

The House Committee on Ways and Means offers the following substitute to HB 979:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 48 and 36 of the Official Code of Georgia Annotated, relating, respectively,
2 to revenue and taxation and local government, so as to provide for implementation of The
3 Property Tax Reform Amendment; to provide for the comprehensive revision of provisions
4 regarding revenue and taxation; to change certain provisions regarding the manner and time
5 of making the state ad valorem levy; to provide for the imposition and collection of fees on
6 certain motor vehicles; to provide for powers, duties, and authority of county tax
7 commissioners and the state revenue commissioner regarding such fees; to change certain
8 provisions regarding income credit for food and necessities and provide for an income tax
9 credit for low-income families on qualified food expenses; to provide for conditions and
10 limitations; to provide for powers, duties, and authority of the state revenue commissioner
11 with respect to the foregoing; to change certain provisions regarding the tax on the retail
12 purchase, retail sale, rental, storage, use, or consumption of certain tangible property and on
13 services; to change certain provisions regarding definitions; to provide for the state sales and
14 use taxation of certain services; to change certain provisions regarding exemptions; to
15 provide for conforming changes with respect to certain imposition of taxes, collection from
16 dealers, disposition of certain excess taxes, compensation of dealers for reporting and paying
17 taxes, and payment of taxes by certain contractors; to provide for a sales tax credit with
18 respect to certain multichannel video programming; to provide for the comprehensive
19 revision of provisions regarding homeowner tax relief grants; to provide for additional tax
20 relief grants for certain motor vehicles; to provide for limits on valuation increases of
21 residential real property and nonresidential real property; to provide for related matters; to
22 provide for contingent effective dates and applicability; to provide for automatic repeal under
23 certain circumstances; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 **PART I**

2 **SECTION 1-1.**

3 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
4 amended by revising Code Section 48-5-8, relating to the manner and time of making the
5 state ad valorem levy, as follows:

6 "48-5-8.

7 In each year in which a ~~The~~ levy for state taxation is necessary for defending the state in
8 an emergency such taxation shall be made by the Governor with the assistance of the
9 commissioner. ~~Each~~ In each such year, as soon as the value of the taxable property is
10 substantially known by the commissioner, the commissioner shall assist the Governor in
11 making the state levy. Immediately after the Governor has made the state levy, the
12 commissioner shall send to each tax collector and tax commissioner written or printed
13 notices of the Governor's order."

14 **SECTION 1-2.**

15 Said title is further amended by adding a new chapter to read as follows:

16 "CHAPTER 6A

17 48-6A-1.

18 There is imposed an annual motor vehicle fee at the rate of \$20.00 on each motor vehicle
19 registered in this state. The tax commissioner of the county shall collect such fee at the
20 same time that tag fees are collected and shall provide for collection procedures. The fee
21 shall be collected from the owner of the motor vehicle. The tax commissioner shall remit
22 the proceeds of such fees to the commissioner in the same manner as other fees pursuant
23 to Code Section 40-2-34 and the commissioner shall deposit such proceeds in the general
24 fund of the state treasury in the same manner as required for other fees under subsection
25 (f) of Code Section 40-2-34. Subject to the general appropriations process, it is the intent
26 of the General Assembly that an amount equal to one-half of the total amount of fees
27 collected under this Code section shall be utilized to provide funding to the Georgia
28 Trauma Trust Fund under Code Section 31-11-103."

29 **SECTION 1-3.**

30 Said title is further amended by revising Chapter 7A, relating to income tax credits for food
31 and necessities, to read as follows:

"CHAPTER 7A

1
2 48-7A-1.

3 ~~The General Assembly finds and determines that all residents of this state make~~
4 ~~contributions to the general fund of this state through their payment of the several state~~
5 ~~taxes, including, but not limited to, taxes on food and other items of necessity. The General~~
6 ~~Assembly further finds and declares that, because of the overall tax burden and particularly~~
7 ~~the tax burden on food and other items of necessity, it is both appropriate and advisable to~~
8 ~~afford tax relief to the low-income residents and the working poor. It is not practical,~~
9 ~~however, to provide tax relief targeted to these groups through the implementation of a~~
10 ~~specific measure of relief addressed to each of the several state taxes, and therefore it is~~
11 ~~necessary and proper to utilize the income tax procedures of this state as the mechanism~~
12 ~~for providing tax relief to low-income residents and the working poor with respect to their~~
13 ~~overall tax burden and particularly the burden of taxation on food and other items of~~
14 ~~necessity~~ Reserved.

15 48-7A-2.

16 As used in this chapter, the term:

17 (1) 'Dependent' 'dependent' means:

18 (1) (A) The taxpayer;

19 (2) (B) The spouse of the taxpayer; and

20 (3) (C) A natural or legally adopted child of the taxpayer.

21 (2) 'Federal poverty level' income amounts shall be determined by the United States
22 Department of Health and Human Services Poverty Guidelines for the applicable year
23 and applicable family size.

24 (3) 'Qualified food expense' shall be the dollar amounts of food expense, multiplied by
25 12 to obtain the annual expense, as is found on the most recent Internal Revenue Service
26 National Standards chart for the applicable family size for the current year.

27 48-7A-3.

28 (a) Except as otherwise provided in subsection (e) of this Code section, each resident
29 taxpayer who files an individual income tax return for a taxable year and who is not
30 claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for
31 federal or Georgia individual income tax purposes may claim a tax credit against the
32 resident taxpayer's individual income tax liability for the taxable year for which the
33 individual income tax return is being filed; provided that:

34 (1) A husband and wife filing a joint return shall each be deemed a dependent for
35 purposes of such joint return;

(2) A husband and wife filing separate returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed; and

(3) A resident individual who has no income or no income taxable under ~~this chapter~~ Chapter 7 of this title and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Georgia individual income tax purposes may also claim a tax credit as set forth in this Code section.

~~(b) Each taxpayer may claim a tax credit in the amount indicated for each adjusted gross income bracket as shown in the schedule below multiplied by the number of dependents which the taxpayer is entitled to claim. Each taxpayer 65 years of age or over may claim double the tax credit.~~

~~TAX CREDIT SCHEDULE~~

<u>Adjusted Gross Income</u>	<u>Tax Credit</u>
Under \$6,000.00	\$ 26.00
6,000.00 but not more than 7,999.00	20.00
8,000.00 but not more than 9,999.00	14.00
10,000.00 but not more than 14,999.00	8.00
15,000.00 but not more than 19,999.00	5.00

(b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 for qualified food expenses as follows:

<u>Gross household income for federal income tax purposes as percentage of federal poverty level</u>	<u>Amount of income tax credit</u>
<u>0 percent - 50 percent</u>	<u>.4 percent multiplied by 50 percent of food expense</u>
<u>51 percent - 100 percent</u>	<u>.4 percent multiplied by 100 percent of food expense</u>
<u>101 percent - 110 percent</u>	<u>.4 percent multiplied by 90 percent of food expense</u>
<u>111 percent - 120 percent</u>	<u>.4 percent multiplied by 80 percent of food expense</u>
<u>121 percent - 130 percent</u>	<u>.4 percent multiplied by 70 percent of food expense</u>
<u>131 percent - 140 percent</u>	<u>.4 percent multiplied by 60 percent of food expense</u>
<u>141 percent - 150 percent</u>	<u>.4 percent multiplied by 50 percent of food expense</u>
<u>151 percent - 160 percent</u>	<u>.4 percent multiplied by 40 percent of food expense</u>
<u>161 percent - 170 percent</u>	<u>.4 percent multiplied by 30 percent of food expense</u>
<u>171 percent - 180 percent</u>	<u>.4 percent multiplied by 20 percent of food expense</u>
<u>181 percent - 199 percent</u>	<u>.4 percent multiplied by 10 percent of food expense</u>
<u>200 percent and above</u>	<u>\$0</u>

1 (c) The tax credit claimed by a resident taxpayer pursuant to this Code section shall be
 2 deductible from the resident taxpayer's individual income tax liability, if any, for the tax
 3 year in which it is properly claimed. In the event the tax credit claimed by a resident
 4 taxpayer exceeds the amount of income tax payment due from the resident taxpayer, the
 5 excess of the credit over payments due shall be refunded to the resident taxpayer, provided
 6 that a tax credit properly claimed by a resident individual who has no income tax liability
 7 shall be paid to the resident individual; provided, further, that no refunds or payment on
 8 account of the tax credit allowed by this Code section shall be made for amounts less than
 9 \$1.00.

10 (d) All claims for a tax credit under this Code section, including any amended claims, must
 11 be filed on or before the end of the twelfth month following the close of the taxable year
 12 for which the credit may be claimed. Failure to comply with this subsection shall constitute
 13 a waiver of the right to claim the credit.

