

The Senate Finance Committee offered the following substitute to SB 293:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to the
2 ad valorem taxation of property, so as to revise a definition; to provide for certain
3 information to be given to taxpayers upon request; to provide for limitations on such
4 information and the manner of its use; to provide for limitations on the use of certain
5 evidence in hearings before the board of equalization, hearing officers, and the superior
6 court; to provide for enforcement and penalties; to provide for interviews with the board of
7 tax assessors; to provide time limits for hearings and determinations of tax appeals and
8 consequences for failure to timely hear or determine appeals; to provide for the recording of
9 such interviews and for the recording of hearings before the board of equalization or a
10 hearing officer; to provide for related matters; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 SECTION 1.

14 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to the ad valorem
15 taxation of property, is amended by revising division (3)(B)(iv) of Code Section 48-5-2,
16 relating to definitions, as follows:

17 "(iv) Bank sales, other financial institution owned sales, or distressed sales, or any
18 combination thereof, of comparable real property and distressed properties that are
19 within such a distance of a subject property that a reasonable appraiser would
20 consider such distressed properties as affecting the fair market value of the subject
21 property. As used in this division, the term 'distressed property' means any real
22 property that is in such proximity to the subject property being assessed or appraised
23 and is in such condition that a reasonable appraiser would conclude that such real
24 property would have a detrimental effect on the value of the subject property being
25 assessed or appraised;".

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SECTION 2.

Said chapter is further amended by revising subsection (d) of Code Section 48-5-306, relating to annual notice of current assessment, contents, posting notice, and new assessment description, as follows:

"(d) **Records and information availability.** Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of real property:

(1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, such information and copies of such public records ~~and information~~, including, but not limited to, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, any matter relating to the items listed in division (3)(B)(iv) of Code Section 48-5-2, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25¢ per page. Any qualified comparable properties referenced in this paragraph shall be selected to support the board of tax assessor's assessment. Such qualified comparable properties shall not be more than five in number and, once chosen by the board of tax assessors, shall not be supplemented or replaced or otherwise altered or changed throughout any appeal process, including appeals to the superior court; and

(2) No additional charges or fees ~~may~~ shall be collected from the taxpayer for reasonable search, retrieval, or other administrative costs associated with providing such public records and information;

(3) The superior courts of this state shall have jurisdiction in law and in equity to enforce compliance with the provisions of this subsection directly and without the issue being first brought through any administrative procedure or hearing. Such actions may be brought by any person, firm, corporation, or other entity. In addition, the Attorney General shall have authority to bring such actions in his or her discretion as may be appropriate to enforce compliance with this subsection and to seek either civil or criminal penalties or both;

(4) In any action brought to enforce the provisions of this subsection in which the court determines that the board of tax assessors acted without substantial justification in not complying with this subsection, the court shall, unless it finds that special circumstances exist, assess in favor of the taxpayer reasonable attorney's fees and other litigation costs reasonably incurred;

(5) Any person or entity knowingly and willfully violating the provisions of this subsection by failing or refusing to provide access to the information and records subject to this subsection, by knowingly and willfully failing or refusing to provide access to

63 such information or records within the time limits set forth in this subsection, or by
 64 knowingly and willfully frustrating or attempting to frustrate the access to such
 65 information or records by intentionally making such information or records difficult to
 66 obtain or review shall be guilty of a misdemeanor and upon conviction shall be punished
 67 by a fine not to exceed \$1,000.00 for the first violation. Alternatively, a civil penalty not
 68 to exceed \$1,000.00 for the first violation may be imposed by the court in any civil action
 69 brought pursuant to this subsection against any person or entity that negligently violates
 70 the terms of this subsection. A civil penalty or criminal fine not to exceed \$2,500.00 per
 71 violation may be imposed for each additional violation that the violator commits within
 72 a 12 month period from the date the first penalty or fine was imposed. It shall be a
 73 defense to any criminal action under this paragraph that a person has acted in good faith
 74 in his or her actions. In addition, persons or entities that destroy records for the purpose
 75 of preventing their disclosure under this subsection may be subject to prosecution under
 76 Code Section 45-11-1; and

77 (6) A prosecution under this subsection shall only be commenced by issuance of a
 78 citation in the same manner as an arrest warrant for a peace officer pursuant to Code
 79 Section 17-4-40; such citation shall be served personally upon the accused. The
 80 defendant shall not be arrested prior to the time of trial, except that a defendant who fails
 81 to appear for arraignment or trial may thereafter be arrested pursuant to a bench warrant
 82 and required to post a bond for his or her future appearance."

