

The House Committee on Judiciary offers the following substitute to HB 370:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 3 of Title 23 of the Official Code of Georgia Annotated,  
2 relating to quia timet, so as to revise the residency requirement for quia timet against all the  
3 world special masters; to provide a procedure for clearing title to coastal marshlands; to  
4 provide for a short title; to provide for legislative findings, purpose, and intent; to provide  
5 for definitions; to provide for in rem proceedings; to provide for presentation of abstracts to  
6 the State Properties Commission; to provide for service of process and filing of pleadings;  
7 to provide for special masters and trial by jury; to provide for restriction of properties for  
8 conservation purposes; to provide for decrees and recording of same; to provide for joinder;  
9 to provide for compensation of the special master; to provide for applicability; to provide for  
10 related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 3 of Chapter 3 of Title 23 of the Official Code of Georgia Annotated, relating to quia  
14 timet, is amended by revising Code Section 23-3-63, relating to submission to special master,  
15 as follows:

H. B. 370 (SUB)

16 "23-3-63.

17 The court, upon receipt of the petition together with the plat and instruments filed  
18 therewith, shall submit the same to a special master who shall be a person who is  
19 authorized to practice law in this state and is either:

20 (1) a A resident of the judicial circuit wherein the action is brought or of any judicial  
21 circuit adjoining such judicial circuit; or

22 (2) Maintains a full-time, staffed office in the judicial circuit wherein the action is  
23 brought or in any judicial circuit adjoining such judicial circuit."

24 **SECTION 2.**

25 Said article is further amended by adding a new part to read as follows:

26 "Part 3

27 23-3-75.

28 This part shall be known and may be cited as the 'Coastal Marshlands Restoration Act of  
29 2024.'

30 23-3-76.

31 (a) The General Assembly of Georgia finds that significant portions of the coastal  
32 marshlands of Georgia were altered prior to the enactment of Part 4 of Article 4 of Chapter  
33 5 of Title 12, the 'Coastal Marshlands Protection Act of 1970,' through agricultural,  
34 recreational, and other manmade activities within the coastal marshlands. The General  
35 Assembly further finds that the restoration of coastal marshlands from alteration caused by  
36 such activities will enhance the productivity of the nursery which the coastal marshlands  
37 provide for shellfish and other forms of marine life, thereby enhancing the environment and  
38 advancing the viability of the fisheries of Georgia's coastal waters. The General Assembly

39 further finds that improving the quality of coastal marshlands will enhance recreational and  
40 economic opportunities for all Georgians. The General Assembly acknowledges that  
41 pursuant to Article 1 of Chapter 1 of Title 52, the 'Protection of Tidewaters Act,' certain  
42 portions of the coastal marshlands are owned by private parties that can trace their title to  
43 valid Crown grants or state grants and that preservation or restoration of such coastal  
44 marshlands may not occur unless undertaken by the owner or owners of said coastal  
45 marshlands. As such, the General Assembly further finds that establishing a framework  
46 to facilitate the identification and preservation or restoration of privately owned coastal  
47 marshlands is a proper function of the State of Georgia, as sovereign and trustee of the  
48 rights of the people of this state concerning coastal marshlands.

49 (b) The purpose of this part is to create a procedure for removing any cloud upon the title  
50 to coastal marshlands and for readily and conclusively establishing that certain named  
51 persons are the owners of the fee simple interest in such land defined by a decree entered  
52 in such proceeding, so that there shall be no occasion for such land in this state to be  
53 unmarketable because of any uncertainty as to the owner of every interest therein.

54 (c) This part is intended to encourage the restoration of altered coastal marshlands to their  
55 natural state and to encourage the protection of coastal marshlands as a complete ecological  
56 system vital to this state. This part shall not amend or supersede Part 4 of Article 4 of  
57 Chapter 5 of Title 12, the 'Coastal Marshlands Protection Act of 1970,' and any physical  
58 change to any costal marshlands shall conform to all applicable laws.

59 23-3-77.

60 As used in this part, the term:

61 (1) 'Coastal marshlands' or 'marshlands' shall have the same meaning as provided in  
62 Code Section 12-5-282, with the added condition that such term include uplands as such  
63 term is defined in this Code section.

64 (2) 'Conservation purposes' means to remediate, restore, or enhance natural conditions  
65 of coastal marshlands to substantially the same condition of such marshlands as prior to  
66 manmade alteration or damage or to restrict further disturbance or development of such  
67 marshlands by easement or other legal means which permanently restrict the development  
68 of such marshlands.

