

House Bill 755

By: Representatives Powell of the 171st, Meadows of the 5th, England of the 116th, Knight of the 130th, McCall of the 33rd, 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 ad
2 valorem taxation of property, so as to provide for a revised definition of forest land fair
3 market value; to provide for conditions, procedures, and limitations for ad valorem property
4 tax litigation in superior court; to provide for conditions, procedures, and limitations on the
5 approval of tax digests when assessments are in arbitration or on appeal; to provide for the
6 valuation of property which is under appeal as to its assessed value; to provide for
7 procedures, conditions, and limitations regarding refunds of taxes and license fees by
8 counties and municipalities; to provide for related matters; to provide an effective date; to
9 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 ad valorem
13 taxation of property, is amended by revising paragraph (6) of Code Section 48-5-2, relating
14 to definitions regarding ad valorem taxation of property, as follows:

15 "(6) 'Forest land fair market value' means the 2008 fair market value of the forest land;
16 provided, however, that when the 2008 fair market value of the forest land has been
17 appealed by a property owner and the ultimate fair market value of the forest land is
18 reduced in the appeal process by either the board of assessors, the board of equalization,
19 a hearing officer, an arbitrator, or a superior court judge, then the final fair market value
20 of the forest land shall replace the 2008 fair market value of the forest land. This final
21 fair market value of the forest land shall be used in the calculation of local assistance
22 grants. If local assistance grants have been granted to either a county, a county board of
23 education, or a municipality based on the 2008 fair market value of forest land and
24 subsequently the fair market value of such forest land is reduced on an appeal, then the
25 county or the municipality shall reimburse the state, within 12 months unless otherwise
26 agreed to by the parties, the difference between local assistance grants paid to the county

27 or municipality and the amount which would have been due based on the final fair market
 28 value of the forest land. Such 2008 valuation may increase from one taxable year to the
 29 next by a rate equal to the percentage change in the price index for gross output of state
 30 and local government from the prior year to the current year as defined by the National
 31 Income and Product Accounts and determined by the United States Bureau of Economic
 32 Analysis and indicated by the Price Index for Government Consumption Expenditures
 33 and General Government Gross Output (Table 3.10.4)."

34 **SECTION 2.**

35 Said chapter is further amended by revising Code Section 48-5-29, relating to the jurisdiction
 36 of the superior court in ad valorem property tax litigation, as follows:

37 "48-5-29.

38 (a) Before the superior court has jurisdiction to entertain any civil action, appeal, or
 39 affidavit of illegality filed under this title by any aggrieved taxpayer concerning liability
 40 for ad valorem property taxes, taxability of property for ad valorem property taxes,
 41 valuation of property for ad valorem taxes, or uniformity of assessments for ad valorem
 42 property taxes, the taxpayer shall pay the amount of ad valorem property taxes assessed
 43 against the property at issue for the last year for which taxes were finally determined to be
 44 due on the property, or, if less, the amount of the temporary tax bill issued pursuant to
 45 Code Section 48-5-311. For the purposes of this Code section, taxes shall not be deemed
 46 finally determined to be due on a property for a tax year until all appeals under Code
 47 Section 48-5-311 and proceedings for refunds under Code Section 48-5-380 have become
 48 final.

49 (b) Ad valorem taxes due under this Code section shall be paid to the tax collector or tax
 50 commissioner of the county where the property is located. If the property is located within
 51 any municipality, the portion of the payment due the municipality shall be paid to the
 52 officer designated by the municipality to collect ad valorem taxes.

53 (c) All taxes paid to the county tax collector or tax commissioner under this Code section
 54 shall be distributed to the state, county, county schools, and any other applicable taxing
 55 districts in the same proportion as the millage rate for each bears to the total millage rate
 56 applicable to the property for the current year. If the total millage rate has not been
 57 determined for the current year, the distribution shall be made on the basis of the millage
 58 rates established for the immediately preceding year.

