

The Senate Finance Committee offered the following substitute to SB 234:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue
2 Code," so as to extensively revise provisions relating to ad valorem tax assessments and
3 appeals from such assessments; to provide that no execution shall issue while an appeal is
4 pending; to provide a procedure for taxpayers to notify tax officials of errors on their part and
5 for correction of errors; to change procedures for transfer of tax executions and enforcement
6 of transferred executions; to require recording of notices of foreclosure of right to redeem;
7 to provide for a notice of excessive increase where a tax assessment is increased by more
8 than a certain percentage; to provide for removal of tax assessors for violation of oath of
9 office; to extensively revise procedures for assessment appeals and arbitration; to provide for
10 recovery of certain interest, costs, attorney's fees, and other amounts by taxpayers who appeal
11 successfully under certain circumstances; to provide for other related matters; to provide for
12 an effective date and applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

15 Title 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," is
16 amended in Code Section 48-3-3, relating to issuance of executions for nonpayment of taxes,
17 by revising subsections (b) and (c) as follows:

18 "(b) The tax collector or tax commissioner shall issue executions for nonpayment of taxes
19 collectable by the tax collector or tax commissioner at any time after ~~30 days have~~ one year
20 has elapsed since giving notice as provided in subsection (c) of this Code section. The
21 executions shall be directed to all and singular sheriffs and constables of the state. No
22 executions for nonpayment of taxes shall be issued for any year as to which the property
23 is in an appeal or for any years affected by the appeal until there has been a final
24 determination of the value of the property.

25 (c) As soon as the last day for the payment of taxes has arrived, the tax collector or tax
26 commissioner shall notify in writing, by certified mail or statutory overnight delivery, the
27 taxpayer of the fact that the taxes have not been paid and that, unless paid, an execution
28 shall be issued; provided, however, that notice shall not be required for taxes due on

29 personal property and executions may be issued on the day next following the day when
 30 taxes are due. If the tax collector or tax commissioner operates a website, the notice shall
 31 also be posted on the website. If the tax collector or tax commissioner has an e-mail
 32 address for the taxpayer, the notice shall also be delivered by e-mail."

33 SECTION 2.

34 Said title is further amended in said Code Section 48-3-3 by adding a new subsection (g) to
 35 read as follows:

36 "(g)(1) Any taxpayer may send written notice to the tax commissioner or tax collector,
 37 by certified mail or statutory overnight delivery, of any factual errors by the tax assessor
 38 or tax commissioner. The tax commissioner or tax collector shall correct such factual
 39 errors within 30 days of the date of receipt of the notice and a corrected tax bill shall be
 40 reissued to the taxpayer, if such bill was determined to need correction. The corrected
 41 bill due date shall be 30 days from the date of reissuance and shall not include any
 42 previous interest or penalties due.

43 (2) If any errors by the tax commissioner or tax collector resulted in an issuance of
 44 execution for nonpayment of taxes, the county shall be responsible for redeeming all
 45 related tax liens, including all penalties and interest.

46 (3) If the tax assessor or tax collector fails to comply with the deadline in paragraph (1)
 47 of this subsection, the taxpayer may appeal to the superior court of the county in which
 48 the property is located. If through mediation, admission, agreement, or any other legal
 49 proceeding the tax assessor or tax collector is determined to have committed errors, the
 50 taxpayer shall recover costs of litigation and all attorney's fees incurred in the action. The
 51 county may not appeal such recovered costs and awards, nor shall the court reduce such
 52 awards."

53 SECTION 3.

54 Said title is further amended by revising Code Section 48-3-19, relating to transfer of tax
 55 executions, as follows:

56 "48-3-19.

57 (a) As used in this Code section, the term:

58 (1) 'Delinquent taxpayer' means the person or persons against whom an execution has
 59 been issued or the successor in title to the property for which the execution has been
 60 issued.

