

House Bill 418

By: Representatives Barnes of the 97th, Dodson of the 94th, Stancil of the 16th, Wix of the 33rd, Rogers of the 20th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to
2 county boards of equalization and ad valorem tax appeals, so as to specifically authorize
3 designated agents to act on behalf of taxpayers during an appeal; to repeal conflicting laws;
4 and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to county boards
8 of equalization and ad valorem tax appeals, is amended by striking subsections (e), (f), (g),
9 and (h) and inserting in their place new subsections (e), (f), (g), and (h) to read as follows:
10 "(e) *Appeal.*

11 (1)(A) Any resident or nonresident taxpayer, or designated agent thereof, may appeal
12 from an assessment by the county board of tax assessors to the county board of
13 equalization or to an arbitrator or arbitrators as to matters of taxability, uniformity of
14 assessment, and value, and, for residents, as to denials of homestead exemptions.

15 (B) In addition to the grounds enumerated in subparagraph (A) of this paragraph, any
16 resident or nonresident taxpayer, or designated agent thereof, having property that is
17 located within a municipality, the boundaries of which municipality extend into more
18 than one county, may also appeal from an assessment on such property by the county
19 board of tax assessors to the county board of equalization or to an arbitrator or
20 arbitrators as to matters of uniformity of assessment of their property with other
21 properties located within such municipality, and any uniformity adjustments to the
22 assessment that may result from such appeal shall only apply for municipal ad valorem
23 tax purposes.

24 (C) Appeals to the county board of equalization shall be conducted in the manner
25 provided in paragraph (2) of this subsection. Appeals to an arbitrator or arbitrators shall
26 be conducted in the manner specified in subsection (f) of this Code section. Such

1 appeal proceedings shall be conducted between the hours of 8:00 A.M. and 7:00 P.M.
2 on a business day. Following the notification of the taxpayer, or designated agent
3 thereof, of the date and time of their scheduled hearing, the taxpayer, or designated
4 agent thereof, shall be authorized to exercise a one-time option of changing the date and
5 time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer,
6 or designated agent thereof.

7 (2)(A) An appeal shall be effected by mailing to or filing with the county board of tax
8 assessors a notice of appeal within 45 days from the date of mailing the notice pursuant
9 to Code Section 48-5-306 except that for counties or municipal corporations providing
10 for the collection and payment of ad valorem taxes in installments the time for filing
11 the notice of appeal shall be 30 days. A written objection to an assessment of real
12 property received by a county board of tax assessors stating the location of the real
13 property and the identification number, if any, contained in the tax notice shall be
14 deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of
15 this subsection. Any such notice of appeal which is mailed pursuant to this
16 subparagraph shall be deemed to be filed as of the date of the United States Postal
17 Service postmark on such notice of appeal. A written objection to an assessment of
18 personal property received by a county board of tax assessors giving the account
19 number, if any, contained in the tax notice and stating that the objection is to an
20 assessment of personal property shall be deemed a notice of appeal by the taxpayer, or
21 designated agent thereof, under the grounds listed in paragraph (1) of this subsection.
22 The county board of tax assessors shall review the valuation or denial in question and,
23 if any changes or corrections are made in the valuation or decision in question, the
24 board shall send a notice of the changes or corrections to the taxpayer, or designated
25 agent thereof, pursuant to Code Section 48-5-306. Such notice shall also explain the
26 taxpayer's right to appeal to the county board of equalization as provided in
27 subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or
28 corrections made by the county board of tax assessors.

29 (B) If no changes or corrections are made in the valuation or decision, the county board
30 of tax assessors shall send written notice thereof to the taxpayer, or designated agent
31 thereof, and to the county board of equalization which notice shall also constitute the
32 taxpayer's appeal to the county board of equalization without the necessity of the
33 taxpayer's, or the taxpayer's designated agent thereof, filing any additional notice of
34 appeal to the county board of tax assessors or to the county board of equalization. The
35 county board of tax assessors shall also send or deliver all necessary papers to the
36 county board of equalization.

1 (C) If changes or corrections are made by the county board of tax assessors, the board
2 shall notify the taxpayer, or designated agent thereof, in writing of such changes. If the
3 taxpayer is dissatisfied with such changes or corrections, the taxpayer, or designated
4 agent thereof, shall, within 21 days of the date of mailing of the change notice, institute
5 an appeal to the county board of equalization by mailing to or filing with the county
6 board of tax assessors a written notice of appeal. Any such notice of appeal which is
7 mailed pursuant to this subparagraph shall be deemed to be filed as of the date of the
8 United States Postal Service postmark on such notice of appeal. The county board of
9 tax assessors shall send or deliver the notice of appeal and all necessary papers to the
10 county board of equalization.

