

House Bill 482

By: Representatives Lim of the 99<sup>th</sup> and Holcomb of the 81<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to ad valorem taxation of property generally, so as to provide for the valuation of  
3 lands; to provide for a rebuttable presumption; to provide for urban agricultural incentive  
4 zones; to provide for adoption of ordinances; to provide for fees; to provide for contracts; to  
5 provide for definitions; to provide for related matters; to provide for a contingent effective  
6 date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad  
10 valorem taxation of property generally, is amended by revising paragraph (3) of Code  
11 Section 48-5-2, relating to definitions, as follows:

12 "(3) 'Fair market value of property' means the amount a knowledgeable buyer would  
13 pay for the property and a willing seller would accept for the property at an arm's  
14 length, bona fide sale. ~~The~~ Except as otherwise provided in Code Section 48-5-13.1  
15 regarding urban agricultural incentive zones, the income approach, if data are available,  
16 shall be considered in determining the fair market value of income-producing property.

17 If actual income and expense data are voluntarily supplied by the property owner, such  
18 data shall be considered in such determination. Notwithstanding any other provision  
19 of this chapter to the contrary, the transaction amount of the most recent arm's length,  
20 bona fide sale in any year shall be the maximum allowable fair market value for the  
21 next taxable year. With respect to the valuation of equipment, machinery, and fixtures  
22 when no ready market exists for the sale of the equipment, machinery, and fixtures, fair  
23 market value may be determined by resorting to any reasonable, relevant, and useful  
24 information available, including, but not limited to, the original cost of the property,  
25 any depreciation or obsolescence, and any increase in value by reason of inflation.  
26 Each tax assessor shall have access to any public records of the taxpayer for the purpose  
27 of discovering such information.

28 (A) In determining the fair market value of a going business where its continued  
29 operation is reasonably anticipated, the tax assessor may value the equipment,  
30 machinery, and fixtures which are the property of the business as a whole where  
31 appropriate to reflect the accurate fair market value.

32 (B) The tax assessor shall apply the following criteria in determining the fair market  
33 value of real property:

- 34 (i) Existing zoning of property;
- 35 (ii) Existing use of property, including any restrictions or limitations on the use of  
36 property resulting from state or federal law or rules or regulations adopted pursuant  
37 to the authority of state or federal law;
- 38 (iii) Existing covenants or restrictions in deed dedicating the property to a particular  
39 use;
- 40 (iv) Bank sales, other financial institution owned sales, or distressed sales, or any  
41 combination thereof, of comparable real property;
- 42 (v) Decreased value of the property based on limitations and restrictions resulting  
43 from the property being in a conservation easement;

44 (vi) Rent limitations, higher operating costs resulting from regulatory requirements  
45 imposed on the property, and any other restrictions imposed upon the property in  
46 connection with the property being eligible for any income tax credits with respect to  
47 real property which are claimed and granted pursuant to either Section 42 of the  
48 Internal Revenue Code of 1986, as amended, or Chapter 7 of this title or receiving any  
49 other state or federal subsidies provided with respect to the use of the property as  
50 residential rental property; provided, however, that properties described in this  
51 division shall not be considered comparable real property for the assessment or appeal  
52 of assessment of properties not covered by this division;

53 (vii)(I) In establishing the value of any property subject to rent restrictions under  
54 the sales comparison approach, any income tax credits described in division (vi) of  
55 this subparagraph that are attributable to a property may be considered in  
56 determining the fair market value of the property, provided that the tax assessor uses  
57 comparable sales of property which, at the time of the comparable sale, had unused  
58 income tax credits that were transferred in an arm's length, bona fide sale.

59 (II) In establishing the value of any property subject to rent restrictions under the  
60 income approach, any income tax credits described in division (vi) of this  
61 subparagraph that are attributable to property may be considered in determining the  
62 fair market value of the property, provided that such income tax credits generate  
63 actual income to the record holder of title to the property; and

64 (viii) Any other existing factors provided by law or by rule and regulation of the  
65 commissioner deemed pertinent in arriving at fair market value.

