

The House Committee on Ways and Means offers the following substitute to SB 240:

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 county boards of tax assessors, county boards of equalization, and appeals of ad valorem tax  
3 assessments, so as to revise and change certain procedures relative to the appeal of  
4 assessments for ad valorem tax purposes; to provide for related matters; to provide an  
5 effective date; to provide for applicability; to repeal conflicting laws; and for other 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 county boards  
9 of tax assessors, county boards of equalization, and appeals of ad valorem tax assessments,  
10 is amended in subsection (f) by adding new paragraphs to read as follows:

11 "(4) For any dispute involving the value of real property, at the option of the taxpayer,  
12 an appeal may be submitted to binding arbitration in accordance with this paragraph:

13 (A) Following an election by the taxpayer to use the binding arbitration provisions of  
14 this subsection, a binding arbitration appeal shall be effected by the taxpayer filing a  
15 written notice of arbitration with the county board of tax assessors. The notice of  
16 arbitration shall specifically state the grounds for arbitration. The notice shall be filed  
17 within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306  
18 except that for counties or municipal corporations providing for the collection and  
19 payment of ad valorem taxes in installments, the time for filing the notice of appeal  
20 shall be 30 days. Prior to appointment of the arbitrator and within 30 days of filing the  
21 notice of appeal, the taxpayer shall provide a copy of the value certified by a  
22 professional real estate appraiser as classified by the Georgia Real Estate Appraisers  
23 Board as specified in this paragraph to the board of assessors for consideration. If,  
24 within 30 days of receiving the taxpayer's certified appraisal, the board of assessors  
25 accepts the taxpayer's appraisal, that value shall become final. If the county board of

26 tax assessors rejects the taxpayer's appraisal, the county board of tax assessors shall  
27 certify within 30 days the appeal to the clerk of the superior court along with any other  
28 papers specified by the person seeking arbitration, including, but not limited to, the staff  
29 information from the file used by the county board of tax assessors. All papers and  
30 information certified to the clerk shall become a part of the record on arbitration.  
31 Within 15 days of filing the certification to the clerk of the superior court, the judge  
32 shall issue an order authorizing the arbitration; and

33 (B) The arbitration shall be conducted pursuant to the following procedure:

34 (i) If the parties agree, the matter shall be submitted to a single arbitrator chosen by  
35 the parties. If the parties cannot agree on the single arbitrator, the arbitrator shall be  
36 chosen by the chief judge of the superior court of the circuit in which the property is  
37 located;

38 (ii) In order to be qualified to serve as an arbitrator, a person shall be classified as  
39 a State Certified General Property Appraiser pursuant to the rules and regulations of  
40 the Georgia Real Estate Appraisers Board and shall have experience or expertise in  
41 appraising the type of property that is the subject of the arbitration;

42 (iii) The arbitrator, within 30 days after his or her appointment, shall set a time and  
43 place to hear evidence and testimony from both parties. He or she shall provide  
44 written notice to the parties personally or by registered or certified mail or statutory  
45 overnight delivery not less than ten days before the hearing. The arbitrator may  
46 adjourn or postpone the hearing. The chief judge of the superior court of the circuit  
47 in which the property is located may direct the arbitrator to proceed promptly with the  
48 hearing and the determination of the appeal upon application of any party;

49 (iv) At the hearing, the parties shall be entitled to be heard, to present documents,  
50 testimony, and other matters, and to cross-examine witnesses. The arbitrator may  
51 hear and determine the controversy upon the documents, testimony, and other matters  
52 produced notwithstanding the failure of a party duly notified to appear;

53 (v) The arbitrator shall maintain a record of all pleadings, documents, testimony, and  
54 other matters introduced at the hearing. The arbitrator or any party to the proceeding  
55 may have the proceedings transcribed by a court reporter;

56 (vi) The provisions of this paragraph may be waived at any time by written consent  
57 of the taxpayer and the board of tax assessors;

58 (vii) Within 30 days of the date of the hearing, the arbitrator shall render a decision  
59 regarding the value of the property subject to arbitration;

60 (viii) In order to determine the value, the arbitrator shall consider a single value for  
61 the property submitted by the board of assessors and a single value submitted by the

62 taxpayer. The taxpayer shall be responsible for the cost of any appraisal by the  
 63 taxpayer's appraiser;  
 64 (ix) Upon consideration of the single value submitted by the board of assessors and  
 65 the single value submitted by the taxpayer, and evidence supporting the values  
 66 submitted by the board of assessors and the taxpayer, the arbitrator shall determine  
 67 which value is the value for the property under appeal;  
 68 (x) If the taxpayer's value is determined by the arbitrator to be the value, the county  
 69 shall be responsible for the fees and costs of such arbitrator. If the board of tax  
 70 assessors' value is determined by the arbitrator to be the value, the taxpayer shall be  
 71 responsible for the fees and costs of such arbitrator; and  
 72 (xi) The board of tax assessors shall have the burden of proving its opinion of value  
 73 and the validity of its proposed assessment by a preponderance of evidence.  
 74 (5) The provisions in subsection (c) of Code Section 48-5-299 shall apply to the  
 75 valuation established or rendered by any arbitrator or board of arbitration.  
 76 (6) If the county's tax bills are issued before an arbitrator or board of arbitration has  
 77 rendered its decision on property which is on appeal, the county board of tax assessors  
 78 shall specify to the county tax commissioner the higher of the taxpayer's return valuation  
 79 or 85 percent of the current year's valuation as set by the county board of tax assessors.  
 80 This amount shall be the basis for a temporary tax bill to be issued. Such tax bill shall  
 81 be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending  
 82 the outcome of the appeal process. Such notice shall also indicate that upon resolution  
 83 of the appeal, there may be additional taxes due or a refund issued."

