# The Impact of Kingston's Homestead Tax System on Kingston's Economic Development

**Center for Research, Regional Engagement, and Outreach**

**SUNY New Paltz**

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# The Impact of Kingston's Homestead Tax System on Kingston's Economic Development

## Executive Summary

In 1989, Kingston adopted the homestead property tax system which allowed it to impose different property tax rates for homestead/residential and non-homestead/primarily commercial property based on their share of the property tax burden prior to the 1989 property revaluation. In 2013, 68.6% ($1.057 billion) of Kingston total property value was classified as homestead, and the rest (31.4%; $450.3 million) as non-homestead. Homesteads pay a slightly higher portion (53.65%) of the levy; non-homesteads pay the rest (46.35%).

Kingston's business community has criticized the homestead property tax system as the major impediment to economic development and a significant cause of the stagnation of commercial property values in Kingston. This report, commissioned by the City of Kingston and funded by the Dyson Foundation through the Community Foundation of Ulster County, examines whether the homestead property tax system is a significant impediment to economic development and whether or not it has impacted commercial property values in Kingston.

The Kingston Consolidated School District, which includes most of Kingston's neighboring towns, has adopted the homestead real property tax system. ***Because the largest proportion of property tax goes to support schools, this means that a significant percentage, well over fifty percent, of residents' and businesses' real property tax bills in the towns that surround Kingston are based on the homestead property tax system***. Because of the provisions in state law for school district use of this dual tax base system, if the City of Kingston opts out of its use, the Kingston School District would also no longer be able to use it.

**Findings**

1. Most states use some mechanism to reduce the property tax burden for homeowners and shift that burden to commercial property. What appears to be different in New York is the availability of a local option which results in divergent tax burdens for properties of the same type and/or function in neighboring taxing jurisdictions throughout the state.

2. The courts have upheld the constitutionality of the homestead property tax system in New York.

3. The two major studies previously done on New York's homestead property tax system (*Taxes and State and Local Economic Development: The Homestead Tax Option in New*

*York* (1998) by Wai-Ho Wilson Wong of Syracuse University, and *Non-Homestead Tax Rates and City Competitiveness* (1996) by Kent Gardner of the Center for Governmental Research) reached essentially the same conclusion: property taxes matter but not very much when it comes to a business' decision to relocate or expand. Both studies go on to show that other factors, such as public safety, the education system, and the quality of infrastructure are also important to a municipality seeking job growth.

4. A regression analysis model seeking to replicate these studies for Kingston examined how changes to non-homestead property values were impacted by changes in property tax rates, property crime, unemployment rate, and poverty rate as measured by the number of free and reduced school lunches and population. ***It found no significant statistical relationship between non-homestead property values and non-homestead property tax rates.*** The factor that had the most impact on non-homestead property values was the property crime rate.

5. The Wong and Gardner studies also found that higher property taxes are borne mostly by property owners, are capitalized in a property's value, and have a negative impact on that value.

6. Wong's study also found that a major problem with the homestead tax system is that, as non-homestead property values go down their property tax burden increases, and as homestead property values increase their property tax burden decreases. This widens the gap between the relative effective tax rates of the two property classes. This has been the case in Kingston.

7. Gardner's study found that, while there is no statistical evidence that higher commercial property taxes under the homestead property tax system have a significant influence on business location decisions, the homestead tax system has a "perceptual as well as real effect" on those decisions.

8. Dr. John Yinger of the Maxwell School at Syracuse University who supervised Wong's research on this issue, also found that the homestead property tax system, in which the non-homestead property tax rate gap is likely to go up continually and without limit, will have a negative impact on business location decisions.

9. One indicator of the effect of the homestead/non-homestead option for commercial properties in Kingston is the ratio of the tax rate used for homestead property to that used for property in the non-homestead category. A 1:1 ratio means that properties in both categories are taxed at the same rate. In 2013, the City of Kingston's homestead/non-homestead ratio was 1:1.81, up from 1:1.73 in 1989. Kingston's 2013 ratio is the most disadvantageous to non-homestead properties when compared to other cities in the Mid-Hudson region that also

use the homestead property tax system – Poughkeepsie (1:1.21), Beacon (1:1.48), Newburgh (1:1.28) and Port Jervis (1:1.57). (See Charts A and B, pages 28 -29.)

10. The Kingston School District has used the homestead property tax system since the 1988-89 school year, but reliable data only exists from the 1990-91 school year forward. From the beginning, the school district has shifted about eleven percent of the homestead tax burden to non-homestead properties as allowed under subdivision five of section 1903 of the Real Property Tax Law. This approximates the maximum shift allowed under current law. One effect of the School District's practice is to put a greater tax burden on the City of Kingston and the Town of Ulster, which together have over eighty-three percent of the taxable full value of all non-homestead property in the school district. Within the City of Kingston the homestead /non-homestead school district tax ratio has ranged from between 1:1.4 to 1:1.5 from 1991-92 to 2013-2014.(See Chart B, page 29.)

11. ***Between 1991 and 2013, the period over which the homestead/non-homestead classification scheme was used, the total real value, in 2012 dollars, of homestead properties rose 19.8% (from $870.7 million in 1991 to $1.044 billion in 2013) while non-homestead values showed a 10.2% increase in value (from $424.5 million in 1991 to $468.2 million) about half the homestead rate of growth.*** The disparity is even greater if the growth rates are measured starting from 1992. (See Chart C, P30 and Appendix D.)

12. Between 2001 (the year for which the earliest comparative data available) and 2012, all cities in the Mid-Hudson Valley that use the homestead system except Poughkeepsie had a higher rate of growth in the assessed full value of non-homestead property than the rate of growth of non-homestead property in Kingston. All of these cities have lower homestead to non-homestead tax ratios than Kingston. However, during the same time period only one Mid-Hudson Valley "single-rate" city (one that does not use the homestead system) had a higher growth rate for commercial property (the closest comparable property class to non-homestead property in single rate cities) than Kingston's growth rate for non-homestead property, the City of Hudson. It is also interesting that all Mid-Hudson Valley cities that use the homestead property tax system have higher non-homestead/commercial property value growth rates than all but one Mid-Hudson Valley city that use a single-rate system. (See Charts G and H Pages 33-34 as well as Appendix D.)

13. Only two municipalities that have adopted the homestead property tax system have opted out of it: the City of Schenectady in 1999 and the Town of Colonie in 2009. There was little controversy surrounding these municipalities' decision to opt out because their homestead and non-homestead property tax burdens were either similar (Schenectady) or the homestead tax burden was greater (Colonie). In addition, the opt-outs were done in conjunction with a revaluation. After the opt-out, commercial property values in Schenectady increased by thirty-nine percent between 2001 and 2012 while commercial property values in Colonie

decreased by over eight percent from 2009 to 2012. The growth rate for commercial property in Schenectady (thirty-nine percent) was slightly higher than the growth rate for non-homestead property in Kingston (twenty-seven percent) over the same time period. In addition the decrease in commercial property values in Colonie was lower than the decrease in non-homestead property values in Kingston over the same time period (see Tables 2, 3, and 4, P42-43).

## Policy Options and Their Impact on Homestead and Non-Homestead Taxes

This study has found no definitive evidence that if Kingston opted out of the homestead property tax system it would increase commercial property values, attract more businesses or create more jobs. There are too many other factors that affect commercial property values and economic development. However, the evidence is clear that reducing Kingston's high homestead-non-homestead tax *differential*, combined with other economic development tools, is likely to give the City a better chance of increasing commercial property values and attracting jobs. In order to minimize the impact on homeowners and the necessary services the City provides, this change would be best implemented over a decade or more.

1. Kingston could lead a coalition of homestead municipalities to advocate that the State Legislature pass the Homestead Property Tax System Reform legislation advocated by the Office of Real Property Tax Services in 2009 and passed by the Senate. This would give all local governments that adopted the homestead property tax system the option to implement the 25% cap over a ten year period and, if they elected to do so, they would be required under law to keep that commitment. This reform legislation would also require an assessing unit to complete a homestead-compliant revaluation at least once every four years. If such a revaluation is not undertaken, the assessing unit and the school districts and villages associated with it would lose their ability to establish class tax rates. **In 2014, this option would result in a 1.35% increase in Kingston homestead property taxes and a 1.57% decrease in non-homestead property taxes.** ***If adopted in the school district in 2014 it would result in a 1.51% increase in homestead property taxes in the City of Kingston and a 2.3 % decrease in the non-homestead property taxes.*** (See Table 8, P52-53.)

2. Kingston's government could adopt a single tax rate for homestead and non-homestead properties in a single year. This may be accomplished under current state law. Using 2014 data, this option would result in ***a 27.8% increase in property taxes for homestead property for City purposes, a 15.9% increase for school district purposes, or a combined City and school district increase of 19.4%.*** (See Tables 5 and 6, P47-48.)

3. Kingston could request that the State Legislature pass legislation that would allow Kingston to fix its non-homestead tax rate at a specified level above the homestead rate. This

approach would avoid impacting the school district's use of the homestead system. One example of such an approach would be to require that the non-homestead tax rate be no more than twenty-five percent higher than the tax rate that would prevail in the City if a single rate were used. Using 2014 data, ***this option would result in a 13.6% increase in Kingston homestead property taxes and a 15.7% decrease in non-homestead property taxes.*** (See Table 7, P51.)

4. Kingston could request that the State Legislature pass legislation that would allow Kingston to phase in a non-homestead tax rate at a specified percentage above the homestead rate in order to mitigate the negative single-year impact on homestead property of reducing the non-homestead tax rate until a specified goal is reached. Again, an automatic impact on school district practice would be avoided. If the goal remained the same as in the previous example – generation by non-homestead taxpayers of revenues at a rate twenty-five percent higher than if a single rate were used – and a period of 10 years was targeted for reaching that goal, the annual impact on City taxes owed would be relatively small in both dollar and percentage terms. In 2014, ***this option would result in same fiscal impact as discussed in Option one.*** (See Table 8, P52-53.)

5. Kingston could request that the State Legislature enact legislation that would commit the State to make a series of payments for a specified period – say 10 years – to soften the negative impact of any local government opting out of the homestead property tax system in a single year. In Kingston, that would require a first year State payment of $1.128 million to the City in order to allow non-homestead properties to reach the homestead tax rate with no impact on homestead property taxes. State payments might be reduced incrementally by ten percent of the original amount per year in subsequent years, phasing in local assumption of the costs of the change (and providing an incentive for fiscal discipline). The State might specify conditions for making available resources for this purpose, for example definitive steps to consolidate services with other local governments. Places rated by the Comptroller as already "distressed" might be given priority consideration for participation in this program. Once it accepted the program, a locality would be required to maintain the non-homestead rate at the targeted level. Another requirement might be consistent adherence to the tax cap.

# Purpose, Goals, Sources, and Background

In 1989, almost a quarter of a century ago, Kingston New York adopted an option first offered the state's general purpose local governments by a 1981 change in state law: to create two classes of property within the City – "homestead" and "non-homestead" − and to tax these differentially. The idea was to conform to state assessment standards and still gather a greater than proportional share of the resources needed to pay the City's bills from properties that were not owner-occupied residences.

Over the ensuing years, many in the Kingston business community have argued that this practice has had a negative effect on commercial property values in the City, and upon the City's general economic competitiveness. Commercial realtors and others say that commercial property values have stagnated under the homestead/non-homestead property tax system. They believe if this system is repealed, and a single rate is used for all properties, the value of commercial property in Kingston will increase, with positive effects on the City's economy. Additionally, they say, any resulting initial shift of the tax burden back upon home owners will be mitigated by the growth, over time, of all values in the City, both commercial and residential. Others fear the onerous impact on families of such a shift, and argue also that there is some fairness in expecting that more than a proportional share of needed taxes be provided by income-producing commercial properties.

New York's very high property tax environment exacerbates this debate. It is well known, and a matter of continuing policy concern, that, on average, property taxes within the state are among the highest in the nation.[1] Moreover, these taxes are increasingly high in relation to localities' proximity to New York City; Westchester County to the City's north and Nassau to its east lead the nation in average property tax paid. One recent national study showed that Ulster County, for which the City of Kingston is the seat, ranked 55 among the more than 3,000 counties in the United States in average property tax paid (that is, well within the top two percent), and 189th nationally in ratio of property tax paid to home value (in the top six percent).[2] An earlier study, completed by CRREO in 2008, showed that, within Ulster County, there were 55 distinct property tax burdens resulting from the combined effect of levies by overlapping taxing jurisdictions. Of these, the combined burden of

[1] New York State Commission on Property Tax Relief (Souzzi Commission) Final Report (2008) http://fiscalpolicy.org/wp-content/uploads/2008/12/CPTR_Final_Report_12012008.pdf; New York State Tax Relief Commission (Pataki/McCall Commission) Final Report (2013). http://www.stargazette.com/assets/pdf/CB2162551210.pdf (Both accessed 18 December 2013).

[2] *State & Local Government Finance Initiative*. http://www.taxpolicycenter.org/stateandlocal/index.cfm. The Urban Institute-Brookings Institution Tax Policy Center. Data from U.S. Census Bureau, American Community Survey (2005-2012). (Date of Access18 December 2013).

the property tax was second highest for non-homestead properties within the City of Kingston, and sixth highest for homestead properties within the City.[3]

One recent indicator of the force of the homestead/non-homestead issue in Kingston arose when the City's Business Alliance of Kingston attempted to create a Business Improvement District (BID) there.[4] BIDs are organizations created by property owners and supported by voluntary levies to improve local business conditions. One interviewee reported that most business owners approached said that they favored a BID, but also said that could not afford the fees necessary because of the burden placed upon them by the level of the City's non-homestead tax levy.

The persistence of the homestead/non-homestead issue, and its regular reemergence during the City's annual budget process, was the context for the Kingston's Mayor's office, the Kingston Common Council, Community Foundations of Ulster County approaching the State University at New Paltz's Center for Research, Regional Engagement, and Outreach (CRREO) for a study of is actual effect on commercial property values and local economic development. If the need was demonstrated, the study was also to propose alternatives to this system that might realistically be implemented at the state or local level. The Dyson Foundation agreed to finance this study through the Community Foundations of Ulster County.

The property tax data essential for this study for the period 1991-2012 was gathered from the files of the Kingston City Assessor's Office. This work would not have been possible without the active participation and professional guidance provided by that office. The few available existing studies of the effect of the use of the homestead/non-homestead option in New York State were consulted. Comparative data for other jurisdictions was found in their files of the New York State Tax department and on county and local government websites. Historic background regarding the adoption of the homestead/non-homestead option and attempts at its change in Kingston was obtained from the files of Kingston's *Daily Freeman* and interviews with current and former City elected and appointed officials. The statutory history of this policy, and the record of following litigation, was determined from original sources on file in the New York State Legislature's library and published decisions of state courts, and confirmed or enriched from newspaper and other secondary sources. CRREO also discussed this issue with appraisers specializing in commercial property in Ulster County, other commercial realtors in Ulster County, officials and former officials in municipalities that also have the homestead tax system, Office of Real Property Tax Services staff, and State legislative staff who have worked on homestead property tax legislation.

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[3] Rachel John and Gerald Benjamin, "Equity and the Property Tax Burden for Citizens in Ulster County" (SUNY New Paltz: CRREO Discussion Brief #1) Fall 2008, p. 4.

[4] Goktug Morcol (Editor), Lorlene Hoyt (Editor), Jack W. Meek (Editor), Ulf Zimmermann (Editor), Business Improvement Districts: Research, Theories, and Controversies (2008) CRC Press http://www.crcpress.com/ .

In order to assure that this study was fully responsive to community concerns, CRREO recommended the creation of an advisory board selected from a cross-section of informed and interested parties in Kingston, with the study's originators and the City Assessor serving *ex officio*. With consideration of the recommendations of the Community Foundations of Ulster County, Common Council members, and Mayor Shayne Gallo a sixteen- member group was appointed (named at the head of this study) in July of 2013. This board was gathered on October 15 to react to preliminary work, and gave valuable guidance and direction to this effort. The researchers are grateful for its interest, participation and support.

Concern about the impact of the local use in New York State of the homestead/non-homestead classification system for real property taxation is longstanding and not confined to Kingston.[5] This option has been adopted by forty-eight municipalities in the state, thirty-one of them in upstate New York. Included in this number are eleven (about one fifth) of upstate's cities, two of the biggest in population among them– Rochester and Buffalo. (See Appendix A for the complete list.)

Though local fiscal and economic problems are not confined to them, many of the municipalities using this two-fold classification method are in severe financial difficulty. Buffalo has been placed under the jurisdiction of a financial control board. Three others, the City of Poughkeepsie, the City of Niagara Falls, and the Town of Fishkill, have recently been classified by the New York State Comptroller as in "significant" fiscal stress and, one more, the City of Glen Cove, in "moderate" fiscal stress.[6]

In New York State, school districts place the greatest demands upon the real property tax base. School districts wholly contained within the boundaries of a city or town that has the homestead tax system must use the homestead tax unless they opt out of the program by passing a resolution. School districts located in more than one city or town that want to use homestead and non-

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[5] Two examples capture its persistence. A study of the impact of this practice in Rochester was completed almost 20 years ago. Center for Governmental Research (CGR). "Non-Homestead Tax Rates and City Competitiveness" (May, 1996). file:///C:/Documents%20and%20Settings/TobinflK/Desktop/Gerald%20Benjamin%27s%20Documents/Kingston%20Real%20Property/CGR%20-%20Rochester%20Study%20-%2010959.pdf . It is currently on the policy agenda of the Niagara Falls business community: http://niagarachamber.org/advocacy/state-issues/ (Both last visited 20 December 2013).

