

House Bill 195

By: Representatives Harrell of the 106th, Gardner of the 57th, and Oliver of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia
2 Annotated, relating to property tax exemptions, so as to allow certain for profit corporations
3 to participate in the indirect ownership of a home for the mentally disabled for primarily
4 financing purposes; to provide for procedures, conditions, and limitations; to provide for a
5 referendum; to provide for a contingent effective date; to provide for automatic repeal under
6 certain circumstances; to provide for applicability; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,
11 relating to property tax exemptions, is amended by revising paragraph (13) of subsection (a)
12 of Code Section 48-5-41, relating to property exempt from taxation, as follows:

13 "(13)(A) All property of any nonprofit home for the mentally disabled used in
14 connection with its operation when the home for the mentally disabled has no
15 stockholders and no income or profit which is distributed to or for the benefit of any
16 private person and when the home is qualified as an exempt organization under the
17 United States Internal Revenue Code of 1954, Section 501(c)(3), as amended, and Code
18 Section 48-7-25, and is subject to the laws of this state regulating nonprofit and
19 charitable corporations.

20 (B) Property exempted by this paragraph shall not include property of a home for the
21 mentally disabled held primarily for investment purposes or used for purposes unrelated
22 to the providing of residential or health care to the mentally disabled;

23 (C) For purposes of this paragraph, indirect ownership of such home for the mentally
24 disabled through a limited liability company that is fully owned by such exempt
25 organization shall be considered direct ownership.

26 (D) For purposes of this paragraph, the participation of a for profit corporation or other
 27 entity or person in the indirect ownership of such home for the mentally disabled, as a
 28 member of the limited liability company or limited partner of the partnership that is the
 29 direct owner of such home, for the purpose of providing financing for the construction
 30 or renovation of such home in return for a share of any tax credits pursuant to United
 31 States Internal Revenue Code of 1986, Section 42, as amended, and which relinquishes
 32 all ownership of such home upon the completion of its obligation under the financing
 33 agreement, shall not operate to disqualify such home for the exemption under this
 34 paragraph:"

35 **SECTION 2.**

36 The Secretary of State shall call and conduct an election as provided in this section for the
 37 purpose of submitting this Act to the electors of the entire state for approval or rejection. The
 38 Secretary of State shall conduct such election on the Tuesday next following the first
 39 Monday in November, 2018, and shall issue the call and conduct that election as provided
 40 by general law. The Secretary of State shall cause the date and purpose of the election to be
 41 published once a week for two weeks immediately preceding the date thereof in the official
 42 organ of each county in the state. The ballot shall have written or printed thereon the words:

43 "() YES Shall the Act be approved which provides an exemption from ad valorem
 44 () NO taxes on homes for the mentally disabled if they include for profit
 45 corporations in the ownership structure for financing purposes?"

46 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
 47 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
 48 such question are for approval of the Act, Section 1 of this Act shall become of full force and
 49 effect on January 1, 2019, and shall be applicable to all tax years beginning on or after such
 50 date. If the Act is not so approved or if the election is not conducted as provided in this
 51 section, Section 1 of this Act shall not become effective, and this Act shall be automatically
 52 repealed on the first day of January immediately following that election date. It shall be the
 53 duty of each county election superintendent to certify the result thereof to the Secretary of
 54 State.

55 **SECTION 3.**

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

58 **SECTION 4.**

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