

House Bill 819

By: Representatives Martin of the 49<sup>th</sup>, Willard of the 51<sup>st</sup>, Riley of the 50<sup>th</sup>, and Gardner of the 57<sup>th</sup>

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 modify certain provisions relating to tax executions; to require due  
3 diligence in notifying taxpayers that taxes have not been paid and that an execution shall be  
4 issued; to provide a definition; to change the timing of the sale of tax executions; to repeal  
5 the fee collected for issuing tax executions; to provide for related matters; to provide for an  
6 effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
10 amended by revising Code Section 48-3-3, relating to executions by tax collectors and  
11 commissioners, as follows:

12 "48-3-3.

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

14 (1) 'Due diligence' means the performance of a diligent search to ascertain the actual  
15 location of the owner of record of the property. The following action shall satisfy the  
16 diligent search requirements of this Code section: sending notice by first-class mail,  
17 certified mail, or statutory overnight delivery, as required by law. If the notice is returned  
18 undelivered, the following actions shall satisfy the diligent search requirements of this  
19 Code section: checking telephone directories for the county wherein the property is  
20 located; checking Internet search engines and people finder data bases, which may  
21 include the use of online address verification products and services; checking the records  
22 of the tax commissioner of the county wherein the property is located; or checking the  
23 real estate records of the clerk of the superior court of the county wherein the property  
24 is located.

25 (2) 'New owner' means the most recent subsequent owner who has purchased such  
26 property during the year after January 1, but on or after the due date of that tax bill year.

27 and whose deed has been duly recorded in the records of the clerk of the superior court  
28 for that county.

29 ~~(2)~~(3) 'Owner of record' means the owner whose name appears in the deed record as the  
30 owner as of January 1 of that tax bill year.

31 (b) The tax collector or tax commissioner shall issue executions for nonpayment of taxes  
32 collectable by the tax collector or tax commissioner at any time after 30 days have elapsed  
33 since giving notice as provided in subsection (c) of this Code section. The executions shall  
34 be directed to all and singular sheriffs and constables of ~~the~~ this state.

35 (c) As soon as the last day for the payment of taxes has arrived, the tax collector or tax  
36 commissioner shall perform a due diligence search in an effort to obtain the delinquent  
37 taxpayer's correct address or any new owner's correct address in order to notify in writing  
38 the taxpayer of the fact that the taxes have not been paid and that, unless paid, an execution  
39 shall be issued; provided, however, that notice shall not be required for taxes due on  
40 personal property and executions may be issued on the day next following the day when  
41 taxes are due.

42 (d) No execution shall be issued against any person who is not the ~~record~~ owner of record  
43 of the property on the day that the taxes become delinquent if, within 90 days from the due  
44 date, ~~that~~ such person has provided satisfactory proof to the tax collector or tax  
45 commissioner that the property has been transferred by recorded deed and the liability for  
46 the payment of ad valorem taxes has been assigned to the vested transferee by written  
47 agreement or contract. In such cases, the execution shall be issued against the person who  
48 is the new ~~record~~ owner of the property on the date that the taxes became delinquent only  
49 after such new owner has been sent a notice of the delinquent tax bill, and such notice shall  
50 state that the tax collector or tax commissioner intends to issue a tax execution in the new  
51 owner's name against such delinquent property if the bill and all applicable interest and  
52 other charges are not paid within 30 days of the date of the notice. Such notice shall be  
53 mailed ~~first-class~~ by first-class mail to the address of record as shown on the real estate  
54 transfer tax declaration form in the records of the clerk of the superior court and to the  
55 address shown on the closing documents if presented or to the property location if the  
56 address differs from that shown on the real estate transfer tax declaration form. If an  
57 execution has already been issued against the owner of record, such execution shall be  
58 affirmatively cleared and vacated of record by the tax collector or tax commissioner upon  
59 receiving satisfactory proof as provided in this subsection.

60 (e)(1) Whenever technologically feasible, the tax collector or tax commissioner, at the  
61 time tax bills or any subsequent delinquent notices are mailed, shall also mail such bills  
62 or notices to any new owner that at that time appear in the records of the county board of

63 assessors. The bills or notices shall be mailed to the address of record as found in the  
64 county board of assessors' records.

65 (2) A new ~~purchaser of property~~ owner shall not be required to pay the interest specified  
66 in Code Section 48-2-40, or the penalty specified in Code Section 48-2-44, until 60 days  
67 after the tax collector or tax commissioner has forwarded a tax bill to the new ~~purchaser~~  
68 owner in accordance with paragraph (1) of this subsection. This paragraph shall apply  
69 only to the tax bill applicable to the year in which the property was purchased.

70 (f) The real estate transfer tax declaration form shall provide for and indicate the correct  
71 tax map parcel identification number before being accepted by the clerk of the superior  
72 court for recordation."

### 73 SECTION 2.

74 Said title is further amended by revising paragraph (1) of subsection (b) of Code Section  
75 48-3-19, relating to the transfer of tax executions, as follows:

76 "(b)(1) Whenever any person other than the person against whom an execution has been  
77 issued pays an execution issued for state, county, or municipal taxes or special  
78 assessments, the officer whose duty it is to enforce the execution may transfer the  
79 execution, but not until the next calendar year following the calendar year in which the  
80 execution was issued, to the party so paying the full value of the execution, including the  
81 principal amount and any penalty and interest. No officer whose duty it is to enforce an  
82 execution issued for state, county, or municipal taxes or special assessments shall be  
83 required to make any transfer or transfers of such execution or executions. The transferee  
84 shall have the same rights as to enforcing the execution and priority of payment as might  
85 have been exercised or claimed by the tax official. The person to whom the execution  
86 is transferred shall, within 30 days of the transfer, cause the execution to be entered on  
87 the general execution docket of the superior court of the county in which the execution  
88 was issued. In default of the required entry or entries, the execution shall lose its lien  
89 upon any property which has been transferred in good faith and for a valuable  
90 consideration before the entry and without notice of the existence of the execution."

### 91 SECTION 3.

92 Said title is further amended by repealing Code Section 48-5-163, relating to the fee for  
93 issuance of tax executions and the allowance of costs on execution, and designating it as  
94 "Reserved."

### 95 SECTION 4.

96 This Act shall become effective on July 1, 2014.

97

**SECTION 5.**

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