

The Senate Finance Committee offered the following substitute to HB 483:

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 provide for the modernization and revision of certain
3 provisions regarding ad valorem taxes; to change the deadline for filing for forest land
4 conservation use assessment; to increase the state-wide \$2,000.00 homestead exemption from
5 ad valorem taxation for state, county, and school purposes to \$10,000.00; to specify the terms
6 and conditions of the exemption and the procedures relating thereto; to provide for
7 applicability; to change certain affidavit requirements regarding the income of taxpayers 62
8 years of age or older seeking a homestead exemption for school tax purposes; to change
9 certain provisions regarding collection of costs, commissions, interest, and penalties; to
10 provide for execution costs; to change certain provisions regarding the transmission of
11 resolutions setting the terms of members of boards of tax assessors; to change certain
12 provisions regarding notification of changes made to a taxpayer's return; to provide for
13 additional tax return filing requirements for public utilities; to provide for related matters;
14 to provide for a special election; to provide for automatic repeal of certain provisions under
15 certain circumstances; to provide effective dates and applicability; to repeal conflicting laws;
16 and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

18 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem
19 taxation of property, is amended by revising paragraph (1) of subsection (j) of Code Section
20 48-5-7.7, relating to forest land conservation use assessment, as follows:
21

22 "(j)(1) For the taxable year beginning January 1, 2009, all AH applications for
23 conservation use assessment under this Code section, including the covenant agreement
24 required under this Code section, shall be filed on or before ~~the last day for filing ad~~
25 ~~valorem tax returns in the county for~~ June 1 of the tax year for which such conservation
26 use assessment is sought, except that in the case of property which is the subject of a

27 reassessment by the board of tax assessors an application for conservation use assessment
 28 may be filed in conjunction with or in lieu of an appeal of the reassessment. For each
 29 taxable year beginning on or after January 1, 2010, all applications for conservation use
 30 assessment under this Code section, including the covenant agreement required under this
 31 Code section, shall be filed on or before the last day for filing ad valorem tax returns in
 32 the county for the tax year for which such conservation use assessment is sought, except
 33 that in the case of property which is the subject of a reassessment by the board of tax
 34 assessors an application for conservation use assessment may be filed in conjunction with
 35 or in lieu of an appeal of the reassessment. An application for continuation of such
 36 conservation use assessment upon a change in ownership of all or a part of the qualified
 37 property shall be filed on or before the last date for filing tax returns in the year following
 38 the year in which the change in ownership occurred. Applications for conservation use
 39 assessment under this Code section shall be filed with the county board of tax assessors
 40 who shall approve or deny the application. The county board of tax assessors shall file
 41 a copy of the approved application in the office of the clerk of the superior court in the
 42 county in which the eligible property is located. The clerk of the superior court shall file
 43 and index such application in the real property records maintained in the clerk's office.
 44 If the application is not so recorded in the real property records, a transferee of the
 45 property affected shall not be bound by the covenant or subject to any penalty for its
 46 breach. The fee of the clerk of the superior court for recording such applications shall be
 47 paid by the qualified owner of the eligible property with the application for conservation
 48 use assessment under this Code section and shall be paid to the clerk by the board of tax
 49 assessors when the application is filed with the clerk. If the application is denied, the
 50 board of tax assessors shall notify the applicant in the same manner that notices of
 51 assessment are given pursuant to Code Section 48-5-306 and shall return any filing fees
 52 advanced by the owner. Appeals from the denial of an application by the board of tax
 53 assessors shall be made in the same manner that other property tax appeals are made
 54 pursuant to Code Section 48-5-311."

55 SECTION 2.

56 Said chapter is further amended by revising Code Section 48-5-44, relating to the state-wide
 57 \$2,000.00 homestead exemption from state, county, and school district ad valorem taxes, as
 58 follows:

59 "48-5-44.

