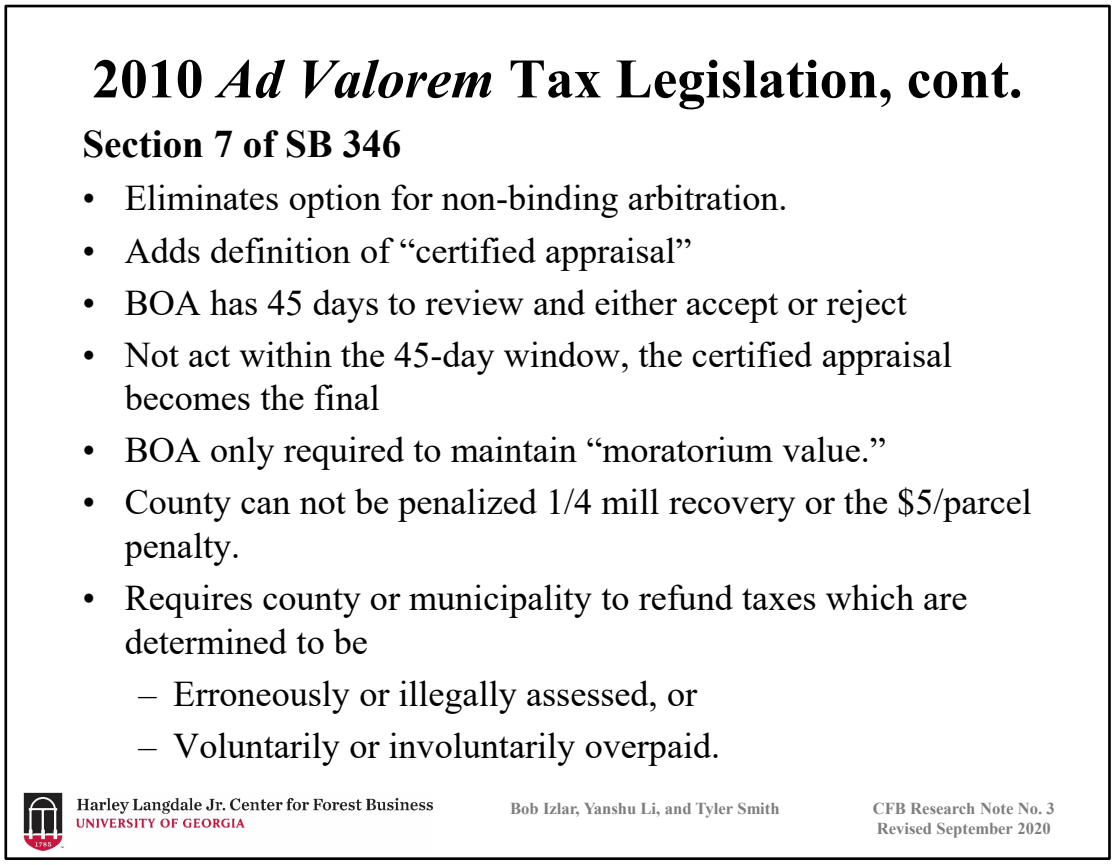
- Each tax commissioner and tax receiver is required to have his books open for the return of real or personal property *ad valorem* taxes between January 1 and April 1 of each year.

Section 4

- Revenue Commissioner is to provide training and updated materials to local tax officials and staff at least every 5 years.
- Offer some training online, if feasible, to save taxpayer money, and
- Make training courses open to the public if space is available and upon payment of "reasonable" fees.

Section 5

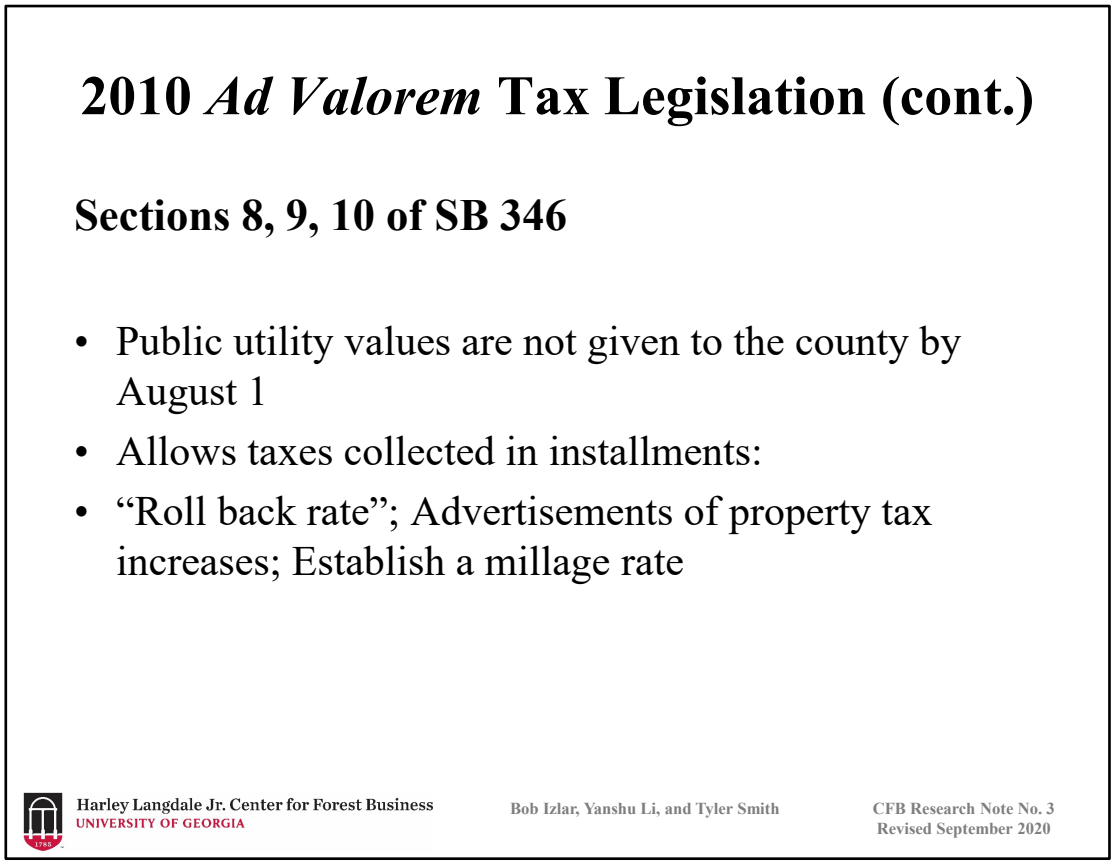
- Adds new definition to O.C.G.A. § 48-5-2 of an "Arms length, bona fide sale."
- Adds new language to the definition of "fair market value."
- Requires use of income valuation approach, if data is available, on income-producing properties.
- Transaction price (sales price) is the taxable value for the next tax year.
- Adds restriction on tax assessors including value of intangible assets in determining the value of real property.



2010 *Ad Valorem* Tax legislation (cont.)

Section 7 of SB 346 - Overhaul notice of assessment, appeal, and calculation for real property taxes.

- Eliminates option for non-binding arbitration.
- Adds definition of "certified appraisal" as an appraisal or appraisal report given, signed and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board.
- BOA has 45 days after receipt of appraisal to review and either accept or reject the value on the appraisal.
- If the county does not act within the 45-day window, the certified appraisal becomes the final value.
- When appeal is certified to clerk of Superior Court, notice must be served to taxpayer, taxpayer's attorney or employee with a copy of the certification, any papers specified by the taxpayer and the civil file number.
- County Board of Tax Assessors not required to maintain any value other than "moratorium value."
- County cannot be penalized the 1/4 mill recovery or the $5/parcel penalty until moratorium ends.
- Requires county or municipality to refund taxes which are determined to be
    - Erroneously or illegally assessed, or
    - Voluntarily or involuntarily overpaid.



2010 *Ad Valorem* Tax legislation (cont.)

Sections 8, 9, 10 of SB 346 – Overhaul notice of assessment, appeal, and calculation for real property taxes.

Section 8

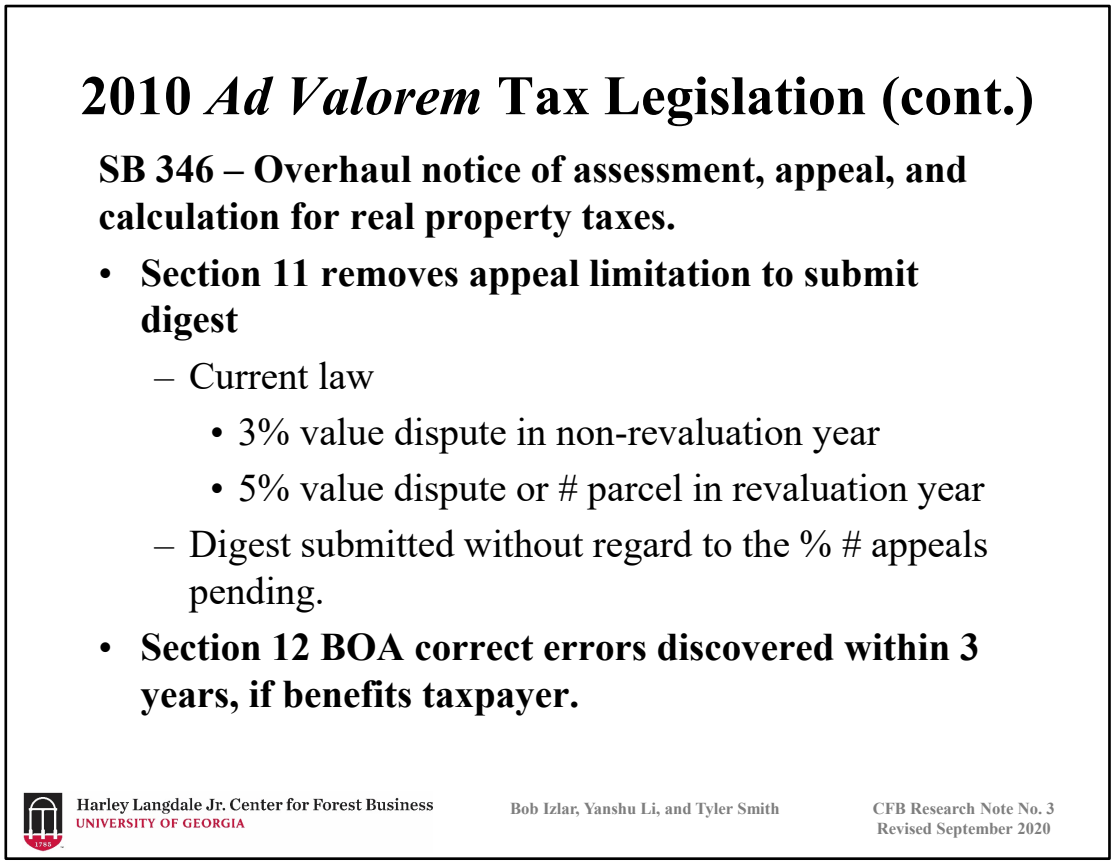
- If the public utility values are not given to the county by August 1 the county may bill these companies at 85% of the taxpayer's bill for the previous year.
- Corrected bill mailed when the final assessment is determined.

Section 9

- Allows for taxes to be collected in installments:
- Removes the word *two***,** so county may elect for taxes to be paid in multiple installment payments.

Section 10

- Requires the county tax commissioner, or collecting officer for a municipality, to calculate and certify the "roll back rate" to the county or independent school system and to the Revenue Commissioner.
- Advertisements of property tax increases must be advertised in the newspaper and on the county website of both the recommending and levying authorities.
- The advertisement may include reasons for the tax increase.
- The commissioner shall not accept a digest for review or issue an order authorizing the collection of taxes if the recommending authority or levying authority has established a millage rate in excess of the correct rollback without complying fully with the procedures required by O.C.G.A. § 48-5-32.1.



2010 *Ad Valorem* Tax legislation (cont.)

Sections 11 & 12 of SB 346 – overhaul notice of assessment, appeal, and calculation for real property taxes

Section 11

• Removes the appeal limitation to submit a digest

Current law:

3% value in dispute in a non-revaluation year

5% value in dispute or number of parcel in a revaluation year.

Digest can be submitted without regard to the percentage number of appeals pending.

Section 12

- BOA is given the authority to correct factual errors in the tax digest discovered within 3 years, if such correction benefits a taxpayer.

SB 346 Effective January 1, 2011.

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20092010/SB/346

2009 *Ad Valorem* Tax Legislation

HB 143

- General Assembly to appropriate the funding to the Department for Fiscal Year 2009 to provide the homeowner tax relief grants to the counties, municipalities, and county or independent school districts in the Supplemental Budget.

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

2009 *Ad Valorem* Tax Legislation

HB 143 (O.C.G.A. § 45-12-86) Section l of this bill requires the General Assembly to appropriate the funding to the Department for Fiscal Year 2009 to provide the homeowner tax relief grants to the counties, municipalities, and county or independent school districts in the Supplemental Budget. Language added to prevent the funds being removed from the budget if the amount appropriated is sufficient to pay the grants at the level stipulated in the General Appropriations Act. For FY2009 if the funds are appropriated in the supplemental appropriation bill the bill will specify the amount appropriated and the eligible assessed value of each qualified homestead in the state for the specified tax year. If the amount appropriated is not sufficient to fund the eligible assessed value stipulated in the supplemental appropriation bill, the amount appropriated may be funding from the next fiscal year budget. If the amount is sufficient, reduction or withdrawal of the amount is prohibited. For fiscal years beginning after July 1, 2009, the General Assembly is required to appropriate to the Department funds to pay the grants to the taxing jurisdictions. The supplemental appropriation bill will state the amount of the eligible assessed value for each qualified homestead and the applicable tax year. If the funds appropriated are insufficient to pay the total amount of the grant, funds may be appropriated in the next fiscal year budget. Appropriation for grants in future years allowed only when the amount of total revenue is estimated to exceed by 3% plus the percent change in the rate of economic inflation on individual taxpayers as determined under the Consumer Price Index for all urban consumers published by the bureau of Labor Statistics of the U.S. Department of Labor, of the last year the grant was funded. Taxing jurisdictions are only required to provide the credit to the taxpayers when the funds are appropriated in accordance with this amendment.

Section 2 Adds paragraph (c) which provides Governor shall require the Department to reserve any appropriations made until a budget reduction can be recommended to the General Assembly.

Effective February 17, 2009.

To learn more, go to http://www.legis.ga.gov/Legislation/en-US/display/20092010/HB/143

2009 *Ad Valorem* Tax Legislation (cont.)

- **HB 233 (48-5B-1) Prohibits increases in assessment from Jan. 1, 2009 through the second Monday in Jan. 2011.**
- **HB 304 (O.C.G.A. § 48-5-48 and 48-5-264.1) Provides application of exemption for surviving spouse of a disabled veteran to a subsequent homestead within the county of the original homestead.**
- **Amends O.C.G.A. § 48-5-264.1 Reasonable notice to the homeowner before enter onto property & notice to homeowners that they have right to file tax return.**
- **HB 482 (O.C.G.A. § 48-5-41.2) Exempt all personal property constituting business inventory from state *ad valorem* taxation at a rate of ¼ mill.**

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

2009 *Ad Valorem* Tax Legislation (cont.)

HB 233 (O.C.G.A. § 48-5B-1) This bill prohibits increases in assessment values on all classes of property subject to *ad valorem* taxation from January 1, 2009 through the second Monday in January of 2011. This bill does not prohibit corrections of any manifest, factual error or omission in the valuation of the property by tax officials pursuant to current Code.

Effective May 5, 2009.

