

House Bill 653

By: Representatives Parsons of the 44th, Harrell of the 106th, Abrams of the 89th, Willard of the 51st, and Carson of the 46th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 48 of the Official Code of Georgia Annotated, relating to tax
2 executions, so as to allow the transfer of certain executions to a person authorized by the
3 delinquent taxpayer; to provide for procedures, conditions, and limitations; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Chapter 3 of Title 48 of the Official Code of Georgia Annotated, relating to tax executions,
8 is amended by revising Code Section 48-3-3, relating to executions by tax collectors and tax
9 commissioners, as follows:

10 "48-3-3.

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

12 (1) 'New owner' means the most recent subsequent owner who has purchased such
13 property during the year after January 1, but on or ~~after~~ before the due date of that tax bill
14 year and whose deed has been duly recorded in the records of the clerk of the superior
15 court for that county.

16 (2) 'Owner of record' means the owner whose name appears in the deed record as the
17 owner as of January 1 of that tax bill year.

18 (b)(1) The tax collector or tax commissioner shall issue executions for nonpayment of
19 taxes collectable by the tax collector or tax commissioner at any time after 30 days have
20 elapsed since giving notice as provided in subsection (c) of this Code section. The
21 executions shall be directed to all and singular sheriffs and constables of the state.

22 (2) Notwithstanding paragraph (1) of this subsection and subsection (d) of this Code
23 section, a tax collector or tax commissioner shall issue an execution for nonpayment of
24 taxes collectable by the tax collector or tax commissioner and transfer such execution as
25 provided for in Code Section 48-3-19 within 30 days of receiving:

26 (A) A written request in a format that shall be prescribed by the department from the
 27 delinquent taxpayer listed in the tax collector's or tax commissioner's records to issue
 28 and transfer such execution upon payment; and

29 (B) Payment of the execution by a party authorized to make such payment pursuant to
 30 Code Section 48-3-19.

31 (c) As soon as the last day for the payment of taxes has arrived, the tax collector or tax
 32 commissioner shall notify in writing the taxpayer of the fact that the taxes have not been
 33 paid and that, unless paid, an execution shall be issued; provided, however, that notice shall
 34 not be required for taxes due on personal property and executions may be issued on the day
 35 next following the day when taxes are due.

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

54 (e)(1) Whenever technologically feasible, the tax collector or tax commissioner, at the
 55 time tax bills or any subsequent delinquent notices are mailed, shall also mail such bills
 56 or notices to any new owner that at that time appear in the records of the county board of
 57 assessors. The bills or notices shall be mailed to the address of record as found in the
 58 county board of assessors' records.

59 (2) A new ~~purchaser~~ owner of property shall not be required to pay the interest specified
 60 in Code Section 48-2-40, or the penalty specified in Code Section 48-2-44, until 60 days
 61 after the tax collector or tax commissioner has forwarded a tax bill to the new ~~purchaser~~

62 owner in accordance with paragraph (1) of this subsection. This paragraph shall apply
63 only to the tax bill applicable to the year in which the property was purchased.

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

67 **SECTION 2.**

68 Said chapter is further amended by revising Code Section 48-3-19, relating to the transfer of
69 executions, as follows:

70 "48-3-19.

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

72 (1) 'Delinquent taxpayer' means the person or persons against whom an execution has
73 been issued or the successor in title to the property for which the execution has been
74 issued.

75 (2) 'Due diligence' means the performance of a diligent search to ascertain the actual
76 location of the record owner of the property. The following actions shall satisfy the
77 diligent search requirements of this Code section: sending notice by first-class mail,
78 certified mail, or statutory overnight delivery, as required by law. If the notice is returned
79 undelivered the following actions shall satisfy the diligent search requirements of this
80 Code section: due diligence shall include checking telephone directories for the county
81 wherein the property is located; checking the records of the tax commissioner of the
82 county wherein the property is located; or checking the real estate records of the clerk of
83 the superior court of the county wherein the property is located.

84 (3) 'Execution' means an execution issued for the collection of any ad valorem taxes,
85 special assessments, fees, penalties, interest, or collection costs due the state or any
86 political subdivision thereof.

87 (4) 'Transferee' means a person to whom an execution is transferred.

88 (5) 'Transferor' means the official holding the tax executions and authorized to collect
89 or transfer such tax executions.

90 (b)(1) Whenever any person other than the person against whom an execution has been
91 issued pays an execution issued for state, county, or municipal taxes or special
92 assessments, the officer whose duty is to enforce the execution may transfer, and if such
93 payment was requested by the delinquent taxpayer in writing in a format prescribed by
94 the department, the officer shall transfer the execution to the party so paying the full
95 value of the execution within 30 days. No officer whose duty it is to enforce an execution
96 issued for state, county, or municipal taxes or special assessments shall be required to
97 make any transfer or transfers of such execution or executions, except when such officer

98 receives payment of the execution from a person who was requested in writing by the
 99 delinquent taxpayer to make such payment as provided in this Code section. The
 100 transferee shall have the same rights as to enforcing the execution and priority of payment
 101 as might have been exercised or claimed by the tax official. The person to whom the
 102 execution is transferred shall, within 30 days of the transfer, cause the execution to be
 103 entered on the general execution docket of the superior court of the county in which the
 104 execution was issued. In default of the required entry or entries, the execution shall lose
 105 its lien upon any property which has been transferred in good faith and for a valuable
 106 consideration before the entry and without notice of the existence of the execution.

