

COMMITTEES OF CONFERENCE SUBSTITUTE TO HB 196:

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 revise the criteria used by tax assessors to determine
 3 the fair market value of real property; to allow certain business corporations to participate
 4 in the indirect ownership of a home for the mentally disabled for financing purposes; to
 5 provide for procedures, conditions, and limitations; to provide that certain disabled veterans
 6 shall be issued refunds of certain ad valorem taxes paid during certain periods of time when
 7 such disabled veterans receive final determinations of disability containing retroactive
 8 periods of eligibility; to provide for a referendum; to provide for a contingent effective date;
 9 to provide for automatic repeal under certain circumstances; to provide for applicability; to
 10 repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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 (3) of Code Section 48-5-2, relating
 14 to definitions, as follows:
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16 "(3) 'Fair market value of property' means the amount a knowledgeable buyer would pay
 17 for the property and a willing seller would accept for the property at an arm's length, bona
 18 fide sale. The income approach, if data is available, shall be ~~considered~~ utilized in
 19 determining the fair market value of income-producing property, and, if actual income
 20 and expense data are voluntarily supplied by the property owner, such data shall be
 21 considered in such determination. Notwithstanding any other provision of this chapter
 22 to the contrary, the transaction amount of the most recent arm's length, bona fide sale in
 23 any year shall be the maximum allowable fair market value for the next taxable year.
 24 With respect to the valuation of equipment, machinery, and fixtures when no ready
 25 market exists for the sale of the equipment, machinery, and fixtures, fair market value
 26 may be determined by resorting to any reasonable, relevant, and useful information

27 available, including, but not limited to, the original cost of the property, any depreciation
 28 or obsolescence, and any increase in value by reason of inflation. Each tax assessor shall
 29 have access to any public records of the taxpayer for the purpose of discovering such
 30 information.

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

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

37 (i) Existing zoning of property;

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

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

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

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

47 (vi) Rent limitations, ~~operational requirements~~ higher operating costs resulting from
 48 regulatory requirements imposed on the property, and any other restrictions imposed
 49 upon the property in connection with the property being eligible for any income tax
 50 credits ~~described in subparagraph (B.1)~~ with respect to real property which are
 51 claimed and granted pursuant to either Section 42 of the Internal Revenue Code of
 52 1986, as amended, or Chapter 7 of this paragraph title or receiving any other state or
 53 federal subsidies provided with respect to the use of the property as residential rental
 54 property; provided, however, that ~~such~~ properties described in ~~subparagraph (B.1) of~~
 55 ~~this paragraph~~ this division shall not be considered comparable real property for the
 56 assessment or appeal of assessment of other properties not covered by this division;
 57 and

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

64 (II) In establishing the value of any property subject to rent restrictions under the
 65 income approach, any income tax credits described in division (vi) of this
 66 subparagraph that are attributable to property may be considered in determining the
 67 fair market value of the property provided that such income tax credits generate
 68 actual income to the record holder of title to the property; and
 69 ~~(vii)~~(viii) Any other existing factors provided by law or by rule and regulation of the
 70 commissioner deemed pertinent in arriving at fair market value."

71 SECTION 2.

72 Said chapter is further amended by revising paragraph (13) of subsection (a) of Code Section
 73 48-5-41, relating to property exempt from taxation, as follows:

74 "(13)(A) All property of any nonprofit home for the mentally disabled used in
 75 connection with its operation when the home for the mentally disabled has no
 76 stockholders and no income or profit which is distributed to or for the benefit of any
 77 private person and when the home is qualified as an exempt organization under the
 78 United States Internal Revenue Code of 1954, Section 501(c)(3), as amended, and Code
 79 Section 48-7-25, and is subject to the laws of this state regulating nonprofit and
 80 charitable corporations.

81 (B) Property exempted by this paragraph shall not include property of a home for the
 82 mentally disabled held primarily for investment purposes or used for purposes unrelated
 83 to the providing of residential or health care to the mentally disabled;.

84 (C) For purposes of this paragraph, indirect ownership of such home for the mentally
 85 disabled through a limited liability company that is fully owned by such exempt
 86 organization shall be considered direct ownership.

87 (D) For purposes of this paragraph, the participation of a business corporation or other
 88 entity or person in the indirect ownership of such home for the mentally disabled, as a
 89 member of the limited liability company or limited partner of the partnership that is the
 90 direct owner of such home, for the purpose of providing financing for the construction
 91 or renovation of such home in return for a share of any tax credits pursuant to United
 92 States Internal Revenue Code of 1986, Section 42, as amended, and which relinquishes
 93 all ownership of such home upon the completion of its obligation under the financing
 94 agreement, shall not operate to disqualify such home for the exemption under this
 95 paragraph;"

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SECTION 3.

Said chapter is further amended in Code Section 48-5-48, relating to homestead exemption by qualified disabled veterans, filing requirements, periodic substantiation of eligibility, and persons eligible without application, by adding a new subsection to read as follows:

"(g)(1) If a disabled veteran receives a final determination of disability from the United States Department of Veterans Affairs containing a retroactive period of eligibility, such disabled veteran or his or her surviving unremarried spouse or minor children shall be entitled to a refund of the ad valorem taxes paid during such period that he or she or his or her surviving unremarried spouse or minor children would have otherwise been exempt from such taxes pursuant to this Code section, provided that the refund shall only be for the three tax years preceding his or her or his or her surviving unremarried spouse's or minor children's application for the homestead exemption permitted by this Code section.

(2) Upon application for the homestead exemption provided by this Code section and submittal of proper documentation, each county and municipality shall consider the taxes paid by such disabled veteran or his or her surviving unremarried spouse or minor children under the circumstances provided in paragraph (1) of this subsection to be voluntarily or involuntarily overpaid and shall refund such taxes to such disabled veteran or his or her surviving unremarried spouse or minor children in accordance with Code Section 48-5-380.

(3) Upon final determination and approval of a period of prior eligibility, the county board of assessors shall immediately transmit such approval to the local tax commissioner and local municipal tax officer if applicable. The tax commissioner and municipal tax officer shall be authorized to refund the proportionate amount of taxes from the entities for whom the taxes were collected for the tax years approved for the exemption. Such refund shall not exceed three tax years and shall not include interest."

SECTION 4.

The Secretary of State shall call and conduct an election as provided in this section for the purpose of submitting Section 2 of this Act to the electors of the entire state for approval or rejection. The Secretary of State shall conduct such election on the Tuesday next following the first Monday in November, 2018, and shall issue the call and conduct that election as provided by general law. The Secretary of State shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of each county in the state. The ballot shall have written or printed thereon the words:

131 " YES Shall the Act be approved which provides an exemption from ad valorem
132 NO taxes on nonprofit homes for the mentally disabled if they include business
133 corporations in the ownership structure for financing purposes?"

134 All persons desiring to vote for approval of Section 2 of this Act shall vote "Yes," and all
135 persons desiring to vote for rejection of Section 2 of this Act shall vote "No." If more than
136 one-half of the votes cast on such question are for approval of the Act, Section 2 of this Act
137 shall become of full force and effect on January 1, 2019, and shall be applicable to all tax
138 years beginning on or after such date. If Section 2 of this Act is not so approved or if the
139 election is not conducted as provided in this section, Section 2 of this Act shall not become
140 effective, and Section 2 of this Act shall be automatically repealed on the first day of January
141 immediately following that election date. It shall be the duty of each county election
142 superintendent to certify the result thereof to the Secretary of State.

143 **SECTION 5.**

144 Except as otherwise provided in Section 4 of this Act, this Act shall become effective on
145 July 1, 2017.

146 **SECTION 6.**

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