



A RESOLUTION

**BY COUNCIL MEMBER MICHAEL BOND, AS SUBSTITUTED
BY FINANCE/EXECUTIVE COMMITTEE**

**A RESOLUTION AUTHORIZING THE PLACEMENT
OF O.C.G.A. § 48-5-71 ENTITLED "TAX DEFERRAL
FOR THE ELDERLY ACT" IN THE "RELATED LAWS"
SECTION OF THE CODIFICATION OF THE ATLANTA
CITY CHARTER AND CODE OF ORDINANCES; AND
FOR OTHER PURPOSES.**

WHEREAS, pursuant to the "Tax Deferral For the Elderly Act" (O.C.G.A. § 48-5-71), individuals age 62 or older who are entitled to claim a homestead exemption may elect to defer payment of all or part of the ad valorem taxes levied on his/her homestead subject to certain conditions, prohibitions and limitations; and

WHEREAS, the City Council wishes to make the existence and provisions of said law more readily available and accessible to the residents and citizens of the City of Atlanta; and

WHEREAS, the placement of said state law in the Related Laws Section of the Codification of the Atlanta City Charter and Code of Ordinances will accomplish this goal.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY
RESOLVES AS FOLLOWS:**

Section 1: The placement of O.C.G.A. § 48-5-71 entitled "Tax Deferral For The Elderly Act" in the "Related Laws" Section of the Codification of the Atlanta City Charter And Code of Ordinances, is hereby authorized. A copy of said law, with amendments contained in the 2001 Supplement ("Pocket Part") is attached to this resolution.

Section 2: The Municipal Clerk is hereby instructed to notify the codifier, Municipal Code Corporation for the purpose of effectuating that which is contained in this resolution.

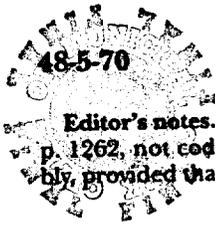
Section 3: All resolutions or parts of resolutions in conflict herewith are hereby rescinded.

A true copy,

Rhonda Daughlin Johnson
Municipal Clerk, CMO

ADOPTED by the Council
APPROVED by the Mayor

SEP 04, 2001
SEP 11, 2001



Editor's notes. — Section 3 of Ga. L. 1985, bills and assessment notices mailed on or after January 1, 1986. p. 1262, not codified by the General Assembly, provided that that Act would apply to tax

PART 2
TAX DEFERRAL

48-5-70. Short title.

This part shall be known and may be cited as the "Tax Deferral for the Elderly Act." (Code 1933, § 91A-2401, enacted by Ga. L. 1980, p. 1707, § 1.)

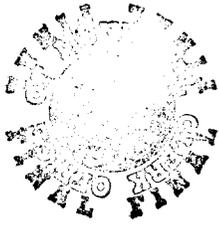
48-5-71. Definitions.

As used in this part, the term:

(1) "Gross household income" means all income, for all individuals residing within the homestead, from whatever source derived including, but not limited to, the following sources:

- (A) Compensation for services including fees, commissions, and similar items;
- (B) Gross income derived from business;
- (C) Gains derived from dealings in property;
- (D) Interest;
- (E) Rents;
- (F) Royalties;
- (G) Dividends;
- (H) Alimony and separate maintenance payments;
- (I) Income from life insurance and endowment contracts;
- (J) Annuities;
- (K) Pensions;
- (L) Income from discharge of indebtedness;
- (M) Distributive share of partnership gross income;
- (N) Income from an interest in an estate or trust; and
- (O) Federal old-age, survivor, or disability benefits.

(2) "Household" means an individual or group of individuals living together in a room or group of rooms as a housing unit. (Code 1933, § 91A-2402, enacted by Ga. L. 1980, p. 1707, § 1.)



48-5-72

REVENUE AND TAXATION

48-5-72.1

48-5-72. Homestead tax deferral for individuals 62 or older; demonstration of compliance with part.

