

House Bill 1157

By: Representative Harrell of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-5-2 of the Official Code of Georgia Annotated, relating to
2 definitions concerning general provisions for ad valorem taxation of property, so as to
3 redefine fair market value with respect to the valuation of certain intangible property; to
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Code Section 48-5-2 of the Official Code of Georgia Annotated, relating to definitions
8 concerning general provisions for the ad valorem taxation of property, is amended by
9 revising paragraph (3) as follows:

10 "(3) 'Fair market value of property' means the amount a knowledgeable buyer would pay
11 for the property and a willing seller would accept for the property at an arm's length, bona
12 fide sale. The income approach, if data is available, shall be considered in determining
13 the fair market value of income-producing property. Notwithstanding any other provision
14 of this chapter to the contrary, the transaction amount of the most recent arm's length,
15 bona fide sale in any year shall be the maximum allowable fair market value for the next
16 taxable year. Intangibles such as goodwill, depreciation, income tax credits, and low
17 interest loans shall not be included in the calculation of fair market value of property
18 unless there is demonstrable evidence through comparable sales that the value of the
19 property has been enhanced by such intangibles; whereas, the right of access to or use of
20 an intangible shall not be included in the calculation of fair market value, regardless of
21 whether or not such right of access to or use of an intangible is attributable to an increase
22 in fair market value. With respect to the valuation of equipment, machinery, and fixtures
23 when no ready market exists for the sale of the equipment, machinery, and fixtures, fair
24 market value may be determined by resorting to any reasonable, relevant, and useful
25 information available, including, but not limited to, the original cost of the property, any
26 depreciation or obsolescence, and any increase in value by reason of inflation. Each tax

27 assessor shall have access to any public records of the taxpayer for the purpose of
28 discovering such information.

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

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

35 (i) Existing zoning of property;

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

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

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

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

45 (vi) Rent limitations, operational requirements, and any other restrictions imposed
46 upon the property in connection with the property being eligible for any income tax
47 credits described in subparagraph (B.1) of this paragraph or receiving any other state
48 or federal subsidies provided with respect to the use of the property as residential
49 rental property; provided, however, that such properties described in subparagraph
50 (B.1) of this paragraph shall not be considered comparable real property for
51 assessment or appeal of assessment of other properties; and

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

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

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

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

- 64 (i) For the first eight years in which the property is classified as 'rehabilitated historic
 65 property,' the value equal to the greater of the acquisition cost of the property or the
 66 appraised fair market value of the property as recorded in the county tax digest at the
 67 time preliminary certification on such property was received by the county board of
 68 tax assessors pursuant to subsection (c) of Code Section 48-5-7.2;
- 69 (ii) For the ninth year in which the property is classified as 'rehabilitated historic
 70 property,' the value of the property as determined by division (i) of this subparagraph
 71 plus one-half of the difference between such value and the current fair market value
 72 exclusive of the provisions of this subparagraph; and
- 73 (iii) For the tenth and following years, the fair market value of such property as
 74 determined by the provisions of this paragraph, excluding the provisions of this
 75 subparagraph.
- 76 (D) Fair market value of 'landmark historic property' as such term is defined in
 77 subsection (a) of Code Section 48-5-7.3 means:
- 78 (i) For the first eight years in which the property is classified as 'landmark historic
 79 property,' the value equal to the greater of the acquisition cost of the property or the
 80 appraised fair market value of the property as recorded in the county tax digest at the
 81 time certification on such property was received by the county board of tax assessors
 82 pursuant to subsection (c) of Code Section 48-5-7.3;
- 83 (ii) For the ninth year in which the property is classified as 'landmark historic
 84 property,' the value of the property as determined by division (i) of this subparagraph
 85 plus one-half of the difference between such value and the current fair market value
 86 exclusive of the provisions of this subparagraph; and
- 87 (iii) For the tenth and following years, the fair market value of such property as
 88 determined by the provisions of this paragraph, excluding the provisions of this
 89 subparagraph.
- 90 (E) Timber shall be valued at its fair market value at the time of its harvest or sale in
 91 the manner specified in Code Section 48-5-7.5.
- 92 (F) Fair market value of 'brownfield property' as such term is defined in subsection (a)
 93 of Code Section 48-5-7.6 means:
- 94 (i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,
 95 for the first ten years in which the property is classified as 'brownfield property,' or
 96 as this period of preferential assessment may be extended pursuant to subsection (o)
 97 of Code Section 48-5-7.6, the value equal to the lesser of the acquisition cost of the
 98 property or the appraised fair market value of the property as recorded in the county
 99 tax digest at the time application was made to the Environmental Protection Division
 100 of the Department of Natural Resources for participation under Article 9 of Chapter 8

101 of Title 12, the 'Georgia Hazardous Site Reuse and Redevelopment Act,' as amended;
102 and
103 (ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,
104 for the eleventh and following years, or at the end of any extension of this period of
105 preferential assessment pursuant to subsection (o) of Code Section 48-5-7.6, the fair
106 market value of such property as determined by the provisions of this paragraph,
107 excluding the provisions of this subparagraph."

108 **SECTION 2.**

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