

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 38

Special Session No. 1 of
2005

INTRODUCED BY HABAY, CALTAGIRONE, CAWLEY, DeLUCA, MUSTIO,
SCAVELLO, TIGUE, WILT, PETRARCA AND ROBERTS, OCTOBER 24, 2005

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 24, 2005

AN ACT

1 Providing for prohibition of levy or collection of tax on
2 homestead property, for the Homestead Property Tax
3 Elimination Fund, for imposition of sales and use tax, for
4 increase in personal income tax and for realty transfer tax.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Homestead
9 Property Tax Elimination Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Fund." The Homestead Property Tax Elimination Fund
15 established under section 4 (relating to Homestead Property Tax
16 Elimination Fund).

17 "Homestead property." The owner-occupied, primary residences
18 and the parcel of land within this Commonwealth on which the
19 residence is located and other improvements located on the

1 parcel. If a portion of the structure is used for a
2 nonresidential purpose, the homestead is equal to that portion
3 of the property used as the primary residence of the owner-
4 occupant. The term "homestead" shall have no effect, evidentiary
5 or otherwise, concerning the issue of whether property
6 constitutes a homestead or homestead property under any other
7 act. The term "homestead" shall include the owner-occupied
8 primary residence on a farmstead as defined in 53 Pa.C.S. § 8582
9 (relating to definitions) but shall not include any other real
10 property on a farmstead.

11 "Political subdivision." A county, city, borough,
12 incorporated town, township, school district, vocational school
13 district and county institution district.

14 Section 3. Property tax prohibition.

15 Notwithstanding any other provision of law to the contrary,
16 no political subdivision may levy or collect a tax on homestead
17 property for any purpose after June 30 of the calendar year
18 immediately following the effective date of this section.

19 Section 4. Homestead Property Tax Elimination Fund.

20 (a) Establishment.--There is hereby established in the
21 Treasury Department a special fund to be known as the Homestead
22 Property Tax Elimination Fund.

23 (b) Custodian.--The State Treasurer shall be the custodian
24 of the fund, which shall be subject to the provisions of law
25 applicable to funds listed in section 302 of the act of April 9,
26 1929 (P.L.343, No.176), known as The Fiscal Code.

27 (c) Roles of Department of Revenue and State Treasurer.--
28 Taxes imposed under sections 5 (relating to sales and use tax),
29 6 (relating to personal income tax) and 7 (relating to realty
30 transfer tax) shall be received by the Department of Revenue and

1 paid to the State Treasurer and, along with interest and
2 penalties and any refunds and credits paid, shall be credited to
3 the fund no less frequently than quarterly.

4 (d) Interest.--During any period prior to the credit of
5 moneys to the fund, interest earned on moneys received by the
6 Department of Revenue and paid to the State Treasurer under this
7 act shall be deposited into the fund.

8 (e) Money in the fund.--All money in the fund, including,
9 but not limited to, money credited to the fund under this
10 section, prior year encumbrances and interest earned thereon
11 shall not lapse or be transferred to any other fund but shall
12 remain in the fund and used exclusively as provided in this act.

13 (f) Investment of funds.--Pending disbursement, money
14 received on behalf of or deposited into the fund shall be
15 invested or reinvested as are other funds in the custody of the
16 State Treasurer in the manner provided by law. All earnings
17 received from the investment or deposit of such funds shall be
18 credited to the fund.

19 (g) Borrowing of funds.--The State Treasurer shall be
20 authorized to borrow money from the General Fund in the event
21 the money in the fund is insufficient to make the distribution
22 required under section 8 (relating to disbursements from fund).
23 Such borrowing shall be repaid with interest to the General Fund
24 at the earliest practicable date.

25 (h) Use of funds.--The Department of Revenue and the State
26 Treasurer may use a portion of the revenues in the fund for
27 costs associated with the administration of this act.

28 Section 5. Sales and use tax.

29 (a) Tangible personal property or services.--In addition to
30 any other tax currently levied by the Commonwealth under Article

1 II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
2 Reform Code of 1971, there shall be imposed upon each separate
3 sale at retail of tangible personal property or services as
4 defined in Article II of the Tax Reform Code of 1971 a tax on
5 the purchase price of 1%.

