

Senate Bill 234

By: Senator Rogers of the 21st

**AS PASSED SENATE**

**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 adding a new subsection (g) to read as follows:

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

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

28 (3) If the tax assessor or tax collector fails to comply with the deadline in paragraph (1)  
 29 of this subsection, the taxpayer may appeal to the superior court of the county in which  
 30 the property is located. If through mediation, admission, agreement, or any other legal  
 31 proceeding the tax assessor or tax collector is determined to have committed errors, the  
 32 taxpayer shall recover costs of litigation and all attorney's fees incurred in the action."

33 **SECTION 2.**

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

36 "48-3-19.

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

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

41 (2) 'Due diligence' means the performance of a diligent search to ascertain the actual  
 42 location of the record owner of the property. The following actions shall satisfy the  
 43 diligent search requirements of this Code section: sending notice by first-class mail,  
 44 certified mail, or statutory overnight delivery, as required by law. If the notice is returned  
 45 undelivered the following actions shall satisfy the diligent search requirements of this  
 46 Code section: due diligence shall include checking telephone directories for the county  
 47 wherein the property is located; checking Internet search engines and people finder data  
 48 bases, including the use of online address verification products and services; checking the  
 49 records of the tax commissioner of the county wherein the property is located; or  
 50 checking the real estate records of the clerk of the superior court of the county wherein  
 51 the property is located.

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

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

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

58 (b)(1) Whenever any person other than the person against whom an execution has been  
 59 issued pays an execution issued for state, county, or municipal taxes or special  
 60 assessments, the officer whose duty is to enforce the execution may transfer the execution  
 61 to the party so paying the full value of the execution. No officer whose duty it is to  
 62 enforce an execution issued for state, county, or municipal taxes or special assessments  
 63 shall be required to make any transfer or transfers of such execution or executions. No

64 execution shall be transferred for a period of 12 months following the date that the  
 65 execution was issued by such officer. In no event shall an execution be transferred to a  
 66 person or corporation, including its affiliated companies, for which delinquent taxes are  
 67 presently owed and due to the state or a political subdivision. The transferee shall have  
 68 the same rights as to enforcing the execution and priority of payment as might have been  
 69 exercised or claimed by the tax official. The person to whom the execution is transferred  
 70 shall, within 30 days of the transfer, cause the execution to be entered on the general  
 71 execution docket of the superior court of the county in which the execution was issued.  
 72 In default of the required entry or entries, the execution shall lose its lien upon any  
 73 property which has been transferred in good faith and for a valuable consideration before  
 74 the entry and without notice of the existence of the execution.

75 (2)(A) It shall be unlawful for any tax official covered by this subsection to pay a tax  
 76 execution in order to obtain a transfer of the execution under this Code section. It shall  
 77 be unlawful for any employee of a tax official covered by this subsection to pay a tax  
 78 execution in order to obtain a transfer of the execution under this Code section. The tax  
 79 officials covered by this subsection are:

- 80 (i) County tax receivers, tax collectors, and tax commissioners;
- 81 (ii) Members of county boards of tax assessors;
- 82 (iii) Members of county boards of equalization; and
- 83 (iv) County tax appraisers.

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

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

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

95 ~~(1)(2)~~ Within 60 days following the transfer of an execution, the transferee shall notify  
 96 the delinquent taxpayer of the transfer of the tax execution by first-class mail. The notice  
 97 shall include:

- 98 (A) The name, mailing address, and telephone number for the transferee's business  
 99 office;
- 100 (B) The amount necessary to satisfy such execution; and

101 (C) Other information as deemed appropriate by the transferee.

102 ~~(2)~~(3) In the event that any such notice required in this subsection by ~~first-class~~ certified  
 103 mail is returned undelivered, the transferee shall be required to perform due diligence in  
 104 an effort to obtain the delinquent taxpayer's correct address or any new owner's correct  
 105 address and resend the notice by first-class mail.

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

114 (e)(1) Whenever an execution has been transferred to any transferee, the transferee shall  
 115 not be authorized to submit the execution to the appropriate levying officer until 12  
 116 months after the date of such transfer or 24 months after the tax giving rise to the  
 117 execution was originally due, whichever is earlier. A transferee shall not have the right  
 118 to advertise and sell property under a tax execution. Such right shall remain solely with  
 119 the appropriate levying official, such as the sheriff or marshal.

