

House Bill 354 (COMMITTEE SUBSTITUTE)

By: Representative O`Neal of the 146th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 36 and 48 of the Official Code of Georgia Annotated, relating, respectively,
2 to local government and revenue and taxation, so as to change certain state and local tax
3 procedures; to establish procedures and due dates for notification of homeowner tax relief
4 grants; to provide for recording of tax executions; to change certain income requirements for
5 taxpayers 62 years of age or older seeking a homestead exemption for school tax purposes;
6 to change certain provisions regarding the transmission of resolutions setting the terms of
7 members of boards of tax assessors; to provide for additional return filing requirements for
8 public utilities; to provide for related matters; to provide for effective dates and applicability;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
13 by revising subsection (a) of Code Section 36-89-4, relating to procedures and conditions for
14 homeowner tax relief grant allotment, as follows:

15 "(a)(1) When funds are appropriated as provided in Code Section 36-89-3, such grants
16 shall be allotted to each county, municipality, and county or independent school district in
17 ~~the~~ this state as follows:

18 (A) Immediately following the actual preparation of ad valorem property tax bills, but
19 no later than one year after the date the final installment of taxes was due, each county
20 fiscal authority shall notify the Department of Revenue of the total amount of tax
21 revenue which would be generated by applying the sum of the state and county millage
22 rates to the eligible assessed value of each qualified homestead in the county. The total
23 amount of actual tax credits, so calculated, given to all qualified homesteads in the
24 county shall be the amount of the grant to that county;

25 (B) Immediately following the actual preparation of ad valorem property tax bills, but
26 no later than one year after the date the final installment of taxes was due, each county

1 or independent school district's fiscal authority shall notify the Department of Revenue
 2 of the total amount of tax revenue which would be generated by applying the school
 3 millage rate to the eligible assessed value of each qualified homestead in the county or
 4 independent school district. The total amount of actual tax credits, so calculated, given
 5 to all qualified homesteads in the county or independent school district shall be the
 6 amount of the grant to that county or independent school district; and

7 (C) Immediately following the actual preparation of ad valorem property tax bills, but
 8 no later than one year after the date the final installment of taxes was due, each
 9 municipality's fiscal authority shall notify the Department of Revenue of the total
 10 amount of tax revenue which would be generated by applying the municipal millage
 11 rate to the eligible assessed value of each qualified homestead in the municipality. The
 12 total amount of actual tax credits, so calculated, given to all qualified homesteads in the
 13 municipality shall be the amount of the grant to that municipality.

14 (2) Credit amounts computed under paragraph (1) of this subsection shall be applied to
 15 reduce the otherwise applicable tax liability on a dollar-for-dollar basis, but the credit
 16 granted shall not in any case exceed the amount of the otherwise applicable tax liability
 17 after the granting of all applicable homestead exemptions except for any homestead
 18 exemption under Article 2A of Chapter 8 of Title 48, the 'Homestead Option Sales and
 19 Use Tax Act,' as amended, and after the granting of all applicable millage rollbacks.

20 (3) A county fiscal authority, county or independent school district fiscal authority, or
 21 municipal fiscal authority that fails to notify the Department of Revenue of the total
 22 amount of actual tax credits given to all qualified homesteads by the date specified in this
 23 Code section shall forfeit its rights to the grant for such tax year. The state revenue
 24 commissioner may waive the notification requirement and authorize issuance of the grant
 25 whenever and to the extent that the state revenue commissioner reasonably determines
 26 that the failure to timely notify the Department of Revenue was due to reasonable cause
 27 and not due to willful neglect or disregard of the law or of regulations or instructions
 28 issued pursuant to the law."

29 SECTION 2.

30 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 31 amended by revising subsection (b) of Code Section 48-3-3, relating to executions by tax
 32 collectors and commissioners, as follows:

33 "(b) The tax collector or tax commissioner shall issue executions for nonpayment of taxes
 34 collectable by the tax collector or tax commissioner at any time after 30 days have elapsed
 35 since giving notice as provided in subsection (c) of this Code section. The executions shall
 36 be directed to all and singular sheriffs and constables of ~~the~~ this state: and within 30 days

1 of issuance the tax collector or tax commissioner shall have the tax execution recorded in
 2 the records of the clerk of the superior court of the county where the execution was issued.
 3 If the tax collector or tax commissioner fails to have the execution recorded in the records
 4 of the clerk of the superior court of the county where the execution was issued within 30
 5 days of issuance of the tax execution, the tax collector or tax commissioner shall void the
 6 tax execution and renotify the taxpayer of the delinquency as provided in subsection (c) of
 7 this Code section. The tax collector or tax commissioner shall issue a new execution for
 8 nonpayment of taxes collectable by the tax collector or tax commissioner at any time after
 9 30 days have elapsed since the renotification notice was issued."

10 SECTION 3.

11 Said title is further amended by revising subsection (b) of Code Section 48-5-52, relating to
 12 homestead exemptions from ad valorem taxation for educational purposes for qualified
 13 individuals who are 62 years of age or older, as follows:

14 "(b)(1) The exemption provided for in subsection (a) of this Code section shall not be
 15 granted unless an affidavit of the owner of the homestead, prepared upon forms
 16 prescribed by the commissioner for that purpose, is filed with either the tax receiver or
 17 tax commissioner, in the case of residents of county school districts, or with the
 18 governing authority of the owner's city, in the case of residents of independent school
 19 districts.

