

House Bill 1102 (AS PASSED HOUSE AND SENATE)

By: Representatives Rutledge of the 109th and Kirby of the 114th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to homestead option sales and use tax, so as to provide for a revised homestead
3 option sales tax; to provide for a revised distribution of the proceeds from the levy of an
4 equalized homestead option sales and use tax; to provide for the levy of a special purpose
5 local option sales and use tax in certain counties; to provide for elector petitions and
6 referenda; to provide for procedures, conditions, and limitations; to provide for a short title;
7 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to
12 homestead option sales and use tax, is amended by adding a new part to read as follows:

13 style="text-align:center">"Part 3

14 48-8-109.15.

15 This part shall be known and may be cited as the 'Revised Homestead Option Sales and
16 Use Tax Act of 2020.'

17 48-8-109.16.

18 In any county where a homestead option sales and use tax under Part 1 of this article is
19 being levied, the question of whether to suspend the sales and use tax authorized by Code
20 Section 48-8-102 and replace such tax with a sales and use tax authorized by this part shall
21 be submitted to the electors of the special district in the manner provided for in Code
22 Section 48-8-109.18. If the sales and use tax is not approved by the electors, then the

23 homestead option sales and use tax under Part 1 of this article shall continue in full force
24 and effect.

25 48-8-109.17.

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

30 (b) When the imposition of a local sales and use tax is authorized according to the
31 procedures provided in this part within a special district, the county whose geographical
32 boundary is conterminous with that of the special district shall levy a local sales and use
33 tax at the same rate as provided in Part 1 of this article. Except as otherwise provided in
34 this part, the local sales and use tax shall correspond to the tax imposed and administered
35 by Part 1 of this article. The local sales and use tax levied pursuant to this part shall apply
36 to all items and transactions subject to taxation pursuant to Part 1 of this article. No item
37 or transaction which is not subject to taxation pursuant to Part 1 of this article shall be
38 subject to the tax levied pursuant to this part.

39 (c) No sales and use tax shall be levied in a special district under this part in which a tax
40 is levied and collected under Article 2 of this chapter.

41 48-8-109.18.

42 (a) Whenever a petition is filed with the election superintendent of any county whose
43 geographical boundary is conterminous with that of the special district and such petition
44 is signed by at least 10 percent of the electors registered to vote in the last general election
45 directing such election superintendent to submit to the electors of the special district the
46 question of whether the sales and use tax authorized by this part shall be imposed, the
47 election superintendent shall determine the validity of such petition within 60 days of its
48 being filed. In the event the election superintendent determines that such petition is valid,
49 it shall be the duty of the election superintendent to issue the call for an election for the
50 purpose of submitting the question of the imposition of the sales and use tax to the voters
51 of the special district for approval or rejection. The election superintendent shall issue the
52 call and shall conduct the election on a date and in the manner authorized under Code
53 Section 21-2-540. The election superintendent shall cause the date and purpose of the
54 election to be published once a week for two weeks immediately preceding the date of the
55 election in the official organ of such county. The ballot shall have written or printed
56 thereon the following ballot question:

57 '() YES Shall the homestead option sales and use tax be suspended within the
 58 () NO special district within _____ County and a revised homestead
 59 option sales and use tax be levied for the purpose of reducing the ad
 60 valorem property tax millage rates levied by county and municipal
 61 governments on homestead properties, with 99 percent of such tax being
 62 used to roll back ad valorem property tax millage rates?'

63 Notwithstanding any other provision of law to the contrary, the ballot question referred to
 64 in this subsection shall precede any and all other ballot questions which are to appear on
 65 the same ballot.

66 (b) All persons desiring to vote in favor of levying the sales and use tax shall vote 'Yes,'
 67 and those persons opposed to levying the tax shall vote 'No.' If more than one-half of the
 68 votes cast are in favor of levying the tax, then the tax shall be levied in accordance with this
 69 part; otherwise, the sales and use tax may not be levied, and the question of the imposition
 70 of the sales and use tax may not again be submitted to the voters of the special district until
 71 after 24 months immediately following the month in which the election was held. It shall
 72 be the duty of the election superintendent to hold and conduct such elections under the
 73 same rules and regulations as govern special elections. It shall be the superintendent's
 74 further duty to canvass the returns, declare the result of the election, and certify the result
 75 to the Secretary of State and to the commissioner. The expense of the election shall be
 76 borne by the county whose geographical boundary is conterminous with that of the special
 77 district holding the election.

