



Allegheny County Council

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Legislation Text

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An ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending the Administrative Code of Allegheny County, Article 210, entitled "Assessment Standards and Practices," in order to provide for periodic Countywide reassessments as required by Commonwealth law.

Whereas, in 2000, Allegheny County became a home rule municipality, and Council adopted an Administrative Code that provided, *inter alia*, for annual reassessments of property within Allegheny County, consistent with Commonwealth law (specifically 302 Pa.Code §§1.1-101 to 51.24-2411); and

Whereas, also in 2000, a Countywide reassessment previously ordered by the Allegheny County Court of Common Pleas in *Miller v. Board of Property Assessment, Appeals and Review of Allegheny County*, 145 P.L.J. 501 (Pa.Cm.Pl. Allegheny 1997) was completed and in effect for the 2001 tax year, although multiple lawsuits challenged the validity of the 2001 assessed values; and

Whereas, in accordance with the Administrative Code's requirement of annual reassessments, the County performed an annual reassessment for use in 2002; and

Whereas, in 2002, the County's assessment standards and practices ordinance was amended to provide that the just-completed 2002 reassessment would serve as the base year for tax years 2003, 2004 and 2005 as well, and that a reassessment would be conducted in 2005 for use in the 2006 tax year; and

Whereas, pursuant to this language, the County's Chief Assessment Officer completed a Countywide reassessment in 2005 via computer assisted modeling and obtained independent certification that this reassessment met the standards of the International Association of Assessing Officers (IAAO), but the 2005 assessed values were never formally certified by the County itself; and

Whereas, on March 15, 2005, Council enacted Ordinance 15-05-OR which capped increases of assessed values through the 2005 reassessment at 4%; the validity of this ordinance was successfully challenged by taxpayers on the grounds that it violated the Home Rule Charter, the Second Class County Charter Law, Commonwealth law governing assessments generally, and the Uniformity Clause of the Pennsylvania Constitution; and

Whereas, on October 18, 2005, Council enacted Ordinance 45-05-OR, which again amended the Administrative Code to (1) provide that the 2002 assessed values would be carried forward indefinitely as the base year assessed values for the County and (2) remove the requirement that the Chief Assessment Officer conduct ration studies to determine whether the County's assessed values conform to IAAO uniformity and equity standards; and

Whereas, the validity of Ordinance 45-05-OR was challenged by multiple taxpayers, in litigation involving multiple plaintiffs and defendants, but that is now commonly referred to as *Clifton v. Allegheny County*; and

Whereas, in *Clifton*, the property owner plaintiffs essentially argued that property values inherently vary over time and that these variations will ultimately lead to an assessment system that is so inaccurate that it violates

the Uniformity Clause of the Pennsylvania Constitution, unless property values are periodically adjusted through the reassessment process; and

Whereas, the procedural history of *Clifton*, while complex and lengthy, ultimately resulted in a series of decisions rendered by the Pennsylvania Supreme Court and, after remand, the Allegheny County Court of Common Pleas; and

Whereas, in the most salient of these decisions, reported as *Clifton v. Allegheny County*, 696 A.2d 1197, 600 Pa. 662 (Pa. 2009) and issued on April 29, 2009, the Pennsylvania Supreme Court expressly and unambiguously held that "...the proportionality principle, which forms the basis of the uniformity requirement, requires that taxpayers pay no more or less than their proportionate share of the cost of government. To ensure proportionality, all property must be taxed uniformly, with the same ratio of assessed value to actual value applied throughout the taxing jurisdiction. In the present case, there is ample evidence that Allegheny County's use of the base year system without periodic reassessment has failed to satisfy this principle, and thus violates the Uniformity Clause." *Clifton* at 1224, 707 (citations omitted); and