83 **SECTION 3.**

84 Said chapter is further amended by adding a new subsection to Code Section 48-5-306,
 85 relating to annual notice of current assessment, contents, posting notice, and new assessment
 86 description, to read as follows:

87 "(d.1)(1) Upon written request from a taxpayer, the board of tax assessors shall provide
 88 the taxpayer with copies of all evidence to be used to support the board of tax assessor's
 89 position at any board of equalization hearing or before a hearing officer for the tax year
 90 in question, and the board of tax assessors shall provide such evidence to the taxpayer in
 91 the same form and likeness as such evidence will be utilized by the board of tax assessors
 92 within ten business days from the date such request is received by the board of tax
 93 assessors. Once such evidence is provided to the taxpayer, the board of tax assessors
 94 shall not change, alter, or supplement such evidence throughout the appeal process,
 95 including any appeal to the superior court. Any evidence not provided to the taxpayer by
 96 the board of tax assessors in response to a written request for such evidence from the
 97 taxpayer shall not be used as evidence in any proceeding regarding such appeal.

98 (2) Any and all evidence put forth by the board of tax assessors at the board of

99 equalization hearing or before any hearing officer regarding an appeal shall remain intact
 100 and shall be the only evidence allowed to be submitted by the board of tax assessors in
 101 any appeal to the superior court.

102 (3) All evidence submitted by the board of tax assessors in a board of equalization
 103 hearing or before a hearing officer shall be signed and dated by the board of tax assessors'
 104 representative submitting such evidence, and an original of such evidence shall be given
 105 to the taxpayer.

106 (4) The provisions contained in paragraphs (3), (4), (5), and (6) of subsection (d) of this
 107 Code section shall be applicable to this subsection."

108 **SECTION 4.**

109 Said chapter is further amended by revising subsections (e) and (h) of Code
 110 Section 48-5-311, relating to creation of county boards of equalization, duties, review of
 111 assessments, and appeals, as follows:

112 **"(e) Appeal.**

113 (1)(A) Any taxpayer or property owner as of the last date for filing an appeal may elect
 114 to file an appeal from an assessment by the county board of tax assessors to either:

115 (i) The county board of equalization as to matters of taxability, uniformity of
 116 assessment, and value, and, for residents, as to denials of homestead exemptions
 117 pursuant to paragraph (2) of this subsection;

118 (ii) An arbitrator as to matters of value pursuant to subsection (f) of this Code
 119 section; or

120 (iii) A hearing officer as to matters of value and uniformity for a parcel of
 121 nonhomestead real property with a fair market value in excess of \$1 million pursuant
 122 to subsection (e.1) of this Code section.

123 The commissioner shall establish by rule and regulation a uniform appeal form that the
 124 taxpayer may use.

125 (B) In addition to the grounds enumerated in subparagraph (A) of this paragraph, any
 126 taxpayer having property that is located within a municipality, the boundaries of which
 127 municipality extend into more than one county, may also appeal from an assessment on
 128 such property by the county board of tax assessors to the county board of equalization
 129 or to a hearing officer as to matters of uniformity of assessment of such property with
 130 other properties located within such municipality, and any uniformity adjustments to
 131 the assessment that may result from such appeal shall only apply for municipal ad
 132 valorem tax purposes.

133 (C) Appeals to the county board of equalization shall be conducted in the manner
 134 provided in paragraph (2) of this subsection. Appeals to a hearing officer shall be

135 conducted in the manner specified in subsection (e.1) of this Code section. Appeals to
136 an arbitrator shall be conducted in the manner specified in subsection (f) of this Code
137 section. Such appeal proceedings shall be conducted between the hours of 8:00 A.M.
138 and 7:00 P.M. on a business day. Following the notification of the taxpayer of the date
139 and time of such taxpayer's scheduled hearing, the taxpayer shall be authorized to
140 exercise a one-time option of changing the date and time of the taxpayer's scheduled
141 hearing to a day and time acceptable to the taxpayer. The clerk of the superior court
142 shall grant additional extensions to the taxpayer or the county board of tax assessors for
143 good cause shown.