11 (D) The written notice to the taxpayer, or designated agent thereof, required by this
12 paragraph shall contain a statement of the grounds for rejection of any position the
13 taxpayer, or designated agent thereof, has asserted with regard to the valuation of the
14 property. No addition to or amendment of such grounds as to such position shall be
15 permitted before the county board of equalization or in any arbitration proceedings.

16 (3) In any year in which no county-wide revaluation is implemented, the county board
17 of tax assessors shall make its determination and notify the taxpayer within 180 days after
18 receipt of the taxpayer's notice of appeal. If the county board of tax assessors fails to
19 respond to the taxpayer, or designated agent thereof, within such 180 day period during
20 such year, the appeal shall be automatically referred to the county board of equalization.
21 This paragraph shall not apply to any county whose digest for the current year cannot be
22 approved by the commissioner pursuant to subsection (a) of Code Section 48-5-304.

23 (4) The determination by the county board of tax assessors of questions of factual
24 characteristics of the property under appeal, as opposed to questions of value, shall be
25 prima-facie correct in any appeal to the county board of equalization. However, the
26 board of tax assessors shall have the burden of proving their opinions of value and the
27 validity of their proposed assessment by a preponderance of evidence.

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

30 (B) The commissioner, by regulation, may adopt uniform procedures and standards
31 which, when approved by the State Board of Equalization, shall be followed by county
32 boards of equalization in determining appeals.

33 (6)(A) Within 15 days of the receipt of the notice of appeal, the county board of
34 equalization shall set a date for a hearing on the questions presented and shall so notify
35 the taxpayer, or designated agent thereof, and the county board of tax assessors in
36 writing. A taxpayer may appear before the board concerning any appeal in person, by
37 his or her authorized agent or representative, or both. The taxpayer shall specify in

1 writing to the board the name of any such agent or representative prior to any
2 appearance by the agent or representative before the board.

3 (B) Within 30 days of the date of notification to the taxpayer, or designated agent
4 thereof, of the hearing required in this paragraph but not earlier than 20 days from the
5 date of such notification to the taxpayer, or designated agent thereof, the county board
6 of equalization shall hold such hearing to determine the questions presented.

7 (C) If more than one contiguous property of a taxpayer is under appeal, the board of
8 equalization shall, upon request of the taxpayer, or designated agent thereof,
9 consolidate all such appeals in one hearing and render separate decisions as to each
10 parcel or item of property. Any appeal from such a consolidated board of equalization
11 hearing to the superior court as provided in this subsection shall constitute a single civil
12 action, and, unless the taxpayer, or designated agent thereof, specifically so indicates
13 in his or her notice of appeal, shall apply to all such parcels or items of property.

14 (D)(i) The decision of the county board of equalization shall be in writing, shall be
15 signed by each member of the board, shall specifically decide each question presented
16 by the appeal, shall specify the reason or reasons for each such decision as to the
17 specific issues of taxability, uniformity of assessment, value, or denial of homestead
18 exemptions depending upon the specific issue or issues raised by the taxpayer, or
19 designated agent thereof, in the course of such taxpayer's appeal, shall state that with
20 respect to the appeal no member of the board is disqualified from acting by virtue of
21 subsection (j) of this Code section, and shall certify the date on which notice of the
22 decision is given to the parties. Notice of the decision shall be given to each party by
23 sending a copy of the decision by registered or certified mail or statutory overnight
24 delivery to the appellant and by filing the original copy of the decision with the
25 county board of tax assessors. Each of the three members of the county board of
26 equalization must be present and must participate in the deliberations on any appeal.
27 A majority vote shall be required in any matter. All three members of the board must
28 sign the decision indicating their vote.

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

35 (iii)(I) If the county's tax bills are issued before the county board of equalization
36 has rendered its decision on property which is on appeal, the county board of tax
37 assessors shall specify to the county tax commissioner the higher of the taxpayer's

1 return valuation or 85 percent of the current year's valuation as set by the county
2 board of tax assessors. This amount shall be the basis for a temporary tax bill to be
3 issued. Such tax bill shall be accompanied by a notice to the taxpayer, or the
4 designated agent thereof, that the bill is a temporary tax bill pending the outcome
5 of the appeal process. Such notice shall also indicate that upon resolution of the
6 appeal, there may be additional taxes due or a refund issued.

7 (II) If the final determination of the value on appeal is less than the valuation thus
8 used, the taxpayer shall receive a deduction in such taxpayer's taxes for the year in
9 question. Such deduction shall be refunded to the taxpayer and shall include
10 interest on the amount of such deduction at the same rate as specified in Code
11 Section 48-2-35 which shall accrue from November 15 of the taxable year in
12 question or the date the final installment of the tax was due or was paid, whichever
13 is later. In no event shall the amount of such interest exceed \$150.00.