66 (B.1) The tax assessor shall not consider any income tax credits with respect to real  
67 property which are claimed and granted pursuant to either Section 42 of the Internal  
68 Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair  
69 market value of real property.

70 (B.2) In determining the fair market value of real property, the tax assessor shall not  
71 include the value of any intangible assets used by a business, wherever located,  
72 including patents, trademarks, trade names, customer agreements, and merchandising  
73 agreements.

74 (C) Fair market value of 'rehabilitated historic property' as such term is defined in  
75 subsection (a) of Code Section 48-5-7.2 means:

76 (i) For the first eight years in which the property is classified as rehabilitated historic  
77 property, the value equal to the greater of the acquisition cost of the property or the  
78 appraised fair market value of the property as recorded in the county tax digest at the  
79 time preliminary certification on such property was received by the county board of  
80 tax assessors pursuant to subsection (c) of Code Section 48-5-7.2;

81 (ii) For the ninth year in which the property is classified as rehabilitated historic  
82 property, the value of the property as determined by division (i) of this subparagraph  
83 plus one-half of the difference between such value and the current fair market value  
84 exclusive of the provisions of this subparagraph; and

85 (iii) For the tenth and following years, the fair market value of such property as  
86 determined by the provisions of this paragraph, excluding the provisions of this  
87 subparagraph.

88 (D) Fair market value of 'landmark historic property' as such term is defined in  
89 subsection (a) of Code Section 48-5-7.3 means:

90 (i) For the first eight years in which the property is classified as landmark historic  
91 property, the value equal to the greater of the acquisition cost of the property or the  
92 appraised fair market value of the property as recorded in the county tax digest at the  
93 time certification on such property was received by the county board of tax assessors  
94 pursuant to subsection (c) of Code Section 48-5-7.3;

95 (ii) For the ninth year in which the property is classified as landmark historic  
96 property, the value of the property as determined by division (i) of this subparagraph

97 plus one-half of the difference between such value and the current fair market value  
98 exclusive of the provisions of this subparagraph; and

99 (iii) For the tenth and following years, the fair market value of such property as  
100 determined by the provisions of this paragraph, excluding the provisions of this  
101 subparagraph.

102 (E) Timber shall be valued at its fair market value at the time of its harvest or sale in  
103 the manner specified in Code Section 48-5-7.5.

104 (F) Fair market value of 'brownfield property' as such term is defined in subsection (a)  
105 of Code Section 48-5-7.6 means:

106 (i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,  
107 for the first ten years in which the property is classified as brownfield property, or as  
108 this period of preferential assessment may be extended pursuant to subsection (o) of  
109 Code Section 48-5-7.6, the value equal to the lesser of the acquisition cost of the  
110 property or the appraised fair market value of the property as recorded in the county  
111 tax digest at the time application was made to the Environmental Protection Division  
112 of the Department of Natural Resources for participation under Article 9 of Chapter 8  
113 of Title 12, the 'Georgia Brownfield Act,' as amended; and

114 (ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,  
115 for the eleventh and following years, or at the end of any extension of this period of  
116 preferential assessment pursuant to subsection (o) of Code Section 48-5-7.6, the fair  
117 market value of such property as determined by the provisions of this paragraph,  
118 excluding the provisions of this subparagraph.

119 (G) Fair market value of 'qualified timberland property' means the fair market value  
120 determined in accordance with Article 13 of this chapter."

121 **SECTION 2.**

122 Said article is further amended by adding a new Code section to read as follows:

123 "48-5-13.1.

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

125 (1) 'Comparable lands' means lands that are similar to the land being valued in respect  
126 to legally permissible uses and physical attributes.

