Rules and Regulations of the State of Georgia

Department 305 GEORGIA LAND CONSERVATION COUNCIL

Current through Rules and Regulations filed through October 27, 2026

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ADMINISTRATIVE HISTORY

The **Administrative History** following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. - Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

Chapter 305-1 entitled "Georgia Land Conservation Program" has been adopted. Filed November 1, 2005; effective November 21, 2005.

Chapter 305-1 has been repealed and a new Chapter 305-1 entitled "Program Description and Rules for Georgia Land Conservation Council & Georgia Environmental Finance Authority" containing Rules 305-1-.01 through 305-1-.07 has been adopted. Filed September 13, 2010; effective October 3, 2010.

Cite as Ga. Comp. R. & Regs. R. dept. 305, ADMINISTRATIVE HISTORY

Chapter 305-1. PROGRAM DESCRIPTION AND RULES FOR GEORGIA LAND CONSERVATION COUNCIL & GEORGIA ENVIRONMENTAL FINANCE AUTHORITY.

Rule 305-1-.01. Purpose.

The General Assembly recognizes that the state-wide network of land and water resources, the state's prime agricultural and forestry lands and its natural, cultural, historic, and recreational areas are a priceless legacy that enhance the health of ecosystems, encourage working landscapes, foster natural resource stewardship, sustain a healthy economy, and promote a sustainable high quality of life for current and future generations of Georgians (O.C.G.A Sec. 12-6A-1).

Cite as Ga. Comp. R. & Regs. R. 305-1-.01
Authority: Authority O.C.G.A. Sec. 36-22-1.
History. Original Rule entitled "Purpose" adopted. F. Nov. 1, 2005; eff. Nov. 21, 2005.
Repealed: New Rule of the same title adopted. F. Sept. 13, 2010; eff. Oct. 3, 2010.

Rule 305-1-.02. The Name of the Program.

The program shall be referred to as the Georgia Land Conservation Program (Program) (O.C.G.A. Sec. 12-6A-1 and 12-6A-9).

Cite as Ga. Comp. R. & Regs. R. 305-1-.02
Authority: Authority O.C.G.A. Secs. 36-22-1, 36-22-12.
History. Original Rule entitled "The Name of the Program" adopted. F. Nov. 1, 2005; eff. Nov. 21, 2005.
Repealed: New Rule of the same title adopted. F. Sept. 13, 2010; eff. Oct. 3, 2010.

Rule 305-1-.03. The Citation to the Statutory Basis for the Program in the Official Code of Georgia Annotated or Other General Law of the State of Georgia.

The Georgia Land Conservation Program is authorized and established in accordance with the Official Code of Georgia Annotated § 12-6A-1, *et seq.*

Cite as Ga. Comp. R. & Regs. R. 305-1-.03
Authority: Authority O.C.G.A. Sec. 36-22-1.
History. Original Rule entitled "The Citation to the Statutory Basis for the Program in the Official Code of Georgia Annotated or Other General Law of the State of Georgia" adopted. F. Nov. 1, 2005; eff. Nov. 21, 2005.
Repealed: New Rule of the same title adopted. F. Sept. 13, 2010; eff. Oct. 3, 2010.

Rule 305-1-.04. The General Scope and Purpose of the Program.

(1) The scope of the Program is to permanently protect land and water, or interests therein, that is in its undeveloped, natural state or that has been developed only to an extent that does not interfere with its conservation value.

(2) The following types of resources will be eligible for consideration in meeting the scope of the Program:

(a) Water quality protection for rivers, streams, and lakes;

(b) Flood protection;

(c) Wetlands protection;

(d) Reduction of erosion through protection of steep slopes, areas with erodible soils, and stream banks;

(e) Protection of riparian buffers and other areas that serve as natural habitat and corridors for native plant and animal species;

(f) Protection of prime agricultural and forestry lands;

(g) Protection of cultural sites, heritage corridors, and archaeological and historic resources;

(h) Scenic protection;

(i) Provision of recreation in the form of boating, hiking, camping, fishing, hunting, running, jogging, biking, walking, and similar outdoor activities; and

(j) Connection of existing or planned areas contributing to the goals set out in this paragraph (O.C.G.A Sec. 12-6A-2(5)).