59 (d) Any payment made by the taxpayer in accordance with this Code section which is in
 60 excess of his or her finally determined tax liability shall be refunded to the taxpayer. If the
 61 amount finally determined to be the tax liability of the taxpayer exceeds the amount paid
 62 under this Code section, the taxpayer shall be liable for the amount of the difference

63 between the amount of tax paid and the amount of tax owed. The amount of difference
 64 shall be subject to the ~~same penalty and interest as any other unpaid ad valorem tax~~
 65 provided under subsection (g) of Code Section 48-5-311."

66 **SECTION 3.**

67 Said chapter is further amended by revising Code Section 48-5-304, relating to the approval
 68 of tax digests when assessments are in arbitration or on appeal and the withholding of grants,
 69 as follows:

70 "48-5-304.

71 ~~(a) The commissioner shall not be required to disapprove or withhold approval of the~~
 72 ~~digest of any county solely because appeals have been filed or arbitrations demanded on~~
 73 ~~the assessment of any property or number of properties in the county~~ The commissioner
 74 shall not approve any digest of any county when the assessed value that is in dispute for
 75 any property or properties on appeal or in arbitration exceeds 3 percent of the total assessed
 76 value of the total taxable digest of the county for the same year. In any year in which a
 77 complete revaluation or reappraisal program is implemented, the commissioner shall not
 78 approve a digest of any county when 5 percent or more of the assessed value in dispute is
 79 in arbitration or on appeal and 5 percent or more of the number of properties is in
 80 arbitration or on appeal. When the assessed value in dispute on any one appeal or
 81 arbitration exceeds 1.5 percent of the total assessed value of the total taxable digest of the
 82 county for the same year, such appeal or arbitration may be excluded by the commissioner
 83 in making his or her determination of whether the digest may be approved under the
 84 limitations provided for in this Code section. Where appeals have been filed or arbitrations
 85 demanded, the assessment or assessments fixed by the board of tax assessors shall be listed
 86 together with the return value on the assessments and forwarded in a separate listing to the
 87 commissioner at the time the digest is filed for examination and approval.

88 (b) The commissioner shall not approve any digest or portion thereof for any class or strata
 89 of property where evidence exists that the county has failed to comply with the provisions
 90 of this title or the rules and regulations of the commissioner for valuation of such class or
 91 strata of property. The commissioner shall adopt rules and regulations to give effect to this
 92 provision.

93 (c) The Office of the State Treasurer shall withhold any and all grants appropriated to any
 94 county until the county tax digest for the previous calendar year has been submitted to the
 95 commissioner as required by law."

SECTION 4.

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97 Said chapter is further amended by revising division (e)(6)(D)(iii) of Code Section 48-5-311,
 98 relating to creation of county boards of equalization, duties, review of assessments, and
 99 appeals, as follows:

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"(iii)(I) If the county's tax bills are issued before the county board of equalization, the county board of tax assessors, a hearing officer, an arbitrator, or a superior court judge has rendered its a decision on property which is on appeal, the county board of tax assessors shall specify to the county tax commissioner the lesser of the valuation in the year preceding the year in which the appeal was filed last year for which taxes were finally determined to be due on the property or 85 percent of the current year's value, unless the property in issue is homestead property and has been issued a building permit and structural improvements have occurred, or structural improvements have been made without a building permit, in which case, it shall specify 85 percent of the current year's valuation as set by the county board of assessors. Depending on the circumstances of the property, this amount shall be the basis for a temporary tax bill to be issued; provided, however, that ~~the~~ if a nonhomestead real property owner elects to pay the temporary tax bill which specifies 85 percent of the current year's valuation as set by the county board of tax assessors, then the taxpayer may pay the difference between the higher tax bill, which represents 85 percent of the current year's valuation, and the lower tax bill, which represents the valuation from the last year for which taxes were finally determined to be due on the property, into the superior court's registry to be held in an escrow account. Once the appeal is concluded, the escrowed funds shall be released by the clerk of the superior court to the prevailing party. The taxpayer may elect to pay the temporary tax bill in the amount of 100 percent of the current year's valuation if no property improvement has occurred. The county tax commissioner shall have the authority to adjust such tax bill to reflect the 100 percent value as requested by the taxpayer. Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal process. Such notice shall also indicate that upon resolution of the appeal, there may be additional taxes due or a refund issued.

