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# **GEORGIA DEPARTMENT OF REVENUE**

## **LOCAL GOVERNMENT SERVICES DIVISION**

# 2015 CAVEAT

*May 2015*



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# LEGISLATION





House Bill 48 (AS PASSED HOUSE AND SENATE)

By: Representatives Coleman of the 97<sup>th</sup>, Rice of the 95<sup>th</sup>, and Jones of the 53<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to provide for a special and distinctive motor vehicle license plate for public safety first responders who have received a major injury in the line of duty; to provide for standards for the issuance of such license plates; to provide for applicable fees; to provide for authority to establish rules and regulations; to provide for a definition of "disabled veteran"; to provide for issuance of free motor vehicle license plates to disabled veterans; to provide for eligibility; to provide for revalidation of such license plates; to provide for the transfer of such license plates upon death; to provide for issuance of special and distinctive license plates for use on motorcycles; to extend eligibility to apply for such license plates to include a surviving spouse of a sibling of the service member; to provide for a minimum number of applicants prior to issuance of a new special license plate; to provide for a special and distinctive motor vehicle license plate for members of the Georgia State Defense Force; to amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to provide for a definition of "disabled veteran" for homestead exemption purposes; to provide for an exemption to motor vehicle ad valorem taxes for disabled veterans; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, is amended by adding a new Code section to read as follows:

"40-2-63.1.

(a) Any law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder who has

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sustained a major injury through no fault of his or her own during the competent performance of his or her official duties shall, upon application therefor, be issued a special and distinctive motor vehicle license plate upon presentation of proof that such individual is entitled to receive such special license plate. Application for such license plates shall include payment of a manufacturing fee of \$25.00. For purposes of this Code section, a major injury shall be one that was of sufficient seriousness as to require hospitalization or comparable medical treatment and which resulted in permanent disability or disfigurement of the body.

(b) License plates issued pursuant to this Code section need not contain a place for the county name decal, and a county name decal need not be affixed to a license plate issued pursuant to this Code section. Special and distinctive license plates issued pursuant to this Code section shall be renewed annually, and revalidation decals shall be issued upon compliance with the laws relating to registration and licensing and upon payment of an additional registration fee of \$35.00 which shall be collected by the county tag agent at the time for collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The special license plates issued pursuant to this Code section shall be transferred to another vehicle as provided in Code Section 40-2-80.

(c) The commissioner is authorized and directed to design the license plate, establish procedures, establish standards for proof of eligibility, and promulgate rules and regulations to effectuate the purposes of this Code section."

## **SECTION 2.**

Said article is further amended by revising Code Section 40-2-69, relating to free license plates and revalidation decals for certain disabled veterans, as follows:

"40-2-69.

~~(a) Any disabled veteran who was discharged under honorable conditions and who served on active duty in the armed forces of the United States or on active duty in a reserve component of the United States, including the National Guard, who is a citizen and resident of this state shall, upon application therefor, be issued a free motor vehicle license plate, upon presentation of proof that such veteran is receiving or that he or she is entitled to receive a statutory award from the United States Department of Veterans Affairs for~~ As used in this Code section, the term 'disabled veteran' means any veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally disabled or as being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability and is entitled to receive a statutory award from the United States Department of Veterans Affairs for:



- (1) Loss or permanent loss of use of one or both feet;
- (2) Loss or permanent loss of use of one or both hands;
- (3) Loss of sight in one or both eyes; or
- (4) Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye.

(b) Any disabled veteran ~~who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally disabled and entitled to receive service connected benefits~~ shall, upon application therefor, be issued a free motor vehicle license plate upon presentation of proof that he or she ~~is receiving or that he or she is entitled to receive benefits for a 100 percent service connected disability, as long as he or she is 100 percent disabled~~ qualifies as a disabled veteran. A disabled veteran who claims that ~~such 100 percent total~~ his or her disability is permanent shall furnish proof of such permanent disability through a letter from the United States Department of Veterans Affairs.

(c)(1) Once a disabled veteran has established his or her eligibility to receive free motor vehicle license plates as a result of being permanently disabled, he or she shall be entitled to receive free plates or free revalidation decals in succeeding years on any automobile, private passenger pickup truck, motorcycle, station wagon, or van type vehicle of three-quarter tons or less that he or she may own or jointly with his or her spouse or minor child own or acquire in the future.

(2) Once a disabled veteran has established his or her eligibility to receive free motor vehicle license plates ~~as a result of having a 100 percent total disability which~~ but his or her disability has not been determined to be a permanent disability, he or she shall be entitled to receive free plates or free revalidation decals in succeeding years upon furnishing, on an annual basis, proof of ~~such 100 percent disability~~ his or her status as a disabled veteran through a letter from the United States Department of Veterans Affairs. Such free plates or free revalidation decals shall apply to any automobile, private passenger pickup truck, motorcycle, station wagon, or van type vehicle of three-quarter tons or less that he or she may own or jointly with his or her spouse or minor child own or acquire in the future.

(3)(A) Two license plates or revalidation decals each year shall be furnished for vehicles other than motorcycles to disabled veterans qualifying under this Code section unless the originals are lost. Such plates shall be fastened to both the front and the rear of the vehicle.

(B) One license plate or revalidation decal each year shall be furnished for motorcycles to disabled veterans qualifying under this Code section unless the original is lost. Such plate shall be fastened to the rear of the vehicle.

(4) In the event of the death of the person who received the special license plates pursuant to this Code section, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, his or her unremarried surviving spouse or minor child may continue to receive the free special license plates and revalidation decals until the remarriage of the surviving spouse or death of the surviving spouse or minor child."

## SECTION 2.1.

Said article is further amended by revising Code Section 40-2-81, which was previously reserved, as follows:

"40-2-81.

(a) For purposes of this Code section, the term 'Georgia State Defense Force' means that organization established pursuant to Part 3 of Article 1 of Chapter 2 of Title 38.

(b)(1) Motor vehicle and trailer owners who are members of the Georgia State Defense Force shall be eligible to receive special and distinctive vehicle license plates for private passenger cars, trucks, motorcycles, or recreational vehicles used for personal transportation. Such license plates shall be issued in compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles as prescribed in Article 2 of this chapter.

(2)(A) Motor vehicle and trailer owners who are members of the Georgia State Defense Force shall be issued upon application for and upon compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles a Georgia State Defense Force member license plate. One such license plate shall be issued without the requisite registration fee, manufacturing fee, or annual registration fee.

(B) Each member of the Georgia State Defense Force shall be entitled to no more than one such free license plate at a time; provided, however, that upon payment of a manufacturing fee of \$25.00, a member shall be entitled to one additional such license plate. For each additional license plate for which a \$25.00 manufacturing fee is required, there shall be an additional annual registration fee of \$25.00 which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34.

(c) The commissioner shall design a Georgia State Defense Force member license plate. The commissioner shall promulgate such rules and regulations as may be necessary to enforce compliance with all state license laws relating to the use and operation of private

passenger cars, trucks, motorcycles, and trailers before issuing these license plates in lieu of the regular Georgia license plates. The manufacturing fee for such special and distinctive license plates shall be \$25.00. The commissioner is specifically authorized to promulgate all rules and regulations necessary to ensure compliance in instances where such vehicles have been transferred or sold. Such plates shall be nontransferable.

(d) The special and distinctive vehicle license plates shall be as prescribed in Article 2 of this chapter for private passenger cars, trucks, motorcycles, and trailers used for personal transportation. Such plates shall contain such words or symbols, in addition to the numbers and letters prescribed by law, so as to identify distinctively the owners as members of the Georgia State Defense Force.

(e) The license plate issued pursuant to this Code section may be transferred between vehicles as provided in Code Section 40-2-80.

(f) Special license plates issued under this Code section, except as provided in subparagraph (b)(2)(A) of this Code section, shall be renewed annually with a revalidation decal as provided in Code Section 40-2-31 without payment of an additional \$25.00 annual registration fee.

(g) Should a member of the Georgia State Defense Force who has been issued a license plate or license plates be discharged or otherwise separated from the Georgia State Defense Force, the member shall forward his or her Georgia State Defense Force member license plate or plates to the commissioner along with a certificate to the effect that such person has been discharged or otherwise separated from the Georgia State Defense Force, and thereupon the commissioner shall issue a regular license plate, at no additional charge, to such former member of the Georgia State Defense Force to replace the Georgia State Defense Force member plate or plates.~~Reserved."~~

### SECTION 3.

Said article is further amended in Code Section 40-2-85.1, relating to special and distinctive license plates for veterans, by revising subsections (b), (c), and (d) as follows:

"(b)(1) Motor vehicle and trailer owners who are veterans of the armed forces of the United States, or who have received a military medal award, or persons who served during active military combat shall be eligible to receive special and distinctive vehicle license plates for private passenger cars, motorcycles, trucks, or recreational vehicles used for personal transportation. Such license plates shall be issued in compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles as prescribed in Article 2 of this chapter.

(2)(A) Motor vehicle and trailer owners who are veterans or have received a military medal award or served during active military combat shall be issued upon application

for and upon compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles a veteran's license plate, military medal award recipient license plate, or commemorative service license plate for service during active military combat. One such license plate shall be issued without the requisite registration fee, manufacturing fee, or annual registration fee.

(B) Each member or former member of the armed forces listed in this subsection shall be entitled to no more than one such free license plate at a time; provided, however, that upon payment of a manufacturing fee of \$25.00, a member shall be entitled to one additional such license plate. For each additional license plate for which a \$25.00 manufacturing fee is required, there shall be an additional annual registration fee of \$25.00 which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34.

(c) The commissioner shall design a veteran's license plate, a military medal award recipient license plate, and a license plate to commemorate service with the United States armed forces during active military combat. The commissioner shall promulgate such rules and regulations as may be necessary to enforce compliance with all state license laws relating to the use and operation of private passenger cars, motorcycles, trucks, and trailers before issuing these license plates in lieu of the regular Georgia license plates. The manufacturing fee for such special and distinctive license plates shall be \$25.00. The commissioner is specifically authorized to promulgate all rules and regulations necessary to ensure compliance in instances where such vehicles have been transferred or sold. Except as provided in subsection (e) of this Code section, such plates shall be nontransferable.

(d) The special and distinctive vehicle license plates shall be as prescribed in Article 2 of this chapter for private passenger cars, motorcycles, trucks, and trailers used for personal transportation. Such plates shall contain such words or symbols, in addition to the numbers and letters prescribed by law, so as to identify distinctively the owners as veterans of the armed forces of the United States, recipients of a military medal award, or persons who served during active military combat and shall additionally identify distinctly the owner as a veteran of one of the following branches of the armed forces: Army, Navy, Marines, Air Force, or Coast Guard."

#### SECTION 4.

Said article is further amended in Code Section 40-2-85.3, relating to special license plates honoring family members of service members killed in action, by revising subsections (d) and (f) as follows:

"(d) Any motor vehicle owner who is a resident of Georgia, other than one registering under the International Registration Plan, upon complying with state laws relating to registration and licensing of motor vehicles shall be issued such a special license plate upon application therefor. Special license plates issued under this Code section shall be renewed annually with a revalidation decal as provided in Code Section 40-2-31. Upon payment of all ad valorem taxes and other fees due at registration of a motor vehicle an eligible family member may apply for a Gold Star license plate. In order to qualify as an eligible family member for purposes of this Code section, the person must be ~~directly~~ related to the fallen service member as a spouse, mother, father, sibling, child, ~~or step-parent, or surviving spouse of such service member's sibling~~. One free license plate shall be allowed for the spouse, mother, and father, and they may purchase additional license plates for each motor vehicle they register in this state. Siblings, children, ~~or step-parents, or surviving spouses of siblings of service members~~ may purchase Gold Star license plates for motor vehicles registered in this state. The cost of a Gold Star license plate shall be established by the department, but shall not exceed the cost of other specialty license plates. If a Gold Star license plate is lost, damaged, or stolen, the eligible family member must pay the reasonable cost, to be established by the department, but not to exceed the cost of other specialty license plates, to replace the Gold Star license plate."

"(f) A free Gold Star license plate shall be issued only to the spouse, mother, and father of service members who resided in Georgia at the time of the death of the service member. However, an eligible family member, except for nonresident siblings or surviving spouses of such nonresident siblings, who was not a resident of Georgia at the time of the death of the service member may purchase a Gold Star license plate, at a cost to be established by the department, not to exceed the cost of other specialty license plates."

## SECTION 5.

Said article is further amended in Code Section 40-2-86, relating to special license plates promoting certain beneficial projects and supporting certain worthy agencies, funds, or nonprofit corporations, by revising subsection (g) as follows:

"(g) On or after July 1, 2010, no special license plate authorized pursuant to subsections (l), (m), and (n) of this Code section shall be issued except upon the receipt by the department of at least 1,000 prepaid applications along with the manufacturing fees. The special license plate shall have an application period of two years after the date on which the application period becomes effective for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fees, and all fees shall be refunded to applicants; provided,

243 however, that once the department has received 1,000 prepaid applications along with the  
 244 manufacturing fees, the sponsor shall not be entitled to a refund."

245 **SECTION 6.**

246 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem  
 247 taxation of property, is amended in Code Section 48-5-48, relating to eligibility and filing  
 248 requirements for homestead extension for a qualified disabled veteran, by revising paragraph  
 249 (1) of subsection (a) as follows:

250 "(1) ~~A wartime veteran who was discharged under honorable conditions and who has~~  
 251 ~~been adjudicated by the Department of Veterans Affairs of the United States as being~~  
 252 ~~totally and permanently disabled and entitled to receive service-connected benefits so~~  
 253 ~~long as he or she is 100 percent disabled and receiving or entitled to receive benefits for~~  
 254 ~~a 100 percent service-connected disability~~ Any veteran who was discharged under  
 255 honorable conditions and who has been adjudicated by the United States Department of  
 256 Veterans Affairs as being 100 percent totally disabled or as being less than 100 percent  
 257 totally disabled but is compensated at the 100 percent level due to individual  
 258 unemployability and is entitled to receive a statutory award from the United States  
 259 Department of Veterans Affairs for:

260 (A) Loss or permanent loss of use of one or both feet;  
 261 (B) Loss or permanent loss of use of one or both hands;  
 262 (C) Loss of sight in one or both eyes; or  
 263 (D) Permanent impairment of vision of both eyes of the following status: central visual  
 264 acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity  
 265 of more than 20/200 if there is a field defect in which the peripheral field has contracted  
 266 to such an extent that the widest diameter of visual field subtends an angular distance  
 267 no greater than 20 degrees in the better eye;"

268 **SECTION 7.**

269 Said chapter is further amended by revising Code Section 48-5-478, relating to constitutional  
 270 exemption from ad valorem taxation for disabled veterans, as follows:

271 "48-5-478.

272 (a) A motor vehicle owned by or leased to a disabled veteran who is a citizen and resident  
 273 of Georgia this state and on which such disabled veteran actually places the free disabled  
 274 veteran motor vehicle license plate he or she receives from the State of Georgia pursuant  
 275 to Code Section 40-2-69 is hereby exempted from all ad valorem taxes for state, county,  
 276 municipal, and school purposes. The As used in this Code section, the term 'disabled  
 277 veteran,' as used in this Code section, means any wartime veteran who was discharged

under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally ~~and permanently disabled~~ or as being less than 100 percent totally disabled but is being compensated at the 100 percent level due to individual unemployability and ~~is~~ is entitled to receive ~~service-connected~~ service connected benefits and any veteran who is receiving or who is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

(1) Loss or permanent loss of use of one or both feet;

(2) Loss or permanent loss of use of one or both hands;

(3) Loss of sight in one or both eyes; or

(4) Permanent impairment of vision of both eyes of the following status: ~~Central~~ central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye.

(b) Once a disabled veteran has established his or her eligibility for such ad valorem tax exemption by being 100 percent totally disabled, he or she shall be entitled to receive such ad valorem tax exemption in succeeding years thereafter. A disabled veteran who claims 100 percent total disability shall furnish proof of such disability through a letter from the United States Department of Veterans Affairs.

(c) Once a disabled veteran has established his or her eligibility for such ad valorem tax exemption but his or her disability has not been adjudicated a 100 percent total disability, he or she shall be entitled to such ad valorem tax exemption in succeeding years upon furnishing, on an annual basis, proof of his or her status as a disabled veteran through a letter from the United States Department of Veterans Affairs.

(d) In the event of the death of the disabled veteran who received such ad valorem tax exemption pursuant to this Code section, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, his or her unmarried surviving spouse or minor child may continue to receive the exemption."

## SECTION 8.

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





House Bill 94 (AS PASSED HOUSE AND SENATE)

By: Representatives Williams of the 119<sup>th</sup>, Yates of the 73<sup>rd</sup>, Atwood of the 179<sup>th</sup>, and Belton of the 112<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Part 1 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding the ad valorem taxation of motor vehicles and motor homes, so as to exempt certain persons from penalties for failure to timely pay the ad valorem tax; 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.**

Part 1 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding the ad valorem taxation of motor vehicles and motor homes, is amended by revising Code Section 48-5-451, relating to the penalty for failure to make return or pay tax on a motor vehicle or mobile home, as follows:

"48-5-451.

(a) Every Except as otherwise provided in subsection (b) of this Code section, every owner of a motor vehicle or a mobile home, in addition to the ad valorem tax due on the motor vehicle or mobile home, shall be liable for a penalty of 10 percent of the tax due or \$5.00, whichever is greater, for the failure to make the return or pay the tax in accordance with this article.

(b) Any Georgia resident who voluntarily cancels the registration of his or her motor vehicle pursuant to Code Section 40-2-10 shall not be assessed any penalty for failure to pay the tax due on a motor vehicle under subsection (a) of this Code section for any such period of time. Any such person shall remain liable for the ad valorem tax due on a motor vehicle he or she owns. This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1. The commissioner shall promulgate any necessary rules and forms to implement the provisions of this subsection."

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25 **SECTION 2.**

26 This Act shall become effective on July 1, 2015, and shall be applicable to any penalties  
27 assessed on or after that date. Any proceedings instituted for the collection of penalties under  
28 the law in existence prior to July 1, 2015, shall not be affected by the enactment of this Act.

29 **SECTION 3.**

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

House Bill 147 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 32<sup>nd</sup>, Knight of the 130<sup>th</sup>, Peake of the 141<sup>st</sup>, and Hatchett of the 150<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, so as to provide for an initial two-year registration period for certain vehicles; to provide for certain fees; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, is amended by revising Code Section 40-2-20, relating to registration and license requirements, as follows:

"40-2-20.

(a)(1)(A) Except as provided in ~~subsection~~ subsections (b) and (d) of this Code section and subsection (a) of Code Section 40-2-47, every owner of a motor vehicle, including a tractor or motorcycle, and every owner of a trailer shall, during the owner's registration period in each year, register such vehicle as provided in this chapter and obtain a license to operate it for the 12 month period until such person's next registration period.

(B)(i) The purchaser or other transferee owner of every new or used motor vehicle, including tractors and motorcycles, or trailer shall register such vehicle as provided in Code Section 40-2-8 and obtain or transfer as provided in this chapter a license to operate it for the period remaining until such person's next registration period which immediately follows such initial registration period, without regard to whether such next registration period occurs in the same calendar year as the initial registration period or how soon such next registration period follows the initial registration period; provided, however, that this registration and licensing requirement does not apply to a dealer which acquires a new or used motor vehicle and holds it for resale. The commissioner may provide by rule or regulation for one 30 day extension of such

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initial registration period which may be granted by the county tag agent if the transferor has not provided such purchaser or other transferee owner with a title to the motor vehicle more than five business days prior to the expiration of such initial registration period. The county tag agent shall grant an extension of the initial registration period when the transferor, purchaser, or transferee can demonstrate by affidavit in a form provided by the commissioner that title has not been provided to the purchaser or transferee due to the failure of a security interest or lienholder to timely release a security interest or lien in accordance with Code Section 40-3-56.

(ii) No person, company, or corporation, including, but not limited to, used motor vehicle dealers and auto auctions, shall sell or transfer a motor vehicle without providing to the purchaser or transferee of such motor vehicle the last certificate of registration on such vehicle at the time of such sale or transfer; provided, however, that in the case of a salvage motor vehicle or a motor vehicle which is stolen but subsequently recovered by the insurance company after payment of a total loss claim, the salvage dealer or insurer, respectively, shall not be required to provide the certificate of registration for such vehicle; and provided, further, that in the case of a repossessed motor vehicle or a court ordered sale or other involuntary transfer, the lienholder or the transferor shall not be required to provide the certificate of registration for such vehicle but shall, prior to the sale of such vehicle, surrender the license plate of such vehicle to the commissioner or the county tag agent by personal delivery or by certified mail or statutory overnight delivery for cancellation.

(2) An application for the registration of a motor vehicle may not be submitted separately from the application for a certificate of title for such motor vehicle, unless a certificate of title has been issued in the owner's name, has been applied for in the owner's name, or the motor vehicle is not required to be titled. An application for a certificate of title for a motor vehicle may be submitted separately from the application for the registration of such motor vehicle.

(b) Subsection (a) of this Code section shall not apply:

(1) To any motor vehicle or trailer owned by the state or any municipality or other political subdivision of this state and used exclusively for governmental functions except to the extent provided by Code Section 40-2-37;

(2) To any tractor or three-wheeled motorcycle used only for agricultural purposes;

(2.1) To any vehicle or equipment used for transporting cargo or containers between and within wharves, storage areas, or terminals within the facilities of any port under the jurisdiction of the Georgia Ports Authority when such vehicle or equipment is being operated upon any public road not part of The Dwight D. Eisenhower System of Interstate and Defense Highways by the owner thereof or his or her agent within a radius

of ten miles of the port facility of origin and accompanied by an escort vehicle equipped with one or more operating amber flashing lights that are visible from a distance of 500 feet;

(3) To any trailer which has no springs and which is being employed in hauling unprocessed farm products to their first market destination;

(4) To any trailer which has no springs, which is pulled from a tongue, and which is used primarily to transport fertilizer to a farm;

(5) To any electric powered personal transportation vehicle;

(6) To any moped; or

(7) To any golf car.

(c) Any person who fails to register a new or used motor vehicle as required in subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$100.00.

(d) Upon the payment of the requisite fee, the purchaser of a new motor vehicle passenger car, as such terms are defined in paragraphs (34) and (41) of Code Section 40-1-1, for which such purchaser has paid state and local title ad valorem taxes may choose to register such passenger car for an initial period of two years instead of the annual registration provided for in this Code section provided that the motor vehicle owner does not elect a prestige or special license plate. Thereafter, such passenger car shall be subject to the annual registration requirements of this Code section."

## SECTION 2.

Said chapter is further amended by adding a new subsection to Code Section 40-2-151, relating to annual license fees for operation of vehicles and fee for permanent licensing of certain trailers, to read as follows:

"(c) The fee for a new passenger car for which the purchaser has paid state and local title ad valorem taxes and that is being registered as provided in subsection (d) of Code Section 40-2-20 shall be \$40.00 for the two-year registration period."

## SECTION 3.

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



House Bill 174 (AS PASSED HOUSE AND SENATE)

By: Representatives Jones of the 62<sup>nd</sup>, Bruce of the 61<sup>st</sup>, Gravley of the 67<sup>th</sup>, Hightower of the 68<sup>th</sup>, and Alexander of the 66<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 61 of Title 36 of the Official Code of Georgia Annotated, the "Urban Redevelopment Law," so as to revise terminology from "slums" to "pockets of blight"; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 61 of Title 36 of the Official Code of Georgia Annotated, the "Urban Redevelopment Law," is amended by revising Code Section 36-61-2, relating to definitions, as follows:

"36-61-2.

As used in this chapter, the term:

- (1) 'Agency' or 'urban redevelopment agency' means a public agency created by Code Section 36-61-18.
- (2) 'Area of operation' means the area within the corporate limits of the municipality or county and the area within five miles of such limits, except that it shall not include any area which lies within the territorial boundaries of another incorporated municipality or another county unless a resolution is adopted by the governing body of such other municipality or county declaring a need therefor.
- (3) 'Board' or 'commission' means a board, commission, department, division, office, body, or other unit of the municipality or county.
- (4) 'Bonds' means any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures, or other obligations.
- (5) 'Clerk' means the clerk or other official of the municipality or county who is the custodian of the official records of such municipality or county.
- (6) 'County' means any county in this state.
- (7) 'Downtown development authority' means an authority created pursuant to Chapter 42 of this title.

(8) 'Federal government' means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(9) 'Housing authority' means a housing authority created by and established pursuant to Article 1 of Chapter 3 of Title 8, the 'Housing Authorities Law.'

(10) 'Local governing body' means the council or other legislative body charged with governing the municipality and the board of commissioners or governing authority of the county.

(11) 'Mayor' means the mayor of a municipality or other officer or body having the duties customarily imposed upon the executive head of a municipality.

(12) 'Municipality' means any incorporated city or town in ~~the~~ this state.

(13) 'Obligee' includes any bondholder, agents, or trustees for any bondholders, or any lessor demising to the municipality or county property used in connection with an urban redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality or county.

(14) 'Person' means any individual, firm, partnership, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(15) 'Pocket of blight' means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; existence of conditions which endanger life or property by fire and other causes; or any combination of such factors, are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and detrimental to the public health, safety, morals, or welfare. 'Pocket of blight' also means an area which by reason of the presence of a substantial number of deteriorated or deteriorating structures; predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; the existence of conditions which endanger life or property by fire and other causes; having development impaired by airport or transportation noise or other environmental hazards; or any combination of such factors, substantially impairs or arrests the sound growth of a municipality or county, retards the provisions of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(16) 'Pocket of blight clearance and redevelopment' may include:



(A) Acquisition of a pocket of blight or portion thereof;

(B) Rehabilitation or demolition and removal of buildings and improvements;

(C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban redevelopment provisions of this chapter in accordance with the urban redevelopment plan; and

(D) Making the land available for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality or county itself, at its fair value for uses in accordance with the urban redevelopment plan.

~~(15)~~(17) 'Public body' means the state or any municipality, county, board, commission, authority, district, housing authority, urban redevelopment agency, or other subdivision or public body of the state.

~~(16)~~(18) 'Real property' includes all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest, right, and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise.

~~(17)~~(19) 'Rehabilitation' or 'conservation' may include the restoration and redevelopment of a ~~slum~~ area pocket of blight or portion thereof, in accordance with an urban redevelopment plan, by:

(A) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(B) Acquisition of real property and rehabilitation or demolition and removal of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce traffic hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the spread of ~~slums~~ pockets of blight or deterioration, or to provide land for needed public facilities;

(C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban redevelopment provisions of this chapter; and

(D) The disposition of any property acquired in such urban redevelopment area, including sale, initial leasing or retention by the municipality or county itself, at its fair value for uses in accordance with the urban redevelopment plan.

~~(18) 'Slum area' means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; existence of conditions which endanger life or property by fire and other causes; or any combination~~

~~of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare. 'Slum area' also means an area which by reason of the presence of a substantial number of slum, deteriorated, or deteriorating structures; predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; the existence of conditions which endanger life or property by fire and other causes; by having development impaired by airport or transportation noise or by other environmental hazards; or any combination of such factors substantially impairs or arrests the sound growth of a municipality or county, retards the provisions of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.~~

~~(19) 'Slum clearance and redevelopment' may include:~~

- ~~(A) Acquisition of a slum area or portion thereof;~~
- ~~(B) Rehabilitation or demolition and removal of buildings and improvements;~~
- ~~(C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban redevelopment provisions of this chapter in accordance with the urban redevelopment plan; and~~
- ~~(D) Making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality or county itself) at its fair value for uses in accordance with the urban redevelopment plan.~~

~~(20) 'Urban redevelopment area' means a slum area pocket of blight which the local governing body designates as appropriate for an urban redevelopment project.~~

~~(21) 'Urban redevelopment plan' means a plan, as it exists from time to time, for an urban redevelopment project, which plan shall:~~

- ~~(A) Conform to the general plan for the municipality or county as a whole; and~~
- ~~(B) Be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban redevelopment area; zoning and planning changes, if any; land uses; maximum densities; building requirements; and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.~~

~~(22) 'Urban redevelopment project' may include undertakings or activities of a municipality or county in an urban redevelopment area for the elimination and for the prevention of the development or spread of slums pockets of blight and may involve slum~~

pocket of blight clearance and redevelopment in an urban redevelopment area, rehabilitation or conservation in an urban redevelopment area, or any combination or part thereof, in accordance with an urban redevelopment plan. Although the power of eminent domain may not be exercised for such purposes, such undertakings or activities may include:

(A) Acquisition, without regard to any requirement that the area be a ~~slum or blighted area~~ pocket of blight, of air rights in an area consisting of lands and highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing and related facilities and uses designed for, and limited primarily to, families and individuals of low or moderate income; and

(B) Construction of foundations and platforms necessary for the provision of air rights sites of housing and related facilities and uses designed for, and limited primarily to, families and individuals of low or moderate income or construction of foundations necessary for the provision of air rights sites for development of nonresidential facilities."

## SECTION 2.

Said chapter is further amended by revising Code Section 36-61-3, relating to legislative findings and declaration of necessity, as follows:

"36-61-3.

(a) It is found and declared that there exist in municipalities and counties of this state ~~slum areas~~ pockets of blight, as defined in paragraph ~~(18)~~ (15) of Code Section 36-61-2, which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of this state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities and counties, retards the provision of housing accommodations, aggravates traffic problems, and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of ~~slums~~ pockets of blight is a matter of state policy and state concern, in order that ~~the~~ this state and its municipalities and counties shall not continue to be endangered by areas which are local centers of disease, promote juvenile delinquency, and, while contributing little to the tax income of ~~the~~ this state and its municipalities and counties, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities.

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(b) It is further found and declared that certain ~~slum areas~~ pockets of blight or portions thereof may require acquisition, clearance, and disposition, subject to use restrictions, as provided in this chapter, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that the other areas or portions thereof, through the means provided in this chapter, may be susceptible of conservation or rehabilitation in such a manner that the conditions and evils enumerated in subsection (a) of this Code section may be eliminated, remedied, or prevented and that, to the extent that is feasible, salvable ~~slum areas~~ pockets of blight should be conserved and rehabilitated through voluntary action and the regulatory process.

(c) It is further found and declared that the powers conferred by this chapter are for public uses and purposes for which public money may be expended and the power of eminent domain may be exercised. The necessity, in the public interest, for the provisions enacted in this chapter is declared as a matter of legislative determination."

### SECTION 3.

Said chapter is further amended by revising Code Section 36-61-5, relating to resolution of necessity as prerequisite to exercise of powers, as follows:

"36-61-5.

No municipality or county shall exercise any of the powers conferred upon municipalities and counties by this chapter until after its local governing body has adopted a resolution finding that:

- (1) One or more ~~slum areas~~ pockets of blight exist in such municipality or county; and
- (2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the municipality or county."

### SECTION 4.

Said chapter is further amended by revising Code Section 36-61-6, relating to formulation of workable program, as follows:

"36-61-6.

For the purposes of this chapter, a municipality or county may formulate a workable program for utilizing appropriate private and public resources, including those specified in Code Section 36-61-11, to eliminate and prevent the development or spread of ~~slums~~ pockets of blight, to encourage needed urban rehabilitation, to provide for the redevelopment of ~~slum areas~~ pockets of blight, or to undertake such of the aforesaid activities or such other feasible municipal or county activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include,

without limitation, provision for the prevention of the spread of ~~slums~~ pockets of blight into areas of the municipality or county which are free from ~~slums~~ pockets of blight, through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of ~~slum areas~~ pockets of blight or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of ~~slum areas~~ pockets of blight or portions thereof."

## SECTION 5.

Said chapter is further amended by revising Code Section 36-61-7, relating to preparation of redevelopment plan, approval, modification, and effect of approval, as follows:

"36-61-7.

(a) A municipality or county shall not approve an urban redevelopment plan for an urban redevelopment area unless the governing body, by resolution, has determined such area to be a ~~slum area~~ pocket of blight and designated such area as appropriate for an urban redevelopment project. Authority is vested in every municipality and county to prepare, to adopt, and to revise, from time to time, a general plan for the physical development of the municipality or county as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal and county planning activities, and to make available and to appropriate the necessary funds therefor. A municipality or county shall not acquire real property for an urban redevelopment project unless the local governing body has approved the urban redevelopment plan in accordance with subsection (d) of this Code section.

(b) The municipality or county may itself prepare or cause to be prepared an urban redevelopment plan; alternatively, any person or agency, public or private, may submit a plan to a municipality or county.

(c) The local governing body of the municipality or county shall hold or shall cause some agency of the municipality or county to hold a public hearing on an urban redevelopment plan or a substantial modification of an approved urban redevelopment plan, after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the municipality or county. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban redevelopment area covered by the plan, and shall outline the general scope of the urban redevelopment project under consideration.

(d) Following such hearing, the local governing body may approve an urban redevelopment plan if it finds that:

(1) A feasible method exists for the relocation of families who will be displaced from the urban redevelopment area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families;

(2) The urban redevelopment plan conforms to the general plan of the municipality or county as a whole; and

(3) The urban redevelopment plan will afford maximum opportunity, consistent with the sound needs of the municipality or county as a whole, for the rehabilitation or redevelopment of the urban redevelopment area by private enterprise.

(e) An urban redevelopment plan may be modified at any time, provided that, if modified after the lease or sale by the municipality or county of real property in the urban redevelopment project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser or his or her successor or successors in interest may be entitled to assert. Any proposed modification which will substantially change the urban redevelopment plan as previously approved by the local governing body shall be subject to the requirements of this Code section, including the requirement of a public hearing, before it may be approved.

(f) Upon the approval of an urban redevelopment plan by a municipality or county, the provisions of the plan with respect to the future use and building requirements applicable to the property covered by the plan shall be controlling with respect thereto."

## SECTION 6.

Said chapter is further amended by revising paragraphs (1), (6), and (9) of Code Section 36-61-8, relating to powers of municipalities and counties generally, as follows:

"(1) To undertake and carry out urban redevelopment projects within its area of operation; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this chapter; and to disseminate ~~slum~~ pocket of blight clearance and urban redevelopment information;"

"(6) Within their area of operation, to make or have made all plans necessary to the carrying out of the purposes of this chapter and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify, and amend such plans. Such plans may include, without limitation:

(A) A general plan for the locality as a whole;

(B) Urban redevelopment plans;

(C) Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, to include but not to be limited to making loans and grants from funds received from the federal government, as well as from funds received from the repayment of such loans and interest thereon, to persons, public

or private, owning private housing for the purpose of financing the rehabilitation of such housing;

(D) Plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and

(E) Appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban redevelopment projects.

The municipality or county is authorized to develop, test, and report methods and techniques and to carry out demonstrations and other activities for the prevention and elimination of ~~slums~~ pockets of blight and to apply for, accept, and utilize grants of funds from the federal government for such purposes;"

"(9) Within their areas of operation, to organize, coordinate, and direct the administration of the provisions of this chapter as they apply to such municipality or county, in order that the objective of remedying ~~slums~~ pockets of blight and preventing the causes thereof within the municipality or county may be most effectively promoted and achieved, and to establish such new office or offices of the municipality or county or to reorganize existing offices in order to carry out such purpose most effectively-; and"

## SECTION 7.

Said chapter is further amended by revising subsection (a) of Code Section 36-61-10, relating to disposal of property in redevelopment area generally, notice and bidding procedures, exchange with veterans' organization, and temporary operation of property, as follows:

"(a) A municipality or county may sell, lease, or otherwise transfer real property in an urban redevelopment area or any interest therein acquired by it and may enter into contracts with respect thereto, for residential, recreational, commercial, industrial, or other uses or for public use; or the municipality or county may retain such property or interest for public use, in accordance with the urban redevelopment plan, subject to such covenants, conditions, and restrictions, including covenants running with the land and including the incorporation by reference therein of the provisions of an urban redevelopment plan or any part thereof, as it may deem to be in the public interest or necessary or desirable to assist in preventing the development or spread of future ~~slums~~ pockets of blight or to otherwise carry out the purposes of this chapter. Such sale, lease, other transfer, or retention and any agreement relating thereto may be made only after the approval of the urban redevelopment plan by the local governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban redevelopment plan and may be obligated to comply with such other requirements

as the municipality or county may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on the real property required by the urban redevelopment plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban redevelopment plan. In determining the fair value of real property for uses in accordance with the urban redevelopment plan, a municipality or county shall take into account and give consideration to the uses provided in such plan; the restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the municipality or county retaining the property; and the objectives of such plan for the prevention of the recurrence of ~~slum areas~~ pockets of blight. The municipality or county in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease, or otherwise transfer the real property without the prior written consent of the municipality or county until he or she has completed the construction of any and all improvements which he or she has obligated himself or herself to construct thereon. Real property acquired by a municipality or county which, in accordance with the provisions of the urban redevelopment plan, is to be transferred shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban redevelopment plan. The inclusion in any such contract or conveyance to a purchaser or lessee of any such covenants, restrictions, or conditions, including the incorporation by reference therein of the provisions of an urban redevelopment plan or any part thereof, shall not prevent the filing of the contract or conveyance in the land records of the county in such manner as to afford actual or constructive notice thereof."

### SECTION 8.

Said chapter is further amended by revising subsection (b) of Code Section 36-61-17, relating to exercise of redevelopment powers by municipalities and counties and delegation to redevelopment agency or housing authority, as follows:

"(b) As used in this Code section, the term 'urban redevelopment project powers' shall include all of the rights, powers, functions, duties, privileges, immunities, and exemptions granted to a municipality or county under this chapter, except the following:

- (1) The power to determine an area to be a ~~slum area~~ pocket of blight and to designate such area as appropriate for an urban redevelopment project;
- (2) The power to approve and amend urban redevelopment plans;
- (3) The power to establish a general plan for the locality as a whole;
- (4) The power to formulate a workable program under Code Section 36-61-6;
- (5) The powers, duties, and functions referred to in Code Section 36-61-11;



353 (6) The power to make the determinations and findings provided for in Code  
354 Section 36-61-4, Code Section 36-61-5, and subsection (d) of Code Section 36-61-7;  
355 (7) The power to issue general obligation bonds; and  
356 (8) The power to appropriate funds, to levy taxes and assessments, and to exercise other  
357 powers provided for in paragraph (8) of Code Section 36-61-8."

358 **SECTION 9.**

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



House Bill 199 (AS PASSED HOUSE AND SENATE)

By: Representatives Corbett of the 174<sup>th</sup>, Nimmer of the 178<sup>th</sup>, Shaw of the 176<sup>th</sup>, Epps of the 144<sup>th</sup>, Carter of the 175<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Part 1A of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to timber harvesting and removal requirements, so as to require notice of timber harvesting only in an approved form; to provide that one bond shall be required for each county or municipality; to provide that no county may require an administrative fee for receiving a notice of timber harvesting; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1A of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to timber harvesting and removal requirements, is amended by revising Code Section 12-6-24, relating to notice of timber harvesting operations, as follows:

"12-6-24.

(a)(1) A county governing authority may by ordinance or resolution require all persons or firms harvesting standing timber in any unincorporated area of such county for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to provide notice of such harvesting operations to the county governing authority or the designated agent thereof prior to ~~cutting any such timber entering onto the property if possible, but in no event later than 24 hours after entering onto the property.~~ Further, such persons shall give notice of cessation of cutting within 24 hours after the job is completed.

(2) A municipal governing authority may by ordinance or resolution require all persons or firms harvesting standing timber in any incorporated area of such municipality for delivery as pulpwood, logs, poles, or wood chips to any woodyard or processing plant located inside or outside this state to provide notice of such harvesting operations to the municipal governing authority or the designated agent thereof prior to ~~cutting any such timber entering onto the property if possible, but in no event later than 24 hours after~~

entering onto the property. Further, such persons shall give notice of cessation of cutting within 24 hours after the job is completed.

(b) Any ordinance or resolution adopted pursuant to subsection (a) of this Code section shall conform to the following requirements:

(1) Prior written notice shall be required of any person or firm harvesting such timber for each separate tract to be harvested thereby, shall be made only in such form as prescribed by rule or regulation of the director, and shall ~~consist of~~ be limited to the following:

(A) A map of the area which identifies the location of the tract to be harvested and, as to those trucks which will be traveling to and from such tract for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road;

(B) A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation under Code Section 48-5-7.5;

(C) The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and

(D) The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber;

(2) Notice may be submitted in person, by transmission of an electronic record via telefacsimile, e-mail, or such other means as approved by the governing authority, or by mail;

(3) The governing authority may require persons or firms subject to such notice requirement to deliver a bond or letter of credit as provided by this paragraph, in which case notice shall not be or remain effective for such harvesting operations unless and until the person or firm providing such notice has delivered to the governing authority or its designated agent a valid surety bond, executed by a surety corporation authorized to transact business in this state, protecting the county or municipality, as applicable, against any damage caused by such person or firm in an amount specified by the governing authority not exceeding \$5,000.00 or, at the option of the person or firm harvesting timber, a valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in Code Section 7-1-4, in the amount of and in lieu of such bond. Each county or municipality shall require no more than one bond from each person or firm harvesting timber regardless of the number of tracts harvested in such county or municipality by each such person or firm so long as the bond remains in effect. Otherwise, a valid replacement bond must be obtained and delivered to the governing authority of such county or municipality or its designated agent no later than the close of

business on the fifth business day following the day that such governing authority filed a claim to recover damages against the then-existing bond. Upon filing such claim, such governing authority shall immediately provide notice thereof, including the date such claim was filed, to the person or firm causing the damage. Such notice may be given in person, by transmission of an electronic record via telefacsimile, or by e-mail. For purposes of this paragraph, any such surety bond or letter of credit shall be valid only for the calendar year in which delivered;

(4) Notice shall be effective for such harvesting operation on such tract within such unincorporated area of the county or incorporated area of the municipality upon receipt of the same by the applicable governing authority or its designated agent and, if applicable, compliance with the requirements of paragraph (3) of this subsection and until such time as the person or firm giving such notice has completed the harvesting operation for such tract; provided, however, that any subsequent change in the facts required to be provided for purposes of such notice shall be reported to the governing authority or its designated agent within three business days after such change;

(5) Notice requirements shall be applicable to any such timber harvested on or after the effective date of the ordinance or resolution adopted pursuant to this Code section; and

(6) Violation of the notice requirements of any ordinance or resolution adopted pursuant to this Code section shall be punishable by a fine not exceeding \$500.00.

(c) The director shall promulgate such rules and regulations as are reasonable and necessary for purposes of the standard form required by paragraph (1) of subsection (b) of this Code section.

(d) Any municipal governing authority or designated agent thereof which receives a notice required by ordinance or resolution adopted pursuant to this Code section regarding timber harvesting operations to be conducted in whole or in part within the corporate limits of such municipality shall transmit a copy of such notice to the governing authority of the county or the designated agent thereof.

(e)(1) No county, municipality, or other political subdivision in this state shall require any person or firm harvesting standing timber therein for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to provide any notice of or plan or security for such harvesting or hauling of forest products except as provided by this Code section.

(2) No county, municipality, or other political subdivision in this state shall require any person or firm harvesting standing timber therein for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to obtain any permit for such harvesting or hauling of forest products, including without limitation any permit for any new driveway in connection with timber harvesting

operations; provided, however, that this paragraph shall not otherwise limit the authority of a county or municipality to regulate roads or streets under its jurisdiction in accordance with Title 32.

(3) The provisions of paragraphs (1) and (2) of this subsection shall not preclude counties, municipalities, and other political subdivisions from enacting and enforcing tree ordinances, landscape ordinances, or streamside buffer ordinances; provided, however, such ordinances shall not apply to timber harvesting as described in subparagraph (A) of paragraph (4) of this subsection or in unzoned tracts as described in subparagraph (B) of paragraph (4) of this subsection.

(4)(A) The limitations on the regulatory authority of counties, municipalities, or other political subdivisions provided by paragraphs (1), (2), and (3) of this subsection shall apply only to timber harvesting operations which qualify as forestry land management practices or agricultural operations under Code Section 12-7-17, not incidental to development, on tracts which are zoned for or used for forestry, silvicultural, or agricultural purposes.

(B) The limitations on the regulatory authority of counties, municipalities, or other political subdivisions provided by paragraphs (1), (2), and (3) of this subsection shall also apply to tracts which are unzoned.

(5) No county or municipality shall require a fee of any kind for receiving a notification of a timber harvest."

## SECTION 2.

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

House Bill 202 (AS PASSED HOUSE AND SENATE)

By: Representatives Battles of the 15<sup>th</sup>, Williamson of the 115<sup>th</sup>, Harrell of the 106<sup>th</sup>, Jasperse of the 11<sup>th</sup>, Taylor of the 79<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and  
2 traffic, so as to provide for a license plate for automobile dealers headquartered in Georgia;  
3 to amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and  
4 taxation, so as to provide for the comprehensive revision of provisions regarding ad valorem  
5 taxation, assessment, and appeal; to modify the penalty for failure to file a return; to modify  
6 certain provisions relating to tax executions; to provide a definition; to change the timing of  
7 the sale of tax executions; to change certain provisions regarding the publication of ad  
8 valorem tax rates; to change certain provisions relating to interest on unpaid ad valorem  
9 taxes; to change certain provisions regarding penalties for certain incomplete or improper tax  
10 digests; to change certain provisions relating to joint county appraisal staffs and contracting  
11 for advice and assistance; to change certain provisions relating to ascertainment of taxable  
12 property, assessments and penalties against unreturned property, and changing valuations  
13 established by appeal; to repeal certain provisions regarding unreturned property in counties  
14 having a population of 600,000 or more; to change certain provisions relating to the time for  
15 completion of revision and assessment of returns and submission of completed tax digest to  
16 the state revenue commissioner; to change certain provisions relating to the annual notice of  
17 current assessment; to provide a cause of action for failure to provide requested information;  
18 to revise substantially certain provisions relating to county boards of equalization and ad  
19 valorem tax appeals; to provide for an appeal administrator and to specify powers, duties, and  
20 functions; to repeal and reenact certain provisions regarding arbitration appeals and court  
21 appeals of ad valorem taxes; to change certain provisions relating to examination of county  
22 tax digests by the state revenue commissioner and provide that certain assessments and  
23 penalties shall not apply during a specified period of time; to change certain provisions  
24 relating to the levy and collection of tax by municipalities for independent school systems;  
25 to change certain provisions relating to the issuance of mobile home location permits; to  
26 provide for increased criminal penalties for failure to attach and display certain mobile home  
27 decals; to change certain provisions relating to mobile home tax returns and decal application  
28 and issuance; to change certain provisions relating to the alternative ad valorem tax on motor

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vehicles; to change certain provisions relating to real estate transfer tax exemptions; to change certain provisions relating to real estate transfer tax payment as certain filing prerequisites; to provide for powers, duties, and authority of the Department of Revenue and the state revenue commissioner; to provide for a sales tax exemption for certain private colleges on construction materials; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

#### SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by adding a new paragraph to Code Section 40-1-1, relating to definitions regarding motor vehicles and traffic, to read as follows:

"(26.1) 'Manufacturer headquarters' means the headquarters operation of:

(A) A manufacturer as defined in paragraph (26) of this Code section; or

(B) An affiliate of a person engaged in the manufacture of vehicles in this or any other state and which operation is conducted primarily at an established place of business in this state."

#### SECTION 2.

Said title is further amended by revising Code Section 40-2-38, relating to registration and licensing of manufacturers, distributors, and dealers or vehicles, as follows:

"40-2-38.

(a)(1) Manufacturers, distributors, and dealers engaged in the manufacture, sale, or leasing of vehicles required to be registered under Code Section 40-2-20 shall register with the commissioner, making application for a distinguishing dealer's number, specifying the name and make of motor vehicle, tractor, or trailer manufactured, sold, or leased by them, upon forms prepared by the commissioner for such purposes, and pay therefor a fee of \$62.00, which shall accompany such application. Upon payment of such fee by a dealer, the commissioner shall furnish to the dealer one master number plate to expire each year in accordance with subsection (f) of this Code section, to be known as a dealer's number and to be distinguished from the number plates provided for in this chapter by different and distinguishing colors to be determined by the commissioner. The dealer plate for a franchise motor vehicle dealer shall be distinguishable from the dealer plate for a used car dealer and from the dealer plate for a motor vehicle wholesaler. A dealer's number plate is for the purpose of demonstrating or transporting dealer's vehicles or trailers for sale or lease. Persons engaged in the business of transporting vehicles for



a dealer under a vehicle's own power shall be permitted to use such dealer's plate for the purpose of transporting a vehicle.

(2) No dealer may use or permit to be used a dealer's number for private use or on cars for hire, for lease, or other manner not provided for in this Code section. A dealer may use or permit to be used a dealer's number for private use on vehicles owned by the dealership, regardless of whether such vehicle has been issued a certificate of title or registered, when such vehicles are operated by an employee or corporate officer of the dealer which has been issued such number. A distinguishing dealer's number used by an employee or officer for private use shall authorize such person to operate the vehicle to which the number is attached on the public highways and streets. For purposes of this paragraph, 'employee' means a person who works a minimum of 36 hours per week at the dealership.

(3) The manufacturer's or distributor's license plate is limited to no longer than six months' use per vehicle. Upon payment of such a fee by a manufacturer or distributor, the commissioner shall issue to manufacturers and distributors number plates with the word 'Manufacturer' or 'Distributor' on such plates. Nothing in this subsection shall preclude a manufacturer or distributor from using a 'Manufacturer' or 'Distributor' number plate on motor vehicles it owns when such vehicles are used for evaluation or demonstration purposes, notwithstanding incidental personal use by a manufacturer or distributor. A dealer may apply for one or more distinguishing dealer's numbers. In the event the dealers, distributors, or manufacturers desire more than one tag, they shall so state on the application, and, in addition to the fee of \$62.00 provided in this Code section, shall pay \$12.00 for each and every additional number plate furnished.

(4)(A) Upon application and payment of the required fee, the commissioner shall issue to manufacturer headquarters or its affiliate number license plates with the words 'Manufacturer HQ' on such plates. The manufacturer headquarters license plates must be used exclusively on motor vehicles owned or in possession of a manufacturer headquarters or its affiliate. Such manufacturer headquarters plates are limited to no longer than 24 months' use per vehicle.

(B) A manufacturer headquarters or its affiliate shall apply on a form prescribed by the commissioner and shall provide proof that the applicant:

(i) Is a bona fide manufacturer headquarters; and

(ii) Maintains a system of records regarding use of such license plates. The manufacturer headquarters shall state in each application the number of manufacturer headquarters license plates requested.

(C) The manufacturer headquarters or its affiliate shall pay an application fee of \$62.00 per application as provided in this Code section, and shall pay \$12.00 for each and

every plate furnished. With respect to any manufacturer headquarters license plate issued to a manufacturer headquarters or its affiliate, notwithstanding anything to the contrary in this title or Code Section 48-5C-1, such manufacturer headquarters or its affiliate, and any person operating or possessing a motor vehicle using a manufacturer headquarters license plate pursuant to this paragraph, shall not be subject to state or local title ad valorem tax fees with respect to such vehicle or manufacturer headquarters license plate.

(D) The manufacturer headquarters or its affiliate shall maintain a system of records regarding the motor vehicle to which the manufacturer headquarters license plate will be attached. Such record shall, at a minimum, contain the:

(i) Vehicle Identification Number (VIN);

(ii) Name and address of the primary individual operating the vehicle; and

(iii) Manner of use of the vehicle selected from the alternative uses referenced in subparagraph (E) of this paragraph.

(E) Vehicles with manufacturer headquarters license plates may be operated by persons authorized by the manufacturer headquarters or its affiliate on vehicles of its brand for the following manners of use:

(i) Evaluation, marketing, or demonstration purposes, notwithstanding incidental personal use by a manufacturer headquarters' authorized employee or other authorized person designated by such manufacturer headquarters or its affiliate; or

(ii) As part of a vehicle leasing program operated by such manufacturer headquarters or its affiliate for the benefit of employees. Any operation of a motor vehicle by a person for an approved use pursuant to this subparagraph shall be deemed to be a demonstration of the motor vehicle for purposes of Code Section 48-8-39.

(b) Dealer plates shall be issued in the following manner:

(1) Dealers shall be issued a master plate and two additional plates, for a total of three initial plates; and

(2) In addition to the three dealer plates issued in accordance with paragraph (1) of this subsection, each dealer may also be issued one additional dealer plate for every 20 units sold in a calendar year.

In order to determine the additional number and classification of plates to be issued to a dealer, a dealer shall be required to certify by affidavit to the department the number of retail and wholesale units sold in the prior calendar year using the past motor vehicle sales history of the dealer as identified by department records of documentation approved by the department. If no sales history is available, the department shall issue a number of plates based on an estimated number of sales for the coming calendar year. The department may,

in its discretion, request documentation supporting sales history and may increase or decrease the number and classification of plates issued based on actual sales.

(c) This Code section shall not apply in any manner to mopeds as such term is defined in Code Section 40-1-1.

(d) The license plates issued pursuant to this Code section shall be revoked and confiscated upon a determination after a hearing that such dealer, distributor, ~~or manufacturer, or~~ manufacturer headquarters has unlawfully used such license plates in violation of this Code section.

(e) If a license plate issued pursuant to this Code section is lost or stolen, the dealer, manufacturer, distributor, manufacturer headquarters, or other party to whom the license plate was issued must immediately report the lost or stolen plate to local law enforcement agencies. If a replacement license plate is sought, the dealer, manufacturer, distributor, manufacturer headquarters, or other party to whom the license plate was issued shall file a notarized affidavit with the department requesting a replacement plate. Such affidavit shall certify under penalty of perjury that the license plate has been lost or stolen and that the loss has been reported to a local law enforcement agency.

(f)(1) The expiration of a license plate issued pursuant to this Code section shall be the last day of the registration period as provided in division (a)(1)(A)(ii) of Code Section 40-2-21, except that for the purposes of this subsection, the registration period shall be determined by the first letter of the legal name of the business listed on the application for registration or renewal of registration. An application for renewal of registration shall not be submitted earlier than 90 days prior to the last day of the registration period. A penalty of 25 percent of the total registration fees due shall be assessed any person registering pursuant to this Code section who, prior to the expiration of such person's registration period, fails to apply for renewal or if having applied fails to pay the required fees.

(2) A transition period shall commence on October 1, 2007, and conclude on December 31, 2007, for all existing registrations and any new registration applications presented prior to January 1, 2008. On or after January 1, 2008, new applications for registration shall be submitted and remain valid until the expiration of such registration as specified in paragraph (1) of this subsection.

(g) The commissioner shall adopt rules and regulations for the implementation of this Code section."

### SECTION 3.

Said title is further amended by revising paragraph (2) of Code Section 40-3-4, relating to exclusions from motor vehicle titling, as follows:

"(2) A vehicle owned by a manufacturer of or dealer in vehicles and held for sale, even though incidentally used on the highway or used for purpose of testing or demonstration; a vehicle owned by a manufacturer headquarters or its affiliate and registered and licensed pursuant to Code Section 40-2-38; a vehicle owned by a dealer in vehicles but used by any Georgia public or private school for driver education purposes; or a vehicle used by a manufacturer solely for testing; except that all dealers acquiring new vehicles after July 1, 1962, from a manufacturer for resale shall obtain such evidence of origin of title from the manufacturer as the commissioner shall by rule and regulation prescribe;"

#### SECTION 4.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-2-44, relating to the penalty for failure to file a return or pay revenue held in trust for the state, as follows:

"48-2-44.

(a) In any instance in which any person willfully fails to file a report, return, or other information required by law or willfully fails to pay the commissioner any revenue held in trust for the state, ~~he~~ such person shall pay, in the absence of a specific statutory civil penalty for the failure, a penalty of 10 percent of the amount of revenue held in trust and not paid on or before the time prescribed by law, together with interest on the principal amount at the rate specified in Code Section 48-2-40 from the date the return should have been filed or the revenue held in trust should have been remitted until it is paid.

(b)(1) In any instance in which any person willfully fails, on or after July 1, 1981, to pay, within 90 days of the date when due, any ad valorem tax owed the state or any local government, ~~he~~ such person shall pay, in the absence of a specific statutory civil penalty for the failure, a penalty of 10 percent of the amount of tax due and not paid ~~on or before the time prescribed by law~~ at the time such penalty is assessed, together with interest as specified by law. This 10 percent penalty shall not, however, apply in the case of:

(A) Ad valorem taxes of \$500.00 or less on homestead property as defined in Part 1 of Article 2 of Chapter 5 of this title; or

(B) With respect to tax year 1986 and future tax years, ad valorem taxes of any amount on homestead property as defined in Part 1 of Article 2 of Chapter 5 of this title, if the homestead property was during the tax year acquired by a new owner who did not receive a tax bill for the tax year and who immediately before acquiring the homestead property resided outside the State of Georgia and if the taxes are paid within one year following the due date.

(2) Any city or county authorized as of April 22, 1981, by statute or constitutional amendment to receive a penalty of greater than 10 percent for failure to pay an ad valorem tax is authorized to continue to receive that amount.

(3) With respect to all penalties and interest received by the tax commissioner on or after July 1, 1998, unless otherwise specifically provided for by general law, the tax commissioner shall distribute penalties collected and interest collected or earned as follows:

(A) Penalties collected for failure to return property for ad valorem taxation or for failure to pay ad valorem taxes, and interest earned by the tax commissioner on taxes collected but not yet disbursed, shall be paid into the county treasury in the same manner and at the same time the tax is collected and distributed to the county, and they shall remain the property of the county; and

(B) Interest collected on delinquent ad valorem taxes shall be distributed pro rata based on each taxing jurisdiction's share of the total tax on which the interest was computed."

## SECTION 5.

Said title is further amended by revising subsection (e) of Code Section 48-3-3, relating to issuance of tax executions, as follows:

"(e)(1)(A) Whenever technologically feasible, the tax collector or tax commissioner, at the time tax bills or any subsequent delinquent notices are mailed, shall also mail such bills or notices to any new owner that at that time appear in the records of the county board of tax assessors. The bills or notices shall be mailed to the address of record as found in the county board of tax assessors' records.

(B)(i) In the discretion of the tax commissioner, a taxpayer shall have the option of receiving tax bills or subsequent delinquent notices via electronic transmission in lieu of, or in addition to, receiving a paper bill via first-class mail. The tax bill shall be transmitted to the taxpayer via e-mail, with delivery or read receipt requested, in portable document format using all e-mail addresses provided by the taxpayer, and the date shown on such transmission shall serve as a postmark. In any instance where such transmission proves undeliverable, the tax commissioner shall mail such tax bill or subsequent delinquent notice to the address of record as found in the county board of tax assessors' records.

(ii) The commissioner shall develop and make available to tax commissioners a suitable form for use by taxpayers in exercising the option to receive tax bills or subsequent delinquent notices via electronic transmission.

(2) A new ~~purchaser of property~~ owner shall not be required to pay the interest specified in Code Section 48-2-40, or the penalty specified in Code Section 48-2-44, until 60 days

after the tax collector or tax commissioner has forwarded a tax bill to the new ~~purchaser~~  
owner in accordance with paragraph (1) of this subsection. This paragraph shall apply  
only to the tax bill applicable to the year in which the property was purchased."

## SECTION 6.

Said title is further amended by revising Code Section 48-3-27, relating to the penalty for  
obstructing levying officers, as follows:

"48-3-27.

(a) It is unlawful for any person knowingly and willfully to obstruct or hinder ~~the~~:

(1) The commissioner or his or her authorized representatives in the levy of a state tax  
execution; or

(2) Any sheriff, ex officio sheriff, tax commissioner, or municipal levy officer in the levy  
of a state, county, or municipal tax execution.

(b) Any person who violates this Code section shall be guilty of a misdemeanor."

## SECTION 7.

Said title is further amended in Code Section 48-5-32, relating to publication of ad valorem  
tax rates, by revising subsection (b) as follows:

"(b)(1) Each levying authority and each recommending authority shall cause a report to  
be published in a newspaper of general circulation throughout the county and posted on  
such authority's website, if available:

(1)(A) At least ~~two weeks~~ one week prior to the certification of any recommending  
authority to the levying authority of such recommending authority's recommended  
school tax for the support and maintenance of education pursuant to Article VIII,  
Section VI, Paragraph I of the Constitution; and

(2)(B) At least ~~two weeks~~ one week prior to the establishment by each levying  
authority of the millage rates for ad valorem taxes for educational purposes and ad  
valorem taxes for purposes other than educational purposes for the current calendar  
year.

(2) Such reports shall be in a prominent location in such newspaper and shall not be  
included with legal advertisements, and such reports shall be posted in a prominent  
location on such authority's website, if available. The size and location of the  
advertisements shall not be grounds for contesting the validity of the levy."

## SECTION 8.

Said title is further amended in Code Section 48-5-148, relating to interest on unpaid ad  
valorem taxes, by revising paragraph (3) of subsection (a) as follows:

"(3) In the discretion of the tax commissioner, a taxpayer shall have the option of receiving notices of taxes due via electronic transmission in lieu of, or in addition to, receiving a paper bill via first-class mail. The tax bill shall be transmitted to the taxpayer via e-mail, with delivery or read receipt requested, in portable document format using all e-mail addresses provided by the taxpayer, and the date shown on such transmission shall serve as a postmark. In any instance where such transmission proves undeliverable, the tax commissioner shall mail a bill to the address of record as found in the county board of tax assessors' records. ~~After notices of taxes due are mailed out, each~~ Each taxpayer shall be afforded 60 days from date of postmark to make full payment of taxes due before the taxes shall bear interest as provided in this Code section. The time period for payment provided for by this ~~This~~ paragraph shall not apply in those counties in which a lesser time has been provided by law."

## SECTION 9.

Said title is further amended in Code Section 48-5-205, relating to penalties for certain incomplete or improper tax digests, by revising subsection (a) as follows:

"(a) If a tax receiver or tax commissioner fails to have his or her digest completed and deposited by ~~August~~ September 1 in each year, unless excused by provisions of law or by the commissioner, ~~he~~ such tax receiver or tax commissioner shall forfeit one-tenth of his or her commissions for each week's delay. If the delay extends beyond 30 days, such tax receiver or tax commissioner ~~he~~ shall forfeit one-half of his or her commissions. If the delay extends beyond the time when the Governor and commissioner fix the rate percentage, ~~he~~ such tax receiver or tax commissioner shall forfeit all ~~his~~ such tax receiver's or tax commissioner's commissions."

## SECTION 10.

Said title is further amended by revising Code Section 48-5-265, relating to joint county appraisal staffs and contracting for advice and assistance, as follows:

"48-5-265.

(a)(1) The governing authorities of any two or more Contiguous Class I counties may join together and contract to by intergovernmental agreement create a joint county property appraisal staff following consultation with the county boards of tax assessors of such counties. Under any such contract intergovernmental agreement, the parcels of real property within the contracting counties subject to the intergovernmental agreement shall be totaled, and the counties shall be deemed one county for purposes of determining the class of the counties, the resulting minimum staff requirements, and the amount of money to be received from the department. The costs of the joint county property appraisal staff

shall be shared, each county's share to be based upon the ratio which the number of parcels of real property in each contracting county bears to the total number of parcels of real property in all the contracting counties. Any number of Class I counties may join together to create a joint county property appraisal staff determined in the intergovernmental agreement.

(2) The governing authorities of any two or more counties may execute an intergovernmental agreement to provide for the sharing of one or more designated members of property appraisal staff following consultation with the county boards of tax assessors of such counties. The costs of such shared staff members shall be determined in the intergovernmental agreement.

(b) The governing authorities of any two or more counties may join together and by intergovernmental agreement Each Class I county may contract with a contiguous county which has a minimum county property appraisal staff to carry out this part following consultation with the county boards of tax assessors of such counties. Counties contracting in this manner All counties subject to an intergovernmental agreement under this subsection shall retain their separate character for the purpose of determining the class and minimum staff requirements for each ~~contracting~~ county.

(c)(1) Any Each Class I county, at its discretion, may enter into contracts with persons to render advice or assistance to the county board of tax assessors and to the county board of equalization in the assessment and equalization of taxes and to perform such other ministerial duties as are necessary and appropriate to carry out this part, the establishment of property valuations, or the defense of such valuations. Such advice and assistance shall be in compliance with the laws of this state and the rules and regulations of the commissioner. Individuals performing services under such contracts shall complete satisfactorily such training courses as directed by the commissioner. The function of any person contracting to render such services shall be advisory or ministerial, only and the final decision as to the amount of assessments and the equalization of assessments shall be made by the county board of tax assessors and the county board of equalization and shall be set forth in the minutes of the county board of tax assessors.

(2) No contract entered into pursuant to paragraph (1) of this subsection shall contain any provision authorizing payment to any person contracted with, or to any person employed by any person contracted with, upon a percentage basis or upon any basis under which compensation is dependent or conditioned in any way upon increasing or decreasing the aggregate assessment of property in the county. Any contract or provision of a contract which is in violation of this paragraph is shall be void and unenforceable."



**SECTION 11.**

Said title is further amended by revising paragraph (8) of subsection (b) of Code Section 48-5-274, relating to the establishment of the equalized adjusted property tax index, as follows:

"(8) Establish for each county in the state the ratio of assessed value to fair market value of county property subject to taxation, excluding railroad equipment company property. The ratio shall be determined by establishing the ratio of assessed value to sales price for each of a representative number of parcels of real property, the titles to which were transferred during a period of time to be determined by the state auditor, and then by establishing the measure of central tendency for the county as a whole based upon a representative number of usable transactions studied. Any such sales price shall be adjusted upward or downward, in a manner consistent with the Standard on Ratio Studies published by the International Association of Assessing Officers or its successors, as reasonably needed to account for the effects of price changes reflected in the market between the date of sale and January 1 of the calendar year for which the equalized adjusted property tax digest is being prepared. Sales prices also shall be reduced by any portion thereof attributable to personal property, real property exempt from taxation, or standing timber included in the sales transaction. The representative number of transactions shall not include any parcel of which the sales price is not reflective of the fair market value of such property as fair market value is defined in Code Section 48-5-2. The state auditor shall supplement realty sales price data available in any county with actual appraisals of a representative number of parcels of farm property and industrial and commercial property located within the county, the titles to which were not transferred within the period of time determined by the state auditor. The state auditor may make appraisals on other types of real property located within the county when adequate realty sales data cannot be obtained on such property. The representative number of parcels of each class of real property as defined by the commissioner used for the study shall be determined by the state auditor. The state auditor may use the same ratio for other personal property, excluding motor vehicles, within the county as is finally determined for real property within the county."

**SECTION 12.**

Said title is further amended in Code Section 48-5-299, relating to ascertainment of taxable property, assessments and penalties against unreturned property, and changing valuations established by appeal, by revising subsections (b) and (c) as follows:

~~"(b)(1) In all cases where unreturned property is assessed by the county board of tax assessors after the time provided by law for making tax returns has expired, the board~~

shall add to the amount of state and county taxes due a penalty of 10 percent of the amount of the tax due or, if the principal sum of the tax so assessed is less than \$10.00 in amount, a penalty of \$1.00. The penalty provided in this subsection shall be collected by the tax collector or the tax commissioner and in all cases shall be paid into the county treasury and shall remain the property of the county.

~~(2)(A) The provisions of paragraph (1) of this subsection to the contrary notwithstanding, this paragraph shall apply with respect to counties having a population of 600,000 or more according to the United States decennial census of 1970 or any future such census.~~

~~(B)~~ In all cases in which unreturned personal property is assessed by the board after the time provided by law for making tax returns has expired, the board shall add to the assessment of the property a penalty of 10 percent, which shall be included as a part of the taxable value for the year.

(c) ~~Real property;~~ When the value of which was real property is reduced or is unchanged from the value on the initial annual notice of assessment and such valuation is established by an appeal as the result of either an appeal decision rendered pursuant to Code Section 48-5-311 or stipulated by agreement of the parties to such an appeal that this subsection shall apply in any year, that has not been returned by the taxpayer at a different value during the next two successive years, the valuation so established by appeal decision or agreement may not be changed increased by the board of tax assessors during such the next two successive years, subject to the following exceptions: for the sole purpose of changing the valuation established or decision rendered in an appeal to the board of equalization or superior court. In such cases, before changing such value or decision, the board of assessors shall first conduct an investigation into factors currently affecting the fair market value. The investigation necessary shall include, but not be limited to, a visual on-site inspection of the property to ascertain if there have been any additions, deletions, or improvements to such property or the occurrence of other factors that might affect the current fair market value. If a review to determine if there are any errors in the description and characterization of such property in the files and records of the board of tax assessors discloses any errors, such errors shall not be the sole sufficient basis for increasing the valuation during the two-year period.

(1) This subsection shall not apply to a valuation established by an appeal decision if the 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) If the taxpayer files an appeal pursuant to Code Section 48-5-311 during the next two successive years, 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 parties 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."

### SECTION 13.

Said title is further amended by revising Code Section 48-5-302, relating to the time for completion of revision and assessment of returns and submission of completed tax digest to the state revenue commissioner, as follows:

"48-5-302.

Each county board of tax assessors shall complete its revision and assessment of the returns of taxpayers in its respective county by July ~~1~~ 15 of each year, except that, in all counties providing for the collection and payment of ad valorem taxes in installments, such date shall be June 1 of each year. The tax receiver or tax commissioner shall then immediately forward one copy of the completed digest to the commissioner for examination and approval."

### SECTION 14.

Said title is further amended in Code Section 48-5-306, relating to annual notice of current assessment, by revising division (b)(2)(A)(iii), subparagraph (b)(2)(B), and subsection (d) as follows:

"(iii) For a parcel of nonhomestead property with a fair market value in excess of ~~\$1 million~~ \$750,000.00, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of \$750,000.00, to a hearing officer with appeal to the superior court."

"(B) The notice shall also contain the following ~~statement~~ statements in bold print:

"The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions."

"(d) **Records and information availability.** Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of real property:

(1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, a description of the methodology used by the board of tax assessors in setting the property's fair market value, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25¢ per page; and

(2) No additional charges or fees may be collected from the taxpayer for reasonable search, retrieval, or other administrative costs associated with providing such public records and information; and

(3)(A) The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against the board of tax assessors to enforce compliance with the provisions of this subsection.

(B) In any action brought to enforce the provisions of this subsection in which the court determines that either party acted without substantial justification either in not complying with this subsection or in instituting the litigation, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought."

## SECTION 15.

Said title is further amended in Code Section 48-5-311, relating to county boards of equalization and ad valorem tax appeals, by revising subsections (a) through (e) and (h) through (o) and by adding new subsections to read as follows:

483 **"(a) Establishment Definition.**

484 As used in this Code section, the term 'appeal administrator' means the clerk of the superior  
485 court.

486 **(a.1) Appeal administrator.**

487 (1) The appeal administrator is vested with administrative authority in all other matters  
488 governing the conduct and business of the boards of equalization so as to provide  
489 oversight and supervision of such boards.

490 (2) It shall be the duty of the appeal administrator to receive any complaint filed with  
491 respect to the official actions of any member of a county board of equalization regarding  
492 technical competency, compliance with state law and regulations, or rude or  
493 unprofessional conduct or behavior toward any member of the public and to forward such  
494 complaint to the grand jury for investigation. Following an investigation, the grand jury  
495 shall issue a written report of its findings, which shall include such evaluations,  
496 judgments, and recommendations as it deems appropriate. The findings of the report may  
497 be grounds for removal of a member of the board of equalization by the grand jury for  
498 failure to perform the duties required under this Code section.

499 **(a.2) Establishment of boards of equalization.**

500 (1) Except as otherwise provided in this subsection, there is established in each county  
501 of ~~the~~ this state a county board of equalization to consist of three members and three  
502 alternate members appointed in the manner and for the term set forth in this Code section.  
503 In those counties having more than 10,000 parcels of real property, the county governing  
504 authority, by appropriate resolution adopted on or before November 1 of each year, may  
505 elect to have selected one additional county board of equalization for each 10,000 parcels  
506 of real property in the county or for any part of a number of parcels in the county  
507 exceeding 10,000 parcels.

508 (1.1) The grand jury shall be authorized to conduct a hearing following its receipt of the  
509 report of the appeal administrator under paragraph (2) of subsection (a.1) of this Code  
510 section and to remove one or more members of the board of equalization for failure to  
511 perform the duties required under this Code section.

512 (2) Notwithstanding any part of this subsection to the contrary, at any time the governing  
513 authority of a county makes a request to the grand jury of the county for additional  
514 alternate members of boards of equalization, the grand jury shall appoint the number of  
515 alternate members so requested to each board of equalization, such number not to exceed  
516 a maximum of 21 alternate members for each of the boards. The alternate members of  
517 the boards shall be duly qualified and authorized to serve on any of the boards of  
518 equalization of the county. ~~The grand jury of any such county~~ members of each board  
519 of equalization may designate a chairperson and two vice chairpersons of each such board

of equalization. ~~The chairperson and vice chairpersons shall be vested with full administrative authority in calling and conducting the business of the board. The appeal administrator shall have administrative authority in all matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards and scheduling of appeals.~~ Any combination of members or alternate members of any such board of equalization of the county shall be competent to exercise the power and authority of the board. Any person designated as an alternate member of any such board of equalization of the county shall be competent to serve in such capacity as provided in this Code section upon appointment and taking of oath.

(3) Notwithstanding any provision of this subsection to the contrary, in any county of this state having a population of 400,000 or more according to the United States decennial census of 1990 or any future such census, the governing authority of the county, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels. In addition to the foregoing, any two members of a county board of equalization of the county may decide an appeal from an assessment, notwithstanding any other provisions of this Code section. The decision shall be in writing and signed by at least two members of the board of equalization; and, except for the number of members necessary to decide an appeal, the decision shall conform to the requirements of this Code section.

(4) The governing authorities of two or more counties may by intergovernmental agreement establish regional boards of equalization for such counties which shall operate in the same manner and be subject to all of the requirements of this Code section specified for county boards of equalization. The intergovernmental agreement shall specify the manner in which the members of the regional board shall be appointed by the grand jury of each of the counties, ~~and shall specify which clerk of the superior court appeal administrator shall have oversight over and supervision of such regional board, and shall provide for funding from each participating county for the operations of the appeal administrator as required by subparagraph (d)(4)(C.1) of this Code section.~~ All hearings and appeals before a regional board shall be conducted in the county in which the property which is the subject of the hearing or appeal is located.

**(b) Qualifications of board of equalization members.**

(1) Each person who is, in the judgment of the appointing grand jury, qualified and competent to serve as a grand juror, who is the owner of real property located in the county where such person is appointed to serve, or, in the case of a regional board of equalization, is the owner of real property located in any county in the region where such

person is appointed to serve, and who is at least a high school graduate shall be qualified, competent, and compellable to serve as a member or alternate member of the county board of equalization. No member of the governing authority of a county, municipality, or consolidated government; member of a county or independent board of education; member of the county board of tax assessors; employee of the county board of tax assessors; or county tax appraiser shall be competent to serve as a member or alternate member of the county board of equalization.

(2)(A) Each person seeking to be appointed as a member or alternate member of a county board of equalization shall, not later than immediately prior to the time of his or her appointment under subsection (c) of this Code section, file with the clerk of the superior court a uniform application form which shall be a public record. The Council of Superior Court Clerks of Georgia created under Code Section 15-6-50.2 shall design the form which indicates the applicant's education, employment background, experience, and qualifications for such appointment.

(B)(i) Within the first year after a member's initial appointment to the board of equalization ~~on or after January 1, 1981~~, each member shall satisfactorily complete not less than 40 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner pursuant to Code Section 48-5-13.

(ii) On or after January 1, 2016, following the completion of each term of office, a member shall, within the first year of appointment to the subsequent term of office, complete satisfactorily not less than 20 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner for newly appointed members.

(iii) No person shall be eligible to hear an appeal as a member of a board of equalization unless, prior to hearing such appeal, such person shall satisfactorily complete the 20 hours of instruction in appraisal and equalization processes and procedures required under the applicable provisions of division (i) or (ii) of this subparagraph.

(iv) The failure of any member to fulfill the requirements of the applicable provisions of division (i) or (ii) of this subparagraph shall render ~~that such~~ member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

~~(B)(C)(i) No person shall be eligible to hear an appeal as a member of a board of equalization on or after January 1, 2011, unless prior to hearing such appeal, that person shall satisfactorily complete the 40 hours of instruction in appraisal and equalization processes and procedures required under subparagraph (A) of this~~

paragraph. Any person appointed to ~~such a~~ board of equalization shall be required to complete annually a continuing education requirement of at least eight hours of instruction in appraisal and equalization procedures, as prepared and required by the commissioner pursuant to Code Section 48-5-13.

(ii) The failure of any member to fulfill the requirements of division (i) of this subparagraph shall render ~~that~~ such member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

(c) **Appointment of board of equalization members.**

(1) Except as provided in paragraph (2) of this subsection, each member and alternate member of the county board of equalization shall be appointed for a term of three calendar years next succeeding the date of such member or such alternate member's selection. Each term shall begin on January 1.

(2) The grand jury in each county at any term of court preceding November 1 of 1991 shall select three persons who are otherwise qualified to serve as members of the county board of equalization and shall also select three persons who are otherwise qualified to serve as alternate members of the county board of equalization. The three individuals selected as alternates shall be designated as alternate one, alternate two, and alternate three, with the most recent appointee being alternate number three, the next most recent appointee being alternate number two, and the most senior appointee being alternate number one. One member and one alternate shall be appointed for terms of one year, one member and one alternate shall be appointed for two years, and one member and one alternate shall be appointed for three years. Each year thereafter, the grand jury of each county shall select one member and one alternate for three-year terms.

(3) If a vacancy occurs on the county board of equalization, the individual designated as alternate one shall then serve as a member of the board of equalization for the unexpired term. If a vacancy occurs among the alternate members, the grand jury then in session or the next grand jury shall select an individual who is otherwise qualified to serve as an alternate member of the county board of equalization for the unexpired term. The individual so selected shall become alternate member three, and the other two alternates shall be redesignated appropriately.

(4) Within five days after the names of the members and alternate members of the county board or boards of equalization have been selected, the clerk of the superior court shall ~~issue and deliver~~ cause such appointees to appear before the clerk of the superior court for the purpose of taking and executing in writing the oath of office. The clerk of the superior court may utilize any means necessary for such purpose, including, but not limited to, telephonic or other communication, regular first-class mail, or issuance of and



delivery to the sheriff or deputy sheriff a precept containing the names of the persons so selected. Within ten days of receiving the precept, the sheriff or deputy sheriff shall cause the persons whose names are written on the precept to be served personally or by leaving the summons at their place of residence. The summons shall direct the persons named on the summons to appear before the clerk of the superior court on a date specified in the summons, which date shall not be later than December 15.

(5) Each member and alternate member of the county board of equalization, on the date prescribed for appearance before the clerk of the superior court and before entering on the discharge of such member and alternate member's duties, shall take and execute in writing before the clerk of the superior court the following oath:

I, \_\_\_\_\_, agree to serve as a member of the board of equalization of the County of \_\_\_\_\_ and will decide any issue put before me without favor or affection to any party and without prejudice for or against any party. I will follow and apply the laws of this state. I also agree not to discuss any case or any issue with any person other than members of the board of equalization except at any appeal hearing. I shall faithfully and impartially discharge my duties in accordance with the Constitution and laws of this state, to the best of my skill and knowledge. So help me God.

\_\_\_\_\_  
Signature of member or alternate member'

In addition to the oath of office prescribed in this paragraph, the presiding or chief judge of the superior court or ~~his or her designee~~ the appeal administrator shall charge each member and alternate member of the county board of equalization with the law and duties relating to such office.

**(d) Duties and powers of board of equalization members.**

(1) The county board of equalization shall hear and determine appeals from assessments and denials of homestead exemptions as provided in subsection (e) of this Code section.

(2) If, in the course of determining an appeal, the county board of equalization finds reason to believe that the property involved in an appeal or the class of property in which is included the property involved in an appeal is not uniformly assessed with other property included in the digest, the board shall request the respective parties to the appeal to present relevant information with respect to that question. If the board determines that uniformity is not present, the board may order the county board of tax assessors to take such action as is necessary to obtain uniformity, except that, when a question of county-wide uniformity is considered by the board, the board may recommend a partial or total county-wide revaluation only upon a determination by a majority of all the members of the board that the clear and convincing weight of the evidence requires such

action. The board of equalization may act pursuant to this paragraph whether or not the appellant has raised the issue of uniformity.

(3) The board shall establish procedures which comply strictly with the regulations promulgated by the commissioner pursuant to subparagraph ~~(e)(5)(B)~~ (e)(1)(D) of this Code section for the conducting of appeals before the board. The procedures shall be entered into the minutes of the board, and a copy of the procedures shall be made available to any individual upon request.

(4)(A) ~~The clerk of the superior court~~ appeal administrator shall have oversight over and supervision of all boards of equalization of the county and hearing officers. This oversight and supervision shall include, but not be limited to, requiring appointment of members of county boards of equalization by the grand jury; giving the notice of the appointment of members and alternates of the county board of equalization by the county grand jury as required by Code Section 15-12-81; collecting the names of possible appointees; collecting information from possible appointees as to their qualifications; presenting the names of the possible appointees to the county grand jury; processing the appointments as required by paragraph (4) of subsection (c) of this Code section, including administering the oath of office to the newly appointed members and alternates of the county board of equalization as required by paragraph (5) of such subsection; instructing the newly appointed members and alternates as to the training they must receive and the operations of the county board of equalization; presenting to the grand jury of the county the names of possible appointees to fill vacancies as provided in paragraph (3) of such subsection; maintaining a roster of board members and alternates, maintaining a record showing that the board members and alternates completed training, keeping attendance records of board members and alternates for the purpose of payment for service, and maintaining the uniform application forms and keeping a record of the appointment dates of board members and alternates and their terms in office; and informing the county board of equalization that it must establish by regulation procedures for conducting appeals before the board as required by paragraph (3) of this subsection ~~(d) of this Code section~~. Oversight and supervision shall also include the scheduling of board hearings, assistance in scheduling hearings before hearing officers, and giving notice of the date, time, and place of hearings to the taxpayers and the county board of tax assessors and giving notice of the decisions of the county board of equalization or hearing officer to the taxpayer and county board of tax assessors as required by division (e)(6)(D)(i) of this Code section.

(B) The county governing authority shall provide any resources to the ~~clerk of superior court~~ appeal administrator that are required to be provided by paragraph (7) of subsection (e) of this Code section.

(C) The county governing authority shall provide to the ~~clerk of superior court~~ appeal administrator facilities and secretarial and clerical help for appeals pursuant to subsection (e.1) of this Code section.

(C.1) The operations of the appeal administrator under this Code section shall, for budgeting purposes, constitute a distinct budget unit within the county budget that is separate from the operations of the clerk of the superior court. The appeal administrator budget unit shall contain a separate line item for the compensation of the appeal administrator for the performance of duties required under this Code section as well as separate lines items for resources, facilities, and personnel as specified under subparagraphs (B) and (C) of this paragraph.

(D) ~~The clerk of superior court~~ appeal administrator shall maintain any county records of all notices to the taxpayer and the taxpayer's attorney, of certified receipts of returned or unclaimed mail, and from the hearings before the board of equalization and before hearing officers ~~until~~ for 12 months after the deadline to file any appeal to the superior court expires. If an appeal is not filed to the superior court, the ~~clerk of superior court~~ appeal administrator is authorized to properly destroy any records from the hearings before the county board of equalization or hearing officers but shall maintain records of all notices to the taxpayer and the taxpayer's attorney and certified receipts of returned or unclaimed mail for 12 months. If an appeal to the superior court is filed, the ~~clerk of superior court~~ appeal administrator shall file such appeal and records in the civil action that is considered open by the clerk of superior court for such appeal, and such records shall become part of the record on appeal in accordance with paragraph (2) of subsection (g) of this Code section.

(e) **Appeal.**

(1)(A) Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment by the county board of tax assessors to ~~either~~:

(i) The county board of equalization as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions pursuant to paragraph (2) of this subsection;

(ii) An arbitrator as to matters of value pursuant to subsection (f) of this Code section; ~~or~~

(iii) A hearing officer as to matters of value and uniformity of assessment for a parcel of nonhomestead real property with a fair market value in excess of ~~\$1 million~~ \$750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, and any contiguous nonhomestead real property owned by the same taxpayer, pursuant to subsection (e.1) of this Code section; or

(iv) A hearing officer as to matters of values or uniformity of assessment of one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate fair market value in excess of \$750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of this Code section.

(A.1) The commissioner shall establish by rule and regulation a uniform appeal form that the taxpayer may use. Such uniform appeal form shall require the initial assertion of a valuation of the property by the taxpayer.

(B) In addition to the grounds enumerated in subparagraph (A) of this paragraph, any taxpayer having property that is located within a municipality, the boundaries of which municipality extend into more than one county, may also appeal from an assessment on such property by the county board of tax assessors to the county board of equalization, or to a hearing officer, or to arbitration as to matters of uniformity of assessment of such property with other properties located within such municipality, and any uniformity adjustments to the assessment that may result from such appeal shall only apply for municipal ad valorem tax purposes.

(B.1) The taxpayer or his or her agent or representative may submit in support of his or her appeal an appraisal given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board which was performed not later than nine months prior to the date of assessment. The board of tax assessors shall consider the appraisal upon request. Within 45 days of the receipt of the taxpayer's appraisal, the board of tax assessors shall notify the taxpayer or his or her agent or representative of acceptance of the appraisal or shall notify the taxpayer or his or her agent or representative of the reasons for rejection.

(B.2) The taxpayer or his or her agent or representative may submit in support of his or her appeal the most current report of the sales ratio study for the county conducted pursuant to Code Section 48-5-274. The board of tax assessors shall consider such sales ratio study upon request of the taxpayer or his or her agent or representative.

(B.3) Any assertion of value by the taxpayer on the uniform appeal form made to the board of tax assessors shall be subject to later amendment or revision by the taxpayer by submission of written evidence to the board of tax assessors.

(B.4) If more than one property of a taxpayer is under appeal, the board of equalization, arbitrator, or hearing officer, as the case may be, shall, upon request of the taxpayer, consolidate all such appeals in one hearing and shall announce separate decisions as to each parcel or item of property. Any appeal from such a consolidated hearing to the superior court as provided in subsection (g) of this Code section shall

constitute a single civil action and, unless the taxpayer specifically so indicates in the taxpayer's notice of appeal, shall apply to all such parcels or items of property.

(B.5) Within ten days of a final determination of value under this Code section and the expiration of the 30 day appeal period provided by subsection (g) of this Code section, or, as otherwise provided by law, with no further option to appeal, the county board of tax assessors shall forward such final determination of value to the tax commissioner.

(C) Appeals to the county board of equalization shall be conducted in the manner provided in paragraph (2) of this subsection. Appeals to a hearing officer shall be conducted in the manner specified in subsection (e.1) of this Code section. Appeals to an arbitrator shall be conducted in the manner specified in subsection (f) of this Code section. Such appeal proceedings shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a business day. Following the notification of the taxpayer of the date and time of such taxpayer's scheduled hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer and the county board of tax assessors. ~~The clerk of the superior court~~ appeal administrator shall grant additional extensions to the taxpayer or the county board of tax assessors for good cause shown, or by agreement of the parties.

(D) The commissioner, by regulation, shall adopt uniform procedures and standards which shall be followed by county boards of equalization, hearing officers, and arbitrators in determining appeals. Such rules shall be updated and revised periodically and reviewed no less frequently than every five years. The commissioner shall publish and update annually a manual for use by county boards of equalization, arbitrators, and hearing officers.

