

Senate Bill 542

By: Senators Watson of the 11th, Kennedy of the 18th and Gooch of the 51st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 44 of the Official Code of Georgia Annotated, relating to water
2 rights, so as to remove references to the public trust doctrine; to provide legislative findings
3 relative to the public's right to use navigable streams; to provide for related matters; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 8 of Title 44 of the Official Code of Georgia Annotated, relating to water rights, is
8 amended in Code Section 44-8-5, relating to rights of adjoining landowners in navigable
9 streams, by revising subsection (c) as follows:

10 "(c) The General Assembly finds that the state procured ownership of all navigable stream
11 beds within its jurisdiction upon statehood and, ~~as sovereign, is trustee of its peoples' rights~~
12 ~~to use and enjoy all navigable streams capable of use for fishing, hunting, passage,~~
13 ~~navigation, commerce, and transportation, pursuant to the common law public trust~~
14 ~~doctrine. The state continues to hold title to all such stream beds, except where title in a~~
15 private party originates from a valid Crown or state grant before 1863. The General
16 Assembly further finds that, by the common law, the citizens of this state have an inherent
17 right to use as highways all such navigable streams, that this right extends to the entire

18 surface of the navigable stream from bank to bank, and that this right includes the right to
19 fish and hunt while floating. The General Assembly further finds that the public retained
20 the aforementioned rights ~~under such doctrine~~ right even where private title to beds of
21 navigable streams originates from a valid grant, but in such cases, the public's right is
22 limited to the surface of the water and does not include a right to trespass on private lands
23 submerged by or adjacent to such navigable streams."

24

SECTION 2.

25 All laws and parts of laws in conflict with this Act are repealed.