

Senate Bill 585

By: Senators Shafer of the 48th, Moody of the 56th and Balfour of the 9th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 13 of Title 9 of the Official Code of Georgia Annotated,  
2 relating to parties in execution, so as to provide that executions for ad valorem property taxes  
3 or assessments shall be governed exclusively by Title 48; to amend Chapter 3 of Title 48 of  
4 the Official Code of Georgia Annotated, relating to tax executions, so as to define certain  
5 terms; to provide for the purchase of tax executions and the transfer of rights; to provide for  
6 the termination of such right; to provide for collection; to provide for notice; to provide for  
7 a right of satisfaction; to provide for interest and fees; to provide for notice in the event  
8 certain information is unavailable; to provide that certain officials and their employees shall  
9 not have the right to purchase tax executions; to provide a penalty; to provide for  
10 applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Article 2 of Chapter 13 of Title 9 of the Official Code of Georgia Annotated, relating to  
14 parties in execution, is amended by striking in its entirety Code Section 9-13-36, relating to  
15 the transfer of execution upon payment, status of transferee, and recording necessary to  
16 preserve lien, and inserting in lieu thereof the following:

17 "9-13-36.

18 (a) Except as provided in subsection (b) of this Code section, whenever ~~Whenever~~ any  
19 person other than the person against whom the same has issued pays any execution issued  
20 without the judgment of a court, under any law, the officer whose duty it is to enforce the  
21 execution, upon the request of the party paying the same, shall transfer the execution to the  
22 party. The transferee shall have the same rights as to enforcing the execution and priority  
23 of payment as might have been exercised or claimed before the transfer, provided that the  
24 transferee shall have the execution entered on the general execution docket of the superior  
25 court of the county in which the same was issued and, if the person against whom the same  
26 was issued resides in a different county, also in the county of such person's residence

1 within 30 days from the transfer; in default thereof the execution shall lose its lien upon  
 2 any property which has been transferred bona fide and for a valuable consideration before  
 3 the recordation and without notice of the existence of the execution.

4 (b) The provisions of this Code section shall not apply to executions for ad valorem  
 5 property taxes or assessments, which shall be governed exclusively by Chapters 2, 3, and  
 6 4 of Title 48."

## 7 SECTION 2.

8 Chapter 3 of Title 48 of the Official Code of Georgia Annotated, relating to tax executions,  
 9 is amended by striking Code Section 48-3-19, which is reserved, and inserting in lieu thereof  
 10 the following:

11 "48-3-19.

12 ~~Reserved.~~

13 (a) As used in this Code section, the term:

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

15 (2) 'Execution' means an execution issued for the collection of any ad valorem taxes or  
 16 assessments, fees, penalties, interest, or collection costs due the state, any political  
 17 subdivision thereof, or any municipality.

18 (3) 'Tax official' means the official who issued the execution.

19 (4) 'Transferee' means a person to whom an execution is transferred.

20 (b) Except as provided in subsection (c) of this Code section, upon request of any person  
 21 other than the delinquent taxpayer who pays the amount then owing on an execution, the  
 22 tax official shall transfer the execution to the person making the payment who shall then  
 23 be a transferee. The transferee shall have the same rights as to enforcing the execution and  
 24 priority of payment as might have been exercised or claimed by the tax official. The  
 25 transferee may record the transfer with the clerk of the superior court of the county where  
 26 the property giving rise to the execution is located.

27 (c) Upon the written recommendation of a tax official and upon the adoption of  
 28 appropriate joint resolutions by the governing authorities of all governmental bodies,  
 29 including, without limitation, school districts, which have an interest in the proceeds of  
 30 executions, the right to obtain transfers of executions may be limited or terminated as  
 31 provided in such recommendation and resolutions.

32 (d) The transferee shall not be authorized to exercise any right to enforce collection of an  
 33 execution until 12 months after the date of transfer or 24 months after the tax giving rise  
 34 to the execution was originally due, whichever is earlier. A transferee with multiple  
 35 outstanding executions against the same delinquent taxpayer or the same property shall not

1 be subject to the time period requirements of this provision with respect to any of such  
2 executions if at least one of the executions meets such requirements.