14 ~~(e) Any individual who receives a food stamp allotment for all or any part of a taxable year
 15 shall not be entitled to claim a credit under this Code section for that taxable year.~~

16 ~~(e.1)~~ (e) Any individual incarcerated or confined in any city, county, municipal, state, or
 17 federal penal or correctional institution for all or any part of a taxable year shall not be
 18 entitled to claim a credit under this Code section for that taxable year."

19 (f) The commissioner shall be authorized by rule and regulation to provide for the proper
 20 administration of this Code section."

21 SECTION 1-4.

22 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
 23 use tax, by revising paragraphs (55) and (57) as follows:

24 "(55)(A) The sale of lottery tickets authorized by Chapter 27 of Title 50 but only to the
 25 extent provided for in subparagraph (B) of this paragraph.

26 (B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
 27 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
 28 area consisting of less than the entire state, however authorized, including, but not
 29 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 30 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 31 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or
 32 pursuant to Article 2, Article 2A, Part 1 of Article 3, Part 2 of Article 3, or Article 4
 33 of this chapter.

34 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 35 to state sales and use tax but shall only apply to any local sales and use tax levied or
 36 imposed at any time;"

1 "(57)(A) The sale for off-premises human consumption or use of eligible foods and
2 beverages, to the extent provided in subparagraph ~~(B)~~ (C) of this paragraph.

3 ~~(B) A transaction described in subparagraph (A) of this paragraph shall be exempt~~
4 ~~from sales and use tax only if occurring on or after October 1, 1996, and only to the~~
5 ~~extent set forth in divisions (i) through (iii) of this subparagraph as follows:~~

6 ~~(i) For a transaction occurring during the period from October 1, 1996, through~~
7 ~~September 30, 1997, to the extent of 50 percent of that amount on which, but for this~~
8 ~~paragraph, sales and use tax would be levied or imposed;~~

9 ~~(ii) For a transaction occurring during the period from October 1, 1997, through~~
10 ~~September 30, 1998, to the extent of 75 percent of that amount on which, but for this~~
11 ~~paragraph, sales and use tax would be levied or imposed; and~~

12 ~~(iii) For a transaction occurring on or after October 1, 1998, to the extent of 100~~
13 ~~percent of that amount on which, but for this paragraph, sales and use tax would be~~
14 ~~levied or imposed.~~

15 ~~(C)~~(B) For the purposes of this paragraph, 'eligible food and beverages' means any
16 food as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as
17 amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, except that
18 eligible food and beverages shall not include seeds or plants to grow food and shall not
19 include food or drink dispensed by or through vending machines or related operations.

20 (C)(i) The exemption provided for in this paragraph shall not apply to any local sales
21 and use tax levied or imposed at any time by or pursuant to Article 3 of this chapter.

22 (ii) Except as otherwise provided in division (i) of this subparagraph, the exemption
23 provided for in this paragraph shall not apply to any local sales and use tax which is
24 effective before October 1, 1996, notwithstanding any provisions to the contrary in
25 the law authorizing or imposing such tax.

26 (iii) Except as otherwise provided in divisions (i) and (iv) of this subparagraph, the
27 exemption provided for in this paragraph shall apply with respect to any local sales
28 and use tax which becomes effective on or after October 1, 1996, but such exemption
29 shall apply only as to transactions occurring on or after October 1, 1998,
30 notwithstanding any provision to the contrary in the law authorizing or imposing such
31 tax.

32 (iv) The exemption provided for in this paragraph shall apply to any local sales and
33 use tax levied or imposed at any time by or pursuant to Article 2A of this chapter.

34 (v) For the purposes of this subparagraph, the term 'local sales and use tax' shall mean
35 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
36 area consisting of less than the entire state, however authorized, including, but not
37 limited to, such taxes authorized by or pursuant to constitutional amendment; by or

1 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 2 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
 3 pursuant to Article 2, ~~of this chapter, by or pursuant to Article 2A, of this chapter, or~~
 4 ~~by or pursuant to~~ Part 1 of Article 3, Part 2 of Article 3, or Article 4 of this chapter.

5 (D) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 6 to state sales and use tax.

7 (E) The commissioner shall adopt rules and regulations to carry out the provisions of
 8 this paragraph;"

9 SECTION 1-5.

10 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 11 by adding a new chapter to read as follows:

12 "CHAPTER 89A

13 36-89A-1.

14 As used in this chapter, the term:

15 (1) 'County millage rate' means the net ad valorem tax millage rate levied by a county
 16 for county purposes and applying to qualified motor vehicles in the county, including any
 17 millage levied for those special districts reported on the 2004 ad valorem tax digest
 18 certified to and received by the state revenue commissioner on or before December 31,
 19 2004, but not including any millage levied for purposes of bonded indebtedness and not
 20 including any millage levied on behalf of a county school district for educational
 21 purposes.

22 (2) 'Eligible assessed value' means a certain stated amount of the assessed value of each
 23 qualified motor vehicle in this state to which the tax relief grant under this chapter shall
 24 be applicable. The assessed value of qualified motor vehicles shall be determined
 25 pursuant to the uniform evaluation of motor vehicles prepared pursuant to Code Section
 26 48-5-442.

27 (3) 'Fiscal authority' means the individual authorized to collect ad valorem taxes for a
 28 county or municipality which levies ad valorem taxes.

29 (4) 'Municipal millage rate' means the net ad valorem tax millage rate levied by a
 30 municipality for municipal purposes and applying to qualified motor vehicles in the
 31 municipality, including any millage levied for those special tax districts reported on the
 32 2004 City and Independent School Millage Rate Certification certified to and received
 33 by the state revenue commissioner on or before December 31, 2004, but not including
 34 any millage levied for purposes of bonded indebtedness and not including any millage
 35 levied on behalf of an independent school district for educational purposes.

1 (5) 'Qualified motor vehicle' means a motor vehicle as defined under paragraph (33) of
2 Code Section 40-1-1 which is titled in the name of an individual natural person but shall
3 not include any all-terrain vehicles, authorized emergency vehicles, buses, commercial
4 motor vehicles, house trailers, low-speed vehicles, motor homes, motorized carts, school
5 buses, semi-trailers, special mobile equipment vehicles, tractors, trailers, or truck tractors
6 as those terms are defined in Code Section 40-1-1.

7 (6) 'School millage rate' means the net ad valorem tax millage rate levied on behalf of a
8 county or independent school district for educational purposes and applying to qualified
9 motor vehicles in the county or independent school district, not including any millage
10 levied for purposes of bonded indebtedness and not including any millage levied for
11 county or municipal purposes.

12 36-89A-2.

13 Each year, the General Assembly shall appropriate funds for motor vehicle tax relief grants
14 to counties, municipalities, and county or independent school districts pursuant to and in
15 furtherance of the provisions of Article VII, Section IIB, Paragraph I of the Constitution.

16 36-89A-3.

17 (a) Each year, the General Assembly shall appropriate to the Department of Revenue funds
18 to provide motor vehicle tax relief grants to counties, municipalities, and county or
19 independent school districts. The General Appropriations Act shall specify the amount
20 appropriated which shall be sufficient for each 12 month period so that each taxpayer
21 receives a credit equal to the eligible assessed value times the millage rate of each qualified
22 motor vehicle so that the taxpayer is exempt from ad valorem taxes on such motor vehicle
23 subject to the limitations of subsection (b) of this Code section.

24 (b) Any benefit determination under subsection (a) this Code section shall be determined
25 according to a base millage rate. This base millage rate shall be the millage rate for the
26 county, municipality, county school district, or independent school district which provides
27 the amount of property tax revenue collected for such county, municipality, county school
28 district, or independent school district during a tax year, not attributable to new
29 construction, which does not exceed the amount collected in the 2008 tax year plus the cap
30 rate including any accrued cap rates. The term 'cap rate' means the percentage change in
31 the price index for gross output of state and local government from the prior year to the
32 current year as defined by the National Income and Product Accounts and determined by
33 the United States Bureau of Economic Analysis and indicated by the Price Index for
34 Government Consumption Expenditures and General Government Gross Output
35 (Table 3.10.4).

1 36-89A-4.

2 (a)(1) Pursuant to the appropriation of funds as provided in Code Section 36-89A-3, such
3 grants shall each month be allotted to each county, municipality, and county or
4 independent school district in this state as follows:

5 (A) Immediately following the actual preparation of ad valorem property tax bills, each
6 county fiscal authority shall notify the Department of Revenue of the total amount of
7 tax revenue which would be generated by applying the county millage rate to the
8 eligible assessed value of each qualified motor vehicle in the county. The total amount
9 of actual tax credits, so calculated, given to all qualified motor vehicles in the county
10 shall be the amount of the grant to that county;

11 (B) Immediately following the actual preparation of ad valorem property tax bills, each
12 county or independent school district's fiscal authority shall notify the Department of
13 Revenue of the total amount of tax revenue which would be generated by applying the
14 school millage rate to the eligible assessed value of each qualified motor vehicle in the
15 county or independent school district. The total amount of actual tax credits, so
16 calculated, given to all qualified motor vehicles in the county or independent school
17 district shall be the amount of the grant to that county or independent school district;
18 and

19 (C) Immediately following the actual preparation of ad valorem property tax bills, each
20 municipality's fiscal authority shall notify the Department of Revenue of the total
21 amount of tax revenue which would be generated by applying the municipal millage
22 rate to the eligible assessed value of each qualified motor vehicle in the municipality.
23 The total amount of actual tax credits, so calculated, given to all qualified motor
24 vehicles in the municipality shall be the amount of the grant to that municipality.

