

The House Committee on Judiciary offers 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 change procedures for transfer of tax executions and  
4 enforcement of transferred executions; to require recording of notices of foreclosure of right  
5 to redeem; to provide for removal of tax assessors for violation of oath of office; to  
6 extensively revise procedures for assessment appeals and arbitration; to provide for recovery  
7 of certain interest, costs, attorney's fees, and other amounts by taxpayers who appeal  
8 successfully under certain circumstances; to provide for other related matters; to provide for  
9 an effective date and applicability; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Title 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," is  
13 amended by revising Code Section 48-3-19, relating to transfer of tax executions, as follows:  
14 "48-3-19.

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

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

19 (2) 'Due diligence' means the performance of a diligent search to ascertain the actual  
20 location of the record owner of the property. The following actions shall satisfy the  
21 diligent search requirements of this Code section: sending notice by first-class mail,  
22 certified mail, or statutory overnight delivery, as required by law. If the notice is returned  
23 undelivered the following actions shall satisfy the diligent search requirements of this  
24 Code section: due diligence shall include checking telephone directories for the county  
25 wherein the property is located; checking Internet search engines and people finder data  
26 bases, which may include the use of online address verification products and services;

27 checking the records of the tax commissioner of the county wherein the property is  
 28 located; or checking the real estate records of the clerk of the superior court of the county  
 29 wherein the property is located.

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

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

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

36 (b)(1) Whenever any person other than the person against whom an execution has been  
 37 issued pays an execution issued for state, county, or municipal taxes or special  
 38 assessments, the officer whose duty is to enforce the execution may transfer the execution  
 39 to the party so paying the full value of the execution. No officer whose duty it is to  
 40 enforce an execution issued for state, county, or municipal taxes or special assessments  
 41 shall be required to make any transfer or transfers of such execution or executions. The  
 42 transferee shall have the same rights as to enforcing the execution and priority of payment  
 43 as might have been exercised or claimed by the tax official. The person to whom the  
 44 execution is transferred shall, within 30 days of the transfer, cause the execution to be  
 45 entered on the general execution docket of the superior court of the county in which the  
 46 execution was issued. In default of the required entry or entries, the execution shall lose  
 47 its lien upon any property which has been transferred in good faith and for a valuable  
 48 consideration before the entry and without notice of the existence of the execution.

49 (2)(A) It shall be unlawful for any tax official covered by this subsection to pay a tax  
 50 execution in order to obtain a transfer of the execution under this Code section. It shall  
 51 be unlawful for any employee of a tax official covered by this subsection to pay a tax  
 52 execution in order to obtain a transfer of the execution under this Code section. The tax  
 53 officials covered by this subsection are:

- 54 (i) County tax receivers, tax collectors, and tax commissioners;
- 55 (ii) Members of county boards of tax assessors;
- 56 (iii) Members of county boards of equalization; and
- 57 (iv) County tax appraisers.

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

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

63 (c)(1) Within ~~60~~ 30 days following the transfer of an execution, the transferee shall  
 64 notify the delinquent taxpayer of the transfer of the tax execution by first-class mail,  
 65 certified mail, or statutory overnight delivery. The notice shall include:

66 (A) The name, mailing address, and telephone number for the transferee's business  
 67 office;

68 (B) The amount necessary to satisfy such execution; and

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

70 (2) In the event that any such notice required in this subsection by first-class mail,  
 71 certified mail, or statutory overnight delivery is returned undelivered, the transferee shall  
 72 be required to perform a due diligence search in an effort to obtain the delinquent  
 73 taxpayer's correct address or any new owner's correct address and resend the notice by  
 74 first-class mail.

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

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

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

93 (f) Until the execution is paid in full or satisfied, on or before November 15 of each year  
 94 after the calendar year in which the transfer occurred, the transferee shall send notice by  
 95 regular mail to the delinquent taxpayer and the record owner of the property advising that  
 96 the tax execution is still outstanding. The notice must provide the transferee's most updated  
 97 contact information, including mailing address and telephone number. In the event any  
 98 such notice is returned undelivered, the transferee shall be required to perform a due

99 diligence search in an effort to obtain the correct address of the delinquent taxpayer or new  
 100 owner and resend the notice by first-class mail.

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

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

112 **SECTION 2.**

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

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

120 **SECTION 3.**

121 Said title is further amended by adding a new Code section to read as follows:

122 "48-5-34.

123 (a) As used in this Code section, the term 'nontax related fees or assessments' means any  
 124 fees or assessments related to real property which are not ad valorem taxes on such real  
 125 property and includes, but shall not be limited to, storm-water service fees or solid waste  
 126 service fees.