14 (III) If the final determination of value on appeal is greater than the valuation thus
15 used, the taxpayer shall be liable for the increase in taxes for the year in question
16 due to the increased valuation fixed on appeal with interest at the rate as specified
17 in Code Section 48-2-35. Such interest shall accrue from November 15 of the
18 taxable year in question or the date the final installment of the tax was due to the
19 date the additional taxes are remitted, but in no event shall such interest accrue for
20 a period of more than 180 days. Any taxpayer shall be exempt each taxable year
21 from any such interest owed under this subdivision with respect to such taxpayer's
22 homestead property.

23 (7) The county governing authority shall furnish the county board of equalization
24 necessary facilities and secretarial and clerical help. The secretary of the county board
25 of tax assessors shall see that the records and information of the county board of tax
26 assessors are transmitted to the county board of equalization. The county board of
27 equalization must consider in the performance of its duties the information furnished by
28 the county board of tax assessors and the taxpayer.

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

32 (f) *Arbitration.*

33 (1) At the option of the taxpayer an appeal shall be submitted to arbitration.

34 (2) Following an election by the taxpayer under paragraph (1) of this subsection, an
35 arbitration appeal shall be effected by the taxpayer's, or designated agent's, filing a
36 written notice of arbitration with the county board of tax assessors. The notice of
37 arbitration shall specifically state the grounds for arbitration. The notice shall be filed

1 within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306
2 except that for counties or municipal corporations providing for the collection and
3 payment of ad valorem taxes in installments the time for filing the notice of appeal shall
4 be 30 days. The county board of tax assessors shall certify to the clerk of the superior
5 court the notice of arbitration and any other papers specified by the person seeking
6 arbitration including, but not limited to, the staff information from the file used by the
7 county board of tax assessors. All papers and information certified to the clerk shall
8 become a part of the record on arbitration. Within 15 days of the filing of the certification
9 to the clerk of the superior court, the judge shall issue an order authorizing the arbitration
10 and appointing a referee.

11 (3) The arbitration of the correctness of the decision of the county board of tax assessors
12 shall be conducted pursuant to the procedures outlined in Article 2 of Chapter 9 of Title
13 9 with the following exceptions:

14 (A) If both parties agree, the matter may be submitted to a single arbitrator. If both
15 parties agree, the referee may serve as the single arbitrator;

16 (B) If the parties do not agree to a single arbitrator, then three arbitrators shall hear the
17 appeal. Such arbitrators shall be appointed as provided in Code Section 9-9-67. If one
18 or both parties are unable to select an arbitrator, the appeal shall be heard by a single
19 arbitrator who shall be appointed by the judge of the superior court as provided in Code
20 Section 9-9-67;

21 (C) In order to be qualified to serve as an arbitrator, a person must be at least a
22 registered real estate appraiser as classified by the Georgia Real Estate Appraisers
23 Board;

24 (D) The arbitrator or a majority of the arbitrators, as applicable, within 30 days after
25 their appointment shall render a decision regarding the correctness of the decision of
26 the county board of tax assessors and, if correction of the decision is required, regarding
27 the extent and manner in which the decision should be corrected. The decision of the
28 arbitrator or arbitrators, as applicable, may be appealed to the superior court in the same
29 manner as a decision of the board of equalization;

30 (E) The taxpayer shall be responsible for the fees and costs of such taxpayer's
31 arbitrator and the county shall be responsible for the fees and costs of such county's
32 arbitrator. The two parties shall each be responsible for one-half of the fees and costs
33 of the third arbitrator. In the event the appeal is submitted to a single arbitrator, the two
34 parties shall each be responsible for one-half of the fees and costs of such arbitrator;
35 and

36 (F) The board of tax assessors shall have the burden of proving their opinions of value
37 and the validity of their proposed assessment by a preponderance of evidence.

1 (g) *Appeals to the superior court.*

2 (1) The taxpayer, or designated agent thereof, or, except as otherwise provided in this
3 paragraph, the county board of tax assessors may appeal decisions of the county board
4 of equalization, the arbitrator, or the arbitrators, as applicable, to the superior court of the
5 county in which the property lies. A county board of tax assessors may not appeal a
6 decision of the county board of equalization changing an assessment by 15 percent or less
7 unless the board of tax assessors gives the county governing authority a written notice of
8 its intention to appeal and within ten days of receipt of the notice the county governing
9 authority by majority vote does not prohibit the appeal. In the case of a joint city-county
10 board of tax assessors, such notice shall be given to the city and county governing
11 authorities, either of which may prohibit the appeal by majority vote within the allowed
12 period of time.