25 (2) Credit amounts computed under paragraph (1) of this subsection shall be applied to
26 reduce the otherwise applicable tax liability on a dollar-for-dollar basis, but the credit
27 granted shall not in any case exceed the amount of the otherwise applicable tax liability.

28 (b) The grant of funds to each county shall be conditioned on the county's fiscal authority
29 reducing each qualified motor vehicle's otherwise applicable liability for county taxes for
30 county purposes by a credit amount calculated in subparagraph (a)(1)(A) of this Code
31 section.

32 (c) The grant of funds to each county or independent school district shall be conditioned
33 on the county or independent school district's fiscal authority reducing each qualified
34 motor vehicle's otherwise applicable liability for school taxes by a credit amount calculated
35 in subparagraph (a)(1)(B) of this Code section.

36 (d) The grant of funds to each municipality shall be conditioned on the municipality's
37 fiscal authority reducing each qualified motor vehicle's otherwise applicable liability for

1 municipal taxes by a credit amount calculated in subparagraph (a)(1)(C) of this Code
2 section.

3 (e) Each fiscal authority shall show the credit amount on the tax bill, together with a
4 prominent notice in substantially the following form: 'This reduction in your bill is the
5 result of motor vehicle tax relief enacted by the Governor and the General Assembly of the
6 State of Georgia.'

7 36-89A-5.

8 (a) The state revenue commissioner shall administer this chapter and shall adopt rules and
9 regulations for the administration of this chapter, including specific instructions to local
10 governments. The state revenue commissioner may adopt procedures for partial or
11 installment distribution of grants when the commissioner determines that a full distribution
12 will only result in the necessity of return of funds under subsection (b) of this Code section.

13 (b) If any excess funds remain from the funds granted to any county, municipality, or
14 county or independent school district under this chapter, after the county, municipality, or
15 county or independent school district complies with the credit requirements of Code
16 Section 36-89A-4, such excess funds shall be returned by the county, municipality, or
17 county or independent school district to the Department of Revenue.

18 36-89A-6.

19 Any credit under this chapter which is erroneously or illegally granted shall be recoverable
20 by the political subdivision granting such credit in the same manner as any other delinquent
21 tax."

22 **PART II.**

23 **SECTION 2-1.**

24 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
25 amended by revising Code Section 48-8-2, relating to definitions regarding sales and use tax,
26 as follows:

27 "48-8-2.

28 As used in this article, the term:

29 (1) 'Business' means any activity engaged in by any person or caused to be engaged in
30 by any person with the object of direct or indirect gain, benefit, or advantage.

31 (2) 'Cost price' means the actual cost of articles of tangible personal property without any
32 deductions for the cost of materials used, labor costs, service costs, transportation
33 charges, or any other expenses of any kind.

1 (3) 'Dealer' means every person who:

2 (A) Has sold at retail, used, consumed, distributed, or stored for use or consumption
3 in this state tangible personal property and who cannot prove that the tax levied by this
4 article has been paid on the sale at retail or on the use, consumption, distribution, or
5 storage of the tangible personal property;

6 (B) Imports or causes to be imported tangible personal property from any state or
7 foreign country for sale at retail, or for use, consumption, distribution, or storage for use
8 or consumption in this state;

9 (C) Is the lessee or renter of tangible personal property and who pays to the owner of
10 the property a consideration for the use or possession of the property without acquiring
11 title to the property;

12 (D) Leases or rents tangible personal property for a consideration, permitting the use
13 or possession of the property without transferring title to the property;

14 (E) Maintains or has within this state, indirectly or by a subsidiary, an office,
15 distribution center, salesroom or sales office, warehouse, service enterprise, or any
16 other place of business;

17 (F) Manufactures or produces tangible personal property for sale at retail or for use,
18 consumption, distribution, or storage for use or consumption in this state;

19 (G) Sells at retail, offers for sale at retail, or has in his such person's possession for sale
20 at retail, or for use, consumption, distribution, or storage for use or consumption in this
21 state tangible personal property;

22 (H) Solicits business by an agent, employee, representative, or any other person;

23 (I) Engages in the regular or systematic solicitation of a consumer market in this state,
24 unless the dealer's only activity in this state is:

25 (i) Advertising or solicitation by:

26 (I) Direct mail, catalogs, periodicals, or advertising fliers;

27 (II) Means of print, radio, or television media; or

28 (III) Telephone, computer, the Internet, cable, microwave, or other communication
29 system; or

30 (ii) The delivery of tangible personal property within this state solely by common
31 carrier or United States mail.

32 The exceptions provided in divisions (i) and (ii) of this subparagraph shall not apply to
33 any requirements under Code Section 48-8-14;

34 (J) Is an affiliate that sells at retail, offers for sale at retail in this state, or engages in
35 the regular or systematic solicitation of a consumer market in this state through a
36 related dealer located in this state unless:

1 (i) The in-state dealer to which the affiliate is related does not engage in any of the
2 following activities on behalf of the affiliate:

3 (I) Advertising;

4 (II) Marketing;

5 (III) Sales; or

6 (IV) Other services; and

7 (ii) The in-state dealer to which the affiliate is related accepts the return of tangible
8 personal property sold by the affiliate and also accepts the return of tangible personal
9 property sold by any person or dealer that is not an affiliate on the same terms and
10 conditions as an affiliate's return;

11 As used in this subparagraph, the term 'affiliate' means any person that is related
12 directly or indirectly through one or more intermediaries, controls, is controlled by, is
13 under common control with, or is subject to the control of a dealer described in
14 subparagraphs (A) through (I) of this paragraph or in this subparagraph; ~~or~~

15 (K) Notwithstanding any of the provisions contained in this paragraph, with respect to
16 a person that is not a resident or domiciliary of Georgia, that does not engage in any
17 other business or activity in Georgia, and that has contracted with a commercial printer
18 for printing to be conducted in Georgia, such person shall not be deemed a 'dealer' in
19 Georgia merely because such person:

20 (i) Owns tangible or intangible property which is located at the Georgia premises of
21 a commercial printer for use by such printer in performing services for the owner;

22 (ii) Makes sales and distributions of printed material produced at and shipped or
23 distributed from the Georgia premises of the commercial printer;

24 (iii) Performs activities of any kind at the Georgia premises of the commercial printer
25 which are directly related to the services provided by the commercial printer; or

26 (iv) Has printing, including any printing related activities, and distribution related
27 activities performed by the commercial printer in Georgia for or on its behalf,

28 nor shall such person, absent any contact with Georgia other than with or through the
29 use of the commercial printer or the use of the United States Postal Service or a
30 common carrier, have an obligation to collect sales or use tax from any of its customers
31 located in Georgia based upon the activities described in divisions (i) through (iv) of
32 this subparagraph. In no event described in this subparagraph shall such person be
33 considered to have a fixed place of business in Georgia at either the commercial
34 printer's premises or at any place where the commercial printer performs services on
35 behalf of that person; or

36 (L) Provides any services described under subparagraph (E) of paragraph (6) of this
37 Code section and is required to file a federal income tax return.

1 ~~(L)~~ Each dealer shall collect the tax imposed by this article from the purchaser, lessee,
 2 or renter, as applicable, and no action seeking either legal or equitable relief on a sale,
 3 lease, rental, or other transaction may be had in this state by the dealer unless the dealer
 4 has fully complied with this article. ~~(M)~~ The commissioner shall promulgate such rules
 5 and regulations necessary to administer this paragraph, including other such information,
 6 applications, forms, or statements as the commissioner may reasonably require.

7 (4) 'Gross sales' means the:

8 (A) Sum total of all retail sales of tangible personal property or services without any
 9 deduction of any kind other than as provided in this article; or

10 (B)(i) Charges, when applied to sales of telephone service, made for local exchange
 11 telephone service, except local messages which are paid for by inserting coins in coin
 12 operated telephones, but including the total amount of the guaranteed charge for
 13 semipublic coin box telephone services; except as otherwise provided in division (ii)
 14 of this subparagraph.

15 (ii)(I) If a telephone service is not subject to the tax levied by this chapter, and if
 16 the amount charged for such telephone service is aggregated with and not separately
 17 stated from the amount paid or charged for any service that is subject to such tax,
 18 then the nontaxable telephone service shall be treated as being subject to such tax
 19 unless the telephone service provider can reasonably identify the amount paid or
 20 charged for the telephone service not subject to such tax from its books and records
 21 kept in the regular course of business.

