

## House Bill 1038

By: Representatives Dreyer of the 59<sup>th</sup>, Silcox of the 52<sup>nd</sup>, Jones of the 25<sup>th</sup>, Paris of the 142<sup>nd</sup>, Barr of the 103<sup>rd</sup>, and others

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Part 2 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia  
2 Annotated, relating to county boards of tax assessors, so as to provide a new exception to the  
3 two-year assessment freeze; to require production of certain documents regarding appeals  
4 related to commercial real estate; to repeal procedures related to payment of tax bills during  
5 appeals; to limit awards of attorney's fees; to exclude certain parcels from evaluation; to  
6 provide for valuation methods; to provide a definition; to provide for related matters; to  
7 repeal conflicting laws; and for other purposes.

8                   **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9                   **SECTION 1.**

10 Part 2 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,  
11 relating to county boards of tax assessors, is amended in Code Section 48-5-299, relating to  
12 ascertainment of taxable property; assessments against unreturned personal property; penalty  
13 for unreturned property; changing real property values established by appeal in prior year or  
14 stipulated by agreement, by revising subsection (c) as follows:

15       "(c) When the value of real property is reduced or is unchanged from the value on the  
16 initial annual notice of assessment or a corrected annual notice of assessment issued by the  
17 board of tax assessors and such valuation has been established as the result of an appeal  
18 decision rendered by the board of equalization, hearing officer, arbitrator, or superior court  
19 pursuant to Code Section 48-5-311 or stipulated by written agreement signed by the board  
20 of tax assessors and taxpayer or taxpayer's authorized representative, the new valuation so  
21 established by appeal decision or agreement may not be increased by the board of tax  
22 assessors during the next two successive years, unless otherwise agreed in writing by both  
23 parties, subject to the following exceptions:

24       (1) This subsection shall not apply to a valuation established by an appeal decision if the  
25 taxpayer or his or her authorized representative failed to attend the appeal hearing or

provide the board of equalization, hearing officer, or arbitrator with some written evidence supporting the taxpayer's opinion of value;

(2) This subsection shall not apply to a valuation established by an appeal decision or agreement if the taxpayer files a return at a different valuation during the next two successive years;

(3) Unless otherwise agreed in writing by both parties, if the taxpayer files an appeal pursuant to Code Section 48-5-311 during the next two successive years, the board of tax assessors, the board of equalization, hearing officer, or arbitrator may increase or decrease the value of the real property based on the evidence presented by the taxpayer during the appeal process; and

(4) The board of tax assessors may increase or decrease the value of the real property if, after a visual on-site inspection of the property, it is found that there have been substantial additions, deletions, or improvements to such property or that there are errors in the board of tax assessors' records as to the description or characterization of the property, or the board of tax assessors finds an occurrence of other material factors that substantially affect the current fair market value of such property; and

(5) This subsection shall not apply when the board of tax assessors demonstrates that a change in an income approach valuation of the property would result in an increase of 15 percent over the frozen value due to changed market conditions."

## SECTION 2.

Said part is further amended by revising subsection (a), subdivision (e)(6)(D)(iii)(I), subdivision (g)(4)(B)(ii)(III), subsection (g.1), and by adding a new subparagraph to paragraph (1) of subsection (e) of Code Section 48-5-311, relating to creation of county boards of equalization, duties, review of assessments, and appeals, to read as follows:

"(a) **Definition.** As used in this Code section, the term:

(1) 'appeal Appeal administrator' means the clerk of the superior court.

(2) 'Commercial real estate' means any real estate with a fair market value in excess of \$5 million as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306 other than real estate containing one to four residential units; real estate on which no buildings or structures are located and which is not zoned for nor available for commercial or retail use; or real estate classified as agricultural or forest land for tax assessment purposes."

"(A.3)(i) Any taxpayer filing an appeal regarding commercial real estate shall include with such appeal copies of:

60       (I) Any related bond transaction agreement with a development authority or similar  
61       agreement estimating the fair market value of a taxpayer's leasehold interest in the  
62       property;

63       (II) All independent appraisals in the payer's possession prepared in the last three  
64       calendar years;

65       (III) Financial statements showing the total income and expenses of the property,  
66       not including nonrecurring maintenance and capital expenses; and

67       (IV) And any statements of value submitted to the Securities and Exchange  
68       Commission.

