

House Bill 531

By: Representative Royal of the 140<sup>th</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 general provisions regarding ad valorem taxation of property, so as to provide for  
3 preferential assessment of environmentally contaminated property; to change certain  
4 provisions regarding definitions; to change certain provisions regarding assessment of  
5 property; to provide for procedures, conditions, and limitations regarding preferential  
6 assessment of environmentally contaminated property; to provide for penalties; to provide  
7 an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to  
11 general provisions regarding ad valorem taxation of property, is amended in Code Section  
12 48-5-2, by adding a new subparagraph at the end of paragraph (3) to be designated  
13 subparagraph (F), to read as follows:

14 "(F) Fair market value of 'environmentally contaminated property' as such term is  
15 defined in subsection (a) of Code Section 48-5-7.6 means:

16 (i) For the first eight years in which the property is classified as 'environmentally  
17 contaminated property,' the value equal to the greater of the acquisition cost of the  
18 property or the appraised fair market value of the property as recorded in the county  
19 tax digest at the time certification on such property was received by the county board  
20 of tax assessors pursuant to subsection (c) of Code Section 48-5-7.6;

21 (ii) For the ninth year in which the property is classified as 'environmentally  
22 contaminated property,' the value of the property as determined by division (i) of this  
23 subparagraph plus one-half of the difference between such value and the current fair  
24 market value exclusive of the provisions of this subparagraph; and

1 (iii) For the tenth and following years, the fair market value of such property as  
 2 determined by the provisions of this paragraph, excluding the provisions of this  
 3 subparagraph."

#### 4 SECTION 2.

5 Said article is further amended in Code Section 48-5-7, relating to assessment of tangible  
 6 property, by adding a new subsection immediately following subsection (c.3) to be  
 7 designated subsection (c.4), to read as follows:

8 "(c.4) Tangible real property which qualifies as environmentally contaminated property  
 9 pursuant to the provisions of Code Section 48-5-7.6 shall be assessed at 40 percent of its  
 10 fair market value and shall be taxed on a levy made by each respective tax jurisdiction  
 11 according to 40 percent of the property's fair market value. For the purposes of this  
 12 subsection, the term 'fair market value' shall mean the fair market value of environmentally  
 13 contaminated property pursuant to the provisions of subparagraph (F) of paragraph (3) of  
 14 Code Section 48-5-2."

#### 15 SECTION 3.

16 Said article is further amended by adding a new Code section immediately following Code  
 17 Section 48-7-7.5, to be designated Code Section 48-5-7.6, to read as follows:

18 "48-5-7.6

19 (a)(1) For the purposes of this Code section, 'environmentally contaminated property'  
 20 means tangible real property where:

21 (A) There has been a release of hazardous waste, hazardous constituents, and  
 22 hazardous substances into the environment; and

23 (B) The director of the Environmental Protection Division of the Department of  
 24 Natural Resources, under Article 9 of Chapter 8 of Title 12, the 'Georgia Hazardous  
 25 Site Reuse and Redevelopment Act,' as amended, has approved and not revoked the  
 26 purchaser's corrective action plan to clean up, reuse, and develop such contaminated  
 27 property and has certified such property as qualifying such purchaser for a limitation  
 28 of liability while the plan is being executed.

29 (2) The preferential classification and assessment of environmentally contaminated  
 30 property provided for in this Code section shall apply to the land portion only of all real  
 31 property qualified by the Department of Natural Resources under Code Section 12-8-205.

32 (b) In order for property to qualify under this Code section for preferential assessment as  
 33 provided for in subsection (c.4) of Code Section 48-5-7, the property must receive the  
 34 certifications required for environmentally contaminated property as defined in  
 35 paragraph (1) of subsection (a) of this Code section.

1 (c) Upon receipt of said certifications, a property owner desiring classification of any such  
2 contaminated property as environmentally contaminated property in order to receive the  
3 preferential assessment shall make application to the county board of tax assessors and  
4 include said certifications with such application. The county board of tax assessors shall  
5 determine if the provisions of this Code section have been complied with, and upon such  
6 determination, the county board of tax assessors shall be required to grant preferential  
7 assessment to such property. The county board of tax assessors shall make the  
8 determination within 30 days after receiving the application and shall notify the applicant  
9 in the same manner that notices of assessment are given pursuant to Code Section  
10 48-5-306. Appeals from the denial of an application for preferential assessment by the  
11 board of tax assessors shall be made in the same manner that other property tax appeals are  
12 made pursuant to Code Section 48-5-311.

13 (d)(1) Property which has been classified by the county board of tax assessors as  
14 environmentally contaminated property shall be immediately eligible for the preferential  
15 assessment provided for in subsection (c.4) of Code Section 48-5-7; provided, however,  
16 that, for the purposes of determining the years of eligibility for preferential assessment,  
17 the tax year following the year in which the certification was filed with the county board  
18 of tax assessors pursuant to subsection (c) of this Code section shall be considered and  
19 counted as the first year of eligibility.