22 (II) If a telephone service is not subject to the tax levied by this chapter, a customer
 23 may not rely upon the nontaxability of such telephone service unless the telephone
 24 service provider separately states the amount charged for such nontaxable telephone
 25 service or the telephone service provider elects, after receiving a written request
 26 from the customer in the form required by the provider, to provide verifiable data
 27 based upon the provider's books and records that are kept in the regular course of
 28 business that reasonably identifies the amount charged for such nontaxable
 29 telephone service.

30 (iii) Telephone services described under this subparagraph shall not constitute
 31 services for purposes of subparagraph (E) of paragraph (6) of this Code section.

32 (5) 'Lease or rental' means the leasing or renting of tangible personal property and the
 33 possession or use of the property by the lessee or renter for a consideration without
 34 transfer of the title to the property.

35 (5.1) 'Prepaid state tax' means the tax levied under Code Section 48-8-30 in conjunction
 36 with Code Section 48-8-3.1 and Code Section 48-9-14 on the retail sale of motor fuels

1 for highway use and collected prior to that retail sale. This tax is based upon the average
2 retail sales price as set forth in Code Section 48-9-14.

3 (5.2) 'Prepaid local tax' means any local sales and use tax which is levied on the sale or
4 use of motor fuel and imposed in an area consisting of less than the entire state, however
5 authorized, including, but not limited to, such taxes authorized by or pursuant to
6 constitutional amendment; by or pursuant to Section 25 of an Act approved March 10,
7 1965 (Ga. L. 1965, p. 2243), as amended, known as the 'Metropolitan Atlanta Rapid
8 Transit Authority Act of 1965'; or by or pursuant to Article 2, ~~2A, 3, or~~ Article 2A, Part
9 1 of Article 3, Part 2 of Article 3, or Article 4 of this chapter. Such tax is based on the
10 same average retail sales price as set forth in subparagraph (b)(2)(B) of Code Section
11 48-9-14. Such price shall be used to compute the prepaid sales tax rate for local
12 jurisdictions by multiplying such retail price by the applicable rate imposed by the
13 jurisdiction. The person collecting and reporting the prepaid local tax for the local
14 jurisdiction shall provide a schedule as to which jurisdiction these collections relate. This
15 determination shall be based upon the shipping papers of the conveyance that delivered
16 the motor fuel to the dealer or consumer in the local jurisdiction. A seller may rely upon
17 the representation made by the purchaser as to which jurisdiction the shipment is bound
18 and prepare shipping papers in accordance with those instructions.

19 (6) 'Retail sale' or a 'sale at retail' means:

20 (A) A sale to a consumer or to any person for any purpose other than for resale of
21 tangible personal property or services taxable under this article including, but not
22 limited to, any such transactions which the commissioner upon investigation finds to
23 be in lieu of sales. Sales for resale must be made in strict compliance with the
24 commissioner's rules and regulations. Any dealer making a sale for resale which is not
25 in strict compliance with the commissioner's rules and regulations shall himself or
26 herself be liable for and shall pay the tax;

27 (B)(i) Except as otherwise provided in division (ii) or (iii) of this subparagraph, the
28 sale of natural or artificial gas, oil, electricity, solid fuel, transportation, local
29 telephone services, beverages, and tobacco products, when made to any purchaser for
30 purposes other than resale.

31 (ii) The sale of electricity used directly in the manufacture of a product shall not
32 constitute a retail sale for purposes of this article if the direct cost of such electricity
33 exceeds 50 percent of the cost of all materials, including electricity, used directly in
34 the product and shall be exempt from taxation under this article. Such exemption
35 shall be applied to manufacturers located in this state as follows:

36 (I) For calendar years beginning on or after January 1, 1995, and prior to January
37 1, 1996, 20 percent of the direct cost of such electricity shall be exempt;

1 (II) For calendar years beginning on or after January 1, 1996, and prior to January
2 1, 1997, 40 percent of the direct cost of such electricity shall be exempt;

3 (III) For calendar years beginning on or after January 1, 1997, and prior to January
4 1, 1998, 60 percent of the direct cost of such electricity shall be exempt;

5 (IV) For calendar years beginning on or after January 1, 1998, and prior to January
6 1, 1999, 80 percent of the direct cost of such electricity shall be exempt; and

7 (V) For calendar years beginning on or after January 1, 1999, 100 percent of the
8 direct cost of such electricity shall be exempt;

9 (iii) Telephone services subject to this subparagraph shall not constitute services for
10 purposes of subparagraph (E) of this paragraph.

11 (C) The sale or charges for any room, lodging, or accommodation furnished to
12 transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which
13 rooms, lodgings, or accommodations are regularly furnished to transients for a
14 consideration. This tax shall not apply to rooms, lodgings, or accommodations supplied
15 for a period of 90 continuous days or more;

16 (D) Sales of tickets, fees, or charges made for admission to, or voluntary contributions
17 made to places of, amusement, sports, or entertainment including, but not limited to:

18 (i) Billiard and pool rooms;

19 (ii) Bowling alleys;

20 (iii) Amusement devices;

21 (iv) Musical devices;

22 (v) Theaters;

23 (vi) Opera houses;

24 (vii) Moving picture shows;

25 (viii) Vaudeville;

26 (ix) Amusement parks;

27 (x) Athletic contests including, but not limited to, wrestling matches, prize fights,
28 boxing and wrestling exhibitions, football games, and baseball games;

29 (xi) Skating rinks;

30 (xii) Race tracks;

31 (xiii) Public bathing places;

32 (xiv) Public dance halls; and

33 (xv) Any other place at which any exhibition, display, amusement, or entertainment
34 is offered to the public or any other place where an admission fee is charged;

35 (E) ~~Reserved~~ Sales of or charges made for services enumerated in Code Section
36 48-8-2.2;

37 (F) Charges made for participation in games and amusement activities; or

1 (G) Sales of tangible personal property to persons for resale when there is a likelihood
 2 that the state will lose tax funds due to the difficulty of policing the business operations
 3 because:

- 4 (i) Of the operation of the business;
- 5 (ii) Of the very nature of the business;
- 6 (iii) Of the turnover of so-called independent contractors;
- 7 (iv) Of the lack of a place of business in which to display a certificate of registration;
- 8 (v) Of the lack of a place of business in which to keep records;
- 9 (vi) Of the lack of adequate records;
- 10 (vii) The persons are minors or transients;
- 11 (viii) The persons are engaged in essentially service businesses; or
- 12 (ix) Of any other reasonable reason.

13 The commissioner may promulgate rules and regulations requiring vendors of persons
 14 described in this subparagraph to collect the tax imposed by this article on the retail
 15 price of the tangible personal property. The commissioner shall refuse to issue
 16 certificates of registration and may revoke certificates of registration issued in violation
 17 of his or her rules and regulations.

18 (7) 'Retailer' means every person making sales at retail or for distribution, use,
 19 consumption, or storage for use or consumption in this state.

20 (8)(A) 'Sale' means any transfer of title or possession, transfer of title and possession,
 21 exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any
 22 means of any kind of tangible personal property for a consideration except as otherwise
 23 provided in subparagraph (B) of this paragraph and includes, but is not limited to:

- 24 (i) The fabrication of tangible personal property for consumers who directly or
 25 indirectly furnish the materials used in such fabrication;
- 26 (ii) The furnishing, repairing, or serving for a consideration of any tangible personal
 27 property consumed on the premises of the person furnishing, repairing, or serving the
 28 tangible personal property; or
- 29 (iii) A transaction by which the possession of property is transferred but the seller
 30 retains title as security for the payment of the price.

31 (B) Notwithstanding a dealer's physical presence, in the case of a motor vehicle retail
 32 sale or a motor vehicle lease or rental when the lease or rental period exceeds 30 days
 33 and when the purchaser or lessee is a resident of this state, the taxable situs of the
 34 transaction for the purposes of collecting local sales and use taxes shall be the county
 35 of motor vehicle registration of the purchaser or lessee.

36 (9)(A) 'Sales price' means the total amount valued in money, whether paid in money
 37 or otherwise, for which tangible personal property or services are sold including, but

1 not limited to, any services that are a part of the sale and any amount for which credit
 2 is given to the purchaser by the seller without any deduction from the total amount for
 3 the cost of the property sold, the cost of materials used, labor or service costs, losses,
 4 or any other expenses of any kind.

5 (B) 'Sales price' does not include:

6 (i) Cash discounts allowed and taken on sales;

7 (ii) The amount charged for labor or services rendered in installing, applying,
 8 remodeling, or repairing property sold except to the extent required under
 9 subparagraph (E) of paragraph (6) of this Code section; or

10 (iii) Finance charges, carrying charges, service charges, or interest from credit
 11 extended on sales of tangible personal property under conditional sale contracts or
 12 other conditional contracts providing for deferred payments of the purchase price.

