

Senate Bill 293

By: Senators Millar of the 40th, Chance of the 16th, Albers of the 56th, Ligon, Jr. of the 3rd, Balfour of the 9th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to the
2 ad valorem taxation of property, so as to revise a definition; to provide for certain
3 information to be given to taxpayers upon request; to provide for limitations on such
4 information and the manner of its use; to provide for limitations on the use of certain
5 evidence in hearings before the board of equalization, hearing officers, and the superior
6 court; to provide for enforcement and penalties; to provide for interviews with the board of
7 tax assessors; to provide for the recording of such interviews and for the recording of
8 hearings before the board of equalization or a hearing officer; to provide for related matters;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to the ad valorem
13 taxation of property, is amended by revising division (3)(B)(iv) of Code Section 48-5-2,
14 relating to definitions, as follows:

15 "(iv) Bank sales, other financial institution owned sales, or distressed sales, or any
16 combination thereof, of comparable real property and distressed properties that are
17 within such a distance of a subject property that a reasonable appraiser would
18 consider such distressed properties as affecting the fair market value of the subject
19 property;".

20 **SECTION 2.**

21 Said chapter is further amended by revising subsection (d) of Code Section 48-5-306, relating
22 to annual notice of current assessment, contents, posting notice, and new assessment
23 description, as follows:

24 "(d) **Records and information availability.** Notwithstanding the provisions of Code
25 Section 50-18-71, in the case of all public records and information of the county board of
26 tax assessors pertaining to the appraisal and assessment of real property:

27 (1) The taxpayer may request, and the county board of tax assessors shall provide within
28 ten business days, copies of such public records and information, including, but not
29 limited to, all documents reviewed in making the assessment, the address and parcel
30 identification number of all real property utilized as qualified comparable properties, any
31 matter relating to the items listed in division (3)(B)(iv) of Code Section 48-5-2, and all
32 factors considered in establishing the new assessment, at a uniform copying fee not to
33 exceed 25¢ per page. The qualified comparable properties referenced in this paragraph
34 shall be selected to support the board of tax assessor's assessment prior to the assessment
35 being made, and such qualified comparable properties shall not be more than five in
36 number and, once chosen by the board of tax assessors, shall not be supplemented or
37 replaced or otherwise altered or changed throughout any appeal process, including
38 appeals to the superior court; and

39 (2) No additional charges or fees ~~may~~ shall be collected from the taxpayer for reasonable
40 search, retrieval, or other administrative costs associated with providing such public
41 records and information;

42 (3) The superior courts of this state shall have jurisdiction in law and in equity to enforce
43 compliance with the provisions of this subsection directly and without the issue being
44 first brought through any administrative procedure or hearing. Such actions may be
45 brought by any person, firm, corporation, or other entity. In addition, the Attorney
46 General shall have authority to bring such actions in his or her discretion as may be
47 appropriate to enforce compliance with this subsection and to seek either civil or criminal
48 penalties or both;

49 (4) In any action brought to enforce the provisions of this subsection in which the court
50 determines that the board of tax assessors acted without substantial justification in not
51 complying with this subsection, the court shall, unless it finds that special circumstances
52 exist, assess in favor of the taxpayer reasonable attorney's fees and other litigation costs
53 reasonably incurred;

54 (5) Any person or entity knowingly and willfully violating the provisions of this
55 subsection by failing or refusing to provide access to the information and records subject
56 to this subsection, by knowingly and willfully failing or refusing to provide access to
57 such information or records within the time limits set forth in this subsection, or by
58 knowingly and willfully frustrating or attempting to frustrate the access to such
59 information or records by intentionally making such information or records difficult to
60 obtain or review shall be guilty of a misdemeanor and upon conviction shall be punished