144 (D) The commissioner, by regulation, shall adopt uniform procedures and standards
145 which shall be followed by county boards of equalization, hearing officers, and
146 arbitrators in determining appeals. Such rules shall be updated and revised periodically
147 and reviewed no less frequently than every five years.

148 (2)(A) An appeal shall be effected by e-mailing, if the county board of tax assessors has
149 adopted a written policy consenting to electronic service, or by mailing to or filing with
150 the county board of tax assessors a notice of appeal within 45 days from the date of
151 mailing the notice pursuant to Code Section 48-5-306. A written objection to an
152 assessment of real property received by a county board of tax assessors stating the
153 location of the real property and the identification number, if any, contained in the tax
154 notice shall be deemed a notice of appeal by the taxpayer under the grounds listed in
155 paragraph (1) of this subsection. A written objection to an assessment of personal
156 property received by a county board of tax assessors giving the account number, if any,
157 contained in the tax notice and stating that the objection is to an assessment of personal
158 property shall be deemed a notice of appeal by the taxpayer under the grounds listed in
159 paragraph (1) of this subsection. The county board of tax assessors shall review the
160 valuation or denial in question and, if any changes or corrections are made in the
161 valuation or decision in question, the board shall send a notice of the changes or
162 corrections to the taxpayer pursuant to Code Section 48-5-306. Such notice shall also
163 explain the taxpayer's right to appeal to the county board of equalization as provided
164 in subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or
165 corrections made by the county board of tax assessors.

166 (B) If no changes or corrections are made in the valuation or decision, the county board
167 of tax assessors shall send written notice thereof to the taxpayer and to the county board
168 of equalization which notice shall also constitute the taxpayer's appeal to the county
169 board of equalization without the necessity of the taxpayer's filing any additional notice
170 of appeal to the county board of tax assessors or to the county board of equalization.
171 The county board of tax assessors shall also send or deliver all necessary papers to the

172 county board of equalization. If, however, the taxpayer and the county board of tax
 173 assessors execute a signed agreement as to valuation, the appeal shall terminate as of
 174 the date of such signed agreement.

175 (C) If changes or corrections are made by the county board of tax assessors, the board
 176 shall notify the taxpayer in writing of such changes. If the taxpayer is dissatisfied with
 177 such changes or corrections, the taxpayer shall, within 30 days of the date of mailing
 178 of the change notice, institute an appeal to the county board of tax assessors by
 179 e-mailing, if the county board of tax assessors has adopted a written policy consenting
 180 to electronic service, or by mailing to or filing with the county board of tax assessors
 181 a written notice of appeal. The county board of tax assessors shall send or deliver the
 182 notice of appeal and all necessary papers to the county board of equalization.

183 (D) The written notice to the taxpayer required by this paragraph shall contain a
 184 statement of the grounds for rejection of any position the taxpayer has asserted with
 185 regard to the valuation of the property. No addition to or amendment of such grounds
 186 as to such position shall be permitted before the county board of equalization.

187 (3) In any year in which no county-wide revaluation is implemented, the county board
 188 of tax assessors shall make its determination and notify the taxpayer within ~~180~~ 90 days
 189 after receipt of the taxpayer's notice of appeal. If the county board of tax assessors fails
 190 to respond to the taxpayer within such ~~180~~ 90 day period during such year, the ~~appeal~~
 191 ~~shall be automatically referred to the county board of equalization~~ property valuation
 192 submitted by the taxpayer shall become the tax assessed value for the taxpayer's property
 193 for the tax year under appeal.

194 (4) The determination by the county board of tax assessors of questions of factual
 195 characteristics of the property under appeal, as opposed to questions of value, shall be
 196 prima-facie correct in any appeal to the county board of equalization. However, the
 197 board of tax assessors shall have the burden of proving its opinions of value and the
 198 validity of its proposed assessment by a preponderance of evidence.

199 (5) The county board of equalization shall determine all questions presented to it on the
 200 basis of the best information available to the board.