13 (10) 'Services' means, for purposes of subparagraph (E) of paragraph (6) of this Code
 14 section, the providing by a dealer other than one which is qualified as a tax-exempt
 15 organization under Section 501(c)(3) of the Internal Revenue Code, and as governed and
 16 determined under subsection (b) of Code Section 48-7-25, of any service under
 17 subsection (a) of Code Section 48-8-2.2 to an individual consumer but not to any business
 18 for a bona fide business purpose. For purposes of this paragraph, a bona fide business
 19 purpose means an activity carried on by a taxpayer with a reasonable degree of regularity,
 20 continuity, and sincere profit motivation so as would qualify such activity for expense
 21 deductions, depreciation deductions, or cost recovery under the Internal Revenue Code,
 22 including, but not limited to, Sections 162, 167, 168, and 179. Only \$10,000.00 worth
 23 of taxable services to an individual, for purposes of subparagraph (E) of paragraph (6)
 24 of this Code section, shall be subject to state sales and use taxation per dealer per year.

25 ~~(10)~~(11) 'Storage' means any keeping or retention in this state of tangible personal
 26 property for use or consumption in this state or for any purpose other than sale at retail
 27 in the regular course of business.

28 ~~(11)~~(12) 'Tangible personal property' means personal property which may be seen,
 29 weighed, measured, felt, or touched or is in any other manner perceptible to the senses.
 30 'Tangible personal property' does not mean stocks, bonds, notes, insurance, or other
 31 obligations or securities.

32 ~~(12)~~(13) 'Use' means the exercise of any right or power over tangible personal property
 33 incident to the ownership of the property including, but not limited to, the sale at retail
 34 of the property in the regular course of business.

35 ~~(13)~~(14) 'Use tax' includes the use, consumption, distribution, and storage of tangible
 36 personal property as defined in this article."

SECTION 2-2.

Said title is further amended by adding new Code sections to read as follows:

"48-8-2.1.

(a) As used in this Code section, the term 'local sales and use tax' means any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or pursuant to Article 2, Article 2A, Part 1 of Article 3, Part 2 of Article 3, or Article 4 of this chapter.

(b) Services provided for under subparagraph (E) of paragraph (6) of Code Section 48-8-2 shall be subject to state sales and use tax only and shall be exempt from any local sales and use tax.

(c) Services other than services provided for under subparagraph (E) of paragraph (6) of Code Section 48-8-2 which were subject to sales and use tax under this chapter prior to January 1, 2010, shall continue to be subject to sales and tax use taxation in the same manner as provided prior to January 1, 2010, unless otherwise exempt under this chapter.

48-8-2.2.

(a) Services provided for under subparagraph (E) of paragraph (6) of Code Section 48-8-2 means the following services, description of services, or services provided by the following establishments as described by a 2007 North American Industry Classification System Code:

<u>Code</u>	<u>Title</u>
(1) 236118	Residential remodelers;
(2) 238110	Poured concrete foundation and structure contractors;
(3) 238120	Structural steel and precast concrete contractors;
(4) 238130	Framing contractors;
(5) 238140	Masonry contractors;
(6) 238150	Glass and glazing contractors;
(7) 238160	Roofing contractors;
(8) 238170	Siding contractors;
(9) 238190	Other foundation, structure, and building exterior contractors;
(10) 238210	Electrical contractors and other wiring installation contractors;
(11) 238220	Plumbing, heating, and air-conditioning contractors;

1	(12) 238290	Other building equipment contractors;
2	(13) 238310	Drywall and insulation contractors;
3	(14) 238320	Painting and wall covering contractors;
4	(15) 238330	Flooring contractors;
5	(16) 238340	Tile and terrazzo contractors;
6	(17) 238350	Finish carpentry contractors;
7	(18) 238390	Other building finishing contractors;
8	(19) 238910	Site preparation contractors;
9	(20) 238990	All other specialty trade contractors;
10	(21) 484210	Used household and office goods moving;
11	(22) 485310	Taxi service;
12	(23) 485320	Limousine service;
13	(24) 487110	Scenic and sightseeing transportation, land;
14	(25) 487210	Scenic and sightseeing transportation, water;
15	(26) 487990	Scenic and sightseeing transportation, other;
16	(27) 488410	Motor vehicle towing;
17	(28) 488991	Packing and crating;
18	(29) 492110	Couriers and express delivery services;
19	(30) 492210	Local messengers and local delivery;
20	(31) 493110	General warehousing and storage;
21	(32) 493120	Refrigerated warehousing and storage;
22	(33) 493190	Other warehousing and storage;
23	(34) 512131	Motion picture theaters;
24	(35) 512132	Drive-in motion picture theaters;
25	(36) 512240	Sound recording studios;
26	(37) 512290	Other sound recording industries;
27	(38) 515210	Cable and other subscription programming;
28	(39) 517110	Wired telecommunications carriers;
29	(40) 517210	Wireless telecommunications carriers (except satellite);
30	(41) 517410	Satellite telecommunications;
31	(42) 517911	Telecommunications resellers;
32	(43) 517919	All other telecommunications;
33	(44) 518210	Data processing, hosting, and related services;
34	(45) 519120	Libraries and archives;
35	(46) 519130	Internet publishing and broadcasting and web search portals;
36	(47) 519190	All other information services;
37	(48) 522110	Commercial banking;

1	(49) 522120	Savings institutions;
2	(50) 522130	Credit unions;
3	(51) 522210	Credit card issuing;
4	(52) 522220	Sales financing;
5	(53) 522291	Consumer lending;
6	(54) 522292	Real estate credit;
7	(55) 522298	All other nondepository credit intermediation;
8	(56) 522310	Mortgage and nonmortgage loan brokers;
9	(57) 522320	Financial transactions processing, reserve, and clearing-house
10		activities;
11	(58) 522390	Other activities related to credit intermediation;
12	(59) 523991	Trust, fiduciary, and custody activities;
13	(60) 531120	Lessors of nonresidential buildings (except
14		miniwarehouses);
15	(61) 531130	Lessors of miniwarehouses and self-storage units;
16	(62) 531210	Offices of real estate agents and brokers;
17	(63) 531320	Offices of real estate appraisers;
18	(64) 531390	Other activities related to real estate;
19	(65) 532111	Passenger car rental;
20	(66) 532112	Passenger car leasing;
21	(67) 532120	Truck, utility trailer, and RV (recreational vehicle) rental and
22		leasing;
23	(68) 532210	Consumer electronics and appliance rental;
24	(69) 532220	Formal wear and costume rental;
25	(70) 532230	Video tape and disc rental;
26	(71) 532292	Recreational goods rental;
27	(72) 532299	All other consumer goods rental;
28	(73) 532310	General rental centers;
29	(74) 541110	Offices of lawyers;
30	(75) 541191	Title abstract and settlement offers;
31	(76) 541199	All other legal services;
32	(77) 541211	Offices of certified public accountants;
33	(78) 541213	Tax preparation services;
34	(79) 541219	Other accounting services;
35	(80) 541310	Architectural services;
36	(81) 541320	Landscape architectural services;
37	(82) 541330	Engineering services;

1	(83) 541340	Drafting services;
2	(84) 541350	Building inspection services;
3	(85) 541360	Geophysical surveying and mapping services;
4	(86) 541370	Surveying and mapping services;
5	(87) 541380	Testing laboratories;
6	(88) 541410	Interior design services;
7	(89) 541430	Graphic design services;
8	(90) 541490	Other specialized design services;
9	(91) 541511	Custom computer programming services;
10	(92) 541512	Computer systems design services;
11	(93) 541519	Other computer related services;
12	(94) 541921	Photography studios, portrait;
13	(95) 541930	Translation and interpretation services;
14	(96) 541940	Veterinary services;
15	(97) 541990	All other professional, scientific, and technical services;
16	(98) 561410	Document preparation services;
17	(99) 561421	Telephone answering services;
18	(100) 561431	Private mail centers;
19	(101) 561439	Other business service centers (including copy shops);
20	(102) 561510	Travel agencies;
21	(103) 561520	Tour operators;
22	(104) 561591	Convention and visitors bureaus;
23	(105) 561599	Other travel arrangement and reservation services;
24	(106) 561611	Investigation services;
25	(107) 561621	Security systems services (except locksmiths);
26	(108) 561622	Locksmiths;
27	(109) 561710	Exterminating and pest control services;
28	(110) 561720	Janitorial services;
29	(111) 561730	Landscaping services;
30	(112) 561740	Carpet and upholstery cleaning services;
31	(113) 561790	Other services to buildings and dwellings;
32	(114) 561910	Packaging and labeling services;
33	(115) 562111	Solid waste collection;
34	(116) 562112	Hazardous waste collection;
35	(117) 562119	Other waste collection;
36	(118) 562211	Hazardous waste treatment and disposal;
37	(119) 562212	Solid waste landfill;

