

Senate Bill 97

By: Senators Hamrick of the 30th, Seabaugh of the 28th, Hall of the 22nd and Clay of the 37th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 48-6-2 of the Official Code of Georgia Annotated, relating to the
2 exemption of certain instruments, deeds, or writings from the real estate transfer tax, so as
3 to provide additional exemptions from the real estate transfer tax; to provide for related
4 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Code Section 48-6-2 of the Official Code of Georgia Annotated, relating to the exemption
8 of certain instruments, deeds, or writings from the real estate transfer tax, is amended by
9 striking subsection (a) and inserting in lieu thereof a new subsection (a) to read as follows:

10 "(a) The tax imposed by Code Section 48-6-1 shall not apply to:

11 (1) Any instrument or writing given to secure a debt;

12 (2) Any deed of gift;

13 (3) Any deed, instrument, or other writing to which any of the following is a party: the
14 United States; this state; any agency, board, commission, department, or political
15 subdivision of either the United States or this state; any public authority; or any nonprofit
16 public corporation;

17 (4) Any lease of lands, tenements, standing timber, or other realty or any lease of any
18 estate, interest, or usufruct in any lands, tenements, standing timber, or other realty;

19 (5) Any transfer of real estate between a husband and wife in connection with a divorce
20 case;

21 (6) Any order for year's support awarding an interest in real property as provided in
22 Code Section 53-5-11 of the 'Pre-1998 Probate Code,' if applicable, or Code Section
23 53-3-11 of the 'Revised Probate Code of 1998';

24 (7) Any deed issued in lieu of foreclosure if the deed issued in lieu of foreclosure is for
25 a purchase money deed to secure debt that has been in existence and properly executed

1 and recorded for a period of 12 months prior to the recording of the deed in lieu of
2 foreclosure;

3 (7.1) The deed from the debtor to the first transferee at a foreclosure sale;

4 (8) Transfer of property which is acquired as provided in Code Sections 32-3-2 and
5 32-3-3;

6 (9) Any deed of assent or distribution by an executor, administrator, guardian, trustee,
7 or custodian; any deed or other instrument carrying out the exercise of a power of
8 appointment; and any other instrument transferring real estate to or from a fiduciary;
9 provided, however, that the exemption provided under this paragraph shall apply only if
10 the transfer is without valuable consideration; and

11 (10) Any deed, instrument, or other writing which effects a division of real property
12 among joint tenants or tenants in common if the transaction does not involve any
13 consideration other than the division of the property;

14 (11) Any deed, instrument, or other writing transferring realty to a corporation,
15 partnership, limited liability company, or trustee of a trust as a stockholder, partner,
16 member, or trust beneficiary of the entity or so as to become a stockholder, partner,
17 member, or trust beneficiary of the entity as long as no consideration is paid for the
18 transfer other than stock in the corporation, interest in the partnership, interest in the
19 limited liability company, beneficiary interest in the trust, or the increase in value in the
20 stock or interest held by the grantor. However, except for transfers subject to another
21 exemption under this Code section, the transfer of realty from a corporation, partnership,
22 limited liability company, or a trustee of a trust to a stockholder, partner, or trust
23 beneficiary of the entity is subject to the tax imposed by Code Section 48-6-1, even if the
24 realty is transferred to another corporation, partnership, limited liability company, or
25 trust;

26 (12) Any deed, instrument, or other writing reflecting vesting of title to realty acquired
27 in a statutory merger or consolidation from a constituent corporation by the surviving or
28 new corporation;

29 (13) Any deed, instrument, or other writing reflecting vesting of title to realty acquired
30 in a merger or consolidation from a constituent partnership or limited liability company
31 by the surviving or new partnership or limited liability company; and

32 (14) Any deed, instrument, or other writing transferring realty as common area, common
33 property, or common elements to a property owners' association as defined in Code
34 Section 44-3-221, a condominium association as defined in Code Section 44-3-71, or to
35 any other mandatory membership homeowners or property owners association; provided,

1 however, that the exemption provided under this paragraph shall apply only if the transfer
2 is without valuable consideration."

3 **SECTION 2.**

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

6 **SECTION 3.**

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