To learn more, go to http://www.legis.state.ga.us/legis/2009_10/pdf/hb233.pdf

HB 304 (O.C.G.A. §§ 48-5-48, 48-5-264.1) This bill amends O.C.G.A. 48-5-48 by adding (b.1) to provide for application of an exemption for the surviving spouse of a disabled veteran to a subsequent homestead within the county of the original homestead.

Amends O.C.G.A. 48-5-264.1 to require agents of a county Board of Tax Assessors to provide reasonable notice to the homeowner before they enter onto the property and requires the county tax commissioner to provide notice to homeowners that they have the right to file an *ad valorem* property tax return. Effective May 4, 2009.

To learn more, go to http://www.legis.state.ga.us/legis/2009_10/pdf/hb304.pdf

HB 482 (O.C.G.A. § 48-5-41.2) Exempts all personal property constituting business inventory from state *ad valorem* taxation at a rate of ¼ mill. Effective July 1, 2009. **To learn more, go to http://www.legis.state.ga.us/legis/2009_10/pdf/hb482.pdf**

2009 *Ad Valorem* Tax Legislation (cont.)

SB 55

- Foreclosures or Conservation Use affect FMV
- Notice to property owners when the value of property is increased or decreased

SB 240

- Allows taxpayer to choose binding arbitration to determine FMV

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

2009 *Ad Valorem* Tax Legislation (cont.)

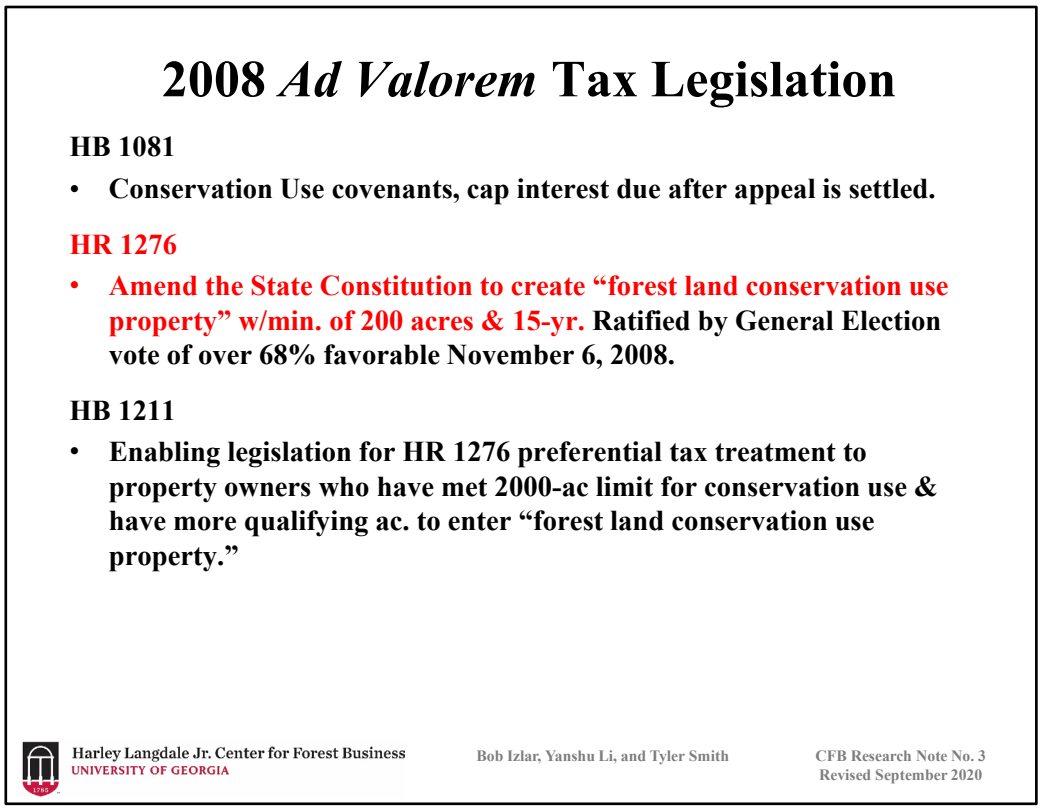
SB 55 (O.C.G.A. §§ 48-5-2, 48-5-7.7, 48-5-274(c), 48-5-306(a))

The bill amends O.C.G.A. § 48-5-2(3)(B) by adding tax commissioners **shall consider foreclosures and the sale of bank-owned properties acquired through foreclosure** to the list of factors affecting fair market value that are to be considered by the tax assessors. Assessors shall consider if conservation use easements have decreased the market value of property due to limitations and restrictions on use and development of the property. For 2009 only, amends O.C.G.A § 48-5-7.7 to extend the deadline for filing applications for forest land conservation covenants from the date that the return book closes in the county until June 1, 2009. This bill amends O.C.G.A. § 48-5-274(c) to provide for the amendment in Section 1 of this bill to be considered by the Department of Audits in the Sales Ratio Study conducted for the purposes of establishing an equalized and adjusted property tax digest. It amends O.C.G.A. § 48-5-306(a) to require that the Board of Tax Assessors send an assessment change notice to property owners when the value of property is increased or decreased. Effective April 14, 2009. **http://www.legis.ga.gov/Legislation/20092010/96881.pdf**

SB 240 (O.C.G.A. §§ 48-5-311(f)(4), 48-5-7.7, 48-5-161, 48-5-306, and 48-5-511)

This bill adds O.C.G.A. § 48-5-311(f)(4) regarding the current administration process for *ad valorem* appeals by allowing the taxpayer to choose binding arbitration to determine fair market value. For 2009 only, it amends O.C.G.A § 48-5-7.7 to extend the deadline for filing applications for forest land conservation covenants from the date that the return book closes in the county until June 1, 2009. This bill amends O.C.G.A § 48-5-161 to provide the county with the ability to recover costs incurred for the filing of state tax executions. It amends O.C.G.A. § 48-5-306 to align with Georgia case law involving official property tax mailing notices. It amends O.C.G.A. § 48-5-511 to require public utilities to provide the actual street address in returns of property for property tax purposes.

Effective April 29, 2009. **http://www.legis.ga.gov/Legislation/20092010/96855.pdf**



2008 *Ad Valorem* Tax Legislation

HB 1081 (O.C.G.A. §§ 48-5-7.4, 48-5-311) Sections 1 – 3 of the bill amend Code Section 48-5-7.4 to change minimum acreage provisions regarding property that qualifies for Conservation Use covenants. Sections 4 – 6 amend Code Section 48-5-311 to cap the amount of interest due on an unpaid portion of a tax bill after a property tax appeal is settled at the Board of Equalization or Superior Court level. Effective May 14, 2008. **To learn more, go to http://www.legis.ga.gov/Legislation/20072008/84543.pdf**

HR 1276 and HB 1211 (O.C.G.A. §§ 48-5-2, 48-5-7.7, 48-5-271, 48-5A-1, 48-5A-2, 48-5A-3, 48-5A-4) This legislation is intended to provide preferential tax treatment to property owners who do not currently qualify for Conservation Use and for those owners who have met the 2000-acre limitation for property in conservation use and have additional qualifying acreage.

HR 1276 amends the state Constitution to create a new class of property called "forest land conservation use property." The Resolution provides for the special assessment and taxation of this class of property and for grants to local governments. Further, the Resolution provides that "forest land conservation use property" must be a minimum of 200 acres and be subject to a 15-year covenant, and provides for a penalty if the covenant is breached. **To learn more, go to http://www.legis.ga.gov/Legislation/20072008/84585.pdf**

HB 1211 is the enabling legislation which provides definitions, procedures, and valuation tables for this new class of property. It sets forth the procedures and guidelines for administration of local government assistance grants. This bill amends Code Section 48-5-2 by adding a new paragraph (5) to define "forest land conservation use value" and provides for this value to be determined in accordance with new Code Section 48-5-271. It further adds a new paragraph (6) to define "forest land fair market value" as the 2008 fair market value with limited annual changes. New Code Section 48-5-7.7, to be cited as the "Georgia Forest Land Protection Act of 2008", creates definitions, qualifications, and additional rules, and provides for a penalty in the event of breach. Property will be separately classified and clearly identified on the tax digest and public notice is required to be posted in the tax assessors' office and in the office of the tax commissioner.

New Code Section 48-5-271 provides for the method for establishing the "forest land conservation use" values to be developed as provided for in Code Section 48-4-269, which will be the same as the conservation use values for property as set forth in Code Section 48-5-7.4. A new chapter 5A, to be added to Title 48, will include the following new Code Sections: 48-5A-1, setting forth definitions; 48-5A-2, providing that the General Assembly will fund the Department of Revenue for the payment of assistance grants to local governments; 48-5A-3, providing for grants to counties, municipalities, and county or independent school districts to offset losses in revenue; and 48-5A-4, granting authority for the Revenue Commissioner to promulgate rules and regulations.

This bill will become effective January 1, 2009, but only if the HR 1276 resolution to amend the state Constitution is ratified by the citizens of Georgia at the November 2008 state-wide general election. **To learn more, go to http://www.legis.ga.gov/Legislation/20072008/84633.pdf**

2008 *Ad Valorem* Tax Legislation (cont.)

SB 159

New deadline for homestead exemptions, any time during the calendar year subsequent to the property becoming the primary residence.

http://www.legis.ga.gov/Legislation/20072008/84680.pdf

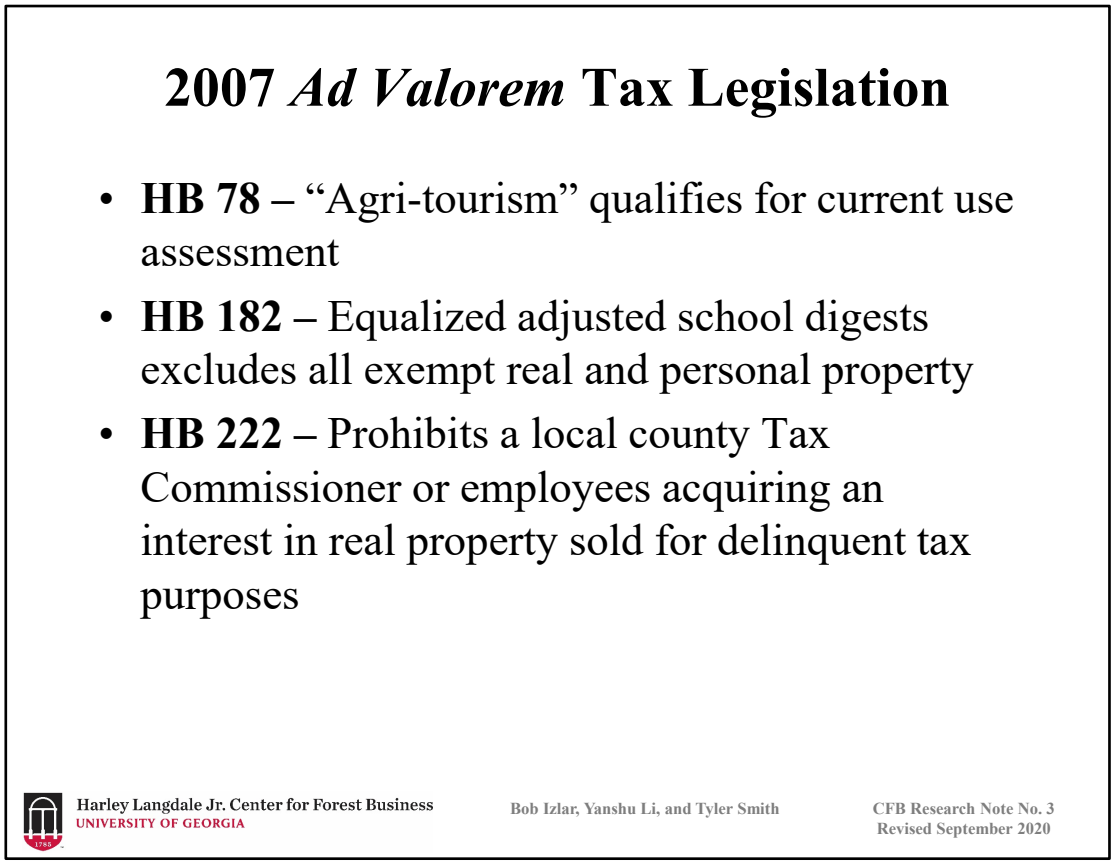
Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

2008 *Ad Valorem* Tax Legislation (cont.)

SB 159 amends O.C.G.A. § 48-5-45 by changing the application deadline for homestead exemptions from March 1 statewide to any time during the calendar year subsequent to the property becoming the primary residence of the applicant, up to and including the date for the closing of the books for the return of taxes for that year (which would be the same date as the deadline for filing *ad valorem* tax returns in the particular county). This bill is effective July 1, 2008. **To learn more, go to http://www.legis.ga.gov/Legislation/20072008/84680.pdf**



2007 *Ad Valorem* Tax Legislation

HB 78 (O.C.G.A. § 48-5-7.4)

This bill amends the Code Section to provide that property used for "agri-tourism" purposes qualifies for current use assessment. Agro-tourism is defined as: "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."

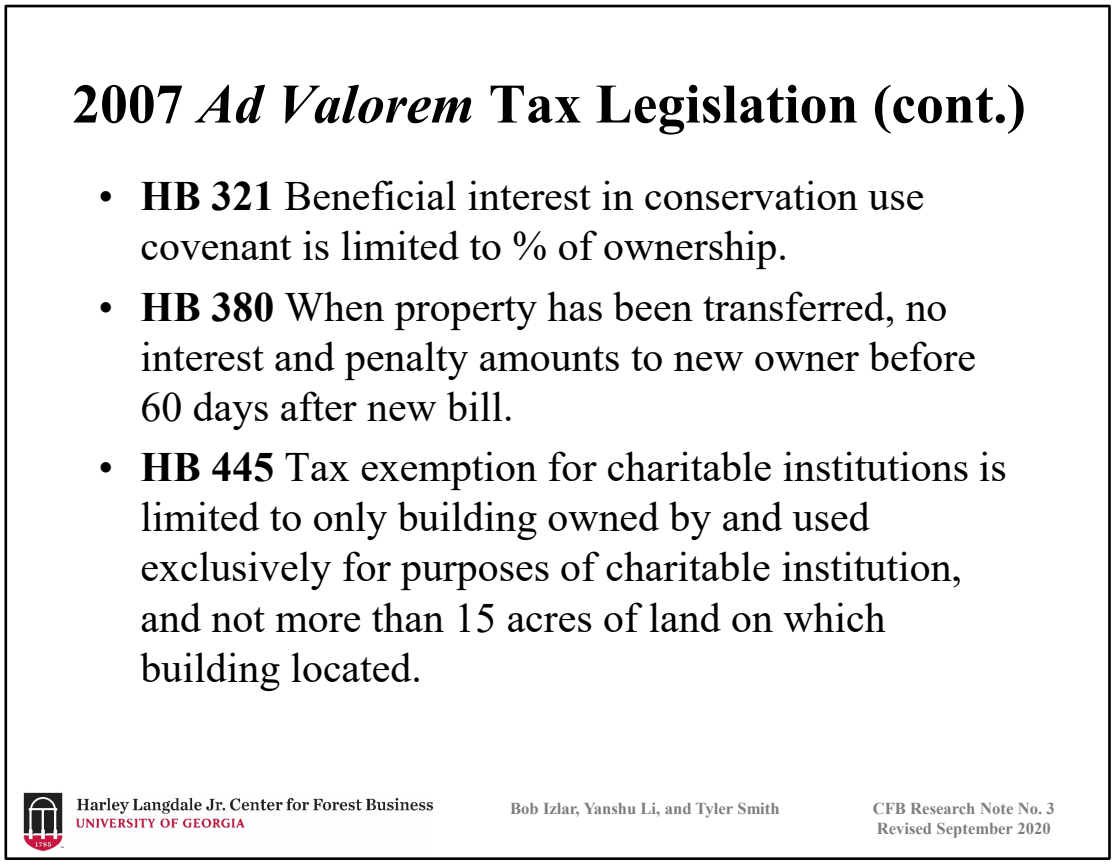
http://www.legis.ga.gov/Legislation/20072008/75641.pdf

HB 182 (O.C.G.A. § 48-5-274)

This bill amends the Code Section to provide that the equalized adjusted school digests established by the State Auditor excludes all exempt real and personal property and excludes the difference in the value of all taxable property for the current year and the value certified as the tax allocation increment base for tax allocation districts created by counties and municipalities.
http://www.legis.ga.gov/Legislation/20072008/75597.pdf

HB 222 (O.C.G.A. § 48-4-23)

This bill adds a new Code Section which prohibits a local county Tax Commissioner or an employee working on behalf of the Tax Commissioner from directly or indirectly acquiring an interest in, buying, or profiting from real property sold for delinquent tax purposes, unless these persons had an interest in the property at the time the taxes became delinquent. Violations of this law subject the person to a misdemeanor charge and, upon conviction, imprisonment of up to one year, a fine of $1,000, or both, and voids the sale. **http://www.legis.ga.gov/Legislation/20072008/75605.pdf**



2007 *Ad Valorem* Tax Legislation (cont.)

