

The House Committee on Ways and Means offers the following substitute to HB 517:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, related to revenue and
2 taxation, so as to provide for the comprehensive revision of the manner and method of
3 assessing real property; to limit valuation increases of real property; to provide for
4 procedures, conditions, and limitations; to provide for applicability to certain types of real
5 property; to provide for the manner and method of increasing or removing mill limitations
6 regarding school systems and municipalities; to provide for optional discontinuation
7 procedures; to provide for related matters; to provide for effective dates and contingencies;
8 to provide for automatic repeal of certain provisions under certain circumstances; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 SECTION 1.

12 Title 48 of the Official Code of Georgia Annotated, related to revenue and taxation, is
13 amended by adding a new chapter to read as follows:

14 CHAPTER 5C
15 ARTICLE 1

16 48-5C-1.

17 Pursuant to Article VII, Section I, Paragraph IV of the Constitution, 'The Ad Valorem Tax
18 Assessment Limit Amendment,' the provisions of this article shall control over and
19 supercede anything to the contrary in Chapter 5 of this title in any county and all taxing
20 jurisdictions therein, including any municipalities and school districts, in which the
21 provisions of said Paragraph IV are effective.

22 48-5C-2.

23 (a) The rate of increase of the assessed value of real property for state, county, municipal,
24 or educational ad valorem tax purposes, except as otherwise required by Code Section
25 48-5C-7, shall not exceed an aggregate of 9 percent for each three-year period of
26 successive ownership and, except as provided in this subsection, shall not exceed from one
27 taxable year to the succeeding taxable year the lesser of 3 percent or the percent change in
28 the rate of economic inflation on individual taxpayers as determined by the commissioner.
29 For such purpose, the commissioner may use the Consumer Price Index for all urban
30 consumers published by the Bureau of Labor Statistics of the United States Department of
31 Labor and any other reliable economic indicator determined by the commissioner or such
32 other designee as specified by general law to be appropriate. Such rate shall be determined
33 by the commissioner not later than December 1 of each year. Within such three-year
34 period, such 3 percent limitation shall operate in a cumulative manner so if an increase in
35 one year is less than 3 percent, the 3 percent cap for the next succeeding year shall be
36 increased by an amount equal to the difference in the actual percentage increase in the
37 preceding year and 3 percent.

38 (b) Nothing in this Code section shall be construed to prohibit the assessed value of real
39 property from decreasing.

40 (c) If real property or interests therein are sold or transferred, such real property shall be
41 assessed for ad valorem tax purposes in an amount not to exceed the applicable percentage
42 of fair market value pursuant to Code Section 48-5-7. Substantial additions or
43 improvements to such real property shall be assessed for ad valorem tax purposes at the
44 applicable percentage of fair market value pursuant to Code Section 48-5-7 and shall be
45 added to the owner's valuation amount under this subsection.

46 (d) Nothing in this article shall be construed to alter or affect in any manner the authority
47 granted to the General Assembly under Article VII, Section II, Paragraph II of the
48 Constitution to enact homestead exemptions.

49 48-5C-3.

50 In addition to any other provision of Chapter 5 of this title authorizing error or omission
51 correction by local tax officials, the commissioner shall be authorized to correct any
52 manifest, factual error or omission in the valuation of real property.

53 48-5C-4.

54 (a) For purposes of determining when any parcel of real property shall be reassessed, an
55 assessable transfer of interest in any real property includes, but is not limited to, the
56 following:

- 57 (1) A conveyance by deed;
- 58 (2) A conveyance by land contract;
- 59 (3) A conveyance to a trust, except if the settlor or the settlor's spouse, or both, conveys
 60 the property to the trust and the sole present beneficiary or beneficiaries are the settlor or
 61 the settlor's spouse, or both;
- 62 (4) A conveyance by distribution from a trust, except if the distributee is the sole present
 63 beneficiary or the spouse of the sole present beneficiary, or both;
- 64 (5) A change in the sole present beneficiary or beneficiaries of a trust, except a change
 65 that adds or substitutes the spouse of the sole present beneficiary;
- 66 (6) A conveyance by distribution under a will or by intestate succession, except if the
 67 distributee is the decedent's spouse;
- 68 (7)(A) A conveyance by lease if the total duration of the lease, including the initial
 69 term and all options for renewal, is more than ten years or the lease grants the lessee a
 70 bargain purchase option.
- 71 (B) As used in this paragraph, the term 'bargain purchase option' means the right to
 72 purchase the property at the termination of the lease for not more than 80 percent of the
 73 property's true cash value at the termination of the lease.
- 74 (C) This paragraph shall not apply to personal property or that portion of the property
 75 not subject to the leasehold interest conveyed;
- 76 (8) A change of use of real property when classification of property changes as a result
 77 of a local zoning ordinance change; or
- 78 (9) The passage of ten years since the last assessable transfer of interest for
 79 nonhomestead real property.
- 80 (b) A transfer of interest resulting in a reassessment required pursuant to this article
 81 occurs at the time of execution of the instruments directly resulting in the transfer of
 82 interest and without regard as to whether or not the applicable instruments are recorded.
- 83 (c) A transfer of interest requiring reassessment shall not include:
- 84 (1) Transfers not subject to federal income tax in the following circumstances pursuant
 85 to the specified provisions of the Internal Revenue Code:
- 86 (A) 1033 Conversions-Fire and Insurance Proceeds to Rebuild;
- 87 (B) 1041 Transfers of Property Between Spouses or Incident to Divorce;
- 88 (C) 351 Transfer to a Corporation Controlled by Transferor;
- 89 (D) 355 Distribution by a Controlled Corporation;
- 90 (E) 368 Corporate Reorganizations; or
- 91 (F) 721 Nonrecognition of Gain or Loss on a Contribution to a Partnership;
- 92 (2) A transfer of that portion of property subject to a life estate or life lease retained by
 93 the transferor, until expiration or termination of the life estate or life lease;

