

House Bill 794

By: Representatives Mayo of the 91<sup>st</sup>, Riley of the 50<sup>th</sup>, Kaiser of the 59<sup>th</sup>, Lindsey of the 54<sup>th</sup>,  
and Marin of the 96<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-5-2 of the Official Code of Georgia Annotated, relating to  
2 definitions regarding ad valorem taxation of property, so as to change certain definitions; to  
3 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
4 for other matters.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Code Section 48-5-2 of the Official Code of Georgia Annotated, relating to definitions  
8 regarding ad valorem taxation of property, is amended by revising paragraphs (.1) and (3)  
9 as follows:

10 "(.1) 'Arm's length, bona fide sale' means a transaction which has occurred in good faith  
11 without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing  
12 buyer and a willing seller, each acting in his or her own self-interest, including but not  
13 limited to a distress sale, short sale, bank sale, or sale at public auction."

14 "(3) 'Fair market value of property' means the amount a knowledgeable buyer would pay  
15 for the property and a willing seller would accept for the property at an arm's length, bona  
16 fide sale. The income approach, if data is available, shall be considered in determining  
17 the fair market value of income-producing property. Notwithstanding any other provision  
18 of this chapter to the contrary, the transaction amount of the most recent arm's length,  
19 bona fide sale in any year shall be considered in determining the ~~the maximum allowable~~  
20 fair market value for the next taxable year. With respect to the valuation of equipment,  
21 machinery, and fixtures when no ready market exists for the sale of the equipment,  
22 machinery, and fixtures, fair market value may be determined by resorting to any  
23 reasonable, relevant, and useful information available, including, but not limited to, the  
24 original cost of the property, any depreciation or obsolescence, and any increase in value  
25 by reason of inflation. Each tax assessor shall have access to any public records of the  
26 taxpayer for the purpose of discovering such information.

27 (A) In determining the fair market value of a going business where its continued  
28 operation is reasonably anticipated, the tax assessor may value the equipment,  
29 machinery, and fixtures which are the property of the business as a whole where  
30 appropriate to reflect the accurate fair market value.

31 (B) The tax assessor shall ~~apply~~ consider the following criteria in determining the fair  
32 market value of real property:

33 (i) Existing zoning of property;

34 (ii) Existing use of property, including any restrictions or limitations on the use of  
35 property resulting from state or federal law or rules or regulations adopted pursuant  
36 to the authority of state or federal law;

37 (iii) Existing covenants or restrictions in deed dedicating the property to a particular  
38 use;

39 (iv) Bank sales, other financial institution owned sales, or distressed sales, or any  
40 combination thereof, of comparable real property;

41 (v) Decreased value of the property based on limitations and restrictions resulting  
42 from the property being in a conservation easement; and

43 (vi) Any other existing factors provided by law or by rule and regulation of the  
44 commissioner deemed pertinent in arriving at fair market value."

45 **SECTION 2.**

46 This Act shall become effective upon its approval by the Governor or upon its becoming law  
47 without such approval.

48 **SECTION 3.**

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