

The House Committee on Governmental Affairs offers the following substitute to HB 1359:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,
2 relating to miscellaneous local administrative provisions, so as to provide for a refund for
3 loss of property value or expenses incurred due to the failure of local governments to enforce
4 certain laws, ordinances, and resolutions or due to a local government's adoption of certain
5 policies; to provide for definitions; to provide for claims; to provide for exceptions; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 7 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to
10 general provisions regarding ad valorem taxation of property, is amended by adding a new
11 Code section to read as follows:

12 "48-5-382.

13 (a) For purposes of this Code section, the term:

14 (1) 'Fair market value' means the probable sales price that would be agreed upon for a
15 parcel of real property by a buyer and seller on the open market with a reasonable amount
16 of time for the parcel to be listed for sale or otherwise offered for sale on the open

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17 market, with the buyer having knowledge of all the uses and purposes to which the parcel
18 is adapted and for which it is capable.

19 (2) 'Owner' means the holder of fee simple title to a parcel of private real property.

20 (b)(1) An owner shall be entitled to a refund of the owner's ad valorem property taxes
21 if a county, municipality, or consolidated government follows a policy, pattern, or
22 practice of declining to enforce existing laws, ordinances, or resolutions prohibiting
23 public camping, obstruction of public thoroughfares, loitering, panhandling, public
24 urination or defecation, or public consumption of alcoholic beverages or illegal
25 substances; if the county, municipality, or consolidated government maintains a public
26 nuisance involving any such prohibited activities; if the local governing body adopts a
27 sanctuary policy in violation of Code Section 36-80-23; or if the local governing body
28 fails to comply with Code Section 42-4-14, and:

29 (A) The fair market value of the owner's real property is reduced as a result of the
30 action or inaction of a county, municipality, or consolidated government as described
31 in this subsection; or

32 (B) The owner incurs reasonable expenses in order to mitigate the effects on the fair
33 market value of the owner's real property as a result of the action or inaction of a
34 county, municipality, or consolidated government as described in this subsection.

35 (2) The amount of the refund authorized by this Code section shall be either the
36 reduction in fair market value or the reasonable expenses actually incurred by the owner,
37 provided that the total amount of refunds claimed by a taxpayer in any taxable year shall
38 not exceed the taxpayer's ad valorem property tax liability for that taxable year. A
39 taxpayer may claim the refund under this Code section only once in any taxable year.

40 (3) No county, municipality, or consolidated government shall owe any refund under this
41 Code section as a result of the action or inaction of any other county, municipality, or
42 consolidated government.

43 (c) Claims for refunds pursuant to this Code section shall be administered in accordance
44 with Code Section 48-5-380. Decisions rendered by local governments pursuant to this
45 Code section shall be appealable by certiorari to the appropriate superior court or as
46 otherwise provided by law.

47 (d) This Code section shall not apply to:

48 (1) Decisions by local governing authorities and their agents to exercise arrest powers
49 or prosecutorial discretion regarding whether to arrest or prosecute alleged offenders, if
50 such decisions are made on a case-by-case basis;

51 (2) Acts or omissions undertaken pursuant to Code Section 38-3-5; or

52 (3) Acts or omission mandated by the Constitutions of the United States or this state or
53 by federal law.

54 (e) In any challenge to a refund claimed pursuant to this Code section, the county,
55 municipality, or consolidated government shall bear the burden of demonstrating that its
56 actions are lawful or that the amount of the credit claimed is unreasonable.

57 (f) Notwithstanding paragraph (2) of subsection (b) of this Code section, if the policy,
58 pattern, or practice referenced in paragraph (1) of subsection (b) of this Code section
59 continues during the same taxable year that the owner submits a claim for a refund pursuant
60 to this Code section, the owner shall be deemed entitled to one or more additional refunds
61 in such taxable year pursuant to this Code section, unless the county, municipality, or
62 consolidated government and the owner reach a knowing and voluntary written agreement
63 otherwise or the county, municipality, or consolidated government ceases the policy,
64 pattern, or practice."

65 **SECTION 2.**

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