[6] See: http://www.osc.state.ny.us/localgov/fiscalmonitoring/pdf/stress_list.pdf. Note that as of September 13, 2013, the Comptroller noted that 54 municipalities still have yet to submit necessary financial information to the Comptroller's office for their level of fiscal stress to be assessed and are designated as "have not filed." Additionally, there were 948 communities that have been classified as "no designation," and three "under review" as of that date. http://osc.state.ny.us/press/releases/sept13/092513.htm (Both sources last consulted on 20 December 2013). The absence of a complete review makes it impossible to assess whether problems are greater, using these metrics, in places that use the homestead/non-homestead approach than in those that do not.

homestead school tax rates may only do so if one-fifth or more of the properties in the district are located in cities or towns that use this option. There is no comprehensive statewide list of school districts that have adopted the homestead real property tax system; a best estimate made in January 2011 by the NY Office of Real Property Tax Services (ORPTS) is that it was in use in forty-three districts.

The Kingston School District, which includes the City and Town of Kingston and the Towns of Hurley, Esopus, (partial), Marbletown (partial) New Paltz (partial), Rosendale (partial), Saugerties (partial), Ulster (partial), and Woodstock (partial), has adopted the homestead real property tax system. ***Because the largest proportion of property tax goes to support schools, this means that a significant percentage, well over fifty percent, of residents' and businesses' real property tax bills in the towns that surround Kingston are based on the homestead property tax system***. Because of the provisions in state law for school district use of this dual tax base system, if the City of Kingston opts out of its use, the Kingston School District would also no longer be able to use it.
With the impact, level, and administration of the property tax now a front-burner statewide issue, this study's analysis of the economic impact of the homestead property tax system in Kingston, and an exploration of realistic alternatives, promises to give visibility to an aspect of the issue that has received insufficient attention, and is of considerable importance throughout New York.

## The Origin of New York State's Homestead Property Tax System and What the Law Provides

It was a widespread practice over much of New York's history for local governments to over-assess the value of commercial real property and under-assess the value of residential real property. This was based on the belief that businesses could better afford to pay property taxes than homeowners and was exacerbated by the fact that many business owners did not live or vote in the communities where their businesses were located. This outcome was generally achieved concomitant with the practice of assessments at partial value, even though the real property tax law has always required property to be assessed at its full value. The state courts validated partial value assessment when they held that "full value" merely required ". . . that the assessments be at a uniform rate or percentage of full or market value for every type of property in the assessing unit."[7]

Then, in 1975, the New York State Court of Appeals ruled in the *Matter of Hellerstein v Assessor of Town of Islip* that fractional assessments violated the long-standing section 306 of the Real Property Tax Law (RPTL) and that assessors were indeed required to assess all property at full value. State legislators feared a massive redistributive effect of implementing this court decision, substantially raising homeowners' taxes, especially in New York City and its suburbs. The legislature therefore delayed implementation of the *Hellerstein* decision until

[7] *Matter of Hellerstein v Assessor of Town of Islip*, 37 N.Y.2d 1, (1975) p. 5.

1981 when, over the veto of Governor Carey, it enacted Chapter 1057 of the laws of 1981, which repealed section 306 of the RPTL and replaced it with a new section 305 and established Articles 18 and 19 of the RPTL.[8]

The 1981 law used what came to be called a "shares of the pie approach" to implement *Hellerstein.* This name arose because the intent of the policy was to keep the portion of the tax levy paid by commercial and residential properties, within each taxing jurisdiction that used it, the same as it was in a designated base year. The law provided for assessment on a uniform standard (but not necessarily full value), created classes of property for NYC and suburbs and mandated their use, and provided the option of a two-class system for upstate jurisdictions like Kingston. Under this approach, after a municipality reassessed its property to achieve greater equity and became an "approved assessing unit," it could elect to fix the proportion of the real property tax paid by properties in a "homestead" (primarily residential) class and "non-homestead" (primarily commercial) class to that in the year before the reassessment. Thus, if non-homestead property paid sixty percent of the municipality's real property taxes prior to reassessment it would continue to pay sixty percent of the municipality's real property taxes after reassessment.

Under the 1981 Law that created Article 19 of the RPTL, the "homestead" class of properties was defined to include: one, two, and three-family residential units, farm homes, mobile homes that are owner-occupied and separately assessed, and condominiums that were built as condominiums and not converted from some other form. The "non-homestead" class included all other properties.

As noted, in order to implement this option, an "approved assessing unit has to complete a property revaluation project that met State regulations." Once certified as "approved," the local governing body of the assessing unit could then adopt a local law stating its intent to use a homestead tax and a non-homestead tax. In following years, the approved assessing unit must make annual adjustments for different rates of appreciation in the two classes of property based on the changes in the current market value of the classes, subject to a five percent cap. School districts can adopt the homestead system under different rules and the determination of class shares are based on current market value with adjustments at the discretion of the school district within limitations set by law.

Approved assessing units and school districts may opt out of the homestead property tax system simply by adopting a local law or resolution, without referendum, to rescind the system before the next levy of taxes. (RPTL §1903-a 5). According to the Office of Real Property Tax Services, only

[8] For a more detailed account of the legislative politics see: New York City Independent Budget Office. "Twenty-Five Years After S7000A: How Property Tax Burdens have Shifted in New York City" (December 5, 2006) pp. 8-12. http://www.ibo.nyc.ny.us/iboreports/propertytax120506.pdf (Last visited on 20 December 2013).

the City of Schenectady and the Town of Colonie have opted out of the homestead tax system; Schenectady in 1999 and Colonie in 2010.

The 1981 law also repealed RPTL §306 and replaced it with §305 which provided that:

- The existing assessing methods in effect in each assessing unit may continue;
- All real property in each assessing unit should be assessed at a uniform percentage of value;
- Any assessing unit at full value through a revaluation may adopt a uniform percentage of value as its new standard.

## Changes in the Homestead Tax System Since its Adoption

Since its adoption in 1981, Article 19 of the RPTL has been amended several times. Changes were most frequently made between 1983 and 1998; these were mostly technical amendments and clarifications. None altered the original intent the legislation. An exception was the option given school districts in 1986 to employ the homestead/non-homestead option if they had one-third or more of the properties located in cities or towns that use it (§1901 (10) RPTL). In 1992, §1901 (10) RPTL was amended to allow the use of homestead real property tax system in school districts that have one-fifth or more of their properties located in cities or towns that use the homestead tax option .

In 2005, to constrain the increase in homestead properties' share of a municipality's property tax burden in targeted locations, the Legislature began passing amendments to Article 19 that limited the maximum class growth rate at one percent in "approved assessing units" in Nassau County, as well as in the Town of Islip in Suffolk County and the Town of Colonie in Albany County. The Legislature has passed such legislation annually for approved assessing units in Nassau County since 2005 and for Islip in 2005, 2006, 2007, 2008, 2012, and 2013. Governor Paterson vetoed the Islip class share growth limit legislation in 2009 at the request of the Town of Islip assessor. The Colonie class share growth limit legislation only passed the both houses of the Legislature in 2007; it passed in the Assembly but not the Senate in 2008 and 2009. Colonie opted out of the homestead tax system in 2010. (See pages 43-44 for further information.)

A variety of bills have been introduced in the Legislature since 2005 to change the homestead tax system. These include efforts to expand the homestead class to include four-family buildings, a complete freeze on the growth of class shares in Long Beach, and a clarification regarding the implementation of transition assessments, a section of the law that the Office of Real Property Tax Services (ORPS, now a part of the State Department of Taxation and Finance) says has never been used. In addition, in 2007 and 2009, ORPS introduced a comprehensive reform of the homestead tax system. This will be discussed in more detail in our consideration of alternatives to the current homestead property tax system at the end of this report. None of these bills have ever passed both houses of the Legislature.

# Court Challenges to the Homestead Property Tax System

The “shares of the pie approach” taken by the legislature was disappointing to property tax professionals, who saw the *Hellerstein* decision as a resource to drive needed serious reforms of property tax administration in New York State. Governor Carey was convinced to veto the bill, but he was in a weakened political condition near the close of his second term and his veto was overridden. Thereafter, critics of the homestead property tax system nonetheless predicted that the law would not withstand judicial scrutiny in light of the principles upon which *Hellerstein* relied. However, in following years, the Court of Appeals upheld most provisions of the 1981 statute in two decisions: *Foss v City of Rochester (1985)* and *Treichler v Niagara-Wheatfield Central School District (1992).*

In *Foss*, the plaintiff, an owner of a four-unit dwelling in the City of Rochester, claimed section 305 and Article 19 of the RPTL were unconstitutional because §305’s allowance of fractional assessments was unconstitutionally vague and Article 19 unconstitutionally delegated the legislative power to tax. The Court rejected both of these claims.

The plaintiff in *Foss* also contested the application of Article 19 to county taxes under Rochester Local Law No 6 of 1983 claiming the statutes denied him equal protection of the law because there would be a higher county tax rate on non-homestead properties in Rochester than the county tax rate on non-homestead properties located outside Rochester but in Monroe County. The *Foss* decision upheld the City of Rochester’s right to impose differential tax rates on homestead and non-homestead properties in Rochester because these different rates were imposed using the process under Article 19 RPTL. However, the court held as unconstitutional Monroe County’s use of Rochester homestead tax system to apply higher county real property taxes on non-homestead properties in Rochester as compared to similar non-homestead properties outside of Rochester. The court held there must be “a rational reason for deliberately imposing demonstrably different tax burdens on similar properties because of their different geographic locations” and that Monroe County had “no rational demographic basis for such a difference.”[9]

In *Treichler,* the plaintiffs, owners of non-homestead property, challenged their school district’s establishment of a dual tax rate for homestead and non-homestead property within it. They contended that the standard to implement the homestead property tax system in a school district, of one-third (now one-fifth) of the parcels located in a homestead taxing jurisdiction was arbitrary. They also contended, relying on the *Foss* decision, that Article 19 RPTL was unconstitutional because it enabled the school district to impose a greater tax burden on non-homestead taxpayers within the school district than non-homestead taxpayers in the same towns but in another school district.

[9] *Foss v City of Rochester* 65 N.Y.2d 251, (1985) p. 135.

The Court rejected both these arguments holding that the one-third parcel standard was reasonable because it encouraged revaluation. It also held that:

> Foss has no application to the plaintiffs' contention. *Foss* involved a situation where a greater tax burden was imposed upon the non-homestead taxpayers in other municipalities *within the same taxing authority,* the county of Monroe. The constitutional invalidity described in *Foss* has no application to a comparison of the relative tax burdens between taxing authorities. Plaintiffs and other non-homestead taxpayers within the school district are not "similarly situated" with non-homestead taxpayers in other school districts.[10]

It is clear from these two court decisions that Article 19 RPTL is constitutional if the taxing jurisdiction follows the process set out in the statute to establish homestead and non-homestead tax rates.

## Do Other States Use a Real Property Tax System Similar to New York's Homestead Property Tax System?

Recent comparative information about the use of property taxes in the states is available from the Center for State and Local Taxation (CSLT) at the University of California, Davis and the Institute of Taxation and Economic Policy (ITEP). These studies agree that about half the states (including New York) employed a real property classification system and, in them, assessment ratios or tax rates are set in a manner that reduces the property tax burden on residential and agricultural property relative to commercial and industrial property.

The Center for State and Local Taxation report, *Property Tax Systems in the United States: The Tax Base, Exemptions, Incentives, and Relief* (2003), found that twenty-five states have "classified real property tax systems" which tax different classes or components of property at different assessment ratios (i.e., fractional assessment, nineteen states) or different tax rates (six states, see Appendix C). For example, in South Carolina the assessment ratio (the percentage of the property's value that is subject to tax) for owner-occupied residential property is four percent while the assessment ratio for commercial property is six percent, fifty percent greater than the residential ratio. For manufacturing and utility property in South Carolina the ratio is 10.5%, one hundred sixty-two percent greater than the residential ratio.[11]

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[10] *Treichler v Niagara-Wheatfield Central School District* 590 N.Y.S.2d 954, (1992) p. 957

[11] *Split Roll Property Taxes.* Institute of Taxation and Economic Policy (2007).

ITEP found in a 2007 study that over a dozen states used a "spilt roll property tax" which applied different tax rates to different types of property. The result was that certain types of property, usually residential, were taxed at lower effective tax rates than others (usually business property). For example, in the District of Columbia the property tax rate for residential property in 2003 was 0.0096 while the rate for commercial property was 0.0185, ninety-two percent greater than the residential rate.[12]

The "homestead exemption" is another method used in at least 40 states to reduce property taxes for residential property.[13] This exemption is provided as either a flat dollar amount or a fixed percentage of a home's assessed value. Some states apply the exemption only to certain types of property tax levies, such as school taxes, while other states apply the exemption to all homeowner property taxes.

In sum, ITEP found that, "On average, . . . about forty percent of a typical state's property taxes fall on business (excluding the portion of apartment taxes that is assigned to renters).[14] What appears to be different in New York is the availability of a local option for classification similar to that adopted by Kingston, which results in divergent tax burdens for properties of the same type and/or function in proximate taxing jurisdictions throughout the state.

## A Review of Relevant Research on the Impact of the Homestead Property Tax System on Property Values and Economic Development

Two major studies have been published that examined how New York's homestead property tax system affects property values and economic development: *Taxes and State and Local Economic Development: The Homestead Tax Option in New York (*1998) by Wai-Ho Wilson Wong of Syracuse University and *Non Homestead Tax Rates and City Competitiveness* (1996) by Kent Gardner of the Center for Governmental Research. Additionally, John Yinger, a well-known economist at the Maxwell School of Syracuse University, has recently commented upon the effects of the classification of real property for tax purposes in upstate New York.

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[12] Terri A. Sexton . *Property Tax Systems in the United States: The Tax Base, Exemptions, Incentives, and Relief*, . Center for State and Local Taxation, Institute for Governmental Affairs, University of California, Davis. June 20, 2003.

[13] *Property Tax Homestead Exemptions.* Institute of Taxation and Economic Policy (2011).

[14] *Who Pays? A Distributional Analysis of the Tax Systems in All 50 States*. ITEP (2013).

Wong's work, though completed almost 20 years ago, remains the most thorough ever done, and was still, in 2012, described by Yinger as "the best available evidence" on the subject.[15] This econometric analysis examines in detail the effect of policy choices, particularly property tax and public service levels, on state and local economic development. Based upon a review of every major published study through the mid 1990's he concludes,". . . both survey and econometric studies do not find evidence that taxes are *significant* factors in state and local economic development." Wong also concludes that "all the studies that found taxes to be important suffer from many major methodological problems" and ". . . even for those studies that found taxes to be statistically significant, the tax elasticities (i.e., the effect of taxes on employment and other economic development variables) in most of these studies are small." He also found that, even where taxes were found to be significant for economic development, they were insignificant in relation to business locational and policy decisions.[16]

Regarding the effect of capitalization on commercial property values, Wong's review of existing research showed that these had little impact on firms' locational decisions because:

> . . . the *incidence of property tax differentials is mainly borne by property owners, . . . [and therefore]. . . differences in property tax should not affect the firms that are making decisions to locate in the jurisdiction*. Although the limited number of studies cannot give a reliable range of capitalization rate yet, all the studies show that the capitalization rate should be very high, which will easily offset the effect of taxes on economic development. The high level of capitalization found is logical considering that firms are much more mobile than land and property owners and therefore are able to force them to take up most of the property tax differential.[17]

It is important to note that Wong's study did not have access to the data necessary to test whether rates of capitalization in New York State differed in homestead and non-homestead cities. Several Ulster County commercial realtors consulted for this study all agreed that Kingston's higher commercial property taxes under the homestead property tax system were largely capitalized and negatively impacted the values of those commercial properties.

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[15] John Yinger. "Four Flaws in New York State's Property Taxes and How to Fix Them: The Homestead Option" (July 2012).

[16] Wai-Ho Wilson Wong. *Taxes and State and Local Economic Development: The Homestead Tax Option in New York.* (1998) pp. 70-71.

[17] Ibid, p.106.

Wong's research on the establishment of the homestead property tax system in New York confirmed that its main purpose was to encourage municipalities to regularly reassess property in an environment in which, without mitigation through use of this approach, such reassessment would generally transfer a greater property tax burden to residential properties. However, the negative effect over time of the "shares of the pie" approach was not fully appreciated. Wong wrote:

> In the years following the . . . [adoption of] the homestead option, if the market value of non-homestead property gets smaller, this will lead to an increase in the effective tax rate of non-homestead class. Similarly if the market value of homestead property gets bigger, in the years after the homestead option, this will lead to a decrease in the effective tax rate of homestead property class. Together, this will lead to a much bigger gap in the relative effective tax of the two property classes.[18]

We document below that this has been the case for the City of Kingston. But importantly, this work established that commercial properties actually pay higher effective tax rates even if the homestead option is not adopted. At the time of Wong's study, only twenty of New York's sixty-one cities (all but New York City) had conducted a reassessment. Fourteen of those cities adopted the homestead tax system, but all twenty-one had higher effective tax rates for non-homestead/commercial property. The average effective property tax rate on commercial and industrial property in the sixty-one cities was 3.89% of market value during the study period.[19] The practical question thus may be not whether commercial properties will pay more taxes than will residential properties, but "How much more?" and "How this will be done?"

Wong's study then examines changes from 1981 to 1995 in the cities outside New York City in:

- the number of people employed and payroll,
- a "level-of-assessment factor" (Wong could not separate homestead and non-homestead property values in developing this factor as he could only get that data for the fourteen cities that had adopted the homestead property tax system)[20],

[18] Wai-Ho Wilson Wong . *Taxes and State and Local Economic Development: The Homestead Tax Option in New York* (1998).

[19] Ibid, p. 212.

[20] Ibid, p. 195. The change-in-the level-of-assessment-factor isolates the change in the value of properties that is simply due to the strength of the property market. It shows the change in value of an identical property across years. It is expressed by using 1 as a benchmark, so that 1 indicates no change in the value of the property. For example, 1.15 indicates an increase of 15% in property value and 0.9 indicates a decrease of 10% in property value.

- several public services outcomes including crime rate, education scores, and property loss from fire, and
- fixed effect control variables: city effect, time effect and trend effect.[21]

All data was subject to several different types of regression analysis and statistical analyses of significance.

