

The House Committee on Ways and Means offers the following substitute to HB 480:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 40 and 48 of the Official Code of Georgia Annotated, relating, respectively,
2 to motor vehicles and revenue and taxation, so as to provide for the comprehensive revision
3 of taxation of motor vehicles; to change certain provisions regarding tag agents; to provide
4 for state and local title fees; to provide for continuation of tag, revalidation, and registration
5 fees; to provide for distribution of such state and local title fees; to exclude certain vehicles
6 from certain fees; to change certain provisions regarding classification of motor vehicles as
7 a separate class of property for ad valorem tax purposes; to provide for an additional
8 classification exempt from such taxation; to provide for an exemption from sales and use
9 taxes only with respect to certain sales or purchases of certain motor vehicles; to provide for
10 related matters; to provide for certain reports; to provide for the intent of the General
11 Assembly with regard to the allocation of certain funds received from such title fees and for
12 funding the Georgia Trauma Trust Fund; to provide for related matters; to provide an for
13 effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
17 by revising Code Section 40-2-23, relating to county tax collectors and county tax
18 commissioners designation as tax agents, as follows:

19 "40-2-23.

20 (a) The tax collectors of the various counties of this state and the tax commissioners of
21 those counties in which the duties of the tax collector are performed by a tax commissioner
22 shall be designated as tag agents of the commissioner for the purpose of accepting
23 applications for the registration of vehicles. The commissioner is authorized to promulgate
24 rules and regulations for the purpose of delegating to such tag agents the custodial
25 responsibility for properly receiving, processing, issuing, and storing motor vehicle titles
26 or registrations, or both.

27 ~~(b) The state revenue commissioner is authorized to further designate each such tag agent~~
 28 ~~as a sales tax agent for the purpose of collecting sales and use tax with respect to the casual~~
 29 ~~sale or casual use of a motor vehicle. For purposes of this Code section, 'casual sale' or~~
 30 ~~'casual use' means the sale of a motor vehicle by a person who is not regularly or~~
 31 ~~systematically engaged in making retail sales of motor vehicles and the first use,~~
 32 ~~consumption, distribution, or storage for use or consumption of such motor vehicle~~
 33 ~~purchased through a casual sale. As personal compensation for services rendered to the~~
 34 ~~Department of Revenue with respect to the collection of such sales and use tax, each such~~
 35 ~~designated tag agent shall be authorized to retain from such collection a fee of \$200.00 per~~
 36 ~~month. In any month in which an insufficient amount of such tax is collected to pay such~~
 37 ~~fee, the amount of any such unpaid fee may be deferred until such month as sufficient~~
 38 ~~collections are made. Such compensation shall be in addition to any other compensation~~
 39 ~~to which such tax collector or tax commissioner is entitled.~~
 40 ~~(c)(b) The duties and responsibilities of agents of the commissioner designated under this~~
 41 ~~Code section shall be a part of the official duties and responsibilities of the county tax~~
 42 ~~collectors and tax commissioners."~~

43 SECTION 2.

44 Said title is further amended by adding a new Code section to read as follows:

45 "40-2-25.1.

46 (a)(1) Except as otherwise provided in this subsection, any motor vehicle for which a
 47 title is issued in this state on or after January 1, 2010, shall be exempt from sales tax to
 48 the extent provided under paragraph (87) of Code Section 48-8-3 and shall not be subject
 49 to ad valorem tax as otherwise required under Chapter 5 of Title 48. Any such motor
 50 vehicle shall be titled as otherwise required under this title but shall be subject to:

51 (A) A state title fee in the amount equal to the lesser of \$1,000.00 or an amount equal
 52 to 3.5 percent of the value of such vehicle as determined under the uniform evaluation
 53 of all motor vehicles prepared by the state revenue commissioner under Code Section
 54 48-5-442; and

55 (B) A local title fee in the amount equal to the lesser of \$1,000.00 or an amount equal
 56 to 3.5 percent of the value of such vehicle as determined under the uniform evaluation
 57 of all motor vehicles prepared by the state revenue commissioner under Code Section
 58 48-5-442.