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

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

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

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

143 **SECTION 3.**

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

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

151 **SECTION 4.**

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

154 "48-5-18.

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

158 **SECTION 5.**

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

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

166 (A) The amount of the previous assessment;

167 (B) The amount of the current assessment;

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

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

- 171 (E) The fair market value of property of the taxpayer subject to taxation and the  
 172 assessed value of the taxpayer's property subject to taxation after being reduced;
- 173 (F) The name, phone number, and contact information of the person in the assessors'  
 174 office who is administratively responsible for the handling of the appeal and who the  
 175 taxpayer may contact if the taxpayer has questions about the reasons for the assessment  
 176 change or the appeals process;
- 177 (G) If available, the website address of the office of the county board of tax assessors;  
 178 **and**
- 179 (H) A statement that all documents and records used to determine the current value are  
 180 available upon request; and
- 181 (I) The words 'SUBSTANTIAL INCREASE' in boldface and capitalized type  
 182 positioned at the top of such notice if the property was increased in value more than 10  
 183 percent per annum cumulative and the increase is due to inflationary growth only."

184 **SECTION 6.**

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

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

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

196 **SECTION 7.**

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

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

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

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

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

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

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

212 (II) The amount of the change or correction in the notice provided for in  
 213 subparagraph (C) of paragraph (2) of this subsection was an increase of more than  
 214 10 percent per annum cumulative and the increase is due to inflationary growth  
 215 only.

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

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

221 **SECTION 8.**

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

224 "(C) If changes or corrections are made by the county board of tax assessors, the board  
 225 shall notify the taxpayer in writing of such changes. If the board of assessors operates  
 226 a website, the notice may also be posted on the website. If the board of assessors has  
 227 an e-mail address for the taxpayer, the notice may also be delivered by e-mail. It is the  
 228 responsibility of the taxpayer to notify the board of assessors of a change in the  
 229 taxpayer's e-mail address. If the taxpayer is dissatisfied with such changes or  
 230 corrections, the taxpayer shall, within 30 days of the date of mailing of the change  
 231 notice, institute an appeal to the county board of tax assessors by e-mailing, if the  
 232 county board of tax assessors has adopted a written policy consenting to electronic  
 233 service, or by mailing to or filing with the county board of tax assessors a written notice  
 234 of appeal. The county board of tax assessors shall send or deliver the notice of appeal  
 235 and all necessary papers to the county board of equalization. If the taxpayer files an  
 236 appeal and submits an affidavit of failure to receive such notice of change of  
 237 assessment within 60 days after the date of the notice, the taxpayer's appeal shall be  
 238 deemed to have been timely filed."

239 **SECTION 9.**

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

242 "(II) If the final determination of the value on appeal is less than the valuation thus  
 243 used, the taxpayer shall receive a deduction in such taxpayer's taxes for the year in  
 244 question. Such deduction shall be refunded to the taxpayer and shall include interest  
 245 on the amount of such deduction at the same rate as specified in Code Section  
 246 48-2-35 which shall accrue from November 15 of the taxable year in question or the  
 247 date the final installment of the tax was due or was paid, whichever is later. ~~In no~~  
 248 event shall the amount of such interest exceed \$150.00. Such deduction shall also  
 249 include a refund of any penalties on the amount of such deduction."

250 **SECTION 10.**

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

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

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

260 **SECTION 11.**

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

263 **"(f) Arbitration.**

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

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

270 (3)(A) Following an election by the taxpayer to use the arbitration provisions of this  
 271 subsection, an arbitration appeal shall be effected by the taxpayer by e-mailing, if the  
 272 county board of tax assessors has adopted a written policy consenting to electronic  
 273 service, or by filing a written notice of arbitration appeal with the county board of tax