At one level, this study confirms what was widely known. Most of the sixty-one cities lost population and employment in the study period and had a decreasing trend in the value of their properties. In examining the possible causes of these disturbing trends Wong found:

- Property tax has a negative relationship on total employment. However, the negative impact of property tax was limited and moderate and not significant in all industrial sectors.
- Most of the relatively small impact of property tax was actually absorbed by the property and land owners.
- Crime rate and education scores have significant impacts on employment levels that are just as important, if not more important, than property tax rates.
- The unspecified fixed effect variables used in the study (i.e., factors other than the level of assessment factor, crime rate, and education scores) and "natural economic forces," which probably cannot be changed by government in the short run, are responsible for most of the economic downturn and hardship experienced in these cities.

*Non Homestead Tax Rates and City Competitiveness* (1996) by Kent Gardner was prepared for the Center for Governmental Research and focused upon the use of the homestead/non-homestead option in Rochester, New York. For context, regarding the impact of taxes on economic development, this relied largely on Timothy Bartik, *Who Benefits From State and Local Economic Development Policies?,* which summarized all empirical studies of business location decisions between 1979 and 1991. Bartik found that state and local taxes have a statistically significant but small effect on regional business growth. He also found that "these tax effects are larger for intra-metropolitan business location decisions. That is, the difference in taxes between Rochester and Greece, for example, plays a bigger part in a firm's location decision than the difference between Rochester and Syracuse."[22]

Gardner's original research looked at cities in New York, New Jersey, Connecticut and Ohio (excluding jurisdictions in the New York City metropolitan area) to determine the degree to which changes in employment between 1982 and 1992 were affected by:

- percentage change in the poverty level between 1980 and 1990,

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[21] City effect variables control for observable and unobservable city-specific and time invariant factors. Time effect variables control for any time-specific but non-city specific factors. The trend effect controls for any factors other than the policy variables explicitly specified in the model. Wilson Wong (1998) p. 204.

[22] Kent Gardner. *Non Homestead Tax Rates and City Competitiveness* (1996), pp. 7-8.

- median age of housing units in the location,
- percentage change in median home values between 1980 and 1990,
- percentage change in population between 1980 and 1990, and
- effective property tax rates in 1982 and 1992, measured in 1992 dollars.[23]

He found that these five variables explained only about twenty-nine percent of the change in employment in all these areas. That is, the outcome was similar to that of Wong's work: most of the factors affecting employment loss are undefined and therefore unlikely to be subject to the control of state and local governments. More importantly, Gardner **found that while the effective tax rates in 1982 and 1992 are negatively related to changes in total employment, they played a very small part in the decisions leading to job losses during the study period.**[24]

Gardner also analyzed the effective property tax rates in eighteen different McDonald's franchise operations and selected area office parks within Monroe County where the only municipality using the homestead property tax system was the City of Rochester. He found that "**In the case of commercial real estate,. . . it is the owners of real estate who bear the burden of Rochester's higher real property tax rates.** A businessperson seeking property to lease is likely to find base rents adjusted down (in accordance with lower underlying property values) to offset the higher non-homestead tax rate."[25]

Gardner also made this important observation, which is confirmed by our research in Kingston:

> Unfortunately, the high non-homestead tax rate has a perceptual, as well as a real, effect on business location decisions. While the actual carrying costs on a specific property may have been adjusted to reflect the higher tax rate, the business has a recurring reminder of the tax rate in the form of its annual tax bill. ***While a more comprehensive analysis of the comparative cost of doing business may suggest otherwise, the immediate perception of the property owner or triple net lessor may urge a move out of the City.***[26]

[23] Ibid, p. 12. The effective tax rate is defined as the full value tax rate multiplied by the median home value in each community. This gives a measure of the actual taxes paid, which fluctuate with property values, as opposed to tax rates, which do not.

[24] Ibid, p. 15.

[25] Ibid, p. 19.

[26] Ibid p. 19.

In his brief, *Four Flaws in New York State's Property Taxes and How to Fix Them: The Homestead Option*, John Yinger argues that both pros and cons arise from the classification of property for tax purposes. He sees two significant positives: "classification with a higher tax rate on business property can shift some of the property tax burden in a low-income city onto nonresidents, many of whom benefit from city services" and, ". . . can ease the unfair impact of a reassessment on residential property." The former is the case because many commercial owners, Yinger says, are not city residents. For the latter, the potential fiscal shock of the impact of reassessment on homeowners was – of course – the underlying reason for the adoption of the homestead/non-homestead policy in New York.

The big disadvantage attributed to classification, Yinger writes, "is that it generally is set up with a higher tax on business property − and may therefore discourage economic development" but, he says, "the best available evidence indicates that a city's business property tax rate has an extremely small impact on economic development…."[27]

The real problem is that classification often results in ever increasing commercial rates. Both Wong and Gardner, supported by a body of research on this issue, found that higher property taxes – like those for commercial properties resulting from the homestead/non-homestead option – are capitalized and result in lower property values. In fact, we document below that, for Kingston, commercial values have been flat in real terms for the period over which this option has been used. Meanwhile, residential values have risen. This leaves proportionally less commercial property supporting a fixed share of the pie. More generally, Yinger concludes:

> So what we have witnessed in jurisdictions with the Homestead Option is steadily rising effective property tax rates on business property.
>
> Because classification has pros and cons, it might make sense under some circumstances to balance them by selecting an effective property tax rate that is somewhat higher than the residential property tax rate. But it makes no sense at all to say that the net benefits from classification are rising over time so the gap between the business and residential rates should rise as well. And it certainly makes no sense to implement a policy in which this rate gap is likely to go up continually and without limit. But that is exactly the impact of New York's bizarre Homestead Option.

[27] Yinger (2012) pp. 2,3.

> Moreover, businesses may not respond very much to differences in relatively unchanging effective property tax rates across communities, but they are likely to respond to a situation in which the effective tax rate is almost certain to increase steadily − at an unknown pace. Businesses like predictability, so it might be hard to attract business to locations in which the effective property tax rate on business property is following an uncertain upward path.[28]

In sum, Wong and Gardner reach essentially the same result: property taxes matter but not very much when it comes to a business's decision to re-locate or expand. Wong and Gardner go on to show that other factors such as public safety, the education system and the quality of infrastructure are also important to a municipality seeking job growth. They conclude that reducing taxes will not result in significant job growth, particularly if it leads to diminished quality of public services. Yinger does not quarrel with these fundamental conclusions regarding the drivers of economic development. But he does find that the prospect of the generation of ever increasing tax rates for a city's commercial property to unpredictable levels − an actual but unintended effect of the homestead/non-homestead policy – to be extremely problematic.

# The Origin of Homestead Property Tax System in the City of Kingston and the Kingston School District

After the State established the homestead property tax "shares of the pie" tax system option for municipalities in 1981, municipalities that chose to adopt the system usually did so simultaneous with reassessment of their real property. In 1988, Kingston decided to reassess its property at full value for use in 1989. The impact of a full value reassessment would have resulted in a major shift of Kingston's tax burden from commercial property to residential property due to Kingston's theretofore practice, like in most other municipalities, of assessing commercial properties at a higher value than residential properties.

A major concern during the reassessment was its impact on veterans in Kingston because of the widespread use there of the veterans-eligible funds real property tax exemption authorized under Section 458 of the Real Property Tax Law. The eligible funds exemption reduces the assessed value of a property that a veteran purchased with "eligible funds" (typically up to a maximum of $5,000) that the veteran received upon discharge from active duty. Eligible funds include: a veteran's pension, bonus or insurance monies (or dividends or refunds on such insurance), compensation paid to prisoners of war, and mustering out pay.

[28] Yinger (2012) p. 3.

In 1981, this exemption was simply defined in dollars. Fractional assessment made a very high proportion of the assessed value subject to the veteran's exemption. As the assessed value of the property increased with reassessment, and especially with reassessment and the use of full value as assessed value, the ratio of the value of the exemption to the assessed value decreased substantially, resulting in a much higher percentage of the veterans' property being subject to tax. (It should be noted that the Kingston's current assessor believes that most veterans who own property in Kingston now use the alternative veteran's real property tax exemption allowed under Section 458-a of the Real Property Tax Law. Since this system does not use a fixed dollar exemption for veterans' property, this issue is no longer a concern as it relates to keeping or repealing the homestead property tax system in Kingston.)

In any case, Kingston adopted the homestead real property tax system for use in 1989, locking in the proportionally higher tax burden that commercial properties were carrying prior to the full value reassessment, and avoiding a shift of that burden to residential property owners. Ever since, commercial realtors and local businesses have complained that this practice has stifled commercial property values and economic development in Kingston.

Responsive to this concern, since 1989, Kingston's government has made incremental changes in non-homestead property tax burden, as allowed under current law. Originally, non-homestead property paid fifty percent of the total real property tax burden even though the assessed value of non-homestead property was about thirty-six percent of the total assessed value of Kingston's real property. Since then, the non-homestead share has been adjusted slightly downward from time to time. In 2008, in response to the business community's concerns about the impact of the homestead property tax system on economic development and another reassessment of all of Kingston's real property, the Kingston Common Council initially voted to repeal the system. However, due to concerns about the impact of repeal on residential real properly taxes, the Common Council reversed itself and voted to keep the homestead property tax system.

Since then, incremental downward adjustments have continued to be made to the non-homestead property tax burden. In 2013, non-homestead property carried 46.35% of the total real property tax burden for city purposes, while the assessed value of non-homestead property comprises about thirty-one percent of the total assessed value of Kingston property.

The Kingston School District encompasses the City of Kingston and either the complete or partial parts of the Towns of Esopus, Hurley, Kingston, Marbletown, New Paltz, Saugerties, Ulster, and Woodstock. The school district adopted the homestead property tax system in the 1988-89 school year but reliable data only exists from the 1990-91 school year forward. From the beginning the school district has shifted about eleven percent of the homestead tax burden to non-homestead properties as allowed under subdivision five of section 1903 of the Real Property Tax Law (RTPL). This approximates the maximum shift allowed under the current law.

The Kingston School District explains the process they use in determining the homestead and non-homestead tax burdens as follows:

- The first step in applying the Homestead/Non-Homestead option is the determination of the proportionate percentage of taxable real property wealth between the two classes of property.
- Within limits determined by Section 1903 of the RTPL a school board may re-apportion the share of taxable real property wealth between the Homestead and Non-Homestead class.
- The Homestead share may not be decreased below seventy-five percent of the aggregate proportion; the Non-Homestead share may not be increased more than one hundred twenty-five percent of the aggregate proportion.
- The re-apportionment of wealth (Homestead v. Non-Homestead) accomplishes a shift of the apportioned tax levy in the direction of the Non-Homestead property.
- The tax levy having been re-apportioned between the two classes of property is then allocated to each municipal segment (city and towns) based upon the full value of each segment.

This process has the effect of putting a greater tax burden on the City of Kingston and the Town of Ulster which has over eighty-three percent of the taxable full value of all non-homestead property in the school district. In the City of Kingston the homestead /non-homestead school district tax ratio has ranged from between 1:1.4 to 1:1.5 from 1991-92 to 2013-2014. It is currently 1:1.506. (See Chart A. page 28.) The homestead /non-homestead school district tax ratio differs in each town within the school district based on their share of the full value of homestead and non-homestead property.

## **The Use of Homestead Property Tax System in Kingston: Trends and a Comparative Analysis with Non-Homestead Cities**

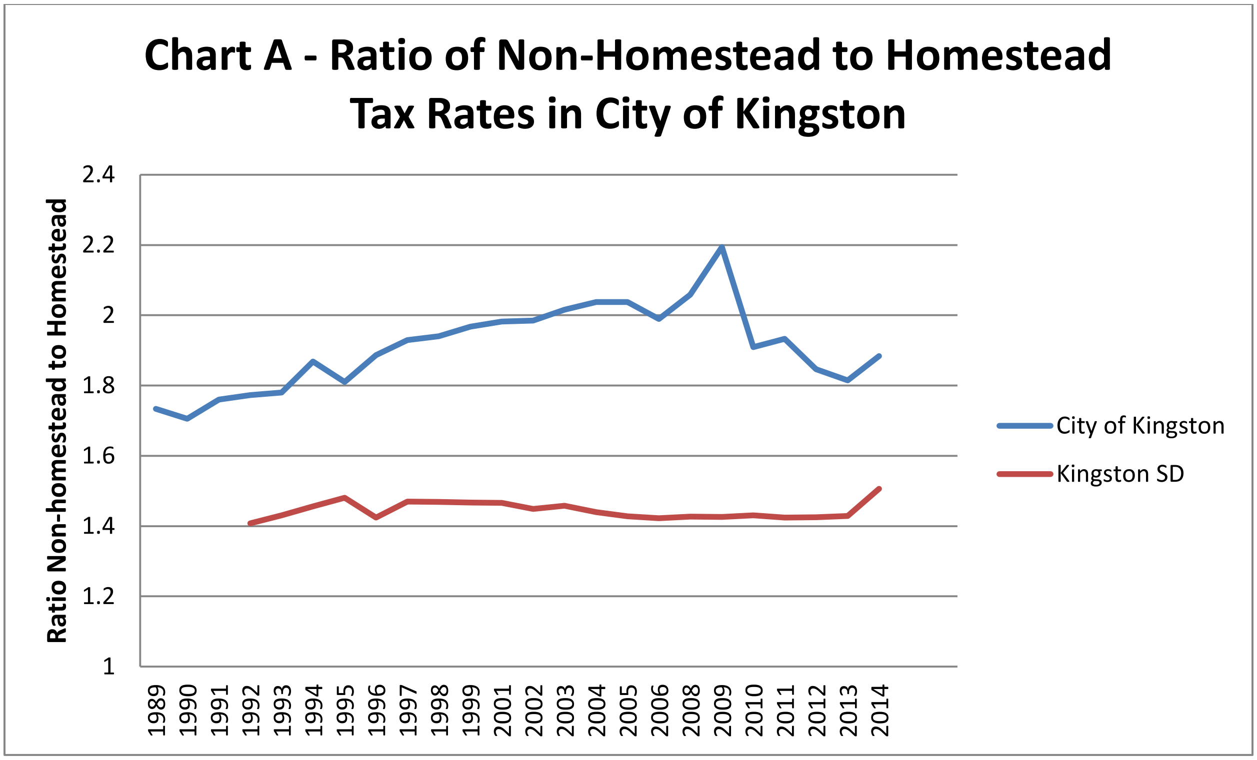
In 1991, the first year for which the homestead/non-homestead classification system data is available for the City of Kingston, *the full value of the taxable property there was $852 million (in 2012 dollars). Of this total 32.8% ($279.3 million) was in the non-homestead category with the remainder (67.2%; $572.7 million) classified as homestead.* The proportions notwithstanding, as in accord with the intention of the policy, the "shares of the pie" approach resulted in each of these two categories paying almost exactly half of the City's property tax levy; the same shares they paid prior to the 1992 reassessment.

Fast forward to 2013. The total full value of taxable property in the City had risen to $1,531.5 billion or $1.511.7 billion in 2012 dollars Over this period, values grew and declined in Kingston, as they did in other cities in the region, in response to general economic conditions, whether or not the homestead tax option was in use. In fact, though trends in Kingston paralleled those in other Mid-Hudson Valley cities, the rate of growth in values there in real terms was greater than elsewhere in the region during the period of study. *Of the total full 2013 value of taxable property in Kingston , sixty-nine percent ($1.057 billion or $1.044 billion in 2012 dollars) was classified as homestead, and the rest (thirty-one percent; $474.3 million or $468.2 million in 2012 dollars) as non-homestead. Homestead property paid a slightly higher portion (53.65%) of the levy; non-homestead property paid the rest*.

Over the near quarter century that the homestead/non-homestead system has been in effect in Kingston, the homestead properties' portion of the tax burden grew, but at a slower rate than the growth in their share of the assessed value of taxable property while, conversely, the share that non-homestead values made up of all property values diminished at a faster rate than its proportion of the property tax burden. Notwithstanding a marginal adjustment in shares between classes made in the 2014 Kingston budget to diminish the impact upon non-residential properties there, this reality persists.[29]

One indicator of the effect of the homestead/ non-homestead option for commercial properties in Kingston is the ratio of the tax rate used for non-homestead property to that used for property in the homestead category. A 1:1 ratio means that properties in both categories are taxed at the same rate. A ratio above "1" means that non-homestead property rates are higher; below 1 means that they are lower. In the year that this system was first used in Kingston, this ratio was 1:1.77. It has fluctuated over the years, reaching a high point of 1:2.19 in 2010. (See Chart A.) In 2013, this ratio was 1:1.81, for 2014 it slightly increased to 1:1.88. To put it another way, for every $1 in tax a (hypothetical) single family home in Kingston valued at $150,000 will pay this year, a (hypothetical) store around the corner with the same value will pay $1.88 in tax.

[29] Mayor. City of Kingston. "2014Budget Message" (October 17, 2013) Including City of Kingston 2014 Tax Rate Model. http://ci.kingston.ny.us/filestorage/50/2014_Mayor_Budget_Messge.pdf. In 2014 total assessed value in Kingston declined 6.45% from $1.531 billion to $1.433 billion. Homestead assessed value decreased 7.07% from $1.057 billion to .982 billion while non-homestead assessed value declined 5.07% from $.474 billion to $.450 billion. Despite these declines the homestead and non-homestead share of total assessment remained at their 2013 levels of 69% and 31%.

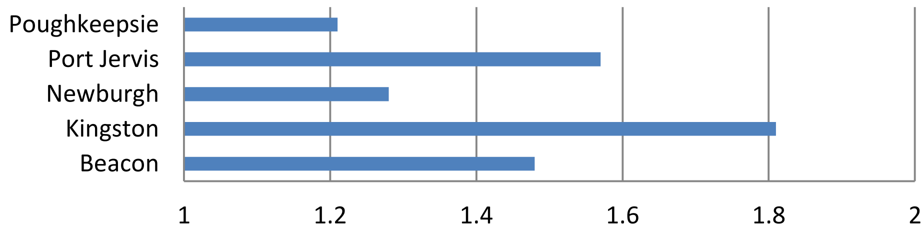



Source: Office of the Assessor. City of Kingston. Certification of Base Percentages, Current Percentages and Current Base Proportions Pursuant to Article 19, RPL for the Levy of Taxes (Various years)

A number of other cities in the Mid-Hudson Valley employ the homestead/non-homestead system. A look at the ratio of homestead to non-homestead tax rates in four of these cities for 2013 – Poughkeepsie (1:1.21), Beacon (1:1.48), Newburgh (1:1.28) and Port Jervis (1:1.57) – showed that the use of this system in the region is most disadvantageous to non-homestead properties in Kingston (1:1.93). (See Chart B.)[30]

[30] Latest available published data for Port Jervis was for 2012. The ratio in this City has been relatively constant over time.