(3) The purpose of the Program is to promote partnerships for the conservation of land resources that are identified by cities or counties as locally valuable or identified by the Department of Natural Resources (Department) as having statewide significance, as well as to provide land conservation funding options in cooperation with private, non-profit and tax exempt organizations to augment currently available local, state, and federal funding (O.C.G.A. Sec. 12-6A-1).

Cite as Ga. Comp. R. & Regs. R. 305-1-.04
Authority: Authority O.C.G.A. Sec. 36-22-1.
History. Original Rule entitled "The General Scope and Purpose of the Program" adopted. F. Nov. 1, 2005; eff. Nov. 21, 2005.
Repealed: New Rule of the same title adopted. F. Sept. 13, 2010; eff. Oct. 3, 2010.

Rule 305-1-.05. General Terms and Conditions of the Program.

Process.

(1) Cities, counties, the commission, other state departments or agencies, other state authorities, and nongovernmental entities may develop, submit and sponsor a 'land conservation project' to permanently protect locally identified land resources with high environmental values or conservation benefits (O.C.G.A. Sec. 12-6A-2).

(2) The Department will assist cities, counties, the commission, other state departments or agencies, other state authorities, and nongovernmental entities with the development of

land conservation project proposals including Program requirements and technical assistance with real estate transactions (O.C.G.A. Sec. 12-6A-10).

(3) The Georgia Environmental Finance Authority (Authority) will review each land conservation project proposal for:

(a) fiscal merit,

(b) the capacity of the applicant to fulfill its matching fund or loan repayment commitments,

(c) the fiscal solvency of the entity identified as responsible for protecting and managing the conservation land or conservation easement, and

(d) compliance with all applicable terms and conditions of this chapter.

(4) The Department will review each land conservation project proposal for:

(a) its strategic investment in land resources with high environmental values or conservation benefits;

(b) its permanent protection of land and/or water, or interests therein, as defined in the definition of "conservation land" set forth in O.C.G.A Sec. 12-6A-2(5);

(c) the merit of a plan for long-term management of the conservation land or conservation easement; and

(d) compliance with all applicable terms and conditions of O.C.G.A Sec. 12-6A-1*et seq.*

(5) The Authority and the Department will make recommendations to the Council based on the review of each land conservation project, including recommended funding sources, funding levels, and terms and conditions (O.C.G.A. Sec. 12-6A-5(c)(1) and (2)) and (O.C.G.A. Sec. 12-6A-5(b)(1) and (2)).

Georgia Land Conservation Council

(6) The Council is composed of the State Property Officer, who shall serve as chairperson, the commissioner of the Department, the director of the State Forestry Commission, the executive director of the State Soil and Water Conservation Commission, the commissioner of the Department of Community Affairs, and four additional members to be appointed by and to serve at the pleasure of the Governor (O.C.G.A. Sec. 12-6A-3(a)).

(7) The Council shall review each land conservation project proposal and shall consider the recommendations of the Authority and the Department, as well as the Program's procedures, conditions, components, priorities, and criteria. The decision of the Council that a land conservation project complies with all of the required terms and conditions

and is approved shall cause the city, county, Department, commission, other state department or agency, other state authority, or nongovernmental entity to become eligible for funding (O.C.G.A. Sec. 12-6A-5(d)).

Funds

(8) The Georgia Land Conservation Trust Fund and the Georgia Land Conservation Revolving Loan Fund have been established to consist of any moneys appropriated, paid under an intergovernmental contract, voluntarily contributed, any federal moneys deposited, and other moneys acquired by any fund raising or other promotional techniques. All balances in the funds will be deposited in interest-bearing accounts (O.C.G.A. Sec. 12-6A-4(a.1)).