(a) Any individual aged 62 or older who is entitled to claim a homestead exemption pursuant to Code Section 48-5-44 may elect to defer payment of all or part of the ad valorem taxes levied on his homestead by filing an annual application for tax deferral with the tax collector or tax commissioner on or before April 1 of the year for which the deferral is sought. If the homestead for which a deferral is requested has an assessed value for purposes of ad valorem taxation of \$50,000.00 or more, the deferral may apply only to the taxes on that portion of the assessed value which is \$50,000.00 or less.

(b) It shall be the burden of each applicant for a deferral to demonstrate affirmatively his compliance with the requirements of this part. (Code 1933, § 91A-2403, enacted by Ga. L. 1980, p. 1707, § 1.)

48-5-72.1. Alternative to tax deferral authorized by Code Section 48-5-72; burden on applicant to demonstrate compliance.

(a) As an alternative to the tax deferral authorized by Code Section 48-5-72, any individual aged 62 or older residing within any county of this state having a population of 550,000 or more according to the United States decennial census of 1980 or any future such census who is entitled to claim a homestead exemption pursuant to Code Section 48-5-44 may elect to defer payment of all or any part of that portion of the ad valorem taxes levied on the individual's homestead which exceeds 4 percent of the individual's gross household income for the immediately preceding calendar year. An application for tax deferral under this Code section shall be filed annually with the tax collector or tax commissioner on or before April 1 of the year for which the deferral is sought. If an individual files for a tax deferral under this Code section, such individual shall not be authorized to file for a tax deferral under Code Section 48-5-72.

(b) The amount of the assessed value of the homestead and the amount of gross household income shall not limit the tax deferral authorized by this Code section. However, except for the provisions of Code Section 48-5-72 and paragraph (2) of Code Section 48-5-73, the provisions of this part shall apply to the tax deferral authorized by this Code section.

(c) It shall be the burden of each applicant for a deferral under this Code section to demonstrate affirmatively the applicant's compliance with this Code section and other provisions of this part. (Code 1981, § 48-5-72.1, enacted by Ga. L. 1988, p. 466, § 1.)

48-5-73. Limitations on grant of homestead tax deferral.

No tax deferral in any one year shall be granted pursuant to Code Section 48-5-72:

- (1) If the total amount of deferred taxes and interest plus the total amount of all other unsatisfied liens on the homestead exceeds 85 percent of the fair market value of the homestead as shown on the county tax digest for the immediately preceding tax year;
- (2) If the applicant's gross household income for the immediately preceding calendar year exceeds \$15,000.00;
- (3) If the homestead for which the deferral is sought is subject to any lien, the terms of which are dictated by federal law, rule, or regulation prohibiting deferral of taxes; or
- (4) With respect to taxes levied to retire bonded indebtedness or for special assessments. (Code 1933, § 91A-2404, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 24.)

48-5-74. Application for homestead tax deferral; oath; decision by tax collector or tax commissioner; notice; appeal to board of equalization; procedure; appeal to superior court; information on outstanding liens; proof of insurance.

(a) The application for deferral shall be made upon a form prescribed by the department and furnished by the tax collector or tax commissioner. The application form shall advise the applicant of the manner in which interest is computed. Each application form shall contain an explanation of the conditions to be met for approval and the conditions under which deferred taxes and interest become due, payable, and delinquent. Each application form shall clearly state that all deferrals pursuant to this part shall constitute a lien on the applicant's homestead.

(b) A form of oath shall be provided and shall be administered to the individual seeking the deferral. The oath may be administered by the tax receiver, tax commissioner, any authorized deputy of the tax receiver or tax commissioner, or any individual authorized by law to administer oaths.

(c) (1) The tax collector or tax commissioner shall consider each annual application for homestead tax deferral within 30 days of the date the application is filed or as soon as practicable thereafter. If the tax collector or tax commissioner finds that the applicant is entitled to the tax deferral, he shall approve the application and file the application in the permanent records. If the tax collector or tax commissioner finds that the applicant is not entitled to the deferral, he shall send a notice of disapproval to the applicant giving his reasons therefor within 30 days of the filing of the application either by personal delivery or by registered or

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certified mail to the mailing address given by the applicant, and he shall make a return on the original notice of the manner in which the notice was served on the applicant and shall file the return among the permanent records of his office. The original notice of disapproval sent to the applicant shall advise the applicant of his right to appeal the decision of the tax collector or tax commissioner to the board of equalization and shall inform the applicant of the procedure for filing an appeal.