**Chart B**
**Ratio of Homestead Tax Rate to Non -Homestead Tax Rate 2013**




| | Beacon | Kingston | Newburgh | Port Jervis | Poughkeepsie |
|---|---|---|---|---|---|
| Ratio | 1.48 | 1.81 | 1.28 | 1.57 | 1.21 |

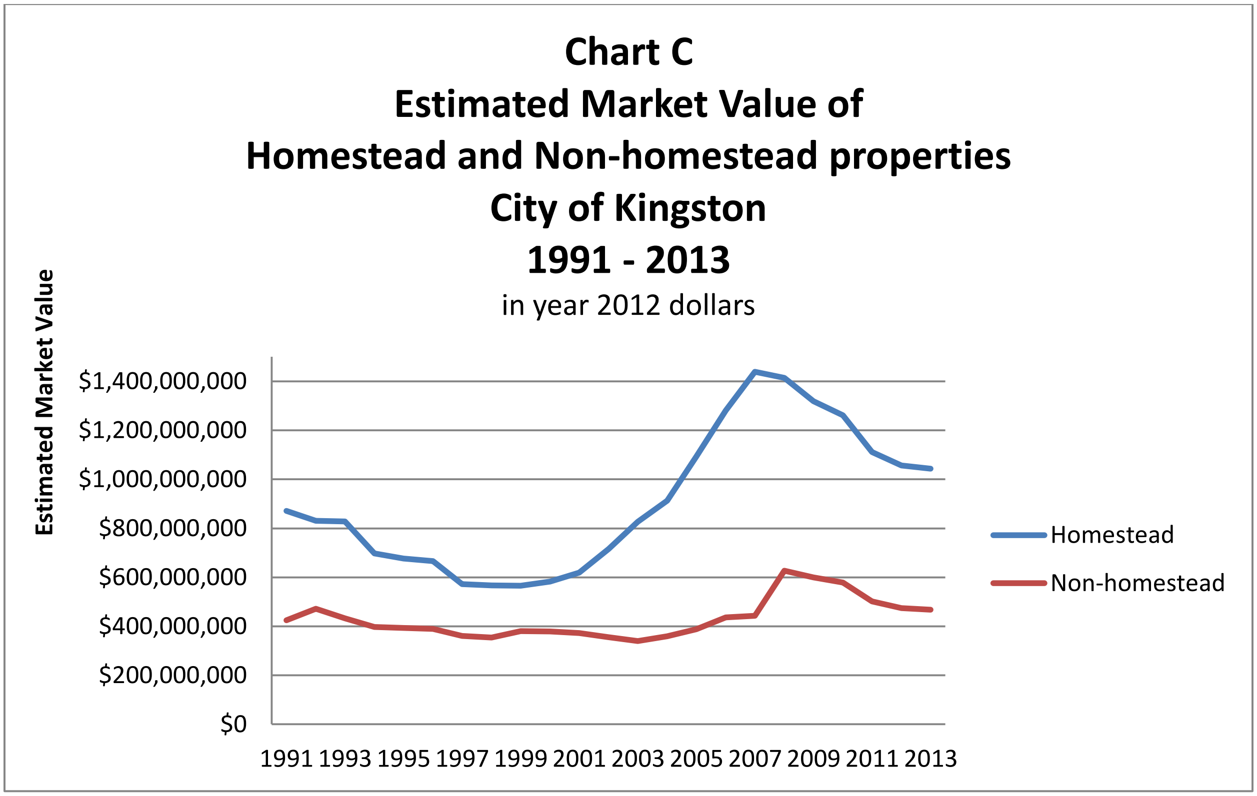
Source: Kingston: Same as chart A; Dutchess County municipalities: http://www.co.dutchess.ny.us/CountyGov/Departments/RealPropertyTax/12485.htm; Orange County Municipalities: http://www.co.orange.ny.us/content/124/1368/1468/default.aspx

Critics of the homestead/non-homestead system argue that it dampens the real growth of commercial property values. This is especially true in such weak markets for commercial real estate as Kingston, which has suffered an oversupply of commercial space since the closure of a massive IBM manufacturing facility in the Town of Ulster, just outside Kingston, in the early 1990's. In such a market, owners cannot raise rents to displace the impact of higher taxes upon renters; as explained in the Wong and Gardner studies previously discussed, through capitalization this devalues their asset relative to other potential investments.

In order to assess this argument, we employed a GNP deflator to compare the value of homestead vs. non-homestead properties in the City of Kingston during the entire period in which the classification system has been in use. The aggregated value of all properties within each category was remonetized, using 2012 dollars. (See Chart C on next page.) Using this approach, the peak year for values in Kingston turned out to be 2008, when the total for homestead properties reached $1.413 billion, and non-homestead properties hit $626.5 million. The effects of the great recession were dramatic. By 2013 all taxable homestead real estate in Kingston was worth $1.044 billion in 2012 dollars; similarly denominated, non-homestead property was worth $468.2 million.[31] ***Between 1991 and 2013, the period over which the homestead/non-homestead classification scheme was used, the total real value of homestead properties rose 19.9% (from $870.7 million in 1991 to $1.044 billion in 2013) while non-homestead values showed a 9.8% increase in value (from $424.5 million in 1991 to $468.2 million) about half the homestead rate of growth.*** The disparity

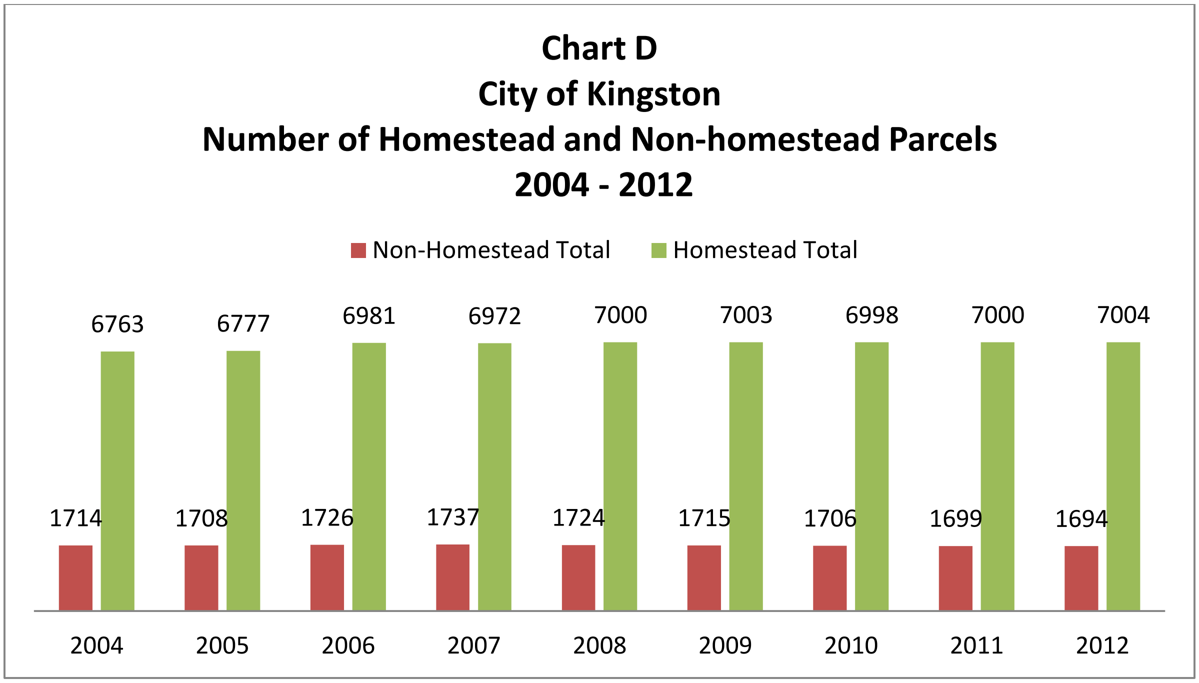
[31] Total values in both categories dropped further in 2014; the deflator used for this calculation did not yet provide a process for the 2014 calendar year by the time of this writing. http://stats.areppim.com/calc/calc_usdlrxdeflator.php .

in growth rates is even greater if we measure starting from 1992. During this time period homestead rates grew over twenty-five percent while non-homestead rates actually decreased by .7%. This is largely due to an unexplained $38 million increase in the assessed value of non-homestead property between 1991 and 1992. (See Appendix D for more detail.)




Source: Office of Kingston Assessor *Tax Levy Worksheets RP6701* 1992-2013

Higher tax rates for non-homestead properties in Kingston provide both an economic incentive to move these properties into the lower taxed homestead category through renovation or conversion and a disincentive to develop properties of this type in the City. Also, non-homestead properties might be removed from the roles entirely through their acquisition by tax exempt entities, at favorable prices driven, in part, by their tax status. These dynamics would result in a net reduction in the City's total number of non-homestead properties. From data obtained from the New York State Tax Department (formerly the Office for Real Property Tax Services) website for the period 2004 to 2012, we established that the number of non-homestead properties on the tax rolls in Kingston peaked in 2007 at 1737; the number in 2012 was 1694. This constituted a decline of 2.5% in five years. But this overlooks that there was an increase in the number of non-homestead properties in the City of 1.3% between 2004 and 2007, a period in which the dual tax rate system was in full effect. (See Chart D.)




Source: Office of City of Kingston Assessor *Roll Selection Summary RPS960/V04/L002* 2004-2012

We also examined, from 2000 to 2011, whether the full value assessments of all properties in homestead cities similar to Kingston (Beacon, Poughkeepsie, Newburgh, Port Jervis, and Lackawanna; see Chart E) changed at a rate different than the full value assessments of all properties in similar non-homestead cities (Middletown, Hudson, Peekskill, Elmira, Auburn, Lockport, and Watertown; see Chart F). The aggregated value of all properties within each category was remonetized, using 2012 dollars. There is no significant difference in the all property full value assessment growth rates between homestead and non-homestead cities.

For example, combined property values for homestead cities in the Hudson Valley grew between sixty-seven percent (Port Jervis) and one hundred seventeen percent (Beacon) with Kingston's combined property values growing ninety-eight percent. (See Chart E.) Cities in the Hudson Valley that do not use the homestead property tax system had their combined property values grow between seventy-six percent (Peeksill) and one hundred seven percent (Hudson; see Chart F). This data indicates that there appears to be no relationship between a city's homestead status and how much these cities total property values grew or declined between 2000 and 2011.

Based on the data in Chart C we know that most of Kingston's growth in property values during this time period was in the homestead class. Chart G (see Page 33) examines the growth of total homestead and non-homestead property values from 2001 (the earliest data available from the Office of Real Property Tax Services) to 2012 in other Mid-Hudson Valley cities that use the homestead system.

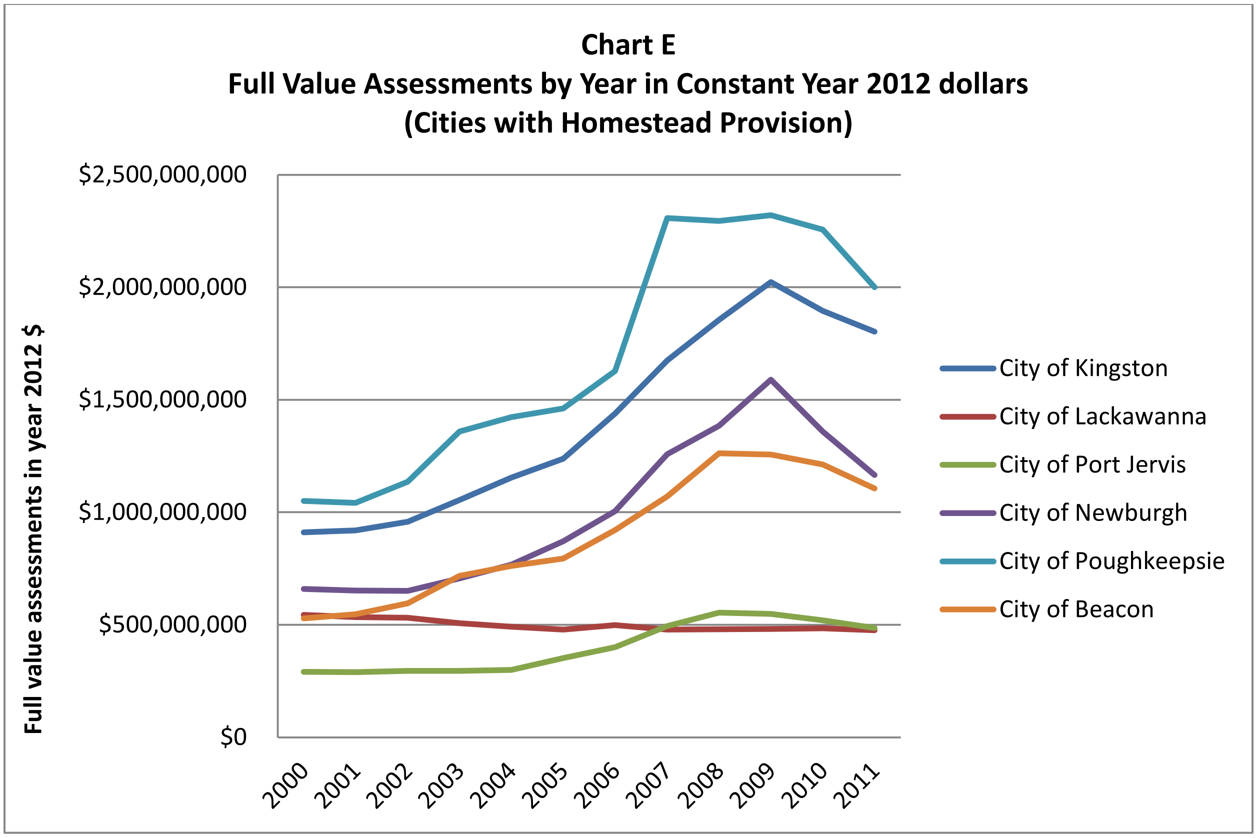


Chart E
Full Value Assessments by Year in Constant Year 2012 dollars
(Cities with Homestead Provision)
$2,500,000,000
$2,000,000,000
$1,500,000,000
$1,000,000,000
$500,000,000
$0
Full value assessments in year 2012 $
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
City of Kingston
City of Lackawanna
City of Port Jervis
City of Newburgh
City of Poughkeepsie
City of Beacon

