

The Senate Finance Committee offered the following substitute to SB 240:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia
2 Annotated, relating to county boards of tax assessors, so as to revise the arbitration
3 procedures relative to the appeal of assessments for ad valorem tax purposes; to provide for
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

6
7 Part 2 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,
8 relating to county boards of tax assessors, is amended by revising subsections (f) and (g) of
9 Code Section 48-5-311, relating to county boards of equalization and appeals of ad valorem
10 tax assessments, as follows:

11 *"(f) Arbitration.*

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

13 (2) Following an election by the taxpayer under paragraph (1) of this subsection, an
14 arbitration appeal shall be effected by the taxpayer's filing a written notice of arbitration
15 with the county board of tax assessors. The notice of arbitration shall specifically state
16 the grounds for arbitration. The notice shall be filed within 45 days from the date of
17 mailing the notice pursuant to Code Section 48-5-306 except that for counties or
18 municipal corporations providing for the collection and payment of ad valorem taxes in
19 installments the time for filing the notice of appeal shall be 30 days. The county board
20 of tax assessors shall certify to the clerk of the superior court the notice of arbitration and
21 any other papers specified by the person seeking arbitration including, but not limited to,
22 the staff information from the file used by the county board of tax assessors. All papers
23 and information certified to the clerk shall become a part of the record on arbitration.
24 Within 15 days of the filing of the certification to the clerk of the superior court, the judge
25 shall issue an order authorizing the arbitration and appointing a referee.

26 (3) The arbitration of the correctness of the decision of the county board of tax assessors
 27 shall be conducted pursuant to the procedures outlined in Article 2 of Chapter 9 of Title
 28 9 with the following exceptions:

29 (A) ~~If both parties agree, the~~ The matter may shall be submitted to a single arbitrator:
 30 ~~If both parties agree, the referee may serve as the single arbitrator;~~

31 (B) ~~If the parties do not agree to a single arbitrator, then three arbitrators shall hear the~~
 32 ~~appeal. Such arbitrators shall be appointed as provided in Code Section 9-9-67. If one~~
 33 ~~or both parties are unable to select an arbitrator, the appeal shall be heard by a single~~
 34 ~~arbitrator who shall be appointed by the judge of the superior court as provided in Code~~
 35 ~~Section 9-9-67; Prior to appointment of the arbitrator, the taxpayer shall provide a copy~~
 36 ~~of the value determined by a professional real estate appraiser as specified in division~~
 37 ~~(i) of subparagraph (E) of this paragraph to the board of assessors for consideration.~~
 38 ~~If the board of assessors accepts the taxpayer's appraisal, that value shall become final,~~
 39 ~~and the arbitrator shall not be appointed;~~

40 (C) In order to be qualified to serve as an arbitrator, a person ~~must~~ shall be at least a
 41 registered real estate appraiser as classified by the Georgia Real Estate Appraisers
 42 Board;

43 (D) ~~The arbitrator or a majority of the arbitrators, as applicable, within 30 days after~~
 44 ~~their his or her appointment, shall render a decision regarding the correctness of the~~
 45 ~~decision of the county board of tax assessors and, if correction of the decision is~~
 46 ~~required, regarding the extent and manner in which the decision should be corrected~~
 47 ~~correct value of the property subject to arbitration; and: The decision of the arbitrator~~
 48 ~~or arbitrators, as applicable, may be appealed to the superior court in the same manner~~
 49 ~~as a decision of the board of equalization;~~

50 (E)(i) In order to determine the correct value, the arbitrator shall consider a single
 51 value for the property submitted by the board of assessors and a single value submitted
 52 by the taxpayer. The value submitted by the taxpayer shall be determined by a
 53 professional real estate appraiser selected by the taxpayer. The taxpayer shall be
 54 responsible for the cost of the appraisal by the taxpayer's appraiser.

55 (ii) Upon consideration of the single value submitted by the board of assessors and
 56 the single value submitted by the taxpayer, and evidence supporting the values
 57 submitted by the board of assessors and the arbitrator, the arbitrator shall determine
 58 which value is the correct value for the property under appeal.

59 (iii) The taxpayer party whose single value is not determined to be the correct value
 60 by the arbitrator shall be responsible for the fees and costs of such taxpayer's
 61 arbitrator. and the county shall be responsible for the fees and costs of such county's
 62 arbitrator. The two parties shall each be responsible for one-half of the fees and costs

63 ~~of the third arbitrator. In the event the appeal is submitted to a single arbitrator, the~~
 64 ~~two parties shall each be responsible for one-half of the fees and costs of such~~
 65 ~~arbitrator; and~~

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

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

69 (1) The taxpayer or, except as otherwise provided in this paragraph and except for a
 70 determination of value by an arbitrator pursuant to subsection (f) of this Code section, the
 71 county board of tax assessors may appeal decisions of the county board of equalization,
 72 ~~the arbitrator, or the arbitrators,~~ as applicable, to the superior court of the county in which
 73 the property lies. A county board of tax assessors may not appeal a decision of the
 74 county board of equalization changing an assessment by 15 percent or less unless the
 75 board of tax assessors gives the county governing authority a written notice of its
 76 intention to appeal and within ten days of receipt of the notice the county governing
 77 authority by majority vote does not prohibit the appeal. In the case of a joint city-county
 78 board of tax assessors, such notice shall be given to the city and county governing
 79 authorities, either of which may prohibit the appeal by majority vote within the allowed
 80 period of time.

81 (2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be
 82 effected by mailing to or filing with the county board of tax assessors a written notice of
 83 appeal. Any such notice of appeal which is mailed pursuant to this paragraph shall be
 84 deemed to be filed as of the date of the United States Postal Service postmark on such
 85 notice of appeal. An appeal by the county board of tax assessors shall be effected by
 86 giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain
 87 the name and the last known address of the taxpayer. The notice of appeal shall
 88 specifically state the grounds for appeal. The notice shall be mailed or filed within 30
 89 days from the date on which the decision of the county board of equalization is mailed
 90 pursuant to subparagraph (e)(6)(D) of this Code section or within 30 days from the date
 91 on which the arbitration decision is rendered pursuant to subparagraph (f)(3)(D) of this
 92 Code section, whichever is applicable. The county board of tax assessors shall certify to
 93 the clerk of the superior court the notice of appeal and any other papers specified by the
 94 person appealing including, but not limited to, the staff information from the file used by
 95 either the county board of tax assessors or the county board of equalization. All papers
 96 and information certified to the clerk shall become a part of the record on appeal to the
 97 superior court. At the time of certification of the appeal, the county board of tax
 98 assessors shall serve the taxpayer or his or her attorney or agent of record with a copy of
 99 the notice of appeal and with the civil action file number assigned to the appeal. Such

100 service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No
101 discovery, motions, or other pleadings may be filed by the county board of tax assessors
102 in the appeal until such service has been made.

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

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

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

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

133 (iii) If the final determination of value on appeal is greater than the valuation set by
134 the county board of equalization, ~~the arbitrator, or the arbitrators~~, as applicable, the
135 taxpayer shall be liable for the increase in taxes for the year in question due to the
136 increased valuation fixed on appeal with interest at the same rate as specified in Code

137 Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in
138 question or the date the final installment of tax was due to the date the additional taxes
139 are remitted, but in no event shall the amount of such interest exceed \$150.00. Any
140 taxpayer shall be exempt each taxable year from any such interest owed under this
141 subparagraph with respect to such taxpayer's homestead property."

142 **SECTION 2.**
143 All laws and parts of laws in conflict with this Act are repealed.