

The Senate Banking and Financial Institutions Committee offered the following substitute to HB 337:

ADOPTED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to repeal certain provisions regarding the selling and transferring of tax
3 executions in lot blocks; to provide for the aggregation of multiple tax executions into one
4 sale; to provide a method by which excess funds from tax sales must be paid; to limit the
5 amount of premium required to be paid to redeem property; to provide for related matters;
6 to provide an effective date; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
10 amended by striking Code Section 48-3-19, relating to transfer of executions, and inserting
11 in its place the following:

12 ~~"48-3-19.~~

13 ~~(a)(1) Whenever any person other than the person against whom an execution has been~~
14 ~~issued pays an execution issued for state, county, or municipal taxes and proves~~
15 ~~compliance with subsection (b) of this Code section for individual transfers or subsection~~
16 ~~(c) of this Code section for transfers in lot blocks, the officer whose duty it is to enforce~~
17 ~~the execution, upon the request of the party paying the execution, shall transfer the~~
18 ~~execution to the party so paying. The person to whom the execution is transferred shall~~
19 ~~have the same rights as to enforcing the execution and priority of payment as might have~~
20 ~~been exercised or claimed before the transfer, if, within 30 days of the transfer, the~~
21 ~~person to whom the execution is transferred has the execution entered on the general~~
22 ~~execution docket of the superior court of the county in which the execution was issued~~
23 ~~and, if the person against whom the execution was issued resides in a different county,~~
24 ~~has the execution entered on the general execution docket of the superior court in the~~
25 ~~county of such person's residence. In default of the required entry, the execution shall~~
26 ~~lose its lien upon any property which has been transferred in good faith and for a~~

1 ~~valuable consideration before the entry and without notice of the existence of the~~
 2 ~~execution. The provisions of this paragraph with respect to enforcement rights of the~~
 3 ~~transferee shall in no manner supersede the provisions of subsection (e) of this Code~~
 4 ~~section which limit the amounts which the transferee may charge for a release of the~~
 5 ~~execution.~~

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

11 ~~(i) County tax receivers, tax collectors, and tax commissioners;~~

12 ~~(ii) Members of county boards of tax assessors;~~

13 ~~(iii) Members of county boards of equalization; and~~

14 ~~(iv) County tax appraisers.~~

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

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

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

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

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

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

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

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

6 ~~(C) 'Governing authority' means the county governing authority when the tax~~
7 ~~executions have been issued for state and county taxes or a combination of state,~~
8 ~~county, and city taxes; or the municipal governing authority when the tax executions~~
9 ~~have been issued for city taxes alone.~~

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

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

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

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

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

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

30 ~~(C) In the event any execution transferred is later determined to have been issued in~~
31 ~~error, the transferee will cease and desist from all collection efforts, remove the~~
32 ~~associated entries from any execution dockets on which it has been entered, remove~~
33 ~~any negative reports that may have been submitted to credit reporting agencies~~
34 ~~regarding the erroneous execution, and return the execution to the transferor. In return,~~
35 ~~the transferor shall reimburse the transferee the amount paid for the execution at the~~
36 ~~time of transfer without any additional fees, penalties, interest, and collection costs that~~

1 ~~may have been incurred by the transferee since the transfer. The transferor shall deduct~~
2 ~~such reimbursement from subsequent remittances of taxes, fees, penalties, and interest~~
3 ~~collections to the levying authorities in the same proportion as the payment received~~
4 ~~from the transferee for the execution transferred in error was disbursed. Provided,~~
5 ~~however, the transferor and the transferee may allow for the collection of certain fees,~~
6 ~~penalties, interest, or costs by the transferee from the transferor when expressly stated~~
7 ~~in the contract negotiated between the parties;~~

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

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

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

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

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

35 ~~(I) Responsibility for amounts expended for any mailing or publication costs~~
36 ~~associated with notification pursuant to paragraph (3) of this subsection.~~

1 ~~(3) Before the governing authority may agree to the transfer of executions in lot blocks,~~
2 ~~it shall notify the delinquent taxpayers of its intention to authorize such transfers. Such~~
3 ~~notice shall be sent by regular mail and shall advise the delinquent taxpayers against~~
4 ~~whom the selected executions have been issued that they have 90 days in which to pay~~
5 ~~the transferor the amount of the execution plus any fees, penalties, interest, and costs that~~
6 ~~may have accrued or the executions will be transferred to a private company for~~
7 ~~collection. In the event that such notice sent by regular mail is returned undelivered, or~~
8 ~~the identity of the delinquent taxpayer is unknown to the governing authority, the~~
9 ~~governing authority shall be required to publish such notice not less than once a week for~~
10 ~~three weeks in the legal organ of the county in which the execution was entered on the~~
11 ~~general execution docket of the superior court. In either event, the transferor shall not~~
12 ~~be authorized to transfer the executions until this notice has been made and the 90 day~~
13 ~~payment period has transpired. The transferor shall be authorized to transfer the balance~~
14 ~~of the executions in the lot block that are unpaid at the expiration of the notice period~~
15 ~~even though as a result of some of the executions being settled during the notice period~~
16 ~~subparagraphs (A) and (B) of paragraph (2) of this subsection are no longer complied~~
17 ~~with.~~

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

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

30 ~~(1) At the time of the transfer, the local tax official is unable to verify that the proposed~~
31 ~~transferee is current on all ad valorem tax obligations within the local tax official's~~
32 ~~jurisdiction to collect; provided, however, that in all cases where the local tax official is~~
33 ~~unable to make the verification required under this paragraph, no transfer of an execution~~
34 ~~shall be denied if the proposed transferee delivers to the local tax official a written~~
35 ~~statement stating either that the proposed transferee is not the correct taxpayer for the~~

1 ~~alleged outstanding tax obligation or that the involved tax parcel or tax parcels do not~~
2 ~~represent taxable property; or~~

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

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

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

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

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

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

30 Reserved."

31 SECTION 2.

32 Said title is further amended by striking subsection (b) of Code Section 48-4-1, relating to
33 procedures for sales under tax levies and executions, and inserting in lieu thereof the
34 following:

1 ~~for the property at the sale to cover the cost of making the necessary examinations to~~
2 ~~determine the persons upon whom notice should be served.~~ All of the amounts required
3 to be paid by this Code section shall be paid in lawful money of the United States to the
4 purchaser at the tax sale or to the purchaser's successors."

5 **SECTION 5.**

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

8 **SECTION 6.**

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