127 (b) In the event that the mailing sent by the tax commissioner contains a billing for ad  
 128 valorem taxes on real property as well as one or more billings for nontax related fees or  
 129 assessments, and the taxpayer remits only a partial payment, such partial payment shall first  
 130 be applied to the outstanding balance of ad valorem taxes on real property which are due  
 131 and payable."

132 **SECTION 4.**

133 Said title is further amended in Code Section 48-5-311, relating to boards of equalization and  
 134 appeals of ad valorem tax assessments, by revising paragraph (1) of subsection (b) as  
 135 follows:

136 "(1) Each person who is, in the judgment of the appointing grand jury, qualified and  
 137 competent to serve as a grand juror, who is the owner of real property in the county or  
 138 region where he or she is appointed to serve, and who is at least a high school graduate  
 139 shall be qualified, competent, and compellable to serve as a member or alternate member  
 140 of the county board of equalization. No member of the governing authority of a county,  
 141 municipality, or consolidated government; member of a county or independent board of  
 142 education; member of the county board of tax assessors; employee of the county board  
 143 of tax assessors; or county tax appraiser shall be competent to serve as a member or  
 144 alternate member of the county board of equalization."

145 **SECTION 5.**

146 Said title is further amended in said Code Section 48-5-311 by revising subsection (c) as  
 147 follows:

148 **"(c) Appointment.**

149 (1) Except as provided in paragraph (2) of this subsection, each member and alternate  
 150 member of the county board of equalization shall be appointed for a term of three  
 151 calendar years next succeeding the date of such member or such alternate member's  
 152 selection. Each term shall begin on January 1. No member of the board of equalization  
 153 shall be appointed for more than two consecutive three-year terms. A member appointed  
 154 prior to the effective date of this subsection who becomes ineligible for further service  
 155 as of the effective date of this subsection solely as a result of the enactment of this  
 156 subsection may remain as a member for one additional term at the discretion of the  
 157 appointing body.

158 (2) The grand jury in each county at any term of court preceding November 1 of 1991  
 159 shall select three persons who are otherwise qualified to serve as members of the county  
 160 board of equalization and shall also select three persons who are otherwise qualified to  
 161 serve as alternate members of the county board of equalization. The three individuals  
 162 selected as alternates shall be designated as alternate one, alternate two, and alternate  
 163 three, with the most recent appointee being alternate number three, the next most recent  
 164 appointee being alternate number two, and the most senior appointee being alternate  
 165 number one. One member and one alternate shall be appointed for terms of one year, one  
 166 member and one alternate shall be appointed for two years, and one member and one

167 alternate shall be appointed for three years. Each year thereafter, the grand jury of each  
168 county shall select one member and one alternate for three-year terms.

169 (3) If a vacancy occurs on the county board of equalization, the individual designated as  
170 alternate one shall then serve as a member of the board of equalization for the unexpired  
171 term. If a vacancy occurs among the alternate members, the grand jury then in session  
172 or the next grand jury shall select an individual who is otherwise qualified to serve as an  
173 alternate member of the county board of equalization for the unexpired term. The  
174 individual so selected shall become alternate member three, and the other two alternates  
175 shall be redesignated appropriately.

176 (4) Within five days after the names of the members and alternate members of the county  
177 board or boards of equalization have been selected, the clerk of the superior court shall  
178 issue and deliver to the sheriff or deputy sheriff a precept containing the names of the  
179 persons so selected. Within ten days of receiving the precept, the sheriff or deputy sheriff  
180 shall cause the persons whose names are written on the precept to be served personally  
181 or by leaving the summons at their place of residence. The summons shall direct the  
182 persons named on the summons to appear before the clerk of the superior court on a date  
183 specified in the summons, which date shall not be later than December 15.

184 (5) Each member and alternate member of the county board of equalization, on the date  
185 prescribed for appearance before the clerk of the superior court and before entering on  
186 the discharge of such member and alternate member's duties, shall take and execute in  
187 writing before the clerk of the superior court the following oath:

188 I, \_\_\_\_\_, agree to serve as a member of the board of equalization of the  
189 County of \_\_\_\_\_ and will decide any issue put before me without favor or  
190 affection to any party and without prejudice for or against any party. I will follow and  
191 apply the laws of this state. I also agree not to discuss any case or any issue with any  
192 person other than members of the board of equalization except at any appeal hearing.  
193 I shall faithfully and impartially discharge my duties in accordance with the  
194 Constitution and laws of this state, to the best of my skill and knowledge. So help me  
195 God.

