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How potential new laws from Georgia’s 2017-2018 legislative session could affect forest landowners’ tax

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Georgia’s 2017-2018 legislative session just ended. As a forest landowner, you might be wondering which potential new laws could affect you. Here is a brief summary of the major forest tax-related bills that were just passed during the session:

***Ad Valorem* Timber Tax Reform (HB 85/HR 51)**

If approved by the voters in November 2018, these two pieces of legislation (one a Constitutional Amendment; the other its enabling bill) could be the most significant timberland property tax overhaul in Georgia since 2008, when the Forest Land Protection Act (FLPA) was passed. In general, these revisions are intended to provide a more uniform valuation of timberland for *ad valorem* taxation purposes. They introduce more options for forest landowners in Georgia when it is time to choose which tax incentive program to use and grant more flexibility to landowners to keep their land in forests.

Major components include:

- **Establish a new class of land as “Qualified Timberland Property”**

The qualified property (minimum of contiguous 50 acres) will be assessed at its fair market value (FMV) as determined by the Department of Revenue (not local county assessors any more). It is mandated that the FMV should not be less than 175% of the property’s forestland conservation use value (e.g. CUVA/FLPA value). In order to be qualified, the land has to be managed primarily for producing timber for commercial use. It is different from Conservation Use Valuation Assessment (CUVA) and FLPA, in that qualified landowners are not required to sign a multi-year covenant to have the property appraised at the Qualified Timberland Property values but they need to file a return annually to maintain their status.

- **Reduce the FLPA covenant length from 15 years to 10 years and change the contiguity requirement**

The length of the FLPA covenant will be reduced from 15 years to 10 years. This makes it more in line with CUVA. The requirement of contiguity of FLPA land has also



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been relaxed. Currently, qualified FLPA land has to be at least 200 contiguous acres. Under the bill, an aggregate of at least 200 acres of forest land across the state can qualify for FLPA as long as parcels in any given county exceed 100 acres.

- **Adjust the methodology used to calculate the FLPA state assistance grant for counties and allow DOR to deduct grants for administration**

The baseline FMV used in the state assistance grant formula will change from the 2008 FMV to the current-year FMV of the property. A 5-year transitional mechanism and a special fund are put in place to help smooth the transition. Up to 5 percent of the assistance grant may be deducted and retained by the Department of Revenue to cover administration costs.

Currently, the enabling legislation (HB 85) has been sent to the governor for signature. The Constitutional Amendment will appear on the general election ballot for November 6, 2018. If approved, the Constitutional Amendment and its enabling legislation will become effective January 1, 2019.

More information about HB 85 at <http://www.legis.ga.gov/Legislation/en-US/display/20172018/HB/85> and HR 51 at <http://www.legis.ga.gov/legislation/en-US/Display/20172018/HR/51>

Revision to CUVA (SB 458)

SB 458 makes several needed changes to the CUVA program.

First, it allows farm entities who have a 65+ age shareholder, member or partner, provided this person has been under the renewed CUVA covenant for a minimum of three years, to break a covenant at a reduced penalty.

Tax Assessors are prohibited from requiring a recorded plat or survey to set the boundaries of the “underlying CUVA” property.

The standards of proof of “bona fide conservation” property are changed so that any additional relevant records to prove bona fide conservation use of a property do not apply if a qualified owner has filed either an Internal Revenue Service Schedule E, Schedule F or Form 4835; provided proof of expenses related to the qualifying use; or provided proof that income has been produced from the qualifying use.

Tax assessors may no longer require additional relevant records on proof of bona fide conservation use for properties totaling ten acres or more.

Tax payers who win an appeal in Superior Court to approve their CUVA application, can recover litigation costs and reasonable attorney’s fees, and if a tax decrease results the county must reimburse the tax payer. Conversely, any final determination which results in increased taxes are owed to the county.

In an alleged breach of a CUVA covenant, any reversal of a Board of Assessors decision on a breach shall entitle the taxpayer to recover litigation costs and reasonable attorney’s fees.

More information about HB 373 at <http://www.legis.ga.gov/Legislation/en-US/display/20172018/HB/373> and SB 458 at <http://www.legis.ga.gov/Legislation/en-US/display/20172018/SB/458>

GATE program (HB 886)

The Georgia Agriculture Tax Exemption program (GATE) offers qualified agricultural producers (including timber growers) a sales tax exemption on the purchase of agricultural equipment and inputs. HB 886 increases the minimum qualifying threshold to \$5,000 (annualized income for timber growers) and makes it an aggregate of commodities produced. It also raises the cost to \$150 for a 3-year valid GATE card.

More information about HB 886 at <http://www.legis.ga.gov/legislation/en-US/Display/20172018/HB/886>

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