Whereas, the Court continued: "[p]roperty values may change over time and at different rates, but when a taxing body freezes values with, for instance, the prolonged use of a base year's property values, the resulting disparities throughout the taxing jurisdiction produce inequities, and those inequities tend to increase over time. The farther away from the base year a county gets, the more likely the county's PRD will become either regressive or progressive, as property values in different neighborhoods change at varying rates. Such is the case in Allegheny County where the data of record demonstrates that, since the 2002 base year assessment, Allegheny County municipalities have experienced varying rates of appreciation and depreciation." *Clifton* at 1224, 707-08 (citations omitted); and

Whereas, the Court also noted that "[the trial court judge's] finding of unconstitutional inequity in Allegheny County derived from his concomitant, and correct, realization that the Uniformity Clause does not tolerate the substantial inequities described above; inequities that inevitably result from the prolonged use of base year assessment values in a county where property values have changed at divergent rates." *Clifton* at 1226, 710; and

Whereas, ultimately, the Court determined that "[f]or the foregoing reasons, we hold that, as applied in Allegheny County, the statutory base year system of taxation at issue, which approves the prolonged and potentially indefinite use of an outdated base year assessment to establish property tax liability, violates the Uniformity Clause of the Pennsylvania Constitution." *Clifton* at 1229, 714; and

Whereas, although the Pennsylvania Supreme Court cited with approval the IAAO-endorsed statistical standards governing the accuracy of assessment systems (most notably the Common Level Ratio, Coefficient of Dispersion, and Price Related Differential), and expressly indicated that a legislative remedy was appropriate for establishing the point at which those measures indicate that an assessment system has become inaccurate to the point that it is rendered unconstitutional, the General Assembly has taken no action to do so on a statewide basis, and Allegheny County ultimately performed a court-ordered reassessment in 2012; and

Whereas, in the absence of action by the General Assembly, Allegheny County could have taken action to fashion a legislative solution by establishing criteria for its own Countywide reassessments, but neglected to do so in the almost 15 years that have passed since *Clifton* was decided, despite the fact that the Chief Executive for 12 of those years was the former President of Council, who both advocated in favor of and voted for

Ordinance 45-05-OR, the very ordinance that the Supreme Court found to be unconstitutional; and

Whereas, as a result of the prior administration's resistance to crafting the remedy spelled out by the PA Supreme Court in *Clifton*, the known Constitutional flaw in the County's base year system has remained in place for 15 years; and

Whereas, in 2022, litigation captioned *Gioffre, et. al. v. Fitzgerald*, GD21-7154 forced the former Chief Executive to admit that the County's Common Level Ration (CLR) - which is one of the statistical measures endorsed by the PA Supreme Court as an accuracy measure in *Clifton* - had been maintained at an erroneously high level for multiple tax years; and

Whereas, as a result of corrective measures taken since 2022, the County's CLR has plummeted by nearly 30 percentage points; and

Whereas, because the CLR and Coefficient of Dispersion (COD) are calculated utilizing similar data sets, it is expected that the County's COD will also have fluctuated dramatically as a result of those same corrective measures; and

Whereas, the end result of the *Gioffre* litigation is that **at least** two of the three statistical measures endorsed by the PA Supreme Court as indicators of assessment accuracy have fluctuated significantly, and this strongly implies that the County's current base year assessments are unconstitutionally inaccurate; and

Whereas, litigation recently filed by the City of Pittsburgh School District and directed at forcing a Countywide reassessment due to the inaccuracy of the current base year values is premised upon the same principles involved in the *Clifton* litigation; and

Whereas, it is the judgment of Council that forcing County residents to pay taxes in perpetuity based on increasingly inaccurate assessment systems is both illegal and inequitable, and that doing so is especially pernicious insofar as it frequently results in regressive tax systems in which owners of depreciating properties end up paying more than their appropriate share of the aggregate tax burden, while owners of appreciating properties pay less than their appropriate share; and

Whereas, it is further the judgment of Council that there is a significant likelihood that the County will be forced to conduct another court-ordered reassessment as a result of the City School District's litigation, and that the unpredictable timelines and specifics of court-ordered reassessments inure to the detriment of the County's property owners while presenting logistical and budgetary difficulties for the County itself; and

Whereas, it is accordingly the desire of Council to remedy the constitutional flaw in our assessment code identified by the PA Supreme Court back in 2009 in order to break the cycle of inaction, inequity, and litigation created by previous Chief Executives;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble

The provisions of the preamble to this Ordinance are hereby incorporated in their entirety by reference herein.