107 (2)(A) It shall be unlawful for any tax official covered by this subsection to pay a tax
 108 execution in order to obtain a transfer of the execution under this Code section. It shall
 109 be unlawful for any employee of a tax official covered by this subsection to pay a tax
 110 execution in order to obtain a transfer of the execution under this Code section. The tax
 111 officials covered by this subsection are:

- 112 (i) County tax receivers, tax collectors, and tax commissioners;
- 113 (ii) Members of county boards of tax assessors;
- 114 (iii) Members of county boards of equalization; and
- 115 (iv) County tax appraisers.

116 (B) Any execution transferred in violation of subparagraph (A) of this paragraph shall
 117 be void and unenforceable by the person obtaining the execution and such person's
 118 successors in interest.

119 (C) Any tax official or employee of a tax official violating subparagraph (A) of this
 120 paragraph shall be guilty of a misdemeanor.

121 (c)(1) Within 60 days following the transfer, the transferee shall notify the delinquent
 122 taxpayer of the transfer of the tax execution by first-class mail. The notice shall include:

- 123 (A) The name, mailing address, and telephone number for the transferee's business
 124 office;
- 125 (B) The amount necessary to satisfy such execution; and
- 126 (C) Other information as deemed appropriate by the transferee.

127 (2) In the event that any such notice by first-class mail is returned undelivered, the
 128 transferee shall be required to perform due diligence in an effort to obtain the delinquent
 129 taxpayer's correct address or any new owner's correct address and resend the notice by
 130 first-class mail.

131 (d) An execution which has been transferred shall bear interest as specified in Code
 132 Section 48-3-20 on the amount paid for such execution from the date of the transfer. In
 133 addition, the transferee may charge and collect all transaction costs reasonably and
 134 necessarily incurred by the transferee, not to exceed a total of \$650.00, which shall include

135 a \$25.00 administrative fee payable to the tax collector or tax official, any returned check
136 fees, recording fees actually expended in recording the transferred execution on the general
137 execution docket of any county in which the transfer is recorded, and such other penalties
138 as are provided for in this title.

139 (e)(1) Whenever an execution has been transferred to any transferee, the transferee shall
140 not be authorized to submit the execution to the appropriate levying officer until 12
141 months after the date of such transfer or 24 months after the tax giving rise to the
142 execution was originally due, whichever is earlier. Further, a transferee receiving an
143 execution pursuant to the written request of the delinquent taxpayer shall enter into a
144 written payment agreement with the delinquent taxpayer and the transferee shall not be
145 authorized to submit the execution to the appropriate levying officer unless the delinquent
146 taxpayer fails to pay as agreed to in such agreement. A transferee shall not have the right
147 to advertise and sell property under a tax execution. Such right shall remain solely with
148 the appropriate levying official, such as the sheriff or marshal.

149 (2) A transferee with multiple outstanding executions against the same property shall not
150 be subject to the time period requirements of paragraph (1) of this subsection with respect
151 to all such executions if at least one of the executions meets such requirements of
152 paragraph (1) of this subsection.

153 (3) A property owner may not authorize transfers of executions in two consecutive tax
154 years, unless the owner has paid the prior payment agreement for a transferred execution
155 in full at the time of the authorization.

156 (f) Until the execution is paid in full or satisfied, on or before November 15 of each year
157 after the calendar year in which the transfer occurred, the transferee shall send notice by
158 regular mail to the delinquent taxpayer and the record owner of the property advising that
159 the tax execution is still outstanding. The notice must provide the transferee's most updated
160 contact information, including mailing address and telephone number.

161 (g) Any transferee that pays the tax official more than \$2 million in any calendar year for
162 the transfer of executions shall maintain a reasonably accessible office within 50 miles of
163 the courthouse wherein the superior court of the county wherein the transferred executions
164 were issued is located. Said office shall be open to the public for at least eight hours per
165 day for five days a week, official state holidays excepted.

166 (h) A tax collector or tax official may charge a transferee up to \$100.00 for an electronic
167 list of delinquent real property taxpayers.

168 (i) A transferee shall obtain and maintain a blanket cash bond in the sum of \$50,000.00
169 that includes an indemnification for any delinquent taxpayer that has suffered damage as
170 a result of the transferee's wrongful failure or refusal to perform the obligations of a
171 transferee under this Code section.

172 (j) If a transferee is found to have intentionally violated this Code section, the tax collector
173 or tax official may bring an action to rescind the transfer of execution previously issued to
174 the transferee. If a transfer is rescinded, any outstanding payment agreement in connection
175 with said execution will be void. Upon a finding that the transferee engaged in repeated
176 intentional violations of this Code section, the tax collector or tax official may halt or
177 suspend future transfers of execution to the transferee in the county.

178 (k) A transferee receiving an execution and entering into a payment agreement with
179 delinquent taxpayers as authorized under subsection (e) of this Code section shall, upon
180 request of the tax collector or tax official, prepare an annual report listing all outstanding
181 payment agreements and, for each outstanding payment agreement, the dollar amount
182 authorized under the payment agreement and the dollar amount remaining to be paid."

183 **SECTION 3.**

184 Said chapter is further amended by revising Code Section 48-3-20, relating to interest on
185 transferred executions, as follows:

186 "48-3-20.

187 All tax executions, when recorded as prescribed by law and which have been transferred
188 to third persons, shall bear interest at not to exceed the rate specified in Code Section
189 48-2-40 from the date of transfer."

190 **SECTION 4.**

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