69       (ii) The board of tax assessors may request other documents reasonably relevant to  
70       the value of the property. Furthermore, any such taxpayer shall include a report  
71       itemizing and valuing any personal property and fixtures located on such commercial  
72       real estate."

73       "(iii)(I) If the county's tax bills are issued before an appeal has been finally  
74       determined, the county board of tax assessors shall specify to the county tax  
75       commissioner the lesser of the valuation in the last year for which taxes were finally  
76       determined to be due on the property or 85 percent of the current year's value,  
77       unless the property in issue is homestead property and has been issued a building  
78       permit and structural improvements have occurred, or structural improvements have  
79       been made without a building permit, in which case, it shall specify 85 percent of  
80       the current year's valuation as set by the county board of tax assessors. Depending  
81       on the circumstances of the property, this amount shall be the basis for a temporary  
82       tax bill to be issued; provided, however, that a nonhomestead owner of a single  
83       property valued at \$2 million or more may elect to pay the temporary tax bill which  
84       specifies 85 percent of the current year's valuation; or, such owner may elect to pay  
85       the amount of the difference between the 85 percent tax bill based on the current  
86       year's valuation and the tax bill based on the valuation from the last year for which  
87       taxes were finally determined to be due on the property in conjunction with the  
88       amount of the tax bill based on valuation from the last year for which taxes were  
89       finally determined to be due on the property, to the tax commissioner's office. Only  
90       the amount which represents the difference between the tax bill based on the current  
91       year's valuation and the tax bill based on the valuation from the last year for which  
92       taxes were finally determined to be due will be held in an escrow account by the tax  
93       commissioner's office. Once the appeal is concluded, the escrowed funds shall be  
94       released by the tax commissioner's office to the prevailing party. The taxpayer may  
95       elect to pay the temporary tax bill in the amount of 100 percent of the current year's  
96       valuation if no substantial property improvement has occurred. The county tax

97 ~~commissioner shall have the authority to adjust such tax bill to reflect the 100~~  
98 ~~percent value as requested by the taxpayer. Such tax bill issued by the county tax~~  
99 ~~commissioner shall be accompanied by a notice to the taxpayer that the bill is a~~  
100 ~~temporary tax bill pending the outcome of the appeal process. Such notice shall~~  
101 ~~also indicate that, upon resolution of the appeal, there may be additional taxes due~~  
102 ~~or a refund issued."~~

103 "(III) If the final determination of value on appeal is 85 percent or less of the  
104 valuation set by the county board of equalization, hearing officer, or arbitrator as to  
105 any real property, the taxpayer, in addition to the interest provided for in subsection  
106 (m) of this Code section, shall recover costs of litigation and reasonable attorney's  
107 fees incurred in the action. Any appeal of an award of attorney's fees by the county  
108 shall be specifically approved by the governing authority of the county. An award  
109 of attorney's fees shall be limited to 50 percent of the difference between the tax  
110 liability of the final determination of valuation on appeal and the valuation being  
111 appealed, but no greater than \$30,000.00. No attorney's fees shall be awarded to  
112 any taxpayer upon a showing by a preponderance of the evidence that such taxpayer  
113 failed to produce all documentation as required by this part."

114 "(g.1)(1) **Valuation.** The provisions in subsection (c) of Code Section 48-5-299 shall  
115 apply to the valuation, unless otherwise waived in writing by both parties, as to:

- 116 (1) (A) The valuation established or announced by any county board of equalization,  
117 arbitrator, hearing officer, or superior court; and  
118 (2) (B) Any written agreement or settlement of valuation reached by the county board  
119 of tax assessors and the taxpayer as permitted by this Code section.

120 (2) No parcel to which the provisions in subsection (c) of Code Section 48-5-299 are  
121 applicable at the time of an appeal pursuant to this Code section shall be considered in  
122 the rendering of a final determination of value on appeal.

123 (3) Any valuation method, including comparative sales of commercial real estate, may  
124 be considered in the rendering of a final determination of value on appeal."

125 **SECTION 3.**

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