- 94 (3) A transfer through foreclosure or forfeiture of a recorded instrument or through deed
 95 or conveyance in lieu of a foreclosure or forfeiture;
 96 (4) A tax deed which is redeemed by the person to whom taxes are assessed within one
 97 year of the date of the tax sale;
 98 (5) A conveyance to a trust if the settlor or the settlor's spouse, or both, convey the
 99 property to the trust and the sole present beneficiary of the trust is the settlor or the
 100 settlor's spouse, or both;
 101 (6) A transfer for security or an assignment or discharge of a security interest;
 102 (7) A transfer of real property or other ownership interests among members of an
 103 affiliated group. As used in this paragraph, the term 'affiliated group' is as defined in
 104 Section 1504 of the Internal Revenue Code;
 105 (8) A transfer of real property or other ownership interests among corporations,
 106 partnerships, limited liability companies, limited liability partnerships, or other legal
 107 entities if the entities involved are commonly controlled; or
 108 (9) A transfer of an interest in a timeshare unit by deed or lease.

109 48-5C-5.

- 110 (a) As used in this Code section, the term 'natural person' means an individual or group of
 111 individuals who directly owns real property outside of any legal entity. A natural person
 112 shall not include a trustee, agent, officer, or member of a legal entity which has an
 113 ownership interest in real property. A legal entity includes, but is not limited to, a
 114 corporation, partnership, limited liability company, unincorporated association, or trust.
 115 (b) The commissioner is authorized to promulgate regulations to implement this article,
 116 including, without limitation, providing for those circumstances that constitute a change
 117 in the beneficial ownership of real property or an assessable transfer of interest not
 118 evidenced by transfer of fee simple title. The commissioner shall examine the substance,
 119 rather than merely the form of the transfer, and related and surrounding transactions, and
 120 may use the step transaction, economic reality, quid pro quo, personal benefit, and other
 121 judicially developed doctrines in determining whether the requisite assessable transfer of
 122 interest has occurred.
 123 (c) The county assessor may send to any real property owner of record, or the owner's
 124 agent of record, to the address of record, a certificate prescribed by the commissioner
 125 which shall be signed and returned by the property owner or the owner's agent certifying
 126 details of the ownership of the property. The county assessor shall also be authorized to
 127 request, and the taxpayer shall provide, the most recent trust documentation regarding such
 128 property. In addition to any applicable interest and penalties for the late payment of
 129 property taxes, if the owner or owner's agent knowingly falsifies any detail on the

130 certificate, then the owner or owner's agent is subject to a civil penalty imposed by the
 131 commissioner, the county assessor, or an assessor appointed to handle multiple county
 132 assessments pursuant to an intergovernmental agreement, as applicable. The amount shall
 133 be three times the taxes lawfully due on the property. This civil penalty shall be
 134 enforceable and collectable in the same manner as property tax.

135 48-5C-6.

136 (a) Upon the occurrence of an event requiring reassessment under Code Section 48-5C-4,
 137 for each of the ensuing seven taxable years, any annual increase in the assessed value of
 138 the property attributable thereto shall for tax purposes be limited to one-seventh of the
 139 applicable percentage of fair market value pursuant to Code Section 48-5-7 multiplied by
 140 the difference between the transferee's fair market value and the most recent value of that
 141 property established by the board of assessors in the year the transfer occurred plus the rate
 142 established in Code Section 48-5C-2.

143 (b) Nothing contained in this Code section shall be construed to limit the decrease in the
 144 assessed value of real property based on a subsequent decrease in the fair market value
 145 following the assessable transfer of property.

146 48-5C-7.

147 The provisions of this article shall not apply to:

148 (1) Bona fide agricultural property under Article VII, Section I, Paragraph III(a) of the
 149 Constitution;

150 (2) Tangible property which is listed in the National Register of Historic Places or in a
 151 state register under Article VII, Section I, Paragraph III(d)(1) of the Constitution;

152 (3) Property on which there have been releases of hazardous waste, constituents, or
 153 substances into the environment under Article VII, Section I, Paragraph III(d)(2) of the
 154 Constitution;

155 (4) Bona fide conservation use and bona fide residential transitional property under
 156 Article VII, Section I, Paragraph III(e) of the Constitution;

157 (5) Forest land conservation property under Article VII, Section I, Paragraph III(f) of the
 158 Constitution; and

159 (6) Public utility property under Article VII, Section I, Paragraph III(g) of the
 160 Constitution.

