

House Resolution 179

By: Representatives Levitas of the 82<sup>nd</sup>, Wilkinson of the 52<sup>nd</sup>, Jerguson of the 22<sup>nd</sup>, Lunsford of the 110<sup>th</sup>, Cheokas of the 134<sup>th</sup>, and others

## A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide for ad valorem tax valuation  
2 and appeal procedures; to provide for the submission of this amendment for ratification or  
3 rejection; and for other purposes.

4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

### 5 SECTION 1.

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

8 "Paragraph VI. *Ad valorem tax valuation and appeal procedures.* (a) For purposes of  
9 this Paragraph, the term:

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

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

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

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

21 (5) 'Homestead property' means the homestead as defined and qualified by general law  
22 for general law homestead exemptions.

23 (6) 'Immediate family member' means the spouse, child, stepchild, child's spouse,  
24 stepchild's spouse, grandchild, stepgrandchild, grandchild's spouse, stepgrandchild's  
25 spouse, parent, stepparent, parent-in-law, sibling-in-law, niece, nephew,  
26 stepparent-in-law, sibling, or stepsibling of the seller.

27 (7) 'Local taxing jurisdiction's appraisal valuation' or 'local taxing jurisdiction's  
28 valuation' means an appraisal valuation or valuation obtained by a county, municipality,  
29 or county or independent school district pursuant to this Paragraph.

30 (8) 'Municipal ad valorem taxes' means all ad valorem taxes for municipal purposes  
31 levied by, for, or on behalf of a municipality, including, but not limited to, taxes to pay  
32 interest on and to retire municipal bonded indebtedness.

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

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

41 (11) 'School district ad valorem taxes' means all ad valorem taxes for educational  
42 purposes levied by, for, or on behalf of a county or independent school district, including,  
43 but not limited to, taxes to pay interest on and to retire school district bonded  
44 indebtedness.

45 (12) 'Taxpayer' means a person or entity subject to county, municipal, or school district  
46 ad valorem taxes for real property owned by the person or entity as a homestead or as  
47 nonhomestead property.

48 (13) 'Taxpayer's appraisal valuation' or 'taxpayer's valuation' means an appraisal  
49 valuation or valuation obtained by a taxpayer pursuant to this Paragraph.

50 (b) The procedures specified in this Paragraph shall govern all appeals of ad valorem tax  
51 assessments regarding county ad valorem taxes, municipal ad valorem taxes, or school  
52 district ad valorem taxes.

53 (c) For purposes of determining valuation pursuant to this Paragraph, the local taxing  
54 jurisdiction shall obtain an appraisal valuation and shall provide such appraisal valuation  
55 to the taxpayer in a written appraisal report documenting the fair market value of the  
56 property, subject to the following conditions:

57 (1) If the taxpayer disagrees with the local taxing jurisdiction's appraisal valuation, then  
58 the taxpayer, within 45 days of receipt of the local taxing jurisdiction's appraisal report,  
59 may obtain a separate appraisal valuation; otherwise, the local taxing jurisdiction's  
60 appraisal valuation shall become the valuation of the homestead or nonhomestead  
61 property for purposes of this Paragraph;

62 (2) If the taxpayer obtains an appraisal valuation under this subparagraph within 45  
63 days of receipt of the local taxing jurisdiction's appraisal report and if the difference

64 between the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal  
65 valuation is 20 percent or less, then the valuation of such property for the purpose of any  
66 exemption granted by this Paragraph shall be the taxpayer's appraisal valuation; provided,  
67 however, that before the taxpayer's appraisal valuation shall become effective, the  
68 taxpayer shall provide the taxpayer's appraisal valuation to the appropriate local taxing  
69 jurisdiction via certified mail, return receipt requested, via priority mail, delivery  
70 confirmation requested, or via statutory overnight delivery; and

71 (3) If the difference between the taxpayer's appraisal valuation and the local taxing  
72 jurisdiction's appraisal valuation exceeds 20 percent and if the local taxing jurisdiction  
73 does not agree to the valuation determined by the taxpayer's appraisal valuation, then the  
74 local taxing jurisdiction and taxpayer shall agree to an arbitrator or shall apply to the  
75 superior court of the county, on a form approved by the clerk of the court, to appoint an  
76 arbitrator. The cost of the application shall be borne by the local taxing jurisdiction,  
77 which cost the General Assembly is authorized to establish by general law but which  
78 shall otherwise be established by the clerk of the superior court of each county. Unless  
79 the General Assembly shall provide by general law otherwise, such cost shall not exceed  
80 \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal  
81 valuations is closer to the fair market value of the homestead or nonhomestead property,  
82 and the closer appraisal valuation shall become the valuation of the homestead or  
83 nonhomestead property for purposes of this Paragraph. The cost for the service of the  
84 arbitrator shall be borne equally by the taxpayer and by the local taxing jurisdiction.

