

House Bill 755 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 171<sup>st</sup>, Meadows of the 5<sup>th</sup>, England of the 116<sup>th</sup>, Knight of the 130<sup>th</sup>, McCall of the 33<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad  
2 valorem taxation of property, so as to provide for a revised definition of forest land fair  
3 market value; to provide for conditions, procedures, and limitations for ad valorem property  
4 tax litigation in superior court; to provide for conditions, procedures, and limitations on the  
5 approval of tax digests when assessments are in arbitration or on appeal; to provide for the  
6 valuation of property which is under appeal as to its assessed value; to provide for  
7 procedures, conditions, and limitations regarding refunds of taxes and license fees by  
8 counties and municipalities; to provide for related matters; to provide an effective date; to  
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem  
13 taxation of property, is amended by revising paragraph (6) of Code Section 48-5-2, relating  
14 to definitions regarding ad valorem taxation of property, as follows:

15 "(6) 'Forest land fair market value' means the 2008 fair market value of the forest land;  
16 provided, however, that when the 2008 fair market value of the forest land has been  
17 appealed by a property owner and the ultimate fair market value of the forest land is  
18 changed in the appeal process by either the board of assessors, the board of equalization,  
19 a hearing officer, an arbitrator, or a superior court judge, then the final fair market value  
20 of the forest land shall replace the 2008 fair market value of the forest land. This final  
21 fair market value of the forest land shall be used in the calculation of local assistance  
22 grants. If local assistance grants have been granted to either a county, a county board of  
23 education, or a municipality based on the 2008 fair market value of forest land and  
24 subsequently the fair market value of such forest land is reduced on an appeal, then the  
25 county or the municipality shall reimburse the state, within 12 months unless otherwise  
26 agreed to by the parties, the difference between local assistance grants paid to the county

27 or municipality and the amount which would have been due based on the final fair market  
 28 value of the forest land. Such 2008 valuation may increase from one taxable year to the  
 29 next by a rate equal to the percentage change in the price index for gross output of state  
 30 and local government from the prior year to the current year as defined by the National  
 31 Income and Product Accounts and determined by the United States Bureau of Economic  
 32 Analysis and indicated by the Price Index for Government Consumption Expenditures  
 33 and General Government Gross Output (Table 3.10.4)."

34 **SECTION 2.**

35 Said chapter is further amended by revising Code Section 48-5-29, relating to the jurisdiction  
 36 of the superior court in ad valorem property tax litigation, as follows:

37 "48-5-29.

38 (a) Before the superior court has jurisdiction to entertain any civil action, appeal, or  
 39 affidavit of illegality filed under this title by any aggrieved taxpayer concerning liability  
 40 for ad valorem property taxes, taxability of property for ad valorem property taxes,  
 41 valuation of property for ad valorem taxes, or uniformity of assessments for ad valorem  
 42 property taxes, the taxpayer shall pay the amount of ad valorem property taxes assessed  
 43 against the property at issue for the last year for which taxes were finally determined to be  
 44 due on the property, or, if less, the amount of the temporary tax bill issued pursuant to  
 45 Code Section 48-5-311. For the purposes of this Code section, taxes shall not be deemed  
 46 finally determined to be due on a property for a tax year until all appeals under Code  
 47 Section 48-5-311 and proceedings for refunds under Code Section 48-5-380 have become  
 48 final.

49 (b) Ad valorem taxes due under this Code section shall be paid to the tax collector or tax  
 50 commissioner of the county where the property is located. If the property is located within  
 51 any municipality, the portion of the payment due the municipality shall be paid to the  
 52 officer designated by the municipality to collect ad valorem taxes.

53 (c) All taxes paid to the county tax collector or tax commissioner under this Code section  
 54 shall be distributed to the state, county, county schools, and any other applicable taxing  
 55 districts in the same proportion as the millage rate for each bears to the total millage rate  
 56 applicable to the property for the current year. If the total millage rate has not been  
 57 determined for the current year, the distribution shall be made on the basis of the millage  
 58 rates established for the immediately preceding year.

59 (d) Any payment made by the taxpayer in accordance with this Code section which is in  
 60 excess of his or her finally determined tax liability shall be refunded to the taxpayer. If the  
 61 amount finally determined to be the tax liability of the taxpayer exceeds the amount paid  
 62 under this Code section, the taxpayer shall be liable for the amount of the difference

63 between the amount of tax paid and the amount of tax owed. The amount of difference  
 64 shall be subject to the ~~same penalty and interest as any other unpaid ad valorem tax~~  
 65 provided under subsection (g) of Code Section 48-5-311."

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### SECTION 3.

67 Said chapter is further amended by revising Code Section 48-5-304, relating to the approval  
 68 of tax digests when assessments are in arbitration or on appeal and the withholding of grants,  
 69 as follows:

70 "48-5-304.

