

House Bill 396

By: Representatives Knight of the 130th, Harrell of the 106th, Battles of the 15th, Williamson of the 115th, and Stephens of the 164th

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 clarify the penalty for failure to file return or pay revenue held in trust for
3 the state; to prevent the obstruction of officials levying tax executions; to clarify the
4 definition of prescription; to provide for related matters; to provide an effective date; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
9 amended by revising Code Section 48-2-44, relating to the penalty for failure to file a return
10 or pay revenue held in trust for the state, as follows:

11 "48-2-44.

12 (a) In any instance in which any person willfully fails to file a report, return, or other
13 information required by law or willfully fails to pay the commissioner any revenue held in
14 trust for the state, ~~he~~ such person shall pay, in the absence of a specific statutory civil
15 penalty for the failure, a penalty of 10 percent of the amount of revenue held in trust and
16 not paid on or before the time prescribed by law, together with interest on the principal
17 amount at the rate specified in Code Section 48-2-40 from the date the return should have
18 been filed or the revenue held in trust should have been remitted until it is paid.

19 (b)(1) In any instance in which any person willfully fails, on or after July 1, 1981, to pay,
20 within 90 days of the date when due, any ad valorem tax owed the state or any local
21 government, ~~he~~ such person shall pay, in the absence of a specific statutory civil penalty
22 for the failure, a penalty of 10 percent of the amount of tax due and not paid ~~on or before~~
23 ~~the time prescribed by law~~ at the time such penalty is assessed, together with interest as
24 specified by law. This 10 percent penalty shall not, however, apply in the case of:

25 (A) Ad valorem taxes of \$500.00 or less on homestead property as defined in Part 1 of
26 Article 2 of Chapter 5 of this title; or

27 (B) With respect to tax year 1986 and future tax years, ad valorem taxes of any amount
 28 on homestead property as defined in Part 1 of Article 2 of Chapter 5 of this title, if the
 29 homestead property was during the tax year acquired by a new owner who did not
 30 receive a tax bill for the tax year and who immediately before acquiring the homestead
 31 property resided outside the State of Georgia and if the taxes are paid within one year
 32 following the due date.

33 (2) Any city or county authorized as of April 22, 1981, by statute or constitutional
 34 amendment to receive a penalty of greater than 10 percent for failure to pay an ad
 35 valorem tax is authorized to continue to receive that amount.

36 (3) With respect to all penalties and interest received by the tax commissioner on or after
 37 July 1, 1998, unless otherwise specifically provided for by general law, the tax
 38 commissioner shall distribute penalties collected and interest collected or earned as
 39 follows:

40 (A) Penalties collected for failure to return property for ad valorem taxation or for
 41 failure to pay ad valorem taxes, and interest earned by the tax commissioner on taxes
 42 collected but not yet disbursed, shall be paid into the county treasury in the same
 43 manner and at the same time the tax is collected and distributed to the county, and they
 44 shall remain the property of the county; and

45 (B) Interest collected on delinquent ad valorem taxes shall be distributed pro rata based
 46 on each taxing jurisdiction's share of the total tax on which the interest was computed."

47 **SECTION 2.**

48 Said title is further amended by revising Code Section 48-3-27, relating to the penalty for
 49 obstructing levying officers, as follows:

50 "48-3-27.

51 (a) It is unlawful for any person knowingly and willfully to obstruct or hinder:

52 (1) The the commissioner or his or her authorized representatives in the levy of a state
 53 tax execution; or

54 (2) Any sheriff, ex officio sheriff, tax commissioner, or municipal levy officer in the levy
 55 of a state, county, or municipal tax execution.

56 (b) Any person who violates this Code section shall be guilty of a misdemeanor."

57 **SECTION 3.**

58 Said title is further amended by revising Code Section 48-4-48, relating to the ripening of a
 59 tax deed title, as follows:

60 "48-4-48.

61 ~~(a) A title under a tax deed properly executed at a valid and legal sale prior to July 1, 1989,~~
 62 ~~shall ripen by prescription after a period of seven years from the date of execution of that~~
 63 ~~deed.~~

64 ~~(b) A title under a tax deed executed on or after July 1, 1989, but before July 1, 1996, shall~~
 65 ~~ripen by prescription after a period of four years from the execution of that deed. A title~~
 66 ~~under a tax deed properly executed on or after July 1, 1996, at a valid and legal sale shall~~
 67 ~~ripen by prescription after a period of four years from the recordation of that deed in the~~
 68 ~~land records in the county in which said land is located.~~

69 ~~(c) A tax deed which has ripened by prescription pursuant to any provision of this Code~~
 70 ~~section shall convey, when the defendant in fi. fa. is not laboring under any legal disability,~~
 71 ~~a fee simple title to the property described in that deed, and that title shall vest absolutely~~
 72 ~~in the grantee in the deed or in the grantee's heirs or assigns. In the event the defendant in~~
 73 ~~fi. fa. is laboring under any legal disability, the prescriptive term specified in this Code~~
 74 ~~section shall begin from the time the disabilities are removed or abated.~~

75 (a) A title under a tax deed, properly executed and recorded in the real estate records of
 76 the clerk of superior court in the county in which said land is located, from a valid and legal
 77 tax sale shall, after the expiration of four years from the date of the tax deed, convey a fee
 78 simple title.

79 ~~(d)~~(b) Notice of foreclosure of the right to redeem property sold at a tax sale shall not be
 80 required to have been provided in order for the title to such property to have ripened under
 81 subsection (a) ~~or (b)~~ of this Code section."

82 **SECTION 4.**

83 This Act shall become effective upon its approval by the Governor or upon its becoming law
 84 without such approval.

85 **SECTION 5.**

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