61 (2) 'Due diligence' means the performance of a diligent search to ascertain the actual
 62 location of the record owner of the property. The following actions shall satisfy the
 63 diligent search requirements of this Code section: sending notice by first-class mail,

64 certified mail, or statutory overnight delivery, as required by law. If the notice is returned
 65 undelivered the following actions shall satisfy the diligent search requirements of this
 66 Code section: due diligence shall include checking telephone directories for the county
 67 wherein the property is located; checking Internet search engines and people finder data
 68 bases, including the use of online address verification products and services; checking the
 69 records of the tax commissioner of the county wherein the property is located; or
 70 checking the real estate records of the clerk of the superior court of the county wherein
 71 the property is located.

72 (3) 'Execution' means an execution issued for the collection of any ad valorem taxes,
 73 special assessments, fees, penalties, interest, or collection costs due the state or any
 74 political subdivision thereof.

75 (4) 'Transferee' means a person to whom an execution is transferred.

76 (5) 'Transferor' means the official holding the tax executions and authorized to collect
 77 or transfer such tax executions.

78 (b)(1) Whenever any person other than the person against whom an execution has been
 79 issued pays an execution issued for state, county, or municipal taxes or special
 80 assessments, the officer whose duty is to enforce the execution may transfer the execution
 81 to the party so paying the full value of the execution. No officer whose duty it is to
 82 enforce an execution issued for state, county, or municipal taxes or special assessments
 83 shall be required to make any transfer or transfers of such execution or executions. No
 84 execution shall be transferred for a period of 12 months following the date that the
 85 execution was issued by such officer. In no event shall an execution be transferred to a
 86 person or corporation, including its affiliated companies, for which delinquent taxes are
 87 presently owed and due to the state or a political subdivision. The transferee shall have
 88 the same rights as to enforcing the execution and priority of payment as might have been
 89 exercised or claimed by the tax official. The person to whom the execution is transferred
 90 shall, within 30 days of the transfer, cause the execution to be entered on the general
 91 execution docket of the superior court of the county in which the execution was issued.
 92 In default of the required entry or entries, the execution shall lose its lien upon any
 93 property which has been transferred in good faith and for a valuable consideration before
 94 the entry and without notice of the existence of the execution.

95 (2)(A) It shall be unlawful for any tax official covered by this subsection to pay a tax
 96 execution in order to obtain a transfer of the execution under this Code section. It shall
 97 be unlawful for any employee of a tax official covered by this subsection to pay a tax
 98 execution in order to obtain a transfer of the execution under this Code section. The tax
 99 officials covered by this subsection are:

100 (i) County tax receivers, tax collectors, and tax commissioners;

- 101 (ii) Members of county boards of tax assessors;
 102 (iii) Members of county boards of equalization; and
 103 (iv) County tax appraisers.

104 (B) Any execution transferred in violation of subparagraph (A) of this paragraph shall
 105 be void and unenforceable by the person obtaining the execution and such person's
 106 successors in interest.

107 (C) Any tax official or employee of a tax official violating subparagraph (A) of this
 108 paragraph shall be guilty of a misdemeanor.

109 (c)(1) No person may become the transferee of an execution unless such person has
 110 notified the individual against whom the execution was issued by certified mail with
 111 return receipt requested of his or her intention to pay such execution and 60 days have
 112 elapsed since the giving of such notice. Such person shall be required to show proof to
 113 the tax official who issued the execution that such notice was given in compliance with
 114 this paragraph.

115 ~~(1)(2)~~ Within 60 days following the transfer of an execution, the transferee shall notify
 116 the delinquent taxpayer of the transfer of the tax execution by first-class mail. The notice
 117 shall include:

- 118 (A) The name, mailing address, and telephone number for the transferee's business
 119 office;
 120 (B) The amount necessary to satisfy such execution; and
 121 (C) Other information as deemed appropriate by the transferee.

122 ~~(2)(3)~~ In the event that any such notice required in this subsection by ~~first-class~~ certified
 123 mail is returned undelivered, the transferee shall be required to perform due diligence in
 124 an effort to obtain the delinquent taxpayer's correct address or any new owner's correct
 125 address and resend the notice by first-class mail.

126 (d) An execution which has been transferred shall bear interest as specified in Code
 127 Section 48-3-20 on the amount paid for such execution from the date of the transfer. In
 128 addition, the transferee may charge and collect ~~recording fees actually expended in~~
 129 ~~recording the transferred execution on the general execution docket of any county in which~~
 130 ~~the transfer is recorded and such other penalties as are provided for in this title~~ fees actually
 131 required by the clerk of superior court or his or her deputy in recording or canceling the
 132 transferred execution on the general execution docket of any county in which the transfer
 133 is executed.