78 (c) If the imposition of the sales and use tax provided in this part is approved in a
 79 referendum election as provided by subsections (a) and (b) of this Code section, the
 80 governing authority of the county whose geographical boundary is conterminous with that
 81 of the special district shall adopt a resolution during the first 30 days following the
 82 certification of the result of the election imposing the sales and use tax authorized in this
 83 part on behalf of the county whose geographical boundary is conterminous with that of the
 84 special district. The resolution shall be effective on the first day of the next succeeding
 85 calendar quarter which begins more than 80 days after the adoption of the resolution. With
 86 respect to services which are billed on a regular monthly basis, however, the resolution
 87 shall become effective with the first regular billing period coinciding with or following the
 88 otherwise effective date of the resolution. A certified copy of the resolution shall be
 89 forwarded to the commissioner so that it will be received within five days after its
 90 adoption.

91 48-8-109.19.

92 (a) The sales and use tax levied pursuant to this part shall be exclusively administered and
 93 collected by the commissioner for the use and benefit of each county whose geographical
 94 boundary is conterminous with that of a special district. Such administration and collection
 95 shall be accomplished in the same manner and subject to the same applicable provisions,
 96 procedures, and penalties provided in Article 1 of this chapter except that the sales and use
 97 tax provided in this part shall be applicable to sales of motor fuels as prepaid local tax as
 98 such term is defined in Code Section 48-8-2, to the same extent that sales of motor fuels
 99 are subject to taxation pursuant to Part 1 of this article; provided, however, that all moneys
 100 collected from each taxpayer by the commissioner shall be applied first to such taxpayer's
 101 liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of
 102 the sales and use tax due and accounted for and shall be reimbursed in the form of a
 103 deduction in submitting, reporting, and paying the amount due if such amount is not
 104 delinquent at the time of payment. The deduction shall be at the rate and subject to the
 105 requirements specified under subsections (b) through (f) of Code Section 48-8-50.

106 (b) Each sales and use tax return remitting sales and use taxes collected under this part
 107 shall separately identify the location of each retail establishment at which any of the sales
 108 and use taxes remitted were collected and shall specify the amount of sales and the amount
 109 of taxes collected at each establishment for the period covered by the return in order to
 110 facilitate the determination by the commissioner that all sales and use taxes imposed by this
 111 part are collected and distributed according to situs of sale.

112 (c) The proceeds of the sales and use tax collected by the commissioner in each special
 113 district under this part shall be disbursed as soon as practicable after collection as follows:

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

116 (2) The remaining proceeds shall be disbursed to the governing authority of the county
 117 whose geographical boundary is conterminous with that of the special district, and each
 118 municipality located wholly or partially therein, and shall be utilized as follows:

119 (A) The proceeds shall be used to roll back, and eliminate if possible, the millage rates
 120 for any county ad valorem property tax line items levied uniformly throughout the
 121 county on homestead properties, including in all municipalities; and

122 (B) Any remaining proceeds shall be used to roll back at an equal and uniform rate
 123 across both of the following categories, and eliminate if possible:

124 (i) The millage rates for any county ad valorem property tax line items levied only
 125 in unincorporated portions of the county on homestead properties; and

126 (ii) The millage rates for any municipal ad valorem property tax line items levied in
 127 every municipality located wholly or partially in the county on homestead properties
 128 but not in unincorporated portions of the county.

129 If any municipality is located partially in the special district, then only that portion so
 130 located shall be considered in the calculations contained in this subsection.

131 (d) The form to collect ad valorem tax prepared by the county tax commissioner shall
 132 reflect the full amount owed by the taxpayer pursuant to the millage rates set by the county
 133 governing authority and any municipal governing authority. Under a separate heading, the
 134 form shall reflect the deductions from the gross ad valorem tax amount realized through
 135 the application of proceeds from the revised homestead option sales and use tax.

136 48-8-109.20.

137 Where a local sales or use tax has been paid with respect to tangible personal property by
 138 the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction
 139 outside this state, the sales and use tax may be credited against the sales and use tax
 140 authorized to be imposed by this part upon the same property. If the amount of sales or use
 141 tax so paid is less than the amount of the use tax due under this part, the purchaser shall pay
 142 an amount equal to the difference between the amount paid in the other tax jurisdiction and
 143 the amount due under this part. The commissioner may require such proof of payment in
 144 another local tax jurisdiction as the commissioner deems necessary and proper. No credit
 145 shall be granted, however, against the sales and use tax imposed under this part for tax paid
 146 in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to
 147 obtain a credit against any other local sales and use tax levied in the special district or in
 148 the county which is conterminous with the special district; and sales and use taxes so paid
 149 in another jurisdiction shall be credited first against the sales and use tax levied under this
 150 part and then against the sales and use tax levied under Article 3 of this chapter, if
 151 applicable.

