

Senate Bill 584

By: Senators Burns of the 23rd, Anavitarte of the 31st, Dickerson of the 21st, Strickland of the 42nd, Hatchett of the 50th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-11-23 and Article 7 of Chapter 5 of Title 48 of the Official Code
2 of Georgia Annotated, relating to class actions and miscellaneous local administrative
3 provisions relative to ad valorem taxation of property, respectively, so as to prohibit class
4 action suits by taxpayers for refunds; to provide for related matters; to provide for an
5 effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class actions,
9 is amended by revising subsection (e) as follows:

10 "(e) ~~A~~ Except as otherwise provided in subsection (h) of Code Section 48-5-380, a class
11 action shall not be dismissed or compromised without the approval of the court, and notice
12 of the proposed dismissal or compromise shall be given to all members of the class in such
13 manner as the court directs."

SECTION 2.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

Article 7 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to miscellaneous local administrative provisions relative to ad valorem taxation of property, is amended by revising Code Section 48-5-380, relating to refunds of taxes and license fees by counties and municipalities, time and manner of filing claims and actions for refund, and authority to approve or disapprove claims, as follows:

"48-5-380.

(a) As provided in this Code section, each county and municipality shall refund to taxpayers any and all taxes and license fees:

(1) Which are determined to have been erroneously or illegally assessed and collected from the taxpayers under the laws of this state or under the resolutions or ordinances of any county or municipality; or

(2) Which are determined to have been voluntarily or involuntarily overpaid by the taxpayers.

(a.1) If property owners have been billed and have remitted property tax payments to either a county or a municipality based on the fair market value of the land and subsequently the fair market value of such land is reduced on an appeal, then the county or the municipality shall reimburse the property owner the difference between tax remitted and the final tax owed for each year in which the incorrect fair market value of the land was used in the calculations.

(b) Any taxpayer from whom a tax or license fee was collected who alleges that such tax or license fee was collected illegally or erroneously may file a claim for a refund with the governing authority of the county or municipality at any time within one year or, in the case of taxes, three years after the date of the payment of the tax or license fee to the county or municipality. The claim for refund shall be in writing and shall be in the form and shall contain the information required by the appropriate governing authority. The claim shall include a summary statement of the grounds upon which the taxpayer relies.

41 In the event the taxpayer desires a conference or hearing before the governing authority in
42 connection with any claim for a refund, the taxpayer shall so specify in writing in the
43 claim. If the claim conforms to the requirements of this Code section, the governing
44 authority shall grant a conference at a time specified by the governing authority. The
45 governing authority shall consider information contained in the taxpayer's claim for a
46 refund and such other information as is available. The governing authority shall approve
47 or disapprove the taxpayer's claim and shall notify the taxpayer of its action. In the event
48 any claim for refund is approved, the governing authority shall proceed under
49 subsection (a) of this Code section to give effect to the terms of that subsection. No refund
50 provided for in this Code section shall be assignable. Submitting a request for refund to
51 the governing authority is not a prerequisite to bringing suit.

52 (c) The filing of a request for a refund with the governing authority under subsection (b)
53 of this Code section shall act to stay the time period for initiating suit for a refund.
54 Following the filing of a request for refund with the governing authority, no suit may be
55 commenced until the earlier of the governing authority's denial of the request for refund
56 or the expiration of 90 days from the date of filing the claim. Alternatively, any taxpayer
57 may forgo requesting a refund from the governing authority under subsection (b) of this
58 Code section and elect to proceed directly to filing suit.

59 (d) Any refunds approved or allowed under this Code section shall be paid from funds of
60 the county, the municipality, the county board of education, the state, or any other entity
61 to which the taxes or license fees were originally paid. Refunds shall be paid within 60
62 days of the approval of the taxpayer's claim or within 60 days of the entry of a final
63 decision in any action for a refund.

64 (e) The governing authority of any county, by resolution, and the governing authority of
65 any municipality, by ordinance, shall adopt rules and regulations governing the
66 administration of this Code section and may delegate the administration of this Code
67 section, including the approval or disapproval of claims where the reason for the claim is

68 based on an obvious clerical error, to an appropriate department in local government. In
69 disputed cases where there is no obvious error, the approval or disapproval of claims may
70 not be delegated by the governing authority.

71 (f) Nothing contained in subsections (b) or (c) of this Code section shall be deemed the
72 exclusive remedy to seek a refund nor deprive taxpayers of the right to seek a refund
73 mandated by subsection (a) by any other cause of action available at law or equity.

74 (g) Under no circumstances may a suit for refund be commenced more than five years
75 from the date of the payment of taxes or fees at issue.

76 (h) A claim, action, or suit for refund shall not be submitted or maintained by the taxpayer
77 on behalf of a class consisting of other taxpayers."

78 **SECTION 3.**

79 This Act shall become effective upon its approval by the Governor or upon its becoming law
80 without such approval.

81 **SECTION 4.**

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