127 (2) 'Representative sales information' means information from sales of a sufficient  
128 number of comparable lands to give an accurate indication of the full cash value of the  
129 land being valued.

130 (b) In the assessment of land subject to a contract entered into pursuant to Code  
131 Section 48-5-34, such land shall be valued for assessment at the rate based on the average  
132 per-acre value of irrigated row crop land in this state, adjusted proportionally to reflect the  
133 acreage of the property under contract, as published by the National Agricultural Statistics  
134 Service of the United States Department of Agriculture as of January 1, 2021.

135 (c) In the assessment of land subject to a contract entered into pursuant to Code  
136 Section 48-5-34, the assessor shall also consider the effect upon value of any enforceable  
137 restrictions to which the use of the land may be subjected. These restrictions shall include,  
138 but are not limited to, all of the following:

139 (1) Zoning;

140 (2) Recorded contracts with governmental agencies;

141 (3) Environmental constraints applied to the use of land pursuant to provisions of  
142 statutes;

143 (4) Hazardous waste land use restriction pursuant to Part 1 of Article 3 of Chapter 8 of  
144 Title 12;

145 (5) A recorded easement pursuant to Code Section 48-7-29.12; and

146 (6) A solar-use easement pursuant to Article 2 of Chapter 9 of Title 44.

147 (d) There is a rebuttable presumption that restrictions will not be removed or substantially  
148 modified in the predictable future and that they will substantially equate the value of the  
149 land to the value attributable to the legally permissible use or uses.

150 (e) Grounds for rebutting the presumption may include, but are not necessarily limited to,  
151 the past history of like use restrictions in the jurisdiction in question and the similarity of  
152 sales prices for restricted and unrestricted land. The possible expiration of a restriction at  
153 a time certain shall not be conclusive evidence of the future removal or modification of the  
154 restriction unless there is no opportunity or likelihood of the continuation or renewal of the  
155 restriction, or unless a necessary party to the restriction has indicated an intent to permit  
156 its expiration at that time.

157 (f) In assessing land with respect to which the presumption is unrebutted, the assessor shall  
158 not consider sales of otherwise comparable land not similarly restricted as to use as  
159 indicative of value of land under restriction, unless the restrictions have a demonstrably  
160 minimal effect upon value.

161 (g) In assessing land under an enforceable use restriction wherein the presumption of no  
162 predictable removal or substantial modification of the restriction has been rebutted, but  
163 where the restriction nevertheless retains some future life and has some effect on present  
164 value, the assessor may consider, in addition to all other legally permissible information,  
165 representative sales of comparable lands that are not under restriction but upon which  
166 natural limitations have substantially the same effect as restrictions."

167 **SECTION 3.**

168 Said article is further amended by adding a new Code section to read as follows:

169 "48-5-34.

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

171 (1) 'Agricultural use' means farming in all its branches, including, but not limited to, the  
172 cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of  
173 any agricultural or horticultural products, the raising of livestock, bees, fur-bearing  
174 animals, dairy-producing animals, and poultry, agricultural education, the sale of produce  
175 through field retail stands or farms stands, and any practices performed by a farmer or on

176 a farm as an incident to or in conjunction with farming operations. For purposes of this  
177 Code section, the term 'agricultural use' shall not include timber production.

178 (2) 'Urban' means any area which is within or adjacent to one or more contiguous census  
179 block groups with a poverty rate of 15 percent or greater, as determined from data in the  
180 most current United States decennial census, where the area is also included within a state  
181 enterprise zone pursuant to Chapter 88 of Title 36 or where a redevelopment plan has  
182 been adopted pursuant to Chapter 61 of Title 36 and, which, in the opinion of the  
183 commissioner of community affairs and the commissioner of economic development,  
184 displays pervasive poverty, underdevelopment, general distress, and blight.

185 (3) 'Urban agricultural incentive zone' means an area within a county, municipality, or  
186 a consolidated government that is comprised of individual properties designated as urban  
187 agriculture preserves by the county or the consolidated government for farming purposes.