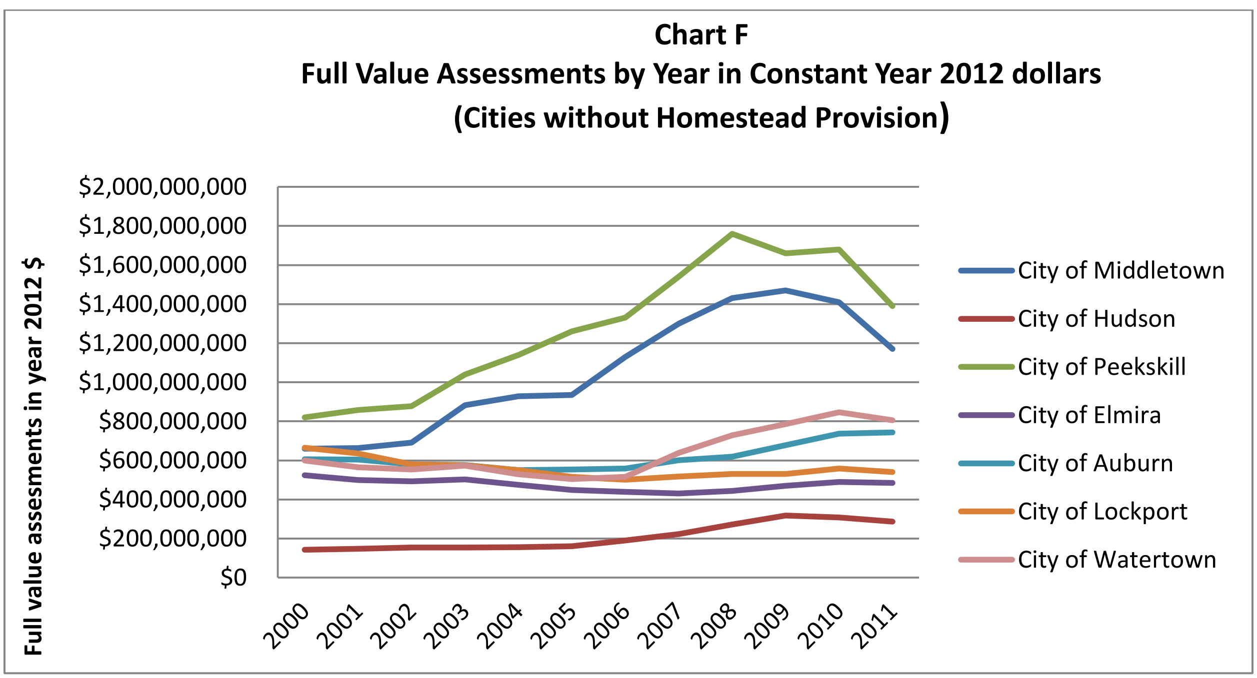
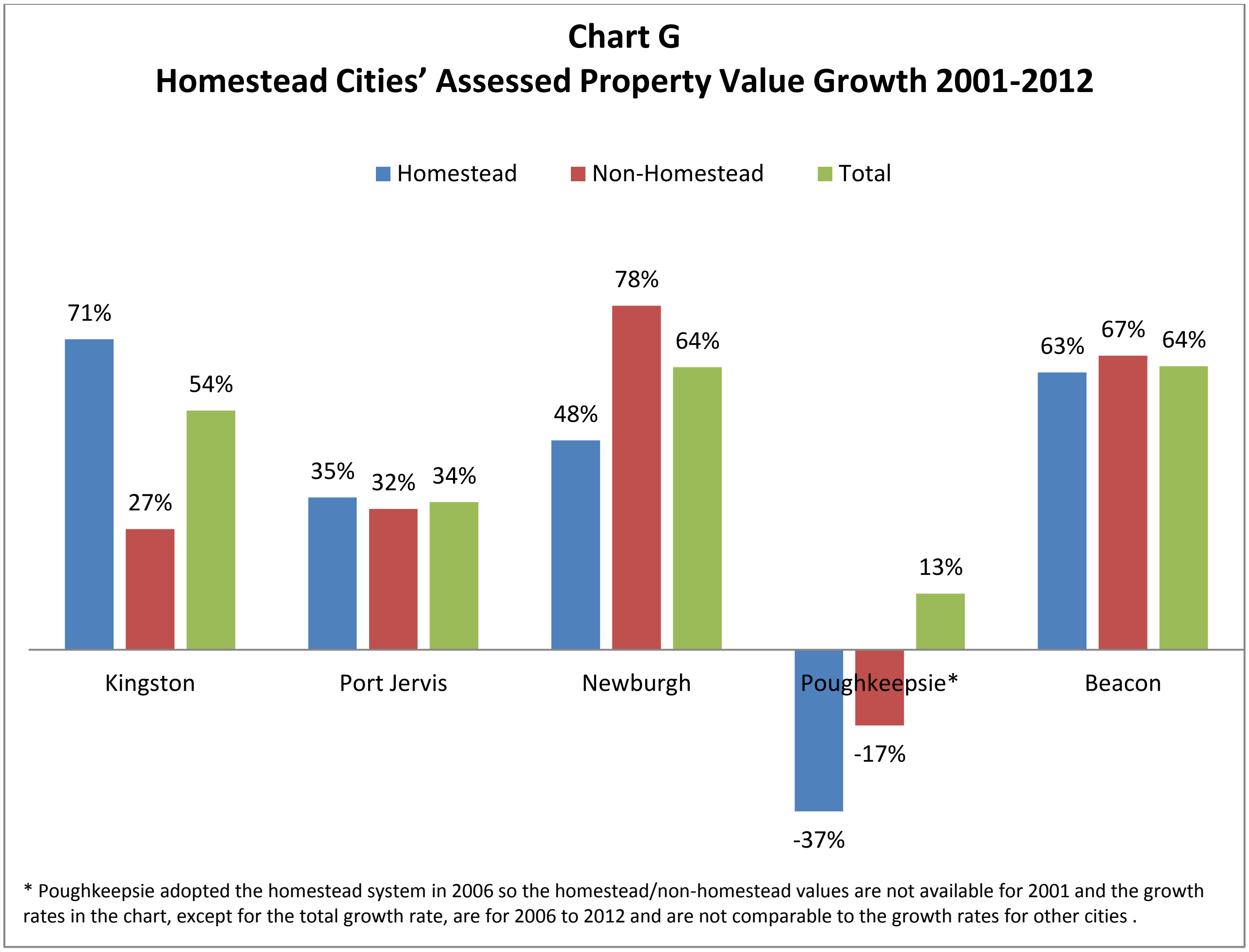


Chart F
Full Value Assessments by Year in Constant Year 2012 dollars
(Cities without Homestead Provision)
$2,000,000,000
$1,800,000,000
$1,600,000,000
$1,400,000,000
$1,200,000,000
$1,000,000,000
$800,000,000
$600,000,000
$400,000,000
$200,000,000
$0
Full value assesments in year 2012 $
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
City of Middletown
City of Hudson
City of Peekskill
City of Elmira
City of Auburn
City of Lockport
City of Watertown

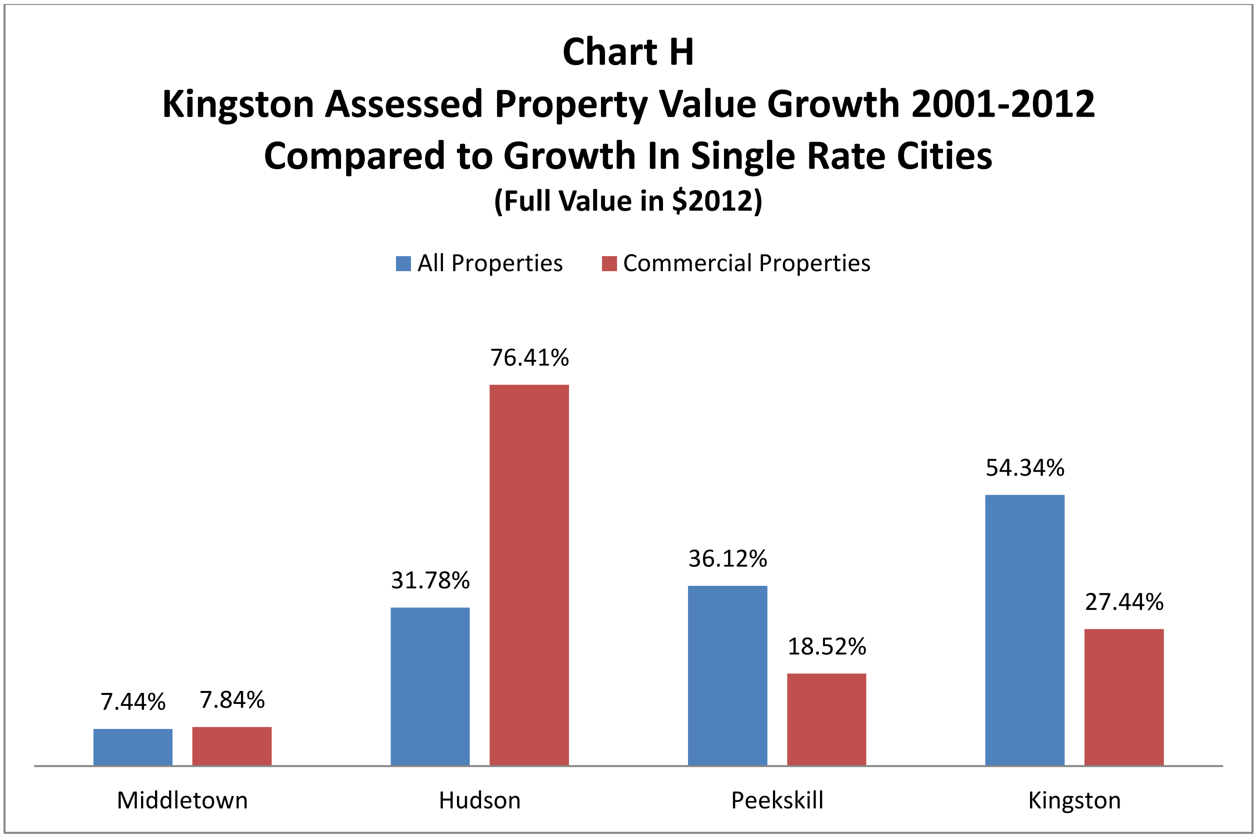



Source: Office of Real Property Tax Services 2013; http://orpts.tax.ny.gov/cfapps/MuniPro/

Chart G shows that between 2001 and 2012 all homestead cities in the Mid-Hudson Valley except Poughkeepsie had a higher rate of growth in the assessed full value of non-homestead property than the rate of growth of non-homestead property in Kingston.[32] All of these cities have a lower homestead to non-homestead tax ratio than Kingston. The highest growth rate for non-homestead property occurred in Newburgh which had the lowest homestead to non-homestead tax ratio (1:1.28). (See Chart B, Page 29.) However, it is difficult to draw a definitive conclusion from this data because Newburgh both conducted a major revaluation and moved to a full value assessment system in 2008 and significantly raised homestead and non-homestead taxes in 2010. In addition, Beacon has the next highest non-homestead property value growth rate and its homestead to non-homestead tax ratio (1:1.41) is not much lower than Port Jervis's ratio (1:1.57) where the growth rate for non-homestead property was half the growth rate of Beacon. Chart G supports what other studies of the homestead property tax system have found; factors other than tax rates affect the

[32] It is difficult to make any conclusions about how the value of non-homestead property changed in Poughkeepsie during this time period because Poughkeepsie adopted the homestead property tax system in 2006.

value of non-homestead/commercial property. Chart H provides further evidence to support this conclusion.



[33]

Source: Office of Real Property Tax Services 2013; http://orpts.tax.ny.gov/cfapps/MuniPro

Cities that do not use the homestead property tax system do not keep property value data in homestead and non-homestead categories. We therefore cannot compare the growth rates of non-homestead property between cities that use the homestead system and cities that do not. However, we can examine the growth of commercial property values in these cities; this is a fair barometer of non-homestead property values. Chart H shows the growth rates of all real property and commercial property in Mid-Hudson Valley cities similar to Kingston which do not use the homestead property tax system ("single-rate cities"). Between 2001 and 2012 only one Mid-Hudson Valley "single-rate" city had a higher growth rate for commercial property than Kingston's growth rate for non-homestead property, the City of Hudson. The other two cities, Middletown and Peekskill, had lower commercial property growth rates than Kingston's growth rate for non-homestead properties. It is also interesting that all Mid-Hudson Valley cities that use the homestead property tax system have higher non-homestead/commercial property value growth rates than all but one Mid-Hudson Valley city that use a single-rate system.

[33] The red bar in Graph H for Kingston signifies the growth rate for non-homestead properties.

A correlation table and a regression analysis were used to examine how changes in Kingston's non-homestead property values between 1995 and 2012 (the period for which complete data were available) were impacted by changes in property tax rates, property crime, unemployment rate, poverty rate as measured by the number of free and reduced school lunches and population. ***The model found no significant statistical relationship between non-homestead property values and non-homestead property tax rates.*** This model was successful in explaining a very high portion (eighty-seven percent) of the variance in aggregate non-homestead values in Kingston over the time under study. The factor that had the most impact on non-homestead property values was the property crime rate.

In sum, these facts do not establish that the tax system used in Kingston is the single cause of the weaknesses in its commercial real estate market. In addition to specific negative developments in the local economy, such as the IBM closing mentioned above and the anticipated consolidation of the City's two hospitals, many other factors are at work. Poverty, social problems and often attendant criminal activity in New York State are concentrated in the longest settled communities with the oldest, least expensive housing stock; in Ulster County, Kingston is one of these communities. Adjacent jurisdictions, directly competitive with Kingston for local business siting, are within the boundaries of the Kingston school district and therefore are also significantly affected by the use of the homestead/non-homestead system. This diminishes the differential effect of the homestead tax system upon locational decisions for businesses choosing between Kingston and the surrounding communities. Finally, and most generally, upstate New York's economy, especially for manufacturing, has been extremely challenged in recent decades; Kingston has felt the same negative effects as have other upstate communities.

In fact, work done for other cities and comparative academic studies have been hard pressed to establish an independent significant causal link between the use of the homestead/non-homestead property tax option and system and difficulties in local economic development. Essentially, they concluded what our examination of the facts conclude: the homestead property tax system has a negative impact on economic development but it is a small impact and not greater than several other factors like the crime rate, the poverty rate, the quality of the education system, and the quality of infrastructure. Yet it is certainly the case that informed persons in the real estate industry believe there is a greater link than these studies find, and offer personal experience in the market, economic models, and other anecdotal evidence in substantiation of this claim. In fact, it is reasonable to think that this belief alone affects behavior by brokers, buyers, seller, landlords and renters in the City's commercial real estate market.

# Kingston's Current Fiscal Condition

The Office of the State Comptroller has recently instituted a fiscal stress monitoring system for all of New York's local governments. The system uses two types of indicators: financial indicators, which evaluate the ability of a local government to generate enough revenues to meet expenditures (fiscal solvency), and environmental indicators, which capture those circumstances and trends that are largely outside the locality's control but which have a bearing on its demand for services and its revenue-raising capabilities. Financial indicators include: assigned and unassigned fund balance, total fund balance, operating deficit, cash ratio, cash percentage of monthly expenditures, short-term debt issuance, the percentage of budget devoted to personal services and employee benefits, and debt service as a percentage of total revenue. Environmental factors include: population, age, poverty, property values, employment base, intergovernmental revenues, Constitutional tax limit, and sales tax revenue. The most recent analysis is based on data municipalities already reported to the Comptroller for the fiscal year ending December 31, 2012.

Kingston's fiscal stress score for 2012 was 25.4%; in 2011 it was 43.8%, and in 2010 it was 29.2%. For 2013, the Comptroller estimates that Kingston's score will be 29%. According to the Comptroller, a municipality is considered "susceptible to fiscal stress" with a score of 45% to 54%; to be in "moderate fiscal stress" with a score of 55% to 64%; and to be in "significant fiscal stress" with a score of 65% or more. Table 1 summarizes the fiscal stress scores for cites using a single rate and homestead/non-homestead cities similar to Kingston.

## Table 1: Fiscal Stress Scores for Kingston and Cities Similar to Kingston

| City | 2010 % | 2011 % | 2012 % | 2013 % (est.) | Designation |
|---|---|---|---|---|---|
| **Kingston** | 29.2 | 43.8 | 25.4 | 29 | H |
| **Port Jervis** | 8.3 | 36.7 | 28.3 | 44.4 | H |
| **Newburgh** | 62.5 | 60.8 | 3.3 | 0 | H |
| **Poughkeepsie** | 69.2 | 69.2 | 69.2 | 69.2 | H |
| **Beacon** | 17.5 | 7.9 | 1.7 | 0 | H |
| H/Non-H City Average | **37.34** | **43.68** | **25.58** | **28.52** | |
| | | | | | |
| **Middletown** | 12.9 | 8.3 | 5 | 0.8 | N |
| **Hudson** | 6.3 | 3.3 | 3.3 | 1.4 | N |
| **Peekskill** | 8.3 | 8.3 | 30.4 | 37.8 | N |
| **Elmira** | 27.1 | 24.2 | 30.4 | 30.6 | N |
| **Lockport** | 49.6 | 65.4 | 59.2 | 67.6 | N |
| Single Rate City Average | **20.84** | **21.9** | **25.66** | **27.64** | N |

Source: Office of State Comptroller 2013

Based on the data reported in Table 1, homestead/non-homestead cities similar to Kingston had a higher overall average fiscal stress score than homestead cities in 2010 and 2011. The average score for single rate cities was 20.8% in 2010 while it was 37.34% in homestead/non-homestead cities.

The discrepancy grew in 2011; a 43.8% average score for homestead/non-homestead cities and a 21.9% average score for single rate cities. However, over the last two years (2012 and 2013) the difference between homestead/ non-homestead cities and single-rate cities' average fiscal stress scores has decreased significantly. There was no significant difference between the scores. The *average* scores for homestead/ non-homestead and single rate cities' are influenced by significant changes in one or two municipalities' scores. The decrease in the homestead/non-homestead cities' average scores is disproportionally influenced by the significant change in Newburgh's score which went from 62.5% in 2010, a city in moderate fiscal stress, to a very low 3.3% in 2012. This was largely due to a significant tax increase Newburgh enacted in 2010 which increased its assigned and unassigned reserve funds, eliminated its operating deficit, and increased its cash/current liability ratio. Beacon and Kingston's scores have also improved. On the other hand, Port Jervis' fiscal situation has progressively deteriorated since 2010 and Poughkeepsie remains a city in significant fiscal stress by this measure. The single-rate cities of Peekskill and Lockport fiscal stress scores have also increased significantly since 2010, Elmira's score has slightly increased, while Hudson's and Middletown's scores have improved.

In total, the Comptroller's office has given fiscal stress scores to 986 municipalities, 38 of which were found to be in some form of fiscal stress (3.9%). In comparison, of the 48 homestead/non-homestead municipalities, 27 were given fiscal stress scores and 5 found to be in some form of fiscal stress (18.5% of those scored).[34] Of the seven municipalities that are classified by the Comptroller as in "significant fiscal stress" three are homestead/non-homestead municipalities: Poughkeepsie, Fishkill, and Niagara Falls, and four are not: Ramapo, Genesee Falls, Islandia, and Colonie. In addition, five of the six municipalities in "moderate fiscal stress" and eleven out of twelve that are "susceptible to fiscal stress" are single rate municipalities.[35]

The City of Kingston's average fiscal stress score for 2010 to 2013 of 31.85 is lower than the average score for similar homestead/non-homestead cities (33.78) and higher than the average score for similar non-homestead cities (24.01). Kingston scores have significantly improved since 2011; its 2012 and 2013 scores are not significantly different than the average homestead/non-homestead or single rate cities' fiscal stress scores for those years. According to OSC fiscal stress data, Kingston's 2012 fiscal stress score of 25.4% was about the same as the average fiscal stress scores

[34] There were 18 municipalities that did not receive scores, either because the data was unavailable or because their fiscal year did not end in 12/31. Depending on the fiscal condition in these places, their absence from the analysis may artificially increase the homestead municipal fiscal stress rate. However, if none of these places missing from the analysis were found to be in fiscal stress, then 10.4% of all homestead/non-homestead municipalities would be in stress, a much higher share than for all municipalities for which data was available.

[35] *Municipalities in Stress Fiscal Year Ending in 2012*, 2013. Office of State Comptroller.

for Mid-Hudson Cities (25.1%) and slightly better than the average fiscal stress scores for Medium Downstate Cities (33.3%)[36]

Though Kingston's fiscal stress scores are about average when compared to similar cities, the City does face significant fiscal challenges. The most pressing and immediate of these arose from the controversy in 2013 over the one percent state sales tax extender for Ulster County. The resulting hiatus in collection of this tax will have an unknown impact on Kingston's 2014 budget. Extension of this portion of the sales tax from February 1, 2014 until November 30, 2015 was passed by the State Legislature and signed into law on January 23, 2014. The fiscal impact on Kingston and how much of its reserves, if any, will be needed in its 2014 budget will not be known until the final numbers from the State are available later in 2014. The City of Kingston will also receive additional fiscal relief under the sales tax extender law when Ulster County assumes in January of 2015 the full local share of the Safety Net Assistance Program required of the county by the State of New York. All this is, of course, in the context of the revenue constraint arising from the statutory two percent cap on property tax increases adopted in New York in 2011.