(2)(A) **Appeal to board of equalization.** An appeal shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, ~~or~~ by mailing to, or by filing with the county board of tax assessors a notice of appeal within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306. A written objection to an assessment of real property received by a county board of tax assessors stating the location of the real property and the identification number, if any, contained in the tax notice shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. A written objection to an assessment of personal property received by a county board of tax assessors giving the account number, if any, contained in the tax notice and stating that the objection is to an assessment of personal property shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. The county board of tax assessors shall review the valuation or denial in question, and, if

any changes or corrections are made in the valuation or decision in question, the board shall send a notice of the changes or corrections to the taxpayer pursuant to Code Section 48-5-306. Such notice shall also explain the taxpayer's right to appeal to the county board of equalization as provided in subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or corrections made by the county board of tax assessors.

(B) If no changes or corrections are made in the valuation or decision, the county board of tax assessors shall send written notice thereof to the taxpayer, to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent, and to the county board of equalization which notice shall also constitute the taxpayer's appeal to the county board of equalization without the necessity of the taxpayer's filing any additional notice of appeal to the county board of tax assessors or to the county board of equalization. The county board of tax assessors shall also send or deliver all necessary papers to the county board of equalization. If, however, the taxpayer and the county board of tax assessors execute a signed agreement as to valuation, the appeal shall terminate as of the date of such signed agreement.

(C) If changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. The commissioner shall develop and make available to county boards of tax assessors a suitable form which shall be used in such notification to the taxpayer. The notice shall be sent by regular mail properly addressed to the address or addresses the taxpayer provided to the county board of tax assessors and to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent. If the taxpayer is dissatisfied with such changes or corrections, the taxpayer shall, within 30 days of the date of mailing of the change notice, ~~institute an~~ notify the county board of tax assessors to continue the taxpayer's appeal to the county board of tax assessors equalization by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of ~~appeal~~ continuance. The county board of tax assessors shall send or deliver the notice of appeal and all necessary papers to the county board of equalization.

(D) The written notice to the taxpayer required by this paragraph shall contain a statement of the grounds for rejection of any position the taxpayer has asserted with regard to the valuation of the property. No addition to or amendment of such grounds as to such position shall be permitted before the county board of equalization.

~~(3)(A) In any each year in which no county-wide revaluation is implemented, the~~  
county board of tax assessors shall ~~make its determination~~ review the appeal and notify the taxpayer of any corrections or changes within 180 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 day period ~~during such year~~, ~~the appeal shall be automatically referred to the county board of equalization~~ 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 shall be granted an additional 180 day period to make its determination and notify the taxpayer. The county board of tax assessors shall 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 any corrections or changes not later than the last day of such additional 180 day period, 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 prior to the expiration of the additional 180 day period provided for under subparagraph (B) of this paragraph, the commissioner shall be authorized 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 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 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.

(4) The determination by the county board of tax assessors of questions of factual characteristics of the property under appeal, as opposed to questions of value, shall be prima-facie correct in any appeal to the county board of equalization. However, the board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence.

(5) The county board of equalization shall determine all questions presented to it on the basis of the best information available to the board.

(6)(A) Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for 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 to the taxpayer and to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent. Such notice shall be transmitted by e-mail 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, which 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 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.

(C) If more than one ~~contiguous~~ 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 ~~render~~ 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 ~~render~~ announce its decision on each appeal at the conclusion of the hearing ~~under~~ held in accordance with subparagraph (B) of this paragraph before proceeding with another hearing. The decision of the county board of equalization shall be in writing, shall be signed by each member of the board, shall specifically decide each question presented by the appeal, 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, 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 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 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 be present and must participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board ~~must~~ 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.

(7) ~~The clerk of the superior court~~ appeal administrator shall furnish the county board of equalization necessary facilities and ~~secretarial and clerical~~ administrative help. ~~The clerk of the superior court~~ appeal administrator shall see that the records and information of the county board of tax assessors are transmitted to the county board of equalization. The county board of equalization ~~must~~ shall consider in the performance of its duties the information furnished by the county board of tax assessors and the taxpayer.

~~(8) The taxpayer or his or her agent or representative may submit in support of his or her appeal the most current report of the sales ratio study for the county conducted pursuant to Code Section 48-5-274. The board must consider the study upon any such request.~~

~~(9)~~ (8) If at any time during the appeal process to the county board of equalization and after certification by the county board of tax assessors to the county board of equalization, the county board of tax assessors and the taxpayer mutually agree in writing on the fair market value, then the county board of tax assessors, or the county board of

equalization, as the case may be, shall enter the agreed amount in all appropriate records as the fair market value of the property under appeal, and the appeal shall be concluded. The provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation unless otherwise waived by both parties.

(e.1) **Appeals to hearing officer.**

(1)(A) For any dispute involving the value or uniformity of a parcel of nonhomestead real property with a fair market value in excess of ~~\$1 million~~ \$750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection. If such taxpayer owns nonhomestead real property contiguous to such qualified nonhomestead real property, at the option of the taxpayer, such contiguous property may be consolidated with the qualified property for purposes of the hearing under this subsection.

(B)(i) As used in this subparagraph, the term 'wireless property' means tangible personal property or equipment used directly for the provision of wireless services by a provider of wireless services which is attached to or is located underneath a wireless cell tower or at a network data center location but which is not permanently affixed to such tower or data center so as to constitute a fixture.

(ii) For any dispute involving the values or uniformity of one or more account numbers of wireless property as defined in this subparagraph with an aggregate fair market value in excess of \$750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection.

(2) Individuals desiring to serve as hearing officers and who are either state certified general real property appraisers or state certified residential real property appraisers as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board for real property appeals or are designated appraisers by a nationally recognized appraiser's organization for wireless property appeals shall complete and submit an application, a list of counties the hearing officer is willing to serve, disqualification questionnaire, and resume and be approved by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board to serve as a hearing officer. Such board shall annually publish a list of qualified and approved hearing officers for Georgia.

(3) ~~The clerk of the superior court~~ appeal administrator shall furnish any hearing officer so selected the necessary facilities.

(4) An appeal shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by filing with the county board of tax assessors a notice of appeal to a hearing officer within 45 days from the date

of mailing the notice of assessment pursuant to Code Section 48-5-306. A written objection to an assessment of real property or wireless property received by a county board of tax assessors stating the taxpayer's election to appeal to a hearing officer and showing the location of the real property or wireless property contained in the assessment notice shall be deemed a notice of appeal by the taxpayer.

(5) The county board of tax assessors may for no more than 90 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. ~~If within~~ Within 30 days of the county board of tax assessors' mailing of such notice, the taxpayer ~~notifies~~ may notify the county board of tax assessors in writing that ~~such the~~ 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 days of the date of mailing of such taxpayer's notification, send or deliver ~~the notice of appeal and~~ all necessary papers to the ~~clerk of the superior court~~ 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 days of the mailing of the county board of tax assessor's notice of no changes or corrections. Upon the expiration of 30 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 papers to the 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.

~~(6)(A) The clerk of superior court~~ 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. The hearing officer, in conjunction with all parties to the appeal, 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 documents or other written evidence to be presented at the hearing by a party must be provided to the other party not less than seven days prior to the time of the hearing and that any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such 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.

(7) The hearing officer shall swear in all witnesses, perform the powers, duties, and authority of a county or regional board of equalization, and determine the fair market value of the real property or wireless property based upon the testimony and evidence presented during the hearing. Any issues other than fair market value and uniformity raised in the appeal shall be preserved for appeal to the superior court. The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence. At the conclusion of the hearing, the hearing officer shall notify both parties of the decision verbally and shall either send the taxpayer both parties the decision in writing or deliver the decision by hand to each party, with written receipt.

(8) The taxpayer or the board of tax assessors may appeal the decision of the hearing officer to the superior court as provided in subsection (g) of this Code section.

(9) If, at any time during the appeal under this subsection, the taxpayer and the county board of tax assessors execute a signed written agreement on the fair market value and any other issues raised; the appeal shall terminate as of the date of such signed agreement; ~~and the fair market value as set forth in such agreement shall become final; and subsection (c) of Code Section 48-5-299 shall apply. The provisions contained in this paragraph may be waived at any time by written consent of the taxpayer and the county board of tax assessors.~~

(9.1) The provisions contained in this subsection may be waived at any time by written consent of the taxpayer and the county board of tax assessors.

(10) Each hearing officer shall be compensated by the county for time expended in considering appeals. The compensation shall be paid at a rate of not less than \$75.00 per hour for the first hour and not less than \$25.00 per hour for each hour thereafter as determined by the county governing authority or as may be agreed upon by the parties

with the consent of the county governing authority. Compensation pursuant to this paragraph shall be paid from the county treasury upon certification by the hearing officer of the hours expended in hearing of appeals. The attendance at any training required by the commissioner shall be part of the qualifications of the hearing officer, and any nominal cost of such training shall be paid by the hearing officer. ~~If the clerk of the superior court, after diligent search, cannot find a qualified hearing officer who is willing to serve, the clerk of the superior court shall notify the county board of tax assessors in writing. The county board of tax assessors shall then certify the appeal to the county or regional board of equalization.~~

(11) The commissioner shall promulgate rules and regulations for the proper administration of this subsection, including, but not limited to, ~~a uniform appeal form; qualifications; training, including an eight-hour course on Georgia property law, Georgia evidence law, preponderance of evidence, burden of proof, credibility of the witnesses, and weight of evidence; disqualification questionnaire; selection; removal; an annual continuing education requirement of at least four hours of instruction in recent legislation, current case law, and updates on appraisal and equalization procedures, as prepared and required by the commissioner;~~ and any other matters necessary to the proper administration of this subsection. The failure of any hearing officer to fulfill the requirements of this paragraph shall render such officer ineligible to serve. Such rules and regulations shall also include a uniform appeal form which shall require the initial assertion of a valuation of the property by the taxpayer. Any such assertion of value shall be subject to later revision by the taxpayer based upon written evidence. The commissioner shall seek input from all interested parties prior to such promulgation.

(12) If the county's tax bills are issued before the hearing officer has rendered his or her decision on property which is on appeal, a temporary tax bill shall be issued in the same manner as otherwise required under division (e)(6)(D)(iii) of this Code section.

(13) Upon determination of the final value, the temporary tax bill shall be adjusted as required under division (e)(6)(D)(iii) of this Code section."

**"(h) Recording of interviews or hearings.**

(1) In the course of any assessment, appeal, or arbitration, or any related proceeding, the taxpayer shall be entitled to: ~~make recordings of any interview with any officer or employee of the taxing authority relating to the valuation of the taxpayer's property subject to such assessment, appeal, arbitration, or related proceeding, at the taxpayer's expense and with equipment provided by the taxpayer, and no such officer or employee may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview.~~

(A) Have an interview with an officer or employee, that is authorized to discuss tax assessments of the board of tax assessors relating to the valuation of the taxpayer's property subject to such assessment, appeal, arbitration, or related proceeding, and the taxpayer may record the interview at the taxpayer's expense and with equipment provided by the taxpayer, and no such officer or employee of the board of tax assessors may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview; and

(B) Record, at the taxpayer's expense and with equipment provided by the taxpayer, all proceedings before the board of equalization or any hearing officer.

(2) The interview referenced in subparagraph (A) of paragraph (1) of this subsection shall be granted to the taxpayer within 30 calendar days from the postmark date of the taxpayer's written request for the interview, and the interview shall be conducted in the office of the board of assessors. The time and date for the interview, within such 30 calendar day period, shall be mutually agreed upon between the taxpayer and the taxing authority. The taxing authority may extend the time period for the interview an additional 30 days upon written notification to the taxpayer.

(3) The superior courts of this state shall have jurisdiction to enforce the provisions of this subsection directly and without the issue being first brought to any administrative procedure or hearing. The taxpayer shall be awarded damages in the amount of \$100.00 per occurrence where the taxpayer requested the interview, in compliance with this subsection, and the board of assessors failed to timely comply; and, the taxpayer shall be entitled to recover reasonable attorney's fees and expenses of litigation incurred in any action brought to compel such interview.

**(i) Alternate members of boards of equalization.**

(1) Alternate members of the county board of equalization in the order in which selected shall serve:

~~(1)(A)~~ (A) As members of the county board of equalization in the event there is a permanent vacancy on the board created by the death, ineligibility, removal from the county, or incapacitating illness of a member or by any other circumstances. An alternate member who fills a permanent vacancy shall be considered a member of the board for the remainder of the unexpired term; or

~~(2)(B)~~ (B) In any appeal with respect to which a member of the board is disqualified and shall be considered a member of the board; or for which an alternate member is selected for service by the appeal administrator.

~~(3) In any appeal at a regularly scheduled or called meeting in the absence of a member and shall be considered a member of the board.~~

(2) A hearing panel shall consist of no more than three members at any time, one of whom shall serve as the presiding member for the purpose of the hearing.

**(j) Disqualification.**

(1) No member of the county board of equalization and no hearing officer shall serve with respect to any appeal concerning which he or she would be subject to a challenge for cause if he or she were a member of a panel of jurors in a civil case involving the same subject matter.

(2) The parties to an appeal to the county board of equalization or to a hearing officer shall file in writing with the appeal, in the case of the person appealing, or, in the case of the county board of tax assessors, with the certificate transmitting the appeal, questions relating to the disqualification of members of the county board of equalization or hearing officer. Each question shall be phrased so that it can be answered by an affirmative or negative response. The members of the county board of equalization or hearing officer shall, in writing under oath within two days of their receipt of the appeal, answer the questions and any question which may be adopted pursuant to subparagraph (e)(1)(D) of this Code section. Answers of the county board of equalization or hearing officers shall be part of the decision of the board or hearing officer and shall be served on each party by first-class mail. Determination of disqualification shall be made by the judge of the superior court upon the request of any party when the request is made within two days of the response of the board or hearing officer to the questions. The time prescribed under subparagraph (e)(6)(A) of this Code section shall be tolled pending the determination by the judge of the superior court.

**(k) Compensation of board of equalization members.**

(1) Each member of the county board of equalization shall be compensated by the county per diem for time expended in considering appeals. The compensation shall be paid at a rate of not less than \$25.00 per day and shall be determined by the county governing authority. The attendance at required approved appraisal courses shall be part of the official duties of a member of the board, and he or she shall be paid for each day in attendance at such courses and shall be allowed reasonable expenses necessarily incurred in connection with such courses. Compensation pursuant to this subsection paragraph shall be paid from the county treasury upon certification by the member of the days expended in consideration of appeals or attending approved appraisal courses.

(2) Each member of the county board of equalization who participates in online training provided by the department shall be compensated by the county at the rate of \$25.00 per day for each eight hours of completed training. A member shall certify under oath and file an affidavit with the appeal administrator stating the number of hours required to complete such training and the number of hours which were actually completed. The



appeal administrator shall review the affidavit and, following approval thereof, shall notify the county governing authority. The Council of Superior Court Clerks of Georgia shall develop and make available an appropriate form for such purpose. Compensation pursuant to this paragraph shall be paid from the county treasury following approval of the appeal administrator of the affidavit filed under this paragraph.

(l) **Military service.**

In the event of the absence of an individual from such individual's residence because of duty in the armed forces, the filing requirements set forth in paragraph (3) of subsection (f) of this Code section shall be tolled for a period of 90 days. During this period, any member of the immediate family of the individual, or a friend of the individual, may notify the tax receiver or the tax commissioner of the individual's absence due to military service and submit written notice of representation for the limited purpose of the appeal. Upon receipt of this notice, the tax receiver or the tax commissioner shall initiate the appeal.

(m) **Interest.**

(1) For the purposes of this Code section, any final value that causes a ~~deduction~~ 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 within 60 days from the date of the final determination of value. Such refund shall include interest ~~on the amount of the deduction~~ at the same rate specified in Code Section 48-2-35 which shall accrue from ~~November 15~~ the due date of the taxable year in question or the date ~~the final installment was due or was paid, whichever is later, through the date on which the refund is paid or 60 days from the date of the final determination of value was made, whichever is earlier.~~ In no event shall the amount of such interest exceed \$150.00 for homestead property or \$5,000.00 for nonhomestead property. Any refund paid after the sixtieth day shall accrue interest from the sixty-first day until paid with interest at the same rate specified in Code Section 48-2-35. The interest accrued after the sixtieth day and forward shall not be subject to the limits imposed by this subsection. The tax commissioner shall pay the tax refund and any interest for the refund from current collections in the same proportion for each of the levying authorities for whom the taxes were collected.

(2) 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 specified in Code Section 48-2-35. The tax commissioner shall adjust the tax bill, including interest, within 15 days from the date of the final determination of value and mail the adjusted bill to the taxpayer. Such interest shall accrue from November 15 of the taxable year in question or the final installment of the tax was due through the date on which the bill was adjusted and mailed or 15 days from~~

~~the date of the final determination, whichever is earlier. The interest computed on the additional billing shall in no event exceed \$150.00 for homestead property or \$5,000.00 for nonhomestead property.~~ After the tax bill notice has been mailed out, the taxpayer shall be afforded 60 days from the date of the postmark to make full payment of the adjusted bill ~~and interest~~. Once the 60 day payment period has expired, the bill shall be considered past due and interest shall accrue from the original billing due date as specified in Code Section 48-2-40 without limit until the bill is paid in full. Once past due, all other fees, penalties, and late and collection notices shall apply as prescribed in this chapter for the collection of delinquent taxes.

(n) **Service of notice.**

A notice of appeal to a board of tax assessors under subsection (e), (e.1), (f), or (g) of this Code section shall be deemed filed as of the date of the United States Postal Service postmark, receipt of delivery by statutory overnight delivery, or, if the board of tax assessors has adopted a written policy consenting to electronic service, by transmitting a copy to the board of tax assessors via e-mail in portable document format using all e-mail addresses provided by the board of tax assessors ~~and showing in the subject line of the e-mail message the words 'STATUTORY ELECTRONIC SERVICE' in capital letters.~~ Service by mail, statutory overnight delivery, or electronic transmittal is complete upon such service. Proof of service may be made within 45 days of receipt of the annual notice of current assessment under Code Section 48-5-306 to the taxpayer by certificate of the taxpayer, the taxpayer's attorney, or the taxpayer's employee by written admission or by affidavit. Failure to make proof of service shall not affect the validity of service.

(o) When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, and a copy of such written authorization is provided to the county board of tax assessors, all notices required to be provided to the taxpayer under this Code section, including those regarding hearing times, dates, certifications, notice of changes or corrections, or other official actions, shall ~~instead~~ be provided to ~~such the taxpayer and the authorized agent, representative, or attorney.~~ Upon agreement by the county board of tax assessors and the taxpayer's agent, representative, or attorney, notices required by this Code section to be sent to the taxpayer or the taxpayer's agent, representative, or attorney may be sent by e-mail. The failure to comply with this subsection with respect to a notice required under this Code section shall result in the tolling of any deadline imposed on the taxpayer under this Code section with respect to that notice."

**SECTION 16.**

Said title is further amended in Code Section 48-5-311, relating to county boards of equalization and ad valorem tax appeals, by repealing and reenacting subsections (f) and (g) and by adding a new subsection to read as follows:

**"(f) Nonbinding arbitration.**

(1) As used in this subsection, the term 'certified appraisal' means an appraisal or appraisal report given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board.

(2) At the option of the taxpayer, an appeal shall be submitted to nonbinding arbitration in accordance with this subsection.

(3)(A) Following an election by the taxpayer to use the arbitration provisions of this subsection, an arbitration appeal shall be effected by the taxpayer by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by filing a written notice of arbitration appeal with the county board of tax assessors. The notice of arbitration appeal shall specifically state the grounds for arbitration. The notice shall be filed within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306. Within ten days of receipt of a taxpayer's notice of arbitration appeal, the board of tax assessors shall send to the taxpayer an acknowledgment of receipt of the appeal and a notice that the taxpayer shall, within 45 days of the date of transmittal of the acknowledgment of receipt of the appeal, provide to the county board of tax assessors for consideration a copy of a certified appraisal. Failure of the taxpayer to provide such certified appraisal within such 45 days shall terminate the appeal unless the taxpayer within such 45 day period elects to have the appeal immediately forwarded to the board of equalization. Prior to appointment of the arbitrator and within 45 days of the acknowledgment of the receipt of the appeal, the taxpayer shall provide a copy of the certified appraisal as specified in this paragraph to the county board of tax assessors for consideration. Within 45 days of receiving the taxpayer's certified appraisal, the county board of tax assessors shall either accept the taxpayer's appraisal, in which case that value shall become final, or the county board of tax assessors shall reject the taxpayer's appraisal by sending within ten days of the date of such rejection a written notification by certified mail of such rejection to the taxpayer and the taxpayer's attorney of record in compliance with subsection (o) of this Code section, in which case the county board of tax assessors shall certify within 45 days the appeal to the appeal administrator of the county in which the property is located along with any other papers specified by the person seeking arbitration under this subsection, including, but not limited to, the staff information from the file used by

the county board of tax assessors. In the event the taxpayer is not notified of a rejection of the taxpayer's appraisal within such ten-day period, the taxpayer's appraisal value shall become final. In the event that the county board of tax assessors neither accepts nor rejects the value set out in the certified appraisal within 45 days after the receipt of the certified appraisal, then the certified appraisal shall become the final value. All papers and information certified to the appeal administrator shall become a part of the record on arbitration. At the time of certification of the appeal, the county board of tax assessors shall serve the taxpayer and the taxpayer's attorney of record in compliance with subsection (o) of this Code section, if any, or employee with a copy of the certification along with any other papers specified by the person seeking arbitration along with the civil action file number assigned to the appeal, if any. Within 15 days of filing the certification to the appeal administrator, the presiding or chief judge of the superior court of the circuit in which the property is located shall issue an order authorizing the arbitration.

(B) At any point, the county board of tax assessors and the taxpayer may execute a signed, written agreement establishing the fair market value without entering into or completing the arbitration process. The fair market value as set forth in such agreement shall become the final value.

(C) The arbitration shall be conducted pursuant to the following procedure:

(i) The county board of tax assessors shall, at the time the appeal is certified to the appeal administrator under subparagraph (A) of this paragraph, provide to the taxpayer a notice of a meeting time and place to decide upon an arbitrator, to occur within 60 days after the date of sending the rejection of the taxpayer's certified appraisal. Following the notification of the taxpayer of the date and time of the meeting, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the meeting to a date and time acceptable to the taxpayer and the county board of tax assessors. If the parties agree, the matter shall be submitted to a single arbitrator chosen by the parties. If the parties cannot agree on the single arbitrator, the arbitrator may be chosen by the presiding or chief judge of the superior court of the circuit in which the property is located within 30 days after the filing of a petition by either party;

(ii) In order to be qualified to serve as an arbitrator, a person shall be classified as a state certified general real property appraiser or state certified residential real property appraiser pursuant to the rules and regulations of the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board and shall have experience or expertise in appraising the type of property that is the subject of the arbitration;

(iii) The arbitrator, within 30 days after his or her appointment, shall set a time and place to hear evidence and testimony from both parties. The arbitrator shall provide 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 documents or other written evidence to be presented at the hearing by a party must be provided to the other party not less than seven days prior to the time of the hearing and that any failure to comply with this requirement, unless waived by mutual written agreement of such parties, shall be grounds for a continuance or for exclusion of such documents or other written evidence. The arbitrator, in consultation with the parties, may adjourn or postpone the hearing. Following notification of the taxpayer of the date and time of the hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the hearing to a date and time acceptable to the taxpayer and the county board of tax assessors. The presiding or chief judge of the superior court of the circuit in which the property is located may direct the arbitrator to proceed promptly with the hearing and the determination of the appeal upon application of any party. The hearing shall occur in the county in which the property is located or such other place as may be agreed upon in writing by the parties;

(iv) At the hearing, the parties shall be entitled to be heard, to present documents, testimony, and other matters, and to cross-examine witnesses. The arbitrator may hear and determine the controversy upon the documents, testimony, and other matters produced notwithstanding the failure of a party duly notified to appear;

(v) The arbitrator shall maintain a record of all pleadings, documents, testimony, and other matters introduced at the hearing. The arbitrator or any party to the proceeding may have the proceedings transcribed by a court reporter;

(vi) The provisions of this paragraph may be waived at any time by written consent of the taxpayer and the board of tax assessors;

(vii) At the conclusion of the hearing, the arbitrator shall render a decision regarding the fair market value of the property subject to nonbinding arbitration;

(viii) In order to determine the fair market value, the arbitrator may consider the final value for the property submitted by the county board of tax assessors at the hearing and the final value submitted by the taxpayer at the hearing. The taxpayer shall be responsible for the cost of any appraisal by the taxpayer's appraiser;

(ix) The arbitrator shall consider the final value submitted by the county board of tax assessors, the final value submitted by the taxpayer, and evidence supporting the values submitted by the county board of tax assessors and the taxpayer. The arbitrator shall determine the fair market value of the property under appeal. The arbitrator

shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt;  
(x) If the taxpayer's value is closest to the fair market value determined by the arbitrator, the county shall be responsible for the fees and costs of such arbitrator. If the value of the board of tax assessors is closest to the fair market value determined by the arbitrator, the taxpayer shall be responsible for the fees and costs of such arbitrator; and

(xi) The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence.

(4) If the county's tax bills are issued before an arbitrator has rendered his or her decision on property which is on appeal, a temporary tax bill shall be issued in the same manner as otherwise required under division (e)(6)(D)(iii) of this Code section.

(5) Upon determination of the final value, the temporary tax bill shall be adjusted as required under division (e)(6)(D)(iii) of this Code section.

**(g) Appeals to the superior court.**

(1) The taxpayer or the county board of tax assessors may appeal decisions of the county board of equalization, hearing officer, or arbitrator, as applicable, to the superior court of the county in which the property lies. By mutual written agreement, the taxpayer and the county board of tax assessors may waive an appeal to the county board of equalization and initiate an appeal under this subsection. A county board of tax assessors shall not appeal a decision of the county board of equalization, arbitrator, or hearing officer, as applicable, changing an assessment by 20 percent or less unless the board of tax assessors gives the county governing authority a written notice of its intention to appeal, and, within ten days of receipt of the notice, the county governing authority by majority vote does not prohibit the appeal. In the case of a joint city-county board of tax assessors, such notice shall be given to the city and county governing authorities, either of which may prohibit the appeal by majority vote within the allowed period of time.

(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of appeal. An appeal by the county board of tax assessors shall be effected by giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain the name and the last known address of the taxpayer. The notice of appeal shall specifically state the grounds for appeal. The notice shall be mailed or filed within 30 days from the date on which the decision of the county board of equalization, hearing officer, or arbitrator is delivered pursuant to subparagraph (e)(6)(D), paragraph (7) of subsection (e.1), or division (f)(3)(C)(ix) of this Code section. Within 45 days of receipt

1437 of a taxpayer's notice of appeal and before certification of the appeal to the superior court,  
1438 the county board of tax assessors shall send to the taxpayer notice that a settlement  
1439 conference, in which the county board of tax assessors and the taxpayer shall confer in  
1440 good faith, will be held at a specified date and time which shall be no later than 30 days  
1441 from the notice of the settlement conference, and notice of the amount of the filing fee,  
1442 if any, required by the clerk of the superior court. The taxpayer may exercise a one-time  
1443 option to reschedule the settlement conference to a different date and time acceptable to  
1444 the taxpayer, but in no event later than 30 days from the date of the notice. If at the end  
1445 of the 45 day review period the county board of tax assessors elects not to hold a  
1446 settlement conference, then the appeal shall terminate and the taxpayer's stated value shall  
1447 be entered in the records of the board of tax assessors as the fair market value for the year  
1448 under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply  
1449 to such value. If the taxpayer chooses not to participate in the settlement conference, he  
1450 or she may not seek and shall not be awarded fees and costs at such time when the appeal  
1451 is settled in superior court. If at the conclusion of the settlement conference the parties  
1452 reach an agreement, the settlement value shall be entered in the records of the county  
1453 board of tax assessors as the fair market value for the tax year under appeal and the  
1454 provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If at the  
1455 conclusion of the settlement conference the parties cannot agree on a fair market value,  
1456 then written notice shall be provided to the taxpayer that the filing fees must be paid by  
1457 the taxpayer to the clerk of the superior court within ten days of the date of the  
1458 conference, with a copy of the check delivered to the county board of tax assessors.  
1459 Notwithstanding any other provision of law to the contrary, the amount of the filing fee  
1460 for an appeal under this subsection shall be \$25.00. An appeal under this subsection shall  
1461 not be subject to any other fees or additional costs otherwise required under any provision  
1462 of Title 15 or under any other provision of law. Immediately following payment of such  
1463 \$25.00 filing fee by the taxpayer to the clerk of the superior court, the clerk shall remit  
1464 the proceeds thereof to the governing authority of the county which shall deposit the  
1465 proceeds into the general fund of the county. Within 30 days of receipt of proof of  
1466 payment to the clerk of the superior court, the county board of tax assessors shall certify  
1467 to the clerk of the superior court the notice of appeal and any other papers specified by  
1468 the person appealing including, but not limited to, the staff information from the file used  
1469 by the county board of tax assessors, the county board of equalization, the hearing officer,  
1470 or the arbitrator. All papers and information certified to the clerk shall become a part of  
1471 the record on appeal to the superior court. At the time of certification of the appeal, the  
1472 county board of tax assessors shall serve the taxpayer and his or her attorney of record,  
1473 if any, with a copy of the notice of appeal and with the civil action file number assigned

to the appeal. Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No discovery, motions, or other pleadings may be filed by the county board of tax assessors in the appeal until such service has been made.

(3) The appeal shall constitute a de novo action. The board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence. Upon a failure of the board of tax assessors to meet such burden of proof, the court may, upon motion or sua sponte, authorize the finding that the value asserted by the board of tax assessors is unreasonable and authorize the determination of the final value of the property.

(4)(A) The appeal shall be placed on the court's next available jury or bench trial calendar, at the taxpayer's election, following the filing of the appeal unless continued by the court. If only questions of law are presented in the appeal, the appeal shall be heard as soon as practicable before the court sitting without a jury. Each hearing before the court sitting without a jury at the taxpayer's election shall be held within 30 days following the date on which the appeal is filed with the clerk of the superior court.

(B)(i) The county board of tax assessors shall use the valuation of the county board of equalization, the hearing officer, or the arbitrator, as applicable, in compiling the tax digest for the county.

(ii)(I) If the final determination of value on appeal is less than the valuation thus used, the tax commissioner shall be authorized to adjust the taxpayer's tax bill to reflect the final value for the year in question.

(II) If the final determination of value on appeal causes a reduction in taxes and creates a refund that is owed to the taxpayer, it 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) If the final determination of value on appeal is 85 percent or less of the valuation set by the county board of equalization, hearing officer, or arbitrator as to any real property, the taxpayer, in addition to the interest provided for in subsection (m) of this Code section, shall recover costs of litigation and reasonable attorney's fees incurred in the action. Any appeal of an award of attorney's fees by the county shall be specifically approved by the governing authority of the county.

(iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, hearing officer, or arbitrator, as applicable, causes an increase in taxes, and creates an additional billing, it shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.



1510 (g.1) The provisions in subsection (c) of Code Section 48-5-299 shall apply to the  
1511 valuation, unless otherwise waived in writing by both parties, as to:

1512 (1) The valuation established or announced by any county board of equalization,  
1513 arbitrator, hearing officer, or superior court; and

1514 (2) Any written agreement or settlement of valuation reached by the county board of tax  
1515 assessors and the taxpayer as permitted by this Code section."

#### 1516 **SECTION 17.**

1517 Reserved.

#### 1518 **SECTION 18.**

1519 Said title is further amended in Code Section 48-5-345, relating to county tax digests and  
1520 deviations from certain assessment ratio, by revising paragraph (1) of subsection (a) and by  
1521 adding a new subsection to read as follows:

1522 "(a)(1) Upon the determination by the commissioner that a county tax digest is in proper  
1523 form, that the property therein that is under appeal is within the limits of Code Section  
1524 48-5-304, and that the digest is accompanied by all documents, statistics, and  
1525 certifications required by the commissioner, including the number, overall value and  
1526 percentage of total real property parcels of appeals in each county to the boards of  
1527 equalization, arbitration, hearing officer, and superior court, and the number of taxpayers'  
1528 failure to appear at any hearing, for the prior tax year, the commissioner shall issue a  
1529 receipt for the digest and enter an order authorizing the use of said digest for the  
1530 collection of taxes. All statistics and certifications regarding real property appeals  
1531 provided to the commissioner under this paragraph shall be made publicly available on  
1532 the Department of Revenue website."

1533 "(c) Beginning with tax digests on or after the effective date of this subsection, no county  
1534 shall be subject to the assessment authorized by subparagraph (b) of this Code section."

#### 1535 **SECTION 19.**

1536 Said title is further amended by revising subsection (a) of Code Section 48-5-405, relating  
1537 to the levy and collection of tax by municipalities for independent school systems, as  
1538 follows:

1539 "(a) Each municipality authorized by law to maintain an independent school system may  
1540 support and maintain the public common schools within the independent school system by  
1541 levy of ad valorem taxes at the rate fixed by law upon all taxable property within the limits  
1542 of the municipality independent school system. The board of education of the municipality  
1543 or other authority charged with the duty of operating the independent school system shall

1544 annually recommend to the governing authority of the municipality the rate of the tax levy,  
 1545 within the limitations fixed by law, to be made upon all taxable property within the limits  
 1546 of the ~~municipality~~ independent school system. Taxes levied and collected for support and  
 1547 maintenance of the independent school system by the municipal governing authority shall  
 1548 be appropriated, when collected, by the governing authority to the board of education or  
 1549 other authority charged with the duty of operating the independent school system. Funds  
 1550 appropriated to an independent school system shall be expended by the board of education  
 1551 or other authority charged with the duty of operating the independent school system only  
 1552 for educational purposes including, but not limited to, school lunch purposes. The term  
 1553 'school lunch purposes' shall include payment of costs and expenses incurred in the  
 1554 purchase of school lunchroom supplies; the purchase, replacement, or maintenance of  
 1555 school lunchroom equipment; the transportation, storage, and preparation of foods; and all  
 1556 current operating expenses incurred in the management and operation of school lunch  
 1557 programs in the public common schools of the independent school system. 'School lunch  
 1558 purposes' shall not include the purchase of foods."

#### 1559 **SECTION 20.**

1560 Said title is further amended by revising Code Section 48-5-492, relating to issuance of  
 1561 mobile home location permits, as follows:

1562 "48-5-492.

1563 (a) Each year every owner of a mobile home subject to taxation under this article shall  
 1564 obtain on or before ~~May~~ April 1 from the tax collector or tax commissioner of the county  
 1565 of taxation of the mobile home a mobile home location permit. The issuance of the permit  
 1566 by the tax collector or tax commissioner shall be evidenced by the issuance of a decal, the  
 1567 color of which shall be prescribed for each year by the commissioner. Each decal shall  
 1568 reflect the county of issuance and the calendar year for which the permit is issued. The  
 1569 decal shall be prominently attached and displayed on the mobile home by the owner.

1570 (b) Except as provided for mobile homes owned by a dealer, no mobile home location  
 1571 permit shall be issued by the tax collector or tax commissioner until all ad valorem taxes  
 1572 due on the mobile home have been paid. Each year every owner of a mobile home situated  
 1573 in this state on January 1 which is not subject to taxation under this article shall obtain on  
 1574 or before ~~May~~ April 1 from the tax collector or tax commissioner of the county where the  
 1575 mobile home is situated a mobile home location permit. The issuance of the permit shall  
 1576 be evidenced by the issuance of a decal which shall reflect the county of issuance and the  
 1577 calendar year for which the permit is issued. The decal shall be prominently attached and  
 1578 displayed on the mobile home by the owner."

**SECTION 21.**

Said title is further amended in Code Section 48-5-493, relating to penalties for failure to attach and display certain decals, by revising paragraph (2) of subsection (a) as follows:

"(2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ~~\$25.00~~ \$100.00 nor more than ~~\$200.00~~ \$300.00, except that upon receipt of proof of purchase of a decal prior to the date of the issuance of a summons, the fine shall be ~~\$25.00~~ \$50.00; provided, however, that in the event such person owns more than one mobile home in an individual mobile home park, then the maximum fine under this paragraph for such person with respect to such mobile home park shall not exceed \$1,000.00."

**SECTION 22.**

Said title is further amended by revising Code Section 48-5-494, relating to mobile home tax returns and decal application and issuance, as follows:

"48-5-494.

Each year every owner of a mobile home subject to taxation under this article shall return the mobile home for taxation and shall pay the taxes due on the mobile home at the time the owner applies for the mobile home location permit, or at the time of the first sale or transfer of the mobile home after December 31, or on ~~May~~ April 1, whichever occurs first. If the owner returns such owner's mobile home for taxation prior to the date that the application for the mobile home location permit is required, such owner shall apply for the permit at the time such owner returns the mobile home for taxation."

**SECTION 23.**

Said title is further amended by revising subparagraph (c)(3)(A) and subdivision (c)(3)(B)(iii)(III) of Code Section 48-5C-1, relating to the alternative ad valorem tax on motor vehicles, as follows:

"(A) The tag agent of the county shall within 20 days following the end of each calendar month allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county and in a county in which a sales and use tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the governing body of the transportation authority created by the Metropolitan Atlanta Rapid Transit Authority Act of 1965, Ga. L. 1965, p. 2243, as amended, and the amendment to the Constitution set out at

Ga. L. 1964, p. 1008, an amount of those proceeds necessary to offset any reduction in (i) ad valorem tax on motor vehicles collected under Chapter 5 of this title in the taxing jurisdiction of each governing authority and school district from the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of this title in each such governing authority and school district during the same calendar month of 2012 and (ii) with respect to the transportation authority, the monthly average portion of the sales and use tax levied for purposes of a metropolitan area system of public transportation applicable to any motor vehicle titled in a county which levied such tax in 2012. Such amount of tax may be determined by the commissioner for counties which levied such tax in 2012, and any counties which subsequently levy a tax pursuant to a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the governing body of the transportation authority created by the Metropolitan Atlanta Rapid Transit Authority Act of 1965, Ga. L. 1965, p. 2243, as amended, and the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the Commissioner may determine what amount of sales and use tax would have been collected in 2012, had such tax been levied. This reduction shall be calculated, with respect to (i) above, by subtracting the amount of ad valorem tax on motor vehicles collected under Chapter 5 of this title in each such taxing jurisdiction from the amount of ad valorem tax on motor vehicles collected under Chapter 5 of this title in that taxing jurisdiction in the same calendar month of 2012. In the event that the local title ad valorem tax fee proceeds are insufficient to fully offset such reduction in ad valorem taxes on motor vehicles or the portion of the sales and use tax described in (ii) above, the tag agent shall allocate a proportionate amount of the proceeds to each governing authority and to the board of education of each such school district and the transportation authority, and any remaining shortfall shall be paid from the following month's local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag agent shall continue to first allocate local title ad valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully repaid; and"

"(III) If such tax is not currently in effect in a county in which a tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, such proceeds shall be distributed to the governing body of the authority created by local Act to operate such metropolitan area system of public transportation in such county, in the same manner as ad valorem tax on motor vehicles collected under Chapter 5 of this title in the taxing jurisdiction of each governing authority and school district from

1651 the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of this  
 1652 title in each such governing authority and school district during the same calendar  
 1653 month of 2012."

1654 **SECTION 24.**

1655 Said title is further amended in Code Section 48-6-2, relating to real estate transfer tax  
 1656 exemptions, by revising subsection (b) as follows:

1657 "(b) In order to exercise any exemption provided in this Code section, the total  
 1658 consideration of the transfer ~~shall be shown~~ for real and personal property conveyed shall  
 1659 be shown on the form prescribed in subsection (c) of Code Section 48-6-4."

1660 **SECTION 25.**

1661 Said title is further amended in Code Section 48-6-4, relating to real estate transfer tax  
 1662 payment as certain filing prerequisites, by revising subsections (a), (b), and (c) as follows:

1663 "(a) It is the intent of the General Assembly that the tax imposed by this article be paid to  
 1664 the clerk of the superior court or his or her deputy, and that the actual consideration of real  
 1665 and personal property conveyed shall be shown separately on the form prescribed in  
 1666 subsection (c) of this Code section, prior to and as a prerequisite to the filing for record of  
 1667 any deed, instrument, or other writing described in Code Section 48-6-1.

1668 (b) No deed, instrument, or other writing described in Code Section 48-6-1 shall be filed  
 1669 for record or recorded in the office of the clerk of the superior court or filed for record or  
 1670 recorded in or on any other official record of this state or of any county until the tax  
 1671 imposed by this article has been paid and until the actual consideration of real and personal  
 1672 property conveyed has been shown separately on the form prescribed in subsection (c) of  
 1673 this Code section; provided, however, that any such deed, instrument, or other writing filed  
 1674 or recorded which would otherwise constitute constructive notice shall constitute such  
 1675 notice whether or not such tax was in fact paid.

1676 (c) The amount of tax to be paid on a deed, instrument, or other writing shall be  
 1677 determined on the basis of written disclosure of the actual consideration ~~or value~~ of the  
 1678 interest in the property granted, assigned, transferred, or otherwise conveyed. The  
 1679 disclosure of the amount of tax and the actual consideration shall be made on a form or in  
 1680 electronic format prescribed by the commissioner and provided by the clerk of the superior  
 1681 court. By the fifteenth day of the month following the month the deed, instrument, or other  
 1682 writing is recorded, a physical or electronic copy of each disclosure shall be forwarded or  
 1683 made available electronically to the state auditor and to the tax commissioner and the board  
 1684 of tax assessors in the county where the deed, instrument, or other writing is recorded."

**SECTION 26.**

Said title is further amended by revising paragraphs (94) and (95) of and by adding a new paragraph to Code Section 48-8-3, relating to exemptions from state sales and use tax, as follows:

"(94) The sale, use, consumption, or storage of materials, containers, labels, sacks, or bags used for packaging tangible personal property for shipment or sale. To qualify for the packaging exemption, the items shall be used solely for packaging and shall not be purchased for reuse. The packaging exemption shall not include materials purchased at a retail establishment for consumer use; ~~or~~

(95) The sale or purchase of any motor vehicle titled in this state on or after March 1, 2013, pursuant to Code Section 48-5C-1. Except as otherwise provided in this paragraph, this exemption shall not apply to rentals of motor vehicles for periods of 31 or fewer consecutive days. Lease payments for a motor vehicle that is leased for more than 31 consecutive days for which a state and local title ad valorem tax is paid shall be exempt from sales and use taxes as provided for in this paragraph. No sales and use taxes shall be imposed upon state and local title ad valorem tax fees imposed pursuant to Chapter 5C of this title as a part of the purchase price of a motor vehicle or any portion of a lease or rental payment that is attributable to payment of state and local title ad valorem tax fees under Chapter 5C of this title; or

(96)(A) The sale or use of construction materials used for or in the construction of buildings at a private college to the extent provided in subparagraphs (B) and (C) of this paragraph. As used in this paragraph, the term 'private college' means a college in this state which is operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and has an enrollment of between 1,000 and 3,000 students.

(B) This exemption shall apply from July 1, 2015, until June 30, 2016, or until the aggregate state sales and use tax refunded pursuant to this paragraph exceeds \$350,000.00, whichever occurs first. A qualifying private college shall pay sales and use tax on all purchases and uses of construction materials and may obtain the benefit of this exemption from state sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(C)(i) This exemption shall apply from July 1, 2015, until June 30, 2016. A qualifying private college shall pay sales and use tax on all purchases and uses of construction materials and may obtain the benefit of this exemption from local sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(ii) For purposes of this subparagraph, local sales and use tax shall be defined as any local sales and use tax levied or imposed at any time in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' or such taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5 of this chapter.

(D) Notwithstanding any provision of Code Section 48-8-63 to the contrary, purchases by a contractor may qualify for the exemption provided for in this paragraph. However, when a contractor purchases qualifying construction materials, the contractor shall pay the tax at the time of purchase or at the time of first use in this state; and the ultimate owner of the property may file a claim for refund of the tax paid on the qualifying property.

(E) Items qualifying for exemption include all construction materials that will remain at the private college after completion of construction and all construction materials that become incorporated into the real property structures of the private college. This exemption excludes all items that remain in the possession of a contractor after the completion of construction."

#### **SECTION 27.**

(a) Sections 1, 2, and 3, this section, and Section 28 of this Act shall become effective upon their approval by the Governor or upon their becoming law without such approval.

(b) Sections 13 and 15 of this Act shall become effective on July 1, 2015.

(c) The remaining sections of this Act shall become effective on January 1, 2016, and Sections 9, 12, and 15 of this Act shall be applicable to all appeals filed on or after such date.

#### **SECTION 28.**

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





House Bill 215 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80<sup>th</sup>, Mayo of the 84<sup>th</sup>, Mosby of the 83<sup>rd</sup>, Taylor of the 79<sup>th</sup>, Drenner of the 85<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales  
2 and use taxes, so as to provide for an additional exemption to the ceiling on local sales and  
3 use taxes which may be levied by a political subdivision; to provide for a revised distribution  
4 of the proceeds from the levy of an equalized homestead option sales and use tax; to provide  
5 for the levy of a special purpose local options sales and use tax in certain counties; to provide  
6 for procedures, conditions, and limitations; to provide for a short title; to provide for related  
7 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use  
11 taxes, is amended in Code Section 48-8-6, relating to the ceiling on local sales and use taxes,  
12 by revising paragraph (2) of subsection (a) as follows:

13 "(2) Any tax levied for purposes of a metropolitan area system of public transportation,  
14 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page  
15 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)  
16 of the Constitution; and the laws enacted pursuant to such constitutional amendment;  
17 provided, however, that the exception provided for under this paragraph shall only apply:

18 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code  
19 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital  
20 outlay project or projects, a sewer capital outlay project or projects, a water and sewer  
21 capital outlay project or projects, water and sewer projects and costs as defined under  
22 paragraph (4) of Code Section 48-8-200, or any combination thereof and with respect  
23 to which the county has entered into an intergovernmental contract with a municipality,  
24 in which the average waste-water system flow of such municipality is not less than 85  
25 million gallons per day, allocating proceeds to such municipality to be used solely for  
26 water and sewer projects and costs as defined under paragraph (4) of Code Section

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48-8-200. The exception provided for under this subparagraph shall apply only during the period the tax under ~~said~~ such subparagraph (a)(1)(D) is in effect. The exception provided for under this subparagraph shall not apply in any county in which a tax is being imposed under Article 2A of this chapter; ~~or~~

(B) In a county in which the tax levied for purposes of a metropolitan area system of public transportation is first levied after January 1, 2010, and before November 1, 2016.

Such tax shall not apply to the following:

(i) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport. For purposes of this division, a 'qualifying airline' means any person which is authorized by the Federal Aviation Administration or another appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire. For purposes of this division, a 'qualifying airport' means any airport in ~~the~~ this state that has had more than 750,000 takeoffs and landings during a calendar year; and

(ii) The sale of motor vehicles; ~~or~~

(C) In a county in which a tax is levied and collected pursuant to Part 2 of Article 2A of this chapter;"

## SECTION 2.

Said chapter is further amended by revising Article 2A, relating to the homestead option sales and use tax, as follows:

### "Part 1

48-8-100.

This ~~article~~ part shall be known and may be cited as the 'Homestead Option Sales and Use Tax Act.'

48-8-101.

As used in this ~~article~~ part, the term:

(1) 'Ad valorem taxes for county purposes' means any and all ad valorem taxes for county maintenance and operation purposes levied by, for, or on behalf of the county, excluding taxes to retire general obligation bonded indebtedness of the county.

(2) 'Existing municipality' means a municipality created prior to January 1, 2007, lying wholly within or partially within a county.

(3) 'Homestead' means homestead as defined and qualified in Code Section 48-5-40, with the additional qualification that it shall include only the primary residence and not more than five contiguous acres of land immediately surrounding such residence.

(4) 'Qualified municipality' means a municipality created on or after January 1, 2007, lying wholly within or partially within a county.

48-8-101.1.

It is the intent of the General Assembly that the proceeds of the homestead option sales and use tax be distributed equitably to the counties and qualified municipalities such that the residents of a new incorporated municipality will continue to receive a benefit from that tax substantially equal to the benefit they would have received if the area covered by the municipality had not incorporated. The provisions of this ~~article~~ part shall be liberally construed to effectuate such intent.

48-8-102.

(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of one of the 159 special districts.

(b) When the imposition of a local sales and use tax is authorized according to the procedures provided in this ~~article~~ part within a special district, the county whose geographical boundary is conterminous with that of the special district shall levy a local sales and use tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall correspond to the tax imposed and administered by Article 1 of this chapter. No item or transaction which is not subject to taxation by Article 1 of this chapter shall be subject to the sales and use tax levied pursuant to this ~~article~~ part, except that the sales and use tax provided in this ~~article~~ part shall be applicable to sales of motor fuels as prepaid local tax as ~~that~~ such term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3.

(c)(1) Except as otherwise provided in paragraph (2) of this subsection, the proceeds of the sales and use tax levied and collected under this ~~article~~ part shall be used only for the purposes of funding capital outlay projects and of funding services within a special district equal to the revenue lost to the homestead exemption as provided in Code Section 48-8-104 and, in the event excess funds remain following the expenditure for such purposes, such excess funds shall be expended as provided in subparagraph (c)(2)(C) of Code Section 48-8-104.

(2) Prior to January 1 of the year immediately following the first complete calendar year in which the sales and use tax under this ~~article~~ part is imposed, such proceeds may be used for funding all or any portion of those services which are to be provided by the governing authority of the county whose geographic boundary is conterminous with that of the special district pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

(d) Such sales and use tax shall only be levied in a special district following the enactment of a local Act which provides for a homestead exemption of an amount to be determined from the amount of sales and use tax collected under this ~~article~~ part. Such exemption shall commence with taxable years beginning on or after January 1 of the year immediately following the first complete calendar year in which the sales and use tax under this ~~article~~ part is levied. Any such local Act shall incorporate by reference the terms and conditions specified under this ~~article~~ part. Any such local Act shall not be subject to the provisions of Code Section 1-3-4.1. Any such homestead exemption under this ~~article~~ part shall be in addition to and not in lieu of any other homestead exemption applicable to county taxes for county purposes within the special district. Notwithstanding any provision of such local Act to the contrary, the referendum which shall otherwise be required to be conducted under such local Act shall only be conducted if the resolution required under subsection (a) of Code Section 48-8-103 is adopted prior to the issuance of the call for the referendum under the local Act by the election superintendent. If such ordinance is not adopted by that date, the referendum otherwise required to be conducted under the local Act shall not be conducted.

(e) No sales and use tax shall be levied in a special district under this ~~article~~ part in which a tax is levied and collected under Article 2 of this chapter.

48-8-103.

(a) Whenever the governing authority of any county whose geographic boundary is conterminous with that of the special district wishes to submit to the electors of the special district the question of whether the sales and use tax authorized by Code Section 48-8-102 shall be imposed, any such governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for a referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of the imposition of the sales and use tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. Such

election shall only be conducted on the date of and in conjunction with a referendum provided for by local Act on the question of whether to impose a homestead exemption within such county and based on the amount of proceeds from the sales and use tax levied and collected pursuant to this ~~article~~ part. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following statement which shall precede the ballot question specified in this subsection and the ballot question specified by the required local Act:

'NOTICE TO ELECTORS: Unless **BOTH** the homestead exemption **AND** the retail homestead option sales and use tax are approved, then neither the exemption nor the sales and use tax shall become effective.'

Such statement shall be followed by the following:

'( ) YES    Shall a retail homestead option sales and use tax of 1 percent be levied within the special district within \_\_\_\_\_ County for the purposes of funding capital outlay projects and of funding services to replace revenue lost to an additional homestead exemption of up to 100 percent of the assessed value of homesteads from county taxes for county purposes?'

Notwithstanding any other provision of law to the contrary, the statement, ballot question, and local Act ballot question referred to in this subsection shall precede any and all other ballot questions calling for the levy or imposition of any other sales and use tax which are to appear on the same ballot.

(b) All persons desiring to vote in favor of levying the sales and use tax shall vote 'Yes,' and those persons opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in favor of levying the tax and approving the local Act providing such homestead exemption, then the tax shall be levied in accordance with this ~~article~~ part; otherwise, the sales and use tax may not be levied, and the question of the imposition of the sales and use tax may not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be the superintendent's further duty to canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

(c) If the imposition of the sales and use tax provided in Code Section 48-8-102 is approved in a referendum election as provided by subsections (a) and (b) of this Code

section, the governing authority of the county whose geographical boundary is conterminous with that of the special district shall adopt a resolution during the first 30 days following the certification of the result of the election imposing the sales and use tax authorized by Code Section 48-8-102 on behalf of the county whose geographical boundary is conterminous with that of the special district. The resolution shall be effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption of the resolution. With respect to services which are billed on a regular monthly basis, however, the resolution shall become effective with the first regular billing period coinciding with or following the otherwise effective date of the resolution. A certified copy of the resolution shall be forwarded to the commissioner so that it will be received within five days after its adoption.

48-8-104.

(a) The sales and use tax levied pursuant to this ~~article~~ part shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter except that the sales and use tax provided in this ~~article~~ part shall be applicable to sales of motor fuels as prepaid local tax as ~~that~~ such term is defined in Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the sales and use tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

(b) Each sales and use tax return remitting sales and use taxes collected under this ~~article~~ part shall separately identify the location of each retail establishment at which any of the sales and use taxes remitted were collected and shall specify the amount of sales and the amount of taxes collected at each establishment for the period covered by the return in order to facilitate the determination by the commissioner that all sales and use taxes imposed by this ~~article~~ part are collected and distributed according to situs of sale.

(c) The proceeds of the sales and use tax collected by the commissioner in each special district under this ~~article~~ part shall be disbursed as soon as practicable after collection as follows:

(1) One percent of the amount collected shall be paid into the general fund of the state treasury in order to defray the costs of administration;

(2) Except for the percentage provided in paragraph (1) of this subsection and the amount determined under subsections (d) and (e) of this Code section, the remaining proceeds of the sales and use tax shall be distributed to the governing authority of the county whose geographical boundary is conterminous with that of the special district; provided, however, that a county and any qualified municipality shall be authorized by intergovernmental agreement to waive the equalization amount otherwise required under subsections (d) and (e) of this Code section and provide for a different distribution amount. In the event of such waiver, except for the percentage provided in paragraph (1) of this subsection, the remaining proceeds of the sales and use tax shall be distributed to the governing authority of the county whose geographical boundary is conterminous with that of the special district. As a condition precedent for the authority to levy the sales and use tax or to collect any proceeds from the tax authorized by this ~~article~~ part for the year following the first complete calendar year in which it is levied and for all subsequent years except the year following the year in which the sales and use tax is terminated under Code Section 48-8-106, the county whose geographical boundary is conterminous with that of the special district shall, except as otherwise provided in subsection (c) of Code Section 48-8-102, expend such proceeds as follows:

(A) A portion of such proceeds shall be expended for the purpose of funding capital outlay projects as follows:

(i) The governing authority of the county whose geographical boundary is conterminous with that of the special district shall establish the capital factor which shall not exceed .200 and, for a county in which a qualified municipality is located, shall not be less than the level required by subsection (d) of this Code section; therefore, at a minimum, the county shall set the capital factor at a level that yields an amount of capital outlay proceeds that is equal to or greater than the sum of all equalization amounts due qualified municipalities and existing municipalities under subsection (e) of this Code section; and

(ii) Capital outlay projects shall be funded in an amount equal to the product of the capital factor multiplied by the net amount of the sales and use tax proceeds collected under this ~~article~~ part during the previous calendar year, and this amount shall be referred to as capital outlay proceeds in subsections (d) and (e) of this Code section;

(B) A portion of such proceeds shall be expended for the purpose of funding services within the special district equal to the revenue lost to the homestead exemption as provided in this Code section as follows:

(i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus the capital factor times an amount equal to the net amount of sales and use tax collected in the special district pursuant to this ~~article~~ part for the previous calendar year, and then dividing by the taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied, rounding the result to three decimal places;

(ii) If the homestead factor is less than or equal to 1.000, the amount of homestead exemption created under this ~~article~~ part on qualified homestead property shall be equal to the product of the homestead factor multiplied times the net assessment of each qualified homestead remaining after all other homestead exemptions have been applied; and

(iii) If the homestead factor is greater than 1.000, the homestead exemption created by this ~~article~~ part on qualified homestead property shall be equal to the net assessment of each homestead remaining after all other homestead exemptions have been applied; and

(C) If any of such proceeds remain following the distribution provided for in subparagraphs (A) and (B) of this paragraph and subsections (d) and (e) of this Code section:

(i) The millage rate levied for county purposes shall be rolled back in an amount equal to such excess divided by the net taxable digest for county purposes after deducting all homestead exemptions including the exemption under this ~~article~~ part; and

(ii) In the event the rollback created by division (i) of this subparagraph exceeds the millage rate for county purposes, the governing authority of the county whose boundary is conterminous with the special district shall be authorized to expend the surplus funds for funding all or any portion of those services which are to be provided by such governing authorities pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

(d)(1) The commissioner shall distribute to the governing authority of each qualified municipality located in the special district a share of the capital outlay proceeds calculated as provided in this subsection and subsection (e) of this Code section which proceeds shall be expended for the purpose of funding capital outlay projects of such municipality.

(2) Both the tax commissioner and the governing authority for the county in which a qualified municipality is located shall cooperate with and assist the commissioner in the calculation of the equalization amounts under subsection (e) of this Code section and



shall, on or before July 1 of each year, provide to the commissioner and the governing authority of each qualified municipality written certification of the following:

(A) The capital factor set by the county for the current calendar year; provided, however, that the capital factor may not exceed 0.200;

(B) The total amount, if any, due to be paid to existing municipalities from the capital outlay proceeds as required by any intergovernmental agreement between the county and such municipalities;

(C) The incorporated county millage rate in each qualified municipality;

(D) The net homestead digest for each qualified municipality;

(E) The total homestead digest; and

(F) The unincorporated county millage rate.

If the tax commissioner and the governing authority of the county fail to provide such certification on or before July 1, the commissioner shall not distribute to such county any additional proceeds of the sales and use tax collected after July 1 unless and until such certification is provided.

(3) The commissioner shall then calculate the equalization amount due each qualified municipality based on the certifications provided by the tax commissioner and the governing authority of the county and pay such amount to the governing authority of each qualified municipality in six equal monthly payments as soon as practicable during or after each of the last six months of the current calendar year. In the event an existing municipality that has entered into an intergovernmental agreement with a county at any time before January 1, 2007, to receive capital outlay proceeds of the homestead option sales and use tax and such intergovernmental agreement has become or does become null and void for any reason, such existing municipality shall be treated under this ~~article~~ part the same as if it were a qualified municipality as defined in paragraph (4) of Code Section 48-8-101 and therefore receive payment of equalization amounts under this ~~article~~ part as provided for under this ~~article~~ part. The commissioner shall distribute to the governing authority of the county each month the net sales and use tax remaining after payment of equalization amounts to the qualified municipalities.

(e)(1) As used in this subsection, the term:

(A) 'Equalization amount' means for a qualified municipality the product of the equalization millage times the net homestead digest for that qualified municipality.

(B) 'Equalization millage' means for each qualified municipality the product of the homestead factor calculated pursuant to division (c)(2)(B)(i) of this Code section times the difference between the unincorporated county millage rate and the incorporated county millage rate for that qualified municipality.

(C) 'Incorporated county millage rate' means the millage rate for all ad valorem taxes for county purposes levied by the county in each of the qualified municipalities in the county.

(D) 'Net homestead digest' means for each qualified municipality the total net assessed value of all qualified homestead property located in that portion of the qualified municipality located in the county remaining after all other homestead exemptions are applied.

(E) 'Total homestead digest' means the total net assessed value of all qualified homestead property located in the county remaining after all other homestead exemptions are applied.

(F) 'Unincorporated county millage rate' means the millage rate for all ad valorem taxes for county purposes levied by the county in the unincorporated areas of the county.

(2) For illustration purposes, a hypothetical example of the calculation of the equalization amount is provided below.

First, calculate the homestead factor in accordance with division (c)(2)(B)(i) of this Code section as follows:

(A) Capital factor certified by county as required by subsection (d) of this Code section	0.150
(B) Net amount of sales and use tax collected in the special district pursuant to this <del>article</del> <u>part</u> for the previous calendar year	\$ 50 million
(C) Taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied	\$100 million
(D) Calculation of homestead factor using figures above	.425
= [(1-.0150)(\$50 million/\$100 million)]	

Next, calculate the equalization amount in accordance with paragraph (1) of this subsection as follows:

(E) Unincorporated county millage rate	15.0 mills
(F) Minus the incorporated county millage rate for qualified municipality 'Y'	(10.0 mills)
Difference:	= 5.0 mills

344	(G) Times homestead factor (calculated above)	x .425
345	(H) Equals the equalization millage:	= 2.125 mills
346	(I) Times net homestead digest for qualified municipality 'Y'	\$200 million
348	(J) Equals the equalization amount payable to municipality 'Y'	\$ 425,000.00

350 (3) In the event the total amount payable in a calendar year to all existing municipalities  
 351 as certified by the county pursuant to subparagraph (d)(2)(B) of this Code section plus  
 352 the total equalization amount payable to all qualified municipalities in the special district  
 353 exceeds the capital outlay proceeds calculated based on a maximum capital factor of  
 354 0.200, the commissioner shall pay to the governing authority of each qualified  
 355 municipality a share of such proceeds calculated as follows:

356 (A) Determine the capital outlay proceeds based on a maximum capital factor of 0.200;

357 (B) Subtract the amount certified by the county as payable to existing municipalities  
 358 pursuant to subparagraph (d)(2)(B) of this Code section;

359 (C) The remaining amount equals the portion of the capital outlay proceeds that may  
 360 be used by the commissioner to pay equalization amounts to qualified municipalities.

361 The commissioner shall calculate each qualified municipality's share of such remaining  
 362 amount by dividing the net homestead digest for each qualified municipality by the total  
 363 homestead digest for all municipalities.

364 (4) In the event the incorporated county millage rate for a qualified municipality is  
 365 greater than the unincorporated county millage rate, no payment shall be due from the  
 366 governing authority of the qualified municipality to the governing authority of the county.

367 (5) In the event the amount of capital outlay proceeds exceeds the sum of the  
 368 equalization amounts due all qualified municipalities plus the total amount certified under  
 369 subparagraph (d)(2)(B) of this Code section as due all existing municipalities, the  
 370 commissioner shall distribute to each qualified municipality a portion of such excess  
 371 equal to the net homestead digest for such municipality divided by the total homestead  
 372 digest.

373 (6) If any qualified municipality is located partially in the county then only that portion  
 374 so located shall be considered in the calculations contained in this subsection.

375 48-8-105.

376 Where a local sales or use tax has been paid with respect to tangible personal property by  
 377 the purchaser either in another local tax jurisdiction within ~~the~~ this state or in a tax  
 378 jurisdiction outside ~~the~~ this state, the sales and use tax may be credited against the sales and

use tax authorized to be imposed by this ~~article~~ part upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due under this ~~article~~ part, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this ~~article~~ part. The commissioner may require such proof of payment in another local tax jurisdiction as the commissioner deems necessary and proper. No credit shall be granted, however, against the sales and use tax imposed under this ~~article~~ part for tax paid in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to obtain a credit against any other local sales and use tax levied in the special district or in the county which is conterminous with the special district; and sales and use taxes so paid in another jurisdiction shall be credited first against the sales and use tax levied under this ~~article~~ part and then against the sales and use tax levied under Article 3 of this chapter, if applicable.

48-8-106.

(a) Whenever the governing authority of any county whose geographic boundary is conterminous with that of the special district in which the sales and use tax authorized by this ~~article~~ part is being levied wishes to submit to the electors of the special district the question of whether the sales and use tax authorized by Code Section 48-8-102 shall be discontinued, the governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for the referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of discontinuing the levy of the sales and use tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. Such election shall ~~only~~ be conducted only on the date of and in conjunction with a referendum provided for by local Act on the question of whether to repeal the homestead exemption within such county which is funded from the proceeds of the sales and use tax levied and collected pursuant to this ~~article~~ part. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following:

411 ' ( ) YES Shall the 1 percent retail homestead option sales and use tax being levied  
 412 within the special district within \_\_\_\_\_ County for the purposes  
 413 ( ) NO of funding capital outlay projects and of funding services to replace  
 414 revenue lost to an additional homestead exemption of up to 100 percent  
 415 of the assessed value of homesteads from county taxes for county  
 416 purposes be terminated?'

417 (b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote  
 418 'Yes,' and those persons opposed to discontinuing the tax shall vote 'No.' If more than  
 419 one-half of the votes cast are in favor of discontinuing the sales and use tax and repealing  
 420 the local Act providing for such homestead exemption, then the sales and use tax shall  
 421 cease to be levied on the last day of the taxable year following the taxable year in which  
 422 the commissioner receives the certification of the result of the election; otherwise, the sales  
 423 and use tax shall continue to be levied, and the question of the discontinuing of the tax may  
 424 not again be submitted to the voters of the special district until after 24 months immediately  
 425 following the month in which the election was held. It shall be the duty of the election  
 426 superintendent to hold and conduct such elections under the same rules and regulations as  
 427 govern special elections. It shall be the superintendent's further duty to canvass the returns,  
 428 declare and certify the result of the election, and certify the result to the Secretary of State  
 429 and to the commissioner. The expense of the election shall be borne by the county whose  
 430 geographical boundary is conterminous with that of the special district holding the election.

431 48-8-107.

432 No sales and use tax provided for in Code Section 48-8-102 shall be imposed upon the sale  
 433 of tangible personal property which is ordered by and delivered to the purchaser at a point  
 434 outside the geographical area of the special district in which the sales and use tax is  
 435 imposed under this ~~article~~ part regardless of the point at which title passes, if the delivery  
 436 is made by the seller's vehicle, United States mail, or common carrier or by private or  
 437 contract carrier licensed by the Federal Motor Carrier Safety Administration or the Georgia  
 438 Department of Public Safety.

439 48-8-108.

440 (a) As used in this Code section, the term 'building and construction materials' means all  
 441 building and construction materials, supplies, fixtures, or equipment, any combination of  
 442 such items, and any other leased or purchased articles when the materials, supplies,  
 443 fixtures, equipment, or articles are to be utilized or consumed during construction or are  
 444 to be incorporated into construction work pursuant to a bona fide written construction  
 445 contract.

(b) No sales and use tax provided for in Code Section 48-8-102 shall be imposed in ~~such~~  
a special district upon the sale or use of building and construction materials when the  
contract pursuant to which the materials are purchased or used was advertised for bid prior  
to approval of the levy of the sales and use tax by the county whose geographical boundary  
is conterminous with that of the special district and the contract was entered into as a result  
of a bid actually submitted in response to the advertisement prior to approval of the levy  
of the sales and use tax.

48-8-109.

The commissioner shall have the power and authority to promulgate such rules and  
regulations as shall be necessary for the effective and efficient administration and  
enforcement of the collection of the sales and use tax authorized to be imposed by this  
~~article~~ part.

## Part 2

48-8-109.1.

This part shall be known and may be cited as the 'Equalized Homestead Option Sales Tax  
Act of 2015.'

48-8-109.2.

In any county where a homestead option sales and use tax under Part 1 of this article and  
a sales tax for purposes of a metropolitan area system of public transportation, as  
authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008;  
the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the  
Constitution; and the laws enacted pursuant to such constitutional amendment, are being  
levied, the county governing authority may choose to submit to the electors of the special  
district the question of whether to suspend the sales and use tax authorized by Code Section  
48-8-102 and replace such tax with a sales and use tax authorized by this part. Such  
referendum shall only be held in conjunction with a referendum submitting to the electors  
of the special district the question of whether to approve a special purpose local option  
sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. The  
electors of the special district must approve both of the sales and use taxes in order for  
either of them to be implemented. If either of the sales and use taxes is not approved by  
the electors, the homestead option sales and use tax under Part 1 of this article shall be  
continued in full force and effect.

48-8-109.3.

(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of one of the 159 special districts.

(b) When the imposition of a local sales and use tax is authorized according to the procedures provided in this part within a special district, the county whose geographical boundary is conterminous with that of the special district shall levy a local sales and use tax at the same rate as provided in Part 1 of this article. Except as otherwise provided in this part, the local sales and use tax shall correspond to the tax imposed and administered by Part 1 of this article. The local sales and use tax levied pursuant to this part shall apply to all items and transactions subject to taxation pursuant to Part 1 of this article. No item or transaction which is not subject to taxation pursuant to Part 1 of this article shall be subject to the tax levied pursuant to this part.

(c) No sales and use tax shall be levied in a special district under this part in which a tax is levied and collected under Article 2 of this chapter.

48-8-109.4.

(a) Whenever the governing authority of any county whose geographic boundary is conterminous with that of the special district wishes to submit to the electors of the special district the question of whether the sales and use tax authorized by this part shall be imposed, any such governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for a referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of the imposition of the sales and use tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. Such election shall only be held in conjunction with a referendum submitting to the electors of the special district the question of whether to approve a special purpose local option sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. The electors of the special district must approve both of the sales and use taxes in order for either of them to be implemented. If either of the taxes is not approved by the electors, the homestead option sales and use tax under Part 1 of this article shall be continued in full force and effect. If the sales and use tax under Part 1 of Article 3 of this chapter is not renewed, the sales and use tax under Part 1 of this article shall replace the sales and use tax under this part upon

expiration of the sales and use tax under Part 1 of Article 3 of this chapter. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following statement which shall precede the ballot question specified in this subsection:

'NOTICE TO ELECTORS: Unless **BOTH** the equalized homestead option sales and use tax **AND** the special purpose local option sales and use tax are approved, then neither sales and use tax shall become effective.'

Such statement shall be followed by the following:

'( ) YES    Shall an equalized homestead option sales and use tax be levied and the regular homestead option sales and use tax be suspended within the ( ) NO    special district within \_\_\_\_\_ County for the purposes of reducing the ad valorem property tax millage rates levied by county and municipal governments on homestead properties?'

Notwithstanding any other provision of law to the contrary, the statement and ballot question referred to in this subsection shall precede any and all other ballot questions which are to appear on the same ballot.

(b) All persons desiring to vote in favor of levying the sales and use tax shall vote 'Yes,' and those persons opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in favor of levying the tax, then the tax shall be levied in accordance with this part; otherwise, the sales and use tax may not be levied, and the question of the imposition of the sales and use tax may not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be the superintendent's further duty to canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

(c) If the imposition of the sales and use tax provided in this part is approved in a referendum election as provided by subsections (a) and (b) of this Code section, the governing authority of the county whose geographical boundary is conterminous with that of the special district shall adopt a resolution during the first 30 days following the certification of the result of the election imposing the sales and use tax authorized in this part on behalf of the county whose geographical boundary is conterminous with that of the special district. The resolution shall be effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption of the resolution. With



respect to services which are billed on a regular monthly basis, however, the resolution shall become effective with the first regular billing period coinciding with or following the otherwise effective date of the resolution. A certified copy of the resolution shall be forwarded to the commissioner so that it will be received within five days after its adoption.

48-8-109.5.

(a) The sales and use tax levied pursuant to this part shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter except that the sales and use tax provided in this part shall be applicable to sales of motor fuels as prepaid local tax as such term is defined in Code Section 48-8-2, to the same extent that sales of motor fuels are subject to taxation pursuant to Part 1 of this article; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the sales and use tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

(b) Each sales and use tax return remitting sales and use taxes collected under this part shall separately identify the location of each retail establishment at which any of the sales and use taxes remitted were collected and shall specify the amount of sales and the amount of taxes collected at each establishment for the period covered by the return in order to facilitate the determination by the commissioner that all sales and use taxes imposed by this part are collected and distributed according to situs of sale.

(c) The proceeds of the sales and use tax collected by the commissioner in each special district under this part shall be disbursed as soon as practicable after collection as follows:

(1) One percent of the amount collected shall be paid into the general fund of the state treasury in order to defray the costs of administration; and

(2) The remaining proceeds shall be disbursed to the governing authority of the county whose geographical boundary is conterminous with that of the special district, and each municipality located wholly or partially therein, and shall be utilized as follows:

(A) First, the proceeds shall be used to roll back, and eliminate if possible, the millage rates for any county ad valorem property tax line items levied uniformly throughout the county on homestead properties, including in all municipalities; and

(B) Next, any remaining proceeds shall be used to roll back at an equal and uniform rate across both of the following categories, and eliminate if possible:

(i) The millage rates for any county ad valorem property tax line items levied only in unincorporated portions of the county on homestead properties; and

(ii) The millage rates for any municipal ad valorem property tax line items levied in every municipality located wholly or partially in the county on homestead properties but not in unincorporated portions of the county.

If any municipality is located partially in the special district, then only that portion so located shall be considered in the calculations contained in this subsection.

(d) The form to collect ad valorem tax prepared by the county tax commissioner shall reflect the full amount owed by the taxpayer pursuant to the millage rates set by the county governing authority and any municipal governing authority. Under a separate heading, the form shall reflect the deductions from the gross ad valorem tax amount realized through the application of proceeds from the equalized homestead option sales and use tax.

(e) Notwithstanding any provision of law to the contrary except subsection (f) of this Code section, in any county levying a tax under this part, a tax levied pursuant to the provisions of Part 1 of Article 3 of this chapter in a special district in such county shall be strictly divided between the unincorporated portions of the county whose geographical boundary is conterminous with that of the special district and the municipalities wholly or partially located within the special district on a per capita basis, based on the most recent decennial census, unless altered by an intergovernmental agreement between the county and all municipalities wholly located within the special district. For as long as a municipality located within the special district and incorporated after the effective date of this Code section does not maintain the roads, streets, sidewalks, and bicycle paths within its territorial boundaries and relies upon the county governing authority for such maintenance, such municipality's per capita share of the proceeds of the tax levied pursuant to Part 1 of Article 3 of this chapter shall be paid to the county governing authority. Notwithstanding any provision of law to the contrary, the department shall disburse directly to the county and each municipality its share of the proceeds of the tax levied pursuant to Part 1 of Article 3 of this chapter.

(f) The tax levied in the special district under Part 1 of Article 3 of this chapter shall not be levied within the boundaries of any municipality wholly or partially located within the special district that is levying a tax pursuant to Article 4 of this chapter. No proceeds from the tax levied in the special district under Part 1 of Article 3 of this chapter shall be disbursed to any such municipality. Upon the expiration of the tax levied under Article 4 of this chapter in such municipality, the tax in the special district under Part 1 of Article 3

623 of this chapter shall be levied within such municipality and proceeds shall be disbursed to  
624 such municipality in accordance with this part.

625 48-8-109.6.

626 Where a local sales or use tax has been paid with respect to tangible personal property by  
627 the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction  
628 outside this state, the sales and use tax may be credited against the sales and use tax  
629 authorized to be imposed by this part upon the same property. If the amount of sales or use  
630 tax so paid is less than the amount of the use tax due under this part, the purchaser shall pay  
631 an amount equal to the difference between the amount paid in the other tax jurisdiction and  
632 the amount due under this part. The commissioner may require such proof of payment in  
633 another local tax jurisdiction as the commissioner deems necessary and proper. No credit  
634 shall be granted, however, against the sales and use tax imposed under this part for tax paid  
635 in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to  
636 obtain a credit against any other local sales and use tax levied in the special district or in  
637 the county which is conterminous with the special district; and sales and use taxes so paid  
638 in another jurisdiction shall be credited first against the sales and use tax levied under this  
639 part and then against the sales and use tax levied under Article 3 of this chapter, if  
640 applicable.

641 48-8-109.7.

642 (a) Whenever the governing authority of any county whose geographic boundary is  
643 conterminous with that of the special district in which the sales and use tax authorized by  
644 this part is being levied wishes to submit to the electors of the special district the question  
645 of whether the sales and use tax authorized by this part shall be discontinued, the governing  
646 authority shall notify the election superintendent of the county whose geographical  
647 boundary is conterminous with that of the special district by forwarding to the  
648 superintendent a copy of a resolution of the governing authority calling for the referendum  
649 election. Upon receipt of the resolution, it shall be the duty of the election superintendent  
650 to issue the call for an election for the purpose of submitting the question of discontinuing  
651 the levy of the sales and use tax to the voters of the special district for approval or rejection.  
652 The election superintendent shall issue the call and shall conduct the election on a date and  
653 in the manner authorized under Code Section 21-2-540. Such election shall be conducted  
654 only on the date of and in conjunction with an election to repeal the special purpose local  
655 option sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. If  
656 either such sales and use tax is repealed, then both such sales and use taxes shall be  
657 repealed and the sales and use tax under Part 1 of this article shall replace the sales and use

tax that was imposed under this part. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following:

'( ) YES    Shall the equalized homestead option sales and use tax being levied within the special district within \_\_\_\_\_ County for the ( ) NO    purposes of reducing the ad valorem property tax millage rates levied by county and municipal governments on homestead properties be terminated?'

(b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote 'Yes,' and those persons opposed to discontinuing the tax shall vote 'No.' If more than one-half of the votes cast are in favor of discontinuing the sales and use tax, then the sales and use tax shall cease to be levied on the last day of the taxable year following the taxable year in which the commissioner receives the certification of the result of the election; otherwise, the sales and use tax shall continue to be levied, and the question of discontinuing the tax may not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be the superintendent's further duty to canvass the returns, declare and certify the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

48-8-109.8.

No sales and use tax provided for in this part shall be imposed upon the sale of tangible personal property which is ordered by and delivered to the purchaser at a point outside the geographical area of the special district in which the sales and use tax is imposed under this part regardless of the point at which title passes, if the delivery is made by the seller's vehicle, United States mail, or common carrier or by private or contract carrier licensed by the Federal Motor Carrier Safety Administration or the Georgia Department of Public Safety.

48-8-109.9.

(a) As used in this Code section, the term 'building and construction materials' means all building and construction materials, supplies, fixtures, or equipment, any combination of such items, and any other leased or purchased articles when the materials, supplies,

693 fixtures, equipment, or articles are to be utilized or consumed during construction or are  
694 to be incorporated into construction work pursuant to a bona fide written construction  
695 contract.

696 (b) No sales and use tax provided for in this part shall be imposed in a special district upon  
697 the sale or use of building and construction materials when the contract pursuant to which  
698 the materials are purchased or used was advertised for bid prior to approval of the levy of  
699 the sales and use tax by the county whose geographical boundary is conterminous with that  
700 of the special district and the contract was entered into as a result of a bid actually  
701 submitted in response to the advertisement prior to approval of the levy of the sales and use  
702 tax.

703 48-8-109.10.

704 The commissioner shall have the power and authority to promulgate such rules and  
705 regulations as shall be necessary for the effective and efficient administration and  
706 enforcement of the collection of the sales and use tax authorized to be imposed by this  
707 part."

708 **SECTION 3.**

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

711 **SECTION 4.**

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



House Bill 234 (AS PASSED HOUSE AND SENATE)

By: Representatives Rutledge of the 109<sup>th</sup>, Powell of the 171<sup>st</sup>, Duncan of the 26<sup>th</sup>, Pak of the 108<sup>th</sup>, Strickland of the 111<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to administration and enforcement of tax collection, so as to include days on which the Federal Reserve Bank is closed in the list of days that excuse late filing or payment; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to administration and enforcement of tax collection, is amended by revising Code Section 48-2-39, relating to times when the date for payment of taxes or filing of returns falls on a holiday, as follows:

"48-2-39.

When the date prescribed by or imposed pursuant to law for the making of any return, the filing of any paper or document, or the payment of any tax or license fee pursuant to this title or any law relating to the taxation and licensing of automobiles, trucks, or trailers falls on a Saturday, Sunday, ~~or~~ legal holiday, or day on which the Federal Reserve Bank is closed, the making of the return, the filing of the paper or document, or the payment of the tax or license fee shall be postponed by the person required to take such action until the first day following which is not a Saturday, Sunday, ~~or~~ legal holiday, or day on which the Federal Reserve Bank is closed."

**SECTION 2.**

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

**SECTION 3.**

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

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House Bill 322 (AS PASSED HOUSE AND SENATE)

By: Representatives Strickland of the 111<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, Mabra of the 63<sup>rd</sup>, Frye of the 118<sup>th</sup>, Jones of the 62<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to change and clarify provisions relating to the witnessing requisites of deeds, mortgages, and bills of sale; to provide a procedure for claiming certain United States savings bonds; to provide for the filing of deeds under power within a certain time after a foreclosure sale; to provide for the assessment and collection of a late filing fee; to provide for the remittance of sums collected from such late filing fees; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by revising Code Section 44-5-30, relating to the requisites of deed to land, as follows:

"44-5-30.

Except for documents electronically filed as provided for in Chapter 12 of Title 10 and Part 1 of Article 1 of Chapter 2 of this title, a deed to lands shall be an original document, in writing, signed by the maker, ~~and attested by at least two witnesses~~ an officer as provided in Code Section 44-2-15, and attested by one other witness. It shall be delivered to the purchaser or his or her representative and be made on a good or valuable consideration. The consideration of a deed may always be inquired into when the principles of justice require it."

**SECTION 2.**

Said title is further amended by inserting two new Code sections, to read as follows:

"44-12-237.

(a) Notwithstanding the provisions of subsection (a) of Code Section 44-12-216, United States savings bonds which are unclaimed property and subject to the provisions of Code Section 44-12-190, et seq., the 'Disposition of Unclaimed Property Act,' shall escheat to the State of Georgia three years after becoming unclaimed property and subject to the

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provisions of Code Section 44-12-190, et seq., and all property rights to such United States savings bonds or proceeds from such bonds shall vest solely in the State of Georgia.

(b) If, within 180 days after the passage of three years pursuant to subsection (a) of this Code section, no claim has been filed in accordance with the provisions of Code Section 44-12-190, et seq., for such United States savings bonds, the commissioner shall commence a civil action in the Superior Court of Fulton County for a determination that such United States savings bonds shall escheat to the state. The commissioner may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the commissioner's custody to justify the expense of such proceedings.

(c) If no person shall file a claim or appear at the hearing to substantiate a claim or if the court shall determine that a claimant is not entitled to the property claimed, then the court, if satisfied by evidence that the commissioner has substantially complied with the laws of this state, shall enter a judgment that the subject United States savings bonds have escheated to the state.

(d) The commissioner shall redeem such United States savings bonds, and the proceeds shall be deposited in the state general fund in accordance with the provisions of Code Section 44-12-218.

44-12-238.

Any person making a claim for the United States savings bonds escheated to the state under Code Section 44-12-237, or for the proceeds from such bonds, may file a claim in accordance with the provisions of Code Section 44-12-190, et seq., the 'Disposition of Unclaimed Property Act.' Upon providing sufficient proof of the validity of such person's claim, the commissioner may pay such claim in accordance with the provisions of Code Section 44-12-190, et seq."

### SECTION 3.

Said title is further amended by revising Code Section 44-14-33, relating to attestation or acknowledgment of mortgage, as follows:

"44-14-33.

~~In order to admit a mortgage to record, it must be attested by or acknowledged before an officer as prescribed for the attestation or acknowledgment of deeds of bargain and sale; and, in the case of real property, a mortgage must also be attested or acknowledged by one additional witness shall be signed by the maker, attested by an officer as provided in Code Section 44-2-15, and attested by one other witness.~~ In the absence of fraud, if a mortgage is duly signed, witnessed, filed, recorded, and indexed on the appropriate county land

61 records, such recordation shall be deemed constructive notice to subsequent bona fide  
62 purchasers."

63 **SECTION 4.**

64 Said title is further amended by revising Code Section 44-14-34, relating to attestation and  
65 acknowledgment or probation of mortgages executed outside of this state, as follows:

66 "44-14-34.

67 When executed outside this state, mortgages ~~may be attested, acknowledged, or probated~~  
68 ~~in the same manner as deeds of bargain and sale~~ shall be signed by the maker, attested by  
69 an officer as provided in Code Section 44-2-15, and attested by one other witness."

70 **SECTION 5.**

71 Said title is further amended by revising Code Section 44-14-37, relating to the effect of the  
72 failure to record a mortgage, as follows:

73 "44-14-37.

74 ~~The effect of a failure to record a mortgage shall be the same as the effect of a failure to~~  
75 ~~record a deed of bargain and sale~~ Reserved."

76 **SECTION 6.**

77 Said title is further amended by revising Code Section 44-14-61, relating to attestation of  
78 deeds to secure debt and bills of sale, generally, as follows:

79 "44-14-61.

80 In order to admit deeds to secure debt or bills of sale to secure debt to record, they shall be  
81 ~~attested or proved in the manner prescribed by law for mortgages~~ signed by the maker,  
82 attested by an officer as provided in Code Section 44-2-15, and attested by one other  
83 witness."

84 **SECTION 7.**

85 Said title is further amended by revising Code Section 44-14-62, relating to attestation of  
86 deeds to secure debt and bills of sale executed outside of this state, as follows:

87 "44-14-62.

88 When executed ~~out of~~ outside this state, deeds to secure debt and bills of sale ~~may be~~  
89 ~~attested, acknowledged, or probated in the same manner as deeds of bargain and sale~~ to  
90 secure debt shall be signed by the maker, attested by an officer as provided in Code Section  
91 44-2-15, and attested by one other witness."

**SECTION 8.**

Said title is further amended by revising subsection (a) of Code Section 44-14-63, relating to recording of deeds to secure debt and bills of sale to secure debt, as follows:

"(a) Every deed to secure debt shall be recorded in the county where the land conveyed is located. Every bill of sale to secure debt shall be recorded in the county where the maker, if a resident of this state, resided at the time of its execution and, if a nonresident, in the county where the personalty conveyed is located. Deeds to secure debt or bills of sale to secure debt not recorded shall remain valid against the persons executing them. The effect of the failure to record deeds and bills of sale shall be the same as the effect of the failure to record a deed of bargain and sale."

**SECTION 9.**

Said title is further amended by revising Code Section 44-14-160, relating to recording of foreclosure sales and deeds under power, as follows:

"44-14-160.

(a) Within 90 days of a foreclosure sale, all deeds under power shall be recorded filed by the holder of a deed to secure debt or a mortgage with the clerk of the superior court of the county or counties in which the foreclosed property is located. The clerk shall write in the margin of the page where record and cross reference the deed under power to the deed to secure debt or mortgage foreclosed upon is recorded the word 'foreclosed' and the deed book and page number on which is recorded the deed under power conveying the real property; provided, however, that, in counties where the clerk keeps the records affecting real estate on microfilm, the notation provided for in this Code section shall be made in the same manner in the index or other place where the clerk records transfers and cancellations of deeds to secure debt. The deed under power shall be indexed pursuant to standards promulgated by the Georgia Superior Court Clerks' Cooperative Authority.

(b) In the event the deed under power is not filed within 30 days after the time period set forth in subsection (a) of this Code section, the holder shall be required to pay a late filing penalty of \$500.00 upon filing in addition to the required filing fees provided for in subsection (f) of Code Section 15-66-77. Such late filing penalty shall be collected by the clerk of the superior court before filing.

(c) The sums collected as a late filing penalty under subsection (b) of this Code section shall be remitted to the governing authority of the county. If the foreclosed property is located within a municipality, the governing authority of the county shall remit the late filing penalty for such property to the governing authority of such municipality within 30 days of its receipt of the penalty. For each late filing penalty for property located within

127 the corporate limits of a municipality, the governing authority of the county may withhold  
128 a 5 percent administrative processing fee from the remittance to such municipality."

129 **SECTION 10.**

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



House Bill 374 (AS PASSED HOUSE AND SENATE)

By: Representatives Nix of the 69<sup>th</sup>, Shaw of the 176<sup>th</sup>, Carter of the 175<sup>th</sup>, England of the 116<sup>th</sup>, Williams of the 119<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to exemptions from ad valorem taxation, so as to clarify an exemption for certain leased farm equipment; to amend Part 5 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to an exemption from ad valorem taxation for certain farm equipment held for sale in dealer inventory, so as to provide for additional qualifications; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to exemptions from ad valorem taxation, is amended by revising subsection (c) of Code Section 48-5-41.1, relating to an exemption for qualified farm products, as follows:

“(c)(1) As used in this subsection, the term 'lease purchase agreement' means a financing agreement under which:

(A) A family owned qualified farm products producer has possession and control of farm tractors, combines, or other farm equipment other than motor vehicles equipment and uses such farm equipment directly in the production of agricultural products; and

(B) The payments made pursuant to such financing agreement are credited towards the purchase of such farm equipment.