59 (2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code Section
 60 40-3-36 shall not be subject to the fee specified in paragraph (1) of this subsection but
 61 shall be subject to a state title fee in the amount of \$10.00 and a local title fee in the
 62 amount of \$10.00. Upon subsequent transfer of such motor vehicle, a person or entity

63 shall be subject to the state and local title fees specified under paragraph (1) of this
64 subsection following the rebuild or restoration of such motor vehicle.

65 (3)(A) Upon the death of an owner of a motor vehicle which has not become subject
66 to paragraph (1) of this subsection, the surviving spouse of such owner shall be
67 authorized to transfer title of such motor vehicle and become subject to paragraph (1)
68 of this subsection. Such transfer shall be subject to state and local title fees provided
69 for in paragraph (1) of this subsection.

70 (B) Upon the death of an owner of a motor vehicle which has become subject to
71 paragraph (1) of this subsection, the surviving spouse of such owner shall be authorized
72 to transfer title of such motor vehicle and shall be allowed a one-time exemption from
73 the title fee upon payment in lieu thereof of a \$50.00 administrative fee.

74 (4) Any motor vehicle subject to state and local title fees under this subsection shall
75 continue to be subject to the tag, revalidation decal, and registration requirements and
76 applicable fees as otherwise provided in this title in the same manner as motor vehicles
77 which are not subject to state and local title fees under this subsection.

78 (5) Motor vehicles owned by or leased under a long-term lease by or to the state or any
79 county, consolidated government, municipality, or county or independent school district
80 in this state shall not be subject to the state and local title fees provided for under this
81 subsection.

82 (6) There shall be a penalty imposed on the transfer of all or any part of the interest in a
83 business entity which includes one or more motor vehicles as an asset of such business
84 entity when such transfer is done to evade the payment of state and local title fees under
85 this subsection. Such penalty shall be in the amount of \$5,000.00 per motor vehicle plus
86 the amount of the state and local title fees.

87 (7) Any owner of any motor vehicle who fails to submit within 30 days of the purchase
88 of the vehicle or from the date the owner is otherwise required by law to register such
89 vehicle in this state an application for a first certificate of title under Code Section
90 40-3-21 or a certificate of title under Code Section 40-3-32 shall be required to pay a
91 penalty in the amount of 10 percent of the state and local title fees required under this
92 Code section, plus interest at the rate of 1.0 percent per month, unless a temporary permit
93 has been issued by the tax commissioner. Such penalty and interest shall be in addition
94 to the penalty and fee required under Code Section 40-3-21 or 40-3-32, as applicable.
95 The amount of such penalty and interest for state title fees shall be deposited in the
96 general fund of the state. The amount of such penalty and interest for local title fees shall
97 be allocated and disbursed as required for title fee proceeds under paragraph (4) of this
98 subsection.

99 (b)(1) The amount of proceeds collected by tag agents each month as title fees pursuant
100 to subsection (a) of this Code section shall be allocated and disbursed as provided in this
101 subsection.

102 (2)(A) For the 2010 tax year, the amount of funds collected by tag agents as title fees
103 pursuant to this Code section shall be disbursed within 30 days as follows:

104 (i) State title fees and state salvage title fees shall be remitted to the state revenue
105 commissioner who shall deposit such proceeds in the general fund of the state; and

106 (ii) Local title fees and local salvage title fees shall be designated as local
107 government funds and shall be disbursed based upon the address of the owner
108 indicated upon the title to the governing authority of the county. The governing
109 authority shall then distribute the proceeds as specified in paragraph (3) of this
110 subsection.

111 (B) For the 2011 tax year and in each subsequent tax year, the state title fee amount
112 shall decrease by .05 of 1 percent, and the local title fee amount shall increase by .05
113 of 1 percent until the state title fee equals the lesser of 3.15 percent or \$900.00 and the
114 local title fee equals the lesser of 3.85 percent or \$1,100.00.