(9) Within the trust fund, moneys will be made available in each fiscal year for grants to the Department, commission, other state departments or agencies, or other state authorities having an approved land conservation project or for grants to cities and counties having:

(a) an approved land conservation project,

(b) complied with state laws, regulations, contracts, and agreements, and

(c) matching funds at a percentage of the total project cost as established by the authority or (O.C.G.A. Sec. 12-6A-4(b)).

(10) Within the revolving loan fund, moneys will made available in each fiscal year for loans to cities, counties, and nongovernmental entities having approved land conservation projects or for loans to state authorities specified by the Department for purposes of approved land conservation projects of the Department. Any such loan shall bear interest at a rate established by the Authority (O.C.G.A. Sec. 12-6A-4(c)).

(11) Moneys granted from the trust fund or from the revolving loan fund shall be expended solely to defray the costs of acquisition as defined in O.C.G.A Sec. 12-6A-2(6) of conservation land or of conservation easements that contribute to the goals set out for conservation land in O.C.G.A. Sec 12-6A-2(O.C.G.A. Sec. 12-6A-4(d)).

Partnerships

(12) The General Assembly recognizes the critical role nonprofit conservation organizations and organizations that are tax-exempt under Section 501(c)(3) of the federal Internal Revenue Code have in partnering with cities, counties, and the state in accomplishing land conservation goals (O.C.G.A. Sec. 12-6A-11).

(13) The Council shall adopt the means, such as a memorandum of understanding, by which organizations that are tax-exempt under Section 501(c)(3) of the federal Internal Revenue Code may enter into partnerships with cities, counties, the Department, the Commission, other state departments and agencies, and other state authorities to assist with:

(a) the identification and development of land conservation project proposals,

(b) the establishment of a local funding match, and

(c) to accept and administer property acquired by a city, county, or the Department, the Commission, other state department or agency, or other state authority. (O.C.G.A. Sec. 12-6A-5(e) and O.C.G.A. Sec. 12-6A-4(h)).

(14) The Department may, by agreement with a city, county, or nongovernmental entity accept and administer property acquired by the city, county, or nongovernmental entity or may make such other agreements for the ownership and operation of the property as are outlined in Code Sections 12-3-32 and 27-1-6(O.C.G.A. Sec. 12-6A-4(g)).

Geographic Information System

(15) The Department shall establish the State Land Conservation Geographic Information System by maintaining its current geographic information system data and maps related to land conservation; annually updating its land conservation data and maps based on the acquisitions of land conservation projects; and monitoring progress in protecting the state's land resources (O.C.G.A. Sec. 12-6A-10(a)).

(16) The Department shall make its geographic information system data and maps available to cities, counties, the Commission, other state departments or agencies, and other state authorities to assist them in the strategic investment of land conservation projects in land resources with high environmental values or conservation benefits as based on the conservation goals set forth in O.C.G.A. Sec. 12-6A-1*et seq.* (O.C.G.A. Sec. 12-6A-10(a) and (b)).

(17) As a condition of project approval and release of funds the grant or loan recipient shall be required to record acquisitions of real or partial interest in land purchased by using grants or loans with the Department (O.C.G.A. Sec. 12-6A-4(e)).

Cite as Ga. Comp. R. & Regs. R. 305-1-.05
Authority: Authority O.C.G.A. Sec. 36-22-4.
History. Original Rule entitled "General Terms and Conditions of the Program" adopted. F. Nov. 1, 2005; eff. Nov. 21, 2005.
Repealed: New Rule of the same title adopted. F. Sept. 13, 2010; eff. Oct. 3, 2010.

Rule 305-1-.06. Eligible Recipients of the Program.

Eligible recipients of the Program are Cities, Counties, the Department, the Commission, other state departments, agencies, and authorities and nongovernmental entities. Applications may be obtained by contacting the Georgia Environmental Finance Authority.