134 (e)(1) Whenever an execution has been transferred to any transferee, the transferee shall
 135 not be authorized to submit the execution to the appropriate levying officer until 12
 136 months after the date of such transfer or 24 months after the tax giving rise to the
 137 execution was originally due, whichever is earlier. A transferee shall not have the right

138 to advertise and sell property under a tax execution. Such right shall remain solely with
 139 the appropriate levying official, such as the sheriff or marshal.

140 (2) A transferee with multiple outstanding executions against the same property shall not
 141 be subject to the time period requirements of paragraph (1) of this subsection with respect
 142 to all such executions if at least one of the executions meets such requirements of
 143 paragraph (1) of this subsection.

144 (f) Until the execution is paid in full or satisfied, on or before November 15 of each year
 145 after the calendar year in which the transfer occurred, the transferee shall send notice by
 146 regular mail to the delinquent taxpayer and the record owner of the property advising that
 147 the tax execution is still outstanding. The notice must provide the transferee's most updated
 148 contact information, including mailing address and telephone number. In the event any
 149 such notice is returned undelivered, the transferee shall be required to perform due
 150 diligence in an effort to obtain the correct address of the delinquent taxpayer or new owner
 151 and resend the notice by certified mail.

152 (g) Any transferee that pays the tax official more than \$2 million in any calendar year for
 153 the transfer of executions shall maintain a reasonably accessible office within 50 miles of
 154 the courthouse wherein the superior court of the county wherein the transferred executions
 155 were issued is located. Said office shall be open to the public for at least eight hours per
 156 day for five days a week, official state holidays excepted.

157 (h) In the event any execution transferred is later determined to have been issued in error,
 158 the transferee shall cease and desist from all collection efforts, remove the associated
 159 entries from any execution docket on which it has been entered, and return the execution
 160 to the transferor. In return, the transferor shall reimburse the transferee the amount paid
 161 for the execution at the time of transfer without any additional fees, interest, and collection
 162 costs that may have been incurred by the transferee since the transfer."

163 SECTION 4.

164 Said title is further amended in Code Section 48-4-46, relating to notice of foreclosure of
 165 right to redeem, by revising subsection (d) as follows:

166 "(d) Each original notice together with the entry of the sheriff on the notice shall be
 167 returned to the person by whom the service was requested upon the payment of the sheriff's
 168 costs as provided by law. Any original notice together with the entries on the notice ~~may~~
 169 shall be filed and recorded on the deed records in the office of the clerk of the superior
 170 court of the county in which the land is located."

171 **SECTION 5.**

172 Said title is further amended by revising Code Section 48-5-18, relating to the time for filing
 173 tax returns, as follows:

174 "48-5-18.

175 Each tax commissioner and tax receiver shall open his or her books for the return of real
 176 or personal property ad valorem taxes on ~~January~~ December 1 and shall close those books
 177 on ~~April 1 of each year~~ March 1 for real property and on April 1 for personal property."

178 **SECTION 6.**

179 Said title is further amended in Code Section 48-5-306, relating to annual notice of ad
 180 valorem tax assessment, by revising paragraph (1) of subsection (b) as follows:

181 "(1) The annual notice of current assessment required to be given by the county board
 182 of tax assessors under subsection (a) of this Code section shall be dated and shall contain
 183 the name and last known address of the taxpayer. The annual notice shall conform with
 184 the state-wide uniform assessment notice which shall be established by the commissioner
 185 by rule and regulation and shall contain:

186 (A) The amount of the previous assessment;

187 (B) The amount of the current assessment;

188 (C) The year for which the new assessment is applicable;

189 (D) A brief description of the assessed property broken down into real and personal
 190 property classifications;

191 (E) The fair market value of property of the taxpayer subject to taxation and the
 192 assessed value of the taxpayer's property subject to taxation after being reduced;

193 (F) The name, phone number, and contact information of the person in the assessors'
 194 office who is administratively responsible for the handling of the appeal and who the
 195 taxpayer may contact if the taxpayer has questions about the reasons for the assessment
 196 change or the appeals process;

197 (G) If available, the website address of the office of the county board of tax assessors;
 198 ~~and~~

199 (H) A statement that all documents and records used to determine the current value are
 200 available upon request; and

201 (I) The words 'SUBSTANTIAL INCREASE' in boldface and capitalized type
 202 positioned at the top of such notice if the property was increased in value more than 10
 203 percent per annum cumulative and the increase is due to inflationary growth only."

