

March 20, 2012

Proposed Changes to the Georgia Land Conservation Tax Credit Act (O.C.G.A. § 48-7-29.12)

In April 2006, the state of Georgia passed the Georgia Land Conservation Tax Credit Act, creating a new state income tax credit (not deduction) for land conservation. The purpose of the law was to provide a financial incentive for landowners willing to donate conservation easements or fee interests in real property to a nonprofit land trust or governmental entity, and thereby protect naturally and/or historically significant lands. The law allowed Georgia taxpayers a credit of up to 25% of the fair market value of the donation, with a maximum credit of \$250,000 per individual, \$500,000 per corporation and \$1,000,000 for partnerships.

On January 1, 2012, Georgia stepped into the forefront of incentivizing conservation by allowing these tax credits to be transferred or sold. Instead of having to use the Georgia income tax credits for the individual taxpayer donating the real property interest, they can now be sold on the open market for approximately \$.80 per \$1 of tax credit (the current market rate in the four other states with similar transferable tax rights).

The executive office has been crafting legislation to be introduced as part of House Bill 386, which will drastically modify the Georgia Land Conservation Tax Credit Act. The current proposed legislation, starting on page 21, can be found [here](#). In short, the proposed changes, as of the close of business on March 19th, include reducing the overall partnership cap on the tax credit from \$1,000,000 to \$500,000; requiring qualified nonprofit organizations/holders (the recipients of the donation) to be accredited by the Land Trust Accreditation Commission by 2013; and defining “substantial valuation misstatements” and increasing penalties for making them. Other proposed changes would include that no tax credit be allowed if the property has been subdivided within the past five years; that any tax credits earned by the taxpayer at the time of donation in the taxable years beginning on or after January 1, 2013, may be transferred or sold only once; and that no credit shall be allowed with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution. The most significant of these proposals is the decrease in the financial incentive by reducing the partnership cap to \$500,000 and prohibiting credits to any property subdivided within the past five years.

If you have an interest in conservation matters, the Georgia Land Conservation Tax Credit Act or its associated tax credits, you may wish to review the proposed changes to the current law and communicate any concerns to the Governor’s Office or to your local legislators. The session wraps up this week, so it is important that you promptly communicate any concerns that you may have.



If you have any questions about this development, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

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