161

ARTICLE 2162 48-5C-20.

163 (a) The mill limitation in effect on January 1, 2011, for any school system pursuant to
 164 Article VII, Section VI, Paragraph II of the Constitution may be increased or removed for
 165 any school system upon the adoption of a resolution by the board of education by a
 166 majority of the members of the board of education conditioned upon approval by a majority
 167 of the qualified voters residing within the limits of the school system voting in a
 168 referendum thereon.

169 (b) Following the adoption of such resolution, the board of education shall notify the
 170 election superintendent by forwarding to the superintendent a copy of the resolution calling
 171 for the increase or removal of the mill limitation.

172 (c) Upon receipt of the resolution, the election superintendent shall issue the call for an
 173 election for the purpose of submitting the question of the imposition of the tax to the voters
 174 of the school system. The election superintendent shall issue the call and shall conduct the
 175 election in the manner authorized under Code Section 21-2-540. The election
 176 superintendent shall cause the date and purpose of the election to be published once a week
 177 for four weeks immediately preceding the date of the election in the official organ of the
 178 county.

179 (d) The ballot submitting the question of increasing or removing the mill limitation shall
 180 have written or printed thereon the following:

181 '() YES Shall the current ___ mill limit applicable to taxes of the _____ school
 182 system be (increased to a _____ mill limit) (removed so that there is no mill
 183 () NO limitation)?'

184 (e) All persons desiring to vote in favor of increasing or removing the mill limitation shall
 185 vote 'Yes,' and all persons opposed to increasing or removing the mill limitation shall vote
 186 'No.' If more than one-half of the votes cast are in favor of increasing or removing the mill
 187 limitation, then the mill limitation shall be increased or removed accordingly. The election
 188 superintendent shall hold and conduct the election under the same rules and regulations as
 189 govern special elections. The superintendent shall canvass the returns, declare the result
 190 of the election, and certify the result to the Secretary of State and to the commissioner. The
 191 expense of the election shall be paid from school system funds.

192 48-5C-21.

193 (a) The mill limitation in effect on January 1, 2011, for any municipality may be increased
 194 or removed for any municipality upon the adoption of a resolution by the governing
 195 authority of the municipality by a majority of the members of the governing authority

196 conditioned upon approval by a majority of the qualified voters residing within the limits
 197 of the municipality voting in a referendum thereon.

198 (b) Following the adoption of such resolution, the governing authority shall notify the
 199 municipal election superintendent by forwarding to the superintendent a copy of the
 200 resolution calling for the increase or removal of the mill limitation.

201 (c) Upon receipt of the resolution, the election superintendent shall issue the call for an
 202 election for the purpose of submitting the question of the imposition of the tax to the voters
 203 of the municipality. The election superintendent shall issue the call and shall conduct the
 204 election in the manner authorized under Code Section 21-2-540. The election
 205 superintendent shall cause the date and purpose of the election to be published once a week
 206 for four weeks immediately preceding the date of the election in the official organ of the
 207 county.

208 (d) The ballot submitting the question of increasing or removing the mill limitation shall
 209 have written or printed thereon the following:

210 ' () YES Shall the _____ mill limit applicable to taxes of the City of _____ be (increased
 211 () NO to a _____ mill limit) (removed so that there is no mill limitation)?'

212 (e) All persons desiring to vote in favor of increasing or removing the mill limitation shall
 213 vote 'Yes,' and all persons opposed to increasing or removing the mill limitation shall vote
 214 'No.' If more than one-half of the votes cast are in favor of increasing or removing the mill
 215 limitation, then the mill limitation shall be increased or removed accordingly. The election
 216 superintendent shall hold and conduct the election under the same rules and regulations as
 217 govern special elections. The superintendent shall canvass the returns, declare the result
 218 of the election, and certify the result to the Secretary of State and to the commissioner. The
 219 expense of the election shall be paid from municipal funds.

220 (f) The procedures provided in this Code section shall be supplemental to and not in lieu
 221 of any other method for increasing or removing a millage cap by local Act."

222 **SECTION 2.**

223 This Act shall become effective on January 1, 2011; provided, however, that this Act shall
 224 only become effective on January 1, 2011, upon the ratification of a resolution at the
 225 November, 2010, state-wide general election, which resolution amends the Constitution so
 226 as to provide for assessment limitations by authorizing referenda on value increases and
 227 ratifying and authorizing base year assessed value homestead exemptions. If such resolution
 228 is not so ratified, this Act shall not become effective and this Act shall stand repealed in its
 229 entirety on January 1, 2011.

230

SECTION 3.

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