274 assessors. The notice of arbitration appeal shall specifically state the grounds for  
275 arbitration. The notice shall be filed within 45 days from the date of mailing the notice  
276 pursuant to Code Section 48-5-306. Within ten days of receipt of a taxpayer's notice  
277 of arbitration appeal, the board of tax assessors shall send to the taxpayer an  
278 acknowledgment of receipt of the appeal; a notice that the taxpayer must, within 45  
279 days of the filing of the notice, provide to the board of assessors for consideration a  
280 copy of a certified appraisal; and a confirmation of the amount of the filing fees, if any,  
281 required under Code Section 15-6-77 and notice that within 45 days the taxpayer shall  
282 pay to the clerk of the superior court the fees, if the board of assessors rejects the  
283 appraisal. Failure of the taxpayer to provide such certified appraisal and filing fees  
284 within such 45 days shall terminate the appeal unless the taxpayer within such 45 day  
285 period elects to have the appeal forwarded to the board of equalization. Prior to  
286 appointment of the arbitrator and within 45 days of filing the notice of appeal, the  
287 taxpayer shall provide a copy of the certified appraisal as specified in this paragraph to  
288 the board of assessors for consideration. Within 45 days of receiving the taxpayer's  
289 certified appraisal, the board of assessors shall either accept the taxpayer's appraisal,  
290 in which case that value shall become final or the county board of tax assessors shall  
291 reject the taxpayer's appraisal by sending notice of rejection to the taxpayer, by certified  
292 mail or statutory overnight delivery, together with a demand for the filing fees to be  
293 paid within 30 days after the date of the sending of the notice, in which case the county  
294 board of tax assessors shall ~~certify~~ within ~~45 days~~ ten days after receipt of the filing  
295 fees ~~certify~~ the appeal to the clerk of the superior court of the county in which the  
296 property is located along with any other papers specified by the person seeking  
297 arbitration under this subsection, including, but not limited to, the staff information  
298 from the file used by the county board of tax assessors. In the event that the county  
299 board of tax assessors neither accepts nor rejects the value set out in the certified  
300 appraisal within ~~such 45 day period~~ 45 days after receipt of the certified appraisal, then  
301 the certified appraisal shall become the final value and the filing fees shall be returned  
302 to the taxpayer. In any case where a taxpayer properly filed for the 2009 tax year a  
303 notice of binding arbitration appeal and provided the required certified appraisal in  
304 accordance with this paragraph and the board of assessors neither accepted nor rejected  
305 the value set out in such certified appraisal within the 30 day period formerly specified  
306 under this subparagraph, then for purposes of the 2009 tax year, the value set forth in  
307 the taxpayer's certified appraisal shall be deemed the final value. All papers and  
308 information certified to the clerk shall become a part of the record on arbitration. At  
309 the time of certification of the appeal, the county board of tax assessors shall serve the  
310 taxpayer and the taxpayer's attorney of record, if any, or employee with a copy of the

311 certification along with any other papers specified by the person seeking arbitration  
 312 along with the civil action file number assigned to the appeal. Within 15 days of filing  
 313 the certification to the clerk of the superior court, ~~the chief~~ any judge of the superior  
 314 court of the circuit in which the property is located shall issue an order authorizing the  
 315 arbitration.

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

317 (i) The board of assessors shall include in the notice of rejection of the taxpayer's  
 318 certified appraisal a notice of a meeting time and place to decide on an arbitrator, to  
 319 occur within 60 days after the date of sending of the rejection of the taxpayer's  
 320 appraisal. If such meeting is not scheduled by the board of assessors within 60 days,  
 321 the taxpayer's certified appraisal shall become the final determination of value.  
 322 Following the notification of the taxpayer of the date and time of the meeting, the  
 323 taxpayer shall be authorized to exercise a one-time option of changing the date and  
 324 time of the meeting to a date and time acceptable to the taxpayer. If the parties agree,  
 325 the meeting may be held by telephone conference. If the parties agree, the matter  
 326 shall be submitted to a single arbitrator chosen by the parties. If Only if the parties  
 327 cannot agree on the single arbitrator, the arbitrator shall be chosen by the ~~chief judge~~  
 328 clerk of the superior court of the circuit in which the property is located within 90  
 329 days after the date of the rejection of the taxpayer's certified appraisal. If the clerk of  
 330 superior court fails to choose an arbitrator within such 90 day period, the taxpayer's  
 331 arbitrator shall become the arbitrator of choice;

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

337 (iii) The arbitrator, within 30 days after his or her appointment, shall set a time and  
 338 place to hear evidence and testimony from both parties within 60 days after the date  
 339 of his or her appointment. The arbitrator shall provide written notice to the parties  
 340 personally or by registered or certified mail or statutory overnight delivery not less  
 341 than ten days before the hearing. The arbitrator may adjourn or postpone the hearing.  
 342 Following the notification of the taxpayer of the date and time of the hearing, the  
 343 taxpayer shall be authorized to exercise a one-time option of changing the date and  
 344 time of the hearing to a date and time acceptable to the taxpayer. ~~The chief~~ Any judge  
 345 of the superior court of the circuit in which the property is located may direct the  
 346 arbitrator to proceed promptly with the hearing and the determination of the appeal

