House Bill 507 (AS PASSED HOUSE AND SENATE)
By: Representatives Wilensky of the 79th, Harrell of the 106th, Stephens of the 164th, Frye of the 118th, Beverly of the 143rd, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to revise the criteria used by tax assessors to determine the fair market value of real property; to provide an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, is amended by revising paragraph (3) of Code Section 48-5-2, relating to definitions, as follows:

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

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

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

(i) Existing zoning of property;

(ii) Existing use of property, including any restrictions or limitations on the use of property resulting from state or federal law or rules or regulations adopted pursuant to the authority of state or federal law;

(iii) Existing covenants or restrictions in deed dedicating the property to a particular use;

(iv) Bank sales, other financial institution owned sales, or distressed sales, or any combination thereof, of comparable real property;

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

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

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

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

(viii) Any other existing factors provided by law or by rule and regulation of the commissioner deemed pertinent in arriving at fair market value.
(B.1) The tax assessor shall not consider any income tax credits with respect to real property which are claimed and granted pursuant to either Section 42 of the Internal Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair market value of real property.

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

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

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

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

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

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

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

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

(iii) For the tenth and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.
(E) Timber shall be valued at its fair market value at the time of its harvest or sale in the manner specified in Code Section 48-5-7.5.

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

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

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

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

SECTION 2.

This Act shall become effective on January 1, 2020.

SECTION 3.

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