71 ~~(a) The commissioner shall not be required to disapprove or withhold approval of the~~  
 72 ~~digest of any county solely because appeals have been filed or arbitrations demanded on~~  
 73 ~~the assessment of any property or number of properties in the county~~ The commissioner  
 74 shall not approve any digest of any county when the assessed value that is in dispute for  
 75 any property or properties on appeal or in arbitration exceeds 5 percent of the total assessed  
 76 value of the total taxable digest of the county for the same year. In any year in which a  
 77 complete revaluation or reappraisal program is implemented, the commissioner shall not  
 78 approve a digest of any county when 8 percent or more of the assessed value in dispute is  
 79 in arbitration or on appeal and 8 percent or more of the number of properties is in  
 80 arbitration or on appeal. When the assessed value in dispute on any one appeal or  
 81 arbitration exceeds 1.5 percent of the total assessed value of the total taxable digest of the  
 82 county for the same year, such appeal or arbitration may be excluded by the commissioner  
 83 in making his or her determination of whether the digest may be approved under the  
 84 limitations provided for in this Code section. Where appeals have been filed or arbitrations  
 85 demanded, the assessment or assessments fixed by the board of tax assessors shall be listed  
 86 together with the return value on the assessments and forwarded in a separate listing to the  
 87 commissioner at the time the digest is filed for examination and approval.

88 (b) The commissioner shall not approve any digest or portion thereof for any class or strata  
 89 of property where evidence exists that the county has substantially failed to comply with  
 90 the provisions of this title or the rules and regulations of the commissioner for valuation  
 91 of such class or strata of property. The commissioner shall adopt rules and regulations to  
 92 give effect to this provision.

93 (c) The Office of the State Treasurer shall withhold any and all grants appropriated to any  
 94 county until the county tax digest for the previous calendar year has been submitted to the  
 95 commissioner as required by law."

**SECTION 4.**

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97 Said chapter is further amended by revising division (e)(6)(D)(iii) and subsection (m) of  
 98 Code Section 48-5-311, relating to creation of county boards of equalization, duties, review  
 99 of assessments, and appeals, as follows:

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"(iii)(I) If the county's tax bills are issued before ~~the county board of equalization has rendered decision on property which is on appeal~~ 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 ~~year preceding the year in which the appeal was filed~~ 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 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 ~~the~~ 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 ~~deduction~~ reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by

133 the tax commissioner to the taxpayer, entity, or transferee who paid the taxes with  
 134 interest, as provided in subsection (m) of this Code section, within 60 days from the  
 135 date of the final determination of value. Such refund shall include interest on the  
 136 amount of the deduction at the same rate specified in Code Section 48-2-35 which  
 137 shall accrue from November 15 of the taxable year in question or the date the final  
 138 installment was due or was paid, whichever is later, through to the date paid or 60  
 139 days from the date of the final determination, whichever is earlier. In no event shall  
 140 the amount of such interest exceed \$150.00 for homestead property or \$5,000.00 for  
 141 nonhomestead property. Any refund paid after the sixtieth day shall accrue interest  
 142 from the sixty-first day until paid with interest at the same rate specified in Code  
 143 Section 48-2-35. The interest accrued after the sixtieth day and forward shall not  
 144 be subject to the limits imposed by this subsection. The tax commissioner shall pay  
 145 the tax refund and any interest for the refund from current collections in the same  
 146 proportion for each of the levying authorities for whom the taxes were collected.  
 147 (III) For the purposes of this Code section, any final value that causes an increase  
 148 in taxes and creates an additional billing shall be paid to the tax commissioner as  
 149 any other tax due along with interest, as provided in subsection (m) of this Code  
 150 section, as specified in Code Section 48-2-35. The tax commissioner shall adjust  
 151 the tax bill, including interest, within 15 days from the date of the final  
 152 determination of value and mail the adjusted bill to the taxpayer. Such interest shall  
 153 accrue from November 15 of the taxable year in question or the final installment of  
 154 the tax was due through to the date the bill was adjusted and mailed or 15 days from  
 155 the date of the final determination, whichever is earlier. The interest computed on  
 156 the additional billing shall in no event exceed \$150.00 for homestead property or  
 157 \$5,000.00 for nonhomestead property. After the tax bill notice has been mailed out,  
 158 the taxpayer shall be afforded 60 days from the date of the postmark to make full  
 159 payment of the adjusted bill and interest. Once the 60 day payment period has  
 160 expired, the bill shall be considered past due, and interest shall accrue as specified  
 161 in Code Section 48-2-40 without limit until the bill is paid in full. Once past due,  
 162 all other fees, penalties, late charges, and collection notices shall apply as prescribed  
 163 in this chapter for the collection of delinquent taxes."