1	(120) 562219	Other nonhazardous waste treatment and disposal;
2	(121) 562910	Remediation services;
3	(122) 562991	Septic tank and related services;
4	(123) 711110	Theater companies and dinner theaters;
5	(124) 711120	Dance companies;
6	(125) 711130	Musical groups and artists;
7	(126) 711190	Other performing arts companies;
8	(127) 711211	Sports teams and clubs;
9	(128) 711212	Racetracks;
10	(129) 711219	Other spectator sports;
11	(130) 711510	Independent artists, writers, and performers;
12	(131) 712110	Museums;
13	(132) 712120	Historical sites;
14	(133) 712130	Zoos and botanical gardens;
15	(134) 712190	Nature parks and other similar institutions;
16	(135) 713110	Amusement and theme parks;
17	(136) 713120	Amusement arcades;
18	(137) 713910	Golf courses and country clubs;
19	(138) 713930	Marinas;
20	(139) 713940	Fitness and recreational sports centers;
21	(140) 713950	Bowling centers;
22	(141) 713990	All other amusement and recreation industries;
23	(142) 721211	RV (recreational vehicle) parks and campgrounds;
24	(143) 721214	Recreational and vacation camps (except campgrounds);
25	(144) 722320	Caterers;
26	(145) 722330	Mobile food services;
27	(146) 811111	General automotive repair;
28	(147) 811112	Automotive exhaust system repair;
29	(148) 811113	Automotive transmission repair;
30	(149) 811118	Other automotive mechanical and electrical repair and
31		maintenance;
32	(150) 811121	Automotive body, paint, and interior repair and maintenance;
33	(151) 811122	Automotive glass replacement shops;
34	(152) 811191	Automotive oil change and lubrication shops;
35	(153) 811192	Car washes;
36	(154) 811198	All other automotive repair and maintenance;
37	(155) 811211	Consumer electronics repair and maintenance;

1	(156) 811212	Computer and office machine repair and maintenance;
2	(157) 811213	Communication equipment repair and maintenance;
3	(158) 811411	Home and garden equipment repair and maintenance;
4	(159) 811412	Appliance repair and maintenance;
5	(160) 811420	Reupholstery and furniture repair;
6	(161) 811430	Footwear and leather goods repair;
7	(162) 811490	Other personal and household goods repair and maintenance;
8	(163) 812111	Barber shops;
9	(164) 812112	Beauty salons;
10	(165) 812113	Nail salons;
11	(166) 812191	Diet and weight reducing centers;
12	(167) 812199	Other personal care services;
13	(168) 812310	Coin operated laundries and dry-cleaners;
14	(169) 812320	Dry-cleaning and laundry services;
15	(170) 812331	Linen supply;
16	(171) 812910	Pet care (except veterinary);
17	(172) 812921	Photo finishing laboratories (except one-hour);
18	(173) 812922	One-hour photo finishing;
19	(174) 812930	Parking lots and garages; and
20	(175) 812990	All other personal services.

21 (b) Services, descriptions of services, or services provided by the following establishments
 22 as described by a 2007 North American Industry Classification System Code shall not be
 23 subject to sales and use tax under subparagraph (E) of paragraph (6) of Code Section
 24 48-8-2:

25 (1) Educational services codes beginning with 61; and

26 (2) Health care and social assistance codes beginning with 62.

27 (c) The following shall not be subject to sales use tax under subparagraph (E) of paragraph
 28 (6) of Code Section 48-8-2:

29 (1) Accrual of interest to a financial account; or

30 (2) Services used directly in the construction of a new residence or an addition to an
 31 existing residence."

32 **SECTION 2-3.**

33 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
 34 use tax, by revising paragraphs (22) and (23) as follows:

35 ~~"(22) Professional, insurance, or personal service transactions which involve sales as~~
 36 ~~inconsequential elements for which no separate charges are made Reserved;~~

1 ~~(23) Fees or charges for services rendered by repairmen for which a separate charge is~~
 2 ~~made~~ Reserved;

3 . **SECTION 2-4.**

4 Said title is further amended by adding a new Code section to read as follows:

5 "48-8-16.

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

7 (1) 'Cable service' has the same meaning as that term is defined in 47 U.S.C. Section
 8 522(6).

9 (2) 'Multichannel video programming service' means the provision or transfer of video
 10 programming unless otherwise explicitly excluded in this Code section, including but not
 11 limited to satellite broadcasting service, cable service, video services delivered over fiber
 12 optic line, coaxial cable, copper wire, Internet protocol, or wireless cable service.

13 (3) 'Place of primary use' means the street address representative of where the
 14 subscriber's use of the multichannel video programming service primarily occurs, which
 15 must be the residential street address or the primary business street address of the
 16 subscriber and, in the case of wireless cable service, must be within the licensed service
 17 area of the service provider.

18 (4) 'Satellite broadcasting service' means the distribution or broadcasting of
 19 programming or services by satellite directly to the subscriber's receiving equipment
 20 including direct broadcast satellite service and including all service and rental charges,
 21 premium channels or other special services, installation and repair service charges, and
 22 any other charges having any connection with the provision of the satellite broadcasting
 23 service.

24 (5) 'Video services' means video programming provided by, or generally considered
 25 comparable to programming provided by, a television broadcast station, as set forth in 47
 26 U.S.C. Section 522(20).

27 (6) 'Wireless cable service' means multichannel multipoint distribution services, with
 28 programming broadcast by microwave or any similar means directly to the subscriber,
 29 including basic, extended, premium service, and other similar services and including
 30 video programming services delivered by commercial mobile radio service providers as
 31 defined in 47 C.F.R. 20.3.

32 (b) A credit against the taxes under this chapter shall be authorized with respect to amounts
 33 charged for multichannel video programming services if the provider of such services is
 34 subject to state or local franchise fees pursuant to Title 36. Such credit amount shall not
 35 exceed the amount of such fees or the amount of taxes due under this chapter, whichever
 36 is less. Such credit shall be claimed and allowed only for the same calendar year in which

1 such provider pays such state or local franchise fees. Such credit shall be conditioned upon
 2 such provider remitting back to its multichannel video programming customers the full
 3 amount of such credit, on a pro rata basis, during the same calendar year for which such
 4 credit is claimed."

5 **SECTION 2-5.**

6 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 7 by revising Chapter 89, relating to homeowner tax relief grants, as follows:

8 "CHAPTER 89

9 36-89-1.

10 As used in this chapter, the term:

11 (1) 'Applicable rollback' means a:

12 (A) Rollback of an ad valorem tax millage rate pursuant to subsection (a) of Code
 13 Section 48-8-91 in a county or municipality that levies a local option sales tax;

14 (B) Rollback of an ad valorem tax millage rate pursuant to subparagraph (c)(2)(C) of
 15 Code Section 48-8-104 in a county or municipality that levies a homestead option sales
 16 tax;

17 (C) Subtraction from an ad valorem millage rate pursuant to Code Section 20-2-334
 18 in a local school system that receives a state school tax credit;

19 (D) Reduction of an ad valorem tax millage rate pursuant to the development of a
 20 service delivery strategy under Code Section 36-70-24; and

21 (E) Reduction of an ad valorem tax millage rate pursuant to paragraph (2) of subsection
 22 (a) of Code Section 33-8-8.3 in a county that collects insurance premium tax.

23 (2) 'County millage rate' means the net ad valorem tax millage rate, after deducting
 24 applicable rollbacks, levied by a county for county purposes and applying to qualified
 25 homesteads in the county, including any millage levied for those special districts reported
 26 on the 2004 ad valorem tax digest certified to and received by the state revenue
 27 commissioner on or before December 31, 2004, but not including any millage levied for
 28 purposes of bonded indebtedness and not including any millage levied on behalf of a
 29 county school district for educational purposes.

30 (3) 'Eligible assessed value' means a certain stated amount of the assessed value of each
 31 qualified homestead in the state. The amount of the eligible assessed value for any given
 32 year shall be fixed in that year's General Appropriations Act.

33 (4) 'Fiscal authority' means the individual authorized to collect ad valorem taxes for a
 34 county or municipality which levies ad valorem taxes.

1 (5) 'Municipal millage rate' means the net ad valorem tax millage rate, after deducting
 2 applicable rollbacks, levied by a municipality for municipal purposes and applying to
 3 qualified homesteads in the municipality, including any millage levied for those special
 4 tax districts reported on the 2004 City and Independent School Millage Rate Certification
 5 certified to and received by the state revenue commissioner on or before December 31,
 6 2004, but not including any millage levied for purposes of bonded indebtedness and not
 7 including any millage levied on behalf of an independent school district for educational
 8 purposes.

9 (6) 'Qualified homestead' means a homestead qualified for any exemption, state, county,
 10 or school, authorized under Code Section 48-5-44.

11 (7) 'School millage rate' means the net ad valorem tax millage rate, after deducting
 12 applicable rollbacks, levied on behalf of a county or independent school district for
 13 educational purposes and applying to qualified homesteads in the county or independent
 14 school district, not including any millage levied for purposes of bonded indebtedness and
 15 not including any millage levied for county or municipal purposes.