85 (d) At any time after the taxpayer's valuation is determined pursuant to this Paragraph,  
86 a taxpayer may seek a new determination of value of the homestead or nonhomestead  
87 property. In such case, the taxpayer shall obtain an appraisal valuation and shall provide  
88 such appraisal valuation to the local taxing jurisdiction in a written appraisal report  
89 documenting the fair market value of the property, subject to the following conditions:

90 (1) If the taxing jurisdiction disagrees with the taxpayer's appraisal valuation, then the  
91 taxing jurisdiction, within 45 days of receipt of the taxpayer's appraisal report, may obtain  
92 a separate appraisal valuation; otherwise, the taxpayer's appraisal valuation shall become  
93 the valuation of the homestead or nonhomestead property for purposes of this Paragraph;

94 (2) If the taxing jurisdiction obtains an appraisal valuation under this subparagraph  
95 within 45 days of receipt of the taxpayer's appraisal report and if the difference between  
96 the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal valuation  
97 is 20 percent or less, then the valuation of such property for the purpose of any exemption  
98 granted by this Paragraph shall be the taxpayer's appraisal valuation; provided, however,  
99 that before the taxpayer's appraisal valuation shall become effective, the taxpayer shall  
100 provide the taxpayer's appraisal valuation to the appropriate local taxing jurisdiction via

101 certified mail, return receipt requested, via priority mail, delivery confirmation requested,  
102 or via statutory overnight delivery; and

103 (3) If the difference between the taxpayer's appraisal valuation and the local taxing  
104 jurisdiction's appraisal valuation exceeds 20 percent and if the local taxing jurisdiction  
105 does not agree to the valuation determined by the taxpayer's appraisal valuation, then the  
106 local taxing jurisdiction and taxpayer shall agree to an arbitrator or shall apply to the  
107 superior court of the county, on a form approved by the clerk of the court, to appoint an  
108 arbitrator. The cost of the application shall be borne by the local taxing jurisdiction,  
109 which cost the General Assembly is authorized to establish by general law but which  
110 shall otherwise be established by the clerk of the superior court of each county. Unless  
111 the General Assembly shall provide by general law otherwise, such cost shall not exceed  
112 \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal  
113 valuations is closer to the fair market value of the homestead or nonhomestead property,  
114 and the closer appraisal valuation shall become the valuation of the homestead or  
115 nonhomestead property for purposes of this Paragraph. The cost for the service of the  
116 arbitrator shall be borne equally by the taxpayer and by the local taxing jurisdiction.

117 (e) Any valuation determined under this Paragraph shall be contingent upon the purchase  
118 being a bona fide, arm's length transaction. The local taxing jurisdiction shall be permitted  
119 to challenge whether a purchase of a homestead or nonhomestead property was a bona fide,  
120 arm's length transaction under the following conditions:

121 (1) Where the purchase was made, directly or indirectly, by a person or by an entity  
122 controlled by such person or in which such person has a 20 percent or greater interest in  
123 the purchasing entity, which person is an immediate family member of the seller or, in  
124 the case of a seller that is an entity, by a person who is an immediate family member of  
125 a person who controls or who has a 20 percent or greater ownership interest in the selling  
126 entity;

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

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

130 (f) A taxpayer obtaining a homestead or nonhomestead property through bequest,  
131 inheritance, foreclosure, or in-kind transfer shall obtain an appraisal of the homestead or  
132 nonhomestead property for purposes of establishing valuation for purposes of this  
133 Paragraph. If the local taxing jurisdiction disagrees with the appraisal valuation obtained  
134 by the taxpayer, then the local taxing jurisdiction may seek its own appraisal valuation  
135 pursuant to the provisions of subparagraph (c) of this Paragraph.

136 (g) When, after purchasing a homestead or nonhomestead property, a taxpayer borrows  
137 money or is otherwise extended credit at such taxpayer's request based on the value of such

138 homestead or nonhomestead property, which value exceeds the last valuation established  
139 under this Paragraph, as adjusted by any applicable subparagraphs of this Paragraph, the  
140 higher valuation shall become the value of the homestead or nonhomestead property for  
141 purposes of this Paragraph."

142 **SECTION 2.**

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

146 "( ) YES Shall the Constitution of Georgia be amended so as to provide for ad

147 ( ) NO valorem tax valuation and appeal procedures?"

148 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

149 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If

150 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall

151 become a part of the Constitution of this state.