6 (b) Purchases at retail.--In addition to any other tax
7 currently levied by the Commonwealth under Article II of the Tax
8 Reform Code of 1971, there shall be imposed upon the use of
9 tangible personal property purchased at retail and on services
10 purchased at retail as defined in Article II of the Tax Reform
11 Code of 1971, a tax on the purchase price of 1%. The use tax
12 imposed under this subsection shall not be paid over to the
13 Commonwealth by any person who has paid the tax imposed under
14 subsection (a) or has paid the tax imposed under this subsection
15 to the vendor with respect to the use.

16 (c) Exclusions.--All exclusions enumerated under section 204
17 of the Tax Reform Code of 1971 shall apply to the sales and use
18 tax levied under this act.

19 (d) Deposit of revenue.--The revenue generated through the
20 tax levied pursuant to this section shall be deposited into the
21 fund for purposes of replacing revenues lost by all political
22 subdivisions as a result of the property tax prohibition set
23 forth in section 3 (relating to property tax prohibition).
24 Section 6. Personal income tax.

25 (a) Additional income tax.--In addition to any other tax
26 currently levied by the Commonwealth under Article III of the
27 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
28 of 1971, there is hereby levied a tax of 1.55% on each class of
29 income as defined in Article III of the Tax Reform Code of 1971.

30 (b) Poverty provisions.--The special tax provisions for

1 poverty set forth in section 304 of the Tax Reform Code of 1971
2 shall apply to the personal income tax levied pursuant to this
3 section.

4 (c) Deposit of revenue.--The revenue generated through the
5 tax levied under this section shall be deposited into the fund
6 for purposes of replacing the revenues lost by all political
7 subdivisions based on the property tax prohibition set forth in
8 section 3 (relating to property tax prohibition).

9 Section 7. Realty transfer tax.

10 (a) Real estate tax.--In addition to any other tax currently
11 levied by the Commonwealth under Article XI-C of the act of
12 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
13 1971, every person who makes, executes, delivers, accepts or
14 presents for recording any document or in whose behalf any
15 document is made, executed, delivered, accepted or presented for
16 recording shall be subject to pay for and in respect to the
17 transaction or any part thereof or for or in respect of the
18 vellum parchment or paper upon which such document is written or
19 printed, a State tax at the rate of 2% of the value of the real
20 estate represented by the document, which State tax shall be
21 payable at the earlier of the time the document is presented for
22 recording or within 30 days of acceptance of the document or
23 within 30 days of becoming an acquired company.

24 (b) Article XI-C provisions.--The provisions of Article XI-C
25 of the Tax Reform Code of 1971 shall apply to a tax levied
26 pursuant to this section.

27 (c) Deposit of revenue.--All revenue derived from the
28 collection of the tax levied pursuant to this section shall be
29 deposited into the fund for purposes of replacing revenues lost
30 by all political subdivisions as a result of the property tax

1 prohibition set forth in section 3 (relating to tax
2 prohibition).

3 Section 8. Disbursements from fund.

4 (a) Certifications by political subdivisions.--No later than
5 June 1 of each year, each political subdivision within this
6 Commonwealth shall certify to the Treasury Department the amount
7 of revenue the political subdivision will lose in the upcoming
8 fiscal year as a result of the property tax prohibition under
9 section 3 (relating to property tax prohibition).

10 (b) Duties of State Treasurer.--No later than July 15 of
11 each year, the Treasury Department shall reimburse each
12 political subdivision for the total amount of revenue lost by
13 the political subdivision based on the property tax prohibition
14 under section 3. The reimbursement shall be paid from the fund.

15 Section 9. Notice.

16 If a constitutional amendment prohibiting a political
17 subdivision from levying a tax on homestead real property is
18 ratified by the electorate, the Secretary of the Commonwealth
19 shall transmit notice of the ratification to the Legislative
20 Reference Bureau for publication in the Pennsylvania Bulletin.

21 Section 10. Repeals.

22 All acts and parts of acts are repealed insofar as they are
23 inconsistent with this act.

24 Section 11. Effective date.

25 This act shall take effect as follows:

26 (1) The following provisions shall take effect
27 immediately:

28 (i) Section 1.

29 (ii) Section 9.

30 (iii) This section.

1 (2) The remainder of this act shall take effect upon
2 publication of the notice under section 9.