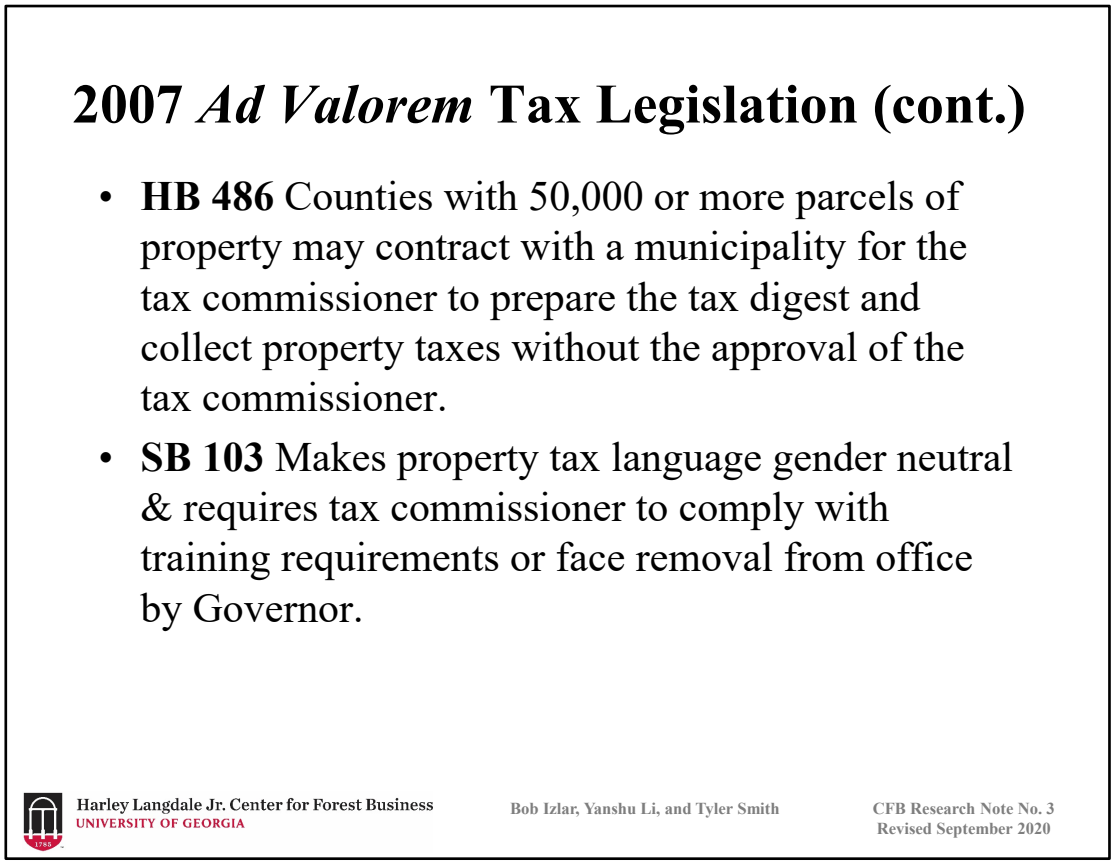
HB 321 (O.C.G.A. § 48-5-7.4) Amends the Code Section to provide that, for conservation use assessment purposes, a person's beneficial interest in property which is held through a family owned farm entity and which is under a conservation use covenant is limited to only that person's percentage of ownership of the farm entity and is not a beneficial interest in the entire tract held through the farm entity. **http://www.legis.ga.gov/Legislation/20072008/75657.pdf**

HB 380 (O.C.G.A. § 48-3-3) This bill amends the Code Section to provide that whenever property has been transferred and the transferor provides a deed showing no current ownership or responsibility for the taxes at the time they were initially billed, the Tax Commissioner cannot charge the applicable interest and penalty amounts before 60 days after the date a new tax bill is forwarded to the new owner of record as shown in the tax records of the county Board of Tax Assessors.

http://www.legis.ga.gov/Legislation/20072008/75393.pdf

HB 445 (O.C.G.A. § 48-5-41) This bill amends the Code Section to provide that a property tax exemption for charitable institutions is limited to only the building which is owned by and used exclusively for the purposes of the charitable institution, and not more than 15 acres of land on which the building is located.

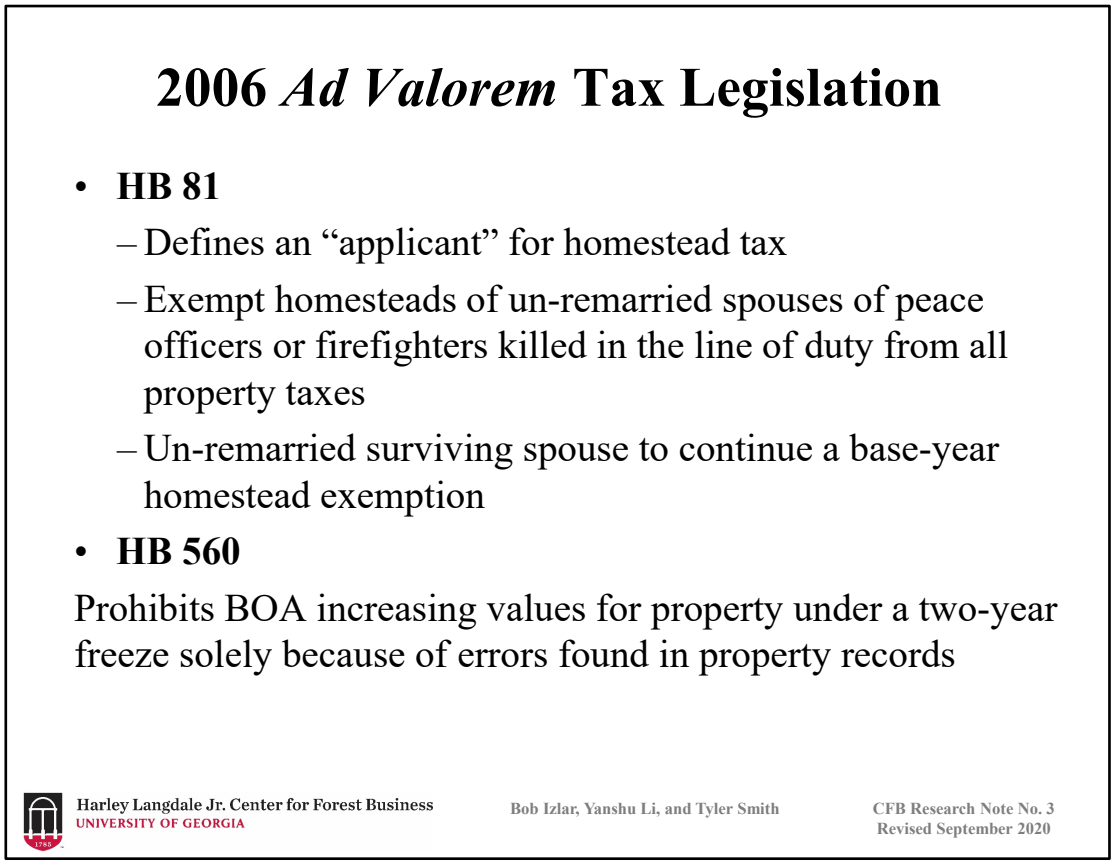
http://www.legis.ga.gov/Legislation/20072008/75458.pdf



2007 *Ad Valorem* Tax Legislation (cont.)

HB 486 (O.C.G.A. § 48-5-359.1) This bill amends the Code Section to provide that county governing authorities of counties with 50,000 or more parcels of property may contract with a municipality for the tax commissioner to prepare the tax digest and collect property taxes without the approval of the tax commissioner. Such contracts will specify an amount to be paid for the services. The tax commissioner may be compensated by the county for the additional duties and responsibilities. This bill affects approximately 20 counties.
http://www.legis.ga.gov/Legislation/20072008/75504.pdf

SB 103 (O.C.G.A. § 48-5-40 and 48-5-126.1) This bill amends Code Sections relating to property tax to correct certain language to make it gender neutral. It also re-enacts the language that deals with the training of tax commissioners which was inadvertently omitted from the supplement. The re-enacted language includes the provision that failure on the part of the tax commissioner to comply with the training requirements may subject the tax commissioner to removal from office by the Governor. **http://www.legis.ga.gov/Legislation/20072008/72931.pdf**



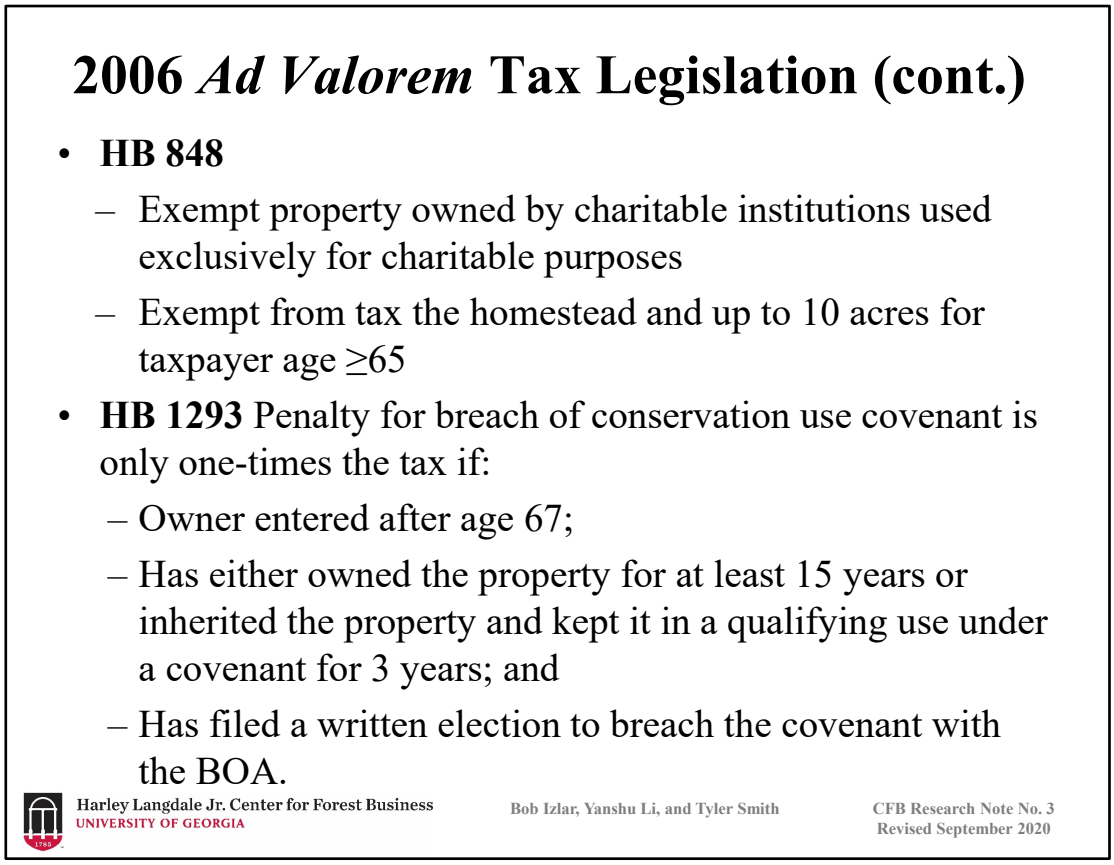
2006 *Ad Valorem* Tax Legislation

HB 81 (O.C.G.A. §§ 48-5-40, 48-5-48.4, 48-5-54) Amends Code Section 48-5-40 to define an "applicant" for homestead tax purposes to match the definition in motor vehicle Code Section 40-5-1. Adds new Code Section 48-5-48.4, to fully exempt the homesteads of un-remarried spouses of peace officers or firefighters killed in the line of duty from all property taxes. Amends Code Section 48-5-54 to allow the un-remarried surviving spouse, upon application and qualification, to continue a base-year homestead exemption at the value established for the deceased spouse. The Governor signed this bill on May 8, 2006, and it became effective on July 1, 2006 for all taxable years on or after January 1, 2007, when the referendum on the November 2006 statewide general election ballot was ratified by the voters.

http://www.legis.ga.gov/Legislation/en-US/display/20052006/HB/81

HB 560 (O.C.G.A. § 48-5-299) Amends Code Section 48-5-299(c) to prohibit a county Board of Tax Assessors from increasing values for property that are under a two-year freeze solely because of errors found in property records. The Governor signed this bill on April 27, 2006, and it became effective on July 1, 2006.

http://www.legis.ga.gov/Legislation/en-US/display/20052006/HB/560



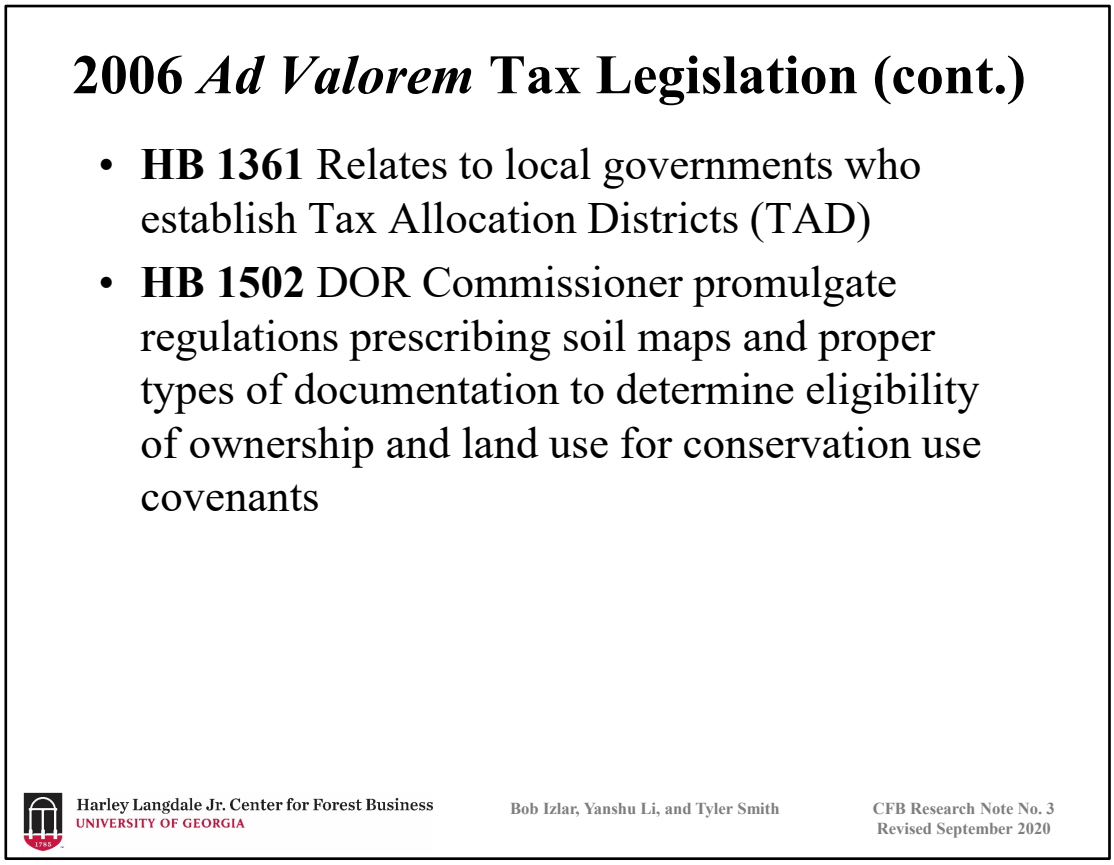
2006 *Ad Valorem* Tax Legislation (cont.)

