

House Bill 1618

By: Representative Lim of the 99th

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 ad valorem taxation of property generally, so as to authorize local governments
3 to establish corporate-community investment zones in qualified areas; to provide for lower
4 valuation for property subject to a contract in such zones; to provide for a rebuttable
5 presumption; to provide for adoption of ordinances; to provide for fees; to provide for
6 contracts; to provide for definitions; to provide for related matters; to provide for a
7 contingent effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad
11 valorem taxation of property generally, is amended by revising paragraph (3) of Code
12 Section 48-5-2, relating to definitions, as follows:

13 "(3) 'Fair market value of property' means the amount a knowledgeable buyer would pay
14 for the property and a willing seller would accept for the property at an arm's length, bona
15 fide sale. Except as otherwise provided in Code Section 48-5-13.1 regarding
16 corporate-community investment zones, the The income approach, if data are available,

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shall be considered in determining the fair market value of income-producing property. If actual income and expense data are voluntarily supplied by the property owner, such data shall be considered in such determination. Notwithstanding any other provision of this chapter to the contrary, the transaction amount of the most recent arm's length, bona fide sale in any year shall be the maximum allowable fair market value for the next taxable year. With respect to the valuation of equipment, machinery, and fixtures when no ready market exists for the sale of the equipment, machinery, and fixtures, fair market value may be determined by resorting to any reasonable, relevant, and useful information available, including, but not limited to, the original cost of the property, any depreciation or obsolescence, and any increase in value by reason of inflation. Each tax assessor shall have access to any public records of the taxpayer for the purpose of discovering such information.

(A) In determining the fair market value of a going business where its continued operation is reasonably anticipated, the tax assessor may value the equipment, machinery, and fixtures which are the property of the business as a whole where appropriate to reflect the accurate fair market value.

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

- (i) Existing zoning of property;
- (ii) Existing use of property, including any restrictions or limitations on the use of property resulting from state or federal law or rules or regulations adopted pursuant to the authority of state or federal law;
- (iii) Existing covenants or restrictions in deed dedicating the property to a particular use;
- (iv) Bank sales, other financial institution owned sales, or distressed sales, or any combination thereof, of comparable real property;

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

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

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

(II) In establishing the value of any property subject to rent restrictions under the income approach, any income tax credits described in division (vi) of this subparagraph that are attributable to property may be considered in determining the fair market value of the property, provided that such income tax credits generate actual income to the record holder of title to the property; and

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

(B.1) The tax assessor shall not consider any income tax credits with respect to real property which are claimed and granted pursuant to either Section 42 of the Internal

Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair market value of real property.

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) Fair market value of 'qualified timberland property' means the fair market value determined in accordance with Article 13 of this chapter."

SECTION 2.

Said article is further amended by adding a new Code section to read as follows:

"48-5-7.8.

(a) For purposes of this Code section, the term:

(1) 'Comparable lands' means lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

(2) 'Representative sales information' means information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

(b) In the assessment of land subject to a contract entered into pursuant to Code Section 48-5-34, such land shall be valued for assessment at the rate of 85 percent of its fair market value.

(c) In the assessment of land subject to a contract entered into pursuant to Code Section 48-5-34, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. Such restrictions shall include, but are not limited to, the following:

(1) Zoning;

(2) Recorded contracts with governmental agencies;

(3) Environmental constraints applied to the use of land pursuant to provisions of statutes;

(4) Hazardous waste land use restriction pursuant to Part 1 of Article 3 of Chapter 8 of Title 12;

(5) A recorded easement pursuant to Code Section 48-7-29.12; and

(6) A solar-use easement pursuant to Article 2 of Chapter 9 of Title 44.

(d) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

(e) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.

(f) In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.

(g) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales information of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions."

SECTION 3.

Said article is further amended by adding a new Code section to read as follows:

"48-5-34.

(a) For purposes of this Code section, the term:

(1) 'Corporate-community investment zone' means an area within a city, county, or consolidated government that is comprised of individual properties designated by the county or the consolidated government for investment in the manner prescribed by this Code section.

(2) 'Qualified area' means any area which is within or adjacent to one or more contiguous census block groups with a poverty rate of 15 percent or greater, as determined from data in the most current United States decennial census, where the area is also included within a state enterprise zone pursuant to Chapter 88 of Title 36 or where a redevelopment plan has been adopted pursuant to Chapter 61 of Title 36 and, which, in the opinion of the commissioner of community affairs and the commissioner of economic development, displays pervasive poverty, underdevelopment, general distress, and blight.

(b)(1) A city, county, or consolidated government may, after a public hearing, establish by ordinance a corporate-community investment zone in a qualified area within its boundaries for the purpose of entering into enforceable contracts with landowners, on a voluntary basis, for the use of land in the manner prescribed by this Code section.

(2)(A) Following the adoption of the ordinance pursuant to paragraph (1) of this subsection, a city, county, or consolidated government that has established a corporate-community investment zone within its boundaries may adopt rules and regulations consistent with the city's, county's, or consolidated government's zoning and other ordinances for the implementation and administration of the corporate-community investment zone and of contracts related to such corporate-community investment zone.

(B) The city, county, or consolidated government may impose a fee upon contracting landowners for the reasonable costs of implementing and administering contracts.

(C) The city, county, or consolidated government shall impose a fee equal to the cumulative value of the tax benefit received during the duration of the contract upon landowners for cancellation of any contract prior to the expiration of the contract, unless the city, county, or consolidated government makes a determination that the cancellation was caused by extenuating circumstances despite the good faith effort by the landowner.

(c) Following the adoption of the ordinance as required by subsection (b) of this Code section, a city, county, or consolidated government may enter into a contract with a

landowner to enforceably restrict the use of the land subject to the contract to uses consistent with corporate investment in communities. Any contract entered into pursuant to this chapter shall include, but not be limited to, all of the following provisions:

(1) An initial term of not less than five years;

(2) A requirement that the landowner conducts business on the property;

(3) A requirement that the property restrict at least one acre for public communal space, on which the landowner shall hold at least one event every six months for the benefit of the community;

(4) A requirement that, in performing any construction or physical development of the property, the landowner shall ensure that at least 50 percent of the total hours of labor by the subcontractors, and/or their agents for property, commodities, and services for the state, have been performed by local residents of the county or city where the project site or sites are located;

(5) A requirement that the landowner provide an apprenticeship program at the property under the meaning of 38 U.S.C. Section 3687;

(6) A requirement that the property contain a childcare facility that may be used by employees of the landowner at this location, and employees of any lessors of the property conducting business in this location;

(7) A requirement that the landowner implement a commuter benefits program for the landowner's employees on the property that allows an employee to receive up to the maximum limit for such benefits as defined in 26 U.S.C. Section 132; and

(8) A notification that if a landowner cancels a contract, a city, county, or consolidated government is required to assess a cancellation fee pursuant to subparagraph (b)(2)(C) of this Code section.

(d) Property subject to a contract entered into pursuant to this chapter shall be assessed pursuant to Code Section 48-5-7.8 during the term of the contract.

227 (e) A county or a consolidated government shall not establish a corporate-community
228 investment zone within any portion of the corporate limits of a city unless the governing
229 body of the city has consented to the establishment of such corporate-community
230 investment zone."

231 **SECTION 4.**

232 This Act shall become effective on January 1, 2023, only if an amendment to the
233 Constitution authorizing the General Assembly to provide by law for community investment
234 zones is ratified by the voters at the November, 2022, state-wide general election. If such
235 an amendment is not so ratified, then this Act shall not become effective and shall stand
236 repealed on December 31, 2022.

237 **SECTION 5.**

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