115 (3) The governing authority shall allocate and distribute to itself and to municipalities,
116 the board of education of the county school district, and the board of education of any
117 independent school district located in such county the local title fee as follows:

118 (A) An amount equal to one-third of such proceeds shall be distributed to the board of
119 education of the county school district and the board of education of each independent
120 school district located in such county in the same manner as required for any local sales
121 tax for educational purposes levied pursuant to Part 2 of Article 3 of Chapter 8 of Title
122 48 currently in effect. If such tax is not currently in effect, such proceeds shall be
123 distributed to such board or boards of education in the same manner as if such tax were
124 in effect;

125 (B)(i) Except as otherwise provided in this subparagraph, an amount equal to
126 one-third of such proceeds shall be distributed to the governing authority of the
127 county and the governing authority of each qualified municipality located in such
128 county in the same manner as specified under the distribution certificate for the joint
129 county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48
130 currently in effect.

131 (ii) If such tax were never in effect, such proceeds shall be distributed to the
132 governing authority of the county and the governing authority of each qualified
133 municipality located in such county on a pro rata basis according to the ratio of the
134 population that each such municipality bears to the population of the entire county.

135 (iii) If such tax is currently in effect as well as a local option sales and use tax for
136 educational purposes levied pursuant to a local constitutional amendment, an amount
137 equal to one-third of such proceeds shall be distributed in the same manner as
138 required under division (i) of this subparagraph and an amount equal to one-third of
139 such proceeds shall be distributed to the board of education of the county school
140 district.

141 (iv) If such tax is not currently in effect and a local option sales and use tax for
142 educational purposes levied pursuant to a local constitutional amendment is currently
143 in effect, such proceeds shall be distributed to the board of education of the county
144 school district and the board of education of any independent school district in the
145 same manner as required under that local constitutional amendment.

146 (v) If such tax is not currently in effect and a homestead option sales and use tax
147 under Article 2A of Chapter 8 of Title 48 is in effect, such proceeds shall be
148 distributed to the governing authority of the county, each qualified municipality, and
149 each existing municipality in the same proportion as otherwise required under Code
150 Section 48-8-104; and

151 (C)(i) An amount equal to one-third of such proceeds shall be distributed to the
152 governing authority of the county and the governing authority of each qualified
153 municipality located in such county in the same manner as specified under an
154 intergovernmental agreement or as otherwise required under the county special
155 purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of Title
156 48 currently in effect; provided, however, that this division shall not apply if division
157 (iii) of this subparagraph is applicable.

158 (ii) If such tax were in effect but expired and is not currently in effect, such proceeds
159 shall be distributed to the governing authority of the county and the governing
160 authority of each qualified municipality located in such county in the same manner
161 as if such tax were still in effect according to the intergovernmental agreement or as
162 otherwise required under the county special purpose local sales and use tax under
163 Part 1 of Article 3 of Chapter 8 of Title 48 for the 12 month period commencing at the
164 expiration of such tax. If such tax is not renewed prior to the expiration of such 12
165 month period, such amount shall be distributed in accordance with division (i) of this
166 subparagraph; provided, however, that if a tax under Article 2 of Chapter 8 of Title
167 48 is not in effect, such amount shall be distributed in accordance with division (ii)
168 of this subparagraph.

169 (iii) If such tax is not currently in effect in a county in which a tax is levied for
170 purposes of a metropolitan area system of public transportation, as authorized by the
171 amendment to the Constitution set out at Georgia Laws 1964, page 1008; the

172 continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the
 173 Constitution; and the laws enacted pursuant to such constitutional amendment, such
 174 proceeds shall be distributed to the governing body of the authority created by local
 175 Act to operate such metropolitan area system of public transportation.

176 (iv) If such tax were never in effect, such proceeds shall be distributed in the same
 177 manner as specified under the distribution certificate for the joint county and
 178 municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in
 179 effect; provided, however, that if such tax under said Article 2 is not in effect such
 180 proceeds shall be distributed to the governing authority of the county and the
 181 governing authority of each qualified municipality located in such county on a pro
 182 rata basis according to the ratio of the population that each such municipality bears
 183 to the population of the entire county.

