

Senate Bill 513

By: Senators Grant of the 25th and Hooks of the 14th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-5-41 of the Official Code of Georgia Annotated, relating to  
2 property exempt from ad valorem taxation, so as to provide for conditions under which a  
3 charitable institution receiving an exemption from ad valorem taxation may rent or lease  
4 buildings for a fee without invalidating such exemption; to provide for a state-wide  
5 referendum; to provide for related matters; to provide for effective dates and applicability;  
6 to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and  
7 for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 48-5-41 of the Official Code of Georgia Annotated, relating to property exempt  
11 from taxation, is amended by revising subsection (d) as follows:

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

20 (2) With respect to paragraph (4) of subsection (a) of this Code section, a building which  
21 is owned by a charitable institution that is otherwise qualified as a purely public charity  
22 and that is exempt from taxation under Section 501(c)(3) of the federal Internal Revenue  
23 Code and which building is used by such charitable institution exclusively for the  
24 charitable purposes of such charitable institution, and not more than 15 acres of land on  
25 which such building is located, may be used for the purpose of securing income so long  
26 as such income is used exclusively for the operation of that charitable institution. The

27 renting or leasing of such buildings to third parties for a fee shall not invalidate the  
 28 exemption for such property so long as:

29 (A) The third-party user of the property is not using it to generate income, other than  
 30 generating income for the charitable institution itself or for another purely public  
 31 charity or entity that would be entitled to the exemption if it owned the property; and

32 (B) All income generated from the rental of such property is used exclusively:

33 (i) For the charitable institution that owns the property;

34 (ii) For another purely public charity;

35 (iii) For another entity that would be entitled to the exemption if it owned the  
 36 property; or

37 (iv) To defray the actual costs of using the building to generate income for the  
 38 charitable institution, another purely public charity, or another entity that would be  
 39 entitled to the exemption if it owned the property."

#### 40 **SECTION 2.**

41 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of  
 42 State shall call and conduct an election as provided in this section for the purpose of  
 43 submitting this Act to the electors of the State of Georgia for approval or rejection. The  
 44 Secretary of State shall conduct that election on the date of the November, 2010, state-wide  
 45 general election. The Secretary of State shall issue the call and conduct that special election  
 46 as provided by general law. The Secretary of State shall cause the date and purpose of the  
 47 special election to be published in the official organ of each county in the state once a week  
 48 for two weeks immediately preceding the date of the referendum. The ballot shall have  
 49 written or printed thereon the following:

50 "( ) YES Shall the Act be approved which provides for conditions under which a  
 51 charitable institution receiving an exemption from ad valorem taxation may

52 ( ) NO rent or lease buildings for a fee without invalidating such exemption?"

53 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons  
 54 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes  
 55 cast on such question are for approval of the Act, then Section 1 of this Act shall become  
 56 effective on January 1, 2011, and shall apply to all taxable years beginning on or after that  
 57 date. If Section 1 of this Act is not so approved or if the election is not conducted as  
 58 provided in this section, Section 1 of this Act shall not become effective, and this Act shall  
 59 be automatically repealed on the first day of January immediately following that election  
 60 date.

61 **SECTION 3.**

62 Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon  
63 its approval by the Governor or upon its becoming law without such approval.

64 **SECTION 4.**

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