

House Bill 459

By: Representative Hembree of the 98th

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 creation of county boards of equalization, duties, review of assessments, and appeals, so as
3 to change the provisions relating to appeals to the superior courts; to repeal the right of
4 appeal of the county board of tax assessors; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to creation of
9 county boards of equalization, duties, review of assessments, and appeals, is amended by
10 striking subsection (g) of said Code section and inserting in its place the following:

11 "(g) *Appeals to the superior court.*

12 (1) The taxpayer or, except as otherwise provided in this paragraph, the county board of
13 tax assessors may appeal decisions of the county board of equalization, the arbitrator, or
14 the arbitrators, as applicable, to the superior court of the county in which the property
15 lies. A county board of tax assessors may not appeal a decision of the county board of
16 equalization changing an assessment by 15 percent or less unless the board of tax
17 assessors gives the county governing authority a written notice of its intention to appeal
18 and within ten days of receipt of the notice the county governing authority by majority
19 vote does not prohibit the appeal. In the case of a joint city-county board of tax assessors,
20 such notice shall be given to the city and county governing authorities, either of which
21 may prohibit the appeal by majority vote within the allowed period of time.

22 (2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be
23 effected by mailing to or filing with the county board of tax assessors a written notice of
24 appeal. Any such notice of appeal which is mailed pursuant to this paragraph shall be
25 deemed to be filed as of the date of the United States Postal Service postmark on such
26 notice of appeal. An appeal by the county board of tax assessors shall be effected by

1 giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain
2 the name and the last known address of the taxpayer. The notice of appeal shall
3 specifically state the grounds for appeal. The notice shall be mailed or filed within 30
4 days from the date on which the decision of the county board of equalization is mailed
5 pursuant to subparagraph (e)(6)(D) of this Code section or within 30 days from the date
6 on which the arbitration decision is rendered pursuant to subparagraph (f)(3)(D) of this
7 Code section, whichever is applicable. The county board of tax assessors shall certify to
8 the clerk of the superior court the notice of appeal and any other papers specified by the
9 person appealing including, but not limited to, the staff information from the file used by
10 either the county board of tax assessors or the county board of equalization. All papers
11 and information certified to the clerk shall become a part of the record on appeal to the
12 superior court. At the time of certification of the appeal, the county board of tax
13 assessors shall serve the taxpayer or his or her attorney or agent of record with a copy of
14 the notice of appeal and with the civil action file number assigned to the appeal. Such
15 service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No
16 discovery, motions, or other pleadings may be filed by the county board of tax assessors
17 in the appeal until such service has been made.

18 (3) The appeal shall constitute a de novo action. The board of tax assessors shall have
19 the burden of proving their opinions of value and the validity of their proposed
20 assessment by a preponderance of evidence. Upon a failure of the board of tax assessors
21 to meet such burden of proof, the court may, upon motion or sua sponte, authorize the
22 finding that the value asserted by the taxpayer is unreasonable and authorize the
23 determination of the final value of the property.

24 (4)(A) The appeal shall be heard before a jury at the first term following the filing of
25 the appeal unless continued by the court upon a showing of good cause. If only
26 questions of law are presented in the appeal, the appeal shall be heard as soon as
27 practicable before the court sitting without a jury. Each hearing before the court sitting
28 without a jury shall be held within 40 days following the date on which the appeal is
29 filed with the clerk of the superior court. The time of any hearing shall be set in
30 consultation with the taxpayer and at a time acceptable to the taxpayer between the
31 hours of 8:00 A.M. and 7:00 P.M. on a business day.

32 (B)(i) The county board of tax assessors shall use the valuation of the county board
33 of equalization in compiling the tax digest for the county. If the final determination
34 of value on appeal is less than the valuation set by the county board of equalization,
35 the arbitrator, or the arbitrators, as applicable, the taxpayer shall receive a deduction
36 in such taxpayer's taxes for the year in question. Such deduction shall be refunded
37 to the taxpayer and shall include interest on the amount of such deduction at the same

rate as specified in Code Section 48-2-35 which shall accrue from November 15 of the taxable year in question or the date the final installment of the tax was due or was paid, whichever is later. In no event shall the amount of such interest exceed \$150.00.

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

(iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, the arbitrator, or the arbitrators, as applicable, the taxpayer shall be liable for the increase in taxes for the year in question due to the increased valuation fixed on appeal with interest at the same rate as specified in Code Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in question or the date the final installment of tax was due to the date the additional taxes are remitted, but in no event shall such interest accrue for a period of more than 180 days. Any taxpayer shall be exempt each taxable year from any such interest owed under this subparagraph with respect to such taxpayer's homestead property."

SECTION 2.

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