

Senate Bill 43

By: Senator Bulloch of the 11th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 7 of Title 2 of the Official Code of Georgia Annotated,
2 relating to boll weevil eradication, so as to change certain provisions relating to definitions;
3 to change certain provisions relating to the assessment for suppression and eradication
4 programs and conditions of assessments; to change certain provisions relating to penalties;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 5 of Chapter 7 of Title 2 of the Official Code of Georgia Annotated, relating to boll
9 weevil eradication, is amended by revising paragraph (4.1) of Code Section 2-7-152, relating
10 to definitions, as follows:

11 "(4.1) 'First ~~buyer handler~~' means that person who ~~first buys cotton~~ owns or operates the
12 gin where cotton is first delivered from the cotton grower."

13 **SECTION 2.**

14 Said article is further amended by revising paragraphs (3) and (7) of Code Section 2-7-156,
15 relating to the assessment for suppression and eradication programs and conditions of
16 assessments, as follows:

17 "(3) When the assessment is imposed on a per bale basis, it shall be the duty of each
18 ~~person who first purchases~~ first handler of cotton from a ~~cotton grower~~ cotton growers
19 in this state to collect the assessments imposed pursuant to this article on such cotton, to
20 file reports on forms prescribed by the Commissioner listing such sales and the name of
21 the grower, and to remit the amounts so imposed and collected to the Commissioner
22 within 30 days of the date of purchase of the cotton;"

23 "(7) In addition to the lien provided in paragraph (6) of this Code section, the
24 Commissioner shall have a special lien on cotton for payment of assessments which shall
25 be superior to any other lien provided by law, shall arise as of the time the assessments

26 become due and payable, and shall cover all cotton grown by or ginned from the cotton
 27 grower from the date the lien arises until such assessments are paid; provided, however,
 28 that any buyers of cotton shall take free of such lien if such buyer has not received written
 29 notice of the lien from the Commissioner. Such lien extends to the proceeds of sale
 30 received by the person who originally bought the cotton from the grower. Notice may be
 31 provided by tagging the cotton as being subject to a delinquency or by documentation in
 32 the sales agreement indicating that the cotton is subject to a delinquency. The
 33 Commissioner or the Commissioner's authorized representative is authorized and
 34 empowered to so tag the cotton wherever found. In order to enforce such liens, the
 35 Commissioner is authorized to issue an execution for the collection of delinquent
 36 assessments due the Commissioner. The execution shall be directed to all and singular
 37 sheriffs of this state and shall command them to levy upon the cotton of the cotton grower
 38 or notified initial buyer; provided, however, that the Commissioner shall be authorized
 39 to levy and collect his or her own executions. Each sheriff or the Commissioner or the
 40 Commissioner's authorized representative shall execute the execution as in cases of writs
 41 of execution from the superior courts. The Commissioner or the Commissioner's
 42 authorized representative may levy and conduct judicial sales in the manner provided by
 43 law for sales by sheriffs and constables. The special lien on cotton may also be enforced
 44 by a foreclosure action or action at law, as appropriate, brought by the Commissioner in
 45 the superior court of the county of residence of the person who originally bought the
 46 cotton from the grower. A buyer of cotton other than a person buying cotton from the
 47 grower takes free of the lien created by this paragraph."

48 **SECTION 3.**

49 Said article is further amended by revising subsection (b) of Code Section 2-7-158, relating
 50 to penalties, as follows:

51 "(b) Any cotton grower or the first buyer handler of cotton from a cotton grower who fails
 52 to pay any assessment levied under this article when due and upon reasonable notice shall
 53 be subject to a penalty of not more than \$25.00 per acre or \$12.50 per bale, such amount
 54 to be established by the Commissioner upon recommendation of the board of directors of
 55 the cotton growers' organization."

56 **SECTION 4.**

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