(2) Farm tractors, combines, and all other farm equipment other than motor vehicles, whether fixed or mobile, which are owned by or held under a lease purchase agreement and directly used in the production of agricultural products by family owned qualified farm products producers shall be exempt from all ad valorem property taxes in this state.”

**SECTION 2.**

Part 5 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to an exemption from ad valorem taxation for certain farm equipment held for sale

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in dealer inventory, is amended by revising Code Section 48-5-504, relating to self-propelled farm equipment as a subclassification of motor vehicle for ad valorem taxation purposes, as follows:

"48-5-504.

(a) As used in this Code section, the term:

(1) 'Dealer' means any person who is engaged in the business of selling farm equipment at retail.

(2) 'Farm equipment' means any vehicle as defined in Code Section 40-1-1 which is self-propelled and which is designed and used primarily for agricultural, horticultural, forestry, or livestock raising operations.

(b) Self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale shall constitute a separate subclassification of motor vehicle within the motor vehicle classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning self-propelled farm equipment for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on self-propelled farm equipment do not apply to self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale. Such self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation, shall not be taxed, and no taxes shall be collected on such self-propelled farm equipment until it is transferred and then otherwise, if at all, becomes subject to taxation as provided in this chapter."

### SECTION 3.

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



House Bill 457 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27<sup>th</sup>, Rogers of the 29<sup>th</sup>, Clark of the 98<sup>th</sup>, Dunahoo of the 30<sup>th</sup>, Coleman of the 97<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 7 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia  
2 Annotated, relating to watercraft held in inventory, so as to provide that watercraft held in  
3 inventory shall be exempt from ad valorem taxation; to provide for related matters; to  
4 provide for an effective date and applicability; to repeal conflicting laws; and for other  
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 7 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,  
9 relating to watercraft held in inventory, is amended by revising Code Section 48-5-504.40,  
10 relating to watercraft held in inventory for resale exempt from taxation for limited period of  
11 time, as follows:

12 "48-5-504.40.

13 (a) As used in this Code section, the term:

14 (1) 'Dealer' means any person who is engaged in the business of selling watercraft at  
15 retail.

16 (2) 'Watercraft' means any vehicle which is self-propelled or which is capable of  
17 self-propelled water transportation, or both.

18 (b) Watercraft ~~which is~~ owned by a dealer and held in inventory for sale or resale shall  
19 constitute a separate classification of tangible property for ad valorem taxation purposes.

20 The procedures prescribed in this chapter for returning watercraft for ad valorem taxation,  
21 determining the application rates for taxation, and collecting the ad valorem taxes imposed  
22 on watercraft do not apply to watercraft ~~which is~~ owned by a dealer and held in inventory  
23 for sale or resale. For the period commencing January 1, ~~2009~~ 2016, and concluding  
24 December 31, ~~2013~~ 2019, such watercraft ~~which is~~ owned by a dealer and held in inventory  
25 for sale or resale shall not be returned for ad valorem taxation; and shall not be taxed, and

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26 no taxes shall be collected on such watercraft until it is transferred and then otherwise, if  
27 at all, becomes subject to taxation as provided in this chapter."

28 **SECTION 2.**

29 This Act shall become effective upon its approval by the Governor or upon its becoming law  
30 without such approval and shall apply to all tax years beginning on and after January 1, 2016,  
31 and ending on December 31, 2019.

32 **SECTION 3.**

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

Senate Bill 82

By: Senators Wilkinson of the 50th, Ginn of the 47th, Gooch of the 51st, Williams of the 19th and Mullis of the 53rd

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 40-2-152 of the Official Code of Georgia Annotated, relating to fees and alternative ad valorem taxation of apportionable vehicles, so as to revise and change, for a limited period of time, certain provisions regarding the distribution of alternative ad valorem tax proceeds; to provide for automatic repeal; to amend Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to disposition of unclaimed property, so as to change provisions relating to publication of notices of unclaimed property; to provide for the retention of administrative expenses; 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 40-2-152 of the Official Code of Georgia Annotated, relating to fees and alternative ad valorem taxation of apportionable vehicles, is amended by revising subsection (m) and adding a new subsection to read as follows:

"(m)(1) The alternative ad valorem tax imposed by this Code section shall be collected by the commissioner and shall be distributed annually from the separate, segregated fund not later than ~~April~~ August 1 of the calendar year immediately following the calendar year in which such taxes were paid to the commissioner, in the manner provided for in this subsection.

(2)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.

(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be allocated by county based upon the ratio of the number of apportioned vehicles attributed by the commissioner on an annual basis to each county to the number of apportioned vehicles submitted to and approved by the commissioner statewide. The proceeds so allocated shall then be

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distributed to each qualified tax jurisdiction within the county based upon the ratio of the most recently submitted and approved tax digest for each such qualified tax jurisdiction to the total of all tax digests of qualified tax jurisdictions located in the county. Qualified jurisdictions include only counties, municipalities, county school districts, and independent school districts which levy or cause to be levied for their benefit a property tax on real and tangible personal property.

~~(2) Each year, the distributions of alternative ad valorem tax proceeds under this subsection shall be based upon the immediately preceding year's tax digest of each participating tax authority submitted to and approved by the commissioner. If such digest has not been submitted and approved, the commissioner shall, for purposes of this subsection, utilize in its place the most recently submitted and approved tax digest of such participating tax jurisdiction.~~

~~(3)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.~~

~~(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be divided among each tax jurisdiction of this state. Such tax jurisdictions shall be limited to only a county, municipality, county school district, and independent school district which levies or causes to be levied for their benefit a property tax on real and tangible personal property.~~

~~(C) The distribution shall be made according to the proportion that the amount of ad valorem taxes to be collected by a tax jurisdiction under the tax digest specified under paragraph (2) of this subsection bears to the total amount of ad valorem taxes to be collected for all purposes applicable to real and tangible personal property in this state for the immediately preceding calendar year.~~

(n)(1) The provisions of subsection (m) of this Code section shall be suspended for the 2015, 2016, 2017, 2018, and 2019 tax years, and the provisions of this subsection shall apply during such period. This subsection shall stand repealed on January 1, 2020.

(2) The alternative ad valorem tax imposed by this Code section shall be collected by the commissioner and shall be distributed annually from the separate, segregated fund not later than April 1 of the calendar year immediately following the calendar year in which such taxes were paid to the commissioner, in the manner provided for in this subsection.

(3) Except as provided in paragraph (4) of this subsection, each year, the distributions of alternative ad valorem tax proceeds under this subsection shall be based upon the immediately preceding year's tax digest of each qualified tax authority submitted to and approved by the commissioner. If such digest has not been submitted and approved, the

commissioner shall, for purposes of this subsection, utilize in its place the most recently submitted and approved tax digest of such qualified tax jurisdiction.

(4)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.

(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be divided among each qualified tax jurisdiction of this state. Such qualified tax jurisdictions shall be limited to only a county, municipality, county school district, and independent school district which levies or causes to be levied for their benefit a property tax on real and tangible personal property. The commissioner shall determine the amount of ad valorem tax on apportionable vehicles identified under subsections (a), (b), and (c) of this Code section that was received by each qualified tax jurisdiction for the 2013 tax year. Such amount shall represent the benchmark amount for such qualified tax jurisdiction:

(i) For the 2015 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to such benchmark amount;

(ii) For the 2016 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 80 percent of such benchmark amount;

(iii) For the 2017 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 60 percent of such benchmark amount;

(iv) For the 2018 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 40 percent of such benchmark amount;

(v) For the 2019 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 20 percent of such benchmark amount; and

(vi) For all tax years beginning on or after January 1, 2020, each qualified tax jurisdiction shall receive the amount of alternative ad valorem tax revenue determined pursuant to subsection (m) of this Code section.

(C) In the event that the amount of ad valorem tax on apportionable vehicles collected in a tax year covered under this subsection is less than the benchmark amount, then the benchmark distribution of each qualified tax jurisdiction for such tax year shall be reduced proportionately to reflect the amount of such shortfall. In the event a qualified tax jurisdiction ceases to be a qualified tax jurisdiction, it shall not be entitled to receive a distribution of either the benchmark amount under this subparagraph or the remaining distribution amount under subparagraph (D) of this paragraph.

(D) When a qualified tax jurisdiction has received an amount equal to the prorated benchmark amount pursuant to subparagraph (B) of this paragraph for the applicable

101 tax year, any funds remaining with the commissioner shall be distributed in accordance  
102 with the formula contained in subparagraph (m)(2)(B) of this Code section."

103 **SECTION 2.**

104 Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to  
105 disposition of unclaimed property, is amended by revising Code Section 44-12-215, relating  
106 to publication of the "Georgia Unclaimed Property List," as follows:

107 "44-12-215.

108 (a) The commissioner shall ~~cause to be published~~ electronically publish notice of the  
109 reports filed under Code Section 44-12-214, ~~once a year in a newspaper of general~~  
110 ~~circulation on the Department of Revenue's website.~~

111 (b) The published notice shall be entitled the 'Georgia Unclaimed Property List' and shall  
112 contain the names in alphabetical order and the internal identification number of persons  
113 listed in the report and entitled to notice within the county as provided in Code Section  
114 44-12-214.

115 (c) The notice shall contain a statement that information concerning the amount or  
116 description of the property and the name of the holder may be obtained by any persons  
117 possessing an interest in the property by addressing an inquiry to the commissioner.

118 (d) The commissioner ~~is~~ shall not be required to publish in such notice any item with a  
119 value of less than \$50.00 unless ~~he~~ the commissioner deems such publication to be in the  
120 public interest."

121 **SECTION 3.**

122 Said article is further amended by revising Code Section 44-12-218, relating to disposition  
123 of funds received under article, as follows:

124 "44-12-218.

125 All funds received under this article, including the proceeds from the sale of abandoned  
126 property under Code Section 44-12-217, shall ~~forthwith~~ be deposited by the commissioner  
127 in the general fund; provided, however, that the commissioner may deduct moneys  
128 necessary to cover the direct administrative expenses required to identify, locate, secure,  
129 and transmit abandoned property prior to depositing such funds. Before making a deposit  
130 he or she shall record the name and last known address of each person appearing from the  
131 holders' reports to be entitled to the abandoned property and of the name and last known  
132 address of each insured person or annuitant and, with respect to each policy or contract  
133 listed in the report of an insurance corporation, its number, the name of the corporation,  
134 and the amount due."

135 **SECTION 4.**

136 (a) This Act shall become effective upon its approval by the Governor or upon its becoming  
137 law without such approval.

138 (b) Section 1 of this Act shall apply to all disbursements which occur after the effective date  
139 of this Act.

140 **SECTION 5.**

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





Senate Bill 100

By: Senators Harper of the 7th, Albers of the 56th, Williams of the 19th, Dugan of the 30th,  
Seay of the 34th and others

**AS PASSED**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated,  
2 relating to prohibited acts regarding the regulation of alcoholic beverages generally, so as to  
3 repeal certain provisions for driver's license suspensions not directly related to traffic safety;  
4 to amend Article 1 of Chapter 11 of Title 19 of the Official Code of Georgia Annotated,  
5 relating to the Child Support Recovery Act, so as to require certain notifications to  
6 delinquent obligors; to amend Chapter 2 of Title 20 of the Official Code of Georgia  
7 Annotated, relating to elementary and secondary education, so as to revise certain reporting  
8 requirements by the Department of Education to the Department of Driver Services; to  
9 amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and  
10 traffic, so as to revise provisions regarding licensing for the operation of motor vehicles and  
11 the operation of motor vehicles; to provide for applicability with current federal regulations  
12 in the safe operations of motor carriers and commercial motor vehicles; to provide for  
13 definitions; to provide for registration and regulation of for-hire intrastate motor carriers and  
14 intrastate motor carriers; to provide for the dissemination of certain information by the  
15 Department of Driver Services; to provide for participation in an anatomical gift donation  
16 program when obtaining a personal identification card through the department; to provide  
17 for the designation of such participation on personal identification cards; to provide for the  
18 dissemination of identifying information for applicants making such election; to repeal  
19 certain provisions for driver's license suspensions not directly related to traffic safety; to  
20 provide for a waiver of the application fee for instruction permits in certain instances; to  
21 provide for legislative findings; to provide for the use of paper eye charts for the testing of  
22 noncommercial driver's vision; to provide for the issuance of limited driving permits to  
23 noncommercial drivers in certain instances; to change provisions relating to a plea of nolo  
24 contendere; to prohibit the offering of items of monetary value for the enrollment of students  
25 by any driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program  
26 licensed by the department; to allow photographs on drivers' licenses and identification cards  
27 to be in black and white; to provide for the conditions under which limited driving permits  
28 shall be issued; to allow photographs on drivers' licenses and identification cards to be in

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29 black and white; to provide for related matters; to provide for effective dates and  
30 applicability; to repeal conflicting laws; and for other purposes.

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

32 **PART I**  
33 **SECTION 1-1.**

34 Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to  
35 prohibited acts regarding the regulation of alcoholic beverages generally, is amended in Code  
36 Section 3-3-23.1, relating to procedure and penalties upon violation of Code Section 3-3-23,  
37 by revising paragraph (3) of subsection (b) as follows:

38 ~~"(3) In addition to any other penalty provided for in paragraphs (1) and (2) of this~~  
39 ~~subsection, the driver's license of any person convicted of attempting to purchase an~~  
40 ~~alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23~~  
41 ~~upon the first conviction shall be suspended for six months and upon the second or~~  
42 ~~subsequent conviction shall be suspended for one year."~~

43 **PART II**  
44 **SECTION 2-1.**

45 Article 1 of Chapter 11 of Title 19 of the Official Code of Georgia Annotated, relating to the  
46 Child Support Recovery Act, is amended in Code Section 19-11-9.3, relating to suspension  
47 or denial of license for noncompliance with child support order, interagency agreements, and  
48 report to General Assembly, by adding a new subsection to read as follows:

49 "(p) The department shall inform delinquent obligors of resources available which may  
50 remedy such delinquent obligor's license suspension."

51 **PART III**  
52 **SECTION 3-1.**

53 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
54 secondary education, is amended by revising subsection (f) of Code Section 20-2-320,  
55 relating to the Education Information Steering Committee, identification of data to  
56 implement the Quality Basic Education Program, and the state-wide comprehensive  
57 educational information network, as follows:

"(f) Notwithstanding any other provision of law, the Department of Education is authorized to and shall obtain and provide to the Department of ~~Public Safety~~ Driver Services, in a form to be agreed upon between the Department of Education and the Department of ~~Public Safety~~ Driver Services, enrollment, ~~attendance~~ expulsion, and suspension information regarding minors 15 through 17 years of age reported pursuant to Code Sections 20-2-690 and 20-2-697, to be used solely for the purposes set forth in subsection (a.1) of Code Section 40-5-22."

### SECTION 3-2.

Said chapter is further amended by revising paragraph (5) of subsection (b) and paragraph (6) of subsection (c) of Code Section 20-2-690, relating to educational entities and requirements by private schools and home study programs, as follows:

"(5) Within 30 days after the beginning of each school year, it shall be the duty of the administrator of each private school to provide to the school superintendent of each local public school district which has residents enrolled in the private school a list of the name, age, and residence of each resident so enrolled. At the end of each school month, it shall be the duty of the administrator of each private school to notify the school superintendent of each local public school district of the name, age, and residence of each student residing in the public school district who enrolls or terminates enrollment at the private school during the immediately preceding school month. Such records shall indicate when attendance has been suspended and the grounds for such suspension. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of ~~attendance~~ enrollment by the Department of Driver Services for the purposes set forth in subsection (a.1) of Code Section 40-5-22; and"

"(6) The parent or guardian shall have the authority to execute any document required by law, rule, regulation, or policy to evidence the enrollment of a child in a home study program, the student's full-time or part-time status, the student's grades, or any other required educational information. This shall include, but not be limited to, documents for purposes of verification of ~~attendance~~ enrollment by the Department of Driver Services, for the purposes set forth in subsection (a.1) of Code Section 40-5-22, documents required pursuant to Chapter 2 of Title 39 relating to employment of minors, and any documents required to apply for the receipt of state or federal public assistance;"

**SECTION 3-3.**

Said chapter is further amended by revising subsection (g) of Code Section 20-2-690.2, relating to the establishment of student attendance protocol committee, membership and protocol, summary of penalties for failure to comply, and reporting, as follows:

"(g) The committee shall write the summary of possible consequences and penalties for failing to comply with compulsory attendance under Code Section 20-2-690.1 for children and their parents, guardians, or other persons who have control or charge of children for distribution by schools in accordance with Code Section 20-2-690.1. The summary of possible consequences for children shall include possible dispositions for children in need of services and possible denial ~~or suspension~~ of a driver's license for a child in accordance with Code Section 40-5-22."

**SECTION 3-4.**

Said chapter is further amended by revising subsection (a) of Code Section 20-2-697, relating to cooperation of principals and teachers in public schools with visiting teachers and attendance officers, attendance reports and records kept by public schools, and letter indicating enrollment, as follows:

"(a) Visiting teachers and attendance officers shall receive the cooperation and assistance of all teachers and principals of public schools in the local school systems within which they are appointed to serve. It shall be the duty of the principals or local school site administrators and of the teachers of all public schools to report, in writing, to the visiting teacher or attendance officer of the local school system the names, ages, and residences of all students in attendance at their schools and classes within 30 days after the beginning of the school term or terms and to make such other reports of attendance in their schools or classes as may be required by rule or regulation of the State Board of Education. All public schools shall keep daily records of attendance, verified by the teachers certifying such records. Such reports shall be open to inspection by the visiting teacher, attendance officer, or duly authorized representative at any time during the school day. Any such attendance records and reports which identify students by name shall be used only for the purpose of providing necessary attendance information required by the state board or by law, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of ~~attendance~~ enrollment by the Department of ~~Public Safety~~ Driver Services for the purposes set forth in subsection (a.1) of Code Section 40-5-22. Such attendance records shall also be maintained in a format which does not identify students by name, and in this format shall be a part of the data collected for the student record component of the state-wide comprehensive educational information system pursuant to subsection (b) of Code Section 20-2-320."

**SECTION 3-5.**

Said chapter is further amended by revising Code Section 20-2-701, relating to responsibility for reporting truants to juvenile or other courts, as follows:

"20-2-701.

(a) Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

~~(b) Local school superintendents or visiting teachers and attendance officers shall use their best efforts to notify any child 14 years of age or older who has only three absences remaining prior to violating the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such notification shall be made via first-class mail.~~

~~(c) Local school superintendents or visiting teachers and attendance officers shall report to the State Board of Education, which shall, in turn, report to the Department of Driver Services any child 14 years of age or older who does not meet the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such report shall include the child's name, current address, and social security number, if known.~~

~~(d) Subsections (b) and (c) of this Code section shall not be effective until full implementation of the state-wide education information system."~~

**PART IV****SECTION 4-1.**

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subparagraph (A) of paragraph (8.3) of Code Section 40-1-1, relating to definitions, as follows:

"(A) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of ~~4,537~~ 4,536 kg (10,001 lbs.) or more;"

**SECTION 4-2.**

Said title is further amended by revising paragraph (3) of subsection (a) of Code Section 40-1-8, relating to definitions, safe operations of motor carriers and commercial motor

vehicles, civil penalties, operation of out-of-service vehicles, and criminal penalties, as follows:

"(3) 'Present regulations' means the regulations promulgated under 49 C.F.R. in force and effect on January 1, ~~2014~~ 2015."

### SECTION 4-3.

Said title is further amended by revising Code Section 40-2-1, relating to definitions, as follows:

"40-2-1.

As used in this chapter, the term:

(1) 'Cancellation of vehicle registration' means the annulment or termination by formal action of the department of a person's vehicle registration because of an error or defect in the registration or because the person is no longer entitled to such registration. The cancellation of registration is without prejudice and application for a new registration may be made at any time after such cancellation.

(2) 'Commissioner' means the state revenue commissioner.

(3) 'Department' means the Department of Revenue.

(4) 'For-hire intrastate motor carrier' means an entity engaged in the transportation of goods or ten or more passengers for compensation wholly within the boundaries of this state.

(5) 'Intrastate motor carrier' means any self-propelled or towed motor vehicle operated by an entity that is used on a highway in intrastate commerce to transport passengers or property and:

(A) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 4,536 kg (10,001 lbs.) or more, whichever is greater;

(B) Is designed or used to transport more than ten passengers, including the driver, and is not used to transport passengers for compensation; or

(C) Is used to transport material found by the United States Secretary of Transportation to be hazardous pursuant to 49 U.S.C. Section 5103 and is transported in any quantity.

~~(4)~~(6) 'Motor carrier' means:

(A) Any entity subject to the terms of the Unified Carrier Registration Agreement pursuant to 49 U.S.C. Section 14504a whether engaged in interstate or intrastate commerce, or both; or

(B) Any entity defined by the commissioner or commissioner of public safety who operates or controls commercial motor vehicles as defined in 49 C.F.R. Section 390.5 or this chapter whether operated in interstate or intrastate commerce, or both.

(5)(7) 'Operating authority' means the registration required by 49 U.S.C. Section 13902, 49 C.F.R. Part 365, 49 C.F.R. Part 368, and 49 C.F.R. Section 392.9a.

(6)(8) 'Regulatory compliance inspection' means the examination of facilities, property, buildings, vehicles, drivers, employees, cargo, packages, records, books, or supporting documentation kept or required to be kept in the normal course of motor carrier business or enterprise operations.

(7)(9) 'Resident' means a person who has a permanent home or domicile in Georgia and to which, having been absent, he or she has the intention of returning. For the purposes of this chapter, there is a rebuttable presumption that any person who, except for infrequent, brief absences, has been present in the state for 30 or more days is a resident.

(8)(10) 'Revocation of vehicle registration' means the termination by formal action of the department of a vehicle registration, which registration shall not be subject to renewal or reinstatement, except that an application for a new registration may be presented and acted upon by the department after the expiration of the applicable period of time prescribed by law.

(9)(11) 'Suspension of vehicle registration' means the temporary withdrawal by formal action of the department of a vehicle registration, which temporary withdrawal shall be for a period specifically designated by the department."

#### SECTION 4-4.

Said title is further amended in Code Section 40-2-20, relating to registration and license requirements, by adding a new subparagraph to paragraph (1) of subsection (a) to read as follows:

"(C) The county tag agent may issue a temporary operating permit for any vehicle that fails to comply with applicable federal emission standards, provided that the owner of such vehicle has provided verification of the existence of minimum motor vehicle liability insurance coverage and paid all applicable taxes, penalties, insurance lapse fees, and fees other than the registration fee. Such temporary operating permit shall be valid for 30 days and shall not be renewable."

#### SECTION 4-5.

Said title is further amended by revising subsections (d), (e), and (f) of Code Section 40-2-140, relating to the administration of the Federal Unified Carrier Registration Act of 2005 by the Department of Public Safety, registration and fee requirements, evidence of continuing education, requirements for obtaining operating authority, collection, retention, and utilization of fees, regulatory compliance inspections, and penalties, as follows:

"(d)(1) Any intrastate motor carrier, leasing company leasing to a motor carrier, broker, or freight forwarder that engages in intrastate commerce and operates a motor vehicle on or over any public highway of this state shall register with the commissioner and pay a fee determined by the commissioner.

(2) No for-hire intrastate motor carrier shall be issued a registration unless there is filed with the commissioner ~~or the Federal Motor Carrier Safety Administration or any successor agency~~ a certificate of insurance for such applicant or holder, on forms prescribed by the commissioner, evidencing a policy of indemnity insurance by an insurance company licensed to do business in this state. Such policy shall provide for the protection of passengers in passenger vehicles and the protection of the public against the negligence of such for-hire intrastate motor carrier, and its servants or agents, when it is determined to be the proximate cause of any injury. The commissioner shall determine and fix the amounts of such indemnity insurance and shall prescribe the provisions and limitations thereof. The insurer shall file such certificate. Failure to file any form required by the commissioner shall not diminish the rights of any person to pursue an action directly against a for-hire intrastate motor carrier's insurer. The insurer may file its certificate of insurance electronically with the commissioner.

(3) The commissioner shall have the power to permit self-insurance in lieu of a policy of indemnity insurance whenever in his or her opinion the financial ability of the motor carrier so warrants.

(4) Any person having a cause of action, whether arising in tort or contract, under this Code section may join in the same cause of action the motor carrier and its insurance carrier.

(e) Before any intrastate motor carrier engaged in exempt passenger intrastate commerce shall operate any motor vehicle on or over any public highway of this state, the intrastate motor carrier shall register with the commissioner and pay a fee determined by the commissioner.

(f) ~~Prior to the issuance of the initial registration to any intrastate motor carrier~~ ~~Before any motor carrier shall be registered under the federal Unified Carrier Registration Act of 2005~~ by the Department of Public Safety pursuant to subsection (d) or (e) of this Code section, that intrastate motor carrier shall furnish evidence to the Department of Public Safety that the intrastate motor carrier, through an authorized representative, has completed, within the preceding 12 months, an educational seminar on motor carrier operations and safety regulations that has been certified by the commissioner."



**SECTION 4-6.**

Said title is further amended in Code Section 40-5-2, relating to information which may be disseminated by the Department of Driver Services, by revising paragraph (5) of subsection (f) as follows:

"(5) The information required to be made available to organ procurement organizations pursuant to subsection (d) of Code Section 40-5-25 and subsection (e) of Code Section 40-5-100 and for the purposes set forth in such Code ~~section~~ sections;"

**SECTION 4-7.**

Said title is further amended by revising Code Section 40-5-6, relating to forms for making anatomical gifts, as follows:

"40-5-6.

(a) Whenever any person applies for or requests the issuance, reissuance, or renewal of any class of driver's license or personal identification card, the department shall furnish ~~that~~ such person with a form, sufficient under Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' for the gift of all or part of the donor's body conditioned upon the donor's death. If any such person, legally authorized to execute such a gift as provided for pursuant to Code Section 44-5-142, desires to execute a gift, the department shall provide ~~that~~ such person with appropriate assistance and the presence of the legally required number of witnesses.

(b) A notation shall be affixed to or made a part of every driver's license and personal identification card issued in this state indicating whether or not the licensee or cardholder has executed, under Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' a gift, by will or otherwise, of all or part of his or her body conditioned upon the donor's death."

**SECTION 4-8.**

Said title is further amended in Code Section 40-5-22, relating to persons not to be licensed and school attendance requirements, by revising subsections (a.1) and (c) and by adding a new subsection to read as follows:

"(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) diploma, a special diploma, or a certificate of high school completion or has terminated his or her secondary education and is enrolled in a

postsecondary school, is pursuing a general educational development (GED) diploma, or the records of the department indicate that said applicant:

(A) Is enrolled in and not under expulsion from a public or private school ~~and has satisfied relevant attendance requirements as set forth in paragraph (2) of this subsection for a period of one academic year prior to application for an instruction permit or driver's license;~~ or

(B) Is enrolled in a home education program that satisfies the reporting requirements of all state laws governing such program.

The department shall notify such minor of his or her ineligibility for an instruction permit or driver's license at the time of such application.

~~(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school or who is pursuing a general educational development (GED) diploma that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the department receives notice that indicates that such minor:~~

~~(A) Has dropped out of school without graduating and has remained out of school for ten consecutive school days;~~

~~(B) Has ten or more school days of unexcused absences in the current academic year or ten or more school days of unexcused absences in the previous academic year; or~~

~~(C) Has been found in violation by a hearing officer, panel, or tribunal of one of the following offenses, has received a change in placement for committing one of the following offenses, or has waived his or her right to a hearing and pleaded guilty to one of the following offenses:~~

~~(i) Threatening, striking, or causing bodily harm to a teacher or other school personnel;~~

~~(ii) Possession or sale of drugs or alcohol on school property or at a school sponsored event;~~

~~(iii) Possession or use of a firearm in violation of Code Section 16-11-127.1 or possession or use of a dangerous weapon as defined in Code Section 16-11-121 but shall not include any part of an exhibit brought to school in connection with a school project;~~

~~(iv) Any sexual offense prohibited under Chapter 6 of Title 16; or~~

~~(v) Causing substantial physical or visible bodily harm to or seriously disfiguring another person, including another student.~~

~~Notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice. Such notice shall include instructions to the minor to return immediately the instruction permit or driver's license to the department and information summarizing the minor's right to request an exemption from the provisions of this subsection. The minor so notified may request in writing a hearing within ten business days from the date of receipt of notice. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of suspension or rescind such order. The department shall be authorized to grant an exemption from the provisions of this subsection to a minor, upon such minor's petition, if there is clear and convincing evidence that the enforcement of the provisions of this subsection upon such minor would create an undue hardship upon the minor or the minor's family or if there is clear and convincing evidence that the enforcement of the provisions of this subsection would act as a detriment to the health or welfare of the minor. Appeal from such hearing shall be in accordance with said chapter. If no hearing is requested within the ten business days specified above, the right to a hearing shall have been waived and the instruction permit or driver's license of the minor shall remain suspended. The suspension provided for in this paragraph shall be for a period of one year or shall end upon the date of such minor's eighteenth birthday or, if the suspension was imposed pursuant to subparagraph (A) of this paragraph, upon receipt of satisfactory proof that the minor is pursuing or has received a general educational development (GED) diploma, a high school diploma, a special diploma, a certificate of high school completion, or has terminated his or her secondary education and is enrolled in a postsecondary school, whichever comes first.~~

(3)(2) The State Board of Education and the commissioner of driver services are authorized to promulgate rules and regulations to implement the provisions of this subsection.

~~(4)(3) The Technical College System of Georgia shall be responsible for compliance and noncompliance data for students pursuing a general educational development (GED) diploma."~~

"(c) Except as provided in subsection (d) of this Code section, the The department shall not issue any driver's license to nor renew the driver's license of any person:

(1) Whose license has been suspended during such suspension, or whose license has been revoked, except as otherwise provided in this chapter;

(2) Whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter;

(3) Who is a habitual user of alcohol or any drug to a degree rendering him or her incapable of safely driving a motor vehicle;

(4) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

(5) Who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(6) Who the commissioner has good cause to believe would not, by reason of physical or mental disability, be able to operate a motor vehicle with safety upon the highway; or

(7) Whose license issued by any other jurisdiction is suspended or revoked by such other jurisdiction during the period such license is suspended or revoked by such other jurisdiction.

(d) The department is authorized to issue a limited driving permit to an applicant whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter, provided that the applicant is otherwise eligible for such limited driving permit in accordance with paragraph (1) of subsection (a) of Code Section 40-5-64."

#### SECTION 4-9.

Said title is further amended in Code Section 40-5-25, relating to application fees for drivers' licenses, by revising subsection (b) as follows:

"(b)(1) Each person applying for a Class P commercial or noncommercial instruction permit for a Class A, B, C, E, F, or M driver's license shall pay the applicable license fee prior to attempting the knowledge test for the instruction permit sought when the knowledge test is to be administered by the department. If said person fails to achieve a passing score on the knowledge test, the license fee paid shall be considered a testing fee and retained by the department. Any person failing to achieve a passing score on the knowledge test for an instructional permit shall pay the applicable license fee on each subsequent attempt until successful, at which time said fee shall be his or her license fee.

(2) The department shall waive the license fee for each person applying for a Class P noncommercial instruction permit for a Class C driver's license when the noncommercial knowledge test is to be administered by a licensed driver training school or public or private high school authorized to administer such tests as provided for in subsection (d) of Code Section 40-5-27.

(3) Each person applying for a Class A, B, or C commercial driver's license shall pay the applicable license fee at the time that he or she schedules his or her appointment for said skills test. If said person fails to appear for his or her scheduled skills test appointment or fails to achieve a passing score on the skills test, the license fee paid shall be considered a testing fee and retained by the department. The person shall pay the applicable license fee on each subsequent attempt until successful, at which time said fee shall be his or her license fee. All fees retained by the department pursuant to this Code section shall be remitted to the general fund."

#### SECTION 4-10.

Said title is further amended in Code Section 40-5-25, relating to indication of participation in voluntary programs on driver's license application, by revising subsection (d) and paragraph (1) of subsection (e) as follows:

"(d)(1) The General Assembly finds that it is in the best interest of ~~the~~ this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) The department shall make available to ~~those federally designated organ procurement organizations~~ or secure data centers maintained and managed at the direction of a procurement organization information provided for in Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' including the name, license number, date of birth, gender, and most recent address of any person eligible pursuant to Code Section 44-5-142 who obtains an organ donor driver's license; provided, however, that the gender information shall be made available only to a procurement organization or secure data center if such organization or center has sufficient funds to cover the associated costs of providing such information. Information so obtained by such organizations ~~and centers~~ shall be used for ~~the purpose of establishing~~ a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

(e)(1) The General Assembly finds that it is in the best ~~interests~~ interest of ~~the~~ this state to encourage improved public education and awareness regarding blindness and to address the need for blindness prevention screenings, ~~and treatments, and rehabilitation~~ for the benefit of the citizens of Georgia."

#### SECTION 4-11.

Said title is further amended in Code Section 40-5-27, relating to examination of driver's license applicants, by revising paragraph (1) of subsection (c) as follows:

"(c)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, no noncommercial driver's license shall be issued to any person who does not have a visual acuity of 20/60, corrected or uncorrected, in at least one eye or better and a horizontal field of vision with both eyes open of at least 140 degrees or, in the event that one eye only has usable vision, horizontal field of vision must be at least 70 degrees temporally and 50 degrees nasally."

#### **SECTION 4-12.**

Said title is further amended in Code Section 40-5-28, relating to contents of drivers' licenses, by revising subsection (a) as follows:

"(a) Except as provided in subsection (c) of this Code section, the department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall be upon a form prescribed by the department and which shall bear thereon a distinguishing number assigned to the licensee, a ~~color~~ photograph of the licensee, the licensee's full legal name, either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with a pen and ink immediately upon receipt of the license, and such other information or identification as is required by the department. No license shall be valid until it has been so signed by the licensee. The department shall not require applicants to submit or otherwise obtain from applicants any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application."

#### **SECTION 4-13.**

Said title is further amended by revising subsection (a) of Code Section 40-5-54, relating to mandatory suspension of license and notice of suspension, as follows:

"(a) The department shall forthwith suspend, as provided in Code Section 40-5-63, the license of any driver upon receiving a record of such driver's conviction of the following offenses, whether charged as a violation of state law or of a local ordinance adopted pursuant to Article 14 of Chapter 6 of this title:

- (1) Homicide by vehicle, as defined by Code Section 40-6-393;
- (2) Any felony in the commission of which a motor vehicle is used;
- (3) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270;
- (4) Racing on highways and streets;
- (5) Using a motor vehicle in fleeing or attempting to elude an officer; or

475 ~~(6) Fraudulent or fictitious use of or application for a license as provided in Code Section~~  
 476 ~~40-5-120 or 40-5-125;~~  
 477 ~~(7)(6) Operating a motor vehicle with a revoked, canceled, or suspended registration in~~  
 478 ~~violation of Code Section 40-6-15; or~~  
 479 ~~(8) Any felony violation of Article 1 of Chapter 9 of Title 16 if such offense related to~~  
 480 ~~an identification document as defined in Code Section 16-9-4."~~

481 **SECTION 4-14.**

482 Said title is further amended by repealing in its entirety Code Section 40-5-57.2, relating to  
 483 suspension based on violation of Code Section 40-6-255, and designating said Code section  
 484 as reserved.

485 **SECTION 4-15.**

486 Said title is further amended by revising Code Section 40-5-57.1, relating to suspension and  
 487 reinstatement of drivers' licenses for persons under a certain age, as follows:

488 "(a) Notwithstanding any other provision of this chapter, the driver's license of any person  
 489 under 21 years of age convicted of hit and run or leaving the scene of an accident in  
 490 violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle  
 491 in fleeing or attempting to elude an officer, reckless driving, any offense for which four or  
 492 more points are assessable under subsection (c) of Code Section 40-5-57, ~~purchasing an~~  
 493 ~~alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23;~~  
 494 ~~or violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23; or a violation~~  
 495 ~~of Code Section 40-6-391 shall be suspended by the department~~ operation of law as  
 496 provided by this Code section; ~~and the.~~ A plea of nolo contendere shall be considered a  
 497 conviction for the purposes of this subsection. The court in which such conviction is had  
 498 shall require the surrender to it of the driver's license then held by the person so convicted,  
 499 and the court shall thereupon forward such license and a copy of the disposition to the  
 500 department within ten days after the conviction. The department shall send notice of any  
 501 suspension imposed pursuant to this subsection via certified mail to the address reflected  
 502 on its records as the person's mailing address.

503 (b) The driver's license of any person under 18 years of age who has accumulated a  
 504 violation point count of four or more points under Code Section 40-5-57 in any consecutive  
 505 12 month period shall be suspended by the department as provided by subsection (c) of this  
 506 Code section. A plea of nolo contendere shall be considered a conviction for purposes of  
 507 this subsection. Notice of suspension shall be given by certified mail or statutory overnight  
 508 delivery, return receipt requested; to the address reflected in the department's records as  
 509 the driver's mailing address or, in lieu thereof, notice may be given by personal service

upon such person. ~~Such license shall be surrendered within ten days of notification of such suspension.~~ Notice given by certified mail or statutory overnight delivery, return receipt requested, mailed to the person's last known address shall be prima-facie evidence that such person received the required notice.

~~(b)~~(c) A person whose driver's license has been suspended under subsection (a) or (b) of this Code section shall:

(1) Subject to the requirements of subsection ~~(c)~~ (d) of this Code section and except as otherwise provided by paragraph (2) of this subsection:

(A) Upon a first such suspension, be eligible to apply for license reinstatement and, subject to payment of required fees, have his or her driver's license reinstated after six months; and

(B) Upon a second or subsequent such suspension, be eligible to apply for license reinstatement and, subject to payment of required fees, have his or her driver's license reinstated after 12 months; or

(2)(A) Upon the first conviction of a violation of Code Section 40-6-391, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, have his or her license suspended for a period of six months unless the driver's blood alcohol concentration at the time of the offense was 0.08 grams or more or the person has previously been subject to a suspension pursuant to paragraph (1) of this subsection, in which case the period of suspension shall be for 12 months.

(B) Upon the second conviction of a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, have his or her license suspended for a period of 18 months.

(C) Upon the third conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, be considered a habitual violator, and such person's license shall be revoked as provided for in Code Section 40-5-58.

~~(b.1)~~(c.1) In any case where a person's driver's license was administratively suspended as a result of a violation of Code Section 40-6-391 for which the person's driver's license has been suspended pursuant to subsection (c) of this Code section, the administrative license suspension period and the license suspension period provided by this Code section may run concurrently, and any completed portion of such administrative license suspension period shall apply toward completion of the license suspension period provided by this Code section.



~~(e)~~(d)(1) Any driver's license suspended under subsection (a) or (b) of this Code section for commission of any offense other than violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a defensive driving course approved by the commissioner pursuant to Code Section 40-5-83 and pays the applicable reinstatement fee. Any driver's license suspended under subsection (a) of this Code section for commission of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays the applicable reinstatement fee.

(2) The reinstatement fee for a first such suspension shall be \$210.00 or \$200.00 if paid by mail. The reinstatement fee for a second or subsequent such suspension shall be \$310.00 or \$300.00 if paid by mail.

~~(d)~~(e) A suspension provided for in subsection (a) of this Code section shall be imposed based on the person's age on the date of the conviction giving rise to the suspension."

#### SECTION 4-16.

Said title is further amended by repealing in their entirety subsections (e) and (f) of Code Section 40-5-63, relating to periods of suspension and conditions of return of license.

#### SECTION 4-17.

Said title is further amended in Code Section 40-5-64, relating to limited driving permits for certain offenders, by revising subsections (a), (c), and (c.1) as follows:

"(a) **To whom issued.**

(1) Notwithstanding any contrary provision of Code Section 40-5-57 or 40-5-63 or any other Code section of this chapter, any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, may apply for a limited driving permit when and only when that person's driver's license has been suspended in accordance with ~~paragraph (2) of subsection (a.1) of Code Section 40-5-22~~, subsection (d) of Code Section 40-5-57, paragraph (1) of subsection (a) of Code Section 40-5-63, paragraph (1) of subsection (a) of Code Section 40-5-67.2, or subsection (a) of Code Section 40-5-57.1, when the person is 18 years of age or older and his or her license was suspended for exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour, and the sentencing judge, in his or her discretion, decides it is reasonable to issue a limited driving permit."

"(c) **Standards for approval.** The department shall issue a limited driving permit if the application indicates that refusal to issue such permit would cause extreme hardship to the applicant. Except as otherwise provided by subsection (c.1) of this Code section, for the purposes of this Code section, 'extreme hardship' means that the applicant cannot reasonably obtain other transportation, and therefore the applicant would be prohibited from:

(1) Going to his or her place of employment or performing the normal duties of his or her occupation;

(2) Receiving scheduled medical care or obtaining prescription drugs;

(3) Attending a college or school at which he or she is regularly enrolled as a student;

(4) Attending regularly scheduled sessions or meetings of support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner;

(5) Attending under court order any driver education or improvement school or alcohol or drug program or course approved by the court which entered the judgment of conviction resulting in suspension of his or her driver's license or by the commissioner;

(6) Attending court, reporting to a probation office or officer, or performing community service; or

(7) Transporting an immediate family member who does not hold a valid driver's license for work, medical care, or prescriptions or to school.

**(c.1) Exception to standards for approval.**

(1) The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code section shall not apply and shall not be considered for purposes of granting a limited driving permit or imposing conditions thereon under this Code section in the case of a driver's license suspension under paragraph (2) of subsection (a.1) of Code Section 40-5-22.

(2) An ignition interlock device limited driving permit shall be restricted to allow the holder thereof to drive solely for the following purposes:

(A) Going to his or her place of employment or performing the normal duties of his or her occupation;

(B) Attending a college or school at which he or she is regularly enrolled as a student;

(C) Attending regularly scheduled sessions or meetings of treatment support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner; and

(D) Going for monthly monitoring visits with the permit holder's ignition interlock device service provider."

**SECTION 4-18.**

Said title is further amended by revising Code Section 40-5-75, relating to suspension of licenses by operation of law, as follows:

"40-5-75.

(a) The driver's license of any person convicted of driving or being in actual physical control of any moving vehicle while under the influence of ~~Except as provided in Code Section 40-5-76, the driver's license of any person convicted of any violation of Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,' including, but not limited to, possession, distribution, manufacture, cultivation, sale, transfer of, trafficking in, the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, transfer or traffic in a controlled substance or marijuana; in violation of paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391~~ or the law of any other jurisdiction, shall by operation of law be suspended, and such suspension shall be subject to the following terms and conditions:

(1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for not less than 180 days. At the end of 180 days, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays to the department a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail. ~~For purposes of this paragraph, a plea of nolo contendere by a person to a charge of any drug related offense listed in this subsection shall, except as provided in subsection (c) of this Code section, constitute a conviction;~~

(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years, provided that after one year from the date of the conviction, the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration fee of \$310.00 or \$300.00 when such reinstatement is processed by mail. ~~For purposes of this paragraph, a plea of nolo contendere and all previous pleas of nolo contendere within such five-year period of time shall constitute a conviction; and~~

(3) Upon the third or subsequent conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the

date of the current arrest for which a conviction is obtained, such person's license shall be suspended for a period of five years. At the end of two years, the person may apply to the department for a three-year driving permit upon compliance with the following conditions:

(A) Such person has not been convicted or pleaded nolo contendere to any drug related offense, including driving under the influence, for a period of two years immediately preceding the application for such permit;

(B) Such person submits proof of completion of a licensed drug treatment program. Such proof shall be submitted within two years of the license suspension and prior to the issuance of the permit. Such licensed drug treatment program shall be paid for by the offender. The offender shall pay a permit fee of \$25.00 to the department;

(C) Such person submits proof of financial responsibility as provided in Chapter 9 of this title; and

(D) Refusal to issue such permit would cause extreme hardship to the applicant. For the purposes of this subparagraph, the term 'extreme hardship' means that the applicant cannot reasonably obtain other transportation, and, therefore, the applicant would be prohibited from:

(i) Going to his or her place of employment or performing the normal duties of his or her occupation;

(ii) Receiving scheduled medical care or obtaining prescription drugs;

(iii) Attending a college or school at which he or she is regularly enrolled as a student; or

(iv) Attending regularly scheduled sessions or meetings of support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner.

Any permittee who is convicted of violating any state law or local ordinance relating to the movement of vehicles or any permittee who is convicted of violating the conditions endorsed on his or her permit shall have his or her permit revoked by the department. Any court in which such conviction is had shall require the permittee to surrender the permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction. Any person whose limited driving permit has been revoked shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department. At the end of five years from the date on which the license was suspended, the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration fee of \$410.00 or \$400.00 when such reinstatement is processed by mail. ~~For purposes~~

of this paragraph, a plea of nolo contendere and all previous pleas of nolo contendere within such five-year period of time shall constitute a conviction.

(a.1) Any permittee who is convicted of violating any state law or local ordinance relating to the movement of vehicles or any permittee who is convicted of violating the conditions endorsed on his or her permit shall have his or her permit revoked by the department. Any court in which such conviction is had shall require the permittee to surrender the permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction. Any person whose limited driving permit has been revoked shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department.

(b) Except as provided in Code Section 40-5-76, whenever a person is convicted of possession, distribution, manufacture, cultivation, sale, transfer of, the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer a controlled substance or marijuana, or driving or being in actual physical control of any moving vehicle while under the influence of such substance a controlled substance or marijuana in violation of subsection (b) of Code Section 16-13-2, subsection (a), (b), or (j) of Code Section 16-13-30, or Code Section 16-13-33; paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391; or the law of any other jurisdiction, the court in which such conviction is had shall require the surrender to it of any driver's license then held by the person so convicted, and the court shall thereupon forward such license and a copy of its order to the department within ten days after the conviction. The periods of suspension provided for in this Code section shall begin on the date of surrender of the driver's license or on the date that the department processes the conviction or citation, whichever shall first occur.

(c)(1) The decision to accept a plea of nolo contendere to a misdemeanor charge of unlawful possession of less than one ounce of marijuana shall be at the sole discretion of the judge. If a plea of nolo contendere is accepted as provided in this subsection, the judge shall, as a part of the disposition of the case, order the defendant to attend and complete a DUI Alcohol or Drug Use Risk Reduction Program. The order shall stipulate that the defendant shall complete such program within 120 days and that the defendant shall submit evidence of such completion to the department. The judge shall also notify the defendant that, if he or she fails to complete such program by the date specified in the court's order, his or her driver's license shall be suspended, by operation of law, as provided in this Code section. The record of the disposition of the case shall be forwarded to the department.

(2) If a plea of nolo contendere is accepted and the defendant's driver's license has not been suspended under any other provision of this title and if the defendant has not been

convicted of or has not had a plea of nolo contendere accepted to a charge of violating this Code section within the previous five years, the court shall, subject to paragraph (1) of this subsection, return the driver's license to the person; otherwise, such driver's license shall be forwarded to the department.

~~(d)~~(c) Application for reinstatement of a driver's license under paragraph (1) or (2) of subsection (a) of this Code section shall be made on such forms as the commissioner may prescribe and shall be accompanied by proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail. Application for a three-year driving permit under paragraph (3) of subsection (a) of this Code section shall be made on such form as the commissioner may prescribe and shall be accompanied by proof of completion of an approved residential drug treatment program and a fee of \$25.00 for such permit.

~~(e)~~(d) Notwithstanding any other provision of this Code section or any other provision of this chapter, any person whose license is suspended pursuant to this Code section shall not be eligible for early reinstatement of his or her license and shall not be eligible for a limited driving permit, but such person's license shall be reinstated only as provided in this Code section or Code Section 40-5-76.

~~(f)~~(e) Except as provided in subsection (a) of this Code section, it shall be unlawful for any person to operate any motor vehicle in this state after such person's license has been suspended pursuant to this Code section if such person has not thereafter obtained a valid license. Any person who is convicted of operating a motor vehicle before the department has reinstated such person's license or issued such person a three-year driving permit shall be punished by a fine of not less than \$750.00 nor more than \$5,000.00 or by imprisonment in the penitentiary for not more than 12 months, or both.

~~(g) Notwithstanding the provisions of Code Section 15-11-606 and except as provided in subsection (c) of this Code section, an adjudication of a minor child as a delinquent child for any offense listed in subsection (a) of this Code section shall be deemed a conviction for purposes of this Code section.~~

~~(h)~~(f) Licensed Notwithstanding the provisions of subsection (a) of this Code section, licensed drivers who are 16 years of age who are adjudicated in a juvenile court pursuant to this Code section may, at their option, complete a DUI Alcohol or Drug Use Risk Reduction Program or an assessment and intervention program approved by the juvenile court.

~~(i)~~(g) Notwithstanding any other provision of this chapter to the contrary, the suspension imposed pursuant to this Code section shall be in addition to and run consecutively to any other suspension imposed by the department at the time of the conviction that results in said suspension. If the person has never been issued a driver's license in the State of

766 Georgia or holds a driver's license issued by another state, the person shall not be eligible  
767 for a driver's license for the applicable period of suspension following his or her  
768 submission of an application for issuance thereof."

769 **SECTION 4-19.**

770 Said title is further amended in Code Section 40-5-81, relating to the driver improvement  
771 clinic or DUI Alcohol or Drug Use Risk Reduction Program option and the certification and  
772 approval of courses, by adding a new subsection to read as follows:

773 "(d) It shall be unlawful for the owner, agent, servant, or employee of any driver  
774 improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program licensed by the  
775 department to directly or indirectly offer, for purposes of the enrollment or solicitation of  
776 any student or prospective student, any item of monetary value, including but not limited  
777 to United States legal tender, food, gasoline cards, debit gift cards, or merchant gift cards  
778 to any:

779 (1) Student or agent or legal representative of a student;

780 (2) Employee or agent of a private company which has contracted with a county,  
781 municipality, or consolidated government to provide probation services pursuant to  
782 Article 6 of Chapter 8 of Title 42;

783 (3) Law enforcement officer; or

784 (4) Officer or employee of the judicial branch or a court.

785 A violation of this subsection shall be a misdemeanor."

786 **SECTION 4-20.**

787 Said title is further amended in Code Section 40-5-100, relating to the issuance of personal  
788 identification cards, by revising subsection (a) and by adding new subsections to read as  
789 follows:

790 "(a) The department shall issue personal identification cards to all residents as defined in  
791 Code Section 40-5-1 who make application to the department in accordance with rules and  
792 regulations prescribed by the commissioner. Cards issued to applicants under 21 years of  
793 age shall contain the distinctive characteristics of drivers' licenses issued pursuant to Code  
794 Section 40-5-26. The identification card shall be similar in form but distinguishable in  
795 color from motor vehicle drivers' licenses and may contain a recent color photograph of the  
796 applicant and include the following information:

797 (1) Full legal name;

798 (2) Address of residence;

799 (3) Birth date;

800 (4) Date identification card was issued;

(5) Sex;

(6) Height;

(7) Weight;

(8) Eye color;

(9) Signature of person identified or facsimile thereof; ~~and~~

(10) Designation of participation in an anatomical gift donation program when such person is eligible to make such gift pursuant to Code Section 44-5-142; and

(11) Such other information or identification as required by the department; provided, however, that the department shall not require an applicant to submit or otherwise obtain from an applicant any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application."

"(e)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) The department shall make available to procurement organizations or secure data centers maintained and managed at the direction of a procurement organization information provided for in Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' including the name, personal identification card number, date of birth, gender, and most recent address of any person who obtains an organ donor identification card; provided, however, that the gender information shall be made available only to a procurement organization or secure data center if such organization or center has sufficient funds to cover the associated costs of providing such information. Information so obtained by such organizations and centers shall be used for a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

(f)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding blindness and to address the need for blindness prevention screenings, treatments, and rehabilitation for the benefit of the citizens of Georgia.

(2) Each application form for issuance, reissuance, or renewal of a personal identification card under this Code section shall include language permitting the applicant to make a voluntary contribution of \$1.00 to be used for purposes of preventing blindness and preserving the sight of residents of this state. Any such voluntary contribution shall be



made at the discretion of the applicant at the time of application in addition to payment of the personal identification card fee prescribed by the commissioner.

(3) Voluntary contributions made pursuant to this subsection shall be transmitted to the Department of Public Health for use thereby in providing the blindness education, screening, and treatment program provided by Code Section 31-1-23."

#### **SECTION 4-21.**

Said title is further amended by revising paragraph (1) of subsection (b) of Code Section 40-5-121, relating to driving while license suspended or revoked, as follows:

"(b)(1) The department, upon receiving a record of the conviction of any person under this Code section upon a charge of driving a vehicle while the license of such person was suspended, disqualified, or revoked, including suspensions under subsection (f) (e) of Code Section 40-5-75, shall extend the period of suspension or disqualification by six months. Upon the expiration of six months from the date on which the suspension or disqualification is extended and payment of the applicable reinstatement fee, the department shall reinstate the license. The reinstatement fee for a first such conviction within a five-year period shall be \$210.00 or \$200.00 if paid by mail. The reinstatement fee for a second such conviction within a five-year period shall be \$310.00 or \$300.00 if paid by mail. The reinstatement fee for a third or subsequent such conviction within a five-year period shall be \$410.00 or \$400.00 if paid by mail."

#### **SECTION 4-22.**

Said title is further amended in Code Section 40-5-150, relating to contents of commercial drivers' licenses, by revising subsection (a) as follows:

"(a) The commercial driver's license shall be marked 'Commercial Driver's License' or 'CDL' and shall be, to the maximum extent practicable, tamperproof, and shall include, but not be limited to, the following information:

- (1) The full legal name and residential address of the person;
- (2) The person's ~~color~~ photograph;
- (3) A physical description of the person, including sex, height, weight, and eye color;
- (4) Full date of birth;
- (5) The license number or identifier assigned by the department;
- (6) The person's signature;
- (7) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive, together with any endorsements or restrictions;
- (8) The name of this state; and
- (9) The dates between which the license is valid."

**SECTION 4-23.**

Said title is further amended in Code Section 40-5-171, relating to contents of personal identification cards for persons with disabilities, by revising subsection (a) as follows:

"(a) The department shall issue personal identification cards to persons with disabilities who make application to the department in accordance with rules and regulations prescribed by the commissioner. The identification card for persons with disabilities shall contain a recent ~~color~~ photograph of the applicant and the following information:

- (1) Full legal name;
- (2) Address of residence;
- (3) Birth date;
- (4) Date identification card was issued;
- (5) Date identification card expires;
- (6) Sex;
- (7) Height;
- (8) Weight;
- (9) Eye color;
- (10) Signature of person identified or facsimile thereof; and
- (11) Such other information as required by the department; provided, however, that the department shall not require an applicant to submit or otherwise obtain from an applicant any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application."

**SECTION 4-24.**

Said title is further amended in Code Section 40-6-15, relating to knowingly driving a motor vehicle with a suspended, canceled, or revoked vehicle registration, by revising subsection (e) as follows:

"(e) ~~For all purposes under this Code section, a plea of nolo contendere shall be considered as a conviction. For purposes of pleading nolo contendere, only one nolo contendere plea shall be accepted to a charge of driving a motor vehicle with a suspended, canceled, or revoked vehicle registration within a five-year period of time as measured from the date of the previous arrest for which a conviction was obtained or plea of nolo contendere was accepted to the date of the current arrest. All other nolo contendere pleas within such period of time shall be considered convictions.~~"

906

**PART V**

907

**SECTION 5-1.**

908 Code Section 42-8-112 of the Official Code of Georgia Annotated, relating to timing for  
909 issuance of ignition interlock device limited driving permits, is amended by revising  
910 paragraph (1) of subsection (a) as follows:

911 "(a)(1) In any case where the court grants a certificate of eligibility for an ignition  
912 interlock device limited driving permit or probationary license pursuant to Code Section  
913 42-8-111 to a person whose driver's license is suspended pursuant to subparagraph  
914 ~~(b)~~(c)(2)(C) of Code Section 40-5-57.1 or paragraph (2) of subsection (a) of Code Section  
915 40-5-63, the Department of Driver Services shall not issue an ignition interlock device  
916 limited driving permit until after the expiration of 120 days from the date of the  
917 conviction for which such certificate was granted."

918

**PART VI**

919

**SECTION 6-1.**

920 Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other  
921 parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which  
922 occur on or after that date.

923

**SECTION 6-2.**

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



# COURT CASES





S14A0187. HANSEN v. DEKALB COUNTY BOARD OF TAX  
ASSESSORS et al.

HUNSTEIN, Justice.

By means of an action seeking mandamus and other relief, James Hansen and 30 other DeKalb County residents (hereinafter, “Plaintiffs”) sought to obtain certain information from the DeKalb County Board of Tax Assessors in connection with their 2012 property tax assessments. The trial court denied Plaintiffs’ request for a mandamus nisi, prompting this appeal.<sup>1</sup> We find no error and affirm.

As alleged in the complaint, in January 2013, Hansen and the other taxpayers filed with the Board so-called Requests for Information, each seeking information regarding the appraisal and assessment of his or her property for the 2012 tax year. Specifically, the requests sought the identification of all

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<sup>1</sup> Finding that the 30 additional residents were not properly named as parties to the mandamus action, the trial court deemed Hansen to be the sole plaintiff in the case. Accordingly, the appeal has been pursued by Hansen only. Hansen directed his appeal to the Court of Appeals, which properly transferred the case to this Court. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); OCGA § 9-6-28 (a).

documents reviewed in making initial and revised assessments of each property, all properties used as “qualified comparable properties” in such assessments, all appraisers who made such assessments and their qualifications, and all factors used in determining the assessed values of the properties. The requests also sought a description of the “geographic area . . . within which comparable properties may be selected” and the identification of “all bank sales, other financial institution owned sales, or distressed sales” within such geographic area. In addition, the requests asked that the Board confirm “the fair market value assessment . . . that will be pursued” for tax year 2012 and identify the documents and other information used to determine such value.

The requests were ostensibly made pursuant to OCGA § 48-5-306 (d), which provides in pertinent part:

The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25¢ per page[.]



Id. at (d) (1). The Board responded to these requests with certain “sales ratio reports,” which identify sales of real property within a given area. Finding the responses to be insufficiently specific, Plaintiffs requested further, more specific responses, to which the Board responded with more documents. According to Hansen, these additional documents did not provide the precise information Plaintiffs sought. Plaintiffs then sent a letter requesting a meeting with Calvin Hicks, the Board’s Secretary and Chief Appraiser, to review the requests for information and the documents the Board had provided in response. Such meeting, the letter stated, was to be recorded, pursuant to OCGA § 48-5-311 (h).<sup>2</sup> Hicks declined this request.

Thereafter, Hansen filed his complaint, styled as a “Petition for Mandamus and/or For an Order and Judgment under OCGA § 50-18-71 et seq.”<sup>3</sup> In the petition, Hansen sought an order directing the Board (1) “to directly, fully, and truthfully respond to each item/request contained in each Request for Information” within five business days; and (2) “to meet with Plaintiffs . . . for

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<sup>2</sup> This provision authorizes taxpayers to record, at their own expense, “any interview with any officer or employee of the taxing authority relating to the valuation of the taxpayer’s property.”

<sup>3</sup> OCGA § 50-18-71 et seq. is the Georgia Open Records Act.

the purpose of discussing [the Board’s] answers . . . and explaining to Plaintiff’s [sic] [the] relevance, if any, [of such] documentation.” Further, Hansen sought to have the requested meeting “recorded by Plaintiffs, as provided by OCGA § 48-5-311 (h).” Hansen also sought penalties under the Open Records Act and attorney fees.

After the petition was filed and served, the trial court denied the mandamus nisi, finding that Hansen’s claims were not cognizable under the Open Records Act or in mandamus. We agree with the trial court’s analysis.

1. The Open Records Act does not apply to information sought under OCGA § 48-5-306 (d). This conclusion is readily apparent from the introductory clause of OCGA § 48-5-306 (d), which states that the rights afforded thereunder are “[n]otwithstanding the provisions of Code Section 50-18-71.” In enacting OCGA § 48-5-306 (d), the legislature clearly intended that county tax assessment records be handled differently than other forms of public records and thus carved them out of the Open Records Act for specific treatment. See Couch v. Red Roof Inns, Inc., 291 Ga. 359, 364 (1) (729 SE2d 378) (2012) (construing “notwithstanding” clause as indicative of “intent to displace” other law). The Open Records Act is equally clear that its

enforcement provisions apply only to records requests made in compliance with the Act's own specific requirements. See OCGA § 50-18-71 (b) (3) (“[t]he [Act’s] enforcement provisions . . . shall be available only to enforce compliance and punish noncompliance when a written request is made *consistent with this subsection*” (emphasis supplied)). Given that Plaintiffs’ requests for information were made pursuant to OCGA § 48-5-306 (d) and not OCGA § 50-18-71 (b) (3), the Open Records Act is not available to enforce compliance with such requests.

2. Mandamus is an extraordinary remedy available only where a litigant seeks to compel a public official to perform an act or fulfill a duty that is required by law. See OCGA § 9-6-20. A prerequisite to one’s entitlement to a writ of mandamus is a “clear legal right” to the relief being sought. Bibb County v. Monroe County, 294 Ga. 730, 734 (2) (755 SE2d 760) (2014); Humphrey v. Owens, 289 Ga. 721, 722 (715 SE2d 119) (2011). Whether a litigant has a clear legal right to the relief sought depends on the law governing the subject matter at issue. Bibb County, 294 Ga. at 735-736.

Here, the particular law Hansen seeks to enforce, OCGA § 48-5-306 (d), requires a county board of tax assessors to furnish copies of specified documents

and other information to a requesting taxpayer within ten business days of the request. It is undisputed that the Board has provided various documents in response to Plaintiffs' information requests. In his mandamus petition, Hansen seeks supplementation and an explanation of these responses in a recorded meeting session. These demands stray far beyond what the statute requires.<sup>4</sup> The trial court thus properly held that Hansen's request for mandamus was unsupportable as a matter of law.

Furthermore, Hansen's failure to avail himself of the administrative appeals process as set forth in OCGA § 48-5-311 prior to resorting to the courts for relief is in itself a sufficient ground for denying the mandamus nisi. See We, the Taxpayers v. Bd. of Tax Assessors of Effingham County, 292 Ga. 31, 33 (1) (734 SE2d 373) (2012) ("failure to pursue the administrative remedy [in OCGA § 48-5-311] precludes the issuance of a writ of mandamus"); see also Chatham County Bd. of Assessors v. Jepson, 261 Ga. App. 771 (1) (584 SE2d 22) (2003) (holding that even procedural issues regarding sufficiency of the notice of reassessment must be adjudicated first through the administrative appeals

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<sup>4</sup> Contrary to Hansen's contention, OCGA § 48-5-311 (h) does not establish a clear legal right in a taxpayer to demand a recorded meeting with Board representatives at his pleasure.

process in OCGA § 48-5-311).

3. We reject Hansen’s contention that the trial court erred by denying the request for a mandamus nisi without first holding a hearing, as our mandamus statute clearly authorizes the trial court to do just that where the petition is meritless. See OCGA § 9-6-27 (a) (providing for hearing only “if the mandamus nisi is granted” (emphasis supplied)); Kappelmeier v. Iannazzone, 279 Ga. 131 (610 SE2d 60) (2005) (affirming denial of mandamus nisi).

4. Given the above, Hansen’s contention that the trial court erred in holding that the additional 30 taxpayers were not properly named as plaintiffs is moot.

Judgment affirmed. All the Justices concur.

Decided June 30, 2014.

Mandamus. DeKalb Superior Court. Before Judge Flake.

Walter H. Hotz, for appellant.

Sam L. Brannen, Jr., Lisa E. Chang, Duane D. Pritchett, for appellees.



**THIRD DIVISION  
BARNES, P. J.,  
BOGGS and BRANCH, JJ.**

NOTICE: Motions for reconsideration must be  
*physically received* in our clerk's office within ten  
days of the date of decision to be deemed timely filed.  
<http://www.gaappeals.us/rules/>

**February 19, 2015**

## In the Court of Appeals of Georgia

A14A2268. CPF INVESTMENTS, LLLP v. FULTON COUNTY  
BOARD OF ASSESSORS.

BRANCH, Judge.

This interlocutory appeal arises out of dispute between CPF Investments, LLLP (“CPF”) and the Fulton County Board of Assessors (“the Board”) over the Board’s valuation of certain real property owned by CPF. CPF purchased the property in 2011 from the Federal Home Loan Mortgage Corporation (“Freddie Mac”), and CPF contends that OCGA § 48-5-2 (3)<sup>1</sup> requires the Board to value the property at its 2011 sale price for the 2012 tax year. CPF moved for summary judgment on this issue in the court below and the Board opposed that motion. The Board argued that OCGA

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<sup>1</sup> This code section provides in part that for tax appraisal purposes, “the transaction amount of the most recent arm’s length, bona fide sale [of a property] in any year shall be the maximum allowable fair market value [of that property] for the next taxable year.”

§ 48-5-2 (3) does not apply to sales involving government agencies because such entities are obligated to act in the best interests of their constituents, rather than in the best interests of the entities themselves. Thus, sales involving government agencies cannot meet the statutory definition of an arm's length, bona fide transaction, which requires that both parties to the transaction be acting in their own best interests. The Board further asserted that Freddie Mac constitutes a government agency.

The trial court agreed with the Board and denied CPF's motion for summary judgment. The court then certified its order for immediate review, and we granted CPF's application for an interlocutory appeal. For reasons explained below, we find that the trial court erred as a matter of law when it found that a tax authority may presume that any sale of property that involves a government agency is not an arm's length, bona fide transaction. Additionally, the record shows that the Board failed to come forward with any evidence supporting its assertion that the 2011 sale of the property by Freddie Mac was not an arm's length, bona fide transaction. Thus, regardless of whether Freddie Mac is a government agency, the trial court erred in denying CPF's summary judgment motion.

The facts in this case are undisputed and show that the property at issue is located in a residential subdivision and that a 5-bedroom house is situated on the land. On March 2, 2010, Chase Home Finance, LLC ("Chase"), purchased the



property for \$271,735.<sup>2</sup> That same day, Chase sold the property to Freddie Mac for the price at which Chase had purchased it. In June 2010, Freddie Mac offered the property for sale with an asking price of \$306,900. The property remained on the market for approximately seven months, until Glenn French, the general partner of CPF, purchased it from Freddie Mac for \$207,000 in February 2011. On June 16, 2011, French executed a quitclaim deed transferring the property to CPF.

The Board appraised the property at \$370,400 for the 2012 tax year. CPF appealed that valuation to the Board of Equalization (“BOE”) asking that the appraisal be lowered to the 2011 purchase price. The BOE subsequently adjusted the appraisal to \$340,000. The “Appraiser Notes” in the BOE file state that CFP “was asking for sales price of \$207,000[,] which does not reflect the market in 2011. The sale was a Fannie Mae [sic] sale, which the county [does] not recognize. The BOE agreed with the county on a value of \$340,000.”

CPF appealed the BOE decision to the Fulton County Superior Court, seeking to have the appraised value of the property reduced to the 2011 sales price and asserting a claim for attorney fees. After the case had been pending for six months, CPF moved for summary judgment on the issue of valuation, asserting that under

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<sup>2</sup> Chase acquired the property from an owner who had paid \$420,000 for the property in June 2002. It therefore appears that Chase purchased the home at a foreclosure sale and Freddie Mac then bought the property from Chase.

OCGA § 48-5-2 (3) the valuation for the 2012 tax year could be no higher than the 2011 sale price of \$207,000. In support of its motion, CPF submitted the affidavit of French, who stated that he was not and never had been “related to or affiliated with Freddie Mac,” and that the 2011 sale was an arm’s length transaction, entered into in good faith and without fraud or deceit. The Board opposed the motion, arguing that sales involving government agencies were presumed not to meet the definition of a bona fide sale under OCGA § 48-5-2 (3) and that Freddie Mac was a government agency. To support these assertions, the Board submitted the affidavit of Douglas Kirkpatrick, the Deputy Chief Appraiser of the residential division of the Fulton County Board of Tax Assessors. Kirkpatrick averred that “[b]ecause government agencies are not willing sellers acting out of self-interest, but acting in the interest of the public, the Tax Assessors’ residential staff is trained that sales involving government agencies do not meet the definition of a bona fide sale”; that “[b]ased on its charter, purpose[,] and mission, [Freddie Mac] is acting in the interest of the United States’ public, not in its own self-interest”; and that “[a]ccordingly, no sale from [Freddie Mac] is considered by the Tax Assessors as a bona fide sale.” Kirkpatrick further indicated that the presumption that sales involving government entities were not bona fide sales was based on OCGA § 48-5-274, which provides a

formula for the State Auditor to use in formulating an adjusted property tax digest for each county.<sup>3</sup>

Relying on Kirkpatrick's affidavit, the trial court found that because "Freddie Mac is a government agency" the 2011 sale of the property did not qualify as an arm's length, bona fide sale under OCGA § 48-5-2 (3). The court further found that the sale did not reflect the fair market value of the subject property. Based on these findings, the court denied CPF's motion for summary judgment. This appeal followed.

Both in the trial court and on appeal, the parties have focused on the question of whether Freddie Mac is a government agency. That question, however, is relevant only if OCGA § 48-5-2 (3) authorizes the Board to treat property sales involving government agencies differently from all other property sales. We therefore begin our analysis by construing the relevant statutory language found in OCGA § 48-5-2.

"When we consider the meaning of a statute, 'we must presume that the General Assembly meant what it said and said what it meant.'" *Deal v. Coleman*, 294 Ga. 170, 172 (1) (a) (751 SE2d 337) (2013) (citation omitted). Thus if the language of the statute is plain and unambiguous, we simply apply the statute as written. See

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<sup>3</sup> The Board's reliance on OCGA § 48-5-274 is discussed more fully below.

*Opensided MRI of Atlanta v. Chandler*, 287 Ga. 406, 407 (696 SE2d 640) (2010); *Frazier v. Southern R. Co.*, 200 Ga. 590, 593 (2) (37 SE2d 774) (1946) (when construing the language of a statute, appellate courts “may not substitute by judicial interpretation language of their own for the clear, unambiguous language of the statute, so as to [change] the meaning”).

The first of the statutory provisions at issue, OCGA § 48-5-2 (3), provides:

“Fair market value of property” means the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm’s length, bona fide sale. The income approach, if data is available, shall be considered in determining the fair market value of income-producing property. *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.

(Emphasis supplied.)

The statute contains no language exempting sales involving government agencies from the mandate found in the last sentence of this code section. Moreover, the above-emphasized language makes clear that this mandate applies to all sales of real property, regardless of the identity of the parties, provided such a transaction

constitutes an “arm’s length, bona fide sale.”<sup>4</sup> The definition of an “arm’s length, bona fide sale” is found in OCGA § 48-5-2 (.1), which provides: “[a]rm’s length, bona fide sale’ means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, *including but not limited to a distress sale, short sale, bank sale, or sale at public auction.*” (Emphasis supplied.)

The Board argues that any sale involving a government agency can never meet the statutory definition of an arm’s length, bona fide sale “[b]ecause government[-] sponsored enterprises like [Freddie Mac] [do] not . . . act[ ] out of self-interest, but act[ ] in the interest of the public.” To support this presumption, the Board relies on the portion of Title 48 that sets forth the State Auditor’s duties in establishing adjusted property tax digests for each county. See OCGA § 48-5-274. That statute instructs the State Auditor to use the “Standard on Assessment-Ratio Studies published by the International Association of Assessing Officers” when establishing

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<sup>4</sup> Additionally, the language of OCGA § 48-5-2 (3) makes clear that so long as the sale at issue was an arm’s length, bona fide transaction, the Board may not assess the property at a higher value in the year following that sale, regardless of whether the Board believes the sale price reflects the actual fair market value of a property. Put another way, the Board may not engage in any determination of a property’s actual fair market value for assessment purposes until the second year following that property’s most recent sale resulting from an arm’s length, bona fide transaction.

for each county the “ratio of assessed value to fair market value of county property” subject to taxation. OCGA § 48-5-274 (c). In his affidavit, Kirkpatrick stated that this Standard “provides that sales involving government agencies are generally invalid for the ratio studies used in mass appraisal tax assessments” and “specifically states that these ‘types of sales are often found to be invalid for ratio studies and can be automatically excluded unless a larger sample size is needed and further research is conducted to determine that the sales are open market transactions.” Citing OCGA § 48-5-274 and Kirkpatrick’s affidavit, the Board contends that sales involving government agencies are excluded from “the ratio studies used in mass appraisals . . . because they do not reflect [sales] from a willing seller acting in its own self-interest.” Thus, the Board concludes that it is authorized to presume that sales involving government agencies do not constitute arm’s length, bona fide sales under OCGA § 45-5-2 (3). We find this argument wholly unpersuasive.

First, the Board offers no support for its assertion as to the reason that real estate transactions involving government agencies are excluded from property tax ratio studies. Although the Board cites to Kirkpatrick’s affidavit to support this proposition, Kirkpatrick in fact offered no opinion as to the reasons underlying this asserted rule. Rather, he simply stated that the rule existed. Moreover, the Board fails to offer any reasoned argument or legal authority to explain why we should look to

OCGA § 48-5-274 (which deals with the duties of the State Auditor in formulating county tax digests) to interpret OCGA § 48-5-2 (which defines terms relevant to the ad valorem taxation of property by counties.) Accordingly, we must conclude that had the legislature intended to exempt transactions involving government agencies from the mandate of OCGA § 48-5-2 (3), then the legislature would have expressed that intent directly.<sup>5</sup> See *Six Flags Over Ga. v. Kull*, 276 Ga. 210, 211 (576 SE2d 880) (2003) (“[w]here the language of a statute is plain and unambiguous, judicial construction is not only unnecessary but forbidden”) (citation omitted).

In light of the foregoing, the sale at issue must be deemed an arm’s length, bona fide sale unless the Board can offer some evidence that would support a finding

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<sup>5</sup> We also find the Board’s position – that the best interests of a governmental entity are not and can never be synonymous with the best interests of the public which that entity serves – to be not only cynical, but also contrary to our fundamental understanding of government. As our founding fathers expressed in the Declaration of Independence: “Governments are instituted among Men, deriving their just powers from the consent of the governed.” See also *The Federalist* No. 62 (James Madison) (“A good Government implies two things: first, fidelity to the object of Government, which is the happiness of the People; secondly, a knowledge of the means by which that object can be best attained.”); *McCulloch v. Maryland*, 17 U. S. 316, 404-405 (4 Wheat. 316, 4 LEd 579) (1819) (“The government of the Union, then . . . , is, emphatically and truly, a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit.”) Given these principles, and in the absence of any evidence to the contrary, we must assume that when a government agency acts so as to fulfill its duty to advance the public interest it simultaneously advances its own interests.

that the transaction involved fraud or deceit; that there was some relationship or affiliation between Freddie Mac and French that predated the sale; or that Freddie Mac was, in fact, acting counter to its own best interests in order to benefit French. See OCGA § 48-5-311 (e) (4) (a county's "board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence"). Moreover, as noted above, OCGA § 48-5-2 (.1) expressly defines an arm's length, bona fide sale to include those types of transactions where the seller might suffer a financial loss (including distress sales, short sales, bank sales, or sales at public auction). Thus, the mere fact that Freddie Mac suffered a financial loss as a result of the sale is insufficient to show that Freddie Mac was not acting in its best interests.<sup>6</sup>

Here, because the Board bore the burden of proving that Freddie Mac's sale of the property to French was not an arm's length, bona fide sale, CPF was entitled to summary judgment if the record showed either an absence of evidence supporting the Board's position or affirmative proof that contradicted that position – i.e., proof that the sale was an arm's length, bona fide transaction. See *Warner v. Hobby Lobby*

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<sup>6</sup> There could be many reasons why a seller would view such a sale as being in the seller's best interest.



*Stores*, 321 Ga. App. 121 (741 SE2d 270) (2013). CPF came forward with affirmative evidence, in the form of French's affidavit, that the purchase of the property constituted an arm's length, bona fide transaction. To defeat CPF's summary judgment motion, therefore, the Board was required to come forward with some evidence that disputed French's affidavit and supported the Board's case. *Id.* Instead, the Board offered only its unfounded presumption that as a government agency, Freddie Mac could never act in its own best interest.<sup>7</sup> Accordingly, CPF was entitled to judgment as a matter of law.

In light of the foregoing, the order of the trial court denying CPF's summary judgment motion is reversed. The case is remanded for entry of judgment in favor of CPF and for consideration of CPF's claim for attorney fees.

*Judgment reversed and case remanded with direction. Barnes, P. J., and Boggs, J., concur.*

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<sup>7</sup> Again, for purposes of this appeal, we have merely assumed that Freddie Mac is a government agency; we have not decided that issue.



In the Supreme Court of Georgia

Decided: March 27, 2015

S14A1493. SJN PROPERTIES, LLC v. FULTON COUNTY  
BOARD OF ASSESSORS et al.

HUNSTEIN, Justice.

In 2009, John Sherman, a resident and taxpayer of Fulton County, filed suit, on behalf of himself and all others similarly situated, against the Fulton County Board of Assessors (hereinafter, “FCBOA”), along with its Chief Appraiser and each of its members in their official capacities, to challenge the FCBOA’s method of valuing leasehold estates arising from a sale-leaseback bond transaction involving the Development Authority of Fulton County (hereinafter, “DAFC”).<sup>1</sup> As described in an earlier appeal arising from this same case, the sale-leaseback transaction at issue here was structured as follows:

A bond transaction leasehold estate is created when a local development authority, in accordance with its redevelopment powers, enters into a bond transaction agreement with a private developer of certain real property. The local development authority issues revenue bonds under a financing program to the developer,

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<sup>1</sup>Shortly after the petition was filed, the DAFC successfully moved to intervene as a defendant in the case.

who conveys to the authority fee simple title to the property. The development authority and the developer then enter into a multi-year lease arrangement whereby the authority, as owner, leases the property to the developer. The resulting lease payments are used by the local development authority to make the principal and interest payments on the revenue bonds. The terms of the agreement allow the developer to repurchase the fee simple estate for a nominal amount once the revenue bonds are paid down or retired.

As part of the transaction, the parties enter into a written agreement that sets forth a specific method for determining the fair market value of the resulting leasehold estate held by the private developer. The method estimates the initial fair market value of the leasehold estate to be 50 percent of the fair market value of the fee simple estate. The estimated value of the leasehold estate is then “ramped up” by five percent per year. By the eleventh year, the leasehold estate is valued at 100 percent of the fair market value of the fee simple estate.

Sherman v. Fulton County Bd. of Assessors, 288 Ga. 88, 89 (701 SE2d 472) (2010) (hereinafter, “Sherman I”). Sherman claims that this so-called “50% ramp-up” methodology results in the valuation of the developers’ leasehold estates at less than fair market value, in violation of defendants’ statutory and constitutional duties to ensure that ad valorem taxes are assessed uniformly and at fair market value.

In October 2009, the trial court granted the defendants’ motion to dismiss/motion for judgment on the pleadings, and, on appeal, this Court

reversed. Sherman, 288 Ga. at 95. The Court held that the case was not subject to dismissal because, while there was no dispute as to the valuation methodology employed, there was no way to conclusively determine at that stage of the proceedings that such methodology actually resulted in a fair valuation of the leasehold estate. *Id.* at 93. This Court reasoned:

[Defendants] argue that their initial valuation of the fee simple estate follows an authorized appraisal approach and takes into account some of the factors referenced above, such as similarly leased properties in the area and the market rents in the area. However, a valuation of the fee simple estate is just the first step. [Defendants] will need to offer evidence as to how their method applied to the leasehold estate incorporates the requisite factors. They assert that we should just assume that every leasehold estate is worth 50 percent of its fee simple estate, but offer no evidence to support this assumption. Without such evidence, and in light of the affidavit filed by Sherman to the contrary, we are unable to determine, pursuant to *DeKalb County Bd. of Tax Assessors v. W.C. Harris & Co.*, *supra*, that the valuation method used by [Defendants] is not arbitrary and unreasonable, and therefore the petition should not have been dismissed pursuant to OCGA § 9–11–12 (b) (6).

*Id.*

After remand, SJN Properties, LLC (hereinafter, “SJN”) was added as a plaintiff in the action.<sup>2</sup> The plaintiffs filed an amended and restated class action

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<sup>2</sup>In December 2013, Sherman moved to be dropped as party to the proceedings, ostensibly for health reasons, leaving SJN as the sole plaintiff in the case.

petition, again seeking declaratory, injunctive, and mandamus relief with respect to the valuation methodology, and adding a claim seeking declaratory, injunctive, and mandamus relief with respect to a subset of DAFC-owned properties involved in these bond transactions, which, according to the plaintiffs, have improperly been treated as tax-exempt. Thereafter, the parties filed cross-motions for summary judgment, and the trial court granted the defendants' motions. Though we find error in the trial court's striking of two affidavits submitted by SJN, we nonetheless, for the reasons set forth below, affirm the grant of summary judgment to the defendants.

1. At the summary judgment hearing, the trial court struck as untimely two affidavits SJN had filed and served on the day before the hearing. The first is the affidavit of expert real estate appraiser J. Carl Schultz, Jr., comprised of 16 pages of testimony accompanied by more than 200 pages of supporting exhibits. The second is the affidavit of John F. Woodham, one of three attorneys of record for SJN; this affidavit is comprised of nine pages of testimony and approximately 150 pages of supporting exhibits. SJN filed these affidavits in the trial court and served them on the defendants on December 19, 2013, the day before the December 20, 2013 summary judgment hearing.

Service was effectuated both by U.S. mail and electronically; defendants' counsel received electronic copies of the affidavits at 5:24 p.m. on December 19. Concluding that these affidavits were untimely filed, the trial court declined to consider them.

SJN contends the trial court erred in striking the affidavits, claiming that they were filed and served in accordance with the Civil Practice Act. Though we find SJN's voluminous eleventh-hour filing discourteous, we are constrained to agree that this filing was technically in compliance with the requirements of the Civil Practice Act and thus that the trial court erred in striking the affidavits. OCGA § 9-11-56 (c) authorizes a party against whom a summary judgment motion has been filed to serve affidavits in opposition to the motion at any time "prior to the day of hearing." See also OCGA § 9-11-6 (d) (governing motions generally, providing that "[o]pposing affidavits may be served not later than one day before the hearing"); Woods v. Hall, 315 Ga. App. 93 (1) (726 SE2d 596) (2012) (vacating grant of summary judgment, finding that trial court erred in striking as untimely plaintiff's opposing affidavit, filed three days prior to hearing). Cf. Brown v. Williams, 259 Ga. 6 (4) (375 SE2d 835) (1989) (opposing affidavit filed on day of hearing was untimely). The Court of

Appeals has, in fact, held that opposing affidavits were timely where served on the day before the hearing only by U.S. mail, such that the movant had not even received them as of the time of the hearing. See Kirkland v. Kirkland, 285 Ga. App. 238 (2) (645 SE2d 626) (2007) (opposing affidavit served by mail on day before summary judgment hearing was timely and properly considered); Martin v. Newman, 162 Ga. App. 725 (2) (293 SE2d 18) (1982) (same). Though we find the gamesmanship in such delayed filings distasteful, we cannot ignore the plain language of OCGA § 9-11-56 (c), which, regrettably, allows parties to employ such tactics.<sup>3</sup> The trial court therefore erred in refusing to consider the Schultz and Woodham affidavits in its adjudication of defendants’ motions for summary judgment. In our de novo review of the evidence here, see Jones v. Kirk, 290 Ga. 220, 221 (719 SE2d 428) (2011), we will thus consider these affidavits, to the extent they are otherwise “admissible in the evidence [and] . . . show affirmatively that the affiant is competent to testify to the matters stated

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<sup>3</sup>We note that the Federal Rules of Civil Procedure, on which our Civil Practice Act is modeled, see Ambler v. Ambler, 230 Ga. 281 (1) (196 SE2d 858) (1973), currently require the service of opposing affidavits no later than seven days prior to a hearing. Fed. R. Civ. P. 6 (c) (2). The current rule is more stringent than the prior version, which required only that opposing affidavits be served at least one day before the hearing. See Charles Alan Wright et al., 4B Fed. Prac. & Proc. Civ. § 1170, n.3 (4<sup>th</sup> ed., updated Jan. 2015).



therein.” OCGA § 9-11-56 (e).

2. In reviewing the merits of a trial court’s decision on a motion for summary judgment, ““this Court conducts a de novo review of the evidence to determine whether there is a genuine issue of material fact and whether the undisputed facts, viewed in the light most favorable to the nonmoving party, warrant judgment as a matter of law.”” Jones, 290 Ga. at 221. As we stated in Sherman I,

[t]he overriding issue in this case is whether the valuation method used by [the defendants] fairly and justly establishes the fair market value of a bond transaction leasehold estate such that the method is not “arbitrary or unreasonable.” [Cit.]

Sherman, 288 Ga. at 90. The other issue, raised in the plaintiffs’ amended petition on remand following Sherman I, is whether certain properties held in fee simple by the DAFC have been and continue to be unlawfully exempted from ad valorem taxation.<sup>4</sup> In connection with the resolution of these issues, SJN seeks a declaratory judgment (a) affirming the invalidity of the 50% ramp-up valuation method, both as employed in connection with the bond transaction

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<sup>4</sup>Specifically, SJN claims that various properties held by the DAFC fall within certain categories specified under state law as ineligible for exemption from ad valorem taxes. See OCGA §§ 36-62-3, 36-62-2 (6) (H) (vi), (J) & (K).

leasehold estates here and in general; and (b) establishing DAFC's liability for back taxes on various properties as to which it has been unlawfully afforded an exemption from ad valorem taxes. In addition, SJN seeks "a mandatory injunction and/or writ of mandamus" to (a) restrain the FCBOA from using the 50% ramp-up valuation method in assessing the value of bond transaction leasehold estates; (b) compel the FCBOA to re-appraise all existing leasehold estates at issue here using an appraisal approach that comports with state law and to issue assessments for the collection of back taxes on such estates to the extent they have been previously under-appraised; and (c) compel the FCBOA to issue ad valorem tax assessment notices to the DAFC as to its non-tax-exempt properties for prior years and to commence such assessments for future years.

(a) We first address SJN's claims regarding the allegedly non-tax-exempt status of certain properties held by the DAFC. In support of its claims in this regard, the only evidence SJN has offered is the affidavit testimony of John Woodham, its own counsel of record. In his affidavit, Woodham identifies various properties owned by the DAFC which he claims constitute either office building or hotel facilities that are specifically excluded from the tax exemption afforded to most development authority-owned property. See OGCA §§ 36-62-

3, 36-62-2 (6) (H) (vi) & (J). Woodham designates these properties via handwritten notations in the margins of a list of DAFC-owned properties, purportedly obtained from the FCBOA during discovery, attached as an exhibit to his affidavit. In the affidavit, Woodham attests that he “personally reviewed the property record information” regarding the designated properties and opines on this basis that these properties are not tax-exempt. SJN offers no other evidence in support of its claims in this regard.