196 \_\_\_\_\_  
197 Signature of member or alternate member'

198 In addition to the oath of office prescribed in this paragraph, the presiding or chief judge  
199 of the superior court or his or her designee shall charge each member and alternate  
200 member of the county board of equalization with the law and duties relating to such  
201 office.

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

205 **SECTION 6.**

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

208 "(C) If changes or corrections are made by the county board of tax assessors, the board  
 209 shall notify the taxpayer in writing of such changes. The notice shall be sent by regular  
 210 mail properly addressed to the address the taxpayer provided to the board of tax  
 211 assessors. If the taxpayer is dissatisfied with such changes or corrections, the taxpayer  
 212 shall, within 30 days of the date of mailing of the change notice, institute an appeal to  
 213 the county board of tax assessors by e-mailing, if the county board of tax assessors has  
 214 adopted a written policy consenting to electronic service, or by mailing to or filing with  
 215 the county board of tax assessors a written notice of appeal. The county board of tax  
 216 assessors shall send or deliver the notice of appeal and all necessary papers to the  
 217 county board of equalization. If the taxpayer files an appeal and submits an affidavit  
 218 of failure to receive such notice of change of assessment within 60 days after the date  
 219 of the notice, the taxpayer's appeal shall be deemed to have been timely filed."

220 **SECTION 7.**

221 Said title is further amended in said Code Section 48-5-311 by revising subparagraph  
 222 (e)(6)(A) as follows:

223 "(6)(A) Within 15 days of the receipt of the notice of appeal, the county board of  
 224 equalization shall set a date for a hearing on the questions presented and shall so notify  
 225 the taxpayer and the county board of tax assessors in writing. Such notice shall be sent  
 226 by first-class mail to the taxpayer and by e-mail to the board of tax assessors, if such  
 227 board has adopted a written policy consenting to electronic service, or otherwise by  
 228 first-class mail. A taxpayer may appear before the board concerning any appeal in  
 229 person, by his or her authorized agent or representative, or both. The taxpayer shall  
 230 specify in writing to the board the name of any such agent or representative prior to any  
 231 appearance by the agent or representative before the board."

232 **SECTION 8.**

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



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

306 a copy of the certification along with any other papers specified by the person seeking  
 307 arbitration along with the civil action file number assigned to the appeal. Within 15  
 308 days of filing the certification to the clerk of the superior court, the presiding or chief  
 309 judge of the superior court of the circuit in which the property is located shall issue an  
 310 order authorizing the arbitration.

311 (B) At any point, the county board of tax assessors and the taxpayer may execute a  
 312 signed written agreement establishing the fair market value without entering into or  
 313 completing the arbitration process. The fair market value as set forth in such agreement  
 314 shall become the final value.

315 ~~(B)~~(C) The arbitration shall be conducted pursuant to the following procedure:

316 (i) The board of assessors shall include in the notice of rejection of the taxpayer's  
 317 certified appraisal a notice of a meeting time and place to decide on an arbitrator, to  
 318 occur within 60 days after the date of sending of the rejection of the taxpayer's  
 319 appraisal. If such meeting is not scheduled by the board of assessors within 60 days,  
 320 the taxpayer's certified appraisal shall become the final determination of value.  
 321 Following the notification of the taxpayer of the date and time of the meeting, the  
 322 taxpayer shall be authorized to exercise a one-time option of changing the date and  
 323 time of the meeting to a date and time acceptable to the taxpayer. If the parties agree,  
 324 the meeting may be held by telephone conference. If the parties agree, the matter  
 325 shall be submitted to a single arbitrator chosen by the parties. If Only if the parties  
 326 cannot agree on the single arbitrator, the arbitrator shall be ~~chosen~~ randomly selected  
 327 from the list of qualified arbitrators on a rotational basis by the presiding or chief  
 328 judge of the superior court of the circuit in which the property is located within 30  
 329 days after the date of the rejection of the taxpayer's certified appraisal. If the judge  
 330 fails to choose an arbitrator within such 30 day period, the taxpayer shall select the  
 331 arbitrator of his or her choice from the list. No arbitrator shall be selected for a  
 332 subsequent appointment until all the arbitrators on such list have been requested to  
 333 serve;

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

339 (iii) The arbitrator, within 30 days after his or her appointment, shall set a time and  
 340 place to hear evidence and testimony from both parties within 60 days after the date  
 341 of his or her appointment. The arbitrator shall provide written notice to the parties  
 342 personally or by registered or certified mail or statutory overnight delivery not less