69 (3) 'Crown grant' or 'grant' means a valid grant from the Crown of England, or one of its  
70 agents exercising jurisdiction over Georgia's coastal marshlands during the colonial  
71 period, or from the State of Georgia after its independence.

72 (4) 'Person' shall have the same meaning as provided in Code Section 12-5-282.

73 (5) 'Restoration' or 'restore' means the manipulation of the physical, chemical, or  
74 biological characteristics of a site with the goal of returning natural and historical  
75 functions to a former or degraded coastal marshland.

76 (6) 'Trace' means to show the passage of title to property from one person to another by  
77 reference to recorded documents of title, the laws of descent and distribution,  
78 prescription, adverse possession, historical documents in existence 20 years or more of  
79 which the authenticity is established, or any other means, which by statutory law or  
80 common law, evidence the acquisition or transfer of title.

81 (7) 'Uplands' means any island or hammock located within coastal marshlands above the  
82 high-water mark.

83 23-3-78.

84 Any coastal marshlands and uplands contained therein which are subject to a decree as  
85 provided for in this part shall be restricted to utilization for conservation purposes,  
86 provided that no such decree shall limit any right of the public to access navigable waters.

87 Any person claiming a grant to coastal marshlands located in this state may bring a  
88 proceeding in rem to establish title to the coastal marshlands as against the state. A  
89 proceeding under this section is not exclusive, but rather is cumulative, and may be filed

90 concurrently with an equitable proceeding in rem against all the world as provided by  
91 Part 2 of this article. Proceedings under this part shall be conducted in accordance with  
92 Title 9.

93 23-3-79.

94 (a) Prior to filing a proceeding under this part, a petitioner may present to the State  
95 Properties Commission an abstract of title tracing the title of the subject coastal marshlands  
96 to a grant. The abstract shall be accompanied by copies of any deeds, documents, plats,  
97 instruments, records, or other material referenced in the abstract of title. The State  
98 Properties Commission shall provide written notice to the claimant of its receipt of the  
99 abstract and any other materials and shall have 270 days from the date of such notice to  
100 provide the petitioner with written certification as to whether or not such petitioner traced  
101 the title to the coastal marshlands to a grant. The certification that the petitioner has traced  
102 the title to a grant shall be an admission of such fact in a proceeding filed under this part  
103 and shall be binding upon the state. Failure of the State Properties Commission to issue  
104 a certification within the 270 day period shall be deemed an admission that the petitioner  
105 has traced the title to a grant.

106 (b) A proceeding under this part shall be instituted by filing a petition in the superior court  
107 of the county or counties in which the coastal marshlands are situated.

108 (c) The petition shall be verified by the petitioner and shall contain a description of the  
109 coastal marshlands involved, shall identify the grant upon which the claim is based, and  
110 shall identify the basis upon which the petitioner claims to trace the title to the grant.

111 (d) There shall be filed with the petition a plat of survey of the coastal marshlands and a  
112 copy of all instruments or documents relied upon by the petitioner to trace the title to the  
113 grant, including a copy of any abstract reviewed by the State Properties Commission, as  
114 well as any related certification issued.

115 (e) Upon the filing of the petition, the petitioner shall contemporaneously file with the  
116 clerk of court for record a notice of lis pendens pursuant to Article 9 of Chapter 14 of  
117 Title 44.

118 23-3-80.

119 (a) Process upon the state shall be served upon the State Properties Commission, or the  
120 State Properties Commission may acknowledge service of process.

121 (b) Within 30 days of service, the State Properties Commission shall provide a copy of the  
122 petition to the Attorney General and the Department of Administrative Services by United  
123 States registered mail. Within 30 days of service, the State Properties Commission shall  
124 provide a copy of the petition to the governing authority of each county and municipality  
125 in which any portion of the property at issue is located by United States mail, postage  
126 prepaid, addressed to the governing authority of the county, municipality, or consolidated  
127 government at the official address of such governing authority to satisfy the requirement  
128 of this subsection. If such notice is mailed, the notice requirement of this subsection shall  
129 be presumed to have been met by depositing the copy of the required notice in the United  
130 States mail.

131 (c) Notice of the action shall be published in the legal organ of the county where the  
132 proceeding is filed once a week for four consecutive weeks. The notice shall identify the  
133 petitioner by name; shall describe the State of Georgia as respondent and the property as  
134 defendant, with a caption setting forth the action above; and shall identify the date the  
135 action was filed.