84 **SECTION 2.**

85 Said Code section is further amended by revising subsection (g) as follow:

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

87 (1) The taxpayer or, except as otherwise provided in this paragraph and except for a  
 88 determination of value by an arbitrator pursuant to paragraph (4) of subsection (f) of this  
 89 Code section, the county board of tax assessors may appeal decisions of the county board  
 90 of equalization, the arbitrator, or the arbitrators, as applicable, to the superior court of the  
 91 county in which the property lies. A county board of tax assessors ~~may~~ shall not appeal  
 92 a decision of the county board of equalization or arbitrator or board of arbitration, as  
 93 applicable, other than an arbitration pursuant to paragraph (4) of subsection (f) of this  
 94 Code section changing an assessment by ~~15~~ 20 percent or less unless the board of tax  
 95 assessors gives the county governing authority a written notice of its intention to appeal,  
 96 and, within ten days of receipt of the notice, the county governing authority by majority  
 97 vote does not prohibit the appeal. In the case of a joint city-county board of tax assessors,

98 such notice shall be given to the city and county governing authorities, either of which  
99 may prohibit the appeal by majority vote within the allowed period of time.

100 (2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be  
101 effected by mailing to or filing with the county board of tax assessors a written notice of  
102 appeal. Any such notice of appeal which is mailed pursuant to this paragraph shall be  
103 deemed to be filed as of the date of the United States Postal Service postmark on such  
104 notice of appeal. An appeal by the county board of tax assessors shall be effected by  
105 giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain  
106 the name and the last known address of the taxpayer. The notice of appeal shall  
107 specifically state the grounds for appeal. The notice shall be mailed or filed within 30  
108 days from the date on which the decision of the county board of equalization is mailed  
109 pursuant to subparagraph (e)(6)(D) of this Code section or within 30 days from the date  
110 on which the arbitration decision is rendered pursuant to subparagraph (f)(3)(D) of this  
111 Code section, whichever is applicable. The county board of tax assessors shall certify to  
112 the clerk of the superior court the notice of appeal and any other papers specified by the  
113 person appealing including, but not limited to, the staff information from the file used by  
114 either the county board of tax assessors or the county board of equalization. All papers  
115 and information certified to the clerk shall become a part of the record on appeal to the  
116 superior court. At the time of certification of the appeal, the county board of tax  
117 assessors shall serve the taxpayer ~~or~~ and his or her attorney ~~or agent~~ of record, if any,  
118 with a copy of the notice of appeal and with the civil action file number assigned to the  
119 appeal. Such service shall be effected in accordance with subsection (b) of Code Section  
120 9-11-5. No discovery, motions, or other pleadings may be filed by the county board of  
121 tax assessors in the appeal until such service has been made.

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

128 (4)(A) The appeal shall be heard before a jury at the first term following the filing of  
129 the appeal unless continued by the court upon a showing of good cause. If only  
130 questions of law are presented in the appeal, the appeal shall be heard as soon as  
131 practicable before the court sitting without a jury. Each hearing before the court sitting  
132 without a jury shall be held within ~~40~~ 30 days following the date on which the appeal  
133 is filed with the clerk of the superior court. The time of any hearing shall be set in

134 consultation with the taxpayer and at a time acceptable to the taxpayer between the  
135 hours of 8:00 A.M. and 7:00 P.M. on a business day.

136 (B)(i) The county board of tax assessors shall use the valuation of the county board  
137 of equalization or the arbitrator or arbitrators, as applicable, in compiling the tax  
138 digest for the county. If the final determination of value on appeal is less than the  
139 valuation set by the county board of equalization, the arbitrator, or the arbitrators, as  
140 applicable, the taxpayer shall receive a deduction in such taxpayer's taxes for the year  
141 in question. Such deduction shall be refunded to the taxpayer and shall include  
142 interest on the amount of such deduction at the same rate as specified in Code Section  
143 48-2-35 which shall accrue from November 15 of the taxable year in question or the  
144 date the final installment of the tax was due or was paid, whichever is later. In no  
145 event shall the amount of such interest exceed \$150.00.

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

153 (iii) If the final determination of value on appeal is greater than the valuation set by  
154 the county board of equalization, the arbitrator, or the arbitrators, as applicable, the  
155 taxpayer shall be liable for the increase in taxes for the year in question due to the  
156 increased valuation fixed on appeal with interest at the same rate as specified in Code  
157 Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in  
158 question or the date the final installment of tax was due to the date the additional taxes  
159 are remitted, but in no event shall the amount of such interest exceed \$150.00. Any  
160 taxpayer shall be exempt each taxable year from any such interest owed under this  
161 subparagraph with respect to such taxpayer's homestead property."

162 **SECTION 3.**

163 This Act shall become effective upon its approval by the Governor or upon its becoming law  
164 without such approval and shall be applicable to all property tax appeals submitted to  
165 arbitration or appealed to superior court on or after that date.

166 **SECTION 4.**

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