(II) For the purposes of this Code section, any final value that causes a ~~deduction~~ reduction in taxes and creates a refund that is owed to the taxpayer in excess of any refunds paid from escrowed funds pursuant to subdivision (I) of this division shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes within 60 days from the date of the final determination of value. Such refund shall include interest on the amount of the ~~deduction~~ reduction at the same rate

133 specified in Code Section 48-2-35 which shall accrue from November 15 of the
 134 taxable year in question or the date the final installment was due or was paid,
 135 whichever is later, through to the date paid or 60 days from the date of the final
 136 determination, whichever is earlier. In no event shall the amount of such interest
 137 exceed \$150.00 for homestead property or \$5,000.00 for nonhomestead property.
 138 Any refund paid after the sixtieth day shall accrue interest from the sixty-first day
 139 until paid with interest at the same rate specified in Code Section 48-2-35. The
 140 interest accrued after the sixtieth day and forward shall not be subject to the limits
 141 imposed by this subsection. The tax commissioner shall pay the tax refund and any
 142 interest for the refund from current collections in the same proportion for each of
 143 the levying authorities for whom the taxes were collected.

144 (III) For the purposes of this Code section, any final value that causes an increase
 145 in taxes and creates an additional billing in excess of any refunds paid from
 146 escrowed funds pursuant to subdivision (I) of this division shall be paid to the tax
 147 commissioner as any other tax due along with interest as specified in Code Section
 148 48-2-35. The tax commissioner shall adjust the tax bill, including interest, within
 149 15 days from the date of the final determination of value and mail the adjusted bill
 150 to the taxpayer. Such interest shall accrue from November 15 of the taxable year
 151 in question or the final installment of the tax was due through to the date the bill
 152 was adjusted and mailed or 15 days from the date of the final determination,
 153 whichever is earlier. The interest computed on the additional billing shall in no
 154 event exceed \$150.00 for homestead property or \$5,000.00 for nonhomestead
 155 property. After the tax bill notice has been mailed out, the taxpayer shall be
 156 afforded 60 days from the date of the postmark to make full payment of the adjusted
 157 bill and interest. Once the 60 day payment period has expired, the bill shall be
 158 considered past due, and interest shall accrue as specified in Code Section 48-2-40
 159 without limit until the bill is paid in full. Once past due, all other fees, penalties,
 160 late charges, and collection notices shall apply as prescribed in this chapter for the
 161 collection of delinquent taxes."

162 **SECTION 5.**

163 Said chapter is further amended by revising Code Section 48-5-380, relating to refunds of
 164 taxes and license fees by counties and municipalities, as follows:

165 "48-5-380.

166 (a) As provided in this Code section, each county and municipality shall refund to
 167 taxpayers any and all taxes and license fees:

168 (1) Which are determined to have been erroneously or illegally assessed and collected
 169 from the taxpayers under the laws of this state or under the resolutions or ordinances of
 170 any county or municipality; or

171 (2) Which are determined to have been voluntarily or involuntarily overpaid by the
 172 taxpayers.

173 (a.1) If property owners have been billed and have remitted property tax payments to
 174 either a county, a county board of education, or a municipality based on the fair market
 175 value of the land and subsequently the fair market value of such land is reduced on an
 176 appeal, then the county or the municipality shall reimburse the property owner the
 177 difference between tax remitted and the final tax owed for each year in which the incorrect
 178 fair market value of the land was used in the calculations.