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SECTION 7.

Said title is further amended in Code Section 48-5-311, relating to boards of equalization and appeals of ad valorem tax assessments, by revising paragraph (1) and adding a new paragraph (6) of subsection (c) to read as follows:

"(1) Except as provided in paragraph (2) of this subsection, each member and alternate member of the county board of equalization shall be appointed for a term of three calendar years next succeeding the date of such member or such alternate member's selection. Each term shall begin on January 1. No member of the board of equalization shall be appointed for more than two consecutive three-year terms."

"(6) Any member of the board of equalization shall be removed by any judge of the superior court of the county of which the member serves if the oath specified in paragraph (5) of this subsection is determined to have been knowingly violated."

SECTION 8.

Said title is further amended in said Code Section 48-5-311 by revising subparagraph (e)(1)(A) as follows:

"(1)(A) Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment by the county board of tax assessors to either:

(i) The county board of equalization as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions pursuant to paragraph (2) of this subsection;

(ii) An arbitrator as to matters of value pursuant to subsection (f) of this Code section; ~~or~~

(iii) A hearing officer as to matters of value and uniformity for a parcel of nonhomestead real property with a fair market value in excess of \$1 million pursuant to subsection (e.1) of this Code section; or

(iv) The superior court of the county in which the property lies, if:

(I) The taxpayers chooses not to appeal under division (i), (ii), or (iii) of this subparagraph; and

(II) The amount of the change or correction in the notice provided for in subparagraph (C) of paragraph (2) of this subsection was an increase of more than 10 percent per annum cumulative and the increase is due to inflationary growth only.

This division (iv) shall not be deemed to conflict with a taxpayer's rights under the other divisions of this subparagraph or the taxpayer's right to appeal to superior court but shall be considered an additional choice of the taxpayer.

239 The commissioner shall establish by rule and regulation a uniform appeal form that the
 240 taxpayer may use."

241 **SECTION 9.**

242 Said title is further amended in said Code Section 48-5-311 by revising subparagraph
 243 (e)(2)(C) as follows:

244 "(C) If changes or corrections are made by the county board of tax assessors, the board
 245 shall notify the taxpayer in writing of such changes. If the board of assessors operates
 246 a website, the notice may also be posted on the website. If the board of assessors has
 247 an e-mail address for the taxpayer, the notice may also be delivered by e-mail. It is the
 248 responsibility of the taxpayer to notify the board of assessors of a change in the
 249 taxpayer's e-mail address. If the taxpayer is dissatisfied with such changes or
 250 corrections, the taxpayer shall, within 30 days of the date of mailing of the change
 251 notice, institute an appeal to the county board of tax assessors by e-mailing, if the
 252 county board of tax assessors has adopted a written policy consenting to electronic
 253 service, or by mailing to or filing with the county board of tax assessors a written notice
 254 of appeal. The county board of tax assessors shall send or deliver the notice of appeal
 255 and all necessary papers to the county board of equalization. If the taxpayer files an
 256 appeal and submits an affidavit of failure to receive such notice of change of
 257 assessment within 60 days after the date of the notice, the taxpayer's appeal shall be
 258 deemed to have been timely filed."

259 **SECTION 10.**

260 Said title is further amended in said Code Section 48-5-311 by revising subdivision
 261 (e)(6)(D)(iii)(II) as follows:

262 "(II) If the final determination of the value on appeal is less than the valuation thus
 263 used, the taxpayer shall receive a deduction in such taxpayer's taxes for the year in
 264 question. Such deduction shall be refunded to the taxpayer and shall include interest
 265 on the amount of such deduction at the same rate as specified in Code Section
 266 48-2-35 which shall accrue from November 15 of the taxable year in question or the
 267 date the final installment of the tax was due or was paid, whichever is later. ~~In no~~
 268 ~~event shall the amount of such interest exceed \$150.00.~~ Such deduction shall also
 269 include a refund of any penalties on the amount of such deduction."