152 48-8-109.21.

153 (a) Whenever the governing authority of any county whose geographical boundary is
 154 conterminous with that of the special district in which the sales and use tax authorized by
 155 this part is being levied wishes to submit to the electors of the special district the question
 156 of whether the sales and use tax authorized by this part shall be discontinued, the governing
 157 authority shall notify the election superintendent of the county whose geographical
 158 boundary is conterminous with that of the special district by forwarding to the
 159 superintendent a copy of a resolution of the governing authority calling for the referendum
 160 election. Upon receipt of the resolution, it shall be the duty of the election superintendent

161 to issue the call for an election for the purpose of submitting the question of discontinuing
 162 the levy of the sales and use tax to the voters of the special district for approval or rejection.
 163 The election superintendent shall issue the call and shall conduct the election on a date and
 164 in the manner authorized under Code Section 21-2-540. If such sales and use tax is
 165 repealed, then the sales and use tax under Part 1 of this article shall replace the sales and
 166 use tax that was imposed under this part. The election superintendent shall cause the date
 167 and purpose of the election to be published once a week for two weeks immediately
 168 preceding the date of the election in the official organ of such county. The ballot shall have
 169 written or printed thereon the following:

170 ' () YES Shall the revised homestead option sales and use tax being levied within
 171 () NO the special district within _____ County for the purpose of
 172 reducing the ad valorem property tax millage rates levied by county and
 173 municipal governments on homestead properties, with 99 percent of
 174 such tax being used to roll back ad valorem property tax millage rates,
 175 be terminated?'

176 (b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote
 177 'Yes,' and those persons opposed to discontinuing the tax shall vote 'No.' If more than
 178 one-half of the votes cast are in favor of discontinuing the sales and use tax, then the sales
 179 and use tax shall cease to be levied on the last day of the taxable year following the taxable
 180 year in which the commissioner receives the certification of the result of the election;
 181 otherwise, the sales and use tax shall continue to be levied, and the question of
 182 discontinuing the tax may not again be submitted to the voters of the special district until
 183 after 24 months immediately following the month in which the election was held. It shall
 184 be the duty of the election superintendent to hold and conduct such elections under the
 185 same rules and regulations as govern special elections. It shall be the superintendent's
 186 further duty to canvass the returns, declare and certify the result of the election, and certify
 187 the result to the Secretary of State and to the commissioner. The expense of the election
 188 shall be borne by the county whose geographical boundary is conterminous with that of the
 189 special district holding the election.

190 48-8-109.22.

191 No sales and use tax provided for in this part shall be imposed upon the sale of tangible
 192 personal property which is ordered by and delivered to the purchaser at a point outside the
 193 geographical area of the special district in which the sales and use tax is imposed under this
 194 part regardless of the point at which title passes, if the delivery is made by the seller's
 195 vehicle, United States mail, or common carrier or by private or contract carrier licensed by

196 the Federal Motor Carrier Safety Administration or the Georgia Department of Public
197 Safety.

198 48-8-109.23.

199 (a) As used in this Code section, the term 'building and construction materials' means all
200 building and construction materials, supplies, fixtures, or equipment, any combination of
201 such items, and any other leased or purchased articles when the materials, supplies,
202 fixtures, equipment, or articles are to be utilized or consumed during construction or are
203 to be incorporated into construction work pursuant to a bona fide written construction
204 contract.

205 (b) No sales and use tax provided for in this part shall be imposed in a special district upon
206 the sale or use of building and construction materials when the contract pursuant to which
207 the materials are purchased or used was advertised for bid prior to approval of the levy of
208 the sales and use tax by the county whose geographical boundary is conterminous with that
209 of the special district and the contract was entered into as a result of a bid actually
210 submitted in response to the advertisement prior to approval of the levy of the sales and use
211 tax.

212 48-8-109.24.

213 The commissioner shall have the power and authority to promulgate such rules and
214 regulations as shall be necessary for the effective and efficient administration and
215 enforcement of the collection of the sales and use tax authorized to be imposed by this
216 part."

217 **SECTION 2.**

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

220 **SECTION 3.**

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