Kingston's other fiscal challenges include finding adequate funding for essential infrastructure projects, such as repair of the damage caused by Hurricanes Irene and Sandy and continuing sinkhole issues in the City's streets and roads. According to Kingston's 2013 Capital Projects list, the City has over $8 million in high priority capital projects and another $2 million in important but lower priority capital projects. The high priority projects include Washington Avenue tunnel repairs, Grand Street and Broadway sewer replacement, and Flatbush Avenue and Foxhall Avenue sewer replacement.

Another major concern is the continuing growth of pension and health care costs for employees. According to the Office of State Comptroller (OSC) fiscal stress data, the percentage of Kingston total revenue devoted to personal services and employees benefits increased from 70.2% in 2010 to 71.8% in 2012.[37] According to OSC's fiscal stress data in 2012, the percentage of Kingston's total revenue devoted to personal services and employees benefits (71.8%) was higher than the average for Mid-Hudson Region Cities (63.1%) and Medium Downstate Cities (64.9%).[38] Unfortunately, comparable data for Kingston's 2013 and 2014 budgets are not available. However, the 2014 Kingston Adopted Budget document shows an $872,297 increase in employee benefit costs from levels in 2012. In addition, Kingston has amortized $2.5 million in pension costs in 2013 and 2014. The 2014 Adopted Budget document for Kingston also indicates a$643,653 overall increase in Kingston's personal service costs from 2012 to 2014. Therefore it is likely that the percentage of

[36] *City of Kingston Fiscal Stress Summary/Self-Assessment Tool*, 2013. Office of State Comptroller.
[37] *City of Kingston Fiscal Stress Summary/Self-Assessment Tool, Section 5 Detail*, 2013, Office of State Comptroller.

[38] Ibid, Section 4 Comparison.

Kingston total revenues devoted to personal services and employee benefits, as calculated by OSC, has increased since 2012. If this percentage reaches seventy-five percent in 2014 it would increase Kingston's fiscal stress score. Based on the data in Kingston's 2014 Adopted Budget, which is different than the OSC data, the percentage of Kingston total revenues devoted to personal services and employee benefits is 73.2%.

A final concern is the size of Kingston's reserve funds, designated as assigned and unassigned fund balances on the OSC fiscal stress reports. According to OSC fiscal stress data, in 2012 Kingston had an assigned and unassigned fund balance of $3,075,920 (General Fund) and $4,244,495 (Combined Funds) or 8.9% of gross General Fund expenditures and 9.8% of gross Combined Funds expenditures.[39] The General Fund balance measure for Kingston (8.9%) compares favorably to the average percentage for Mid-Hudson Cities (6%) and Medium Downstate Cities (1.8%)[40]. Unfortunately, comparable data for Kingston's 2013 and 2014 budgets are not available. However, the Mayor's 2014 Budget Message documents indicates that, in order to maintain balance, Kingston's 2014 budget will use $1,025,000 of the unassigned fund balance, $775,000 of which is to make up for any lost revenues due to the delay in extending the one percent sales tax rate. It is unclear how much of the City's reserves will actually be used to make up for lost revenues due to the delay in extending the sales tax. If Kingston's General Fund assigned and unassigned fund balance goes below 6.67% of gross General Fund revenues in 2014, it would also increase Kingston's fiscal stress score.

Overall Kingston's fiscal situation is similar to other cities in the Mid-Hudson region; it is not currently in fiscal stress but has challenges arising from its personal services and employee benefits costs as well as its diminishing reserves. The comparative data show no relationship between Mid-Hudson and other upstate cities' fiscal stress scores and whether or not they have adopted the homestead property tax system.

# The Kingston School District's Current Fiscal Condition

The Office of the State Comptroller (OSC) has also completed a fiscal stress analysis of all school districts in the state including the Kingston School District. Of 674 school districts, eighty-seven were found to be in some form of fiscal stress (thirteen percent). Of the thirty-five homestead school districts among those that received scores, eight were found to be in fiscal stress (22.8%).

The Comptroller's system for evaluating school districts uses slightly different indicators than it does for municipalities. It is based on seven different calculations in the following four categories: year end fund balance, operating deficits, cash position, and use of short-term debt. A scoring

[39] Ibid, Section 5 Detail.

[40] Ibid, Section 4 Comparison.

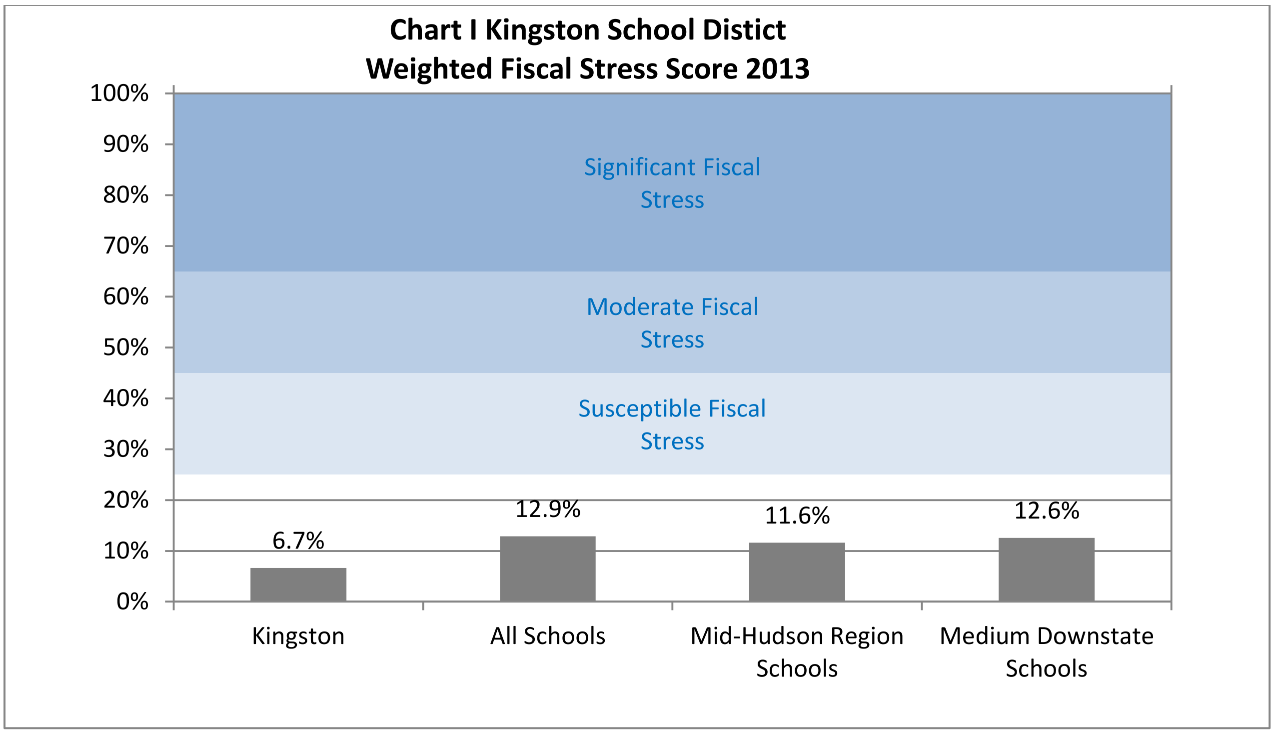
system is used, with a maximum potential score of twenty-one points. The resulting score is then assigned a level of fiscal stress as follows:

**Significant Fiscal Stress** (Entity received more than or equal to 65% of the total possible points)

**Moderate Fiscal Stress** (Entity received more than or equal to 45% of total possible points)

**Susceptible to Fiscal Stress** (Entity received more than or equal to 25% of total possible points)

The Kingston School District fiscal stress score is 6.7% which is significantly lower than the average fiscal stress score for Mid-Hudson Region schools and for medium Downstate schools. (See Chart I.) The Kingston School District only received one fiscal stress point due to its 1.8% operating deficit in 2013. The OSC cautions that this score does not mean the Kingston school district is in good financial condition but simply indicates that it is not currently in fiscal stress.




Source: Office of State Comptroller 2013

OSC also examines environmental indicators, which capture those circumstances and trends that are largely outside the district's control but which have a bearing on its revenue raising capabilities as well as its demand for and/or mix of services. The system's environmental indicators are based on six different calculations in the following five categories: property value, enrollment, budget vote results, graduation rate, and free or reduced priced lunch which can add up to a potential total score of eighteen points. The score is then assigned a level of environmental stress, using # signs, as follows:

### (Entity received greater than or equal to 60% of total possible points)

## (Entity received greater than or equal to 45% of total possible points)

# (Entity received greater than or equal to 30% of total possible points)

***The Kingston School District received an environmental stress score of 6 points which puts it in the second level of environmental stress*** (see Chart J, page 41).

**Chart J Kingston School District**
**Environmental Stress Score 2013**

| | Environmental Indicators | Value | Score |
|---|---|---|---|
| 1 | Change in Property Value | -3.0% | 2 |
| 2 | Change in Enrollment | -2.5% | 2 |
| 3 | Trend in First Budget Vote being Defeated | 0 | 0 |
| 4 | Change in Approval % first budget vote | 0.7% | 0 |
| 5 | Graduation Rate (Most Recent Year) | 68% | 2 |
| 6 | Free or Reduced Priced Lunch % | 48.2% | 0 |
| | *## = received greater than or equal to 45% of total possible points, second level of environmental stress* | | ## |

Source: Officer of State Comptroller 2013

# Local Actions to Change the Homestead Property Tax System Possible Under Current Law

Localities have three options in relation to changing the homestead property tax system; they may either:

- make the incremental changes in each class's share based on their market appreciation subject to the five percent cap as allowed under the law, or
- ask the State Legislature to limit the increase in a class's share, generally done to minimize the increase in homestead properties' class share, or
- opt out of the system by adopting a local law or resolution before the next levy of taxes.

As explained earlier in this paper, the Town of Islip approved assessing units in Nassau County, and the Town of Colonie, have successfully secured State legislation to limit the increase in a class's share to one percent, always with the intent of limiting the increase in property taxes for the homestead class. Islip and Nassau County have had such legislation enacted for several tax years; Colonie was only successful in one tax year.

Only two municipalities that have adopted the homestead property tax system have opted out of it; the City of Schenectady in 1999 and the Town of Colonie in 2009. There was relatively little controversy when Schenectady opted out of the system in 1999 for two reasons. First, when Schenectady adopted the homestead property tax system in 1992, its resulting non-homestead tax rates turned out to be barely higher than its homestead tax rates.[41] Second, according to Robert Benedict, Schenectady's assessor at that time, the opt-out occurred at the same time as revaluation of all property values was done. In sum, the revaluation combined with the small difference in rates between homestead and non-homestead properties made it very difficult for homestead property owners to identify the cause for any property tax increases. In fact, the change does not appear to have been regarded as newsworthy; no stories about the opt-out appeared in the local daily paper, the *Schenectady Gazette*.

Mr. Benedict does not believe that the opt-out of the homestead property tax system and the slight reduction in non-homestead property taxes made it significantly easier for Schenectady to attract business. He cites as evidence the loss of most major auto dealerships in Schenectady to the surrounding suburbs since the repeal of the homestead property tax system. We examined the total assessed full value of all property in Schenectady from 2001, the earliest data available from the Office of Real Property Tax Services, to 2012 and found that it increased by thirty-five percent in constant 2012 dollars. The assessed full value of all commercial property, which is not the same as non-homestead property but is a fair barometer of the value of non-homestead property, increased by thirty-nine percent during the same time period. (See Table 2.)

**Table 2 – City of Schenectady Assessed Property Values 2001-2012 (in 2012$)**

| | 2001 | 2005 | 2008 | 2012 | %Change 2001 -12 |
|---|---|---|---|---|---|
| **Full Value All Property** | 2,580,141,724 | 2,957,552,386 | 3,612,558,166 | 3,484,689,258 | +35% |
| **Full Value Commercial Property** | 538,841,846 | 605,419,748 | 748,014,575 | 749,774,061 | +39% |

Source Office of Real Property Tax Services 2013 http://orpts.tax.ny.gov/cfapps/MuniPro/

The total assessed full value of Kingston's total homestead and non-homestead property grew fifty-four percent during the same time period; with the assessed full value of homestead property growing by seventy percent and the assessed full value of non-homestead property growing by twenty-seven percent. (See Table 3.) The growth rate of the assessed full value of commercial property in Schenectady after they opted out of the homestead property tax system was greater than the growth rate of the assessed full value of non-homestead property in Kingston during the same

[41] Gardner (1996) p. 6.

period. We cannot attribute this higher growth rate simply to the fact that Schenectady opted out of the homestead property tax system as Schenectady engaged in many activities to encourage economic development during that time period.

**Table 3 − City of Kingston Assessed Property Values 2001-2012 (in 2012$)**

| | 2001 | 2012 | $ Change | % Change |
|---|---|---|---|---|
| **Full Value Homestead** | 619,666,215 | 1,056,577,941 | +436,911,726 | +70% |
| **Full Value Non-Homestead** | 372,593,569 | 474,850,541 | +102,256,972 | +27% |
| **Total Full Value** | 992,259,784 | 1,531428,482 | +539,168,698 | +54% |

Source: Office of Real Property Tax Services 2013 http://orpts.tax.ny.gov/cfapps/MuniPro/

The Town of Colonie adopted the homestead property tax system in 1994, simultaneous with completing a revaluation of its real property, in order to avert a shift of the real property tax burden to residential/homestead sector. Prior to the 1994 revaluation, commercial/non-homestead property paid about forty-nine percent of the Town's tax levy and residential/homestead property paid about fifty-one percent.[42] In 2009, the tax rate for non-homestead property decreased by 30.3% after the New York State Senate failed to pass legislation, passed by the NY State Assembly, to limit the increase in the homestead class share of the property tax burden to one percent. (Previously both houses had passed and the governor signed legislation to limit the increase in the homestead share to one percent for 2008.) In order to avert a four to five percent increase in the tax rate for homestead properties, Colonie opted out of the homestead tax system in 2010 even though it would increase taxes on homeowners in the Menands school district which encompasses part of the Town. [43] This resulted in a one percent increase in the Town tax rate for homestead properties and a 7.6% increase in the Town tax rate for non-homestead properties as both classes of properties were taxed at $2.75 per $1,000 of assessed value.[44]

Table 4 examines the assessed values in 2012 dollars of all property in Colonie and non-homestead property in Kingston in 2008, 2009, and 2012, adjusted for full-value using the equalization rate published by the Office of Real Property Tax Services.

[42] Karen Roach . "Colonie To Consider Homestead Tax," *Schenectady Gazette*, , February 18,1994.

[43] Tim O'Brien .One Tax Rate, Two Results," *Albany Times Union*, November 6, 2009.

[44] *Town of Colonie, New York Financial Report*, December 31, 2012, pp. 16-17.

| Table 4 − Assessed Full Values of Town of Colonie and City of Kingston Property 2008, 2009 & 2012 (in 2012 $) | | | | | |
|---|---|---|---|---|---|
| | **2008** | **2009** | **2012** | **% Change 2008 to 2009** | **% Change 2009 to 2012** |
| **Assessed Full Value All Property Colonie** | 11,134,432,512 | 11,266,112,133 | 10,151,531,601 | +1.18 | -9.89 |
| **Assessed Full Value Commercial Property Colonie** | 3,420,799,012 | 3,430,863,315 | 2,979,553,283 | +0.29 | -13.15 |
| **Assessed Full Value Non-Homestead Property Kingston** | 626,558,183 | 599,720,859 | 474,850,541 | -4.28 | -20.82 |

Source: Office of Real Property Tax Services 2013 http://orpts.tax.ny.gov/cfapps/MuniPro/

Although this time period is one when property values decreased due to the recession, Colonie's experience does not provide any evidence that opting out of the homestead property tax system will quickly increase commercial property values. However, the degree of decrease in the assessed value of commercial properties in Colonie between 2009, the last year of the homestead tax system, and 2012 is less than the decline for non-homestead properties in Kingston during the same time period. It is also interesting to note that after the non-homestead tax rate in Colonie decreased by over thirty percent in 2009 the assessed values of commercial property barely increased. (See Table 6.)

## One Possible State Solution (Option One)

In 2007, Office of Real Property Tax Service (ORPS) developed a bill, S7579 introduced by Senators Little and Bonacic, that would have implemented a major revision of Article 19. That legislation was revised and passed the Senate in 2009 (S7653/A10593) but did not pass the Assembly. The 2007 bill would have ***mandated*** municipalities currently using the homestead/non-homestead property tax system to switch to a new homestead/non-homestead program. The 2009 version would have given homestead municipalities the option to switch to the new homestead program if they did a property revaluation within four years of entering the new program. School districts could not remain in the old homestead tax system, once their approved assessing unit has opted into the new system. School districts could only opt into the new program if one-fifth of their parcels are in an approved assessing unit that has adopted the new homestead property tax system. Also, the 2009 bill (A10953/S7653) would have prohibited any assessing unit from opting into the current Article 19 homestead property tax system after December 31, 2010.

The main provisions of A10953/S7653 would have changed the definitions of "homestead class" and "non-homestead" class so that the homestead class would also include co-operative apartments and, if a locality chose, could be further expanded to include either (1) apartment buildings or (2) business property within a locally-designated area, or both. It also would have authorized the governing body of a homestead-compliant assessing unit to impose its taxes using a different tax rate for each class of property. School districts and villages which use the same assessing roll for the levy of their taxes could opt to impose such class tax rates as well. The class tax rates would be set at the discretion of the governing body, subject to the constraints that:

- the non-homestead class tax rate could be no more than twenty-five percent higher than the homestead class tax rate, subject to a 10 to 20 year phase-in of that limitation if the "baseline differential" (i.e., the current property tax rates for homestead and non-homestead property) was greater than twenty-five percent, and,
- in no case could the homestead class tax rate be higher than the non-homestead class tax rate.

