

House Bill 364 (COMMITTEE SUBSTITUTE)

By: Representatives Knight of the 130th, Harbin of the 122nd, Harrell of the 106th, Stephens of the 164th, Powell of the 171st, 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 revise and change certain provisions regarding the
3 approval of tax digests by the commissioner; to impose sanctions for including nontaxable
4 properties on the tax digests; to provide for procedures, conditions, and limitations; to
5 provide for refunds of taxes improperly collected; to amend Chapter 13A of Title 50 of the
6 Official Code of Georgia Annotated, relating to tax tribunals, so as to provide for additional
7 jurisdiction for the Georgia Tax Tribunal; to provide for an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem
12 taxation of property, is amended in Code Section 48-5-342, relating to the review of county
13 tax digests by the Commissioner of Revenue, by adding a new subsection to read as follows:

14 "(e)(1) The commissioner may, upon his or her own initiative or upon complaint by a
15 taxpayer, examine the itemizations of properties appearing on the digest, and if in the
16 judgment of the commissioner any properties are illegally appearing on the digest and
17 should not be subject to taxation under this chapter, the commissioner shall strike such
18 items from the digest and return the digest to the county for removal of such items and
19 resubmission to the commissioner. The commissioner shall provide by rule and
20 regulation procedures by which the county board of tax assessors may appeal such
21 finding to the commissioner. If appealed by the board of tax assessors, the commissioner
22 shall, after reviewing such appeal, issue a final order and include a finding as to the
23 taxability of the digest items in dispute and shall finalize the digest in accordance
24 therewith.

25 (2) If a property has been found by the commissioner to not be subject to taxation under
26 this chapter and again appears on the digest at any time within five years of the initial

27 determination of nontaxability and is again determined to be nontaxable, the
28 commissioner shall notify the Department of Community Affairs in writing of his or her
29 finding and, upon receipt of such notice, the qualified local government status of such
30 county shall be revoked for a period of three years following the receipt of such notice
31 by the Department of Community Affairs. Notwithstanding the foregoing, if prior to the
32 commissioner's notification to the Department of Community Affairs of such finding the
33 board of commissioners commences proceedings in the superior court to remove the
34 assessors, the action to revoke such qualified local government status shall be stayed until
35 such proceedings are final or for a period of six months, whichever shall first occur.
36 Upon the final determination of such removal action or six months, whichever occurs
37 first, if such assessors remain in office, the county's qualified local government status
38 shall be revoked, but if such assessors are no longer in office, such qualified local
39 government status shall not be revoked.

40 (3) If a property has been found by the commissioner to not be subject to taxation under
41 this chapter and if such nontaxable property has appeared on a county digest in any year
42 within the preceding five-year period, then the owner thereof shall be entitled to file a
43 petition directly with the Georgia Tax Tribunal for a refund of all such taxes illegally
44 collected or taxes paid, interest equal to the bank prime loan rate as posted by the Board
45 of Governors of the Federal Reserve System in statistical release H. 15 or any publication
46 that may supersede it plus 3 percent calculated from the date of payment of such taxes,
47 and attorney's fees in an amount of not less than 15 percent nor more than 40 percent of
48 the total of the illegally charged taxes and accrued interest. Such petition shall name the
49 board of tax assessors and the tax commissioner of the county as the respondent in their
50 official capacities and shall be served upon such board and tax commissioner. Service
51 shall be accomplished by certified mail or statutory overnight delivery. The petition shall
52 include a summary statement of facts and law upon which the petitioner relies in seeking
53 the requested relief. The respondents shall file a response to the petitioner's statement of
54 facts and law which constitutes their answer with the tribunal no later than 30 days after
55 the service of the petition. The respondents shall serve a copy of their response on the
56 petitioner's representative or, if the petitioner is not represented, on the petitioner and
57 shall file a certificate of service with such response. If in any case a response has not
58 been filed within the time required by this paragraph, the case shall automatically become
59 in default unless the time for filing the response has been extended by agreement of the
60 parties, for a period not to exceed 30 days, or by the judge of the tribunal. The default
61 may be opened as a matter of right by the filing of a response within 15 days of the day
62 of the default and payment of costs. At any time before the final judgment, the judge of
63 the tribunal, in his or her discretion, may allow the default to be opened for providential

64 cause that prevented the filing of the response, for excusable neglect, or when the tribunal
65 judge, from all the facts, determines that a proper case has been made for the default to
66 be opened on terms to be fixed by the tribunal judge. The tribunal judge shall proceed
67 to hear and decide the matter and may grant appropriate relief under the law and facts
68 presented."

69 **SECTION 2.**

70 Chapter 13A of Title 50 of the Official Code of Georgia Annotated, relating to tax tribunals,
71 is amended in Code Section 50-13A-9, relating to petitions for relief, jurisdiction, and bonds,
72 by adding a new subsection to read as follows:

73 "(e) The tribunal shall also have jurisdiction over refund petitions filed pursuant to Code
74 Section 48-5-342."

75 **SECTION 3.**

76 This Act shall become effective on July 1, 2016.

77 **SECTION 4.**

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