Senate Bill 511

By: Senators Anderson of the 24th, Dugan of the 30th, Mullis of the 53rd, Miller of the 49th, Walker III of the 20th and others

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to creation of county boards of equalization, duties, review of assessments, and appeals, so as to revise certain deadlines for the handling of appeals of property tax assessments; to revise certain notice requirements; to revise provisions for certain automatic judgements; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to creation of county boards of equalization, duties, review of assessments, and appeals, is amended in subsection (e), relating to appeals, by revising paragraphs (3) and (6) as follows:

"(3)(A) In each year, the county board of tax assessors shall review the appeal and notify the taxpayer:

(i) ~~if~~ If there are no changes or corrections in the valuation or decision~~.~~;; or

(ii) ~~of~~ Of any corrections or changes within ~~180~~ 90 days after receipt of the taxpayer's notice of appeal. If the county board of tax assessors fails to respond to the taxpayer

within such ~~180~~ 90 day period, ~~the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal. If no such assertion of value was submitted by the taxpayer,~~ the appeal shall be forwarded to the county board of equalization.

(B) In any county in which the number of appeals exceeds a number equal to or greater than 3 percent of the total number of parcels in the county or the sum of the current assessed value of the parcels under appeal is equal to or greater than 3 percent of the gross tax digest of the county, the county board of tax assessors may be granted an additional 180 day period to make its determination and notify the taxpayer. However, as a condition to receiving such an extension, the county board of tax assessors shall, at least 30 days before the expiration of the 180 day period provided under subparagraph (A) of this paragraph, notify each affected taxpayer of the additional 180 day review period provided in this subparagraph by mail or electronic communication, including posting notice on the website of the county board of tax assessors if such a website is available. Such additional period shall commence immediately following the last day of the 180 days provided for under subparagraph (A) of this paragraph. If the county board of tax assessors fails to review the appeal and notify the taxpayer of either no changes or of any corrections or changes not later than the last day of such additional 180 day period, then the most recent property tax valuation asserted by the taxpayer on the property tax return or on appeal shall prevail and shall be deemed the value established on such appeal unless a time extension is granted under subparagraph (C) of this paragraph. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

(C) Upon a sufficient showing of good cause by reason of unforeseen circumstances proven to the commissioner at least 30 days prior to the expiration of the additional 180 day period provided for under subparagraph (B) of this paragraph, the commissioner

shall be authorized, in the commissioner's sole discretion, to provide for a time extension beyond the end of such additional 180 day period. The duration of any such time extension shall be specified in writing by the commissioner and, at least 30 days prior to the expiration of the extension provided for under subparagraph (B) of this paragraph, shall be sent to each affected taxpayer and shall also be posted on the website of the county board of tax assessors if such a website is available. If the county board of tax assessors fails to make its review and notify the taxpayer and the taxpayer's attorney not later than 30 days before the last day of such time extension, the most recent property tax valuation asserted by the taxpayer on the property tax return or on the taxpayer's notice of appeal shall prevail and shall be deemed the value established on such appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization. In addition, the commissioner shall be authorized to require additional training or require such other remediation as the commissioner may deem appropriate for failure to meet the deadline imposed by the commissioner under this subparagraph."

"(6)(A) Within ~~15~~ 90 days of the receipt of the notice of appeal, the county board of equalization shall ~~set a date for~~ hold a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing. Such notice shall be sent by first-class mail or email, if an email is provided by the appellant, to the taxpayer and to any authorized agent or representative of the taxpayer to whom the taxpayer has requested that such notice be sent. Such notice shall be transmitted by email to the county board of tax assessors if such board has adopted a written policy consenting to electronic service, and, if it has not, then such notice shall be sent to such board by first-class mail or intergovernmental mail. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by the other party. Such request ~~must~~ shall be made not less than ten days prior to the hearing date, and such information shall be

provided to the requesting party not less than seven days prior to the time of the hearing. Any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witness, documents, or other written evidence. A taxpayer may appear before the board of equalization concerning any appeal in person, by his or her authorized agent or representative, or both. The appeal administrator, in his or her discretion and with the consent of all parties, may alternatively conduct the hearing by audio or video teleconference or any other remote communication medium. The taxpayer shall specify in writing to the board of equalization the name of any such agent or representative prior to any appearance by the agent or representative before the board.

