

House Bill 548

By: Representative Carson of the 46th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxes, so as to provide for an alternative homestead option sales and use tax; to
3 provide for a short title; to provide for definitions; to provide for creation of special districts;
4 to provide for procedures, conditions, and limitations regarding the imposition, collection,
5 administration, and termination of such tax; to provide that referendum approval of such
6 alternative homestead option sales and use tax shall constitute approval of a local Act
7 providing for a corresponding homestead exemption and that termination by referendum of
8 such tax shall constitute the referendum approval of the repeal of such local Act which
9 provided for the corresponding homestead exemption; to provide for powers, duties, and
10 authority of the state revenue commissioner; to provide for related matters; to provide for an
11 effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
15 taxes, is amended by adding a new article, relating to an alternative homestead option sales
16 and use tax, to read as follows:

17 style="text-align:center">"ARTICLE 2B

18 48-8-109.1.

19 This article shall be known and may be cited as the 'Alternative Homestead Option Sales
20 and Use Tax Act.'

21 48-8-109.2.

22 As used in this article, the term:

23 (1) 'Ad valorem taxes for county purposes' means any and all ad valorem taxes for
 24 county maintenance and operation purposes levied by, for, or on behalf of the county,
 25 excluding taxes to retire general obligation bonded indebtedness of the county.

26 (2) 'Building and construction materials' means all building and construction materials,
 27 supplies, fixtures, or equipment, any combination of such items, and any other leased or
 28 purchased articles when the materials, supplies, fixtures, equipment, or articles are to be
 29 utilized or consumed during construction or are to be incorporated into construction work
 30 pursuant to a bona fide written construction contract.

31 (3) 'County millage rate' means the net ad valorem tax millage rate levied by a county
 32 for county purposes and applying to qualified homesteads in the county, including any
 33 millage levied for those special districts reported on the 2014 ad valorem tax digest
 34 certified to and received by the state revenue commissioner on or before December 31,
 35 2014, but not including any millage levied for purposes of bonded indebtedness and not
 36 including any millage levied on behalf of a county school district for county educational
 37 purposes, a municipality for municipal purposes, or an independent school district for
 38 educational purposes.

39 (4) 'Homestead' shall have the same meaning as provided in Code Section 48-5-40, with
 40 the additional qualification that it shall include only the primary residence and not more
 41 than five contiguous acres of land immediately surrounding such residence.

42 48-8-109.3.

43 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
 44 Constitution of this state, there are created within this state 159 special districts. The
 45 geographical boundary of each county shall correspond with and shall be conterminous
 46 with the geographical boundary of one of the 159 special districts.

47 (b) When the imposition of a local sales and use tax is authorized according to the
 48 procedures provided in this article within a special district, the county whose geographical
 49 boundary is conterminous with that of the special district shall levy such tax at the rate of
 50 1 percent. Except as to rate, such tax shall correspond to the tax imposed and administered
 51 by Article 1 of this chapter. No item or transaction which is not subject to taxation by
 52 Article 1 of this chapter shall be subject to the tax under this article, except that the tax
 53 under this article shall be applicable to sales of motor fuels as prepaid local tax as that term
 54 is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food
 55 ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of
 56 Code Section 48-8-3.

57 (c) The proceeds of the tax under this article shall be used only for the purpose of funding
 58 services within a special district equal to the revenue lost to the homestead exemption as

59 provided in subparagraph (c)(2)(A) of Code Section 48-8-109.5. In the event excess funds
60 remain following the expenditure for such purpose, such excess funds shall be expended
61 as provided in either subparagraph (c)(2)(B) or (c)(2)(C) of Code Section 48-8-109.5, as
62 determined by the resolution adopted pursuant to Code Section 48-8-109.4 and voter
63 approval.

64 (d) The tax under this article shall only be levied in a special district following the
65 enactment of a local Act which provides for a homestead exemption of an amount to be
66 determined from the amount of sales and use tax collected under this article. Such
67 exemption shall commence on January 1 of the year specified in such local Act and shall
68 be funded with proceeds under this article. Any such local Act shall incorporate by
69 reference the terms and conditions specified under this article and the homestead
70 exemption provided in such local Act shall be in addition to and not in lieu of any other
71 homestead exemption applicable to county taxes for county purposes within the special
72 district. Notwithstanding any provision of such local Act to the contrary, the referendum
73 required to be conducted for approval thereof shall be the referendum required under
74 subsection (a) of Code Section 48-8-109.4.

75 (e) No sales and use tax shall be levied in a special district under this article in which a tax
76 is levied and collected under Article 2 of this chapter.

77 48-8-109.4.