270 **SECTION 11.**

271 Said title is further amended in said Code Section 48-5-311 by adding at the end of
 272 subsection (e) new paragraphs (10) and (11) to read as follows:

273 "(10) The board of assessors shall immediately forward any final determination of value
 274 to the tax commissioner.

275 (11) If the board of assessors is proven to be in violation of paragraph (10) of this
 276 subsection and if the taxpayer is successful in any legal action against the county under
 277 this subsection (e) whether through mediation, admission, agreement, or any other legal
 278 proceeding, the taxpayer, in addition to the penalties and interested provided for, shall
 279 recover any costs of litigation and attorney's fees incurred in the action."

280 SECTION 12.

281 Said title is further amended in said Code Section 48-5-311 by revising subsections (f) and
 282 (g) as follows:

283 "(f) **Arbitration.**

284 (1) As used in this subsection, the term 'certified appraisal' means an appraisal or
 285 appraisal report given, signed, and certified as such by a real property appraiser as
 286 classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers
 287 Board.

288 (2) At the option of the taxpayer an appeal shall be submitted to arbitration in accordance
 289 with this subsection.

290 (3)(A) Following an election by the taxpayer to use the arbitration provisions of this
 291 subsection, an arbitration appeal shall be effected by the taxpayer by e-mailing, if the
 292 county board of tax assessors has adopted a written policy consenting to electronic
 293 service, or by filing a written notice of arbitration appeal with the county board of tax
 294 assessors. The notice of arbitration appeal shall specifically state the grounds for
 295 arbitration. The notice shall be filed within 45 days from the date of mailing the notice
 296 pursuant to Code Section 48-5-306. Within ten days of receipt of a taxpayer's notice
 297 of arbitration appeal, the board of tax assessors shall send to the taxpayer an
 298 acknowledgment of receipt of the appeal; a notice that the taxpayer must, within 45
 299 days of the filing of the notice, provide to the board of assessors for consideration a
 300 copy of a certified appraisal; and a confirmation of the amount of the filing fees, if any,
 301 required under Code Section 15-6-77 and notice that within 45 days the taxpayer shall
 302 pay to the clerk of the superior court the fees, if the board of assessors rejects the
 303 appraisal. Failure of the taxpayer to provide such certified appraisal and filing fees
 304 within such 45 days shall terminate the appeal unless the taxpayer within such 45 day
 305 period elects to have the appeal forwarded to the board of equalization. Prior to
 306 appointment of the arbitrator and within 45 days of filing the notice of appeal, the
 307 taxpayer shall provide a copy of the certified appraisal as specified in this paragraph to
 308 the board of assessors for consideration. Within 45 days of receiving the taxpayer's

309 certified appraisal, the board of assessors shall either accept the taxpayer's appraisal,
 310 in which case that value shall become final or the county board of tax assessors shall
 311 reject the taxpayer's appraisal by sending notice of rejection to the taxpayer, by certified
 312 mail or statutory overnight delivery, together with a demand for the filing fees to be
 313 paid within 30 days after the date of the sending of the notice, in which case the county
 314 board of tax assessors shall ~~certify~~ within ~~45 days~~ ten days after receipt of the filing
 315 fees ~~certify~~ the appeal to the clerk of the superior court of the county in which the
 316 property is located along with any other papers specified by the person seeking
 317 arbitration under this subsection, including, but not limited to, the staff information
 318 from the file used by the county board of tax assessors. In the event that the county
 319 board of tax assessors neither accepts nor rejects the value set out in the certified
 320 appraisal within ~~such 45 day period~~ 45 days after receipt of the certified appraisal, then
 321 the certified appraisal shall become the final value and the filing fees shall be returned
 322 to the taxpayer. In any case where a taxpayer properly filed for the 2009 tax year a
 323 notice of binding arbitration appeal and provided the required certified appraisal in
 324 accordance with this paragraph and the board of assessors neither accepted nor rejected
 325 the value set out in such certified appraisal within the 30 day period formerly specified
 326 under this subparagraph, then for purposes of the 2009 tax year, the value set forth in
 327 the taxpayer's certified appraisal shall be deemed the final value. All papers and
 328 information certified to the clerk shall become a part of the record on arbitration. At
 329 the time of certification of the appeal, the county board of tax assessors shall serve the
 330 taxpayer and the taxpayer's attorney of record, if any, or employee with a copy of the
 331 certification along with any other papers specified by the person seeking arbitration
 332 along with the civil action file number assigned to the appeal. Within 15 days of filing
 333 the certification to the clerk of the superior court, ~~the chief~~ any judge of the superior
 334 court of the circuit in which the property is located shall issue an order authorizing the
 335 arbitration.