- 347 upon application of any party. The hearing shall occur in the county where the  
 348 property is located;
- 349 (iv) At the hearing, the parties shall be entitled to be heard, to present documents,  
 350 testimony, and other matters, and to cross-examine witnesses. The arbitrator may  
 351 hear and determine the controversy upon the documents, testimony, and other matters  
 352 produced notwithstanding the failure of a party duly notified to appear;
- 353 (v) The arbitrator shall maintain a record of all pleadings, documents, testimony, and  
 354 other matters introduced at the hearing. The arbitrator or any party to the proceeding  
 355 may have the proceedings transcribed by a court reporter;
- 356 (vi) The provisions of this paragraph may be waived at any time by written consent  
 357 of the taxpayer and the board of tax assessors;
- 358 (vii) At the conclusion of the hearing, the arbitrator shall render a decision regarding  
 359 the value of the property subject to arbitration;
- 360 (viii) In order to determine the value, the arbitrator shall consider a the single value  
 361 for the property submitted by the board of assessors in the original notice sent to the  
 362 taxpayer and a the single value submitted by the taxpayer in the original certified  
 363 appraisal submitted to the board of assessors by the taxpayer. The taxpayer shall be  
 364 responsible for the initial cost of any appraisal by the taxpayer's appraiser;
- 365 (ix) Upon consideration of the single value submitted by the board of assessors and  
 366 the single value submitted by the taxpayer, and evidence supporting the values  
 367 submitted by the board of assessors and the taxpayer, the arbitrator shall determine  
 368 which value is the value for the property under appeal;
- 369 (x) If the taxpayer's value is determined by the arbitrator to be the value, the county  
 370 shall be responsible for the clerk of the superior court's fees, if any, ~~and~~ the fees and  
 371 costs of such arbitrator, and the costs of the taxpayer's certified appraisal if the sole  
 372 purpose of the appraisal was for use in the property tax appeal; provided, however,  
 373 that the county shall not be responsible for any amount by which an appraisal fee  
 374 exceeds \$400.00. If the board of tax assessors' value is determined by the arbitrator  
 375 to be the value, the taxpayer shall be responsible for the clerk of the superior court's  
 376 fees, if any, and the fees and costs of such arbitrator; and
- 377 (xi) The board of tax assessors shall have the burden of proving its opinion of value  
 378 and the validity of its proposed assessment by a preponderance of evidence.
- 379 (4) The provisions in subsection (c) of Code Section 48-5-299 shall apply to the  
 380 valuation established or rendered by any county board of equalization, arbitrator, hearing  
 381 officer, or superior court.
- 382 (5) If the county's tax bills are issued before an arbitrator has rendered its decision on  
 383 property which is on appeal, the county board of tax assessors shall specify to the county

384 tax commissioner the higher of the taxpayer's return valuation or 85 percent of the current  
 385 year's valuation as set by the county board of tax assessors. This amount shall be the  
 386 basis for a temporary tax bill to be issued. Such tax bill shall be accompanied by a notice  
 387 to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal  
 388 process. Such notice shall also indicate that upon resolution of the appeal, there may be  
 389 additional taxes due or a refund issued.

390 (6) If the taxpayer is successful in any agreement, admission, mediation, or other legal  
 391 proceeding concerning enforcement of any issue within this subsection (f), the taxpayer  
 392 shall recover costs of litigation and all attorney's fees incurred in the action. The court  
 393 shall not reduce such award.

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

395 (1) The taxpayer or the county board of tax assessors may appeal decisions of the county  
 396 board of equalization or hearing officer, as applicable, to the superior court of the county  
 397 in which the property lies. By mutual written agreement, the taxpayer and the county  
 398 board of tax assessors may waive an appeal to the county board of equalization and  
 399 initiate an appeal under this subsection. A county board of tax assessors shall not appeal  
 400 a decision of the county board of equalization or hearing officer, as applicable, changing  
 401 an assessment by 20 percent or less unless the board of tax assessors gives the county  
 402 governing authority a written notice of its intention to appeal, and, within ten days of  
 403 receipt of the notice, the county governing authority by majority vote does not prohibit  
 404 the appeal. In the case of a joint city-county board of tax assessors, such notice shall be  
 405 given to the city and county governing authorities, either of which may prohibit the  
 406 appeal by majority vote within the allowed period of time.