Setting aside the questionable ethics of Woodham’s assumption of the role as witness in a case he is prosecuting as counsel of record,<sup>4</sup> we find that Woodham’s “testimony” is insufficient to create an issue of material fact on SJN’s claims in regard to the tax-exempt status of the DAFC-owned properties at issue. See, e.g., Pfeiffer v. Ga. Dept. of Transp., 275 Ga. 827, 828-829 (2) (573 SE2d 389) (2002) (once a defendant on motion for summary judgment exposes an absence of evidence to support the plaintiff’s case, the plaintiff must then “point to specific evidence giving rise to a triable issue”). Entirely absent is any factual basis for the conclusion that any of the properties in question

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<sup>4</sup>See Georgia Rules of Professional Conduct, Rule 3.7 (“[a] lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness”).

actually possess the characteristics an “office building” or “hotel facility” as defined in OCGA § 36-62-2 (6) (H) (vi) & (J). Woodham’s “testimony” on this issue is nothing more than legal arguments lacking in evidentiary support; his affidavit is simply a legal brief cloaked under the solemnity of an oath. The fact that SJN could apparently find no witness or documentary evidence that would substantiate its claims on this issue, other than the self-serving so-called “testimony” of its own attorney, demonstrates the propriety of summary judgment on these claims. We therefore affirm the grant of summary judgment as to these claims.

(b) We now consider SJN’s claims regarding the FCBOA’s use of the 50% ramp-up formula in assessing the value of the bond transaction leasehold estates held by the private developers who are parties to the bond transactions here.

(i) Claims for injunctive relief. As an initial matter, the defendants contend, citing this Court’s recent decision in Georgia Dept. of Natural Resources v. Ctr. for a Sustainable Coast, 294 Ga. 593 (755 SE2d 184) (2014), that SJN’s claims for injunctive relief are barred by sovereign immunity. We agree. In Sustainable Coast, this Court held that sovereign immunity, in its

current incarnation under this State’s constitution, may be waived only by an act of the General Assembly. *Id.* at 598-601. Accordingly, we overruled precedent that had previously recognized a common law exception to sovereign immunity for suits seeking injunctive relief against the State. *Id.* at 593, 599-602 (overruling Intl. Bus. Machines Corp. v. Evans, 265 Ga. 215 (453 SE2d 706) (1995)). Thus, after Sustainable Coast, injunction actions against the State, including those against State employees in their official capacity, see *id.* at 599, n.4, may proceed only where such actions are expressly authorized under our constitution or by a statute evincing the legislature’s express intent to permit claimants to seek injunctive relief against the State. Accordingly, SJN’s claims for injunctive relief are barred by sovereign immunity.

(ii) Claims for mandamus relief. Sovereign immunity does not, however, preclude SJN’s claims for mandamus relief. See Southern LNG, Inc. v. MacGinnitie, 290 Ga. 204 (719 SE2d 473) (2011).<sup>5</sup> Our mandamus statute expressly authorizes claimants to seek relief against a public official “whenever . . . a defect of legal justice would ensue from [the official’s] failure to perform

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<sup>5</sup>Were we to hold otherwise, mandamus actions, which by their very nature may be sought only against public officials, would be categorically precluded by sovereign immunity.

or from improper performance” of “official duties.” OCGA § 9-6-20. SJN, as a citizen and taxpayer of Fulton County, clearly has standing to seek the type of mandamus relief it requests here. See OCGA § 9-6-24 (conferring standing to seek mandamus relief on any person “interested in having the laws executed and the duty in question enforced”); Southern LNG, Inc. v. MacGinnitie, 294 Ga. 657 (2) (755 SE2d 683) (2014) (corporate taxpayer had standing to sue for mandamus to compel State Revenue Commissioner to recognize it as a “public utility” for ad valorem tax purposes).<sup>6</sup>

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<sup>6</sup>We note that we have previously held that OCGA § 9-6-24 and its predecessor statute confer standing to seek enforcement of public duties not only via mandamus but also by injunction. See, e.g., Arneson v. Bd. of Trustees of Employers’ Retirement Sys. of Ga., 257 Ga. 579 (2) (b), (c) (361 SE2d 805) (1987) (taxpayers generally have standing to seek to enjoin public officials from committing ultra vires acts); Griggs v. Green, 230 Ga. 257 (1) (197 SE2d 116) (1973) (taxpayer had standing to seek to enjoin taxing authorities from proceeding under allegedly void and illegal tax digest); Head v. Browning, 215 Ga. 263 (2) (109 SE2d 798) (1959) (taxpayers had standing to seek to enjoin State Revenue Commissioner from issuing liquor license to defendant). In none of these cases did we address sovereign immunity, likely due, at least in part, to their timing in relation to the evolution of our doctrine of sovereign immunity and whether judicially-created exceptions to the doctrine – such as that for injunction actions – were recognized as valid. See Sustainable Coast, 294 Ga. at 597-599 (examining history of sovereign immunity from its adoption in our common law in 1784, to its constitutionalization in 1974, and subsequent changes with the adoption of the Georgia Constitution of 1983 and further amendments in 1991). Insofar as these and similar cases permitted the prosecution of injunction actions against state officials, they now stand abrogated by Sustainable Coast; however, to the extent these cases simply confirmed a taxpayer’s standing to seek to enforce a public duty by way of some viable cause of action, they remain good law.

In order to be entitled to mandamus relief, a claimant must establish that “(1) no other adequate legal remedy is available to effectuate the relief sought; and (2) the applicant has a clear legal right to such relief.” Bibb County v. Monroe County, 294 Ga. 730, 734 (2) (755 SE2d 760) (2014). Pretermitted whether another adequate legal remedy is available here, we conclude, as explained below, that SJN has failed to come forth with evidence of a clear legal right to the relief it is seeking.

A clear legal right to the relief sought may be found only where the claimant seeks to compel the performance of a public duty that an official or agency is required by law to perform. . . . Where performance is required by law, a clear legal right to relief will exist either where the official or agency fails entirely to act or where, in taking such required action, the official or agency commits a gross abuse of discretion.

Id. at 735. Here, SJN seeks to compel the FCBOA to fulfill its statutory duty in relation to the assessment of ad valorem taxes within its jurisdiction. The essence of this duty is

to see that all taxable property within the county is assessed and returned at its fair market value and that fair market values as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as nearly as possible only such taxpayer’s proportionate share of taxes.

OCGA § 48-5-306 (a); see also Ga. Const. of 1983, Art. VII, Sec. I, Par. III (requiring uniformity in taxation). As to the fulfillment of this duty, we have held:

Tax assessors are authorized to fix the fair market value of property for taxes from the best information obtainable. This does not require the tax assessors to use any definite system or method, but demands only that the valuations be just and that they be fairly and justly equalized among the individual taxpayers . . . according to the best information obtainable.

(Citations and punctuation omitted.) Colvard v. Ridley, 218 Ga. 490, 490 (1) (128 SE2d 732) (1962); accord Sherman, 288 Ga. at 91 (“[i]t is clear that county boards of tax assessors are not required to use any particular appraisal approach or method when determining the fair market value of property”).

In sum, the FCBOA’s duty is to assess all taxable properties within its jurisdiction at fair market value, utilizing the “best information obtainable.” In support of their motions for summary judgment, the defendants have adduced the testimony of two expert real estate appraisers, both of whom opine that the 50% ramp-up formula is an analytically sound approach that comports with standard appraisal practice and, in the words of one of these witnesses, “represents an appropriate, reasonable, and non-arbitrary simplified method of



arriving at the fair market value for tax purposes of the leasehold interest[s]” at issue. This Court has in fact previously endorsed the concept of a formula for the valuation of leasehold estates in property held in fee simple by a county development authority. See DeKalb County Bd. of Tax Assessors v. W.C. Harris & Co., 248 Ga. 277, 280-281 (3) (282 SE2d 880) (1981) (“[w]e do not find the method of valuation utilized . . . to be an arbitrary or unreasonable one, and . . . the trial court did not err in approving the formula adopted in these cases”); see also Coweta County Bd. of Tax Assessors v. EGO Products, Inc., 241 Ga. App. 85, 87 (1) (526 SE2d 133) (1999) (noting with approval county board of tax assessors’ “long-standing policy of taxing leasehold interests in real property that are the subject of a financing agreement . . . at 50 percent of the appraised value for the term of the lease”).

Not surprisingly, SJN’s expert appraiser disagrees with the defendants’ experts, contending that, because of the structure of the bond transaction and the terms of the operative agreements, virtually 100% of any leased property’s value resides in the leasehold at all times during the term of the lease and that use of the 50% ramp-up formula thus systematically underestimates the value of the

leasehold estate.<sup>7</sup> However, this witness, while assailing in the abstract the assumptions underlying the 50% ramp-up formula, admitted at his deposition that he has not actually appraised any of the leasehold estates involved in this case. Critically, when this witness was asked point-blank whether the assessed values of any of the properties at issue here in any given tax year were incorrect, he replied that he did not know.

In the end, though much ink is spilled in the parties' debate over whether the 50% ramp-up formula, in the abstract, is the best – or even a valid – methodology for valuing the leasehold estates here, SJN's mandamus claims fail for the simple reason that it has adduced no evidence that any actual assessment of any particular property has been or is other than at fair market value. SJN has thus failed to adduce any evidence that the FCBOA has failed to comply with its legal duty to “see that all taxable property within the county is assessed and returned for taxes at its fair market value.” OCGA § 48-5-306 (a). On the

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<sup>7</sup>We note that the defendants moved in the trial court to exclude the testimony of SJN's expert as lacking the prerequisites for admissibility of expert testimony under OCGA § 24-7-702 (b). As the trial court did not rule on this motion, we have no occasion to review this issue and thus assume for present purposes that this testimony would be admissible at trial.

evidentiary record presented, SJN's claims for mandamus relief cannot withstand summary judgment.

(iii) Claims for declaratory relief. We have previously left unresolved the question of whether sovereign immunity generally bars claims against the State for declaratory relief. See Southern LNG, 290 Ga. at 205-206 & n.1 (expressly sidestepping issue of whether declaratory judgment actions against the State are generally barred by sovereign immunity, but noting that this Court has in the past in certain contexts permitted declaratory judgment actions to proceed against state agencies and officials). But see DeKalb County Sch. Dist. v. Gold, 318 Ga. App. 633, 637 (1) (a) (734 SE2d 466) (2012) (holding that “[o]ur Constitution and statutes do not provide for a blanket waiver of sovereign immunity in declaratory-judgment actions”). Under the rationale of Sustainable Coast, it appears that, absent a statutory provision affording claimants an express right to seek declaratory relief against the State, sovereign immunity would bar such claims. See Gold, 318 Ga. App. at 637 (noting that OCGA § 50-13-10 provides for specific waiver of sovereign immunity for declaratory judgment actions challenging state agency administrative rules). Because this

significant legal issue has received little attention in these proceedings and because these claims can be disposed of on other grounds, as discussed below, we decline to definitively resolve it here.

Our Declaratory Judgment Act, OCGA § 9–4–2, provides that the superior courts may declare rights and other legal relations of any parties petitioning for declaratory relief in “cases of actual controversy,” or when “the ends of justice require that the declaration should be made.” The purpose of the Act is “to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations.” OCGA § 9–4–1. The proper scope of declaratory judgment is to adjudge those rights among parties upon which their future conduct depends.

Fourth St. Baptist Church of Columbus v. Bd. of Registrars, 253 Ga. 368, 369 (1) (320 SE2d 543) (1984). Accordingly, declaratory relief is proper only where the party seeking such relief faces some uncertainty or insecurity as to rights, status, or legal relations, upon which its future conduct depends. See, e.g., Baker v. City of Marietta, 271 Ga. 210, 214 (1) (518 SE2d 879) (1999) (“[w]here the party seeking declaratory judgment does not show it is in a position of uncertainty as to an alleged right, dismissal of the declaratory judgment action is proper”); Fourth St. Baptist Church of Columbus, 253 Ga. at 369 (claims for declaratory relief were properly dismissed, where plaintiffs

“face[d] no uncertainty or insecurity with respect to their voting rights, nor any risk stemming from undirected future action”); Henderson v. Alverson, 217 Ga. 541 (123 SE2d 721) (1962) (declaratory judgment action could not be maintained where plaintiff failed to allege need for guidance as to his future conduct but rather merely sought declaration that legislative enactment was void). Here, SJN faces no uncertainty or insecurity as to any of *its own* future conduct, but rather seeks an adjudication only of issues that will impact the future conduct of the FCBOA. As such, SJN’s claims for declaratory relief cannot be maintained, and summary judgment was properly granted thereon.

In summary, though we find error in the trial court’s striking of the Schultz and Woodham affidavits, we nonetheless, for the foregoing reasons, affirm the grant of summary judgment to the defendants as to all of SJN’s claims.

Judgment affirmed. All the Justices concur.



# **SPECIAL PRESENTATIONS**







# DEVELOPMENT AUTHORITIES AND TAX INCENTIVES

CAVEAT Conference  
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# **DEVELOPMENT AUTHORITIES**

## **INTRODUCTION**

There are numerous types of state and local authorities in Georgia. These materials outline substantive provisions of Georgia law relating to certain types of authorities, in particular general enabling act or statutory development authorities and downtown development authorities, constitutional amendment authorities and authorities created by local act (e.g. public facility authorities). Such authorities provide a valuable tool to cities and counties in connection with financing of certain types of projects for the benefit of such cities and counties. General enabling act or statutory development authorities and certain constitutional amendment authorities may also be used to provide economic incentives (e.g. project tax abatements) to prospective companies in order to induce such companies (and the correlating jobs and capital investment) to move to their jurisdiction.

## **SECTION I**

### **GENERAL ENABLING ACT OR STATUTORY DEVELOPMENT AUTHORITIES, CONSTITUTIONAL AMENDMENT AUTHORITIES; AND AUTHORITIES CREATED BY LOCAL ACT**

#### **1. Introduction**

Authorities are separate governmental entities, which provide certain services within the jurisdiction of and for the benefit of a specific governmental unit or units (cities and counties). Under Georgia law, authorities were/are created by (1) general enabling legislation, (2) constitutional amendment, or (3) local act. Authorities have certain powers that cities and counties do not have, making them valuable tools for local governments in connection with bond financings and providing economic incentives to companies to increase employment. There are many types of authorities that may be created under state law (hospital authorities, housing authorizes, jail authorities, etc.), but these materials will focus particularly on development authorities created pursuant to the Development Authorities Law (O.C.G.A. Section 36-62-1 *et seq.*) (the “Development Authorities Law”), downtown development authorities created pursuant to the Downtown Development Authorities Law (O.C.G.A. Section 36-42-1 *et seq.*), constitutional amendment authorities, and local act authorities. Each type of authority has certain enumerated powers and purposes and is authorized by statutory law or case law to assist with certain types of projects. Local government attorneys should review the authorizing legislation of the authorities in their jurisdiction to determine which specific projects such authorities are authorized to undertake.

## 2. Types of Authorities

### a. General Enabling Act or Statutory Development Authorities

Most authorities are authorized to be created pursuant to a general enabling act of the General Assembly and are activated by a resolution of the county commission or city council. These types of authorities are typically referred to as general enabling act or statutory authorities. Two common examples of general enabling act or statutory authorities are development authorities created and activated pursuant to the Development Authorities Law and downtown development authorities created and activated pursuant to the Downtown Development Authorities Law. Each development authority or downtown development authority has the powers (and may be used for the purposes) as described in its respective general enabling act.

#### *Development Authorities (Development Authorities Law)*

Pursuant to the power granted to the General Assembly pursuant to GA CONST. Art. IX, Sec. VI, Para. III<sup>1</sup>, the Development Authorities Law (O.C.G.A Section 36-62-1 *et seq.*) was enacted by the General Assembly to create in and for each county and city in the state a development authority with the power to accomplish the public purpose of promoting trade, commerce, industry, and employment by facilitating certain economic development projects. A local development authority may be activated by a resolution of the county commission or city council. Joint development authorities may also be created and activated by (1) any two or more municipal corporations; (2) any two or more counties; (3) one or more municipal corporations and one or more counties; or (4) any county in this state and any contiguous county in an adjoining state. Each development authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Development Authorities Law, including, in particular the power -

“To borrow money and issue its revenue bonds and bond anticipation notes from time to time and to use the proceeds thereof for the purpose of paying all or part of the cost of any project, including the cost of extending, adding to, or improving the project, or for the purpose of refunding any such bonds of the authority theretofore issued and to otherwise carry out the purposes of this chapter and to pay all other costs of the authority incident to or necessary and appropriate to such purposes, including the providing of funds to be paid into any fund or funds to secure such bonds and notes, provided that all such bonds and notes shall be issued in accordance with the procedures and subject to the limitations set forth in Code Section 36-62-8.”

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<sup>1</sup> Ga. Const. Art. IX, Sec. VI, Para. III. “The development of trade, commerce, industry, and employment opportunities being a public purpose vital to the welfare of the people of this state, the General Assembly may create development authorities to promote and further such purposes or may authorize the creation of such an authority by any county or municipality or combination thereof under such uniform terms and conditions as it may deem necessary. The General Assembly may exempt from taxation development authority obligations, properties, activities, or income and may authorize the issuance of revenue bonds by such authorities which shall not constitute an indebtedness of the state within the meaning of Section V of this article.”

The term “project” includes, but is not limited to, the following:

- Any one or more buildings or structures to be used in the production, manufacturing, processing, assembling, storing, or handing of agricultural, manufactured, mining, or industrial product or any combination of the foregoing;
- The acquisition, construction, equipping, expansion, modernization of new or existing industrial facilities;
- Air or water pollution control facilities;
- Sewage disposal facilities or solid waste disposal facilities;
- Peak shave facilities;
- Aircraft maintenance facilities;
- Certain sports facilities;
- Convention and trade show facilities;
- Airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities;
- Facilities for the local furnishing of electric energy or gas;
- Facilities for the furnishing of water, if available, on reasonable demand to members of the general public;
- Hotel and motel facilities for lodging in connection with and adjacent to convention, sports, or trade show facilities;
- Amphitheaters with seating capacity exceeding 1,000;
- Acquisition or development of land as the site for an industrial park;
- Acquisition, construction, leasing, or financing of an office building facility and related real and personal property for use by any business enterprise or charitable corporation which will further the development of trade, commerce, industry, or employment opportunities;
- Skilled nursing homes or intermediate care homes;
- Certain community antenna television systems;
- Research and development systems; and
- Other capital projects use for the essential public purpose of the development of trade, commerce, industry and employment opportunities if determined by a majority of the members of the authority that such project or projects and the use thereof would further the public purpose of the Development Authorities Law.

### *Downtown Development Authorities*

Pursuant to the power granted to the General Assembly pursuant to Article IX, Section 6, Paragraph III of the Constitution of the State of Georgia, the Downtown Development Authorities Law (O.C.G.A Section 36-42-1 *et seq.*) was enacted by the General Assembly to create in and for every municipal corporation in the state a downtown development authority for the purpose revitalizing and redeveloping central business districts of such municipal corporations of this state. Downtown development authorities are granted the power to finance projects to develop and promote for the public good and general welfare trade, commerce, industry, and employment



opportunities. A local downtown development authority may be activated by a resolution of the city council. Each downtown development authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Downtown Development Authorities Law, including, in particular the power -

“To issue revenue bonds, notes, or other obligations of the authority and use the proceeds thereof for the purpose of paying, or loaning the proceeds thereof to pay, all or any part of the cost of any *project* and otherwise to further or carry out the public purpose of the authority and to pay all costs of the authority incidental to, or necessary and appropriate to, furthering or carrying out such purpose.”

The term “project” includes (A) (1) the acquisition, construction installation, modifications or rehabilitation of land, buildings, structures or other improvements located within a downtown development area and the acquisition, installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture or other property in connection therewith, (2) any undertaking authorize pursuant to the City Business Improvement District Act (O.C.G.A. §36-43-1 *et seq.*), (3) any undertaking authorized pursuant to the Redevelopment Powers Law (O.C.G.A. §36-44-1 *et seq.*), or (4) any undertaking authorized pursuant to the Urban Redevelopment Law (O.C.G.A. §36-61-1 *et seq.*) and (B) the provision of financing to property owners for the purpose of installing or modifying improvements to their property in order to reduce the energy or water consumption on such property or to install an improvement to such property that produces energy from renewable resources.<sup>2</sup>

A “project” may be for any industrial, commercial, business, office, parking, public, or other use, provided that a majority of the members of the authority determine, by a duly adopted resolution, that the project and such use thereof would further the public purpose of the Downtown Development Authorities Law. Such term shall include any one or more buildings or structures used or to be used as a not for profit hospital, not for profit skilled nursing home, or not for profit intermediate care home subject to regulation and licensure by the Department of Community Health and all necessary, convenient, or related interests in land, machinery, apparatus, appliances, equipment, furnishings, appurtenances, site preparation, landscaping, and physical amenities.

#### b. Constitutional Amendment Authorities

Prior to 1969 (the year the original Development Authorities Law was enacted pursuant to the power granted to the General Assembly by GA CONST. Art. IX, Sec. VI, Para. III), development authorities could only be created pursuant to a local amendment to the Constitution of the State of Georgia. These types of authorities are typically referred to as constitutional amendment authorities. Like other local constitutional

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<sup>2</sup> O.C.G.A. §36-42-3(6).

amendments, each local constitutional amendment to create a constitutional amendment authority had to be approved by a majority of the voters of the affected jurisdiction. Each constitutional amendment authority has unique purposes and powers, which are generally broader than the purposes and powers of general enabling act or statutory authorities. Local government attorneys should review the constitutional amendment creating any constitutional amendment authority in their jurisdiction to determine which specific projects such authorities are authorized to undertake.

The Constitution of the State of Georgia of 1983 prohibits the creation of new local constitutional amendment authorities. However, constitutional amendment authorities already existing at the time of the ratification of the Constitution of the State of Georgia of 1983 were authorized to be continued by local law if such local law was enacted prior to 1986.

c. Local Act Authorities

Authorities may also be created pursuant to a local law or local act. These types of authorities are typically referred to as local act authorities. A bill proposing to create a local act authority is generally introduced in the General Assembly by the local legislative delegation at the request of a local government. A common form of local act authority is a public facility authority.

City and counties typically create local act authorities to provide such authorities with certain powers that may not be available to general enabling act or statutory authorities (e.g. the power to finance certain governmental projects) or to limit certain powers that might be available to general enabling act or statutory authorities (e.g. membership requirements for the board of the authority, the power to finance only a certain type of project, etc.).

## **SECTION II**

### **Conduit Financings - Revenue Bonds and Intergovernmental Contracts**

#### **1. Introduction**

If an appropriate authority is available, counties and cities may use an authority to issue revenue bonds to finance certain types of projects on its behalf. Pursuant to an intergovernmental contract between the authority and the local government<sup>3</sup>, the authority issues revenue bonds to finance the costs of certain projects, and the local government, in consideration of the authority's doing so, is obligated to make payments to the authority in amounts sufficient to pay the debt service on such revenue bonds. The payments made by the local government pursuant to the intergovernmental contract are not considered a general obligation debt of the local government, however, the contractual obligation to make the contract payments and to levy such tax as may be necessary for purposes of making the contract payments is a legal, binding, and enforceable obligation and the local government may directly exercise its taxing powers for such purpose. These types of transactions are often referred to as "contract-backed" bonds.

Since the revenue bonds for these transactions are issued by authorities, the projects are limited to those types of projects which may be financed by the governmental authority. In addition, the intergovernmental contract must deal with joint facilities or services which each of the contracted parties are authorized by law to provide.<sup>4</sup> There are several types of authorities (all with different powers), but the most common type of governmental authority available to local governments is a development authority created and activate pursuant to the Development Authorities Law. Generally, development authorities may only finance projects which promote trade commerce and industry and increase employment opportunities.<sup>5</sup> Courts have determined that most governmental projects may not be financed by these development authorities.<sup>6</sup> Generally, governmental projects are financed by constitutional amendment authorities and local act authorities. Prior to commencing an intergovernmental "contract-backed" transaction, the local government should research which types of governmental authorities are available and which types of projects may be financed by these authorities.

#### **2. Revenue Bond Law**

The Revenue Bond Law (O.C.G.A. Section 36-82-60 *et seq.*) authorizes the issuance of revenues bonds to provide funds to pay the costs of the acquisition, construction, reconstruction, improvement, betterment, or extension of any

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<sup>3</sup> Ga. Const. Art. IX, Sec. III, Para. I.

<sup>4</sup> Nations v. Downtown Dev. Auth., 338 S.E.2d 249 (1986); Nations v. Downtown Dev. Auth., 345 S.E.2d 581 (1986); and City of Decatur v. DeKalb County, 713 S.E.2d 846 (2011).

<sup>5</sup> Odom v. Union City Downtown Development Authority, 305 S.E.2d 110 (1983) and Haney v. Development Authority of Bremen, 519 S.E.2d 665 (1999).

<sup>6</sup> Id.

undertaking in anticipation of the collection of revenues of such undertaking. Revenue bonds may be issued by a city, county or other political subdivision or through the use of various authorities, including general enabling act or statutory authorities (development authorities and downtown development authorities), constitutional amendment authorities and local act authorities.

Revenue bonds may be issued for the following purposes:

- 1) Causeways, tunnels, viaducts, bridges and other crossings
- 2) Transportation facilities, including highways, parkways, airports, docks, piers, wharves, terminals, and other facilities
- 3) Water supply, water treatment, wastewater collection, treatment and disposal systems
- 4) Solid waste
- 5) Gas and electric generating and distribution facilities
- 6) Dormitories, laboratories, libraries and related facilities
- 7) Parks, golf courses, tennis courts, swimming pools, stadiums, athletic fields, grandstands and stadiums, etc.
- 8) Combinations of sea wall, groin, and beach erosion protection systems
- 9) Public parking areas and public parking buildings
- 10) Parking meters
- 11) Facilities necessary for the use of motor buses, trackless trolleys, electric trolleys, or any other means of transportation of passengers on streets and highways
- 12) Facilities for lease to industries to relieve abnormal unemployment conditions
- 13) Jails.

The issuance of revenue bonds does not require an election (except for revenue bonds issued to finance electric generating and distribution systems), but rather may be authorized by resolution of the governing body of the county or municipality, which may be adopted at a regular or special meeting by a majority of the members of the governing body.

### **3. Revenue Bonds Secured by Intergovernmental Contracts**

The taxing powers of a political subdivision may be indirectly pledged as security for the payment of revenue bonds pursuant to GA CONST. Art. IX, Sec. III, Para. I(a) (the “intergovernmental contracts provision”)<sup>7</sup>, which states that the State of Georgia and any municipality, county, school district, or other political subdivision of the State may:

“contract for any period not exceeding 50 years with each other or with any other public agency, public corporation, or public authority for joint

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<sup>7</sup> Building Authority of Fulton County v. State of Georgia, 321 S.E.2d 97 (1984); Thompson v. Municipal Electric Authority of Georgia, 231 S.E.2d 720 (1976); Nations v. Downtown Dev. Auth., 338 S.E.2d 249 (1986) and Nations v. Downtown Dev. Auth., 345 S.E.2d 581 (1986).

services, for the provision of services, or for the joint or separate use of facilities or equipment, but such contracts must deal with activities, services or facilities which the contracting parties are authorized by law to undertake or provide. By way of specific instance and not limitation, a mutual undertaking by a local government entity to borrow and an undertaking by the state or a state authority to lend funds from and to one another for water or sewerage facilities or systems pursuant to law shall be a provision for services and an activity within the meaning of this Paragraph.”

The type of authority and the nature of the undertaking affect the ability to use an intergovernmental contract-backed transaction to finance projects.

## **SECTION III**

### **An Overview of Ad Valorem Tax Abatements in Georgia Utilizing Authorities**

#### **1. Introduction**

Like many states throughout the country, Georgia offers ad valorem property tax abatements to entice new and expanding companies to select Georgia as the location of their investment. While the objective in each instance is the temporary reduction of property tax for the investing company, each state's abatement program is somewhat unique and is designed to navigate the ever-evolving case law on the subject. Georgia has developed a relatively complicated sale-leaseback structure which requires the issuance and validation of industrial revenue bonds by development authorities prior to an award of a property tax abatement. Below is a brief summary of the Georgia courts' treatment of ad valorem property tax abatements. Sale-leaseback transactions may be structured in many different formats. Below is a highlight of the essential elements of a basic sale-leaseback model which has become one of the most common vehicles for structuring ad valorem property tax abatements in Georgia.

#### **2. Legal Analysis of Georgia Tax Abatements**

##### **a. General Requirements**

Pursuant to Georgia law, all real and personal property are taxed according to its fair market value.<sup>8</sup> Such tax shall be uniform and shall be charged against the owner of the interest in the property.<sup>9</sup> Local governments may not grant property tax abatements directly to private parties, and pursuant to the Georgia Constitution, all laws exempting property from ad valorem taxation are void.<sup>10</sup> Nonetheless, the Georgia Supreme Court has upheld tax abatement arrangements in certain instances.<sup>11</sup> In these cases, the private taxpayer may not receive the benefits of the abatement directly, and the general public must receive certain notices relative to the project. In light of these core requirements, Georgia attorneys have developed a sale-leaseback arrangement whereby the property subject to an abatement is transferred to a governmental entity (an authority), and the public, as well as the local taxing jurisdictions, receives notice of the transfer pursuant to an industrial revenue bond validation proceeding.

##### **b. Transfer of Property**

While private property must be taxed according to its full, fair market value, public property is exempt from property tax so long as it remains owned by a public

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<sup>8</sup> O.C.G.A. §48-5-6.

<sup>9</sup> Ga. Const. Art. VII, Sec. II, Para. I; O.C.G.A. § 48-5-9.

<sup>10</sup> Ga. Const. Art. VII, Sec. II, Para. I.

<sup>11</sup> Hart County Bd. of Tax Assessors v. Dunlop Tire & Rubber Corp., 314 S.E.2d 188 (Ga. 1984); Charlton Dev. Auth. v. Charlton County, 317 S.E.2d 204 (Ga. 1984).

entity.<sup>12</sup> Accordingly, by transferring privately-held property to a governmental entity, a private entity may enjoy all or some of the tax savings available to the government. The recipient of this property is typically a local development authority (e.g. a general enabling act or statutory development authority or a constitutional amendment authority) which has been created specifically to promote the expansion of industry and trade within the designated county or municipality.<sup>13</sup> By statute or constitutional amendment, this authority generally has the power to acquire, sell or lease property as well as the power to issue bonds.<sup>14</sup> The county, city or authority attorney should review the enabling statute or constitutional amendment of the transferee to ensure that the local authority has the requisite power to transfer the desired tax savings to the company. For example, in rare cases the constitutional amendment creating an authority will provide that the property of such authority will have the same immunity from taxation as the property of the county or municipality in which the authority resides.<sup>15</sup> In such instances, the taxpayer's property will avoid tax entirely and will receive a full ad valorem exemption on the transferred property. Conversely, other constitutional amendments state explicitly that the authority's exemption from taxation shall not extend to its tenants or lessees.<sup>16</sup> Most often, however, a court will conclude that, while a development authority's fee interest in the property is exempt from taxation, the private company, as the tenant of such property, must pay ad valorem tax on its leasehold interest in the property.<sup>17</sup>

c. Taxation of Leasehold Estates

An interest in land will fall into one of three property classes: (i) the absolute or fee simple estate; (ii) the estate for years, or the leasehold estate; or (iii) the usufruct.<sup>18</sup> The fee simple estate is the broadest form of ownership, and the usufruct, which is essentially a mere license to use certain property, is the most limited interest in land. An intermediate estate is the leasehold estate which provides the occupant with broad possessory rights to use and develop property subject to a lease agreement with the fee owner. A leasehold estate is a severable interest in the land and, for tax purposes, is classified as a distinct real property estate.<sup>19</sup> As taxable property (except if the fee simple estate is held by certain types of constitutional amendment authorities as described below), the local board of tax assessors may levy ad valorem tax on the leasehold estate. However, because the owner of a fee simple estate is typically assessed taxes upon the full value of the property, the owner of a leasehold interest ordinarily is not required to pay ad valorem tax on its property interest.<sup>20</sup> Any determination

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<sup>12</sup> Delta Air Lines v. Coleman, 131 S.E.2d 768, 771 (Ga. 1963).

<sup>13</sup> O.C.G.A. §36-62-6.

<sup>14</sup> *Id.*

<sup>15</sup> See footnote 11.

<sup>16</sup> See Hart County Board of Tax Assessors v. Dunlop Tire & Rubber Corp., 314 S.E.2d at 190 (citing Kingsland Development Authority, Ga. L. 1962 pp. 813, 814; Americus-Sumter Payroll Development Authority, Ga. L. 1962, pp. 933, 938; LaGrange Development Authority, Ga. L. 1964, pp. 779, 780).

<sup>17</sup> See Delta Air Lines, 131 S.E.2d at 771.

<sup>18</sup> DeKalb County Bd. of Tax Assessors v. W.C. Harris & Co., 282 S.E.2d 880 (Ga. 1981); Diversified Golf v. Hart County Bd. of Tax Assessors, 598 S.E.2d 791 (Ga. Ct. App. 2004).

<sup>19</sup> See Delta Air Lines, 131 S.E.2d at 771.

<sup>20</sup> *Id.* at 773.

otherwise would result in the imposition of a double tax on the same property. However, when a development authority or other tax-exempt entity owns a fee simple interest in the land, the board of tax assessors may levy a tax upon the leasehold estate at the time it passes to private ownership.<sup>21</sup> If the development authority is a constitutional amendment authority, the leasehold interest may be exempt from ad valorem taxes altogether. The Supreme Court of Georgia has ruled that if the development authority is created by local constitutional amendment, the development authority's interest in the property and the lessee's leasehold interest are exempt from ad valorem property taxes provided that the local constitutional amendment does not specifically state that the exemption shall not extend to the authority's tenants and lessees.<sup>22</sup>

d. Negotiating the Leasehold Value of a Leasehold Estate

Although a company's leasehold interest is subject to taxation (except if the fee simple estate is held by certain types of constitutional amendment authorities as described above), the company may negotiate with the local board of assessors to reach an agreement on the value of such leasehold interest.<sup>23</sup> In effect, this negotiated rate may serve as a tax abatement on the property. If approved by the board, the abatement may extend to realty, personalty or both, but it may not circumvent Georgia's constitutional requirement of uniform taxation.<sup>24</sup> For instance, if a county typically limits property tax abatements to 50% of the tax otherwise due on such property, a company that negotiates an abatement on similar property (providing the same type of employment and employees) in excess of 50% may contravene Georgia's constitutional requirement of uniform taxation and risk losing the abatement entirely.<sup>25</sup> Likewise, if a municipality has a history of limiting ad valorem abatements to real property, an abatement that extended to personalty would violate this requirement of uniform taxation. According to the court, taxable property within the same class within a county must be assessed with uniformity among similarly situated taxpayers. Accordingly, if a company reaches an agreement with a local board of assessors to reduce the value of such company's leasehold interest in property that has been transferred to a local development authority, a Georgia court most likely will uphold such agreement provided the negotiated value of the leasehold interest is comparable to values designated for similarly-situated taxpayers.<sup>26</sup>

As stated above, when a development authority is created by local constitutional amendment and the ad valorem property tax exemption is not expressly limited to the authority (the leasehold interest is also exempt), the company will probably not have to pay taxes on its leasehold estate. Notwithstanding the fact that a company may not be obligated to pay ad valorem taxes on its leasehold estate because it is exempt or because it has no value, typically, in connection with a sale-leaseback transaction, the company

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<sup>21</sup> Id. at 771.

<sup>22</sup> See footnote 11.

<sup>23</sup> Coweta County Board of Tax Assessors v. EGO Products, Inc., 526 S.E.2d 133, 134 (Ga. Ct. App. 1999).

<sup>24</sup> Id. at 136.

<sup>25</sup> See Id.

<sup>26</sup> Id.



makes a payment in lieu of taxes which equals the negotiated amount that the company would have paid on its leasehold estate as if the exemption did not apply.

e. Gratuities Clause

The issuance of industrial development revenue bonds enables the sale-leaseback structure to avoid violation of the Gratuities Clause of the Georgia Constitution,<sup>27</sup> and it provides certain legitimacy to the arrangement by subjecting the transaction to public scrutiny and a court validation. GA CONST. Art. III, Sec. VI, Para. I(a) Article 3 provides, “Except as otherwise provided in the Constitution, the General Assembly shall not have the power to grant any donation or gratuity or to forgive any debt or obligation owing to the public....”<sup>28</sup> This provision against the granting of gratuities by the General Assembly has been interpreted by Georgia courts to apply to cities and counties as well.<sup>29</sup> While this prohibition does not impact a company’s ability to transfer private property to a governmental entity, it may preclude a development authority from conveying such property back to the company following the expiration of the tax abatement. To avoid any risk of violating the Gratuities Clause, most Georgia attorneys advocate the issuance of bonds which, as described below, will generate a stream of rental payments from the company, as lessee. By paying rent during the term of the tax abatement, the company accumulates equity in the property and may purchase the property for a nominal fee following the expiration of the abatement, or lease, term, thereby acquiring the property for value and avoiding the Georgia Constitution’s prohibition against gratuities.

f. Bond Validation

Georgia law requires revenue bonds issued by a governmental body to be validated by a superior court of the state.<sup>30</sup> While this process is somewhat laborious and time-consuming, one advantage of the validation is the receipt of a judicial approval or “blessing” of the transaction. The validation process also requires the development authority, as issuer of the bonds, to publish notice of the validation proceedings in a local newspaper.<sup>31</sup> This notice provides the general public, as well as the local taxing jurisdictions, with an opportunity to contest the bond issue and underlying transaction. In the event a party fails to contest the bonds and such bonds are validated according to Georgia law, a court is likely to deny subsequent challenges to the bonds or any matters, such as the property tax abatement, which are addressed in the validation pleadings.<sup>32</sup>

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<sup>27</sup> Ga. Const. Art. III, Sec. VI, Para. VI.

<sup>28</sup> Id.

<sup>29</sup> City of Lithia Springs v. Turley, 526 S.E.2d 364 (Ga. Ct. App. 1999).

<sup>30</sup> O.C.G.A. §36-82-73.

<sup>31</sup> O.C.G.A. §36-82-22.

<sup>32</sup> See Charlton Dev. Auth., 317 S.E.2d at 204 (holding that a tax levy agreement which was referred to in bond validation proceedings was beyond subsequent challenge by the county).

### **3. Overview of Sale-Leaseback Bond-Financing Documents**

#### **a. Inducement Resolution**

Once a new or expanding company has negotiated with a county or municipality to receive an ad valorem tax abatement, the local development authority in such county or municipality will pass an inducement resolution or approve a memorandum of understanding. This inducement resolution or memorandum of understanding reflects the authority's commitment to issue bonds to finance the project for lease and exclusive use by the company.

#### **b. Bond Resolution**

Following a commitment by the development authority to issue bonds, the bond documents are drafted, negotiated and ultimately approved pursuant to a bond resolution. This resolution authorizes the chair or vice-chair of the development authority to execute the necessary documents to issue bonds, and the primary bond documents (the trust indenture, the lease agreement, the guaranty and the bond purchase agreement) are attached as forms approved by the authority.

#### **c. Trust Indenture**

Often, a corporate trustee (e.g., a bank) is selected to serve as trustee for the benefit of the bondholders. Pursuant to the trust indenture, the bank agrees to represent the interests of the bondholders, and the bank receives from the development authority, as issuer of the bonds, a security interest in the rental payments received from the lessee of the project (i.e., the taxpayer company) and in the limited warranty deed. In other words, the trust indenture is analogous to a loan agreement whereby the borrower (i.e., the development authority) agrees to make certain payments of principal and interest, as more fully set forth in the bond, to the lender (i.e., the holders of the bond). As with most loans, the lender receives certain collateral (i.e., assignment of the rent payments and a security deed) as assurance that the borrower will satisfy its debt obligations.

The indenture also outlines the process for payment of the bond proceeds to the borrower as well as the process for repayment of such funds. Essentially, the bonds are sold to the bondholders in various installments as funds are needed to finance the project. For instance, when the taxpayer company (acting as construction agent for the development authority) desires reimbursement for certain project expenses, the taxpayer company (on behalf of the development authority) will notify the trustee that it wishes to take a draw from the bonds. A bond is sold, and the bond proceeds are placed in a project fund. The taxpayer company will provide the trustee with a requisition and supporting documentation (e.g., project invoices). The trustee transfers funds from the project fund to the taxpayer company.

Note that, in a true financing, the bonds would be sold by a marketing agent to one or more parties. A bond issue whose sole purpose is to support a property tax abatement typically is sold exclusively to the beneficiary of the abatement (i.e., the

taxpayer company). For this reason, such bonds are often called "phantom" bonds. In other words, the company serves both as the provider and the recipient of the bond proceeds and the transaction does not reflect a true (i.e., third-party) financing arrangement.

d. Repayment of the Bonds.

The development authority, as issuer of the bonds, is obligated to make payments of principal and interest on the bonds to the bondholders (in this case, the taxpayer company). This obligation, however, is not guaranteed by the full faith and credit for the development authority or local community. Instead, the debt service is financed from the rent payments received from the taxpayer company which leases the project for the term of the tax abatement. In other words, as landlord of the project, the development authority receives rent equal to the principal and interest owed on the bonds. These payments of principal and interest are transferred to the trustee who remits such funds to the bondholders (i.e., back to the taxpayer company). Because the company serves as tenant of the project as well as holder of the bonds, the indenture states that the company may make rental payments to itself pursuant to a Home Office Payment Agreement, thereby permitting the company to avoid the hassle and expense of wiring funds to and from the trustee.

e. Sale and Leaseback of the Project.

As stated, a taxpayer company may not receive an ad valorem tax abatement until the abated property has been transferred to a local development authority or other governmental unit. Accordingly, at the outset of the abatement, the taxpayer company must transfer to the development authority all real property pursuant to a warranty deed and all personal property pursuant to a bill of sale. Following the initial transfer, all future real property improvements will become property of the development authority by virtue of the deed; however, subsequently-acquired personal property must be transferred to the development authority. As a result, by December 31 of each year, the taxpayer company should transfer all personal property acquired during the year to the development authority. These additional transfers will ensure that the newly-acquired personal property will be owned by the development authority as of January 1, the determination date for property tax liability.

Once the development authority has acquired title to the project pursuant to a bill of sale and warranty deed, the authority will lease the agreement to the taxpayer company pursuant to a lease agreement in exchange for rent equal to the debt service due on the taxable bond issue. The authority will lease and operate the project for the duration of the property tax abatement and will transfer the property to the company via bill of sale and/or quitclaim deed upon the expiration of the abatement (and the lease agreement). Because the lease agreement is deemed a capital lease, the company may acquire the project for a nominal fee without violating the Gratuities Clause of the Georgia Constitution. Under federal tax law, the lease is a financing lease and the company retains all tax benefits (depreciation rights, etc.).

f. Bond Purchase Agreement and Guaranty Agreement.

Pursuant to a bond purchase agreement, the company agrees to purchase all bonds issued by the development authority in connection with the project. The company, therefore, will be the sole holder of the bonds and, therefore, the sole lender of financing for the project. Because the bonds are not sold to the public, any SEC filing and disclosure requirements are avoided. As additional security for the bonds, the company, as lessee of the project, also executes a guaranty agreement whereby the company guarantees repayment of the principal of and the interest on the bonds.

g. Zero Sum Transaction.

Unless the bonds are sold to a third party (i.e., someone other than the taxpayer company), the transaction does not represent a typical financing arrangement. The development authority issues the bonds for sale to the company. While the development authority is obligated to the company (as holder of the bonds), this obligation is commensurate with the company's obligation to pay rent to the authority (as landlord of the project). Likewise, the company must transfer funds for the purchase of the bonds, but this cash outlay is commensurate with the funds the company receives as construction agent or manager of the project. The transfers of funds are a wash and do not ultimately require any outlay of funds from the development authority or the company (other than funds the company otherwise would have spent to acquire the project).

h. Illustration.

Assume that a company desires to acquire a conveyor system for \$1 million and to receive a tax abatement on such equipment. The company will purchase the conveyor system as it would irrespective of the tax abatement. The company then transfers the conveyor system to a local development authority. The authority acquires the conveyor with funds it has received from the company as purchaser of a bond issued by the authority. While the company has transferred (on paper) \$1 million to the authority upon purchase of the bond, the company immediately receives a refund of such payment after showing proof that the company, as agent for the authority, spent \$1 million to acquire the equipment. The authority must pay to the company the principal and interest due on the \$1 million bond; however, this stream of funds is provided by the company as rent for the exclusive use of the conveyor system, which is owned by the authority.

#### **4. Conclusion**

Georgia typically classifies the interest of a private company in a sale/leaseback arrangement as a leasehold estate that is subject to taxation. Although the property is subject to tax, the company may negotiate with the local board of tax assessors to obtain an abatement of the tax. If obtained with the board's consent, the abatement may extend to real and personal property, but it may not violate Georgia's constitutional requirement of uniform taxation.

## SECTION IV

### **Valuation of Leasehold Estates**

#### **Overview**

As discussed earlier, there are two types of development authorities – those created by local constitutional amendment and those created by general law (i.e. the Development Authorities Law or the Downtown Development Authorities Law). If the development authority is created by local constitutional amendment, the company's leasehold interest may be exempt from ad valorem property tax altogether. If the development authority is created by general law, the company's leasehold estate will not be exempt from ad valorem property taxes, and the company will have to pay taxes based upon the fair market value of its leasehold interest.

Georgia law provides that each county board of tax assessors has a legal duty to “see that all taxable property within the county is assessed and returned for taxes at its fair market value.”<sup>33</sup> Georgia law also provides that “each county board of tax assessors shall . . . exercise its powers and discharge its duties and is specifically authorized, without limitation, to use a method or methods of valuation for leases related to revenue bonds or other revenue obligations issued by a local government authority for a capital project or projects to be leased primarily to a nongovernmental user or users, based on assessments of the increasing interest of the nongovernmental user or users in the real or personal property, or both, over the term of the lease, or to use a simplified method or methods employing a specified percentage or specified percentages of such leasehold interests.”<sup>34</sup>

The Supreme Court has provided that a board of tax assessors' methodology for determining the fair market value of the leasehold interest will not be set aside provided that the methodology is not arbitrary and unreasonable.<sup>35</sup>

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<sup>33</sup> O.C.G.A. §48-5-306(a).

<sup>34</sup> O.C.G.A. §36-80-16.1(e)

<sup>35</sup> See DeKalb County Bd. of Tax Assessors v. W.C. Harris & Co., 282 S.E.2d 880 (Ga. 1981); see also Coweta County Board of Tax Assessors v. EGO Products, Inc., 526 S.E.2d 133, 134 (Ga. Ct. App. 1999); and see also SJN Properties, LLC V. Fulton County Board of Tax Assessors, No. S14A1493, WL 1393398 (Ga. Mar. 27, 2015).



# Appraisal Methodology for Economic Development Bond Leaseholds in Georgia

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## CAVEAT Presentation

James D. Vernor, MAI, Phd

5/19/2015

Seven point presentation on the valuation issues faced by local boards of assessors regarding economic development bond leaseholds in Georgia

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James D. “Jim” Vernor is currently serving as Vice-Chair of the DeKalb County Board of Tax Assessors. He was appointed to the Board in January 2010 after having previously served from 1993 - 2000.

He is Chairman Emeritus and Associate Professor Emeritus of Real Estate at Georgia State University, where he was a full time faculty member from 1974 through 1997 teaching real estate appraisal, finance, investments and market research. He has also been a mortgage officer, a real estate broker and a commercial real estate appraiser. He is an MAI Member, (semi-retired) of the Appraisal Institute and a member of the International Association of Assessing Officers, the American Real Estate Society, and the Urban land Institute. He served a term on the first Appraisal Practices Board of the Appraisal Foundation in 2010 – 2012.

Jim holds a BBA with a Finance Major, MBA in Real Estate and Urban Development; and PhD in Real Estate and Urban Land Economics, all from the University of Wisconsin.

He has published articles on appraisal in academic and practitioner journals as well as several books for The Appraisal Institute, in Chicago. He has served as a consultant to retail companies, hotel chains, developers, and attorneys.

He served as Chairman of the Curriculum Committee for The Appraisal Institute, continues to review and revise courses and seminars, serves as a reviewer for The Appraisal Journal and teaches more than a dozen courses nationally and internationally including in Egypt, China, South Korea and Japan. He is the Provost on the Education Committee of the Atlanta Area Chapter of The Appraisal Institute.



## **Appraisal Methodology for Economic Development Bond Leaseholds in Georgia**

**CAVEAT Program presentation May 19, 2015 by James D. Vernor MAI, PhD**

### **I. Background, Introduction and Structuring the deal**

### **II. The early, long form model**

#### **A. Benefits to leasehold include**

- 1. Any savings in occupancy costs due to rent obligations of tenant being less than the going market rents at the time**
- 2. The value at the end of the program of the property**

#### **B. Appraisal data to be gathered by appraisal staff includes many inputs**

**Values are developed for each January first of the bond term using DCF and, probably, a large spreadsheet. (One early spreadsheet was 24 columns by 78 rows)**

### **III. The revised short form model**

- 1. With shorter term bond deals, the principal and interest payments wipe out any bargain in comparison to market rents, so**
- 2. There is no “income” advantage, and**
- 3. The entire benefit to the leasehold is in the reversion.**
- 4. Data requirements are vastly reduced;**
- 5. If reversion is stated as a nominal \$1 the PV calculations generate the “ramp-up” schedule. (See exhibit)**

### **IV. Evolution of doing the Math -- a short history**

- A. Time Value of Money algebra**
- B. Tables of Six Functions based on the algebra**
- C. Financial calculators such as the Hewlett Packard 12C**
- D. Computer spreadsheet applications such as Excel**

### Present Value Factors vs. Ramp Up

Years to Wait Until Reversion	PV factor per \$1.00	ramp up factor
0	1.000	1.000
5	0.750	0.800
10	0.500	0.500

# Farm Wineries

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## CAVEAT Presentation

**Georgia Department of Revenue, Alcohol and Tobacco Division**

**5/20/2015**

Presentation on the alcohol licensing requirements for Georgia Farm Wineries and discussion on the applicability to special assessments for bona fide agricultural property pursuant to OCGA 48-5-7.4

## Farm Winery

A Farm Winery is a winery which makes at least 40 percent of its annual production from agricultural produce grown in the state where the winery is located and; is located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries or fruits to be utilized in the manufacture or production of wine by the winery or is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production.



### **OCGA 3-6-21.1. Licensing of farm wineries to engage in retail and wholesale sales...**

(a) As used in this Code section, the term:

(1) "Farm winery" means a winery which makes at least 40 percent of its annual production from agricultural produce grown in the state where the winery is located and:

(A) Is located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery; or

(B) Is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production.

For purposes of this paragraph, the commissioner shall determine what is a substantial portion of such winery premises or agricultural produce.

(2) "Georgia farm winery" means a farm winery which is licensed by the commissioner to manufacture wine in Georgia.

(3) "Tasting room" means an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine can be given free of charge or for a fee.

(b) The commissioner may authorize any Georgia farm winery to offer wine samples and to make retail sales of its wine and the wine of any other Georgia farm winery in tasting rooms at the winery and at

five additional locations in this state for consumption on the premises and in closed packages for consumption off the premises; provided, however, that notwithstanding any other provisions of this title to the contrary, if the licensee is also issued a license pursuant to Code Section 3-4-24, the commissioner shall not authorize more than one tasting room for such Georgia farm winery and shall require that such tasting room shall be located on the licensed premises of the Georgia farm winery; and provided, further, that the Georgia farm winery shall not sell its wine or the wine of any other farm winery in more than one tasting room, and such tasting room shall be located on the licensed premises of the Georgia farm winery. For purposes of this subsection, the term "licensed premises" shall mean the premises for which the farm winery license is issued or property located contiguous to the farm winery and owned by the farm winery.

(c) (1) The commissioner may authorize any licensee which is a farm winery to sell up to 24,000 gallons per calendar year of its wine at wholesale within the state; provided, however, that the commissioner shall not authorize any licensed farm winery to sell its wine at wholesale unless such licensed farm winery shall have first offered its products for sale at a fair market wholesale price to a licensed Georgia wholesaler and such wholesaler does not accept the farm winery's product within 30 days of such offer.

(2) A farm winery licensee shall also be authorized to sell, deliver, or ship its wine in bulk or in bottles, whether labeled or unlabeled, in accordance with regulations of the commissioner, to Georgia farm winery licensees and shall be authorized to acquire and receive deliveries and shipments of such wine made by Georgia farm winery licensees.

(3) A Georgia farm winery licensee shall be authorized, in accordance with regulations of the commissioner, to acquire and receive deliveries and shipments of wine in bulk from out-of-state producers and shippers in an amount not to exceed 20 percent of its annual production, provided that the Georgia farm winery licensee receiving any such shipment or shipments files timely reports with the commissioner and keeps such records of the receipt of such shipment or shipments as may be required by the commissioner.

(4) Any wine received in bulk pursuant to paragraph(3) of this subsection shall have levied thereon the requisite taxes as prescribed by Code Section 3-6-50, and such taxes shall be reported and remitted to the commissioner as provided in Code Section 3-2-6.

(d) The annual license tax for each license issued pursuant to this Code section shall be \$50.00.

(e) The surety bond required as a condition upon issuance of a license pursuant to this Code section shall be the same as that required pursuant to Code Section 3-6-21 with respect to wineries.

(f) Wines sold at retail by a manufacturer as provided in subsection (b) of this Code section shall have levied thereon an excise tax as prescribed by Code Section 3-6-50, and such tax shall be reported and remitted to the commissioner as provided in Code Section 3-2-6.

**TITLE 560: DEPARTMENT OF REVENUE**

**CHAPTER 560-2 ALCOHOL AND TOBACCO TAX DIVISION**

**CHAPTER 560-2-9 WINE**

**560-2-9-.01 Wine Tasting.**

- (1) A person conducting a Wine tasting shall have a valid Wine license issued by the Department in accordance with 560-2-2-.02.
- (2) Any person without a valid Wine license issued by the Department that seeks to conduct a Wine tasting shall file Form ATT-4SP with the Department along with any other appropriate forms as reasonably prescribed by the Commissioner, at least fifteen (15) business days prior to the Wine tasting.
  - (a) Any nonprofit civic organization that seeks to conduct a Wine tasting and is not licensed by the Department shall also comply with the requirements set forth in O.C.G.A. § 3-9-3;
  - (b) Any for profit organization that seeks to conduct a Wine tasting and is not licensed by the Department shall also comply with all requirements set forth in O.C.G.A. § 3-6-20.
- (3) A Wine tasting shall not be conducted at any location where Distilled Spirits are sold by the Package.
- (4) A person who conducts a Wine tasting shall comply with these regulations, the Code, and the laws of the jurisdiction where the Wine tasting is being held.
- (5) This permit allows for the sale of Wine to be consumed on the premises where the Wine tasting is conducted as well as Package sales for consumption off-premise.

**TITLE 560: DEPARTMENT OF REVENUE**

**CHAPTER 560-2 ALCOHOL AND TOBACCO TAX DIVISION**

**CHAPTER 560-2-10 FARM WINERIES**

**560-2-10-.01 Farm Wineries.**

(1) Farm Wineries as defined by this Title may be licensed by application on forms provided by the Commissioner upon:

- (a) Approval of an application to the Commissioner;
- (b) Payment of the proper license fee;
- (c) Compliance with all applicable Federal, State, and local government laws and regulations.

(2) A farm Winery license shall authorize the farm Winery to operate a tasting room on the premises of the Winery and to sell its products at retail at the Winery.

(3) Farm Winery Licensees may be licensed to sell their products at wholesale or retail in accordance with Regulations 560-2-10-.02 and 560-2-10-.03.

**560-2-10-.02 Qualifications of Beverage Alcohol Catering Licensees.**

In order to qualify as a beverage alcohol caterer, the caterer must satisfy the following requirements:

- (a) The caterer must be the holder of a valid state liquor retail dealer license, a retail consumption dealer license, a retail beer dealer license or a retail wine dealer license;
- (b) The caterer must be the holder of a valid local beverage alcohol license;
- (c) The caterer must be the holder of a valid local beverage alcohol catering license; and
- (d) The caterer must be the holder of a valid local catering event permit issued in the jurisdiction by the local governing authority where the event is to be held.
- (e) The caterer may sell only those beverage alcohol for which he is licensed.

### **560-2-10-.03 Farm Winery as Wholesaler.**

(1) A farm winery may only be licensed as a Wholesaler after receiving written notice from a licensed Wholesaler that the Wholesaler is rejecting the winery's offer to sell its Wine.

(a) The offer and the rejection shall be in writing on company letterhead;

(b) The letters shall be submitted along with the winery's application for a Wholesaler license.

(2) Upon application to the Commissioner pursuant to Regulation 560-2-10-.01 a farm Winery may be issued a Wine Wholesaler license provided that:

(a) The application shall be in the same name as that of the farm Winery;

(b) The license fee is paid;

(c) The Georgia Wine Beverage Excise Tax value of such wholesale sales over a forty-five (45) day period exceeds \$ 5,000.00;

(d) A surety bond in an amount equal to the tax value in excess of \$ 5,000.00 has been provided.

### **560-2-10-.04 Records of Produce; Affidavit for Georgia Products.**

(1) Licensed farm Wineries shall maintain a record of all produce grown on the licensed premises for use in the production of Wine, showing:

(a) The date of harvest;

(b) Quantity by weight; and

(c) Definition of produce by type.

(2) Licensed farm Wineries shall maintain a record of all berries, fruits, grapes, or bulk Wines received on the licensed premises for use in the production of Wine, showing the date of receipt, quantity, description, and the name and address of the person from whom received.

(3) Where the licensed farm Winery claims that the berries, fruits or grapes are Georgia grown products, the records shall include an affidavit of the person from whom the berries, fruits or grapes were received, stating that they are in fact Georgia grown products.

(a) Where commercial invoices, bills of lading or prescribed forms contain the required information, a separate record will not be required.



**560-2-10-.05 Wine in Bulk; Separation of Wine.**

(1) Farm Wineries are authorized to sell, deliver, and ship Wine in bulk to other farm Winery Licensees inside Georgia and are further authorized to acquire and receive deliveries and shipments of Wine made within Georgia by farm Winery Licensees inside Georgia.

(2) Wines contained or stored in bulk shall be identified as such and include:

(a) The origin of the berries, fruits or grapes used in the production of Wine;

(b) The percentage of the bulk Wine made from Georgiagrown berries, fruits or grapes.

(3) Dessert and table Wines shall be stored separately.

(4) Table Wines produced from at least forty percent (40%) Georgiagrown berries, fruits, or grapes shall be stored separately from table Wines produced from less than forty percent (40%) Georgia grown berries, fruits, or grapes.

**560-2-10-.06 Monthly Reports of Production.**

(1) Licensed farm Wineries shall file a monthly report of production with the Commissioner on such forms as the Commissioner may prescribe.

(2) Exact copies of each report sent to the United States Treasury and any other such documents that the Commissioner may require shall be attached to the monthly report submitted to the Department.



# Colonial Pipelines

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## CAVEAT Presentation

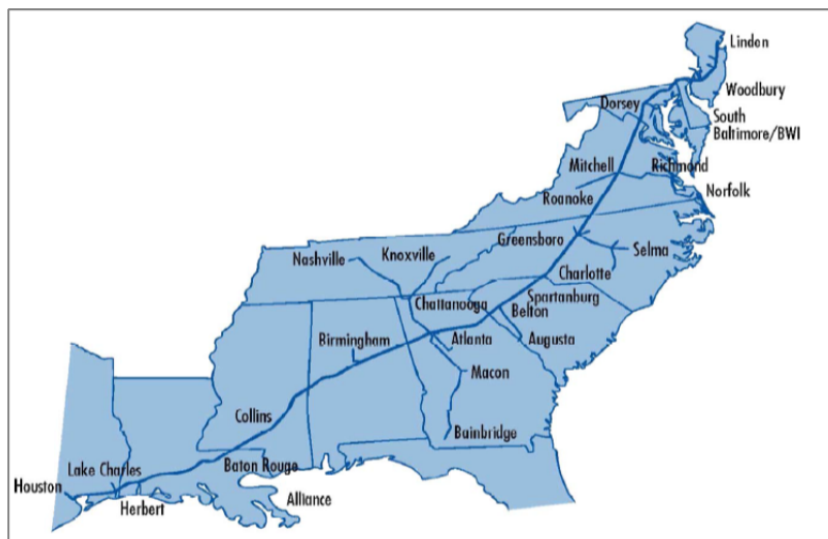
**Keith Fuqua**

**5/21/2015**

Presentation on the background and current operations of Colonial Pipeline in Georgia

## Pipelines in America – What Do They Do For You?

More than 50 years ago, nine major oil companies began discussing the idea of building a pipeline to transport products from the Gulf Coast of the United States to points north along the eastern seaboard. Today, Colonial Pipeline Company is based in Alpharetta, Ga., in the metropolitan Atlanta area and now provides its customers an average of 100 million gallons of refined products every day. Its network of pipelines top 5,500 miles and its services to customers have kept pace with the important role Colonial serves as a critical piece of U.S. energy infrastructure.



### **Keith Fuqua, Manager of Indirect Tax Colonial Pipelines in Atlanta, GA.....**

Keith has been working in the property tax field since 1988 where he started with Texas Gas Transmission in Owensboro, KY. In 1995 Keith moved to Atlanta and was a Property Tax Supervisor at Delta Air Lines, he next moved to Louisville, KY in June 1998 to be a Tax Manager for the UPS airline division and in 2005 took a position with Ernst & Young in Indianapolis as the National Practice leader in the shared services location. In 2007 Keith returned to Owensboro, KY and Texas Gas to join Boardwalk Pipelines and he transferred to their Houston office in 2011.

In January 2013 Keith joined Colonial Pipelines and expanded his responsibilities to include not only property tax, but sales & use, fuel tax, excise tax, and unclaimed property taxes. Keith has a Bachelor's degree in Accounting from Brescia University in Owensboro, KY with some post graduate work at the University of Louisville in Louisville, KY and has attended many of the IAAO & IPT courses over the years as well as attending the Public Utilities Conference in Wichita numerous times.



**TITLE 560  
DEPARTMENT OF REVENUE**

**CHAPTER 560-11  
LOCAL GOVERNMENT SERVICES DIVISION**

May 4, 2015



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## Chapter 1 ADMINISTRATION

### ***560-11-1-.01 Administration: Function.***

The Local Government Services Division of the Revenue Department is charged with the responsibility of the overall supervision of the ad valorem tax laws of the State; the training of county tax assessors, appraisers, tax commissioners, and members of county boards of equalization; the central assessment of public utility properties for ad valorem tax purposes, including collection of railroad equipment company fees and Public Service Commission fees for maintenance of the Public Service Commission; the reporting, remitting and refunding of unclaimed property; the distribution of sales and use tax proceeds and homeowner tax relief grants; and the granting of extensions when authorized by the State Revenue Commissioner.

Authority O.C.G.A. Sec. 48-2-12. History. Original Rule entitled "Administration: Function" adopted. F. and eff. June 30, 1965. Amended: F. May 25, 1971; eff. June 14, 1971. Repealed: New Rule of same title adopted. F. Dec. 20, 2006; eff. Jan. 9, 2007.

## **Chapter 2 APPRAISAL STAFF**

### ***560-11-2-.23 County Appraisal Staff -- Certification of Parcels.***

On a form furnished by the State Revenue Commissioner, the Board of Tax Assessors for each county shall certify to the Revenue Commissioner annually on or before April 1 the number of parcels of real property located within the county on January 1 preceding.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427; Ga. L. 1972, pp. 1104, et seq. Effective June 14, 1973.

ADMINISTRATIVE HISTORY: Original Rule was filed on May 25, 1973; effective June 14, 1973.

### ***560-11-2-.24 County Appraisal Staff -- County Classes.***

The counties of this State shall be classified according to the following classes for the purpose of determining minimum appraisal staff requirements:

- (a) Class I - Counties having less than 3,000 parcels of real property.
- (b) Class II - Counties having at least 3,000, but less than 8,000 parcels of real property.
- (c) Class III - Counties having at least 8,000, but less than 15,000 parcels of real property.
- (d) Class IV -- Counties having at least 15,000, but less than 25,000 parcels of real property.
- (e) Class V -- Counties having at least 25,000, but less than 35,000 parcels of real property.
- (f) Class VI -- Counties having at least 35,000, but less than 50,000 parcels of real property.
- (g) Class VII -- Counties having at least 50,000, but less than 100,000 parcels of real property.
- (h) Class VIII -- Counties having at least 100,000 or more parcels of real property.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427; Ga. L. 1972, pp. 1104, et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "County Appraisal Staff -- County Classes" was filed on May 25, 1973; effective June 14, 1973.

### ***560-11-2-.25 County Appraisal Staff -- Qualifications. Amended.***

(1) County appraisal staff shall be classified into four classifications: Appraiser I, Appraiser II, Appraiser III, and Appraiser IV, with qualifications as follows:

(a) Appraiser I -- Under supervision and direction as an Appraiser trainee, the Appraiser I is expected to learn and do the more routine technical work in the appraisal of real and/or personal property for tax assessment purposes. The Appraiser I must:

- 1. be not less than twenty-one (21) years of age;
- 2. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;
- 3. be in good physical and mental health;
- 4. hold a high school diploma or its equivalent;
- 5. have the aptitude to learn to perform tasks assigned including reviewing maps, photography, etc., to locate property; visiting the property and gathering all information necessary to determine value; performing



basic research on building costs and sales data; computing appraisal values for real and/or personal property.

(b) Appraiser II -- Under supervision and direction, the Appraiser II makes appraisals of real and/or personal property of the more common types and assists his superiors in the supervision and direction of Appraiser I personnel. The Appraiser II must:

1. be not less than twenty-one (21) years of age;
2. hold a high school diploma or its equivalent;
3. be in good physical and mental health and have the ability to meet and relate to the general public well;
4. be able to make field appraisals of the average types of real and/or personal property. In this regard, he must be able to perform research on and inspect the property to gather all information necessary for appraisals such as size, zoning, use, location, quality of construction, depreciation, and market data;
5. have the ability and aptitude to learn under supervision the appraisal techniques, etc., involved in the appraisal of the more complex types of property.

(c) Appraiser III -- The Appraiser III must have the ability to make accurate appraisals of all types and classes of real and/or personal property within his jurisdiction. He must be able to effectively supervise and direct the activities of subordinate personnel. The Appraiser III must:

1. be not less than twenty-one (21) years of age;
2. hold a high school diploma or its equivalent;
3. have the ability to correctly apply the three approaches to valuation in appraising properties within his jurisdiction;
4. have the ability to organize and direct the activities of subordinate personnel;
5. have the ability to perform all phases of mass appraisal and revaluation work within his jurisdiction including the ability to develop pricing and valuation schedules for the valuation of all land, improvements and personal property.

(d) Appraiser IV -- The Appraiser IV supervises the work of subordinate appraisers in the appraisal of rural, residential, commercial and industrial properties for tax assessment purposes. The Appraiser IV must:

1. have a complete knowledge of mass appraisal techniques;
2. have the ability to direct all phases of revaluation;
3. have the ability to organize effectively and direct properly the work activities of his subordinate personnel;
4. have the ability to plan and conduct necessary training programs for subordinate appraisal personnel;
5. have the ability to direct office procedures and techniques related to the appraisal-assessment process;
6. have the ability to effectively deal with the general public and with other governmental agencies;
7. be not less than twenty-one (21) years of age;
8. be a graduate of an accredited college or university with at least five (5) years of increasingly responsible experience in the appraisal field. Two (2) years of appraisal experience may be substituted for each year of college required.

(2) All county appraisal staff members must, prior to employment, successfully complete an examination approved by the State Merit System and designed to test the applicant's knowledge of appraisal techniques on all classes and types of property. These examinations shall be prepared by the State Revenue Commissioner and shall be offered in regional locations at least quarterly, the sites and times to be determined by the Revenue Commissioner. The Board of Tax Assessors in each county shall be advised of dates, locations for such exams.

(3) All county appraisal staff members must successfully complete at least forty (40) hours of approved appraisal courses during each two years of his tenure as an appraiser. "Approved appraisal courses" as used herein shall mean:

(a) those courses designed for appraisers and offered regionally by the State Revenue Commissioner in con-

junction with the University of Georgia, or

(b) those courses totaling 40 hours offered as a part of the annual short course for tax assessors at the University of Georgia, or

(c) those courses totaling 40 hours offered by and approved by the International Association of Assessing Officers, or

(d) those courses at least 40 hours in length offered by either the Society of Real Estate Appraisers or the American Institute of Real Estate Appraisers and approved for course work toward the Award for the S.R.A. or M.A.I. designations.

AUTHORITY: Ga. L. 1937-38, Extra Sess., p. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, p. 1104, et seq.; Ga. L. 1978, pp. 309-324 (Ga. Code Ann., Sec. 91A-215); Ga. L. 1978, pp. 309, 432 (Ga. Code Ann. Ch. 14).

ADMINISTRATIVE HISTORY: Original Rule entitled "County Appraisal Staff -- Qualifications" was filed on May 25, 1973; effective June 14, 1973. AMENDED: Filed June 20, 1980; effective July 10, 1980.

**560-11-2-.26 County Appraisal Staff -- Compensation. Amended.**

(1)The minimum schedules of compensation for county appraisal staff members shall be as follows:

(a) Appraiser I	\$ 5,646 -- \$ 7,434
(b) Appraiser II	8,154 -- 10,782
(c) Appraiser III	9,822 -- 13,014
(d) Appraiser IV	13,014 -- 17,310

(2) Any payments made by the State Revenue Commissioner as partial support of county appraisal staff members shall be based upon the minimum salary of the compensation schedules set forth in this Regulation.

(3) Before any payments shall be made by the State Revenue Commissioner as partial support of county appraisal staff members, said county must be paying not less than the minimum compensation set forth herein to all required members of said county's appraisal staff.

AUTHORITY: Ga. L. 1937-38, Extra Sess., p. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, p. 1104, et seq.; Ga. L. 1978, pp. 309-324, (Ga. Code Ann. Sec. 91A-215); Ga. L. 1978, pp. 309, 432 (Ga. Code Ann. Ch. 14).

ADMINISTRATIVE HISTORY: Original Rule entitled "County Appraisal Staff -- Compensation" was filed on May 25, 1973; effective June 14, 1973. AMENDED: Filed June 20, 1980; effective July 10, 1980.

**560-11-2-.28 County Appraisal Staff -- Duties.**

- (1) The county appraisal staff required by law shall be responsible for the appraisal for ad valorem tax purposes of all taxable property, real and personal, that the county board of tax assessors is required to assess. These appraisers shall be made in the manner and at the times required by law.
- (2) The county appraisal staff shall be responsible for the proper maintenance of all tax records and maps for the county in a proper and current condition, and the staff shall have custody of such records.
- (3) The county appraisal staff shall be responsible for preparing annual assessments on all property required to be assessed by the Board of Tax Assessors. Such assessments shall conform to the requirements of law and shall be turned over to the Board of Tax Assessors for approval on the date requested by the Board of Assessors.
- (4) The county appraisal staff shall prepare annual appraisals on all tax exempt property in the county and shall submit such appraisals to the Board of Tax Assessors.
- (5) Each county appraisal staff member shall successfully complete at least forty (40) hours of training courses prepared and offered by the State Revenue Commissioner during each two (2) years of tenure as staff appraiser. Such training courses shall be offered at least annually in regional locations the sites and dates to be determined by the Revenue Commissioner. Each year the Commissioner shall furnish a listing of the locations and dates of such courses to the Board of Tax Assessors of each county.
- (6) The requirements of paragraphs 1, 2, and 3 of this Regulation shall not be effective until such time as the county shall have reached full minimum staff employment as required by law.

AUTHORITY: Ga. L. 1937-38, Extra Sess., p. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, p. 1104, et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "County Appraisal Staff -- Duties" was filed on May 25, 1973; effective June 14, 1973.

**560-11-2-.29 County Appraisal Staff -- Employment. Amended.**

- (1) Minimum county appraisal staff, as required by law and the terms of these Regulations, shall be employed by the Board of Tax Assessors in each county subject to the approval of the governing authority of each county.
- (2) When a Class I county enters into a contract with a person(s) to render advice or assistance to the county board of tax assessors and the local board of equalization in the assessment and equalization of taxes or to perform such other ministerial duties as are necessary and appropriate, per Georgia Code Ann. 91A-1407, said person(s) shall possess not less than those qualifications for an Appraiser III or have not less than five (5) years experience in mass appraisal work.

AUTHORITY: Ga. L. 1978, pp. 309-324 (Ga. Code Ann. Sec. 91A-215); Ga. L. 1978, pp. 309, 432 (Ga. Code Ann. Ch. 14).

ADMINISTRATIVE HISTORY: Original Rule entitled "County Appraisal Staff -- Employment" was filed on May 25, 1973; effective June 14, 1973. AMENDED: Rule repealed and a new rule of the same title adopted. Filed June 20, 1980; effective July 10, 1980.

***560-11-2-.30 County Appraisal Staff -- State Payments. Amended.***

(1) The State Revenue Commissioner shall, in accordance with the requirements of law setting forth minimum staff requirements, make an annual payment to the counties not later than June 1 each year. Eligibility for and the amount of such payments shall be based on parcel counts and staff requirements as of January 1 of the calendar year in which such payments are made. Provided, however, the State Revenue Commissioner shall be authorized to make the aforementioned annual payment to any county, which shows to the Commissioner's satisfaction, that at any time on or after October 1 of the year in question said county was unable to comply with the minimum staff requirements due to the death or voluntary resignation of a member or members of said county's appraisal staff.

(2) In the event that the classification of a county, per substantive regulation 560-11-2-.24, changes due to an increase in the number of parcels of real property in said county, said county shall have one (1) year in which to comply with the minimum staff requirements before said county becomes ineligible to receive future state payments.

AUTHORITY: Ga. L. 1978, pp. 309-324 (Ga. Code Ann. Sec. 91A-215); Ga. L. 1978, pp. 309, 432 (Ga. Code Ann. Ch. 14).

ADMINISTRATIVE HISTORY: Original Rule entitled "County Appraisal Staff -- State Payments" was filed on May 25, 1973; effective June 14, 1973. AMENDED. Rule repealed and a new rule of the same title adopted. Filed June 20, 1980; effective July 10, 1980.

***560-11-2-.40 Designated County Appraisers -- State Payments.***

For any fiscal year in which funds are appropriated salary supplements will be paid by the State Revenue Commissioner to county staff appraisers employed by county governments under the provisions of the Act of the General Assembly requiring such appraisers (Ga. Laws, 1972, p. 1104, as amended). The amount of such salary supplements shall be as follows: For those persons employed as full time county staff appraisers under the provisions of the Act as herein cited, who have earned the Certified Assessment Evaluator designation or the Certified Personality Evaluator designation, both of which are conferred by the International Association of Assessing Officers, the salary supplement shall be \$ 1,000.00 per year. For those persons employed as full time county staff appraisers under the provisions of the Act as herein cited, who have earned the Georgia Certified Appraiser designation conferred by the Georgia Association of Assessing Officials, the salary supplement shall be \$ 750.00 per year.

AUTHORITY: Ga. L. 1937-38, pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, pp. 1104, et seq., as amended (Ga. Code Ann., Secs. 92-7009a, 92-7012a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Designated County Appraisers -- State Payments" was filed on May 30, 1978; effective June 19, 1978.

***560-11-2-.41 Designated County Appraisers -- Qualification.***

Qualifications and requirements which are established as necessary to earn the Georgia Certified Appraiser designation must be approved by the State Revenue Commissioner before any salary supplements are paid for such designation. Any changes in such qualifications and requirements must also be thus approved by the State Revenue Commissioner.

AUTHORITY: Ga. L. 1937-38, pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, pp. 1104, et seq., as amended (Ga. Code Ann., Secs. 92-7009a, 92-7012a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Designated County Appraisers -- Qualification" was filed on May 30, 1978; effective June 19, 1978.

***560-11-2-.42 Designated County Appraisers -- Certification.***

Before salary supplements are paid to any person qualified hereunder, such person must make proper application to the State Revenue Commissioner certifying that:

(a) The applicant is employed or was employed by the county in accordance with the Act of the General Assembly which requires such employment for the applicable time period for which the salary supplement is claimed. Substantiation of such employment shall be furnished signed by the Chairman, Board of Tax Assessors and the Chairman, County Governing Authority.

(b) The applicant has earned one of the designations which will qualify him for salary supplement. A copy of the certificate conferred upon the applicant shall be furnished.

(c) The applicant meets all qualifications required by the Act of the General Assembly requiring such appraiser employment by the county to entitle him to be employed as full time county appraiser.

AUTHORITY: Ga. L. 1937-38, pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, pp. 1104, et seq., as amended (Ga. Code Ann., Secs. 92-7009a, 92-7012a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Designated County Appraisers -- Certification" was filed on May 30, 1978; effective June 19, 1978.

***560-11-2-.43 Designated County Appraisers -- Time of Payment.***

Salary supplements shall be paid by the State Revenue Commissioner to qualified applicants twice each year. Payment covering the period July 1 to December 31 shall be made on or before January 31 of the succeeding calendar year. Payment made covering the period January 1 to June 30 will be made on or before July 30 of that year.

AUTHORITY: Ga. L. 1937-38, pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, pp. 1104, et seq., as amended (Ga. Code Ann., Secs. 92-7009a, 92-7012a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Designated County Appraisers -- Time of Payment" was filed on May 30, 1978; effective June 19, 1978.

***560-11-2-.44 Designated County Appraisers -- Employment Covered.***

Salary supplements will be paid by the State Revenue Commissioner only for the period of time during the year that the applicant held the appropriate designation and was otherwise qualified to receive the supplement.

AUTHORITY: Ga. L. 1937-38, pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, pp. 1104, et seq., as amended (Ga. Code Ann., Secs. 92-7009a, 92-7012a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Designated County Appraisers -- Employment Covered" was filed on May 30, 1978; effective June 19, 1978.

***560-11-2-.45 Designated County Appraisers -- Payment Period.***

Salary supplements will be paid for each month during the year. An applicant shall become qualified to receive the supplement on the first day of the month following the month during which the applicant became qualified. An applicant shall no longer be entitled to receive the supplement on the last day of the month during which the applicant becomes disqualified for whatever reason.

AUTHORITY: Ga. L. 1937-38, pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, pp. 1104, et seq., as amended (Ga. Code Ann., Secs. 92-7009a, 92-7012a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Designated County Appraisers -- Payment Period" was filed on May 30, 1978; effective June 19, 1978.

***560-11-2-.46 Designated County Appraisers -- Disqualification.***

The State Revenue Commissioner shall deny the application and withhold the salary supplement from any applicant who does not meet the qualifications as required hereunder, and he shall notify said applicant of such denial.

AUTHORITY: Ga. L. 1937-38, pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, pp. 1104, et seq., as amended (Ga. Code Ann., Secs. 92-7009a, 92-7012a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Designated County Appraisers -- Disqualification" was filed on May 30, 1978; effective June 19, 1978.

***560-11-2-.47 Designated County Appraisers -- Appropriation Requirement.***

No salary supplements shall be paid to qualified applicants in any year in which funds for this purpose are not appropriated.

AUTHORITY: Ga. L. 1937-38, pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1972, pp. 1104, et seq., as amended (Ga. Code Ann., Secs. 92-7009a, 92-7012a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Designated County Appraisers -- Appropriation Requirement" was filed on May 30, 1978; effective June 19, 1978.

## Chapter 3 BOARDS OF ASSESSORS

### ***560-11-2-.27 County Board of Tax Assessors ' Vacancy.***

When there is a vacancy on a county's board of tax assessors, the county's governing authority shall immediately fill the vacancy by appointing a new member whose qualifications are in conformity with O.C.G.A. § 48-5-291.

Authority O.C.G.A. Secs. 48-5-264, 48-5-291, 48-5-292, 48-5-295.

History. Original Rule entitled "County Appraisal Staff-Chief Appraiser" adopted. F. May 25, 1973; eff. June 14, 1973. Repealed: New Rule entitled "County Board of Tax Assessors ' Vacancy" adopted. F. Nov. 15, 2010; eff. Dec. 5, 2010. Repealed: New Rule of the same title adopted. F. Mar. 3, 2011; eff. Mar. 23, 2011.

### ***560-11-2-.31 County Board of Tax Assessors--Qualifications.***

(1) Approved Appraisal Courses' under O.C.G.A. § 48-5-291 shall be only those courses approved by the Local Government Services Division of the Georgia Department of Revenue.

(2) Two Calendar Years of Tenure' under § 48-5-291 shall mean any calendar twenty-four (24) month period beginning on the date the assessor is appointed.

(3) Certificate' as issued by the Commissioner under O.C.G.A. § 48-5-291 shall mean a certificate issued by the Revenue Commissioner officially and specifically for the purpose of designating an assessor as certified pursuant to § 48-5-291(a)(5). Certificate' shall not mean any certificate issued specifically for the successful completion of approved appraisal courses. No duties or responsibilities may be executed by a board of tax assessors having a majority of members who do not have a valid Certificate.' A Certificate' shall be:

(a) Issued to each board of assessor member upon the Revenue Commissioner's receipt of the oath of office signed by the assessor member along with, if available, proof of high school education;

(b) Printed with an expiration date coinciding with the tax assessor's term of office;

(c) Posted in a prominent location readily viewable by the public in the office of the board of tax assessors; and

1. A Certificate may be revoked for a direct and clear violation of state law and regulations governing the duties and responsibilities of the board of tax assessors.

(i) Revenue Commissioner or his delegates shall have the authority to revoke.

(ii) A board of tax assessor whose Certificate' has been revoked may not vote in any legal Board of Assessors meeting and their attendance shall not count as a member necessary to constitute a quorum. Any attendance by such revoked member shall be duly noted in the minutes of that meeting.

(I) Notice of revocation will be provided to:

(A) The individual board of assessor member whose certificate is revoked;

(B) The county board of tax assessors Chairperson; and

(C) The county governing authority.

(iii) Revocation of a Certificate shall remain in effect until such time as the ex-board member becomes compliant with Georgia law and regulations governing the duties, certification, training requirements, and qualifications of the board of tax assessors and certification has been reinstated by the Revenue Commissioner or his delegates.

(iv) Revocation of an assessor member's Certificate pursuant to subsection (b) of Code Section 48-5-295

may be grounds for permanent removal from a county's board of tax assessors by the Revenue Commissioner.

(v) Revocation of a Certificate may be appealed by the assessor member in writing to the Revenue Commissioner, by way of the Director of the Local Government Services Division. All evidence and arguments to be considered must be included in the written appeal.

(I) Appeals must be filed within 30 days of revocation date printed on the notice.

(II) Extensions to the 30 day appeal filing period may be granted by the Director of Local Government Services.

(4) A member of a county board of tax assessors may be reappointed to succeed himself as a member of the board so long as the reappointment does not act to circumvent the certification, training requirements, and qualifications of O.C.G.A. § 48-5-290, O.C.G.A. § 48-5-291, O.C.G.A. § 48-5-292 and this Regulation.

Authority O.C.G.A. Secs. 48-5-290, 48-5-291, 48-5-292, 92-8405, 8406, 8409, 8427.

History. Original Rule entitled "County Board of Tax Assessors-Qualifications of Members" was filed on May 17, 1973; effective June 6, 1973. Amended: F. Jun. 20, 1980; eff. Jul. 10, 1980. Repealed: New Rule entitled "County Board of Tax Assessors-Qualifications" adopted. F. Mar. 3, 2011; eff. Mar. 23, 2011.



## **Chapter 4 BOARDS OF EQUALIZATION**

### ***560-11-2-.34 County Boards of Equalization--Definitions.***

- (1) Uniform Appeal Form' referred to O.C.G.A. § 48-5-311 shall be known as form PT-311.
- (2) Taxability' under O.C.G.A. § 48-5-311 shall mean whether property is exempt from ad valorem taxation as provided under law.
- (3) Uniformity of Assessment' under O.C.G.A. § 48-5-311 shall have the meaning as provided for in the Georgia Constitution, Article VII, Section I, Paragraph III.
- (4) Value' under O.C.G.A. § 48-5-311 shall mean the fair market value as defined in O.C.G.A. § 48-5-2(3).

Authority Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended: GA O.C.G.A. Secs. 48-5-311, 92-8405, 8406, 8409, 8427; Ga. L. 1972, pp. 1095, et. Seq. Effective August 7, 1973. Administrative History. Original Rule was filed on July 18, 1973; effective August 7, 1973. Repealed: New Rule entitled "County Boards of Equalization-Definitions" adopted. F. Mar. 16, 2011; eff. April 5, 2011.

### ***560-11-2-.35 County Boards of Equalization--Disqualification.***

- (1) Before any appeal is heard by the members of a County Board of Equalization, each member of the Board shall certify, either verbally or in writing to all other members of the Board hearing the appeal, that he or she is not disqualified from hearing the appeal by virtue of the requirements as provided in O.C.G.A. § 48-5-311(j).
- (2) Pursuant to O.C.G.A. § 48-5-311(j), either party to the appeal may ask that those members of the Board hearing the appeal, to answer questions relating to his or her ability to serve as a member of the Board for that particular appeal, such as:
  - (a) Are you related by blood or marriage to the appellant in this case, or to any member of the Board of Tax Assessors or its staff?
  - (b) Are you related by blood or marriage to any person duly appointed to represent the appellant or the county's board of tax assessors in this case?
  - (c) Are you employed, or is any member of your immediate family employed, by the parties in this case?
  - (d) Do you have any financial or legal interest in the property subject to appeal in this case?
  - (e) Have you formed any opinion that precludes you from setting a valuation on the property in question in accordance with Georgia law, which requires all property to be appraised at its fair market value, or from equalizing the assessments at 40% of fair market value?
  - (f) Have you discussed the facts of this appeal with anyone other than a fellow Board of Equalization member?
  - (g) Do you know of any other reason that you cannot render a fair and just decision regarding the property in question?
- (3) The members of a Board of Equalization shall answer all such questions under the previously taken oath pursuant to O.C.G.A. § 48-5-311(c)(5).
- (4) The Judge of Superior Court shall make necessary determinations of disqualification on the request of either party made as required by law.

Authority Ga. L. 1937-38, Extra Sess., pp.77, et. Seq., as amended; GA. O.C.G.A. Secs. 48-5-311, 92-8405,

8406, 8409, 8427, Ga. L. 1972, pp. 1095, et seq. Effective August 7, 1973.

Administrative History. Original Rule was filed on July 18, 1973; effective August 7, 1973. Repealed: New Rule of same title adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

#### ***560-11-2-.36 County Boards of Equalization--Chairman.***

(1) Prior to the first hearing of the Board of Equalization, the Board of Equalization shall select one of its members to serve as Chairman for the rest of that calendar year. The Chairman shall decide which hearings each regular and alternate member of the Board of Equalization shall preside over.

(2) The Chairman shall be responsible for certifying all documents with respect to any matter heard by the Board. The Chairman shall have the authority to sign on behalf of the Board any notifications setting the location of a hearing and the hearing's date(s).

(3) The Chairman shall have the authority to administer oaths, grant continuances, and reprimand or exclude from the hearing any person for any improper conduct.

Authority GA L. 1937-38, Extra Sess., pp. 77, et. Seq., as amended; Ga. O.C.G.A. Secs. 48-5-311, 92-8405, 8406, 8409, 8427, Ga. L. 1972, pp. 1095, et. Seq.

Administrative History. Original Rule was filed on July 18, 1973; effective August 7, 1973. Repealed: New Rule of the same title adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

#### ***560-11-12-.01 Applicability of Rules.***

(1) The rules in this Chapter shall apply to and govern ad valorem tax assessment appeal hearings held by the county boards of equalization including those formed by intergovernmental agreement.

(2) The actions, decisions and orders of a county's board of equalization are:

(a) Subject to the appeals procedures as provided in this section.

(b) Empowered to exercise the same degree of authority and perform the same actions as hearing officers under O.C.G.A. § 50-13-13.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 48-5-311(e)(1)(D).

History. Original Rule entitled "Applicability of Rules" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

#### ***560-11-12-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof.***

The hearings held under these Regulations shall only be as formal as is necessary to preserve order and be compatible with the principles of justice.