(B) ~~Within 30 days of the date of notification to the taxpayer of the hearing required in this paragraph but not earlier than 20 days from the date of such notification to the taxpayer, the county board of equalization shall hold such hearing to determine the questions presented~~ If there is no hearing scheduled by the appeal administrator within 180 days from the date of appeal, the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal.

(C) If more than one property of a taxpayer is under appeal, the board of equalization shall, upon request of the taxpayer, consolidate all such appeals in one hearing and announce separate decisions as to each parcel or item of property. Any appeal from such a consolidated board of equalization hearing to the superior court as provided in this subsection shall constitute a single civil action, and, unless the taxpayer specifically so indicates in his or her notice of appeal, shall apply to all such parcels or items of property.

(D)(i) The board of equalization shall announce its decision on each appeal at the conclusion of the hearing held in accordance with subparagraph (B) of this paragraph

before proceeding with another hearing. The decision of the county board of equalization shall:

(I) Be ~~be~~ in writing~~,~~;

(II) Be ~~shall be~~ signed by each member of the board~~,~~;

(III) Specifically ~~shall specifically~~ decide each question presented by the appeal~~,~~;

(IV) Specify ~~shall specify~~ the reason or reasons for each such decision as to the specific issues of taxability, uniformity of assessment, value, or denial of homestead exemptions depending upon the specific issue or issues raised by the taxpayer in the course of such taxpayer's appeal~~,~~;

(V) State ~~shall state~~ that with respect to the appeal no member of the board is disqualified from acting by virtue of subsection (j) of this Code section~~,~~; and

(VI) Certify ~~shall certify~~ the date on which notice of the decision is given to the parties. Notice of the decision shall be delivered by hand to each party, with written receipt, or given to each party by sending a copy of the decision by electronic means with receipt confirmation, registered or certified mail, or statutory overnight delivery to the appellant and by filing the original copy of the decision with the county board of tax assessors. Each of the three members of the county board of equalization ~~must~~ shall be present and ~~must~~ shall participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board shall sign the decision indicating their vote.

(ii) Except as otherwise provided in subparagraph (g)(4)(B) of this Code section, the county board of tax assessors shall use the valuation of the county board of equalization in compiling the tax digest for the county for the year in question and shall indicate such valuation as the previous year's value on the property tax notice of assessment of such taxpayer for the immediately following year rather than substituting the valuation which was changed by the county board of equalization.

(iii)(I) If the county's tax bills are issued before an appeal has been finally determined, the county board of tax assessors shall specify to the county tax commissioner the lesser of the valuation in the last year for which taxes were finally determined to be due on the property or 85 percent of the current year's value, unless the property in issue is homestead property and has been issued a building permit and structural improvements have occurred, or structural improvements have been made without a building permit, in which case, it shall specify 85 percent of the current year's valuation as set by the county board of tax assessors. Depending on the circumstances of the property, this amount shall be the basis for a temporary tax bill to be issued; provided, however, that a nonhomestead owner of a single property valued at $2 million or more may elect to pay the temporary tax bill which specifies 85 percent of the current year's valuation; or, such owner may elect to pay the amount of the difference between the 85 percent tax bill based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due on the property in conjunction with the amount of the tax bill based on valuation from the last year for which taxes were finally determined to be due on the property, to the tax commissioner's office. Only the amount which represents the difference between the tax bill based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due will be held in an escrow account by the tax commissioner's office. Once the appeal is concluded, the escrowed funds shall be released by the tax commissioner's office to the prevailing party. The taxpayer may elect to pay the temporary tax bill in the amount of 100 percent of the current year's valuation if no substantial property improvement has occurred. The county tax commissioner shall have the authority to adjust such tax bill to reflect the 100 percent value as requested by the taxpayer. Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending the outcome of

the appeal process. Such notice shall also indicate that, upon resolution of the appeal, there may be additional taxes due or a refund issued.

