

House Bill 56

By: Representative Franklin of the 43<sup>rd</sup>

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 that tax officials may not attach, garnish, levy on, or otherwise seize  
3 or attempt to seize property on the basis of an alleged tax liability unless the liability has  
4 been reduced to a lawful execution; to provide a criminal penalty and a civil remedy; to  
5 change provisions relating to jeopardy assessments so as to require notice and opportunity  
6 for appeal prior to enforcement; to change provisions relating to attachment and garnishment  
7 so as to require a valid execution as a condition precedent to attachment or garnishment; to  
8 provide for related matters; to provide an effective date and applicability; to repeal  
9 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 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," is  
13 amended by inserting immediately after Code Section 48-1-9, relating to the Taxpayer Bill  
14 of Rights, a new Code section to read as follows:

15 "48-1-9.1.

16 (a) It shall be unlawful for the commissioner, any local tax official, or any employee or  
17 agent of the commissioner or any local tax official to attach, garnish, levy on, or otherwise  
18 seize or attempt to seize any property of any person on the basis of an alleged tax liability  
19 unless the tax liability has been reduced to an execution in conformity with the provisions  
20 of this title and due process of law.

21 (b) Any person who violates subsection (a) of this Code section shall be guilty of the  
22 felony of theft under color of law and shall be ordered by the court to make restitution to  
23 the victim in the amount of five times the value of the property attached, garnished, levied  
24 on, or otherwise seized or attempted to be seized.

25 (c) The provisions of this Code section may also be enforced in a civil action in which the  
 26 victim shall be entitled to damages in the amount of five times the value of the property  
 27 attached, garnished, levied on, or otherwise seized or attempted to be seized."

28 **SECTION 2.**

29 Said title is further amended in Code Section 48-2-51, relating to jeopardy assessments, by  
 30 revising subsection (a) as follows:

31 "(a) If the commissioner reasonably finds that a taxpayer gives evidence of intention to  
 32 leave the state, to remove his property from the state, to conceal himself or his property,  
 33 to discontinue business, or to do any other act tending to prejudice or render wholly or  
 34 partly ineffective proceedings to compute, assess, or collect any state tax, whereby it  
 35 becomes advisable that such proceedings be brought without delay, the commissioner shall  
 36 declare the taxable period for such taxpayer terminated forthwith and shall give notice of  
 37 such finding and demand immediate payment of such tax as may be due. The  
 38 commissioner may immediately make an ~~arbitrary~~ assessment and may proceed under the  
 39 assessment to collect the tax or require the taxpayer to file with him a bond satisfactory to  
 40 the commissioner as security for payment of the tax; provided, however, that no such  
 41 assessment shall become final until after notice to the taxpayer and an opportunity for  
 42 appeal as in the case of other assessments."

43 **SECTION 3.**

44 Said title is further amended in Code Section 48-2-55, relating to attachment and  
 45 garnishment, by revising subsection (a) as follows:

46 "(a) All taxes are a personal debt of the person required by this title to file the returns or  
 47 to pay the taxes imposed by this title and may be enforced through attachment or  
 48 garnishment as provided in this Code section but only after the tax obligation has been  
 49 reduced to an execution in conformity with the provisions of this title and due process of  
 50 law."

51 **SECTION 4.**

52 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 53 without such approval. This Act shall apply to any judicial or administrative matter pending  
 54 on its effective date as well as to any such matter commenced on or after the effective date.

55 **SECTION 5.**

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