

Senate Bill 240

By: Senators Rogers of the 21st, Williams of the 19th, Pearson of the 51st, Staton of the 18th and Johnson of the 1st

**AS PASSED SENATE**

**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:**

6 **SECTION 1.**

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.