60 (a) The homestead of each resident of this state actually occupied by the owner as a
 61 residence and homestead shall be exempted from all ad valorem taxation for state, county,
 62 and school purposes, except taxes levied by municipalities for school purposes and except

63 to pay interest on and to retire bonded indebtedness, for as long as the residence and
 64 homestead is actually occupied by the owner primarily as a residence and homestead. The
 65 exemption shall ~~not exceed \$2,000.00 of the value of the homestead~~ be in the amount
 66 specified in subsection (b) of this Code section.

67 (b)(1) Each resident of the state is granted an exemption on that person's homestead from
 68 all ad valorem taxes:

69 (A) For the taxable year beginning on or after January 1, 2011, and prior to
 70 January 1, 2012, in the amount of \$3,000.00 of the assessed value of that homestead;

71 (B) For the taxable year beginning on or after January 1, 2012, and prior to
 72 January 1, 2013, in the amount of \$4,000.00 of the assessed value of that homestead;

73 (C) For the taxable year beginning on or after January 1, 2013, and prior to
 74 January 1, 2014, in the amount of \$5,000.00 of the assessed value of that homestead;

75 (D) For the taxable year beginning on or after January 1, 2014, and prior to
 76 January 1, 2015, in the amount of \$6,000.00 of the assessed value of that homestead;

77 (E) For the taxable year beginning on or after January 1, 2015, and prior to
 78 January 1, 2016, in the amount of \$7,000.00 of the assessed value of that homestead;

79 (F) For the taxable year beginning on or after January 1, 2016, and prior to
 80 January 1, 2017, in the amount of \$8,000.00 of the assessed value of that homestead;

81 (G) For the taxable year beginning on or after January 1, 2017, and prior to
 82 January 1, 2018, in the amount of \$9,000.00 of the assessed value of that homestead;

83 and

84 (H) For all taxable years beginning on or after January 1, 2018, in the amount of
 85 \$10,000.00 of the assessed value of that homestead.

86 (c) Should the owner of a dwelling house on a farm who is already entitled to a homestead
 87 exemption participate in the program of rural housing and obtain a new house under
 88 contract with the local housing authority, ~~he~~ such owner shall be entitled to receive the
 89 same homestead exemption as allowed before making the contract.

90 (d) Except as otherwise specifically provided by law, the value of all homestead property
 91 in excess of ~~\$2,000.00~~ the amount exempted under subsection (b) of this Code section shall
 92 remain subject to taxation. The exemption shall be returned and claimed in the manner
 93 prescribed by law. This exemption shall not apply to taxes levied by municipalities.

94 (e) The homestead exemption granted by this Code section shall be in addition to and not
 95 in lieu of any other homestead exemption regardless of any provision of any local Act to
 96 the contrary."

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SECTION 3.

98 Said chapter is further amended by revising subsection (b) of Code Section 48-5-52, relating
 99 to homestead exemptions from ad valorem taxation for educational purposes for qualified
 100 individuals who are 62 years of age or older, as follows:

101 "(b)(1) The exemption provided for in subsection (a) of this Code section shall not be
 102 granted unless an affidavit of the owner of the homestead, prepared upon forms
 103 prescribed by the commissioner for that purpose, is filed with either the tax receiver or
 104 tax commissioner, in the case of residents of county school districts, or with the
 105 governing authority of the owner's city, in the case of residents of independent school
 106 districts.

107 (2) The affidavit shall in the first year for which the exemption is sought be filed on or
 108 before the last day for making a tax return and shall show the:

109 (A) Age of the owner on January 1 immediately preceding the filing of the affidavit;

110 (B) Total amount of net income received by the owner and spouse from all sources
 111 during the immediately preceding calendar year; and

112 ~~(C) Total amount of income received from all sources by each individual member of~~
 113 ~~the owner's family residing within the homestead; and~~

114 ~~(D)~~(C) Such additional information as may be required by the commissioner.

115 (3) Copies of all affidavits received or extracts of the information contained in the
 116 affidavits shall be forwarded to the commissioner by the various taxing authorities with
 117 whom the affidavits are filed. The commissioner is authorized to compare such
 118 information with information contained in any income tax return, sales tax return, or
 119 other tax documents or records of the department and to report immediately to the
 120 appropriate county or city taxing authority any apparent discrepancies between the
 121 information contained in any affidavit and the information contained in any other tax
 122 records of the department.