78 (a) Whenever the governing authority of any county whose geographic boundary is
79 conterminous with that of a special district wishes to submit to the electors of such special
80 district the question of whether the tax under this article, the corresponding homestead
81 exemption, and the method of expending excess proceeds shall be approved and
82 implemented, any such governing authority shall notify the election superintendent of such
83 county by forwarding to the superintendent a copy of a resolution of the governing
84 authority calling for a referendum election. Upon receipt of the resolution, it shall be the
85 duty of the election superintendent to issue the call for an election for the purpose of
86 submitting the question of imposing such tax and implementing such homestead exemption
87 to the voters of the special district for approval or rejection. The election superintendent
88 shall issue the call and shall conduct the election on a date and in the manner authorized
89 under Code Section 21-2-540. The election superintendent shall cause the date and
90 purpose of the election to be published once a week for two weeks immediately preceding
91 the date of the election in the official organ of such county. The ballot shall have written
92 or printed thereon the following:

93 '() YES Shall the local Act providing for a homestead exemption be approved
 94 within the special district within _____ County, shall the 1
 95 () NO percent alternative HOST tax be levied to fund such homestead exemption,
 96 and shall any excess proceeds be used for the purpose of _____ ?'

97 Notwithstanding any other provision of law to the contrary, the ballot question referred to
 98 in this subsection shall precede any and all other ballot questions calling for the levy or
 99 imposition of any other sales and use tax which are to appear on the same ballot.

100 (b) All persons desiring to vote in favor of the question shall vote 'Yes,' and all persons
 101 opposed to the question shall vote 'No.' If more than one-half of the votes cast are in favor
 102 of the question, then such tax shall be levied in accordance with this article and such local
 103 Act shall be deemed approved and shall become effective pursuant to Article VII, Section
 104 II, Paragraph II(a)(2) of the Constitution; otherwise, such tax shall not be levied and such
 105 local Act shall not be approved. It shall be the duty of the election superintendent to hold
 106 and conduct such elections under the same rules and regulations as govern special
 107 elections. It shall be the superintendent's further duty to canvass the returns, declare the
 108 result of the election, and certify the result to the Secretary of State and to the
 109 commissioner. The expense of the election shall be borne by the county whose
 110 geographical boundary is conterminous with that of the special district holding the election.

111 (c) If the imposition of the tax under this article is approved as provided by subsections
 112 (a) and (b) of this Code section, the governing authority of the county whose geographical
 113 boundary is conterminous with that of the special district shall adopt a resolution during
 114 the first 30 days following the certification of the result of the election imposing such tax
 115 on behalf of the county whose geographical boundary is conterminous with that of the
 116 special district. The resolution shall be effective on the first day of the next succeeding
 117 calendar quarter which begins more than 80 days after the adoption of the resolution. With
 118 respect to services which are billed on a regular monthly basis, however, the resolution
 119 shall become effective with the first regular billing period coinciding with or following the
 120 otherwise effective date of the resolution. A certified copy of the resolution shall be
 121 forwarded to the commissioner so that it will be received within five days after its
 122 adoption.

123 (d)(1) Whenever the governing authority of any county whose geographic boundary is
 124 conterminous with that of a special district wishes to submit to the electors of such
 125 special district the question of whether the method of expending excess proceeds of the
 126 tax under this article should be changed, any such governing authority shall notify the
 127 election superintendent of such county by forwarding to the superintendent a copy of a
 128 resolution of the governing authority calling for a referendum election. Upon receipt of
 129 the resolution, it shall be the duty of the election superintendent to issue the call for an

130 election for the purpose of submitting the question of changing the method of expending
 131 excess proceeds to the voters of the special district for approval or rejection. The election
 132 superintendent shall issue the call and shall conduct the election on a date and in the
 133 manner authorized under Code Section 21-2-540. The election superintendent shall cause
 134 the date and purpose of the election to be published once a week for two weeks
 135 immediately preceding the date of the election in the official organ of such county. The
 136 ballot shall have written or printed thereon the following:

137 ' () YES Shall the method of expending the excess proceeds of the 1 percent
 138 alternative HOST tax within the special district within _____
 139 () NO County be changed to the purpose of _____ ?'

140 (2) All persons desiring to vote in favor of the question shall vote 'Yes,' and all persons
 141 opposed to the question shall vote 'No.' If more than one-half of the votes cast are in
 142 favor of the question, then the method of expending the excess proceeds of such tax shall
 143 be changed; otherwise, the method of expending the excess proceeds such tax shall not
 144 be changed. It shall be the duty of the election superintendent to hold and conduct such
 145 election under the same rules and regulations as govern special elections. It shall be the
 146 superintendent's further duty to canvass the returns, declare the result of the election, and
 147 certify the result to the Secretary of State and to the commissioner. The expense of the
 148 election shall be borne by the county whose geographical boundary is conterminous with
 149 that of the special district holding the election.