(1) Parties shall have the right to be represented by legal counsel.

(2) The parties have a right to obtain, not less than 5 days prior to the date of the hearing, the documentary evidence and the names and addresses of the witnesses to be used at the hearing by making a written request to the Board of Equalization and to the other party not less than 10 days prior to the date of the hearing. Any such documentary evidence or witnesses not provided upon a timely written request may be excluded from the hearing at the discretion of the Board of Equalization.

(3) The parties shall also have the right to respond and present evidence on all issues involved and to cross examine all witnesses.

(4) The standard of proof on all issues in the hearing shall be a preponderance of the evidence. A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the evidence offered in opposition to it, in that, the evidence, when taken as a whole, shows that the fact in dispute has been proven by one party to be more probable than not.

(5) When a hearing is being held regarding a county's board of tax assessors' tax assessment, the county board of tax assessors shall have the burden of proof in regards to value, not taxability.

(a) If a hearing is being held regarding a property tax exemption, then the party seeking the property tax exemption shall have the burden of proving entitlement.

(6) The county board of tax assessors shall present its case first, unless a taxpayer elects to present first.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Nature of the Proceeding; Hearing Procedure; Burden of Proof" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

### ***560-11-12-.03 Evidence; Official Notice.***

(1) The rules of evidence in hearings covered by this Chapter shall be substantially as follows:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded;

1. The rules of evidence as applied in the trial of civil non-jury cases in the superior courts shall be followed as far as practicable.

2. Evidence not admissible under superior court rules may be admitted when necessary to discover facts not reasonably understood from the previously admitted evidence.

3. Except where precluded by statute, if the evidence presented it is of a type commonly relied upon by reasonably prudent persons, the county board of equalization has discretion as to whether to admit the evidence or not.

(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available;

1. Upon request, parties shall be given an opportunity to compare the copy with the original or have it established as documentary evidence according to the rules of evidence applicable to the superior courts of Georgia;

(c) A party may conduct such cross-examination as required for a full and true disclosure of the facts;

(d) Official notice may be taken of judicially recognizable facts and generally recognized technical facts or records within the agency's specialized knowledge.

1. The parties shall be notified of any material so noticed and shall be afforded the opportunity to contest such material at the hearing.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Evidence; Official Notice" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-12-.04 Continuances and Postponements.***

- (1) Matters set for hearing may be continued or postponed within the sound discretion of the Board of Equalization upon timely motion by either party.
- (2) The Board of Equalization may on his own motion continue or postpone the hearing.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Continuances and Postponements" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-12-.05 Subpoena Forms; Service.***

- (1) Either party may obtain subpoena forms from the Board of Equalization by making a timely request.
- (2) Service, proof of service and enforcement of subpoenas shall be as provided by Georgia law and shall be the responsibility of the party requesting the subpoena.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Subpoena Forms; Service" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-12-.06 Transcripts of Hearing.***

- (1) Any party may request that the hearing be conducted before a court reporter, or recorded in audio and/or video.
- (2) The request shall be in writing and include an agreement by the requesting party that he or she shall pay the costs incurred by the request or that he or she shall procure at his or her own cost and on his or her own initiative, the court reporting or recording services for the hearing.
- (3) Regardless of who makes the arrangements or requests the transcript, or tape or video record be made, the original transcript, or tape or video record of the proceedings shall be submitted to the board of equalization chairman prior to the close of the hearing record if the transcript, or tape or video is to be made part of the record.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Transcripts of Hearing" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-12-.07 Case Presentment.***

In accordance with the Georgia Administrative Procedure Act, a party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 50-13-13.

History. Original Rule entitled "Case Presentment" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-12-.08 Ruling; Decision.***

- (1) The decision of the County Board of Equalization shall clearly state the Board of Equalization's ruling regarding the property's value, uniformity, or taxability, where applicable.
- (2) The decision of the County Board of Equalization shall be rendered pursuant to O.C.G.A. § 48-5-311 (e)(6)(D)(i).
- (3) When a taxpayer authorizes an attorney in writing to act on the taxpayer's behalf, the decision of the County Board of Equalization shall be provided to such attorney pursuant to O.C.G.A. § 48-5-311(o).

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Ruling; Decision" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-12-.09 Hearing Location.***

A hearing conducted by a county's board of equalization under this Chapter, shall be held in the county where the property is located unless all parties agree to hold the hearing at a mutually agreed upon location.

Authority O.C.G.A. Sec. 48-5-311.

History. Original Rule entitled "Hearing Location" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

## **Chapter 5 COUNTY HEARING OFFICERS**

### ***560-11-13-.01 Applicability of Rules.***

- (1) The rules in this Chapter shall apply to and govern ad valorem tax assessment appeal hearings held by a county hearing officer, pursuant to O.C.G.A. § 48-5-311(3)(iii) & (e.1).
- (2) The actions, decisions and orders of a county hearing officer are subject to the appeals procedures as provided in this section and O.C.G.A. § 48-5-311.
- (3) The county hearing officer is empowered to exercise the same degree of authority and perform the same actions as hearing officers under O.C.G.A. § 50-13-13.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 48-5-311.

History. Original Rule entitled "Applicability of Rules" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

### ***560-11-13-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof.***

The hearings held under these Regulations shall only be as formal as is necessary to preserve order and be compatible with the principles of justice.

- (1) Parties shall have the right to be represented by legal counsel. Parties shall also have the right to obtain the appearance of witnesses and documentary evidence, provided that written notice is filed with the county hearing officer and the other party at least seven (7) days prior to a scheduled hearing.
- (2) The parties shall also have the right to respond and present evidence on all issues involved and to cross-examine all witnesses.
- (3) The standard of proof on all issues in the hearing shall be a preponderance of the evidence. A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the evidence offered in opposition to it, in that, the evidence, when taken as a whole, shows that the fact in dispute has been proven by one party to be more probable than not.
- (4) When a hearing is being held regarding a county's board of tax assessors' tax assessment, the county board of tax assessors shall have the burden of proof in regards to fair market value and the validity of proposed assessment, not taxability.
  - (a) If a hearing is being held regarding a property tax exemption, then the party seeking the property tax exemption shall have the burden of proving entitlement.
- (5) The county board of tax assessors shall present its case first, unless a taxpayer elects to present first and the hearing officer, in his or her discretion, allows it.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Nature of the Proceeding; Hearing Procedure; Burden of Proof" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

**560-11-13-.03 Evidence; Official Notice.**

(1) The rules of evidence in hearings covered by this Chapter shall be substantially as follows:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded;

1. The rules of evidence as applied in the trial of civil non-jury cases in the superior courts shall be followed as far as practicable.

2. Evidence not admissible under superior court rules may be admitted when necessary to discover facts not reasonably understood from the previously admitted evidence.

3. Except where precluded by statute, if the evidence presented it is of a type commonly relied upon by reasonably prudent persons, a hearing officer has discretion as to whether to admit the evidence or not.

(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available;

1. Upon request, parties shall be given an opportunity to compare the copy with the original or have it established as documentary evidence according to the rules of evidence applicable to the superior courts of Georgia;

(c) A party may conduct such cross-examination as required for a full and true disclosure of the facts;

(d) Official notice may be taken of judicially recognizable facts and generally recognized technical facts or records within the agency's specialized knowledge.

1. The parties shall be notified of any material so noticed and shall be afforded the opportunity to contest such material at the hearing.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Evidence; Official Notice" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

**560-11-13-.04 Continuances and Postponements.**

(1) Matters set for hearing may be continued or postponed within the sound discretion of the county hearing officer upon timely motion by either party.

(2) The county hearing officer may on his own motion continue or postpone the hearing.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Continuances and Postponements" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

**560-11-13-.05 Subpoena Forms; Service.**

(1) Either party may obtain subpoena forms from the county hearing officer by making a timely request.

(2) Service, proof of service and enforcement of subpoenas shall be as provided by Georgia law and shall be the responsibility of the party requesting the subpoena.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Subpoena Forms; Services" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-13-.06 Transcripts of Hearing.***

- (1) Any party may request that the hearing be conducted before a court reporter, or recorded in audio and/or video.
- (2) The request shall be in writing and include an agreement by the requesting party that he or she shall pay the costs incurred by the request or that he or she shall procure at his or her own cost and on his or her own initiative, the court reporting or recording services for the hearing.
- (3) Regardless of who makes the arrangements or requests the transcript, or tape or video record be made, the original transcript, or tape or video record of the proceedings shall be submitted to the county hearing officer prior to the close of the hearing record if the transcript, or tape or video is to be made part of the record.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

History. Original Rule entitled "Transcripts of Hearing" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-13-.07 Case Presentment.***

In accordance with the Georgia Administrative Procedure Act, a party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 50-13-13.

History. Original Rule entitled "Case Presentment" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-13-.08 Ruling; Decision.***

- (1) The decision of the county hearing officer shall clearly state the ruling regarding the property's value and uniformity, where applicable.
- (2) The decision of the county hearing officers shall be rendered pursuant to O.C.G.A. § 48-5-311 (e.1)(1).
- (3) When a taxpayer authorizes an attorney in writing to act on the taxpayer's behalf, the decision of the county hearing officer shall be provided to such attorney pursuant to O.C.G.A. § 48-5-311(o).

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 48-5-311.

History. Original Rule entitled "Ruling; Decision" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-13-.09 Hearing Location.***

A hearing conducted by a county hearing officer under this Chapter, shall be held in the county where the property is located unless all parties agree to hold the hearing at a mutually agreed upon location.

Authority O.C.G.A. Sec. 48-5-311.

History. Original Rule entitled "Hearing Location" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.



***560-11-13-.10 Swearing In Witnesses.***

(1) Before a witness is allowed to testify at a hearing, the witness must first be sworn-in by swearing or affirming to tell the truth.

(a) The county hearing officer shall be responsible for swearing in all witnesses and must administer the following oath:

"Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?"

Authority O.C.G.A. Sec. 48-5-311.

History. Original Rule entitled "Swearing in Witnesses" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-13-.11 Hearing Officer Procedural Form.***

A county hearing officer shall follow the procedures as outlined in Hearing Officer Procedure Form-1 when conducting an administrative hearing under this Chapter.

Authority O.C.G.A. Sec. 48-5-311.

History. Original Rule entitled "Hearing Officer Procedural Form" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

***560-11-13-.12 Hearing Officers and the Administrative Procedures Act.***

The Administrative Procedures Act is not applicable, but where referenced in this Chapter, the Administrative Procedures Act was used as a guideline for the Regulations in order to ensure due process.

Authority O.C.G.A. Secs. 48-2-7, 48-5-311.

History. Original Rule entitled "Hearing Officers and the Administrative Procedures Act" adopted. F. May 9, 2011; eff. May 29, 2011.

## Chapter 6 TAX DIGESTS

### ***560-11-2-.20 Classification of Real and Personal Property on Individual Ad Valorem Tax Returns.***

(1) Beginning with all ad valorem tax returns received after January 1, 1993, all taxable real and personal property returned or assessed for county taxation shall be identified according to the following classifications. Real Property receiving preferential assessment under O.C.G.A. § 48-5-7.1, 48-5-7.2, 48-5-7.3 or 48-5-7.6 or current use assessment under O.C.G.A. § 48-5-7.4 or 48-5-7.7 shall be included in the classification specifically designated for those properties and not included in the general use classification that might otherwise be appropriate.

(a) Residential - This classification shall apply to all land utilized, or best suited to be utilized as a single family homesite, the residential improvements and other nonresidential homesite improvements thereon. For the purposes of this subparagraph, duplexes and triplexes shall also be considered single-family residential improvements.

1. This classification shall also apply to all personal property owned by individuals that has not acquired a business situs elsewhere and is not otherwise utilized for agricultural, commercial or industrial purposes.

(b) Residential Transitional - This classification shall apply to the residential improvement and up to no more than five acres of land underneath the improvement and comprising the homesite the value of which is influenced by its proximity to or location in a transitional area and which is receiving a current use assessment under O.C.G.A. § 48-5-7.4.

(c) Agricultural - This classification shall apply to all real and personal property currently utilized or best suited to be utilized as an agricultural unit. It shall include the single family homesite that is an integral part of the agricultural unit, the residential improvement, the non-residential homesite improvements, the non-homesite agricultural land, and the production and storage improvements.

1. This classification shall also apply to all personal property owned by individuals that is not connected with the agricultural unit but has not acquired a business situs elsewhere and the personal property connected with the agricultural unit which shall include the machinery, equipment, furniture, fixtures, livestock, products of the soil, supplies, minerals and off-road vehicles.

(d) Preferential - This classification shall apply to land and improvements primarily used for bona fide agricultural purposes and receiving preferential assessment under O.C.G.A. § 48-5-7.1.

(e) Conservation Use - This classification shall apply to all land and improvements primarily used in the good faith production of agriculture products or timber and receiving current use assessment under O.C.G.A. § 48-5-7.4.

(f) Environmentally Sensitive - This classification shall apply to all land certified as environmentally sensitive property by the Georgia Department of Natural Resources and receiving current use assessment under O.C.G.A. § 48-5-7.4.

(g) Brownfield Property - This classification shall apply to all land certified "Brownfield Property" by the Environmental Protections Division of the Department of Natural Resources and receiving preferential assessment under O.C.G.A. § 48-5-7.6.

(h) Forest Land Conservation Use Property - This classification shall apply to all land and improvements primarily used in the good faith production of timber receiving current use assessment under O.C.G.A. § 48-5-7.7.

(i) Commercial - This classification shall apply to all real and personal property utilized or best suited to be utilized as a business unit the primary nature of which is the exchange of goods and services at either the wholesale or retail level. This classification shall include multi-family dwelling units having four or more units.

(j) Historic - This classification shall apply to up to two acres of land and improvements thereon designated as rehabilitated historic property or landmark historic property and receiving preferential assessment under O.C.G.A. § 48-5-7.2 or O.C.G.A. § 48-5- 7.3.

(k) Industrial - This classification shall apply to all real and personal property utilized or best suited to be utilized as a business unit, the primary nature of which is the manufacture or processing of goods destined for wholesale or retail sale.

(l) Utility - This classification shall apply to the property of companies that are required to file an ad valorem tax return with the State Revenue Commissioner, and shall include all the real and personal property of railroad companies and public utility companies and the flight equipment of airline companies.

(2) Beginning with all ad valorem tax returns received after January 1, 1993, all taxable real property returned or assessed for county taxation shall be further stratified into the following strata:

(a) Improvements - This stratum shall include all in-ground and above ground improvements that have been made to the land including lease hold improvements. This stratum excludes all production and storage improvements utilized in the operation of a farm unit and those improvements auxiliary to residential or agricultural dwellings included in the Production/Storage/Auxiliary stratum.

1. The Board of Tax Assessors are given the option under this regulation to place the value of residential auxiliary buildings in this stratum or in the Production/Storage/Auxiliary stratum described in subparagraph (2)(f) of this Regulation.

2. This stratum does not include the land.

(b) Operating Utility - This stratum shall include all real and personal property of a public utility, tangible and intangible, utilized in the conduct of usual and ordinary business.

1. Real and personal property of a public utility not utilized in the conduct of usual and ordinary business shall be designated non-operating property and shall be included in the appropriate alternative strata.

(c) Lots - This stratum shall include all land where the market indicates the site is sold on a front footage or buildable unit basis rather than by acreage.

(d) Small Tracts - This stratum shall include all land that is normally described and appraised in terms of small acreage, which is of such size as to favor multiple uses.

(e) Large Tracts - This stratum shall include all land that is normally described and appraised in terms of large acreage, which is of such size as to limit multiple uses, e.g., cultivatable lands, pasture lands, timber lands, open lands, wastelands and wild lands.

1. The acreage breakpoint between small tracts and large tracts shall be designated by the Board of Tax Assessors as being that point where the market price per acre reflects distinct and pronounced change as the size of the tract changes. In the event this break point cannot easily be determined, the Board of Tax Assessors shall designate a reasonable break point not less than five (5) acres but not greater than twenty-five (25) acres.

(f) Production/Storage/Auxiliary - This stratum shall include those improvements auxiliary to residential or agricultural dwellings not included in the Improvements stratum described in subparagraph (2)(a) of this regulation and all improvements to land that are utilized by an agricultural unit for the storage or processing of agricultural products.

(g) Other Real - This stratum shall include leasehold interests, mineral rights, and all real property not otherwise defined in this paragraph.

(3) Beginning with all ad valorem tax returns received after January 1, 1993, all taxable personal property returned or assessed for county taxation shall be further stratified into the following strata:

(a) Aircraft - This stratum shall include all airplanes, rotorcraft and lighter-than-air vehicles, including airline flight equipment required to be returned to the State Revenue Commissioner.

(b) Boats - This stratum shall include all craft that are operated in and upon water. This stratum shall include the motors, but not the land transport vehicles.

(c) Inventory - This stratum shall include all raw materials, goods in process and finished goods. This stratum shall include all consumable supplies used in the process of manufacturing, distributing, storing or merchandising of goods and services. This stratum shall not include inventory receiving freeport exemption under O.C.G.A. § 48-5-48-2.

This stratum shall also include livestock and other agricultural products.

(d) Freeport Inventory - This stratum shall include all inventory receiving the Freeport exemption under O.C.G.A. Sec. 48-5-48-2.

(e) Furniture/Fixtures/Machinery/Equipment - This stratum shall include all fixtures, furniture, office equipment, computer software and hardware, production machinery, offroad vehicles, equipment, farm tools and implements, and tools and implements of trade of manual laborers.

(f) Other Personal - This stratum shall include all personal property not otherwise defined in this paragraph.

Authority O.C.G.A. Secs. 48-2-1, 48-2-7, 48-2-12, 48-5-16, 48-5-105, 48-5-269.

History. Original Rule entitled "Tangible Property Classifications ' Ad Valorem Tax Returns" adopted. F. Nov. 8, 1972; eff. Nov. 28, 1972. Repealed: New Rule entitled "Classification of Real and Personal Property on Individual Ad Valorem Tax Returns" adopted. F. June 9, 1989; eff. June 29, 1989. Amended: F. Aug. 4, 1992; eff. Aug. 24, 1992. Amended: F. May 9, 2011; eff. May 29, 2011.

#### ***560-11-2-.21 Classification of Tangible Property on County Tax Digests.***

(1) The tax receiver or tax commissioner of each county shall list all taxable real and personal property on the digest using the classifications and strata specified in Regulation 560-11-2-.20.

(a) The tax receiver or tax commissioner shall further identify the properties listed on the digest by use of a two-digit code, the first character of which shall designate the property classification and the second character of which shall designate the stratum. The code is more particularly described as follows:

1st Digit ' CLASSIFICATION

A ' Agricultural

B - Brownfield Property

C ' Commercial

F ' FLPA Fair Market Value (for reimbursement purposes)

H ' Historic

I ' Industrial

J ' FLPA Conservation Use

P ' Preferential

R ' Residential

T - Residential Transitional

U ' Utility

V - Conservation Use

W - Environmentally Sensitive

2nd Digit - REAL PROPERTY STRATA

1 ' Improvements

2 - Operating Utility

3 ' Lots

4 - Small Tracts

5 - Large Tracts

6 - Production/Storage/Auxiliary

9 - Other Real

2nd Digit - PERSONAL PROPERTY STRATA

A ' Aircraft

B ' Boats

F - Furniture/Fixtures/Machinery/Equipment

I ' Inventory

P - FreeportInventory

Z - Other Personal

(2) The chairman of the board of assessors shall certify to the tax receiver or tax commissioner a list of all properties, the assessed value of which were changed by the board from the values appearing on the previous year's digest. This list shall not include previously unreturned real and personal property. It shall also exclude divisions and consolidations of property and those changes that are mere transfers of ownership.

(a) The list shall show the final assessed values on the previous year's digest and the assessed values placed on the current year's digest and shall be consolidated by the tax receiver or tax commissioner using the same classifications as are used to classify property appearing on the digest. This list shall be submitted by the tax receiver or tax commissioner to the State Revenue Commissioner at the time and in the manner the tax digest is submitted.

(3) The tax receiver or tax commissioner of each county shall also enter the total assessed value of motor vehicle property with the consolidation of all assessed values of taxable property on the digest.

(4) The tax receiver or tax commissioner of each county shall also enter the total assessed value of mobile home property with the consolidation of all assessed values of taxable property on the digest.

(5) The tax receiver or tax commissioner of each county shall also enter the total assessed value of timber harvested or sold during the calendar year immediately preceding the year of the digest, with the consolidation of all assessed values of taxable property on the digest.

(6) The tax receiver or tax commissioner of each county shall also enter the total assessed value of heavy duty equipment property with the consolidation of all assessed values of taxable property on the digest.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 48-5-103, 48-5-108, 48-5-269.

History. Original Rule entitled "Tangible Property Classifications ' County Tax Digests" adopted. F. Nov. 8, 1972; eff. Nov. 28, 1972. Repealed: New Rule entitled "Classification of Tangible Property on County Tax Digests" adopted. F. June 9, 1989; eff. June 29, 1989. Amended: F. Aug. 4, 1992; eff. Aug. 24, 1992. Amended: F. Dec. 20, 2006; eff. Jan. 9, 2007. Amended: F. May 9, 2011; eff. May 29, 2011.

***560-11-2-.56 Review of County Tax Digest by the State Revenue Commissioner.***

(1) General.

(a) County boards of tax assessors are required by the State Constitution and state law to continuously maintain assessments of property that are reasonably uniform and that are based on fair market value as defined in § 48-5-2 (except as otherwise stated in § 48-5-6 and § 48-5-7(c.3)). The Department is required by law to periodically review the county digests to determine if the digests are in compliance with such laws.

(b) This Regulation imposes no additional requirements on the county boards of tax assessors. It merely sets forth the statistical and other methods that are used by the Department in making its determination. The Department does not determine when to revalue property. Each county board of tax assessors determines for itself when it believes a revaluation of property is necessary for legal compliance. Failure to revalue property shall not in and of itself be a basis for assessment of any penalty.

(c) Any digest submitted shall be reviewed utilizing information established by the State Auditor to determine whether or not the county tax digest is in accordance with the uniformity requirements of § 48-5-343.

(2) Review of County Tax Digest by the State Revenue Commissioner.

(a) County Notification: In the event a county fails to meet the standards set forth in paragraphs (c) through (k) of subparagraph (2) of this Regulation, the Commissioner shall immediately notify the county. The notification shall include the findings of the State Auditor regarding assessment bias and assessment ratio, and any additional information the Commissioner believes would be of assistance to the county board of tax assessors to establish uniform values.

(b) Property Classes: For purposes of this regulation the real and personal property of each county shall be classified into five classes of property:

1. Residential (including Residential Transitional and Historic);
2. Agricultural (including Preferential, Conservation Use, Environmentally Sensitive)
3. Commercial;
4. Industrial; (including Brownfield)
5. Utility.

(c) Average Level of Assessment: The Commissioner shall maintain uniformity among the classes of property by setting standards for the average level of assessment for each.

(d) Standard For Level of Assessment: The standard for level of assessment for all classes of property will be in compliance with the Code if the upper limit of a ninety-five percent confidence interval about the average level of assessment, as established by the State Auditor, is equal to or greater than thirty-six percent, or the lower limit of a ninety-five percent confidence interval about the average level of assessment as established by the State Auditor, is less than forty-four percent.

(e) Uniformity Within a Class of Property: The average assessment variance for each class of property shall be ensured by the coefficient of dispersion of the sample for each class, as established by the State Auditor.

(f) Standard for Uniformity: The standard for uniformity will be deemed to have been met if the resulting coefficient does not exceed fifteen percent for the residential class of property or twenty percent for the non-residential classes of property.

(g) Residential Class of Property: If the State Auditor adds non-residential observations to the residential sample to determine statistics applicable to the residential class of property, the standard of uniformity for the residential class of property shall be the same as for the non-residential classes of property.

(h) Assessment Bias: The level of assessment bias within each class of property shall be measured by the price-related differential as established by the State Auditor. It shall be deemed to be in compliance if the resulting price-related differential is in the range of 0.95 to 1.10, inclusive.

(i) Magnitude of Deficiency: If a class of property constitutes ten percent or less of the assessed value of the total digest, and does not meet the uniformity requirements the Commissioner may approve the digest if, in his judgment, the approval will not substantially violate the concept of uniformity and equalization.

(j) Overall Average Assessment: The overall average assessment ratio for the county shall be the weighted mean of the average level of assessment of the classes of property as established by the State Auditor.

(k) Deviation of Overall Average Assessment: If the overall average assessment ratio is less than thirty-six percent, the digest shall be deemed to deviate substantially from the proper assessment ratio. The Commissioner shall assess against the county governing authority additional state tax in an amount equal to the difference between the amount the state's levy of one-quarter mill would have produced if the digest had been at the proper assessment ratio, and the amount the digest actually used for collection purposes would produce.

(3) Digest Review by Department.

(a) County boards of tax assessors are required by the State Constitution and state law to continuously maintain assessments of property that are reasonably uniform and that are based on fair market value. The

Department is required by law to periodically review the county digests to determine if the digests are in compliance with such laws.

(b) The Department does not determine when to revalue property. Each county board of tax assessors determines for itself when all classes of property should be valued in accordance with § 48-5-299(a). This regulation imposes no additional requirements on the county boards of tax assessors. The Department's digest review cycle is only established to validate that counties are meeting the 40% of fair market value requirement of § 48-5-7, and no particular period or schedule of revaluations is required of the counties by the Department for approval of a county digest. Failure to revalue property shall not in and of itself be a basis for assessment of any penalty.

(c) The digest review cycle for each county commencing January 1, 2008, shall be as follows:

1. January 1, 2010 and every third January 1 thereafter for the following counties: Atkinson, Bacon, Baker, Baldwin, Barrow, Bibb, Bulloch, Carroll, Chattahoochee, Cherokee, Clarke, Clinch, Coffee, Dougherty, Emanuel, Fannin, Fayette, Franklin, Fulton, Gilmer, Glascock, Glynn, Gordon, Greene, Hall, Haralson, Irwin, Jasper, Jenkins, Johnson, Lumpkin, McIntosh, Meriwether, Murray, Muscogee, Newton, Oglethorpe, Paulding, Peach, Pickens, Pike, Putnam, Randolph, Screven, Stewart, Sumter, Tattnall, Tift, Toombs, Turner, Twiggs, Union and Wheeler.

2. January 1, 2008 and every third January 1 thereafter for the following counties: Bartow, Bleckley, Brooks, Calhoun, Candler, Chatham, Chattooga, Cobb, Colquitt, Cook, Crawford, Dawson, Douglas, Early, Echols, Effingham, Forsyth, Grady, Gwinnett, Habersham, Harris, Hart, Henry, Houston, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, Madison, Marion, McDuffie, Monroe, Montgomery, Pierce, Polk, Rockdale, Spalding, Taliaferro, Terrell, Treutlen, Upson, Ware, Warren, Wayne, Wilcox, Wilkes and Worth.

3. January 1, 2009 and every third January 1 thereafter for the following counties: Appling, Banks, Ben Hill, Berrien, Brantley, Bryan, Burke, Butts, Camden, Catoosa, Charlton, Clay, Clayton, Columbia, Coweta, Crisp, Dade, Decatur, DeKalb, Dodge, Dooly, Elbert, Evans, Floyd, Hancock, Heard, Jackson, Jeff Davis, Jefferson, Miller, Mitchell, Morgan, Oconee, Pulaski, Quitman, Rabun, Richmond, Schley, Seminole, Stephens, Talbot, Taylor, Telfair, Thomas, Towns, Troup, Walker, Walton, Washington, Webster, White, Whitfield and Wilkinson.

(4) If all three of the following circumstances exist, the Commissioner may require the county tax receiver or tax commissioner to submit the digest being used for the collection of taxes. That digest may be reviewed by the Commissioner to determine if the valuations are reasonably uniform and equalized between and within counties and to determine if any grants should be withheld or any specific penalty assessed:

(a) The county tax receiver or tax commissioner has failed to submit the digest by the due date and has exhausted any extensions of the due date granted by the Commissioner;

(b) The county governing authority has successfully petitioned the superior court under § 48-5-310 to authorize the temporary collection of taxes on the basis of a temporary digest; and

(c) The property under appeal or subject to appeal is less than the maximum allowable under § 48-5-304(a).

(5) Appeal of Assessment: Any assessment by the Commissioner of additional state tax due from a county when the overall average assessment ratio deviates substantially from the proper assessment ratio of all classes of property may be appealed by the county governing authority within thirty days of the county governing authority's receipt of the Commissioner's additional assessment in the manner specified in §§ 48-5-348 and 48-5-349.2. The right of appeal does not encompass a challenge to the validity of the State Auditor's information.

Authority: O.C.G.A. Secs. 48-2-1, 48-2-7, 48-2-12, 48-5-1 to 48-5-3, 48-5-7, 48-5-9, 48-5-260, 48-5-263, 48-5-274, 48-5-299, 48-5-340 to 48-5-349.5.

O.C.G.A. Secs. 48-2-1, 48-2-7, 48-2-12, 48-5-274, 48-5-340, to 48-5-349.5.

History. Original Rule entitled "Review of County Tax Digest by the State Revenue Commissioner" adopted. F. June 9, 1989; eff. June 29, 1989. Amended: F. Aug. 4, 1992; eff. Aug. 24, 1992. Repealed: New Rule of same title adopted. F. Nov. 16, 2001; eff. Dec. 6, 2001. Amended: F. Aug. 1, 2008; eff. Aug. 21, 2008.



## Chapter 7 TAX INCREASES

### ***560-11-2-.58 Rollback of Millage Rate When Digest Value Increased by Reassessments.***

(1) Purpose and scope. This Rule has been adopted by the Commissioner pursuant to O.C.G.A. § 48-2-12, and O.C.G.A. § 48-5-32.1 to provide specific procedures applicable to the certification of assessed taxable value of property to the appropriate authorities, computation of a rollback millage rate, and under certain circumstances, advertising the intent to increase property tax and holding required public hearings.

(2) Definitions. For the purposes of implementing this Rule, the following terms are defined to mean:

(a) "Certified tax digest" shall mean the total taxable net assessed value on the annual tax digest that has been or will be certified by the tax receiver or tax commissioner to the Department of Revenue.

(b) "Levying authority" shall mean a county, a municipality, or a consolidated city-county governing authority or other governing authority of a political subdivision of this state that exercises the power to levy property taxes to carry out the governing authority's purposes.

(c) "Mill" shall mean one one-thousandth of a United States dollar.

(d) "Millage rate" shall mean the net ad valorem tax levy, in mills, that is established by the recommending or levying authority to be applied to the net assessed value of taxable property within such authority's taxing jurisdiction for purposes of financing, in whole or in part, the recommending or levying authority's maintenance and operating expenses.

(e) "Millage equivalent" shall mean the number of mills that would result when the total net assessed value added to or deducted by reassessments of existing real property from the prior tax year's assessed value is divided by the certified tax digest for the current tax year and the result is multiplied by the prior tax year's millage rate.

(f) "Net assessed value" shall mean the taxable assessed value of property after all exemptions have been deducted.

(g) "Property tax" shall mean a tax imposed by applying a millage rate that has been established by a recommending or levying authority to the net assessed value of real property subject to ad valorem taxation within a taxing jurisdiction.

(h) "Recommending authority" shall mean a county, independent, or area school board of education that exercises the power to cause the levying authority to levy property taxes to carry out the purposes of such board of education.

(i) "Rollback rate" shall mean the previous year's millage rate plus or minus the millage equivalent of the total net assessed value added to or deducted by reassessments of existing real property.

1. The rollback rate shall be calculated for the county governing authority and county school board by the county tax commissioner.

2. The rollback rate shall be calculated for the municipal governing authority and independent municipal school by the municipal tax collector.

(j) "Taxing jurisdiction" shall mean all the real property within a county or municipality, subject to the levy of a specific levying authority or the recommended levy of a specific recommending authority.

(k) "Total net assessed value added by reassessments of existing real property" shall mean the total net assessed value added to or deducted from the certified tax digest as a result of revaluation by the board of tax assessors of existing real property that has not been improved since the previous tax digest year. Total net assessed value added to or deducted from reassessments of existing real property shall not include net assessment changes that result from zoning changes or net assessment changes relative to classification or declassification of real property for conservation or preferential agricultural use or for historic preservation

purposes.

(3) Calculation of rollback rate. The rollback rate shall be determined in the manner provided in this paragraph.

(a) Estimating the certified tax digest. The recommending or levying authority may utilize an estimate of the certified tax digest to facilitate the establishment of a millage rate earlier in the year; however, the accuracy requirements of paragraph (5)(b) of this Rule must still be met before the actual certified tax digest is presented to the Commissioner for approval.

(b) Certification of digest to recommending and levying authorities. As soon as the total net assessed value of the certified tax digest can be accurately estimated or determined, the tax receiver or tax commissioner shall certify to the recommending and levying authorities of each taxing jurisdiction the total net assessed value of all taxable property within each respective taxing jurisdiction. Such certification shall separately show the total net assessed value added to or deducted by reassessments of existing real property and the total net assessed value of all remaining taxable property.

(c) Determination of rollback rate. Based on the total net assessed value of the actual or estimated certified tax digest for the current year and the actual certified tax digest and millage rate for the previous year, the levying authority or recommending authority shall determine the rollback rate with the assistance of the tax receiver or tax commissioner. The rollback rate shall be calculated using Form PT-32.1 as provided by the Department and in the manner defined in subparagraph (i) of paragraph (2) of this Rule.

(4) Advertisement of rollback rate, press release and public hearing. The procedures for the advertising of the rollback rate, issuing the required press release and holding public hearings shall be as provided in this paragraph.

(a) Procedure when rollback rate not exceeded. Whenever a recommending or levying authority proposes to adopt a millage rate that does not exceed the rollback rate calculated as defined in subparagraph (i) of paragraph (2) of this Rule, such authority shall adopt the millage rate at an advertised public meeting and at a time and place which is convenient to the taxpayers of the taxing jurisdiction, in accordance with O.C.G.A. § 48-5-32.

(b) Procedure when rollback rate is exceeded. Whenever a recommending or levying authority proposes to establish a general maintenance and operation millage rate that would require increases beyond the rollback rate calculated in subparagraph (i) of paragraph (2) of this Rule, such authority shall advertise its intent to do so and conduct at least three public hearings in accordance with O.C.G.A. § 48-5-32.1 and this subparagraph.

1. Schedule of public hearings. The recommending or levying authority shall schedule the public hearings required by O.C.G.A. § 48-5-32.1 at convenient times and places to afford the public an opportunity to respond to the notice of property tax increase and make their opinions on the increase known to such authority. The scheduling shall conform to the following requirements:

(i) Convenient public hearings. Two of the three public hearings required by this paragraph shall be held at times and places that are convenient to the public and at least five business days apart. One of the three public hearings required by this paragraph shall begin between 6 PM and 7 PM, inclusive, on a business weekday. Such public hearing may be held on a day in which another public hearing under this Rule also is scheduled, but only if such other hearing is to begin no later than 12:00 noon.

(ii) Combination with other public hearings. A public hearing required by this paragraph may be combined with the public hearing required by O.C.G.A. § 36-81-5(f) to be held at least one week prior to the meeting of the governing authority at which adoption of the budget ordinance or resolution will be considered. Additionally, a public hearing required by this paragraph may be combined with the meeting at which the levying or recommending authority will be setting a millage rate that must be advertised in accordance with the provisions of O.C.G.A. § 48-5-32.

(iii) Timing of public hearings. All public hearings required by this paragraph shall be held before the millage

rate is finally established.

2. Advertisement of public hearings. The recommending or levying authority shall advertise the public hearings required by O.C.G.A. § 48-5-32.1 in a manner that affords the public a timely notice of the time and place where the public hearings on the intention of such authority to increase taxes will be held. The advertisements shall conform to the following requirements:

(i) Location of advertisement. Each advertisement for a public hearing required by O.C.G.A. § 48-5-32.1 shall be prominently displayed in a newspaper of general circulation serving the residents of the unit of local government placing the advertisement and shall not appear in the section of the newspaper where legal notices appear. The recommending authority or levying authority shall post such advertisement on its website at least one week prior to each hearing.

(ii) Size of Advertisement. Each published advertisement required by O.C.G.A. § 48-5-32.1 must be 30 square inches or larger.

(iii) Frequency of advertisement. Each advertisement for a public hearing required by O.C.G.A. § 48-5-32.1 shall be published on a date that precedes the date of such public hearing by at least one week. Each advertisement shall be at least five business days apart, however, when two public hearings required by O.C.G.A. § 48-5-32.1 have been scheduled on the same day in accordance with subparagraph (4)(b)(1)(i) of this Rule, both hearings may be advertised in the same day's edition of the newspaper provided they are combined in such a manner that makes it clear to the public that two separate hearings on the same subject matter are being held.

(iv) Combining with other advertisements. The advertisements required by this subparagraph may be combined with the advertisements required by O.C.G.A. § 36-81-5(e) and O.C.G.A. § 48-5-32(b), provided the notice required to be published by O.C.G.A. § 48-5-32.1 precedes and appears at the top of the report required to be published by O.C.G.A. § 48-5-32.

(v) Form of advertisement. The advertisements required by this Rule shall read exactly as provided by this Rule and not be reworded in any manner, with the exception that a brief reason or explanation for the tax increase may be included. The advertisements required of this Rule shall read as follows, with the heading that reads "NOTICE OF PROPERTY TAX INCREASE" appearing in all upper case and in either a bold font or a font size that is larger than the remaining body of the notice:

**NOTICE OF PROPERTY TAX INCREASE**

The (name of recommending authority or levying authority) has tentatively adopted a millage rate which will require an increase in property taxes by (percentage increase over rollback rate) percent.

All concerned citizens are invited to the public hearing on this tax increase to be held at (place of meeting) on (date and time).

Times and places of additional public hearings on this tax increase are at (place of meeting) on (date and time).

This tentative increase will result in a millage rate of (proposed millage rate) mills, an increase of (millage rate increase above the roll-back rate) mills. Without this tentative tax increase, the millage rate will be no more than (roll-back millage rate) mills. The proposed tax increase for a home with a fair market value of (average home value from previous year's digest rounded to the nearest \$ 25,000) is approximately [increase) and the proposed tax increase for nonhomestead property with a fair market value of (average nonhomestead property value from previous year's digest rounded to nearest \$ 25,000) is approximately [increase).

(vi) Determination of average dollar increase. The proposed tax increase for an average home shall be calculated by multiplying the millage rate increase above the rollback rate times the average current year taxable value for properties which are granted homestead exemption. The proposed tax increase for an average nonhomestead property shall be calculated by multiplying the millage rate increase above the rollback rate times the average current year taxable value for real property which has not been granted homestead

exemption.

(vii) Determination of percentage increase. The "percentage increase over rollback rate" number that appears in the advertisements required by this subparagraph shall be determined by subtracting or adding the rollback rate from the proposed millage rate, dividing this difference by the rollback rate and expressing the results as a percentage.

(viii) Press release. At the same time the first advertisement is made in accordance with this Rule, the recommending or levying authority shall also provide a press release to the local media that announces such authority's intention to seek an increase in property taxes and the dates, times, and locations of the public hearings thereon. The press release may contain such other information as the recommending or levying authority deems may help the public understand the necessity for and purpose of the hearings.

(5) Certification to Commissioner to accompany digest. Upon the submission by the tax receiver or tax commissioner of the tax digest and accompanying certifications, the Commissioner will make a determination of whether the recommending and levying authorities have complied with the provisions of O.C.G.A. § 48-5-32.1 and this Rule before issuing an authorization to collect taxes pursuant to O.C.G.A. § 48-5-345.

(a) Evidence of compliance. The Commissioner shall not accept for review or issue an order authorizing the collection of taxes for any certified tax digest from any county tax receiver or tax commissioner that does not simultaneously submit evidence that the provisions of O.C.G.A. § 48-5-32.1 and this Rule have been met. Such evidence shall include Form PT-32.1 showing the calculation of the rollback rate, the actual millage rate established, a statement from the chairman of the board of tax assessors attesting to the total net assessed value added by the reassessment of existing real property, a statement from the tax collector or tax commissioner attesting to the accuracy of the digest information appearing on the form, and a statement from a responsible authority attesting to the fact that the hearings were actually held in accordance with such published advertisements. When the actual millage rate exceeds the rollback rate, such evidence shall also include copies of the published "Notice of Property Tax Increase" showing the times and places when and where the required public hearings were held and a copy of the required press release provided to the local media. A copy of the web-based publication of the Notice of Tax Increase advertisement must be certified by the respective governing or recommending authority establishing such tax increase.

(b) Incorrectly determined rollback rate. When the Commissioner determines that the recommending or levying authority has incorrectly determined the rollback rate and has established a millage rate that is in excess of the correct rollback rate and failed to advertise a notice of tax increase and held the required public hearings or has advertised a percentage tax increase that is less than the actual tax increase, the Commissioner shall not accept the digest for review or issue an Order authorizing the collection of taxes, except in that instance when such incorrect rollback rate overestimates the taxes that may be levied without the required public hearings by less than 3 percent, in which case the digest may be accepted for review if all other digest submission requirements have otherwise been met.

(c) Reductions to advertised millage rates. When the recommending authority or levying authority adopts a final millage rate below the rate that has been the subject of the hearings required by O.C.G.A. § 48-5-32.1, such authority shall not be required to begin anew the procedures and hearings required by O.C.G.A. § 48-5-32.1 and this Rule.

Authority O.C.G.A. Secs. 36-81-5, 48-2-12, 48-5-32, 48-5-32.1, 48-5-304, 48-5-311, 48-5-345, 50-13-4, 50-13-6. History. Original Rule entitled "Rollback of Millage Rate When Digest Value Increased by Reassessments" adopted as ER. 560- 11-2-0.14-.58. F. June 7, 2000; eff. June 5, 2000, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. Amended: Permanent Rule adopted. F. Oct. 25, 2000; eff. Nov. 14, 2000. Amended: F. Dec. 20, 2006; eff. Jan. 9, 2007. Amended: F. May 9, 2011; eff. May 29, 2011.

## Chapter 8 ANNUAL NOTICES OF ASSESSMENT

### ***560-11-2-.55 Annual Notice of Assessment -- Contents.***

(1) Form PT-306, as prescribed by the Commissioner, shall be the annual notice of current assessment sent to the taxpayer in accordance with the requirements as set forth in O.C.G.A. § 48-5-306.

(a) A county's board of tax assessors shall also send form PT-306 when any corrections or changes, including valuation increases or decreases or equalizations have been made by the board to personal property tax returns.

(b) Any alteration or deviation from form PT-306 must receive written approval from the Commissioner prior to use by a county board of tax assessors.

(c) Requests for consideration for an alternate design shall be submitted in writing to the Director of Georgia Department of Revenue's Local Government Services Division. The Local Government Services Division Director shall respond in writing within sixty (60) days of request. Failure of the Local Government Services Division Director to respond within sixty (60) days does not constitute acceptance of the alternate design.

(2) A county board of tax assessors may elect to provide electronic transmissions of all notices required under O.C.G.A. § 48-5-306 to the taxpayer.

(a) If so provided, the electronic transmission system must have secure file transfer and the capability to ensure authentication and verification of receipt by the taxpayer.

(b) A county's board of tax assessors may request guidance and review from the Commissioner regarding the selected means of electronic transmissions. The county board of tax assessors' responsibility is the security, authentication, and verification of the electronic transmissions.

(3) The terms on form PT-306 shall have the following meaning:

(a) Notice Date - Actual mailing date of notice.

(b) Property Owner and Mailing Address - Property Owner's name as appears on the deed of transfer and the mailing address for which the tax bill is to be sent.

(c) Covenant Year - Beginning year and abbreviated code for specialized assessment valuation notation as indicated in the following:

(i) EZ-Enterprise Zone,

(ii) PREF-Preferential,

(iii) HIST-Historical,

(iv) BR-Brownfield,

(v) FLPA-Forest Land Protection Act, and

(vi) CU-Conservation Use, which includes the categories below:

(I) Environmentally Sensitive,

(II) Residential Transitional, and

(III) Conservation Use Covenant.

(d) Homestead - If homestead exists, the text "YES" plus the code associated with type of exemption, if no homestead exists, the text "NONE."

(e) Other Value - Taxable value of property pursuant to any specialized assessment program or covenant.

(f) Reasons for Notice - Code and associated description containing a simple, nontechnical description of the basis for the new current assessment.

(g) Taxing Authority - Jurisdiction levying taxes; fee description; Title for subtotals for total county due and total city due.

(h) Other Exemption - Assessed Value reduction resulting from any non-homestead reason such as current use assessment or Freeport Exemption.

(i) Estimated Tax - Taxes calculated based on jurisdiction's ad valorem tax millage rate, multiplied by the net taxable value; or in the case of fees, the amount of the fee; total county due and/or total city due. All taxes and fees are rounded to two (2) decimal places.

(4) Should a taxpayer elect to appeal their annual assessment, Form PT-311A may be used.

Authority O.C.G.A. Secs. 48-5-306, 91A-14, 91A-215.

History. Original Rule entitled "Annual Assessment Notice -- Contents" adopted. F. June 20, 1980; eff. July 10, 1980. Amended: F. Aug. 22, 1980; eff. Sept. 11, 1980. Repealed: New Rule entitled "Annual Notice of Assessment - Contents" adopted. F. Nov. 30, 2010; eff. Dec. 20, 2010. Repealed: New Rule of same title adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

## **Chapter 9 REVALUATION PROGRAMS**

### ***560-11-2-.01 Property Reevaluation and Tax Equalization Program.***

These regulations are presented to the counties of the State of Georgia in the interest of initiating and preserving, from the inception of the Program to completion, uniform standards of procedure and execution in order to insure a fair, uniform and effective administration of the Property Tax Valuation and Equalization Program throughout the State.

AUTHORITY: Ga. L. 1963, p. 420.

ADMINISTRATIVE HISTORY: Original Rule entitled "Property Reevaluation and Tax Equalization Program" was filed and effective on June 30, 1965.

### ***560-11-2-.02 Applications for Financial Assistance.***

All applications for State financial assistance and for commercial loans under this Program will be submitted to the State Revenue Commissioner for approval. He will determine the need for and the amount of financial assistance to be given under this program by the State to any county or the need for and the amount of any commercial loan to be obtained by the county, on the basis of State funds available and the ability of the county to finance in whole or in part a qualifying property valuation and equalization program. Notwithstanding anything to the contrary contained in these rules and regulations or in any contract or agreement entered into thereunder, the State Revenue Commissioner shall not make loans to any one county in excess of one hundred thousand dollars (\$ 100,000).

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga. Code Ann. Secs. 92-8405, 8406, 8409, 8427).

ADMINISTRATIVE HISTORY: Original Rule entitled "Applications for Financial Assistance" was filed and effective on June 30, 1965.

### ***560-11-2-.03 Completed Programs.***

Applications of counties for financial assistance for approval of commercial loans will not be considered except on the basis of complete property valuation and equalization programs and then in the order in which such complete programs are submitted to the State Revenue Commissioner.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga. Code Ann. Secs. 92-8405, 8406, 8409, 8427).

ADMINISTRATIVE HISTORY: Original Rule entitled "Completed Programs" was filed and effective on June 30, 1965.

#### **560-11-2-.04 Completed Program Requirements.**

A program to be complete must possess the following:

- (1) An Agreement properly executed by the county and the appraisal firm containing all the basic provisions of the county-appraisal firm form of agreement attached hereto and hereby made a part of this regulation. (Whenever a county finds it necessary to change or omit any of the basic provisions of this regulation contract form, a complete and full explanation of the reasons therefor shall accompany the application; otherwise, consideration of the application will be delayed.)
- (2) A Performance and Payment Bond, furnished by the appraisal firm and approved by the county attorney.
- (3) An affidavit of the Contracting Appraisal Firm that it meets the following minimum qualification requirements and submitting any information as required therein:
  - (a) Not less than five years of practical appraisal experience involving extensive commercial and industrial properties as well as residential.
  - (b) At least one of the appraisal company's principal appraisers who will be in overall charge of and devote a reasonable amount of personal direction to the project must be one of the following:
    1. M.A.I. (Member of the American Institute of Real Estate Appraisers)
    2. C.A.E. (Certified Assessment Evaluator)
    3. P.E. (Licensed Professional Engineer with at least 5 years of appraisal experience satisfactory to the Department of Revenue)
    4. Other comparable education and practical experience satisfactory to the Department of Revenue.
  - (c) Adequate financial resources which shall include the ability to furnish the required performance and payment bond referred to in the contract.
  - (d) A staff of suitably trained supervisors, none under 25 years of age, available for assignment to the project and adequate to insure its timely and proper completion.
  - (e) A specific program for procuring and training the manpower, other than permanent staff, necessary to the accomplishment of the project.
  - (f) Name, age, and qualifications of the person guaranteed to supervise the project throughout the contract period.
- (4) In the case of a commercial loan application, a loan agreement containing the commitment of a commercial lender to make a loan to the county and setting forth the terms of such loan.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427.

ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

#### **560-11-2-.05 Proper Execution.**

County-appraisal firm agreements and commercial loan agreements will be considered properly executed by the county when signed by a majority of the members of the Board of Tax Assessors and approved by the signatures of a majority of the governing body of the county.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427.

ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.



***560-11-2-.06 Commencement and Completion.***

Contracts submitted as a basis for State financial assistance or for a commercial loan must contain a specific time for commencement and for completion of the work under the contract. The actual time limits set by such contracts will be approved on an individual basis by the Commissioner of Revenue based upon the size of the county, extent of work to be done under the contract, availability of professional appraisal personnel, financial condition of the county, and other reasonable and pertinent circumstances.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427.

ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

***560-11-2-.07 Approved Appraisal Firms.***

No appraisal contracts will be considered except those with qualified professional firms which have received prior approval of the State Revenue Commissioner. A current list of approved appraisal firms will be maintained by the State Revenue Commissioner and will be available to the counties upon request.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427.

ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

***560-11-2-.08 Listing of Approved Appraisal Firms.***

The list of approved firms will be maintained by the State Revenue Commissioner in the following manner:

(1) Approval by the State Revenue Commissioner to bid on property tax valuation and equalization programs will be obtained in the first instance by formal application to the State Revenue Commissioner, stating fully the qualifications of the appraisal firm to satisfactorily complete a county-wide property appraisal program. The requirements set out in Section 560-11-2-.04 (3) and Paragraph 10, Part 1 (General Provisions) of the Articles of Agreement are minimal.

(a) It must be shown to the satisfaction of the State Revenue Commissioner that a professional organization of sufficient size, quality and experience is in existence.

(b) Where such organization is perfected by association, all associates must be principals and must sign as parties to the contract between the appraisal firm and the County.

(2) A running review of the approval list of appraisal firms will be maintained by the State Revenue Commissioner.

(a) Unsatisfactory performance, as determined by the State Revenue Commissioner, will result in immediate removal from said list.

(b) All appraisal firms not having performed satisfactorily on a contract with a County during calendar year will be automatically dropped from the approved list on January 1 of the succeeding calendar year, and may be reinstated only by reapplying to the State Revenue Commissioner as set out in sub-paragraph (1) above.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427. ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

#### **560-11-2-.09 Planning Expenses.**

No disbursement of funds directly to the counties will be made by the State under this program, and no loan made to a county by the State or by a commercial lender will include reimbursement to the county for payroll or other expenses incurred by the county either in planning or performing a property valuation and equalization program.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427. ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

#### **560-11-2-.10 Payment of Additional Funds.**

In the event that the State Revenue Commissioner shall determine that sufficient funds are not available from State sources to meet the needs of any county in financing a qualified program and the governing authority of the county demonstrates that sufficient additional funds can be obtained from other sources to complete the program, the State Revenue Commissioner will, from funds appropriated for the purpose, contract with the governing authority for the payment by the State of ten percent (10%) of that part of the cost of such qualified program as is financed by a commercial loan. However, the amount to be paid by the State under any such contract with a county shall not exceed ten thousand dollars (\$ 10,000). This payment is not an advance or loan from the State and is not to be repaid by the County.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427.

ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

#### **560-11-2-.11 Disbursements.**

(1) Upon approval of an application by a county for financial assistance by the State under this program and the execution of a loan agreement by the county and the State Revenue Commissioner, the amount of the loan agreed upon will be set up to the credit of the county on the records of the State Revenue Commissioner. Disbursements by the State Revenue Commissioner under the loan agreement with the county will be made as follows:

(a) Directly to the appraisal firm performing the work under an approved contract with the county.

(b) Quarterly: On January 15, April 15, July 15, and October 15.

(c) On the basis and in the amount of itemized monthly billings presented by the appraisal firm to the county and approved for payment by the Board of Tax Assessors and the governing authority of the county and by the State Revenue Commissioner.

(2) As these quarterly progress payments are made directly to the appraisal firm a charge will be made against the loan set up to the credit of the county, but in no event will these disbursements exceed the amount of the loan as provided in the contract between the county and the State Revenue Commissioner.

(3) The State Revenue Commissioner shall withhold 10% of each quarterly progress payment pending satisfactory completion by the appraisal firm of all work and obligations under the contract.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427. ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

**560-11-2-.12 Payments by Commercial Lender.**

(1) Upon approval of an application for a commercial loan by the State Revenue Commissioner, the amount of the loan agreed upon will be made available by the commercial lender to the County in periodic payments as follows:

(a) Quarterly: On January 15, April 15, July 15, and October 15.

(b) On the basis and in the amount of itemized monthly billings presented by the appraisal firm to the county and approved for payment by the Board of Tax Assessors and the governing authority of the county and by the State Revenue Commissioner. An appropriate form, showing the amount of such billings and the State Revenue Commissioner's approval, will be authority for the periodic advances by the commercial lender.

(2) In no event will the cumulative total of the periodic advances by the commercial lender under the loan contract exceed the amount of the loan as approved by the State Revenue Commissioner.

(3) The County shall withhold 10% of each quarterly progress payment pending satisfactory completion by the appraisal firm of all work and obligations under its contract with the County.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427.

ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

**560-11-2-.13 Computation of 10% Limit.**

(1) Where, because sufficient funds are unavailable from State sources to meet the cost of a qualified property valuation and equalization program submitted by a county, both a State financial assistance loan and a commercial loan are approved by the State Revenue Commissioner to finance such program, the State grant of ten percent (10%) provided for under Section 560-11-2-.10 above shall be computed on the amount of the commercial loan approved which added to the State financial assistance loan approved shall not exceed one hundred thousand dollars (\$ 100,000), the maximum limit of a State financial assistance loan.

(2) Examples: If the cost of a qualified program is \$ 175,000, and a State financial assistance loan is approved for \$ 50,000 and a commercial loan for \$ 125,000, then the State grant would be in the amount of \$ 5,000. If a State financial Assistance Loan is approved for \$ 100,000 and a commercial loan for \$ 75,000, then no State grant would be made under the ten percent (10%) provision.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et. seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427. ADMINISTRATIVE HISTORY: Original Rule was filed on June 30, 1965.

**560-11-2-.14 Alterations in Agreement.**

Once a county-appraisal firm agreement and, where applicable, a commercial loan agreement, is approved by the State Revenue Commissioner, no alterations, deletions or additions, either oral or in writing, in, of or to the provisions thereof will be made without the prior written approval of the State Revenue Commissioner.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427).

ADMINISTRATIVE HISTORY: Original Rule entitled "Alterations in Agreement" was filed and effective on June 30, 1965.

**560-11-2-.15 Records.**

The appraisal firm shall deliver to the State Revenue Commissioner at his office in Atlanta, Georgia, at no cost to said official, a microfilm copy of all real and personal property record cards, all industrial appraisal reports, the original tracings of all maps, and all alphabetical index cards as furnished and delivered by the appraisal firm to the County upon the completion of the project together with the certificate by an authorized officer of the appraisal firm certifying to the accuracy and completeness of said microfilm copy with respect to such date. The individual microfilm rolls shall be properly labeled to indicate the material contained thereon and an index to the individual microfilm rolls will also be provided. The delivery of said microfilm copy and index and the furnishing of said certificate shall be a prerequisite to the release of the 10% retainage fund provided for in the agreement between the County and the appraisal firm. Said microfilm copy will be filed by the State Revenue Commissioner and shall be available for examination upon request by authorities.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427).

ADMINISTRATIVE HISTORY: Original Rule entitled "Records" was filed and effective on June 30, 1965.

## Chapter 10 APPRAISAL PROCEDURE MANUAL

### ***560-11-10-.01 Purpose and Scope.***

(1) Purpose. This appraisal procedures manual has been developed in accordance with Code section 48-5-269.1 which directs the Revenue Commissioner to adopt by rule, subject to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and maintain an appropriate procedural manual for use by the county property appraisal staff in appraising tangible real and personal property for ad valorem tax purposes.

(2) Specific procedures. In order to facilitate the mass appraisal process, specific procedures are provided within this Chapter which are designed to arrive at a basic appraisal value of real and personal property. These specific procedures are designed to provide fair market value under normal circumstances. When unusual circumstances are affecting value, they should be considered. In all instances, the appraisal staff will apply Georgia law and generally accepted appraisal practices to the basic appraisal values required by this manual and make any further valuation adjustments necessary to arrive at the fair market values.

(3) Board of tax assessors. The county board of tax assessors shall require the appraisal staff to observe the procedures in this manual when performing their appraisals. The county board of tax assessors may not adopt local procedures that are in conflict with Georgia law or the procedures required by this manual. The county board of tax assessors must consider the appraisal staff information in the performance of their duties. In each instance, however, the assessment placed on each parcel of property shall be the assessment established by the county board of tax assessors as provided in Code section 48-5-306.

(4) Other appraisal procedures. The appraisal staff may use those generally accepted appraisal practices set forth in the Uniform Standards of Professional Appraisal Practice, published by the Appraisal Foundation, and the standards published by the International Association of Assessing Officers, as they may be amended from time to time, to the extent such practices do not conflict with this manual and Georgia law.

O.C.G.A. Secs. 48-2-12, 48-5-269, 48-5-269.1, 48-5-306.

HISTORY. Original Rule entitled "Purpose and Scope" adopted. F. Sept. 20, 1999; eff. Oct. 10, 1999.

### ***560-11-10-.02 Definitions.***

(1) Definitions. When used in this Chapter, the definitions found in this Rule shall apply.

(a) Absorption rate. "Absorption rate" means the rate at which the real estate market can absorb real property of a given type.

(b) Appraiser. "Appraiser" means a member of the county appraisal staff, who serves the board of tax assessors and whose position was created pursuant to Part 1 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated. This term does not limit its meaning to a single appraiser and may mean one or more members of the county appraisal staff.

(c) Basic cost approach. "Basic cost approach" means a cost approach procedure, used in the mass appraisal of personal property, which uses standard estimates of the most common factors affecting the value of such property. The basic cost approach is intended to provide a uniform estimate of personal property value.

(d) Depreciation. "Depreciation" means the loss of value due to any cause. It is the difference between the market value of a structural improvement or piece of equipment and its reproduction or replacement cost

as of the date of valuation. Depreciation is divided into three categories, physical deterioration, functional obsolescence, and economic obsolescence. Depreciation may be further characterized as curable or incurable depending upon the difficulty or practicality of restoring the lost value through repair or maintenance.

(e) Economic life. "Economic life" means the period during which property may reasonably be expected to perform the function for which it was designed or intended.

(f) Economic obsolescence. "Economic obsolescence" means a form of depreciation that measures a loss of value from negative influence external to the real or personal property. It results when the desirability or useful life of real or personal property is impaired due to forces such as changes in optimum use, legislative enactment that restricts or impairs productivity, and changes in supply and demand relationships. Economic obsolescence is normally incurable.

(g) Effective age. "Effective age" means the age of an improvement to property as compared with other property performing like functions. It is the actual age less the age that has been taken off by face-lifting, structural reconstruction, removal of functional inadequacies, modernization of equipment, and similar repairs and overhauls. It is an age that reflects a true remaining life for the property, taking into account the typical life expectancy of buildings or equipment of its class and usage.

(h) Fair market value. "Fair market value" means fair market value as defined in Code section 48-5-2 (3).

(i) Final assessment. "Final assessment" means the final assessed value that is determined for the property for the applicable tax year after the following events have occurred: the time period for filing appeals has expired and any appeals that have been filed have been resolved; the authorities authorized to levy taxes on property in the county have approved the final tax levy; the Revenue Commissioner has authorized that the digest may be used as the basis for collecting taxes; the tax commissioner has mailed the final tax bills based on the authorized digest; and in the case of personal property, the appraisal staff has completed its audit of the personal property pursuant to Rule 560-11-10-.08(4)(d) within the seven year statute of limitations.

(j) Functional obsolescence. "Functional obsolescence" means a form of depreciation that measures a loss of value from a design deficiency or appearance in the market of a more innovative design. Some functional obsolescence may be curable and some functional obsolescence may be incurable.

(k) Inventory. "Inventory" means goods held for sale or lease or furnished under contracts for service; also, raw materials, work in process or materials used or consumed in a business.

(l) Large acreage tract. "Large acreage tract" means a rural land tract that is greater in acreage than the small acreage break point.

(m) Mass appraisal. "Mass appraisal" means the process of valuing a universe of properties as of a given date using standard methodology, employing common data and allowing for statistical testing.

(n) Most Recent Arms Length Sale. As referenced in OCGA 48-5-2(3), transactions must occur prior to the statutory date of valuation to become eligible for the value limitations imposed in 48-5-2(3). Furthermore, where the exchange of property is defined as an arm's length transaction, the sum of the value of the exchanged real estate property components, land and improvements, in the year following the property exchange shall not exceed the transaction's sale price adjusted for non-real estate values such as but not limited to, timber, personal property, etc. The adjustment to the value of the real estate shall remain in effect for at least the digest year following the transaction. With respect to changes in the exchanged real estate property components since the time of exchange (sale date), the value of new improvements, value of additions to existing improvements (footprint of exchanged structure has been altered), major remodeling or renovations to existing structures (footprint of exchanged structure has not been altered), and adjustments to land due to consolidation of tracts, new surveys, zoning changes, land use changes, etc. shall be added to the sales price adjusted values. In the event an exchanged real estate property structure is renovated or remodeled, the term major shall be construed such that both the property owner and BOA would reasonably conclude a major renovation/remodeling has occurred. If either party, acting reasonably, could debate

that the renovation/remodeling effort was not major in nature, the renovation/remodeling effort does not qualify and shall not be added to the sales price adjusted values. Any modifications made to the exchanged real estate property after the sale date that result in a lower value of the exchanged property shall be considered in the final valuation of property for the digest.

(o) Original cost. "Original cost" means, in the case of machinery, equipment, furniture, personal fixtures, and trade fixtures in the hands of the final user, all the direct costs associated with acquiring, transporting and installing such property at the site where it is to be used. This includes the cost of the property to the property owner, the cost of transporting the property to its present site, the cost of any on-site assembly or customized modification of the property, the cost of installing the property, the cost of installing personal fixtures and trade fixtures necessary for the proper operation of the property, and any sales or use tax paid on the property. Original cost is equivalent to original cost new if the property owner was the first to put the personal property into service.

(p) Original cost new. "Original cost new" means, in the case of machinery, equipment, furniture, personal fixtures, and trade fixtures in the hands of the final user, all the direct costs associated with acquiring, transporting and installing such property at the site where it is to be used. This includes the historical cost of the property at the time it was first put into service new, the cost of transporting the property to its present site, the cost of any on-site assembly or customized modification of the property, the cost of installing the property, the cost of installing personal fixtures and trade fixtures necessary for the proper operation of the property, and any sales or use tax paid on the property. Original cost new is equivalent to original cost if the property owner was the first to put the personal property into service.

(q) Paired sales analysis. "Paired sales analysis" means the comparing of the sale prices of similar properties, some with and some without a particular characteristic, in order to determine what portion of the difference in sales price might be attributable to such characteristic.

(r) Personal fixtures. "Personal fixtures" means personal property that has been set-up or installed on land or in a building or in a group of buildings and is not permanently attached to such land or buildings. A consideration for whether personal property is a personal fixture is whether its removal would cause significant damage to such property or to the real property on which it has been set-up or installed. The term personal fixtures shall not include trade fixtures. Personal fixtures are classified as personal property. Examples of personal fixtures are desks, shelving, display cases and gondolas.

(s) Personal property. "Personal property" means tangible personal property that may be seen, weighed, measured, felt, or touched or which is in any other manner perceptible to the senses. Personal property shall include trade fixtures. For the purposes of this Rule, personal property shall not include the capital stock of all corporations; money, notes, bonds, accounts, or other credits, secured or unsecured; patent rights, copyrights, franchises, and any other classes and kinds of property defined by law as intangible personal property.

(t) Physical deterioration. "Physical deterioration" means a form of depreciation that measures the loss of utility of real or personal property over time from wear and tear, age, and exposure to the elements. Some physical deterioration may be curable and some physical deterioration may be incurable.

(u) Ready market. "Ready market" means a market, possibly global, where exchanges of machinery, equipment, personal fixtures and trade fixtures occur with such regularity and under such conditions as to provide a reliable measure of fair market value. Five conditions that may indicate a ready market are: the items of personal property being sold within the market are reasonable substitutes for each other; there are an adequate number of buyers and sellers of the personal property in the market, no one of whom can measurably affect price; there is an absence of artificial restraints and unusual incentives in the market; the item of personal property is reasonably free to be moved where it will receive the greatest return and buyers are reasonably free to buy where the price is lowest; and buyers and sellers are knowledgeable and informed about market conditions.

(v) Real estate. "Real estate" means the physical parcel of land, improvements to the land, improvements attached to the land, real fixtures and appurtenances such as easements.

(w) Real fixtures. "Real fixtures" means personal property that has been installed or attached to land or a building or group of buildings and is intended to remain permanently in its place. A consideration for whether personal property is a real fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached. The term real fixtures shall not include trade fixtures. Real fixtures are classified as real property. Examples of real fixtures are plumbing, heating and cooling, and lighting fixtures.

(x) Real property. "Real property" means the bundle of rights, interests, and benefits connected with the ownership of real estate. Real property does not include the intangible benefits associated with the ownership of real estate, such as the goodwill of a going business concern.

(y) Replacement cost. "Replacement cost" for real property means the cost required to construct a similar structure with like utility as the subject property using modern design, materials, and workmanship. Replacement cost for personal property means the current cost of a similar new item having the nearest equivalent utility as the subject property.

(z) Reproduction cost. "Reproduction cost" for real property means the cost required to construct an identical or exact replica structure of the subject property. Reproduction cost for personal property means the current cost of duplicating an identical new item.

(aa) Residual value. "Residual value" means the value of personal property that is at the end of its normally expected economic life but still in use.

(bb) Rural land. "Rural land" means any land that normally lies outside corporate limits, planned subdivisions, commercial sites, and industrial sites.

(cc) Salvage value. "Salvage value" means the value of personal property that is at the end of its normally expected economic life and has been taken out of use.

(dd) Small acreage break point. "Small acreage break point" means the point, expressed as a number of acres, at which the slope of a trend line, drawn through the plotted qualified sales of rural land on a graph, reflects a distinct and pronounced change. Such graph uses the dollars per acre on the vertical axis and numbers of acres on the horizontal axis. The small acreage break point should show the point below which the market factors of accessibility and desirability of the land primarily influence value, and above which the productivity of the soil and suitability for timber growth primarily influence value.

(ee) Small acreage tract. "Small acreage tract" means a rural land tract that is equal to or smaller in acres than the small acreage break point.

(ff) Tax situs. "Tax situs" means the location of personal property for ad valorem tax purposes.

(gg) Trade fixtures. "Trade fixtures" means fixtures that are owned and temporarily installed or attached to a rented space or building by a tenant and used in conducting a business. For personal property to be classified as trade fixtures the lease or rental agreement has to show intent for the fixtures to be removed by the owner at the termination of the lease. Fixtures that revert to the landlord when the lease is terminated are not trade fixtures. Property shall not be classified as a trade fixture when the cost of removal, or damage that removal would cause to the realty, or to the fixture itself, clearly indicates that a tenant is unlikely to remove such fixture at the termination of the lease. Trade fixtures shall be classified as personal property.

(hh) Transitional real property. "Transitional real property" means any real property that is undergoing a change in use, such as residential, agricultural, commercial, or industrial, and has not been firmly established in its new use. Change in use may be evidenced by recent zoning changes, purchase by a known developer, affidavits of intent, or close proximity to property exposed to these market factors.

(ii) Trend. "Trend" means an observable tendency of behavior such as stable economic direction over extended periods despite temporary fluctuations.

Authority: O.C.G.A. Secs. 48-2-12, 48-5-2, 48-5-269, 48-5-269.1.



Authority O.C.G.A. Secs. 48-2-12, 48-5-2, 48-5-264, 48-5-269, 48-5-269.1, 48-5-291, 48-5-292, 48-5-295. History. Original Rule entitled "Definitions" adopted. F. Sept. 20, 1999; eff. Oct. 10, 1999. Amended: ER.560-11-10-0.2-.02 adopted. F. Jan. 19, 2011; eff. Jan. 20, 2011, as specified by the Agency. Amended: F. Nov. 9, 2011; eff. Nov. 29, 2011.

***560-11-10-.08 Personal Property Appraisal.***

(1) Personal property identification. The appraisal staff shall identify personal property, determine its taxability, and classify it for addition to the county ad valorem tax digest in accordance with this paragraph.

(a) Distinguishing personal property. The appraiser shall be required to correctly identify personal property and distinguish it from real property where the proper valuation procedures, as set forth in this Rule, may be followed.

1. Examples. As used in this Chapter, personal property shall be that property defined in Rule 560-11-10-.02(1)(r). This Rule shall provide illustrations to assist the appraiser in the proper interpretation of the definition. However, these illustrations should not be construed in a manner that conflicts with the definition. Examples of personal property are tangible items such as aircraft; boats and motors; inventories of retail stock, finished manufactured or processed goods, goods in process, raw materials and supplies; furniture, personal fixtures, trade fixtures, machinery and equipment.

2. Identification of trade fixtures. When property the appraiser believes is a trade fixture has not been returned by the tenant, the appraiser shall require the tenant to produce their lease agreement and shall carefully review the agreement before making a recommendation to the board of tax assessors regarding the classification of the property in question. The appraiser shall inform the tenant that they may redact, at their option, any information relating to the payments that are required by the lease agreement.

(b) Assessment date. Code section 48-5-10 provides that each return by a property owner shall be for property held and subject to taxation on January 1 of the tax year. The appraisal staff shall base their decisions regarding the taxability, tax situs, uniform assessment, and valuation of personal property on the circumstances of such property on January 1 of the tax year for which the assessment is being prepared. When personal property is transferred to a new owner or converted to a new use, the circumstances of such property on January 1 shall nevertheless be considered as controlling.

(c) Freeport exemptions.

1. Mailing applications. The appraisal staff shall, by U. S. mail, send a new freeport exemption application to any person, firm or corporation that was approved for freeport exemption by the board of tax assessors for the tax year proceeding the tax year for which the application is to be made. The application provided by the appraisal staff shall be deposited with the local post office no later than the 15th day after the official who is responsible for receiving returns has opened the books for returns. The failure of the appraisal staff to comply with this requirement shall not relieve a person, firm or corporation from the responsibility to timely file a Freeport application.

2. Reviewing applications. The appraisal staff shall, upon receipt of a Freeport application, reconcile the figures reported on such form to any inventory totals that may have been returned by the property owner. The appraisal staff may obtain relevant information as is available from financial records or other records of the property owner when needed to reconcile the figures reported on the application. Once the appraisal staff has completed the reconciliation of the Freeport application, they shall forward the application and their recommendations, along with any supporting documentation, to the board of tax assessors. When the appraisal staff recommends the freeport application be denied, in whole or in part, they shall include the reasons for their recommendation.

(d) Tax situs. The appraisal staff shall inquire into the proper tax situs of personal property before preparing the proposed assessment to ensure that the property owner is made subject to only those taxes that may legally be levied. The tax situs inquiry shall be sufficiently specific to determine whether the property is subject to tax by each of the authorities authorized to levy taxes in the county.

1. General tax situs. Unless otherwise provided in subparagraph (d) of this paragraph, the appraisal staff shall consider the tax situs of personal property to be as provided in this subparagraph.

(i) Tax situs of personal property of Georgia residents. The appraisal staff shall consider the tax situs of personal property owned by a Georgia resident as being the domicile of the owner unless such property has acquired a business situs elsewhere. The appraisal staff shall consider the tax situs of personal property owned by a Georgia resident and used in connection with a business as being the location of the business. In making the determination of tax situs, the appraisal staff shall consider such factors as the principal location of the personal property, the base from which its operations normally originate and whether the personal property is connected with some business enterprise that is situated more or less permanently in the county, as distinguished from an enterprise whose location is merely transitory or temporary. When personal property used in connection with a business is moved about in such a manner that it is not predominantly located during the year in one place, the appraisal staff shall consider the headquarters of the business as the tax situs.

(ii) Tax situs of personal property of non-residents. The appraisal staff shall consider the tax situs of personal property owned by non-residents as being where the property is located. The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for any personal property owned by a nonresident who does not maintain a place of business in Georgia and who gives the personal property to a commercial printer in Georgia for printing services to be performed in Georgia.

2. Tax situs of boats. In accordance with Code section 48-5-16 (d), the appraisal staff shall consider the tax situs of a boat to be the tax district wherein lies the domicile of the owner, even when the boat is located within another tax district in the county. When the boat is functionally located for recreational or convenience purposes for 184 days or more in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the boat to be where it is functionally located.

3. Tax situs of aircraft. In accordance with Code section 48-5-16 (e), the appraisal staff shall consider the tax situs of an aircraft to be the tax district wherein lies the domicile of the owner, even when the aircraft is located within another tax district in the county. When the aircraft's primary home base is in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the aircraft to be where it is principally hangered or tied down and out of which its flights normally originate.

4. Tax situs of foreign merchandise in transit. The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for foreign merchandise that is in transit through this state. The recommendation of "no tax situs" shall be made regardless of the fact that while the foreign merchandise is in the warehouse it is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged. The grant of "no tax situs" status shall be liberally construed. In deciding whether goods are foreign, the appraisal staff shall determine if the point of origin is a non-domestic shipping port. In deciding whether goods are in transit, the appraisal staff shall consider whether the interruption in the transport of the goods may be characterized as having a business purpose or advantage, rather than just being an incidental interruption in the continuity of transit.

(e) Assessments of personal property used on state contracts. Under Code section 50-17-29 (e)(1), the appraisal staff shall not propose an assessment upon the personal property of any contractor or subcontractor as a condition to or result of the performance of a contract, work, or services by such contractor or subcontractor in connection with any project being constructed, repaired, remodeled, enlarged, serviced, or destroyed for, or on behalf of, the state or any of its agencies, boards, bureaus, commissions, and authorities. The appraisal staff shall inquire into the nature of the use of such property and prepare their proposed

assessment in accordance with this Subparagraph.

1. Personal property located in headquarters' county. When the tax situs of the personal property being used on state projects is in the same county as where the property owner's permanent business headquarters and administrative offices are located, and such property is not used exclusively for the state projects contemplated by Code section 50-17-29 (e)(1), the appraisal staff shall not apportion their proposed assessment of the property. When such property is used exclusively for such state projects, such property is made exempt by Code section 50-17-29 (e)(1) from ad valorem taxation by the county and the appraisal staff shall treat such property as exempt property is treated.

2. Personal property not located in headquarters' county. When the tax situs of the personal property being used on state projects is in a county other than where the property owner's permanent business headquarters and administrative offices are located, and such property would not be located in the county absent the state projects, then the appraisal staff shall apportion their proposed assessment of such property as follows: The exempt portion of the personal property being used on state projects shall be that pro rata portion of the total value of such property that represents the percentage the contractor or subcontractor can reasonably demonstrate is likely to represent the portion of their business that will result from state projects during the tax year. The appraisal staff may consider the percentage of income, production output, or time attributable to state projects during the preceding year. The appraisal staff shall consider any information submitted by the property owner regarding the basis for the apportionment. The appraisal staff shall not apportion the personal property when the property owner fails to provide reasonable evidence necessary to determine the portion of the property owner's business that will result from state projects during the year.

(f) Partial assessments. Unless specifically provided by law and this Rule, the appraisal staff shall not prepare a partial appraisal based on the fact that personal property is owned or used during the year in a manner that would make it exempt part of the year and taxable part of the year.

(2) Classification. The appraisal staff shall classify personal property as provided in Rule 560-11-2-.21 for inclusion in the county tax digest.

(3) Return of personal property. In accordance with Code section 48-5-299 (a), the appraisal staff, on behalf of the board of tax assessors, shall investigate diligently and inquire into the property owned in the county for the purpose of ascertaining what real and tangible personal property is subject to taxation in the county and to require the proper return of the property for taxation. The appraisal staff shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where taxes are assessed against the owner of property, the appraisal staff shall prepare a proposed assessment on the property according to the best information obtainable.

(a) Information sources. The appraisal staff should develop and maintain information sources for the discovery of unreturned personal property.

(b) Returns. Property owners shall use Department of Revenue authorized return forms when returning personal property. No other forms shall be provided for this purpose to property owners by the county official responsible for receiving returns unless previously approved in writing by the Revenue Commissioner.

1. Authorized return forms. The returns described in this subparagraph shall be authorized for use when returning personal property.

(i) Form PT-50P. The return form PT-50P, entitled "Business Personal Property Tax Return," may be used for the return of business personal property when the property owner is not eligible or does not desire to file an application for freeport exemption.

(ii) Form PT-50PF. The return form PT-50PF, entitled "Business Personal Property Tax Return / Application for Freeport Exemption," may be used for the return of business personal property and simultaneous application for freeport exemption.

(iii) Form PT-50MA. The return form PT-50MA, entitled "Marine / Aircraft Personal Property Tax Return," may be used for the return of boats or aircraft.

2. Obtaining returns from receiver. Each year, after the deadline for filing returns, the appraisal staff shall secure the returns from the official responsible for receiving returns on or before the tenth day following such deadline.

3. Automatic returns. In accordance with Code section 48-5-20, the appraisal staff shall deem any property owner that does not file a return by the deadline as returning for taxation the same property as was returned or deemed to have been returned in the preceding tax year at the same valuation as the property was finally determined to be subject to taxation in the preceding year.

(c) Reporting schedules. Property owners shall use Department of Revenue authorized reporting schedules when reporting supporting information for authorized return forms. No other reporting schedules shall be provided for this purpose to property owners by the county official responsible for reviewing returns unless previously approved in writing by the Revenue Commissioner. A property owner may attach other schedules or documents that provide further support for the value they have placed on their personal property return. The appraisal staff shall consider all additional information submitted by the property owner with the return and reporting schedules. The reporting schedules required by Rule 560-11-10-.08(3)(c) and appropriate for the type of personal property being returned and any other information submitted with the return by the property owner are made confidential by Code section 48-5-314 and shall be treated as such by the appraisal staff. The appraisal staff shall not consider as fully returned any property that is omitted, misrepresented, or undervalued on the supporting reporting schedules and accompanying property owner documents, as these provide the basis for the property owner's declarations of value on the return and are necessary for the board of assessors to carry out their responsibility under Code section 48-5-299 to, through their appraisal staff, ascertaining what personal property is subject to taxation in the county and to require the proper return of the property for taxation.

1. Authorized reporting schedules. The reporting schedules described in this subparagraph shall be authorized for use when reporting information to support the return of personal property.

(i) Schedule A. The reporting schedule entitled "Schedule A" may be used to list and describe any furniture, trade fixtures, personal fixtures, machinery and equipment that is included on the property owner's return.

(ii) Schedule B. The reporting schedule entitled "Schedule B" may be used to list and describe any inventory that is included on the property owner's return.

(iii) Schedule C. The reporting schedule entitled "Schedule C" may be used to list and describe any construction in progress that is included on the property owner's return.

(iv) Schedule D. The reporting schedule entitled "Schedule D" may be used to list and describe any boats or aircraft that are included on the property owner's return.

(4) Verification. The appraisal staff shall review and audit the returns in accordance with policies and procedures set by the county board of tax assessors consistent with Georgia law and this Rule.

(a) Omissions and undervaluations. If not otherwise prohibited by law or this Rule, the appraisal staff shall recommend an additional assessment to the board of tax assessors when any review or audit reveals that a property owner has omitted from their return any property that should be returned or has failed to return any of their property at its fair market value. The appraisal staff shall recommend a reduced assessment to the board of tax assessors when any review or audit reveals that a property owner has overstated the amount of personal property subject to taxation.

(b) Reassessments. The appraisal staff shall recommend to the board of tax assessors a new assessment when the property owner has omitted personal property from their return or failed to return personal property at its fair market value, when such omission or undervaluation has been discovered by an audit conducted pursuant to Rule 560-11-10-.08(4)(d). The appraisal staff shall not be precluded from conducting such an audit merely because a change of assessment has been made on the personal property as a result

of a review conducted pursuant to Rule 560-11-10-.08(4)(c). However, the appraisal staff may not recommend to the board of tax assessors a reassessment of the same personal property for which an audit has been conducted pursuant to Rule 560-11-10-.08(4)(d) and a final assessment has already been made by the board.

(c) Review. The purpose of a review is to determine if a property owner has correctly and fully completed their return and reporting schedules. It is based upon the good-faith disclosures of the property owner and information that is readily ascertainable by the appraisal staff. The review of an owner's return may consist of, but is not limited to, an analysis of any improper omissions or inclusions, improperly applied or omitted depreciation, and improperly applied or omitted inflation or deflation of the value of the owner's property. The examination should include a comparison of the current return information with return information from prior years. The appraiser should contact the owner or their agent by an on-site visit, telephone call, or written correspondence to attempt to resolve any questionable items. Returns with unresolved discrepancies, unexpected values, or incomplete information should be escalated to an audit.

(d) Audits. The purpose of an audit is to gather information that will allow the appraiser to make an accurate determination of the fair market value of the property owned by the property owner and subject to taxation. An audit is an examination of the records of the property owner to make an independent determination of the fair market value of such property where such determination does not solely depend upon the good-faith disclosures of the property owner and information that is readily ascertainable by the appraisal staff. The appraisal staff shall perform, consistent with Georgia Law and policies that are established by the board of tax assessors, audits of the records of the property owners to verify the returns of personal property. These audits may take place at any time within the seven-year statute of limitations, which begins on the date the personal property was required by law to be returned.

1. Scope of audit. The audit may be an advanced desk audit of certain additional property owner records that are voluntarily submitted or obtained by subpoena from the property owner or a complex on-site detailed audit of the property owner's books and records combined with a physical inspection of the personal property. The documents the appraisal staff should secure include, but are not limited to, schedules A, B, and C of form PT-50P; a balance sheet or other type of financial record that for a particular location reflects the business' book value as of January 1 of the tax year being audited; a ledger of capitalized personal property items held on January 1 of the tax year being audited; and an income statement.

(i) Use of subpoena. The appraiser should request the board of tax assessors to subpoena, within the limitations of their subpoena powers, any existing documents the property owner fails to provide voluntarily, when these documents are deemed by the appraiser to be critical to the audit. Since the appraiser may not request a subpoena for documents that do not presently exist in the format needed, the appraiser should seek existing documents held by the property owner and solicit the owner's voluntary cooperation in obtaining these documents.

2. Contracts with auditing specialists. The appraiser shall secure non-disclosure statements from any contracted audit specialist to ensure that such specialist shall conform with the confidentiality provisions of Code section 48-5-314 and shall not disclose the property owner's confidential records to unauthorized persons or use such confidential records for purposes other than the county's review for ad valorem tax purposes of the tax return and supporting documentation. The appraisal staff shall provide a copy of such non-disclosure statement to the property owner upon such owner's request. The appraiser shall not recommend to the board of tax assessors any contract or agreement with an audit specialist that provides for such specialist to contingently share a percentage of the tax collected as a result of any audits such specialist may perform.

(i) Notice to property owner. The lead appraiser shall ensure the property owner is sent a notice they have been selected for an audit of their personal property holdings for ad valorem tax purposes. The notice shall, at a minimum, indicate the following: the purposes and goals of the audit and the law authorizing the audit;

the name of the lead appraiser who is primarily responsible for the conduct of the audit; the names of the members of the audit team that will be performing the audit; the number of years that will be audited; a description of the type records that should be made available; a description of how the audit will be conducted; the range of dates desired for the audit; and contact information should the property owner wish to contact the lead appraiser. The notice shall contain a statement that the lead appraiser will be contacting the property owner by telephone to establish the date and time of the audit and to determine the availability and location of records. At the conclusion of the audit, if there is sufficient evidence to warrant a recommended change of assessment, the lead appraiser shall have prepared a list of preliminary audit findings and provide such list to the property owner to afford them an opportunity to meet and discuss the findings and view any supporting schedules and documents relied upon by the individuals conducting the audit. After any such meeting requested by the property owner, the lead appraiser shall have prepared the final audit report and proposed assessment and provide a copy to the property owner and the board of tax assessors.

(e) Audit selection criteria. The appraisal staff shall recommend to the board of tax assessors a review and audit selection criteria, and the appraisal staff shall follow such criteria when adopted by the board. The criteria should be designed to maximize the number of personal property returns that may be reviewed or audited with existing resources. The criteria should be fair, unbiased, and developed consistent with the requirements of Code section 48-5-299. All personal property accounts should be reviewed or audited at least once every three years.

(f) Property owner records. The appraisal staff should first endeavor to obtain the records necessary to substantiate the information returned or reported by the property owner through the voluntary cooperation of the property owner. When such voluntary cooperation is not forthcoming, and the records requested from the property owner are believed by the appraiser to be critical to a proper appraisal of the personal property, the appraiser may request that the board of tax assessors issue an appropriate subpoena for such records. The appraiser may request that the board of tax assessors issue an appropriate subpoena for the testimony of any individuals the appraiser believes poses knowledge critical to determination of the fair market value of the property owner's personal property.

1. Record types. The types of records the appraisal staff may request the board of tax assessors to issue subpoenas for include, but are not limited to, the following: chart of accounts, general ledger, detailed subsidiary ledgers, journals of original entry, balance sheet, income statement, annual report, Securities Exchange Commission Form 10K. The types of records the appraisal staff may not request the board of tax assessors to issue subpoenas for include the following:

(i) Income tax returns. Forms and schedules authorized by the Internal Revenue Service or the revenue collecting agencies of the several states for use in filing income tax returns to those agencies;

(ii) Property appraisals. A property appraisal that the property owner has obtained prior to any appeal that is filed as a result of a change of assessment being made to the property owner's personal property;

(iii) Insurance policies. An insurance policy that may contain valuation estimates of the insured personal property; or

(iv) Tenant sales information. A rent roll or document containing the individual tenant sales information on the property owner's rented or leased personal property.

(5) Valuation procedures. The appraisal staff shall follow the provisions of this paragraph when performing their appraisals. Irrespective of the valuation approach used, the final results of any appraisal of personal property by the appraisal staff shall in all instances conform to the definition of fair market value in Code section 48-5-2 and this Rule.

(a) General procedures. The appraisal staff shall consider the sales comparison, cost, and income approaches in the appraisal of personal property. The degree of dependence on any one approach will change with the availability of reliable data and type of property being appraised.

1. Information presented by property owner. The appraisal staff shall consider any timely information presented by the property owner that may have reasonable relevance to the appraisal of the owner's personal property. The appraisal staff shall consider the effect of any factors discovered during the review or audit of the return or directly presented by the property owner that may reduce the value of the owner's personal property, including, but not limited to all forms of depreciation, shrinkage, theft and damage.

2. Selection of approach. With respect to machinery, equipment, personal fixtures, and trade fixtures, the appraisal staff shall use the sales comparison approach to arrive at the fair market value when there is a ready market for such property. When no ready market exists, the appraiser shall next determine a basic cost approach value. When the appraiser determines that the basic cost approach value does not adequately reflect the physical deterioration, functional or economic obsolescence, or otherwise is not representative of fair market value, they shall apply the approach or combination of approaches to value that, in their judgment, results in the best estimate of fair market value. All adjustments to the basic cost approach shall be documented to the board of tax assessors.

