

Official Code of Georgia
Statewide Preferential Property Tax Assessment Program
for
Rehabilitated Historic Property

Section 48-5-7.2.

(a) (1) For the purposes of this article, "rehabilitated historic property" means tangible real property which:

(A) Qualifies for listing on the Georgia Register of Historic Places as provided in Part 1 of Article 3 of Chapter 3 of Title 12;

(B) Is in the process of or has been substantially rehabilitated, provided that in the case of owner occupied residential real property the rehabilitation has increased the fair market value of the building or structure by not less than 50 percent, or, in the case of income-producing real property, the rehabilitation has increased the fair market value of the building or structure by not less than 100 percent, or, in the case of real property used primarily as residential property but partially as income-producing property, the rehabilitation has increased the fair market value of the building or structure by not less than 75 percent, provided that the exact percentage of such increase in the fair market value to be required shall be determined by rules and regulations promulgated by the Board of Natural Resources. For the purposes of this subparagraph, the term "fair market value" shall mean the fair market value of the property, excluding the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2;

(C) The rehabilitation of which meets the rehabilitation standards as provided in regulations promulgated by the Department of Natural Resources; and

(D) Has been certified by the Department of Natural Resources as rehabilitated historic property eligible for preferential assessment.

(2) The preferential classification and assessment of rehabilitated historic property provided for in this Code section shall apply to the building or structure which is the subject of the rehabilitation, the real property on which the building or structure is located, and not more than two acres of real property surrounding the building or structure. The remaining property shall be assessed for tax purposes as otherwise provided by law.

(3) Property may qualify as historic property only if substantial rehabilitation of such property was initiated after January 1, 1989, and only property which has been certified as rehabilitated historic property by the Department of Natural Resources after July 1, 1989, may qualify for preferential assessment.

(b) In order for property to qualify for preferential assessment as provided for in subsection (c) of Code Section 48-5-7, the property must receive certification as rehabilitated historic property as defined in paragraph (1) of subsection (a) of this Code section and pursuant to regulations promulgated by the Department of Natural Resources. Applications for certification of such property shall be accompanied by a fee specified by rules and regulations of the Board of Natural Resources. The Department of Natural Resources may, at its discretion, delegate its responsibilities conferred under subparagraph (a)(1)(C) of this Code section.

(c) Upon a property owner's receiving preliminary certification pursuant to the provisions of subsection (b) of this Code section, such property owner shall submit a copy of such preliminary certification to the county board of tax assessors. A property owner shall have 24 months from the date that preliminary certification is received pursuant to subsection (b) of this Code section in which to complete the rehabilitation of such property in conformity with the application approved by the Department of Natural Resources. After receiving the preliminary certification from the property owner, the county board of tax assessors shall not increase the assessed value of such property during the period of rehabilitation of such property, not to exceed two years. During such period of rehabilitation of the property, the county tax receiver or tax commissioner shall enter upon the tax digest a notation that the property is subject to preferential assessment and shall also enter an assessment of the fair market value of the property, excluding the preferential assessment authorized by this Code section. Any taxes not paid on the property as a result of the preliminary certification and frozen assessed value of the property shall be considered deferred until a final determination is made as to whether such property qualifies for preferential assessment as provided in this Code section.

(d) Upon the completion of the rehabilitation of such property, the property owner shall submit a request in writing for final certification to the Department of Natural Resources. The Department of Natural Resources shall determine whether such property as rehabilitated constitutes historic property which will be listed on the Georgia Register of Historic Places and which qualifies for preferential assessment. The Department of Natural Resources shall issue to the property owner a final certification if such property so qualifies.

(e) Upon receipt of final certification from the Department of Natural Resources, a property owner desiring classification of any such historic property as rehabilitated historic property in order to receive the preferential assessment shall make application to the county board of tax assessors and include the order of final certification with such application. The county board of tax assessors shall determine if the value of the building or structure has been increased in accordance with the provisions of subparagraph (a)(1)(B) of this Code section; provided, however, that, if the property owner can document expenditures on rehabilitation of owner occupied property of not less than 50 percent of the fair market value of the building or structure at the time of the preliminary certification of the property, or, in the case of income-producing property, expenditures on rehabilitation of such property of not less than 100 percent of the fair market value of the building or structure at the time of preliminary certification of the property, or, in the case of real property used primarily as residential property but partially as income-producing property, expenditures on rehabilitation of such property of not less than 75 percent of the fair market value of the building or structure at the time of preliminary certification of the property, the county board of tax assessors shall be required to grant preferential assessment to