343 than ten days before the hearing. The arbitrator may adjourn or postpone the hearing.  
344 Following the notification of the taxpayer of the date and time of the hearing, the  
345 taxpayer shall be authorized to exercise a one-time option of changing the date and  
346 time of the hearing to a date and time acceptable to the taxpayer. The presiding or  
347 chief judge of the superior court of the circuit in which the property is located may  
348 direct the arbitrator to proceed promptly with the hearing and the determination of the  
349 appeal upon application of any party. The hearing shall occur in the judicial circuit  
350 where the property is located or such other place as the parties may agree on;  
351 (iv) At the hearing, the parties shall be entitled to be heard, to present documents,  
352 testimony, and other matters, and to cross-examine witnesses. The arbitrator may  
353 hear and determine the controversy upon the documents, testimony, and other matters  
354 produced notwithstanding the failure of a party duly notified to appear;  
355 (v) The arbitrator shall maintain a record of all pleadings, documents, testimony, and  
356 other matters introduced at the hearing. The arbitrator or any party to the proceeding  
357 may have the proceedings transcribed by a court reporter;  
358 (vi) The provisions of this paragraph may be waived at any time by written consent  
359 of the taxpayer and the board of tax assessors;  
360 (vii) At the conclusion of the hearing, the arbitrator shall render a decision regarding  
361 the value of the property subject to arbitration;  
362 (viii) In order to determine the value, the arbitrator shall consider a the single value  
363 for the property submitted by the board of assessors to the taxpayer prior to arbitration  
364 and a the single value submitted by the taxpayer to the board of assessors by the  
365 taxpayer prior to arbitration. The taxpayer shall be responsible for the cost of any  
366 appraisal by the taxpayer's appraiser;  
367 (ix) Upon consideration of the single value submitted by the board of assessors and  
368 the single value submitted by the taxpayer, and evidence supporting the values  
369 submitted by the board of assessors and the taxpayer, the arbitrator shall determine  
370 which value is the value for the property under appeal;  
371 (x) If the taxpayer's value is determined by the arbitrator to be the value, the county  
372 shall be responsible for the clerk of the superior court's fees, if any, ~~and~~ the fees and  
373 costs of such arbitrator. If the board of tax assessors' value is determined by the  
374 arbitrator to be the value, the taxpayer shall be responsible for the clerk of the superior  
375 court's fees, if any, and the fees and costs of such arbitrator; and  
376 (xi) The board of tax assessors shall have the burden of proving its opinion of value  
377 and the validity of its proposed assessment by a preponderance of evidence.

378 (4) The provisions in subsection (c) of Code Section 48-5-299 shall apply to the  
379 valuation established or rendered by any county board of equalization, arbitrator, hearing  
380 officer, or superior court.

381 (5) If the county's tax bills are issued before an arbitrator has rendered its decision on  
382 property which is on appeal, the county board of tax assessors shall specify to the county  
383 tax commissioner the higher of the taxpayer's return valuation or 85 percent of the current  
384 year's valuation as set by the county board of tax assessors. This amount shall be the  
385 basis for a temporary tax bill to be issued. Such tax bill shall be accompanied by a notice  
386 to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal  
387 process. Such notice shall also indicate that upon resolution of the appeal, there may be  
388 additional taxes due or a refund issued.

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

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

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

415 All papers and information certified to the clerk shall become a part of the record on  
416 appeal to the superior court. At the time of certification of the appeal, the county board  
417 of tax assessors shall serve the taxpayer and his or her attorney of record, if any, with a  
418 copy of the notice of appeal and with the civil action file number assigned to the appeal.  
419 Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5.  
420 No discovery, motions, or other pleadings may be filed by the county board of tax  
421 assessors in the appeal until such service has been made.

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

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

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

448 (ii) If the final determination of value on appeal is 80 percent or less of the valuation  
449 set by the county board of equalization or hearing officer as to commercial property,  
450 or 85 percent or less of the valuation set by the county board of tax assessors as to  
451 other property, the taxpayer, in addition to the interest provided for by this paragraph,

452 shall recover costs of litigation and reasonable attorney's fees incurred in the action.  
 453 Any appeal of an award of attorney's fees by the county shall be specifically approved  
 454 by the county governing authority.

455 (iii) If the final determination of value on appeal is greater than the valuation set by  
 456 the county board of equalization or hearing officer, as applicable, the taxpayer shall  
 457 be liable for the increase in taxes for the year in question due to the increased  
 458 valuation fixed on appeal with interest at the same rate as specified in Code Section  
 459 48-2-35. Such interest shall accrue from November 15 of the taxable year in question  
 460 or the date the final installment of tax was due to the date the additional taxes are  
 461 remitted, but in no event shall the amount of such interest exceed \$150.00."

462

463

#### **SECTION 12.**

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

467

#### **SECTION 13.**

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