

House Bill 364 (AS PASSED HOUSE AND SENATE)

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 strike such item from the digest and return the digest to the county
29 for removal of such item and resubmission to the commissioner. The commissioner shall
30 notify the Department of Community Affairs in writing of his or her finding and, upon
31 receipt of such notice, the qualified local government status of such county shall be
32 revoked for a period of three years following the receipt of such notice by the Department
33 of Community Affairs unless reinstated earlier pursuant to this subsection. Upon such
34 revocation, the governing authority of such county, without regard to any limitation of
35 Code Section 48-5-295, shall be specifically authorized to remove immediately every
36 member of the board of tax assessors and reappoint new members who shall serve for the
37 unexpired terms of the removed members. The county governing authority shall provide
38 written notification of such removal and new appointment to the commissioner. Upon
39 certification of the corrected digest, the commissioner shall notify in writing the
40 Department of Community Affairs, and upon receipt thereof, the Department of
41 Community Affairs shall immediately reinstate the qualified local government status of
42 such county.

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

64 days, or by the judge of the tribunal. The default may be opened as a matter of right by
65 the filing of a response within 15 days of the day of the default and payment of costs. At
66 any time before the final judgment, the judge of the tribunal, in his or her discretion, may
67 allow the default to be opened for providential cause that prevented the filing of the
68 response, for excusable neglect, or when the tribunal judge, from all the facts, determines
69 that a proper case has been made for the default to be opened on terms to be fixed by the
70 tribunal judge. The tribunal judge shall proceed to hear and decide the matter and may
71 grant appropriate relief under the law and facts presented."

72 **SECTION 2.**

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

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

78 **SECTION 3.**

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

80 **SECTION 4.**

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