123 (4) After the owner has filed the affidavit and has once been allowed the exemption
 124 provided for in this Code section, it shall not be necessary to make application and file
 125 the affidavit thereafter for any year and the exemption shall continue to be allowed to
 126 such owner; provided, however, that it shall be the duty of any such owner to notify the
 127 tax commissioner or tax receiver in the event the owner becomes ineligible for any reason
 128 for the exemption provided for in this Code section."

129

SECTION 4.

130 Said chapter is further amended by revising subsection (c) of Code Section 48-5-161, relating
 131 to issuance of tax executions, as follows:

132 "(c)(1) The officer in whose hands the execution is placed shall proceed at once to collect
 133 the execution and, when the execution is paid by the defendant voluntarily or by levy and
 134 sale, the officer shall enter the amount collected including all costs, commissions,
 135 interest, and penalties as provided by law on the execution. The officer shall return the
 136 execution to the tax collector or tax commissioner with the amount of tax collected. The
 137 tax collector or tax commissioner shall at once copy the entry of the officer on his or her
 138 execution docket and file the execution in his or her office.

139 (2)(A) As used in this paragraph, the term 'costs' includes, but is not limited to, title
 140 examination expenses, certified mail expenses, reasonable attorney's fees, or other such
 141 necessary research expenses.

142 (B) Once a levy is made or posted on the property of an execution is issued against a
 143 delinquent or defaulting taxpayer, the sheriff or ex officio sheriff shall collect, in
 144 addition to any other costs, commissions, interest, and penalties, the actual expenses
 145 incurred by the county in issuing the execution and administering the levy by imposing
 146 a levy administration fee which shall be 5 percent of the delinquent tax or \$250.00,
 147 whichever is the lesser. Regardless of any other provision of this paragraph, however,
 148 no such levy administration fee shall be less than \$50.00.

149 (3) The levy administration fee provided by paragraph (2) of this subsection shall
 150 likewise be charged and collected when the execution is enforced through garnishment
 151 as provided for in Code Section 48-3-12."

152 SECTION 5.

153 Said chapter is further amended by revising subsection (a) of Code Section 48-5-295, relating
 154 to terms of office, vacancies, and removal by county governing authority, as follows:

155 "(a) Each member of the county board of tax assessors appointed to such office on and
 156 after July 1, 1996, shall be appointed by the county governing authority for a term of not
 157 less than three nor more than six years. A county governing authority shall, by resolution,
 158 within the range provided by this subsection, select the length of terms of office for
 159 members of its county board of tax assessors. Following the adoption of such resolution,
 160 all new appointments and reappointments to the county board of tax assessors shall be for
 161 the term lengths specified in the resolution. Such resolution, however,; however, such
 162 resolution shall not have the effect of shortening or extending the terms of office of current
 163 members of the board of assessors whose terms have not yet expired. The county
 164 governing authority shall not be authorized to again change the term length until the
 165 expiration of the term of office of the first appointment or reappointment following the
 166 resolution that last changed such terms of office. If the resolution changing the terms of
 167 office of members of the board of tax assessors would result in a voting majority of the

168 board of tax assessors having their terms expire in the same calendar year, the county
 169 governing authority shall provide in the resolution for staggered initial appointments or
 170 reappointments of a duration of not less than three nor more than six years that will prevent
 171 such an occurrence. The county governing authority shall transmit to the ~~board of~~
 172 ~~assessors~~ commissioner a copy of the resolution setting the length of terms of members of
 173 the county board of tax assessors within ten days of the date the resolution is adopted. Any
 174 member of the county board of tax assessors shall be eligible for reappointment after
 175 review of his or her service on the board by the appointing authority. Such review shall
 176 include education and certification information furnished by the commissioner. Any
 177 member of the county board of tax assessors who fails to maintain the certification and
 178 qualifications requirements specified pursuant to Code Section 48-5-291 shall not be
 179 eligible for reappointment until all requirements have been met. In case of a vacancy on
 180 the board at any time, whether caused by death, resignation, removal, or otherwise, the
 181 vacancy shall be immediately filled by appointment of the county governing authority.
 182 Any person appointed to fill a vacancy shall be appointed ~~only~~ to serve for only the
 183 remainder of the unexpired term of office and shall possess the same qualifications
 184 required under this part for regular appointment to a full term of office."