Cite as Ga. Comp. R. & Regs. R. 305-1-.06
Authority: Authority O.C.G.A. Sec. 36-22-1.
History. Original Rule entitled "Eligible Recipients of the Program" adopted. F. Nov. 1, 2005; eff. Nov. 21, 2005.
Repealed: New Rule of the same title adopted. F. Sept. 13, 2010; eff. Oct. 3, 2010.

Rule 305-1-.07. The Criteria for the Awarding of Funds.

(1) The policy(ies) of the Program shall identify the criteria by which all land conservation project applications shall be reviewed by the Authority and the Department and approved by the Land Conservation Council.

(O.C.G.A. Sec. 12-6A-5(e)).

(2) The Council shall use, at a minimum, the following criteria in granting project approval:

(a) The project shall promote the permanent protection of conservation land. Grant and Loan recipients shall cause the following language to be included in any instruments of conveyance vesting in the recipient a real property interest that is being acquired in whole or in part with funding through this Program:

for fee simple acquisitions:

"This property shall be and is perpetually restricted, as indicated herein, so as to maintain certain conservation values which include natural habitats, forests, wildlife, scenic, agricultural and other ecological values which qualify the property as a scenic, natural and rural area that has not been subject to significant development and as a significant natural area that provides a "relatively natural habitat for fish, wildlife, plants, or similar ecosystems" as that phrase is used in Section 170(h)(4)(A)(ii) of the Internal Revenue Code. These restrictions are deemed to be covenants running in favor of or for the benefit of land and are being held for the use of the public. Therefore, pursuant to O.C.G.A. § 44-5-60(c), these covenants shall run in perpetuity. The grantee shall seek to preserve any plants, animals, or plant communities of the property, including but not limited to species designated as protected by the Georgia Department of Natural Resources and the U.S. Fish and Wildlife Service."

and for conservation easements:

"This conservation easement shall be perpetual and shall be a covenant running with the land. If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, Grantor and Grantee, or their successor or assigns, may subject to the approval process discussed below, amend this Conservation Easement; provided that no amendment shall be made that will adversely affect the qualification of this Conservation Easement or the status of Grantee under any applicable laws, including Sections

170(h) and 501(c) (3) of the Internal Revenue Code and the Georgia Uniform Conservation Easement Act, O.C.G.A. § 44-10-1*et seq.* Any such amendment shall be consistent with the purposes of this Conservation Easement, shall not affect its perpetual duration, and shall result in equal or greater protection of the Conservation Values on the Protected Property. Nothing herein shall require Grantee to agree to any amendment, and Grantee shall obtain approval of the Georgia Land Conservation Council or its successor State of Georgia entity, for any amendments, which approval shall not be granted if, in the sole discretion of the State of Georgia, the proposed amendment affects the Conservation Values of the Property. In the event no successor State of Georgia entity exists, the contact agency will be the State Properties Commission or the State of Georgia entity then responsible for the accounting of state property."

or for fee simple acquisitions by nongovernmental entities pursuant toO.C.G.A. § 12-6A-2(10)(e), the following language must be included as a Special Condition to the loan contract:

"This property shall not be disposed of except for conservation purposes, as that term is defined by O.C.G.A. § 12-6A-2(5), during the period that this loan is outstanding."

(b) The identification and commitment to the employment of local land use ordinances and local conservation and preservation ordinances, policies, and regulations which further the achievement of the permanent protection of conservation land; and

(c) Project proposals that are multi-jurisdictional in scope or regional in impact will receive additional ranking points (O.C.G.A. Sec. 12-6A-5(f)).

Cite as Ga. Comp. R. & Regs. R. 305-1-.07
Authority: Authority O.C.G.A. Sec. 36-22-8.
History. Original Rule entitled "The Criteria for the Awarding of Funds" adopted. F. Nov. 1, 2005; eff. Nov. 21, 2005.
Repealed: New Rule of the same title adopted. F. Sept. 13, 2010; eff. Oct. 3, 2010.