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

337 (i) The board of assessors shall include in the notice of rejection of the taxpayer's
 338 certified appraisal a notice of a meeting time and place to decide on an arbitrator, to
 339 occur within 60 days after the date of sending of the rejection of the taxpayer's
 340 appraisal. If such meeting is not scheduled by the board of assessors within 60 days,
 341 the taxpayer's certified appraisal shall become the final determination of value.
 342 Following the notification of the taxpayer of the date and time of the meeting, the
 343 taxpayer shall be authorized to exercise a one-time option of changing the date and
 344 time of the meeting to a date and time acceptable to the taxpayer. If the parties agree,
 345 the meeting may be held by telephone conference. If the parties agree, the matter

346 shall be submitted to a single arbitrator chosen by the parties. ~~If Only if~~ the parties
 347 cannot agree on the single arbitrator, the arbitrator shall be chosen by the ~~chief judge~~
 348 clerk of the superior court of the circuit in which the property is located within 90
 349 days after the date of the rejection of the taxpayer's certified appraisal. If the clerk of
 350 superior court fails to choose an arbitrator within such 90 day period, the taxpayer's
 351 arbitrator shall become the arbitrator of choice;

352 (ii) In order to be qualified to serve as an arbitrator, a person shall be classified as a
 353 state certified general real property appraiser or state certified residential real property
 354 appraiser pursuant to the rules and regulations of the Georgia Real Estate Commission
 355 and the Georgia Real Estate Appraisers Board and shall have experience or expertise
 356 in appraising the type of property that is the subject of the arbitration;

357 (iii) The arbitrator, within 30 days after his or her appointment, shall set a time and
 358 place to hear evidence and testimony from both parties within 60 days after the date
 359 of his or her appointment. The arbitrator shall provide written notice to the parties
 360 personally or by registered or certified mail or statutory overnight delivery not less
 361 than ten days before the hearing. The arbitrator may adjourn or postpone the hearing.
 362 Following the notification of the taxpayer of the date and time of the hearing, the
 363 taxpayer shall be authorized to exercise a one-time option of changing the date and
 364 time of the hearing to a date and time acceptable to the taxpayer. ~~The chief~~ Any judge
 365 of the superior court of the circuit in which the property is located may direct the
 366 arbitrator to proceed promptly with the hearing and the determination of the appeal
 367 upon application of any party. The hearing shall occur in the county where the
 368 property is located;

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

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

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

378 (vii) At the conclusion of the hearing, the arbitrator shall render a decision regarding
 379 the value of the property subject to arbitration;

380 (viii) In order to determine the value, the arbitrator shall consider a the single value
 381 for the property submitted by the board of assessors in the original notice sent to the
 382 taxpayer and a the single value submitted by the taxpayer in the original certified