185 **SECTION 6.**

186 Said chapter is further amended by revising subsection (a) of Code Section 48-5-306,
 187 relating to notice of changes made in taxpayer's return, posting notice, and new assessment
 188 description, as follows:

189 *"(a) Method of giving notice to taxpayer of changes made in such taxpayer's return.* Each
 190 county board of tax assessors may meet at any time to receive and inspect the tax returns
 191 to be laid before it by the tax receiver or tax commissioner. The board shall examine all the
 192 returns of both real and personal property of each taxpayer, and if in the opinion of the
 193 board any taxpayer has omitted from such taxpayer's returns any property that should be
 194 returned or has failed to return any of such taxpayer's property at its fair market value, the
 195 board shall correct the returns, assess and fix the fair market value to be placed on the
 196 property, make a note of such assessment and valuation, and attach the note to the returns.
 197 The board shall see that all taxable property within the county is assessed and returned at
 198 its fair market value and that fair market values as between the individual taxpayers are
 199 fairly and justly equalized so that each taxpayer shall pay as nearly as possible only such
 200 taxpayer's proportionate share of taxes. When any such corrections, changes, or
 201 equalizations have been made by the board, the board shall, ~~within five days,~~ give written
 202 notice to the taxpayer of any changes made in such taxpayer's returns. The notice may be
 203 given personally by leaving the notice at the taxpayer's dwelling house, usual place of

204 abode, or place of business with some person of suitable age and discretion residing or
 205 employed in the house, abode, or business, or by sending the notice through the United
 206 States mail as first-class mail to the taxpayer's last known address. When notice is given
 207 by mail, the county board of tax assessors' return address shall appear in the upper left
 208 corner of the ~~mailing face with the direction that if not delivered 'Return in five days to' the~~
 209 ~~above return address, and the lower left corner of the mailing face shall be clearly marked~~
 210 ~~in bold type — 'OFFICIAL TAX MATTER.'~~ face of the mailing envelope and with the
 211 United States Postal Service endorsement 'Return Service Requested' and the words
 212 'Official Tax Matter' clearly printed in boldface type in a location which meets United
 213 States Postal Service regulations."

214

SECTION 7.

215 Said chapter is further amended by revising subsection (b) of Code Section 48-5-511, relating
 216 to returns of public utilities to commissioner, as follows:

217 "(b) The returns of each public utility shall be in writing and sworn to under oath by the
 218 chief executive officer to be a just, true, and full return of the fair market value of the
 219 property of the public utility without any deduction for indebtedness. Each class or species
 220 of property shall be separately named and valued as far as practicable and shall be taxed
 221 like all other property under the laws of this state. The returns shall also include the capital
 222 stock, net annual profits, gross receipts, business, or income (gross, annual, net, or any
 223 other kind) for which the public utility is subject to taxation by the laws of this state. Each
 224 parcel of real estate included in the return shall be identified by its street address. If the
 225 commissioner is unable to locate the property by its street address after exercising due
 226 diligence in attempting to locate the property, then the commissioner may request more
 227 information from the taxpayer to help identify the exact location of the property. Such
 228 additional information may include a map or parcel identification information."

229

SECTION 8.

230 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of
 231 State shall call and conduct a special election as provided in this section for the purpose of
 232 submitting Section 2 of this Act to the electors of the State of Georgia for approval or
 233 rejection. The Secretary of State shall conduct that special election on the date of the
 234 November, 2010, state-wide general election. The Secretary of State shall issue the call and
 235 conduct that special election as provided by general law. The Secretary of State shall cause
 236 the date and purpose of the special election to be published in the official organ of each
 237 county in the state once a week for two weeks immediately preceding the date of the special
 238 election. The ballot shall have written thereon the following:

