

## House Resolution 1170

By: Representatives Levitas of the 82<sup>nd</sup>, Powell of the 29<sup>th</sup>, McCall of the 30<sup>th</sup>, Geisinger of the 48<sup>th</sup>, Coan of the 101<sup>st</sup>, and others

## A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide for a base-value exemption  
 2 from county ad valorem taxes for county purposes for homestead and nonhomestead property  
 3 in an amount equal to the amount by which the current-year assessed value of the property  
 4 exceeds the base value of such property in any county in which such exemption is approved  
 5 in a referendum; to provide for definitions; to specify the terms and conditions of the  
 6 exemption and procedures relating thereto; to provide for applicability; to provide for the  
 7 submission of this amendment for ratification or rejection; and for other purposes.

8 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

## 9 SECTION 1.

10 Article VII, Section II of the Constitution is amended by adding new a Paragraph to read as  
 11 follows:

12 "Paragraph VI. *Base-value exemptions for homestead and nonhomestead property.*

13 (a) For purposes of this Paragraph, the term:

14 (1) 'Appraisal,' 'appraisal report,' 'appraiser,' or ' appraiser classification' shall have the  
 15 same meaning as those terms are defined by general law relating to appraiser licensing.

16 (2) 'Appraisal valuation' means an estimate by an appraiser of applicable appraiser  
 17 classification of the value of real estate or real property based on an appraisal.

18 (3) 'Base value' of a homestead means either the purchase price of the homestead  
 19 property paid by the most recent owner of such homestead or the 2002 assessed value of  
 20 the homestead, as determined pursuant to subparagraph (d) of this Paragraph. 'Base  
 21 value' of a nonhomestead property means the 2002 assessed value of the nonhomestead  
 22 property.

23 (4) 'County ad valorem taxes' means all ad valorem taxes for county purposes levied  
 24 by, for, or on behalf of a county, including, but not limited to, taxes to pay interest on and  
 25 to retire county bonded indebtedness.

26 (5) 'County's appraisal valuation' or 'county's valuation' means an appraisal valuation  
 27 or valuation obtained by a county pursuant to this Paragraph.

1 (6) 'Fair market value' means the compensation that a knowledgeable buyer would pay  
2 for a homestead property or nonhomestead property and a willing seller would accept for  
3 the homestead property or nonhomestead property at an arm's-length, bona fide sale of  
4 such homestead or nonhomestead property.

5 (7) 'Homestead' means the homestead as defined and qualified by general law for other  
6 general law homestead exemptions, with the additional qualification that it shall include  
7 not more than five contiguous acres of homestead property.

8 (8) 'Immediate family member' means the spouse, child, stepchild, child's spouse,  
9 stepchild's spouse, grandchild, stepgrandchild, grandchild's spouse, stepgrandchild's  
10 spouse, parent, stepparent, parent-in-law, sibling-in-law, niece, nephew,  
11 stepparent-in-law, sibling, or stepsibling of the seller.

12 (9) 'Nonhomestead property' means any business or commercial real property or other  
13 real property which does not qualify as a homestead.

14 (10) 'Purchase price' means the amount of total compensation that a buyer pays to  
15 acquire a homestead or nonhomestead property from a willing seller in an arm's-length,  
16 bona fide sale of such homestead or nonhomestead property. The term 'total  
17 compensation' shall include, without limitation, any in-kind transfer, land transfer, or  
18 other transfer or exchange of a thing of value given, directly or indirectly, to acquire such  
19 homestead property or nonhomestead property.

20 (11) 'Taxpayer' means a person or entity subject to county ad valorem taxes for real  
21 property owned by the person or entity as a homestead or as nonhomestead property.

22 (12) 'Taxpayer's appraisal valuation' or 'taxpayer's valuation' means an appraisal  
23 valuation or valuation obtained by a taxpayer pursuant to this Paragraph.

24 (b)(1) Each taxpayer is granted an exemption on that taxpayer's homestead and  
25 nonhomestead property from all county ad valorem taxes in an amount equal to the  
26 amount by which the current-year assessed value of that homestead or nonhomestead  
27 property exceeds the base value of that homestead or nonhomestead property.

28 (2) This exemption shall not apply to taxes assessed on improvements to such  
29 homestead or nonhomestead property or to additional land that is added to such  
30 homestead or nonhomestead property after January 1 of the base year. If any real  
31 property is removed from such homestead or nonhomestead property, then the base value  
32 shall be adjusted by the county tax commissioner to reflect such removal, and any  
33 exemption shall be recalculated accordingly. The value of that property in excess of such  
34 exempted amount shall remain subject to taxation; provided, however, that the excess  
35 amount as determined by the tax commissioner shall be subject to the provisions of  
36 subparagraph (d) of this Paragraph.

1 (c)(1) A taxpayer shall not receive an exemption granted by this Paragraph unless such  
2 taxpayer or taxpayer's agent files an application with the tax commissioner of the county  
3 giving such information relative to receiving such exemption as will enable the tax  
4 commissioner to make a determination regarding the correctness of the base value and  
5 the initial and continuing eligibility of such taxpayer for such exemption. The tax  
6 commissioner of the county shall provide application forms for this purpose.

7 (2) In order for a taxpayer to receive a base value in the amount of the purchase price  
8 of the homestead, the taxpayer shall provide to the tax commissioner copies of the closing  
9 documents regarding the sale of that homestead or other proof which, in the objective  
10 judgment of the tax commissioner, is sufficient to validate such purchase price. In the  
11 event that such proof is not provided, the base value of that homestead shall be in the  
12 amount of its 2002 assessed value. The General Assembly shall be authorized to provide  
13 by general law for additional items of proof which shall be sufficient to establish the  
14 purchase price for purposes of this subparagraph.

15 (d) For purposes of determining valuation pursuant to this subparagraph and  
16 subparagraphs (b)(2), (e), and (f) of this Paragraph, the county shall obtain an appraisal  
17 valuation and shall provide such appraisal valuation to the taxpayer in a written appraisal  
18 report documenting the fair market value of the property, subject to the following  
19 conditions:

20 (1) If the taxpayer disagrees with the county's appraisal valuation, then the taxpayer,  
21 within 45 days of receipt of the county's appraisal report, may obtain a separate appraisal  
22 valuation; otherwise, the county's appraisal valuation shall become the valuation of the  
23 homestead or nonhomestead property for purposes of this Paragraph;

24 (2) If the taxpayer obtains an appraisal valuation under this subparagraph within 45  
25 days of receipt of the county's appraisal report and if the difference between the  
26 taxpayer's appraisal valuation and the county's appraisal valuation is 20 percent or less,  
27 then the valuation of such property for the purpose of any exemption granted by this  
28 Paragraph shall be the taxpayer's appraisal valuation; provided, however, that before the  
29 taxpayer's appraisal valuation shall become effective, the taxpayer shall provide the  
30 taxpayer's appraisal valuation to the county via certified mail, return receipt requested,  
31 via priority mail, delivery confirmation requested, or via statutory overnight delivery; and

32 (3) If the difference between the taxpayer's appraisal valuation and the county's  
33 appraisal valuation exceeds 20 percent and if the county does not agree to the valuation  
34 determined by the taxpayer's appraisal valuation, then the county and taxpayer shall  
35 agree to an arbitrator or shall apply to the superior court of the county, on a form  
36 approved by the clerk of the court, to appoint an arbitrator. The cost of the application  
37 shall be borne by the county, but in no event shall such cost exceed \$50.00. The

1 arbitrator shall be appointed by the court to select which of the two appraisal valuations  
2 is closer to the fair market value of the homestead or nonhomestead property, and the  
3 closer appraisal valuation shall become the valuation of the homestead or nonhomestead  
4 property for purposes of this Paragraph. The cost for the service of the arbitrator shall  
5 be borne equally by the taxpayer and by the county.

6 (e) Any exemption granted under this Paragraph shall be contingent upon the purchase  
7 being a bona fide, arm's-length transaction. The county shall be permitted to challenge  
8 whether a purchase of a homestead or nonhomestead property was a bona fide,  
9 arms's-length transaction under the following conditions:

10 (1) Where the purchase was made, directly or indirectly, by a person or by an entity  
11 controlled by such person or in which such person has a 20 percent or greater interest in  
12 the purchasing entity, which person is an immediate family member of the seller or, in  
13 the case of a seller that is an entity, by a person who is an immediate family member of  
14 a person who controls or who has a 20 percent or greater ownership interest in the selling  
15 entity;

16 (2) Where the purchase was made for less than 75 percent of fair market value; or

17 (3) Where a taxpayer purchases or otherwise acquires a homestead or nonhomestead  
18 property as the result of a foreclosure.

19 (f) A taxpayer obtaining a homestead or nonhomestead property through bequest,  
20 inheritance, or in-kind transfer shall obtain an appraisal of the homestead or nonhomestead  
21 property for purposes of establishing valuation for purposes of this Paragraph. If the  
22 county disagrees with the appraisal valuation obtained by the taxpayer, then the county  
23 may seek its own appraisal valuation pursuant to the provisions of subparagraph (d) of this  
24 Paragraph.

25 (g) When, after purchasing a homestead or nonhomestead property, a taxpayer borrows  
26 money or is otherwise extended credit at such taxpayer's request based on the value of such  
27 homestead or nonhomestead property, which value exceeds the base value, as adjusted by  
28 any applicable subparagraphs of this Paragraph, the higher valuation shall become the  
29 value of the homestead or nonhomestead property for purposes of this Paragraph.

30 (h) Any exemption shall be claimed and returned as provided by general law for other  
31 homestead and nonhomestead property exemptions, as applicable. The homestead  
32 exemption shall be automatically renewed from year to year so long as the taxpayer granted  
33 the homestead exemption under this Paragraph occupies the residence as a homestead.  
34 The nonhomestead property exemption shall be automatically renewed from year to year  
35 so long as the taxpayer granted the nonhomestead property exemption under this Paragraph  
36 directly owns the nonhomestead property. After the taxpayer has filed the proper  
37 application as provided in this Paragraph, it shall not be necessary to make application

1 thereafter for any year, and the exemption shall continue to be allowed to such taxpayer,  
2 provided that such taxpayer is otherwise eligible to receive the exemption. It shall be the  
3 duty of any taxpayer granted the homestead exemption or nonhomestead property  
4 exemption under this Paragraph to notify the tax commissioner of the county in the event  
5 that such taxpayer for any reason becomes ineligible for that exemption.

6 (i)(1) The homestead or nonhomestead property exemption granted by this Paragraph  
7 shall not apply to or affect:

8 (A) Any state ad valorem taxes, county or independent school district ad valorem  
9 taxes for educational purposes, or municipal ad valorem taxes for municipal purposes;

10 (B) Any other ad valorem tax exemption for county taxes for county purposes  
11 provided for under this Constitution or by general or local law; or

12 (C) Any property receiving preferential assessment under subparagraph (c) or (e) of  
13 Paragraph III of Section I of this Article as long as such property remains subject to the  
14 appropriate covenant.

15 (2) An exemption granted by this Paragraph shall be in addition to and not in lieu of  
16 any other ad valorem tax exemption.

17 (j) The exemptions granted by this Paragraph shall apply to all taxable years beginning  
18 on or after January 1 of the following the year in which the referendum required under  
19 subparagraph (k) of this Paragraph is approved.

20 (k) The exemptions granted under this Paragraph with respect to county ad valorem taxes  
21 shall only be implemented in a county following approval by a majority of the qualified  
22 electors residing within the limits of the county voting in a referendum thereon as follows:

23 (1) Unless a special election is called and conducted in a county sooner, pursuant to  
24 subparagraph (k)(2) of this Paragraph, the election superintendent of each county shall  
25 call and conduct an election as provided in this subparagraph for the purpose of  
26 submitting the exemptions to the electors of the county for approval or rejection. In each  
27 county in which an election has not been conducted sooner under subparagraph (k)(2) of  
28 this Paragraph, each election superintendent shall conduct that election on the date of the  
29 2010 state-wide general election and shall issue the call and conduct that election as  
30 provided by general law. Each election superintendent shall cause the date and purpose  
31 of the election to be published once a week for two weeks immediately preceding the date  
32 thereof in the official organ of the county. The ballot shall have written or printed  
33 thereon the words:

1 ' ( ) YES Shall the base-value exemptions from \_\_\_\_\_ county ad valorem  
 2 ( ) NO taxes for county purposes for a homestead and nonhomestead property in  
 3 an amount equal to the amount by which the current-year assessed value of  
 4 the property exceeds the base value of such property, effectively freezing  
 5 such taxes, be approved?'

6 All persons desiring to vote for approval of the exemptions shall vote 'Yes,' and all  
 7 persons desiring to vote for rejection shall vote 'No.' If more than one-half of the votes  
 8 cast on such question are for approval of the exemptions, the exemptions shall become  
 9 of full force and effect in that county on January 1, 2011. If the exemptions are not so  
 10 approved, they shall not become effective in that county. The expense of the election  
 11 shall be borne by the county. It shall be the election superintendent's duty to certify the  
 12 result thereof to the Secretary of State.

13 (2) The General Assembly shall be authorized to provide by local law that the special  
 14 election required in a county under subparagraph (k)(1) of this Paragraph may be  
 15 conducted sooner than the 2010 state-wide general election on any date authorized by  
 16 general law for the holding of a special election. In such event, the election  
 17 superintendent shall follow the procedures specified in subparagraph (k)(1) of this  
 18 Paragraph. If such vote is for approval of the exemptions, they shall become effective  
 19 on January 1 of the year following the year in which such referendum was conducted.

20 (l) The General Assembly shall be authorized to discontinue the exemptions granted  
 21 under this Paragraph with respect to county ad valorem taxes by local law conditioned  
 22 upon approval by a majority of the qualified electors residing within the limits of the  
 23 county voting in a referendum thereon.

24 (m) In the event a referendum has been conducted under this Paragraph to authorize such  
 25 exemptions and such referendum was not approved, the General Assembly shall be  
 26 authorized by local law to again submit the question of approving such exemptions. In  
 27 such event, the election superintendent shall follow the procedures specified in  
 28 subparagraph (k)(1) of this Paragraph. If such vote is for approval of the exemptions, they  
 29 shall become effective on January 1 of the year following the year in which such  
 30 referendum was conducted."

31 **SECTION 2.**

32 The above proposed amendment to the Constitution shall be published and submitted as  
 33 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the  
 34 above proposed amendment shall have written or printed thereon the following:

- 1    " YES    Shall the Constitution of Georgia be amended so as to authorize a  
2        NO    base-value exemption from county ad valorem taxes for county purposes for  
3                    homestead and nonhomestead property in an amount equal to the amount  
4                    by which the current-year assessed value of the property exceeds the base  
5                    value of such property, effectively freezing such taxes, in any county in  
6                    which such exemption is approved in a local referendum?"
- 7    All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."  
8    All persons desiring to vote against ratifying the proposed amendment shall vote "No." If  
9    such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall  
10   become a part of the Constitution of this state.