(II) For the purposes of this Code section, any final value that causes a reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes with interest, as provided in subsection (m) of this Code section.

(III) For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section."

SECTION 2.

Said Code section is further amended in subsection (e.1), relating to appeals to hearing officer, by revising paragraphs (5) and (6) as follows:

"(5) The county board of tax assessors may for no more than ~~90~~ 60 days review the taxpayer's written appeal, and if changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. Within ~~30~~ 15 days of the county board of tax assessors' mailing of such notice, the taxpayer may notify the county board of tax assessors in writing that the changes or corrections made by the county board of tax assessors are not acceptable, in which case, the county board of tax assessors shall, within ~~30~~ 15 days of the date of mailing of such taxpayer's notification, send or deliver all necessary documentation to the appeal administrator, in paper or electronic format as agreed upon by the county board of tax assessors and appeal administrator, and mail a copy to the taxpayer or, alternatively, forward the appeal to the board of equalization if so elected by the taxpayer and such election is included in the taxpayer's notification that the changes are not acceptable. If, after review, the county board of tax assessors determines that no changes or corrections are warranted, the county

board of tax assessors shall notify the taxpayer of such decision. The taxpayer may elect to forward the appeal to the board of equalization by notifying the county board of tax assessors within ~~30~~ 15 days of the mailing of the county board of tax assessor's notice of no changes or corrections. Upon the expiration of ~~30~~ 15 days following the mailing of the county board of tax assessors' notice of no changes or corrections, the county board of tax assessors shall certify the notice of appeal and send or deliver all necessary documentation to the appeal administrator, in paper or electronic format as agreed upon by the county board of tax assessors and appeal administrator, for the appeal to the hearing officer, or board of equalization if elected by the taxpayer, and mail a copy to the taxpayer. If the county board of tax assessors fails to respond in writing, either with changes or no changes, to the taxpayer within ~~180~~ 90 days after receiving the taxpayer's notice of appeal, the ~~property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under~~ appeal shall be forwarded to the appeal administrator.

(6)(A) The appeal administrator shall randomly select from such list a hearing officer who shall have experience or expertise in hearing or appraising the type of property that is the subject of appeal to hear the appeal, unless the taxpayer and the county board of tax assessors mutually agree upon a hearing officer from such list. The appeal administrator shall notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section of the name of the hearing officer and transmit a copy of the hearing officer's disqualification questionnaire and resume provided for under paragraph (2) of this subsection. If no hearing officer is appointed or if no hearing is scheduled within 180 days after the county board of tax assessors receives the taxpayer's notice of appeal, the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal, and subsection

(c) of Code Section 48-5-299 shall apply. The h~~earing officer~~ appeal administrator, in conjunction with all parties to the appeal and the hearing officer, shall set a time and place to hear evidence and testimony from both parties. The hearing shall take place in the county where the property is located, or such other place as mutually agreed to by the parties and the hearing officer. The hearing officer shall provide electronic or written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by the other party. Such request ~~must~~ shall be made not less than ten days prior to the hearing date, and such information shall be provided to the requesting party not less than seven days prior to the time of the hearing. Any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witnesses, documents, or other written evidence.

(B) If the appeal administrator, after a diligent search, cannot find a qualified hearing officer who is willing to serve, the appeal administrator shall transfer the certification of the appeal to the county or regional board of equalization and notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section and the county board of tax assessors of the transmittal of such appeal."

SECTION 3.

This Act shall become effective on January 1, 2023, and shall be applicable to appeals first made on or after January 1, 2023.

SECTION 4.

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