20 (2) The affidavit shall in the first year for which the exemption is sought be filed on or
 21 before the last day for making a tax return and shall show the:

22 (A) Age of the owner on January 1 immediately preceding the filing of the affidavit;

23 (B) Total amount of net income received by the owner and spouse from all sources
 24 during the immediately preceding calendar year; and

25 ~~(C) Total amount of income received from all sources by each individual member of~~
 26 ~~the owner's family residing within the homestead; and~~

27 ~~(D) Such additional information as may be required by the commissioner.~~

28 (3) Copies of all affidavits received or extracts of the information contained in the
 29 affidavits shall be forwarded to the commissioner by the various taxing authorities with
 30 whom the affidavits are filed. The commissioner is authorized to compare such
 31 information with information contained in any income tax return, sales tax return, or
 32 other tax documents or records of the department and to report immediately to the
 33 appropriate county or city taxing authority any apparent discrepancies between the
 34 information contained in any affidavit and the information contained in any other tax
 35 records of the department.

1 (4) After the owner has filed the affidavit and has once been allowed the exemption
 2 provided for in this Code section, it shall not be necessary to make application and file
 3 the affidavit thereafter for any year and the exemption shall continue to be allowed to
 4 such owner; provided, however, that it shall be the duty of any such owner to notify the
 5 tax commissioner or tax receiver in the event the owner becomes ineligible for any reason
 6 for the exemption provided for in this Code section."

7 **SECTION 4.**

8 Said title is further amended by revising subsection (a) of Code Section 48-5-295, relating
 9 to terms of office, vacancies, and removal by county governing authority, as follows:

10 "(a) Each member of the county board of tax assessors appointed to such office on and
 11 after July 1, 1996, shall be appointed by the county governing authority for a term of not
 12 less than three nor more than six years. A county governing authority shall, by resolution,
 13 within the range provided by this subsection, select the length of terms of office for
 14 members of its county board of tax assessors. Following the adoption of such resolution,
 15 all new appointments and reappointments to the county board of tax assessors shall be for
 16 the term lengths specified in the resolution; however, such resolution shall not have the
 17 effect of shortening or extending the terms of office of current members of the board of
 18 assessors whose terms have not yet expired. The county governing authority shall not be
 19 authorized to again change the term length until the expiration of the term of office of the
 20 first appointment or reappointment following the resolution that last changed such terms
 21 of office. If the resolution changing the terms of office of members of the board of tax
 22 assessors would result in a voting majority of the board of tax assessors having their terms
 23 expire in the same calendar year, the county governing authority shall provide in the
 24 resolution for staggered initial appointments or reappointments of a duration of not less
 25 than three nor more than six years that will prevent such an occurrence. The county
 26 governing authority shall transmit to the ~~board of assessors~~ commissioner a copy of the
 27 resolution setting the length of terms of members of the county board of tax assessors
 28 within ten days of the date the resolution is adopted. Any member of the county board of
 29 tax assessors shall be eligible for reappointment after review of his or her service on the
 30 board by the appointing authority. Such review shall include education and certification
 31 information furnished by the commissioner. Any member of the county board of tax
 32 assessors who fails to maintain the certification and qualifications specified pursuant to
 33 Code Section 48-5-291 shall not be eligible for reappointment until all requirements have
 34 been met. In case of a vacancy on the board at any time, whether caused by death,
 35 resignation, removal, or otherwise, the vacancy shall be immediately filled by appointment
 36 of the county governing authority. Any person appointed to fill a vacancy shall be

1 appointed only to serve for the remainder of the unexpired term of office and shall possess
2 the same qualifications required under this part for regular appointment to a full term of
3 office."

4 **SECTION 5.**

5 Said title is further amended by revising subsection (b) of Code Section 48-5-511, relating
6 to returns of public utilities to commissioner, as follows:

7 "(b) The returns of each public utility shall be in writing and sworn to under oath by the
8 chief executive officer to be a just, true, and full return of the fair market value of the
9 property of the public utility without any deduction for indebtedness. Each class or species
10 of property shall be separately named and valued as far as practicable and shall be taxed
11 like all other property under the laws of this state. The returns shall also include the capital
12 stock, net annual profits, gross receipts, business, or income (gross, annual, net, or any
13 other kind) for which the public utility is subject to taxation by the laws of this state. Each
14 parcel of real estate included in the return shall be identified by its physical address and by
15 a description adequate for the commissioner to properly identify such parcel. Other
16 descriptive information includes, but is not limited to, the map or parcel identification
17 information of the real estate being returned."

18 **SECTION 6.**

19 (a) Section 1 of this Act shall become effective upon its approval by the Governor or upon
20 this Act's becoming law without such approval and shall be applicable to all taxable years
21 beginning on or after January 1, 2007.

22 (b) This section and Sections 2, 3, 4, 5, and 7 of this Act shall become effective upon this
23 Act's approval by the Governor or upon its becoming law without such approval.

24 **SECTION 7.**

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