The proposed law also required an assessing unit to complete a homestead-compliant revaluation at least once every four years, in order to enter into and remain in the program established by the new RPTL Article 19-A. If such a revaluation is not undertaken, the assessing unit and the school districts and villages associated with it would lose their ability to establish class tax rates.

There are several factors to consider in evaluating this option which include the following:

- It implements the change in tax rates for homestead and non-homestead property at local option over time mitigating the impact on homeowners but still increasing their tax burden.
- If adopted by Kingston it will stop the increase in the disparity between non-homestead properties share of Kingston's total assessed property value and its share of the tax burden.
- There would be no need to request special legislation for Kingston.
- It would impact the Kingston school district.
- It would still allow the non-homestead tax rate to be higher than homestead tax rate.
- It is difficult to pass State legislation which increases homeowners' property taxes which is why Assembly did not past his legislation in 2009.
- It was proposed before adoption of the statewide Property Tax Cap, and would have to be reconsidered within the frame of that cap.

# Four Additional Policy Options

In addition to the possible enactment of a new homestead property tax system as proposed by ORPS, four policy options for Kingston are outlined below. All would require either general or special state legislation.

**Option Two: Adoption of a Single Tax Rate in a Single Year**

Most localities in New York State employ a single rate for taxation of real property. As earlier noted, two places in New York – The City of Schenectady and the Town of Colonie – adopted the homestead/non-homestead option but later abandoned it, but this was done under near unique circumstances. For places now using this option, an immediate shift to a single rate would produce a politically and socially unacceptable "tax shock" for homeowners. It would also produce a "reverse tax shock" for existing commercial property tax owners. This too would be politically challenging.

These points may be illustrated from examples comparing the effect of the actual homestead and non-homestead rates of taxation in 2014 in Kingston to that of a hypothetical single rate, with the assumption that the same level of revenues from this source would be required. For purposes of illustration, the examples used are based on the actual sales price for three recently-sold, modestly-priced single family houses in the City and two recently sold commercial properties. Because departure from the homestead/non-homestead option by the City would no longer allow the Kingston consolidated school district to use this approach, the resulting impact of the change on school taxes must also be included in considering this option.

With regard to the single family homes, the result for 2014 would have been a 27.8% increase in property taxes on homeowners for City purposes and a 15.9% increase for school purposes due to solely the shift to a single rate. ***The use of a single rate, with revenue requirements for the City and schools held constant, would cost Kingston homeowners 19.4% more in taxes in the year that the change from the homestead/non-homestead system occurred.*** And, of course, revenue requirements for these two governments from the property taxes are not likely to remain entirely constant from year to year. (See Table 5.)

In contrast, the result for non-homestead property owners is highly favorable. (See Table 6.) With a single rate, the two commercial properties recently sold in Kingston would see their City taxes drop by almost a third and their school taxes by just under a quarter, for a total annual reduction of 26.1%.

**Table 5**

**Impact on Homeowners Annual Tax Liability in Kingston of Change From Homestead/Non-Homestead to a Single Tax Rate**

## City of Kingston

2014 Tax Levy = $15,461,797

2014 Homestead Rate = $8.447709/1000

2014 Non-Homestead Rate = $15.904626/1000

Hypothetical Single Rate = $10.79125341/1000.

| | Sales Price | 2014 Tax | Tax Under Single Rate | $ Increase | % Increase |
|---|---|---|---|---|---|
| **Home A** | $90,000 | $760.29 | $971.21 | $210.92 | 27.8 |
| **Home B** | $132,000 | $1115.09 | $1425.22 | $310.13 | 27.8 |
| **Home C** | $169,000 | $1427.66 | $1823.72 | $396.06 | 27.8 |

## Kingston Consolidated School District

2013 – 2014 Tax Levy = $33,769,701

Homestead Rate = $20.33492/1000

Hypothetical Single Rate = $23.56889/1000

| | Sales Price | 2013-14 Tax | Tax Under Single Rate | $ Increase | % Increase |
|---|---|---|---|---|---|
| **Home A** | $90,000 | $1830.14 | $2121.20 | $291.06 | 15.9 |
| **Home B** | $132,000 | $2684.21 | $3111.09 | $426.88 | 15.9 |
| **Home C** | $169,000 | $3436.60 | $3983.14 | $546.54 | 15.9 |

## Combined Homeowner Tax Increase from Instituting the Single Tax Rate

| | Sales Price | City Tax Increase | School Tax Increase | Total Increase | % Increase |
|---|---|---|---|---|---|
| **Home A** | $90,000 | $210.92 | $291.06 | $501.98 | 19.4 |
| **Home B** | $132,000 | $310.13 | $426.88 | $737.01 | 19.4 |
| **Home C** | $169,000 | $396.06 | $546.54 | $942.60 | 19.4 |

**Table 6**

**Impact on Commercial Property Owners' Annual Tax Liability in Kingston of Changing from Homestead/Non-Homestead to a Single Tax Rate**

## City of Kingston

2014 Non-Homestead Rate = 15.904626/1000

Hypothetical Single Rate = 10.79125341/1000.

| | Sale Price | 2014 Tax | Tax Under Single Rate | $ Decrease | % Change |
|---|---|---|---|---|---|
| **Property A** | $160,000 | $2544.74 | $1726.60 | $818.14 | -32.1 |
| **Property B** | $225,000 | $3578.54 | $2428.03 | $1150.01 | -32.1 |

## Kingston Consolidated School District

Non-Homestead Rate = 30.62528/1000

Hypothetical Single Rate = 23.56889/1000

| | Sale Price | 2014 Tax | Tax Under Single Rate | $ Decrease | % Change |
|---|---|---|---|---|---|
| **Property A** | $160,000 | $4900.04 | $3771.02 | $1129.02 | -23 |
| **Property B** | $225,000 | $6890.69 | $5303.00 | $1587.69 | -23 |

## Combined Annual Tax Reduction from Instituting the Single Tax

| | Sales Price | City Tax Decrease | School Tax Decrease | Total Decrease | % Change |
|---|---|---|---|---|---|
| **Property A** | $160,000 | $818.14 | $1129.02 | $1943.16 | -26.1 |
| **Property B** | $225,000 | $1150.01 | $1587.69 | $2737.01 | -26.1 |

It is common sense that a single year increase in property taxes for homeowners of about a fifth would be a political non-starter in the City. The implications of a reduction by a quarter in the commercial tax burden are more complex.

Some commercial property owners conduct their own businesses in their buildings; for a potential buyer with this intention, or an owner already in business at a particular location, lower taxes mean a direct decrease in operating costs. Theoretically, this should make the City more attractive as a business location. But our statistical analysis shows that tax burden is a relatively minor factor in business location decisions.

Other owners buy with the intent to rent their properties to others, or sell them later for a profit. Before buying, those who are prudent calculate the value of such an investment against other possible uses of their money. One way that the investment value of a property is assessed by a potential buyer is through its "capitalization rate," which is simply the net operating income (NOI) from the property, divided by the purchase price. A lower capitalization rate means greater return on investment (ROI); it is an inducement to invest.

To the degree that a tax decrease increases the NOI of a property, it increases its value in the market when the property is offered for sale or rent. This works where there is solid demand from potential renters or buyers; that is, so long as the market is not for some reason "oversupplied" with commercial properties. But Kingston's has long been an oversupplied market. In a "weak market," renters or buyers might press for better deals and get them from owners who wish to avoid extended periods of (undesired) continued ownership, or long-term vacancy.

In such a market, tax cuts might still have value, by actually allowing owners to reduce rents or sales prices, thus sharing some of the value of the reductions in order to attract tenants or buyers without a negative impact on their pre-tax-cut net operating income. In fact, even after sharing the value of the cut, owners might even realize a smaller but still significant benefit to NOI. This might be good for the City, too, by making it a less expensive ("more financially attractive") place in which to do business, relative to other locations in the region.

The actual incidence of the property tax – how much and under what conditions it can be passed along to tenants by owners – is much studied and debated.[45] But almost certainly, a single tax system would immediately increase the actual or potential value of commercial properties for those who already own them in the Kingston. In the short term, these owners benefit from a "reverse tax shock." This may be easily condemned as presumed "richer" (sometimes non-resident) commercial owners gaining at the expense of (often) presumed "less affluent" homeowners.

In the longer term, lower taxes for commercial buildings will theoretically increase their assessed value through capitalization, i.e., increasing the value of this part of the City's tax base. To the degree that the commercial base grows faster in value than the home owner residential base, the opposite of the historical experience in Kingston, the tax burden will be shifted gradually to these now more valuable commercial properties, and others developed in the new, lower tax environment for business in the City. However, as previously noted, when Colonie opted out of the homestead tax system the total assessed value of their commercial properties decreased by over thirteen percent

[45] See, for example, George Zodrow. "Who Pays the Property Tax?" *Landlines* ( April, 2006) http://www.lincolninst.edu/pubs/1115_Who-Pays-the-Property-Tax-

and only slightly increased after a significant tax decrease prior to opting out of the homestead property tax system. (See Table 6.) Schenectady's experience is different than Colonie's as the assessed full value of their commercial property increased at a rate greater than Kingston's from 2001, two years after they opted out of the homestead property tax system, to 2012. In addition, elections are held on a two or four year cycle, making it difficult for local governments to make policy decisions that may be better in the long-term but with no guarantee that this will be the case.

**Option Three: Fix the Non-Homestead Tax Rate at a Specified Level Above the Homestead Rate in a Single Year**

An alternative approach is to set the tax rate for non-residential properties at a specified level above residential rates. Because the homestead/non-homestead categories remain in use, an impact on school taxes is avoided. As noted, this approach reflects the historic reality in many jurisdictions within and outside New York State, whether codified in law or informally achieved through manipulation of assessment, of requiring more tax support from commercial than from residential properties of equivalent value. It reflects the view held by many that it is "fair" to generate more in taxes for the locality from properties that generate income to owners. By partly shifting the policy focus from the levy to rates, this approach also makes the level of taxation on non-homestead properties far more predictable for actual or potential investors, thus responding to one of the major criticisms of the homestead/non-homestead approach.

One example of such an approach would be to require as a matter of policy that the non-homestead tax rate be no more than twenty-five percent higher than the tax rate that would prevail in the City if a single rate were used. Starting from Kingston's tax levy in 2014, the result for two of our previously mentioned properties of similar value − one homestead, the other non-homestead − would be to diminish the potential property tax increase in City taxes from the change in policy alone for the former by about two-thirds (from a $396.06 tax increase to a $194.09 increase), and decrease for the later by about half (from a $818.14 decrease to a $400.91 decrease. But the percentage change would still be considerable; up 13.6% for the homestead category, down 15.7% for properties classified as non-homestead. (see Table 7.) There would still be a considerable, and probably politically unacceptable, tax shock and reverse tax shock. Other factors to consider in evaluating this option include: It would reduce non-homestead property taxes which could eventually increase commercial property values and may mitigate over time the increased tax burden borne by homeowners.

- It would stop the increase in the disparity between non-homestead properties' share of Kingston's total assessed property value and its share of the tax burden.
- It would not impact the Kingston school district, but because it collects by far the greatest share of the property tax, and because a disproportionate proportion of commercial properties in the district are in the City of Kingston, if the district continued to use the homestead/non-homestead system a large share of the disproportionate burden on commercial properties in the City would persist.

- It would still allow the non-homestead tax rate to be higher than homestead tax rate.
- It would be difficult to pass State legislation which would increase homeowners' property taxes even with a political consensus within the municipality that requests it.
- It would not bind future City leaders to continue its implementation and they may try to repeal it.

It's interaction with the Property Tax Cap would have to be considered.

### Table 7

### Effect of A 25% Cap on Non-Homestead Property Tax Rate

## City Of Kingston (2014)

Hypothetical Single Rate = 10.79125341/1000

Hypothetical Maximum Non-Homestead Rate = 13.39890668/1000

Resulting Hypothetical Homestead Rate = 9.59616341/1000

| | Sale Price | 2014 Tax | Tax Under Single Rate | Tax With a 25% Non-Homestead Cap | $ Change Current Year Tax to 25% NH Cap Tax | % Change Current Year Tax to 25% NH Cap Tax |
|---|---|---|---|---|---|---|
| **Home C** | $169,000 | $1427.66 | $1823.72 | $1621.75 | +$194.09 | +13.6 |
| **Property A** | $160,000 | $2544.74 | $1726.60 | $2143.83 | -$400.91 | -15.7 |

**Option Four: Phase in a Non-Homestead Tax Rate at a Specified Percentage above the Homestead Rate**

The negative single year impact on homestead property of reducing the non-homestead tax rate until a specified goal is reached may be mitigated by phasing in change over time. Again, an automatic impact on school district practice is avoided. If the goal remained the same as in the previous example – generation by non-homestead taxpayers of revenues at a rate twenty-five percent higher than if a single rate were used – and a period of 10 years was targeted for reaching that goal, this might be achieved by successive ten percent reductions in the difference between the base year non-homestead rate and the target non-homestead rate. If 2014 were the first year for which this was done, the non-homestead rate would be 15.65406/1000 and the homestead rate would be 8.562/1000. If we look again at two of our example properties closest in value, Home C ($169,000) and Property A ($160,000), the annual impact on City taxes and school district owed would be relatively small in both dollar and percentage terms (see Table 8).

This alternative may be modeled for a variety of target rates and phase-in periods, with one regarded as optimal finally chosen. On the down side, such an approach "builds in" an annual tax increase, in an environment in which the property tax levy is capped by state law. An exception to the cap would likely be needed to implement this policy. Moreover, the policy requires a long-term commitment not only by current City leaders but also by (unknown) future Mayors and Common Council members, with many unpredictable dimensions to the potential demands that will be placed upon City resources (although we know for sure that challenges would be considerable).

One related approach that approximates this option would be to advocate that the State Legislature pass the Homestead Property Tax System Reform legislation advocated by the Office of Real Property Tax Services in 2009 and passed by the Senate that was discussed earlier in this paper. This would give all local governments that adopted the homestead property tax system the option to implement the twenty-five percent cap over a ten year period and, if they elected to do so, they would be required to under law to keep that commitment. The same considerations discussed in evaluating the statewide reform proposal outlined on page 45 would apply to evaluating this option except that it would not have an automatic impact the Kingston school district.

**Table 8**

### City Of Kingston (2014): Ten Year Phase-in of Reduction of Non-Homestead Rate to Target Level 25% Higher than Rate if Single Tax Rate Were Used

| Current Non-Homestead Rate per 1000 | Target Non-Homestead Rate per 1000 | Difference between Current and Target Rate | 10% of Difference | Hypothetical Year 1 Non-Homestead Rate per 1000 |
|---|---|---|---|---|
| 15.904626 | 13.398907 | 2.505719 | .25057 | 15.65406 |

Hypothetical Single Rate Homestead & Non-Homestead = 10.79125341/1000

Actual 2014 Homestead Rate = 8.447709/1000

Resultant Hypothetical Homestead Rate Under 10-year Phase-in = 8.562

| | Sale Price | 2014 Tax | 2014 Tax Under Ten-Year Phase-In | $ Change | % Change |
|---|---|---|---|---|---|
| **Home C** | $169,000 | $1,427.66 | $1,446.98 | +$19.32 | +1.35 |
| **Property A** | $160,000 | $2,544.74 | $2,504.65 | -$40.09 | -1.57 |

## Kingston School District (2014): Ten Year Phase-in of Reduction of Non-Homestead Rate to Target Level 25% Higher than Rate if Single Tax Rate Were Used

| Current Non-Homestead Rate per 1000 | Target Non-Homestead Rate per 1000 | Difference between Current and Target Rate | 10% of Difference | Hypothetical Year 1 Non-Homestead Rate per 1000 |
|---|---|---|---|---|
| 30.60993 | 23.519293 | 7.09064 | 0.709064 | 29.90866 |

| | Sale Price | 2014 Tax | 2014 Tax Under Ten-Year Phase-In | $ Change | % Change |
|---|---|---|---|---|---|
| **Home C** | $169,000 | $3434.88 | $3488.86 | $53.98 | 1.51% |
| **Property A** | $160,000 | $4897.59 | $7228.79 | $(113.45) | -2.30% |

## Combined Effect (2014): Ten Year Phase-in of Reduction of Non-Homestead Rate to Target Level 25% Higher than Rate if Single Tax Rate Were Used

**Actual Tax:**

| | City + | School District | Total |
|---|---|---|---|
| **Home C** | $1427.66 | $3434.88 | $4862.54 |
| **Property A** | $2544.74 | $4879.59 | $7442.33 |

**Hypothetical Tax:**

| | City + | School District | Total | $ Change | % Change |
|---|---|---|---|---|---|
| **Home C** | $1446.98 | $3488.86 | $4935.84 | $73.30 | 1.51% |
| **Property A** | $2504.65 | $4784.14 | $7288.79 | $(153.54) | -2.10% |

**Option Five: Third Party (State) Intervention to Phase-in of a Non-Homestead Tax Rate at a Specified Percentage above the Homestead Rate**

Two major current state government priorities for upstate New York − economic development and property tax mitigation – might be used as rationales for a State policy change supporting departure by localities from the use of the homestead/non-homestead option. At the request of the City government the State might be asked to commit itself by law to a series of payments for a specified period – say 10 years – to soften the negative impact of such a change on those in the homestead category.

The actual non-homestead tax rate produced $7,161,685.45 in revenue in Kingston in 2014. At the target single rate discussed above, $6,033,386.60 would be raised from this portion of Kingston's taxable property base. The difference is $1,128,298.80. A first year state payment of $1.128 million to the city would allow non-homestead properties to reach the targeted tax rate with no impact on homestead properties. State payments might be reduced incrementally by ten percent of the original amount per year in subsequent years, phasing in local assumption of the costs of the change (and providing an incentive for fiscal discipline). The State might specify conditions for making resources available for this purpose; for example, definitive steps to consolidate services with other local governments. Places rated as the Comptroller as already "distressed" might be given priority consideration. Once it accepted the program, a locality would be required to maintain the non-homestead rate at the targeted level. Another requirement might be might be consistent adherence to the tax cap.