407 (2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be  
 408 effected by e-mailing, if the county board of tax assessors has adopted a written policy  
 409 consenting to electronic service, or by mailing to or filing with the county board of tax  
 410 assessors a written notice of appeal. An appeal by the county board of tax assessors shall  
 411 be effected by giving notice to the taxpayer. The notice to the taxpayer shall be dated and  
 412 shall contain the name and the last known address of the taxpayer. The notice of appeal  
 413 shall specifically state the grounds for appeal. The notice shall be mailed or filed within  
 414 30 days from the date on which the decision of the county board of equalization or  
 415 hearing officer is mailed pursuant to subparagraph (e)(6)(D) or paragraph (6) of  
 416 subsection (e.1) of this Code section. The county board of tax assessors shall certify to  
 417 the clerk of the superior court the notice of appeal and any other papers specified by the  
 418 person appealing including, but not limited to, the staff information from the file used by  
 419 the county board of tax assessors, the county board of equalization, or the hearing officer.  
 420 All papers and information certified to the clerk shall become a part of the record on

421 appeal to the superior court. At the time of certification of the appeal, the county board  
 422 of tax assessors shall serve the taxpayer and his or her attorney of record, if any, with a  
 423 copy of the notice of appeal and with the civil action file number assigned to the appeal.  
 424 Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5.  
 425 No discovery, motions, or other pleadings may be filed by the county board of tax  
 426 assessors in the appeal until such service has been made.

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

433 (4)(A) The appeal shall be placed on the court's next available jury or bench trial  
 434 calendar, at the taxpayer's election, following the filing of the appeal unless continued  
 435 by the court upon a showing of good cause. If only questions of law are presented in  
 436 the appeal, the appeal shall be heard as soon as practicable before the court sitting  
 437 without a jury. Each hearing before the court sitting without a jury shall be held within  
 438 30 days following the date on which the appeal is filed with the clerk of the superior  
 439 court. The time of any hearing shall be set in consultation with the taxpayer and at a  
 440 time acceptable to the taxpayer between the hours of 8:00 A.M. and 7:00 P.M. on a  
 441 business day.

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

453 (ii) If the final determination of value on appeal, whether through mediation,  
 454 admission, agreement, or any other legal proceeding is 80 percent or less of the  
 455 valuation set by the county board of equalization or hearing officer as to commercial  
 456 property, or 85 percent or less of the valuation set by the county board of tax assessors  
 457 as to other property, the taxpayer, in addition to the interest provided for by this

458 paragraph, shall recover costs of litigation and ~~reasonable~~ double the attorney's fees  
 459 incurred in the action. Any appeal by the county must be specifically approved by the  
 460 county governing authority. If the judge reduces any legal costs or fees or if the  
 461 county appeals and the taxpayer is successful in the appeal, the attorney's fees shall  
 462 be tripled in the final decision after appeal.

463 (iii) If the final determination of value on appeal is greater than the valuation set by  
 464 the county board of equalization or hearing officer, as applicable, the taxpayer shall  
 465 be liable for the increase in taxes for the year in question due to the increased  
 466 valuation fixed on appeal with interest at the same rate as specified in Code Section  
 467 48-2-35. Such interest shall accrue from November 15 of the taxable year in question  
 468 or the date the final installment of tax was due to the date the additional taxes are  
 469 remitted, but in no event shall the amount of such interest exceed \$150.00.

470 (iv) If the taxpayer appealed directly to the superior court under division (e)(1)(A)(iv)  
 471 of this Code section and the final determination of value on appeal was reduced by  
 472 more than 5 percent, whether through mediation, admission, agreement, or any other  
 473 legal proceeding, the taxpayer, in addition to the costs and interest provided for, shall  
 474 recover costs of litigation and any attorney's fees incurred in the action. If the final  
 475 determination of value on appeal was reduced by more than 15 percent, whether  
 476 through mediation, admission, agreement, or any other legal proceeding, the taxpayer,  
 477 in addition to the costs and interest provided for in this paragraph, shall recover costs  
 478 of litigation and double the attorney's fees incurred in the action. If the judge reduces  
 479 any legal costs and fees or if the county appeals any of the decisions and the taxpayer  
 480 is successful in the appeal, the attorney's fees shall be tripled in the final decision after  
 481 appeal."

## 482 SECTION 12.

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

## 486 SECTION 13.

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