3. Rounding. The appraisal staff may express the final fair market value estimate to the board of tax assessors in numbers that are rounded to the nearest hundred dollars.

(b) Special procedures. The appraisal staff shall observe the procedures in this Subparagraph when appraising inventory and construction in process.

1. Valuation of inventory. When appraising inventory, the appraisal staff shall consider the value of inventory to consist of all the charges incurred from its original state as raw material to its final resting place for ultimate consumption, including such items as freight and other overhead charges, with the exception of the cost of the final sale. The appraisal staff shall also consider factors contributing to any loss of value including, but not limited to, obsolescence, shrinkage, theft and damage.

2. Construction in progress. Property owners who are constructing or installing a large piece or line of production equipment may be required by generally accepted accounting principles to accrue the total costs associated with such equipment in a holding account until the construction or installation is complete and the equipment is ready for production, at which time, the property owner is permitted by such principles to post the total cost to a fixed asset account, taking appropriate depreciation. If such holding account is maintained by the property owner, the appraisal staff shall consider the total cost reported in the property owner's holding account when appraising such property. Construction in progress shall be appraised in the same manner as other similar personal property taking into account that there may be little or no physical deterioration on such property and that the fair market value may be diminished due to the incomplete state of construction. If comparable sales information of personal property under construction is generally not available and there is no other specific evidence to measure the probable loss of value if the property is sold in an incomplete state of construction, the appraisal staff may multiply the identified total cost of construction by a uniform market risk factor of .75.

3. Overhauls. When appraising machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall consider the cost of all expenditures, both direct and indirect, relating to any efforts to overhaul an asset to modernize, rebuild, or otherwise extend the useful life of such asset. The following procedure is to be used by the appraisal staff to estimate the value of an overhauled asset: An adjustment to the original cost of the asset is made to reflect the cost of the components that have been replaced. The cost of the overhaul is divided by an index factor representing the accumulated inflation or deflation from the year of acquisition of the asset on which the overhaul was performed to the year of the overhaul. This amount is then subtracted from the original cost of the asset being overhauled. The remainder is then multiplied by the composite conversion factor for the year of the original acquisition as specified in Rule 560-11-10-.08(5)(f)(4)(iii) of this section. The current year's composite conversion factor is then applied to the cost of the overhaul, and these two figures are combined to represent the estimate of value for the overhauled asset.

(c) Level of trade. The appraisal staff shall recognize three distinct levels of trade: the manufacturing level, the wholesale level, and the retail level. The appraiser shall take into account the incremental costs that are added to a product as it advances from one level to another that may increase its value as a final product. The appraisal staff shall value the property at its level of trade.

(d) Ready markets. When the appraiser lacks sufficient evidence to demonstrate the existence of a ready market, he or she shall consider any evidence submitted by the property owner demonstrating that a ready market is available. When the property owner cannot prove the existence of a reliable ready market, the appraiser may use other valuation approaches as authorized by law and Rule 560-11-10-.08(5).

1. Liquidation sales. The appraisal staff should recognize that those liquidation sales that do not represent the way personal property is normally bought and sold may not be representative of a ready market. For such sales, the appraisal staff should consider the structure of the sale, its participants, the purchasers, and other salient facts surrounding the sale. After considering this information, the appraisal staff may disregard a sale in its entirety, adjust it to the appropriate level of trade, or accept it at face value.

(e) Sales comparison approach. The sales comparison approach uses the sales of comparable properties to estimate the value of the subject property being appraised.

1. Widely used pricing guides. The appraisal staff should make a reasonable effort to obtain and use generally accepted pricing guides that are published and widely used within the market. When using such a guide to estimate the comparative sales approach value, the appraiser shall begin with the listed retail price and then make any value adjustments as provided in the guide instructions, based on the best information available about the subject property being appraised.

2. Lesser-known pricing guides. The property owner may submit, and the appraisal staff shall consider, lesser known publications, periodicals and price lists of the specific types of personal property being returned. Such lists should be regularly consulted by buyers of the type personal property reported, and should list prices at which sellers, who regularly deal in the types of property reported, typically offer such property for sale.

(i) Validation of lesser pricing guides. In all cases where unpublished, unrecognized, or unverified sales data are submitted by the property owner, the steps the appraiser may take to validate such data include, but are not limited to, the following:

(I) Arm's length transactions. as defined in OCGA 48-5-2(.1): " Arm's length, bona fide sale' means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, including but not limited to a distress sale, short sale, bank sale, or sale at public auction." Transactions where the lien holder receives or repossesses the property, and deed under power of sale transactions are not to be applied as an arm's length transaction.

(II) Representativeness. Verify that the sales data submitted is either all-inclusive or has been randomly selected, so as to be unbiased and fairly represent the market for the personal property being appraised. This may be accomplished by contacting known dealers of the subject personal property to determine whether other significant market data exists that supports the data submitted by the property owner.

(III) Financing. Adjust the sale price of the subject property for non-conventional financing.

(IV) Time of sale. Adjust the sale price of the subject property for the date of sale in order to estimate the value as of the January 1 assessment date.

(V) Discounts. Adjust the sale price to remove trade and cash discounts.

(VI) Comparability. Adjust the sale price of the subject property for characteristics of the subject not found in the sales to which it is being compared, such as condition, use, and extra or missing features.

3. Other factors. To finalize the sales comparison approach, the appraiser shall consider any other factors, appropriate to the approach, which may be affecting the value. When the comparative sales approach is used as the basis for the appraisal of personal property, the appraiser shall not make further adjustments



to the value to reflect economic obsolescence, functional obsolescence, or inflation.

(f) Cost approach. The cost approach arrives at an estimate of value by taking the replacement or reproduction cost of the personal property and then reducing this cost to allow for physical deterioration, functional and economic obsolescence.

1. General procedure. In applying the cost approach to personal property during a review or audit of a return, the appraiser shall identify the year acquired, and total acquisition costs, including installation, freight, taxes, and fees. The acquisition costs shall then be adjusted for inflation and deflation and then depreciated as appropriate to reflect current market values.

2. Book value. The appraiser should recognize that the appraisal and accounting practices for depreciating personal property might differ. Accounting practices provide for recovery of the cost of an asset, whereas appraisal practices strive to estimate the fair market value related to the current market. The appraiser should consider depreciation in the forms of physical deterioration, functional obsolescence, and economic obsolescence, which may not necessarily be reflected in the book value. The appraiser should consider that accounting practices of property owners might also differ.

3. Valuation as a whole. The appraiser may arrange the individual items of personal property into groups with similar valuation characteristics and value such group as a whole when the itemized appraisals of each item of personal property will not add substantially to the accuracy of the determination of the cost approach value.

4. Basic cost approach. The appraisal staff shall determine the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures using the following uniform four-step valuation procedures: Determine the original cost new of the item of personal property to the property owner; determine the uniform economic life group for the item of personal property; and multiply the original cost new times the uniform composite conversion factor appropriate for the economic life group and actual age of the item of personal property. Then determine a salvage value of any item of personal property when it is taken out of use at the end of its expected economic life.

(i) Original cost new. The appraisal staff shall determine the original cost new of the item of machinery, equipment, furniture, personal fixtures, and trade fixtures. Any real improvements to the real property, including real fixtures that had to be installed for the proper operation of the property, shall be included in the appraisal of the real property and not included in the basic cost approach value of the personal property. Those portions of transportation costs and installation costs that do not represent normal and customary costs for the type personal property being appraised shall be excluded from the original cost new when determining the basic cost approach value.

(ii) Economic life groups. When determining the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall separate the individual items of property into four economic life groupings that most reasonably reflect the normal economic life of such property as specified in this subparagraph. The appraiser shall use Table B-1 and B-2 of Publication 946 of the U.S. Treasury Department Internal Revenue Service, as revised in 1998, to classify the individual asset into the appropriate economic life group. For property that does not appear in such publication, the appraisal staff may determine the appropriate economic life group based on the best information available, including, but not limited to, the property owner's history of purchases and disposals.

(I) Group I. The appraisal staff shall place into Group I any assets that have a typical economic life between five and seven years.

(II) Group II. The appraisal staff shall place into Group II any assets that have a typical economic life between eight and twelve years.

(III) Group III. The appraisal staff shall place into Group III any assets that have a typical economic life of thirteen years or more.

(IV) Group IV. The appraisal staff shall place into Group IV any assets that have a typical economic life of

four years or less. The appraisal staff shall also place into Group IV those assets classified as Asset Class 00.12 in Publication 946 of the U.S. Treasury Internal Revenue Service, Table B-1, as revised in 1998.

(iii) Composite conversion factors. The appraisal staff shall, in accordance with this Rule, use the composite conversion factors as provided in this subparagraph and apply the appropriate factor to the original cost new of personal property to arrive at the basic cost approach value. The last composite conversion factor in each economic life group shall not be trended and shall represent the residual value.

(I) Group I composite conversion factors. The following composite conversion factors shall be applied to Group I assets to arrive at the basic cost approach value for years one through seven: Y1-.87, Y2-.74, Y3-.58, Y4-.43, Y5-.32, Y6-.26, Y7-.21. Thereafter the residual composite conversion factor shall be .20.

(II) Group II composite conversion factors. The following composite conversion factors shall be applied to Group II assets to arrive at the basic cost approach value for years one through eleven: Y1-.92, Y2-.85, Y3-.78, Y4-.70, Y5-.63, Y6-.54, Y7-.44, Y8-.34, Y9-.28, Y10-.25, Y11-.25. Thereafter the residual composite conversion factor shall be .20.

(III) Group III composite conversion factors. The following composite conversion factors shall be applied to Group III assets to arrive at the basic cost approach value for years one through sixteen: Y1-.95, Y2-.91, Y3-.87, Y4-.82, Y5-.79, Y6-.75, Y7-.70, Y8-.63, Y9-.57, Y10-.52, Y11-.47, Y12-.41, Y13-.35, Y14-.31, Y15-.29, Y16-.28. Thereafter the residual composite conversion factor shall be .20.

(IV) Group IV composite conversion factors. The following composite conversion factors shall be applied to Group IV assets to arrive at the basic cost approach value for years one through three: Y1-.67, Y2-.54, Y3-.31. Thereafter the residual composite conversion factor shall be .10.

(iv) Basic cost approach value. The basic cost approach value shall be determined by multiplying the composite conversion factor times the original cost new of operating machinery, equipment, furniture, personal fixtures, and trade fixtures.

(v) Salvage value. Once personal property is taken out of service at or after the end of its typical economic life, it shall be considered salvage until disposed of and the appraiser shall determine a basic cost approach value by taking ten percent of the original cost new of such property. The basic cost approach value for property withdrawn from active use but retained as backup equipment shall be one-half the basic cost approach value otherwise applicable for such property.

5. Further depreciation to basic cost approach value.

(i) Physical deterioration. The appraiser shall consider any evidence presented by the property owner demonstrating physical deterioration that is unusual for the type of personal property being appraised.

(ii) Functional obsolescence. The appraisal staff shall consider any evidence presented by the property owner demonstrating functional obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of functional obsolescence is to trend the original cost new for inflation to arrive at the reproduction cost new, and then deduct the cost of a newer replacement model with similar or improved functionality.

(iii) Economic obsolescence. The appraisal staff shall consider any evidence presented by the property owner demonstrating economic obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of economic obsolescence is to capitalize the difference between the economic rent of an item of personal property before and after the occurrence of the adverse economic influence.

(g) Income approach. The income approach to value estimates the value of personal property by determining the current value of the projected income stream. This approach is most applicable to machinery, equipment, furniture, personal fixtures, and trade fixtures. The approach should only consider the income directly attributable to the personal property being valued and not the income attributable to the real or intangible personal property forming the same business. The appraisal staff may use one of the following methods when using the income approach for the appraisal of applicable personal property:

1. Straight-line capitalization method. The straight-line capitalization method estimates the income approach value of personal property by computing the investment necessary to produce the net income attributable to the personal property. In essence, it is determined by first computing the potential gross income for a subject property by taking the monthly rent, when that is the rental basis, and multiplying that total by twelve months. The potential gross income is then adjusted to a net operating income by subtracting any expenses that legitimately represent the costs necessary for production of that income. The net operating income will represent the amount of revenue left after operating expenses that is available to return the investment, pay property tax on the property, and return a profit to the owner.

(i) Income and expense analysis. While complete data is not required on each individual property, there must be sufficient data to develop typical unit rents, typical collection loss ratios, and typical expense ratios for various type properties. Income and expense figures used in the income approach must reflect current market conditions and typical management. Actual figures may be used when they meet this criterion. When actual figures are not available or appear to be unrepresentative, typical figures should be used. Income and expense analysis builds upon the following important components: typical unit rent, potential gross rent, collection loss, typical gross income, typical expenses, and typical net income. Excluded are expenses such as depreciation charges, debt service, income taxes, and business expenses not associated with the property.

(ii) Capitalization. Capitalization involves the conversion of typical net income into an estimate of value. The estimated income is divided by the capitalization rate to arrive the estimated income approach value. The capitalization rate consists of three components. The discount rate, the recapture rate, and the effective tax rate. The discount rate represents the amount of return a prudent investor could reasonably expect on an investment in the subject property. The recapture rate represents the return of the potential investment. The effective tax rate represents the portion of the income stream allocated to pay resulting ad valorem taxes on the property.

(I) Discount rate. The appraiser should calculate the appropriate discount rate through a method known as the band of investment. The band of investment represents the weighted-average cost of the money needed to purchase the applicable personal property. The appraiser determines the percentage of the cost typically borrowed and multiplies this percentage times the typical cost of borrowing. The appraiser then determines the remaining percentage of the cost typically contributed by an investor and multiplies this percentage times the expected rate of return to the investor. An analysis of similar properties might reveal the discount rate typical for a property of a given type.

(II) Recapture rate. The appraiser should calculate the recapture rate by dividing one by the number of years remaining in the economic life of the subject property. The resulting percentage is the current year's recapture rate.

(III) Effective tax rate. The appraiser should calculate the effective tax rate by multiplying the forty percent assessment level times the tax rate in the jurisdiction in which the subject property is located. The effective tax rate is included in the capitalization rate because market value is yet unknown and property taxes can be addressed as a percentage of that unknown value in lieu of their inclusion as an expense in calculation of net annual income.

2. Direct sales analysis method. The direct sales analysis method estimates the income approach value of personal property by computing the relationship between income and sales data. This relationship is expressed as a factor. The method represents a blend of the sales comparison and income approaches because it involves application of income data in conjunction with sales data. Sales of items similar to the subject property are divided by the gross rents, for which they or identical properties are leased, to develop gross income multipliers. A gross income multiplier is selected as typical for the market, and multiplied against the gross income of the subject, or that of an identical property, to result in an estimated value. Limiting the income to rental income only produces a gross rental multiplier.

(i) Gross income or rent multiplier. The appraiser should compute the gross income multiplier by dividing the typical gross income on the personal property by the typical sales price of the personal property. The appraiser should compute the gross rent multiplier by dividing the typical gross rent on the personal property by the typical sales price of the personal property. The appraiser must identify the specific item of personal property to be valued and determine the typical gross income as gross income is determined in Rule 560-11-10-.08(5)(g)(1)(i). The item is then stratified according to its typical use. Typical use strata may include, but are not limited to, office equipment, light-duty manufacturing equipment, heavy-duty manufacturing equipment, retail sales equipment, furniture, personal fixtures, trade fixtures, restaurant equipment, or any other stratum the appraiser believes will have similar sensitivity to market fluctuations as the subject item. The appraiser may develop an individual multiplier on a single item of personal property when there are sufficient sales and rent information. This multiplier may then be used for similar items of personal property for which there may be limited sales and rent information. The income approach value estimate is computed by multiplying the estimated gross income times the gross income multiplier or the gross rent times the gross rent multiplier.

(l) Adjustments. Income data and sales prices used in the development of income multipliers should be reasonably current. Older sales may be matched against recent income figures when the sales are adjusted for time. Sales must also be adjusted for financing, condition, optional equipment, and level-of-trade.

(6) Final estimate of fair market value. After completing all calculations, considering the information supplied by the property owner, and considering the reliability of sales, cost, income and expense information, the appraiser will correlate any values indicated by those approaches to value that are deemed to have been appropriate for the subject property and form their opinion of the fair market value. The appraisal staff shall present the resulting proposed assessment, along with all supporting documentation, to the board of tax assessors for an assessment to be made by that board.

Authority: O.C.G.A. Secs. 48-2-12, 48-5-2, 48-5-5, 48-5-10, 48-5-11, 48-5-12, 48-5-16, 48-5-18, 48-5-20, 48-5-105, 48-5-105.1, 48-5-269, 48-5-269.1, 48-5-299, 48-5-300, 48-5-314, 50-17-29.

Authority O.C.G.A. Secs. 48-2-12, 48-5-2, 48-5-5, 48-5-10, 48-5-11, 48-5-12, 48-5-16, 48-5-18, 48-5-20, 48-5-105, 48-5-105.1, 48-5-264, 48-5-269, 48-5-269.1, 48-5-291, 48-5-292, 48-5-295, 48-5-299, 48-5-300, 48-5-314, 50-17-29.

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### ***560-11-10-.09 Real Property Appraisal.***

(1) Real property - Introduction. The appraisal staff shall follow the provisions of this Rule when performing their appraisals of real property. Irrespective of the valuation approach used, the result of any appraisal of real property by the appraisal staff shall conform to the definition of fair market value.

(a) General valuation procedures. The appraisal staff shall consider the sales comparison, cost, and income approaches in the appraisal of real property. The degree of dependence on any one approach will change with the availability of reliable data and type of property being appraised. The appraisal staff may express the final fair market value estimate to the board of tax assessors in numbers that are rounded to the nearest hundred dollars.

(b) Real property identification. The appraisal staff shall identify real property, determine its taxability, and classify it for addition to the county ad valorem tax digest in accordance with this subparagraph.

1. Distinguishing real property. The appraiser shall be required to correctly identify real property and distin-

guish it from personal property where the proper valuation procedures, as set forth in this Rule, may be followed.

(i) Real property examples. As used in this Rule, real property shall be that property defined in Rule 560-11-10-.02(1)(w). This Rule shall provide illustrations to assist the appraiser in the proper interpretation of the definition. However, these illustrations should not be construed in a manner that conflicts with the definition. Examples of real property are tangible items such as land, all improvements attached to land, real fixtures, and leasehold interests in real property.

(ii) Identification of real fixtures. When property the appraiser believes to be a real fixture has not been returned by the landlord, the appraiser shall require the landlord to produce their lease agreement and shall carefully review the agreement before making their recommendation to the board of tax assessors regarding the classification and taxability of the property in question. The appraiser shall inform the landlord that they may redact, at their option, any information relating to the payments that are required by the lease agreement.

2. Assessment date. Code section 48-5-10 provides that each return by a property owner shall be for property held and subject to taxation on January 1 of the tax year. The appraisal staff shall base their decisions regarding the taxability, uniform assessment, and valuation of real property on the circumstances of such property on January 1 of the tax year for which the assessment is being prepared. When real property is transferred to a new owner or converted to a new use, the circumstances of such property on January 1 shall nevertheless be considered as controlling.

3. Classification. The appraisal staff shall classify real property as provided in Rule 560-11-2-.21 for inclusion in the county tax digest. Real property may be further stratified and categorized as appropriate for aggregating comparable properties for an appraisal.

(2) Return of real property. In accordance with Code section 48-5-299 (a), the appraisal staff, on behalf of the board of tax assessors, shall investigate diligently and inquire into the property owned in the county, for the purpose of ascertaining what real and tangible personal property is subject to taxation in the county and to require the proper return of the property for taxation. The appraisal staff shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where taxes are assessed against the owner of property, the appraisal staff shall prepare a proposed assessment on the property according to the best information obtainable.

(a) Information sources. The appraisal staff should develop and maintain information sources for the discovery of unreturned real property.

(b) Returns. The county appraisal staff shall review the returns in accordance with policies and procedures set by the county board of tax assessors consistent with Georgia law and this Rule. Each year, after the deadline for filing returns, the appraisal staff shall secure the returns from the official responsible for receiving returns on or before the tenth day following such deadline.

1. New returns. Department of Revenue form PT-50R is authorized for use by property owners when returning real property. No other form shall be provided for this purpose to property owners by the county official responsible for receiving returns unless previously approved in writing by the Revenue Commissioner.

2. Automatic returns. In accordance with Code section 48-5-20, the appraisal staff shall deem any property owner that does not file a return by the deadline as returning for taxation the same property as was returned or deemed to have been returned in the preceding tax year at the same valuation as the property was finally determined to be subject to taxation in the preceding year.

3. Real estate transfer declaration forms. The Department of Revenue has established Form PT-61 for owners to declare the real estate transfer tax due when property is transferred from one owner to another. The appraisal staff shall review all PT-61 forms filed with the clerk of superior court to discover new owners of

property and to ascertain if their property has been returned for taxation. When a property owner acquires real property by transfer in the preceding tax year and does not file a return on such property for the current tax year, the appraisal staff shall follow the procedures of this subparagraph to determine if the newly acquired property has been properly returned for taxation.

(i) When real estate transfer tax declaration form properly completed. For the purposes of subparagraph (2)(b)(3) of this Rule, the PT-61 form shall be deemed properly completed when all applicable information required by the instructions on the form has been entered on the form, it has been signed by the new owner and filed in quadruplicate with the clerk of superior court. A PT-61 form shall not be deemed properly completed when the appraisal staff determines any of the required information on the form is omitted, false, or misleading.

(ii) When transferred property deemed returned. When a property owner acquires by transfer real property that has not been subdivided from the preceding tax year, and such owner properly completes a real estate transfer tax PT-61 form and pays any real estate transfer tax that may be due as provided in Article 1 of Chapter 6 of Title 48 of the Code, the appraisal staff shall deem the owner as having returned the property acquired by transfer at the same value finally determined to be applicable to such property for the preceding year.

(iii) When transferred property deemed unreturned. The appraisal staff shall not deem as returned any property:

(I) That is an improvement made since January 1 of the preceding tax year to property that has been transferred;

(II) That has been transferred and for which the real estate transfer tax PT-61 form has not been properly completed;

(III) That has been transferred and for which the real estate transfer tax PT-61 form has not been filed with the clerk of superior court on or before the deadline for returning property in the year following the year the property is transferred; and

(IV) That has been transferred and for which the real estate transfer tax has not been paid.

(c) Reassessments. The appraisal staff may not recommend to the board of tax assessors a reassessment of the same real property for which a final assessment has already been made by the board. For the purposes of this subsection, the appraisal staff shall presume that a final assessment on real property includes both the land and any improvements to the land.

1. Recently appealed real property. The appraisal staff shall observe the provisions of Code section 48-5-299 (c) and this subparagraph before recommending a change to the assessment of real property that was the subject of an appeal on either the immediately preceding tax digest or the next immediately preceding tax digest. Such property shall be designated in the appraisal staff's records as recently appealed property for the two tax years following the year of the appeal. This subparagraph shall not apply when such property has been returned by the taxpayer at a value different from the appeal-established value.

(i) Changing assessment of recently appealed real property. In the two tax years following an appeal, the appraisal staff may not recommend a change of assessment for the sole purpose of changing the valuation established or decision rendered in an appeal to the board of equalization or superior court. Rather a new appraisal must be accompanied by an on-site inspection to determine the occurrence of any changes to the property, errors in the appraisal staff's records or changes in the market forces affecting the value of the property since the appeal was heard that established the value of the property. The appraisal staff may recommend, consistent with the provisions of this subparagraph, to the board of tax assessors a change of assessment on the property that was the subject of the appeal when an appraisal based on current market conditions indicates the value has changed substantially from the value established by the recent appeal. Such appraisal shall be accompanied by a written statement attesting to the fact that an appraiser has conducted the required on-site inspection of the subject property and setting forth the reasons why the ap-

praiser believes that a change of assessment is authorized under Code section 48-5-299 (c) and this subparagraph. The written statement shall attest to at least one of the following: construction or renovation of the subject property has occurred since January 1 of the appeal year; an error has been discovered in the property records regarding the description or characteristics of the subject property; or extrinsic physical factors relative to the subject property have changed since January 1 of the appeal year that have substantially affected the appeal-established value of such real property. Such extrinsic physical factors may include, but are not limited to, construction of highways or other public improvements in close proximity to the subject property; development, subdivision or improvement of adjacent property, or natural or man-made changes to surrounding properties by disaster or otherwise.

(d) Collecting and maintaining property information. The appraisal staff shall keep a record of information relevant to the ownership and valuation of all real property in the county and shall follow the procedures in this subparagraph when collecting and maintaining such real property data.

1. Description of property information. The type of information the appraisal staff shall maintain includes, but is not limited to, property ownership, location, size, use, physical characteristics, sales prices, construction costs, rents, and operating expenses to the extent such information is available. The appraisal staff shall, consistent with this subparagraph, recommend to the board of tax assessors a uniform policy regarding the information to be included in their records.

(i) Geographic information. Cadastral maps or computerized geographic information systems are to be maintained by the appraisal staff for all real property located in the county. In the event the county governing authority has established a separate mapping office and the maps maintained by such office conform with the requirements of this subparagraph, the appraisal staff may provide relevant information to such mapping office and still be in compliance with this subparagraph. Minimum mapping specifications shall include the following: all streets and roads plotted and identified; property lines delineated for each real property parcel; unique parcel identifier for each parcel; and physical dimensions or acreage estimate for each parcel. The appraisal staff shall use the parcel identifiers to link the real property records to the maps. The appraisal staff shall notify the Revenue Commissioner of all proposed changes to existing parcel-numbering systems before implementing such changes.

(ii) Sales information. The appraisal staff shall maintain a record of all sales of real property that are available and occur within the county. The appraisal staff should also familiarize themselves with overall market trends within their immediate geographical area of the state. They should collect and analyze sales data from other jurisdictions having market and usage conditions similar to their county for consideration when insufficient sales exist in the county to evaluate a property type, especially large acreage tracts. The Real Estate Transfer Tax document, Department of Revenue Form PT-61, shall be a primary record source. However, the appraisal staff may also review deeds of transfer and security deeds recorded in the Office of the Superior Court Clerk, and probated wills recorded in the Office of the Probate Judge to maintain a record of relevant information relating to the sale or transfer of real property. Records required to be maintained shall include at a minimum the following information: map and parcel identifier; sale date; sale price; buyer's name; seller's name; deed book and page number; vacant or improved; number of acres or other measure of the land; representativeness of sale using the confirming criteria provided in Rule 560-11-2-.56 (1)(d); any income and expense information reasonably available from public records; property classification as provided in Rule 560-11-2-.21, and; when available, the appraised value for the tax year immediately following the year in which the sale occurred

(iii) Property characteristics. The appraisal staff shall maintain a record of real property characteristics. This record shall include, but not be limited to, sufficient property characteristics to classify and value the property. In addition, the following criteria may be considered when determining which characteristics should be gathered and maintained: factors that influence the market in the location being considered; requirements of the valuation approach being employed; digest classification and stratification; requirements of

other governmental and private users; and marginal benefits and costs of collecting and maintaining each property characteristic.

(iv) Land and location characteristics. The appraisal staff shall maintain a record of the land and location characteristics. The record should include, but not be limited to, location, frontage, width, depth, shape, size, topography, landscaping, slope, view, drainage, hydrology, off-site improvements, soil condition, soil productivity, zoning, absorption, nuisances, use, covenants, neighborhood, corner influence, proximity to recreational water, and quality of access.

(v) Improvement characteristics. The appraisal staff shall maintain a record of the characteristics of the improvements to land. The record shall include, but not be limited to, the location, size, actual use, design, construction quality, construction materials, age and observed condition.

2. Collecting property information. The appraisal staff shall, consistent with the policies of the board of tax assessors and this subparagraph, physically inspect properties when necessary to gather the information required by Rule 560-11-10-.09(2)(d).

(i) Field inspections. The appraisal staff shall develop and present to the board of tax assessors for approval procedures that provide for periodic field inspections to identify properties and ensure that property characteristics information is complete and accurate. The procedures shall include guidelines for the physical inspection of the property by either appraisers or specially trained data collectors. The format should be designed for standardization, consistency, objectivity, completeness, easy use in the field, and should facilitate later entry into a computer assisted mass appraisal system, when one is used. When interior information is required, the procedures shall include guidelines on how and when to seek access to the property along with alternative procedures when such access is not permitted or feasible.

3. Maintaining property characteristics information. The appraisal staff shall systematically update the property characteristics information in response to changes brought about by new construction, new parcels, remodeling, demolition, and destruction. The appraisal staff shall physically measure and update their records to reflect all such changes to real properties in the county.

4. Records retention schedules. The appraisal staff shall develop, in accordance with the provisions of Code section 50-18-99, records retention schedules for each series of documents maintained in their office and have such schedules approved by the board of tax assessors before submitting the schedules to the State Records Committee for official approval pursuant to Code section 50-18-92.

(i) Building permits. In counties that issue building permits, no appraisal shall be based solely on declarations of proposed construction cost made by the person obtaining such building permits.

(ii) Aerial photographs. New aerial photographs should be compared to previous aerial photographs, if such photographs exist, to discover new or previously unrecorded construction.

(iii) Field review frequency. All real property parcels should be physically reviewed at least once every three years to ascertain that property information records are current.

(3) Land valuation. The appraisal staff shall estimate land values by use of the sales comparison or income approach to value as provided in this subparagraph giving preference to the sales comparison approach when adequate land sales are available. The appraisal staff shall identify and describe the property, collect site-specific information, make a study of trends and factors influencing value and obtain a physical measurement of the site. Once the subject is analyzed, the appraisal staff shall classify the land for valuation. Once land values have been estimated, such appraisals should be regularly reviewed and updated.

(a) Land analysis and stratification. The appraisal staff shall appraise land separately from the improvements both to consider the trends and factors affecting each and to arrive at a separate assessment for the digest. In no event, however, may the separate appraisals of the land and improvements exceed the fair market value of the land and improvements when considered as a whole. For appraisal purposes, land shall be separated into different categories based on its use and sales within the market.

1. Site analysis. The appraisal staff shall utilize the trends and factors affecting the value of the subject



property, such as its accessibility and desirability. The existing zoning, existing use, existing covenants and use restrictions in the deed and in law shall be applied. The other factors the appraiser shall apply include, but are not limited to, environmental, economic, governmental, and social factors. Site-specific information that may be considered includes, but is not limited to, location, frontage, width, depth, shape, size, topography, landscaping, slope, view, drainage, hydrology, off-site improvements, soil condition, soil productivity, zoning, absorption, nuisances, use, covenants, neighborhood, corner influence, proximity to recreational water, and the quality of access.

2. Market research and verification. The appraisal staff shall build and maintain an up-to-date file system of qualified sales as provided in Rule 560-11-10-.09(2)(d)(1)(ii). Other preferred information to be considered is the motivations of the buyer and seller, as obtained from actual interviews of the parties to the sales. Adjustments to the sales to be considered by the appraiser include, but are not limited to, time of sale; location; physical characteristics; partial interest not conveyed; trades or exchanges included; personal property included; leases assumed; incomplete or unbuilt community property; atypical financing; existing covenants; deed restrictions; environmental, economic, governmental and social factors affecting the sale property and the subject parcel. These adjusted qualified sales may then be used to appraise the subject property.

(b) Acreage tract valuation. The appraisal staff shall determine the small acreage break point to differentiate between small acreage tracts and large acreage tracts and develop or acquire schedules for the valuation of each. When this small acreage break point cannot easily be determined, the appraisal staff shall recommend to the board of tax assessors a reasonable break point of not less than five acres nor more than twenty-five acres. The base land schedules should be applicable to all land types in a county. The documentation prepared by the appraisal staff should clearly demonstrate how the land schedule is applied and explain its limitations.

1. Small acreage tract valuation schedule. After the appraisal staff has performed the site analysis, as provided in Rule 560-11-10-.09(3)(a)(1), they shall analyze the market to identify groups of comparable properties that may be combined in the valuation process, as provided in Rule 560-11-10-.09(4)(b)(3). The appraisal staff shall then analyze the sales to establish a representative base price per acre, and adjustment factors for reflecting value added by the characteristics discovered in the site analysis. Using such base value and the adjustment factors, the appraisal staff shall develop the small acreage schedule for all acreage levels through the small acreage break point.

2. Large acreage tract valuation schedule. After the appraisal staff has performed the site analysis, as provided in Rule 560-11-10-.09(3)(a)(1), they shall analyze the market to identify groups of comparable properties that may be combined in the valuation process, as provided in Rule 560-11-10-.09(4)(b)(3). The appraisal staff shall then analyze the sales to establish a representative benchmark price per acre, and adjustment values for reflecting incremental value associated with different productivity levels, sizes, and locations, as discovered in the site analysis. Using such benchmark values and adjustment values, the appraisal staff shall develop the large acreage schedule for all acreage levels above the small acreage break point.

(i) Land productivity values. The appraisal staff should analyze sales of large acreage tracts to extract the value of all improvements, crop allotments, standing timber, and any other factors that influence the value above the base land value. The appraisal staff should then stratify the sales into two categories of open land and woodland. The base land values should be further stratified into up to nine productivity grades for each category of land, with grade one being the best, using the productivity classifications of the United States Department of Agriculture Natural Resources Conservation Service, where available. Where soil productivity information is not available, the appraisal staff may consult with the local United States Department of Agriculture Natural Resources Conservation Service Supervisor. Alternately, the appraisal staff may use any acceptable means by which to determine soil productivity grades including, but not limited to,

aerial and infrared photography, historical soil productivity information, and present use. The appraisal staff should analyze sales within the strata and determine benchmark values for as many productivity grades as possible. The missing strata values are then determined by extrapolating between grades. In the absence of sufficient benchmark values, a system of productivity factors may be developed from crop or timber production based on ratings provided by the United States Department of Agriculture Natural Resources Conservation Service.

(ii) Pond values. The appraisal staff should analyze sales of large acreage tracts containing ponds to extract the value of ponds. The appraisal staff should develop up to three grades of ponds based upon the quality of construction with regard to the dam, the amount of tree clearing within the pond body, and the nature of the waterline around the pond.

(iii) Location and size adjustments. The appraisal staff should plot sales on an index map of the county where trends in sales prices based on size and location may be analyzed. From this analysis, the appraisal staff should develop adjustments for each homogeneous market area, which are based on a tract's location within the county. Within each identified homogeneous market area, sales should also be analyzed to develop adjustment factors for ranges of tract sizes where the market reflects a relationship between the value per acre and the number of acres in a tract. Such factors should be calculated to the fourth decimal place and should extend from the small acreage break point to the tract acreage point where size no longer appears to have a significant impact on the price paid per acre. The appraiser should select an acreage point between these two points that represents a typical agricultural use tract size and assign it an index factor value of 1.0000. Such adjustments should be supported by clearly identifiable changes in selling prices per acre. Finally, large acreage tracts that have sold within the most recent 24 months, unless no such sale has occurred in which case the look back period should be 48 months, should be appraised using the schedule of adjustment factors and a sales ratio study performed to test for uniformity and conformity of the schedule to Rule 560-11-2-.56, and if the schedule thus conforms, the adjustments shall then be applied to all other large acreage tracts that are within the scope of the schedule being tested.

(iv) Adjustments for absorption When insufficient large tract sales are available to create a reliable schedule of factors, the appraisal staff may use comparable sales to develop values for the size tracts for which comparables exist, and then adjust these values for larger tracts by (1) estimating a rate of absorption for the smaller tracts for which data exists, (2) dividing the large tract into smaller, marketable sections, (3) developing a sales schedule with estimated income by year reflecting the absorption rate and the value characteristics of each of the smaller tracts, (4) discounting the income schedule to the present using an appropriate discount rate, and (5) summing the resulting values to arrive at an estimated value for the property.

(v) Standing Timber Value Extraction. When determining the market value of land underlying standing timber, where such standing timber is taxed in accordance with Code section 48-5-7.5, the appraiser shall not rely exclusively on the sales prices of such land that has recently had the timber harvested. Rather he or she shall also consider sales of land with standing timber after the value of such standing timber has been determined in accordance with this subparagraph and deducted from the selling price.

(l) Determine timber value from buyer and seller. For all types of timber, the value of the standing timber on recently sold land should be determined from reliable information from the buyer and seller clearly segregating the value of the standing timber from the underlying land. In the absence of such information, the appraiser may use one of the following methods to determine the value of the standing timber if in his or her judgment the results are reasonably consistent with other sales where buyer and seller information is known:

I. Calculate value of merchantable timber. For all types of merchantable timber, the value of the standing timber may be determined by multiplying estimated volumes by product class, such as softwood and hardwood pulpwood, chip and saw logs, saw timber, poles, posts, and fuel wood, of timber on the property by prices for each product class as obtained from the table of weighted average prices paid for harvested tim-

ber applicable to the year during which the sale occurred and prepared by the Commissioner pursuant to paragraph (g) of Code section 48-5-7.5. For the purposes of this subparagraph, merchantable timber shall include stands that have been in production for more than fifteen years. Estimated volumes by product class may be obtained by one of the following methods: reliable information from the buyer or seller or from specially trained data collectors who have estimated volumes from a visual on-site inspection or from an aerial survey.

II. Calculate value of pre-merchantable planted pine timber. For pre-merchantable planted pine timber, the value of the standing timber may be determined by estimating the value of the timber at the age of merchantability and then prorating this value to the actual age of the pre-merchantable stand. The appraiser may arrive at this estimate using the following steps:

A. For each applicable timber product class, multiply the estimated tons of timber volume yield per acre for each product class at the age of merchantability times the locally prevailing timber price per ton of such product classes. Sum the individual results of the timber product class calculations into a single result.

(A) In the absence of reliable locally prevailing timber price per ton information, the appraiser may use timber price per ton from the table of weighted average prices paid for harvested timber prepared by the Commissioner pursuant to paragraph (g) of Code section 48-5-7.5.

(B) In the absence of specific yield information to the contrary, the appraiser may estimate timber volume yields at an average yield of 52.2 tons per acre or preferably by using the land productivity classifications established by Rule 560-11-10-.09(3)(b)(2)(i) and the following tables of estimated yields of fully stocked planted timber stands at age fifteen, and then adjusting the yields according to the actual stocking density of the timber stand.

#### Loblolly Pine-Lower Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/Acre @ Age 15
1	90-101	96	139
2	85-89	87	110
3	81-84	83	98
4	80	80	90
5	75-79	77	81
6	70-74	72	69
7	60-69	65	53
8	10-59	45	19
9	0-9	0	0

#### Loblolly Pine-Lower Coastal Plain

Georgia Tax Productivity Rating	Pulpwood	Chip-n-Saw
1	125	14
2	99	11
3	88	10
4	81	9
5	73	83
6	66	3
7	51	2
8	19	0

Loblolly Pine-Lower Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/Acre @ Age 15
9	-	-	

Loblolly Pine-Upper Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/Acre @ Age 15
1	90-101	96	129
2	85-89	87	103
3	81-84	83	93
4	80	80	85
5	75-79	77	78
6	70-74	72	67
7	60-69	65	53
8	10-59	45	18
9	0-9	0	0

Loblolly Pine-Upper Coastal Plain

Georgia Tax Productivity Rating	Pulpwood	Chip-n-Saw
1	116	13
2	93	10
3	84	9
4	77	8
5	70	8
6	63	4
7	49	3
8	18	0
9	-	-

Loblolly Pine-Piedmont

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/Acre @ Age 15
1	90-101	96	123
2	85-89	87	98
3	81-84	83	88
4	80	80	81
5	75-79	77	74
6	70-74	72	62
7	60-69	65	48
8	10-59	45	17
9	0-9	0	0

Loblolly Pine-Upper Coastal Plain

Georgia Tax	Pulpwood	Chip-n-Saw
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Productivity  
Rating

1	111	12
2	88	10
3	79	9
4	73	8
5	66	8
6	59	3
7	46	2
8	17	0
9	-	-

Slash Pine- Lower Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/Acre @ Age 15
1	90-101	96	155
2	85-89	87	114
3	81-84	83	98
4	80	80	87
5	75-79	77	77
6	70-74	72	61
7	60-69	65	42
8	10-59	45	11
9	0-9	0	0

Slash Pine- Lower Coastal Plain

Georgia Tax Productivity Rating	Pulpwood	Chip-n-Saw
1	139	16
2	103	11
3	88	10
4	78	9
5	69	8
6	59	3
7	58	2
8	11	0
9	-	-

Slash Pine- Upper Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/Acre @ Age 15
1	90-101	96	150
2	85-89	87	113
3	81-84	83	99
4	80	80	87
5	75-79	77	77
6	70-74	72	62

#### Loblolly Pine-Piedmont

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/Acre @ Age 15
7	60-69	65	43
8	10-59	45	12
9	0-9	0	0

#### Slash Pine- Upper Coastal Plain

Georgia Tax Productivity Rating	Pulpwood	Chip-n-Saw
1	135	15
2	102	11
3	89	10
4	78	9
5	69	8
6	59	3
7	41	2
8	12	0
9	-	-

(C) In the absence of reliable local information on typical timber product class volume yields at the age of merchantability, the appraiser may assume that ninety percent (90%) of the timber will be pulpwood and ten percent (10%) will be chip-n-saw.

B. Multiply the result in subparagraph A. by the number of acres of pre-merchantable timberland.

C. Deduct from the result in subparagraph B. the normal cost to establish a timber stand on cut over woodland, which shall be known as the base value. Normal cost may be determined from planters, local site preparation and planning contractors and other reliable sources.

D. Divide the result in subparagraph C. by the age of merchantability to determine the average annual timber growth value. In the absence of reliable local information to the contrary, the age of merchantability shall be fifteen years.

E. Multiply the result in subparagraph D. by the actual age of the standing timber to arrive at the value of the accumulated timber growth.

F. Add back the base value deducted in subparagraph C. to the result in subparagraph E. to yield the total value of the pre-merchantable standing timber.

#### III. Determine value of other pre-merchantable timber.

For types of pre-merchantable timber other than planted pine, the value of the standing timber may be determined from the best information available. In the absence of local reliable information to the contrary, the value of other pre-merchantable timber may be estimated as follows:

A. Natural stands less than five years of age should be assigned no value.

B. Natural pre-merchantable stands five years of age and older should be valued in the same manner as planted pine timber is valued, except the appraiser should make no adjustments for the base cost of establishing the timber stand; yields for natural pine stands should be estimated at fifty percent of the volume determined for a planted pine stand; and yields for hardwood stands should be estimated at forty percent of the value determined for a planted pine stand.

(c) Site valuation. The appraisal staff may use the valuation methods in this subparagraph to appraise sites that have been developed for residential, commercial or industrial use.

1. Valuation methods with sufficient sales. The appraisal staff shall use one, or a combination of more than

one, of the valuation methods in this subparagraph when sufficient sales are available to reliably support the appraisal. These methods may be used to value the land directly.

(i) Comparative unit method. To use the comparative unit method, the appraisal staff shall stratify the land sales into a stratum comparable in market area or use type to the subject parcel. The appraiser then determines a land comparison unit by which the subject parcel is normally bought and sold in the market place and converts the sales price of the comparable properties to an typical per comparison unit value, using the median measure of central tendency. Per-measurement-unit, lump sum, and percentage adjustments are then made as needed to reflect the value of subject land features that differ from the base land features. The appraiser may use one of the following five basic comparison units: front foot, square foot, acre, site or lot, and units buildable. The appraisal staff may rely upon the comparative unit method for areas where parcels vary in size but are fairly homogeneous in other aspects, as opposed to areas where the sites are similar in size but vary substantially in site characteristics. The reliability of the analysis should be verified by a calculation of the coefficient of dispersion and the price related differential. These statistical indicators should fall within the standards of Rule 560-11-2-.56 before the appraiser relies upon the selected sales to appraise the subject parcel.

(ii) Base lot method. To use the base lot method, the appraisal staff shall appraise the base parcel in each stratum using the comparative unit method, with the base lot serving as the subject parcel. Once the base-lot's appraised value is established, it is used as a benchmark to appraise other individual parcels. The appraiser may use the base-lot method when the site characteristics are generally similar. Adjustments shall be developed using paired-sales analysis or other forms of market research. Then, the appraiser shall adjust the comparables to the base lot, calculate the measure of central tendency, and select a representative base-lot appraised value. The reliability of the analysis may be verified by a calculation of the coefficient of dispersion and the price related differential. These statistical indicators should fall within the standards of Rule 560-11-2-.56 before the appraiser relies upon the selected sales to select a base-lot appraised value.

(iii) Cost-of-development method. To use the cost-of-development method, the appraisal staff shall estimate the total development costs and subtract these costs from the projected sales prices of the developed lots to indicate the appraised value for the raw land. The projected improvements must represent the most probable use of the land. Estimated costs should include the direct costs of site preparation, utility hookups, all indirect costs, and a reasonable allowance for owner profit. The appraiser may use this method to directly value land in transition from agricultural use to residential or commercial use when there are insufficient sales to apply the comparative unit or base lot methods.

2. Valuation methods with insufficient sales. When vacant land sales are limited, the appraisal staff may use alternative methods to determine residual land values. These residual land values may be used in the same way as vacant land sales in order to establish comparative unit or base lot values. The appraisal staff shall not use these methods to establish land values directly. The alternative methods that may be used are allocation, abstraction, capitalization of ground rent, and land residual capitalization.

(i) Allocation method. Using this method, the appraisal staff estimates the typical percentage of combined land and improvement value attributable to the land alone. This land percentage estimate should be based on knowledge of the market for properties of the class being appraised and the appraiser should take into consideration the site value in previous years before being improved, the land-to-improvement ratios in similar neighborhoods, and an analysis of new construction on similarly classified sites.

(ii) Abstraction method. Using this method, the appraisal staff estimates the land residual value by subtracting the depreciated replacement cost of improvements from the sale price of an improved property.

(iii) Capitalization of ground rents method. Using this method, the appraisal staff determines the market rent of the subject site, computes a net income, selects a capitalization rate, and computes the present worth of the future benefits of the subject parcel. The appraiser should not use this method when there is insufficient market information available to estimate the income potential of the subject parcel.

(iv) Land residual capitalization method. Using this method, the appraisal staff develops the annual net operating income attributable to the property and develops capitalization rates for both the land and the improvements to the land. The estimated improvement value is multiplied by the improvement capitalization rate and the result is deducted from the forecasted annual net operating annual income. The remaining income, the residual amount attributable to the land, is then capitalized, using the land capitalization rate, into a value indicator for the land. The appraiser should only use the land residual capitalization method on new income-producing improved properties either when the improvement has little or no observed depreciation of any kind and a well-supported improvement value can be developed, or when an improvement can be hypothesized and its cost and net operating income reliably estimated.

3. Special procedures. The appraisal staff shall observe the special procedures contained in this subparagraph when appraising the described property types.

(i) Transitional land. The appraisal staff shall analyze any unusual sale amount for a single parcel of land that seems to indicate a transition from one type land use to another type land use, such as from agricultural to residential or from residential to commercial and conversely. The appraisal staff should consider that a single sale might not necessarily indicate a changing market. The appraisal staff should analyze such sales to ensure that the new use is clearly indicated by a pattern of sales before qualifying and adjusting such sales for use as comparables for appraising the remaining comparable land.

(ii) Absorption rates. When appraising a new subdivision, the appraisal staff shall use discounted cash-flow analysis in conjunction with the cost-of-development method to appraise the unsold parcels when it is anticipated that the parcels will require several more years of exposure to the market to sell. The appraisal staff may consider typical holding periods, marketing, and management practices when estimating anticipated revenues and allowable expenses.

(4) Improvement valuation. Except as provided in subparagraph (a) of this subparagraph, the appraisal staff will use the following three approaches when appraising real property: the direct sales comparison approach, the cost approach, and the income approach. In determining the reliability and representativeness of each approach or combination of approaches, the appraisal staff shall consider those factors most likely to influence buyers and sellers when those buyers and sellers are determining exchange prices in the market place, and the sufficiency of available sales, cost, income and expense information to reliably quantify those factors. However, irrespective of the valuation approach used, the final results of any appraisal of real property by the appraisal staff shall in all instances comply with the definition of fair market value in Code section 48-5-2.

(a) Cost approach. The appraisal staff shall use the following three steps when applying the cost approach: Estimate the cost new of the improvements, subtract accrued depreciation, and add the value of the land.

1. Estimating cost new. In estimating the cost new of any buildings, structures, or other improvements to land, the appraisal staff shall consider the following:

(i) Types of costs. The appraisal staff shall include both direct and indirect costs that would be incurred to build and market the property, including normal overhead and profit. The approach would normally produce the replacement cost. The appraisal staff may consider the reproduction cost, and adjust for depreciation accordingly, when appraising an unusual or special-purpose property.

(I) Comparative unit method. Unless otherwise provided under Rule 560-11-10-.09(4)(a)(1)(i), the appraisal staff shall determine benchmark per-square-foot, per-cubic-foot, or other per-measurement-unit costs for base structures using cost guides or local cost information. Such benchmark per-measurement-unit costs may then be applied to the subject improvements to determine typical replacement cost new. Per-measurement-unit, lump sum, and percentage adjustments are then made as needed to reflect the value of subject improvements features that differ from the base structures. All forms of depreciation are then applied as a lump sum factor based on the age and useful life of the subject improvements.

(II) Unit-in-place method. The appraisal staff may use the unit-in-place method when making adjustments



in the comparative unit method. This method determines costs of individual construction components on a per-measurement-unit, in-place basis. The total cost of each component of the subject improvement is then found by multiplying the various per-measurement-unit costs by the number of actual measurement units installed in the subject improvement. The appraisal staff may also use this method when estimating costs for unusual or special-purpose improvements, in which case the component costs would be summed and combined with applicable indirect costs to obtain an estimate of the total replacement cost new of the subject improvements. All forms of depreciation are then applied as a lump sum factor based on the age and useful life of the subject improvements.

(III) Quantity survey method. The appraisal staff may separately itemize all various labor, material, and indirect costs when it is desirable to produce the reproduction cost new. All forms of depreciation are then applied separately based on the physical deterioration, functional obsolescence, and economic obsolescence observed by the appraiser. The appraisal staff may use this method in the development and trending of comparative unit and unit-in-place costs.

(IV) Trended original cost method. When determining the cost of structures where the comparative unit or unit-in-place methods are inapplicable, the appraisal staff may trend the original costs over time by factors obtained from a construction cost index guide. The appraisal staff shall not use this method when the original cost figures are not accurate or complete.

(ii) Sources of cost information. The appraisal staff may obtain cost information by directly collecting information from contractors, builders, developers, property owners, and other market place participants. Cost information may be obtained from firms that compile and publish construction information, with the appraisal staff supplementing or modifying such information with locally gathered cost information. The appraisal staff may obtain cost manuals specifically developed for the county by construction cost services and mass appraisal firms.

(iii) Updating costs. Cost information shall be updated by the appraisal staff as necessary to reasonably reflect current construction costs for the various construction classes. Indexing may be used in the short term to update cost information, but in no event shall the appraisal staff rely on indexing alone for more than three years.

(iv) Location modifiers. The appraisal staff shall develop base construction cost tables. Modifiers, in the form of factors to be applied to the cost tables, may then be developed for areas to reflect local market conditions. Different sets of modifiers may be necessary to reflect the market for different property types within a county.

(v) Cost models. The appraisal staff shall develop or acquire representative cost models that contain the manual or automated cost factor tables used in the cost approach. The models should be applicable to all building types in a county and be based on actual updated costs as defined in Rule 560-11-10-.09(4)(a)(1)(iii). The models should clearly identify included indirect costs, contain depreciation estimation guidelines, and provide for systematic cost estimation on manual or automated forms. The documentation prepared by the appraisal staff should clearly demonstrate how the cost model is applied and explain its limitations.

2. Estimating depreciation. The appraisal staff shall estimate the depreciation by determining the difference between replacement or reproduction cost new and the current market value of an improvement. This determination shall require an analysis by the appraiser of physical deterioration, functional obsolescence and economic obsolescence present, keeping in mind that physical deterioration and functional obsolescence may include curable and incurable components. The appraiser may estimate depreciation as a total amount or as a percentage of replacement or reproduction cost new. Improvements with special circumstances may be treated on an exception basis. The appraisal staff shall use the effective age of improvements, when different from the actual age, when estimating depreciation. The methods the appraisal staff may use to estimate depreciation include, but are not limited to, the following four methods:

(i) Sales comparison method. To apply the sales comparison method, the appraisal staff develops estimates of total depreciation from market-derived schedules. To develop such schedules, the appraiser stratifies the sales information by type of construction and other relevant features. The appraiser then computes building residuals by deducting estimated land values from the sales prices and expressing the building residuals as a percentage of replacement cost new. The resulting "percent good" factors are then plotted against the effective ages of the properties to develop the depreciation tables. This method may be used when current representative and adequate sales information is readily available.

(ii) Age/Life method. To apply the age/life method, the appraisal staff develops estimates of physical deterioration and normal functional obsolescence using a simple sliding scale or straight-line calculation and then applies any necessary adjustments for additional functional or economic obsolescence. This method may be used when current representative and adequate sales information is not readily available.

(I) Capitalization of income method. To apply the capitalization of income method, the appraisal staff uses income-based appraisals in place of sales and applies these appraisals to the sales comparison method to develop estimates of total depreciation.

(II) Observed condition method. To apply the observed condition method, the appraisal staff breaks down depreciation into all its various component parts. This method requires detailed analysis of all forms of depreciation and is generally reserved for "model building," special use properties, or when raised by a property owner during the course of an appeal.

(b) Sales comparison approach. When using the sales comparison approach, the appraisal staff shall estimate value by comparing the subject property to similar properties that have recently sold. The appraisal staff shall use the following four steps when applying the sales comparison approach: market research and verification, selecting appropriate units of comparison, making reasonable adjustments based on the market, and applying the adjusted comparison units to the subject of the appraisal.

1. General considerations. The appraisal staff shall consider the following when applying the sales comparison approach:

(i) Bona fide sales preferred. A bona fide sale of a subject property should be carefully analyzed by the appraisal staff to determine if it is an accurate indicator of such subject property's fair market value. When such a sale is supported by sufficient other sales of similar property to reasonably estimate the market, the appraisal staff shall consider the sale as the best evidence of fair market value. In the absence of such a sale of the subject, sales prices of comparable properties shall be considered the best evidence of fair market value.

(ii) Economic principles affecting approach. When applying the sales comparison approach, the appraisal staff shall rely upon the economic principles of supply and demand, substitution, and contribution. The interaction of supply and demand factors determines property prices. The principle of substitution states that a prudent buyer will pay no more for a property than for a comparable property with similar utility. The principle of contribution as applied to the sales comparison approach means the value of a property component is measured by its contribution to the whole rather than by its cost.

2. Market research and verification. The appraisal staff shall build and maintain an up-to-date file system of qualified sales as provided in Rule 560-11-10-09(2)(d)(1)(ii). Other preferred information to be considered is the motivations of the buyer and seller, as obtained from actual interviews of the parties to the sales. Adjustments to the sales to be considered by the appraiser include, but are not limited to, time of sale; location; physical characteristics; partial interest not conveyed; trades or exchanges included; personal property included; leases included; incomplete or unbuilt community property; atypical financing; existing covenants; deed restrictions; environmental, economic, governmental and social factors affecting the sale property and the subject parcel. These adjusted qualified sales may then be used to appraise the subject parcel.

3. Market analysis and stratification. The appraisal staff shall analyze the market to identify groups of comparable properties that may be combined in the valuation process. Properties may be combined and classi-

fied to reflect use, location, neighborhood, or other comparison criteria that have been shown to reflect the interest of buyers and sellers.

4. Comparable sales analysis. When applying the analysis, the appraisal staff should identify a representative number of comparable properties that have recently sold, apply the adjustments indicated by the market research and verification process to such comparables, and then adjust such comparables for physical differences from the subject property. The appraiser may then develop an estimated value of the subject property from the adjusted sales prices of the comparable properties. This process may be computer assisted in a mass appraisal environment.

5. Sales ratio applications. The appraisal staff shall conduct sales ratio studies to periodically measure the quality of their appraisals relative to the market. Such studies should be designed to measure whether appraisals meet the overall legal standards provided in Rule 560-11-2-.56 and provide more precise analysis of the quality of appraisals within and between market strata used by the appraisal staff to compare properties. When sales ratio studies reveal excessive inequities within a stratum, the appraisal staff should consider reappraising the properties in the stratum. When such studies reveal excessive inequities between strata, and there is acceptable uniformity within the strata, the appraisal staff should consider trending to correct this uniformity problem.

(i) Trending. The appraisal staff shall use the procedures in this subparagraph when applying trend factors to improve uniformity. Stratify properties by property type and neighborhood. Determine the measure of central tendency by computing the median assessment ratio, substituting the aggregate ratio when the properties in the stratum tend to be heterogeneous. Then divide the legal assessment ratio by the calculated measure of central tendency to calculate the trend factor. The appraisal staff should not apply trending factors in excess of 1.15. In such instances, the appraisal staff should correct intra-strata differences by reappraising the properties within the affected strata. Before finalizing the application of trending factors, the appraisal staff should calculate the coefficient of dispersion to verify that uniformity among assessments will be improved by trending.

(c) Income approach. When using the income approach, the appraisal staff shall estimate value by determining the present value of the projected income stream from the use of the subject property in the future.

1. Income and expense analysis. The appraisal staff shall analyze the income stream and project a future income stream that reflects typical management and current market conditions.

(i) Components of income and expense analysis. The appraisal staff may consider the following components when performing the income and expense analysis: typical unit rent, potential gross income, miscellaneous income, effective gross income, vacancy and collection loss, typical expenses, replacement reserves, and net operating income. Expenses such as depreciation charges, debt service, ad valorem taxes, income taxes, and business expenses not associated with the property should not be considered. While complete information is not required on each individual property, the appraisal staff should secure sufficient information to develop typical unit rents, typical vacancy and collection loss ratios, and typical expense ratios for various type properties before applying the income approach.

(ii) Analyzing reported data. The appraisal staff may use actual income and expense information when they reflect typical management and current market conditions; otherwise, typical figures should be used. The appraiser may stratify properties and develop typical unit rents, vacancy and collection loss ratios, and expense ratios to evaluate the reasonableness of reported figures for individual properties and to substitute for unreported figures. The appraiser may also use multiple regression analysis to estimate typical rents as a function of such variables as construction quality, age, location, size of building, and other relevant factors. Multiple regression analysis may also be used to estimate typical expense ratios, and other income and expense components. The appraiser should not consider outdated or non-market leases. Percentage leases should be expressed in actual dollar amounts and averaged over a period of years. Periodic expenditures for replacements should be pro-rated over their economic lives.

2. Capitalization methods. The appraisal staff shall use the procedures in this subparagraph to capitalize the income into an estimate of value. The appraisal staff may utilize the following rates while using the income approach and its various methods and techniques. The discount rate is the annual return on the investment in the property. It is a component of a total capitalization rate. The interest rate is the rate of return on borrowed funds. It is a component of the discount rate. The equity yield rate is the annual return on the equity portion of the investment in the property. It is a component of the total capitalization rate in the mortgage equity technique.

(i) Direct capitalization. The appraisal staff shall, when applying this method, use either overall rates or income multipliers. Both require adequate sales data and accurate estimates of potential annual gross income, effective annual gross income, or annual net operating income.

(I) Overall rates. Using the most common version of this method, the appraisal staff develops the annual net operating income of a sample of properties that have sold. The individual annual net operating incomes are divided by the individual sale prices resulting in the individual overall rates. A representative overall rate is then selected from the sample and applied to the subject property by dividing its annual net operating income by the selected overall rate resulting in an estimate of value for the property. The appraisal staff may also employ other techniques to develop an overall rate, such as the weighted land to improvement ratio method; the net income ratio method, and the debt coverage ratio method.

(II) Income multipliers. Using this method, the appraisal staff may use potential gross income, effective gross income, or annual net operating income from a sample of properties that have sold. Individual sale prices are divided by the selected level of income resulting in individual multipliers. A representative multiplier is then selected from the sample and applied to the subject property by multiplying the selected level of income by the multiplier appropriate to the level of income selected resulting in an estimate of value for the property.

(ii) Annuity capitalization. Annuity capitalization may be used to apply the income approach when the subject property is under a long-term lease. The appraisal staff develops capitalization rates for both land and improvements to the land. The appropriate residual technique is selected based on the known value of either land or improvement. The land or improvement value is multiplied by the appropriate capitalization rate, and the result is deducted from the annual net operating income. The remaining residual income to either land or improvement is then capitalized by the appropriate rate resulting in an estimate of value for either land or improvement.

(iii) Sinking fund capitalization. Sinking fund capitalization may be used to apply the income approach when periodic reserves for replacement are set aside in equal amounts, at a safe rate, in order to restore or rebuild the improvements in the future. It is applied in the same manner as annuity or straight-line capitalization.

(iv) Straight-line capitalization. Straight-line capitalization may be used to apply the income approach when the appraisal staff uses straight-line depreciation schedules. It is applied in the same manner as annuity capitalization and sinking fund capitalization.

(v) Discounted cash flow analysis. Discounted cash flow analysis may be used to apply the income approach when the appraisal staff is valuing a lease and the residual value of the property at the end of the lease term. Each year's income stream is discounted by applying a present-value factor to the cash flow expected for each year. The estimated property value at the end of the lease term is also discounted. The discounted amounts are summed resulting in an estimate of value for the property.

(vi) Mortgage equity analysis. Mortgage equity analysis may be used when the appraisal staff can reliably determine mortgage terms and cash flow and reliably estimate the holding period and the percentage by which the property will appreciate or depreciate over the holding period. The appraisal staff computes a constant annual payment from the interest rate and amortization term and selects an appropriate equity yield rate. The estimated cash flow over the holding period is discounted at the equity yield rate, as is the

anticipated selling price of the property. The two discounted amounts are added to the present mortgage balance resulting in an estimate the value for the property.

(vii) Residual capitalization techniques. The appraisal staff may use a residual technique to apply the income approach when either the improvement or land component of the property value can be reliably estimated or documented by sales.

(viii) Building residual technique. The appraisal staff may use a building residual technique when the land value of the subject property is known and documented by comparable sales. The appraisal staff develops the total annual net operating income attributable to the property and develops capitalization rates for land and improvements to the land. The land value is multiplied by the land capitalization rate and the result is deducted from the total annual net operating income. The remaining residual income to the improvement is capitalized using the improvement capitalization rate into an indicator of value for the improvement. This is added to the land value resulting in an estimate of value for the property.

(ix) Land residual technique. The appraisal staff may use this technique when the improvement value is known and documented by current cost figures. It is applied in the same manner as the building residual technique except a residual land income is capitalized into an indication of land value and added to the improvement value resulting in an estimate of value for the property.

(d) Special procedures. The appraisal staff shall observe the special procedures contained in this subparagraph when appraising the described property types.

1. Valuation of common areas. The appraisal staff shall take into account the extent that the fair market value of individually owned units in a residential subdivision, planned commercial development, or condominium also represents the fair market value of any ownership interest in any common area that is conveyed with the individually owned units. When the appraisal staff determines that the fair market value of the common area is included in the fair market value of the individually owned units, the appraisal staff may recommend a nominal assessment of the common area parcel. When the appraisal staff makes such a determination, the fair market value of residual interests not conveyed to the owners of the individually owned units shall be appraised and an assessment recommended to the board of tax assessors.

2. Construction in progress. Construction in progress shall be appraised in the same manner as other similar real property taking into account that there may be little or no physical deterioration on such property and that the fair market value may be diminished due to the incomplete state of construction. The appraisal staff should attempt to value construction in progress by forecasting the future cash flow a project would generate and discounting at a rate that reflects the risk and uncertainty of that cash flow. If the construction in progress is being financed by a lending institution that has established an account from which funds may be drawn by the builder as construction progresses, the appraisal staff may consider the percentage of such funds expended as of January 1 as a possible indication of percentage completion of construction in progress. In the absence of sufficient information to perform such an analysis, the appraisal staff should estimate the percentage of completion of all construction in progress as of January 1 of the tax year using the best information available. The appraisal staff should then estimate the fair market value of the improvement upon completion. The appraisal staff should then estimate the fair market value as of January 1 as being the estimated fair market value upon completion multiplied by the percentage of completion on January 1. If comparable sales information of real property under construction is generally not available and there is no other specific evidence to measure the probable loss of value if the property is sold in an incomplete state of construction, the appraisal staff may multiply the identified total cost of construction by a uniform market risk factor of .75.

3. Assemblage. The county appraisal staff shall not combine multiple rural parcels into a single taxable rural parcel unless all the following have been satisfied: (1) parcels must be contiguous or separated by only a stream, creek, non-navigable river, road, street, highway, railroad or other recognized thoroughfare, (2) parcels must be titled in exactly the same name, (3) parcels must fall entirely within the same taxing dis-

trict, and (4) parcels that are contiguous but lie in different taxing districts and are otherwise eligible for combination shall be valued in the same manner as the total acreage of the combined parcels would dictate.

(5) Final estimate of fair market value. After completing all calculations, considering the information supplied by the property owner, and considering the reliability of sales, cost, income and expense information, the appraisal staff will correlate any values indicated by those approaches to value that are deemed to have been appropriate for the subject property and form their opinion of the fair market value. The appraisal staff shall present the resulting proposed assessment, along with all supporting documentation, to the board of tax assessors for an assessment to be made by that board.

Authority: O.C.G.A. §§ 48-2-12, 48-5-2, 48-5-10, 48-5-11, 48-5-12, 48-5-15, 48-5-18, 48-5-20, 48-5-105, 48-5-263, 48-5-269, 48-5-269.1, 48-5-299, 48-5-300, 48-6-1 through 48-6-10.

Authority O.C.G.A. Secs. 48-2-12, 48-5-2, 48-5-10, 48-5-11, 48-5-12, 48-5-15, 48-5-18, 48-5-20, 48-5-105, 48-5-263, 48-5-264, 48-5-269, 48-5-269.1, 48-5-292, 48-5-295, 48-5-299, 48-5-300, 48-6-1 through 48-6-10.

History. Original Rule entitled "Real Property Appraisal" adopted. F. Sept. 20, 1999; eff. Oct. 10, 1999. Amended: F. Apr. 14, 2004; eff. May 4, 2004. Amended: ER. 560-11-10-0.2-.09 adopted. F. Jan. 19, 2011; eff. Jan. 20, 2011, as specified by the Agency. Amended: F. Nov. 9, 2011; eff. Nov. 29, 2011.

560-11-10-.10 Reserved

## Chapter 11 PREFERENTIAL ASSESSMENT

### ***560-11-3-.19 Farm Property Preferential Assessment/Application/Covenant Form. \****

(1) In order for tangible real property to qualify for the preferential assessment provided for in O.C.G.A. Sections 48-5-7 and 48-5-7.1, its primary use must be the good faith commercial production of agricultural products. Such land must be devoted to bona fide agricultural purposes, which as a general rule, contemplates both the usage of multiple acre tracts and an overall pursuit of profit. The mere ownership of multiple acres whose primary use is not the good faith commercial production of agricultural products but is only used in the limited, occasional or sporadic production of agricultural products would not qualify for the preferential assessment.

(2) For purposes of this regulation, the following terms are defined to mean:

(a) "Bona fide agricultural purposes" means the production, as a part of an overall business pursuit engaged in for profit of one or more types of agricultural products including horticultural products, floricultural products, forestry products, dairy products, livestock products, poultry products, apiarian products, and any other form of farm product.

(b) "Good faith commercial production" means an overall business pursuit factually and genuinely engaged in for the primary purpose of producing agricultural products for a profit.

(c) "Primary use" means that use which is the principal, chief and leading use or activity to which the property is devoted.

(d) "Storage or processing of agricultural products" means to put or set aside agricultural products for safe-keeping or for use when needed or the act or series of acts performed upon agricultural products to transform such products into a different state of condition.

(3) O.C.G.A. Section 48-5-7.1 requires the State Revenue Commissioner to annually submit a report to the Governor and General Assembly which, among other things, shows the fiscal impact of preferential assessment and the assessed value eliminated from each county's digest as a result of such assessment. To aid in the collection of such data for statistical accounting purposes, tangible real property which receives the preferential assessment shall utilize an identification code of A-3 and improvements which are devoted to the storage or processing of agricultural products from or on such property shall utilize an identification code of A-1.

(4) All applications for the preferential assessment of tangible real property devoted to bona fide agricultural purposes as set forth in O.C.G.A. Section 48-5-7 and O.C.G.A. Section 48-5-7.1 as well as the covenant described therein shall be made upon the form adopted by the State Revenue Commissioner for that purpose. Form PT-230 set forth below has been adopted by the Commissioner for said purpose.

AUTHORITY: O.C.G.A. Secs. 48-5-7, 48-5-7.1.

ADMINISTRATIVE HISTORY: Original Rule entitled "Farm Property Preferential Assessment/Application/Covenant Form" was filed on October 28, 1983; effective November 17, 1983.

**APPLICATION FOR PREFERENTIAL AGRICULTURAL ASSESSMENT**

PT 230 (7-83)

NAME OF OWNER

NAME OF FAMILY FARM CORPORATION (If Applicable)

MAILING ADDRESS

CITY STATE ZIP CODE  
FOR OFFICIAL USE ONLY

PARCEL IDENTIFICATION NUMBER

TAXPAYER ACCOUNT NUMBER

COUNTY NO. \_ YEAR \_ NO.

DATE FILED

DATE APPROVED DATE DENIED

DATE NOTIFIED DATE APPEALED  
YEAR COVENANT TAX DISTRICT

BEGINS ENDS

TO THE BOARD OF TAX ASSESSORS OF \_\_\_\_ COUNTY

IN ACCORDANCE WITH THE PROVISIONS OF THE STATE CONSTITUTION AND LAWS AUTHORIZING PREFERENTIAL ASSESSMENT OF BONA FIDE AGRICULTURAL PROPERTY AT 75% OF THE VALUE WHICH OTHER TANGIBLE REAL PROPERTY IS ASSESSED, I HEREBY MAKE APPLICATION FOR PREFERENTIAL ASSESSMENT ON THE FOLLOWING DESCRIBED PROPERTY:

PHYSICAL ADDRESS OF PROPERTY

NUMBER OF ACRES LAND DISTRICT OR G.M.D. LAND LOT RECORDED DEED BOOK AND PAGE

PLEASE STATE THE NUMBER AND TYPE OF STORAGE AND PROCESSING BUILDINGS LOCATED ON THE PROPERTY: \_\_\_\_

Please state the number of acres used for the following purposes:

Horticultural \_\_\_\_ Dairy \_\_\_\_ Apiarian Products \_\_\_\_  
Floricultural \_\_\_\_ Livestock \_\_\_\_ Agricultural Products \_\_\_\_  
Forestry \_\_\_\_ Poultry \_\_\_\_ Other Farm Products \_\_\_\_



## COVENANT AGREEMENT

In consideration of my receipt of the preferential assessment provided for in O.C.G.A. § 48-5-7 and 7. 1, I the undersigned, do hereby solemnly swear, covenant and agree that:

I am the lawful owner of the property described on the reverse side of this document or, if said property is owned by a family-farm corporation, I am authorized to execute this document on behalf of said corporation.

I have personal knowledge of the property described thereon and that the primary use of said property is good faith commercial production of agricultural products with a sincere intention to produce products for profit.

I have not received or made a pending application for preferential assessment in this county or any other county with respect to any property, which taken together with this property, would exceed 2000 acres.

No person who has a beneficial interest in this property, including any interest in the nature of stock ownership, will receive any benefit of preferential assessment as to more than 2000 acres in any tax year.

I agree to maintain and use this property in bona fide agricultural purposes as defined by O.C.G.A. § 48-5-7.1 (a) for a period of at least 10 years. Said 10 year period shall begin on January 1st of the year immediately following the year in which this covenant is executed and shall continue through and including the last day of December of the 10th succeeding year.

I hereby agree to immediately notify the Board of Tax Assessors, in writing, in the event there is a change in use or ownership of said property.

I understand that, if this covenant is breached, a penalty shall be imposed as provided for by law, Said penalty shall bear interest as provided for by law and that said penalties and interest shall constitute a lien against the property described hereon.

If said property is owned by a family-farm corporation, 80% or more of its gross income for the year immediately preceding the year for which this covenant will begin was derived from bona fide agricultural pursuits carried out on tangible real property located in this state, which property is devoted to bona fide agricultural purposes.

All the data contained on this form is true, correct and complete.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_, 19 \_\_\_\_.

\_\_\_\_ (Notary Public) \_\_\_\_ (Authorized Signature) (Seal)

\_\_\_\_ (Unofficial Witness)

Georgia law, O.C.G.A. Section 48-5-7.1, provides that, if this application is denied, the applicant may appeal. Such appeal shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.

## **Chapter 12 TIMBER**

### ***560-11-5-.01 Forms.***

- (1) The Commissioner shall prepare and furnish a form, herewith adopted and designated as PT-283T, to be used by purchasers and sellers of standing timber to report taxable sales or harvests under this Chapter. Reports of unit price sales filed with the local county authorities shall be confidential, shall not be revealed to any persons other than authorized tax officials, and shall be exempt from disclosure under Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia.
- (2) The Commissioner shall prepare and furnish a form, herewith adopted and designated as PT-283TQ, to be used by purchasers when filing with the Commissioner the composite quarterly report required by Regulation 560-11-5-.05(2), of all purchases of standing timber by lump sum sales reflecting total volumes and total prices paid for the various timber product classes purchased during the preceding calendar quarter.
- (3) A computer generated form PT-283T and form PT-283TQ may be used by any person reporting timber sales and harvests if the computer generated forms provide the necessary information and have been approved by the Commissioner.
- (4) All form PT-283T reports and all approved computer generated PT-283T reporting forms filed with the county tax collector or tax commissioner and the board of tax assessors shall be retained for a period of three years after the date of receipt after which these may be disposed of consistent with any records disposition standards adopted by the appropriate authority of the county.

Authority O.C.G.A. Secs. 48-2-12, 48-5-2, 48-5-7.4, 48-5-7.5.

History. Original Rule entitled "Forms" adopted. F. Jan. 21, 1992; eff. Feb. 10, 1992. Repealed: New Rule of same title adopted. F. Jan. 27, 1998; eff. Feb. 16, 1998.

### ***560-11-5-.02 Definitions.***

- (1) For the purpose of implementing O.C.G.A. Section 48-5-7.5 and these regulations, the following terms are defined to mean:
  - (a) "Applicable millage rates" shall mean the millage levied by the taxing authority on tangible property for the preceding calendar year.
  - (b) "Sale" of standing timber shall mean the arm's length, bona fide sale of standing timber for harvest separate and apart from the underlying land and shall not include the simultaneous sale of a tract of land and the standing timber thereon.
  - (c) "Standing timber" shall be defined to include softwood and hardwood pulpwood, chip and saw logs, saw timber, poles, posts, and fuel wood. Such term shall not include any of the following:
    1. Orchard trees, ornamental or Christmas trees;
    2. By-products of standing timber such as straw, cones, leaves or turpentine;
    3. By-products of harvesting such as bark or stumps that are not included in the consideration between buyer and seller in lump sum or unit price sales; or
    4. Fuel wood harvested by the owner from his own property which is used exclusively for heating purposes within the premises occupied by said owner.
  - (d) "Timber product classes" shall be defined as follows: 1) softwood pulpwood, 2) hardwood pulpwood, (3) softwood chip-n-saw, 4) softwood saw timber, 5) hardwood saw timber, 6) softwood poles, 7) softwood

posts, 8) hardwood posts, 9) softwood fuel wood chips, 10) hardwood fuel wood chips, 11) softwood fuel wood firewood and 12) hardwood fuel wood firewood.

(e) "Total property tax digest" means the total net assessed value to which the levy for maintenance and operations purposes shall be applied, and consists of all taxable tangible real and personal property appearing on the county tax digest for the applicable tax year including motor vehicle property, mobile home property and property of railroad and public utility companies.

Ga. L. 1937-38, Ex. Sess. p. 77 ( Ga. Code Sec. 48-2-12); Ga. L. 1991, p. 1903 ( Ga. Code Sec. 48-5-7.4).

HISTORY. Original Rule entitled "Definitions" adopted. F. Jan. 21, 1992; eff. Feb. 10, 1992. REPEALED: New Rule, same title, adopted. F. Jan. 29, 1996; eff. Feb. 18, 1996.

### ***560-11-5-.03 Taxable Timber Sales and Harvests.***

(1) Where standing timber is sold by timber deed, contract, lease, agreement, or otherwise to be harvested within a three-year period after the date of the sale and for a lump sum price, the standing timber to be harvested within said three-year period shall be assessed for taxation as of the date of the sale. The tax shall be levied based upon the total lump sum price paid by the purchaser in an arm's length bona fide sale.

(a) Ad valorem taxes shall be assessed as of the date of the sale and shall be payable by the seller who shall remit the amount of the taxes due to the purchaser in the form of a negotiable instrument payable to the tax collector or tax commissioner. The purchaser shall remit the seller's negotiable instrument to the tax collector or tax commissioner within five business days after receipt from the seller along with a report of the sale using form PT-283T or a computer generated form PT-283T as approved by the Commissioner, and the tax collector or tax commissioner shall promptly deliver a receipt to the seller showing the tax has been paid. The purchaser shall be personally liable for the tax if he does not remit the seller's negotiable instrument as required or if he fails to collect the negotiable instrument from the seller and in any event he shall remit the taxes due to the tax collector or tax commissioner within five business days of the date of the sale. With said remittance, a copy of the report form PT-283T or a computer generated form PT-283T as approved by the Commissioner, shall also be furnished by the purchaser to the board of tax assessors.

(b) Any standing timber described in any sale instrument which is not harvested within three years after the date of the sale shall later be assessed for taxation following its future harvest or sale. In the event it is later harvested by the original purchaser, the board of tax assessors shall use the table of values prescribed by the Commissioner in Regulation 560-11-5-.05(1), and the taxes shall be paid by the original purchaser; otherwise, upon its sale or harvest after three years, the procedures for taxation shall be according to the manner in which such timber is sold or harvested.

(c) The ad valorem taxes on lump sum sales shall be paid to the tax collector or tax commissioner prior to and as a prerequisite for the filing for record with the clerk of superior court any instrument conveying the standing timber upon which taxes are due and payable, and no such instrument shall be recorded unless it has entered upon or attached thereto a certificate from the tax collector or tax commissioner showing that the taxes have been paid.

(2) Where standing timber is sold, in an arm's length, bona fide sale, by timber deed, contract, lease, agreement, or otherwise by unit prices, the purchaser shall furnish to the seller and to the board of tax assessors a report form PT-283T or a computer generated form PT-283T as approved by the Commissioner, reflecting the total dollar value paid to the seller as well as the individual volumes of timber harvested identified by timber product classes. The report shall cover all timber harvested through the last business day of the immediately preceding calendar quarter and it shall be furnished to the seller and the board of tax assessors within 45 days after the end of the calendar quarter during which the timber is harvested. A copy of

the report PT-283T or a computer generated form PT-283T as approved by the Commissioner shall also be furnished by the seller to the board of tax assessors within 60 days after the end of each calendar quarter.

(a) Ad valorem taxes shall be payable to the tax collector or tax commissioner as specified by Regulation 560-11-5-.04(3) based upon the fair market value of the harvested timber which shall be the total dollar values paid by the purchaser in the arm's length, bona fide sale.

(3) Where standing timber is harvested by the owner of such timber from his own land, the owner shall, within 45 days after the end of the calendar quarter, file with the board of tax assessors a report form PT-283T or a computer generated form PT-283T as approved by the Commissioner of the volumes harvested through the last business day of the calendar quarter.

(a) Ad valorem taxes on owner harvest timber shall be payable to the tax collector or tax commissioner within 45 days after the end of the calendar quarter, based upon the fair market value of the harvested timber which shall be the total dollar values calculated using the average standing timber price schedule specified by Regulation 560-11-5-.05(1).

(4) Every sale and every harvest of standing timber occurring on or after January 1, 1992 that has not been previously taxed shall be a taxable event, with the exception of those sales of standing timber not to be harvested within three years. Where standing timber is sold or harvested (excepting only a sale not for harvest within three years) in any manner which is not a reportable taxable event under these Regulations as a lump sum sale, a unit price sale, or an owner harvest, such timber shall be subject to ad valorem taxation. Any such sale or harvest shall be reported and taxed under whichever provisions of this Regulation is most nearly applicable.

(a) Where, at the time of harvest, the standing timber owner does not own the underlying land and has not acquired such timber under a taxable lump sum or unit price sale, as would be the case where timber has been acquired prior to January 1, 1992, the harvest of such timber shall be a taxable event and shall be treated as an owner harvest, with the exception that the reporting requirement and the payment of taxes due shall be the responsibility of the owner of the standing timber instead of the underlying landowner.

Authority O.C.G.A. Secs. 48-2-12, 48-5-2, 48-5-7.4, 48-5-7.5.

History. Original Rule entitled "Taxable Timber Sales and Harvest" adopted. F. Jan. 21, 1992; eff. Feb. 10, 1992. Repealed: New Rule of same title adopted. F. Jan. 29, 1996; eff. Feb. 18, 1996. Repealed: New Rule of same title adopted. F. Jan. 27, 1998; eff. Feb. 16, 1998.

#### ***560-11-5-.04 Procedures for Timber Taxation.***

(1) Standing timber shall be assessed for ad valorem taxation only once upon its sale or harvest as required by O.C.G.A. 48-5-7.5 and these Regulations. Said tax shall be levied upon the 100% fair market value of such timber as prescribed using applicable millage rates for each taxing jurisdiction.

(2) Where, with respect to any taxable event, the board of tax assessors has reason to believe that the reported sale is other than an arm's length, bona fide sale or that the reported volumes or values of the transaction are incorrect, the board may inquire into the transaction and make corrections to the fair market value of the timber in the same manner as changes to the fair market value of other taxable, tangible property are made. In any such instance, the taxpayer notification procedures, the appeal rights and remedies, and the hearing procedures shall all be accomplished in the same manner that other ad valorem tax assessments and appeals are accomplished.

(3) The tax collector or tax commissioner shall prepare and mail, on a quarterly basis, tax bills for ad valorem taxes due on sales and harvests other than lump sum sales and owner harvests. Except as otherwise provided in these Regulations, such taxes shall be payable by the landowner within 30 days after receipt of

the tax bill. For the purpose of this Regulation, receipt of the tax bill shall be presumed to have occurred within one day after the date of mailing for taxpayers who are residents of the county and within three days after the date of mailing for taxpayers who are not residents of the county.

Ga. L. 1937-38, Ex. Sess. p. 77 ( Ga. Code Sec. 48-2-12); Ga. L. 1991, p. 1903 ( Ga. Code Sec. 48-5-7.4).

HISTORY. Original Rule entitled "Procedures for Timber Taxation" adopted. F. Jan. 21, 1992; eff. Feb. 10, 1992. REPEALED: New Rule, same title, adopted. F. Jan. 29, 1996; eff. Feb. 18, 1996.

#### ***560-11-5-.05 Average Standing Timber Price Schedule.***

(1) Within 60 days after the end of each calendar year, the Commissioner shall provide the board of tax assessors of each county with a table of the weighted average prices paid for the various timber product classes in each county or region of the State. In preparing this table of standing timber values, the Commissioner, so far as is reasonable and applicable, shall consider reports received by the Department of prices paid, as well as information prepared by and recommendations received from the Georgia Forestry Commission. The Commissioner may also consider commercially available sources of average sales prices. The most recent table of standing timber values furnished by the Commissioner shall be used by the board of tax assessors to determine the fair market value of harvested timber subject to taxation for taxable events other than taxable lump sum sales or taxable unit price sales. Taxpayer appeals of such determinations by the board of tax assessors shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. Section 48-5-311.

(2) In addition to the filing with appropriate county authorities of reports of standing timber harvests and sales, purchasers shall, within 45 days after the end of the quarter, file with the Commissioner composite quarterly reports, using form PT-283TQ, of all purchases by county of standing timber by lump sum sales and unit price sales reflecting total volumes and total prices paid for the various timber product classes purchased during the preceding calendar quarter. Such quarterly reports shall not be subject to the penalty provisions of O.C.G.A. Section 48-5-7.5. Such quarterly reports shall be subject to the confidentiality provisions of O.C.G.A. Section 48-2-15.

Ga. L. 1937-38, Ex. Sess. p. 77 ( Ga. Code Sec. 48-2-12); Ga. L. 1991, p. 1903 ( Ga. Code Sec. 48-5-7.4).

HISTORY. Original Rule entitled "Average Standing Timber Price Schedule" adopted. F. Jan. 21, 1992; eff. Feb. 10, 1992. REPEALED: New Rule, same title, adopted. F. Jan. 29, 1996; eff. Feb. 18, 1996.

#### ***560-11-5-.06 County Digest Timber Supplement.***

Where the total property tax digest for any county for tax years 1992 through 1995 is so affected by the new method of ad valorem taxation of standing timber that a supplement to the digest is authorized by O.C.G.A. Section 48-5-7.5, the supplemental assessment shall be assessed and taxes shall be levied against the land underlying the standing timber so removed from the digest. The supplemental assessment shall be assessed against each such property in a pro rata manner based upon the value of standing timber on each such property that was removed from the digest.

Ga. L. 1937-38, Ex. Sess. p. 77 ( Ga. Code Sec. 48-2-12); Ga. L. 1991, p. 1903 ( Ga. Code Sec. 48-5-7.4). HISTORY. Original Rule entitled "County Digest Timber Supplement" adopted. F. Jan. 21, 1992; eff. Feb. 10, 1992.

## Chapter 13 CONSERVATION USE ASSESSMENT

### ***560-11-6-.01 Application of Chapter.***

Regulations in this Chapter apply to the current use valuation of property provided for in GA Code 48-5-7.4.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

History. Original Rule entitled "Application of Chapter" adopted. F. May 28, 1993; eff. June 17, 1993. Repealed: New Rule of same title adopted. F. Mar. 1, 1995; eff. Mar. 21, 1995. Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004. Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

### ***560-11-6-.02 Definitions***

For the purposes of implementing O.C.G.A. Section 48-5-7.4, O.C.G.A. Section 48-5-269 and these Regulations, the following terms are defined to mean:

(a) "Beneficial interest," in addition to legal ownership or control, means the right to derive any profit, benefit, or advantage by way of a contract, stock ownership or interest in an estate;

(b) "Contiguous" means real property within a county that abuts, joins, or touches and has the same undivided common ownership. If an applicant's tract is divided by a public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track, then the applicant has, at the time of the initial application, a one-time election to declare the tract as contiguous irrespective of a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track.

(c) "Continued Covenant" means a covenant entered and carried forward, for the remainder of the original or renewal covenant term, by a qualified subsequent owner who has acquired all or a part of a property;

(d) "Good Faith Production" means:

1. A viable utilization of the property for the primary purpose of any good faith production, including, but not limited to, subsistence farming or commercial production, from or on the land of agricultural products or timber;

2. The primary use of the property shall include, but not be limited to:

(i) Raising, harvesting, or storing crops;

(ii) Feeding, breeding, or managing livestock or poultry;

(iii) Producing plants, trees, fowl, or animals; ~~or~~

(iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products; or

(v) Land conservation and ecological forest management in which commercial production of wood and wood fiber products may be undertaken primarily for conservation and restoration purposes rather than financial gain.

