

House Bill 846 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 126th and Peake of the 137th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to change various administrative and procedural requirements of the
3 Department of Revenue; to provide procedures with respect to the publication of letter
4 rulings; to define the term "ruling"; to substantially modernize the provisions governing the
5 commissioner's levy and sale of personal property; to authorize the commissioner to
6 electronically store, retrieve, and transmit tax executions; to provide that the executions so
7 stored are treated as originals for all purposes; to provide for related matters; to provide for
8 an effective date and applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
12 amended by adding a new Code section to read as follows:

13 "48-2-15.2.

14 (a) As used in this Code section, the term 'ruling' means a written determination that is
15 issued to a person by the commissioner pursuant to regulations promulgated for that
16 purpose, in response to such person's written inquiry about his or her status for tax purposes
17 or the tax effects of acts or transactions, and is based on applying the tax statutes,
18 regulations, or other legal authority to such person's specific set of facts. Such term thus
19 does not include, for example, notices of proposed or final assessment or decisions thereon,
20 decisions on claims for refund, decisions to accept or reject offers in compromise,
21 voluntary disclosure or closing agreements, and responses to petitions or applications under
22 Code sections permitting the commissioner to waive penalty or interest.

23 (b) The commissioner is authorized to promulgate regulations prescribing guidelines and
24 procedures for the submission of rulings, issuance or denial of issuance of rulings, and the
25 redaction and disclosure of rulings to the public. The commissioner may not disclose a

26 ruling to the public without first deleting the name, address, and other identifying details
 27 of the person to whom the ruling was issued.
 28 (c) A ruling shall have no precedential value except to the person to whom the ruling was
 29 issued and then only for the specific transaction addressed in the ruling."

30 SECTION 2.

31 Said title is further amended by revising subsection (d) of Code Section 48-2-55, relating to
 32 the power of the state revenue commissioner to collect unpaid taxes via attachment,
 33 garnishment, levy, and sale, as follows:

34 "(d)(1) The commissioner or his or her authorized representative may levy and conduct
 35 judicial sales in the manner provided by law for sales by sheriffs and constables.

36 (2)(A) Levy, in the case of In the event the levy is upon personal property, the sale of
 37 such property shall be advertised ten days before the date of sale. Advertisements of
 38 sales shall designate the time, and place, and manner of the sale, shall give a reasonable
 39 description of the property to be sold, shall be posted in three public places in the
 40 county, and shall be inserted at least one time in the newspaper in which sheriff's sales
 41 in the county are advertised. The commissioner may prescribe by regulation methods
 42 for providing notice of sale in addition to the provisions of this subparagraph.

43 (B) The commissioner or his or her authorized representative may conduct the sale of
 44 such personal property via public auction, public Internet auction, or via sealed bids.
 45 If the sale is conducted via public auction, the The sale shall be conducted within the
 46 county in which the property levied on is situated and shall be held between the hours
 47 of 10:00 A.M. and 4:00 P.M. eastern standard time or eastern daylight time, whichever
 48 is applicable. In the event the levy is upon personal property, the The sale shall be
 49 conducted within the county in which the property levied on is situated, except that if
 50 it appears to the commissioner that substantially higher bids may be obtained for the
 51 property if the sale is held at a place outside such county, he may order that the sale be
 52 held in such other place. If the location of the sale is in a county other than the county
 53 in which the levy was made, notice of the sale as required by this Code section shall be
 54 made in both counties. The commissioner may prescribe by regulation the manner or
 55 other conditions for sales by public auction, public Internet auction, or sealed bids,
 56 including whether payment in full is required at the time of acceptance of the bid, under
 57 what circumstances the sale may be adjourned, and whether, and under what
 58 circumstances, multiple items of property may be sold separately, in groups, or in the
 59 aggregate.

60 (C) For each sale of personal property conducted pursuant to this paragraph, the
 61 commissioner or his or her authorized representative shall determine a minimum bid

62 price of the sale, and, in the absence of a bid equal to or greater than the minimum bid
 63 price, the commissioner shall retain possession of the property. In determining the
 64 minimum bid price, the commissioner or his or her authorized representative shall take
 65 into account the expense of making the levy and sale. In his discretion, the
 66 commissioner or his or her representative may delay disclosure of the minimum bid
 67 price until the receipt of the highest bid.

68 (3) In the event the levy is upon real property, the commissioner or his or her authorized
 69 representative, after making the levy, shall return the levy on the execution to the sheriff
 70 of the county in which the property is located. After the return, the sheriff shall proceed
 71 to advertise and sell the property as required by law."

72 **SECTION 3.**

73 Said title is further amended by revising Code Section 48-3-7, relating to the issuance of alias
 74 tax executions, by adding a new subsection to read as follows:

75 "(c) The commissioner or his or her duly appointed representative shall be authorized to
 76 convert regularly issued original or alias tax executions into electronic form for indexing,
 77 storage, archival, retrieval, or transmittal purposes, and any tax execution so converted,
 78 whether or not subsequently reduced to paper or other tangible medium, shall be treated
 79 as a regularly issued original for all purposes, and the commissioner shall not thereafter be
 80 required to maintain an original of such tax execution. Tax executions so converted, when
 81 reduced to paper or other tangible medium, shall fully reflect any and all entries or
 82 notations made on such tax executions."

83 **SECTION 4.**

84 (a) This Act shall become effective upon its approval by the Governor or upon its becoming
 85 law without such approval.

86 (b) Section 1 of this Act shall only be applied to rulings requested after the effective date of
 87 this Act.

88 **SECTION 5.**

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