136 (d) The respondent shall have 30 days after completion of service to file any pleadings;  
137 provided, however, that a court may extend such time for good cause shown.

138 23-3-81.

139 Contemporaneous with the filing of the petition, the petitioner shall file a motion for the  
140 appointment of a special master. The motion shall be served upon the State Properties  
141 Commission with the petition. The special master shall be an individual who is authorized  
142 to practice law in this state, demonstrates experience in real property law, and resides in  
143 the judicial circuit where the action was filed. After consideration of the motion and any  
144 objections filed by the respondent, the court shall appoint a special master. The  
145 appointment shall be made no later than 60 days after the filing of the motion.

146 23-3-82.

147 Upon reasonable notice to all parties, after proof of serving notice as required by this part  
148 has been filed, the special master shall have complete jurisdiction within the scope of the  
149 pleadings to ascertain and determine the validity, nature, or extent of the petitioner's grant  
150 and whether or not the title can be traced to the grant. At any time prior to a hearing before  
151 the special master any party may demand a trial by jury on any issue of fact.

152 23-3-83.

153 Any coastal marshlands and uplands contained therein which are subject to a decree as  
154 provided for in this part shall be restricted to utilization for conservation purposes.

155 23-3-84.

156 (a) For any proceedings filed under this part, a prima facie case shall exist if any of the  
157 following criteria are met:

158 (1) The existence of a grant from which the state divested itself of the fee simple interest  
159 in the property to the extent provided for in the grant; or

160 (2) Visible evidence of manmade use or manipulation of the coastal marshlands that  
161 occurred prior to the enactment of Part 4 of Article 4 of Chapter 5 of Title 12, the 'Coastal

162 Marshlands Protection Act of 1970,' at the instance of persons in the chain of title under  
163 a claim of right and that the use was public, continuous, exclusive, uninterrupted,  
164 peaceable, and not merely passive and that title was acquired by such person.

165 (b) Evidence of the existence of a grant accompanied by manipulation, manmade  
166 alteration, or damage to said marshland prior to the enactment of the 'Coastal Marshlands  
167 Protection Act of 1970,' combined with a showing of good record title for 40 years, shall  
168 create a prima facie case that the title has been traced to a grant.

169 23-3-85.

170 Upon the receipt of the special master's report or upon a jury verdict, the court shall issue  
171 a decree which shall be recorded in the office of the clerk of superior court of the county  
172 or counties wherein the coastal marshlands affected are located and which, when recorded,  
173 shall operate to bind the coastal marshlands subject to the action, and such decree shall  
174 contain the following recital: 'The coastal marshlands subject to this decree, including  
175 uplands contained therein, are restricted to use for conservation purposes as defined by  
176 Part 3 of Article 3 of Chapter 3 of Title 23 of the Official Code of Georgia Annotated.' A  
177 marginal reference to the recorded judgment and decree shall be entered upon the deed  
178 vesting title to the coastal marshlands in the petitioner. Said deed shall reference any right  
179 of the public to access navigable waters.

180 23-3-86.

181 A petitioner that obtains a decree stating that such petitioner has traced the property title  
182 to a grant shall be deemed to have met the requirements for tracing the title of land to a  
183 grant from the Crown of England or the state under the provisions of Article 1 of Chapter  
184 1 of Title 52, the 'Protection of Tidewaters Act,' and shall be entitled to pursue conservation  
185 actions for the coastal marshlands contained in the property of title.



186 23-3-87.

187 The court shall fix a reasonable compensation, not less than \$1,000.00, to be paid to the  
188 special master appointed under this part. Such compensation shall be taxed in the  
189 discretion of the court as part of the costs.

190 23-3-88.

191 (a) Two or more persons having separate and distinct parcels of land in the same county  
192 and holding under the same source of title, or persons creating separate and distinct  
193 interests in the same parcel or parcels, may file a petition under this part against the same  
194 respondents.

195 (b) A petitioner may join separate causes of action in one petition; provided, however, that,  
196 if they cannot be conveniently disposed of together, the court may order separate trials.

197 23-3-89.

198 The admission of coastal marshlands to the carbon sequestration registry pursuant to  
199 Article 5 of Chapter 6 of Title 12, the 'Georgia Carbon Sequestration Registry Act,' shall  
200 not be affected by the operation of this part."

201 **SECTION 3.**

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