164 "(m) **Refunds Interest.**

165 ~~In the event a refund is owed to the taxpayer, such refund shall be paid to the taxpayer~~  
 166 ~~within 60 days of the last date upon which an appeal may be filed, or the date the final~~  
 167 ~~determination of value is established on appeal, whichever is later. Any refund paid after~~  
 168 ~~the sixtieth day shall accrue interest from the sixtieth day until paid with interest at the~~  
 169 ~~same rate as specified in Code Section 48-2-35.~~

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

185 (2) For the purposes of this Code section, any final value that causes an increase in taxes  
 186 and creates an additional billing shall be paid to the tax commissioner as any other tax  
 187 due along with interest, as specified in Code Section 48-2-35. The tax commissioner  
 188 shall adjust the tax bill, including interest, within 15 days from the date of the final  
 189 determination of value and mail the adjusted bill to the taxpayer. Such interest shall  
 190 accrue from November 15 of the taxable year in question or the final installment of the  
 191 tax was due through the date on which the bill was adjusted and mailed or 15 days from  
 192 the date of the final determination, whichever is earlier. The interest computed on the  
 193 additional billing shall in no event exceed \$150.00 for homestead property or \$5,000.00  
 194 for nonhomestead property. After the tax bill notice has been mailed out, the taxpayer  
 195 shall be afforded 60 days from the date of the postmark to make full payment of the  
 196 adjusted bill and interest. Once the 60 day payment period has expired, the bill shall be  
 197 considered past due and interest shall accrue as specified in Code Section 48-2-40  
 198 without limit until the bill is paid in full. Once past due, all other fees, penalties, and late  
 199 and collection notices shall apply as prescribed in this chapter for the collection of  
 200 delinquent taxes."

201 **SECTION 5.**

202 Said chapter is further amended by revising Code Section 48-5-380, relating to refunds of  
 203 taxes and license fees by counties and municipalities, as follows:

204 "48-5-380.

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

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

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

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

218 ~~(b) In any case in which it is determined that an erroneous or illegal collection of any tax~~  
219 ~~or license fee has been made by a county or municipality or that a taxpayer has voluntarily~~  
220 ~~or involuntarily overpaid any tax or license fee, the~~ Any taxpayer from whom the a tax or  
221 license fee was collected who alleges that such tax or license fee was collected illegally or  
222 erroneously may file a claim for a refund with the governing authority of the county or  
223 municipality at any time within one year or, in the case of taxes, three years after the date  
224 of the payment of the tax or license fee to the county or municipality. The claim for refund  
225 shall be in writing and shall be in the form and shall contain the information required by  
226 the appropriate governing authority. The claim shall include a summary statement of the  
227 grounds upon which the taxpayer relies. In the event the taxpayer desires a conference or  
228 hearing before the governing authority in connection with any claim for a refund, the  
229 taxpayer shall so specify in writing in the claim. If the claim conforms to the requirements  
230 of this Code section, the governing authority shall grant a conference at a time specified  
231 by the governing authority. The governing authority shall consider information contained  
232 in the taxpayer's claim for a refund and such other information as is available. The  
233 governing authority shall approve or disapprove the taxpayer's claim and shall notify the  
234 taxpayer of its action. In the event any claim for refund is approved, the governing  
235 authority shall proceed under subsection (a) of this Code section to give effect to the terms  
236 of that subsection. No refund provided for in this Code section shall be assignable.  
237 Submitting a request for refund to the governing authority is not a prerequisite to bringing  
238 suit.

239 ~~(c) Any taxpayer whose claim for refund is denied by the governing authority of the~~  
240 ~~county or municipality or whose claim is not denied or approved by the governing~~

241 ~~authority within one year from the date of filing the claim shall have the right to bring an~~  
 242 ~~action for a refund in the superior court of the county in which the claim arises. No action~~  
 243 ~~or proceeding for the recovery of a refund shall be commenced before the expiration of one~~  
 244 ~~year from the date of filing the claim for refund unless the governing authority of the~~  
 245 ~~county or municipality renders a decision on the claim within the one-year period. No~~  
 246 ~~action or proceeding for the recovery of a refund shall be commenced after the expiration~~  
 247 ~~of one year from the date the claim is denied. The one-year period prescribed in this~~  
 248 ~~subsection for filing an action for a refund shall be extended for such period as may be~~  
 249 ~~agreed upon in writing between the taxpayer and the governing authority of the county or~~  
 250 ~~municipality during the one-year period or any extension of the one-year period. The filing~~  
 251 ~~of a request for a refund with the governing authority under subsection (b) of this Code~~  
 252 ~~section shall act to stay the time period for initiating suit for a refund. Following the filing~~  
 253 ~~of a request for refund with the governing authority, no suit may be commenced until the~~  
 254 ~~earlier of the governing authority's denial of the request for refund or the expiration of 90~~  
 255 ~~days from the date of filing the claim. Alternatively, any taxpayer may forgo requesting~~  
 256 ~~a refund from the governing authority under subsection (b) of this Code section and elect~~  
 257 ~~to proceed directly to filing suit.~~

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

263 (e) The governing authority of any county, by resolution, and the governing authority of  
 264 any municipality, by ordinance, shall adopt rules and regulations governing the  
 265 administration of this Code section and may delegate the administration of this Code  
 266 section, including the approval or disapproval of claims where the reason for the claim is  
 267 based on an obvious clerical error, to an appropriate department in local government. In  
 268 disputed cases where there is no obvious error, the approval or disapproval of claims may  
 269 not be delegated by the governing authority.

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

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

275 **SECTION 6.**

276 This Act shall become effective on July 1, 2014.

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**SECTION 7.**

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