

# Georgia PACE Enabling Statute – “Georgia Farmland Conservation Act”

O.C.G.A. §§ 44-10-40 to 44-10-47

*Current through 2024 Regular and Extraordinary Session of the General Assembly*

TITLE 44 Property (Chs. 1 — 17)

CHAPTER 10 Historic Preservation (Arts. 1 — 3)

ARTICLE 3 Farmland Conservation (§§ 44-10-40 — 44-10-47)

## **44-10-40. Short title.**

This chapter shall be known and may be cited as the “Georgia Farmland Conservation Act.”

*History: Code 1981, § 44-10-40, enacted by Ga. L. 2023, p. 38, § 1/SB 220, effective July 1, 2023.*

## **44-10-41. Legislative findings.**

The General Assembly finds and declares that:

- (1) Ensuring permanent conservation of farmland is of vital importance to the state and the citizens of Georgia and essential in protecting Georgia’s agricultural economy, the ecological benefits provided by agricultural lands and activities, the community character enhanced by agricultural landscapes, and food production in the state;
- (2) Creating the Georgia Farmland Conservation Fund Program will enable owners of farmland to voluntarily protect their farmland, facilitate the transition of farms under development pressure to next-generation farmers, increase the supply of locally grown food in this state, and facilitate utilization of federal and local funds to benefit Georgia’s farmland; and
- (3) Utilizing nonprofit organizations, in addition to government entities, to hold agricultural conservation easements will provide substantial benefit to the state by allowing the state to maximize the availability of matching funds from federal programs designed to protect farmland and food production in the state and reduce the costs and burdens to the state associated with enforcing the terms of agricultural conservation easements.

*History: Code 1981, § 44-10-41, enacted by Ga. L. 2023, p. 38, § 1/SB 220, effective July 1, 2023.*

## **44-10-42. Definitions.**

As used in this article, the term:

- (1) “Agricultural conservation easement” means a conservation easement that, in accordance with the provisions of Article 1 of Chapter 10 of Title 44, the “Georgia Uniform Conservation Easement Act,” imposes limitations or affirmative obligations, the purpose of which include assuring the

availability of real property for agricultural uses or the retention or protection of natural, scenic, or open-space values of real property.

(2) “Commissioner” means the Commissioner of Agriculture.

(3) “Conservation easement” shall have the same meaning as set forth in Code Section 44-10-2.

(4) “Costs of acquisition” means all direct costs of activities, including, but not limited to, appraisals that are required by applicable state laws and local ordinances or policies in order to convey an agricultural conservation easement in qualified farmland to a qualified holder; provided, however, that such costs shall not include any costs for services provided in violation of Chapter 40 of Title 43.

(5) “Council” means Georgia Farmland Advisory Council.

(6) “Department” means the Department of Agriculture.

(7) “Fund” means the Georgia Farmland Conservation Fund.

(8) “Program” means the Georgia Farmland Conservation Fund Program.

(9) “Project proposal” means any application seeking moneys from the Georgia Farmland Conservation Fund.

(10) “Qualified easement holder” means a state agency, federal agency, county, municipality, or a 501(c)(3) nonprofit organization which acquires or proposes to acquire, whether through purchase, donation or transfer, an agricultural conservation easement.

(11) “Qualified farmland” means agricultural land in undeveloped areas or that has been developed only to the extent consistent with agricultural production, including row crops, livestock, nurseries, orchards, or pastures.

*History: Code 1981, § 44-10-42, enacted by Ga. L. 2023, p. 38, § 1/SB 220, effective July 1, 2023.*

#### **44-10-43. Farmland Conservation Fund created; investments; expenditures; accounting of expenditures.**

(a)

(1) The state treasurer shall establish a separate trust fund in the state treasury that shall be known as the Georgia Farmland Conservation Fund, consisting of annual appropriations by the legislature to the fund, public or private grants, gifts, donations, or contributions dedicated to the fund for farmland conservation, and moneys from any other source, including proceeds from the sale of bonds, state, federal or private mitigation funds, or moneys from any local, state, or federal program dedicated to the fund for farmland conservation.

(2) The state treasurer shall invest the money held in the Georgia Farmland Conservation Fund in the same manner in which state funds are invested as authorized by the State Depository Board pursuant to Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the trust fund shall be accounted for separately and shall be credited to the trust fund to be disbursed as other moneys in the trust fund.

(b) Moneys in the Georgia Farmland Conservation Fund shall be expended by the Commissioner solely as provided in this article.

(c) The Commissioner shall prepare an accounting of the moneys expended pursuant to this Code section during the most recently completed fiscal year to be provided to the Office of Planning and Budget, the House Budget and Research Office, and the Senate Budget and Evaluation Office by January 1 of each year.

*History: Code 1981, § 44-10-43, enacted by Ga. L. 2023, p. 38, § 1/SB 220, effective July 1, 2023.*

**44-10-44. Farmland Conservation Fund Program created; grants; costs of administration.**

(a) There is established the Georgia Farmland Conservation Fund Program to be administered by the department. In administering the program, the department shall, each fiscal year, make available moneys from the Georgia Farmland Conservation Fund for matching grants to any prospective qualified easement holder having a project proposal which has been reviewed by the department and approved by the council.