16 ~~(8) 'State millage rate' means the state millage levy.~~

17 36-89-2.

18 In each year the General Assembly shall appropriate funds for homeowner tax relief grants
 19 to counties, municipalities, and county or independent school districts, in order to provide
 20 for more effective regulation and management of the finance and fiscal administration of
 21 the state and pursuant to and in furtherance of the provisions of Article III, Section IX,
 22 Paragraph II(c) of the Constitution; Article VII, Section III, Paragraph III of the
 23 Constitution; Article VIII, Section I, Paragraph I of the Constitution; and other provisions
 24 of the Constitution.

25 36-89-3.

26 In each year the General Assembly shall appropriate to the Department of Revenue funds
 27 to provide homeowner tax relief grants to counties, municipalities, and county or
 28 independent school districts. ~~When funds are so appropriated, the~~ The General
 29 Appropriations Act shall specify the amount appropriated and the eligible assessed value
 30 of each qualified homestead in the state for the specified tax year, ~~which eligible assessed~~
 31 ~~value shall, subject to annual appropriation by the General Assembly, be not less than that~~
 32 ~~specified in the Fiscal Year 2004 General Appropriations Act. If for any reason the amount~~
 33 ~~appropriated in the General Appropriations Act is insufficient to fund the eligible assessed~~
 34 ~~value stated in the General Appropriations Act, the amount appropriated may be adjusted~~
 35 ~~in amendments to the General Appropriations Act.~~

1 36-89-4.

2 (a) Subject to the limitations of subsection (b) of this Code section, each qualified taxpayer
 3 shall receive whichever of the following adjustment amounts provides the maximum
 4 benefit to that taxpayer on the tax bill for the applicable tax year;

5 (1) A benefit equivalent to a homestead exemption of up to \$30,000.00 of the assessed
 6 value of the taxpayer's homestead or the taxpayer's ad valorem property tax liability for
 7 county or municipal purposes, or both if applicable, on the homestead, whichever is
 8 lower; or

9 (2) A benefit equivalent to an exemption from the full amount of the taxpayer's ad
 10 valorem property tax liability for educational purposes on the homestead.

11 (b) Any benefit determination under subsection (a) of this Code section shall be
 12 determined according to a base millage rate. This base millage rate shall be the millage rate
 13 for the county, municipality, or school district which provides the amount of property tax
 14 revenue collected for such county, municipality, or school district during a tax year, not
 15 attributable to new construction, which does not exceed the amount collected in the 2008
 16 tax year plus the cap rate including any accrued cap rates. The term 'cap rate' means the
 17 percentage change in the price index for gross output of state and local government from
 18 the prior year to the current year as defined by the National Income and Product Accounts
 19 and determined by the United States Bureau of Economic Analysis and indicated by the
 20 Price Index for Government Consumption Expenditures and General Government Gross
 21 Output (Table 3.10.4).

22 ~~36-89-4.~~ 36-89-5.

23 ~~(a)(1) When funds are appropriated as provided in Code 36-89-3; For taxpayers~~
 24 ~~receiving grants under paragraph (1) of Code Section 36-89-4, such grants shall be~~
 25 ~~allotted to each county; and municipality; and county or independent school district in the~~
 26 ~~state as follows:~~

27 (A) Immediately following the actual preparation of ad valorem property tax bills, each
 28 county fiscal authority shall notify the Department of Revenue of the total amount of
 29 tax revenue which would be generated by applying the ~~sum of the state and county~~
 30 ~~millage rates~~ rate to the eligible assessed value of each qualified homestead in the
 31 county. The total amount of actual tax credits, so calculated, given to all qualified
 32 homesteads in the county shall be the amount of the grant to that county; and

33 (B) Immediately following the actual preparation of ad valorem property tax bills, each
 34 county or independent school district's fiscal authority shall notify the Department of
 35 Revenue of the total amount of tax revenue which would be generated by applying the
 36 ~~school millage rate to the eligible assessed value of each qualified homestead in the~~

1 ~~county or independent school district. The total amount of actual tax credits, so~~
 2 ~~calculated, given to all qualified homesteads in the county or independent school~~
 3 ~~district shall be the amount of the grant to that county or independent school district;~~
 4 ~~and~~

5 (C) Immediately following the actual preparation of ad valorem property tax bills, each
 6 municipality's fiscal authority shall notify the Department of Revenue of the total
 7 amount of tax revenue which would be generated by applying the municipal millage
 8 rate to the eligible assessed value of each qualified homestead in the municipality. The
 9 total amount of actual tax credits, so calculated, given to all qualified homesteads in the
 10 municipality shall be the amount of the grant to that municipality.

11 (2) Credit amounts computed under paragraph (1) of this subsection shall be applied to
 12 reduce the otherwise applicable tax liability on a dollar-for-dollar basis, but the credit
 13 granted shall not in any case exceed the amount of the otherwise applicable tax liability
 14 after the granting of all applicable homestead exemptions except for any homestead
 15 exemption under Article 2A of Chapter 8 of Title 48, the 'Homestead Option Sales and
 16 Use Tax Act,' as amended, and after the granting of all applicable millage rollbacks.

17 (b) The grant of funds to each county shall be conditioned on the county's fiscal authority
 18 reducing each qualified homestead's otherwise applicable liability for county taxes for
 19 county purposes by a credit amount calculated in subparagraph (a)(1)(A) of this Code
 20 section.

21 ~~(c) The grant of funds to each county or independent school district shall be conditioned~~
 22 ~~on the county or independent school district's fiscal authority reducing each qualified~~
 23 ~~homestead's otherwise applicable liability for school taxes by a credit amount calculated~~
 24 ~~in subparagraph (a)(1)(B) of this Code section.~~

25 ~~(d)~~ The grant of funds to each municipality shall be conditioned on the municipality's
 26 fiscal authority reducing each qualified homestead's otherwise applicable liability for
 27 municipal taxes by a credit amount calculated in subparagraph ~~(a)(1)(C)~~ (a)(1)(B) of this
 28 Code section.

29 ~~(e)~~(d) Each fiscal authority shall show the credit amount on the tax bill, together with a
 30 prominent notice in substantially the following form: 'This reduction in your bill is the
 31 result of homeowner's tax relief enacted by the Governor and the General Assembly of the
 32 State of Georgia.'

33 36-89-6.

34 (a)(1) For taxpayers receiving grants under paragraph (2) of Code Section 36-89-4, such
 35 grants shall be allotted to each county or independent school district in the manner
 36 provided in paragraph (2) of this subsection.

1 (2) Immediately following the actual preparation of ad valorem property tax bills, each
 2 county or independent school district's fiscal authority shall notify the Department of
 3 Revenue of the total amount of tax revenue which would be generated by applying the
 4 school millage rate, as defined under paragraph (7) of Code Section 36-89-4, to the
 5 eligible assessed value of each qualified homestead in the county or independent school
 6 district. The total amount of actual tax credits, so calculated, given to all qualified
 7 homesteads in the county or independent school district shall be the amount of the grant
 8 to that county or independent school district.

9 (3) Credit amounts computed under paragraph (1) of this subsection shall be applied to
 10 reduce the otherwise applicable tax liability on a dollar-for-dollar basis, but the credit
 11 granted shall not in any case exceed the amount of the otherwise applicable tax liability
 12 after the granting of all applicable homestead exemptions and after the granting of all
 13 applicable millage rollbacks.

14 (b) The grant of funds to each county or independent school district shall be conditioned
 15 on the county or independent school district's fiscal authority reducing each qualified
 16 homestead's otherwise applicable liability for school taxes by a credit amount calculated
 17 in subsection (a) of this Code section.

18 (c) Each fiscal authority shall show the credit amount on the tax bill, together with a
 19 prominent notice in substantially the following form: 'This reduction in your bill is the
 20 result of homeowner's tax relief enacted by the Governor and the General Assembly of the
 21 State of Georgia.'

22 ~~36-89-5.~~ 36-89-7.

23 (a) The state revenue commissioner shall administer this chapter and shall adopt rules and
 24 regulations for the administration of this chapter, including specific instructions to local
 25 governments. The state revenue commissioner may adopt procedures for partial or
 26 installment distribution of grants when the commissioner determines that a full distribution
 27 will only result in the necessity of return of funds under subsection (b) of this Code section.

28 (b) If any excess funds remain from the funds granted to any county, municipality, or
 29 county or independent school district under this chapter, after the county, municipality, or
 30 county or independent school district complies with the credit requirements of Code
 31 Section ~~38-89-4~~ 36-89-5 or 36-89-6, such excess funds shall be returned by the county,
 32 municipality, or county or independent school district to the Department of Revenue.

1 ~~36-89-6.~~ 36-89-8.

2 Any credit under this chapter which is erroneously or illegally granted shall be recoverable
3 by the political subdivision granting such credit in the same manner as any other delinquent
4 tax."

