

Senate Bill 466

By: Senators Fort of the 39th, Scott of the 36th, Paul of the 40th, Thomas of the 10th, Tate of the 38th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 48 of the Official Code of Georgia Annotated, relating to tax
2 executions, so as to repeal certain provisions regarding the selling and transferring of tax
3 executions in lot blocks; to provide an effective date; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Chapter 3 of Title 48 of the Official Code of Georgia Annotated, relating to tax executions,
8 is amended by striking Code Section 48-3-19, relating to transfer of executions, and inserting
9 in its place a new Code Section 48-3-19 to read as follows:

10 "48-3-19.

11 (a)(1) Whenever any person other than the person against whom an execution has been
12 issued pays an execution issued for state, county, or municipal taxes and proves
13 compliance with subsection (b) of this Code section for individual transfers ~~or~~
14 ~~subsection (c) of this Code section for transfers in lot blocks~~, the officer whose duty it is
15 to enforce the execution, upon the request of the party paying the execution, shall transfer
16 the execution to the party so paying. The person to whom the execution is transferred
17 shall have the same rights as to enforcing the execution and priority of payment as might
18 have been exercised or claimed before the transfer, if, within 30 days of the transfer, the
19 person to whom the execution is transferred has the execution entered on the general
20 execution docket of the superior court of the county in which the execution was issued
21 and, if the person against whom the execution was issued resides in a different county,
22 has the execution entered on the general execution docket of the superior court in the
23 county of such person's residence. In default of the required entry, the execution shall
24 lose its lien upon any property which has been transferred in good faith and for a valuable
25 consideration before the entry and without notice of the existence of the execution. The
26 provisions of this paragraph with respect to enforcement rights of the transferee shall in

1 no manner supersede the provisions of subsection ~~(e)~~ (d) of this Code section which limit
2 the amounts which the transferee may charge for a release of the execution.

3 (2)(A) It shall be unlawful for any tax official covered by this paragraph to pay a tax
4 execution in order to obtain a transfer of the execution under this Code section. It shall
5 be unlawful for any employee of a tax official covered by this paragraph to pay a tax
6 execution in order to obtain a transfer of the execution under this Code section. The tax
7 officials covered by this paragraph are:

8 (i) County tax receivers, tax collectors, and tax commissioners;

9 (ii) Members of county boards of tax assessors;

10 (iii) Members of county boards of equalization; and

11 (iv) County tax appraisers.

12 (B) Any execution transferred in violation of subparagraph (A) of this paragraph shall
13 be void and unenforceable by the person obtaining the execution and such person's
14 successors in interest.

15 (C) Any tax official or employee of a tax official violating subparagraph (A) of this
16 paragraph shall upon conviction be guilty of a misdemeanor.

17 ~~(b) Except as provided in subsection (c) of this Code section, no~~ No person may pay an
18 execution issued for ad valorem property taxes and thereby become the transferee of such
19 execution as provided in subsection (a) of this Code section if the person is not a lawful
20 heir or an equity holder in such property unless and until:

21 (1) Such person has notified the individual against whom the execution was issued by
22 certified mail or statutory overnight delivery, and, with respect to single-family
23 residences and duplexes, notified the occupant thereof by first-class mail, of such
24 person's intention to pay such execution and unless and until 60 days have elapsed since
25 the giving of such notice; or

26 (2) In the event that such notice by certified mail or statutory overnight delivery is
27 returned undelivered, such person shall be required to publish such notice not less than
28 once a week for three weeks in the legal organ of the county in which the execution was
29 entered on the general execution docket of the superior court. Such person shall be
30 required to show proof to the tax official who issued the execution that such notice was
31 advertised in compliance with this paragraph.

32 ~~(c)(1) As used in this subsection, the term:~~

33 ~~(A) 'Delinquent taxpayer' means the person against whom an execution has been~~
34 ~~issued.~~

35 ~~(B) 'Execution' means an execution issued for the collection of any ad valorem taxes,~~
36 ~~fees, penalties, interest, or collection costs due the state or any political subdivision~~
37 ~~thereof.~~

1 ~~(C) 'Governing authority' means the county governing authority when the tax~~
2 ~~executions have been issued for state and county taxes or a combination of state,~~
3 ~~county, and city taxes, or the municipal governing authority when the tax executions~~
4 ~~have been issued for city taxes alone.~~

5 ~~(D) 'Lot block of executions' means a group of more than one execution of which the~~
6 ~~aggregate principal amount is not less than \$10,000.00.~~

7 ~~(E) 'Transferee' means a person paying for a lot block of executions for the purpose of~~
8 ~~having those executions and all the rights to enforce collection thereof transferred to~~
9 ~~him or her.~~

