

House Bill 848 (AS PASSED HOUSE AND SENATE)

By: Representatives Butler of the 18<sup>th</sup>, Maxwell of the 17<sup>th</sup>, England of the 108<sup>th</sup>, Roberts of the 154<sup>th</sup>, and Stephens of the 164<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia  
2 Annotated, relating to tax exemptions, so as to provide for an ad valorem tax exemption for  
3 certain charitable institutions; to provide a homestead exemption to certain residents who are  
4 senior citizens with respect to state ad valorem taxes; to provide qualifications; to provide  
5 procedures for obtaining such exemption; to provide for the taxes to which such homestead  
6 exemption is applicable; to provide for referenda, applicability, and effective dates; to  
7 provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for  
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

**SECTION 1.**

10 Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,  
11 relating to tax exemptions, is amended in Code Section 48-5-41, relating to property exempt  
12 from ad valorem taxation, by striking subsection (d) and inserting in its place a new  
13 subsection (d) to read as follows:  
14

15 "(d)(1) Except as otherwise provided in paragraph (2) of this subsection, this This Code  
16 section, excluding paragraph (1) of subsection (a) of this Code section, shall not apply to  
17 real estate or buildings which are rented, leased, or otherwise used for the primary  
18 purpose of securing an income thereon and shall not apply to real estate or buildings  
19 which are not used for the operation of religious, educational, and charitable institutions.  
20 Donations of property to be exempted shall not be predicated upon an agreement,  
21 contract, or other instrument that the donor or donors shall receive or retain any part of  
22 the net or gross income of the property.  
23

24 (2) With respect to paragraph (4) of subsection (a) of this Code section, real estate or  
25 buildings which are owned by a charitable institution that is exempt from taxation under  
26 Section 501(c)(3) of the federal Internal Revenue Code and used by such charitable

1 institution for the charitable purposes of such charitable institution may be used for the  
 2 purpose of securing income so long as such income is used exclusively for the operation  
 3 of that charitable institution."

#### 4 **SECTION 2.**

5 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of  
 6 State shall call and conduct an election as provided in this section for the purpose of  
 7 submitting Section 1 of this part to the electors of the State of Georgia for approval or  
 8 rejection. The Secretary of State shall conduct that election on the date of the November,  
 9 2006, state-wide general election. The Secretary of State shall issue the call and conduct that  
 10 special election as provided by general law. The Secretary of State shall cause the date and  
 11 purpose of the special election to be published in the official organ of each county in the state  
 12 once a week for two weeks immediately preceding the date of the referendum. The ballot  
 13 shall have written or printed thereon the following:

14 "( ) YES Shall the Act be approved which grants an exemption from ad valorem  
 15 ( ) NO taxation on property owned by a charitable institution which generates  
 16 income when that income is used exclusively for the operation of such  
 17 charitable institution?"

18 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring  
 19 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on  
 20 such question are for approval of the Act, then Section 1 of this part shall become effective  
 21 on January 1, 2007, and shall apply to all taxable years beginning on or after that date. If  
 22 Section 1 of this part is not so approved or if the election is not conducted as provided in this  
 23 section, Section 1 of this part shall not become effective and this part shall be automatically  
 24 repealed on the first day of January immediately following that election date.

#### 25 **PART II**

#### 26 **SECTION 3.**

27 Said part is further amended by adding between Code Sections 48-5-48.2 and 48-5-49 a new  
 28 Code Section 48-5-48.3 to read as follows:

29 "48-5-48.3.

30 (a) As used in this Code section, the term:

31 (1) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
 32 the O.C.G.A., as amended, with the additional qualification that it shall include only the  
 33 primary residence and not more than ten contiguous acres of land immediately  
 34 surrounding such residence.

1 (2) "Senior citizen" means a person who is 65 years of age or over on or before January  
2 1 of the year in which application for the exemption under this Code section is made.

3 (b) Any person who is a senior citizen and resident of Georgia is granted upon application  
4 an exemption on his or her homestead which such person owns and actually occupies as  
5 a residence and homestead in an amount equal to the actual levy for state ad valorem  
6 taxation made pursuant to Code Section 48-5-8 with respect to that homestead, such  
7 exemption being from all ad valorem taxation for state purposes. The value of all property  
8 in excess of the exempted amount cited above shall remain subject to taxation.

9 (c) The exemption shall be claimed and returned in the same manner as otherwise required  
10 under Code Section 48-5-50.1. Each person shall file for the exemption only once in the  
11 county of his or her residence. Once filed, the exemption shall automatically be renewed  
12 from year to year.

13 (d) The exemption granted by this Code section shall not apply to or affect county taxes,  
14 municipal taxes, or school district taxes.

15 (e) The exemption granted by this Code section shall be in addition to and not in lieu of  
16 any other homestead exemption from state taxes."

#### 17 SECTION 4.

18 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of  
19 State shall call and conduct a referendum as provided in this section for the purpose of  
20 submitting Section 3 of this part to the electors of the State of Georgia for approval or  
21 rejection. The Secretary of State shall conduct that election on the date of and in conjunction  
22 with the November, 2006, state-wide general election. The Secretary of State shall cause the  
23 date and purpose of the election to be published once a week for two weeks immediately  
24 preceding the date thereof in the official organ of each county in the state. The ballot shall  
25 have written or printed thereon the words:

26 "( ) YES Shall the Act be approved which provides a homestead exemption for senior  
27 citizens in an amount equal to the actual levy for state ad valorem tax  
28 ( ) NO purposes on the homestead?"

29 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons  
30 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes  
31 cast on such question are for approval of the Act, then Section 3 of this part shall become  
32 effective on January 1, 2007, and shall be applicable to all taxable years beginning on or after  
33 that date. If Section 3 of this part is not so approved or if the election is not conducted as  
34 provided in this section, Section 3 of this part shall not become effective and this part shall  
35 be automatically repealed on the first day of January immediately following that election  
36 date.