such property. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of the building or structure, excluding the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2; and such rehabilitation expenditures shall also include expenditures incurred in preserving specimen trees upon not more than two acres of real property surrounding the building or structure. As used in this Code section, the term "specimen tree" means any tree having a trunk diameter of 30 inches or more. The county board of tax assessors shall make the determination within 30 days after receiving the application and shall notify the applicant in the same manner that notices of assessment are given pursuant to Code Section 48-5-306. Appeals from the denial of an application for preferential assessment by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.

(f) A property owner who fails to have property classified as rehabilitated historic property and listed on the Georgia Register of Historic Places for the preferential assessment shall be required to pay the difference between the amount of taxes on the property during the period that the assessment was frozen pursuant to the provisions of subsection (c) of this Code section and the amount of taxes which would have been due had the property been assessed at the regular fair market value, plus interest at the rate prescribed in Code Section 48-2-40.

(g) (1) Property which has been classified by the county board of tax assessors as rehabilitated historic property shall be eligible for the preferential assessment provided for in subsection (c) of Code Section 48-5-7; provided, however, that, for the purposes of determining the years of eligibility for preferential assessment, the tax year following the year in which the preliminary certification was filed with the county board of tax assessors pursuant to subsection (c) of this Code section shall be considered and counted as the first year of eligibility.

(2) Property which is subject to preferential assessment shall be separately classified from all other property on the tax digest; and such separate classification shall be such as will enable any person examining the tax digest to ascertain readily that the property is subject to preferential assessment.

(3) The county tax receiver or tax commissioner shall enter upon the tax digest as the basis or value of a parcel of rehabilitated historic property a value equal to the greater of the acquisition cost of the property or the assessment of the 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 this Code section. Property classified as rehabilitated historic property shall be recorded upon the tax digest as provided in this Code section for nine consecutive assessment years, and the notation "rehabilitated historic property" shall be entered on the tax digest adjacent to the valuation of such property to indicate that the property is being referentially assessed. The tax commissioner or tax receiver shall also enter upon the tax digest an assessment of the fair market value of the property each year, excluding the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2.

(h) When property has once been classified and assessed as rehabilitated historic property, it shall remain so classified and be granted the special assessment until the property becomes disqualified by any one of the following:

(1) Written notice by the taxpayer to the county tax commissioner or receiver to remove the preferential classification and assessment;

(2) Sale or transfer of ownership making the property exempt from property taxation;

(3) Decertification of such property by the Department of Natural Resources. The Department of Natural Resources has the authority to decertify any property which no longer possesses the qualities and features which made it eligible for the Georgia Register of Historic Places or which has been altered through inappropriate rehabilitation as determined by the Department of Natural Resources. The sale or transfer to a new owner shall not operate to disqualify the property from preferential classification and assessment so long as the property continues to qualify as rehabilitated historic property. When for any reason the property or any portion thereof ceases to qualify as rehabilitated historic property, the owner at the time of change shall notify the Department of Natural Resources and the county board of tax assessors prior to the next January; or

(4) The expiration of nine years during which the property was classified and assessed as rehabilitated historic property; provided, however, that any such property may qualify thereafter as rehabilitated historic property if such property is subject to subsequent rehabilitation and qualifies under the provisions of this Code section.

(i) Any person who is aggrieved or adversely affected by any order or action of the Department of Natural Resources pursuant to this Code section shall, upon petition within 30 days after the issuance of such order or taking of such action, have a right to a hearing before an administrative law judge appointed by the Board of Natural Resources. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the Department of Natural Resources, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(j) (1) The taxes and interest deferred pursuant to this Code section shall constitute a prior lien and shall attach as of the date and in the same manner and shall be collected as are other liens for taxes, as provided for under this title, but the deferred taxes and interest shall only be due, payable, and delinquent as provided in this Code section.

(2) Liens for taxes deferred under this Code section, except for any lien covering the then current tax year, shall not be divested by an award for year's support authorized pursuant to Chapter 5 of Title 53 of the "Pre-1998 Probate Code," if applicable, or Chapter 3 of Title 53 of the "Revised Probate Code of 1998."