If the Kingston school district were included, the actual levy on homestead properties in the City of Kingston for 2013-2014 was $20,313,840. The hypothetical levy at a single rate in the City would have been $23,556,840. The difference is $3,242,446. For the entire district the total levy on homestead properties in the same year was $59,075,536. At the hypothetical rate, the obligation of the district's homestead properties (including those in the City of Kingston) would be $68,261,305. The difference is $9,185,769. Clearly, if the school district is included, these numbers greatly elevate the challenge to gaining transitional state financial support.

If it can be done, however, such an approach has the advantage of requiring decisive action by the City government at one moment in time. Once this path was chosen, and a State subsidy was accepted, the City would have to stay on this course or lose the state subsidy in subsequent years, with a major impact on local taxpayers.

Kingston might seek special legislation to implement such a plan. It is unlikely, however, that the state would provide such a subsidy for tax system transition to a single locality with our without its affected school district. We found no systematically greater fiscal distress or economic decline in places that used the homestead/non-homestead option than those that did not. Estimating the statewide potential cost of such an approach is beyond the scope of this study. However, many of the state's largest localities employ the homestead/non-homestead option. (See Appendix A.) Even without the inclusion of effected school districts, if made available to all or most of these under qualifying criteria, the cost would be significant.

Moreover, it is near certain that others that now use a single rate would resist targeting state aid in this manner. There would have to be more compelling rationale than we have thus far identified, based upon smart growth (using existing infrastructure), economic development, or tax equity to support such a change in State policy.

## Appendix A - New York State Municipalities That Have Adopted the Homestead Property Tax System

| County | Fiscal Stress Score | Municipality Name |
|---|---|---|
| Albany | 35.4% | City of Albany |
| Broome | UR | City of Binghamton |
| Dutchess | 11.7% | City of Beacon |
| Dutchess | 69.2% | City of Poughkeepsie*** |
| Dutchess | 68.3% | Town of Fishkill*** |
| Dutchess | NA | Village of Fishkill |
| Dutchess | 39.2% | Town of Poughkeepsie |
| Dutchess | NA | Village of Wappingers Falls |
| Dutchess | 36.3% | Town of Wappinger |
| Erie | NA | City of Buffalo |
| Erie | NA | City of Lackawanna |
| Erie | 7.9% | Town of Tonawanda |
| Erie | NA | Village of Kenmore |
| Essex | 47.5% | Town of Newcomb* |
| Monroe | NA | City of Rochester |
| Nassau | 60% | City of Glen Cove** |
| Nassau | NA | City of Long Beach |
| Nassau | NA | Village of Mineola |
| Nassau | NA | Village of Great Neck |
| Nassau | NA | Village of Lake Success |
| Nassau | NA | Village of Russell Gardens |
| Nassau | NA | Village of Westbury |
| Nassau | NA | Village of Williston Park |
| Nassau | NA | Village of Farmingdale |
| Nassau | NA | Village of Sea Cliff |
| Niagara | 67.5% | City of Niagara Falls*** |
| Niagara | 39.6% | Town of Niagara |
| Orange | 15.8% | City of Newburgh |
| Orange | 31.7% | City of Port Jervis |
| Putnam | 11.3% | Town of Southeast |
| Rensselaer | 37.5% | Town of East Greenbush |
| Rockland | 32.1% | Town of Clarkstown |
| Rockland | 8.3% | Town of Haverstraw |
| Rockland | NA | Village of West Haverstraw |
| Rockland | 15.8% | Town of Orangetown |
| Rockland | NA | Village of Piermont |
| Rockland | 24.2% | Town of Stony Point |
| Schenectady | 6.3% | Town of Niskayuna |
| Schenectady | 8.3% | Town of Rotterdam |
| Suffolk | 17.9% | Town of Islip |
| Ulster | 25.4% | City of Kingston |
| Westchester | NA | Village of Sleepy Hollow |
| Westchester | 6.7% | Town of Pelham |
| Westchester | NA | Village of Pelham |
| Westchester | NR | Village of Pelham Manor |
| Westchester | NR | Town of Rye |
| Westchester | 13.3% | Village of Port Chester |
| Westchester | 0 | Village of Rye Brook |

Source: NY Office of Real Property Tax Services May 2012 and Office of the State Comptroller 2013 http://wwe1.osc.state.ny.us/localgov/fiscalmonitoring/fsi1a.cfm

*** indicates susceptible to fiscal stress**
****indicates in moderate fiscal stress**
***** indicates in significant fiscal stress**
**NA indicates data unavailable**
**UR indicates data under review**
**NR indicates data not reported**

**Appendix B - School Districts That Use The Homestead Property Tax System**

| School District | Fiscal Stress Score |
|---|---|
| Albany | 11.7% |
| Arlington | 8.3% |
| Bay Shore*** | 73.3% |
| Bayport-Blue Point | 16.7% |
| Beacon | 13.3% |
| Binghamton* | 40% |
| Blind Brook-Rye | 6.7% |
| Brentwood | 6.7% |
| Brewster | 6.7% |
| Buffalo | NA |
| Central Islip | 6.7% |
| Clarkstown | 16.7% |
| East Greenbush | 0 |
| East Islip** | 51.7% |
| Glen Cove | 0 |
| Hauppauge | 10% |
| Haverstraw-Stony Point | 20% |
| Islip | 16.7% |
| Lackawanna** | 48.3% |
| Kingston | 6.7% |
| Nanuet | 6.7% |
| Newcomb | 13.3% |
| Niagara-Wheatfield*** | 80% |
| Niskayuna | 6.7% |
| Nyack | 0 |
| Pearl River | 8.3% |
| Pelham | 6.7% |
| Port Chester-Rye | 6.7% |
| Poughkeepsie*** | 71.7% |
| Rochester | NA |
| Rye Neck | 0 |
| Sayville | 0 |
| Schalmont | 20% |
| South Orangetown | 6.7% |
| Spackenkill | 0% |
| Sweet Home | 8.3% |
| Wappingers* | 43% |
| West Islip** | 56.7% |

Source: Office of Real Property Tax Services 2013 & Office of the State Comptroller *School Summary Stress List (*2013)

***** indicates in significant fiscal stress** ****indicates in moderate fiscal stress**
*** indicates susceptible to fiscal stress** **NA indicates data not available**

## Appendix C: Overview of Property Tax Classification Systems by State

| State | Number of Classes | Different Ratios | Different Rates |
|---|---|---|---|
| Alabama | 7 | X | |
| Arizona | 9 | X | |
| Colorado | 3 | X | |
| District of Columbia | 3 | | X |
| Georgia | 2 | X | |
| Hawaii | 7 | | X |
| Illinois | 2 (Cook County 6) | X | |
| Kansas | 13 | X | |
| Kentucky | 14 | | X (state rates) |
| Louisiana | 5 | X | |
| Minnesota | 12 | X | |
| Mississippi | 5 | X | |
| Missouri | 8 | X | |
| Montana | 22 | X | |
| Nebraska | 2 | X | |
| New Hampshire | 2 | | X |
| North Dakota | 2 | X | |
| Oklahoma | 4 | X | |
| Rhode Island | local option | | |
| South Carolina | 11 | X | |
| South Dakota | 3 | | X |
| Tennessee | 4 | X | |
| Utah | 2 | X | |
| West Virginia | 4 | | X |
| Wyoming | 3 | X | |

Source: Center for State and Local Taxation, University of California , Davis 2003

## Appendix D Tabular Data for Charts C, G and H

| **Kingston Assessed Property Values 1991,1992, and 2012 (Full Value in $2012)** | | | | | |
|---|---|---|---|---|---|
| **Property Type** | **1991** | **1992** | **2012** | **%Change 1991-2012** | **% Change 1992-2012** |
| **Homestead** | $870,750,913 | $850,171,461 | $1,043,548,829 | +19.8% | +22.7% |
| **Non-Homestead** | $424,571,069 | $471,609,843 | $468,199,474 | +10.2% | -.7% |

| **Kingston Assessed Property Value Growth Compared to Growth In Single Rate Cities (Full Value in $2012)** | | | | | |
|---|---|---|---|---|---|
| **Single Rate Cities** | **2001** | **2005** | **2008** | **2012** | **% Change 2001-12** |
| **Middletown All Property** | $1,595,531,393 | $2,531,403,202 | $2,587,061,925 | $1,714,263,135 | **+7.44%** |
| **Middletown Commercial Property** | $303,745,293 | $525,538,694 | $511,867,542 | $327,557,924 | **+7.84%** |
| **Hudson All Property** | $440,074,921 | $501,297,800 | $791,875,027 | $579,919,299 | **+31.78%** |
| **Hudson Commercial Property** | $95,252,611 | $125,236,877 | $197,331,679 | $168,036,350 | **+76.41%** |
| **Peekskill All Property** | $2,363,161,206 | $3,750,275,704 | $4,403,112,845 | $3,216,715,662 | **+36.12%** |
| **Peekskill Commercial Property** | $469,162,547 | $701,531,309 | $785,404,603 | $556,051,870 | **+18.52%** |
| **Kingston All Property** | $992,259,784 | $1,481,721,979 | $2,040,357,373 | $1,531,428,482 | **+54.34%** |
| **Kingston Non-Homestead Property** | $372,593,569 | $388,299,466 | $626,558,183 | $474,850,541 | **+27.44%** |

Source: Office of Real Property Tax Services 2013; http://orpts.tax.ny.gov/cfapps/MuniPro/

| Homestead Cities' Assessed Property Value Growth 2001-2012 (Full Value in 2012$) | | | | | |
|---|---|---|---|---|---|
| **Homestead Cities** | **2001** | **2005** | **2008** | **2012** | **% Change 2001-12** |
| **Kingston Homestead** | $619,666,215 | $1,093,422,513 | $1,413,799,190 | $1,056,577,941 | 71% |
| **Kingston Non-Homestead** | $372,593,569 | $388,299,466 | $626,558,183 | $474,850,541 | 27% |
| **Kingston Total** | **$ 992,259,784** | **$1,481,721,979** | **$2,040,357,373** | **$1,531,428,482** | **54%** |
| **Port Jervis Homestead** | $222,900,152 | $310,315,359 | $414,239,137 | $300,004,263 | 35% |
| **Port Jervis Non-Homestead** | $156,336,696 | $211,878,942 | $278,944,071 | $206,400,980 | 32% |
| **Port Jervis Total** | **$379,236,846** | **$522,194,321** | **$693,183,207** | **$506,405,244** | **34%** |
| **Newburgh Homestead** | $430,678,970 | $736,945,626 | $1,131,290,013 | $635,473,160 | 48% |
| **Newburgh Non-Homestead** | $512,042,409 | $873,520,060 | $1,102,894,742 | $912,192,964 | 78% |
| **Newburgh Total** | **$942,721,379** | **$1,610,465,685** | **$2,234,184,755** | **$1,547,666,214** | **64%** |
| **Poughkeepsie Homestead*** | NA | $1,910,120,959 | $1,800,475,716 | $1,209,448,111 | -37% |
| **Poughkeepsie Non-Homestead*** | NA | $1,506,112,777 | $1,500,073,726 | $1,247,771,297 | -17% |
| **Poughkeepsie Total** | **$2,178,208,408** | **$ 3,416,233,737** | **$3,300,549,442** | **$2,457,219,408** | **13%** |
| **Beacon Homestead** | $524,482,367 | $883,151,685 | $1,121,574,254 | $854,844,900 | 63% |
| **Beacon Non-Homestead** | $322,540,032 | $496,203,702 | $610,197,071 | $537,990,104 | 67% |
| **Beacon Total** | **$847,022,399.00** | **$1,379,355,388** | **$1,731,771,325** | **$1,392,835,004** | **64%** |

* ***Poughkeepsie adopted the homestead system in 2006 so the 2005 data is for 2006 and homestead /non-homestead values are not available for 2001***

Source: Office of Real Property Tax Services 2013; http://orpts.tax.ny.gov/cfapps/MuniPro/

## Appendix E –Methodology for all Tables and Charts

**Chart A:** Page 30

Calculated by the authors from data available in Office of the Assessor. "City of Kingston. Certification of Base Percentages, Current Percentages and Current Base Proportions Pursuant to Article 19, RPL for the Levy of Taxes" (Various years)

**Chart B:** Page 31

Calculated by the authors from:

for Kingston: Same as chart A;

for Dutchess County municipalities:

http://www.co.dutchess.ny.us/CountyGov/Departments/RealPropertyTax/12485.htm;

for Orange County Municipalities:

http://www.co.orange.ny.us/content/124/1368/1468/default.aspx

**Chart C:** Page 32

Homestead and non-homestead data was taken from the Office of Kingston Assessor *Tax Levy Worksheets RP6701* 1992-2013. For all years except 1991 we used the data from Section III, Column G of RP6701 (called estimated market value). We always used the data from the worksheet in the year following the year for which we sought data. For example 1992 data was taken from the 1993 worksheet. The 1991 data was taken from the 1992 *Tax Levy Worksheet* RP6701 column C (also called estimated market value). We converted the data from these worksheets to 2012 dollars using the GDP deflators contained on the areppim website located at http://stats.areppim.com/calc/calc_usdlrxdeflator.php.

**Chart D:** Page 33

The data was taken from Office of City of Kingston Assessor *Roll Selection Summary RPS960/V04/L002* 2004-2012. The chart shows the total of all homestead and non-homestead parcel types including tax exempt homestead and non-homestead parcels. However, the underlying data for the chart has separate totals for each type of homestead and non-homestead parcel and the number of homestead and non-homestead tax-exempt parcels decreased during this time period.

**Charts E and F:** Page 34

The full value assessment data from taken from Office of State Comptroller website in 2013 at http://www.osc.state.ny.us/localgov/datanstat/findata/index_choice.htm. We chose level 2 data for all cities in the website's search engine and then downloaded a spread sheet from each year between 2000 and 2011 and recorded the full value assessment number for each year and each city on the charts. 2012 data was not available when we performed this search in September 2013 and it was not relevant enough to our main research to warrant adding it to these charts. We then converted the data to 2012 dollars using the GDP deflators contained on the areppim website located at http://stats.areppim.com/calc/calc_usdlrxdeflator.php, in order to have a consistent dollar reference point throughout the paper.

**Chart G:** Page 35

The homestead and non-homestead full value data for 2001, 2005, 2008, and 2012 was provided in a special run spreadsheet by the Office of Real Property Tax Services in January 2014. It is comparable to data found on the office's website at http://orpts.tax.ny.gov/cfapps/MuniPro/. We then converted the data to 2012 dollars using the GDP deflators contained on the areppim website located at http://stats.areppim.com/calc/calc_usdlrxdeflator.php.

**Chart H:** Page 36

The all property and commercial full value assessment property data for 2001and 2005 for all cities in the table was provided in a special run spreadsheet by the Office of Real Property Tax Services(ORPS) in January 2014. It is comparable to data found on the office's website at http://orpts.tax.ny.gov/cfapps/MuniPro/ where we gathered the data for 2008 and 2012.

On that website you choose the county for the city for which you want data for and then click on that city. You are now on the webpage for the city you are interested in and then click on the link for "Distribution of Parcels by Property Class" and then choose the appropriate year. You than click on the link called "More Detailed" and you will get a data table that has the assessed property values for each class of property. Total property value is simply the addition of all the values in the third column called "total assessed value" adjusted by the equalization rate for that year and that city. Equalization rates for 1954 to 2013 are available on the same website in the municipality page under the link for "Current Equalization Information." Commercial property is all property that begins with a Property Class Code of 4 and that data was also adjusted by the specific city's equalization rate for each year. We then converted the full value data for each class of property to 2012 dollars using the GDP deflators contained on the areppim website located at http://stats.areppim.com/calc/calc_usdlrxdeflator.php.

**Table 1:** page 38.

The fiscal stress scores were taken from the Office of State Comptroller's website in December 2013 at http://www.osc.state.ny.us/localgov/fiscalmonitoring/lists.htm. Once on that website you click on the "44 Cities" link and then click on the link for "**Score Detail** - View All Data for a Selected Municipality." You then enter the name of the municipality and then click on the link for "Self-Assessment Tool" and the fiscal stress scores and other fiscal stress information for that municipality is available in that spreadsheet.

**Charts I and J:** Pages 42 and 43

The fiscal stress graphs for the Kingston School District were taken from the fiscal stress report for the school district on Office of State Comptroller's website in January 2014 at http://www.osc.state.ny.us/localgov/fiscalmonitoring/lists.htm. Once on that website you click on the "School " link and then click on the link for "**Score Detail** - View All Data for a Selected School District." You then enter the name of the school district and then click on the link for "Self-Assessment Tool" and the fiscal stress scores and other fiscal stress information for that school district is available in that spreadsheet. Chart G is found in the "Comparison" tab of the spreadsheet and Chart H is found in the "Summary" Tab.

**Tables 2, 3, and 4:** Pages 44, 45, and 46

These tables were constructed using the same methodology used for Table 2; for Schenectady and Colonie 2001 and 2005 data came from a special run spreadsheet by ORPS and the 2008 and 2012 data from http://orpts.tax.ny.gov/cfapps/MuniPro/. The non-homestead data for Kingston in Table 6 was taken from the same source and using the same methodology used for Chart C.

**Tables 5, 6, 7, and 8:** Pages 49, 50, 53 and 54-55

Actual City and School District Tax rates were obtained from the Mayor. City of Kingston. Budget Message. 2014. http://www.ci.kingston.ny.us/filestorage/50/2014_Mayor_Budget_Messge.pdf and Tax Rates tables provided by the Kingston Consolidated School District (in CRREO files). Hypothetical rates under different scenarios were calculated using total full taxable values of real estate in Kingston and tax levy totals available in these documents. These rates were applied to actual properties recently sold in Kingston identified from www.zillow.com/**kingston-ny/sold**