

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2089 Session of  
2003

INTRODUCED BY HABAY, COY, CRAHALLA, GERGELY, LAUGHLIN, LEWIS,  
ROBERTS, SCAVELLO, TIGUE AND YOUNGBLOOD, OCTOBER 14, 2003

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 14, 2003

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.

16 "Homestead property." The owner-occupied, primary residences  
17 and the parcel of land within this Commonwealth on which the  
18 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, 6 and 7 shall be received by the  
29 Department of Revenue and paid to the State Treasurer and, along  
30 with interest and penalties and any refunds and credits paid,

1 shall be credited to the fund no less frequently than quarterly.

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

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

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

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

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

25 Section 5. Sales and use tax.

26 (a) Tangible personal property or services.--In addition to  
27 any other tax currently levied by the Commonwealth under Article  
28 II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax  
29 Reform Code of 1971, there shall be imposed upon each separate  
30 sale at retail of tangible personal property or services as

1 defined in Article II of the Tax Reform Code of 1971 a tax on  
2 the purchase price of 1%.

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

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

16 (d) Deposit of revenue.--The revenue generated through the  
17 tax levied pursuant to this section shall be deposited into the  
18 fund for purposes of replacing revenues lost by all political  
19 subdivisions as a result of the property tax prohibition set  
20 forth in section 3.

21 Section 6. Personal income tax.

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

27 (b) Poverty provisions.--The special tax provisions for  
28 poverty set forth in section 304 of the Tax Reform Code of 1971  
29 shall apply to the personal income tax levied pursuant to this  
30 section.

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

6 Section 7. Realty transfer tax.

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

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

24 (c) Deposit of revenue.--All revenue derived from the  
25 collection of the tax levied pursuant to this section shall be  
26 deposited into the fund for purposes of replacing revenues lost  
27 by all political subdivisions as a result of the property tax  
28 prohibition set forth in section 3.

29 Section 8. Disbursements from fund.

30 (a) Certifications by political subdivisions.--No later than

1 June 1 of each year, each political subdivision within this  
2 Commonwealth shall certify to the Treasury Department the amount  
3 of revenue the political subdivision will lose in the upcoming  
4 fiscal year as a result of the property tax prohibition under  
5 section 3.

6 (b) Duties of State Treasurer.--No later than July 15 of  
7 each year, the Treasury Department shall reimburse each  
8 political subdivision for the total amount of revenue lost by  
9 the political subdivision based on the property tax prohibition  
10 under section 3. The reimbursement shall be paid from the fund.  
11 Section 9. Notice.

12 If a constitutional amendment prohibiting a political  
13 subdivision from levying a tax on homestead real property is  
14 ratified by the electorate, the Secretary of the Commonwealth  
15 shall transmit notice of the ratification to the Legislative  
16 Reference Bureau for publication in the Pennsylvania Bulletin.  
17 Section 10. Repeals.

18 All acts and parts of acts are repealed insofar as they are  
19 inconsistent with this act.

20 Section 11. Effective date.

21 This act shall take effect as follows:

22 (1) The following provisions shall take effect  
23 immediately:

24 (i) Section 1.  
25 (ii) Section 9.  
26 (iii) This section.

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