201 (6)(A) Within 15 days of the receipt of the notice of appeal, the county board of
 202 equalization shall set a date for a hearing on the questions presented and shall so notify
 203 the taxpayer and the county board of tax assessors in writing. A taxpayer may appear
 204 before the board concerning any appeal in person, by his or her authorized agent or
 205 representative, or both. The taxpayer shall specify in writing to the board the name of
 206 any such agent or representative prior to any appearance by the agent or representative
 207 before the board.

208 (B) Within 30 days of the date of notification to the taxpayer of the hearing required

209 in this paragraph but not earlier than 20 days from the date of such notification to the
210 taxpayer, the county board of equalization shall hold such hearing to determine the
211 questions presented. If the county board of equalization fails to hold the required
212 hearing within 30 days, the valuation submitted by the taxpayer shall become the tax
213 assessed value for the taxpayer's property for the tax year under appeal.

214 (C) If more than one contiguous property of a taxpayer is under appeal, the board of
215 equalization shall, upon request of the taxpayer, consolidate all such appeals in one
216 hearing and render separate decisions as to each parcel or item of property. Any appeal
217 from such a consolidated board of equalization hearing to the superior court as provided
218 in this subsection shall constitute a single civil action, and, unless the taxpayer
219 specifically so indicates in his or her notice of appeal, shall apply to all such parcels or
220 items of property.

221 (D)(i) The board of equalization shall render its decision at the conclusion of the
222 hearing under subparagraph (B) of this paragraph. The decision of the county board
223 of equalization shall be in writing, shall be signed by each member of the board, shall
224 specifically decide each question presented by the appeal, shall specify the reason or
225 reasons for each such decision as to the specific issues of taxability, uniformity of
226 assessment, value, or denial of homestead exemptions depending upon the specific
227 issue or issues raised by the taxpayer in the course of such taxpayer's appeal, shall
228 state that with respect to the appeal no member of the board is disqualified from
229 acting by virtue of subsection (j) of this Code section, and shall certify the date on
230 which notice of the decision is given to the parties. Notice of the decision shall be
231 given to each party by sending a copy of the decision by registered or certified mail
232 or statutory overnight delivery to the appellant and by filing the original copy of the
233 decision with the county board of tax assessors. Each of the three members of the
234 county board of equalization must be present and must participate in the deliberations
235 on any appeal. A majority vote shall be required in any matter. All three members
236 of the board must sign the decision indicating their vote.

237 (ii) Except as otherwise provided in subparagraph (g)(4)(B) of this Code section, the
238 county board of tax assessors shall use the valuation of the county board of
239 equalization in compiling the tax digest for the county for the year in question and
240 shall indicate such valuation as the previous year's value on the property tax notice
241 of assessment of such taxpayer for the immediately following year rather than
242 substituting the valuation which was changed by the county board of equalization.

243 (iii)(I) If the county's tax bills are issued before the county board of equalization
244 has rendered its decision on property which is on appeal, the county board of tax
245 assessors shall specify to the county tax commissioner the lesser of the valuation in

246 the year preceding the year in which the appeal was filed or 85 percent of the
247 current year's value, unless the property in issue has been issued a building permit
248 and structural improvements have occurred, or structural improvements have been
249 made without a building permit, in which case, it shall specify 85 percent of the
250 current year's valuation as set by the county board of assessors. Depending on the
251 circumstances of the property, this amount shall be the basis for a temporary tax bill
252 to be issued; provided, however, that the taxpayer may elect to pay the temporary
253 tax bill in the amount of 100 percent of the current year's valuation if no property
254 improvement has occurred. The county tax commissioner shall have the authority
255 to adjust such tax bill to reflect the 100 percent value as requested by the taxpayer.
256 Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a
257 temporary tax bill pending the outcome of the appeal process. Such notice shall
258 also indicate that upon resolution of the appeal, there may be additional taxes due
259 or a refund issued.

260 (II) For the purposes of this Code section, any final value that causes a deduction
261 in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax
262 commissioner to the taxpayer, entity, or transferee who paid the taxes within 60
263 days from the date of the final determination of value. Such refund shall include
264 interest on the amount of the deduction at the same rate specified in Code Section
265 48-2-35 which shall accrue from November 15 of the taxable year in question or the
266 date the final installment was due or was paid, whichever is later, through to the
267 date paid or 60 days from the date of the final determination, whichever is earlier.
268 In no event shall the amount of such interest exceed \$150.00 for homestead property
269 or \$5,000.00 for nonhomestead property. Any refund paid after the sixtieth day
270 shall accrue interest from the sixty-first day until paid with interest at the same rate
271 specified in Code Section 48-2-35. The interest accrued after the sixtieth day and
272 forward shall not be subject to the limits imposed by this subsection. The tax
273 commissioner shall pay the tax refund and any interest for the refund from current
274 collections in the same proportion for each of the levying authorities for whom the
275 taxes were collected.