HB 848 (O.C.G.A. §§ 48-5-41, 48-5-48.3, 48-5-48.5) Amends Code Section 48-5-41 to exempt property owned by charitable institutions which is used exclusively for charitable purposes, even if income is derived from the property, as long as the income is used exclusively for its operation. Amends Code Section 48-5-48.3 to exempt from tax the homestead and up to 10 acres of land for a taxpayer age 65 or older. The Governor signed this bill on April 25, 2006, and it became effective on January 1, 2007, when the referendum on the November 2006 statewide general election ballot was ratified by the voters.

http://www.legis.ga.gov/Legislation/en-US/display/20052006/HB/848

HB 1293 (O.C.G.A. § 48-5-7.4) Amends Code Section 48-5-7.4 to provide that under the following circumstances, the penalty for breach of a conservation use covenant is only one-times the tax: if the owner entered into the covenant for the first time after reaching age 67; has either owned the property for at least 15 years or inherited the property and kept it in a qualifying use under a covenant for 3 years; and has filed a written election to breach the covenant with the county Board of Tax Assessors. The Governor signed this bill on May 1, 2006, and it became effective on July 1, 2006.

http://www.legis.ga.gov/Legislation/en-US/display/20052006/HB/1293

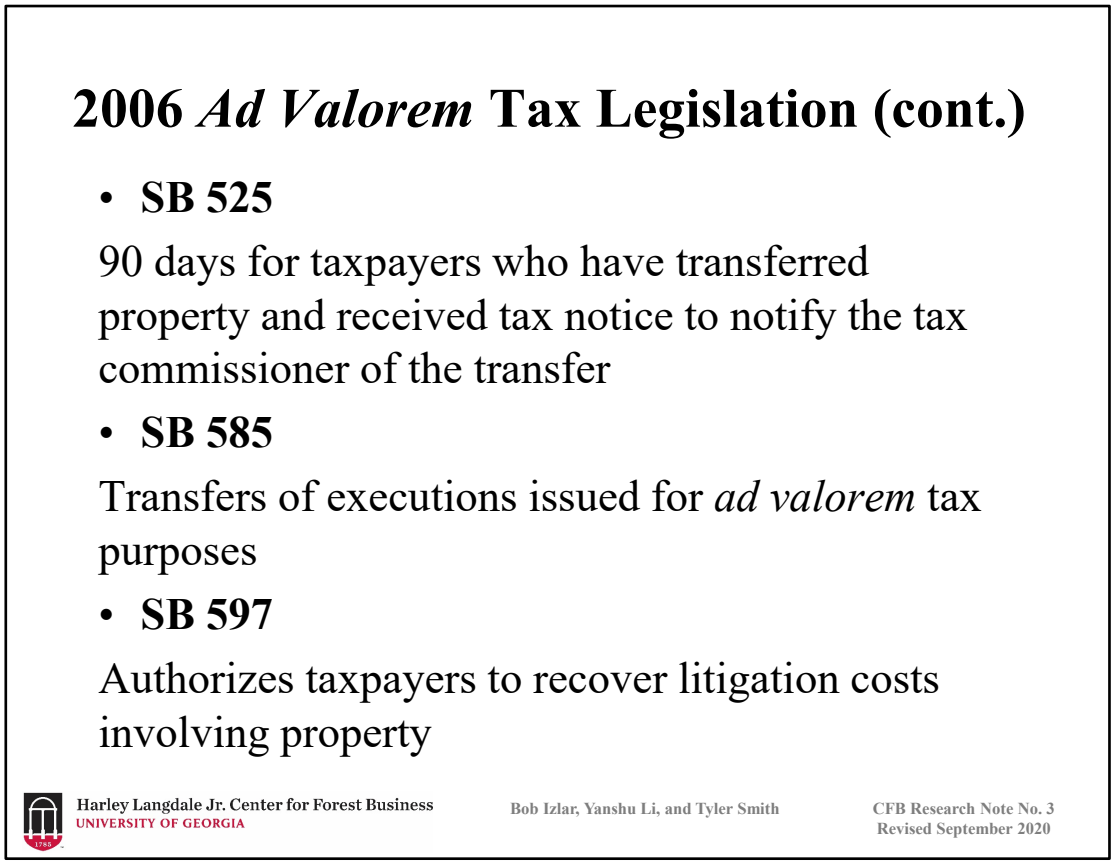


2006 *Ad Valorem* Tax Legislation (cont.)

HB 1361 Amends several Code Sections in Chapter 44 of Title 36, as they relate to local governments who establish Tax Allocation Districts (TAD). When the tax allocation increment base rate is established, motor vehicle values are never included. And unless specified in the resolution, values for personal property, public utilities, and railroad companies are not included either. The Governor signed this bill on May 5, 2006, and it became effective on July 1, 2006, except for allocations made prior to July 1, 2006. **http://www.legis.ga.gov/Legislation/en-US/display/20052006/HB/1361**

HB 1502 (O.C.G.A. §§ **48-5-7.4, 48-5-290, 48-5-291, 48-5-295)** Amends Code Section 48-5- 7.4 by granting the Commissioner the ability to promulgate regulations prescribing soil maps and proper types of documentation to determine eligibility of ownership and land use for conservation use covenants. Amends Code Sections 48-5-290, 48-5-291, and 48-5-295 to authorize the Commissioner to promulgate regulations establishing the certification procedures for county tax assessors, including training requirements, transmittal of certificates of appointment, and reappointment provisions. The Governor signed this bill on May 5, 2006, and it became effective on July 1, 2006.

http://www.legis.ga.gov/Legislation/en-US/display/20052006/HB/1502



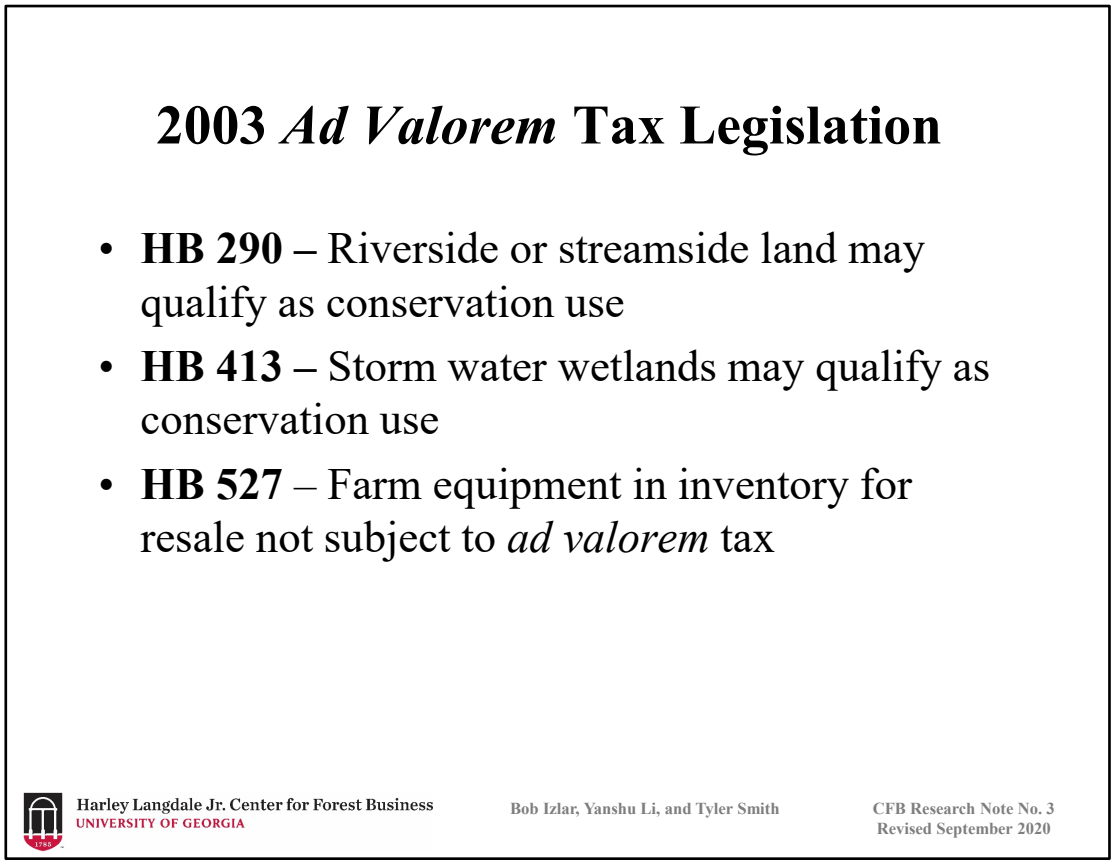
2006 *Ad Valorem* Tax Legislation (cont.)

SB 525 (O.C.G.A. § 48-3-3) Amends Code Section 48-3-3 to establish a deadline of 90 days for taxpayers who have transferred property since the lien date and received notice of tax executions from the local tax commissioner, to notify the tax commissioner of the transfer, whereby the execution is vacated and re-filed under the new owner's name. The bill also provides that the real estate transfer tax form must contain the correct property identification number before being accepted by the clerk of Superior Court for recording. The Governor signed this bill on May 3, 2006, and it became effective on July 1, 2006. **http://www.legis.ga.gov/Legislation/en-US/display/20052006/sB/525**

SB 585 (O.C.G.A. § 9-13-36, O.C.G.A. §§ 48-3-19, 48-4-1, 48-4-5, 48-4-44 and 48-6-2) Amends Code Section 9-13-36 by removing the provisions relating to tax executions and placing the administration of those types of executions under Chapters 3 and 4 of Title 48. Reinstates Code Section 48-3-19, previously repealed in 2002, to allow at the discretion of the tax commissioner transfers of executions issued for *ad valorem* tax purposes. This bill also establishes procedures for notification by a transferee, timelines for levying on the execution, and requires that any transferee that pays more than $2 million dollars in any calendar year for executions must maintain an accessible office within 50 miles of the courthouse where the transferred execution is located and such office must be available to the public 8 hours per day, 5 days per week, except on state holidays. Amends Code Section 48-4-1 to include notice provisions for executions issued by a municipal officer for *ad valorem* taxes. Amends Code Section 48-4-5 by providing procedures for claiming excess funds from a tax sale by a local tax official. It also provides that any unclaimed excess funds held by a local officer for five years after the tax sale must be paid over to DOR in the same manner as other unclaimed property. These funds can only be claimed and released by DOR after a court order from an interpleader action is filed in the county where the tax sale occurred and was filed. Amends Code Section 48-4-44 by adding procedures for filing quitclaim deeds at the time of redemption of property sold at a tax sale. Amends Code Section 48-6-2 exempting real estate transfer tax for any deed filed for redeemed property sold at a tax sale. The Governor signed this bill on May 3, 2006, and it became effective on July 1, 2006.

http://www.legis.ga.gov/Legislation/en-US/display/20052006/sB/585

SB 597 (O.C.G.A. § 48-5-311) Amends Code Section 48-5-311 by authorizing taxpayers to recover litigation costs involving property, other than commercial property, when the value determined by an appeal to Superior Court is 85% or less than the value set by the county Board of Tax Assessors. Previously, the 85% threshold applied to the value set by the county Board of Equalization. The Governor signed this bill on May 3, 2006, and it became effective on July 1, 2006. **http://www.legis.ga.gov/Legislation/en-US/display/20052006/sB/597**



2003 *Ad Valorem* Tax Legislation

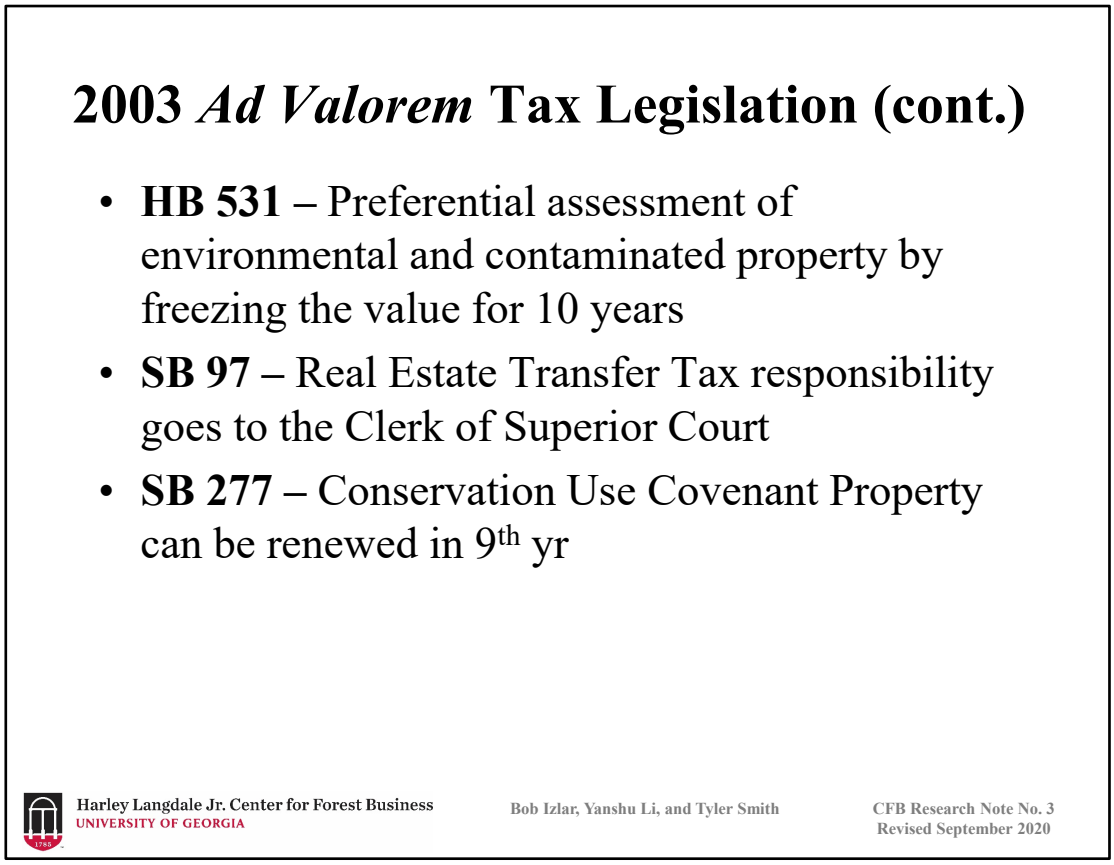
HB 290 – Riverside or Streamside Land - Effective Jan. 1, 2004. Bill amends: O.C.G.A. § 48-5-7.4. Bill extends the current use assessment for *ad valorem* taxation for bona fide conservation use property to undeveloped riverside or streamside lands within buffer zones established by law or local ordinance and within which land disturbing activity is prohibited.