10 ~~(F) 'Transferor' means the official holding the tax executions and authorized to collect~~
11 ~~or transfer such tax executions.~~

12 ~~(2) Except for transferees who provide 60 days' notice pursuant to paragraph (1) of~~
13 ~~subsection (b) of this Code section and who purchase such lot blocks of executions for~~
14 ~~the full, undiscounted principal amount of the executions and interest due thereon, no~~
15 ~~transferee may, within a single calendar year, pay and have transferred to such transferee~~
16 ~~executions for which the aggregate principal amount is more than \$10,000.00 without~~
17 ~~first entering into a written agreement with the transferor approved by the governing~~
18 ~~authority and entered onto the minutes at a regular meeting. Such agreement shall~~
19 ~~include, but not be limited to, the following provisions:~~

20 ~~(A) The aggregate principal amount of each group of executions transferred shall be~~
21 ~~in lot blocks of not less than \$10,000.00;~~

22 ~~(B) No lot block may include one or more executions against the same delinquent~~
23 ~~taxpayer that exceed, in principal amount, 20 percent of the total principal amount of~~
24 ~~the executions in the lot block of executions transferred;~~

25 ~~(C) In the event any execution transferred is later determined to have been issued in~~
26 ~~error, the transferee will cease and desist from all collection efforts, remove the~~
27 ~~associated entries from any execution dockets on which it has been entered, remove any~~
28 ~~negative reports that may have been submitted to credit reporting agencies regarding~~
29 ~~the erroneous execution, and return the execution to the transferor. In return, the~~
30 ~~transferor shall reimburse the transferee the amount paid for the execution at the time~~
31 ~~of transfer without any additional fees, penalties, interest, and collection costs that may~~
32 ~~have been incurred by the transferee since the transfer. The transferor shall deduct such~~
33 ~~reimbursement from subsequent remittances of taxes, fees, penalties, and interest~~
34 ~~collections to the levying authorities in the same proportion as the payment received~~
35 ~~from the transferee for the execution transferred in error was disbursed. Provided,~~
36 ~~however, the transferor and the transferee may allow for the collection of certain fees,~~

1 penalties, interest, or costs by the transferee from the transferor when expressly stated
2 in the contract negotiated between the parties;

3 ~~(D) The transferee shall maintain a reasonably accessible office within the State of~~
4 ~~Georgia where delinquent taxpayers may come or call to inquire about their execution~~
5 ~~and make arrangements to pay the same;~~

6 ~~(E) The transferee may begin collection proceedings immediately after the transfer;~~
7 ~~however, the transferee shall, within 60 days after transfer of the executions, send a~~
8 ~~notice to each delinquent taxpayer that has not yet settled such delinquent taxpayer's~~
9 ~~execution indicating the transferee is now holding such execution. Such notice shall~~
10 ~~include, but not be limited to, the payment amount necessary to settle the execution, the~~
11 ~~rate of accumulation of additional charges authorized by law on the execution, the~~
12 ~~payment terms and options available to the delinquent taxpayer, the actions that will be~~
13 ~~taken by the transferee if the execution is not settled in a timely manner, and a~~
14 ~~statement explaining the rights of the delinquent taxpayer to stop all collection efforts~~
15 ~~if the execution has been issued in error;~~

16 ~~(F) The transferee shall, immediately after the execution has been settled, indicate such~~
17 ~~settlement on any execution dockets where the execution has been entered and submit~~
18 ~~a statement indicating such settlement to any credit reporting agencies to which~~
19 ~~negative reports were submitted by the transferee regarding the execution;~~

20 ~~(G) Unless otherwise provided by the agreement between transferee and transferor,~~
21 ~~prior to enforcement of the collection of transferred executions, the transferee shall~~
22 ~~perform a title examination pursuant to the current Title Standards as promulgated by~~
23 ~~the Real Property Section of the State Bar of Georgia and, upon request by the~~
24 ~~governing authority, provide a copy of such title examination and related title~~
25 ~~documents to the sheriff of the county prior to enforcement of the transferred~~
26 ~~executions by levy and sale;~~

27 ~~(H) Preexisting agreements under this Code section in effect prior to April 14, 1997,~~
28 ~~which were approved by the governing authority shall remain in full force and effect~~
29 ~~until termination by the governing authority; and~~

30 ~~(I) Responsibility for amounts expended for any mailing or publication costs associated~~
31 ~~with notification pursuant to paragraph (3) of this subsection:~~

