

House Bill 741

By: Representatives Corbett of the 174th, Powell of the 171st, LaRiccia of the 169th, and Watson of the 172nd

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 general provisions regarding ad valorem taxation of property, so as to change the
3 definition of fair market value of property; to provide for related matters; to provide for an
4 effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

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

10 "(3) 'Fair market value of property' means the amount a knowledgeable buyer would pay
11 for the property and a willing seller would accept for the property at an arm's length, bona
12 fide sale. The income approach, if data are available, shall be ~~utilized~~ considered in
13 determining the fair market value of income-producing property, and, if actual income
14 and expense data are voluntarily supplied by the property owner, such data shall be
15 ~~considered in one component of~~ such determination. Notwithstanding any other
16 provision of this chapter to the contrary, the transaction amount of the most recent arm's
17 length, bona fide sale in any year shall be the maximum allowable fair market value for
18 the next taxable year. With respect to the valuation of equipment, machinery, and
19 fixtures when no ready market exists for the sale of the equipment, machinery, and
20 fixtures, fair market value may be determined by resorting to any reasonable, relevant,
21 and useful information available, including, but not limited to, the original cost of the
22 property, any depreciation or obsolescence, and any increase in value by reason of
23 inflation. Each tax assessor shall have access to any public records of the taxpayer for
24 the purpose of discovering such information.

25 (A) In determining the fair market value of a going business where its continued
26 operation is reasonably anticipated, the tax assessor may value the equipment,

27 machinery, and fixtures which are the property of the business as a whole where
28 appropriate to reflect the accurate fair market value.

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

31 (i) Existing zoning of property;

32 (ii) Existing use of property, including any restrictions or limitations on the use of
33 property resulting from state or federal law or rules or regulations adopted pursuant
34 to the authority of state or federal law;

35 (iii) Existing covenants or restrictions in deed dedicating the property to a particular
36 use;

37 (iv) Bank sales, other financial institution owned sales, or distressed sales, or any
38 combination thereof, of comparable real property;

39 (v) Decreased value of the property based on limitations and restrictions resulting
40 from the property being in a conservation easement;

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

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

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

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

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

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

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

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

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

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

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

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

92 (ii) For the ninth year in which the property is classified as 'landmark historic
93 property,' the value of the property as determined by division (i) of this subparagraph
94 plus one-half of the difference between such value and the current fair market value
95 exclusive of the provisions of this subparagraph; and

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

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

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

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

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

116 **SECTION 2.**

117 This Act shall become effective upon its approval by the Governor or upon its becoming law
118 without such approval.

119 **SECTION 3.**

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