

House Bill 354

By: Representatives Harbin of the 80th, Westmoreland of the 86th, Keen of the 146th, Jamieson of the 22nd, Burkhalter of the 36th, and others

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 provide for current applicability of Chapter 16, the "Tax Amnesty Program
3 Act," and Chapter 16A, the "Property Tax Amnesty Program Act"; to provide for new
4 amnesty periods; to provide for new waiver periods; to provide for new duration and
5 applicability periods; to change certain provisions regarding collection costs; to provide for
6 related matters; to provide an effective date; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
11 amended by striking Code Section 48-16-4, relating to the tax amnesty program, and
12 inserting in its place a new Code Section 48-16-4 to read as follows:

13 "48-16-4.

14 (a) The commissioner shall develop and administer a one-time tax amnesty program as
15 provided in this chapter. The commissioner shall, upon the voluntary return and remission
16 of taxes and interest owed by any taxpayer, waive all penalties that are assessed or subject
17 to being assessed for outstanding liabilities for taxable periods ending or transactions
18 occurring on or before December 31, ~~1990~~ 2001. The commissioner shall provide by
19 regulation as necessary for the administration of this amnesty program and shall further
20 provide for necessary forms for the filing of amnesty applications and returns.

21 (b) Notwithstanding the provisions of any other law to the contrary, the tax amnesty
22 program shall begin by October 31, ~~1992~~ 2003, and shall be completed no later than
23 December 31, ~~1992~~ 2003, and shall apply to all taxpayers owing taxes, penalties, or interest
24 administered by the commissioner under the provisions of this title, except that the tax
25 amnesty shall not apply to any property tax levied or administered by the commissioner
26 pursuant to Chapters 5 and 6 of this title. The program shall apply to tax liabilities for

1 taxable periods ending or transactions occurring on or before December 31, ~~1990~~ 2001.
2 Amnesty tax return forms shall be in a form prescribed by the commissioner."

3 **SECTION 2.**

4 Said title is further amended by striking Code Section 48-16-10, relating to imposition of
5 costs of certain collection fees, and inserting in its place a new Code Section 48-16-10 to
6 read as follows:

7 "48-16-10.

8 (a) In addition to all other penalties provided under this chapter or any other law, the
9 commissioner may by regulation impose after the expiration of the tax amnesty period a
10 cost of collection fee of 20 percent of any deficiency assessed for any taxable period ending
11 or transactions occurring after December 31, ~~1990~~ 2001. This fee shall be in addition to
12 all other applicable penalties, fees, or costs. The commissioner shall have the right to
13 waive any collection fee when it is demonstrated that any deficiency of the taxpayer was
14 not due to negligence, intentional disregard of administrative rules and regulations, or
15 fraud. Notwithstanding any other provision of law, the department is authorized to retain
16 all funds received as collection fees imposed by the commissioner for use in defraying the
17 cost of collection of deficient taxes. Any such funds not expended for this purpose in the
18 fiscal year in which they are generated shall be deposited in the state treasury; provided,
19 however, that nothing in this Code section shall be construed so as to allow the department
20 to retain any funds required by the Constitution of Georgia to be paid into the state
21 treasury; and provided, further, that the department shall comply with all provisions of Part
22 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92,
23 prior to expending any such funds.

24 (b) In addition to all other penalties provided under this chapter or any other law, the
25 commissioner may pursuant to regulation impose after the expiration of the tax amnesty
26 period a cost of collection fee of 50 percent of any deficiency assessed after the amnesty
27 period for taxable periods ending or transactions occurring on or before December 31, ~~1990~~
28 2001, regardless of when due. This fee shall be in addition to all other applicable penalties,
29 fees, or costs. The commissioner shall have the right to waive any collection fee when it
30 is demonstrated that any deficiency of the taxpayer was not due to negligence, intentional
31 disregard of administrative rules and regulations, or fraud. Notwithstanding any other
32 provision of law, the department is authorized to retain all funds received as collection fees
33 imposed by the commissioner for use in defraying the cost of collection of deficient taxes.
34 Any such funds not expended for this purpose in the fiscal year in which they are generated
35 shall be deposited in the state treasury; provided, however, that nothing in this Code section
36 shall be construed so as to allow the department to retain any funds required by the

1 Constitution of Georgia to be paid into the state treasury; and provided, further, that the
 2 department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45,
 3 the 'Budget Act,' except Code Section 45-12-92, prior to expending any such funds.