32 ~~(3) Before the governing authority may agree to the transfer of executions in lot blocks,~~
33 ~~it shall notify the delinquent taxpayers of its intention to authorize such transfers. Such~~
34 ~~notice shall be sent by regular mail and shall advise the delinquent taxpayers against~~
35 ~~whom the selected executions have been issued that they have 90 days in which to pay~~
36 ~~the transferor the amount of the execution plus any fees, penalties, interest, and costs that~~
37 ~~may have accrued or the executions will be transferred to a private company for~~

1 ~~collection. In the event that such notice sent by regular mail is returned undelivered, or~~
 2 ~~the identity of the delinquent taxpayer is unknown to the governing authority, the~~
 3 ~~governing authority shall be required to publish such notice not less than once a week for~~
 4 ~~three weeks in the legal organ of the county in which the execution was entered on the~~
 5 ~~general execution docket of the superior court. In either event, the transferor shall not be~~
 6 ~~authorized to transfer the executions until this notice has been made and the 90 day~~
 7 ~~payment period has transpired. The transferor shall be authorized to transfer the balance~~
 8 ~~of the executions in the lot block that are unpaid at the expiration of the notice period~~
 9 ~~even though as a result of some of the executions being settled during the notice period~~
 10 ~~subparagraphs (A) and (B) of paragraph (2) of this subsection are no longer complied~~
 11 ~~with.~~

12 ~~(4) Upon compliance with any bidding requirements that may be required by law, the~~
 13 ~~governing authority shall be authorized to allow a discount of up to 10 percent of the~~
 14 ~~amount of the execution; provided, however, that when a portion of the execution~~
 15 ~~represents taxes, fees, penalty, and interest due the state, no part of the discount shall be~~
 16 ~~deducted from such portion and the discount applicable to the state's portion of the~~
 17 ~~execution amount shall be absorbed by the governing authority. Any discount allowed~~
 18 ~~by the governing authority shall not affect the amount due under the execution and the~~
 19 ~~transferee shall have the right to collect the full amount of the execution as if no discount~~
 20 ~~had been allowed.~~

21 ~~(d)~~(c) No person may pay an execution issued for ad valorem property taxes and thereby
 22 become the transferee of such execution as provided in subsection (a) of this Code section
 23 if:

24 (1) At the time of the transfer, the local tax official is unable to verify that the proposed
 25 transferee is current on all ad valorem tax obligations within the local tax official's
 26 jurisdiction to collect; provided, however, that in all cases where the local tax official is
 27 unable to make the verification required under this paragraph, no transfer of an execution
 28 shall be denied if the proposed transferee delivers to the local tax official a written
 29 statement stating either that the proposed transferee is not the correct taxpayer for the
 30 alleged outstanding tax obligation or that the involved tax parcel or tax parcels do not
 31 represent taxable property; or

32 (2) The property which is the subject of the tax execution has been included among a list
 33 of properties recommended by the local tax official and approved by the local governing
 34 authority, as eligible for exclusion from transfer of execution; and

35 (3) A public hearing has been held on the issue of excluding such property from
 36 eligibility for transfer of execution; and

1 (4) Following the public hearing, the governing authority of the county or municipality,
 2 as applicable, has, in its discretion, approved the property for exclusion from transfer of
 3 execution based on a determination that such exclusion is in the best interest of the
 4 public.

5 ~~(e)~~(d) The person to whom a tax execution is transferred as provided in this Code section
 6 or such person's successor or assigns shall not charge the person against whom such
 7 execution was issued for the release or satisfaction of such execution more than the total
 8 of:

9 (1) The amount paid on the tax execution plus interest from the date of such transfer on
 10 such amount calculated at a rate not exceeding 12 percent per annum; and

11 ~~(2) Unless otherwise provided by law, recording fees, and where the principal amount~~
 12 ~~of tax execution exceeds \$1,500.00, Recording fees and title search fees not to exceed~~
 13 \$150.00, actually expended in recording the transferred execution on the general
 14 execution docket of the county in which the execution was issued and the general
 15 execution docket of the county in which the person against whom the execution was
 16 issued resides, if different from the county in which the execution was issued. ~~If a~~
 17 ~~discount from the face amount of the tax execution has been allowed the person to whom~~
 18 ~~a tax execution has been transferred in accordance with subsection (c) of this Code~~
 19 ~~section, the person against whom such execution was issued may be charged the full face~~
 20 ~~amount of the execution plus interest and recording fees as stated in this subsection. This~~
 21 ~~limitation on the amount charged for release or satisfaction of an execution shall be~~
 22 ~~absolute, and it shall be unlawful to charge any other fees or charges of any kind for such~~
 23 ~~a release or satisfaction."~~

24 SECTION 2.

25 This Act shall become effective upon its approval by the Governor or upon its becoming law
 26 without such approval.

27 SECTION 3.

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