13 (2) An appeal by the taxpayer, or designated agent thereof, as provided in paragraph (1)
14 of this subsection shall be effected by mailing to or filing with the county board of tax
15 assessors a written notice of appeal. Any such notice of appeal which is mailed pursuant
16 to this paragraph shall be deemed to be filed as of the date of the United States Postal
17 Service postmark on such notice of appeal. An appeal by the county board of tax
18 assessors shall be effected by giving notice to the taxpayer, or designated agent thereof.
19 The notice to the taxpayer, or designated agent thereof, shall be dated and shall contain
20 the name and the last known address of the taxpayer, or designated agent thereof. The
21 notice of appeal shall specifically state the grounds for appeal. The notice shall be mailed
22 or filed within 30 days from the date on which the decision of the county board of
23 equalization is mailed pursuant to subparagraph (e)(6)(D) of this Code section or within
24 30 days from the date on which the arbitration decision is rendered pursuant to
25 subparagraph (f)(3)(D) of this Code section, whichever is applicable. The county board
26 of tax assessors shall certify to the clerk of the superior court the notice of appeal and any
27 other papers specified by the person appealing including, but not limited to, the staff
28 information from the file used by either the county board of tax assessors or the county
29 board of equalization. All papers and information certified to the clerk shall become a
30 part of the record on appeal to the superior court. At the time of certification of the
31 appeal, the county board of tax assessors shall serve the taxpayer or his or her attorney
32 or agent of record with a copy of the notice of appeal and with the civil action file number
33 assigned to the appeal. Such service shall be effected in accordance with subsection (b)
34 of Code Section 9-11-5. No discovery, motions, or other pleadings may be filed by the
35 county board of tax assessors in the appeal until such service has been made.

36 (3) The appeal shall constitute a de novo action. The board of tax assessors shall have
37 the burden of proving their opinions of value and the validity of their proposed

1 assessment by a preponderance of evidence. Upon a failure of the board of tax assessors
2 to meet such burden of proof, the court may, upon motion or sua sponte, authorize the
3 finding that the value asserted by the taxpayer, or designated agent thereof, is
4 unreasonable and authorize the determination of the final value of the property.

5 (4)(A) The appeal shall be heard before a jury at the first term following the filing of
6 the appeal unless continued by the court upon a showing of good cause. If only
7 questions of law are presented in the appeal, the appeal shall be heard as soon as
8 practicable before the court sitting without a jury. Each hearing before the court sitting
9 without a jury shall be held within 40 days following the date on which the appeal is
10 filed with the clerk of the superior court. The time of any hearing shall be set in
11 consultation with the taxpayer, or designated agent thereof, and at a time acceptable to
12 the taxpayer, or designated agent thereof, between the hours of 8:00 A.M. and 7:00
13 P.M. on a business day.

14 (B)(i) The county board of tax assessors shall use the valuation of the county board
15 of equalization in compiling the tax digest for the county. If the final determination
16 of value on appeal is less than the valuation set by the county board of equalization,
17 the arbitrator, or the arbitrators, as applicable, the taxpayer shall receive a deduction
18 in such taxpayer's taxes for the year in question. Such deduction shall be refunded
19 to the taxpayer and shall include interest on the amount of such deduction at the same
20 rate as specified in Code Section 48-2-35 which shall accrue from November 15 of
21 the taxable year in question or the date the final installment of the tax was due or was
22 paid, whichever is later. In no event shall the amount of such interest exceed \$150.00.

23 (ii) If the final determination of value on appeal is 80 percent or less of the valuation
24 set by the county board of equalization as to commercial property, or 85 percent or
25 less of the valuation set by the county board of equalization as to other property, the
26 taxpayer, in addition to the interest provided for by this paragraph, shall recover costs
27 of litigation and reasonable attorney's fees incurred in the action. This division shall
28 not apply when the property owner has failed to return for taxation the property that
29 is under appeal.

30 (iii) If the final determination of value on appeal is greater than the valuation set by
31 the county board of equalization, the arbitrator, or the arbitrators, as applicable, the
32 taxpayer shall be liable for the increase in taxes for the year in question due to the
33 increased valuation fixed on appeal with interest at the same rate as specified in Code
34 Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in
35 question or the date the final installment of tax was due to the date the additional taxes
36 are remitted, but in no event shall such interest accrue for a period of more than 180

1 days. Any taxpayer shall be exempt each taxable year from any such interest owed
2 under this subparagraph with respect to such taxpayer's homestead property.
3 (h) Recording of interviews. In the course of any assessment, appeal, or arbitration, or any
4 related proceeding, the taxpayer, or designated agent thereof, shall be entitled to make
5 audio recordings of any interview with any officer or employee of the taxing authority
6 relating to the valuation of the taxpayer's property subject to such assessment, appeal,
7 arbitration, or related proceeding, at the taxpayer's, or designated agent's, expense and with
8 equipment provided by the taxpayer, or designated agent thereof, and no such officer or
9 employee may refuse to participate in an interview relating to such valuation for reason of
10 the taxpayer's, or designated agent's, choice to record such interview."

11 **SECTION 2.**

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