- 383 appraisal submitted to the board of assessors by the taxpayer. The taxpayer shall be
 384 responsible for the initial cost of any appraisal by the taxpayer's appraiser;
- 385 (ix) Upon consideration of the single value submitted by the board of assessors and
 386 the single value submitted by the taxpayer, and evidence supporting the values
 387 submitted by the board of assessors and the taxpayer, the arbitrator shall determine
 388 which value is the value for the property under appeal;
- 389 (x) If the taxpayer's value is determined by the arbitrator to be the value, the county
 390 shall be responsible for the clerk of the superior court's fees, if any, ~~and~~ the fees and
 391 costs of such arbitrator, and the costs of the taxpayer's certified appraisal if the sole
 392 purpose of the appraisal was for use in the property tax appeal; provided, however,
 393 that the county shall not be responsible for any amount by which an appraisal fee
 394 exceeds \$400.00. If the board of tax assessors' value is determined by the arbitrator
 395 to be the value, the taxpayer shall be responsible for the clerk of the superior court's
 396 fees, if any, and the fees and costs of such arbitrator; and
- 397 (xi) The board of tax assessors shall have the burden of proving its opinion of value
 398 and the validity of its proposed assessment by a preponderance of evidence.
- 399 (4) The provisions in subsection (c) of Code Section 48-5-299 shall apply to the
 400 valuation established or rendered by any county board of equalization, arbitrator, hearing
 401 officer, or superior court.
- 402 (5) If the county's tax bills are issued before an arbitrator has rendered its decision on
 403 property which is on appeal, the county board of tax assessors shall specify to the county
 404 tax commissioner the higher of the taxpayer's return valuation or 85 percent of the current
 405 year's valuation as set by the county board of tax assessors. This amount shall be the
 406 basis for a temporary tax bill to be issued. Such tax bill shall be accompanied by a notice
 407 to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal
 408 process. Such notice shall also indicate that upon resolution of the appeal, there may be
 409 additional taxes due or a refund issued.
- 410 (6) If the taxpayer is successful in any agreement, admission, mediation, or other legal
 411 proceeding concerning enforcement of any issue within this subsection (f), the taxpayer
 412 shall recover costs of litigation and all attorney's fees incurred in the action. The court
 413 shall not reduce such award.
- 414 (g) **Appeals to the superior court.**
- 415 (1) The taxpayer or the county board of tax assessors may appeal decisions of the county
 416 board of equalization or hearing officer, as applicable, to the superior court of the county
 417 in which the property lies. By mutual written agreement, the taxpayer and the county
 418 board of tax assessors may waive an appeal to the county board of equalization and
 419 initiate an appeal under this subsection. A county board of tax assessors shall not appeal

420 a decision of the county board of equalization or hearing officer, as applicable, changing
421 an assessment by 20 percent or less unless the board of tax assessors gives the county
422 governing authority a written notice of its intention to appeal, and, within ten days of
423 receipt of the notice, the county governing authority by majority vote does not prohibit
424 the appeal. In the case of a joint city-county board of tax assessors, such notice shall be
425 given to the city and county governing authorities, either of which may prohibit the
426 appeal by majority vote within the allowed period of time.

427 (2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be
428 effected by e-mailing, if the county board of tax assessors has adopted a written policy
429 consenting to electronic service, or by mailing to or filing with the county board of tax
430 assessors a written notice of appeal. An appeal by the county board of tax assessors shall
431 be effected by giving notice to the taxpayer. The notice to the taxpayer shall be dated and
432 shall contain the name and the last known address of the taxpayer. The notice of appeal
433 shall specifically state the grounds for appeal. The notice shall be mailed or filed within
434 30 days from the date on which the decision of the county board of equalization or
435 hearing officer is mailed pursuant to subparagraph (e)(6)(D) or paragraph (6) of
436 subsection (e.1) of this Code section. The county board of tax assessors shall certify to
437 the clerk of the superior court the notice of appeal and any other papers specified by the
438 person appealing including, but not limited to, the staff information from the file used by
439 the county board of tax assessors, the county board of equalization, or the hearing officer.
440 All papers and information certified to the clerk shall become a part of the record on
441 appeal to the superior court. At the time of certification of the appeal, the county board
442 of tax assessors shall serve the taxpayer and his or her attorney of record, if any, with a
443 copy of the notice of appeal and with the civil action file number assigned to the appeal.
444 Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5.
445 No discovery, motions, or other pleadings may be filed by the county board of tax
446 assessors in the appeal until such service has been made.