3. Factors which may be considered in determining if such property is primarily used for good faith production of agricultural products or timber may include, but are not limited to:

- (i) The nature of the terrain;
- (ii) the density of the marketable product on the land;
- (iii) the past usage of the land;
- (iv) the economic merchantability of the agricultural product; and
- (v) the utilization or non-utilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof;

(e) "Maintenance in its natural condition" means to manage the land in such a manner that would not ruin, erode, harm, damage, or spoil the nature, distinctiveness, identity, appearance, utility or function that originally characterized the property as environmentally sensitive under O.C.G.A. Section 48-5-7.4(a)(2);

(f) "Mineral exploration" means the examination and investigation of land by drilling, boring, sinking shafts, driving tunnels, or other means, for the purpose of discovering the presence and extent of valuable minerals. Such term does not include the excavation of any such minerals after discovery;

(g) "Primary purpose or primary use" means the principal use to which the property is devoted, as distinct from an incidental, occasional, intermediate or temporary use for some other purpose not detrimental to or in conflict with its primary purpose, i.e., the devotion to and utilization of the property for the full time necessary and customary to accommodate the predominant use, e.g. the growing season, the crop cycle or planting to harvest cycle;

(h) "Qualifying use" means the primary use to which the property is devoted that qualifies the property for current use valuation under O.C.G.A. Section 48-5-7.4;

(i) "Renewal Covenant" means an additional ten year covenant entered upon the expiration of a previous ten year covenant; provided, however, that the owner may enter into a renewal contract in the ninth year of a covenant period;

(j) "Tract" means a parcel of property, less underlying property excluded from the covenants for residences, that is delineated by legal boundaries, levying authorities tax district boundaries, or other boundaries designated by the tax assessors to facilitate the proper identification of property on their maps and records.

(k) "Underlying Property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less for which the taxpayer has provided documents which delineate the legal boundaries so as to facilitate the proper identification of such property on the board of tax assessors maps and records.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.4, 48-5-269. 2015 PROPOSED REGULATION CHANGE

### **560-11-6-.03 Qualification Requirements.**

In addition to those requirements of O.C.G.A. 48-5-7.4, the following qualification requirements shall apply:

(a) Property that otherwise qualifies for current use valuation as bona fide agricultural property shall exclude the entire value of any residence and its underlying property'. This provision for excluding the underlying property' of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant. Additionally, the taxpayer shall provide any one of the following types of legal descriptions regarding such underlying property':

1. A plat of the underlying property' prepared by a licensed land surveyor, showing the location and measured area of the underlying property' in question;
2. A written legal description of the underlying property' delineating the legal metes and bounds and measured area of the underlying property' in question; or
3. Such other alternative property boundary description as mutually agreed upon by the taxpayer and county assessor. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.

(b) The owner of a tract, lot, or parcel of land totaling less than 10 acres, after the appropriate underlying property is excluded for residential use, shall be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that is either first made subject to a covenant or is subject to a renewal of a previous covenant and the following provisions shall apply:

1. If the owner of the subject property provides proof that such owner has filed with the Internal Revenue Service a Schedule E, reporting farm related income or loss, or a Schedule F, with Form 1040, or, if applicable, a Form 4835, pertaining to such property, the provisions requiring additional relevant records regarding proof of bona fide conservation use, shall not apply to such property;
2. Prior to a denial of eligibility for conservation use assessment, the tax assessor shall conduct and provide proof of a visual on-site inspection of the property; and
3. The tax assessors shall provide reasonable notice to the property owner before conducting such visual, on-site inspection of the property for the purposes of determining final eligibility.

(c) No property shall qualify for current use valuation as residential transitional property unless it is devoted to use by a single family and occupied more or less continually by the owner as the primary place of abode and for which the owner is eligible to claim a homestead exemption. The property that otherwise qualifies for current use valuation as residential transitional property shall be limited to the real property consisting of the residential improvement and no more than the contiguous five acres of land;

(d) In determining whether or not an applicant or the property in question qualifies for current use valuation provided for environmentally sensitive properties, the board of tax assessors shall require the applicant to submit a certification by the Department of Natural Resources as required by O.C.G.A.

12-2-4(k) that the specific property is environmentally sensitive property as defined by O.C.G.A. 48-5-7.4. Additionally, the board of tax assessors may require accompanying documentation or information including but not limited to:

1. Evidence of the legal ownership of the property;
2. Evidence that the past usage of the property demonstrates it has not been developed or significantly altered or otherwise rendered unfit for its natural environmental purpose; and
3. Evidence that the property has been and will continue to be maintained in its natural condition;

(e) In determining whether or not an applicant or the property in question qualifies for current use valuation provided for constructed storm water wetland conservation use properties, the board of tax assessors shall require the applicant to submit a certification by the Department of Natural Resources as required by O.C.G.A. 12-2-4 that the specific property is constructed storm-water wetlands of the free-water surface



type property as defined by O.C.G.A. 48-5-7.4. Additionally, the board of tax assessors may require accompanying documentation or information including but not limited to:

1. Evidence of the legal ownership of the property;
2. A plat of the tract in question prepared by a licensed land surveyor, showing the location and measured area of the tract;
3. A certification by a licensed professional engineer that the specific design used for the constructed storm-water wetland was recommended by the engineer as suitable for such site after inspection and investigation; and
4. Information on the actual cost of constructing and an estimated cost of operating the storm-water wetland, including without limitation a description of all incorporated materials, machinery, and equipment.

(f) No property shall maintain current use valuation as constructed storm water wetland conservation use property unless the owner of such property files with the board of tax assessors on or before the last day for filing ad valorem tax returns for each tax year for which conservation use valuation is sought an annual inspection report from a licensed professional engineer certifying that as of the date of such report the property is being maintained in a proper state of repair so as to accomplish the objectives for which it was designed.

(g) No property shall qualify for current use valuation as conservation use property if such valuation would result in any person who has a beneficial interest in such property receiving any benefit from current use valuation on more than 2,000 acres in this state in any tax year. Any person so affected shall be entitled to the benefits of current use valuation on no more than 2,000 acres of such land in this state;

(h) Except as necessary to effect the provisions of the 2,000 acre limitation, a taxing jurisdiction boundary, or to exclude any property which is under a separate covenant as residential transitional property, each covenant must encompass the entire tract of property for which the conservation use valuation is sought. In those instances where inclusion of the total acreage of a tract would cause the owner to exceed the 2,000 acre limitation, the owner shall be permitted to designate so much of a contiguous area of the tract that will equal but not exceed the 2,000 acre limitation.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

History. Original Rule entitled "Qualification Requirements" adopted. F. May 28, 1993; eff. June 17, 1993. Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004. Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

#### ***560-11-6-.04 Applications.***

(1) All applications for current use assessment shall be made using forms adopted by the commissioner for that purpose. Forms PT-283A, PT-283E, PT-283R, PT-283S (Rev. 09/06) and applicable questionnaires are hereby adopted and prescribed for use by the applicant seeking current use assessment. The application shall be filed with the board of tax assessors of the county in which the property is located. A board of tax assessors may not require additional information from an applicant for purposes of determining eligibility of property for current use assessment except as otherwise provided in O.C.G.A. § 48-5-7.4 and these regulations. However, the board of tax assessors must consider any additional information submitted by the applicant in support of their application for current use assessment.

(2) In those counties where U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps are available, it shall be the responsibility of the board of tax assessors to delineate the soil types on the tax records of the applicant's property.

(3) In those counties where the board of tax assessors has not been able to obtain U.S. Department of Agri-

culture, Natural Resources Conservation Service soil survey maps, the board of tax assessors shall determine the soil types of the applicant's property using the best information available.

(4) Applications for current use valuation provided for environmentally sensitive properties may be filed without certification by the Department of Natural Resources; provided, however, that the specific property is stipulated to be environmentally sensitive. Failure to file such certification with the board of tax assessors within thirty (30) days of the last day for filing the application for current use assessment may result in the application being denied by the board of tax assessors.

(5) Applications for current use valuation provided for constructed storm water wetland conservation use properties shall not be certified as meeting the criteria of bona fide constructed storm-water wetlands of the free-water surface type unless an authorized employee or agent of the local governing authority has inspected the site before, during, and after construction of the storm-water wetland to determine that the property is being used for controlling or abating pollution of surface or ground waters of this state by storm-water runoff or by otherwise enhancing the water quality of surface or ground waters of this state.

(6) Application for conservation use value assessment may be withdrawn prior to the current year's "final assessment" as defined in these regulations.

(7) If a qualified owner has entered into an original bona fide conservation use covenant and subsequently acquires additional qualified property contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified property into the original covenant for the remainder of the ten-year period of the original covenant subject to the following provisions:

(a) The subsequently acquired qualified property shall be less than 50 acres; and

(b) Such subsequently acquired property may not be subject to another existing current use covenant or preferential assessment.

(c) For the purpose of establishing the entry date of the original covenant, the assessor shall use the January 1[st] assessment date of the first year for which the original covenant is in effect.

(d) The covenant application for the contiguous acreage to be added to an existing covenant shall be made for the add-on acreage only and shall reference the existing original covenant by parcel number.

(8) When property receiving current use assessment and subject to a conservation use covenant is transferred to a new owner and the new owner fails to apply for continuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the transfer occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event the board of tax assessors shall send to both the transferor and the transferee a notice of the board's intent to assess a penalty for breach of the covenant. The notice shall be entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant" and shall set forth the following information:

(a) the requirement of the new owner of the property to apply for continuation of the current use assessment within thirty (30) days of the date of postmark of the notice;

(b) the requirement of the new owner of the property to continuously devote the property to an applicable bona fide qualifying use for the duration of the covenant;

(c) the change to the assessment if the covenant is breached; and

(d) the amount of penalty if the covenant is breached.

(9) In the event the new owner fails to apply during the period provided for in paragraph (7) of this regulation, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the new owner's lack of qualification or intent not to continuously devote the property to an applicable bona fide qualifying use. In such event the board of tax assessors shall be authorized to declare the covenant in breach and assess a penalty.

(10) When property receiving current use assessment and subject to a conservation use covenant is transferred to an estate or heirs by virtue of the death of a covenant owner, and the estate or heirs fail to apply

for a continuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the death occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event in which case the board of tax assessors shall send to any remaining parties to the covenant, whether the estate or the heirs a notice entitled "Notice of Intent to Terminate a Conservation Use Covenant." The notice shall set forth the following:

(a) the requirement of the estate or heirs to the property currently receiving current use assessment to apply for a continuation of the current use assessment within thirty (30) days of the date of postmark of the notice; (b) the requirement of the estate or heirs to the property currently receiving current use assessment to continuously devote the property to an applicable bona fide qualifying use for the duration of the covenant; and

(c) the change to the assessment if the covenant is breached.

(11) In the event the estate or heirs fail to apply during the period provided for in paragraph (9) of this regulation, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the estate or heirs' lack of qualification or intent not to continuously devote the property to an applicable bona fide qualifying use. In such event the board of tax assessors shall be authorized to declare the covenant in breach without penalty.

(12) All approved applications for current use assessment shall be filed with the clerk of the superior court in the county where the property is located.

(a) the fee of the clerk of the superior court for recording approved applications shall be paid by the owner of the property with the application for current use assessment.

(b) the board of tax assessors shall collect the recording fee from the applicant seeking current use assessment and such recording fee to be in the amount provided for in Article 2 of Chapter 6 of Title 15 and shall be paid to the clerk of the superior court when the application is filed with the clerk.

(c) if the application for current use assessment is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. § 48-5-306 and shall return any filing fee paid by the applicant.

(13) At such time as property ceases to be eligible for current use assessment, the owner of the property shall file an application for release of current use assessment with the county board of tax assessors.

(a) The board of tax assessors shall approve the release upon verification that all taxes and penalties have been satisfied.

(b) The board of tax assessors shall file the approved release in the office of the clerk of the superior court in the county in which the original covenant for current use assessment was filed. No fee shall be paid to the clerk of the superior court for recording such release.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.4, 48-5-269, 48-5-306.

History. Original Rule entitled "Applications" adopted. F. May 28, 1993; eff. June 17, 1993. Repealed: New Rule of same title adopted. F. Mar. 1, 1995; eff. Mar. 21, 1995. Repealed: New Rule of same title adopted. F. Feb. 24, 1997; eff. Mar. 16, 1997. Repealed: New Rule of same title adopted. F. Mar. 10, 1999; eff. Mar. 30, 1999. Amended: F. Feb. 2, 2000; eff. Feb. 22, 2000. Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004. Amended: F. Dec. 20, 2006; eff. Jan. 9, 2007. Repealed: New Rule of same title adopted. F. Dec. 9, 2008; eff. Dec. 29, 2008. Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

**560-11-6-.05 Change of Qualifying Use.**

(1) During the covenant period the owner may change, without penalty, the use of the property from one qualifying use to another qualifying use, such as from timber land to agricultural land, but such owner shall be required to give notice of any such change to the board of tax assessors on or before the last day for the filing of a tax return in the county for the tax year for which the change is sought. Failure to so notify the board of tax assessors of the change in use may constitute a breach of covenant effective upon the date of discovery of the breach.

(2) When the qualifying use of property receiving current use assessment and subject to a conservation use covenant is changed to another qualifying use and the owner fails to notify the board of tax assessors on or before the deadline for filing tax returns in the year following the year in which the change in use occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event the board of tax assessors shall send to the owner a notice of the board's intent to assess a penalty for the breach of the covenant. The notice shall be entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant" and shall set forth the following information:

(a) the requirement of the owner of the property currently receiving current use assessment to notify the board of tax assessors of the current qualifying use of the property within thirty (30) days of the date of postmark of the notice;

(b) the requirement of the new owner of the property currently receiving current use assessment to continuously devote the property to an applicable bona fide qualifying use for the duration of the covenant;

(c) the change to the assessment if the covenant is breached; and

(d) the amount of penalty if the covenant is breached.

(3) In the event the new owner fails to respond to the notice provided for in paragraph (2) of this regulation by providing information concerning the change in use of the property to the board of tax assessors, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the owner's lack of response. The board of tax assessors shall be authorized to declare the covenant in breach and assess a penalty.

(4) In those instances where the property owner has duly notified the tax assessors that the use of the property has been changed from one qualifying use to another qualifying use, the board of tax assessors shall re-calculate the current use valuation of the property for said tax year in accordance with the valuation standards and tables prescribed by these Regulations for the new qualifying use. However, the limitation on valuation increases or decreases provided for by O.C.G.A. § 48-5-269 shall be applied to the recomputed valuation as if the owner had originally covenanted the property in the new qualifying use.

(5) In addition to the provisions for property subject to the covenant to lie fallow or idle pursuant to O.C.G.A. § 48-5-7.4(p)(2), allowing conservation use property to lie fallow due to economic or financial hardship shall not be considered a change of qualifying use nor a breach of the covenant provided the owner notifies the board of tax assessors on or before the last day for filing a tax return in the county of the land lying fallow and does not allow the land to lie fallow for more than two years within any five-year period.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.4, 48-5-269.

History. Original Rule entitled "Change of Qualifying Use" adopted. F. May 28, 1993; eff. June 17, 1993. Amended: F. Dec. 20, 2006; eff. Jan. 9, 2007. Repealed: New Rule of same title adopted. F. Dec. 9, 2008; eff. Dec. 29, 2008. Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

#### **560-11-6-.06 Breach of Covenant.**

- (1) If a breach of covenant occurs during a tax year but before the tax rate is established for that year, the penalty for that partially completed year shall be calculated based upon the tax rate in effect for the immediately preceding tax year. However, the tax due for the partially completed year shall be the same as would have been due absent a breach.
- (2) If a breach occurs on all or part of the property that was the subject of an original covenant and was transferred in accordance with O.C.G.A. § 48-5-7.4(i), then the breach shall be deemed to have occurred on all of the property that was the subject of the original covenant. The penalty shall be assessed pro rata against each of the parties to the covenant in proportion to the tax benefit enjoyed by each during the life of the original covenant.
- (3) The breach shall be deemed to occur upon the occasion of any event which would otherwise disqualify the property from receiving the benefit of current use valuation. The lien against the property for penalties and interest shall attach as of the date of such disqualifying event.
- (4) If a covenant is breached by the original covenantor or a transferee who is related to the original covenantor within the fourth degree of civil reckoning, and where such breach occurs during the sixth through tenth years of a renewal covenant, the penalty imposed shall be the amount by which current use assessment has reduced taxes otherwise due for each year in which such renewal covenant was in effect, plus interest at the rate specified in O.C.G.A. § 48-2-40 from the date the covenant was breached.
- (5) Before a penalty is assessed, notice shall be provided to the taxpayer by the board of tax assessors that the covenant has been breached. This notice shall include the specific grounds of the breach, provide to the taxpayer notice to cease and desist the alleged breach activity, and notify the taxpayer that they have thirty (30) days to correct the breach.
- (6) If the board of tax assessors determines that a breach has occurred and the taxpayer has not corrected the situation within the time limit specified, the taxpayer has the right to appeal the determination of the breach to the board of equalization as provided in O.C.G.A. § 48-5-311.

Authority: O.C.G.A. §§ 48-2-12, 48-2-40, 48-5-7.4, 48-5-269.

History. Original Rule entitled "Breach of Covenant" adopted. F. May 28, 1993; eff. June 17, 1993. Repealed: New Rule of same title adopted. F. Mar. 10, 1999; eff. Mar. 30, 1999. Repealed: New Rule of same title adopted. F. Dec. 9, 2008; eff. Dec. 29, 2008. Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

#### **560-11-6-.07 Valuation of Qualified Property.**

Annually, and in accordance with the provisions and requirements of O.C.G.A. 48-5-269, the Commissioner shall propose and promulgate by regulation as specified by the Georgia Administrative Procedure Act, tables and standards of value for current use valuation of properties whose qualifying use is as bona fide conservation use properties. Once adopted by the Commissioner, these tables and standards of value shall be published and otherwise furnished to the boards of tax assessors and shall serve as the basis upon which current use valuation of such qualified properties shall be calculated for the applicable tax year.

(a) Conservation use land shall be divided into two use groups consisting of nine soil productivity classes each. These two use groups shall be agricultural land (crop land and pasture land) and timber land. The Commissioner shall determine the appropriate soil characteristics or site index factors for each of these eighteen soil productivity classes for use as a guide for the assessors. In those counties where the Soil Conservation Service of the U.S. Department of Agriculture has classified the soil according to its productivity, the Commissioner shall instead prepare and publish a table converting the Soil Conservation Service's codes

into the eighteen soil productivity classes.

(b) The state shall be divided into the following areas for the purpose of accumulating the income and market information necessary to determine conservation use values:

1. For the purpose of determining the income of crop land and pasture land, the state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service and which shall be referred to as agricultural districts;

2. For the purpose of determining the income of timber land, the agricultural districts shall be combined into timber zones as follows: agricultural districts #1, #2 and #3 shall compose timber zone #1, agricultural districts #4, #5 and #6 shall compose timber zone #2, and agricultural districts #7, #8 and #9 shall compose timber zone #3;

3. For the purpose of determining the market value of agricultural land and timber land, the state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service. Such areas shall be referred to as market regions.

(c) Sixty-five percent of the conservation use value shall be attributable to the capitalization of net income from the property and this component of total value shall be determined as follows:

1. For crop land, the income valuation increment of the conservation use valuation shall be based on the five-year weighted average of per-acre net income from those major predominant acreage crops harvested in at least 125 counties of Georgia ("base crops"). In making this calculation, the Commissioner, utilizing the latest information either published or about to be published in the Georgia Department of Agriculture's edition of Georgia Agricultural Facts and the United States Department of Agriculture Economic Research Service's Costs of Production-Major Field Crops, shall:

(i) For each year, determine for each of the nine agricultural districts the yield per acre for each of the base crops;

(ii) For each year, determine for each of the nine agricultural districts the acres harvested of each of the separate base crops and the total acres harvested of all the base crops;

(iii) For each year, determine a state-wide price received per unit of yield for each of the base crops;

(iv) For each year, determine a state-wide cost of production consisting of the typical costs incurred in the production of the base crops, including, but not limited to, the reasonable cost of planting, harvesting, overhead, interest on operating loans, insurance and management;

(v) For each year, using the determinations herein, compute for each of the nine agricultural districts, the weighted net income per acre by summing the results of the computation of each base crop's net income obtained by multiplying the yield per acre times the percentage of total acreage times the price received and then making a reduction to account for the cost of production;

(vi) Compute for each of the nine agricultural districts, the per acre income valuation by capitalizing the average per acre weighted net income before property taxes, utilizing the rate of capitalization provided for in O.C.G.A.

48-5-269 plus the effective ad valorem tax rate;

2.(i) For pasture land, the income valuation increment of the conservation use valuation shall be based on the five-year weighted average of per-acre rental rates of pasture property. In making this calculation, the Commissioner, utilizing the latest information available, shall:

(ii) Compute for each of the nine agricultural districts, the per acre income valuation by capitalizing the average per acre rental rates weighted by the acreage of hay harvested each year utilizing the rate of capitalization provided for in O.C.G.A. 48-5-269;

3.(i) The income valuation derived for crop land and pasture land shall be combined into the income valuation for agricultural land by calculating and applying a weighted average of all crop and pasture acreage in each agricultural district.

(ii) Using soil productivity data from the Soil Conservation Service of the U.S. Department of Agriculture,

determine productivity influence factors by calculating the relationships between the volumes of corn that will grow on the soils contained within each of the nine productivity classes. Apply these factors to the per acre income valuation of agricultural land to determine the income valuations for each of the nine soil productivity classes.

4. For timber land, the income valuation increment of the conservation use valuation shall be based on the five-year weighted average of per-acre net income from hardwood and softwood harvested in Georgia. In making this calculation the Commissioner shall:

(i) For each timber category and zone, determine for the immediately preceding five years for which information is available, the unit prices received by the sellers of standing timber in Georgia from reports received by the Commissioner of actual sales, from information furnished by the Georgia Forestry Commission, from commercially prepared publications of average sales prices, or from a combination of these sources;

(ii) For each timber category and zone, determine the average volumes of the various types of timber harvested annually in Georgia;

(iii) For each timber category and zone, compute the gross income each year from the harvests of timber by multiplying the unit price for each year times the annual average harvest volumes of each type of timber harvested;

(iv) For each timber zone, determine the acres of softwood timber land and hardwood timber land;

(v) For each timber zone, compute the weighted gross income per acre for each year by dividing the gross income from the harvest of softwoods each year by the acreage of softwood timberland; dividing the gross income from the harvest of hardwoods each year by the acreage of hardwood timberland and weighting the two resulting per acre gross incomes by the percentage of acres of softwood and hardwood timberland to total acres of timberland;

(vi) For each timber zone, determine the costs of production of timber for each year including, but not limited to, the cost of site preparation, planting, seedlings, prescribed burnings, management, marketing costs and ad valorem taxes due on the harvest or sale of timber;

(vii) For each timber zone, determine the acreages of timberland annually receiving production treatments, i.e. site preparation, planting and burning;

(viii) For each timber zone, compute the production expenses per acre incurred each year by multiplying the expense by the appropriate factor, i.e. multiply the cost of site preparation per acre by the percentage of acres annually receiving this treatment, multiply the harvest tax millage by the weighted gross income per acre;

(ix) For each timber zone, compute the net income per acre for each year by subtracting the production expenses incurred during the year from the weighted gross income per acre for that year;

(x) For each timber zone, calculate the per acre income valuation by capitalizing the average per acre net income before property taxes, utilizing the rate of capitalization provided for in O.C.G.A. 48-5-269 plus the effective ad valorem tax rate;

(xi) Determine productivity influence factors by calculating the relationships between the volumes of Loblolly Pine grown on each of the nine productivity classes of soil and apply these factors to the per acre income valuation for the benchmark land, to determine the income valuations for each of the nine soil productivity classes.

(d) Thirty-five percent of the conservation use value shall be attributable to values produced by a market study consisting of sales data from arms length bona fide sales of comparable real property with and for the same existing use. In determining this increment of total value, the Commissioner shall:

1. Gather a statistically valid sample of qualified sales of agricultural and timber properties;

2. Calculate a residual land value for each sale in the sample by adjusting the sales price to remove any portion representing value attributable to any component of the sale other than the land;

3. Utilizing the residual land value sale prices, determine, as far as is practical, the relationships between the average sales price per acre for each of the nine soil productivity classes in each of the market regions.
- (e) Environmentally sensitive properties and constructed storm water wetland conservation use properties shall be classified by the board of tax assessors as being within the timber land use group and shall be valued according to the current use value determined for timber land of the same or similar soil productivity class.
- (f) The current use value for land lying under water, such as ponds, lakes or streams, shall be the value determined for the lowest productivity level of the predominate adjacent land use.
- (g) Land utilized for an orchard or vineyard shall be classified as crop land. The trees, shrubs or vines shall be considered an improvement to the land and separately valued.
- (h) Current use valuation for qualified bona fide residential transitional property shall be determined annually by the board of tax assessors by the consideration, as applicable, of the current use of such property, its annual productivity, if any, and sales data of comparable real property with and for the same existing use.
- (i) Except as otherwise provided, the total current use valuation for any property, including qualified improvements, whose qualifying use is as bona fide conservation use property for any year during the covenant period shall not be increased or decreased by more than three percent from the current use valuation for the immediately preceding tax year or be increased or decreased during the entire covenant period by more than 34.39 percent from its current use valuation for the first year of the covenant period. The limitations imposed herein shall apply to the total value of all the conservation use property that is the subject of an individual covenant including any improvements that meet the qualifications set forth in O.C.G.A. 48-5-7.4(a)(1); provided, however, that in the event the owner changes the use of any portion of the land, such as from timber land to agricultural land, or adds or removes therefrom any such qualified improvements, the limitations imposed by this subsection shall be recomputed as if the new uses and improvements were in place at the time the covenant was originally entered. This limitation on increases or decreases shall not apply to the current use valuation of residential transitional property.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

History. Original Rule entitled "Valuation of Qualified Property" adopted. F. May 28, 1993; eff. June 17, 1993. Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004. Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

#### **560-11-6-.08 Appeals.**

- (1) Applications for current use valuation as conservation use property or residential transitional property provided by O.C.G.A. Section 48-5-7.4 shall be approved or denied by the county board of tax assessors. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. Section 48-5-306. Such notice shall include the following simple non-technical assessment reason in bold font "CONSERVATION USE COVENANT APPLICATION DENIED." Appeals from the denial of an application shall be made in the same manner, according to the same time requirements, and decided in the same manner that other ad valorem tax assessment appeals are made pursuant to O.C.G.A. Section 48-5-311.
- (2) For the first year of the covenant period the taxpayer shall be notified by the board of assessors of the current use valuation placed on the property for that year. Appeals shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. Section 48-5-311.
- (3) During the covenant period the taxpayer shall be given notification of any change in the current use val-



uation made by the board of tax assessors for the then current tax year. Appeals shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. Section 48-5-311.

(4) Appeals regarding the current use valuation of conservation use property under paragraphs (2) and (3) of this regulation may be made contesting the board of tax assessor's initial determination or subsequent change of the qualifying use of the property, the soil classification of any part or all of the qualified property, the valuation of any qualified improvements, the assessment ratio utilized with regard to the qualified property; as well as with regard to any alleged errors that may have been made by the assessors in the application of the tables and standards of value prescribed by the Commissioner. An appeal, however, may not be made to the local board of tax assessors concerning the tables or standards of value prescribed by the Commissioner pursuant to Regulation 560-11-6-.09.

(5) The tax assessors shall continue to notify the taxpayer of any changes to the fair market value of the covenanted property, and such notice shall conform to the provisions of O.C.G.A. Section 48-5-306. A taxpayer desiring to appeal such changes shall do so in the same manner as other assessment appeals are made pursuant to O.C.G.A. Section 48-5-311.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.4, 48-5-269, 48-5-306, 48-5-311.

History. Original Rule entitled "Appeals" adopted. F. May 28, 1993; eff. June 17, 1993. Amended:F. Jun. 10, 2013; eff. Jun. 30, 2013.

**560-11-6-.09 Table of Conservation Use Land Values.**

(1) For the purpose of prescribing the current use values for conservation use land, the state shall be divided into the following 9 Conservation Use Valuation Areas (CUVA 1 through CUVA 9) and the following accompanying table of per acre land values shall be applied to each acre of qualified land within the CUVA for each soil productivity classification for timber land (W1 through W9) and agricultural land (A1 through A9):

(a) CUVA #1 counties: Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield. Table of per acre values: W1 759, W2 681, W3 619, W4 567, W5 520, W6 483, W7 453, W8 416, W9 379, A1 1,376, A2 1,301, A3 1,206, A4 1,105, A5 999, A6 893, A7 794, A8 697, A9 597; W1-781, W2-701, W3-637, W4-584, W5-535, W6-497, W7-466, W8-428, W9-390, A1-1,417, A2-1,340, A3-1,242, A4-1,138, A5-1,028, A6-919, A7-817, A8-717, A9-614;

(b) CUVA #2 counties: Barrow, Cherokee, Clarke, Cobb, Dawson, DeKalb, Fannin, Forsyth, Fulton, Gilmer, Gwinnett, Hall, Jackson, Lumpkin, Oconee, Pickens, Towns, Union, Walton, and White. Table of per acre values: W1 1028, W2 930, W3 839, W4 760, W5 700, W6 658, W7 620, W8 569, W9 518, A1 1,508, A2 1,344, A3 1,196, A4 1,058, A5 947, A6 846, A7 759, A8 689, A9 620; W1-1058, W2-957, W3-864, W4-782, W5-721, W6-677, W7-638, W8-586, W9-533, A1-1,553, A2-1,384, A3-1,231, A4-1,089, A5-975, A6-871, A7-781, A8-709, A9-638;

(c) CUVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: W1 1028, W2 930, W3 839, W4 760, W5 700, W6 641, W7 539, W8 439, W9 367, A1 1,148, A2 1,043, A3 935, A4 829, A5 723, A6 653, A7 535, A8 449, A9 379; W1-1058, W2-957, W3-864, W4-782, W5-721, W6-660, W7-555, W8-452, W9-378, A1-1,182, A2-1,074, A3-963, A4-853, A5-744, A6-672, A7-551, A8-462, A9-390;

(d) CUVA #4 counties: Carroll, Chattahoochee, Clayton, Coweta, Douglas, Fayette, Haralson, Harris, Heard, Henry, Lamar, Macon, Marion, Meriwether, Muscogee, Pike, Schley, Spalding, Talbot, Taylor, Troup, and Upson. Table of per acre values: W1 742, W2 664, W3 602, W4 552, W5 481, W6 449, W7 390, W8 337, W9 275, A1 942, A2 843, A3 773, A4 692, A5 607, A6 504, A7 437, A8 339, A9 245; W1-764, W2-683, W3-620, W4-568, W5-495, W6-462, W7-401, W8-347, W9-283, A1-970, A2-868, A3-796, A4-712, A5-625, A6-519, A7-450, A8-349, A9-252;

(e) CUVA #5 counties: Baldwin, Bibb, Bleckley, Butts, Crawford, Dodge, Greene, Hancock, Houston, Jasper, Johnson, Jones, Laurens, Monroe, Montgomery, Morgan, Newton, Peach, Pulaski, Putnam, Rockdale, Taliaferro, Treutlen, Twiggs, Washington, Wheeler, and Wilkinson. Table of per acre values: W1 632, W2 585, W3 537, W4 492, W5 445, W6 400, W7 351, W8 304, W9 253, A1 699, A2 608, A3 566, A4 518, A5 462, A6 393, A7 323, A8 255, A9 187; W1-650, W2-602, W3-553, W4-506, W5-458, W6-412, W7-361, W8-313, W9-260, A1-719, A2-626, A3-582, A4-533, A5-475, A6-404, A7-332, A8-262, A9-192;

(f) CUVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: W1 625, W2 574, W3 524, W4 477, W5 427, W6 378, W7 328, W8 277, W9 227, A1 792, A2 695, A3 637, A4 585, A5 518, A6 431, A7 351, A8 269, A9 190; W1-643, W2-591, W3-539, W4-491, W5-439, W6-389, W7-337, W8-285, W9-233, A1-815, A2-715, A3-656, A4-602, A5-533, A6-443, A7-361, A8-277, A9-195;

(g) CUVA #7 counties: Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Sumter, Terrell, Thomas, and Webster. Table of per acre values: W1

~~669, W2-609, W3-555, W4-499, W5-440, W6-385, W7-328, W8-269, W9-214, A1-920, A2-834, A3-742, A4-645, A5-553, A6-464, A7-359, A8-273, A9-185; W1-689, W2-627, W3-571, W4-513, W5-453, W6-396, W7-337, W8-277, W9-220, A1-947, A2-859, A3-764, A4-664, A5-569, A6-477, A7-369, A8-281, A9-190;~~

(h) CUVA #8 counties: Atkinson, Ben Hill, Berrien, Brooks, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Jeff Davis, Lanier, Lowndes, Telfair, Tift, Turner, Wilcox, and Worth. Table of per acre values: ~~W1-728, W2-660, W3-591, W4-524, W5-456, W6-390, W7-322, W8-255, W9-208, A1-930, A2-879, A3-794, A4-708, A5-623, A6-537, A7-416, A8-337, A9-250; W1-749, W2-679, W3-608, W4-539, W5-469, W6-401, W7-331, W8-262, W9-214, A1-957, A2-905, A3-817, A4-729, A5-641, A6-553, A7-428, A8-347, A9-257;~~

(i) CUVA #9 counties: Appling, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Evans, Glynn, Liberty, Long, McIntosh, Pierce, Tattnall, Toombs, Ware, and Wayne. Table of per acre values: ~~W1-736, W2-664, W3-602, W4-535, W5-466, W6-402, W7-334, W8-267, W9-208, A1-862, A2-831, A3-745, A4-664, A5-582, A6-499, A7-416, A8-332, A9-250; W1-758, W2-683, W3-620, W4-551, W5-479, W6-414, W7-344, W8-275, W9-214, A1-887, A2-855, A3-767, A4-683, A5-599, A6-513, A7-428, A8-341, A9-257.~~

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.4, 48-5-269. **2015 PROPOSED REGULATION CHANGE**

History .Original Rule entitled "Table of Conservation Use Land Values" adopted. F. May 28, 1993; eff. June 17, 1993. Repealed: New Rule of same title adopted. F. May 13, 1994; eff. June 2, 1994. Repealed: New Rule of same title adopted. F. Mar. 1, 1995; Mar. 21, 1995. Repealed: New Rule of same title adopted. F. Jan. 28, 1996; eff. Feb. 18, 1996. Repealed: New Rule of same title adopted. F. Feb. 24, 1997; eff. Mar. 16, 1997. Repealed: New Rule of same title adopted. F. Jan. 27, 1998; eff. Feb. 16, 1998. Repealed: New Rule of same title adopted. F. Mar. 10, 1999; eff. Mar. 30, 1999. Amended: F. Feb. 2, 2000; eff. Feb. 22, 2000. Amended: F. Apr. 20, 2001; eff. May 10, 2001. Repealed: New Rule of same title adopted. F. Apr. 17, 2002; eff. May 7, 2002. Repealed: New Rule of same title adopted. F. May 19, 2003; eff. June 8, 2003. Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004. Amended: F. Mar. 29, 2005; eff. Apr. 18, 2005. Repealed: New Rule of same title adopted. F. Mar. 1, 2006; eff. Mar. 21, 2006. Amended: F. Feb. 21, 2007; eff. Mar. 13, 2007. Amended: F. Apr. 21, 2008; eff. May 11, 2008. Repealed: New Rule of same title adopted. F. Apr. 15, 2009; eff. May 5, 2009. Repealed: New Rule of same title adopted. F. Mar. 15, 2010; eff. Apr. 4, 2010. Repealed: New Rule of same title adopted. F. Mar. 3, 2011; eff. Mar. 23, 2011. Amended: F. Apr. 24, 2012; eff. May 14, 2012. Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013; Amended 2014;

## Chapter 14 FOREST LAND CONSERVATION USE ASSESSMENT

### **560-11-11-.01 Definitions.**

(1) As used in this Regulatory Chapter, the term:

(a) "Application" shall mean the application for QFLP designation.

(b) "Contiguous" shall mean real property within a county that abuts, joins, or touches and has the same undivided common ownership.

1. If an applicant's tract is divided by a county line boundary, public roadway, public easements, public right-of-way, natural boundary, land lot line or railroad tracks then the applicant has, at the time of the initial application, a one-time election to declare the tract as contiguous irrespective of a county line boundary, public roadway, public easement, public right-of-way, natural boundary, land lot line or railroad track, ~~as the boundary.~~

(c) "Department" shall mean the Georgia Department of Revenue.

(d) "Entity registered to do business in this state" shall mean any firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public that is registered to do business with the Secretary of the State of Georgia or that has been created by a court.

(e) "FLPA" shall mean the Georgia Forest Land Protection Act of 2008 as codified in O.C.G.A. § 48-5-7.7.

(f) "Forest Land" shall mean the timbered area of a tract of land as determined by the Local Board of Tax Assessors.

(g) "Good Faith Subsistence" shall mean the use of the forest land in a manner that minimizes change or damage to the natural state of the forest land.

(h) "Local Board of Tax Assessors" shall mean the local board of tax assessors in any county where the application for QFLP designation is filed and the real property is located.

(i) "Notice of Breach" shall mean the notice sent by the Local Board of Tax Assessors in the county where the breach has occurred.

(j) "Permissible Breach" shall mean a breach enumerated in O.C.G.A. § 48-5-7.7(p), which will serve to terminate the QFLP Covenant. However, the breaching party is not subject to penalties and interest.

(k) "Plat" shall mean a legible drawing done on, at a minimum, 8 = x 11 20lb paper sufficiently delineating the boundaries of the tract of real property for which QFLP designation is sought.

1. All Plats shall be drawn with the top of the page being north.

(l) "Primary Use" shall mean a use of the tract which is

1. According to ~~O.C.G.A. § 48-5-7.7(b)(1)(C)~~ O.C.G.A. § 48-5-7.7(b)(2)(C).

2. As set forth on the Department's application form and is approved by the Local Board of Tax Assessors.

(m) "QFLP" stands for Qualified Forest Land Property of greater than 200 acres

1. That meets the qualifications set forth in FLPA.

2. That has been approved by the Local Board of Tax Assessors.

3. For which a QFLP Covenant has been

(i) Signed on behalf, or by all parties owning an undivided interest in the fee simple tract; and

(ii) Recorded in any appropriate county's real property index.

(n) "QFLP Covenant" shall mean the fifteen (15) year covenant required by O.C.G.A. § 48-5-7.7. The form of the covenant shall be in the manner prescribed by the Commissioner.

~~(o) "Registration" shall mean an entity that is registered to do business with the Secretary of the State of Georgia or created by a court.~~

~~(p)~~ "Secondary Use" shall mean secondary uses of the tract as specified in the FLPA as determined by the Local Board of Tax Assessors.

~~(q)~~ (p) "Underlying Property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less, for which the taxpayer has provided documents which delineate the property boundaries so as to facilitate the proper identification of such property on the covenant applicant and the board of tax assessors maps and records.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.7, 48-5-271. **2015 PROPOSED REGULATION CHANGE**

History. Original Rule entitled "Table of Forest Land Protection Act Land Use Values" adopted. F. Apr. 15, 2009; eff. May 5, 2009. Amended: ER.560-11-11-0.40-.01 entitled "Definitions" adopted. F. May 22, 2009; eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009

### **560-11-11-.02 Withdrawing or Amending an Application for QFLP**

(1) If an applicant has timely filed its application for calendar year 2009 prior to the effective date of this Regulation, and wishes to withdraw or amend its application then the applicant shall have thirty (30) days from the date this Regulation becomes effective to amend or withdraw its application for real property to be designated QFLP.

(a) After thirty (30) days from the effective date of this Regulation, an applicant

1. Shall have thirty (30) days after submission of the application to amend its application and

2. May amend its application after thirty (30) days from the date of submission of its application to the Local Board of Tax Assessors, only upon agreement the Local Board of Tax Assessors to which the application was made.

3. May withdraw its application at anytime prior to approval or denial by the Local Board of Tax Assessors. An application for QFLP may be amended or withdrawn at anytime prior to the initial approval or denial of such QFLP covenant by the local county board of tax assessors.

(2) An applicant amending or withdrawing an application shall provide written notification to the Local Board of Tax Assessors in all counties affected by its application prior to approval of the application by the local board of tax assessors.

(3) In the event that the thirtieth day of the aforesaid period is on a state holiday or weekend, the notification for amending or withdrawing the application must be shall be considered received by the local board of assessors when hand delivered or when date stamped by the United States Postal Service, a commercial delivery service, or a commercial courier no later than the next business day following the state holiday or weekend day.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.7. PROPOSED 2015 REGULATION CHANGE

History. Original Rule entitled "Withdrawing or Amending an Application for QFLP" adopted as ER. 560-11-11-0.40-.02.F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

### **560-11-11-.03 QFLP Qualifications**

(1) The Local Board of Tax Assessors shall be responsible for approving all QFLP applications.

(2) Real property for which QFLP designation is sought shall meet all requirements as set forth in O.C.G.A. § 48-5-7.7 and

(a) At least one-half of area of the applicant's tract of real property for which QFLP designation is sought must be used for a Qualifying Purpose as set forth in O.C.G.A. § 48-5-7.7, and Department regulations;

(b) The portion of the tract not being used for a Qualifying Purpose must not be used for any other type of

business other than as set forth in O.C.G.A. § 48-5-7.7; and

(c) Uses of any portion of the tract not being used for a Qualifying Purpose may be deemed acceptable uses by the Local Board of Tax Assessors, and therefore not in breach of the QFLP Covenant, provided that

1. The Local Board of Tax Assessors determines that such portion is

(i) Minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems; or

(ii) Being used for any secondary uses as listed in O.C.G.A. § 48-5-7.7(b)(1)(C).

(3) Area around cellular phone tower pads used or maintained as part of the pad, shall not constitute a breach of the QFLP Covenant if

(a) The tract is less than 2,000 acres the total area of the pads does not exceed six (6) acres, or

(b) For tracts larger than 2,000 acres, the total area of cellular phone tower pads does not exceed six (6) acres for every 2,000 acres.

(c) Any roadway to the cellular phone tower pads shall not be included in the determination of the six (6) acre maximum.

(4) To obtain QFLP designation for a contiguous tract of real property located in multiple counties, the applicant must enter into a single QFLP Covenant for the entire contiguous tract. This QFLP Covenant must be approved and recorded in each county where the contiguous tracts are located.

(a) If one or more counties deny a QFLP application, any portions of the contiguous tract which are approved, may still be eligible for QFLP designation provided that

1. Any remaining tract or tracts meets the minimum qualifications as set forth in O.C.G.A. § 48-5-7.7, and Department regulations.

2. The QFLP Covenant is signed by all owners and the appropriate Local Board(s) of Tax Assessors; and

3. Recorded in the appropriate county's real property index.

(5) The QFLP Covenant shall be effective upon the county signing and recording the QFLP Covenant in the real property index as of January 1 of the year in which the application was filed, provided that the application was filed no later than the last day for filing ad valorem tax returns in that county.

(a) Upon approval of the application for QFLP designation, owner(s) of record shall have until the end of the calendar year in which the application was approved to have

1. All owner(s) of record to sign the covenant and submit the Covenant to the Local Board of Tax Assessors to sign the QFLP Covenant in the county where the application was approved.

(b) Any appeals to the denial of QFLP designation or failure by the Local Board of Tax Assessors to sign the Covenant, shall be made in the manner provided for in O.C.G.A. § 48-5-311.

1. If an appeal is not resolved until the subsequent year after the filing of the application and the applicant receives a favorable decision on the appeal the applicant shall be entitled to the benefits derived from the QFLP Covenant beginning in the year in which application was filed with the county then

(i) Applicant will have until the end of the calendar year to satisfy the requirements of paragraph (5) of this Regulation.

(6) Property that otherwise qualifies for a Forest Land Conservation Use Covenant shall exclude the entire value of any residence and its 'underlying property.' This provision for excluding the 'underlying property' of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant. Additionally, in conjunction with the covenant application, the taxpayer shall provide any one of the following types of property boundary descriptions regarding such 'underlying property'

(a) A plat of the 'underlying property' prepared by a licensed land surveyor, showing the location and measured area of the 'underlying property' in question ; or

(b) A written legal description of the 'underlying property' delineating the legal metes and bounds and measured area of the 'underlying property' in question'; or

(c) Such other alternative property boundary description as mutually agreed upon by the taxpayer and county assessors. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.7. **PROPOSED 2015 REGULATION CHANGE**

History. Original Rule entitled "QFLP Qualifications" adopted as ER. 560-11-11-0.40-.03. F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.



**560-11-11-.04 QFLP Application.**

- (1) The Commissioner hereby adopts the form in Regulation 560-11-11-.11 Exhibit (A), as the Form to be used by all counties as the application for the FLPA.
- (2) All applicants for QFLP designation shall include with their application
  - (a) A plat of the tract for which QFLP designation is sought.
  - (b) A written legal description of the tract.
- (3) If a legal description or plat is contested by the county, then the county shall have the burden to prove its assertion that the plat or legal description as provided by the applicant is deficient.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.7. History. Original Rule entitled "QFLP Application" adopted as ER. 560-11-11-0.40-.04. F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

**560-11-11-.05 Period for Local Board of Assessors to Approve or Deny QFLP Applications.**

- (1) A Local Board of Tax Assessors shall have one hundred twenty days from receipt of an application for QFLP designation to approve or deny such application.
- (2) The application must be filed with the Local Board of Tax Assessors no later than the last day for filing ad valorem tax returns in that county except that in the case of tract which is the subject of a reassessment by the Local Board of Tax Assessors, an application for a QFLP covenant may be filed ~~in conjunction with or in lieu of~~ at any time while an appeal of the assessment ~~is pending~~.
- (3) Upon approval, the Local Board of Tax Assessors must notify the applicant within thirty (30) days of its decision and provide the QFLP Covenant to the applicant for signatures.
- (4) Upon denial of an Application, the Local Board of Tax Assessors must notify the applicant in the manner provided for in O.C.G.A. § 48-5-306.
- (5) If an Application is denied by the Local Board of Tax Assessors, any fees advanced by the applicant shall be returned to the applicant within thirty (30) days of the denial by the Local Board of Tax Assessors.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.7, 48-5-306. **PROPOSED 2015 REGULATION CHANGE**

History. Original Rule entitled "Period for Local Board of Assessors to Approve or Deny QFLP Applications" adopted as ER. 560-11-11-0.40-.05. F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

**560-11-11-.06 QFLP Covenant.**

(1) ~~There shall be one (1) QFLP Covenant for a~~ All contiguous tracts of an owner within a county for which forest land conservation use assessment is sought shall be in a single covenant unless otherwise required by law.

(2) The QFLP Covenant shall

(a) Be signed and recorded in any county where the tract is located and owner(s) have made application and received approval for QFLP designation.

1. The QFLP Covenant shall be signed by all owner(s) of record of the tract.

2. An individual may sign on behalf of the owner(s) of record by providing that such person has established that individual has sufficient legal authority satisfactory to the Local Board of Tax Assessors, to act on behalf of the owner(s).

(b) Have an effective date of January 1 ~~in of~~ the year ~~in for~~ which the application was filed and the QFLP Covenant is signed by all required parties.

(3) An applicant receiving a favorable ruling for an appeal shall ~~be~~ receive all benefits derived from the QFLP Covenant beginning in the year ~~in of~~ which the application was filed, irrespective of if the appeal is not resolved until subsequent year(s).

~~(a) If the QFLP Covenant is not signed by all required parties in the same year in which the application was approved, then such application will expire on December 31 of that year and the owner(s) must submit a new application for QFLP designation.~~

~~1. Notwithstanding the above, if an applicant receives approval in the month of December then such applicant shall have until January 31 of the following calendar year to have all owners sign the QFLP Covenant.~~

~~2. (4)~~ The QFLP Covenant and benefits derived therefrom shall not extend to any portion of the tract for which the QFLP Covenant has not yet been signed and recorded in that county's real property index.

Authority O.C.G.A. §§ 48-5-7.7. **PROPOSED 2015 REGULATION CHANGE**

History. Original Rule entitled "QFLP Covenant" adopted as ER. 560-11-11-0.40-.06.F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009. Repealed: New Rule, same title, adopted. F. Oct. 11, 2011; eff. Oct. 31, 2011.

***560-11-11-.07 Notice of Breach.***

- (1) The Notice of Breach shall be sent within thirty (30) days from the day that the breach is reported to or discovered by the Local Board of Tax Assessors to
  - (a) The owner(s) of record of the real property in breach.
  - (b) The Local Board of Tax Assessors in every other county where the QFLP is located.
- (2) The Notice of Breach shall include the following:
  - (a) The location of the breach;
  - (b) The date the breach was reported or discovered;
  - (c) An explanation of the breach;
  - (d) Whether the remedy is remediation or cease and desist of the breach;
  - (e) The date by which the remedy must be completed; and
  - (f) The penalty for not remedying or ceasing or desisting the breach.
- (3) The thirty (30) day period for the owner to remedy the breach shall not begin until the owner has received a Notice of Breach that complies with the requirements set forth in this Regulation.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.7. History. Original Rule entitled "Notice of Breach" adopted as ER. 560-11-11-0.40-.07. F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

***560-11-11-.08 Notification and Inspection Concerning QFLP in Breach of Covenant.***

- (1) The owner(s) of record of the tract of real property in breach shall have thirty (30) days from the date of receipt of the Notice of Breach by any owner of record to remedy the breach as specified in the Notice of Breach.
- (2) Beginning on the first day after the thirty (30) day period for an owner(s) of record of the tract of real property to remedy the breach, the Local Board of Tax Assessors shall have forty-five (45) days in which to conduct a physical inspection of the real property to determine if the prescribed remedy has been completed.
- (3) The Local Board of Tax Assessors shall have fifteen (15) days from the date of the physical inspection or the end of the inspection period, whichever is later, to send a written notice to the owner(s) of record of the tract, and any counties that encompass the tract subject to the breached QFLP Covenant, to inform the owner(s) whether the tract of real property is in compliance with the QFLP Covenant.
  - (a) Failure to inspect the tract of real property shall be deemed a determination that the tract is in compliance with the QFLP Covenant.
- (4) If a QFLP Covenant covers multiple counties then the Local Board of Tax Assessors in the county where the breach has occurred shall send the same written notifications to the Local Board of Tax Assessors in all affected counties where the QFLP Covenant is in force and effect.
  - (a) Such written notifications shall be sent within the same time period, and in the same manner, as the written notification sent to the owner(s) of record notifying them of the breach and the determination of whether or not the tract is in compliance with the QFLP Covenant.
- (5) Appeals concerning notice, inspection or any other issue, must be made in the manner provided for in O.C.G.A. § 48-5-311.
- (6) Notifications required by this Regulation that are sent by the Local Board of Tax Assessors to owner(s) of record of the tract subject to QFLP Covenant; and to any other counties where the tract is located and subject to the QFLP Covenant, shall be sent via certified mail by the United States Postal Service, commercial

delivery service, commercial courier, or personal service to the last known address of the owner(s) of record.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.7, 48-5-311. History. Original Rule entitled "Notification and Inspection Concerning QFLP in Breach of Covenant" adopted as ER. 560-11-11-0.40-.08. F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

#### ***560-11-11-.09 Release of Covenant.***

(1) When a tract of real property is no longer eligible as a QFLP due to a non-remedied breach, or at the expiration of the QFLP Covenant, the owner of such tract of real property shall file an application with the Local Board of Tax Assessors for release of the tract of real property from the QFLP Covenant

(a) Within sixty (60) days of the last day the tract was eligible as QFLP; or

(b) Within sixty (60) days of the last day of the QFLP Covenant.

(2) The Local Board of Tax Assessors must within fifteen (15) days from receipt of an application for release, determine if all taxes and penalties, if applicable, have been paid and satisfied on the tract of real property.

(a) Upon approval of the application for release of the tract real property from the QFLP Covenant, the Local Board of Tax Assessors shall have fifteen (15) days to

1. Provide written notification to the applicant that the release has been approved.

2. File the release with the office of the Clerk of Superior Court in the county where the original QFLP Covenant was filed, and provide a copy to the applicant.

(3) If an application for release is denied, the Local Board of Tax Assessors shall send written notification to the applicant within fifteen (15) days of receipt of such application and it shall include the reason(s) for denial.

(a) Appeals resulting from denial of release shall be made in the manner provided for in O.C.G.A. § 48-5-311.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7.7, 48-5-311. History. Original Rule entitled "Release of Covenant" adopted as ER. 560-11-11-0.40-.09. F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

#### ***560-11-11-.10 Penalty for Breach.***

(1) If a breach should occur during the QFLP Covenant period then a penalty shall be imposed by the Local Board of Tax Assessors.

(a) The method for calculating the amount of the penalty owed is set forth in O.C.G.A § 48-5-7.7(m).

(b) Penalties and interest imposed pursuant to O.C.G.A. § 48-5-7.7, shall constitute a lien against that portion of the property which is subject of the original covenant, and shall be collected in the same manner as unpaid ad valorem taxes.

(2) If all or part of the tract subject of the original QFLP Covenant is transferred during a the covenant period to another qualified owner, and following such transfer the acquiring owner and/or transferring owner cause a breach of the covenant, then:

(a) Any county affected by the breach must seek recovery of penalties and interest from the breaching party by any judicial means including but not limited to; foreclosure of the breaching party's property.

- (3) Activities listed in O.C.G.A. § 48-5-7.7(q) shall not constitute a breach of the QFLP Covenant.
- (4) If a contiguous tract is subject to a QFLP Covenant in multiple counties then a breach occurring in any of the counties where the contiguous tract is located shall constitute a breach of the entire contiguous tract. The owner of the contiguous tract shall be assessed all penalties and interest resulting from the breach of the QFLP Covenant.
- (5) If a breach occurs solely as the result of a Permissible Breach then no penalty shall be assessed but the QFLP Covenant will be terminated.

Authority O.C.G.A. Sec. 48-5-7.7.History. Original Rule entitled "Penalty for Breach" adopted as ER. 560-11-11-0.40-.10. F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009. Amended:F. Jun. 30, 2011; eff. Jul. 20, 2011.

#### ***560-11-11-.11 Forms.***

- (1) The Commissioner hereby adopts
- (a) Exhibit (A) as the Form for QFLP Application,
- (b) Exhibit (B) as the Form for the QFLP Covenant,
- (c) Exhibit (C) as the Form for the Notice of Breach, and
- (d) Exhibit (D) as the Form for the Application for Release.

Authority O.C.G.A. Sec. 48-2-12.History. Original Rule entitled "Forms" adopted as ER. 560-11-11-0.40-.11.F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

#### ***560-11-11-.12 Table of Forest Land Protection Act Land Use Values.***

- (1) For the purpose of prescribing the current use values for conservation use land, the state shall be divided into the following 9 Forest Land Protection Act Valuation Areas (FLPAVA 1 through FLPAVA 9) and the following accompanying table of per acre land values shall be applied to each acre of qualified land within the FLPAVA for each soil productivity classification for timber land (W1 through W9):

(a)FLPAVA #1 counties: Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield. Table of per acre values: ~~W1-759, W2-681, W3-619, W4-567, W5-520, W6-483, W7-453, W8-416, W9-379~~ W1-781, W2-701, W3-637, W4-584, W5-535, W6-497, W7-466, W8-428, W9-390;

(b)FLPAVA #2 counties: Barrow, Cherokee, Clarke, Cobb, Dawson, DeKalb, Fannin, Forsyth, Fulton, Gilmer, Gwinnett, Hall, Jackson, Lumpkin, Oconee, Pickens, Towns, Union, Walton, and White. Table of per acre values: ~~W1-1028, W2-930, W3-839, W4-760, W5-700, W6-658, W7-620, W8-569, W9-518~~ W1-1058, W2-957, W3-864, W4-782, W5-721, W6-677, W7-638, W8-586, W9-533;

(c)FLPAVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: ~~W1-1028, W2-930, W3-839, W4-760, W5-700, W6-641, W7-539, W8-439, W9-367~~ W1-1058, W2-957, W3-864, W4-782, W5-721, W6-660, W7-555, W8-452, W9-378;

(d)FLPAVA #4 counties: Carroll, Chattahoochee, Clayton, Coweta, Douglas, Fayette, Haralson, Harris, Heard, Henry, Lamar, Macon, Marion, Meriwether, Muscogee, Pike, Schley, Spalding, Talbot, Taylor, Troup, and Upson. Table of per acre values: ~~W1-742, W2-664, W3-602, W4-552, W5-481, W6-449, W7-390, W8-337, W9-275~~ W1-764, W2-683, W3-620, W4-568, W5-495, W6-462, W7-401, W8-347, W9-283;

(e)FLPAVA #5 counties: Baldwin, Bibb, Bleckley, Butts, Crawford, Dodge, Greene, Hancock, Houston, Jasper, Johnson, Jones, Laurens, Monroe, Montgomery, Morgan, Newton, Peach, Pulaski, Putnam, Rockdale, Taliaferro, Treutlen, Twiggs, Washington, Wheeler, and Wilkinson. Table of per acre values: ~~W1-632, W2-585, W3-537, W4-492, W5-445, W6-400, W7-351, W8-304, W9-253~~ W1-650, W2-602, W3-553, W4-506, W5-458, W6-412, W7-361, W8-313, W9-260;

(f)FLPAVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: ~~W1-625, W2-574, W3-524, W4-477, W5-427, W6-378, W7-328, W8-277, W9-227~~ W1-643, W2-591, W3-539, W4-491, W5-439, W6-389, W7-337, W8-285, W9-233;

(g)FLPAVA #7 counties: Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Sumter, Terrell, Thomas, and Webster. Table of per acre values: ~~W1-669, W2-609, W3-555, W4-499, W5-440, W6-385, W7-328, W8-269, W9-214~~ W1-689, W2-627, W3-571, W4-513, W5-453, W6-396, W7-337, W8-277, W9-220;

(h)FLPAVA #8 counties: Atkinson, Ben Hill, Berrien, Brooks, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Jeff Davis, Lanier, Lowndes, Telfair, Tift, Turner, Wilcox, and Worth. Table of per acre values: ~~W1-728, W2-660, W3-591, W4-524, W5-456, W6-390, W7-322, W8-255, W9-208~~ W1-749, W2-679, W3-608, W5-539, W5-469, W6-401, W7-331, W8-262, W9-214;

(i)FLPAVA #9 counties: Appling, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Evans, Glynn, Liberty, Long, McIntosh, Pierce, Tattnall, Toombs, Ware, and Wayne. Table of per acre values: ~~W1-736, W2-664, W3-602, W4-535, W5-466, W6-402, W7-334, W8-267, W9-208~~ W1-758, W2-683, W3-620, W4-551, W5-479, W6-414, W7-344, W8-275, W9-214.

Authority O.C.G.A. Secs. 48-2-12, 48-5-7, 48-5-7.7, 48-5-271. **PROPOSED 2015 REGULATION CHANGE**

History. Original Rule entitled "Table of Forest Land Protection Act Land Use Values" adopted as ER. 560-11-11-0.40-.12. F. and eff. May 22, 2009, the date of adoption. Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009. Repealed: New Rule of same title adopted. F. Mar. 15, 2010; eff. Apr. 4, 2010. Repealed: New Rule of same title adopted. F. Mar. 3, 2011; eff. Mar. 23, 2011. Amended: F. Apr. 24, 2012; eff. May 14, 2012. Amended: F. Jun. 25, 2013; eff. Jul. 15, 2013; Amended: 2014.

***560-11-11-.13 Valuation of Additional Qualified Property which is Contiguous to the Property in the Original Covenant.***

(1) If a qualified owner has entered into an original forest land conservation use covenant and subsequently acquires additional qualified property contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified property into the original covenant for the remainder of the fifteen (15) year period of the original covenant; provided, however, that such subsequently acquired qualified property shall be less than two hundred (200) acres.

(2) If the qualified owner makes such an election, then additional qualified property shall be valued in accordance with O.C.G.A. § 48-5-269.

(a) When calculating the additional qualified property's initial value, this initial value shall not be subject to the three percent (3%) limitation provided for in O.C.G.A. 48-5-271(b).

Authority O.C.G.A. Secs. 48-5-7.7, 48-5-269, 48-5-271. History. Original Rule entitled "Valuation of Additional Qualified Property which is Contiguous to the Property in the Original Covenant" adopted. F. Jun. 30, 2011; eff. Jul. 20, 2011.

## **Chapter 15 PUBLIC UTILITY**

### ***560-11-3-.04 Public Utility Financial Report -- Form PT-29.***

This report is filed by public utilities and reports the financial condition of the public utility as of January 1. This report must be filed by March 1.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Public Utility Financial Report -- Form PT-29" was filed on May 25, 1971; effective June 14, 1971.

### ***560-11-3-.05 Power Company Annual Return for Taxation -- Form PL-56.***

This return is filed by power companies and reports all property owned by the power company on January 1. This return must be filed by March 1.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Power Company Annual Return for Taxation -- Form PL-56" was filed on May 25, 1971; effective June 14, 1971.

### ***560-11-3-.06 Gas or Water Company Annual Return for Taxation -- Form PT-57.***

This return is filed by gas or water companies and reports all property owned by the gas or water company on January 1. This return must be filed by March 1.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Gas or Water Company Annual Return for Taxation -- Form PT-57" was filed on May 25, 1971; effective June 14, 1971.

### ***560-11-3-.07 Railroad Company Annual Return for Taxation -- Form PT-58.***

This return is filed by railroad companies and reports all property owned by the railroad company on January 1. This return must be filed by March 1.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Railroad Company Annual Return for Taxation -- Form PT-58." was filed on May 25, 1971; effective June 14, 1971.



***560-11-3-.08 Telephone or Telegraph Company Annual Return for Taxation -- Form PT-59.***

This return is filed by telephone or telegraph companies and reports all property owned by the telephone or telegraph company on January 1. This return must be filed by March 1.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Telephone or Telegraph Company Annual Return for Taxation -- Form PT-59" was filed on May 25, 1971; effective June 14, 1971.

## **Chapter 16 MOTOR VEHICLE ASSESSMENTS**

### ***560-11-2-.22 Motor Vehicle Assessments.***

Annually the State Revenue Commissioner shall prepare and publish a manual of motor vehicle assessments for the various types of motor vehicle property in Georgia. In addition the State Revenue Commissioner shall calculate as nearly and completely as is practical the assessed values on motor vehicle prebill applications furnished to the various county tax collectors. In all cases the assessed valuations appearing in the published motor vehicle assessment manual shall be the assessed value of a specific motor vehicle. Provided, however, that when the assessed valuation as calculated on the motor vehicle prebill application for a specific vehicle differs from the assessed valuation for the same vehicle published in the motor vehicle assessment manual by twenty-five dollars (\$ 25.00) or less, the county tax collector is authorized to accept the prebill valuation as being correct for that specific vehicle for the current year.

Authority Ga.Code Ann. Secs. 92-8405, 92-8406, 92-8409, 92-8427.

History. Original rule entitled "Motor Vehicle Assessments" adopted. F. Feb. 12, 1973; eff. Mar. 4, 1973.

## **Chapter 17 MOTOR VEHICLE APPORTIONMENT**

### ***560-11-7-.01 Purpose of Regulations.***

(1) These regulations have been adopted by the Commissioner pursuant to O.C.G.A. Section 48-2-12 in order to promulgate specific policies and procedures of the Department applicable to the administration and collection of ad valorem tax on motor vehicles pursuant to O.C.G.A. Section 48-5-471 when such motor vehicles are engaged in interstate commerce and subject to apportionment.

(2) This regulation shall apply to all motor vehicles subject to ad valorem taxation for the calendar year beginning January 1, 1995.

AUTHORITY: - 48-5-445 O.C.G.A. Secs. 48-5-442 - 48-5-445, 48-5-450, 48-5-471. ADMINISTRATIVE HISTORY: Original Rule entitled "Purpose of Regulations" adopted. F. Mar. 1, 1995; eff. Mar. 21, 1995.

### ***560-11-7-.02 Forms.***

The Commissioner shall prepare and furnish a form, herewith adopted and designated as PT-95, to be used by all persons seeking apportionment of ad valorem assessments on motor vehicles and trailers used in interstate commerce under this regulation.

AUTHORITY: O.C.G.A. Secs. 48-2-12, 48-5-269, 48-5-442 - 48-5-445, 48-5-471. ADMINISTRATIVE HISTORY: Original Rule entitled "Forms" adopted. F. Mar. 1, 1995; eff. Mar. 21, 1995.

### ***560-11-7-.03 When Apportionment Permitted.***

(1) Motor vehicles and trailers subject to ad valorem tax under O.C.G.A. Section 48-5-471 may acquire an ad valorem tax situs in states other than Georgia if, pursuant to their use in interstate commerce, such motor vehicles and trailers are used throughout the previous calendar year either along fixed or regular routes or, alternatively, are habitually employed within a non-domiciliary state, albeit upon irregular routes.

(2) Upon a proper showing of such circumstances to the tax authorities for the county where such property is returnable by law, the Georgia fair market value assessed upon such vehicle shall be the value otherwise assessed, multiplied by the "apportionment ratio" set forth in Regulation 560-11-7-.03(3).

(3) The "apportionment ratio" for a particular tax year shall be equal to one (1) minus the ratio of the total miles driven or traversed during the previous calendar year in those states other than Georgia in which the motor vehicle or trailer, as of January 1 of the tax year in question, has acquired an ad valorem tax situs, to the total miles driven or traversed in all states during the previous calendar year. The tax commissioner may use accumulated mileage of the tax payer's fleet of those vehicles based in Georgia on January 1 of the tax year in question as opposed to individual vehicle mileage to determine the apportionment ratio if the fleet mileage is deemed to fairly and reasonably indicate the correct situs of the value to be apportioned for the specific vehicle being registered in the county.

(4) For purposes of this regulation, "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States and any political subdivision of the foregoing jurisdictions.

AUTHORITY: - 48-5-445 O.C.G.A. Secs. 48-5-442 - 48-5-445, 48-5-471. ADMINISTRATIVE HISTORY: Original Rule entitled "When Apportionment Permitted" adopted. F. Mar. 1, 1995; eff. Mar. 21, 1995.

#### ***560-11-7-.04 Procedures.***

- (1) Any owner seeking apportionment of ad valorem assessments on motor vehicles and trailers used in interstate commerce shall file form PT-95 with the tax commissioner at the time the motor vehicle registration form is submitted.
- (2) The tax commissioner shall require the owner seeking apportionment of ad valorem assessments on motor vehicles and trailers to properly complete the form PT-95 which will serve as an affidavit of the correctness of the information. Additionally, the tax commissioner may require accompanying documentation sufficient to demonstrate that the owner's motor vehicles or trailers have acquired a tax situs in another state. Examples of such documentation may include the following:
  - (a) Evidence of individual or fleet vehicle mileage records such as those submitted to the Department of Revenue for apportionment of registration fees under the International Registration Plan (IRP);
  - (b) Evidence that ad valorem taxes were paid to another state with respect to such vehicle if such state imposes an ad valorem tax;
  - (c) Evidence that highway use or motor fuel taxes were paid to another state with respect to such vehicle;
  - (d) Evidence that registration fees (apportioned or unapportioned) were paid to another state.
- (3) The tax commissioner shall consider the evidence submitted with the form PT-95 and shall make the initial determination as to whether the value of the motor vehicle should be apportioned and shall make the assessment accordingly. The tax commissioner shall enter upon the form PT-95 the amount and date of such assessment. A copy of the form PT-95 shall be furnished to the taxpayer and shall serve as notice of the assessment of the vehicle made by the tax commissioner.

AUTHORITY: O.C.G.A. Secs. 48-5-444, 48-5-445, 48-5-471 - 48-5-475. ADMINISTRATIVE HISTORY: Original entitled "Procedures adopted. F. Mar. 1, 1995; eff. Mar. 21, 1995.

#### ***560-11-7-.05 Appeals.***

- (1) Any owner who contests the apportionment decision of the tax commissioner made pursuant to Regulation 560-11-7-.04(3) may appeal such decision by either filing with the tax commissioner an affidavit of illegality as outlined in Regulation 560-11-7-.05(2) or filing an appeal with the board of tax assessors as outlined in Regulation 560-11-7-.05(3).
- (2) The motor vehicle license plate may be obtained without payment of the ad valorem tax, as outlined in O.C.G.A. Section 48-5-450, by filing with the tax commissioner an affidavit of illegality to the assessment; and filing either 1) a surety bond issued by a State authorized surety company or 2) a bond approved by the clerk of superior court of the county or 3) a cash bond.
  - (a) The bond shall be in the amount equal to the tax and any penalties and interest which may be found to be due.
  - (b) The bond shall be made payable to the tax commissioner.
  - (c) The affidavit and bond are to be transferred by the tax commissioner immediately to the superior court to be tried as affidavits of illegality are tried in tax cases.
- (3) As an alternative to filing an affidavit of illegality, any owner requesting apportionment who contests

the value assessment of a motor vehicle may appeal such assessed value in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. Section 48-5-311.

(a) The time allowed for the filing of a written appeal shall be 45 days from the date of the tax commissioner's initial assessment as reflected on the form PT-95, or from the deadline date for the payment of the tax, whichever date occurs first.

(b) The time allowed for the filing of an appeal shall be 30 days rather than 45 days in those counties providing for the collection and payment of ad valorem taxes in installments.

(c) Upon receipt of an appeal, the tax assessors shall immediately notify the tax commissioner that an appeal has been filed by the taxpayer. If the appeal is filed before the payment of the tax, the tax commissioner shall issue a "temporary ad valorem tax bill" for the collection of the ad valorem tax and all tag fees. The temporary ad valorem tax amount shall be based on 85% of the current year's valuation or the previous year's valuation, whichever is higher. Such temporary tax bill shall be accompanied by a notice to the taxpayer that the bill is temporary pending the outcome of the appeal process and also indicate there may be additional tax or refund due based on the resolution of the appeal.

(d) Once a final determination is made of the value on appeal, any interest due on additional tax or payable on a refund is to be made as provided in O.C.G.A. Section 48-5-311.

(e) Further appeals to the board of equalization and superior court are to be handled as provided in O.C.G.A. Section 48-5-311.

AUTHORITY: O.C.G.A. Secs. 48-5-269, 48-5-450, 48-5-311.

ADMINISTRATIVE HISTORY: Original Rule entitled "Appeals" adopted. F. Mar. 1, 1995; eff. Mar. 21, 1995.

## Chapter 18 MOTOR VEHICLE TITLE AD VALOREM TAX

### ***560-11-14-.01 Definitions.***

(1) As used in O.C.G.A. § 48-5C-1 and in these regulations, the term:

(a) "Commercial motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-1-8.3.

(b) "Commissioner" means the State Revenue Commissioner.

(c) "County tag agent" or "tag agent" means those persons that have been designated as tag agents of the commissioner as provided for in O.C.G.A. § 40-2-23.

(d) "Date of purchase" means the date so provided on the application for certificate of title.

(e) "Dealer" or "dealership" shall have the same meaning as a dealer of new or used motor vehicles as provided for in O.C.G.A. § 40-3-2(3).

(f) "Department" means the Department of Revenue.

(g) "Electronic Title and Registration" means an electronic process by which a dealer, through a vendor authorized by the commissioner, initiates the motor vehicle titling and registration process and by which the application for certificate of title is considered received by the county tag agent.

(h) "Immediate family member" means a spouse, parent, child, sibling, grandparent, or grandchild and includes those who have attained such immediate family member status through a legal determination recognized in this state.

(i) "International Registration Plan" means the international reciprocal registration agreement for commercial motor vehicles and all amendments thereto as provided for in O.C.G.A. § 40-2-88.

(j) "Loaner vehicle" means a motor vehicle owned by a dealer which is withdrawn temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no charge for a period not to exceed thirty (30) days within a calendar year to any one customer whose motor vehicle is being serviced by such dealer.

(k) "Motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-1-1(33).

(l) "New motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-1-1(34).

(m) "Month" means a period of thirty (30) consecutive calendar days.

(n) "Owner" shall have the same meaning as provided for in O.C.G.A. § 40-1-1(39).

(o) "Person" means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

(p) "Proceeds" means the combined state ad valorem title tax fee, local ad valorem title tax fee, administrative fee, penalties, and interest.

(q) "Rebuilt title" shall have the same meaning as provided for in O.C.G.A. § 40-3-37.

(r) "Rental charge" means the title value received by a rental motor vehicle concern for the rental or lease for thirty-one (31) or fewer consecutive days of a rental motor vehicle, including the total cash and non-monetary consideration for the rental or lease, including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales and use taxes.

(s) "Rental motor vehicle" means a motor vehicle designed to carry ten (10) or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver.

(t) "Rental motor vehicle concern" means a person or legal entity which owns or leases five (5) or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

(u) "Salvage motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-3-2(11).

- (v) "Salvage title" shall have the same meaning as provided for in O.C.G.A. § 40-3-36.
- (w) "Sales and use tax" means combined state and local sales and use tax as imposed by Chapter 8 of Title 48, unless otherwise specifically provided for in O.C.G.A. § 48-5C-1 or these regulations to refer only to state sales and use tax, or local sales and use tax, respectively.
- (x) "Tax collector" or "tax commissioner" means those persons that have been designated as tag agents of the commissioner as provided for in O.C.G.A. § 40-2-23.
- (y) "Used motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-1-1(74).

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Definitions" approved. F. Jan.4, 2013; eff. Jan. 24, 2013.

### ***560-11-14-.02 Applicability.***

- (1) Except as otherwise provided by O.C.G.A. § 48-5C-1, any motor vehicle purchased or sold in Georgia on or after March 1, 2013 for which a title is issued in this state shall be subject to the state and local title ad valorem tax fee. Such motor vehicle shall be exempt from sales and use tax as provided under O.C.G.A. § 48-8-3 and shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of Title 48.
  - (a) The date of purchase shall be used to determine whether the vehicle was purchased or sold on or after March 1, 2013 and accordingly whether the state and local title ad valorem tax fee is due as well as the applicable exemptions from sales and use tax under O.C.G.A. § 48-8-3 and ad valorem tax under Chapter 5 of Title 48.
- (2) Except as otherwise provided by O.C.G.A. § 48-5C-1, any motor vehicle purchased or sold outside of Georgia with its first use in Georgia occurring on or after March 1, 2013 for which a title is issued in this state shall be subject to the state and local title ad valorem tax fee. Such motor vehicle shall be exempt from sales and use tax as provided under O.C.G.A. § 48-8-3 and shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of Title 48.
  - (a) The date of purchase shall be used to determine whether the vehicle was purchased or sold on or after March 1, 2013 and accordingly whether the state and local title ad valorem tax fee is due as well as the applicable exemptions from sales and use tax under O.C.G.A. § 48-8-3 and ad valorem tax under Chapter 5 of Title 48.
- (3) Any owner of a motor vehicle purchased in Georgia on or after January 1, 2012 and prior to March 1, 2013 for which a title was issued in this state shall be authorized to opt in such motor vehicle to the provisions of O.C.G.A. § 48-5C-1 at any time beginning March 1, 2013 but prior to January 1, 2014 in accordance with regulation 560-11-14-.04.
  - (a) The date of purchase shall be used to determine whether the vehicle is eligible to opt in.
- (4) A leased or rented motor vehicle which is registered in Georgia on or after March 1, 2013 for which a title is issued in this state shall be subject to the state and local title ad valorem tax fee. The sales and use tax exemption under O.C.G.A. § 48-8-3 shall not apply to such motor vehicles. The state and local title ad valorem tax fee shall be paid at or before the time such motor vehicle is registered in this state in order for the registration and issuance of the title to be completed.
- (5) Any motor vehicle subject to the state and local title ad valorem tax fee under O.C.G.A. § 48-5C-1 shall continue to be subject to the title, license plate, revalidation decal, and registration requirements and applicable fees as otherwise provided in Title 40 in the same manner as motor vehicles which are not subject to the state and local title ad valorem tax fee under O.C.G.A. § 48-5C-1.
- (6) Examples

(a) A person enters into a contract to purchase a motor vehicle from a dealership in Georgia for which the date of purchase is January 15, 2013. The dealership submits the application for certificate of title and registers the vehicle on the purchaser's behalf. The certificate of title is issued on February 15, 2013. The motor vehicle is not subject to the state and local title ad valorem tax fee because the date of purchase is not on or after March 1, 2013. This transaction does not qualify for the sales and use tax exemption under O.C.G.A. § 48-8-3 and would be subject to ad valorem tax under Chapter 5 of Title 48 because the date of purchase is not on or after March 1, 2013. Because the date of purchase occurred after January 1, 2012 and prior to March 1, 2013 and a title was issued in this state, the owner is authorized to opt the motor vehicle into the provisions of O.C.G.A. § 48-5C-1 at any time beginning March 1, 2013 but prior to January 1, 2014 in accordance with regulation 560-11-14-.04.

(b) A person enters into a contract to purchase a motor vehicle from a dealership in Georgia for which the date of purchase is February 28, 2013. The dealership submits the application for certificate of title and registers the vehicle on the purchaser's behalf. The certificate of title is issued on March 15, 2013. The motor vehicle is not subject to the state and local title ad valorem tax fee because the date of purchase is not on or after March 1, 2013. This transaction does not qualify for the sales and use tax exemption under O.C.G.A. § 48-8-3 and would be subject to ad valorem tax under Chapter 5 of Title 48 because the date of purchase is not on or after March 1, 2013. Because the date of purchase occurred after January 1, 2012 and prior to March 1, 2013 and a title was issued in this state, the owner is authorized to opt the motor vehicle into the provisions of O.C.G.A. § 48-5C-1 at any time beginning March 1, 2013 but prior to January 1, 2014 in accordance with regulation 560-11-14-.04.

(c) A person enters into a contract to purchase a motor vehicle from a dealership in Georgia for which the date of purchase is March 1, 2013. The dealership submits the application for certificate of title and registers the vehicle on the purchaser's behalf. The certificate of title is issued on March 15, 2013. The motor vehicle is subject to the state and local title ad valorem tax fee because the date of purchase occurred on or after March 1, 2013. This transaction qualifies for the sales and use tax exemption under O.C.G.A. § 48-8-3 and would not be subject to ad valorem tax under Chapter 5 of Title 48 because the date of purchase occurred on or after March 1, 2013.

(d) An individual who is a resident of Georgia purchases a motor vehicle from a neighbor in Georgia for which the date of purchase is February 15, 2013. The individual submits the application for certificate of title and registers the vehicle. The certificate of title is issued on March 1, 2013. The vehicle is not subject to the state and local title ad valorem tax fee because the date of purchase is not on or after March 1, 2013. This transaction would be exempt from sales and use tax as a casual sale pursuant to regulation 560-12-1-.07. This vehicle would be subject to ad valorem tax under Chapter 5 of Title 48 because the date of purchase is not on or after March 1, 2013. Because the date of purchase occurred after January 1, 2012 and prior to March 1, 2013 and a title was issued in this state, the owner is authorized to opt the motor vehicle into the provisions of O.C.G.A. § 48-5C-1 at any time beginning March 1, 2013 but prior to January 1, 2014 in accordance with regulation 560-11-14-.04.

(e) An individual who is a resident of Georgia purchases a motor vehicle from a neighbor in Georgia for which the date of purchase is March 1, 2013. The individual submits the application for certificate of title and registers the vehicle. The certificate of title is issued on March 15, 2013. The motor vehicle is subject to the state and local title ad valorem tax fee because the date of purchase occurred on or after March 1, 2013. This transaction qualifies for the sales and use tax exemption under O.C.G.A. § 48-8-3 and would not be subject to ad valorem tax under Chapter 5 of Title 48 because the date of purchase occurred on or after March 1, 2013.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Applicability" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.



**560-11-14-.03 Rates, Distributions and Collections.**

(1) Rate of State and Local Title Ad Valorem Tax Fee

(a) The rate of the state and local title ad valorem tax fee to be imposed shall be determined by reference to the rate in effect on the date of purchase of the motor vehicle.

(2) Distribution of Proceeds

(a) The allocation and distribution of proceeds shall be determined pursuant to subsection (c) of O.C.G.A. § 48-5C-1.

(b) Prior to the collection and distribution of any proceeds, the county tag agent must have obtained a written certification of agreement from the county governing authorities, municipal governing authorities, the local board of education and any independent school district within such county, for the purpose of determining the appropriate allocation of the proceeds. Such certification shall occur at least annually.

(c) In the event a county tag agent receives proceeds which were due to the county tag agent of a different county, such county tag agent incorrectly receiving such proceeds shall remit said proceeds to the correct county tag agent. If a dispute exists as to which county is due said proceeds, an aggrieved county may seek recourse as provided for in O.C.G.A. § 48-5-17.

(d) The county tag agent shall be authorized to collect proceeds through Electronic Title and Registration and the allocation and distribution of proceeds shall include those proceeds received through Electronic Title and Registration.

(3) Collections

(a) The commissioner and county tag agent shall each take appropriate enforcement actions to ensure the collection of outstanding proceeds as required by O.C.G.A. § 48-5C-1.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Rates, Distributions and Collections" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

**560-11-14-.04 Opt-In Election.**

(1) The owner of any motor vehicle purchased in Georgia on or after January 1, 2012 and prior to March 1, 2013, for which a title was issued in this state, shall be authorized to opt in to the provisions of O.C.G.A. 48-5C-1 by filing an affirmative written election to the county tag agent in the county residence of the vehicle owner.

(2) Any such election must be made during the period beginning March 1, 2013 but prior to January 1, 2014, and only upon compliance with the following requirements:

(a) The total amount of state and local title ad valorem tax fees which would be due from March, 1 2013, to December 31, 2013, if such vehicle had been titled in 2013 shall be determined; and

(b) The total amount of state and local sales and use tax and state and local ad valorem tax under Chapter 5 of Title 48 which were due and paid in 2012 for that motor vehicle and, if applicable, the total amount of such taxes which were due and paid for that motor vehicle in 2013 shall be determined; and

(c) If the amount derived under subparagraph (a) is greater than the amount derived under subparagraph (b), the owner shall remit the difference to the tag agent.

(d) If the amount derived under subparagraph (a) is less than the amount derived under subparagraph (b), no additional amount shall be due and payable by the owner and the owner shall not be entitled to a refund of such difference.

(3) To complete the election and receive credit for qualifying sales and use tax and ad valorem tax under Chapter 5 of Title 48, as described in part (2) of this regulation, the owner shall provide the purchase agreement or bill of sale to the county tag agent along with documentation approved by the commissioner demonstrating that such taxes have been paid.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Opt-In Election" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

#### ***560-11-14-.05 Family Inheritance, Devise or Bequest.***

(1) Beginning March 1, 2013, a motor vehicle acquired by an immediate family member upon the death of the owner through inheritance, devise, or bequest shall be subject to this regulation.

(a) If the motor vehicle was subject to ad valorem tax under Chapter 5 of Title 48 upon the death of the owner, such motor vehicle shall continue to be subject to the same unless such immediate family member makes an affirmative written election to instead become subject to the state and local title ad valorem tax fee.

1. Such affirmative written election shall be made on a form prescribed by the commissioner which shall be submitted to the county tag agent along with the application for certificate of title and accompanied by the state and local title ad valorem tax fee. If such form is not so submitted, the motor vehicle shall remain subject to ad valorem taxation under Chapter 5 of Title 48.

(b) If the motor vehicle was subject to the state and local title ad valorem tax fee upon the death of the owner, such motor vehicle shall be subject to a reduced state and local ad valorem title tax fee rate as provided by subsection (d) of O.C.G.A. § 48-5C-1.

(2) An immediate family member acquiring a motor vehicle by way of inheritance, devise, or bequest from a deceased owner shall complete an affidavit signed before a notary public affirming his or her relationship to the deceased as an immediate family member and entitlement to the vehicle. Such affidavit shall be submitted to the county tag agent accompanied by a copy of letters of testamentary, a copy of the will of the deceased, or other documentation approved by the commissioner to evidence the immediate family member relationship to the deceased and entitlement to the vehicle.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Family Inheritance, Devise or Bequest" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

#### ***560-11-14-.06 Family Transfer.***

(1) Beginning March 1, 2013, a motor vehicle transferred between immediate family members shall be subject to this regulation.

(a) If the motor vehicle was subject to ad valorem tax under Chapter 5 of Title 48 upon the transfer to the immediate family member, such motor vehicle shall continue to be subject to the same unless such immediate family member makes an affirmative written election to instead become subject to the state and local title ad valorem tax fee.

1. Such affirmative written election shall be made on a form prescribed by the commissioner which shall be submitted to the county tag agent along with the application for certificate of title and accompanied by the state and local title ad valorem tax fee. If such form is not so submitted, the motor vehicle shall remain sub-

ject to ad valorem taxation under Chapter 5 of Title 48.

(b) If the motor vehicle was subject to the state and local title ad valorem tax fee upon the transfer to the immediate family member, such motor vehicle shall be subject to a reduced state and local ad valorem title tax fee rate as provided by subsection (d) of O.C.G.A. § 48-5C-1.

(2) Both the transferor and the transferee shall complete an affidavit signed before a notary public affirming their relationship as immediate family members and the acquiring member's entitlement to the vehicle. Such affidavit shall be submitted to the county tag agent.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1. History : Original Rule entitled "Family Transfer" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

#### ***560-11-14-.07 Salvage and Rebuilt Motor Vehicles.***

(1) Any person applying for a salvage title shall be subject to the state title ad valorem tax fee rate as provided by O.C.G.A. § 48-5C-1(b)(2). Such person shall submit the application for a salvage certificate of title together with the state title ad valorem tax fee to the commissioner.

(a) Due to the salvage value of motor vehicles not being captured in the assessment manuals utilized by the department, the commissioner shall designate a standardized valuation for salvage motor vehicles to be used for purposes of the state title ad valorem tax fee. Such valuation shall be considered the fair market value of the motor vehicle.

(2) Any person who acquires a salvage motor vehicle who intends to rebuild such motor vehicle shall make the vehicle available to the commissioner for inspection and shall make application for a rebuilt title to the commissioner. Such person shall be directed to the county tag agent for payment of the state and local title ad valorem tax fee, as applicable.

Authority: O.C.G.A. §§ 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Salvage and Rebuilt Motor Vehicles" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013. Amended: F. Jul. 10, 2013; eff. Jul. 30, 2013.

#### ***560-11-14-.08 International Registration Plan.***

(1) Any person operating a commercial motor vehicle subject to the International Registration Plan who is required to title such commercial motor vehicle in this state shall apply for the certificate of title with the county tag agent at which time such person shall pay the state and local title ad valorem tax fee. Such person shall subsequently submit an application to the commissioner in accordance with the International Registration Plan.

(2) Except as otherwise provided in O.C.G.A. § 48-5C-1, all other statutes and regulations governing commercial motor vehicles subject to the International Registration Plan remain in effect and such motor vehicles continue to be subject to the International Fuel Tax Agreement (IFTA).

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1. History : Original Rule entitled "International Registration Plan" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

***560-11-14-.09 Loaner Vehicles and Dealer Inventory.***

(1) A motor vehicle used by a dealership as a loaner vehicle shall not be subject to the state and local title ad valorem tax fee so long as such motor vehicle is not withdrawn from inventory beyond the permissible time period as provided by part (2) of this regulation.

(2) Loaner vehicles are exempt from state and local title ad valorem tax fees when used as a loaner vehicle for six (6) calendar months or fewer, commencing on the date such loaner vehicle is temporarily withdrawn from inventory. Immediately upon the expiration of such six (6) calendar month period, if the dealer does not return the loaner vehicle to inventory for resale the dealer shall be responsible for remitting the state and local title ad valorem tax fee in the same manner as otherwise required of an owner under O.C.G.A. § 48-5C-1(d)(9) and shall be subject to the same penalties and interest as an owner for noncompliance.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1. History : Original Rule entitled "Loaner Vehicles and Dealer Inventory" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

***560-11-14-.10 Non-Profit Organizations.***

(1) Any motor vehicle which is donated to a non-profit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, for the purpose of being transferred to another person shall, when titled in the name of such nonprofit organization, be subject to a reduced rate of the state and local title ad valorem tax fee.

(2) The reduced rate under part (1) of this regulation shall be the rate applicable to salvage motor vehicles provided under O.C.G.A. § 48-5C-1(b)(2).