(2) An appeal of the decision of the tax collector or tax commissioner to the board of equalization shall be in writing on a form prescribed by the department and furnished by the tax collector or tax commissioner. The appeal shall be filed with the board within 20 days after the applicant's receipt of the notice of disapproval. The board shall review the application and evidence presented to the tax collector or tax commissioner upon which the applicant based his claim for a tax deferral and, at the election of the applicant, shall hear the applicant in person or by agent in his behalf on his right to a homestead tax deferral. The board of equalization shall reverse the decision of the tax collector or tax commissioner and shall grant a homestead tax deferral to the applicant if in its judgment the applicant is entitled thereto, or it shall affirm the decision of the tax collector or tax commissioner. Such action by the board of equalization shall be final unless the applicant, tax collector, tax commissioner, or other lienholder files an appeal with the superior court of the county in which the property lies within 30 days from the date the taxpayer receives written notification of the decision of the board of equalization.

(d) Each application shall contain a list, and the current value, of all outstanding liens on the applicant's homestead.

(e) If proof of fire and extended coverage insurance has not been furnished with a prior application, each applicant shall furnish proof of such insurance in an amount which is in excess of the sum of all outstanding liens and deferred taxes and interest with a loss payable clause to the tax collector or tax commissioner. (Code 1933, § 91A-2407, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 27.)

48-5-75. Rate of interest on amount of deferred taxes; time of accrual of interest on deferred taxes.

(a) The amount of taxes deferred pursuant to this part shall accrue interest until paid at three-fourths of the rate specified in Code Section 48-2-40.

(b) Interest on taxes deferred pursuant to this part in any year shall begin accruing on the date the taxes were due in that year. (Code 1933, § 91A-2405, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 25.)

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48-5-76. Deferred taxes and interest constitute prior lien; effect of award for year's support on liens for deferred taxes.

(a) The taxes and interest deferred pursuant to this part shall constitute a prior lien and shall attach as of the date and in the same manner and shall be collected as are other liens for taxes, as provided for under this title, but the deferred taxes and interest shall only be due, payable, and delinquent as provided in this part.

(b) Liens for taxes deferred under this part, except for any lien covering the then current tax year, shall not be divested by an award for year's support authorized pursuant to Chapter 5 of Title 53 of the "Pre-1998 Probate Code," if applicable, or Chapter 3 of Title 53 of the "Revised Probate Code of 1998." (Code 1933, § 91A-2406, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 26; Ga. L. 1998, p. 128, § 48.)

The 1998 amendment, effective March 27, 1998, inserted "of the 'Pre-1998 Probate Code,' if applicable, or Chapter 3 of Title 53" of the 'Revised Probate Code of 1998' in subsection (b).

48-5-77. Annual notification to property owner of sum of deferred taxes and interest outstanding.

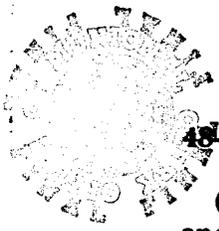
Each year, at the time the tax bills are mailed, the tax collector or tax commissioner shall notify each property owner to whom a homestead tax deferral has been previously granted of the accumulated sum of deferred taxes and interest outstanding. (Code 1933, § 91A-2408, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 28.)

48-5-78. Change in ownership or use of, or failure to maintain insurance on, tax-deferred homestead; payment of deferred taxes, interest, and unsatisfied liens.

(a) In the event that there is a change in use of tax-deferred property so that the owner is no longer entitled to a homestead exemption for the property pursuant to Code Section 48-5-44, or if the owner fails to maintain the required fire and extended insurance coverage, the total amount of deferred taxes and interest for all previous years shall be due and payable either on the date on which the change in use occurs or on the date failure to maintain insurance occurs.