20 (2) Property which is subject to preferential assessment shall be separately classified  
21 from all other property on the tax digest; and such separate classification shall be such  
22 as will enable any person examining the tax digest to ascertain readily that the property  
23 is subject to preferential assessment.

24 (3) The county tax receiver or tax commissioner shall enter upon the tax digest as the  
25 basis or value of a parcel of environmentally contaminated property a value equal to the  
26 greater of the acquisition cost of the property or the assessment of the fair market value  
27 of the property as recorded in the county tax digest at the time certification on such  
28 property was received by the county board of tax assessors pursuant to subsection (c) of  
29 this Code section. Property classified as environmentally contaminated property shall be  
30 recorded upon the tax digest as provided in this Code section for nine consecutive  
31 assessment years, and the notation 'environmentally contaminated property' shall be  
32 entered on the tax digest adjacent to the valuation of such property to indicate that the  
33 property is being preferentially assessed. The tax commissioner or tax receiver shall also  
34 enter upon the tax digest an assessment of the fair market value of the property each year,  
35 excluding the provisions of subparagraph (F) of paragraph (3) of Code Section 48-5-2.

1 (e)(1) When property has once been classified and assessed as environmentally  
2 contaminated property, it shall remain so classified and be granted the preferential  
3 assessment until the property becomes disqualified by any one of the following:

4 (A) Written notice by the taxpayer to the county tax commissioner or receiver to  
5 remove the preferential classification and assessment;

6 (B) Sale or transfer of ownership making the property exempt from property taxation;

7 (C) Decertification of such property by the Department of Natural Resources. The  
8 Department of Natural Resources has the authority to decertify any property which no  
9 longer possesses the qualities and features which made it eligible for the limitation of  
10 liability or which has been altered through inappropriate rehabilitation as determined  
11 by the Department of Natural Resources. The sale or transfer to a new owner shall not  
12 operate to disqualify the property from preferential classification and assessment so  
13 long as the property continues to qualify as environmentally contaminated property,  
14 except as specified in subparagraph (B) of this paragraph. When for any reason the  
15 property or any portion thereof ceases to qualify as environmentally contaminated  
16 property, the owner at the time of change shall notify the Department of Natural  
17 Resources and the county board of tax assessors prior to the next January; or

18 (D) The expiration of nine years during which the property was classified and assessed  
19 as environmentally contaminated property; provided, however, that any such property  
20 may requalify thereafter as environmentally contaminated property if such property is  
21 subject to subsequent rehabilitation and qualifies under other portions of Article 9 of  
22 Chapter 8 of Title 12, the 'Georgia Hazardous Site Reuse and Redevelopment Act,' as  
23 amended.

24 (2) Except as otherwise provided in this Code section, if a property becomes disqualified  
25 pursuant to any provision of this subsection, the decertification shall be transmitted to the  
26 county board of tax assessors by the Environmental Protection Division of the  
27 Department of Natural Resources and said assessors shall appropriately notate the  
28 property as decertified. Such property shall not be eligible to receive the preferential  
29 assessment provided for in this Code section during the taxable year in which such  
30 disqualification occurs.

31 (f) Any person who is aggrieved or adversely affected by any order or action of the  
32 Department of Natural Resources pursuant to this subsection shall, upon petition within 30  
33 days after the issuance of such order or taking of such action, have a right to a hearing  
34 before an administrative law judge appointed by the Board of Natural Resources. The  
35 hearing before the administrative law judge shall be conducted in accordance with Chapter  
36 13 of Title 50, the 'Georgia Administrative Procedure Act.' The decision of the  
37 administrative law judge shall constitute the final decision of the board and any party to the

1 hearing, including the Department of Natural Resources, shall have the right of judicial  
2 review thereof in accordance with Chapter 13 of Title 50, the 'Georgia Administrative  
3 Procedure Act.'

4 (g) A penalty shall be imposed under this subsection if during the special classification  
5 period the taxpayer fails to abide by the corrective action plan. The penalty shall be  
6 applicable to the entire tract which is the subject of the special classification and shall be  
7 twice the difference between the total amount of tax paid pursuant to preferential  
8 assessment under this Code section and the total amount of taxes which would otherwise  
9 have been due under this chapter for each completed or partially completed year of the  
10 special classification period. Any such penalty shall bear interest at the rate specified in  
11 Code Section 48-2-40 from the date the special classification is breached.

12 (h) Penalties and interest imposed under this Code section shall constitute a lien against  
13 the property and shall be collected in the same manner as unpaid ad valorem taxes are  
14 collected. Such penalties and interest shall be distributed pro rata to each taxing jurisdiction  
15 wherein current use assessment under this Code section has been granted based upon the  
16 total amount by which such preferential assessment has reduced taxes for each such taxing  
17 jurisdiction on the property in question as provided in this Code section."

18 **SECTION 4.**

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

21 **SECTION 5.**

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