

Days after the Four Chimneys court order was announced, the Georgia General Assembly passed Senate Bill 115 relating to public fishing access, stating:

“The General Assembly finds that the state procured ownership of all navigable stream beds within its jurisdiction upon statehood and, as sovereign, is trustee of its peoples’ rights to use and enjoy all navigable streams capable of use for fishing, hunting, passage, navigation, commerce, and transportation, pursuant to the common law public trust doctrine. The state continues to hold title to all such stream beds, except where title in a private party originates from a valid Crown or state grant before 1863. The General Assembly further finds that the public retained the aforementioned rights under such doctrine even where private title to beds originates from a valid grant.”¹⁶

2023 Study Committee, HB 1172 (2024), and HB 1397 (2024)

The House Study Committee on Fishing Access to Freshwater Resources was created during the 2023 Legislative Session. During that study committee, testimony was heard at meetings discussing the language of Senate Bill 115 and thoughts on the bill’s impact.¹⁷ Proponents of Senate Bill 115 stated the bill would stave off both a litany of potential litigation facing the state as well as a resulting patchwork of accessibility to anglers and paddlers along navigable rivers, while still preventing trespass along private property. Opponents of Senate Bill 115 testified to it nevertheless being an infringement on private property rights and a potential governmental taking, in addition to language regarding the public trust doctrine potentially causing unintended consequences.¹⁸ The study committee recommended, among other recommendations, to delineate the navigability of Georgia’s rivers, preserve the definition of navigability, and remove references to the public trust doctrine in statute in recognition of the doctrine’s standing in common law.¹⁹

House Bill 1172 was introduced during the 2024 legislative session. The legislation removed public trust language that was part of Senate Bill 115 while adding language stating that “[t]he General Assembly further finds that, by the common law, the citizens of this state have an inherent right to use for passage and for hunting and fishing all navigable streams from low-water mark to low-water mark.”²⁰ The legislation also added that the public’s right on navigable streams where the beds are held in private title are limited “to only using such navigable streams for passage and for hunting and fishing.” Proponents of the legislation cited its effect of mitigating unforeseen circumstances caused by Senate Bill 115, while opponents criticized the legislation

¹⁶ [Ga. L. 2023, p. 303, § 1/SB 115](#) (now incorporated as O.C.G.A. §44-8-5(c)).

¹⁷ <https://georgiarecorder.com/2023/10/12/state-lawmakers-angling-to-wade-into-question-of-property-rights-along-georgias-waterways/>

¹⁸ The public trust doctrine asserts that public trust waters (navigable waters), lands (the land beneath those waters up to the high-water mark), and living resources (wildlife) in a state are held by the state in trust.

¹⁹ <https://www.house.ga.gov/Committees/en-US/FishingAccessstoFreshwaterResources.aspx>

²⁰ <https://www.legis.ga.gov/api/legislation/document/20232024/229042>