4 (c) The provisions of subsections (a) and (b) of this Code section shall not apply to any
 5 account which has been protested pursuant to Code Section 48-2-46 as of the expiration of
 6 the amnesty period and which does not become final, due, and owing, or to any account on
 7 which the taxpayer is remitting timely payments under a payment agreement negotiated
 8 with the commissioner prior to or during the amnesty period.

9 (d) The fee levied under subsections (a) and (b) of this Code section shall not apply to
 10 taxes paid pursuant to the terms of the amnesty program."

11 SECTION 3.

12 Said title is further amended by striking Code Section 48-16A-4, relating to development and
 13 administration of the property tax amnesty program, and inserting in its place a new Code
 14 Section 48-16A-4 to read as follows:

15 "48-16A-4.

16 (a) Upon the adoption of a resolution or ordinance by the governing authority of each local
 17 taxing jurisdiction for which a local collection official collects delinquent taxes indicating
 18 that governing authority's desire to participate in the property tax amnesty program, the
 19 administering governing authority shall be authorized to develop and administer a one-time
 20 property tax amnesty program as provided in this chapter. The county governing authority
 21 shall be authorized to include the state's delinquent tax in the property tax amnesty
 22 program. Such administering governing authority shall be authorized to waive, in whole
 23 or in part, all penalties or interest or both with respect to outstanding ad valorem tax
 24 liabilities for all tax years ending or transactions occurring on or before December 31, ~~1993~~
 25 2002. The terms and conditions of such waiver shall be specified in the resolution or
 26 ordinance adopted by such administering governing authority and may include a delegation
 27 of authority to the local collecting official of the authority to make such waiver, in whole
 28 or in part, on a case-by-case basis. The administering governing authority shall provide for
 29 the necessary forms for the filing of property tax amnesty applications and returns.

30 (b) The local collection official shall, upon the voluntary filing of a return to the official
 31 responsible for the receiving of property tax returns and the remission of ad valorem taxes
 32 owed by any taxpayer, if required, waive all penalties and interest that are assessed or
 33 subject to being assessed for outstanding ad valorem tax liabilities for all tax years ending
 34 or transactions occurring on or before December 31, ~~1993~~ 2002. Such waiver shall be in
 35 accordance with the terms of the resolution or ordinance of the administering governing
 36 authority.

1 (c) Any property tax amnesty program conducted under the authority of this chapter shall
 2 begin by October 31, ~~1994~~ 2003, and shall be completed no later than December 31, ~~1994~~
 3 2003, and shall apply to all taxpayers owing ad valorem taxes, penalties, or interest. The
 4 program shall apply to outstanding ad valorem tax liabilities for all tax years ending on or
 5 before December 31, ~~1993~~ 2002. Property tax amnesty tax return forms shall be in a form
 6 prescribed by the administering governing authority."

7 **SECTION 4.**

8 Said title is further amended by striking Code Section 48-16A-10, relating to cost of
 9 collection fees, and inserting in its place a new Code Section 48-16A-10 to read as follows:
 10 "48-16A-10.

11 (a) In addition to all other penalties provided under this chapter or any other law, the
 12 administering governing authority may by ordinance or resolution impose after the
 13 expiration of the property tax amnesty period a cost of collection fee of 50 percent of any
 14 deficiency levied after the property tax amnesty period for taxable periods ending on or
 15 before December 31, ~~1993~~ 2002, regardless of when due. This fee shall be in addition to
 16 all other applicable penalties, fees, or costs. The local collection official shall have the
 17 right to waive any collection fee when it is demonstrated that any deficiency of the
 18 taxpayer was not due to negligence, intentional disregard of local ordinances or resolutions,
 19 or fraud.

20 (b) The provisions of subsection (a) of this Code section shall not apply to any account
 21 which is under appeal as of the expiration of the property tax amnesty period and which
 22 does not become final, due, and owing, or to any account on which the taxpayer is
 23 remitting timely payments under a payment agreement negotiated with the local collection
 24 official prior to or during the property tax amnesty period.

25 (c) The fee levied under subsection (a) of this Code section shall not apply to taxes paid
 26 pursuant to the terms of the property tax amnesty program."

27 **SECTION 5.**

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

30 **SECTION 6.**

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