

House Bill 729 (AS PASSED HOUSE AND SENATE)

By: Representatives Lupton of the 83rd, Roberts of the 52nd, and Oliver of the 82nd

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act to incorporate the City of Brookhaven in DeKalb County, approved
2 April 16, 2012 (Ga. L. 2012, p. 5527), as amended, particularly by an Act approved on May
3 7, 2013 (Ga. L. 2013, p. 4439), so as so as to modify the amount of the base year homestead
4 exemption; to provide for definitions; to provide for compliance with constitutional
5 requirements; to provide for a referendum, effective dates, automatic repeal, mandatory
6 execution of election, and judicial remedies regarding failure to comply; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 An Act to incorporate the City of Brookhaven in DeKalb County, approved April 16, 2012
11 (Ga. L. 2012, p. 5527), as amended, particularly by an Act approved on May 7, 2013 (Ga.
12 L. 2013, p. 4439), is amended by revising Section 5.08 as follows:

H. B. 729

"SECTION 5.08.

Homestead exemption; freeze.

(a) As used in this section, the term:

(1) 'Ad valorem taxes for municipal purposes' means all municipal ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) 'Base year' means the taxable year immediately preceding the taxable year in which the exemption under this section is first granted to the most recent owner of such homestead.

(3) 'Homestead' means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended, with the additional qualification that it shall include not more than five contiguous acres of homestead property.

(b) Each resident of the City of Brookhaven is granted an exemption on that person's homestead from City of Brookhaven ad valorem taxes for municipal purposes in an amount equal to 75 percent of the amount by which the current year assessed value of that homestead exceeds the base year assessed value of that homestead. This exemption shall not apply to taxes assessed on improvements to the homestead or additional land that is added to the homestead after January 1 of the base year. If any real property is added to or removed from the homestead, the base year assessed value shall be adjusted to reflect such addition or removal, and the exemption shall be recalculated accordingly. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent has previously filed or files an application with the governing authority of the City of Brookhaven, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of

39 the City of Brookhaven, or the designee thereof, to make a determination regarding the
40 initial and continuing eligibility of such owner for such exemption. The governing
41 authority of the City of Brookhaven, or the designee thereof, shall provide application
42 forms for this purpose.

43 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1
44 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to
45 year so long as the owner occupies the residence as a homestead. After a person has filed
46 the proper application as provided in subsection (c) of this section, it shall not be necessary
47 to make application thereafter for any year, and the exemption shall continue to be allowed
48 to such person. It shall be the duty of any person granted the homestead exemption under
49 subsection (b) of this section to notify the governing authority of the City of Brookhaven,
50 or the designee thereof, in the event that person for any reason becomes ineligible for that
51 exemption.

52 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
53 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
54 school district ad valorem taxes for educational purposes. The homestead exemption
55 granted by subsection (b) of this section shall be in addition to and not in lieu of any other
56 homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

57 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
58 beginning on or after January 1, 2024."

59 **SECTION 2.**

60 In accordance with the requirements of Article VII, Section II of the Constitution of the State
61 of Georgia, this Act shall not become law unless it receives the requisite two-thirds' majority
62 vote in both the Senate and the House of Representatives.

63

SECTION 3.

64 The municipal election superintendent of the City of Brookhaven shall call and conduct an
65 election as provided in this section for the purpose of submitting this Act to the electors of
66 the City of Brookhaven for approval or rejection. The municipal election superintendent
67 shall conduct that election on the Tuesday after the first Monday in November, 2023, and
68 shall issue the call and conduct that election as provided by general law. The municipal
69 election superintendent shall cause the date and purpose of the election to be published once
70 a week for two weeks immediately preceding the date thereof in the official organ of DeKalb
71 County. The ballot shall have written or printed thereon the words:

72 "() YES Shall the Act be approved which modifies the City of Brookhaven floating
73 homestead exemption from ad valorem taxation to ensure the long-term
74 () NO fiscal health of the city?"

75 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
76 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
77 such question are for approval of the Act, Section 1 of this Act shall become of full force and
78 effect on January 1, 2024. If the Act is not so approved or if the election is not conducted
79 as provided in this section, Section 1 of this Act shall not become effective, and this Act shall
80 be automatically repealed on the first day of July immediately following that election date.
81 The expense of such election shall be borne by the City of Brookhaven. It shall be the
82 municipal election superintendent's duty to certify the result thereof to the Secretary of State.
83 The provisions of this section shall be mandatory upon the municipal election superintendent
84 and are not intended as directory. If the municipal election superintendent fails or refuses
85 to comply with this section, any elector of the City of Brookhaven may apply for a writ of
86 mandamus to compel the municipal election superintendent to perform his or her duties
87 under this section. If the court finds that the municipal election superintendent has not
88 complied with this section, the court shall fashion appropriate relief requiring the municipal
89 election superintendent to call and conduct such election on the date required by this section

90 or on the next date authorized for special elections provided for in Code Section 21-2-540
91 of the O.C.G.A.

92 **SECTION 4.**

93 Except as otherwise provided in Section 3 of this Act, this Act shall become effective upon
94 its approval by the Governor or upon its becoming law without such approval.

95 **SECTION 5.**

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