(b) In the event that there is a change in ownership of tax-deferred property, the total amount of deferred taxes and interest for all previous years shall be due and payable on the date the change in ownership occurs. When, however, the change in ownership is to a surviving spouse and the spouse is eligible for a homestead exemption on the property pursuant to Code Section 48-5-44, the surviving spouse may continue the deferral of previously deferred taxes and interest pursuant to this part.

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(c) During any year in which the total amount of deferred taxes, interest, and all other unsatisfied liens on a homestead exceeds 85 percent of the fair market value of the homestead, the tax collector or tax commissioner shall immediately notify the owner of the homestead that the portion of taxes and interest which exceeds 85 percent of the value of the homestead shall be due and payable within 30 days of receipt of the notice. Failure to pay the amount due shall cause the total amount of deferred taxes and interest also to become due and payable at the end of the 30 days.

(d) Each year, upon notification, each owner of property on which taxes and interest have been deferred shall submit to the tax collector or tax commissioner a list, and the current value, of all outstanding liens on the owner's homestead. Failure to respond to the notification within 30 days of its receipt shall cause the total amount of deferred taxes and interest to become due and payable at the end of the 30 days.

(e) All deferred taxes which are made due and payable by this Code section shall be delinquent and subject to interest in accordance with Code Section 48-5-75 at the end of 120 days following the date the deferred taxes become due and payable. (Code 1933, § 91A-2409, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 29.)

48-5-79. Prepayment of deferred taxes and accrued interest; partial payments.

(a) All or part of the deferred taxes and accrued interest may be paid at any time to the tax collector or tax commissioner by:

(1) The owner of the property or the spouse of the owner; or

(2) The next of kin of the owner, heir of the owner, child of the owner, or any person having or claiming a legal or equitable interest in the property, provided that no objection is made by the owner within 30 days after the tax collector or tax commissioner notifies the owner of the fact that such payment has been tendered. Any payment made under this paragraph shall be deposited in a special escrow account for the 30 day period; and the tax collector or tax commissioner shall not make distribution of the amount under Code Section 48-6-74 while the funds are held in escrow.

(b) Any partial payment made pursuant to this Code section shall be applied first to accrued interest. By resolution of the county governing authority, a minimum amount of partial payment which may be accepted in the county pursuant to this part may be established. The required minimum payment shall not exceed \$25.00. (Code 1933, § 91A-2410, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 30; Ga. L. 1982, p. 3, § 48.)

5-79

48-5-80

AD VALOREM TAXATION OF PROPERTY

48-5-83

48-5-80. Distribution of deferred tax and interest payments; duty to keep record of property and amount of payment.

When any deferred taxes or interest is collected, the tax collector or tax commissioner shall maintain a record of the payment, which record shall contain a description of the property and the amount of taxes or interest collected for the property. The tax collector or tax commissioner shall distribute payments received to the local tax jurisdictions to whom the taxes and interest are owed. (Code 1933, § 91A-2411, enacted by Ga. L. 1980, p. 1707, § 1.)

OPINIONS OF THE ATTORNEY GENERAL

Distribution for accrued interest. — Interest accrued on delinquent taxes after collection by the tax commissioner but before they are remitted to the state or locality should be distributed to the same political subdivision for which the underlying tax, penalty and interest were collected from the taxpayer. 1987 Op. Att'y Gen. No. U87-6.

48-5-81. Payment by holder of deed to secure debt or by mortgagee; effect on right to foreclose.

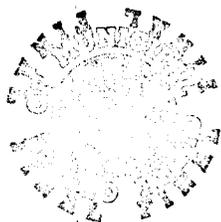
If any holder of a deed to secure debt or any mortgagee elects to pay the taxes of an applicant who qualifies for and receives a tax deferral, such election shall not give the holder of the deed or the mortgagee the right to foreclose. (Code 1933, § 91A-2415, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 32.)

48-5-82. Prohibition of clauses preventing applications for homestead tax deferral; exceptions.