http://www.legis.ga.gov/Legislation/en-US/display/20032004/HB/290

HB 413 – Storm Water Wetlands - Effective Jan. 1, 2004. Bill amends O.C.G.A. § 48-5-7.4. Bill extends preferential assessment of bona fide conservation use treatment to property which has been certified by the Department of Natural Resources as land constructed storm-water wetlands of the free-water surface.

http://www.legis.ga.gov/Legislation/en-US/display/20032004/HB/413

HB 527 – Farm Equipment in Inventory for Resale - Effective Jan. 1, 2004. Bill amends O.C.G.A. § 48-5-504. Bill declares that self- propelled farm equipment held in inventory by a dealer for sale or resale to be a separate class of property not subject to *ad valorem* tax.
http://www.legis.ga.gov/Legislation/en-US/display/20032004/HB/527



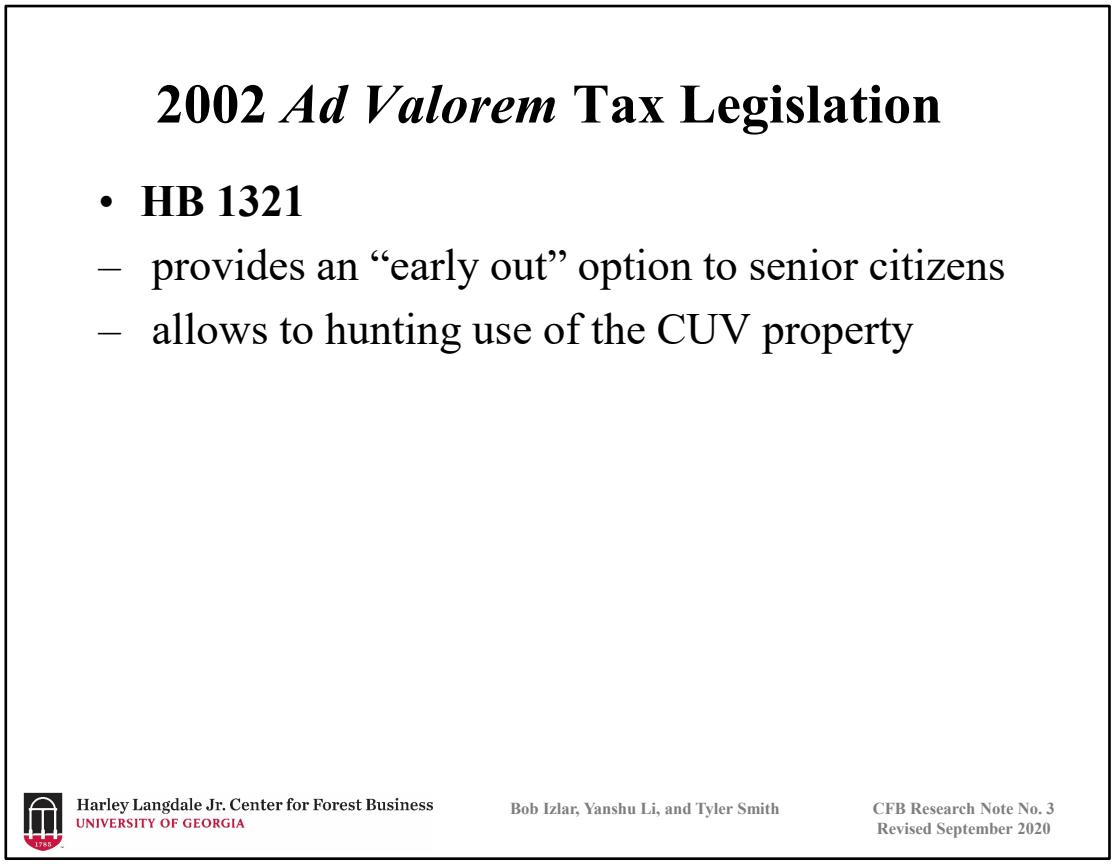
2003 *Ad Valorem* Tax Legislation (cont.)

HB 531 – Environmentally Contaminated Property - Effect May14, 2003. Bill amends O.C.G.A. §§ 48-5-2, 48-5-7.6. Bill provides for the preferential assessment of environmental and contaminated property by freezing the value for 10 years as an incentive for developers to cleanup and return the property to the tax rolls. This bill also allows an owner to recoup against taxes due certain eligible brownfield costs.

http://www.legis.ga.gov/Legislation/en-US/display/20032004/HB/531

SB 97 – Real Estate Transfer Tax - Effective July 1, 2003. Bill amends O.C.G.A. § 48-6-2. Bill takes the responsibilities previously handled by the Revenue Commissioner regarding the collecting and distributing of the real estate transfer tax and gives it to the Clerk of Superior Court. Bill allows internal real estate transfers to be exempt from the real estate transfer tax. This bill further permits the real estate transfer tax to be made on a form or in electronic format prescribed by the Revenue Commissioner. The determinations as to whether the real estate transfer tax is due and/or payable still remains with the Department of Revenue. **http://www.legis.ga.gov/Legislation/en-US/display/20032004/SB/97**

SB 277 – Conservation Use Covenant Property - Effective July 1, 2003. Bill amends O.C.G.A. § 45-5-7.4. Bill allows conservation use covenant property to be renewed in the ninth year of the covenant for an additional 10 years to prevent any lapse in agreement. **http://www.legis.ga.gov/Legislation/en-US/display/20032004/SB/277**



2003 *Ad Valorem* Tax Legislation (cont.)

HB 1321 – Bona fide agricultural property; preferential assessment; certain owners

Amends: (O.C.G.A. §§ 48-5-7.1, 48-5-7.4, 36-89-1, 36-89-2, 36-89-4, 36-89-5)

This bill provides an "early out" option three years into a renewal conservation or preferential use covenant where the taxpayer is at least 65. Normally the covenants are for a full 10 years.

This bill also allows the property owner to use the property for hunting purposes and still qualify for conservation use assessment. Previous law only allowed the hunting rights to be leased to others.

This bill redefines the applicable rollback as it relates to the homeowner tax relief grants and extends the grant to apply to taxes levied by municipalities and within special tax districts.

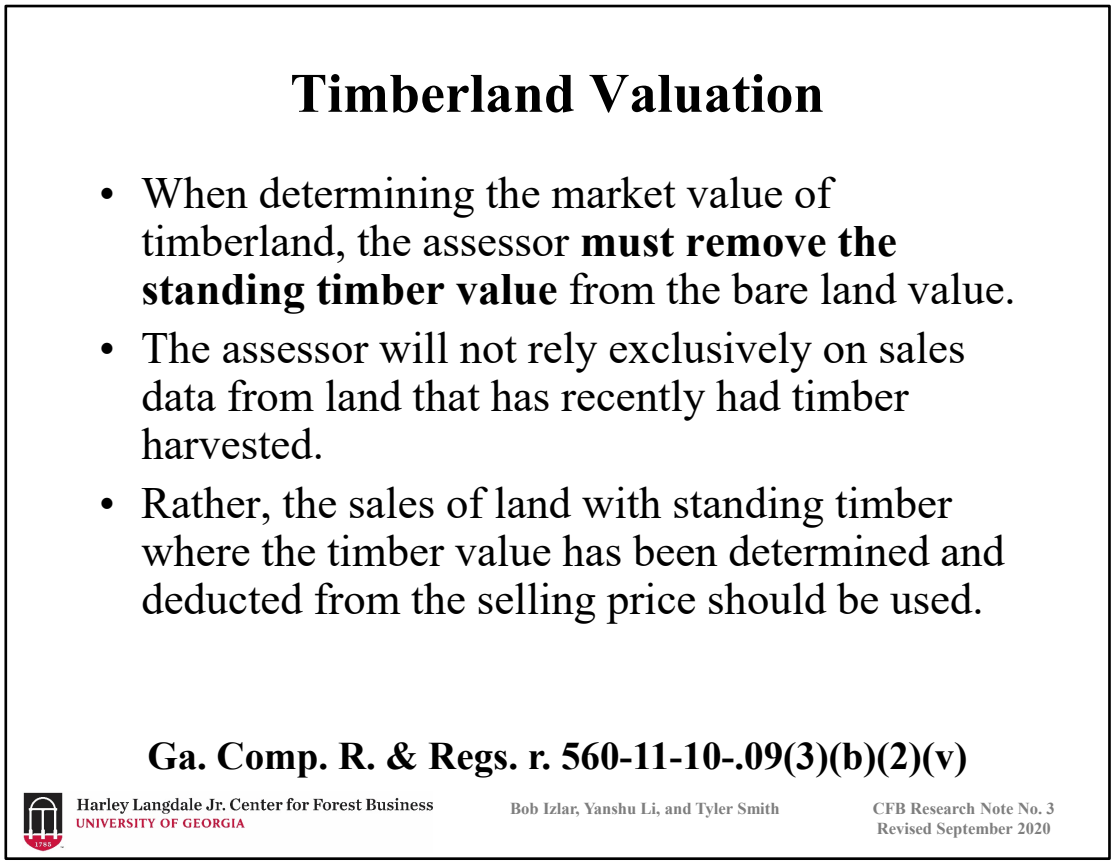
Effective Date: Upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2002.

Timberland Valuation for *Ad Valorem* Tax Purposes

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



Leverett et al. v. Jasper County Board of Tax Assessors

A Georgia Constitutional amendment was passed by the people in the autumn of 1990 requiring the *ad valorem* taxation of standing timber only when it was harvested or sold for harvest. There has been considerable concern by forest landowners that their bare land values still inherently may include some standing timber value. Another way of simply looking at the issue is that the Constitution was amended to take standing timber off the digest.

In 1998, the Georgia Court of Appeals decided a landmark case firmly resolving this issue.*Since the case was not appealed, the Appellate Court's ruling is the law in Georgia. In reversing the trial court's ruling in favor of the Board of Tax Assessors, the Appellate Court held, "...Thus, the Assessors, in not subtracting the value of growing timber from the fair market value of the land used in the sales ratio as comparables, refused to treat growing timber as tax-exempt and caused what is exempt from taxation until sold or harvested to be a part of the assessed value of the land." In other words, your forest land's valuation must have *no* timber value attributed to it. Timber value cannot be "...reflected in the price of the land."

But the Court went even further. It said, "stump land" (land which has not been site prepared to plant in trees) has a lower value than cleared cultivatable land, pasture land or growing timberland. Stump land has a substantially different value than cleared land because there is a cost to get it to an improved state. The Court held, "...thus, improved land has a higher acreage fair market value which reflects the cost of clearing and replanting pines or of fencing.

This case was a significant finding for all timberland owners because it undisputedly said ***all*** value attributable to timber must be removed from the value of the land for assessment.

*233 Ga. App. 470.

FMV Potential Issues for Timberland

- Low number of comparable sales
- Correct removal of standing timber value from land value
- Incorrect use of comparable sales based on size
- Valuation of timberland for incorrect land use

FMV Timberland Valuation

- The value of the standing timber on recently sold land should be accurately determined so it can be separated from the value of the land.
- If this information is not obtainable to the assessor, then a number of methods can be used to determine the value.
- The results of the following methods must be consistent with other sales where accurate timber values are known.

Ga. Comp. R. & Regs. r. 560-11-10-.09(3)(b)(2)(v)(I)

Standing Timber Valuation Methods

1) Calculate value of merchantable timber

2) Calculate value of pre-merchantable planted pine timber:

- This value is calculated by estimating the value of the timber at merchantability age and prorating the value to actual pre-merchantable age of the stand
- If local timber price/ton and specific yield information is not available, the assessor may use the average yield of 52.2 tons/acre.

Ga. Comp. R. & Regs. r. 560-11-10-.09(3)(b)(2)(v)(I)

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020

Calculate value of merchantable timber

For all types of merchantable timber, the value of the standing timber may be determined by multiplying estimated volumes by product class, such as softwood and hardwood pulpwood, chip and saw logs, saw timber, poles, posts, and fuel wood, of timber on the property by prices for each product class as obtained from the table of weighted average prices paid for harvested timber applicable to the year during which the sale occurred and prepared by the Commissioner pursuant to paragraph (g) of Code section 48-5-7.5. For purposes here, merchantable timber shall include stands that have been in production for more than fifteen years. Estimated volumes by product class may be obtained by reliable information from the buyer or seller, or from specially trained data collectors who have estimated volumes from a visual on-site inspection or from an aerial survey.

Calculate value of pre-merchantable planted pine timber

For pre-merchantable planted pine timber, the value of the standing timber may be determined by estimating the value of the timber at the age of merchantability and then prorating this value to the actual age of the pre-merchantable stand. The appraiser may arrive at this estimate using the following steps:

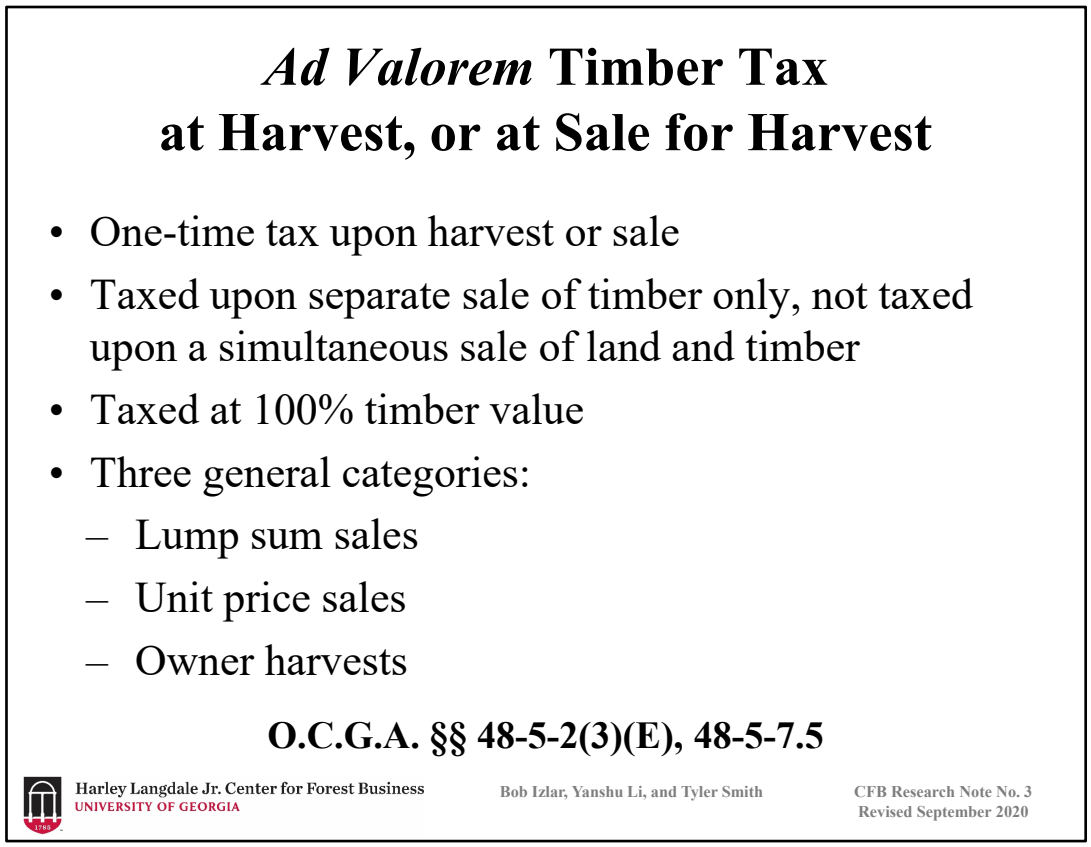
1. For each applicable timber product class, multiply the estimated tons of timber volume yield per acre for each product class at the age of merchantability times the locally prevailing timber price per ton of such product classes. Sum the individual results of the timber product class calculations into a single result.
2. In the absence of reliable locally prevailing timber price per ton information, the appraiser may use timber price per ton from the table of weighted average prices paid for harvested timber prepared by the Commissioner pursuant to paragraph (g) of Code section 48-5-7.5.
3. In the absence of specific yield information to the contrary, the appraiser may estimate timber volume yields at an average yield of 52.2 tons per acre or preferably by using the land productivity classifications established by Rule 560-11-10-.09(3)(b)(2)(i) and the following DOR's tables of estimated yields of fully stocked planted timber stands at age fifteen, and then adjusting the yields according to the actual stocking density of the timber stand.
4. For tables, see Ga. Comp. R. & Regs. r. 560-11-10.09(3)(b)(2)(v)(I)