5 **PART III**
6 **SECTION 3-1.**

7 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
8 amended by revising Code Section 48-5-2, relating to ad valorem taxation definitions, as
9 follows:

10 "48-5-2.

11 As used in this chapter, the term:

12 (1) 'Current use value' of bona fide conservation use property means the amount a
13 knowledgeable buyer would pay for the property with the intention of continuing the
14 property in its existing use and in an arm's length, bona fide sale and shall be determined
15 in accordance with the specifications and criteria provided for in subsection (b) of Code
16 Section 48-5-269.

17 (2) 'Current use value' of bona fide residential transitional property means the amount
18 a knowledgeable buyer would pay for the property with the intention of continuing the
19 property in its existing use and in an arm's length, bona fide sale. The tax assessor shall
20 consider the following criteria, as applicable, in determining the current use value of bona
21 fide residential transitional property:

22 (A) The current use of such property;

23 (B) Annual productivity; and

24 (C) Sales data of comparable real property with and for the same existing use.

25 (3) 'Fair market value of property' means, except as otherwise provided in Code Section
26 48-5-2.1, the amount a knowledgeable buyer would pay for the property and a willing
27 seller would accept for the property at an arm's length, bona fide sale. With respect to the
28 valuation of equipment, machinery, and fixtures when no ready market exists for the sale
29 of the equipment, machinery, and fixtures, fair market value may be determined by
30 resorting to any reasonable, relevant, and useful information available including, but not
31 limited to, the original cost of the property, any depreciation or obsolescence, and any
32 increase in value by reason of inflation. Each tax assessor shall have access to any public
33 records of the taxpayer for the purpose of discovering such information.

34 (A) In determining the fair market value of a going business where its continued
35 operation is reasonably anticipated, the tax assessor may value the equipment,

1 machinery, and fixtures which are the property of the business as a whole where
2 appropriate to reflect the accurate fair market value.

3 (B) The tax assessor shall consider the following criteria in determining the fair market
4 value of real property:

5 (i) Existing zoning of property;

6 (ii) Existing use of property, including any restrictions or limitations on the use of
7 property resulting from state or federal law or rules or regulations adopted pursuant
8 to the authority of state or federal law;

9 (iii) Existing covenants or restrictions in deed dedicating the property to a particular
10 use; and

11 (iv) Any other factors deemed pertinent in arriving at fair market value.

12 (B.1) The tax assessor shall not consider any income tax credits ~~with respect to~~ for real
13 property which are claimed and granted pursuant to either Section 42 of the Internal
14 Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair
15 market value of real property.

16 (C) Fair market value of 'historic property' as such term is defined in subsection (a) of
17 Code Section 48-5-7.2 means, except as otherwise provided in Code Section 48-5-2.1:

18 (i) For the first eight years in which the property is classified as 'rehabilitated historic
19 property,' the value equal to the greater of the acquisition cost of the property or the
20 appraised fair market value of the property as recorded in the county tax digest at the
21 time preliminary certification on such property was received by the county board of
22 tax assessors pursuant to subsection (c) of Code Section 48-5-7.2;

23 (ii) For the ninth year in which the property is classified as 'rehabilitated historic
24 property,' the value of the property as determined by division (i) of this subparagraph
25 plus one-half of the difference between such value and the current fair market value
26 exclusive of the provisions of this subparagraph; and

27 (iii) For the tenth and following years, the fair market value of such property as
28 determined by the provisions of this paragraph, excluding the provisions of this
29 subparagraph.

30 (D) Fair market value of 'landmark historic property' as such term is defined in
31 subsection (a) of Code Section 48-5-7.3 means, except as otherwise provided in Code
32 Section 48-5-2.1:

33 (i) For the first eight years in which the property is classified as 'landmark historic
34 property,' the value equal to the greater of the acquisition cost of the property or the
35 appraised fair market value of the property as recorded in the county tax digest at the
36 time certification on such property was received by the county board of tax assessors
37 pursuant to subsection (c) of Code Section 48-5-7.3;

1 (ii) For the ninth year in which the property is classified as 'landmark historic
2 property,' the value of the property as determined by division (i) of this subparagraph
3 plus one-half of the difference between such value and the current fair market value
4 exclusive of the provisions of this subparagraph; and

5 (iii) For the tenth and following years, the fair market value of such property as
6 determined by the provisions of this paragraph, excluding the provisions of this
7 subparagraph.

8 (E) Timber shall be valued at its fair market value at the time of its harvest or sale in
9 the manner specified in Code Section 48-5-7.5.

10 (F) Fair market value of 'brownfield property' as such term is defined in subsection (a)
11 of Code Section 48-5-7.6 means, except as otherwise provided in Code Section
12 48-5-2.1:

13 (i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,
14 for the first ten years in which the property is classified as 'brownfield property,' the
15 value equal to the lesser of the acquisition cost of the property or the appraised fair
16 market value of the property as recorded in the county tax digest at the time
17 application was made to the Environmental Protection Division of the Department of
18 Natural Resources for participation under Article 9 of Chapter 8 of Title 12, the
19 'Hazardous Sites Reuse and Redevelopment Act,' as amended;

20 (ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6,
21 for the eleventh and following years, the fair market value of such property as
22 determined by the provisions of this paragraph, excluding the provisions of this
23 subparagraph.

24 (4) 'Foreign merchandise in transit' means personal property of any description which has
25 been or will be moved by waterborne commerce through any port located in this state
26 and:

27 (A) Which has entered the export stream, although temporarily stored or warehoused
28 in the county where the port of export is located; or

29 (B) Which was shipped from a point of origin located outside the customs territory of
30 the United States and on which United States customs duties are paid at or through any
31 customs district or port located in this state, although stored or warehoused in the
32 county where the port of entry is located while in transit to a final destination."

33 SECTION 3-2.

34 Said title is further amended by adding a new Code section to read as follows:

1 "48-5-2.1.

2 (a) Pursuant to Article VII, Section I, Paragraph IV of the Constitution, the assessed value
3 of residential real property and nonresidential real property for all ad valorem tax purposes
4 shall not be increased from the valuation established for 2008. Additions or improvements
5 to such residential real property and nonresidential real property placed in service after
6 December 31, 2007, shall be appraised for ad valorem tax purposes at their fair market
7 value and shall be added to the owner's 2008 valuation amount.

8 (b) If such residential real property or nonresidential real property is sold or transferred to
9 another person, such residential real property or nonresidential real property shall be
10 appraised for ad valorem tax purposes at fair market value.

11 (c) The 2008 valuation amount for any individual parcel of residential real property may
12 be increased during a taxable year by an amount not to exceed a 2 percent increase in the
13 preceding taxable year's value. The 2008 valuation for any individual parcel of
14 nonresidential real property may be increased during a taxable year by an amount not to
15 exceed a 3 percent increase in the preceding taxable year's value. The percentage
16 limitations of this provision shall not be construed to prohibit the mass appraisal of real
17 property in a county."

18 **PART IV**

19 **SECTION 4-1.**

20 (a) Part I of this Act shall become effective on January 1, 2009, and shall be applicable to
21 all taxable years beginning on or after January 1, 2009; provided, however, that Part I of this
22 Act shall only become effective on January 1, 2009, upon the ratification of a resolution at
23 the November, 2008, state-wide general election, which resolution amends the Constitution
24 so as to provide immediate tax relief and authorizing future tax relief pursuant to The
25 Property Tax Reform Amendment. If such resolution is not so ratified, Part I of this Act
26 shall not become effective and shall stand repealed in its entirety on January 1, 2009.

27 (b) Part II of this Act shall become effective on January 1, 2010, and shall be applicable to
28 all taxable years beginning on or after January 1, 2010; provided, however, that Part II of this
29 Act shall only become effective on January 1, 2010, upon the ratification of a resolution at
30 the November, 2008, state-wide general election, which resolution amends the Constitution
31 so as to provide immediate tax relief and authorizing future tax relief pursuant to The
32 Property Tax Reform Amendment. If such resolution is not so ratified, Part II of this Act
33 shall not become effective and shall stand repealed in its entirety on January 1, 2009.

34 (c) Part III of this Act shall become effective on January 1, 2009, and shall be applicable to
35 all taxable years beginning on or after January 1, 2009; provided, however, that Part III of

1 this Act shall only become effective on January 1, 2009, upon the ratification of a resolution
2 at the November, 2008, state-wide general election, which resolution amends the
3 Constitution so as to freeze the valuation of real property except for certain adjustments and
4 to limit future ad valorem tax revenues unless approved by voters in a referendum. If such
5 resolution is not so ratified, Part III this Act shall not become effective and shall stand
6 repealed in its entirety on January 1, 2009.

7 (d) This part shall become effective upon the approval of this Act by the Governor or upon
8 the becoming law without such approval.

9

SECTION 4-2.

10 All laws and parts of laws in conflict with this Act are repealed.