

House Bill 390

By: Representative Martin of the 47th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue
2 Code," so as to provide for the sale of tax receivables; to define terms; to provide for
3 conditions under which the sale of tax receivables shall be allowed; to provide for related
4 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Title 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," is
8 amended by adding a new Code section to read as follows:

9 "48-3-30.

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

11 (1) "Tax collector" means the state revenue commissioner, the county tax commissioner,
12 the county tax collector, and any other person authorized to collect taxes on behalf of a
13 taxing agency.

14 (2) "Tax receivable" means the right to receive revenue from a tax, assessment, or other
15 charge secured by a lien on real property that has become delinquent in whole or in part,
16 including all penalties and interest on the taxes, assessments, or other charges accrued
17 pursuant to law.

18 (3) "Taxing agency" means any city, town, school district, local board of education, taxing
19 district, municipal corporation, political subdivision, or any other state or local
20 governmental entity that is authorized to assess taxes on real property.

21 (b)(1) Any taxing agency, by resolution of its governing body, may elect to sell its tax
22 receivables to public or private parties. All interest and penalties imposed by law shall
23 continue to accrue on the unpaid original amount of the tax in the same manner as if the
24 tax receivables had not been sold. Sales of tax receivables shall be in bulk.

- 25 (2) A sale of tax receivables by a taxing agency under this Code section is a sale and not
26 a borrowing by the relevant taxing agency.
- 27 (3) The taxing agency may establish such criteria for eligible purchasers of tax
28 receivables and may make such sales pursuant to negotiated sale for such prices as the
29 taxing agency determines to be in the best interest of the taxing agency.
- 30 (4) The sale of a tax receivable under this Code section shall not:
- 31 (A) Include the sale of a right to receive real property associated with the tax
32 receivable;
- 33 (B) Entitle the purchaser to foreclose on real property associated with the tax
34 receivable; or
- 35 (C) Entitle the purchaser to communicate with the taxpayer.
- 36 (c) The amount of a tax receivable sold under this Code section may include all interest,
37 penalties, fees, commissions, charges, costs, attorney's fees, and other expenses included
38 within the value of the tax lien.
- 39 (d) A taxing agency may enter into purchase and sale agreements for the sale of tax
40 receivables, which purchase and sale agreements may, consistent with the provisions of this
41 Code section, contain such terms, covenants, representations, and warranties as, in the
42 judgment of the taxing agency, shall be necessary or desirable. The agreement may require
43 the taxing agency to repurchase a tax receivable, or to substitute another tax receivable of
44 equivalent value, for prices and under conditions specified in the agreement.
- 45 (e) The order of priority of the application of collections of tax receivables with respect
46 to a particular property shall not be changed by reason of the sale of all or a portion of the
47 tax receivables. All amounts collected on account of the tax receivables shall be promptly
48 paid by the taxing agency to the holder of the tax receivable; provided, however, that the
49 taxing agency shall pay over to the appropriate party or have the right to retain all amounts
50 that are charged and collected as penalties, attorney's fees, and costs of collection or that
51 are otherwise collected in excess of the amount due on the tax receivables sold.
- 52 (f)(1) This Code section shall apply to real property associated with a tax receivable sold
53 under this Code section if the property is sold following a foreclosure sale of a taxing
54 agency's lien on the property, regardless of whether the foreclosure sale of the lien is
55 brought by the taxing agency that sold the tax receivable or by another taxing agency.
- 56 (2) From the proceeds of a sale of the property, the owner of the applicable tax
57 receivable is entitled to receive the amount the taxing agency that sold the applicable tax
58 receivable would otherwise be entitled to receive and retain for its benefit.
- 59 (g) Unless provided otherwise in the purchase and sale agreement with respect to tax
60 receivables sold:

61 (1) The amount bid in a foreclosure sale on behalf of the governmental entities for which
 62 the taxes are owing shall include the amount of all tax receivables sold, including the
 63 costs incident to the collection thereof;

64 (2) In the event that the property is acquired by a governmental entity in a foreclosure
 65 sale and is not redeemed by the end of the redemption period, then the governmental
 66 entity shall promptly offer the property for sale to private purchasers by appropriate
 67 means and shall make diligent efforts to sell the property at its reasonable market value,
 68 unless the governmental entity pays to the purchasers of the tax receivables the full
 69 amount of the tax receivables then due and unpaid;

70 (3) After a foreclosure sale to a governmental entity, penalties and interest shall continue
 71 to accrue on any tax receivables sold until paid in full. However, under no circumstances
 72 shall the cost of redemption be greater than if the receivable had not been sold; and

73 (4) If a governmental entity chooses to discharge, reduce, delay, or otherwise
 74 compromise the payment of any tax receivables that have been sold, then the discharge,
 75 reduction, delay, or compromise shall not be effective unless the government entity first
 76 pays to the purchaser of the tax receivables the amount of the tax receivable payments
 77 that have been discharged, reduced, delayed, or otherwise compromised.

78 (h) Tax receivables and the penalties and interest accrued on the tax receivables shall be
 79 exempt from taxation by any governmental entity. The real property affected by any tax
 80 receivable shall not be exempt from taxation by reason of this Code section.

81 (i) It shall be the duty of the tax collector and all other state, county, and municipal officers
 82 to continue to enforce the collection of tax receivables that have been sold pursuant to this
 83 Code section in the same manner as if the tax receivables had not been sold. The owner of
 84 a tax receivable may, if the purchase and sale agreement for the related tax receivable so
 85 provides, request that the taxing agency assign to such owner the tax execution related to
 86 such tax receivable and, upon any such request, the taxing agency shall forthwith effect
 87 such assignment. Nothing in this subsection shall be construed to require of the tax
 88 collector or its officers, employees, agents, or attorneys a standard of performance of their
 89 statutory or contractual duties in the collection of a tax receivable that is different from the
 90 standard of performance otherwise required of those persons."

91 **SECTION 2.**

92 Said title is further amended in Code Section 48-1-2, relating to definitions, by revising
 93 paragraph (13) as follows:

94 "(13) 'Intangible personal property' means the capital stock of all corporations; money,
 95 notes, bonds, accounts, or other credits, secured or unsecured; patent rights; and

96 copyrights; franchises; tax receivables; and any other classes and kinds of property
97 defined by law as intangible personal property."

98 **SECTION 3.**

99 This Act shall become effective on July 1, 2009.

100 **SECTION 4.**

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