(3) In order to obtain the reduced rate, qualifying non-profit organizations shall provide at the time of application for certificate of title proof of their tax exempt status under Section 501(c)(3) of the Internal Revenue Code and shall certify on a form prescribed by the commissioner that such motor vehicle was donated to such organization for the purpose of being transferred to another person.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1. History : Original Rule entitled "Non-Profit Organizations" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

***560-11-14-.11 Rental Motor Vehicle Concern Certification.***

(1) Rental motor vehicle concerns shall qualify for a reduced rate of the state and local title ad valorem tax fee as provided by this regulation.

(2) In the case of rental motor vehicles owned by such rental motor vehicle concerns:

(a) The state and local title ad valorem tax fee rate shall be as provided in O.C.G.A. § 48-5C-1(d).

(3) To qualify for the rates as provided in part (2) of this regulation:

(a) In the immediately prior calendar year the rental motor vehicle concern must have had an average amount of sales and use tax attributable to the rental charge of each rental motor vehicle of at least \$ 400.

(b) The rental motor vehicle concern must obtain certification by the commissioner as provided by part (4) of this regulation.

(4) Certification Process

(a) The application for certification as a qualified rental motor vehicle concern shall be made on a form prescribed by the commissioner.

(b) The rental motor vehicle concern shall obtain certification on an annual basis in order to continue to qualify for the rates as provided in part (2) of this regulation. Such certification shall be valid as of March 1 and shall continue until the end of February of the subsequent calendar year.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Rental Motor Vehicle Concern Certification" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

### ***560-11-14-.12 Exemptions.***

(1) The state and local title ad valorem tax fee shall not apply to:

(a) Corrected titles.

(b) Replacement titles under O.C.G.A. § 40-3-31.

(c) Titles reissued to the same owner pursuant to O.C.G.A. §§ 40-3-50, 40-3-51, 40-3-52, 40-3-53, 40-3-54, 40-3-55, or 40-3-56.

(2) Motor vehicles owned or leased by or to the state or any county, consolidated government, municipality, county or independent school district, or other government entity in this state shall not be subject to the state and local title ad valorem tax fees provided for in O.C.G.A. § 48-5C-1; provided, however, that such other government entity shall not qualify for such exclusion unless it is exempt from ad valorem tax and sales and use tax pursuant to general law.

(3) The state and local title ad valorem tax fee shall not apply to a qualified person as provided in this part:

(a) Any qualified service connected disabled veteran pursuant to O.C.G.A. § 48-8-3(30) when the veteran received a grant from the United States Department of Veterans Affairs to purchase and specially adapt a vehicle to his disability may apply for an exemption of the state and local title ad valorem tax fee. Such veteran shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating their disabled status and receipt of the veteran's grant.

(b) Any qualified disabled veteran pursuant to O.C.G.A. § 48-5-478 may apply for an exemption of the state and local title ad valorem tax fee. Such veteran shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating their disabled status.

(c) Any qualified veteran pursuant to O.C.G.A. § 48-5-478.1 who is a former prisoner of war or their unmarried surviving spouse may apply for an exemption of the state and local title ad valorem tax fee. Such veteran or their unremarried surviving shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating the veteran's designation as a former prisoner of war.

(d) Any qualified veteran pursuant to O.C.G.A. § 48-5-478.2 who was awarded the Purple Heart may apply for an exemption of the state and local title ad valorem tax fee. Such veteran shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating their award of the Purple Heart.

(e) Any qualified veteran pursuant to O.C.G.A. § 48-5-478.3 who was awarded the Medal of Honor may apply for an exemption of the state and local title ad valorem tax fee. Such veteran shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating their

award of the Medal of Honor.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Exemptions" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

***560-11-14-.13 Penalties and Interest; Waivers; Refunds.***

(1) Any penalties or interest incurred and due shall be paid at the time of application for certificate of title or such application shall be deemed incomplete and rejected by the county tag agent.

(2) Penalties and interest shall be waived in accordance with the following provisions:

(a) Upon written approval by the governing authority of the county in accordance part (2)(b) of this regulation and O.C.G.A. § 48-5-242, the tax collector or tax commissioner may waive, in whole or in part, the collection of any amount due the taxing authorities for which taxes are collected, when such amount represents a penalty or an amount of interest assessed for failure to comply with the laws governing the assessment and collection of state and local ad valorem title tax fees, when the tax collector or tax commissioner reasonably determines that the default giving rise to the penalty or interest was due to reasonable cause and not due to gross or willful neglect or disregard of the law or of regulations or instructions issued pursuant to the law.

(b) The waiver of penalties or interest in accordance with this part shall be subject to the written approval of the county governing authority either on a case-by-case basis or by a resolution delegating the authority of the tax collector or tax commissioner to make the final determinations. Such resolution may establish rules and regulations governing the administration of this regulation and establish guidelines to be followed by the tax collector or tax commissioner when granting such waivers.

(3) Penalties and interest shall be waived by the tax collector or tax commissioner in accordance with O.C.G.A. § 48-2-39 relating to the filing of an application on a Saturday, Sunday or legal holiday.

(4) Refunds

(a) A refund of proceeds shall be made to a taxpayer when such proceeds have been illegally or erroneously assessed.

(b) A refund of proceeds shall be made to a taxpayer when such proceeds have been voluntarily or involuntarily overpaid.

(c) A request for the refunding of proceeds may be made by a taxpayer in accordance with O.C.G.A. § 48-5-380.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1. History : Original Rule entitled "Penalties and Interest; Waivers; Refunds" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

***560-11-14-.14 Used Car Market Guide.***

The commissioner shall designate a reputable used car market guide for use in determining the fair market value of a motor vehicle for purposes of the state and local title ad valorem tax fee for which a value is not listed in the current motor vehicle ad valorem assessment manual.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original rule entitled "Used Car Market Guide" approved. F. Jan.4, 2013; eff. Jan. 24, 2013.

***560-11-14-.15 Fraudulent Transfers and False Information.***

- (1) There shall be a penalty imposed on any person who, in the determination of the commissioner, falsifies any information in any bill of sale used for purposes of determining fair market value. Such penalty shall not exceed \$ 2,500 as a state penalty and \$ 2,500 as a local penalty as determined by the commissioner. Such penalty shall not relieve a person of the obligation to pay any outstanding proceeds.
- (2) There shall be a penalty imposed on any person who, in the determination of the commissioner, falsifies any material information in any affidavit required for purposes of title transfers between immediate family members. Such penalty shall not exceed \$ 2,500 as a state penalty and \$ 2,500 as a local penalty as determined by the commissioner. Such penalty shall not relieve a person of the obligation to pay any outstanding proceeds.
- (3) There shall be a penalty imposed on the transfer of all or any part of the interest in a business entity that includes primarily as an asset of such business entity one or more motor vehicles when, in the determination of the commissioner, such payment is done to evade the payment of state and local title ad valorem tax fees. Such penalty shall not exceed \$ 2,500 as a state penalty per motor vehicle and \$ 2,500 as a local penalty per motor vehicle as determined by the commissioner. Such penalty shall not relieve a person of the obligation to pay any outstanding proceeds.
- (4) In the event the county tag agent has reason to believe that a violation of this regulation has occurred, or upon request of the commissioner following receipt of information of a possible violation of this regulation, the county tag agent shall provide the commissioner the following items, as applicable: the original or a certified copy of the alleged falsified bill of sale or affidavit, a written statement of the facts of the allegation, and any other supporting evidence relevant to the allegation.
- (5) The commissioner shall make a determination and any assessment of penalties within sixty (60) days from the date the commissioner received information that a violation under this regulation may have occurred.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Fraudulent Transfers and False Information" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.

***560-11-14-.16 Appeals.***

- (1) Any owner who contests the fair market value of a motor vehicle for purposes of the state and local ad valorem title tax fee may appeal such decision by either filing with the tax commissioner an affidavit of illegality as outlined in part (2) of this regulation or by filing an appeal with the board of tax assessors as outlined in part (3) of this regulation.
- (2) The motor vehicle license plate may be obtained without payment of the state and local title ad valorem tax fee, as outlined in O.C.G.A. § 48-5-450, by filing with the tax commissioner an affidavit of illegality to the assessment; and filing either 1) a surety bond issued by a state authorized surety company or 2) a bond approved by the clerk of superior court of the county or 3) a cash bond.
  - (a) The bond shall be in the amount equal to the tax and any penalties and interest which may be found to be due.
  - (b) The bond shall be made payable to the tax commissioner.
  - (c) The affidavit and bond are to be transferred by the tax commissioner immediately to the superior court to be tried as affidavits of illegality are tried in tax cases.
- (3) As an alternative to filing an affidavit of illegality, any owner who contests the fair market value of a mo-

tor vehicle for purposes of the state and local title ad valorem tax fee may appeal such value in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. § 48-5-311.

(a) The time allowed for the filing of a written appeal shall be forty-five (45) days from the deadline date for the payment of the tax.

(b) Upon receipt of an appeal, the tax assessors shall immediately notify the tax commissioner that an appeal has been filed by the taxpayer. If the appeal is filed before the payment of the state and local title ad valorem tax fee, the tax commissioner shall issue a temporary bill for the collection of the ad valorem tax and all tag fees. The temporary amount shall be based on 85% of the valuation. Such temporary tax bill shall be accompanied by a notice to the taxpayer that the bill is temporary pending the outcome of the appeal process and also indicate there may be additional tax or refund due based on the resolution of the appeal.

(c) Further appeals to the board of equalization and superior court are to be handled as provided in O.C.G.A. § 48-5-311.

Authority: O.C.G.A. Secs. 40-2-12, 40-3-3, 48-2-12, 48-5C-1.

History : Original Rule entitled "Appeals" approved. F. Jan. 4, 2013; eff. Jan. 24, 2013.



## **Chapter 19 MOBILE HOMES**

### ***560-11-9-.01 Purpose and Scope.***

(1) These regulations have been adopted by the Commissioner pursuant to O.C.G.A. Section 48-2-12 and O.C.G.A. Section 48-5-442 in order to provide specific policies and procedures of the Department applicable to the valuation and collection of ad valorem tax on mobile homes pursuant to Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated.

(2) The procedures prescribed by Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated and these rules and regulations for returning mobile homes for taxation, determining applicable rates for taxation, and collecting the ad valorem tax on mobile homes shall be exclusive of all other property.

(3) These regulations shall become effective January 1, 1998.

Ga. L. 48-2-12, 48-5-440 through 48-5-451, 48-5-490 through 48-5-495.

HISTORY. Original Rule entitled "Purpose and Scope" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997.

### ***560-11-9-.02 Definitions.***

As used in these regulations, the term:

(1) Reserved.

(2) "Mobile home" means a manufactured home or relocatable home as defined in Part 2 of Article 2 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated. Any mobile home which qualifies the taxpayer for a homestead exemption under the laws of this state and any mobile home held in inventory for sale by a dealer engaged in the business of selling mobile homes at wholesale or retail shall not be subject to these regulations.

O.C.G.A. Secs. 8-2-131, 48-2-12, 48-5-440 through 48-5-442, 48-5-444 through 48-5-448, 48-5-450, 48-5-451, 48-5-490 through 48-5-495.

HISTORY. Original Rule entitled "Definitions" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997. AMENDED: F. May 3, 2000; eff. May 23, 2000.

### ***560-11-9-.03 Return of Mobile Homes.***

(1) Every mobile home owned in this state on January 1 is subject to ad valorem taxation by the various taxing jurisdictions authorized to impose an ad valorem tax on property. Taxes shall be charged against the owner of the mobile home, if known, and, if unknown, against the specific mobile home itself.

(2) On or before May 1 of each year, or at the time of the first sale or transfer before May 1, every owner of a mobile home shall return such mobile home for taxation and pay the taxes due on the mobile home in the county where the mobile home is situated on January 1.

(a) In those instances where a mobile home is primarily used in connection with an established business where there is a reasonable expectation that the mobile home will be moved about in such a manner that it will not be more or less permanently situated in a single county as of January 1, such mobile home shall be returned and the taxes due paid in the county where the business is located.

(b) In those instances where a mobile home has been moved from the county where it was more or less permanently located on January 1, it shall nevertheless be returned and the taxes paid in such county, however, the owner may submit reasonable evidence of such tax payment to the tax commissioner of the county where the mobile home is now situated and that tax commissioner shall issue a mobile home location permit for such county.

(c) Where there has been a sale or transfer of a mobile home and the new owner seeks a mobile home location permit in a county other than that in which the previous owner was required to return the mobile home and pay the taxes due, the new owner, in the absence of satisfactory evidence obtained from the old owner that taxes have been paid, may request from the tax commissioner of such county a certificate indicating that all taxes outstanding have been paid. Upon receipt of the certificate from the new owner, the tax commissioner of the county where the mobile home is now situated shall issue the required mobile home location permit.

(d) Upon sale of a mobile home by a dealer after January 1, the dealer shall complete and provide to the purchaser Form PT-41. The purchaser shall submit Form PT-41 to the tax commissioner at the time the mobile home location permit is obtained. Upon receipt of Form PT-41, the tax commissioner shall collect any outstanding taxes from prior years that may be unpaid, and shall then issue the required mobile home location permit for the current year without payment of tax. The tax commissioner shall retain one copy of Form PT-41 and distribute a copy to the purchaser, the dealer, the board of tax assessors, and the Motor Vehicle Division.

O.C.G.A Secs. 48-2-12, 48-5-440 through 48-5-448, 48-5-450, 48-5-451, 48-5-490 through 48-5-495.

HISTORY. Original Rule entitled "Return of Mobile Homes" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997.

AMENDED: F. May 3, 2000; eff. May 23, 2000.

#### ***560-11-9-.04 Issuance of Permits; Display of Decals.***

(1) Each year every owner of a mobile home subject to taxation under Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated shall on or before May 1 and at the time of returning such mobile home for taxation, pay all taxes due to the tax commissioner on such mobile home and obtain a mobile home location permit.

(2) The tax commissioner shall not issue such location permit until all outstanding taxes due on the mobile home, including delinquent taxes, interest and penalties, are paid.

(3) The tax commissioner shall give the taxpayer a decal as evidence of the payment of all outstanding taxes and the issuance of a mobile home location permit.

(a) The mobile home decal shall be in the color and form prescribed each year by the Commissioner and shall reflect the county of issuance and the calendar year for which the permit is issued.

(b) The mobile home decal shall be attached to the mobile home of the owner immediately after receiving it from the tax commissioner. The local governing authority may by local ordinance provide for a uniform manner of displaying such decal that facilitates the enforcement of this Regulation. In the absence of such an ordinance, the decal shall be prominently displayed on the mobile home in a manner that makes it clearly visible to appraisal officials that come on the premises to inspect the mobile home.

(4) Any person acquiring a mobile home after January 1 of each year shall obtain from the tax commissioner a mobile home location permit by May 1 or within 45 days of acquisition, whichever occurs later, upon satisfactory evidence that all outstanding taxes due on the mobile home, including delinquent taxes, interest and penalties, if any, have been paid.

(5) Each year every owner of a mobile home situated in this state on January 1 which is not subject to tax-

tion under Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, by virtue of its qualifying the owner for a homestead exemption or if acquired from a dealer after January 1, shall nevertheless obtain a mobile home decal from the tax commissioner by May 1, or within 45 days of acquisition, whichever occurs later. The decal shall be designed, attached and displayed as provided in this Regulation.

O.C.G.A. Secs. 48-2-12, 48-5-440 through 48-5-442, 48-5-444 through 48-5-448, 48-5-450, 48-5-451, 48-5-490, 48-5-492 through 48-5-495.

HISTORY. Original Rule entitled "Issuance of Permits; Display of Decals" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997. AMENDED: F. May 3, 2000; eff. May 23, 2000.

#### ***560-11-9-.05 Inspections and Citations.***

(1) It shall be the duty of the county property appraisal staff to annually inspect each mobile home located in the county to determine if the owner is properly displaying the decal evidencing the issuance of a mobile home location permit. The staff may schedule the inspections throughout the year or during any portion of the year as meets their annual work flow management needs.

(2) The property appraisal staff shall notify the owner, if known, or the occupant, if the owner is not known, of each mobile home for which a decal is not properly displayed, of the requirements of O.C.G.A. Section 48-5-492 and these regulations to secure and display such decal. The notice shall also describe the penalty under O.C.G.A. Section 48-5-493 and Regulation 560-11-9-.11 for failure to properly display such decal.

(3) The county governing authority may appoint an agent authorized under O.C.G.A. Section 15-10-63 to issue citations to owners failing to properly display mobile home decals. Such agent may be a member of the board of tax assessors, a member of the appraisal staff or some other designee suitable to the county governing authority. The county governing authority shall notify the county appraisal staff of the name of the authorized agent within 5 days of the agent's appointment.

(4) Within 30 days after the end of each calendar quarter, or more frequently at the property appraisal staff's discretion, the property appraisal staff shall forward to the tax commissioner and the authorized agent, if one has been appointed, a list of mobile homes discovered during the quarter, if any, that are not displaying the required mobile home decal. The list shall contain the information set forth in Regulation 560-11-9-.08(1) to enable these officials to locate and identify each mobile home thereon.

(5) The authorized agent, if one has been appointed, upon receipt of the list set forth in this Regulation, shall issue a citation to the owner of each mobile home for which a mobile home decal is not attached. If the authorized agent is a member of the board of tax assessors or the property appraisal staff, the notice required in Section 2 of this Regulation and the citation required in this Section may be issued to the owner simultaneously.

(6) Within 30 days of the date the citation is issued, but not earlier than 15 days from the date the citation is issued, the county shall impose the appropriate fines upon and prosecute the subject of the citation as provided in O.C.G.A. Section 48-5-493.

(7) Nothing in this Regulation shall prohibit or limit the county authorities from providing other methods for prosecution of an owner failing under O.C.G.A. Section 48-5-492 and these regulations to secure and display a mobile home decal.

O.C.G.A. Secs. 15-10-60 through 15-10-66, 48-2-12, 48-5-263, 48-5-299, 48-5-440 through 48-5-442, 48-5-444 through 48-5-448, 48-5-450, 48-5-451, 48-5-490, 48-5-492 through 48-5-495.

HISTORY. Original Rule entitled "Inspections and Citations" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997. AMENDED: F. May 3, 2000; eff. May 23, 2000.

**560-11-9-.06 Transporting Mobile Homes.**

(1) It shall be unlawful for any person to move or transport any mobile home which is required to and which does not have attached and displayed thereon the mobile home decal required by O.C.G.A. Section 48-5-492.

(2) Any person who violates Section 1 of this regulation shall be guilty of a misdemeanor and shall be prosecuted as provided in O.C.G.A. Section 48-5-493.

Ga. L. 48-5-492, 48-5-493.

HISTORY. Original Rule entitled "Transporting Mobile Homes" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997.

**560-11-9-.07 Valuation Methods.**

(1) Beginning January 1, 1999 and effective for the tax year 1999 and each subsequent tax year, the fair market value of all mobile homes subject to taxation under Article 10 of Chapter 5 of Title 48 shall be determined by the county board of tax assessors in accordance with these regulations. For the tax year 1998, the tax commissioner shall continue to use the procedures as shown in the manual provided by the Commissioner to determine the fair market value of all mobile homes.

(2) The valuation methods employed by the county board of tax assessors shall result in a fair market value, as fair market value is defined in O.C.G.A. Section 48-5-2, of each mobile home as of January 1 of the tax year for which the digest is being prepared.

(3) The county board of tax assessors may use any combination of the following when arriving at the value for each mobile home, however, the approach used may not differ substantially from that employed to arrive at the value for a mobile home subject to tax under Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated. For any valuation guides that may be used, the board shall select those most likely to reflect the value of each mobile home as of January 1 and make any further adjustments deemed necessary to arrive at a January 1 valuation.

(a) The appropriate periodic edition of the National Automobile Dealers Association's Manufactured Housing Appraisal Guide;

(b) The appropriate periodic edition of the Marshall & Swift Residential Valuation System; and

(c) Any other valuation model using commonly accepted appraisal techniques including, but not limited to, quality classes, unit cost, observed obsolescence and value tables for structural additions.

(4) Each mobile home shall be assessed at 40 percent of the fair market value determined in accordance with this Regulation.

(5) Reserved.

O.C.G.A. Secs. 48-2-12, 48-5-2, 48-5-7, 48-5-440 through 48-5-448, 48-5-450, 48-5-451, 48-5-490 through 48-5-495. HISTORY. Original Rule entitled "Valuation Methods" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997. AMENDED: F. May 3, 2000; eff. May 23, 2000.

**560-11-9-.08 Mobile Home Digest.**

- (1) On the tenth day of each month, a county's tax commissioner shall report to the board of tax assessors a list of all mobile homes for which during the preceding month:
  - (a) Location permits were issued, and
  - (b) Returns for taxation were sent.
- (2) The monthly reporting requirement may be changed by a signed written agreement between the tax commissioner and the board of tax assessors, but shall not be sent less than once per calendar year or later than December 1st.
- (a) The list sent by the county's tax commissioner shall contain the following information regarding each mobile home:
  - (1) Manufacturer, model, and year;
  - (2) Serial number;
  - (3) Size;
  - (4) Owner's name and address;
  - (5) Map and parcel number (if a map and parcel number has previously been assigned by the board of tax assessors);
  - (6) The mobile home's physical location, street address, lot number, and park name (if applicable and known);
  - (7) Tax district; and
  - (8) Assessment (if set by the board of tax assessors).
- (3) On or before January 5[th] of each year, and before the county's digest is submitted to the tax commissioner, a county's board of tax assessors shall meet to receive and inspect the tax returns and location permits for the county's mobile homes that have been reported to the tax commissioner during the preceding twelve months.
- (a) If any mobile homes have not been reported or returned to the tax commissioner by January 5[th] of each year, then the county board of tax assessors shall have the authority to add those mobile homes to the county's digest.
- (4) For each mobile home listed in a county's digest, the county's board of tax assessors shall develop a valuation which, in the board's judgment, best represents the fair market value that the mobile home will have as of January 1 of the tax year for which the digest is being prepared.
- (a) This valuation shall include any improvements to the mobile home and shall reflect any changes to the value of the mobile home resulting from market changes or physical depreciation as of January 1 of the tax year for which the digest is being prepared.
- (5) On or before January 5[th] of each year, a county's board of tax assessors shall return to the tax commissioner the mobile home digest with the proposed assessments.
- (6) The total assessed value of the mobile home digest shall be added to the county's consolidated summary at the time the county's official digest is transmitted to the Revenue Commissioner, or at such other time as the digest is required to be compiled.
- (a) The assessed value on the mobile home digest shall be used by the tax commissioner for the purpose of calculating tax bills.
- (7) Effective January 1, 1999, when a mobile home is returned for taxation after the mobile home digest has been delivered by the board of tax assessors to the county's tax commissioner, the county's tax commissioner shall, within 10 days of receipt of the return, forward it to the county's board of tax assessors. Within 10 days of receiving the return, the county's board of tax assessors shall assess the mobile home's fair market value and notify the county's tax commissioner of the assessment.

- (a) The tax commissioner shall then bill the owner pursuant to Regulation 560-11-9-.10.
- (b) The owner of the mobile home shall be afforded an opportunity to appeal and receive a temporary bill pursuant to Regulation 560-11-9-.09.
- (c) Such returns shall be designated "Not On Digest" by the tax commissioner and accounted for as such in their official accounts.

Authority O.C.G.A. Secs. 48-5-311, 48-5-442, 48-5-448, 48-5-450.

History. Original Rule entitled "Mobile Home Digest" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997. Amended: F. May 9, 2011; eff. May 29, 2011.

### ***560-11-9-.09 Appeals.***

(1) A mobile home owner who disagrees with the county board of tax assessor's assessment of their mobile home(s) on the ad valorem property tax bill may challenge such assessment by either electing to:

(a) Appeal the assessed value of the mobile home in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. Section 48-5-311 as follows:

1. Filing a notice of appeal with the county's board of tax assessors within 45 days of date printed on the ad valorem property tax bill, or by May 1[st], which ever occurs later.

2. After an appeal has been filed, the county's board of tax assessors shall notify the county's tax commissioner within 10 days of said appeal. A temporary tax bill, like those in O.C.G.A. § 48-5-311 (E)(6)(d)(iii)(I), shall be issued for every mobile home which is on appeal. A mobile home owner shall pay their temporary tax bill by May 1, if the appeal is not yet resolved, or upon receipt, if temporary tax bill is issued after May 1.

1. Upon payment of temporary tax bill, the county's tax commissioner shall issue a mobile home location permit. Nothing in this Regulation shall prevent the county's tax commissioner from assessing penalties and interest against a mobile home owner who receives a temporary tax bill after May 1 because said owner failed to return their mobile home by May 1.

3. Once there is a determination regarding the appeal, the county's board of tax assessors shall, within 10 days, notify the county's tax commissioner of the final assessment established by such appeal. If necessary, the county's tax commissioner shall then, within 10 days, bill the taxpayer for any additional ad valorem property taxes due or issue a refund, if there has been an overpayment of taxes.

(b) Secure a location permit for the year in question by filing with the county's tax commissioner an affidavit of illegality and by filing either 1) a surety bond issued by a State authorized surety company or 2) a bond approved by the clerk of superior court of the county or 3) a cash bond, pursuant to O.C.G.A. Section 48-5-450.

(2) If the owner of a mobile home, subsequent to paying the tax without having filed an appeal or affidavit of illegality, believes that the tax has been illegally or erroneously assessed and collected, then the owner may file with the county governing authority a request for a refund. Such request may be filed within three years of the date of payment of the tax under the provisions of O.C.G.A. § 48-5-380.

(a) Only errors of fact or law which have resulted in erroneous or illegal taxation shall be considered. A mobile home owner's claim based on mere dissatisfaction with an assessment shall not constitute that the assessment was erroneous or illegal within the meaning of O.C.G.A. § 48-5-380.

Authority O.C.G.A. Secs. 48-5-311, 48-5-380, 48-5-442, 48-5-450.

History. Original Rule entitled "Appeals" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997. Amended: F. May 9, 2011; eff. May 29, 2011.

### **560-11-9-.10 Collection of Tax.**

- (1) It shall be the duty of the tax commissioner to issue tax bills using form PT-40 to each owner of a mobile home appearing on the mobile home digest on or after January 1 of each calendar year, but not later than February 1.
- (2) Reserved.
- (3) Ad valorem taxes imposed on mobile homes shall be based on the assessments as determined from the procedures shown in the manual provided by the Commissioner for the tax year 1998 and as determined by the board of tax assessors pursuant to Regulation 560-11-9-.07 for tax year 1999 and thereafter, and the mill rate levied by the taxing authority on tangible property for the previous calendar year.
- (4) The tax commissioner shall collect all ad valorem taxes imposed on mobile homes irrespective of the tax authority levying the taxes. No other official shall be authorized to collect such taxes.
- (5) The tax commissioner collecting the ad valorem taxes on mobile homes shall remit to the tax authority imposing the tax such sums as have been collected, less the commissions, on or before the fifteenth day of the month following the month of collection, or on a more frequent basis at the tax commissioner's election.
- (6) The tax commissioner shall withhold from each taxing authority commissions on all net ad valorem tax collections made for the jurisdiction on mobile homes during any calendar year. Such commissions shall be withheld as prescribed in O.C.G.A. Section 48-5-447 and, along with any fees collected, shall be retained by the tax commissioner or disposed of in accordance with those general laws and local Acts specifically providing for the disposition of such fees and commissions.

O.C.G.A. Secs. 48-2-12, 48-5-440 through 48-5-448, 48-5-450, 48-5-451, 48-5-490, 48-5-492 through 48-5-495. HISTORY. Original Rule entitled "Collection of Tax" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997. AMENDED: F. May 3, 2000; eff. May 23, 2000.

### **560-11-9-.11 Penalties.**

- (1) Every owner of a mobile home subject to these regulations, in addition to the ad valorem tax due on the mobile home, shall be liable for a penalty of 10 percent of the tax due or \$ 5, whichever is greater, for their failure to make the return or pay the tax by May 1 of each year.
- (2) Reserved.
- (3) Every owner of a mobile home located in a county on January 1 and subject to these regulations, in addition to the ad valorem tax due on the mobile home, if applicable, and the penalty, if applicable, for failure to make the return or pay the tax by May 1 of each year, shall be guilty of a misdemeanor if they fail to secure, attach and display on a mobile home the decal that is required by Regulation 560-11-9-.04. Upon conviction thereof, the owner shall be punished by a fine of not less than \$ 25.00 nor more than \$ 200.00, except that upon receipt of proof of purchase of a decal prior to the date of the issuance of a summons, the fine shall be \$ 25.00. The county governing authority may, by local ordinance, provide for penalties for owners who locate a mobile home in the county after January 1 and fail to secure, attach and display on a mobile home the decal that is required by Regulation 560-11-9-.04.
- (4) Any person who moves or transports a mobile home which is required to and which does not have attached and displayed thereon the decal required by Regulation 560-11-9-.04 shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$ 200.00 nor more than \$ 1,000.00 or by imprisonment for not more than 12 months, or both.
- (5) The tax commissioner may issue executions for nonpayment of mobile home taxes in the manner pre-

scribed in O.C.G.A. Section 48-3-3. The collection of such executions shall follow the procedures prescribed in Chapter 3 of Title 48 of the Official Code of Georgia Annotated. Such executions shall bear interest at the rate prescribed by O.C.G.A. Section 48-2-40 once issued.

O.C.G.A. Secs. 48-2-12, 48-2-40, 48-3-3, 48-5-440 through 48-5-442, 48-5-444 through 48-5-448, 48-5-450, 48-5-451, 48-5-490, 48-5-492 through 48-5-495.

HISTORY. Original Rule entitled "Penalties" adopted. F. Dec. 5, 1997; eff. Dec. 25, 1997. AMENDED: F. May 3, 2000; eff. May 23, 2000.

***560-11-9-.12 Notice of Right to Appeal Mobile Home Valuation.***

Any proposed assessment or ad valorem property tax bill sent to an owner of a mobile home(s), by a county's board of tax assessor, shall contain the following sentence in bold:

"If you feel that your mobile home's value is too high for ad valorem taxation purposes, you should file an appeal or tax return with County Board of Tax Assessors for an opportunity to have your mobile home's value reduced."

Authority O.C.G.A. Sec. 48-5-311. History. Original Rule entitled "Notice of Right to Appeal Mobile Home Valuation" adopted. F. May 9, 2011; eff. May 29, 2011.



## Chapter 20 PROPERTY TAX CREDIT

### ***560-11-2-.37 Property Tax Credit -- Ad Valorem Tax Bills. Amended.***

Beginning with the tax year 1975, each county tax commissioner or collector shall prepare and furnish to each taxpayer owing State, County or County School taxes a tax bill showing the total amount of such taxes levied for the current tax year, the dollar amount of property tax credit computed for the taxpayer, the net amount of such taxes due by the taxpayer for the current year, the amount of the total property tax relief grant authorized to the county not credited to taxpayers under the terms of the Act of the General Assembly, a statement that the tax credit is a result of the passage of the Act of the General Assembly, and a statement of the taxpayer claiming his entitlement to the credit and certifying that all credits claimed do not exceed \$ 1,000. Appropriate standard tax bill forms shall be furnished by the State Revenue Commissioner. Provided, however, that any county tax commissioner or collector desiring to prepare and furnish tax bill forms other than the standard form furnished by the State Revenue Commissioner is hereby authorized to do so provided the form actually used reflects the information required herein, including the taxpayer certification form, and provided the tax commissioner or collector receives prior written approval from the State Revenue Commissioner before such forms are used. In those instances where county property taxes are authorized by law to be paid to the tax collector or commissioner in installment payments, the property tax relief provided for herein shall be calculated and shown as a credit against the last installment of county property taxes owed for the current year. In those instances where the county property taxes are paid to the county tax collector or commissioner by a mortgagee (lender) for its borrowers, the mortgagee (lender) may make the required certification to the tax collector or commissioner on behalf of its borrowers at the time the taxes are paid for the current tax year. Such certifications made by mortgagees (lenders) shall be in a form acceptable to the tax collector or tax commissioner. Provided, however, that under the terms of the Act granting such credits and under the terms of this Regulation, the responsibility of the mortgagee who pays taxes on behalf of its borrowers extends only to making the certification on behalf of its borrowers at the time the taxes are paid as required herein, and the responsibility for the correctness of such certification on behalf of individual taxpayers rests with the taxpayers.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427; Act No. 610, 1975 Session of General Assembly.

ADMINISTRATIVE HISTORY: Original Rule was filed on May 17, 1973; effective June 6, 1973. AMENDED: Filed June 11, 1975; effective July 1, 1975.

### ***560-11-2-.38 Property Tax Credit -- Calculation. Amended.***

(1) Each year, on or before June 1, the State Revenue Commissioner shall furnish to the governing authority of each county and to the tax commissioner or collector of each county, from information certified to him by the several county tax receivers and tax commissioners, the total amount of property tax relief funds allocated to that particular county for the current tax year as authorized by Act of the General Assembly, and that portion of such total amount of property tax relief funds, allocated to that particular county for the current tax year, to be used for homestead credit purposes as authorized by Act of the General Assembly.

(2) Once the county tax digest has been compiled for the current year as required by law, the governing authority of each county shall determine the appropriate tax rate to be levied for county general operations as is normally done.

(3) Once the county tax digest has been approved by the State Revenue Commissioner for the current year as required by law, the county tax collector or tax commissioner shall calculate the appropriate tax credits as follows:

(a) Determine the amount of property tax credit authorized against county ad valorem property taxes for each "homestead" tangible property located within the county, which credit shall equal an amount computed by dividing the grant authorized for homestead purposes for the county by the number of homesteads in the county for the current year; provided, however, that no credit authorized as homestead relief shall exceed one-half of the credit recipient's county government maintenance and operation tax liability.

(b) Determine the total amount of property tax relief credited against county ad valorem maintenance and operation taxes for all "homestead" property within the county.

(c) The amount of property tax relief authorized for homestead purposes for the county in excess of the amount calculated in accordance with subparagraphs (a) and (b) of subsection (3) of this Section shall be used as a pro rata property tax credit against the ad valorem county maintenance and operation property taxes on all tangible property subject to taxation in the county for the current tax year, except motor vehicles and trailers, and except that property required by law to be returned to the State Revenue Commissioner.

(d) The county-wide pro rata property tax credit shall be calculated as a percentage of county government maintenance and operation taxes levied, which percentage shall be computed by dividing the total amount of property tax relief funds available for distribution to the county after deducting the total amount of property tax relief granted by the "homestead" property tax credits under subparagraphs (a) and (b) of subsection (3) of this Section by the total taxes levied against tangible property authorized to receive credit for general county purposes after the "homestead" property tax credits have been deducted. The percentage thus derived shall be applied against the total county maintenance and operation taxes levied for each property for general county tax purposes after deduction for any "homestead" property tax credit, if any, to which the taxpayer may be entitled; provided, however, that no credit claimed in any county, or combination of credits claimed in all counties wherein the taxpayer owns property, shall exceed the lesser of \$ 1,000 or the credit recipient's total tax liability for county government ad valorem maintenance and operation property taxes; further provided, that where a taxpayer cannot claim entitlement to any or all of the credit calculated for a particular county because of the total credit maximum state wide, the taxpayer shall certify to the tax collector or commissioner in a form acceptable to the tax collector or commissioner in that county the amount of the credit, if any, to which he is entitled.

(e) Determine the total amount of property tax relief credited pro rata against county government ad valorem maintenance and operation taxes within the county.

(f) All property tax credits authorized shall be calculated based upon the tax digest for the current tax year approved by the State Revenue Commissioner as required by law. Any property not returned for taxation as required by law which is assessed by the board of tax assessors after the digest for the current year has been approved by the State Revenue Commissioner shall not be entitled to such property tax credits for the current year. Provided, however, that when the assessment of any property is under appeal at the time the digest is approved by the Commissioner and the assessment is not yet finalized for the current year, that property shall be considered by the county at the value assessed by the board of tax assessors when making the property tax relief calculations required by law and in accordance with this Regulation. If the final determination of the assessed value of such property results in an assessment higher than that of the board of tax assessors, the additional property tax credits shall be granted to the taxpayer. If the final determination of the assessed value of such property results in an assessment lower than that of the board of tax as-

sessors, the excess property tax credits calculated for said property shall become county funds and shall be retained by the governing authority of the county.

(g) All property tax credits authorized but not distributed due to erroneous or duplicate assessments or other errors whereby assessments are subsequently removed from the digest approved by the State Revenue Commissioner for the current year shall become county funds and shall be retained by the governing authority of the county, and any excess of the total grant authorized but not utilized after complete compliance with the terms of the Act shall become county funds and shall be retained by the governing authority of the county.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427; Act No. 610, 1975 Session of General Assembly.

ADMINISTRATIVE HISTORY: Original Rule was filed on May 17, 1973; effective June 6, 1973. AMENDED: Filed June 11, 1975; effective July 1, 1975.

#### ***560-11-2-.39 Property Tax Credit -- Reports. Amended.***

(1) Beginning with the tax year 1975, the governing authority of each county shall, prior to the time the tax bills for the current year are furnished to the taxpayers of the county, certify to the State Revenue Commissioner on a form to be furnished by the State Revenue Commissioner the total amount of property tax relief credited against county ad valorem property taxes for all "homestead" property located within the county calculated in accordance with subsections 3(a) and (b) of Regulation No. 560-11-2-.38, the total amount of pro rata property tax relief credited against ad valorem county property taxes on all tangible property, except motor vehicles and trailers, and except property required by law to be returned to the State Revenue Commissioner, located within the county calculated in accordance with subsection (3) (d) of Regulation No. 560-11-2-.38, the amount of the total grant authorized to the county not credited under the terms of the Act of the General Assembly and that the calculations of the individual taxpayers' tax relief credits against county government maintenance and operation taxes have been made in strict compliance with the provisions of the Act and the Regulations adopted pursuant thereto.

(2) The State Revenue Commissioner shall not authorize the appropriate State fiscal officer to disperse property tax relief grant funds authorized by Act of the General Assembly to any county until the certification required in Subsection (1) of this Section has been received and approved.

AUTHORITY: Ga. L. 1937-38, Extra Sess., p. 77, et seq., as amended (Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427); Act No. 610, 1975 Session of General Assembly.

ADMINISTRATIVE HISTORY: Original Rule was filed on May 17, 1973; effective June 6, 1973. AMENDED: Filed June 11, 1975; effective July 1, 1975.

#### ***560-11-2-.57 Homeowner Tax Relief Grants.***

(1) For the purposes of implementing Chapter 89 of Title 36 of the Official Code of Georgia Annotated and this Rule, the following terms are defined to mean:

(a) "Applicable rollbacks" means a rollback of an ad valorem tax millage rate pursuant to O.C.G.A. § 48-8-91(a) in a county or municipality that levies a local option sales tax, a rollback of an ad valorem tax millage rate pursuant to O.C.G.A. § 36-70-24, a subtraction from an ad valorem millage rate pursuant to O.C.G.A. § 20-2-334 in a local school system that receives a state school tax credit, and a reduction of an ad valorem

tax millage rate pursuant to O.C.G.A. § 33-8-8.3(a)(2) in a county that collects insurance premium tax.

(b) "Constitutional homestead exemption" means all statewide homestead exemptions and all local homestead exemptions that are authorized in or pursuant to the Constitution of the State of Georgia.

(c) "County millage rate" means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by a county for county maintenance and operations purposes and applying to a qualified homestead, but shall not include any ad valorem tax millage rate levied for purposes of bonded indebtedness or any ad valorem tax millage rate levied within a special tax district that was not created or reported on the 2004 ad valorem tax digest certified to and received by the State Revenue Commissioner on or before December 31, 2004.

(d) "Current year's tax digest" means the roll of tangible properties within a county, including the qualified homesteads, that are made subject to ad valorem taxation during the calendar year that ends within the fiscal year for which the General Assembly appropriates a homeowner tax relief grant.

(e) "Eligible assessed value" means the amount of the assessed value of a qualified homestead that the General Assembly may fix in the General Appropriations Act to serve as the basis for determining the portion of the homeowner tax relief grant that is due each owner of a qualified homestead appearing on each county's current year's tax digest.

(f) "Homeowner tax relief credit" means the amount applied to reduce the otherwise applicable tax liability on a qualified homestead on a dollar-for-dollar basis, but shall not in any case exceed the amount of the otherwise applicable tax liability on a qualified homestead after the granting of all applicable constitutional homestead exemptions and millage rollbacks.

(g) "Local billing authority" means the county tax commissioner when the taxes that are eligible for the homeowner tax relief credit are collected by such tax commissioner. Local billing authority means the municipal fiscal authority when the taxes that are eligible for the homeowner tax relief credit are collected by such municipal fiscal authority.

(h) "Maximum eligible credit" means the homeowner tax relief credit amount that results when the eligible assessed value of a qualified homestead is multiplied times the applicable state, county, and school millage rates.

(i) "Municipal fiscal authority" means the person authorized to collect taxes for a local independent school system. This would be the county tax commissioner in a county that has contracted with a local independent school system to collect taxes, otherwise it is a person authorized by a local independent school system to collect taxes on behalf of such system.

(j) "Municipal millage rate" means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by a municipality for maintenance and operations purposes and applying to a qualified homestead, but shall not include any ad valorem tax millage rate levied for purposes of bonded indebtedness or any ad valorem tax millage rate levied within a special tax district that was not created or reported on the 2004 ad valorem tax digest certified to and received by the State Revenue Commissioner on or before December 31, 2004.

(k) "Prior year's tax digest" means the roll of tangible properties within a county, including the qualified homesteads, that were made subject to ad valorem taxation during any calendar year that precedes the calendar year to which the current year's tax digest applies.

(l) "Qualified homestead" means a homestead qualified for the state \$ 2,000 homestead exemption authorized in O.C.G.A. § 48-5-44, and actually receiving such exemption or any other increased state homestead exemption authorized in Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated.

(m) "School millage rate" means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by or on behalf of a local school system for school maintenance and operations purposes and applying to a qualified homestead. School millage rate shall not include any ad valorem tax millage rate levied for

purposes of bonded indebtedness or, in the case of local independent school systems, the school millage rate shall not include any millage rate levied by the municipality for purposes other than the maintenance and operation of such independent school system.

(n) "State millage rate" means the ad valorem tax millage rate levied annually by the Governor with the assistance of the State Revenue Commissioner pursuant to O.C.G.A. § 48-5-8.

(2) In each year that the General Assembly provides for homeowner tax relief grants, the local billing authority shall determine the individual homeowner tax relief credit to appear on each tax bill they prepare for a qualified homestead. The total amount of credit to be allowed each such taxpayer shall be determined as follows:

(a) The maximum state homeowner tax relief credit shall be determined by multiplying the eligible assessed value of the qualified homestead by the state millage rate.

(b) The state tax liability shall be determined by multiplying the net assessed value after deducting all constitutional homestead exemptions by the state millage rate.

(c) The state homeowner tax relief credit shall be the lower of the maximum state homeowner tax relief credit or the state tax liability computed in subparagraphs (a) and (b) of this paragraph.

(d) The county homeowner tax relief credit shall be determined by repeating subparagraphs (a) and (b) of this paragraph substituting the county millage rate for the state millage rate and then selecting the lower of the maximum county homeowner tax relief credit or the county tax liability.

(e) The school homeowner tax relief credit shall be determined by repeating subparagraphs (a) and (b) of this paragraph substituting the school millage rate for the state millage rate and then selecting the lower of the maximum school homeowner tax relief credit or the school tax liability.

(f) The total homeowner tax relief credit shall be determined by adding together the state, county, and school homeowner tax relief credits as determined in subparagraphs (c), (d) and (e) of this paragraph.

(g) The municipal homeowner tax relief credit shall be determined by repeating subparagraphs (a) and (b) of this paragraph substituting the municipal millage rate for the state millage rate and then selecting the lower of the maximum municipal homeowner tax relief credit or the municipal tax liability.

(h) The credit allowed the taxpayer may be reduced to 85 percent of the amount that would ordinarily be due if the property is still under appeal at the time the bills are computed. When the appeal is resolved, the taxpayer's credit shall be adjusted accordingly.

(3)(a) For any owner of a qualified homestead who would, absent the homeowner tax relief credit, have an ad valorem tax liability on such homestead, the local billing authority or municipal fiscal authority shall be required to prepare and furnish a tax bill in accordance with the provisions of this subparagraph. Such bill shall be prepared even if there is no remaining tax liability after the credit has been applied. Such tax bill shall include the following information:

1. The total amount of homeowner tax relief credit, labeled "HTRG Credit" on the bill; and
2. A prominent notice in substantially the following form:

"The HTRG Credit' reduction shown on your bill is the result of homeowner tax relief enacted by the Governor and the General Assembly of the State of Georgia."

(b) Any homeowner tax relief credit allowed a taxpayer shall be shown on the digest extension where the net tax due is shown.

(4)(a) Immediately following the actual preparation of ad valorem property tax bill amounts the tax commissioner shall provide to, if not previously provided to, the State Revenue Commissioner a copy of the digest in a computer readable format acceptable to the State Revenue Commissioner. Such copy shall contain either the following information, or information acceptable to the Commissioner from which the following information may be determined for each qualified homestead:

1. The name of the owner(s);
2. The parcel identification number;

3. The tax district where such qualified homestead is located;
  4. The code for each property class and stratum as such class and stratum are defined in Rule 560-11-2-.21, 40 percent value and, where applicable, acres for each property class;
  5. The separate homestead codes and 40 percent values for state, county and school maintenance and operations purposes;
  6. The separate amounts of state, county and school tax liability before the homeowner tax relief credit; and
  7. The separate amounts of state, county and school homeowner tax relief credit allowed the taxpayer.
- (b) The local billing authority shall also certify to the Commissioner on forms provided by the Department the following information:
1. The total number of qualified homesteads;
  2. The county millage rate and school millage rate;
  3. The total amount of homeowner tax relief credits actually allowed on the tax bills for the current tax year; and
  4. The net amount of homeowner tax relief credits allowed taxpayers for any prior year's tax digest, when such credits have not been previously certified. Such net amount shall be determined by deducting any homeowner tax relief credits determined to have been illegally or erroneously allowed taxpayers from any homeowner tax relief credits determined to have been illegally or erroneously denied taxpayers. Such net amount shall be accompanied by an itemized listing containing the information required in subparagraph (a) of this paragraph along with a brief explanation of the basis for each adjustment.
- (c) For those counties providing for the collection and payment of taxes in installments, the certification required in this paragraph shall be made immediately following the preparation of ad valorem tax bills for each installment. If only one bill is prepared showing the several installments, then such certification shall be made immediately following the preparation of such bill.
- (d) For those counties issuing ad valorem tax bills under temporary collections pursuant to O.C.G.A. § 48-5-310, the certification required in this paragraph shall be made immediately following the preparation of ad valorem tax bills for the temporary billing. The final certification shall be made immediately following the preparation of ad valorem tax bills for the final billing.
- (e) For the purposes of this paragraph, the actual preparation of the tax bill amounts means those steps and calculations necessary for the local billing authority to definitively determine the amount of homeowner tax relief credit due each qualified homestead and the total of such credits. The bills are not required to be actually printed or mailed before the certification required by this paragraph may be made to the Commissioner.
- (5) Within 60 days of receipt of the certification required by paragraph (4)(b) of this Rule, the State Revenue Commissioner shall remit to the local billing authority the homeowner tax relief grants for the state, county and school system based on the amounts certified in subparagraph (4)(b)3. and subparagraph (4)(b)4. of this Rule, unless during that time the State Revenue Commissioner determines the certification to be in error. In such an event, the State Revenue Commissioner shall require the local billing authority to provide a corrected certification and the time allowed for the State Revenue Commissioner to make the remittance shall begin anew.
- (6) The local billing authority shall distribute, after deducting appropriate commissions, the homeowner tax relief grants to the state, county, school system, and municipality as if such grants represented ad valorem taxes collected directly from the taxpayers.
- (7)(a) The local billing authority shall recover any credit that is erroneously or illegally granted in the same manner as other delinquent ad valorem taxes are collected. The local billing authority shall maintain a separate ledger or bank account entitled "Homeowner Tax Relief Credit Adjustments Account" to account for any homeowner tax relief credits that have been determined to have been illegally or erroneously granted

and that have been withheld or recovered from taxpayers.

(b) The local billing authority shall allow a taxpayer a homeowner tax relief credit when it is determined that such credit has been illegally or erroneously denied such taxpayer on the current year's tax digest. The local billing authority shall be further authorized, to the extent there are funds available in the Homeowner Tax Relief Credit Adjustments Account, to distribute such allowed credits in accordance with paragraph (6) of this Rule. When there are insufficient funds available in such account to distribute such allowed credits, the local billing authority shall not be required to distribute such credits in accordance with paragraph (6) of this Rule until such time as additional homeowner tax relief grants for this specific purpose are appropriated by the General Assembly and distributed by the State Revenue Commissioner to the local billing authority.

(c) Any balance in the Homeowner Tax Relief Credit Adjustments Account shall be certified by the local billing authority in accordance with subparagraph (4)(b)4. of this Rule, and shall be deducted by the State Revenue Commissioner from the current year's homeowner tax relief grant distribution made in accordance with paragraph (5) of this Rule. The local billing authority shall then transfer such balance to his or her regular tax collection accounts to be added to the balance of the current year's homeowner tax relief grants, when received from the State Revenue Commissioner, and distributed in accordance with paragraph (6) of this Rule.

Authority O.C.G.A. Secs. 20-2-334, 33-8-8.3, 36-89-1 to 36-89-6, 48-2-12, 48-5-8, 48-5-44, 48-5-310, 48-8-91, 48-8-104.

History. Original Rule entitled "Homeowner Tax Relief Grants" was adopted as ER. 560-11-2-0.13-.57.F. May 27, 1999; eff. May 25, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. Amended: Permanent Rule of same title adopted. F. Aug. 24, 1999; eff. Sept. 13, 1999. Amended: F. Dec. 30, 2006; eff. Jan. 9, 2007.

## **Chapter 21 HOMESTEAD EXEMPTION**

### ***560-11-2-.48 School Tax Homestead Exemption--Application.***

(1) In order for a taxpayer to be a "qualified individual" for the School Tax Homestead Exemption under O.C.G.A. § 48-5-52, such taxpayer shall:

(a) Be an "Applicant" as defined by O.C.G.A. § 48-5-40(1);

(b) Have timely filed an application and affidavit with:

1. In the case of residents of county school districts, the county tax receiver or tax commissioner; or

2. In the case of residents of independent school districts, the governing authority; and

(d) Be sixty-two (62) years of age or older as of January 1 of the year in which the application and affidavit is filed; and

(e) Not have a net income exceeding \$ 10,000 for the immediately preceding taxable year for income tax purposes.

(2) "Homestead" shall have the meaning as provided for in O.C.G.A. § 48-5-40.

(3) The governing authority of each municipality, where there is an independent school district, shall designate, in writing, an official who will receive taxpayer applications and affidavits for the School Tax Homestead Exemption within that municipality. The named official shall receive all such applications unless the municipality's governing authority designates, in writing, another official to receive said applications and affidavits.

(a) Each municipality shall immediately transmit a copy of its written designation to the Director of Local Government Services.

(4) In order for a county or municipal tax official to make a determination of eligibility, an application and affidavit shall include, but not be limited to, the following information:

(a) The age of applicant on January 1 of the year in which the application and affidavit is filed.

(b) The income of the applicant including the income of the spouse, if applicable, who also occupies the homestead.

Authority Ga. L. 1937-38, Extra Sess., pp. 77, et Seq., as amended; Ga. Code Ann. 48-5-40, 48-5-52, 92-8405, 92-8406, 92-8409, 92-8457; Ga. L. 1974, pp. 183 et seq. Administrative History. Original Rule was filed on January 15, 1975; effective February 4, 1975. Amended: F. May 9, 2011; eff. May 29, 2011.

### ***560-11-2-.49 School Tax Homestead Exemption -- Qualifications.***

(1) The applicant must be 62 years of age or older on or before January 1 of the year for which the exemption is claimed.

(2) The applicant's total gross income from all sources, including the gross income from all sources of all members of the family residing within the homestead, for the immediately preceding calendar year shall not exceed \$ 6,000.

(a) For the purposes of this exemption, the term "gross income from all sources" shall mean and include all income from wherever and whatever source derived, including (but not limited to) the following items:

1. compensation for services, including fees, commissions, and similar items;

2. gross income derived from business;



3. gains derived from dealings in property;
4. interest;
5. rents;
6. royalties;
7. dividends;
8. alimony and separate maintenance payments;
9. income from life insurance and endowment contracts;
10. annuities;
11. pensions;
12. income from discharge of indebtedness;
13. distributive share of partnership gross income;
14. income from an interest in an estate or trust;
15. Federal old-age, survivor, or disability benefits.

(b) Income for all members of the family residing within the homestead shall be measured using the same definitions as used to measure claimant's income.

(c) For the purposes of this exemption, the term "all members of the family" shall mean and include all persons related, in any degree, to the claimant by blood, marriage, or otherwise by law (e.g. adoption).

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427; Ga. L. 1974, pp. 183, et seq.

ADMINISTRATIVE HISTORY: Original Rule was filed on January 15, 1975; effective February 4, 1975.

#### ***560-11-2-.50 School Tax Homestead Exemption -- Failure to File.***

Failure to make proper application for the school tax homestead exemption within the time provided shall constitute a waiver of the exemption for that tax year. Provided, however, that said taxpayer who fails to make proper application within the time provided or whose application is denied for any reason shall be entitled to homestead exemption for school tax purposes in an amount to which he is otherwise entitled for State and county tax purposes.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended; Ga. Code Ann., Secs. 92-8405, 8406, 8409, 8427; Ga. L. 1974, pp. 183, et seq.

ADMINISTRATIVE HISTORY: Original Rule was filed on January 15, 1975; effective February 4, 1975.

#### ***560-11-2-.51 School Tax Homestead Exemption -- Applicability of Other Provisions of Law.***

All provisions of law governing application, definitions, and determination of eligibility applicable to the homestead exemption granted by Ga. Laws 1946, p. 12, shall apply, insofar as practicable, to the school tax homestead exemption unless such provisions are in conflict with Ga. Laws 1974, p. 183 or these Regulations promulgated thereunder.

AUTHORITY: Ga. L. 1937-38, Extra Sess., p. 77, et seq., as amended (Ga. Code Ann. Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1974, p. 183, et seq. ADMINISTRATIVE HISTORY: Original Rule entitled "School Tax Homestead Exemption -- Applicability of Other Provisions of Law" was filed on January 15, 1975; effective February 4, 1975.

***560-11-2-.52 School Tax Homestead Exemption -- Amount.***

The value of the homestead, but not to exceed \$ 10,000 of its assessed valuation, shall be exempt from county school tax or independent school district tax as provided by law. Said amount shall be exempted from all ad valorem taxes for educational purposes levied by, for, or in behalf of any such school system, including taxes to retire bonded indebtedness.

AUTHORITY: Ga. L. 1937-38, Extra Sess., p. 77, et seq., as amended (Ga. Code Ann. Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1974, p. 183, et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "School Tax Homestead Exemption -- Amount" was filed on January 15, 1975; effective February 4, 1975.

***560-11-2-.53 School Tax Homestead Exemption Information to Be Furnished to State Revenue Commissioner.***

Each year, on or before August 1 or at the time the county tax digest for that year is submitted to the State Revenue Commissioner, the county tax receiver or tax commissioner and the appropriate municipal official shall forward to the State Revenue Commissioner copies of all school tax homestead exemption applications where the exemption has been granted or a listing of all such approved applications which listing shall contain name of applicant, social security number of the applicant, and the names and social security numbers of all members of the family residing within the homestead whose income was considered in the income determination.

Ga. Code Ann. Secs. 92-8405, 92-8406, 92-8409, 92-8427.

HISTORY. Original Rule entitled "School Tax Homestead Exemption--Information to Be Furnished to State Revenue Commissioner" adopted. F. Jan. 15, 1975; eff. Feb. 4, 1975.

***560-11-2-.54 Homestead Exemptions of \$ 4,000 for Certain Elderly Persons -- Income Exclusion.***

For the purposes of determining eligibility for increased homestead exemption from all State and county taxes in the amount of \$ 4,000 for certain elderly persons as provided in Article VII, Section I, Paragraph IV of the Constitution, the term "net income" shall not include income received as retirement, survivor or disability benefits under the Federal Social Security Act or under any other public or private retirement, disability or pension system, or any combination of benefits received from the herein named sources, except such income which is in excess of the maximum amount authorized to be paid to an individual and his spouse, on January 1 of the year for which the exemption is sought, under the Federal Social Security Act. Income from such sources, or any combination of such sources, which is in excess of such maximum amount shall be included as net income for the purposes of determining eligibility for the increased homestead exemption.

AUTHORITY: Ga. L. 1937-38, Extra Sess., p. 77, et seq., as amended (Ga. Code Ann. Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1974, p. 1648, et seq. ADMINISTRATIVE HISTORY: Original Rule entitled "Homestead Exemption of \$ 4,000 for Certain Elderly Persons -- Income Exclusions" was filed on January 15, 1975; effective February 4, 1975.

## **Chapter 22 PROPERTY TAX BILL**

### ***560-11-3-.17 Property Tax Bill -- General Property Tax -- PT-63.***

This form is prepared annually by the county tax commissioner or collector and furnished to each taxpayer who owes State, county or county school tax for the current tax year. The form shows the total amount of such taxes levied on property owned by the taxpayer, the amount of property tax credit granted by Act of the 1973 Session of Georgia's General Assembly, and the net amount of such taxes due for the current tax year.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427); Act No. 229, 1973 Session of General Assembly.

ADMINISTRATIVE HISTORY: Original Rule entitled "Property Tax Bill -- General Property Tax -- PT-63" was filed on May 17, 1973; effective June 6, 1973.

## Chapter 23 MUNICIPAL PROPERTY TAX INSTALLMENTS

### ***560-11-2-.19 Municipal Corporation Ad Valorem Taxes Installments.***

(1) Except as otherwise authorized by the State Revenue Commissioner as provided by law, any municipal corporation in this State located in any county whose annual tax digest for the current year has not been prepared and approved by the State Revenue Commissioner when such municipal corporation normally sends ad valorem tax bills to its taxpayers and begins collection of the annual taxes due is hereby authorized to collect taxes due in the following manner:

(a) The municipal corporation must, by appropriate action of the governing authority, adopt a method of paying ad valorem taxes for the current year in two or more installments.

(b) The municipal corporation must use as the basis of taxation for all installment payments so adopted, except the final installment, the valuation for the property as finally determined for State and county tax purposes for the preceding tax year.

(c) The municipal corporation must use as the basis of taxation for the final installment for the current year, the valuation as finally determined and approved by the State Revenue Commissioner for State and county tax purposes for the current tax year. Taxes due on the final installment shall be adjusted to reflect total tax liability to the municipal corporation for the property based upon the county valuation of the property and the municipal corporation tax rate for the current tax year after credit has been given for estimated taxes paid previously on such property. Should the estimated taxes previously paid on such property under the installment method adopted exceed the total tax liability for the current year, the excess payment shall be refunded by the municipal corporation.

(2) Nothing contained in this Regulation shall be deemed or construed to impose any liability for the payment of any such ad valorem taxes upon any person, firm or corporation for property which was not owned on the first day of January of the applicable tax year.

Authority Ga. Code Ann. Secs. 92-4004, 92-8405, 92-8406, 92-8409, 92-8427.

History. Original Rule entitled "Municipal Corporation Ad Valorem Taxes - Installments" adopted. F. May 1, 1973; eff. May 21, 1973.

## Chapter 24 REAL ESTATE TRANSFER TAX

### ***560-11-2-.16 Real Estate Transfer Tax-Filing Declaration Forms. Amended.***

(1) Except as provided for in paragraph (2) of this rule, any deed, instrument or other writing which conveys any lands, tenements, or other realty must be accompanied by Form PT-61 (1 original and 3 copies). Said form shall be properly completed and signed by the seller or his authorized agent and by the buyer or his authorized agent, prior to such instrument being presented to the Clerk of Superior Court for recording. As used herein, "properly completed" shall be deemed to include the following TYPED or LEGIBLY PRINTED information:

(a) Seller's Information - The form shall contain the complete name, street mailing address, city, state and zip code of the seller and the month, day and year the sale occurred.

(b) Buyer's Information - The form shall contain complete name, street mailing address, city, state zip code of the buyer for the purpose of receiving tax notices and billings. The intended use of the property by the buyer at the time of the transfer shall be listed and designated as being residential (R), agricultural (A), commercial (C), or industrial (I).

(c) Property Information - The complete description of the property being conveyed, the county name where the property is located shall be listed and the city name (if the property lies within the limits of a city). The number of acres of property, map and parcel number, district, land lot and subplot and block shall be shown.

(d) Value and Tax Information - The actual value of the consideration received by the seller for the real and personal property conveyed to the buyer shall be shown. This consideration total should reflect all cash, other property or goods, and the assumption of mortgages or other obligations. If the actual value of the consideration is not known, the estimated fair market value of real and personal property conveyed should be shown along with an estimate of the value of the personal property conveyed. The amount of any lien or encumbrance prior to the transfer and not removed thereby shall be shown.

1. The actual consideration or the fair market value, if the actual consideration is not readily determinable, of the real property conveyed less any liens or encumbrances existing prior to the sale and not removed by the sale shall be the basis upon which the tax is computed. The phrase "ten dollars and other valuable consideration" or other similar phrases are not proper disclosures of consideration. This basis shall be shown along with the tax due.

2. The value of the personal property may be deducted from the basis upon which the tax is computed if the estimate of personal property is accompanied by appropriate evidence of its accuracy.

(e) Other Information - Any other information requested on the most current version of form PT-61 shall be listed.

(f) Certification - The seller or seller's authorized agent shall certify that all the items of information entered on the transfer form PT-61 are true and correct (to the best of his knowledge and belief) and that he is aware that the making of any willful false statement of material facts will subject him to the provision of the penal law relative to the making and filing of false instruments.

1. The buyer or buyer's authorized agent shall acknowledge that, by law, he is required to file a timely property tax return on all improved and unimproved real property subject to tax on January 1. The buyer or buyer's authorized agent further acknowledges that the property described on form PT-61 has not been sub-divided or improved during the year of the transfer and if no tax return is filed, he will be deemed to have returned it at the same valuation as was finally determined for the year in which the transfer took

place.

2. By filing the form PT-61, the buyer is not relieved from the responsibility of filing a new timely return where the property transferred has been split from an existing property or where there have been substantial changes or new improvements to the property, nor would the filing of the form PT-61 relieve the buyer from filing an application for homestead or other exemptions to which he may be entitled.

(2) The properly completed form PT-61 shall accompany all deeds, instruments or other writings when these writings are presented to the Clerk for recording with the exception of the following types of instruments:

(a) Security deed instruments;

(b) Instruments releasing an interest in real estate covered by an existing security deed; provided the body of the release instrument identifies the security deed and it specifically states that the purpose of the instrument is to release the security interest represented by the identified security deed;

(c) Deeds of correction; provided the body of the corrective deed identifies the existing instrument it is correcting and specifically states the purpose of the corrections being made to the identified instrument.

AUTHORITY: O.C.G.A. Secs. 48-2-1, 48-2-7, 48-2-12, 48-5-15, 48-5-20, 48-5-269, 48-6-1 - 48-6-10.

ADMINISTRATIVE HISTORY: Original Rule entitled "Real Estate Transfer Tax -- Filing Declaration" was filed on May 25, 1971; effective June 14, 1971. AMENDED: Rule repealed and a new Rule entitled "Real Estate Transfer Tax -- Filing Declaration Forms" adopted. Filed January 21, 1982; effective February 10, 1982. AMENDED: Rule repealed and a new Rule of the same title adopted. Filed February 28, 1983; effective March 20, 1983. REPEALED: New Rule of same title adopted. F. Jun. 9, 1989; eff. Jun. 29, 1989. REPEALED: New Rule, same title, adopted. F. Nov. 9, 1993; eff. Nov. 29, 1993.

***560-11-2-.17 Real Estate Transfer Tax-Calculation and Collection of Tax. Amended.***

(1) After determining that Form PT-61 is properly completed, the clerk or his deputy shall calculate and collect the proper tax due in accordance with O.C.G.A. Sec. 48-6-1 and 48-6-4.

(2) Prior to submitting Form PT-61 to the State Revenue Department, the clerk or his deputy shall complete that portion of said form reserved for his use by including the following:

(a) Deed book and page numbers;

(b) Date of recording;

(c) If a new plat is also being filed, the plat book and page numbers;

(d) Any other information required on the most current version of form PT-61;

(e) Signature of clerk or his deputy reviewing the form.

(3) In the event that the clerk or his deputy determines that form PT-61 is not properly completed, it should be returned to the appropriate party for completion. In such event, the deed or conveyance shall not be eligible for recording until accompanied by a properly completed PT-61.

AUTHORITY: O.C.G.A. Secs. 48-2-12; 48-6-1 - 48-6-10.

ADMINISTRATIVE HISTORY: Original Rule entitled "Real Estate Transfer Tax -- Calculation of Tax" was filed on May 25, 1971; effective June 14, 1971. AMENDED: Rule repealed and a new Rule entitled "Real Estate Transfer Tax -- Calculation and Collection of Tax" adopted. Filed January 21, 1982; effective February 10, 1982. AMENDED: Rule repealed and a new Rule of the same title adopted. Filed February 28, 1983; effective March 20, 1983. REPEALED: New Rule of same title adopted. F. Jun. 9, 1989; eff. Jun. 29, 1989.

**560-11-2-.18 Real Estate Transfer Tax - Disposition of Forms.**

(1) On or before the 15th day of each month, the Clerk of Superior Court shall submit the original copy of form PT-61 filed with him for the preceding calendar month to the Revenue Commissioner along with a properly completed recapitulation form PT-62 showing the total taxable transactions for the preceding month, the total tax collected, the fees earned by the Clerk, and the net amount of taxes being remitted to the Commissioner.

(a) The clerk shall retain one copy of the forms PT-61 and PT-62 for a period of one year after the date these forms are required to be sent to the Revenue Commissioner, after which they may be disposed of consistent with any records disposition standards.

(2) On or before the 15th day of each month, the Clerk of Superior Court shall submit one copy of form PT-61 filed with him for the preceding calendar month to the Chairman of the Board of Tax Assessors, or his designated appraisal staff.

(a) The Chairman of the Board of Tax Assessors shall retain one copy of all forms PT-61 filed with him for a period of three years after the date of receipt after which these may be disposed of consistent with any records disposition standards adopted by the appropriate authority in the county.

(3) On or before the 15th day of each month, the Clerk of Superior Court shall submit one copy of form PT-61 filed with him for the preceding calendar month to the County Tax Commissioner.

(a) The County Tax Commissioner shall retain his copy of form PT-61 consistent with any records disposition standards adopted by the appropriate authority in the county.

AUTHORITY: Ga. L. 1967, pp. 788, 790, as amended ( Ga. Code Ann., Secs. 92-801-810); O.C.G.A. Secs. 48-2-1, 48-2-7, 48-2-12, 48-5-15, 48-5-20, 48-5-269, 46-6-1 - 48-6-10, 50-18-90 - 50-18-103.

ADMINISTRATIVE HISTORY: Original Rule entitled "Real Estate Transfer Tax -- Disposition of Forms -- Monthly Reports" was filed on May 25, 1971; effective June 14, 1971. REPEALED: New Rule entitled "Real Estate Transfer Tax -- Tax Assessor's Review -- Disposition of Forms" adopted. F. Jun. 9, 1989; eff. Jun. 29, 1989. REPEALED: New Rule, same title, adopted. F. Nov. 9, 1993; eff. Nov. 29, 1993.

**560-11-3-.15 Real Estate Transfer Tax Form -- PT-61.**

This form is completed by the seller or the seller's authorized agent and must be submitted in quadruplicate (1 original and 3 copies) to the Clerk of Superior Court before any lands, tenements or other realty transferred can be filed for record or recorded by the Clerk of Superior Court. This form discloses the value of property conveyed or transferred and amount of tax due.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1967, pp. 788, 790, as amended; O.C.G.A. Secs. 48-2-1, 48-2-7, 48-2-12, 48-5-15, 48-5-20, 48-5-269, 48-6-1 - 48-6-10.

ADMINISTRATIVE HISTORY: Original Rule entitled "Real Estate Transfer Tax Form -- PT 61" was filed on May 25, 1971; effective June 14, 1971. AMENDED: F. Jun. 9, 1989; eff. Jun. 29, 1989. REPEALED: New Rule, same title, adopted. F. Nov. 9, 1993; eff. Nov. 29, 1993.

**560-11-3-.16 Monthly Reporting Form -- Real Estate Transfer Tax -- PT-62.**

This form is completed monthly by the Clerk of Superior Court and accompanies all forms PT-61 to the Revenue Commissioner. This form provides for the documentation by the Clerk of total number of taxable transactions, total tax collected, and amount of commissions retained by the Clerk for collecting the tax.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427); Ga. L. 1967, pp. 788, 790, as amended.

ADMINISTRATIVE HISTORY: Original Rule entitled "Monthly Reporting Form -- Real Estate Transfer Tax -- PT-62" was filed on May 25, 1971; effective June 14, 1971.



## **Chapter 25 INTANGIBLE RECORDING TAX**

### ***560-11-3-.09 Intangible Property Tax Return -- Form PL-159.***

This return is filed by individuals, partnerships, associations, fiduciaries and corporations and reports all intangible property owned as of January 1. This return must be filed by April 15.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Intangible Property Tax Return -- Form PL-159" was filed on May 25, 1971; effective June 14, 1971.

### ***560-11-3-.10 Report of Corporation's Stockholders and Bondholders -- Form PL-160.***

This form is filed by domestic and foreign corporations and reports all stockholders and bondholders of the corporations.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Report of Corporation's Stockholders and Bondholders Form PL-160" was filed on May 25, 1971; effective June 14, 1971.

### ***560-11-3-.11 Summary Report to Accompany Form PL-160 -- Form PL-161.***

This verifies and is attached to the PL-160 forms filed by the corporation. This report, together with all PL-160 forms, must be filed by March 1.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Summary Report to Accompany Form PL-160 Form -- PL-161" was filed on May 25, 1971; effective June 14, 1971.

### ***560-11-3-.12 Report of Intangible Property Held for Georgia Residents -- Form PL-170.***

This report is filed by public officials, corporations, co-partnerships, individuals, trustees or pledgees, and reports all securities held on January 1 for the use, benefit or accommodation of any person or firm residing in Georgia.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Report of Intangible Property Held for Georgia Residents -- Form PL-170" was filed on May 25, 1971; effective June 14, 1971.

**560-11-3-.13 Summary Report to Accompany Form PL-170 -- Form PL-171.**

This report verifies and is attached to the PL-170 forms filed. This report, together with all PL-170 forms, must be filed by March 1.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427).ADMINISTRATIVE HISTORY: Original Rule entitled "Summary Report to Accompany Form PL-170 -- Form PL-171" was filed on May 25, 1971; effective June 14, 1971.

**560-11-8-.01 Purpose of Regulations.**

These regulations have been adopted by the Commissioner pursuant to O.C.G.A. Section 48-2-12 in order to promulgate specific policies and procedures of the Department applicable to the administration and collection of intangible recording tax pursuant to O.C.G.A. Section 48-6-60. These regulations are administrative regulations applicable to a class of instruments within the meaning of O.C.G.A. Section 48-6-71 and, as contemplated by such section, shall constitute a determination of the Commissioner with respect to each such class of instruments described herein and may be relied upon as such.

AUTHORITY: O.C.G.A. Secs. 48-2-12, 48-6-60, 48-6-77.HISTORY: Original Rule entitled "Purpose of Regulations" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

**560-11-8-.02 Tax Payment and Rate.**

An intangible recording tax is due and payable on each instrument securing one or more long-term notes at the rate of \$ 1.50 per each \$ 500.00 or fraction thereof of the face amount of all notes secured thereby in accordance with O.C.G.A. Section 48-6-61 and these regulations. This tax is assessed on the security instrument securing one or more long-term notes secured by real property, to be paid upon the recording thereof, and must be paid within 90 days from the date of the instrument executed to secure the note or notes. The maximum tax on a single security instrument is \$ 25,000.

AUTHORITY: O.C.G.A. Secs. 48-2-12, 48-6-61.HISTORY: Original Rule entitled "Tax Payment and Rate" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

**560-11-8-.03 Definitions.**

(1) "Collecting officer" means the tax collector or tax commissioner of the county; provided, however, that in each county of this state having a population of 50,000 or more according to the United States Decennial Census of 1990 or any future such census, collecting officer means the Clerk of Superior Court of the county.

(2) "Instrument" or "security instrument" means any written document presented for recording for the purpose of conveying or creating a lien or encumbrance on real estate for the purpose of securing a long-term note secured by real estate.

(3) "Long-term note secured by real estate" shall mean any note representing credits secured by real estate

by means of mortgages, deed to secure debt, purchase money deeds to secure debt, bonds for title, or any other form of security instrument, when any part of the principal of the note falls due more than three years from the date of the note or from the date of any instrument executed to secure the note and conveying or creating a lien or encumbrance on real estate for such purpose.

(4) "Short-term note secured by real estate" shall mean any note which would be a long-term note secured by real estate were it not for the fact that the whole of the principal of the note falls due within three years from the date of the note or from the date of any instrument executed to secure the note.

(a) A short-term note is reported as of January 1 of each year, as intangible personal property on Form PL-159 and taxed at the rate of 10 cents per thousand.

(b) A short-term note remains classified as short-term according to its terms, as long as it remains outstanding, although the indulgence of the creditor allows it to extend beyond a three year period.

(c) A renewal note in payment of an existing short-term note is to be classified according to its own terms as to whether it is short-term or long-term.

(d) A short-term note, with option to renew or extend by the borrower, where any part of the principal or interest of the note becomes due or may become due more than three years from execution is classified as long-term.

(e) A "bona fide demand note" is always a short-term note according to its terms; provided however, that a note denominated as a "demand" note where the maturity date as determined from the instrument extends or may extend beyond three years, is nevertheless a long-term note. For purposes of this regulation, a "bona fide demand note" is a note payable unconditionally on demand whose maturity date is not determined by any contingency other than the demand of the holder.

(f) A note which matures the same month and date as executed only three (3) years later, is a short-term note.

AUTHORITY: O.C.G.A. Secs. 48-6-21, 48-6-23, 48-6-23(a)(1), 48-6-64, 48-6-70. HISTORY: Original Rule entitled "Definitions" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

#### ***560-11-8-.04 Modification.***

Intangible recording tax is not required to be paid on any instrument that modifies by extension, transfer, assignment or renewal, or gives additional security for an existing note, when the intangible recording tax has been paid on the original instrument or the original note or holder of the original instrument was exempt.

AUTHORITY: O.C.G.A. Secs. 48-6-62(b), 48-6-65. HISTORY: Original Rule entitled "Modifications" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

#### ***560-11-8-.05 Refinancing.***

(1) Intangible recording tax is not required to be paid on that part of the face amount of a new instrument securing a long-term note secured by real estate which represents a refinancing by the original lender and original borrower of unpaid principal of an existing instrument securing a long-term note secured by real estate still owned by the original lender, if the intangible recording tax was paid on the original instrument or the original holder of the instrument was exempt.

(a) The new instrument must contain a statement of what part of the face amount represents a refinancing

of unpaid principal. This information must be disclosed on the face of the instrument or in the alternative may be submitted in the form of an affidavit indicating which part of the face amount represents a refinancing of unpaid principal.

(2) Where two or more instruments securing long-term notes, secured by separate deeds to secure debt and held by the original borrower and the original lender, are consolidated, with no new money advanced, into a single instrument securing a long-term note with a single deed to secure debt, intangible recording tax is due, up to the statutory maximum, on that portion of the indebtedness secured by the new instrument, if any, that does not represent unpaid principal on the consolidated notes.

(3) Where instruments securing long-term and short-term notes, secured by separate deeds to secure debt and held by the original borrower and the original lender, are consolidated, with no new money advanced, into a single instrument securing a long-term note with a single deed to secure debt, intangible recording tax is due, up to the statutory maximum, on that portion of the indebtedness secured by the new instrument, if any, that does not represent unpaid principal on the long-term note or notes.

AUTHORITY: O.C.G.A. Secs. 48-2-20, 48-6-61 -- 48-6-69. HISTORY: Original Rule entitled "Refinancing" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

#### ***560-11-8-.06 Additional Advance.***

(1) In the case of a new note or a modification of a preexisting note, representing an additional extension of credit to be secured by a previously recorded instrument which otherwise requires no further recording, the intangible tax is determined according to the terms of the new note.

(2) In lieu of recording a new or amended security instrument, the holder of the note may elect alternatively to execute an affidavit setting forth the amount of the additional advance, in words and figures, and the correct date on which the additional advance falls due, and the page and book of the previously recorded instrument.

(3) The collecting officer of the county where the tax was first paid shall collect the intangible recording tax due and shall enter upon or attach to the affidavit the certificate that the intangible recording tax has been paid, the date, and the amount of the tax, and such affidavit shall be recorded and attached to the previously recorded instrument.

AUTHORITY: O.C.G.A. Sec. 48-6-62(b) HISTORY: Original Rule entitled "Additional Advance" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

#### ***560-11-8-.07 Multi-State Property.***

(1) Resident holder: If the holder of an instrument conveying property located both within and without the State of Georgia to secure a long-term note, is a resident of Georgia, the amount of the tax required is that amount that would be due were the property located wholly within the State of Georgia. The maximum amount of Georgia intangible recording tax payable with respect to the instrument is \$ 25,000.

(2) Nonresident holder: A nonresident, if a business entity, for the purposes of this regulation is defined as any business entity that is incorporated or organized under law other than the law of Georgia and maintains its principal place of business in a state other than Georgia.

(a) If the holder of an instrument conveying property located both within and without the State of Georgia is a nonresident of Georgia, the amount of tax due would be \$ 1.50 per \$ 500.00 or fraction thereof of the

principal of the note, times (x) the ratio of the value of real property located in Georgia to the value of all real property, in-state and out-of-state, securing the note.

(b) All values must be certified under oath by the holder presenting the instrument for recording. The application of the \$ 25,000 cap is made after the above referenced computation is completed. An example follows:

\$ 100,000,000	=	Total Loan Amount
10%	=	% of FMV of Real Property located within Ga.
90%	=	% of FMV of Real Property located outside Ga.
\$ 300,000	=	Tax on Loan Amount (\$ 100,000,000 x .003)
30,000	=	Tax on 10% of Loan Amount (Ga. portion)
25,000	=	Tax (after application of the cap)

(3) Resident and nonresident holders: Where a single security instrument secures long-term notes held by both residents and nonresidents and the long-term notes held by the residents and the nonresidents are clearly identifiable from the security instrument, the nonresident holders will be allowed to apportion their tax paid based on the apportionment formula described in subsection (2)(b).

(a) Resident holders in the same transaction, however, will be required to pay the intangible recording tax as if the property were located wholly within the State of Georgia on that portion of indebtedness represented by the long-term notes they hold. The maximum amount of Georgia intangible recording tax payable with respect to the indebtedness is \$ 25,000.

(b) If the notes held by residents and nonresidents cannot be distinguished from the face of the security instrument, no holder, resident or nonresident, will be allowed to apportion their tax paid based on the apportionment formula described in subsection (b).

AUTHORITY: O.C.G.A. Secs. 48-6-61, 48-6-69. HISTORY: Original Rule entitled "Multi-state Property" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

#### **560-11-8-.08 Multi-County Property.**

(1) With respect to any instrument given as security for a long-term note wherein the real property is located in more than one county, the intangible recording tax shall be paid to each county in which the instrument is recorded. The value of the real property located in each county must be certified under oath by the holder of the note presenting the instrument for recording.

(2) The collecting officer in each county shall certify that the proper intangible recording tax has been paid along with any penalties assessed on the instrument.

(3) If the holder desires to record the instrument simultaneously in more than one county, the holder should submit a counterpart of the instrument for recording in each individual county. The counterpart should contain the appropriate description of the property that is encumbered in the subject county along with an affidavit that sets forth the value of the real property encumbered in every county being secured by the instrument.

Authority O.C.G.A. Secs. 48-2-12, 48-6-4, 48-6-8, 48-6-60, 48-6-61, 48-6-62, and 48-6-64 et seq.

History. Original Rule entitled "Multi-County Property" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996. Amended: F. Jan. 3, 2013; eff. Jan. 23, 2013.

**560-11-8-.09 Wrap-around Note.**

Intangible recording tax is due on the entire face amount of a security instrument securing a "wrap-around" note which is otherwise a long-term note secured by real estate. This type of transaction is not a modification by extension, transfer, assignment, or renewal as defined in Revenue Rule 560-11-8-.04 above and does not fall within the provisions of Revenue Rule 560-11-8-.04 since there is a new lender.

AUTHORITY: O.C.G.A. Sec. 48-6-60, 48-6-77. HISTORY: Original Rule entitled "Wrap-around Note" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

**560-11-8-.10 Interest Included in Note-Add On.**

If a deed to secure debt reflects an amount secured, that is greater than the principal amount of the note, and the description of the note contained in the security instrument does not clearly indicate what part of the face amount of the note is principal and what part represents other charges, the holder may at the time of recording, present a sworn affidavit itemizing the principal amount of the note and the other charges. The collecting officer shall then use the principal amount from the sworn affidavit in determining the proper tax liability.

AUTHORITY: O.C.G.A. Sec. 48-6-61. HISTORY: Original Rule entitled "Interest Included in Note-Add On" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

**560-11-8-.11 Adjustable Rate Mortgages ("ARM").**

Where an instrument secures a long-term note which contemplates the extension of credit based upon an adjustable interest rate, the intangible tax due is computed as follows:

- (a) Where the instrument contemplates negative amortization, the intangible tax is based upon the total amount of the credit contemplated within the instrument, if determinable. In some cases, this will be reflected as a percentage of the initial principal balance and in some cases it will be a fixed dollar amount.
- (b) If the instrument does not contain a ceiling, or negative amortization may occur based on some future rate index, then the total credit contemplated cannot be determined. The intangible recording tax is then due on the initial principal balance as shown on the face of the instrument, and if negative amortization occurs, the holder of the instrument must execute and submit an affidavit as provided for in Revenue Rule 560-11-8-.05 concerning the intangible recording tax computation on additional advances and pay the intangible recording tax on the additional credit extended.

AUTHORITY: O.C.G.A. Secs. 48-2-12, 48-6-62. HISTORY: Original Rule entitled "Adjustable Rate Mortgage ("ARM")" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

**560-11-8-.12 Instrument Securing Short-Term and Long-Term Notes.**

Where a single instrument secures both long-term and short-term notes, intangible recording tax is due on the sum of the amounts of both the long-term and short-term notes, up to the maximum tax allowed per instrument.

AUTHORITY: O.C.G.A. Secs. 48-6-60 - 48-6-77. HISTORY: Original Rule entitled "Instrument Securing Short-Term and Long-Term Notes" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

**560-11-8-.13 Secured Lines of Credit.**

(1) Intangible recording tax is due and payable by the note holder, upon the recording of an instrument securing a long-term revolving line of credit secured by real estate, a long-term line of credit secured by real estate or long-term equity line of credit secured by real estate on the total amount of the line of credit, whether advanced or not.

(2) The determination of whether the revolving line of credit, secured line of credit, or equity line of credit is long-term is made at the time of recording from the face of the instrument. If the term of the revolving line of credit, secured line of credit, or the equity line of credit will extend beyond a three year period, notwithstanding when advances will be advanced or repaid, the revolving line of credit, the secured line of credit, or equity line of credit, will be deemed long-term.

(3) The \$ 25,000 maximum intangible tax limit provided for in O.C.G.A. Section 48-6-61 shall apply with respect to the total amount of credit contemplated by the line of credit. No additional tax will be due on subsequent advances secured by the instrument as long as the principal outstanding at any one time does not exceed the maximum amount permitted to be outstanding as determined from the face of the instrument.

AUTHORITY: O.C.G.A. Sec. 48-2-12. HISTORY: Original Rule entitled "Secured Lines of Credit" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

**560-11-8-.14 Exemptions.**

Any mortgage, deed to secure debt, purchase money deed to secure debt, bond for title or any other form of security instrument is not subject to intangible recording tax where any of the following applies:

(a) Where any of the following is a party: The United States, the State of Georgia, any agency, board, commission, department or political subdivision of either the United States or this state, any public authority, any non-profit public corporation, or any other publicly held entity sponsored by the government of the United States or this state.

(b) Where any of the following is Grantee: a federal credit union, a state of Georgia chartered credit union, or a church.

(c) Where the instrument is given as additional security, to correct a previously recorded instrument, or to substitute real estate; provided the body of the new instrument identifies the existing instrument and specifically states the purpose of the new instrument.

(d) Where the instrument does not secure a note, (e.g., guaranty agreement; bail bond; performance agreement; bond issue; indemnity agreement; divorce decree; letter of credit).

(e) In the case of a transfer or assignment, where the original note or the holder of the original note was

exempt.

(f) Where the instrument is recorded pursuant to a plan of reorganization confirmed under Chapter 11 of the U.S. Code and where the instrument is accompanied by documentation verifying confirmation of the plan of reorganization.

AUTHORITY: O.C.G.A. Secs. 48-5-41(a)(1)(A), 48-6-22, 48-6-60, 48-6-65(a), 48-6-65(a)(2), 48-6-65(b)(1).

HISTORY: Original Rule entitled "Exemptions" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

#### ***560-11-8-.15 Determination Letter Requests.***

Requests for determination letter rulings by the Commissioner should always include a copy of the deed to as notes and financial agreements may also be helpful in making a decision.

AUTHORITY: O.C.G.A. Sec. 48-6-71

HISTORY: Original Rule entitled "Determination Letter Requests" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.

#### ***560-11-8-.16 Claim for Refund.***

(1) Any taxpayer who disputes the taxability of an instrument or the amount of tax assessed by the collecting officer may pay the tax under Protest. The Protest must be filed at the moment the instrument is recorded and tax is paid. It cannot be filed after the instrument has been recorded. The Protest must be filed in duplicate and signed by the collecting officer at the time of recording. One copy should be attached to the instrument being recorded with the second copy forwarded by the collecting officer to the Department of Revenue at the address indicated on the Protest form.

(2) The collecting officer who receives the protested payment shall deposit it into a special escrow account.

(3) A taxpayer who files a Protest must file a Claim for Refund in order to "perfect" the Protest. The Claim for Refund must be filed no later than thirty days from the date of the Protest. It may also be executed at the time the Protest is filed. The Claim for Refund shall be filed in triplicate with the Department of Revenue and sent to the address indicated on the Claim for Refund form. A fourth copy shall be filed with the collecting officer who recorded the instrument under Protest.

(4) Any taxpayer whose Protest and Claim for Refund is denied, in whole or in part, has the right to bring an action for refund of the amount so claimed and not approved against the collecting officer who received the payment and recorded the instrument. The action must be filed in the Superior Court of the county in which the instrument was recorded under Protest or in the Georgia Tax Tribunal.

(5) If the Claim for Refund is approved, in whole or in part, the collecting officer who collected the tax shall refund to the taxpayer the amount approved without interest.

Authority O.C.G.A. Secs. 48-2-12, 48-6-76.

History. Original Rule entitled "Claim for Refund" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996. Amended: F. Jan. 3, 2013; eff. Jan. 23, 2013.



## **Chapter 26 ESTATE TAX**

### ***560-11-3-.14 Estate Tax Return Form.***

A copy of the Federal Estate Tax Return Form is filed with the Property Tax Unit.

AUTHORITY: Ga. L. 1937-38, Extra Sess., pp. 77, et seq., as amended (Ga Code Ann. Secs. 92-8405, 8406, 8409, 8427).

ADMINISTRATIVE HISTORY: Original Rule entitled "Estate Tax Return Form" was filed on May 25, 1971; effective June 14, 1971.