

The Senate Committee on Finance offers the following substitute to HB 396:

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 provide for related
4 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

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

10 "48-2-44.

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

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

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

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

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

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

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

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

46 SECTION 2.

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

49 "48-3-27.

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

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

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

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

57 SECTION 3.

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

60 **SECTION 4.**
61 All laws and parts of laws in conflict with this Act are repealed.