276 (III) For the purposes of this Code section, any final value that causes an increase
277 in taxes and creates an additional billing shall be paid to the tax commissioner as
278 any other tax due along with interest as specified in Code Section 48-2-35. The tax
279 commissioner shall adjust the tax bill, including interest, within 15 days from the
280 date of the final determination of value and mail the adjusted bill to the taxpayer.
281 Such interest shall accrue from November 15 of the taxable year in question or the
282 final installment of the tax was due through to the date the bill was adjusted and

283 mailed or 15 days from the date of the final determination, whichever is earlier. The
 284 interest computed on the additional billing shall in no event exceed \$150.00 for
 285 homestead property or \$5,000.00 for nonhomestead property. After the tax bill
 286 notice has been mailed out, the taxpayer shall be afforded 60 days from the date of
 287 the postmark to make full payment of the adjusted bill and interest. Once the 60 day
 288 payment period has expired, the bill shall be considered past due, and interest shall
 289 accrue as specified in Code Section 48-2-40 without limit until the bill is paid in
 290 full. Once past due, all other fees, penalties, late charges, and collection notices
 291 shall apply as prescribed in this chapter for the collection of delinquent taxes.

292 (7) The clerk of the superior court shall furnish the county board of equalization
 293 necessary facilities and secretarial and clerical help. The clerk of the superior court shall
 294 see that the records and information of the county board of tax assessors are transmitted
 295 to the county board of equalization. The county board of equalization must consider in
 296 the performance of its duties the information furnished by the county board of tax
 297 assessors and the taxpayer.

298 (8) The taxpayer or his or her agent or representative may submit in support of his or her
 299 appeal the most current report of the sales ratio study for the county conducted pursuant
 300 to Code Section 48-5-274. The board must consider the study upon any such request.

301 (9) If at any time during the appeal process to the county board of equalization and after
 302 certification by the county board of tax assessors to the county board of equalization, the
 303 county board of tax assessors and the taxpayer mutually agree in writing on the fair
 304 market value, then the county board of tax assessors, or the county board of equalization,
 305 as the case may be, shall enter the agreed amount in all appropriate records as the fair
 306 market value of the property under appeal, and the appeal shall be concluded. The
 307 provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation unless
 308 otherwise waived by both parties."

309 "(h) **Recording of interviews.**

310 (1) In the course of any assessment, appeal, or arbitration, or any related proceeding, the
 311 taxpayer shall be entitled to:

312 (A) Have an ~~make recordings of any~~ interview with any officer or employee of the
 313 taxing authority relating to the valuation of the taxpayer's property subject to such
 314 assessment, appeal, arbitration, or related proceeding, and the taxpayer may record the
 315 interview at the taxpayer's expense and with equipment provided by the taxpayer. No;
 316 and no such officer or employee may refuse to participate in an interview relating to
 317 such valuation for reason of the taxpayer's choice to record such interview; and

318 (B) Record, at the taxpayer's expense and with equipment provided by the taxpayer,
 319 all proceedings before the board of equalization or any hearing officer.

320 (2) The interview under this subsection shall be granted to the taxpayer within ten
321 business days from the taxpayer's written request for the interview, and the interview
322 shall be conducted at the office of the board of tax assessors.

323 (3) The superior courts of this state shall have jurisdiction in law and in equity to enforce
324 the provisions of this subsection directly and with the issue being first brought through
325 any administrative procedure or hearing. The taxpayer shall be awarded damages in the
326 amount of \$1,000.00 per occurrence where the taxpayer requested the interview in
327 compliance with this subsection and the board of assessors failed to timely comply, and
328 the taxpayer shall be entitled to recover reasonable attorney's fees and expenses of
329 litigation in any action brought to compel such interview."

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SECTION 5.

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