

The Senate Committee on Finance offered the following substitute to SB 576:

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 relative to ad valorem taxation of property, so as to provide for
3 assessment of tangible real property used for community housing provider properties; to
4 provide for supporting affidavits; to provide for definitions; to provide for related matters;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to
9 general provisions relative to ad valorem taxation of property, is amended in Code
10 Section 48-5-2, relating to definitions regarding ad valorem taxation of property generally,
11 by revising paragraph (3) and adding new paragraphs to read as follows:

12 “(2) 'Community housing provider' means:

13 (A) A housing provider that is either a natural person, a nonprofit corporation, or a
14 charitable organization; or

15 (B) A Subchapter 'S' corporation, limited liability company, or partnership that does
16 not own in excess of 500 properties in this state, either directly or indirectly, in common

17 ownership with any corporation, association, partnership, limited liability company,
18 limited partnership, trust, issuer, or other private legal entity organized under the laws
19 of this state, the United States, the District of Columbia, or any other state, territory, or
20 dependency of the United States or under the laws of a foreign country."

21 "(3) 'Fair market value of property' means the amount a knowledgeable buyer would pay
22 for the property and a willing seller would accept for the property at an arm's length, bona
23 fide sale. The income approach, if data are available, shall be considered in determining
24 the fair market value of income-producing property. If actual income and expense data
25 are voluntarily supplied by the property owner, such data shall be considered in such
26 determination. A housing provider that is not a community housing provider shall
27 provide the tax assessor the data necessary to use an income approach, upon request of
28 the tax assessor. With respect to the valuation of equipment, machinery, and fixtures
29 when no ready market exists for the sale of the equipment, machinery, and fixtures, fair
30 market value may be determined by resorting to any reasonable, relevant, and useful
31 information available, including, but not limited to, the original cost of the property, any
32 depreciation or obsolescence, and any increase in value by reason of inflation. Each tax
33 assessor shall have access to any public records of the taxpayer for the purpose of
34 discovering such information.

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

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

41 (i) Existing zoning of property;

- 42 (ii) Existing use of property, including any restrictions or limitations on the use of
43 property resulting from state or federal law or rules or regulations adopted pursuant
44 to the authority of state or federal law;
- 45 (iii) Existing covenants or restrictions in deed dedicating the property to a particular
46 use;
- 47 (iv) Bank sales, other financial institution owned sales, or distressed sales, or any
48 combination thereof, of comparable real property;
- 49 (v) Decreased value of the property based on limitations and restrictions resulting
50 from the property being in a conservation easement;
- 51 (vi) Rent limitations, higher operating costs resulting from regulatory requirements
52 imposed on the property, and any other restrictions imposed upon the property in
53 connection with the property being eligible for any income tax credits with respect to
54 real property which are claimed and granted pursuant to either Section 42 of the
55 Internal Revenue Code of 1986, as amended, or Chapter 7 of this title or receiving any
56 other state or federal subsidies provided with respect to the use of the property as
57 residential rental property; provided, however, that properties described in this
58 division shall not be considered comparable real property for the assessment or appeal
59 of assessment of properties not covered by this division;
- 60 (vii)(I) In establishing the value of any property subject to rent restrictions under
61 the sales comparison approach, any income tax credits described in division (vi) of
62 this subparagraph that are attributable to a property may be considered in
63 determining the fair market value of the property, provided that the tax assessor uses
64 comparable sales of property which, at the time of the comparable sale, had unused
65 income tax credits that were transferred in an arm's length, bona fide sale.
- 66 (II) In establishing the value of any property subject to rent restrictions under the
67 income approach, any income tax credits described in division (vi) of this
68 subparagraph that are attributable to property may be considered in determining the

69 fair market value of the property, provided that such income tax credits generate
70 actual income to the record holder of title to the property; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

128 "(7) 'Housing provider' means an owner of a single-family residential property which
129 owner does not reside in the property, but offers the property, for a fee, to another to be
130 used as a residence.

131 (8) 'Housing provider services' means providing a single-family residential property to
132 another, for a fee, to be used as the residence of an individual other than the owner of the
133 property."

134 **SECTION 2.**

135 Said article is further amended in Code Section 48-5-7, relating to assessment of tangible
136 property, by adding a new subsection to read as follows:

137 "(c.7)(1)(A) Except as provided in subparagraph (B) of this paragraph, tangible real
138 property used for housing provider services and owned by a housing provider may be
139 assessed for ad valorem property tax purposes at 100 percent of the value which other
140 tangible real property is assessed and shall be taxed on a levy made by each respective
141 tax jurisdiction according to said assessment.

142 (B) Tangible real property used for housing provider services and owned by a
143 community housing provider shall be assessed for ad valorem property tax purposes at
144 40 percent of the value which other tangible real property is assessed and shall be taxed
145 on a levy made by each respective tax jurisdiction according to said assessment.

146 (2) The tax assessor may require an authorized representative of a community housing
147 provider to file, not later than April 1 of each year, a sworn affidavit establishing that
148 tangible real property is not used for housing provider services or that such community
149 housing provider is in fact a community housing provider."

150

SECTION 3.

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