3 (e) Within 30 days from the date of the transfer, the tax official shall send notice of the  
4 transfer of the execution to the delinquent taxpayer at the last known address therefor by  
5 first class mail and may charge the transferee a reasonable fee therefor, which fee shall be  
6 added to the amount due under the execution. The notice shall contain the following:

7 (1) The name and mailing address for the transferee;

8 (2) The amount paid by the transferee for the execution, the amount added as a fee for  
9 mailing of the notice, and a statement of the interest rate applicable to the execution; and

10 (3) Such other information as the tax official desires to include.

11 (f) Until the execution is paid or satisfied, on or before October 1 of each year after the  
12 calendar year in which the transfer occurred, the transferee shall send an updated notice by  
13 first class mail to the same person or entity at the same address to whom notice was given  
14 under subsection (d) of this Code section providing the amount then necessary to satisfy  
15 such execution and any updated name or address of the transferee. If a transferee fails to  
16 provide such notice, the transferee shall not be entitled to collect interest which has accrued  
17 since the date such notice was to have been given unless and until such failure is cured by  
18 providing proper notice and allowing the person or entity a period of 30 days to pay such  
19 execution.

20 (g) A transferred execution shall bear interest as specified in Code Section 48-2-40 on the  
21 amount paid for such execution from the date of the transfer plus any fee added under  
22 subsection (e) of this Code section plus recording fees actually expended in recording the  
23 transfer and cancellation of the execution and such other penalties as are provided for in  
24 this title. This limitation on the amount charged for release or satisfaction of an execution  
25 shall be absolute, and it shall be unlawful to charge any other fees or charges of any kind  
26 for such a release or satisfaction.

27 (h) The transferee shall provide to the tax official the transferee's mailing address, together  
28 with any additional contact information the tax official may require. In the event any  
29 person desires to pay and satisfy an execution but is unable to locate the transferee, such  
30 person may send notice of intent to deliver payment for the execution to the tax official by  
31 mailing such notice by certified mail or statutory overnight delivery, return receipt  
32 requested, to the transferee's last address of record as maintained with the tax official.  
33 Upon delivering proof of said notice to the tax official, no sooner than ten days and no later  
34 than 60 days after sending the same, the person desiring to pay the execution may tender  
35 to the tax official payment in full of the execution in an amount calculated by the tax  
36 official as sufficient to satisfy the execution, as calculated under subsection (f) of this Code

1 section. Upon such payment, the tax official shall satisfy the execution and shall remit the  
 2 funds received to the transferee on demand."

### 3 SECTION 3.

4 Said chapter is further amended by striking in its entirety Code Section 48-3-20, relating to  
 5 interest on transferred executions, and inserting in lieu thereof the following:

6 "48-3-20.

7 ~~All tax executions, when recorded as prescribed by law and which have been transferred~~  
 8 ~~to third persons, shall bear interest at the rate specified in Code Section 48-2-40 from the~~  
 9 ~~date of transfer.~~

10 (a) It shall be unlawful for any of the following persons or any employee of any such  
 11 person to pay a tax execution in order to obtain a transfer of such tax execution:

12 (1) County tax receivers, tax collectors, and tax commissioners;

13 (2) Members of county boards of tax assessors;

14 (3) Members of county boards of equalization; and

15 (4) County tax appraisers.

16 (b) Any execution transferred in violation of this Code section shall be void and  
 17 unenforceable by the person obtaining the execution and such person's successors in  
 18 interest.

19 (c) Any person violating this Code section shall upon conviction be guilty of a  
 20 misdemeanor."

### 21 SECTION 4.

22 The provisions of this Act shall apply to all executions transferred on or after July 1, 2006.  
 23 Executions transferred prior to July 1, 2006, shall not be affected by this Act.

### 24 SECTION 5.

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