(b) Any project proposal selected to receive a matching grant through the program shall have as its primary purposes the advancement of farmland conservation and the support of active farming and food production in this state. Award grants from the program may include payment:

- (1) To qualified easement holders for the purchase of agricultural conservation easements on qualified farmland, for advancing farmland conservation, and to support active farming and food production in Georgia; or
- (2) For the costs of acquisition related to the purchase of agricultural conservation easements approved by the program.

(c) As a cost of administering the program, the department may annually deduct and retain an amount equal to 5 percent of the fund.

*History: Code 1981, § 44-10-44, enacted by Ga. L. 2023, p. 38, § 1/SB 220, effective July 1, 2023.*

**44-10-45. Administration of program.**

In administering the program, the department shall, under the direction and advice of the council:

(1) Give priority to project proposals that protect agricultural lands susceptible to development, subdivision, and fragmentation;

(2) Adopt a scoring process for evaluating project proposals and prioritizing projects based on the extent that the project will:

- (A) Protect farmland in active or planned cultivation;
- (B) Prevent development or fragmentation that would result in farmland loss;
- (C) Support transition of affordable farmland to next-generation farmers;
- (D) Leverage local, federal, or private funding, taking into account whether such funding includes a match requirement;

(E) Support conservation priorities, including, but not limited to, protection of habitat, water quality, watershed conservation, climate resiliency, local conservation plans, and public viewshed;

(F) Preserve or enhance soil quality; and

(G) Create or further enhance compatibility with existing military installations; and

(3) Ensure that, per its terms, any agricultural conservation easement to be acquired through the project:

(A) Is of perpetual duration;

(B) May not be assigned to or enforced by a third party without the express written consent of the landowner; and

(C) Aligns with existing federal and local programs to maximize potential for matching funds.

*History: Code 1981, § 44-10-45, enacted by Ga. L. 2023, p. 38, § 1/SB 220, effective July 1, 2023.*

**44-10-46. Farmland Advisory Council created; membership; terms; compensation; meetings; quorum.**

(a) There is created the Georgia Farmland Advisory Council to advise and assist the department with administration and implementation of the program utilizing the criteria proposed by the department and adopted by the council. The council shall consist of 14 members as follows:

(1) The Commissioner, or his or her designee, who shall also serve as chairperson of the council;

(2) Two members appointed by the Governor as follows:

(A) One member who operates a family farm in this state; and

(B) One member who is the designated representative of a banking or lending organization and with significant experience in agricultural lending;

(3) One member who operates a family farm in this state, appointed by the Lieutenant Governor;

(4) Four members appointed by the Commissioner as follows:

(A) One member who operates a family farm in this state;

(B) One member who is the designated representative of a statewide agricultural organization;

(C) One member who is a designated representative of a statewide nonprofit agricultural or conservation organization operating in this state; and

(D) One member from the state at-large;

(5) One member who operates a family farm in this state, appointed by the Speaker of the House of Representatives;

- (6) The president of the Georgia Agribusiness Council;
- (7) The deans of the Colleges of Agriculture at the University of Georgia, Abraham Baldwin Agricultural College, or Fort Valley State University, who shall each serve rotating, nonconcurrent three-year terms, or his or her designee;
- (8) The executive director of the State Soil and Water Conservation Commission;
- (9) The president of the Georgia Farm Bureau or his or her designee; and
- (10) The Georgia state conservationist of the Natural Resources Conservation Service, who shall serve as a nonvoting member.

(b) Initially appointed members shall serve staggered terms of office as follows: two members as appointed by the Speaker of the House of Representatives and the Commissioner for one year, three members as appointed by the Commissioner for two years, and three members as appointed by the Governor and Lieutenant Governor for three years.

(c) The members shall serve without compensation; provided, however, that the members shall receive the same per diem allowance and reimbursement of expenses as allowed for members of the General Assembly.

(d) The council shall meet at least quarterly each year for the transaction of its business.

(e) Three-fifths of the members of the council present at any board meeting shall constitute a quorum necessary for the transaction of business; provided, however, that in absence of a quorum, a majority of the members present may adjourn the meeting from time to time until a quorum shall attend. Unless otherwise specified in this Code section, any council action or recommendation shall be approved by a simple majority of the members of the entire council then in office.

*History: Code 1981, § 44-10-46, enacted by Ga. L. 2023, p. 38, § 1/SB 220, effective July 1, 2023.*

#### **44-10-47. Powers and duties of Council.**

The council shall have the power and duty to:

- (1) Annually review and approve award grants recommended by the department;
- (2) Review and approve rules and regulations promulgated by the department for administration of the program; and
- (3) Review the outcomes of the program and recommend to the department changes in program administration or rules to ensure the success of the program.

*History: Code 1981, § 44-10-47, enacted by Ga. L. 2023, p. 38, § 1/SB 220, effective July 1, 2023.*