

House Bill 1032

By: Representative Smith of the 70<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to general provisions regarding ad valorem taxation of property, so as to further  
3 define the fair market value of certain property and require the tax assessor to include certain  
4 information with the assessment; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to  
8 general provisions regarding ad valorem taxation of property, is amended by revising  
9 paragraph (3) of Code Section 48-5-2, relating to definitions, as follows:

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

24 (A) In determining the fair market value of a going business where its continued  
25 operation is reasonably anticipated, the tax assessor may value the equipment,

26 machinery, and fixtures which are the property of the business as a whole where  
 27 appropriate to reflect the accurate fair market value.

28 (B) The tax assessor shall apply the following criteria in determining the fair market  
 29 value of real property:

30 (i) Existing zoning of property;

31 (ii)(I) Existing use of property, including any restrictions or limitations on the use  
 32 of property resulting from state or federal law or rules or regulations adopted  
 33 pursuant to the authority of state or federal law.

34 (II) The tax assessor shall list, on a form provided by the department, the exact  
 35 restrictions or limitations on the use of property resulting from state or federal law  
 36 or rules and regulations, if applicable, he or she utilized in determining the fair  
 37 market value of the property. Where applicable, any percentage of the property that  
 38 is determined to be unusable due to the restrictions or limitations shall be included  
 39 on the form provided for in this subdivision;

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

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

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

46 (vi) Rent limitations, higher operating costs resulting from regulatory requirements  
 47 imposed on the property, and any other restrictions imposed upon the property in  
 48 connection with the property being eligible for any income tax credits with respect to  
 49 real property which are claimed and granted pursuant to either Section 42 of the  
 50 Internal Revenue Code of 1986, as amended, or Chapter 7 of this title or receiving any  
 51 other state or federal subsidies provided with respect to the use of the property as  
 52 residential rental property; provided, however, that properties described in this  
 53 division shall not be considered comparable real property for the assessment or appeal  
 54 of assessment of properties not covered by this division;

55 (vii)(I) In establishing the value of any property subject to rent restrictions under  
 56 the sales comparison approach, any income tax credits described in division (vi) of  
 57 this subparagraph that are attributable to a property may be considered in  
 58 determining the fair market value of the property, provided that the tax assessor uses  
 59 comparable sales of property which, at the time of the comparable sale, had unused  
 60 income tax credits that were transferred in an arm's length, bona fide sale.

61 (II) In establishing the value of any property subject to rent restrictions under the  
 62 income approach, any income tax credits described in division (vi) of this

63 subparagraph that are attributable to property may be considered in determining the  
 64 fair market value of the property, provided that such income tax credits generate  
 65 actual income to the record holder of title to the property; and

66 (viii) Any other existing factors provided by law or by rule and regulation of the  
 67 commissioner deemed pertinent in arriving at fair market value.

68 (B.1) The tax assessor shall not consider any income tax credits with respect to real  
 69 property which are claimed and granted pursuant to either Section 42 of the Internal  
 70 Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair  
 71 market value of real property.

72 (B.2) In determining the fair market value of real property, the tax assessor shall not  
 73 include the value of any intangible assets used by a business, wherever located,  
 74 including patents, trademarks, trade names, customer agreements, and merchandising  
 75 agreements.

76 (C) Fair market value of 'rehabilitated historic property' as such term is defined in  
 77 subsection (a) of Code Section 48-5-7.2 means:

78 (i) For the first eight years in which the property is classified as 'rehabilitated historic  
 79 property,' the value equal to the greater of the acquisition cost of the property or the  
 80 appraised fair market value of the property as recorded in the county tax digest at the  
 81 time preliminary certification on such property was received by the county board of  
 82 tax assessors pursuant to subsection (c) of Code Section 48-5-7.2;

83 (ii) For the ninth year in which the property is classified as 'rehabilitated historic  
 84 property,' the value of the property as determined by division (i) of this subparagraph  
 85 plus one-half of the difference between such value and the current fair market value  
 86 exclusive of the provisions of this subparagraph; and

87 (iii) For the tenth and following years, the fair market value of such property as  
 88 determined by the provisions of this paragraph, excluding the provisions of this  
 89 subparagraph.

90 (D) Fair market value of 'landmark historic property' as such term is defined in  
 91 subsection (a) of Code Section 48-5-7.3 means:

92 (i) For the first eight years in which the property is classified as 'landmark historic  
 93 property,' the value equal to the greater of the acquisition cost of the property or the  
 94 appraised fair market value of the property as recorded in the county tax digest at the  
 95 time certification on such property was received by the county board of tax assessors  
 96 pursuant to subsection (c) of Code Section 48-5-7.3;

97 (ii) For the ninth year in which the property is classified as 'landmark historic  
 98 property,' the value of the property as determined by division (i) of this subparagraph

99 plus one-half of the difference between such value and the current fair market value  
100 exclusive of the provisions of this subparagraph; and

101 (iii) For the tenth and following years, the fair market value of such property as  
102 determined by the provisions of this paragraph, excluding the provisions of this  
103 subparagraph.

104 (E) Timber shall be valued at its fair market value at the time of its harvest or sale in  
105 the manner specified in Code Section 48-5-7.5.

106 (F) Fair market value of 'brownfield property' as such term is defined in subsection (a)  
107 of Code Section 48-5-7.6 means:

108 (i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,  
109 for the first ten years in which the property is classified as brownfield property, or as  
110 this period of preferential assessment may be extended pursuant to subsection (o) of  
111 Code Section 48-5-7.6, the value equal to the lesser of the acquisition cost of the  
112 property or the appraised fair market value of the property as recorded in the county  
113 tax digest at the time application was made to the Environmental Protection Division  
114 of the Department of Natural Resources for participation under Article 9 of Chapter  
115 8 of Title 12, the 'Georgia Brownfield Act,' as amended; and

116 (ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,  
117 for the eleventh and following years, or at the end of any extension of this period of  
118 preferential assessment pursuant to subsection (o) of Code Section 48-5-7.6, the fair  
119 market value of such property as determined by the provisions of this paragraph,  
120 excluding the provisions of this subparagraph."

121 **SECTION 2.**

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