Except with respect to requirements dictated by federal law, rule, or regulation, no mortgage, deed to secure debt, or other agreement may contain a provision, clause, or statement which prohibits the owner from claiming a real property tax deferral on his homestead. Any such provision, clause, or statement executed on or after July 1, 1980, is void and unenforceable. (Code 1933, § 91A-2412, enacted by Ga. L. 1980, p. 1707, § 1.)

48-5-83. Construction of part.

Nothing in this part shall be construed to prevent the collection of personal property taxes which become a lien against tax-deferred property. (Code 1933, § 91A-2413, enacted by Ga. L. 1980, p. 1707, § 1.)

**48-5-84. Penalties for willfully filing incorrect information.**

(a) The following penalties shall be imposed on any person who willfully files information required under Code Sections 48-5-72, 48-5-72.1, and 48-5-78 which is incorrect:

(1) The person shall pay the total amount of taxes and interest deferred, which amount shall immediately become due;

(2) The person shall be disqualified from filing a homestead tax deferral application for the next three years; and

(3) The person shall pay a penalty of 25 percent of the total amount of taxes and interest deferred.

(b) Any person against whom the penalties prescribed in this Code section have been imposed may appeal the penalties imposed to the county board of equalization within 30 days after the penalties are imposed. (Code 1933, § 91A-2414, enacted by Ga. L. 1980, p. 1707, § 1; Ga. L. 1981, p. 1857, § 31; Ga. L. 1988, p. 466, § 2.)

ARTICLE 3**COUNTY TAX OFFICIALS AND ADMINISTRATION****RESEARCH REFERENCES**

ALR. — Exemption from taxation of the property of a Y.M.C.A. or Y.W.C.A., 34 ALR 1067, 81 ALR 1453.

Homestead as subject to assessment for local improvements, 79 ALR 712.

Reservation of option or conditions in conveyance which may operate to defeat or extinguish title of exempt grantee as affecting exemption of real estate from taxation, 98 ALR 1372.

Constitutionality of statutes relieving property subject to assessment for improvements from all or part of such assessment, 105 ALR 1169.

Validity and construction of statute or ordinance providing for relief of poor persons from taxes, 123 ALR 597.

Constitutionality, construction, and application of statutes which exempt from taxation mineral land or land used or suitable for growing of certain products or which

discriminate in favor of such land, 126 ALR 724.

Enforcement against tax-exempt property of tax on nonexempt property or on owner of tax-exempt property, 159 ALR 461.

Tax exemptions and the contract clause, 173 ALR 15.

Statutory provision that specified fund or property shall be "exempt from taxation," "exempt from any tax," or the like, as exempting such property from estate or succession taxes, 47 ALR2d 999.

Legislative power to exempt from taxation property, purposes, or uses additional to those specified in Constitution, 61 ALR2d 1031.

When is corporation, community chest, fund, foundation, or club "organized and operated exclusively" for charitable or other exempt purposes under Internal Revenue Code, 69 ALR2d 871.

RCS# 3087
9/04/01
3:12 PM

Atlanta City Council

Regular Session

01-R-1317

Placement of O.C.G.A 48-5-71: "Tax
Deferral for the Elderly Act"
ADOPT ON SUB

YEAS: 13
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 0

NV McCarty	Y Dorsey	N Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

CORRECTED COPY

01-R-1317

01-R-1317

(Do Not Write Above This Line)

A Resolution by Councilmember Michael Bond:

A Resolution to amend the City of Atlanta Code of Ordinances, Section _____ to allow Senior Citizens to defer all or part of the Municipal Ad Valorem Taxes in the City of Atlanta pursuant to O.C.G.A. 48-5-71 et seq.; to repeal conflicting ordinances; and for other purposes.

substitute

ADOPTED BY
SEP 04 2001
COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 8/6/01
 Referred To: Finance / Exec
 Date Referred _____
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First Reading

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee FIN / Exec
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 Other: GIS Subst. held
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FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Readings
 Consent V Vote RC Vote

CERTIFIED

CERTIFIED
 SEP 4 2001
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
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 MUNICIPAL CLERK

MAYOR'S ACTION

SEP 11 2001
[Signature]