

Senate Bill 585

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

AS PASSED SENATE

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 collection; to provide for notice; to provide for a right of satisfaction; to provide for interest
 7 and fees; to provide that certain officials and their employees shall not have the right to
 8 purchase tax executions; to provide a penalty; to provide for applicability; to repeal
 9 conflicting laws; and for other purposes.

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

11 **SECTION 1.**

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

16 "9-13-36.

17 (a) Except as provided in subsection (b) of this Code section, whenever ~~Whenever~~ any
 18 person other than the person against whom the same has issued pays any execution issued
 19 without the judgment of a court, under any law, the officer whose duty it is to enforce the
 20 execution, upon the request of the party paying the same, shall transfer the execution to the
 21 party. The transferee shall have the same rights as to enforcing the execution and priority
 22 of payment as might have been exercised or claimed before the transfer, provided that the
 23 transferee shall have the execution entered on the general execution docket of the superior
 24 court of the county in which the same was issued and, if the person against whom the same
 25 was issued resides in a different county, also in the county of such person's residence
 26 within 30 days from the transfer; in default thereof the execution shall lose its lien upon

1 any property which has been transferred bona fide and for a valuable consideration before
2 the recordation and without notice of the existence of the execution.

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

6 SECTION 2.

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, which is reserved, and inserting in lieu thereof
9 the following:

10 "48-3-19.

11 ~~Reserved.~~

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

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

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

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

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

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

26 (c) The transferee shall not be authorized to exercise any right to enforce collection of an
27 execution until 12 months after the date of transfer or 24 months after the tax giving rise
28 to the execution was originally due, whichever is earlier. A transferee with multiple
29 outstanding executions against the same delinquent taxpayer or the same property shall not
30 be subject to the time period requirements of this provision with respect to any of such
31 executions if at least one of the executions meets such requirements.

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

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

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

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

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

13 (f) A transferred execution shall bear interest as specified in Code Section 48-2-40 on the
 14 amount paid for such execution from the date of the transfer plus any fee added under
 15 subsection (d) of this Code section plus recording fees actually expended in recording the
 16 transfer and cancellation of the execution and such other penalties as are provided for in
 17 this title. This limitation on the amount charged for release or satisfaction of an execution
 18 shall be absolute, and it shall be unlawful to charge any other fees or charges of any kind
 19 for such a release or satisfaction.

20 (g) The transferee shall provide to the tax official the transferee's mailing address, together
 21 with any additional contact information the tax official may require."

22 SECTION 3.

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

25 "48-3-20.

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

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

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

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

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

34 (4) County tax appraisers.

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

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

6 **SECTION 4.**

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

9 **SECTION 5.**

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