Ad Valorem Timber Tax at Harvest or at Sale for Harvest

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



Timber Tax

O.C.G.A. § 48-5-7.5

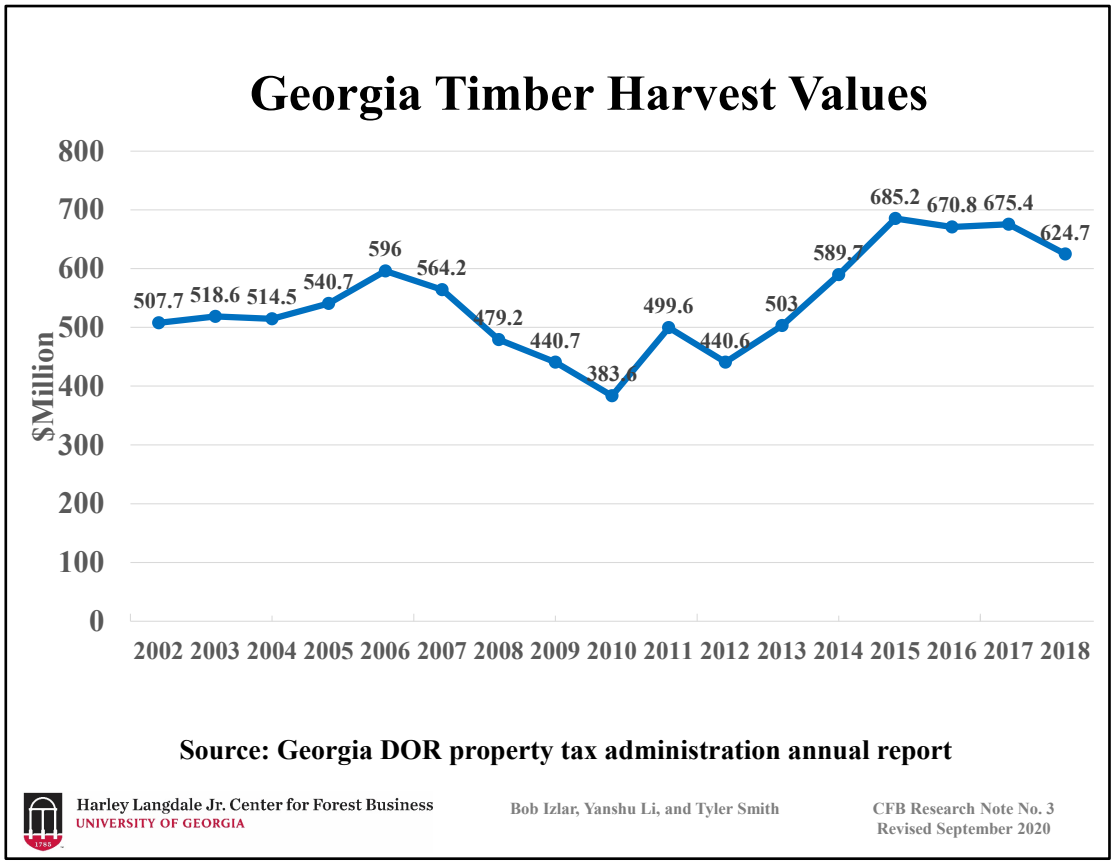
Prior to 1992 timber was taxed annually as part of the tax digest. At that time, approximately 82 counties placed some value on standing timber, but only 15 of these separated timber on the digest. The other counties either did not tax timber or could not identify the value separate from the land value. Along with Conservation Use Valuation the amendment to the Georgia Constitution which was approved by the electorate in 1990 also provided for a one-time assessment on harvested timber versus the annual taxation of timber as part of the value of the real estate. Timber is taxed once at its current market value when harvested or sold for harvest (O.C.G.A. § 48-5-2(3)(E)).

First, the county assesses timber at 100 percent of its fair market value (FMV) times the millage rate at the time of sale, or harvest if there is no sale. Normal assessment is 40 percent of the fair market value every year. The method of estimating fair market value is different also. Other property has the fair market value estimated by comparable sales. The FMV of timber is generally going to be the actual sale price, but it must be a bona fide sale. For example, it cannot be a sale which would not reflect what the timber would have sold for on the open market (e.g. father to daughter for a "special price").

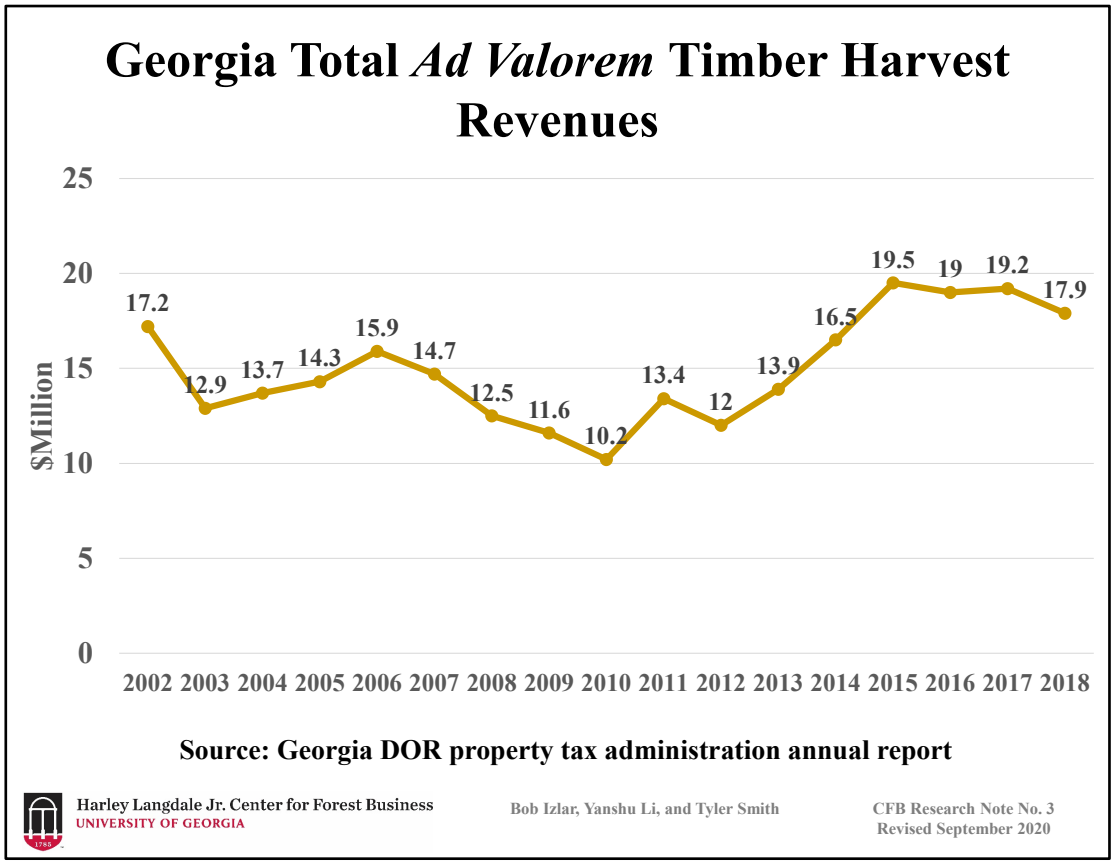
Second, the timber sale must be separate and apart from the land. There is no tax on the timber where the owner simultaneously sells the land and timber as a unit without timber harvest. The county taxes only timber sold and intended for harvest.

Third, all timber sales and harvests, except a landowner cutting firewood from his own land for use within his personal home, are taxable. Timber cut and manufactured into a product by the owner is considered a harvest and taxed as such. County assessors tax timber under three general categories. These are: **Lump Sum Sales, Unit Sales and Owner Harvests.**

The Figure following shows the relationship between the fair market value of timber harvested in the industry and the actual revenues levied on harvested timber.



Timber harvest values decreased by 36% during 2007-2010. The values have been on the path of recovering since 2011. In 2014, it exceeded the pre-crisis level (2007) for the first time. The reported value of timber harvest (on 2.47 million acres) is $624.7 million in 2018.



County and school revenue from timber has been relatively stable over years. In 2018, the total revenue from timber harvest was $17.9 million, a 6.8% decrease from last year.

Form PT-283T

PT-283T (Rev. 5/00)
Georgia Department of Revenue

REPORT OF TIMBER SALE OR HARVEST
(Please Type or Print)

THIS REPORT IS BEING FILED FOR
[ ] SINGLE LUMP SUM SALE OF TIMBER
[ ] QUARTERLY SUMMARY OF TIMBER SOLD BY UNIT PRICE
[ ] QUARTERLY SUMMARY OF TIMBER HARVESTED BY OWNER

Year _____
Quarter: [ ] 1st [ ] 2nd [ ] 3rd [ ] 4th

SECTION A - Landowner

NAME

MAILING ADDRESS (Street and number)

CITY, STATE and ZIP CODE

SECTION B - Purchaser of Timber (If applicable)

TIMBER PURCHASER'S NAME

MAILING ADDRESS (Street and Number)

CITY, STATE and ZIP CODE

SECTION C - Location of Land Underneath Timber

1. LOCATION (Street, Route, Hwy, District, Land Lot, etc.)

SECTION D - Timber Volumes

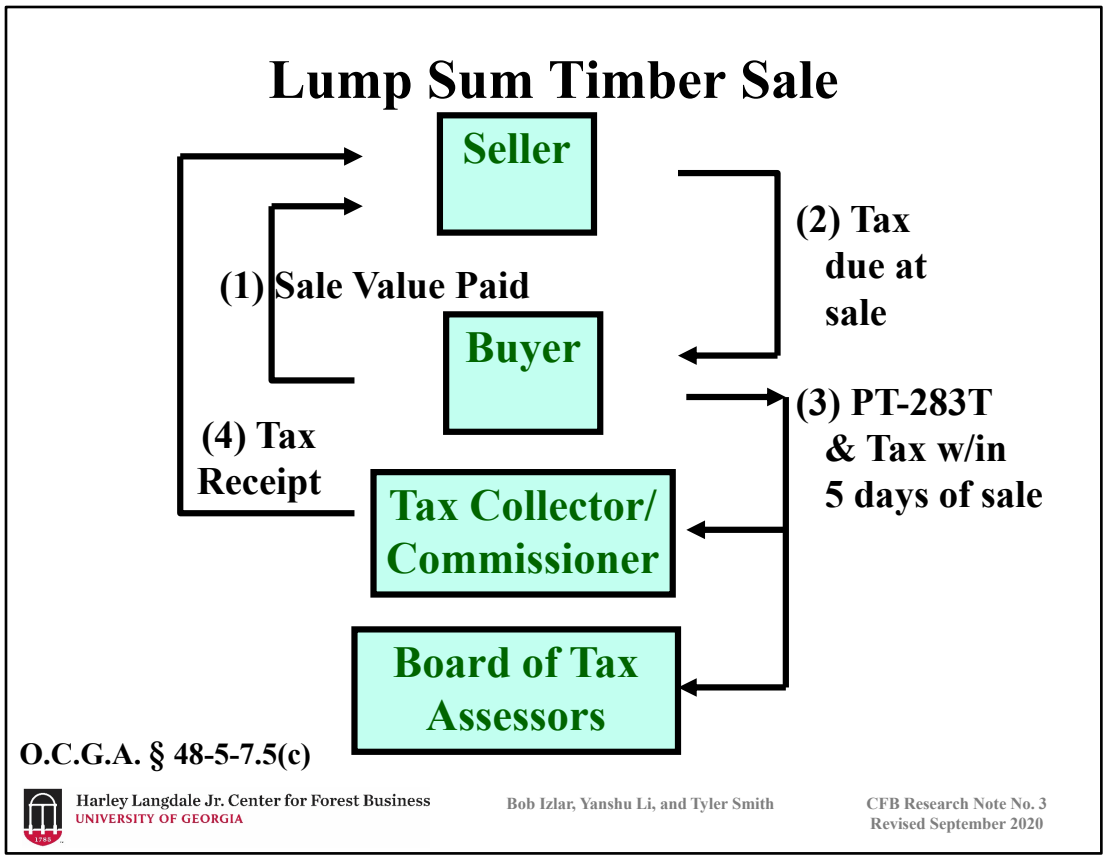
All volumes reported in tons (2,000lb). Conversions: Softwood based on Scribner 7.500 tons/MBF, 2.675 tons/cord; hardwood based on Doyle 8.750 tons/MBF, 2.900 tons/cord. Posts based on 37 posts per ton.

TIMBER TYPE	SOFTWOOD VOLUME IN TONS	HARDWOOD VOLUME IN TONS
PULPWOOD		
CHIP-N-SAW		
SAW TIMBER		
POLES		
POSTS		
FUELWOOD-CHIPS		

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



Lump Sum Timber Sales

A lump sum sale is the absolute sale of specific standing timber for a fixed total price. Buyer and seller agree to the lump sum price before cutting begins. Usually, lump sum sales are by contract. Since the ownership of timber changes with a lump sum sale, a timber buyer can record these sales with a deed. These sales are also called "boundary sales" when the owner sells all timber within a given area. They may also include sales of marked timber, timber of a specific size, or only of certain species.

