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SENATE BILL 346

As Passed
LC 18 9249TS

SPONSORS: Senators Rogers of the 21st, Williams of the 19th, Thompson of the 33rd, Seabaugh of the 28th, Butterworth of the 50th

COMMITTEE: Finance

AMENDS: O.C.G.A. §§ 48-2-18, 23; 48-5-2, 18, 291, 303, 304, 306, 311, 380; 48-5B-1

REPEALS: O.C.G.A. § 48-5-32

CREATES: O.C.G.A. §§ 48-5-9.1, 13, 311(4)

SUBJECT: Ad Valorem Real Property Tax Assessments and Appeals

SUMMARY:

This legislation revises numerous provisions relating to real property tax assessments and appeals.

PART I:

Current annual assessment notices must be provided to property owners regardless of changes in value, and conform to a statewide uniform assessment notice that will be drafted by the GDOR Commissioner. The taxpayer may receive the notices via email. The notice must also contain any comparable sales data used to determine Fair Market Value (FMV) and estimate the current year's tax liability, but the estimate is non-binding. Contact information and an applicable website address for the county board of tax assessors must be provided, as well. The GDOR Commissioner must also draft a uniform appeal form for taxpayers to use which allows taxpayers to submit relevant information along with that appeal; moreover, the GDOR Commissioner must set statewide dates for mailing the annual notice to taxpayers. Requirements to post undelivered notices on the county courthouse are deleted.

PART II:

Counties will be authorized to create regional boards of equalization via inter-governmental agreement; these regional boards will operate the same as local boards; however, taxpayers will not be required to travel outside their respective county for hearings. Board of equalization members will be required to execute in writing a specific oath which states the members will make decisions without favor or prejudice. If a local grand jury fails to appoint members to a board of equalization, a taxpayer or tax assessor may request in writing that the grand jury complete the appointments within 30 days after the start of the next term.

The county clerk of court will oversee the applicable local board of equalization.

A taxpayer will be notified in writing of changes or corrections made by the tax assessors, and a dissatisfied taxpayer will have 30 days to appeal to the board of equalization; the appeal may be perfected via e-mail. If the property owner and the local board of tax assessors sign an agreement setting the value, the existing appeal will terminate. If the board of equalization does render a decision within 12 months of initial notice of assessment then the taxpayer's value will be the FMV.

The GDOR Commissioner will draft rules governing procedure during hearings before local boards of equalization within 180 days of this legislation becoming law, and these rules must be updated at least every five years.

Computations of time for applicable deadlines will mirror civil procedure. If the taxpayer and tax assessor agree in writing to the FMV, the county must record the agreed amount on all necessary documents to reflect the value.

In appeals stemming from income-producing property where the FMV exceeds \$1 million, the taxpayer may elect for the appeal to be heard by a hearing officer. Taxpayers may choose to change the time and date of a scheduled hearing by showing for good cause. Notices to appeal to a hearing officer in lieu of the board of equalization must be filed within 45 days of mailing the assessment notices. The taxpayer or the board of tax assessors may appeal a hearing officer's determination of FMV. The DOR commissioner must approve persons to serve as a hearing officer, and will supply each county with an approved list of qualified persons; moreover, they will be chosen randomly to hear appeals. Any agreement to set FMV will terminate the appeal. Each hearing officer will be compensated by the county at a rate of no less than \$25 per hour.

PART III:

Tax Commissioners must open the ad valorem books for making real or personal property returns between January 1 and April 1 annually.

PART IV:

Local tax officials and staff including tax collectors and tax commissioners, appraisers, tax assessors, and equalizers will be required to receive instruction through education and training courses provided by GDOR. The materials must be updated at least every five years. Online training will be available for some courses. All training will be made open and available by GDOR to taxpayers or attorneys upon request for a reasonable fee and available space; same may be available online, as well. .

PART V:

A statutory definition for "Arm's Length, Bona Fide Sale" is added (carried out by unrelated or unaffiliated parties by willing buyers and sellers, acting within their own self interests or a bona fide distressed sale). "Fair Market Value of Property" is expanded to include the income approach to determine income-producing property. The most recent arm's length transaction will determine FMV for the next taxable year.

In determining FMV, tax assessors must apply traditional criteria but not foreclosure sales, but cannot include intangible assets such as trade name, brand or flag value or incentives or concessions for anchor tenants.

PART VI:

During the period of assessment increase moratorium, the board of tax assessors is not required to maintain various tax digests or valuations. Counties will not be subject to one-fourth mill recovery or \$5 parcel penalties.

A "certified appraisal" is defined as one given, signed, and certified by a registered real estate appraiser. Following receipt of notice for binding arbitration, the board of tax assessors has ten days to send the taxpayer acknowledgement of receipt and inform the taxpayer of 45 days to provide the board with a certified appraisal and confirmation of applicable filing fees. Failure to provide the appraisal and necessary fees will terminate the appeal unless the appeal is forwarded to the board of equalization. The board of assessors must accept or reject the certified appraisal within 45 days. If rejected, it will be certified within 45 days to the local superior court which has jurisdiction over the subject property. If the assessors fail to reply either way, the certified appraisal provided by the taxpayer becomes the final value. If more than one parcel is appealed by a single taxpayer, the taxpayer may request consolidation of these appeals into a single hearing. Proof of service may be made to the taxpayer, an attorney or to an agent. If the taxpayer's value is determined by the arbitrator to be the FMV, the county will be responsible for court fees.

PART VII:

Counties, cities, boards of education, the state, and other entities will be authorized to refund taxes paid while under appeal occurring under the purview of this legislation.

PART VIII:

If annual reports by the GDOR Commissioner to the local boards of tax assessors are made on or after August 1, the board of tax assessors must use the report of the past year for its current tax year.

PART IX:

Counties and cities may allow tax payments by multiple installments, set the due dates for those installment payments, and receive the tax payments by any form of payment.

PART X:

Roll-back millage rates must be certified by the taxing authority.

Notice of Property Tax Increase must be posted on the taxing authority's website which explains the amount of the millage increase for the average home value from the last year's tax digest.

PART XI:

Counties are authorized to proceed with tax digests for 2010 tax year and after despite ongoing appeals and arbitration.

PART XII:

County board of tax assessors may correct factual errors if discovered within three years and the correction benefits the taxpayer.