150 48-8-109.5.

151 (a)(1) The tax under this article shall be exclusively administered and collected by the
 152 commissioner for the use and benefit of each county whose geographical boundary is
 153 conterminous with that of a special district. Such administration and collection shall be
 154 accomplished in the same manner and subject to the same applicable provisions,
 155 procedures, and penalties provided in Article 1 of this chapter except that the tax under
 156 this article shall be applicable to sales of motor fuels as prepaid local tax as such term is
 157 defined in Code Section 48-8-2; provided, however, that all moneys collected from each
 158 taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes
 159 owed the state.

160 (2) Dealers shall be allowed a percentage of the amount of the sales and use tax due and
 161 accounted for and shall be reimbursed in the form of a deduction in submitting, reporting,
 162 and paying the amount due if such amount is not delinquent at the time of payment. The
 163 deduction shall be at the rate and subject to the requirements specified under subsections
 164 (b) through (f) of Code Section 48-8-50.

165 (b) Each sales and use tax return remitting sales and use taxes collected under this article
 166 shall separately identify the location of each retail establishment at which any of the sales
 167 and use taxes remitted were collected and shall specify the amount of sales and the amount
 168 of taxes collected at each establishment for the period covered by the return in order to
 169 facilitate the determination by the commissioner that all sales and use taxes imposed by this
 170 article are collected and distributed according to situs of sale.

171 (c) The proceeds of the tax under this article collected by the commissioner in a special
 172 district shall be disbursed as soon as practicable after collection as follows:

173 (1) One percent of the amount collected shall be paid into the general fund of the state
 174 treasury in order to defray the costs of administration; and

175 (2) Except for the percentage provided in paragraph (1) of this subsection, the remaining
 176 proceeds of the tax shall be distributed to the governing authority of the county whose
 177 geographical boundary is conterminous with that of the special district. Such county shall
 178 expend such proceeds as follows:

179 (A) Such proceeds shall be expended for the purpose of funding services within the
 180 special district equal to the revenue lost to the homestead exemption as provided in this
 181 Code section as follows:

182 (i) The board of commissioners shall notify the tax commissioner of the amount of
 183 available proceeds; and

184 (ii) The tax commissioner shall apply such proceeds to reduce the otherwise
 185 applicable ad valorem taxes for county purposes on each homestead qualified to
 186 receive the alternative homestead option exemption which ad valorem tax liability is
 187 attributable to the county millage rate. Such reduction shall be applied after the
 188 granting of all other homestead exemptions applicable to the county millage rate. The
 189 alternative homestead option exemption amount granted to any homestead shall not
 190 in any case exceed the amount of otherwise applicable ad valorem taxes for county
 191 purposes on each homestead which liability is attributable to the county millage rate.
 192 Any remaining excess proceeds shall be expended pursuant to either subparagraph (B)
 193 or (C) of this paragraph;

194 (B)(i) In the event that no tax is in effect in the special district under Part 1 of Article
 195 3 of this chapter and that excess proceeds remain following the expenditure of
 196 proceeds under subparagraph (A) of this paragraph such that the homestead
 197 exemption provided for under this article is sufficient to equate to the complete
 198 elimination of ad valorem taxes for county purposes for each taxpayer receiving such
 199 exemption, then pursuant to the resolution adopted under Code Section 48-8-109.4
 200 and the approval of the voters, such remaining proceeds shall be expended for the
 201 purpose of funding capital outlay projects as follows:

202 (I) The governing authority of the county whose geographical boundary is
 203 conterminous with that of the special district shall establish the capital factor which
 204 shall not exceed .200; and

205 (II) Capital outlay projects shall be funded from such remaining excess proceeds
 206 in an amount equal to the product of the capital factor multiplied by the net amount
 207 of the sales and use tax proceeds collected under this article for the previous
 208 calendar year only to the extent that the amount of such remaining excess proceeds
 209 will permit.

210 (ii) If any of such proceeds remain following the distribution provided for in
 211 subdivision (i) this subparagraph, then the millage rate levied for county purposes
 212 shall be rolled back in an amount equal to such remaining excess divided by the net
 213 taxable digest for county purposes after deducting all homestead exemptions,
 214 including the exemption under this article; and

215 (C) In the event that excess proceeds remain following the expenditure of proceeds
 216 under subparagraph (A) of this paragraph such that the homestead exemption provided
 217 for under this article is sufficient to equate to the complete elimination of ad valorem
 218 taxes for county purposes for each taxpayer receiving such exemption, then pursuant
 219 to the resolution adopted under Code Section 48-8-109.4 and the approval of the voters,
 220 such remaining proceeds shall be expended as provided in this subparagraph. The
 221 millage rate levied for county purposes shall be rolled back in an amount equal to such
 222 remaining excess divided by the net taxable digest for county purposes after deducting
 223 all homestead exemptions, including the exemption under this article.