1. Buyer pays seller for full value of timber sold.

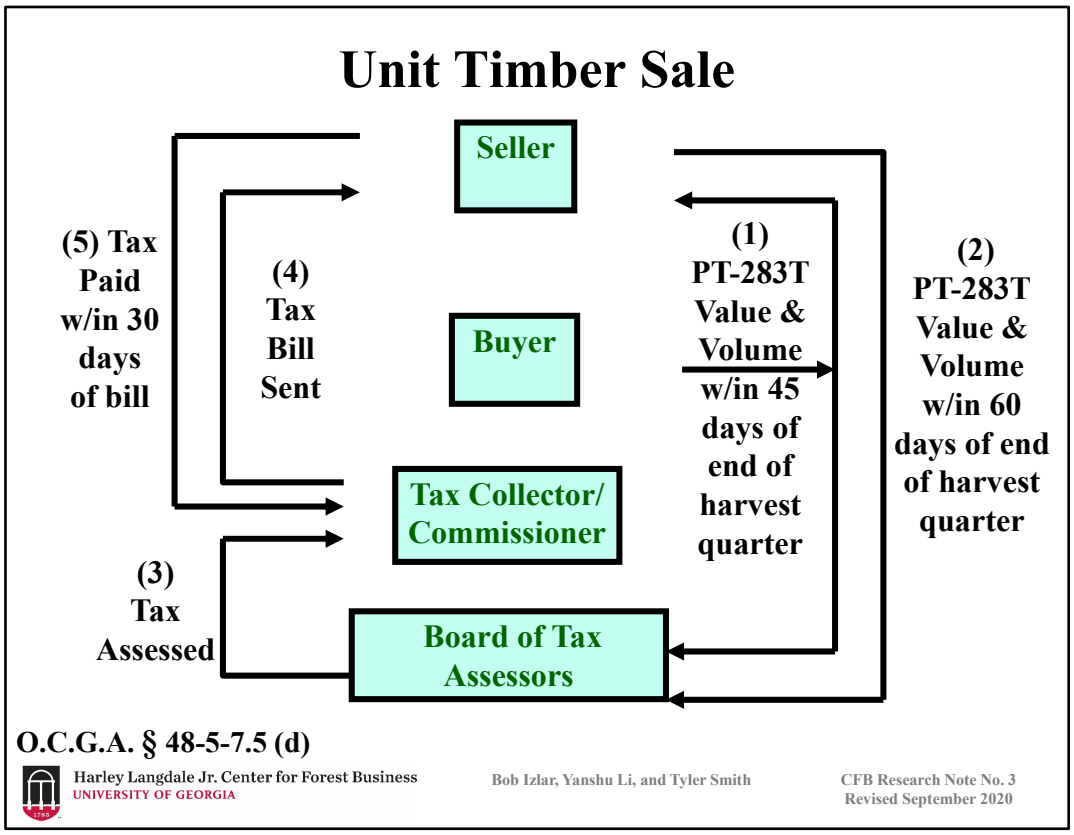
2. Tax will be computed by multiplying 100% of the fair market value (the sale price) times the millage rate levied by the taxing authority on tangible property for the previous calendar year. The tax will be figured mutually by the purchaser and the seller at the time of the sale and a negotiable instrument (check) for the amount of the tax payable, made out to the local county tax collector, will be remitted by the seller to the purchaser.

3. The purchaser must then remit the tax and form PT-283T to the local county tax collector/commissioner within 5 business days from the day of sale. The purchaser must also give a copy of PT-283T to the Board of Tax Assessors. The purchaser is personally liable for the tax if he does not remit the seller's payment or if he fails to collect the taxes due from the seller. The timber buyer ***may*** record a timber deed with the Clerk of Court when the tax is paid. Filing the timber deed establishes a record in the courthouse that ownership of the timber has been transferred from the Seller to the Buyer.

4. The local county tax collector will mail the seller a receipt showing payment of the tax.

* The tax assessor and the tax commissioner may be the same in some counties.

If the timber falls inside a city, the city will also levy its *ad valorem* tax. The county usually collects any county and city *ad valorem* taxes. The county then pays the city. This prevents the seller and buyer from having to file and pay twice.



Unit Timber Sales

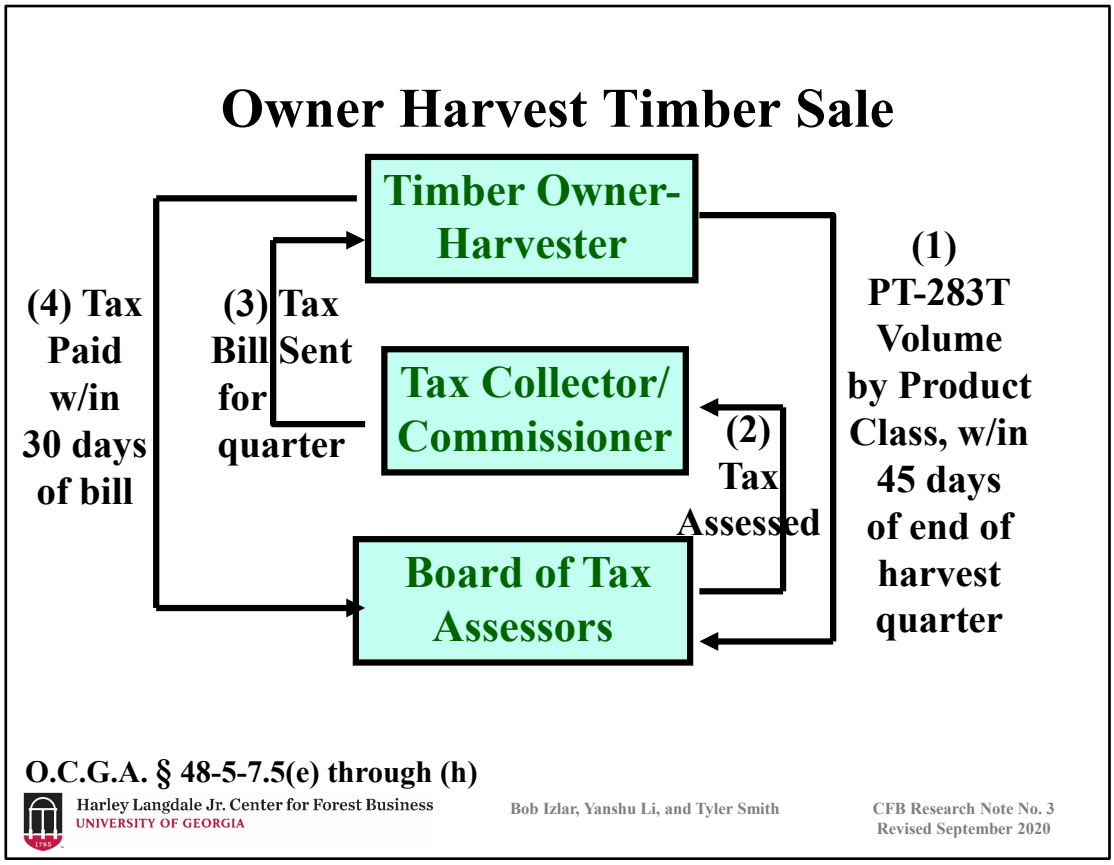
A unit sale, or pay-as-cut sale, occurs when the buyer and seller agree to a specified rate of payment for each unit of timber cut and measured. Cords, thousand board feet (MBF), tons, etc. are common units of measure, but the legal unit to sell by is by the ton or specifically measured volume. Unlike a lump sum sale, with unit sales the seller owns the timber until the buyer harvests it. The buyer makes payments, usually weekly or monthly for units harvested. With unit sales, the buyer makes payments over time. Because it is impractical to report and collect the tax every week, taxes on unit sales are paid and reported quarterly.

1. Within 45 days after the end of the calendar quarter of harvest the purchaser will make notification (via PT-283T with two copies to the seller and one copy to the local county Board of Tax Assessors) of the volume of timber cut in that quarter and the total dollar value paid for timber cut in that quarter by tract.
2. A copy of the same PT-283T report will be provided by the seller to the local county Board of Tax Assessors within 60 days of the end of the quarter to confirm the harvest.
3. The Tax Assessor will notify the Tax Commissioner of the assessed value of the timber sale*.
4. The Tax Commissioner will then bill the seller for 100% of the fair market value (total dollar value paid in that quarter) times the millage rate levied by the taxing authority on tangible property for the previous calendar year.
5. The taxes shall be payable by the seller within 30 days of the receipt of the bill.

The form PT-283T and the information on it are confidential records. PT-283T contains not only the amount of money paid out during the quarter but also contains the volume, in tons, of wood harvested during the quarter by product class. The per ton price can thus be calculated by dividing the total price by the volume, in tons. This value is confidential between the seller and the purchaser and the form's confidentiality (the same protection as your income tax return has) protects this information.

See form PT-283T for conversion factors between tons and cords.

* The Tax Assessor and the Tax Commissioner may be the same in some counties.



Owner Harvest of Timber

Often, owners harvest their timber and receive no direct stumpage payment. Here the timber is not bought on the open market. The primary example is a timber company cutting on its own land to supply its own mill. To establish a fair market value for *ad valorem* tax purposes, those harvesting under this method would report the volume of timber cut in the quarter by product class. County tax assessors then use an annual table of values from the Georgia Department of Revenue Local Government Services Division to calculate the valuation for *ad valorem* tax purposes.

1. The owner who harvests timber from his own lands will report the volume, in pounds, if available, or measured volume of timber by product class harvested in a calendar quarter to the local county Board of Tax Assessors within 45 days of the end of that quarter.

2. The local county Board of Tax Assessors will multiply the volume of each product class times the price per product class unit (ex. $/cord, $/mbf, etc.) as supplied by the Department of Revenue. The total value of all product classes will be the fair market value which will be multiplied times the millage rate levied by the taxing authority on tangible property for the previous calendar year. This figure will be the tax for that quarter.

3. The Tax Commissioner will then bill the owner for the tax in that quarter.

4. The tax will be payable by the owner within 45 days of the end of that quarter.

Other Sales or Harvests - Where a timber transaction does not fit the above categories, the law calls for it to be taxed "in the manner most similar" to one of the three categories. For example, if individuals trade land for timber, they should establish FMV for the land and calculate the tax due on the timber as if it were a lump sum sale.

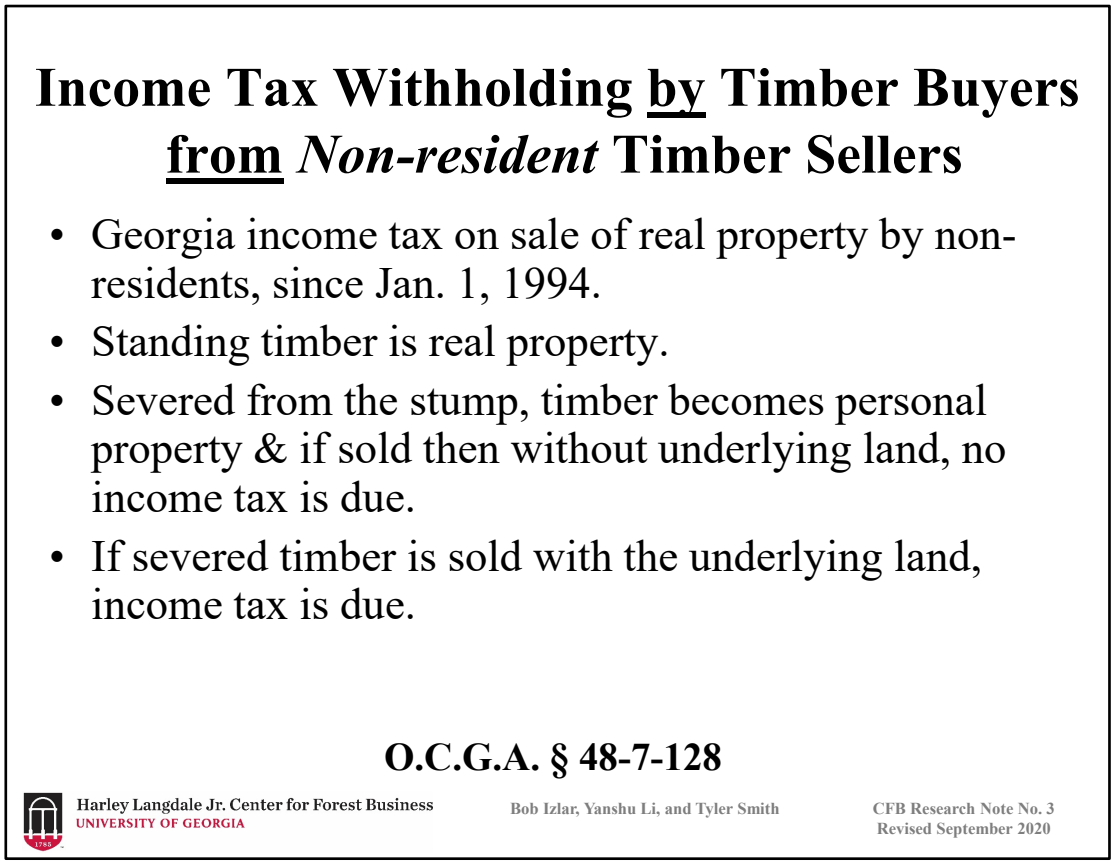
Interest and Penalties - Interest at one percent per month is due on all unpaid taxes. A **penalty** of one percent per month of the tax due is charged for the first 12 months if the timber reports are not filed as required by the act. After 12 months, the failure is presumed intentional and the penalty is changed to equal 50 percent of the tax due. This is not an additional penalty. Rather, after 12 months, the first penalty is dropped in favor of the higher, second penalty.

State Income Tax Withholding by Timber Buyers from Non-resident Sellers

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



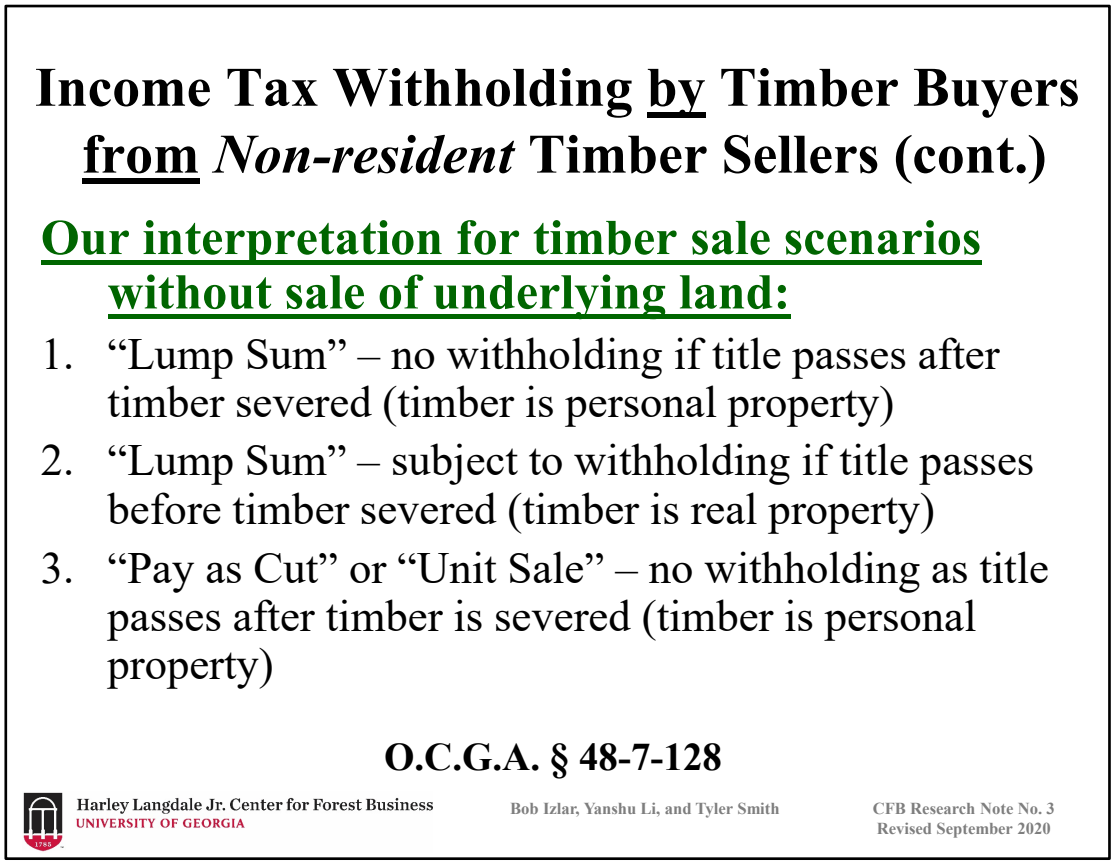
Income Tax Withholding by Timber Buyers from Non-resident Timber Sellers

On January 1, 1994, a little known 1993 law went into effect (O.C.G.A. § 48-7-128) which required timber purchasers, under certain conditions, to withhold Georgia income tax on the sale or transfer of real property and associated tangible property by nonresidents of Georgia.