179 ~~(b) In any case in which it is determined that an erroneous or illegal collection of any tax~~
 180 ~~or license fee has been made by a county or municipality or that a taxpayer has voluntarily~~
 181 ~~or involuntarily overpaid any tax or license fee, the~~ Any taxpayer from whom the a tax or
 182 license fee was collected who believes that such tax or license fee was collected illegally
 183 or erroneously may file a claim for a refund with the governing authority of the county or
 184 municipality at any time within one year or, in the case of taxes, three years after the date
 185 of the payment of the tax or license fee to the county or municipality. The claim for refund
 186 shall be in writing and shall be in the form and shall contain the information required by
 187 the appropriate governing authority. The claim shall include a summary statement of the
 188 grounds upon which the taxpayer relies. In the event the taxpayer desires a conference or
 189 hearing before the governing authority in connection with any claim for a refund, the
 190 taxpayer shall so specify in writing in the claim. If the claim conforms to the requirements
 191 of this Code section, the governing authority shall grant a conference at a time specified
 192 by the governing authority. The governing authority shall consider information contained
 193 in the taxpayer's claim for a refund and such other information as is available. The
 194 governing authority shall approve or disapprove the taxpayer's claim and shall notify the
 195 taxpayer of its action. In the event any claim for refund is approved, the governing
 196 authority shall proceed under subsection (a) of this Code section to give effect to the terms
 197 of that subsection. No refund provided for in this Code section shall be assignable.
 198 Submitting a request for refund to the governing authority is not a prerequisite to bringing
 199 suit.

200 ~~(c) Any taxpayer whose claim for refund is denied by the governing authority of the~~
 201 ~~county or municipality or whose claim is not denied or approved by the governing~~
 202 ~~authority within one year from the date of filing the claim shall have the right to bring an~~
 203 ~~action for a refund in the superior court of the county in which the claim arises. No action~~
 204 ~~or proceeding for the recovery of a refund shall be commenced before the expiration of one~~

205 ~~year from the date of filing the claim for refund unless the governing authority of the~~
 206 ~~county or municipality renders a decision on the claim within the one-year period. No~~
 207 ~~action or proceeding for the recovery of a refund shall be commenced after the expiration~~
 208 ~~of one year from the date the claim is denied. The one-year period prescribed in this~~
 209 ~~subsection for filing an action for a refund shall be extended for such period as may be~~
 210 ~~agreed upon in writing between the taxpayer and the governing authority of the county or~~
 211 ~~municipality during the one-year period or any extension of the one-year period. The filing~~
 212 ~~of a request for a refund with the governing authority under subsection (b) of this Code~~
 213 ~~section shall act to stay the time period for initiating suit for a refund. Following the filing~~
 214 ~~of a request for refund with the governing authority, no suit may be commenced until the~~
 215 ~~earlier of the governing authority's denial of the request for refund or the expiration of 90~~
 216 ~~days from the date of filing the claim. Alternatively, any taxpayer may forgo requesting~~
 217 ~~a refund from the governing authority under subsection (b) of this Code section and elect~~
 218 ~~to proceed directly to filing suit.~~

219 (d) Any refunds approved or allowed under this Code section shall be paid from funds of
 220 the county, the municipality, the county board of education, the state, or any other entity
 221 to which the taxes or license fees were originally paid. Refunds shall be paid within 60
 222 days of the approval of the taxpayer's claim or within 60 days of the entry of a final
 223 decision in any action for a refund.

224 (e) The governing authority of any county, by resolution, and the governing authority of
 225 any municipality, by ordinance, shall adopt rules and regulations governing the
 226 administration of this Code section and may delegate the administration of this Code
 227 section, including the approval or disapproval of claims where the reason for the claim is
 228 based on an obvious clerical error, to an appropriate department in local government. In
 229 disputed cases where there is no obvious error, the approval or disapproval of claims may
 230 not be delegated by the governing authority.

231 (f) Nothing contained in subsections (b) or (c) of this Code section shall be deemed the
 232 exclusive remedy to seek a refund nor deprive taxpayers of the right to seek a refund
 233 mandated by subsection (a) by any other cause of action available at law or equity.

234 (g) Under no circumstances may a suit for refund be commenced more than five years
 235 from the date of the payment of taxes or fees at issue."

236 **SECTION 6.**

237 This Act shall become effective on July 1, 2014.

238 **SECTION 7.**

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