447 (3) The appeal shall constitute a de novo action. The board of tax assessors shall have
448 the burden of proving its opinions of value and the validity of its proposed assessment by
449 a preponderance of evidence. Upon a failure of the board of tax assessors to meet such
450 burden of proof, the court may, upon motion or sua sponte, authorize the finding that the
451 value asserted by the taxpayer is unreasonable and authorize the determination of the
452 final value of the property.

453 (4)(A) The appeal shall be placed on the court's next available jury or bench trial
454 calendar, at the taxpayer's election, following the filing of the appeal unless continued
455 by the court upon a showing of good cause. If only questions of law are presented in
456 the appeal, the appeal shall be heard as soon as practicable before the court sitting

457 without a jury. Each hearing before the court sitting without a jury shall be held within
 458 30 days following the date on which the appeal is filed with the clerk of the superior
 459 court. The time of any hearing shall be set in consultation with the taxpayer and at a
 460 time acceptable to the taxpayer between the hours of 8:00 A.M. and 7:00 P.M. on a
 461 business day.

462 (B)(i) The county board of tax assessors shall use the valuation of the county board
 463 of equalization or the hearing officer, as applicable, in compiling the tax digest for the
 464 county. If the final determination of value on appeal is less than the valuation set by
 465 the county board of equalization or hearing officer, as applicable, the taxpayer shall
 466 receive a deduction in such taxpayer's taxes for the year in question. Such deduction
 467 shall be refunded to the taxpayer and shall include interest on the amount of such
 468 deduction at the same rate as specified in Code Section 48-2-35 which shall accrue
 469 from November 15 of the taxable year in question or the date the final installment of
 470 the tax was due or was paid, whichever is later. ~~In no event shall the amount of such~~
 471 ~~interest exceed \$150.00.~~ The taxpayer shall also receive reimbursement for any
 472 interest and penalties charged on the amount of the deduction if paid by the taxpayer.

473 (ii) If the final determination of value on appeal, whether through mediation,
 474 admission, agreement, or any other legal proceeding is 80 percent or less of the
 475 valuation set by the county board of equalization or hearing officer as to commercial
 476 property, or 85 percent or less of the valuation set by the county board of tax assessors
 477 as to other property, the taxpayer, in addition to the interest provided for by this
 478 paragraph, shall recover costs of litigation and ~~reasonable~~ double the attorney's fees
 479 incurred in the action. Any appeal by the county must be specifically approved by the
 480 county governing authority. If the judge reduces any legal costs or fees or if the
 481 county appeals and the taxpayer is successful in the appeal, the attorney's fees shall
 482 be tripled in the final decision after appeal.

483 (iii) If the final determination of value on appeal is greater than the valuation set by
 484 the county board of equalization or hearing officer, as applicable, the taxpayer shall
 485 be liable for the increase in taxes for the year in question due to the increased
 486 valuation fixed on appeal with interest at the same rate as specified in Code Section
 487 48-2-35. Such interest shall accrue from November 15 of the taxable year in question
 488 or the date the final installment of tax was due to the date the additional taxes are
 489 remitted, but in no event shall the amount of such interest exceed \$150.00.

490 (iv) If the taxpayer appealed directly to the superior court under division (e)(1)(A)(iv)
 491 of this Code section and the final determination of value on appeal was reduced by
 492 more than 5 percent, whether through mediation, admission, agreement, or any other
 493 legal proceeding, the taxpayer, in addition to the costs and interest provided for, shall

494 recover costs of litigation and any attorney's fees incurred in the action. The county
495 may not appeal such recovered costs and awards. If the final determination of value
496 on appeal was reduced by more than 15 percent, whether through mediation,
497 admission, agreement, or any other legal proceeding, the taxpayer, in addition to the
498 costs and interest provided for in this paragraph, shall recover costs of litigation and
499 double the attorney's fees incurred in the action. If the judge reduces any legal costs
500 and fees or if the county appeals any of the decisions and the taxpayer is successful
501 in the appeal, the attorney's fees shall be tripled in the final decision after appeal."

502 **SECTION 13.**

503 This Act shall become effective upon its approval by the Governor or upon its becoming law
504 without such approval and shall apply to the ad valorem tax year beginning January 1, 2012,
505 as well as all future ad valorem tax years.

506 **SECTION 14.**

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