184 (c)(1) As soon as practicable after the end of each fiscal year, the Office of Treasury and
 185 Fiscal Services shall report to the General Assembly, the Office of Planning and Budget,
 186 and the Georgia Trauma Care Network Commission the amount of funds remitted to the
 187 state for deposit in the general fund pursuant to this Code section from state title fees.

188 (2) It is the intent of the General Assembly that such funds be allocated as follows:

189 (A) For each fiscal year, an amount equal to 105 percent of the amount of state sales
 190 and use taxes received by the state on the sale of motor vehicles in 2009 shall be used
 191 for general appropriations;

192 (B) Subject to appropriation, an amount of those funds in excess of the amount
 193 provided in subparagraph (A) of this paragraph, if any, not to exceed the greater of
 194 \$150 million or an amount equal to the aggregate of \$50.00 for each title for which a
 195 state title fee was collected under subsection (a) of this Code section in the immediately
 196 preceding fiscal year, shall be made available during the following fiscal year to the
 197 Georgia Trauma Trust Fund for use of the Georgia Trauma Care Network Commission
 198 for the purposes set forth in Code Section 31-11-102; and

199 (C) For each fiscal year, all funds in excess of the amounts provided in subparagraphs
 200 (A) and (B) of this paragraph, if any, shall be used for general appropriations."

201 **SECTION 3.**

202 Title 48 of Official Code of Georgia Annotated, relating to revenue and taxation, is amended
 203 by revising Code Section 48-5-441, relating to classification of motor vehicles and mobile
 204 homes as separate classes of tangible property for ad valorem tax purposes, as follows:

205 "48-5-441.

206 (a)(1) For the purposes of ad valorem taxation, motor vehicles ~~are~~ shall be classified as
 207 a separate and distinct class of tangible property. Such class of tangible property shall

208 be divided into two distinct and separate subclasses of tangible property with one
 209 subclass including heavy-duty equipment motor vehicles as defined in Code Section
 210 48-5-505 and the other subclass including all other motor vehicles. The procedures
 211 prescribed by this article for returning motor vehicles, excluding heavy-duty equipment
 212 motor vehicles as defined in Code Section 48-5-505, for taxation, determining the
 213 applicable rates for taxation, and collecting the ad valorem tax imposed on motor vehicles
 214 shall be exclusive.

215 (2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1.

216 (b) For the purposes of ad valorem taxation, mobile homes ~~are~~ shall be classified as a
 217 separate and distinct class of tangible property. The procedures prescribed by this article
 218 for returning mobile homes for taxation, determining the applicable rates for taxation, and
 219 collecting the ad valorem tax imposed on mobile homes shall be exclusive.

220 (c)(1) For the purposes of ad valorem taxation, commercial vehicles ~~are~~ shall be
 221 classified as a separate and distinct class of tangible property. The procedures prescribed
 222 by this article for returning commercial vehicles for taxation and for determining the
 223 valuation of commercial vehicles shall be exclusive and as provided for in Code Section
 224 48-5-442.1. All other procedures prescribed by this article for the taxation of motor
 225 vehicles shall be applicable to the taxation of commercial vehicles.

226 (2) This subsection shall not apply to motor vehicles subject to Code Section
 227 48-5-441.1."

228 **SECTION 4.**

229 Said title is further amended by adding a new Code section to read as follows:

230 "48-5-441.1.

231 Motor vehicles subject to the provisions of Code Section 40-2-25.1 shall be classified as
 232 a separate and district class of tangible property and shall be exempt from all ad valorem
 233 taxation."

234 **SECTION 5.**

235 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
 236 use tax, by replacing "; or" with a semicolon at the end of paragraph (85), replacing the
 237 period at the end of paragraph (86) with "; or", and by adding a new paragraph to read as
 238 follows:

239 "(87) The sale or purchase of any motor vehicle titled in this state on or after January 1,
 240 2010, pursuant to Code Section 40-2-25.1."

241 **SECTION 6.**

242 This Act shall become effective on January 1, 2010.

243 **SECTION 7.**

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