SECTION 2. Amendment of the Code

The Allegheny County Code of Ordinances, Article 210, entitled “Assessment Standards and Practices,” §5-210.04, entitled “Performance of Countywide reassessment,” is hereby amended as follows:

§ 5-210.04. Performance of Countywide reassessment.

A. In the event that the State Tax Equalization Board certifies the County’s Coefficient of Dispersion in excess of 15.00 or the County’s Price Related Differential outside the range of 0.95 to 1.05 in any calendar year, the County shall perform a Countywide reassessment in the following calendar year. The Chief Assessment Officer shall personally submit any and all materials provided to the State Tax Equalization Board for its certification.

1. Any Countywide reassessment required under the terms of this Subsection shall be performed in accordance with the three methods of valuation (cost approach, income approach, or sales approach) and consistent with applicable Commonwealth law, but shall not be conducted solely through a computer-assisted mass appraisal system.
2. The Chief Assessment Officer shall complete ratio studies to determine whether the valuations established by any Countywide reassessment required under the terms of this Subsection, and shall engage a private contractor to perform the same ratio studies, independent of the Chief Assessment Officer’s studies. No later than November 1 of the calendar year in which such Countywide reassessment is performed, the Chief Assessment Officer shall report the results of all of these studies to the Chief Executive and County Council, and shall post all such results in a conspicuous location on the Division of Property Assessment and Real Estate website.
3. The Chief Assessment Officer shall personally certify the ratio studies relating to any Countywide reassessment required under the terms of this Subsection.
4. Valuations established in any Countywide reassessment required under the terms of this Subsection shall be mailed by the Division of Property Assessment and Real Estate to all property owners within the County no later than December 15, following the Chief Assessment Officer’s certification as required in Subsection 3. Such notice shall be in writing and contain conspicuous language indicating that it is not a tax bill, shall clearly delineate the previous assessed value, the value established by the Countywide reassessment for the next calendar year, the amount of the change due to the Countywide reassessment, and shall also contain the millage rate enacted for the next calendar year, consistent with applicable anti-windfall statutes.
5. Valuations established in any Countywide reassessment required under the terms of this Subsection shall be applied to the certified tax roll for the calendar year following the year in which the reassessment is performed, and such year shall become the new County base year. Appeals of such valuations may be filed by taxpayers in accordance with the provisions of Article 207 of this Administrative Code and appeal rules established by the Board of Property Assessment Appeals and Review.

B. In any year in which a Countywide reassessment is not required under the terms of Subsection A., The

the Office of Property Assessments, under the general supervision of the Chief Assessment Officer, shall revise and equalize the valuations of all objects of taxation in the County by increasing or decreasing the same as in its judgment may seem reasonable and appropriate. The valuation shall be performed in accordance with the three methods of valuation (cost approach, income approach, or sales approach) through a computer-assisted mass appraisal system (CAMA) operated in accordance with standards prescribed in § 5-210.05.

C. In the event that any Chief Assessment Officer submits data, calculations, or any other information that proves to be inaccurate to the State Tax Equalization Board for its certification, or permits any other County official or employee to submit any data, calculations, or information to the Board, such Chief Assessment Officer shall be deemed ineligible for any subsequent appointment or reappointment to the position.

D. Should any court of competent jurisdiction find that a Chief Assessment Officer intentionally conducted any calculation or presented any information in a fashion that materially misrepresents data certified under the terms of this Section, such Chief Assessment Officer shall be guilty of a summary offense and shall be required to pay a fine of \$500 and/or serve a term of imprisonment not to exceed 90 days. For the purposes of this Subsection, each certification that must be revised as a result of the misrepresentation shall constitute a separate offense.

SECTION 3. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

SECTION 4. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.