On May 4, 1994, Georgia Department of Revenue (DOR) administrative ruling clarified the treatment of this new income tax withholding on the sale or transfer of timber by nonresidents of Georgia.

Under Georgia law, standing timber is real property. However, once the standing timber is severed from the stump, it becomes personal property.

According to the DOR ruling, the "related tangible personal property" (severed timber) is not subject to the withholding requirement unless there is an associated sale or transfer of the underlying real property (land).



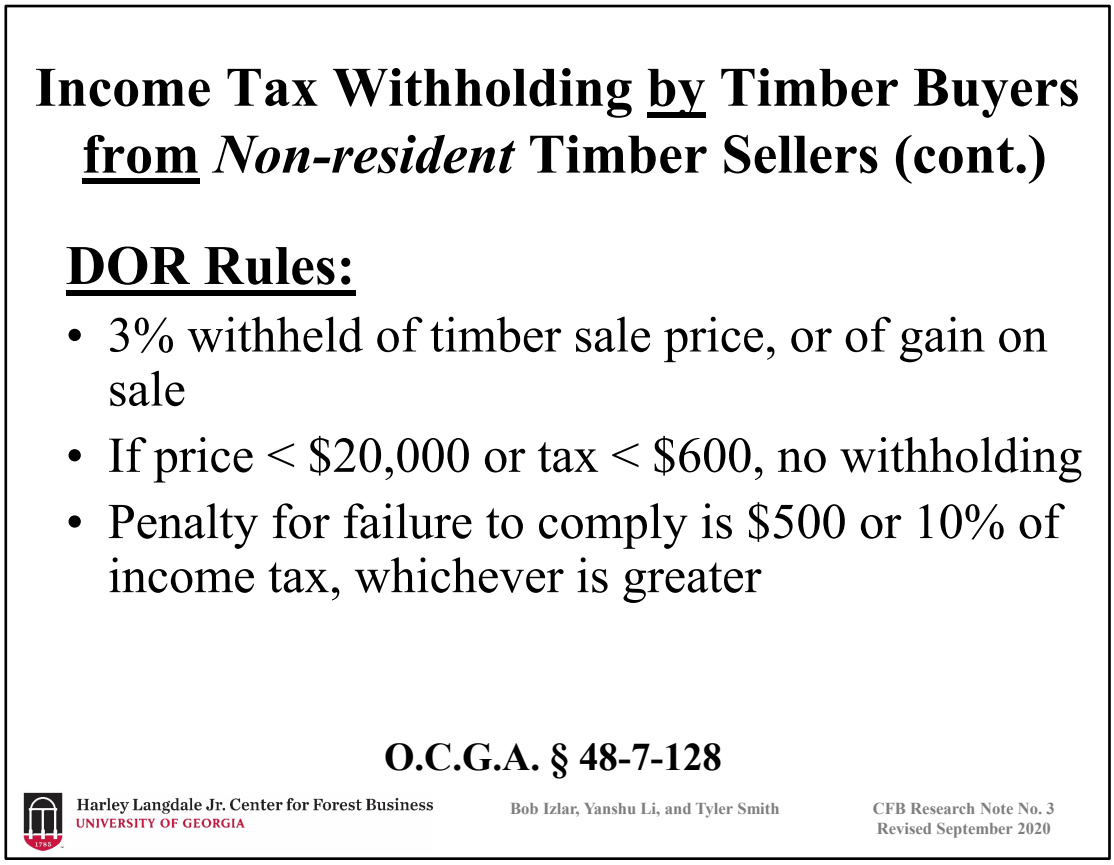
Income Tax Withholding by Timber Buyers from Non-resident Timber Sellers (cont.)

As long as there is no sale or transfer of the underlying real property, here is our interpretation of the following timber sale or transfer scenarios, according to the DOR ruling:

1. Lump sum purchases where title to standing timber does not pass until after it is severed from the stump do not require withholding,

2. If title to timber passes to the purchaser before it is severed from the stump, the timber is considered real property, and subject to withholding,

3. In the case of a "pay as cut" or "unit sale" agreement where title passage occurs after severance from the underlying real property, withholding is not required.



Income Tax Withholding by Timber Buyers from Non-resident Timber Sellers (cont.)

DOR Rules: Under the DOR's rules relating to withholding requirements, the amount withheld shall be three percent of either the sales price or gain recognized on the transfer. The buyer is responsible for withholding the income tax from the nonresident timber seller and remitting to the Commissioner of Revenue with the correct forms. When the purchase price is less than $20,000 or the tax liability is less than $600, no withholding is required.

O.C.G.A. § 48-7-128

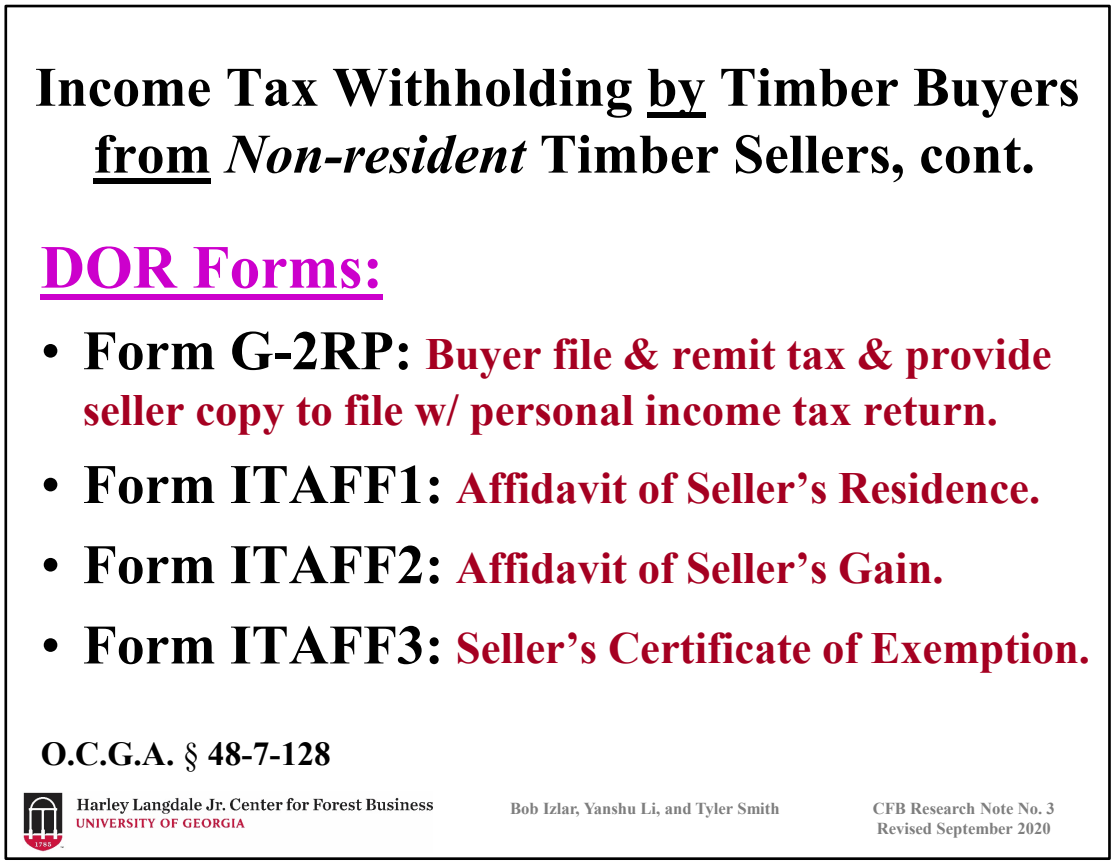
(a)(4) If the seller or transferor is a corporation or limited partnership, it is registered to do business in Georgia.

(b)(1) Except as otherwise provided in this Code section, in the case of any sale or transfer of real property and related tangible personal property located in Georgia by a nonresident of Georgia, the buyer or transferee shall be required to withhold and remit to the commissioner on forms provided by the commissioner a withholding tax equal to 3 percent of the purchase price or consideration paid for the sale or transfer; provided, however, that if the amount required to be withheld pursuant to this subsection exceeds the net proceeds payable to the seller or transferor, the buyer or transferee shall withhold and pay over to the commissioner only the net proceeds otherwise payable to the seller or transferor. Any buyer or transferee who fails to withhold such amount shall be personally liable for the amount of such tax.

(2) The liability imposed by this subsection shall be paid upon notice and demand by the commissioner or the commissioner's delegate and shall be assessed and collected in the same manner as all other withholding taxes imposed by this article.

(c) If the seller or transferor determines that the amount required to be withheld pursuant to paragraph (1) of subsection (b) of this Code section will result in excess withholding on any gain required to be recognized from the sale, the seller or transferor may provide the buyer or transferee with an affidavit signed under oath swearing or affirming to the amount of the gain required to be recognized from the sale, and the buyer or transferee shall withhold 3 percent of the amount of the gain required to be recognized, if any, stated in the affidavit rather than as provided in paragraph (1) of subsection (b) of this Code section. If, however, the amount required to be withheld pursuant to this subsection exceeds the net proceeds payable to the seller or transferor, the buyer or transferee shall withhold and pay over to the commissioner only the net proceeds otherwise payable to the seller or transferor.

(e)(1) Unless otherwise provided, if the seller or transferor is a partnership or Subchapter "S" corporation or other unincorporated organization which certifies to the buyer or transferee that a composite return is being filed on behalf of the nonresident partners, shareholders, or members and that the partnership, Subchapter "S" corporation, or unincorporated organization remits the tax on the gain on behalf of the nonresident partners, shareholders, or members, the buyer or transferee shall not be required to withhold as provided in this Code section. Any nonresident partner, shareholder, or member who falsely certifies that a composite return is being filed on behalf of such partner, shareholder, or member shall be liable for a penalty in the amount of $500.00 or 10 percent of the amount required to be withheld, whichever is greater.



Income Tax Withholding by Timber Buyers from Non-resident Timber Sellers (cont.)

DOR Forms:

The Department of Revenue has developed four forms to be filed and remitted unless otherwise exempted.

- **Form G-2RP** The buyer is required to provide seller with a copy for the seller to file with the personal income tax return. The buyer is also required to file and remit the income tax collected from the nonresident timber seller.
- **Form ITAFF1** (Affidavit of Seller's Residence) This is only required where a seller is a nonresident but meets the conditions under which the seller may be deemed a resident.
- **Form ITAFF2** (Affidavit of Seller's Gain) This form allows a seller to provide a buyer with an affidavit swearing to the gain on the timber sale so that withholding may be based on the gain rather than thee purchase price. Sellers need to be able to document their cost basis and sales cost to avoid overpaying taxes and tend to their federal income tax and estate tax matters.
- **Form ITAFF3** (Seller's Certificate of Exemption) Although not required by law, the Commissioner has prepared a Certificate of Exemption for record keeping purposes.

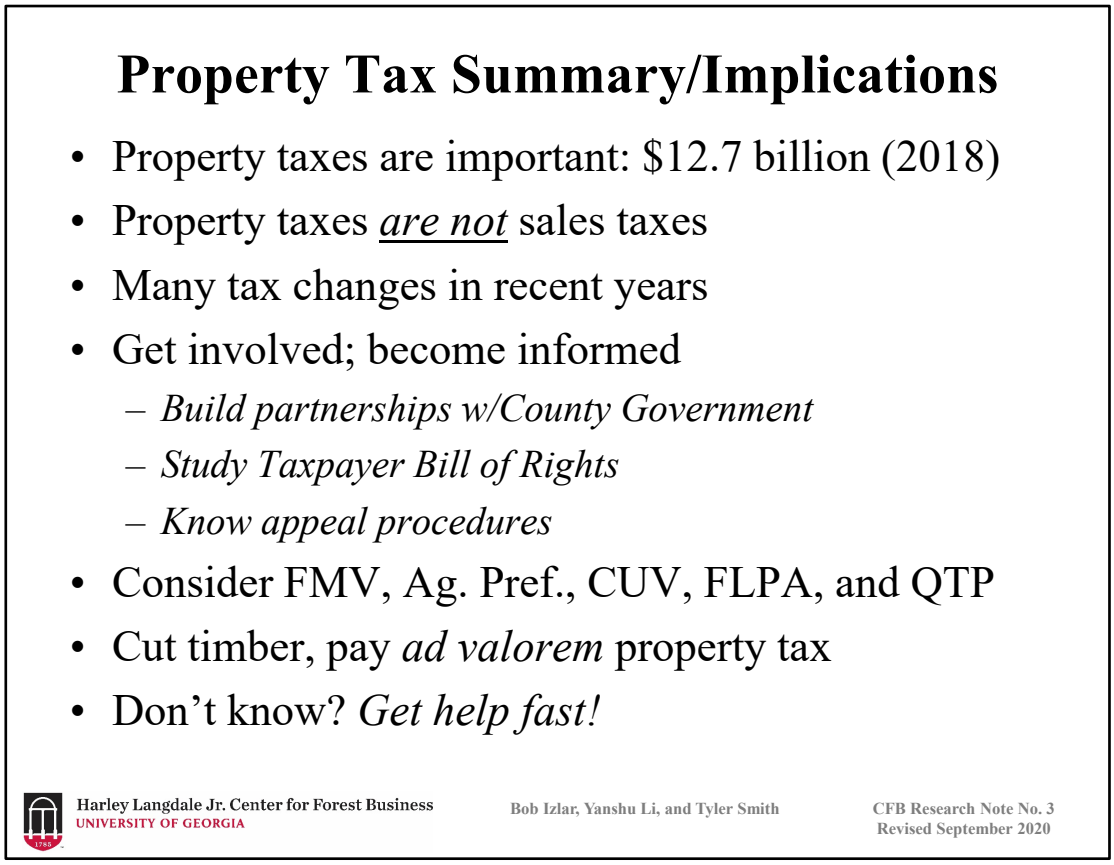
All forms may be obtained through the Georgia Department of Revenue, 1800 Century Blvd, NE Atlanta GA 30345-3205.

Summary and Implications

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA

Bob Izlar, Yanshu Li, and Tyler Smith

CFB Research Note No. 3
Revised September 2020



This book is an attempt to present the *ad valorem* tax property tax incentives for Georgia landowners. It does not address conservation easements or conservation land tax incentive programs as they sometimes mix *ad valorem* tax relief with either state or federal income tax relief on a long term but not permanent basis.

For a great summary review of Southern state conservation use valuation property tax programs, please see Talberth and Yonavjak (cited below). They give an excellent overview and comparison of the different conservation use valuation systems currently in use in eight Southern states, including Georgia.

Talberth, John and Yonavjak, Logan. 2011. Current use valuation programs: Property tax incentives for preserving local benefits of forests. Southern Forests for the Future Incentives Series, Issue Brief 5, World Resources Institute, Washington, DC, 12p. [http://www.wri.org/publication/current-use-valuation-programs].

Warnell School of Forestry
& Natural Resources
UNIVERSITY OF GEORGIA

Property Tax Incentives for the Georgia Landowner

Harley Langdale, Jr. Center for Forest Business Research Note No. 3

Harley Langdale Jr. Center for Forest Business
UNIVERSITY OF GEORGIA