224 48-8-109.6.

225 Where a local sales or use tax has been paid with respect to tangible personal property by
 226 the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction
 227 outside this state, the sales and use tax may be credited against the sales and use tax
 228 authorized to be imposed by this article upon the same property. If the amount of sales or
 229 use tax so paid is less than the amount of the use tax due under this article, the purchaser
 230 shall pay an amount equal to the difference between the amount paid in the other tax
 231 jurisdiction and the amount due under this article. The commissioner may require such
 232 proof of payment in another local tax jurisdiction as the commissioner deems necessary and
 233 proper. No credit shall be granted, however, against the tax under this article for tax paid
 234 in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to
 235 obtain a credit against any other local sales and use tax levied in the special district or in
 236 the county which is conterminous with the special district; and sales and use taxes so paid

237 in another jurisdiction shall be credited first against the tax under this article and then
 238 against the sales and use tax levied under Article 3 of this chapter, if applicable.

239 48-8-109.7.

240 (a) Whenever the governing authority of any county whose geographic boundary is
 241 conterminous with that of the special district in which the tax under this article is being
 242 levied wishes to submit to the electors of the special district the question of whether such
 243 tax shall be terminated and the corresponding homestead exemption repealed, such
 244 governing authority shall notify the election superintendent of such county by forwarding
 245 to the superintendent a copy of a resolution of the governing authority calling for the
 246 referendum election. Upon receipt of the resolution, it shall be the duty of the election
 247 superintendent to issue the call for an election for the purpose of submitting the question
 248 of terminating the levy of such tax and repealing such homestead exemption to the voters
 249 of the special district for approval or rejection. The election superintendent shall issue the
 250 call and shall conduct the election on a date and in the manner authorized under Code
 251 Section 21-2-540. The election superintendent shall cause the date and purpose of the
 252 election to be published once a week for two weeks immediately preceding the date of the
 253 election in the official organ of such county. The ballot shall have written or printed
 254 thereon the following:

255 ' () YES Shall the alternative homestead option sales and use tax being levied
 256 within the special district within _____ County be terminated,
 257 () NO and shall the local Act providing for the corresponding homestead
 258 exemption be repealed?'

259 (b) All persons desiring to vote in favor of the question shall vote 'Yes,' and those persons
 260 opposed to the question shall vote 'No.' If more than one-half of the votes cast are in favor
 261 of the question, then such tax shall cease to be levied and the local Act providing for the
 262 corresponding homestead exemption shall stand repealed on the last day of the taxable year
 263 following the taxable year in which the commissioner receives the certification of the result
 264 of the election; otherwise, such tax shall continue to be levied and such homestead
 265 exemption shall continue in force and effect. It shall be the duty of the election
 266 superintendent to hold and conduct such elections under the same rules and regulations as
 267 govern special elections. It shall be the superintendent's further duty to canvass the returns,
 268 declare the result of the election, and certify the result to the Secretary of State and to the
 269 commissioner. The expense of the election shall be borne by the county whose
 270 geographical boundary is conterminous with that of the special district holding the election.

271 48-8-109.8.

272 No tax under this article shall be imposed upon the sale of tangible personal property which
273 is ordered by and delivered to the purchaser at a point outside the geographical area of the
274 special district in which the tax is imposed under this article regardless of the point at
275 which title passes, if the delivery is made by the seller's vehicle, United States mail, or
276 common carrier or by a licensed private or contract carrier.

277 48-8-109.9.

278 No tax under this article shall be imposed in such special district upon the sale or use of
279 building and construction materials when the contract pursuant to which the building and
280 construction materials are purchased or used was advertised for bid prior to approval of the
281 levy of such tax by the county whose geographical boundary is conterminous with that of
282 the special district and the contract was entered into as a result of a bid actually submitted
283 in response to the advertisement prior to approval of the levy of such tax.

284 48-8-109.10.

285 The commissioner shall have the power and authority to promulgate such rules and
286 regulations as shall be necessary for the effective and efficient administration and
287 enforcement of the collection of the tax authorized to be imposed by this article."

288 **SECTION 2.**

289 This Act shall become effective upon its approval by the Governor or upon its becoming law
290 without such approval.

291 **SECTION 3.**

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