

House Bill 619 (AS PASSED HOUSE AND SENATE)

By: Representative Houston of the 170th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 3 of Chapter 3 of Title 12 of the Official Code of Georgia
2 Annotated, relating to the heritage trust program, so as to authorize the sale of Patrick's
3 Fishing Paradise to a private entity; to provide for a procedure for same; to provide for a
4 definition; to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Part 2 of Article 3 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated,
8 relating to the heritage trust program, is amended by adding a new paragraph to Code
9 Section 12-3-72, relating to definitions, to read as follows:

10 "(4) 'Private entity' means any natural person, corporation, general partnership, limited
11 liability company, limited partnership, joint venture, business trust, public benefit
12 corporation, nonprofit entity, or other business entity."

SECTION 2.

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Said part is further amended by revising Code Section 12-3-76, relating to use of heritage preserves and state authorized to transfer interest in heritage preserve property to county or local government upon certain conditions, as follows:

"12-3-76.

(a) Heritage preserves shall be held by the state in trust for the benefit of the present and future generations of the people of the State of Georgia. Each heritage preserve shall be put to the designated use or uses which confer the best and most important benefit to the public. Heritage preserves shall not be put to any use other than the dedicated use or uses except pursuant to the following procedure:

(1) A state agency, department, or authority with a direct interest in the use of a heritage preserve must submit in writing a petition to the board that an imperative and unavoidable necessity for such other use exists;

(2) Upon receipt of such petition, the board shall give public hearing thereon in the county or counties in which the heritage preserve is located;

(3) The board shall consider fully all testimony relative to the proposed use and submit a recommendation to the General Assembly; and

(4) The General Assembly may then determine if such use is in the public interest and may by statute approve such other use of the heritage preserve.

(b) The State of Georgia and the Department of Natural Resources may convey fee simple title in a property dedicated as a heritage preserve under Code Section 12-3-75 for good and valuable consideration as determined by the State Properties Commission to a willing county or local government pursuant to the following procedures:

(1) The department shall submit a request in writing to the board to remove the heritage preserve dedication from the property and to convey the property to the county or local government, subject to the grant of a perpetual conservation easement to the State of Georgia and the department that is consistent with the best and most important uses

40 established in the written recommendation and approval of the Governor dedicating the
41 property as a heritage preserve and the conservation values identified by the department,
42 as well as any other restrictions applicable to the property;

43 (2) The board shall make a determination, after a public hearing, that the removal of the
44 heritage preserve dedication from the property and its conveyance to the county or local
45 government subject to a conservation easement is in the best interest of the State of
46 Georgia;

47 (3) The conveyance is approved by the General Assembly and the State Properties
48 Commission; and

49 (4) The department shall file with the Secretary of State and the office of the clerk of the
50 superior court of the county or counties in which the property is located a notice of the
51 removal of the heritage preserve dedication simultaneously with the recordation of the
52 conservation easement in the real property records of the county or counties in which the
53 property is located.

54 (c) Nothing in this Code section shall be construed so as to give county or local
55 governments the authority to assign their interests in property conveyed pursuant to
56 subsection (b) of this Code section to a private ~~individual~~ or entity.

57 (d) Nothing in this Code section shall be construed so as to compel a county or local
58 government to accept conveyance of a heritage preserve, and no conveyance shall take
59 place without the approval of the local governing authority.

60 (e) In the event that a county, ~~or~~ local government, ~~or private entity~~ that is in receipt of
61 property pursuant to this Code section determines that it is in the best interest of the county,
62 ~~or~~ local government, ~~or private entity~~, fee simple title to the property may, if approved by
63 the department and the State Properties Commission, revert to the State of Georgia.

64 (1) The State of Georgia and the Department of Natural Resources may convey fee
65 simple title in the property described in paragraph (2) of this subsection, and only said

66 property, for good and valuable consideration as determined by the State Properties
67 Commission to a willing private entity pursuant to the following procedure:

68 (A) The department shall submit a request in writing to the board to remove the
69 heritage preserve dedication from the property and to convey the property to the private
70 entity, subject to the grant of a perpetual conservation easement to the State of Georgia
71 and the department that is consistent with the best and most important uses established
72 in the written recommendation and the conservation values identified by the department
73 and approval of the Governor dedicating the property as a heritage preserve, as well as
74 any other restrictions applicable to the property;

75 (B) The board shall make a determination, after a public hearing, that the removal of
76 the heritage preserve dedication from the property and its conveyance to the private
77 entity, subject to a conservation easement, is in the best interest of the State of Georgia;

78 (C) The conveyance is approved by the General Assembly and the State Properties
79 Commission; and

80 (D) The department shall file with the Secretary of State and the office of the clerk of
81 the superior court of the county in which the property is located a notice of the removal
82 of the heritage preserve dedication simultaneously with the recordation of the
83 conservation easement in the real property records of the county in which the property
84 is located.

85 (2) All that tract of parcel of land lying and being 8.618 acres located in Land Lots 371
86 and 372 of the 6th Land District of Berrien County, Georgia, described as follows: Begin
87 at a point located at the intersection of the West city limits of the Town of Enigma, GA,
88 and the North right-of-way line of the abandoned Seaboard Coastline Railroad tracts and
89 from said POINT OF BEGINNING run along said city limits South 05 degrees 45
90 minutes 59 seconds West for a distance of 200.00 feet to a point located on the South
91 right-of-way line of said tracts; thence run along said South right-of-way line North 84
92 degrees 14 minutes 01 seconds West for a distance of 434.95 feet; thence run North 05

93 degrees 45 minutes 59 seconds East for a distance of 100 feet to a point located on the
94 center line of said tracks; thence run along said center line North 84 degrees 14 minutes
95 01 seconds West for a distance of 2884.14 feet; thence run North 05 degrees 45 minutes
96 59 seconds East for a distance of 100 feet to a point located on the North right-of-way
97 line of said tracks; thence run South 84 degrees 14 minutes 01 seconds East along said
98 North right-of-way line for a distance of 3319.09 feet to said POINT OF BEGINNING.
99 Said tract is more particularly described as Tract 13 on that certain plat of survey entitled
100 "Patrick's Fishing Paradise", dated the 22nd day of May, 1989, prepared by R. Bayne
101 Stone for Department of Natural Resources, State of Georgia. Said plat was revised July
102 11, 1989, and is recorded in Plat Cabinet 1, Slide C-48 in the Clerk's office of Berrien
103 County Superior Court."

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SECTION 3.

105 All laws and parts of laws in conflict with this Act are repealed.