188 (b)(1)(A) A county, municipality, or a consolidated government may, after a public  
189 hearing, establish by ordinance an urban agricultural incentive zone within its  
190 boundaries for the purpose of entering into enforceable contracts with landowners, on  
191 a voluntary basis, for the use of vacant, unimproved, or blighted lands for small-scale  
192 agricultural use.

193 (B) A city may, after a public hearing and approval from the governing authority of the  
194 county in which the city is located, establish by ordinance an urban agricultural  
195 incentive zone within its boundaries for the purpose of entering into enforceable  
196 contracts with landowners, on a voluntary basis, for the use of vacant, unimproved, or  
197 blighted lands for small-scale agricultural use.

198 (2)(A) Following the adoption of the ordinance pursuant to paragraph (1) of this  
199 subsection, a city, county, or consolidated government that has established an urban  
200 agricultural incentive zone within its boundaries may adopt rules and regulations  
201 consistent with the city's, county's, or consolidated government's zoning and other



202 ordinances for the implementation and administration of the urban agricultural  
203 incentive zone and of contracts related to such urban agricultural incentive zone.

204 (B) The city, county, or consolidated government may impose a fee upon contracting  
205 landowners for the reasonable costs of implementing and administering contracts.

206 (C) The city, county, or consolidated government shall impose a fee equal to the  
207 cumulative value of the tax benefit received during the duration of the contract upon  
208 landowners for cancellation of any contract prior to the expiration of the contract,  
209 unless the city, county, or consolidated government makes a determination that the  
210 cancellation was caused by extenuating circumstances despite the good faith effort by  
211 the landowner.

212 (c) Following the adoption of the ordinance as required by subsection (b) of this Code  
213 section, a city, county, or consolidated government may enter into a contract with a  
214 landowner to enforceably restrict the use of the land subject to the contract to uses  
215 consistent with urban agriculture. Any contract entered into pursuant to this chapter shall  
216 include, but not be limited to, all of the following provisions:

217 (1) An initial term of not less than five years;

218 (2) A restriction on property that is at least 0.10 acres and not more than five acres;

219 (3) A requirement that the entire property subject to the contract shall be dedicated  
220 toward commercial or noncommercial agricultural use;

221 (4) A prohibition against any dwellings on the property while under contract;

222 (5) A notification that if a landowner cancels a contract, a city, county, or consolidated  
223 government is required to assess a cancellation fee pursuant to subparagraph (b)(2)(C)  
224 of this Code section; and

225 (6) A requirement that the landowner have an approved nutrient or resource management  
226 plan with the Soil and Water Conservation Board within the boundaries of the county,  
227 consolidated government, or city, the United States Department of Agriculture's Natural

228 Resources Conservation Service (USDA-NRCS), or a University of Georgia county  
229 extension office.

230 (d) A contract entered into pursuant to this chapter shall not prohibit the use of structures  
231 that support agricultural activity, including, but not limited to, toolsheds, greenhouses,  
232 produce stands, and instructional space.

233 (e) Property subject to a contract entered into pursuant to this chapter shall be assessed  
234 pursuant to Code Section 48-5-13.1 during the term of the contract.

235 (f) A county, municipality, or a consolidated government shall not establish an urban  
236 agricultural incentive zone within any portion of the corporate limits of a city unless the  
237 governing body of the city has consented to the establishment of such urban agricultural  
238 incentive zone."

239 **SECTION 4.**

240 This Act shall become effective on January 1, 2023, only if an amendment to the  
241 Constitution authorizing the General Assembly to provide by law for urban agricultural  
242 incentive zones, is ratified by the voters at the November, 2022, state-wide general election.  
243 If such an amendment is not so ratified, then this Act shall not become effective and shall  
244 stand repealed on December 31, 2022.

245 **SECTION 5.**

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