

House Bill 116

By: Representative O`Neal of the 146<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad  
2 valorem taxation of property, so as to change certain definitions regarding such taxation; to  
3 provide an effective date; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

6 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem  
7 taxation of property, is amended by striking Code Section 48-5-2, relating to definitions  
8 regarding such taxation, and inserting in its place a new Code Section 48-5-2 to read as  
9 follows:

10 "48-5-2.

11 As used in this chapter, the term:

12 (1) 'Current use value' of bona fide conservation use property means the amount a  
13 knowledgeable buyer would pay for the property with the intention of continuing the  
14 property in its existing use and in an arm's length, bona fide sale and shall be determined  
15 in accordance with the specifications and criteria provided for in subsection (b) of Code  
16 Section 48-5-269.

17 (2) 'Current use value' of bona fide residential transitional property means the amount  
18 a knowledgeable buyer would pay for the property with the intention of continuing the  
19 property in its existing use and in an arm's length, bona fide sale. The tax assessor shall  
20 consider the following criteria, as applicable, in determining the current use value of bona  
21 fide residential transitional property:

22 (A) The current use of such property;

23 (B) Annual productivity; and

24 (C) Sales data of comparable real property with and for the same existing use.

25 (3) 'Fair market value of property' means the amount a knowledgeable buyer would pay  
26 for the property and a willing seller would accept for the property at an arm's length,

1 bona fide sale. With respect to the valuation of equipment, machinery, and fixtures when  
2 no ready market exists for the sale of the equipment, machinery, and fixtures, fair market  
3 value may be determined by resorting to any reasonable, relevant, and useful information  
4 available including, but not limited to, the original cost of the property, any depreciation  
5 or obsolescence, and any increase in value by reason of inflation. Each tax assessor shall  
6 have access to any public records of the taxpayer for the purpose of discovering such  
7 information.

8 (A) In determining the fair market value of a going business where its continued  
9 operation is reasonably anticipated, the tax assessor may value the equipment,  
10 machinery, and fixtures which are the property of the business as a whole where  
11 appropriate to reflect the accurate fair market value.

12 (B) The tax assessor shall consider the following criteria in determining the fair market  
13 value of real property:

14 (i) Existing zoning of property;

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

18 (iii) Existing covenants or restrictions in deed dedicating the property to a particular  
19 use; and

20 (iv) Any other factors deemed pertinent in arriving at fair market value.

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

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

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

32 (ii) For the ninth year in which the property is classified as 'rehabilitated historic  
33 property,' the value of the property as determined by division (i) of this subparagraph  
34 plus one-half of the difference between such value and the current fair market value  
35 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 (D) Fair market value of 'landmark historic property' as such term is defined in  
 5 subsection (a) of Code Section 48-5-7.3 means:

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

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

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

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

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

22 (i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,  
 23 for the first ten years in which the property is classified as 'brownfield property,' the  
 24 value equal to the lesser of the acquisition cost of the property or the appraised fair  
 25 market value of the property as recorded in the county tax digest at the time  
 26 application was made to the Environmental Protection Division of the Department of  
 27 Natural Resources for participation under Article 9 of Chapter 8 of Title 12, the  
 28 'Hazardous Sites Reuse and Redevelopment Act,' as amended;

29 (ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,  
 30 for the eleventh and following years, the fair market value of such property as  
 31 determined by the provisions of this paragraph, excluding the provisions of this  
 32 subparagraph.

33 (4) 'Foreign merchandise in transit' means personal property of any description which has  
 34 been or will be moved by waterborne commerce through any port located in this state  
 35 and:

36 (A) Which has entered the export stream, although temporarily stored or warehoused  
 37 in the county where the port of export is located; or

1 (B) Which was shipped from a point of origin located outside the customs territory of  
2 the United States and on which United States customs duties are paid at or through any  
3 customs district or port located in this state, although stored or warehoused in the  
4 county where the port of entry is located while in transit to a final destination.”

5 **SECTION 2.**

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

8 **SECTION 3.**

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