61 by a fine not to exceed \$1,000.00 for the first violation. Alternatively, a civil penalty not
 62 to exceed \$1,000.00 for the first violation may be imposed by the court in any civil action
 63 brought pursuant to this subsection against any person or entity that negligently violates
 64 the terms of this subsection. A civil penalty or criminal fine not to exceed \$2,500.00 per
 65 violation may be imposed for each additional violation that the violator commits within
 66 a 12 month period from the date the first penalty or fine was imposed. It shall be a
 67 defense to any criminal action under this paragraph that a person has acted in good faith
 68 in his or her actions. In addition, persons or entities that destroy records for the purpose
 69 of preventing their disclosure under this subsection may be subject to prosecution under
 70 Code Section 45-11-1; and
 71 (6) A prosecution under this subsection shall only be commenced by issuance of a
 72 citation in the same manner as an arrest warrant for a peace officer pursuant to Code
 73 Section 17-4-40; such citation shall be served personally upon the accused. The
 74 defendant shall not be arrested prior to the time of trial, except that a defendant who fails
 75 to appear for arraignment or trial may thereafter be arrested pursuant to a bench warrant
 76 and required to post a bond for his or her future appearance."

77 **SECTION 3.**

78 Said chapter is further amended by adding a new subsection to Code Section 48-5-306,
 79 relating to annual notice of current assessment, contents, posting notice, and new assessment
 80 description, to read as follows:

81 "(d.1)(1) Upon written request from a taxpayer, the board of tax assessors shall provide
 82 the taxpayer with copies of all evidence to be used to support the board of tax assessor's
 83 position at any board of equalization hearing or before a hearing officer for the tax year
 84 in question, and the board of tax assessors shall provide such evidence to the taxpayer in
 85 the same form and likeness as such evidence will be utilized by the board of tax assessors
 86 within ten business days from the date such request is received by the board of tax
 87 assessors. Once such evidence is provided to the taxpayer, the board of tax assessors
 88 shall not change, alter, or supplement such evidence throughout the appeal process,
 89 including any appeal to the superior court. Any evidence not provided to the taxpayer by
 90 the board of tax assessors in response to a written request for such evidence from the
 91 taxpayer shall not be used as evidence in any proceeding regarding such appeal.

92 (2) Any and all evidence put forth by the board of tax assessors at the board of
 93 equalization hearing or before any hearing officer regarding an appeal shall remain intact
 94 and shall be the only evidence allowed to be submitted by the board of tax assessors in
 95 any appeal to the superior court.

96 (3) All evidence submitted by the board of tax assessors in a board of equalization
 97 hearing or before a hearing officer shall be signed and dated by the board of tax assessors'
 98 representative submitting such evidence, and an original of such evidence shall be given
 99 to the taxpayer."

100 SECTION 4.

101 Said chapter is further amended by revising subsection (h) of Code Section 48-5-311, relating
 102 to creation of county boards of equalization, duties, review of assessments, and appeals, as
 103 follows:

104 "(h) **Recording of interviews.**

105 (1) In the course of any assessment, appeal, or arbitration, or any related proceeding, the
 106 taxpayer shall be entitled to:

107 ~~(A) make recordings of any~~ Have an interview with any officer or employee of the
 108 taxing authority relating to the valuation of the taxpayer's property subject to such
 109 assessment, appeal, arbitration, or related proceeding, and the taxpayer may record the
 110 interview at the taxpayer's expense and with equipment provided by the taxpayer. No;
 111 ~~and no~~ such officer or employee may refuse to participate in an interview relating to
 112 such valuation for reason of the taxpayer's choice to record such interview; and

113 (B) Record, at the taxpayer's expense and with equipment provided by the taxpayer,
 114 all proceedings before the board of equalization or any hearing officer.

115 (2) The interview under this subsection shall be granted to the taxpayer within ten
 116 business days from the taxpayer's written request for the interview, and the interview
 117 shall be conducted at the office of the board of tax assessors.

118 (3) The superior courts of this state shall have jurisdiction in law and in equity to enforce
 119 the provisions of this subsection directly and with the issue being first brought through
 120 any administrative procedure or hearing. The taxpayer shall be awarded damages in the
 121 amount of \$1,000.00 per occurrence where the taxpayer requested the interview in
 122 compliance with this subsection and the board of assessors failed to timely comply, and
 123 the taxpayer shall be entitled to recover reasonable attorney's fees and expenses of
 124 litigation in any action brought to compel such interview."

125 SECTION 5.

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